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COLLECTIVE BARGAINING FOR FISHERMEN

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
MERCHANT MARINE AND FISHERIES
OF THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
EIGHTY-SEVENTH CONGRESS
SECOND SESSION
ON
S. 3093

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A BILL TO MAKE CLEAR THAT FISHERMEN'S ORGANIZATIONS, REGARDLESS OF THEIR TECHNICAL LEGAL STATUS, HAVE A VOICE IN THE EX-VESSEL SALE OF FISH OR OTHER AQUATIC PRODUCTS ON WHICH THE LIVELIHOOD OF THEIR MEMBERS DEPENDS

OCTOBER 15, 16, 17, 18, 19, AND NOVEMBER 8, 1962

SEATTLE, WASHINGTON	ANCHORAGE, ALASKA
KETCHIKAN, ALASKA	DILLINGHAM, ALASKA
PETERSBURG, ALASKA	KODIAK, ALASKA

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HEARINGS

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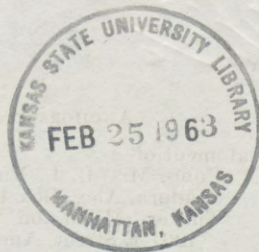
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COLLECTIVE BARGAINING FOR FISHERMEN

MONDAY, OCTOBER 15, 1962

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Seattle, Wash.

The subcommittee met at 9:45 a.m., in the courtroom of the circuit court of appeals, Seattle, Wash., Hon. E. L. (Bob) Bartlett presiding.

Senator BARTLETT. The committee will come to order.

The hearings today are concerned with S. 3093. This bill was introduced by Senator Magnuson, chairman of the committee, in April last. I joined in cosponsorship.

By the way, Senator Magnuson, who is chairman of the Commerce Committee, is expected here in a few minutes for a brief time. He has other engagements.

The committee is pleased to have sitting with it today Congressman Thomas Pelly, of Seattle, who has a like bill in the House and who will participate in the hearing today.

The bill under consideration seeks to amend the Fisheries Marketing Act of 1934, Public Law 464 in the 73d Congress.

That act was originally designed to provide fishermen with the right of self-association for cooperative improvements of their condition.

This bill has for its purpose making clear the fact that fishermen's organizations, regardless of their technical legal status, would have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends.

I should like to say that insofar as possible it is hoped that testimony will be confined here and in subsequent hearings in Alaska to this particular bill. There is a whole wide range of fishery subjects, I know, which could be brought under discussion, and comment on them, of course, will not be barred. But because of the time limitations we do hope that there will be an emphasis on this bill as contrasted with anything else.

Legislation on this subject to attack the problem has been introduced in Congress on several earlier occasions. Hearings were held by me on a similar bill last year at several points in Alaska, and a helpful record was made at that time.

However, it was decided that a more complete record was necessary before any further action could be taken.

In connection with that, it should be said that for the first time the bill now appears before the Commerce Committee of the Senate. Heretofore it was before another committee.

After having introduced the bill, Chairman Magnuson requested that I hold hearings on the west coast as soon as possible after adjournment of Congress.

Following this meeting today here in Seattle, we are going to have a like hearing in Ketchikan tomorrow, the following day at Petersburg, on Thursday at Anchorage, and the next day at Dillingham.

It is planned, if at all possible, to hold a further and perhaps concluding hearing in San Pedro, Calif., later in the year.

It is hoped that this series of hearings, the testimony to be offered, will bring together in a comprehensive record the facts pertinent to the problem.

I should like to place in the record at this point, in addition to the public law heretofore referred to, the text of S. 3093 together with a historical record of the legislation which I presented during the hearings held last year which I have already mentioned.

It might be useful to include in that statement a paper written by Mr. Roger L. Randall, reprinted from the Industrial and Labor Relations Review, volume 3, No. 4, July 1950, entitled, "Labor Agreements in the West Coast Fishing Industry. Restraint of Trade or Basis of Industrial Stability."

Those two matters will also be included in the record.

(The material referred to follows:)

Text of Public Law 464, 73d Congress (48 Stat. 1213; 15 U.S.C. sec. 521), authorizing associations of producers of aquatic products, showing amendment thereto proposed by the Magnuson-Bartlett bill, S. 3093, 87th Congress. [Proposed new language is italicized.]

[PUBLIC—No. 464—73D CONGRESS]

[H.R. 9233]

AN ACT Authorizing associations of producers of aquatic products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That persons engaged in the fishery industry, as fishermen, catching, collecting, or cultivating aquatic products, or as planters of aquatic products on public or private beds, may act together in associations, corporate or otherwise, with or without capital stock, in collectively catching, producing, preparing for market, processing, handling, and marketing in interstate and foreign commerce, such products of said persons so engaged.

The term "aquatic products" includes all commercial products of aquatic life in both fresh and salt water, as carried on in the several States, the District of Columbia, the several Territories of the United States, the insular possessions, or other places under the jurisdiction of the United States.

Such associations may have marketing agencies in common, and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided, however*, That such associations are operated for the mutual benefit of the members thereof, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum. and in any case to the following:

Third. That the association shall not deal in the products of non-members to an amount greater in value than such as are handled by it for members.

SEC. 2. That if the Secretary of Commerce shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Commerce may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Commerce shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Commerce shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceedings together with a petition asking that the order be enforced and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Commerce and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein, the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court shall, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer, or agent thereof, engaged in carrying on its business, or on any attorney authorized to appear in such proceeding for such association and such service shall be binding upon such association, the officers and members thereof.

Approved, June 25, 1934.

[S. 3093, 87th Cong., 2d sess.]

A BILL To make clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Public Law Numbered 464, Seventy-third Congress, entitled "An Act authorizing associations of producers of aquatic products" (48 Stat. 1213; 15 U.S.C., sec. 521) is amended by adding at the end of section 1 the following new paragraph:

"Associations authorized by this section (notwithstanding any State or local law) shall include, but not be limited to, organizations of active fishermen whose income is dependent on the ex-vessel price of fish or other aquatic products, although the membership of such an organization is composed of both fishermen who own or have an interest in fishing boats or gear and employee fishermen. Such an organization may bargain with buyers of the fish or other aquatic products produced by its members, regarding the terms and conditions of ex-vessel sales of such fish or aquatic products, or take such other action with reference to such ex-vessel sales or factors affecting such ex-vessel sales as an individual may lawfully take, whether or not such fish or other aquatic products are sold through the organization and whether the organization acts as a selling agent or only as a bargaining agent: *Provided*, That nothing in this Act or in any State or local law shall limit the rights of employee fishermen given by the Labor-Management Relations Act, 1947, the Clayton Act, the Norris-LaGuardia Act, and other Acts, including the rights of employee fishermen whose compensation is determined by the proceeds of the catch, to bargain collectively or take other collective action regarding the ex-vessel price per pound or per piece of fish or other aquatic products to be used as a basis for computing their compensation."

[From 1961 Alaska hearings]

NORTH PACIFIC FISHERIES PROBLEMS

I want to read a history of legislation to permit collective bargaining by fishermen. I had my office go back to 1946. We found out that between 1946 and 1950 the Congressional Record index contains no references to bills of this nature.

However, in the 82d Congress, 1st session, 1951, S. 2176 was introduced by Senator Magnuson. It would have amended the Fishermen's Cooperative Marketing Act, June 25, 1934, chapter 742, 48 Stat. 1213, 15 U.S.C. 521-522, to make clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends. Reports were requested from General Accounting Office, Interior, and Justice. GAO had no comment to make, while Interior and Justice did not report. No hearings were held and no action was taken on S. 2176.

In the same session of the same Congress, H.R. 5667 was introduced by Representative Pelly, and it was identical with S. 2176. Reports were requested from Labor, Interior, and Justice. The Department of Labor's report was generally favorable, while no reports were received from Interior and Justice. No hearings were held and no action was taken on H.R. 5667.

From 1951 to 1957 the Congressional Record index contains no references to bills concerning collective bargaining rights for fishermen.

However, I should put this in as an addendum.

In 1952, 82d Congress, a letter from the Department of Labor dated January 5, 1952, to Representative Edward J. Hart, chairman of the House Committee on Merchant Marine and Fisheries, concerning H.R. 5667, generally favored the bill but stated that the Department of Labor did not desire to comment specifically on the provisions of H.R. 5667.

In 1958, 85th Congress, 2d session, S. 3530 was introduced by Senators Payne and Smith of Maine. It also would have limited the Fishermen's Cooperative Marketing Act and would have exempted fishermen from the provisions of anti-trust acts in order to allow fishermen to engage in collective bargaining. This bill was referred to the Senate Interstate and Foreign Commerce Committee. Reports were requested from Interior, Justice, Federal Trade Commission, and the Comptroller General. Interior did not recommend enactment. Justice and

Federal Trade Commission were opposed to the bill and the Comptroller General made no recommendation. Hearings were held on June 15 and 16, 1958, and were printed. The bill was not reported and no action was taken.

Like bills were introduced in the House. No action was taken.

H.R. 12329, introduced by Representative Coffin and referred to the House Judiciary Committee, would have amended section 6 of the Clayton Act to include within its terms organizations of persons engaged in the fishery industry. Reports were requested from Federal Trade Commission and Interior. No report was received from Interior. The Federal Trade Commission opposed H.R. 12329 in a letter to Representative Celler on August 15, 1958. No hearings were held and no action was taken on H.R. 12329.

In 1959, 86th Congress, 1st session, S. 23, introduced by Senator Smith of Maine, referred to the Committee on Interstate and Foreign Commerce, was identical to the bill she had introduced in the previous Congress. Hearings were held on April 3, 1959, and printed with the hearings on S. 502, "Salmon High Seas Conservation." No action was taken on S. 23.

H.R. 3348 was introduced by Representative Pelly and referred to the House Committee on Merchant Marine and Fisheries. It also would have amended the Fishermen's Cooperative Marketing Act to permit collective bargaining by fishermen. No action.

H.R. 2777, introduced by Representative McCormack and referred to the House Committee on Merchant Marine and Fisheries, was identical. It was considered in executive session but no action was taken.

In 1961, 87th Congress, S. 1265, was introduced by me and referred to the Committee on Labor and Public Welfare, would have extended the coverage of the National Labor Relations Act so as to include members of the crews of certain fishing vessels. Reports were requested from the National Labor Relations Board, the Bureau of the Budget, and the Labor Department. To the best of my knowledge no reports have yet been received.

The bill introduced by Representative Rivers, and the bill introduced by Representative Pelly, were, I believe, identical.

[Reprinted from the Industrial and Labor Relations Review, vol. 3, No. 4, July 1950]

LABOR AGREEMENTS IN THE WEST COAST FISHING INDUSTRY: RESTRAINT OF TRADE OR BASIS OF INDUSTRIAL STABILITY?

(By Roger L. Randall¹)

In the west coast commercial fishing industry a problem of serious import has arisen, in recent years, pertaining to the legal status of fishermen and their right to bargain collectively. Although the questions that are here raised are applicable to other fishing areas as well, the problem has been intensified and more sharply defined on the west coast by the much greater development of trade unionism in the industry. The unions involved allege that approximately 90 percent of the west coast boat fishermen are covered by some form of labor agreement—price agreements or working agreements; yet a basic determination of the propriety and legality of such agreements under the particular circumstances of the industry has still to be achieved.

The central question to be settled is whether the relationship between fishermen and the cannery operators or wholesale fish dealers for whom they may be fishing is essentially that of employees to employers or that of independent vendors to buyers. In this article the problem will be treated in three inter-related phases: (1) A discussion of the available facts of the actual relationships between the parties; (2) an examination of the rather confused and largely indeterminate status of these relationships in the current application of pertinent laws; and (3) a consideration from an industrial relations point of view as to how the relationships should be regarded.

Up to the present the facts have probably been inadequately investigated to serve as a guide. Moreover, there is no sound basis for believing that the mere accumulation of facts would provide the answer as to whether fishermen should be regarded as industrial workers engaged on the basis of a particular piece-rate or incentive system of wage compensation, or as a self-employed class, and

¹ Research assistant, Institute of Industrial Relations, University of California, Berkeley.

thus denied the various protections inaugurated in recent years by a Government generally responsive to the needs of industrial workers.

The working force of the great Pacific fishing industry has remained, and bids fair to continue to remain, in an anomalous status; and the resulting obscurity has hampered the achievement of stable industrial relations between fishermen and dealers. If such achievement be regarded as an appropriate goal of Government endeavor, then further consideration must be given to the status of fishermen in relation to certain laws and to the appropriate legislative course to attain such goal.

Admittedly such a course will not be easily determined, for the fishermen represent a peculiar, although not unique, fringe group in terms of economic status. Generalization about the problem holds some dangers even on the west coast because of the substantially divergent practices and relationships between fishermen and dealers in such major fishing areas in Alaska, Puget Sound, the Columbia River, the San Francisco area, Monterey, and the southern ports around San Pedro and San Diego. In connection with these varied relationships it is true that judicial precedents may offer guides to a determination of the question in specific cases; however, a status which must have constant resort to legal opinion and even to litigation for such clarity as it may come to possess is scarcely the one to provide an environment well suited to the development of a stable and cooperative relationship in the interests of industrial peace and continued development of a basic food resource.

In the absence of any general clarification, management in the industry has found itself on the horns of a dilemma; failure to deal with fishermen as employees (such as in the matter of collective bargaining for fish prices) may easily lead to strikes and substantial losses, whereas failure to adhere strictly to a buyer-independent vendor basis may expose the canner or dealer to indictment under the Sherman antitrust law. These situations are not hypothetical; both have happened in recent years.

A similar dilemma has confronted the unions of fishermen: to fail aggressively to push forward the area of effective union contract coverage may very well tend to undermine the gains secured for those fishermen concerning whose status as employees no question can exist; whereas a zealous endeavor to achieve an inclusive coverage of fishermen may lead to indictment for "criminal conspiracy in restraint of trade." Again, both have happened.

INDEPENDENT BUSINESSMEN?

It has been held in a crucial U.S. Supreme Court decision affecting small-boat owners that such fishermen are essentially independent businessmen and have manifested a persistent intent to preserve their status as such.² The fishermen's unions have argued that this conclusion is mistakenly derived not only from the fact of boatownership (or leasing) by the fishermen, but even more from a misinterpretation of the fisherman's longstanding insistence on the fish-price method of compensation. This method of payment is as old as the industry on the west coast and is as characteristic of the company-owned fishboats with directly employed crews as it is of the fishermen-owned boats. It has been asserted that to question the underlying employer-employee relationship on this basis alone would appear to question the status of employees in any industry working under incentive or profit-sharing wage systems.

Further, the situation of a substantial investment on the part of workers in tools of the trade is not peculiarly confined to the fishing industry. In the Northwest logging industry, for instance, many log truck owner-operators haul on a contract (piece-rate) basis for the logging companies, without their truck ownership being held to invalidate their basic status of employees insofar as collective-bargaining rights are concerned. The same principle underlies contract provisions in the Seattle Teamsters' Union (Local 353) agreement covering grocery store delivery drivers; in 1948 the agreement provided a wage scale of \$56.50 per week for regular drivers and a wage scale of \$60 per week plus \$25 per week operating expenses to owner-drivers providing their own delivery trucks.

Before the problem can be further explored, however, it is essential to undertake a review of the various main types of relationship that may exist between fishermen and the cannery operators or fish dealers. In this, three main classifi-

² *Columbia R. Packers Assn. v. Hinton*, 315 U.S. 143 (1942).

cations of fishermen are recognized: Company fishermen, for whom an unequivocal employment relationship with the dealers exist; independent fishermen-boatowners, for whom both the status of entrepreneurs and the status of quasi-employees of the dealers have been claimed; and shares fishermen employed on independent boats for whom a primary employment relationship with the boatowner exists, but for whom has also been claimed a significant secondary employment relationship with the dealers. Each of these classifications will be considered in turn.

COMPANY FISHERMEN

First we consider the case of fishermen employed directly by cannery or dealers to man company-owned boats. With rare exceptions, such a fishing crew is compensated by a piece rate, or fish price, for fish caught and delivered to the employing cannery or dealer. Distribution among the crew members of the value of the catch, based on this fish price, proceeds on the basis of predetermined shares.

By longstanding custom in most of the industry, the terms of employment (principally here the fish prices) are normally documented in a formal agreement or contract, usually for the duration of a particular fishing season, between the fishermen and the employer owning the equipment. Although the aforesaid terms may be unilaterally established by the employer, almost universally now they are determined by collective bargaining through the fishermen's unions.

This situation represents a clear-cut case that fish-price negotiations are in fact wage negotiations of a piece-rate character. Such a wage system provides an incentive for production by offering an opportunity to employees to share in the profits of a good catch. At the same time it provides an opportunity for passing on to employees some share of the risks of a poor catch inherent in the inevitable gamble of a fishing venture. All parties appear well satisfied with such an arrangement, and in this basic type of relationship there is no question that the fishermen are in fact employees of the cannery operators or fish dealers. As such, the rights of union organization under Federal law are clear, and the propriety of collective bargaining over the fish price wage can hardly be questioned.

To the cannery and dealers this case of company boats and company fishermen affords complete control over essential equipment, a maximum disciplinary and directive authority over personnel, and in general a more stable and dependable arrangement for management. However, it involves the assumption of a much greater liability for both equipment and the labor force and requires additional fixed capital investment that is productive in most cases for only a relatively short annual season.

In general, the highest incidence of company boats is to be found in the Alaska salmon industry, and in fishing areas of extreme geographic isolation, such as Bristol Bay, almost all fishing boats and gear are company equipment. This direct employer-employee relationship between cannery or dealers and fishermen is found to a limited extent in the case of the large tuna clippers and sardine purse seine fleets of the California waters and the larger herring and salmon purse seine fleets of the northern waters where the boats represent a large initial capital investment. (Much more common, however, in this class of equipment is the arrangement whereby the cannery and dealers lease such clippers and purse seine boats to individual fishing captains, who thereby assume full legal and financial responsibility for the operation of the vessels. This situation is considered later.) In addition, some of the large canneries and dealers as a matter of policy maintained at least some of their own fishing boats manned by direct company employees.

Altogether, although no official statistics are available, it has been estimated that of the approximately 42,000 commercial fishermen engaged in the industry on the west coast, about 10 percent, but in any event not more than 5,000, would fall into this category of "company" fishermen.³ The long-run trend in the development of the fishing industry has been to move away from the direct-employee relationship. However, the vital and significant fact is that even under this relationship the total wage compensation for the crew has traditionally been by a fish-price or piece-rate system for the catch of each boat, with the individual earnings of each crew member determined on the basis of his share in the boat's catch.

³ Based on approximations and estimates submitted by the headquarters of the International Fishermen and Allied Workers of America.

FISHERMEN-BOATOWNERS OR INDEPENDENT FISHERMEN

The second main type of relationship embraces those fishermen who own or lease their own boats and normally employ additional crew members. Since under the law the fish caught by such a boat have been held to be property of the boatowner or lessee, the subsequent sale of the fish to a canner or dealer bears all the surface appearances of a transaction between independent businessmen. However, other considerations strongly suggest the possibility of a quasi-employee status underlying the apparent independent-contractor status.

The ownership or possession of his own boat is the normal and commendable aspiration of the commercial fisherman, motivated in part by the necessity to possess the tools of his trade to guarantee his participation in the seasonal fishing opportunities. However, the substantial capital investment in boats and fishing gear obviously precludes the possibility of the average fisherman achieving such possession initially out of his own personal resources. Normal sources of capital loans have frequently hesitated at the high investment risk involved in fishing ventures, and consequently boat and gear purchases have been financed to a large extent by the fish cannery and fish dealer companies. Thus, the presumed ownership of the boats and gear by the fishermen in many cases constituted actually no more than a varying equity, with a very real residual control remaining in the hands of the cannery and dealers. (This previously common situation has apparently been considerably lessened in very recent years when, under unusually favorable circumstances during and immediately after World War II, many fishermen succeeded in fully paying off mortgages on boats and gear. The duration of this relatively debt-free status for fishermen is questionable under more normal conditions, for it was in large part only a reflection of the typical advantage and gain of a debtor class during an inflationary period.)

Of equal importance with this type of debtor status has been the arrangement, previously noted, wherein cannery or dealers provided the capital investment outright and retained title to the boats, which were then leased to independent fishermen under a wide variety of terms. Some such lease agreements also provided means and terms whereby the fishermen could eventually secure ownership and title to the vessels.

In addition to the above situations, credit is frequently extended to the independent fishermen by the cannery and dealers against anticipated season's earnings for repair and maintenance of boats and gear and for fuel and other supplies during the season. By virtue of these various mortgages, liens, leases, and credit arrangements, there has actually existed a very close relationship between the fishermen-boatowners and the particular creditor cannery or dealer. This bond has greatly reduced the apparent area of complete independence of the fishermen and raises serious doubts as to the adequacy of the concept of free entrepreneurs fishing for an open sales market.

Furthermore, purely from the standpoint of economic theory, there is a question as to whether any genuine open market exists in the industry, for such would require a substantial balance of free competition on both the buyer and seller sides of the market. Such, however, is not the case; for in the absence of collective action among the fishermen a marked degree of buyer domination would prevail. There are relatively few cannery or dealers in any particular fishing area proportionate to the number of fishing boats. Moreover, to the fishermen the catch is a highly perishable product, commonly sold under conditions of market glut because of the marked seasonal peaks of fish runs. On the other hand, the cannery produce a product capable of indefinite storage, and the fish dealers with modern technology have a wide choice of various processes (deep freeze, etc.) as alternatives to distribution in the fresh-fish market, depending on anticipated market conditions. The bargaining disadvantage of the unorganized individual fisherman in this situation is apparent.

Actual fish prices, of course, are subject to a considerable degree of institutional control, including fairly successful trade union efforts to establish collective determination of such prices. This last factor is the immediate focal point of controversy in the industry, with heated conflict marking its course of development in some areas.

Along this line, it is significant to note the basic dichotomy that plagues and confuses the independent fisherman-boatowner himself. On the one hand, he sees himself as a person with a certain economic stake in society, a little above the common herd, a free agent able to determine and control his own

activity and economic function, a self-made man; and in this view he has at times resisted efforts to subject him to a greater industrial discipline or treat him as a mere hired hand. On the other hand, he sees himself as the victim of exploitation, taking all the risks and robbed of the fruits of his hazardous economic efforts, to swell the fabulous profits (as he sees them) of the big canning companies and fish dealers; and in this view he has often banded together with other fishermen in a most militant type of unionism, demanding a greater and greater sphere of collective action.

However, it is imperative to distinguish between two levels of boatownership, for much of the subsequent discussion applies more forcibly to one than to the other. The first and numerically greater group is comprised of the fishermen who own small boats (gill net boats, troller, trawl, and drag boats, and small purse seiners), whose normal range of value would extend from \$1,000 to \$20,000, with a probable average of around \$12,000. Such boats predominate in the salmon fisheries of Oregon, Washington, and Alaska, and in the fresh-market fishers of the entire west coast. It has been estimated that the number of such independent small-boat owners operating in Pacific waters may approximate 9,500,⁴ or more than 20 percent of all fishermen; but it is recognized that this figure may fluctuate considerably from year to year, depending on the degree of fortune and success that attends each fishing season. The turnover in small-boat ownership is fairly high in some periods.

The second group consists of fishermen who own or lease large tuna clippers, California sardine and mackerel purse seiners, and the larger purse seiners of the northern salmon and herring fisheries. The investment in this class of equipment may run from \$80,000 up into the hundreds of thousands of dollars; and it is apparent that the economic interests and methods of business operation of such capitalist fishermen differ significantly from those of the class of small-boat fishermen identified just above. Similar estimates with much the same qualifications place the total of such large boatowners at somewhat more than 1,000 or less than 3 percent of all fishermen engaged in the Pacific industry.⁵

It is impractical to segregate the two groups in the following discussion, and the reader can bear this qualification in mind when they are jointly referred to as independent fishermen. When necessary they will be separately identified as small-boat owners and large-boat owners, respectively.

It is to be noted that, from the individual canner's or dealer's view, the essential consideration in any particular relationship that may develop with the fishermen is home assurance of a dependable supply of fish for his own operation, with whatever control of quality, and time and method of delivery may be required. The most direct answer, of course, is the acquisition of his own fishing fleet with employment of hired crews; but this is usually not necessary.

Most of the fixed and operating capital arrangements for the independent fishermen discussed above have carried with them some formal or informal obligation to supply fish to the particular creditor, thus achieving the desired end at a greatly reduced direct liability on the part of the canner or dealer. Even where no trace of creditor-debtor relationship existed, it usually behooved the independent fisherman to cultivate and maintain a standing with a particular dealer; for otherwise, having lost his reputation as a dependable man by too frequent shopping around, the fisherman might easily have found himself with no market at all for his fish.

This subtle tie between independent fishermen and a particular canner or dealer was often probably of as much force as even the creditor-debtor tie. Supplementing and reinforcing both these ties, when deemed expedient, however, were specific exclusive fishing contracts between a particular dealer or canner and those independent fishermen whom he would sign up to fish for him that season. Such individual contracts imposed the obligation on the independent fishermen to deliver their catch at an agreed-upon price exclusively to the contracting dealer and frequently stipulated additional conditions, such as the quality of the fish to be accepted, time and method of delivery, and a limit to the amount of fish to be caught or accepted under certain situations. On the other side, the canner or dealer obligated himself to accept all of the catch (within the established limits, if any) at the agreed-upon price, and also he frequently agreed to furnish some or all gear, equipment, and supplies during the season. The possible variations in such contracts are innumerable; but the mutual obligations imposed suggest a degree of managerial direction and responsibility on the part of the canner or dealer.

⁴ Ibid.

⁵ Ibid.

The advantages to such exclusive contracts are by no means one-sided; but it is also apparent that in the absence of unionism or other collective pressure from the independent fishermen, the option between specific contract or implied obligation lay with the canner or dealer.

It is important to note that actually in many instances the pressure for specific, individual dealer-fisherman contracts came from the earlier groups of organized fishermen who secured thereby clear and distinct terms of the alleged quasi-employee relationship, reciprocal rights and obligations, and an opportunity for direct collective negotiations on the fish-price, or piece-rate wage, compensation.

With reference to the pattern of unionization that has emerged on the west coast, it must be noted that the small-boat owners have generally been included in the same unions with their own additional crew members (or shares fishermen) and the company fishermen, based on the men's own recognition of a substantial community of interest and practical identity of status as workmen. However, the unionization of the tuna clipper and purse seine fleets is limited on the same line of reasoning to the nonowning crewmembers fishing on shares, although the boatowners in this situation are frequently organized in their own boatowners' associations.

The status of shares fishermen and their relationship with both the boatowners and the cannery and dealers must next be examined.

SHARES FISHERMEN

By far the most numerous group of fishermen on the coast are those hired by the independent boatowners to fill out the boats' necessary fishing crews (varying anywhere from one boat-puller for gill netting to as many as 20 men on a tuna clipper, in addition to the usual owner-captain). Such shares fishermen are estimated to constitute probably as much as two-thirds of the total fishing force, or somewhere between 25,000 and 30,000.⁶ Furthermore, this most significant group, whose worker status is most clearly established, is also the group whose status as to collective bargaining rights is most peculiarly equivocal.

As in the case of the company fishermen on canner- or dealer-operated boats, the practically universal practice is to engage such crewmembers on the basis of predetermined shares in the value of the delivered catch. (An example might be a one-third share for the fishermen boatowner as wages, a one-third share for the hired fisherman as wages, and a one-third share for the boat to offset operating costs, maintenance, and depreciation.) This determination of these shares may stem from custom or individual agreement, but more frequently now from collective bargaining between the fishermen's unions and boatowners' associations organized for this and related purposes.

Such a system of shares compensation is the only feasible arrangement in the industry, considering the substantial element of gamble in fishing ventures. For a boatowner, large or small, to saddle himself with fixed labor costs, as under a daily or monthly wage system, would be to court disaster continuously, for a single poor season or even a few poor fishing trips under such a fixed obligation would frequently force bankruptcy. Even as it is, the business mortality rate among the small-boat owners is high, and a few poor seasons in succession push many independent fishermen back into the ranks of the shares fishermen; and the converse is true with a few good years' catch. This latter represents, of course, the incentive factor to the hired fishermen under the shares system and reinforce the feeling of community of interest between the small-boat owners and the shares fishermen.

Based on the primary employment relationship between boatowners and fishermen, there is no question of the legitimacy of collective bargaining by the fishermen's unions as to the crewmembers' shares of the value of the catch. However, such bargaining over shares is practically meaningless until converted into a real wage or earnings value by the fish price to be received for the catch. At best, the individual fisherman's compensation is subject to extreme uncertainty because of the total absence of any basis for prediction or any means to control the size of the catch; for experience and skill are seriously modified and limited by "fishermen's luck." If to this unavoidable uncertainty there is added the complete absence of preknowledge or preagreement as to the unit value of the catch, the fish price, then, indeed, are the shares fishermen entirely at the mercy of chance.

⁶ Ibid.

If, as economists assume, the promise of economic reward is the necessary inducement to economic effort, then some reasonable degree of assurance as to such reward would appear essential to attract and retain within the fishing industry a labor force of normal competence and stability. The necessity for such assurance, as well as the force of abstract concepts of equity, have driven the shares fishermen, through their unions, to a continuing insistence on some form of collective bargaining as to fish prices directly with the canners and dealers.

To the extent that this position has been consciously rationalized, it has taken the form of a contention that a secondary employment relationship exists between the shares fishermen and the canners or dealers that in terms of bread-and-butter significance to the men far outweighs the primary employment relationship with the independent boatowners. This contention, of course, persists whether the shares fishermen are working with small-boat owners (for whom a quasi-employment relationship with the dealers is also claimed) or as crewmembers of large-boat owners (who are recognized as businessmen, but whose independence from the dealers has been questioned).

It is certain that, whatever may be the technical designation of the fisherman-dealer relationship under particular laws, the small-boat owner fishermen, jointly with the shares fishermen, constitute the labor force of the industry, and their basic economic contribution to the production of the industry is that of arduous manual labor involving a high degree of skill or experience and considerable hazard. The fish-price compensation by the dealer is the particular form in which this labor contribution has been historically rewarded.

Consequently, once the division of the value of the catch among the participating crewmembers according to the preagreed shares has been made, and the deduction of operating costs, maintenance, and depreciation from the boat's share has been made, the residual net return on investment, if any, that would accrue to the small fisherman-boatowner would represent, with rare exceptions, a negligible proportion of his total earnings compared with his share as a return for his labor as a crewmember. Thus the small fisherman-boatowner's major economic interest is in his wage of labor rather than profit on investment and his participation with the shares fishermen in collective fish-price negotiations though their common union may be reasonably construed as a legitimate effort to secure a fair or acceptable wage rather than a conspiracy to secure monopoly profits by a combination to raise prices in restraint of trade. This contention, of course, takes issue on an economic, not a legal, basis with the earlier mentioned Supreme Court decision affecting small-boat owners.

With respect to the above, it is also obviously not intended to apply to the large-boat owners (the clippers and purse seine fleets of the tuna, sardine, herring and, to a lesser extent, salmon fisheries), even though such owners work on their own boats, usually as the skippers. Independent or not, the large-boat owners are certainly businessmen with a very substantial investment upon which they expect to earn a return far in excess of any imputed wages of labor.

However, this capitalist status of these boatowners in no way alters the fact that the shares fishermen have as great a wages interest in the fish price as have the owners a profit interest. Accordingly the unions have demanded, and where strong enough have secured, the canners' and dealers' acquiescence in direct collective negotiations (with or without joint participation by the independent boatowners) as to the fish price as a piece-rate wage bargain. If the large-boat owners were incidentally benefited by the union's bargaining strength or skill, that was a matter of relative indifference to the common fisherman.

HISTORY OF INDUSTRIAL RELATIONS

At least such reasoning has underlain the long course of development of industrial relations in the industry on the Pacific coast, which has achieved a relatively high degree of stability in most of the major fishing areas. Unionization and collective bargaining over fish-price-wages date back to 1886 in the Columbia River salmon industry, with the organization at that time of the Columbia River Fishermen's Union, which today enjoys a highly stable relationship, covering both company boats and independent boats, with the members firms of the Columbia River Salmon & Tuna Packers Association in that area. Collective bargaining over fish-price-wages in the Alaskan industry date back to 1902, when a strike in the Bristol Bay launched the Fishermen's Protective Union of the Pacific Coast and Alaska. This union, now known as the Alaska Fishermen's Union, covers both company and independent boats in its agreements with

the Alaska Salmon Industry, Inc., representing firms accounting for 95 percent of the Alaska salmon pack.

Large-scale organization of fishermen in other sectors of the Pacific coast industry awaited the impact of the great depression of the early 1930's and the subsequent general stimulus to unionism from favorable legislation and Government encouragement. Significantly, the extension of unionism among west coast fishermen during the 1930's was closely tied up with the aggressive and militant organization of the waterfront and maritime unions (all associated for a time after the 1934 longshore strike in the Maritime Federation of the Pacific). This factor appears rather difficult to reconcile with notions of the fishermen as persistently individualistic and independent businessmen, for the maritime labor struggles of this period (including those of the fishermen) were characterized by a bitterness evidencing a strong working-class consciousness.

Without attempting to recount the detailed history of organization in all the major fishing areas, it may be stated that a fairly high degree of integration of the various fishermen's unions of Alaska, Puget Sound, the Columbia River, and the Washington, Oregon, and California coast, bays, and major fishing streams was achieved, beginning in 1938, in the formation of the International Fishermen & Allied Workers of America (IFAWA) under the banner of the CIO. This new international (really a federation of fairly autonomous unions) subsequently has remained the dominant fishermen's organization. During the same period of formation of this new CIO international, however, substantial groups of fishermen in Monterey and southern California ports (some of whom had previously been organized in federally chartered locals of the AFL) elected to remain in the AFL and accepted charters under the Seafarers' International Union (SIU), AFL. This latter union has since constituted a vigorous rival to IFAWA, but with its strength primarily confined to the southern California-Monterey area, except for a stronghold among the resident fishermen of Kodiak Island, Alaska, and some small groups in parts of southeastern Alaska.

Since the eventful years of the late 1930's, both groups of fishermen's unions (IFAWA and SIU) have continued to extend and consolidate their position in relation to the canners and fish dealers. In most of the major fishing centers a reasonably stable labor relations approach and program have evolved between strong unions on the one hand and strong canner and dealer associations on the other, with the associations of the independent boatowners sometimes fulfilling an intermediate role.⁷

As a result, there has been in these areas a de facto establishment of the principle of collective determination of fish prices through union negotiations applicable alike to "company" and "independent" fishermen.

It is my firm conviction that a de jure recognition of the same principle would clear away the uncertainties presently confronting both parties, thereby dissipating a good deal of mutual suspicion and antagonism and permitting the development of socially responsible and mature, as well as stable, relationships. Such recognition would further eliminate the greatest issue of contention in those other areas where the highest degree of instability has persisted.

The development of a collective bargaining relationship between the fishermen's unions and the canners and dealers did not automatically ensue from the mere organization of the fishermen, of course, without friction and in many cases determined opposition. No particular censure or finger of blame is intended in noting that (in common with the reaction of most employers during the period) many canners and dealers, singly and through their associations, bitterly resisted the encroachments of this resurgent unionism. In their arsenal of resistance was naturally to be found the contention that the fishermen were independent

⁷ For a quite different point of view as to the role of the boatowners I should like to cite the comment of a well-informed observer of the industry who reviewed the early drafts of this article: "I don't think the boatowners are in any intermediate position. My guess is that they are rather inclined to dominate the unions merely through personal and family relationships and lack of any conflict in interest. My guess is that in San Francisco, in Monterey, and probably in some parts of southern California the owners themselves are the dominant factors and use the union as a blind. Of course, I could never prove this, but with a little reflection I could produce a good deal of evidence in support of it."

I agree, with some reservations, as to the substance of this comment. Some leaders of the fishermen's unions are equally conscious of and at times quite fearful of such boatowner influence in the unions. However, I do not believe an undue influence to be as prevalent as the comment would indicate, nor do I attach the same significance to it, whatever its extent. The conclusions of this article, as noted elsewhere, are based on recognition of the situation wherein the wages interest of the common fisherman in the fish price is just as great as is the boatowner's profit interest.

businessmen, not employees of the canners and dealers, and as such had no status under the protective wing of the New Deal labor legislation. Not only their fear of unionism but also the considerable exposure to such employer liabilities as social security and unemployment insurance taxes, workmen's insurance, etc., motivated this understanding claim.

LEGAL TESTS AND THE ANTITRUST LAWS

The first significant legal test of the question came in June 1939, when the Columbia River Packers Association secured a Federal district court injunction against the Pacific Coast Fishermen's Union (composed of "independent" trollers and gill net fishermen of the Oregon and Washington coast and coastal streams), restraining the latter and its members from picketing or otherwise interfering with plaintiff's business in an attempt to force a closed-shop contract on this packer and specifically prohibiting the union from signing closed-shop agreements. Without going into the merits of the closed-shop issue in this dispute, it is significant that the reasoning of the plaintiff (accepted by the court in issuing the injunction) was that the dispute was one between businessmen, in connection with which picketing and other coercive tactics which might be tolerated legally in a bona fide labor dispute could not be condoned. Consequently, the effect of the injunction was to deny essential collective bargaining rights to these fishermen and resulted in the complete dissolution of the PCFU.

IFAWA, with which the PCFU had only recently affiliated, carried the case on to appeal and subsequently reorganized many of the constituent locals of the old PCFU directly into the international union. The circuit court of appeals later set the injunction aside, accepting the union's contention that the controversy constituted a labor dispute under the Norris-La Guardia Act. However, in 1942 the case reached the Supreme Court, which reversed the decision of the circuit court but confined its ruling to the technical point of the status of these fishermen under the Norris-La Guardia Act, holding that these fishermen were not "employees as contemplated in that act."⁸

Although this case remains today the principal judicial precedent on the subject, it may seriously be questioned whether the full merits of the entire question of the status of fishermen as employees or independent businessmen has ever been considered by a court of last resort. Consequently, collective bargaining fish-price agreements, and even many forms of union preference, union shop, and closed shop still abound in the Pacific coast industry but always under the shadow of doubt and legal jeopardy as to their propriety under the law.

After the final *Hinton* decision, a series of cases were instituted by the Antitrust Division of the Department of Justice, charging the Columbia River Fishermen's Protective Union (another IFAWA affiliate, composed primarily of "small" boat gill netters) and various Columbia River canners with "criminal conspiracy in restraint of trade," by virtue of the fish-price agreements between the union and the canners in the area (including, curiously enough, the plaintiff company in the *Hinton* case). The canners involved filed a nolo contendere and paid fines for violation of the antitrust laws; but the union fought the charge and the criminal case was dismissed by the Federal district court.⁹ The opinion of Judge McCulloch warrants partial quotation here:

"This case turns on the narrow question whether agreement on an opening minimum price to be paid for fish becomes unlawful when being negotiated by the fishermen's union, which I will treat as a cooperative, with the packers as a group, rather than by negotiation with the packers individually. While *United States v. Socony-Vacuum*, 310 U.S. 150, would seem to require such holding as to ordinary commercial transaction, I feel that the recognition given by modern Federal statutes and decisions to the special and peculiar marketing problems of producers, including commercial fishermen, justifies me in holding that the practice of group bargaining, which has been so satisfactory on the Columbia River to fishermen as well as canners, is not subject to the criminal penalties of the Antitrust Act."

Although the leadership of fishermen's unions temporarily breathed more easily after dismissal of the Columbia River case, many canners and dealers up and down the coast, who had entered into collective bargaining fish-price agree-

⁸ Case cited in note 1, supra.

⁹ *U.S.A. v. C.R.F.P.U.* cited from CCH Trade Regulation Service, 1941-43, court decision No. 52917.

ment in good faith, continued to feel no little apprehension over their potential exposure to antitrust action and fines. The resulting instability in industrial relations between fishermen and the dealers undoubtedly would have been more serious at the time (1942-43) had not more trying problems connected with the wartime demands upon the fishing industry intervened and commanded the full, cooperative efforts of unions and dealers. Further, the particular issue of the legality of collective fish-price negotiations was largely averted by the OPA's assumption of jurisdiction over fish prices in most cases, whereby the OPA maximum price became in effect the minimum or standard price received by the fishermen. Further, the National War Labor Board assumed jurisdiction over disputes in the industry as "labor disputes" without regard to the precise degree of "employer-employee" relationship in each instance. In the case of the Alaskan industry the NWLB even assumed jurisdiction over the fish-price-wage question, though reluctantly and from necessity.

THE WAR LABOR BOARD

Indicative of the practical approach of the NWLB on this issue in the Alaskan cases are the following excerpts from the files of dispute cases before the 12th Regional WLB, Seattle:

"* * * all employees of this industry working in Alaska shall receive a 7-percent increase in their basic pay, be it measured by wages or fish prices."¹⁰

"* * * all bases of contractual wage payments prevailing in 1942 shall be increased 7 percent. This shall apply to all wages, fish prices, run money, lay money, and all overtime payments."¹¹

"In view of the fact that the fishermen are essentially a labor force, the Panel recommends that for purposes of negotiations and bargaining relationships, any disputes as between fishermen (Company and Independent) and the Industry shall be regarded as a labor dispute over which the War Labor Board should assume jurisdiction. * * * The Panel recommends that the parties be directed to negotiate for the duration of the war price relationships which appear to constitute gross inequities and maladjustments."¹²

This last-cited panel recommendation was adopted by the Regional Board and applied in a substantial number of related Alaskan situations, the whole problem and approach of the Regional War Labor Board being neatly summarized in volume of case decision digests issued after the war by the Disputes Division of this Board:

"Directive Order—March 14, 1945: Regional Board assumed jurisdiction of dispute between fishermen and the Industry and for purposes of negotiations and bargaining relations, the dispute was regarded by the Board as a labor dispute over which it had jurisdiction. Subsequent to 1942, the industry had refused to sign a contract with the union on fish prices on the grounds that fishermen were independent contractors and the industry could not legally join hands to engage in fixing a price with independent contractors. Industry indicated it would not negotiate signed contracts with the union, but would abide by the directives of the board."¹³

The indicated position of the industry (Alaska Salmon Industry, Inc., representing 95 percent of the Alaska salmon pack) was the inevitable consequence of the Supreme Court decision in the *Hinton* case in 1942 and clearly portrays the unstabilizing impact of that decision on a relationship that had existed between many of the packers and the Alaska Fishermen's Union since 1903. The technicality of abiding by "directives of the Board," which prescribed standard fish prices, rather than signing fish-price contracts with the union, averted an open breach during the war; but the basic problem revived in full force with the passing of the NWLB's emergency power and authority in September 1945 and the abandonment of OPA fish-price regulation in October 1946.

¹⁰ Directive Order of May 20, 1943, WLB Case No. 111-704D, Alaska Salmon Industry, Inc., and Alaska Fishermen's Union et al.

¹¹ First Supplementary Directive Order, July 22, 1943, WLB Case No. 111-704D, A.S.I., Inc., and A.F.U., and other unions.

¹² Panel Report and Recommendation, Feb. 19, 1945, WLB Case No. 111-7617D, A.S.I., Inc., and A.F.U. and other unions.

¹³ "Digest of Decisions, Wartime Labor Disputes, National War Labor Board, Region XII," Dec. 29, 1945. Case No. 111-7617D, Alaska Salmon Industry, Inc., and various unions, pts. IX and XIV, pp. 166K-166L.

For instance, since that time, beginning with negotiations for the 1946 fishing season, the Alaska Salmon Industry, Inc., has been willing to negotiate fish prices with the unions only on the strength of written assurance from the Antitrust Division of the Department of Justice that there would be no criminal proceedings instituted under the Sherman Act against the cannery for entering into such fish-price union contracts during the current season. Such an arrangement cannot permanently endure, and of course both the cannery and unions are still subject to civil suit at any time by either the Government or some allegedly offended third party.

CURRENT ANTITRUST STATUS

Confronted with the same problem, a group of some 27 wholesale fish dealers and processors in northern California, grouped in an association which had achieved a mutually satisfactory collective bargaining relationship with a group of IFAWA union locals under what was known as the northern California fish stabilization agreements, filed a test civil suit under the Sherman Act in March 1946. In this suit they had the IFAWA's promise of complete cooperation, as both parties had a vital interest in a friendly determination of the legality of this particular type of contractual relationship; and it was further hoped that a more general clarification of the *Hinton* decision could be secured.

However, before this suit could come to trial, the Antitrust Division brought criminal proceedings under the Sherman Act against 14 officers and members of local 36 (San Pedro) and the international secretary of IFAWA. This suit grew out of a strike by this fishermen's union against the San Pedro fresh-fish market dealers following unsuccessful attempts to secure a union agreement covering this area, somewhat similar to the northern California fish stabilization agreement mentioned above. The Justice Department's case, of course, was predicated upon the contention that the fishermen-dealer relationship in the fresh-fish market is not an employer-employee one and that the union's coercive interference in the affairs of independent businessmen to fix prices constituted a criminal conspiracy in restraint of trade.

Partly because of this second suit, the northern California dealers' suit never went to trial, although other civil suits are now pending; however, the defendants in the criminal case were found guilty in the Los Angeles Federal district court and heavily fined in 1947 by Judge Hall. The case and the lower court decision were greeted by the fishermen's unions as a blow aimed at their existence, and IFAWA rallied substantial support from large segments of the labor movement to push the case through to a final decision in the Supreme Court, if necessary. In the first appeal, however, argued before the circuit court in 1949, the court upheld the penalties assessed by Judge Hall in the district court.¹⁴

It is not intended here to question the Justice Department's prosecution or to attempt to review the particular merits of this case, but it must be observed that a final ruling adverse to the union would seriously question the legal basis of a whole pattern of established collective bargaining relationships between fishermen and dealers from Bristol Bay, Alaska, to San Diego, Calif. Such a decision would directly establish judicial rejection of the concept of an underlying quasi-employee status for "independent" fishermen. On the other hand, a decision on the final appeal favorable to the union would not necessarily establish the legality of collective fish-price contracts under the widely varying specific conditions and relationships existing in each of the Pacific coast fishing areas. The general doubt and uncertainty as to the status of fishermen with which this article has dealt bids fair to remain with us regardless of the final outcome of individual court tests under existing laws and will continue to hinder the development of mature and constructive unions and labor relations in the industry.

Considerable space has been devoted to the particular problem arising with reference to the antitrust laws, not because these are the only pertinent statutes involved in the broader problem, but because they have presented the most pressing issue ever since the *Hinton* Supreme Court decision in 1942.

¹⁴ *International Fishermen & Allied Workers of America v. United States*, 177 F. 2d 320 (1949).

[Just prior to this printing, the Supreme Court on May 1, 1950, announced its refusal to review the circuit court decision which in effect sustains the judgment of the lower courts.—EDITOR.]

THE LABOR-MANAGEMENT RELATIONS ACT

Actually, a whole field of social and labor legislation and administration is involved, in which the rights and responsibilities of fishermen have remained uncertain. A number of cases from the west coast were presented to the NLRB over the years for a determination of the fishermen's collective-bargaining rights under the old Wagner Act, but the Board dismissed these cases in the past on the ground that it had inadequate funds with which to conduct the investigation and research necessary to establish all the facts clearly.

Now, however, in a recent decision under the Taft-Hartley Act involving Alaskan fishermen, the Board has finally ruled under the "right of control" test that fishermen are independent contractors, not employees of the member firms of Alaska Salmon Industry, Inc.¹⁵

This decision stemmed from petitions by the SIU claiming to represent all sein and gill net fishermen in the westward district of Alaska, now covered by union agreements between the member firms of Alaska Salmon Industry, Inc., and the Alaska Fishermen's Union (IFAWA-CIO). This latter union intervened in the case, seeking dismissal on the grounds that the proposed bargaining unit was inappropriate and that the fishermen were already adequately represented. The cannery (through ASI, Inc.) maintained that other Government agencies have traditionally considered these fishermen employees and requested the NLRB to assume jurisdiction "whether or not the technical and legal relationship of an employer-employee may exist."

The reported findings of the Board admit of most of the qualifications and limitations to an independent contractor status suggested in this article; but the final conclusion was reached by the Board's rigid adherence to a narrow construction of the act based on interpretation of congressional intent:

"* * * the legislative history of section 2(3) indicates that Congress intended the Board to give to the terms 'employee' and 'independent contractor' their conventional meaning and to follow the ordinary tests of the law of agency. As we further pointed out at that time, the general test contemplated is the 'right of control' test, by which an employee relationship rather than that of an independent contractor is found to exist where the person for whom the services are performed reserves the right (even if not exercised) to control the manner and means by which the result is accomplished.

"Applying these standards to the facts noted above we are persuaded that the fishermen involved herein are independent contractors. Although some elements of the relationship between the fishermen and the canneries suggests that they are employees, an overall view, in our opinion, compels a contrary finding. In particular, we note that (1) a large percentage of fishermen own their own boats and gear; (2) they determine where and how they'll fish; (3) the crew members determine among themselves how much each member of the crew will be paid; (4) the skippers, both "company" and "independent" select their own crews; (5) the charge account at the cannery store is kept in the name of the skipper and he is responsible for its payment; (6) the contract is renewed each year, and, occasionally, fishermen fish for a different cannery than the year preceding; (7) the fishermen are not supervised by the cannery and they frequently have exclusive rights in a certain area; (8) no income or social security taxes are deducted from the sum due the vast majority of the fishermen; and (9) for the most part, the skippers stand to lose or gain by the quantity and quality of work performed by those working under them.

"The petitioner has directed our attention to the need which these fishermen have for collective bargaining through their own representatives. We are aware, moreover, of the fact that all of the parties involved herein desire that the Board take jurisdiction in this case. We cannot, however, go contrary to the express mandate of Congress by asserting jurisdiction over persons whom the act expressly removes from our jurisdiction. Applying to the term 'independent contractor' the common-law tests of agency and giving the term its conventional meaning as Congress says we must, we conclude in view of the above circumstances that the seine and gill net fishermen herein petitioned for are independent contractors within the meaning of the act."

Contrary, then, to the hopes or expectations of unions and cannerymen alike in this case, the NLRB has for the first time rejected jurisdiction over Alaskan

¹⁵ Decision and order of the NLRB, cases Nos. 19-RC-94, 95, 96, *Alaska Salmon Industry, Inc. and United Fishermen of Alaska, SIU-AFL*, Mar. 10, 1949.

fishermen on a consideration of the merits and thereby denied all basic rights of collective bargaining as protected by the Labor-Management Relations Act. Significantly, this decision involved both "company" and "independent" fishermen, and by implication it strikes at the very heart of the long-established collective-bargaining relationship between the Alaska Fishermen's Union and the Alaska packers.

OTHER SOCIAL LEGISLATION

Uncertainty and contradictory claims have presented themselves also under social security, unemployment compensation, workmen's accident compensation, public health (involving the federally operated marine hospitals), and other legislation from time to time. The fishermen's unions have continuously and persistently agitated and fought for recognition and acceptance of an underlying employee-employer relationship and an assumption of greater liability by the canners and dealers in connection with the labor force of the industry. To a limited degree these efforts have been successful, and the benefits and privileges of some social legislation have been extended to fishermen, but on such a piecemeal basis and with so many qualifications that many inequities have resulted as between various groups of fishermen.

Most of the advances achieved in this direction have been by legislative action, both State and Federal, in which the fishermen were able to call upon the political strength and pressure of the organized labor movement, and further gains will probably depend upon the same strategy. However, it may be questioned from the public interest point of view if it would not be preferable to have a general legislative reconsideration and redefinition of the status of fishermen as a whole, rather than a series of piecemeal adjustments that may lead cumulatively in a direction that has not been fully considered.

Unfortunately, there has been no such general legislative consideration of the peculiar problems besetting the relationship between fishermen and dealers in the industry since 1934, and both economic and institutional developments have substantially altered their course in the interim. At that time Congress adopted a special legislative course that seemed to strike an intermediate ground in the area of present dispute, and the adequacy of this approach must be briefly examined.

THE FISHERMEN'S MARKETING ACT

The socioeconomic philosophy of the Fishermen's Marketing Act of 1934 was based on a view of the fishermen as "primary producers" and proposed remedies for the fishermen's sorry plight in the midst of the depression akin to those adopted for the Nation's agricultural "primary producers."

The 1934 act presumably extended the same rights of self-association for co-operative marketing to fishermen as had been extended farmers. This approach avoided the necessity of coming directly to grips with the character of the specific relationship between fishermen and dealers but did recognize the distinction between the economic role of the fishermen and the normal or typical individual "business" enterprise which required special consideration in the public interest. However, the Government has not implemented this special treatment of fishermen as "primary producers," as has been done in the case of agriculture with such programs as parity prices, crop loans, crop insurance, and the whole series of direct and indirect aids and subsidies. Fishing interests have at various times sponsored parallel proposals, but thus far Congress has rejected specific legislation looking in this direction.

Several important limitations of the approach intended in the Fishermen's Marketing Act have become apparent over the last 16 years since its adoption:

- (1) Fishermen's cooperatives for the canning, processing, or marketing of their product simply have not caught on. Various attempts have proved either complete failures or ineffectual, the only really successful venture of this sort being the cooperative cannery organized by the Columbia River Fishermen's Union, back in 1897, when the industry was new and vigorously expanding. Further efforts in this direction, aside from their possible futility, would seem to involve unnecessary head-on conflict between fishermen and established dealers and would result in the further unstabilizing of relations in the industry.

One important qualification that should be made to this observation is that some boatowners' associations have very effectively controlled fish prices by establishing themselves, at least presumably, as "cooperative sales or marketing agencies" under the act, but they have in at least some cases trod dangerously near the lines of illegality by retaining at the same time individual contractual

relations between each boatowner and the canners or dealers. In fact, this arrangement shades almost imperceptibly into the second point treated below.

(2) The actual direction that group association among fishermen has taken since passage of the law has been preponderantly toward bona fide trade unionism and collective bargaining with canners and dealers. The fishermen's unions, understandably, have sought justification and protection for their activity in the terms of the 1934 law granting permissive rights to "act together in associations corporate or otherwise, with or without capital stock, in collectively catching * * * and marketing * * * such [fishery] products * * *."¹⁶ However, unionization and collective bargaining as such were not clearly contemplated by Congress, and this application of the law is a dubious expedient in lieu of more specific legislative sanction.

(3) In line with the last point, apparently this law did not clearly establish an immunity from the antitrust laws to either fishermen or the dealers for collective fish-price agreements, as witness the antitrust suits previously discussed.

RECIPROCAL RIGHT OF ASSOCIATION FOR DEALERS

Although most of the preceding discussion has centered in the problem of the right of the fishermen to take collective action, it must not for a moment be overlooked that the reciprocal right of the canners or dealers to combine and act collectively in fish-price negotiations merits equal consideration if a balanced and stable relationship is to ensue. Oddly enough, at present this right would appear to be denied the dealers by virtue of a recent administrative interpretation of the Fishermen's Marketing Act by the Department of the Interior, under which it has been held that fishermen may act collectively in marketing their fish (fish-price negotiations) if they are dealing with only one dealer at a time, but that this act would not protect the fishermen or the dealers from antitrust prosecution if an association of fishermen sought to deal jointly with an association of dealers. The consequences of this type of approach can be observed in the Monterey sardine industry where approximately 60 large purse seine boatowners, acting through an association and exclusive sales agency under the Marketing Act, are in a position to dictate unilaterally fish-price terms to some 25 canners in the area who are unable to combine openly for effective bargaining with the boatowners for fear of antitrust reprisals from the Department of Justice. This situation represents the opposite extreme from what the plight of the fishermen would be if all rights of organization were denied them. Neither extreme represents an equitable situation.

THE PUBLIC INTEREST

For the cautious reader who may question the adequacy of protection of the public interest to keep collusive union-dealer fish-price action or restriction of production from passing an unreasonable burden on to the consumer, two limiting factors must be noted:

First, the very retention of a fish-price and shares wage system preserves the essential incentive for each individual fish boat to maximize its catch within the unpredictable and fluctuating limits established by nature. Actually, experience under most of the stabilization of fish prices by collective bargaining so far has shown a tendency to increase production, although this factor must always be balanced by conservation requirements.

Secondly, the demand for fish and fish products is essentially a highly elastic one, for fish is still regarded in this country as a somewhat inferior food and must face the strong competition of all meat and other substitute protein foods. Unreasonable collusive action would soon price fishermen and dealers alike out of the final consumers' market. Given the right to combine in associations to match the bargaining strength of the organized fishermen's unions, the dealers and canners would appear to be well motivated by profit consideration to resist excessive union demands. Even now, with the world food shortage gradually easing, the fishing industry faces the probable necessity of price adjustments to retain its standing in domestic and foreign markets.

¹⁶ Fishermen's Marketing Act of 1934, 15 U.S.C. 521.

SUMMARY AND CONCLUSIONS

The article has sought to examine three closely interrelated questions which may be briefly restated at this time as follows: (1) Are fishermen under existing laws entitled to the various protections commonly associated with the status of employees? (2) Should fishermen be extended any or all such rights and protections if they are not presently provided? (3) Is there a feasible alternative approach which affords any substantial expectation of being able to stabilize the economic relations between fishermen and dealers in an equitable manner that preserves the essential interests of each group?

With reference to the first of these, this article has offered no final conclusions of any general validity. In fact, one of the purposes has been to demonstrate the confusion that persists and which is, in and of itself, one of the principal unstabilizing factors in the situation. Nonetheless, without attempting to prejudice this issue (which may yet be partially resolved by judicial action) it appears reasonable to assert that the preponderance of official opinion thus far holds against a legal recognition of any such "employee" status.

At best, little more may be expected by way of judicial determination than possibly the establishment of an immunity from antitrust action for certain types of fish-price agreements; but even this is more apt to be based on some construction of the Fishermen's Marketing Act than on a court acceptance of an underlying employment relationship. This may be held reasonably and logically to follow from a strict adherence by the courts to the "intent" of Congress in various pieces of labor legislation where there is a clear indication that certain groups were to be excluded (whether specified or not) from the benefits of such legislation where a clear-cut employment relationship in the traditional common-law sense did not exist.

However, one may be permitted to make a sharp distinction between the matter of congressional "intent" and congressional "consciousness," and in so doing to clearly recognize that behind any particular legislation lies a socio-economic problem to which the legislative "intent" is presumably directed. Thus the Congress may very well at times "intentionally" exclude certain groups from a certain law only because there has not been a sufficient awareness of congressional "consciousness" of the resulting legislative vacuum which is thereby created and which may defeat the actual social purpose underlying the legislative attempt.

The above observation, of course, is directed to the second question posed in the introduction to this section. The implication is intended that if commercial fishermen were intentionally excluded from various laws considered in this article, the question may still be raised as to whether legislators were or are aware of the remaining need for a clarification or alternative legislative definition of the status of fishermen.

It is conceded that to a large extent it still remains a question of emphasis and evaluation, given the evidence as to whether the "independent" fishermen should be regarded primarily as self-employed businessmen or primarily as an integral part of an industrial labor force, subject to a substantial degree of managerial direction and control by the canners and dealers, individually or collectively.

However, the fishermen of the west coast have overwhelmingly chosen the path of unionization and collective bargaining and are determined to stick to it by whatever expedient means the circumstances dictate. Further, in most areas of the industry the canners and dealers have come to accept collective bargaining (when the threat of legal sanctions has not loomed imminent) as a reasonable and workable relationship. Jointly the fishermen's unions and the associations of canners and dealers have demonstrated the ability in many areas to work out a stable industrial relations system, beneficial to the further development of the fishing industry and not inimical to the public interest. To discard the degree of stability that has been achieved would appear a social folly; but to expect a further maturing of the relationship until the present clouds of uncertainty and vulnerability to prosecution have been dispersed is to expect the impossible.

The conclusions of this article plead a case for legislation to establish full and complete collective bargaining rights for fishermen and dealers alike in recognition of the substantial elements of a quasi-employment relationship in the industry and the basic "labor force" characteristics of the fishermen's occupation. This is not a complete answer to the second question, for there remain such matters as social security, unemployment insurance, workmen's compensa-

tion, and others. These matters, too, may require further investigation and consideration on their merits, but this article has been primarily concerned with the collective bargaining issue.

As to the third question of alternative approaches to the problem, the writer has here considered the limitations and inadequacies of the Fishermen's Marketing Act as presently constructed, and this has been the only specific alternative thus far put forward. Let it be understood, however, that the clear establishment of collective bargaining rights need not exclude the bona fide marketing cooperative which may in some local situations and under favorable circumstances actually be the preferable method of coping with the problem. The major limitation noted before is that an effectual cooperative approach would require a considerable extension of the scope of cooperative control of the market much closer to distribution to the ultimate consumer. This, in turn, would mean cooperative acquisition or duplication of existing canning and processing facilities. The capital requirements alone, to say nothing of the bitter resistance that would be encountered from the canners and dealers at such an encroachment on their economic function, seem to preclude any substantial development along these lines.

However, this same Fishermen's Marketing Act, behind which the fishermen's unions have been seeking somewhat dubious refuge, may actually prove by proper amendment to be the most logical legislative vehicle for clarifying the entire situation. Such an amendment could establish clearly the legal right of all fishermen to organize into unions of their own choosing and the reciprocal right of both such unions and dealers or associations of dealers to engage in collective bargaining over fish prices or other methods of compensation, as well as the whole gamut of various relationships subsumed under the heading of working conditions.

It is to be hoped that the longstanding promise of congressional reconsideration of the status of fishermen may receive the prompt and full attention of Congress and be sufficiently broad in the scope of its investigations and conclusions finally to resolve all doubt and uncertainty on the basic issue.¹⁷

Under the innumerable administrative functions that affect the individual, it is essential that his pertinent status be definite if he is to discharge the responsibilities for which his society holds him liable or if he is to receive his equitable share of the benefits that accrue to him as a member. The most demoralizing consequences can attend upon any uncertainty as to the individual's own status; yet our legal and social systems of classification have not attained an exactitude that would preclude the existence of substantial fringe groups. Furthermore, the continuous evolution of social relationships is constantly forcing a subtle shading on previously established lines of demarcation which in time amount to absolute changes, but only after an intervening period of indeterminacy.

The plight of citizens caught in these transitory zones of indeterminacy, such as the fishermen herein discussed, may afford most interesting employment for the legal profession and certainly imposes a very trying demand upon the judicial system. The determination in such cases, however, necessarily rests upon the peculiar merits of the individual situation and often affords little specific guidance in the more general situation. Yet, it is a fundamental premise of our legal tradition that laws should convey a reasonable basis of certainty to the average man in the street as to the requirements expected of him by society.

In such situations it is incumbent upon society to expedite the necessary general clarification, and such is the function of government operating through administrative application, judicial interpretation, and new legislative definition when required. Lags in the process can and do exist, and will continue to do so in our society. The discussion in this article implies no criticism of administrative, judicial, and legislative bodies but is intended to emphasize the existence of one such present lag to which those bodies can appropriately apply themselves.

Prompt attention to such gaps is particularly important in a period which has been one of rapid and substantial shifts in basic social philosophy reflected in largely experimental legislative efforts. It is in their attempted application in

¹⁷ The reference here to a promise is based on a letter of Oct. 12, 1946, to the U.S. Attorney General from Congressman S. O. Bland, chairman of the House Merchant Marine and Fisheries Committee, attempting clarification of certain antitrust uncertainties in the Fishermen's Marketing Act and stating: "If this [congressional] intent has not been adequately expressed in that statute, further congressional action designed to clarify that legislation may be required * * *."

the marginal situations that laws most frequently break down; and consequently, it is at these strategic margins that a law must be most carefully buttressed if the social problem to which the original legislative intent was directed is to continue to be adequately met and resolved.

PUBLICATIONS OF THE INSTITUTE OF INDUSTRIAL RELATIONS, BERKELEY

(Reprints obtainable from the Institute of Industrial Relations, Berkeley)

1. Collective Bargaining on the Pacific Coast, by Clark Kerr.
- *2. The Trade Union as a Wage-Fixing Institution, by Arthur M. Ross (out of print).
3. Economic Analysis and the Study of Industrial Relations, by Clark Kerr.
- *4. The Dynamics of Wage Determination Under Collective Bargaining, by Arthur M. Ross (out of print).
- *5. The Influence of Unionism Upon Earnings, by Arthur M. Ross (out of print).
6. Factors in Achieving Industrial Harmony, by Clark Kerr.
7. Multiple-Employer Bargaining: The San Francisco Experience, by Clark Kerr and Lloyd H. Fisher.

Senator BARTLETT. Congressman Pelly, do you have a statement to make?

Mr. PELLY. Well, I would want to show in the record, Senator, that I for one, and I know the House Committee on Merchant Marine and Fisheries in general, greatly appreciate your invitation to me as a Representative to participate in these hearings.

We share your interest in the fisheries' problems. We know that this is of vital concern to the fishermen.

I hope as the hearings go on to become enlightened as to the viewpoint and position of the various members of the industry, and then, in turn, I hope that the House will follow the lead of the Senate and give full consideration to this legislation in the next session, and I do thank you for the invitation to be here this morning.

Senator BARTLETT. I want to say, Congressman, that naturally we expect you to participate in the questioning of the witnesses and thus benefit the record.

Now, after having said that the testimony will be confined to the bill under discussion, I shall immediately break my own rule and go off in the wild blue yonder by saying that we of Congress who are particularly interested, and there are some of us, realize as well as members of the fishing industry, whether on the employer or on the employee side, that the fishing industry of the United States faces some grave, complex problems, problems of increasing gravity.

This probably can be graphically illustrated by a reference to what has happened in the last 10 years in the worldwide fishing effort.

Back in 1951 Japan was chief producer of fish in the world, as it is today, but then the United States was in second place, Russia in third, Norway in fourth, and China in fifth.

What did we discover in 1961?

Well, Japan is first now as then, but the United States assuredly is not second.

What nation is second? What nation has surpassed us? None other than Red China, now No. 2 fishing nation of the world.

*Unavailable in reprint form. Obtainable as separate chapters in monograph, "Trade Union Wage Policy," by Arthur M. Ross.

And if you think that the United States has slipped to third position, you're wrong, because that place is occupied by none other than Peru.

And we aren't even in fourth place. That is taken by Russia. We rank fifth now.

Our relative position continues to decline and at an alarming rate.

We all know what has happened in this last year in the North Pacific as Japanese and Russian fishing expeditions and fleets have ventured ever farther south and east.

We have under consideration, under discussion right at this moment a problem of the utmost gravity at Kodiak, as we all know, related to the king crab fishery.

And the fishermen of New England know today, as they have for several years past, what this foreign competition can mean. Off those coasts are very large fleets of foreign fishing vessels, including substantial representation from Russia. And only the other day we read that Russian money and technical help would be furnished Cuba to build up a fishing port there.

It was widely assumed in the United States, and perhaps correctly, that this was a disguise for the building of a naval base. That may be true, but I venture to say that there will be a fishing operation based there as well that causes more concern and more trouble.

The problems are manifold. They are increasing rather than diminishing.

Those of us in Congress with a particular interest know that we have to move as rapidly and as effectively as possible to counteract this, to restore our place in the world of fishing.

We have taken some rather positive, affirmative steps during this last year. For example, there was adopted Senator Magnuson's extremely important Senate resolution calling upon the President to hold an international conference devoted to this whole problem in its broad aspects. And we have every reason to believe that the President will respond at an appropriate time—and soon rather than late—affirmatively and that this conference, responsive to the resolution of the gentleman who has just entered the room, your own Senator, Warren G. Magnuson, the chairman of the Commerce Committee, under whose auspices this hearing is being held, will be productive and that a start will be made on that which long since should have been done—a bringing together of nations to try to work out our problems with the hope that mutual cooperation will be attained, if for no other reason than that so much of the protein supply of the world depends upon that which is taken from the ocean.

At the accelerated rate that this fishing is going on, no one knows whether the resources there on the seven seas are sufficient to withstand the fishing that is being carried on.

So I name that as one of the important legislative acts of the 87th Congress regarding this industry.

The second was a trade bill amendment. The only major Senate floor amendment to the Trade Expansion Act was the one which Chairman Magnuson cosponsored, which our colleagues on the House side fought, and successfully so, to keep in the bill, giving the United States for the first time a powerful lever in these international negotiations.

The bill in simple terms provides that when a nation refuses to negotiate with the United States regarding use and conservation of fish in good faith—those three words are the vital ones, “in good faith”—then the President is empowered to increase the tariff on the fisheries’ products from that nation—up to 50 percent.

We put through a tuna convention bill which, though not of paramount importance to the North Pacific area, nevertheless has a measure of importance for the entire fishing industry.

Then, of course, of broad scope and of vital necessity was Senator Magnuson’s law relating to the exploration of the oceans, his noted oceanography bill, which will be more and more meaningful as the years pass.

There is under consideration a bill to revise the fishing vessel subsidy law which hasn’t worked too well. Amendments are now before the Congress, will be renewed with the convening of the 87th Congress, to give muscle to the law. We think that effort will be successful, probably in the first session of the next Congress.

There is the bill which is generally known as the Pelly bill, and a like instrument in the Senate introduced by Senator Magnuson, co-sponsored by me, upon which hearings were recently held before the House Merchant Marine and Fisheries Committee. In fact, this hearing attracted a lot of publicity and much attention because Assistant Secretary Harriman of the State Department testified giving up further strength in our effort to protect salmon spawned in Alaska and taken on the high seas by nets.

The effort wasn’t successful this year. It has not yet ended.

In summation, I think that we can say that real progress legislatively has been made.

And before calling on Chairman Magnuson I merely want to mention that the week before last in Washington the three of us, Chairman Magnuson, Congressman Pelly, and I, held very useful meeting with the State Department and with the Interior Department on the broad subject of the North Pacific fishery. We believe that much was accomplished.

One thing of vital importance was accomplished, and that is a determination that the United States in its forthcoming negotiations with Japan will hold firmly and adamantly to the principle of abstention.

Chairman Magnuson, do you have something to say at this time?

Senator MAGNUSON. Bob, thank you. Congressman Pelly, Tom. I wanted to come over here and say hello to Senator Bartlett and Tom Pelly, and I suggest that probably Senator Bartlett and Tom have covered a great deal of some of the matters that this Congress took a look at in relation to fisheries.

I think all of us appreciate there is a great deal more to be done. This is a fast-moving situation. And the longer I’ve been in Congress, the more I find that the fishery problems, particularly those in the future, are getting more and more into the international sphere.

We can always take care of our problems here or at least meet our problems here at home. We do have authority, and we do have Members of Congress such as Congressman Pelly and Bob and Thor Tollefson and myself who sort of represent you in these matters, and you keep us on the alert. We are very concerned about some of the mat-

ters we have locally, but more and more our fishery is switching over to the international aspects.

That is why the three of us here and the rest of us are making some moves to see what we can do in this particular field.

You have a bill here today that is quite important in the domestic field. But this was an opportunity for us to discuss some of the other matters.

I set this hearing today here because I know that Senator Bartlett could be here and that Tom could be here at this time, and they are a great help, of course, to me and my Committee on Commerce, and Congressman Pelly and Congressman Tollefson who are counterparts on the House side, and I do hope that you will discuss these matters with them.

I am going to have to leave. I came over to say hello and, of course, I am conscious of all these matters. I have a long-standing engagement up in Everett today, and then I have a little matter, a little personal matter I must take care of in the next 3 weeks. So I am sure you will understand.

So I am going to leave you and thank Senator Bartlett for inviting his chairman. You know they are autonomous. They can run their own subcommittee. And he was cordial enough to invite me. We will get at these things that you are talking about here.

I think it is always good to have these hearings and lay on the table a lot of things that are happening in a very fast-moving economic world in the field of fisheries.

This is what we get out of it, and I am sure you get something out of it.

So, if you will excuse me, I will let my chairman and Congressman Pelly proceed with the meeting.

Thank you very much.

Senator BARTLETT. Thank you, Chairman Magnuson.

Senator MAGNUSON. Thank you.

Mr. PELLY. Senator, before you go, I would just like to pay one little word of tribute to you, and I know you will stay for that. And that is getting that fisheries protection into the tariff bill. That is one of the most remarkable performances that I have witnessed in Washington. Because it is very difficult to change any bill. And I thought that that probably was the outstanding feat of this session of Congress.

Senator MAGNUSON. Thank you, Tom. I hope it can be as effective as we think it will be. Thank you so much.

Senator BARTLETT. George Johansen, secretary-treasurer of the Alaska Fishermen's Union, will be the first witness.

You were in on the meetings with the State Department on the fishery. We are glad to have you here on this bill.

**STATEMENT OF GEORGE JOHANSEN, SECRETARY-TREASURER,
ALASKA FISHERMEN'S UNION, SEATTLE, WASH.**

Mr. JOHANSEN. Mr. Chairman, Congressman Pelly, we certainly appreciate the opportunity to appear before this committee today to discuss what is to us a very important subject.

However, at the risk of being ruled out of order by the chairman, I would like to just briefly mention that we had these meetings in Washington, D.C., that the chairman talked about a moment ago—

Senator BARTLETT. Go ahead, George, because if I rule you out of order I have to rule myself out of order. I took off too.

Mr. JOHANSEN. In these meetings, we met with the State and Interior Departments, met with the people on the highest levels in those Departments, and we tried to explain to them what our problems in the fishing industry were.

We were assisted by Chairman Bartlett, by Thomas Pelly, Scoop Jackson, Congressman Rivers from Alaska, and all of these people did a very fine job of representing the fishing industry on the Pacific coast in these hearings.

Over the years that I have been going back to Congress—and that dates back several years now—the people that have been most interested in the fisheries and have been doing the work as far as the fishermen are concerned are Chairman Magnuson, Senator Bartlett, Congressman Pelly, and Thor Tollefson.

These are the four pillars that we have been able to depend on.

If you take a look at the various fishery bills that have been sponsored in Congress, you find that these are the people that have done most of the work as far as fisheries are concerned.

So, therefore, it is a pleasure for me to be here today and have this committee listen to our problems.

And with that, Mr. Chairman, I will start on the bill.

Senate bill 3093 and the companion House bill would amend the 1934 Marketing Act. We think that something needs to be done in the fishery field in relation to antitrust laws as they now pertain to fisheries or as they now have been interpreted, and also in the line of setting up a system of bargaining for fishermen which would be comparable to collective bargaining of other related industries.

The antitrust laws were written for the purpose of protecting the general public. We do not believe that the law was designed to destroy organized labor or individual companies that are engaged in fishing. But we know that the result of the antitrust provisions as applied has been to markedly reduce membership in the organized fishery unions.

We can in our own instance look back since 1934 and count the loss of many hundreds of members that previously belonged to the union.

We think that without corrective legislation that the fisherman's lot in the future will gradually revert to what was the condition existing in the maritime industry before Woodrow Wilson signed the Seamen's Act in 1915.

The seamen before that were practically slaves. They had no rights of any kind.

It has gradually come in this way as far as fishermen are concerned that they have lost many of their rights, and they are losing more. And some of the sharp operators in the fishing industry are taking advantage of it.

We have contracts floating around. I saw one not long ago, a proposed contract to an independent fisherman by one of the companies, and if that man signed that contract he wouldn't have any rights whatsoever under any laws pertaining to the maritime industry. I think this is unfair.

Coming back to the antitrust, we do not believe that we can enhance the price to the consumer on the market by bargaining for fish prices, which, in effect, is our wages. We know that on many occasions, for

example, packers in Alaska have had a poor season. They have not had much fish. The pack costs them a lot of money, and they were not able to sell the pack for what they really should have charged for it on the market, the pack they come out with.

In other years they come out with a good pack on which they made money, and they could have sold the fish cheaper, but, again, the general marketing conditions determine the price that they got for their product.

In both instances the packer had to face a competitive market and base his price accordingly.

In New England I talked to some of the people while I was back in Washington the last time from that district. And, by the way, Mr. Chairman, I have a letter that the New Bedford union wanted introduced for the record.

They have an auction system, which, of course, is not practicable as far as we are concerned in Alaska.

Under this system the prices will fluctuate several hundred percent between Friday and Monday morning.

I asked the people in that district if there was any difference in the retail prices on the market during this particular period, and they said no.

A fellow would come in on Friday, when there was very little fish in town, and he got 18 cents. And when the bulk of the fish came in on Monday, they got 6 cents. And they work under exactly the same conditions.

These fluctuations are hard on the fishermen, and to a certain extent they are hard on the market itself.

We are not in here today—and I want to make this clear—to try to push through something that is going to harm the fishing industry. We believe that the industry must have a chance to live and thrive if we are going to have jobs with the industry.

We believe that the enactment of this bill or a bill along the lines of this legislation will help to stabilize the industry, and certainly it will help both industry, marketing association and union to get rid of the fear that we now have of violating the antitrust provisions.

That legal line is not always clearly visible, as I have said in my brief, and it is very easy to overstep, and such overstepping could prove costly to the people that did it.

We are in here because we believe we have just cause. We do not believe Congress intended to foist the antitrust provisions upon the fishing industry.

The laws have been so interpreted. And we are not quarreling with the laws or with the people that enforce the laws. But we are here to argue our case before the body that can change these laws.

You have gotten yourself into a legal jungle as far as these various antitrust decisions are concerned. We have several conflicting decisions. And while there might be an opportunity for a possibility of trying to straighten some of these out by legal action, nevertheless, I believe that the only escape that is going to be of lasting value would be through corrective legislation.

Senator BARTLETT. While you are searching for a paper, let me say I note the presence in the room of the Commissioner of Fish and

Wildlife, Mr. Pautzke. Mr. Mr. Pautzke, we would be pleased to have you up at the table here, because I know you are interested in this.

Mr. JOHANSEN. The fishing industry today is in a very precarious position. We have an import problem that is gradually strangling us to death.

I must say that the work done by Senator Bartlett and others in getting the amendments to the Marketing Act was a major piece of legislative work and probably the one and only thing that saved us from complete destruction.

But we have that problem. We have a problem of foreign nations gradually infringing and encroaching upon our fisheries. And this again is tending to make our industry vulnerable.

We feel that the problems that we have stemming from foreign sources are of great concern to us and are giving us a lot of trouble. We should be able to get rid of some of those problems on a domestic level so that we would have harmony at least within our own family and could face our enemy with a united front when it comes to these foreign fisheries.

Mr. Chairman, I would like to read my brief for the record.

Senator BARTLETT. Surely.

Mr. JOHANSEN. Senate bill 3093 and the companion House bills would make it clear that fishermen's organizations, including unions, have a right to bargain concerning the sale of the fish caught by their members.

In introducing the measure last April 1, it was felt by the sponsors that the bill would give the industry as a whole a chance to study the proposal. Senator Magnuson stated:

What is needed above all is to bring together in a comprehensive record the facts pertinent to the problems we are striving to solve with this legislation. To guide us, we need the ideas and mature judgments of the producers, the dealers, the cannery and all others who make up the U.S. fishery. Out of such an approach—

Senator Magnuson continued—

will emerge a solution that will help us legislate a foundation for stable relationship between the several divisions of our industry.

We are in full agreement with Senator Magnuson as we believe it is a sensible approach to the problems before us.

The industry, the unions, and the marketing associations are all more or less subject to antitrust provisions under present legal interpretations. Even with the best of intentions, there is a fear of overstepping a legal line which is not always clearly visible. Unintentional violations could prove costly to the party or parties involved.

While we are not convinced that Congress intended to place fishermen under antitrust provisions, and while it may be possible to challenge some of the decisions made, nevertheless we find ourselves entangled in a legal jungle. Hence the need for corrective legislation.

Our attorney will submit a brief dealing with legal and historical rights of fishermen, which we feel will prove helpful for the committee in striving to find a solution. The problem before us is not regional, but national, in nature. Not only do we have problems in the Pacific Northwest and Alaska, but these same problems as to anti-trust and bargaining rights exist equally in southern California, New

England, and the Gulf States. While conditions may be different, the antitrust provisions apply equally.

We shall confine our efforts to the problems in this area; other areas will, no doubt, be given an opportunity to present their views.

Fishermen, as such, because they cannot bargain for the fish price, are the only large group of workmen who cannot bargain concerning their earnings and working conditions. By tradition of long standing, they work mostly on a share basis, hence their earnings depend upon the price which their fish will bring when sold to the processor. The Federal antitrust laws have been held to prevent this kind of bargaining.

Marketing associations, set up under the act of 1934, which we seek here to amend, have been able to operate successfully only in instances where conditions are particularly adapted to them. In other areas, the act has more or less been ineffective because it does not apply to the practical situation.

Hence, there is a need to bring the Marketing Act up to date by relating it to practical problems that presently cloud the rights of fishermen to associate themselves together, whether in unions or co-operative, and collectively bargain for a fair return on the fish harvested by their labors at sea.

To a certain extent under the Taft-Hartley Act, we have also had difficulties in getting a clear interpretation as to what constitutes an employee-fisherman.

For example, in Bristol Bay proper, company fishermen for whom the company furnishes boats, gear, and all other items such as board, lodging, transportation, et cetera, have been held to be employees within the meaning of the act and, as such, have collective bargaining rights through a union of their choice. In the Port Moller area, which is a couple of hundred miles down the Alaska Peninsula from Bristol Bay but in the Bering Sea district, company fishermen have been denied the right of collective bargaining for fish prices through a union, although there is absolutely no difference between their status and that of the company fishermen in Bristol Bay. The canner furnishes boats, gear, and all other items necessary for the fishing effort on the same basis. Where fishermen in Bristol Bay are within the law to bargain collectively, company fishermen in other districts of Alaska would be in violation of antitrust provisions.

In some instances under existing laws, the union can bargain for company fishermen with the canner. A union can also bargain for fish prices with a boatowners' association, which in turn can bargain with the fish buyer or processor. A marketing association can bargain directly with the processor or fish buyer, subject, of course, to such limitation as set forth in the Marketing Act.

Because of different circumstances whereby a fisherman cannot be properly safeguarded under a marketing association and in some instances there is not even a marketing association to protect the fisherman and he must bargain individually, we feel there should be enough flexibility under law to allow a fisherman to use such instruments of bargaining as may serve his interests, be they a marketing association or a union.

The Alaska Fishermen's Union operates primarily in the State of Alaska, and the conditions in Alaska are different from the other States. In Alaska, the market for gillnet or purse-seine caught fish

is limited to whatever cannery or canneries are located in the district where the fishing takes place. While there may be exceptions, generally the fisherman must depend upon the canneries to take his fish. There are very few cold storage facilities and hardly any buyers outside of those buying for the various canneries. The gillnet boats have no refrigeration nor do they carry ice, so their fish must be delivered within a few hours after having been caught. The same is generally true for purse-seine fishermen also. Under these circumstances, a minimum-price agreement is a must.

Any other arrangement would leave the fishermen completely at the mercy of the canner because, having no storage facilities, no opportunity to keep the fish aboard, and prohibited by law to let the fish spoil, they would have to take whatever they were offered.

It is because of these conditions that there are no auctions and that payment for salmon has been on a minimum per-pound or per-fish basis.

In some instances, marketing associations have done a creditable job in obtaining realistic fish prices. In other instances, a union would have been preferable.

We find considerable difference in marketing association prices dealing with the same product and the same specie of salmon. Besides the price of the product itself, special considerations have been given to certain fishermen, which actually meant a bigger price for those so favored.

In most instances when a gillnet fisherman decides to buy his own boat and gear, he obtains financial backing from the company. Such financial aid is also given to many purse-seiners. In return, the fisherman must sign a contract with the company for a certain number of years or until such time that the boat is paid for. During the contract period in question, they are not free to utilize their boats and gear in other areas, except with the permission of the company.

A marketing association which is composed of many members in this category is not in the best bargaining position.

The individual fisherman, in protest against a substandard price, can, of course, refuse to fish, but that would result in his not being able to make his annual payment, thereby risking the loss of his boat and such equity as he had acquired therein.

Where an economic bondage exists, it is our opinion that a union would best serve the fisherman's interests. At the very least, he should have a choice.

In some districts of Alaska, notably southeastern, there has been little or no bargaining for several years. Prices for purse seine-caught fish have been posted by the various canners, and as we see it from here, it is a "take it or leave it" proposition.

The question arises: Have such posted prices been realistic for crewmembers? We think not, for the following reasons.

The fisherman, as already stated, cannot under present laws bargain directly with the canners. If there is a union representing crewmembers, the union must bargain with the captain of the vessel, who is supposed to be the employer. The captain, in turn, bargains with the processor. However, in southeast Alaska, which is one of the biggest districts of Alaska, and perhaps in many other areas as well, a so-called bonus system is used by the operator. Under this system,

regardless of the posted price, the canner pays the captain a bonus of several thousand dollars each year. The crewmembers do not share in the bonus. It can readily be seen there is no incentive on the part of the captain to strive for a price that would be fair to the crewmembers. The bonus, then, constitutes an insurance for the captain's take-home pay and provides the crewmember with an unrealistic price for his labor.

We do not feel present practices to be consistent with collective bargaining procedures as practiced in other industries, and actually they may be injurious to the fishing industry as a whole by creating unstable conditions.

During World War II, the Government ruled upon prices to be paid. After the war was over, the Alaska Salmon Industry, Inc., obtained a letter of immunity from the Justice Department, under which they were able to bargain for fish prices with unions and associations.

However, in 1954, the Federal Trade Commission brought a suit against all of the unions and operators engaged in the Alaska salmon industry. A consent agreement was obtained by the Federal Trade Commission which provided a cease and desist order prohibiting future collective bargaining for fish prices, with the exception of those company fishermen already mentioned. The order has been effective in reducing membership in fishery unions and thereby rendered many organizations ineffective in dealing with the economic problems within the fishing industry.

In our opinion, the order had no effect on the problems of antitrust violation because there was no violation to start with.

Naturally there is concern for the consumer who is supposed to be the ultimate beneficiary of the antitrust laws. We do not feel that permitting the fishermen to bargain collectively is any more hazard to the consumer than permitting other workmen in the same industry the right to bargain for their wages.

For example, employed in the Alaska cannery and permitted to bargain collectively for their wages are carpenters, machinists, cannery workers, tendermen, beach men, tallymen, culinary workers and several others. Contrasts for the wages of these people have as much influence on the cost of the finished product as the price of the fish itself.

Furthermore, there is the fact that the several varieties of fish caught in different parts of the country are competitive with each other. For example, southeastern Alaska pink salmon competes with Bristol Bay red salmon and with canned tuna and canned crab. On the fresh fish market, king salmon competes with the halibut, and all of them, of course, compete with the other meat products of the world.

Therefore, we submit that to permit the fishermen to bargain collectively for the price of their catch, would not unduly interfere with the competition or enhance the ultimate price to the consumer, but would simply prevent the fishermen from being overreached.

Furthermore, it would create an equality of rights among all fishermen. There would be less of discriminatory benefits achieved by a few, although, human nature being what it is, discrimination cannot be wholly eliminated.

It would stabilize the industry more than under present conditions and provide a method of more accurately estimating the cost of the fishing operation.

We cannot believe Congress, in its legislative program intended to discriminate against the fishermen as opposed to other workmen but that has been the result nonetheless, and one which we seek to correct by the proposed amendment.

The chaotic conditions and the variety of circumstances and legal regulations make certain things legal in one area and illegal in another, with the constant fear present of unknowingly violating anti-trust provisions, and thus fishermen have been discouraged from organizing in protection of their own interests.

We believe the fishermen within these United States have a right of representation and that if they desire a union to be their instrument of bargaining, they should, under the law, be given that right.

We also believe that bargaining procedures, as chaotic as we are working under, do not tend to stabilize the fishing industry but add to the confusion and uncertainties which are so prevalent at the present time.

It will be an advantage to both labor and employer to know before the fishing season begins what the probable cost of operation will be, and in the long run, it is our considered opinion that proper bargaining procedures would help to stabilize the industry and create a better economic climate.

We hope that after due consideration the Congress will agree with us that this legislation is a necessity. We submit that it was not the intention of Congress to take away the fishermen's right to bargain collectively for fish prices, wages, and conditions, but that because of interpretation of existing laws, a new law is necessary to clarify bargaining.

To this end, we ask cooperation of Congress.

Mr. Chairman, we feel very strongly about these antitrust provisions. Our attorney will furnish you, I believe, with an excellent brief dealing with the legal history of fishermen and seamen from many years back up to the present time.

We feel that if there ever was a law necessary to clarify the problems that we face, now is the time to have it.

Because some of those that may have been opposed to this legislation for reasons of their own in the long run will find that if the antitrust provisions are allowed to be interpreted as they have been in the past there will be nearly an impossibility for either a packer, a marketing association, or a union to exist.

We submit that it is unreasonable that out of all of the major industries in this country the fishing industry should be singled out for this kind of treatment.

We hope that Congress in its wisdom will see our arguments and do something to correct the present situation.

We know we have good people back in Congress. Some years ago, 10 or 12 years ago, we had very few that paid any attention to our fisheries. Today we are in a better position. We have found many, many new friends in Congress that have been willing to assist both Thomas Pelly and Senator Bartlett in our task of providing better conditions for the fisheries.

Thank you.

Senator BARTLETT. Thank you very much, Mr. Johansen.

Congressman Pelly, do you have questions?

Mr. PELLY. I would like to have the record show through a statement by Mr. Johansen exactly when it is contemplated that this bargaining over prices would take place.

In other words, as I understand, the union bargains with the employers as far as the Alaska Fishermen's Union is concerned, normally before the packers send their supplies north and prior to their making a substantial part of their investment.

In other words, they know exactly what they are going to have to pay in wages.

Would you indicate, Mr. Johansen, whether in your agreement with the industry there is any provision for profit sharing or anything in the nature where the price of the fish would affect the actual contract itself?

Mr. JOHANSEN. I am not quite sure I understood you.

Mr. PELLY. You negotiate wages——

Mr. JOHANSEN. Yes.

Mr. PELLY. Before your men go north?

Mr. JOHANSEN. Yes.

Mr. PELLY. Before the industry puts a lot of its investment into the particular venture?

Mr. JOHANSEN. Yes.

Mr. PELLY. Now——

Mr. JOHANSEN. I might explain it this way, Congressman Pelly: Usually we start to get together with the industry right after the new year, and as a rule we start our negotiations on what we call the general agreement first.

This is the agreement that affects all districts except Bristol Bay.

Now, there is no fish price at all in these agreements, because we do not represent any of the fishermen in any districts outside of Bristol Bay.

Mr. PELLY. My question, however, was as to whether in those agreements there was anything in the nature of profit sharing or adjustment in wages——

Mr. JOHANSEN. No.

Mr. PELLY. Based on what the price was.

Mr. JOHANSEN. No.

Mr. PELLY. In other words, the canner or the industry is protected? They know exactly what they are going to pay in the way of wages, but they do not know at all what they are going to have to pay for fish? Is that right?

Mr. JOHANSEN. That is right. And we could not, under law, even mention a fish price in these agreements.

That is why there is no reference whatsoever to it except, as I have already said, in Bristol Bay where we deal for company fishermen. There we do have a specific price for fish inserted in the agreement.

Mr. PELLY. I would like you to tell for the record whether or not a canner is in danger of having more or less of a gun held to his head, when he gets up there and his investment has been made, on the price itself. Is there any danger that he could be held up if he did not pay certain prices, that he could not make any return on his investment?

Mr. JOHANSEN. Well, generally, Mr. Pelly—and I am only speaking for ourselves; I do not want to speak on practices that may be prevalent or existing in other fields—

Mr. PELLY. I think the committee is going to go around, and they will hear all of them. I am interested in getting your opinion.

Mr. JOHANSEN. The unions, of course, through a long tradition, have always tried to get a complete contract signed before we ship the people north.

Now, in some instances, we were not always able to do that, because sometimes the packers had to have certain preparatory work performed, and at the time that they called for people to go up to the various canneries we not yet had reached an agreement. But this dealt with just a few.

Ordinarily, and I think traditionally, the prices for the season have been nailed down, whether it was fish prices or anything else, before the bulk of our people left for Alaska.

Mr. PELLY. In other words, I gather from what you say that you anticipate that if this bill was enacted you would bargain collectively prior to your going north?

Mr. JOHANSEN. Right.

Mr. PELLY. In other words, then, the canner who signed any such agreement would have the protection of knowing what he is going to pay in wages and what he is going to have to pay for fish, and he could, in making any such negotiation, pretty well protect himself either on the one hand from being held up for too high a price or being subject to a last-minute adjustment which could cause him financial loss?

Mr. JOHANSEN. Well, I believe that the packer at least would have a little better idea about his probable cost of operation, because in nearly every instance there would be an agreement in existence before he left.

Mr. PELLY. The only thing he would not know is what the size of the run would be. Is that it?

Mr. JOHANSEN. Of course, you must realize that the practical situation would be that a packer could not always get a price agreement before the season began, because even though this legislation passed, this legislation does not say that there is to be an end of cooperatives or marketing associations or any other type of bargaining procedure. It merely adds the unions to those that can already bargain.

So you would still be faced with some of their bargaining procedures that they have today with the various marketing associations.

Mr. PELLY. That would provide competition still, in other words?

Mr. JOHANSEN. Yes. The competition would still be there.

But it is not always possible for these marketing associations to come to an agreement ahead of the season, so there would be some of the problems confronting the industry.

Mr. PELLY. Could the public be protected by an arrangement under bargaining so that a certain price would be paid up to a certain volume and thereafter the price might diminish, or could it be adjusted that way?

What I am thinking of is protecting the public.

Mr. JOHANSEN. Well, let me answer you this way, Congressman Pelly. I believe that, first of all, when the union and the industry

bargain together or a marketing association and the industry bargain together that each one of the parties knows what he is bargaining for, and each one of the parties knows just how far they can go.

The union, on the one hand, must know how far they can go so as to get an agreement and be able to go to work. And the industry, on the other hand, must know how much they can pay in order to be able to come out after the season is over with a profit or at least break even.

I think that this has nothing to do with the consumer. I think, as far as the consumer, if you are talking about the Alaska salmon industry or canned products of salmon, you have so many prices involved in the product that not any single thing like fish price or anything else could possibly determine the price of the product to the consumer.

And not only that, but you have the market condition itself.

I know that there have been times that the industry have had to sell at a loss. They had to sell. And I know at times that they made darned good money and could have sold for less if they so desired. But they followed the market trends, which is usual in any business.

I do not see that there could be any conspiracy powerful enough or any combinations of forces here that would in any way create a different price to the consumer on the market than you have today under existing conditions.

Mr. PELLY. I think a lot of us are anxious to see that the law of supply and demand works in the consumer's interest, and I would think from what you say that actually the law of supply and demand would still work, because if there was a big pack the salmon packer would have to sell and the market would be governed largely by the volume that had to be put on the market and other competitive conditions. Is that right?

Mr. JOHANSEN. Right.

Mr. PELLY. That is all I have

Senator BARTLETT. Thank you, Congressman Pelly.

Let the record show that William C. Foster is representing the committee for the purpose of these hearings as staff attorney and is present. And Dan Markel, member of the committee staff in Washington, is likewise here.

Do you have any question, Mr. Markel?

Mr. MARKEL. No.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. No questions.

Senator BARTLETT. There will be inserted the statement made by Senator Magnuson on April 2 when he introduced it.

There will also be printed in the record at the appropriate point a letter handed to me by Mr. Johansen from Howard W. Nickerson, secretary-treasurer of the New Bedford Fishermen's Union, New Bedford, Mass., endorsing the legislation and saying that John Hawk would speak for him and urging that at a later date a hearing be held in Washington or somewhere else on the east coast, preferably in New York.

(The statement and letter referred to follow:)

[From the Congressional Record, Apr. 2, 1962]

AMENDMENT OF FISHERY MARKETING ACT

Mr. MAGNUSON. Mr. President on behalf of the senior Senator from Alaska (Mr. Bartlett) and myself, I introduce, for appropriate reference, a bill to amend the Fishery Marketing Act. I ask unanimous consent that a statement prepared by me relating to the bill, be printed in the Record.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the statement will be printed in the Record.

The bill (S. 3093) to make clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends, introduced by Mr. Magnuson (for himself and Mr. Bartlett), was received, read twice by its title, and referred to the Committee on Commerce.

(The statement presented by Mr. Magnuson is as follows:)

STATEMENT BY SENATOR MAGNUSON

Senator Bartlett joins with me in introducing, by request, legislation that warrants the attention of the Congress and all who have concern for the welfare of our fishing industry. This proposal has for its broad purpose the establishment of a sound economics relationship between fishermen, fish dealers, and canners, a relationship beneficial to the further development of the fishing industry and of service to the public interest.

This bill would amend the Fisheries Marketing Act of 1934, an act originally designed to provide fishermen as primary producers with the right of self-association for cooperative improvement of their conditions. The amendment seeks to bring the Marketing Act up to date by relating it to the practical problems that presently cloud the rights of fishermen to associate themselves together, whether in unions or cooperatives, and collectively bargain for a fair return on the fish harvested by their labors at sea.

The need for this legislation has grown steadily more urgent during recent years. The reasons are complex but generally boil down to a single major consideration. As a result of antitrust actions and Federal Trade Commission rulings, many fishermen find themselves in what amounts to a legal no man's land when it comes to bargaining collectively with fish buyers over the conditions and price under which they will deliver their fish. Likewise the buyers, be they dealers or canners, cannot engage in group bargaining with fishermen.

Many harmful results flow from this unusual condition. First and foremost is that fishermen and buyers, often at the height of the harvesting season, have disagreements over the price of fish. Unable to bargain out their differences around a table, they engage in a constant and sometime lengthy bickering. Meanwhile, all suffer losses; fishery management and conservation deteriorates; needed technological improvements fail to materialize and an important basic industry slips steadily backward.

The existing unstable relationships did not arise over night, nor are they the product of any particular group or governmental agency. The problem arose primarily because of the peculiar circumstances of the industry itself, because of the unique status of the fisherman as a sort of combination producer-worker-independent entrepreneur. In short, fishermen simply do not fit into the legal patterns created for other groups.

Undoubtedly, there is no quick prescription to produce stable relationships in the fishing industry. However, the Marketing Act does appear to offer the most constructive possibilities. It has already been relied upon extensively and can best be adapted to the special characteristics of the industry. What would seem to be order is that it be amended to clearly establish the legal right of all fishermen to organize into associations of their own choosing, unions or cooperatives, and the reciprocal right of such associations and buyers or associations of buyers to engage in collective bargaining over fish prices or other methods of compensation.

Many legislative efforts along this line have been undertaken over the past 10 years. Some hearings have been held, but neither the Congress nor the industry have been sufficiently aroused to give this problem the consideration it requires. It is our hope in introducing a bill at this time, to have this proposal

thoroughly studied by all segments of the industry to enable them to be in agreement and then corrective legislation will be possible.

What is needed above all is to bring together in a comprehensive record the facts pertinent to the problems we are striving to solve with this legislation. To guide us we need the ideas and mature judgments of the producers, the dealers, the canners, and all others who make up the U.S. fishery. Out of such an approach, I am sure, will emerge a solution that will help us to legislate a foundation for stable relationships between the several divisions of our industry.

NEW BEDFORD FISHERMEN'S UNION,
New Bedford, Mass., October 6, 1962.

Hon. E. L. BARTLETT,
Circuit Court of Appeals Courtroom,
U.S. Courthouse Building,
Seattle, Wash.

DEAR SIR: I am Howard W. Nickerson, secretary-treasurer of the New Bedford Fishermen's Union. We have a membership of 1,500 and there are approximately 700 other nonunion fishermen in the immediate area who would be benefited by S. 3093 if favorable action was taken on this bill. The membership of our union is in favor of this bill.

There are approximately 19,000 fishermen on the Atlantic seaboard not including Florida and the gulf, whose very livelihood and future security depends upon this bill, its approval and passage. It is indeed strange that all other facets of industry and agriculture have protection and yet the fisherman who risks his life daily has very minute governmental protection.

Mr. John Hawks of the Seafarers' International Union of North America will speak on my behalf because I am unable to be present at this hearing. However, I would like to reserve the right to speak at a hearing at a later date to be held in Washington, D.C., or any east coast city convenient to your committee. Should you decide to hold a hearing in a city other than Washington, D.C. could I suggest New York.

Very truly yours,

HOWARD W. NICKERSON,
Secretary-Treasurer.

Senator BARTLETT. Mr. Johansen, when did your trouble start in this area?

Mr. JOHANSEN. Well, our trouble, if you are talking about our particular union, started in 1954 because of the action taken by the Federal Trade Commission.

Senator BARTLETT. That would relate to all other fishermen in or out of your union too similarly situated, would it not?

Mr. JOHANSEN. Yes.

Well, some actions, some prosecutions had taken place prior to that date, and we can furnish a complete record on that through the attorney's brief.

Senator BARTLETT. I wish you would.

Mr. JOHANSEN. Yes.

Senator BARTLETT. Why had they taken a whack at them and not at you before 1954?

Mr. JOHANSEN. Well, let me explain it this way.

As you know, the Second World War broke out in the early 1940's, and the OPA took jurisdiction, and they held, in effect, that the fishermen were seamen who were employees, and they determined the prices during that particular period.

After the war was over, the Alaska salmon industry obtained a letter of immunity from the Justice Department, and they operated under that immunity until the end of 1953.

However, after 1953 the Federal Trade Commission, which is independent of the Justice Department, brought antitrust suits against all of the unions and all of the packers at that time operating in Alaska.

And that is why no specific action was taken until 1954.

Senator BARTLETT. Did the Federal Trade Commission ever come out with a general statement on this?

Mr. JOHANSEN. Well, they came out with so many statements at the time that I have some difficulty in reassembling in my own mind all that they said.

However, one thing I think is significant is the consent agreement, and which I believe could be obtained for the record.

Senator BARTLETT. I wish you would.

(The material referred to follows:)

IN THE MATTER OF

ALASKA SALMON INDUSTRY, INC., ET AL.

CONSENT SETTLEMENT IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Docket 6141. Complaint, Nov. 12, 1953—Decision, Apr. 8, 1954

Where some 41 business enterprises, corporate and otherwise, which were engaged in operating canneries in the various fishing areas or districts of Alaska as established by the Department of the Interior for the purpose of controlling salmon fishing; entered into contracts for salmon caught in seven of such fishing areas or districts by the fishermen members of the unions in the fishing areas or districts in which said packers maintained such canneries; operated about 90 of the 110 salmon canneries operating in Alaska in which salmon fishing and canning constituted the Territory's largest industry and its principal source of employment and tax revenue; sold large quantities of salmon, including that caught in the fishing areas or districts concerned and purchased from the fishermen members of the unions involved, to purchasers, after canning; and were in substantial competition in the purchase of fresh or raw salmon from the fishermen who caught the same in such areas or districts, except as restrained or destroyed, as below set forth, with each other and with others likewise—

(a) For many years past, and especially since 1946, and beginning with the date of their affiliation with their corporate trade organization or association, by means of and through said trade association and its managing director and their individual acts, entered into, maintained, and effectuated an agreement or understanding to pursue, and pursued, a planned, common, and concerted course of action between and among themselves to adopt, fix, and adhere to certain practices and policies which restricted and restrained competition in the offer to purchase and the purchase of fresh or raw salmon in commerce in said Territory; and as a part of and in furtherance of the aforesaid agreement, etc., and among other things—

- (1) Agreed to and did determine and fix the purchase prices in the various fishing areas or districts of Alaska for the different types of fresh or raw salmon;
- (2) Agreed to and did restrict price competition between and among themselves in the purchase of said salmon;
- (3) Agreed to and did maintain uniform minimum prices for the purchase thereof and agreed to and did authorize and empower their said trade organization to negotiate on their behalf contracts or agreements with the said unions to fix and establish the annual minimum prices at which the various types of salmon were to be purchased by said packers and canners, members of their said organization, and were to be sold by the fishermen members of said unions; and

Where for many years past, and especially since 1946, said trade organization, a membership corporation, its said managing director, acting on behalf of its members, said members, from the date of their affiliation with their said trade organization, acting both individually and as members of said trade organization, and the various unions concerned, acting for and on behalf of their Alaska salmon fishermen members—

- (b) Entered into, maintained, and effectuated an agreement or understanding to pursue, and pursued, a planned, common, and concerted course of action to adhere to certain practices and policies which restricted and restrained competition in the offer for sale, sale, and distribution of fresh or raw salmon in commerce in said Territory; and as a part of and in pursuance to and in furtherance of the aforesaid agreements, etc., among other things—
- (1) Agreed to and did determine and fix minimum prices for the purchase and sale of the various types of fresh or raw salmon caught in the aforesaid fishing areas or districts of Alaska;
- (2) Agreed to and did restrict price competition between and among fishermen members of said unions in the sale of said salmon;
- (3) Agreed to and did adopt and maintain an arrangement whereby each of said unions entered into annual agreements or contracts in one or more of the various fishing districts or areas of Alaska with said trade organization and its said members,

whereby the annual minimum fish prices for the purchase and sale of said salmon were fixed;

- (4) Agreed to and did establish and maintain minimum prices for the purchase and sale of said fish;
- (5) Agreed to and did restrict individual salmon fishermen members of said unions from selling any such salmon to canneries of the members of said organization except in accordance with annual agreements or contracts entered into by said organization and its members and the union or unions concerned; and
- (6) Agreed to and did restrict raw or fresh salmon from being sold in any fishing area or district of Alaska until and unless the annual contract fixing and establishing the prices at which the various types of such fish should be purchased and sold had been entered into by or in behalf of said members and the union or unions for the area or district involved;

Held, That such acts and practices, under the circumstances set forth, had a dangerous tendency unduly to prevent price competition between and among respondents in the purchase and sale of raw or fresh salmon in commerce, and were all to the prejudice and injury of the public, and constituted unfair acts and practices in commerce and unfair methods of competition therein.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. Fletcher G. Cohn, Mr. Lewis F. Depro, Mr. Paul H. LaRue and Mr. Everette MacIntyre for the Commission.

Mr. W. C. Arnold, of Seattle, Wash., for Alaska Salmon Industry, Inc.

Mr. Thomas M. Green and Mr. Frank T. Rosenquist, of the firm of Graham, Green, Howe & Dunn, of Seattle, Wash., for Ellamar Packing Co., Egegik Packing Co., P. E. Harris Co., Inc., Intercoastal Packing Co., Peninsula Packers, San Juan Fishing & Packing Co., Todd Packing Co., Uganik Fisheries, Inc., Calvert Corp., Trans-Pacific Fishing & Packing Co., and Marine Fishing & Packing Co.

Mr. Robert Graham and Mr. Edward Dobrin of the firm of Bogle, Bogle & Gates, of Seattle, Wash., for Alaska Pacific Salmon Co., Bristol Bay Packing Co., Chignik Fisheries Co., Kadiak Fisheries Co., New England Fish Co., and Seldovia Bay Packing Co.

Medley & Haugland, of Seattle, Wash., for Alaska Year Round Canneries Co., General Fish Co. and Kayler-Dahl Fish Co.

Allen, Hilen, Froude, DeGarmo & Leedy, of Seattle, Wash., for Farwest Wrangell Co. and Nakat Packing Corp.

Kerr, McCord, Greenleaf & Moen, of Seattle, Wash., for Fidalgo Island Packing Co. and Pacific American Fisheries.

Mr. E. H. Taylor, of the firm of Pillsbury, Madison & Sutro, of San Francisco, Calif., for Alaska Packers Ass'n and L. G. Wingard Packing Co.

Mr. Wendell Wyatt, of Astoria, Ore., for Columbia River Packers Ass'n.

Mr. M. A. Marquis of the firm of McMicken, Rupp & Schweppe, of Seattle, Wash., for Copper River Packing Co.

Mr. R. E. Robertson of the firm of Robertson, Monagle & Eastaugh, of Juneau, Alaska, for Icy Straits Salmon Co.

Holman, Mickelwait, Marion, Black & Perkins, of Seattle, Wash., for Libby, McNeill & Libby.

Mr. S. J. King of the firm of Ryan, Askren & Mathewson, of Seattle, Wash., for Whiz Fish Products Co.

Moriarty & Olson, of Seattle, Wash., for Wards Cove Packing Co.

Mr. Walter Walsh, of Juneau, Alaska, for Hood Bay Salmon Co., Annette Islands Canning Co., Keku Canning Co., Klawock Oceanside Packing Co., and Hydaburg Cooperative Ass'n.

Mr. Roy E. Jackson and Mr. Carl B. Luckerath, of Seattle, Wash., for Alaska Fishermen's Union.

McCutcheon, Nesbitt & Rader, of Anchorage, Alaska, for Cordova District Fisheries Union.

Bassett, Geisness & Vance, of Seattle, Wash., for Alaska Marine District Union of Fishermen, Cannery Workers and Allied Trades, Bering Sea Fishermen's Union, United Fishermen of Alaska, and United Fishermen of Cook Inlet.

Waltheu, Oseran & Warner, of Seattle, Wash., for Fisheries Division, International Longshoremen's and Warehousemen's Union, Northwest and Alaska, Local No. 3-3, Fishermen & Allied Workers Division, International Longshoremen's & Warehousemen's Union and Local No. 30, Fishermen & Allied Workers Division, International Longshoremen's & Warehousemen's Union.

Mr. Hugh E. Pickel, Jr., of Seattle, Wash., for Stikine Gillnetters Ass'n.

CONSENT SETTLEMENT¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 12, 1953, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair acts and practices and unfair methods of competition in violation of the provisions of Section 5 of said Act.

The respondents desiring that this proceeding be disposed of by Consent Settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purpose of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the Consent Settlement hereinafter set forth, and in lieu of the answers to said complaint heretofore filed and which, upon acceptance by the Commission of this settlement, are to be withdrawn from the record, hereby:

1. Admit all the jurisdictional allegations set forth in the complaint;
2. Consent that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law;

3. Agree that this Consent Settlement may be set aside in whole or in part under the conditions and in the manner provided in Paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondents consent may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Alaska Salmon Industry, Inc., is a membership corporation, organized and existing under the laws of the State of Delaware, with its principal office in the State of Delaware located at No. 100 West 10th Street, Wilmington, Delaware, and its principal office for the transaction of business of the corporation located at 200 Colman Building, 811 First Avenue, Seattle 4, Washington. It, its officers, directors and members are here named and made parties respondent to this proceeding. Said respondent, Alaska Salmon Industry Inc., will sometimes hereinafter be referred to as respondent "industry." The members of said respondent Industry will sometimes hereinafter be referred to as respondent "Industry Members."

Except as hereinafter noted, the following corporations, individuals, and partnerships were members of respondent Industry as of June 20, 1952, and each has continued such membership.

Therefore, because of that status and the acts, practices, and policies in which they participated, as hereinafter set forth, each such respondent industry member is also here named and made a party respondent individually. Each such respondent Industry Member is described as follows:

Respondent, Alaska Pacific Salmon Company is a corporation organized under the laws of the State of Nevada, with its principal office and place of business located at the Skinner Building, Seattle, Washington.

Respondent, Alaska Packers Association is a corporation organized and existing under the laws of the State of California, with its principal office and place of business located at 215 Fremont Street, San Francisco, California.

Respondent, Alaska Year Round Canneries Company is a corporation organized and existing under the laws of the State of Washington, with its principal

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on April 8, 1954, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

It appearing to the Commission that Sebastian-Stuart Fish Company, one of the respondents in this proceeding, is no longer engaged in the business of canning salmon in Alaska and that it has no present intention of reentering the business.

It was also ordered, That the complaint herein be dismissed as to said respondent Sebastian-Stuart Fish Company.

office and place of business located at 5355 28th Avenue, N.W., Seattle, Washington.

Respondent, Angoon Community Association, operating under the name of the Hood Bay Salmon Company, is a corporation organized and existing under a charter obtained through the Bureau of Indian Affairs, United States Department of Interior, having its principal office and place of business located at 625 Colman Building, Seattle 4, Washington.

Respondent, Bristol Bay Packing Company is a corporation organized and existing under the laws of the State of California, with its principal office and place of business located on the Seventh Floor of the Skinner Building, Seattle, Washington.

Respondent, Chignik Fisheries Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 1826 Exchange Building, Seattle 4, Washington.

Respondent, Columbia River Packers Association, Inc., is a corporation organized and existing under the laws of the State of Oregon, with its principal office and place of business located at Astoria, Oregon.

Respondent, Cook Inlet Packing Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 303 Colman Building, Seattle 4, Washington.

Respondent, Copper River Packing Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 2408 Commodore Way, Seattle, Washington.

Respondent, Egegik Packing Company is a corporation organized and existing under the laws of the Territory of Alaska, with its principal office and place of business located at Pier 31, Foot of Stacy Street, Seattle, Washington.

Respondent, Ellamar Packing Company is a sole proprietorship conducted by Milton G. Brown, with its principal office and place of business located at 2408 Commodore Way, Seattle, Washington.

Respondent, Farwest Wrangell Co., Inc., is a corporation organized and existing under the laws of the Territory of Alaska, with its principal office and place of business located at 740 Westlake North, Seattle 9, Washington.

Respondent, Fidalgo Island Packing Company, Inc., is a corporation organized and existing under the laws of the State of Maine, with its principal office and place of business located at 2360 Commodore Way, Seattle 99, Washington.

Respondent, General Fish Co., Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 5355 Twenty-Eighth Avenue NW., Seattle, Washington.

Respondent, P.E. Harris Company, Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 1220 Dexter Horton Building, Seattle 4, Washington.

Respondent, Hydaburg Cooperative Association is a corporation operating under a charter obtained through the Bureau of Indian Affairs, United States Department of Interior, with its principal office and place of business located at 916 American Building, Seattle 4, Washington.

Respondent, Icy Straits Salmon Company is a corporation organized and existing under the laws of the Territory of Alaska, with its principal office and place of business located at 219 Herald Building, Bellingham, Washington; said respondent was a member of respondent industry until December 31, 1950, since which date it has not held membership in respondent industry.

Respondent, Independent Salmon Canneries Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Pier 66, Bell Street Terminal, Seattle 1, Washington.

Respondent, Intercoastal Packing Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Pier 31, Foot of Stacy Street, Seattle 14, Washington.

Respondent, Kadiak Fisheries Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 1826 Exchange Building, Seattle 4, Washington.

Kayler-Dahl Fish Company, Inc., which was named as a respondent in the complaint, is now dissolved.

Respondent, Keku Canning Company, is a corporation operating under a charter obtained through the Bureau of Indian Affairs, United States Department of Interior, with its principal office and place of business located at 4103 Arcade Building, Seattle, Washington.

Respondent, Ketchikan Packing Company is a corporation organized and existing under the laws of the Territory of Alaska, with its principal office and place of business located at 625 Colman Building, Seattle, Washington.

Respondent, Klawock Cooperative Association, doing business as Klawock Oceanside Packing Company, is a native charter corporation operating under a charter obtained through the Bureau of Indian Affairs, United States Department of Interior, with its principal office and place of business located at 2700 Westlake North, Seattle 9, Washington.

Respondent, Libby, McNeill & Libby is a corporation organized and existing under the laws of the State of Maine, with its principal place of business being located at Union Stockyards, Chicago, Illinois.

Respondent, Metlakatla Indian Community operating under the trade name of Annette Islands Canning Company, is a Federal corporation chartered under the Act of Congress of June 18, 1934, with its principal office and place of business located at 505 Colman Building, Seattle 4, Washington.

Respondent, The Nakat Packing Corporation is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 1355 Dexter Horton Building, Seattle 4, Washington.

Respondent, New England Fish Company is a corporation organized and existing under the laws of the State of Maine, with its principal office and place of business located at 1828 Exchange Building, Seattle 4, Washington.

Respondent, Pacific American Fisheries, Inc., is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business located at 401 Harris Avenue, Bellingham, Washington.

Nick Bez, William Calvert, Lawrence Calvert and Starr H. Calvert are not engaged in business under the trade name of Peninsula Packers and there is substituted for them as respondents herein Trans-Pacific Fishing & Packing Company and Calvert Corporation, both of which corporations are organized under the laws of the State of Washington; the principal office and place of business of said partners trading under the name of Peninsula Packers in 1220 Dexter Horton Building, Seattle 4, Washington; said partners do acknowledge that full service of process has been effected upon them. Said partnership ceased its membership in respondent industry as of June 30, 1952.

Respondent, Port Ashton Packing Corporation is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 627 Colman Building, Seattle 4, Washington.

Respondent, Pyramid Fisheries Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 2003 Exchange Building, Seattle 4, Washington.

Respondent, Superior Packing Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 2003 Exchange Building, Seattle 4, Washington.

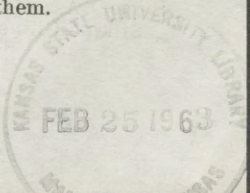
Respondent, San Juan Fishing & Packing Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Pier 31, Foot of Stacy Street, Seattle, Washington.

Respondent, Sebastian-Stuart Fish Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Pier 24, Spokane Street Dock, Seattle 4, Washington; said respondent filed no answer to the complaint.

Respondent, Seldovia Bay Packing Company is a corporation organized and existing under the laws of the Territory of Alaska, with its principal office and place of business located at Central Building, Seattle 4, Washington. Said respondent was a Member of said respondent Industry on June 20, 1952 but has since that date ceased to be a member thereof.

Respondent, Snug Harbor Packing Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 1805 Smith Tower, Seattle, Washington; said respondent filed no answer to the complaint.

Respondent Todd Packing Company is a partnership composed of San Juan Fishing & Packing Company and Marine Fishing & Packing Company, corporations, both of which are organized and existing under the laws of the State of Washington; the principal office and place of business of said partnership is located at Pier 31, Foot of Stacy Street, Seattle, Washington. Said partners do acknowledge that full service of process has been effected upon them.



Respondent, Uganik Fisheries Inc., is a corporation organized and existing under the laws of the Territory of Alaska, with its principal office and place of business located at Pier 31, Foot of Stacy Street, Seattle, Washington.

Respondent, Wards Cove Packing Company Inc., is a corporation organized and existing under the laws of the Territory of Alaska, with its principal office and place of business located at 303 East Northlake Avenue, Seattle 5, Washington.

Respondent, Whiz Fish Products Company, Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 2000 Alaskan Way, Seattle 4, Washington.

Respondents, L. G. Wingard, Mary Lou Wingard, Lester L. Wingard, Lou M. Hill, Charles Coffey, Conney Nelson, Lorraine Nelson, and Richard W. Hill are individuals doing business as a partnership under the trade name of L. G. Wingard Packing Co., with their principal office and place of business located at 10457 Maplewood Place, Seattle, Washington.

Win-Ra Fisheries Inc., which was named as a respondent in the complaint herein, has been dissolved.

Respondent, W. C. Arnold has been for several years last past, and is now the Managing Director of respondent, Alaska Salmon Industry, Inc., with its principal office and place of business located at 200 Colman Building, 811 First Avenue, Seattle 4, Washington; he is here also named and made a respondent individually.

Each of the following parties described in this Paragraph 1 entered into agreements with the above-named respondents and participated with them in carrying out the acts and practices hereinafter alleged. Therefore, each such party is here named and made a respondent to this proceeding.

Respondent, Alaska Fishermen's Union is an unincorporated association among whose members are fishermen engaged in catching the various types of fresh or raw salmon in one or more of the fishing districts of Alaska. Its principal place of business is located at 84 Union Street, Seattle, Washington.

Respondent, Alaska Marine District Union of Fishermen, Cannery Workers and Allied Trades is an unincorporated association among whose members are fishermen engaged in catching the various types of fresh or raw salmon in one or more of the fishing districts of Alaska. Its principal place of business is located at Sitka, Alaska.

Associated Fishermen & Allied Workers, who was named as respondent in the complaint herein could not be served with process. Therefore, the complaint is dismissed as to it.

Respondent, Bering Sea Fishermen's Union is an unincorporated association among whose members are fishermen engaged in catching the various types of raw or fresh salmon in one or more of the fishing districts of Alaska. Its principal office and place of business is located at Dillingham, Alaska.

Respondent, Cordova District Fisheries Union, is an unincorporated association among whose members are fishermen engaged in catching the various types of fresh or raw salmon in one or more of the fishing districts of Alaska. Its principal office and place of business is located at Cordova, Alaska.

Fisheries Division, International Longshoremen's and Warehousemen's Union, Northwest and Alaska, which was named as a respondent in the complaint herein, was not engaged in the acts and practices alleged in the complaint. However, there are named as respondents herein, in lieu of said Fisheries Division, International Longshoremen's and Warehousemen's Union, Northwest and Alaska, Local No. 3-3 of the Fishermen & Allied Workers Division, International Longshoremen's and Warehousemen's Union and Local No. 30, Fishermen & Allied Workers Division of International Longshoremen's and Warehousemen's Union, both unincorporated associations among whose members are fishermen engaged in catching various types of fresh or raw salmon in one or more of the fishing districts of Alaska; the principal office and place of business of said respondent, Local No. 3-3, is 84 Union Street, Seattle, Washington, and that of said respondent Local No. 30, is Ketchikan, Alaska; said respondents do acknowledge that full service of process has been effected upon them.

Petersburg Vessel Owner's Association which was named as a respondent in the complaint herein, was not engaged in any of the acts or practices hereinafter set out.

No service of process was effected upon Southeastern Alaska Salmon Purse Seiners Association, which was named as a respondent in the complaint herein. Stikine Gillnetters Association, which was named as a respondent in the com-

plaint, is an unincorporated association whose members are fishermen engaged in catching the various types of fresh or raw salmon in one or more of the fishing districts of Alaska and selling same through such association in compliance with the provisions of the Fishermen's Marketing Act.

Respondent, United Fishermen of Alaska, is an unincorporated association among whose members are fishermen engaged in catching the various types of fresh or raw salmon in one or more of the fishing districts of Alaska. Its principal office and place of business is located at Kodiak, Alaska.

Respondent, United Fishermen of Cook Inlet, is an unincorporated association among whose members are fishermen engaged in catching the various types of raw or fresh salmon in one or more of the fishing districts of Alaska. Its principal office and place of business is located at Anchorage, Alaska.

PAR. 2. Respondent, Alaska Salmon Industry, Inc., was organized in 1940. It is a trade organization or association composed of corporations, partnerships, firms, and individuals who are engaged in the canning of salmon in Alaska. Its membership constitutes in excess of 50% of the salmon cannery or packers operating in Alaska, and they can or pack well in excess of 50% of the total volume of salmon produced in said territory.

Respondent Industry has acted, and is acting for, and in cooperation with, the respondent Members thereof in negotiating and fixing the annual minimum prices to be paid by said respondent Members to fishermen members of respondent Unions for fresh or raw salmon caught by said fishermen in Alaskan waters and sold by them to such Members. In carrying out this function, respondent Industry, in each of the fishing areas or districts of Alaska, which are hereinafter described, fixes and establishes with the respondent Unions, for each of said districts or areas, fish prices for salmon caught in such areas or districts. All of the respondent Members of the respondent Industry having canneries in a particular fishing district or area, authorize and empower respondent Industry to act for them as a group in negotiating and fixing the fish prices for the various types of salmon caught by the fishermen members of the respondent Union or Unions in that particular fishing area or district.

PAR. 3. All of the individuals, partnerships, firms, and corporations hereinbefore described in Paragraph 1 are engaged in the business of maintaining and operating canneries in one or more of the various fishing areas or districts of Alaska, as hereinbefore described, for the purpose of canning salmon including that caught by the fishermen members of respondent Unions in the fishing areas or districts in which said respondent Industry Members maintain such canneries. Each of said respondents was, or is, a member of respondent Industry, except as otherwise indicated in Paragraph 1, and has authorized, participated in, adopted or confirmed, as a member of respondent Industry, the acts and practices of said Industry hereinafter set forth.

PAR. 4. The respondent Unions are now engaged, and at all times herein mentioned have been engaged, in transacting business on behalf of their fishermen members. Each of said respondent Unions enters into contracts or agreements for one or more of the fishing districts or areas in Alaska with the respondent Industry and/or with respondent Industry Members who have canneries in the areas or districts covered by said contracts or agreements whereby minimum fish prices for the various types of salmon caught and sold in said fishing areas or districts are fixed and established for each annual fishing season.

PAR. 5. As to members of respondent Unions, including fishermen members, who are employees as one or more of respondent Industry Members, said respondent Unions have bargained, and do bargain, with the respondent Industry and/or respondent Industry Members as to wages and working conditions of said employees.

With the exception of the Bristol Bay area, referred to in the second paragraph of Paragraph 11, there is no agreement among respondents as to the status of fishermen members of respondent Unions. No Finding of Fact or Conclusion is made with respect to such status.

As to such status, the Commission is to consider and give full weight to the decisions and actions of the National Labor Relations Board.

PAR. 6. Respondent W. C. Arnold, who is made a respondent herein both individually and in his official capacity as Managing Director of respondent Industry, is the executive officer of said respondent Industry, and as such, acting for and on behalf of respondent Industry, supervises and directs the negotiations and agreements hereinafter described between respondent Industry and the respondent Unions.

PAR. 7. Each of the respondents herein named has directly or indirectly participated in, approved or adopted one or more of the acts and practices hereinafter set forth in Paragraphs 13 and 14.

PAR. 8. It is common knowledge that the Territory of Alaska is an important commercial factor in the economy of this country. Salmon fishing and canning is Alaska's largest industry and its principal source of employment and tax revenue. The salmon cannerys are scattered along the shores of Alaska where it will be convenient for boats and fishing gear to intercept the incoming migration.

The law requires that salmon be canned, or otherwise preserved, within forty-eight hours after being caught, and the cannerys, including those operated by respondent Industry Members, in order to secure the highest quality product, have adopted the practice of canning or otherwise preserving salmon within twenty-four hours.

The Territory has been divided into separate fishing areas or districts by the Fish and Wildlife Service, Department of Interior, for the purpose of controlling salmon fishing. The respondent Industry Members maintain cannerys and enter into contracts for salmon caught in seven of such fishing areas or districts, to wit: Bristol Bay; Peninsula or Westward; Chignik; Kodiak Island; Cook Inlet; Copper River and Prince William Sound; and Southeastern Alaska.

The Secretary of Interior, by Congressional authority, promulgates and issues regulations annually, governing fishing for each year, whereby are controlled the opening and closing dates for salmon fishing in each of the fishing areas or districts. Such seasons vary in the different areas, but generally speaking, any particular area is not open for more than five weeks, and the greater portion of the catch in any such area is made within a fifteen-day period.

Normally there are about 110 salmon cannerys operating in Alaska, and the respondent Industry Members operate approximately 90 of them. The capital investment in Alaska salmon fisheries is estimated at approximately \$100,000,000. The industry utilizes approximately 20,000 employees and fishermen, the total fishermen being approximately 14,000. About one-half of this 20,000 are year-round residents of the Territory, and the other 10,000 are transported to the Territory each spring from the continental United States and returned in the fall after the seasons' operations are concluded.

In 1952 the pack was approximately 3,250,000 cases (a case contains 48 one-pound cans), having a wholesale value of approximately \$95,000,000 and being valued to the fishermen at approximately \$33,000,000.

PAR. 9. Respondent Industry Members sell large quantities of salmon, including that caught in the fishing areas or districts of Alaska and purchased from the fishermen members of respondent Unions, to purchasers of said salmon after same has been canned by respondent Industry Members, and which purchasers are located in the various States of the United States, and cause same to be transported for sale from the Territory of Alaska to such purchasers. Said respondent Industry Members, as well as the fishermen members of respondent Unions, maintain, and at all times herein mentioned, have maintained a regular course or current of trade and commerce in raw or fresh salmon in the Territory of Alaska.

The respondents, Industry, W. C. Arnold, and Unions, have been, and are, media whereby respondent Industry Members and fishermen members of respondent Unions have committed and performed, and are committing and performing, in commerce, the practices and policies hereinafter set forth in Paragraphs 13 and 14. All of the respondents named herein have been, and are now, engaged in commerce in raw or fresh salmon, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 10. Respondent Industry Members in the course and conduct of their business in purchasing fresh or raw salmon from the fishermen who catch same in the fishing areas or districts of Alaska, are in substantial competition, except as such competition has been restrained or destroyed, as hereinafter set forth, with each other and with others who likewise are engaged in purchasing and selling such salmon in commerce.

Respondent Unions, as well as the fishermen members thereof, in the course of negotiating for sale, and in selling the salmon caught by said fishermen in the fishing areas or districts of Alaska, are engaged in substantial competition, except as such competition has been restrained or destroyed, as hereinafter found: (a) the fishermen members of a respondent Union being in competition with each other; (b) all respondent Unions having fishermen members catching

salmon in the same fishing area or district being in competition with each other; (c) respondent Unions and the fishermen members thereof being in competition with other unions and their members who are engaged in offering for sale and selling such salmon; and (d) said respondents and their fishermen members being in competition with other fishermen who are not union members, but who are engaged in catching and selling salmon in commerce.

PAR. 11. Fresh or raw salmon, with rare exceptions, is purchased by the respondent Industry Members as the result of, and on the basis of, the negotiations and bargaining carried on for each of the fishing areas or districts, in advance of the fishing seasons for each district, with the respondent Industry acting for, on behalf of, and with the approval of respondent Industry Members, and the respondent Unions acting for, on behalf of, and with the approval of all their fishermen members in the affected district. Such negotiations and bargainings fix and determine the fish prices, which are the prices at which fishermen members of respondent Unions agree to sell and the respondent Industry Members agree to purchase the various types of salmon for the particular fishing season in the different fishing areas or districts covered by said contracts or agreements.

The greater majority of the fishermen members of respondent Unions who are, and have been for the last several years past, catching salmon within the Bristol Bay area are, and have been, employees of one or more of the respondent Industry Members operating canneries in said area.

PAR. 12. The fish prices fixed and determined in the aforescribed manner are adopted and maintained, at least as the minimum prices, for the various types of salmon in each of the fishing areas or districts covered by such contracts or agreements for the particular season named therein, by the respondent Industry Members and the fishermen members of the respondent Unions covered thereby.

PAR. 13. For many years last past, and especially since 1946, and continuing to the filing of this complaint, respondent Industry Members have, from the date of their affiliation with respondent Industry, by means of and through respondent Industry and respondent Arnold, and also by their individual acts, entered into, maintained and effectuated an agreement or understanding to pursue, and they have pursued, a planned common and concerted course of action between and among themselves to adopt, fix and adhere to certain practices and policies which restrict and restrain competition in the offering to purchase and the purchase of fresh or raw salmon in commerce in the Territory of Alaska.

As part of, pursuant to, and in furtherance of the aforesaid agreement, understanding and planned common and concerted course of action, said respondent Industry Members, among other such practices and policies, have agreed:

1. to determine and fix, and they have determined and fixed, and are still determining and fixing, the purchase prices in the various fishing areas or districts of Alaska for the different types of fresh or raw salmon;
2. to restrict, and have restricted, and are still restricting, price competition between and among themselves in the purchase of said salmon;
3. to maintain, and they have maintained, and are still maintaining, uniform minimum prices for the purchase of said salmon;
4. to authorize and empower, and they have authorized and empowered, and are still authorizing and empowering, respondent Industry to negotiate on their behalf contracts or agreements with respondent Unions to fix and establish the annual minimum prices at which the various types of said salmon are to be purchased by respondent Industry Members and to be sold by the fishermen members of respondent Unions.

PAR. 14. For many years last past, and especially since 1946, and continuing to the filing of this complaint, (a) respondent Industry, (b) respondent W. C. Arnold, acting on behalf of respondent Industry Members, (c) respondent Industry Members from the date of their affiliation with respondent Industry, acting both individually and as members of said Industry, and (d) respondent Unions, acting for and on behalf of the Alaska salmon fishermen members of said Unions, have entered into, maintained and effectuated an agreement or understanding to pursue, and they have pursued, a planned common and concerted course of action between and among themselves to adopt, fix, and adhere to certain practices and policies which restrict and restrain competition in the offering for sale, sale and distribution of fresh or raw salmon in commerce in the Territory of Alaska.

As part of, pursuant to, and in furtherance of the aforesaid agreement, understanding, or planned common and concerted course of action, said respondents, among other practices and policies, have agreed

1. to determine and fix, and they have determined and fixed, and are still determining and fixing, minimum prices for the purchase and sale of the various types of fresh or raw salmon caught in the aforesaid fishing areas or districts of Alaska;

2. to restrict, and they have restricted, and are still restricting, price competition between and among fishermen members of respondent Unions in the sale of said salmon;

3. to adopt and maintain, and they have adopted and maintained, and are still adopting and maintaining, an arrangement whereby each of respondent Unions has entered into annual agreements or contracts in one or more of the various fishing districts or areas of Alaska with the respondent Industry and the respondent Industry Members, whereby are fixed the annual minimum fish prices for the purchase and sale of said salmon;

4. to establish and maintain, and they have established and maintained, and are still establishing and maintaining, the minimum prices for the purchase and sale of said salmon;

5. to restrict, and they have restricted, and are still restricting individual salmon fishermen members of respondent Unions from selling any such salmon to canneries of respondent Industry Members except in accordance with annual agreements or contracts entered into by respondent Industry and respondent Industry Members and respondent Union or Unions;

6. to restrict, and they have restricted, and are still restricting, raw or fresh salmon from being sold in any fishing area or district of Alaska until and unless the annual contract or agreement fixing and establishing the prices at which the various types of such salmon should be purchased and sold, have been entered into by or in behalf of respondent Industry Members and the respondent Union or Unions for said area or district.

PAR. 15. In addition to the effects, as hereinbefore set forth in Paragraphs 13 and 14, the acts, practices and policies of the respondents likewise have the capacity and tendency to affect the cost of food by their effect on the prices which the public is required to pay for canned salmon.

CONCLUSION

The acts and practices of respondents as hereinbefore found have a dangerous tendency unduly to hinder competition because they have promoted and contributed to the suppression, elimination and prevention of price competition between and among respondents in the purchase and sale of raw or fresh salmon in commerce, as "commerce" is defined in the Federal Trade Commission Act, and such acts and practices, all and singularly, are to the prejudice and injury of the public and constitute unfair acts and practices and unfair methods of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That respondents, Alaska Salmon Industry Inc., a corporation, its officers, directors and members, and Alaska Pacific Salmon Company, Alaska Packers Association, Alaska Year Round Canneries Company, Angoon Community Association trading as Hood Bay Salmon Company, Bristol Bay Packing Company, Chignik Fisheries Company, Columbia River Packers Association, Inc., Cook Inlet Packing Company, Cooper River Packing Company, Egegik Packing Company, Ellamar Packing Company, Farwest Wrangell Co., Inc., Fidalgo Island Packing Company, Inc., General Fish Co., Inc., P. E. Harris Company Inc., Hydaburg Cooperative Association, Icy Straits Salmon Company, Independent Salmon Canneries, Inc., Intercoastal Packing Company, Kadiak Fisheries Company, Kek Canning Company, Ketchikan Packing Company, Klawock Cooperative Association doing business as Klawock Oceanside Packing Company, Libby, McNeill & Libby, Metlakatla Indian Community operating under the trade name of Annette Islands Canning Company, The Nakat Packing Corporation, New England Fish Company, Pacific American Fisheries, Inc., Trans-Pacific Fishing & Packing Company and the Calvert Corporation, both corporations doing business under the trade name of Peninsula Packers, Port Ashton Packing Corporation, Pyramid Fisheries, Inc., Superior Packing Com-

pany, San Juan Fishing & Packing Company, Sebastian-Stuart Fish Company, Seldovia Bay Packing Company, Snug Harbor Packing Company, San Juan Fishing & Packing Company and Marine Fishing & Packing Company, corporations, doing business as Todd Packing Company, Uganik Fisheries, Inc., Wards Cove Packing Company, Inc., Whiz Fish Products Company, Inc., L. G. Wingard, Mary Lou Wingard, Lester L. Wingard, Lou M. Hill, Charles Coffey, Conney Nelson, Lorraine Nelson and Richard W. Hill, doing business as a partnership under the trade name of L. G. Wingard Packing Co., and W. C. Arnold, individually and as Managing Director of Alaska Salmon Industry Inc., and Alaska Fishermens Union, Alaska Marine District Union of Fishermen, Cannery Workers and Allied Trades, Bering Sea Fishermen's Union, Cordova District Fisheries Union, Local 3-3 of the Fishermen & Allied Workers Division, International Longshoremen's and Warehousemen's Union and Local No. 30, Fishermen & Allied Workers Division of International Longshoremen's and Warehousemen's Union, United Fishermen of Alaska and United Fishermen of Cook Inlet, and respondents' members, who shall be deemed herein to be parties respondent, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of raw or fresh salmon caught in the fishing areas or districts of Alaska, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common and concerted course of action, understanding or agreement between or among any two or more of said respondents, or between any one or more of said respondents and others not parties hereto, to do or perform any of the following acts:

1. Fixing, establishing, maintaining or adhering to, in any manner or by any method whatever, the price or prices at which any type of raw or fresh salmon caught in the fishing areas or districts of Alaska are to be, or are, purchased or sold;

2. Fixing, establishing, maintaining or adhering to or attempting to fix, establish, maintain or cause adherence to, by any means or method, uniform or minimum prices for the purchase or sale of said salmon;

3. Jointly or collectively negotiating, bargaining or agreeing by any means or method as to the price or prices at which said salmon is proposed to be, or is, purchased or sold;

4. Authorizing or empowering any association, group, corporation or union to negotiate, bargain or agree as to the prices to be paid or received in the purchase or sale of any such salmon.

Provided, however, That nothing herein contained shall prevent any association of bona fide salmon fishermen, acting pursuant to and in accordance with, the provisions of the Fisheries Cooperative Marketing Act (15 U.S.C.A., Paragraphs 521, 522) from performing any of the acts and practices permitted by said Act;

Provided further, That nothing herein contained shall be deemed to prohibit one or more respondents from entering into or continuing a bona fide partnership, joint operation or venture, or consolidation, for the purpose of operating one or more canneries, and in which the prices paid for raw or fresh salmon are determined by said partnership, joint operation or venture, or consolidation, and where such determination is, under the contract establishing such partnership, joint operation or venture, or consolidation, binding upon all members thereof; This proviso shall not be construed as either an approval or a disapproval of any specific partnership, joint operation or venture, or consolidation, nor as permitting any such partnership, joint operation or venture, or consolidation, to be continued or formed for the purpose or with the effect directly or indirectly of rendering ineffective or unenforceable the inhibitions of this order and the purposes thereof.

Provided further, That nothing herein contained shall prevent collective bargaining between any respondent Union and respondent Industry and/or any employer respondent with respect to wages and working conditions of employee members of said Union within those fishing districts wherein they may be.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to Cease and Desist.

The complaint herein is dismissed as to the following who were named as parties respondent in the Complaint:

Kayler-Dahl Fish Company, Inc.; Nick Bez, William Calvert, Lawrence Calvert and Starr H. Calvert; Win-Ra Fisheries, Inc.; Associated Fishermen & Allied Workers; Fisheries Division, International Longshoremen's and Warehousemen's Union, Northwest and Alaska; Petersburg Vessel Owners' Association; Southeastern Alaska Salmon Purse Seiners Association and Stikine Gillnetters Association.

Seattle, Washington

23 January 1954

Amended 10 March 1954.

The following attorneys of record for the respondents named in the aforesaid Order to Cease and Desist do herewith attach their signatures to this Consent Settlement on the behalf of and for the respondents.

Sgd. W. C. Arnold,

Attorney for Alaska Salmon Industry, Inc.

Sgd. Bogle, Bogle & Gates and R. W. Graham.

Attorney for Alaska Pacific Salmon Company.

Sgd. W. C. Arnold,

Attorney for Alaska Packers Association.

Sgd. Medley & Haugland,

Attorney for Alaska Year Round Canneries Company.

Sgd. Bogle, Bogle & Gates and R. W. Graham,

Attorney for Bristol Bay Packing Company.

Sgd. Bogle, Bogle & Gates and R. W. Graham,

Attorney for Chignik Fisheries Company.

Sgd. W. C. Arnold,

Attorney for Columbia River Packers Association, Inc.

Sgd. Margaret Mason, Secty.-Treas.,

Cook Inlet Packing Company.

Sgd. Donald D. MacLean,

Attorney for Copper River Packing Company.

Sgd. Thomas M. Green, Jr.,

Attorney for Egegik Packing Company.

Sgd. Thomas M. Green, Jr.,

Attorney for Ellamar Packing Company.

Sgd. Allen, Hilen, Froude, DeGarmo & Leedy,
by Seth Morrison,

Attorney for Farwest Wrangell Co., Inc.

Sgd. R. A. Moen,

Attorney for Fidalgo Island Packing Company, Inc.

Sgd. Medley & Haugland,

Attorney for General Fish Co., Inc.

Sgd. Thomas M. Green, Jr.,

Attorney for P. E. Harris Company, Inc.

Sgd. Medley & Haugland,

Attorney for Icy Straits Salmon Company.

Sgd. G. K. Davis,

Secretary for Independent Salmon Canneries, Inc.

Sgd. Thomas M. Green, Jr.,

Attorney for Intercoastal Packing Company.

Sgd. Bogle, Bogle & Gates and R. W. Graham,

Attorney for Kadiak Fisheries Company.

Sgd. E. Dobszinsky,

President for Ketchikan Packing Company.

Sgd. Wendell W. Black—Francis E. Holman,

Attorneys for Libby, McNeill & Libby.

Sgd. Allen, Hilen, Froude, DeGarmo & Leedy,
by Seth W. Morrison,

Attorney for The Nakat Packing Corporation.

Sgd. Bogle, Bogle & Gates and R. W. Graham,

Attorney for New England Fish Company.

Sgd. R. A. Moen,

Attorney for Pacific American Fisheries, Inc.

- Sgd. Thomas M. Green, Jr.,
Attorney for Trans-Pacific Fishing & Packing Company and Calvert Corporation d/b/a Peninsula Packers.
- Sgd. C. F. Johnson,
Vice Pres., Port Ashton Packing Corporation.
- Sgd. Frank Wright, Jr.,
President, Pyramid Fisheries, Inc.
- Sgd. John T. Tenneson, Jr.,
Vice Pres. for Superior Packing Company.
- Sgd. Thomas M. Green, Jr.,
Attorney for San Juan Fishing & Packing Company.
- Sgd. Bogle, Bogle & Gates and R. W. Graham,
Attorney for Seldovia Bay Packing Company.
- Sgd. Thomas M. Green, Jr.,
Attorney for San Juan Fishing & Packing Company and Marine Fishing & Packing Company, d/b/a Todd Packing Company.
- Sgd. Thomas M. Green, Jr.,
Attorney for Uganik Fisheries, Inc.
- Sgd. Moriarty, Olson & Campbell,
by Richard T. Olson,
Attorney for Wards Cove Packing Company, Inc.
- Sgd. Snyder J. King,
Attorney for Whiz Fish Products Company, Inc.
- Sgd. W. C. Arnold,
Attorney for L. G. Wingard, Mary Lou Wingard, Lester L. Wingard, Lou M. Hill, Charles Coffey, Conney Nelson, Lorraine Nelson, and Richard W. Hill, d/b/a L. G. Wingard Packing Co.
- Sgd. W. C. Arnold,
Attorney for W. C. Arnold, individually and as Managing Director of Alaska Salmon Industry, Inc.
- Sgd. Roy E. Jackson,
Attorney for Alaska Fishermen's Union.
- Sgd. Bassett, Geisness & Vance—J. Duane Vance,
Attorney for Alaska Marine District Union of Fishermen, Cannery Workers and Allied Trades.
- Sgd. Bassett, Geisness & Vance—J. Duane Vance,
Attorney for Bering Sea Fishermen's Union.
- Sgd. Roy E. Jackson,
Attorney for Cordova District Fisheries Union.
- Sgd. Walthew, Oseran, Warner—John F. Walthew,
Attorney for Local No. 3-3, Fishermen & Allied Workers Division, International Longshoremen's and Warehousemen's Union.
- Sgd. Walthew, Oseran, Warner—John F. Walthew,
Attorney for Local No. 30, Fishermen & Allied Workers Division, International Longshoremen's and Warehousemen's Union.
- Sgd. Bassett, Geisness & Vance—J. Duane Vance,
Attorney for United Fishermen of Alaska.
- Sgd. Bassett, Geisness & Vance—J. Duane Vance,
Attorney for United Fishermen of Cook Inlet.
- Sgd. _____,
Attorney for Sebastian-Stuart Fish Company.
- Sgd. Joseph R. Fribrock,
Pres. for Snug Harbor Packing Company.
- Sgd. Harry A. Sellery, Jr., Chief Counsel,
Bureau of Indian Affairs,
Attorney for Angoon Community Association, trading as Hood Bay Salmon Company.
- Sgd. Harry A. Sellery, Jr., Chief Counsel,
Bureau of Indian Affairs,
Attorney for Hydaburg Cooperative Association.
- Sgd. Harry A. Sellery, Jr., Chief Counsel,
Bureau of Indian Affairs,
Attorney for Keku Canning Company.

- Sgd. Harry A. Sellery, Jr., Chief Counsel,
Bureau of Indian Affairs,
Attorney for Klawock Cooperative Association, doing business as
Klawock Oceanside Packing Company.
- Sgd. Harry A. Sellery, Jr., Chief Counsel,
Bureau of Indian Affairs,
Attorney for Metlakatla Indian Community operating under the
trade name of Annette Islands Canning Company.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this 8th day of April 1954.

Senator BARTLETT. Now, in your statement on page 2 you said these marketing associations have been able to operate successfully only in instances where conditions are particularly adapted to them.

I wonder if you would be a little bit more explanatory and tell us what conditions would be particularly adapted to them and which would not?

Mr. JOHANSEN. Well, it depends upon several things.

First of all, let me explain that we have nothing against marketing associations as such. They are a perfectly proper instrument of bargaining.

Senator BARTLETT. Oh, yes. We did not understand you were critical.

Mr. JOHANSEN. Right.

We feel, however, that for a fisherman to be protected adequately he should have a choice of whether or not he felt his interest was best served under a marketing association or under a union.

In certain instances I think the marketing associations have worked very well and have been able to obtain a realistic price for the product that they have had to sell to the industry.

In other instances—and I pointed out a little further down here—it is a common practice that where a man starts out as an independent fisherman, so-called independent fisherman, he in very few instances has the necessary money to finance his own operation, and if he is a good fisherman he usually obtains financial backing from the company.

We believe in instances where he has to rely on a marketing association and where such members are composed of many people that are under financial obligation to a company, the marketing association is not the best instrument to provide for a realistic price.

Senator BARTLETT. Now, the Port Moller fishermen which you refer to in the next paragraph are not company fishermen?

Mr. JOHANSEN. The Port Moller fishermen—I am glad you asked that, Mr. Chairman, because I have never yet been able to understand why the National Labor Relations Board made a difference between these fishermen and Bristol Bay, and I want to go back to the hearings held in 1954 before the Federal Trade Commission.

In these hearings the Federal Trade Commission said that they would exempt those fishermen that the National Labor Relations Board deemed as employees. The Bristol Bay Co. fishermen were already exempted in the consent agreement.

We then filed a petition for bargaining rights for not only fishermen in the Port Moller area but company fishermen in Cook Inlet and Chikling and in Kodiak as well.

These were fishermen for whom the company furnished everything, just like they did in Bristol Bay.

But we used in this brief here Port Moller as an example, because this is the closest to the Bristol Bay fishermen.

In Port Moller, to my knowledge, there is absolutely no difference in the furnishing of wherewithal to conduct a fishing effort between Bristol Bay and Port Moller. For example, they furnish everything. This might have been because of the political climate at the time.

The NLRB said that Port Moller fishermen were entrepreneurs or so-called independent fishermen. And by what reason or logic they arrived at that conclusion I have not yet been able to figure out. Someday maybe I will. There is no difference between them.

Senator BARTLETT. Did the National Labor Relations Board give decisions in both these instances?

Mr. JOHANSEN. Right.

Senator BARTLETT. Can you find those possibly and furnish them for the record?

Mr. JOHANSEN. We will have our attorney do it.

Senator BARTLETT. The brief will cover that maybe that he is going to offer?

Mr. JOHANSEN. Well, I am not so sure. He is mentioning it in the brief, but I cannot recall whether or not he gives the numbers of the cases, but we can furnish that for the record.

Senator BARTLETT. Well, I will ask him.

Mr. JOHANSEN. Yes.

Senator BARTLETT. If it is not convenient, it does not matter too much.

Mr. SETH W. MORRISON (a later witness). I think that will be submitted in the background information.

Senator BARTLETT. Fine.

On the next page you said there were cases where the marketing associations have done OK, but in others, so far as you were concerned, union bargaining would have been better.

Now, is that principally because some of the members of the marketing associations are hedged about with restrictions which you noted here which have nothing to do really basically with the fish price?

Mr. JOHANSEN. Well, I think this is true. We have members of the union that we shall bargain for, of course. But they, in turn, belong to a marketing association. Many of these people have expressed to us that they feel that they have been somewhat ineffective in obtaining results which they deemed desirable through the marketing association and certainly would like to have a union bargain for them.

Many instances of certain things perhaps could be enumerated. I did not want to clutter up the record at this time on it. That is why I referred to it generally. But I think that from our point of view, of course, it would be very desirable that they belong to a union, but I think that for many of the present members of the various marketing associations they feel that they have been given a considerable runaround.

Without mentioning any particular name, one small marketing association felt particularly abused this last spring because they told me at least they were faced with a "take it or leave it" proposition in which they felt they would not have been faced with if the union had bargained for them.

Senator BARTLETT. George, does the Federal Trade Commission take the position that to do this would possibly result in an increase in price of the finished product to the consumer?

Mr. JOHANSEN. They may take that position, Senator Bartlett, but I do not believe they can sustain it.

Senator BARTLETT. I know that you have told Congressman Pelly that you believe this is only one element and perhaps not too important in the total. But do they take that position?

Mr. JOHANSEN. Well, I would say that in order for them to prosecute use at all they would have to take that position, because that would be the purpose of any action that they might take.

Senator BARTLETT. Well, they would have to take that position or, alternatively, have the apprehension officially that such marketing would result—

Mr. JOHANSEN. Might.

Senator BARTLETT. Might.

Mr. JOHANSEN. Might, yes.

Senator BARTLETT. All right. I have no further questions.

Your testimony has been very helpful. Thank you very much, Mr. Johansen.

The committee will stand in recess for a few minutes.

(Whereupon a recess was taken.)

Senator BARTLETT. The next witness is Mr. Vance.

At your convenience, Mr. Vance.

STATEMENT OF J. DUANE VANCE, ATTORNEY, ON BEHALF OF THE SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, SEATTLE, WASH.

Mr. VANCE. Senator Bartlett, Congressman Pelly, my name is J. Duane Vance, and my address is 1411 Fourth Avenue Building, Seattle 1, Wash.

I am an attorney and have been practicing in the specialty of labor and maritime law in Seattle since 1946.

I am appearing here today and filing a brief on behalf of the Seafarers International Union of North America, which has fishery affiliates on the east coast, in the gulf area, in California, and in this area.

Personally, however, aside from what I read in the law books, I am not too familiar with the practical aspects of the functioning of the fishery affiliates.

Senator BARTLETT. Stay around here throughout the remainder of the day, and you will be.

Mr. VANCE. Yes.

In addition to my practice, Senator, I have some personal acquaintanceship with conditions in Alaska. I was stationed there 2 years during the war, 9 months in Kodiak and 16 in Adak and Amchitka.

Senator BARTLETT. Are you a friend or a foe then?

Mr. VANCE. Well, there are parts of Alaska I do not care to see again, sir.

Immediately almost upon entering into private practice with my now deceased partner, John Geisness, I got involved in this field and was engaged in a National Labor Relations Board proceeding which

took some 2 weeks in Southeastern, involving representation of the cannery workers there. We held hearings at Juneau, Sitka, Craig, Klawok, Petersburg, and so forth.

I met many of the people who are connected with the fishing game in that area, Andrew Hope, Frank Peratrovich, Bill Walton, Peter Nielsen, and others.

In 1952 I had an occasion to spend 3 weeks in Fairbanks in trial of another lawsuit not involving fisheries. That one involved a non-scheduled airline business there.

I went on into Dillingham where I participated in a negotiation for 3 days at Naknek, actually, between the Alaska Salmon Industry, Inc., and the Bering Sea Fishermen's Union, and then in representation of Local 46 of the Cannery Workers, which as you probably know is composed of Eskimo cannery workers, the case we then had pending in the office for that union.

I made the trip on out in conjunction with Father Convert of St. Michel. We went out to Bethel and on to Alukanuk and on around the horn up to Unalakleet and back. I spent some 3 weeks out there.

Senator BARTLETT. And your pronunciation is excellent.

Mr. VANCE. Thank you.

Later in 1952 or 1953—I cannot remember exactly which now—I was called back to Sitka when the fishermen's union there ran into some problem with the Alaska salmon industry and helped them to negotiate what probably was one of the last fish price agreements negotiated in that area.

I also participated in the nine, if I remember correctly, days that we sat in this very room negotiating the consent decree in the FTC hearings in 1954.

In 1956 I went back to Kodiak and represented the Kodiak Fish Producers' Association in another proceeding before the Federal Trade Commission, in which a complaint was issued against them because of their operations in the king crab industry.

It has been my experience, Senator, that the fisherman himself has not full appreciated his predicament. He has blamed his predicament on his union officials, the attorneys they select, their international union. And since these proceedings they have voted in and out various officers and sent them down to Seattle and to San Francisco to try to seek help down here, each one thinking that if just somebody else were running things they could get it on the straight track, without fully realizing it is the legal mess that we are in that is actually causing the problem.

Several of these people, being new officials of associations or unions, have been sent to my office, and each time I have had to give them the background lecture on why they were in the trouble they were in.

In 1959, in connection with the Seafarers International Union convention at Montreal, we had an attorneys' conference, 14 of us there, and we were going over numerous problems which had nothing to do with fisheries, when one of the top officials from the gulf district came in and demanded that we legal brains sit down and figure out an answer to his problem.

And all I could do was sit there with a smile on my face, because it was the same thing we had been dealing with right here for 10 years.

My thesis is that this has happened to the fisherman as a result more or less of a legal accident and a happenstance.

This legal action, then, resulted from two things. One is that it is a constant repeat of a canard for 150 or 160 years, and if you keep repeating the same thing over and over again, finally maybe some day they will believe you, and that is likely what happened here when they keep referring to the fisherman as an independent contractor or a joint venture or a partner.

And then furthermore the second thing is the failure of the courts to adjust to the industrialization of the fishing business.

The courts are still dealing with it as it existed in the early 1900's.

I developed this theory a little bit and explained it a couple of years ago to George Johansen and to John Hawk of the Seafarers International, and they asked me then to compile some of this history.

In my connection as an attorney representing various maritime unions, I knew that the fisherman was treated differently in all other respects of the law than he was treated under the antitrust laws. So they wanted me to develop this.

In the brief which I have set forth here and which, of course, I have no intention of reading—it is 20 pages long—I would like to quote one or two of the highlights to show how this thesis develops.

All seamen, not just fishermen but all seamen, originally and traditionally worked on shares. And from time immemorial people have contended that because they fished on shares they were not wage earners and they were not entitled to the benefits that accrued to wage earners.

It was argued that they were not entitled to libel vessels for their wages because they were partners or joint venturers fishing on shares.

Really the oldest case I could find, which is quoted on page 2 of my brief, was a case in England in 1802 in the King's Bench, where a whaler who was fishing on shares brought a suit for his wages, and the attorney for the vessel argued that he could not bring an action at all, that he would have had to bring his action as a partner for an accounting, and then he ought to be nonsuited.

In 1802 the case cited reads on that point as follows:

Lord Alvanley said * * * That the plaintiff, and the other sailors, were hired by the defendant and the owners, to serve on board the ship for wages to be paid to him; and the share was in the nature of wages, unliquidated at the time, but capable of being reduced to a certainty on the sale of the oil, which had taken place: and that he should not therefore consider them as partners, but as entitled to wages to the extent of their proportion in the produce of the voyage.

I cite other cases to that same effect, including one from Judge Story, who may or may not be known to some of you but who was the most famous maritime judge of the United States. He never quite made the Supreme Court, but they have cited his opinions with respect.

He said in 1844:

This lay or share does not, according to law, create any partnership in the profits of the voyage, as has been sometimes erroneously supposed; but it is in the nature of wages for seamen in the common merchants service, and is governed by the same rules.

He says:

Indeed, I consider it too well settled now to admit of any reasonable doubt. And that was in 1844.

He was then sitting as a circuit justice in Massachusetts.

To show that this was rather uniform, I have quoted a like case from the district court of the district of Maine in 1837.

The interesting part about the decision in the district court of Maine is that that judge apparently had a penchant for French law and old Roman law, and he went clear back into the French and Roman law to show that that was the same.

He said:

It is not unusual to engage seamen in freighting and trading voyages for a share of the freight, or profit. Such contracts are not only known with us, but are common in other maritime countries. The ordinance of the marine of Louis XIV enumerates four modes in which mariners are engaged, that is, for wages by the month, or for the voyage; for a share of the freight, or profits.

And then he quotes some old French authorities that have been lost in history. I do not even know who they are. And he quotes Valin; and he says:

* * * it still continues to be a usual mode of hiring seamen in that country for coasting voyages. In all maritime countries it is the ordinary mode in which seamen are engaged for cruising in privateers, and from very early times, it appears from the old maritime ordinances that the engagement of mariners for a share of the freight was one of the most common forms of seamen's contracts.

Then he quotes the Roman law.

But it was never doubted that the contracts of seamen in all these cases were properly contracts of hiring and not of partnership. The share which they receive of the fruits of the adventure, to be ascertained at its final settlement, is in the nature of wages.

Now, that is history, and it is brought up to date in the brief by recent decisions.

Now, what is the situation today with regard to other laws?

A fisherman is a seaman under the doctrine that applies to mariners of maintenance and cure. That is, he can sue if he falls ill or is injured in the service of the vessel. He is a seaman for that purpose.

He is a seaman for the purpose of the Jones Act passed in 1920.

And he is regarded as a seaman generally for the right of libeling the vessel for his wages, and so forth, under the Jones Act.

This is where Mr. Johansen speaks of the jungle of the law.

In order to recover under the Jones Act, which is civil suit for—Senator BARTLETT. This is not the Merchant Marine Act of 1920 as amended, is it?

Mr. VANCE. Yes, it is.

To bring an action under that act, a man must first prove that he is a seaman and secondly that he is an employee and he is bringing his action against his employer.

In spite of the Federal Trade Commission and the other court cases, fishermen are bringing cases every day under the Jones Act and are uniformly held to be seamen and to be employees within the act.

The question arises not whether he is a seaman or whether he is an employee because he fishes on shares but whose employee is he?

He is, of course, the employee of the master under certain circumstances, but our Federal courts always say that this is a question of facts for the jury, whether he is the employee of the owner of the boat. If that boat is owned by the cannery, then he is an employee of the cannery, or whoever.

Also I quote in the brief the question of unemployment compensation. Our Washington Supreme Court dealt with it at great length. The boatowners contended fishermen were not their employees, that they were not their employers, that the fishermen earned no wages, and that therefore they did not have to contribute to the unemployment compensation fund.

There have been similar cases in other States, but for lack of detail I did not run them down. But our supreme court dealt with it at some length and said that a share was a wage and they were covered by the Unemployment Compensation Act.

Now, an interesting case was just decided by the U.S. Supreme Court in May of 1962, *Enochs v. Williams Packing Company*, decided in May of this year. The Internal Revenue Service was claiming that the boatowners, who were the cannery or processors down in the South, were required to pay social security and unemployment taxes on these fishermen employed on these boats.

The owners of the boats sued for an injunction against the collection of the taxes on the ground that these fishermen were clearly not their employees.

The U.S. Supreme Court did not decide this issue directly, because in an action on an injunction against taxes they will deny the injunction if the Internal Revenue Service states any reasonable ground for its procedure. The U.S. Supreme Court held the Internal Revenue Service had reasonable ground to believe that these fishermen were the employees of these cannerys.

And then in the footnote they referred to one of the antitrust cases of which we complain arising out of the same area and said that, curiously, the Department of Justice had taken the opposite position.

Now, you cannot discuss antitrust laws as they apply to fishermen exactly without just a little bit of history of antitrust laws against labor generally.

From the time the antitrust laws were passed, the Sherman Act in 1890, whenever any union entered into a boycott or a strike they moved into Federal court for an injunction on the ground that this was a restraint of trade and the violation of the Sherman Act. The famous *Danbury Hatter* case, *Loewe v. Lawlor*, was the epitome of that situation.

The Supreme Court there said that if anybody put any dealer on the "unfair" list for the purpose of bringing him harm in his trade that this was a boycott under the Sherman Antitrust Act and applied to all labor.

Congress then in 1914 passed the Clayton Act, and they used what seemingly was pretty strong language. They said, among other things:

The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; * * *.

Then Congress went further in the Clayton Act and said nothing should prevent a person from ceasing employment or ceasing work or persuading others to do so.

And then finally in the last clause of that act they said:

Nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

Well, in the next case to come before the U.S. Supreme Court they intimated that that did not mean much.

And then finally in the *American Steel Foundries* case in 1921, in a decision by Chief Justice Taft, the Supreme Court said, in fact, Congress had accomplished nothing, and he said it in these words:

This introduces no new principle into the equity jurisprudence of those (Federal) courts. It is merely declaratory of what was the best practice always. Congress thought it wise to stabilize this rule of action and render it uniform.

Then in 1932 Congress enacted the Norris-LaGuardia Act, and in the congressional hearings they said specifically that the U.S. Supreme Court had been wrong in the *Duplex Printing Press* case and the *Foundries* case and that when they passed the Clayton Act they meant just exactly what it said, that they were exempting the labor organizations from the operation of the antitrust laws.

Then in 1935 when the Taft-Hartley Act was passed, and in 1947 and 1959 when it was amended, they had the same policy declaration they had in the Norris-La Guardia Act, except they added one in the Taft-Hartley Act which I think is very significant in its application to fishermen, because they say in that section that:

The inequality of bargaining power—
and I am paraphrasing it a little—

between (unorganized) employees * * * and employers * * * substantially burdens * * * commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and—

and this is what was new and important—

by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Now, that is in the declaration of policy of the Taft-Hartley Act. In other words, they favor the stabilization of competitive wage rates and working conditions within and between industries.

After these acts were passed, in *United States v. Hutcheson* the Supreme Court said that this was what Congress had meant in the Clayton Act, to exempt labor organizations, that the two previous decisions were wrong, and in that and in two other cases which I cite in the brief the Supreme Court finally said that the rule now is, that Congress has made it clear, that when a labor organization acts in its own behalf and not in support of an employer conspiracy in restraint of trade it is immune from prosecution under the antitrust laws.

They have gone one step further in a case which I cite, the *International Brotherhood of Teamsters v. Oliver*, decided about 2 years ago, and they held that the Teamsters could negotiate a price if that was incidental to their wage negotiations.

Now, that is the present status, then, of other unions and other people, other groups representing workmen, if you consider the fisherman as a workman, and I think any fisherman would consider himself a workman. He certainly works as hard as anybody else, and he certainly takes orders as much as anybody else. And I think that no evidence on that will be required.

Now, in the *Hinton* case, from which all of our troubles stemmed, there was bargaining on the Columbia River we know from 1903 on about fish prices. I think Mr. Johansen has either said or can estab-

lish—he has told me before—that the Alaska Fishermen's Union has price contracts going back to 1903.

I believe that on the east coast our Seafarers International Union affiliates there will be able to establish the same thing.

This continued as a part of the fisherman's wage package. The price was never the whole contract. The price was a part of the collective bargaining process. The contracts were long and lengthy, just as any other industrial union contract.

But, bereft of the fish price provision, they are just exactly as an industrial union would be bereft of its basic wage. It just cannot survive.

But, anyway, around 1940 the fishermen's union on the Columbia River had reached a price agreement with the packers and then insisted on a provision that the packers could not buy from anybody but members of the union. And the packers balked and went to the district court for an injunction, and it was issued.

They went to the Ninth Circuit Court of Appeals, and the ninth circuit said this was protected activity under the Norris-LaGuardia Act and ordered the case reversed.

Then it went to the U.S. Supreme Court in 1942, and the record there contained nothing of the general background of fishing and fishery unions, nothing of the historical basis of the share fisherman or share seaman as being a wage earner and a hired man, that the share was only his wages. The record was bereft of this entirely.

It was limited to that one situation on the Columbia River and the question between the Norris-LaGuardia Act and the Sherman Act.

And the Supreme Court unfortunately—they treated every fisherman as if he were a boatowner in the statement of the facts of the case and employers of others—said these are independent contractors, not bargaining for wages but bargaining for prices.

That decision was rendered in 1942.

Continuing on from 1942, Senator Bartlett, in the hearings that you had last fall, in the article that you have now put into this record, it sets forth what happened between 1942 and the end of the war. The War Labor Disputes Board took charge of this thing, treated the fish price as a wage, treated arguments over them as labor disputes, and assumed jurisdiction.

In 1946 a letter of immunity was given by the Department of Justice to the Alaska salmon industry to continue bargaining with the unions over their fish prices.

However, there were prosecutions and suits in other parts of the country not affected by that immunity. There was one down in southern California. Local 36 of the ILWU was indicted. There was a civil suit in Hawaii. And there were several unreported decisions.

I know of one myself in the Columbia River. An indictment was issued by the Department of Justice.

But we continue, as far as the Alaska business was concerned, on a fairly even keel, although I recall that in 1952 or 1953 when we were having trouble reaching a fish price agreement in Sitka that we were threatened with this by the packers.

But in 1954 the coup de grace was administered, and right in this very room where the Federal Trade Commission issued its order.

In the meantime also there was a Federal Trade Commission proceeding in 1956 in California. There was a criminal proceeding brought against the Gulf Shrimpers & Oystermen's Association, which went to the Fifth Circuit Court of Appeals.

That has effectively stopped bargaining. Under the rules of the National Labor Relations Board that Mr. Johansen talks about, following this *Hinton* case, they have only allowed bargaining for the Bristol Bay company fishermen. They refuse to entertain petitions for the Port Moller company fishermen, and they specifically refused in the case which I cite to entertain a petition for the company boat fishermen around Kodiak.

Now, I say this is strange because you could bring an action against any one of those companies in the Federal district court here for an injury to one of their fishermen and beat the case on the proof that that company was an employer of that fisherman, but you cannot go to the NLRB and get the same results.

The State can make them pay unemployment compensation on the theory that he is an employee, and the Federal Government can make them withhold and pay social security on the basis that he is an employee, but for the purpose of the antitrust laws, followed by the National Labor Relations Board in this case, you cannot bargain for him, you cannot get a certification on the ground that he is an employee.

This is the mish-mash we find ourselves in.

Now, the Board does not say that all fishermen are not employees. They realize that the crew members are employees of somebody. And they will and have certified or held elections on a particular boat holding the master or the particular owner of that boat as the employer.

On the big tuna clippers in California this has worked to some extent.

But in Alaska it is just absolutely impossible. No marketing association or no union could go around and hold elections boat by boat. They change masters. The boats change locations. By the time you got an election and got certified, the situation would be changed. You would not have anybody to bargain with.

Furthermore, the master of the boat has no more control over the income than the crew members. He himself is dependent upon what he can get for the price. You are bargaining with a phantom, with a strawman.

We tried after 1954, however, to take advantage of this legal technicality. That is to say, it is not a legal technicality, but it is actually a legal way to avoid the antitrust laws. And we set up four cooperatives in Alaska. We formed four, one in Bristol Bay, one in Kodiak, one in Southeastern, and I cannot remember where the other one was, but I think it was Cook Inlet.

This was on the theory that the union would represent the crew members and go to the co-op which would be a multiemployer unit, thence to the canner.

But it is just not practical for fishermen and union agents and cooperatives and packers to deal with the thing. This would take an antitrust lawyer at every step to make this thing work. And it just fell apart.

We have it working in one area here on the sound. It can be worked where fishermen live right where they are, where you have got an extended season that they can bargain about, and where they are close to all of the packers, and the cannery workers are collected in one close area. You can make this legal device work.

What I am saying is, in effect, then, that it is not what we seek that is actually illegal under the law. It is the method that we must in the bulk of the fishing areas of the world use to accomplish it.

Secondly, the law as it presently exists discriminates, you might say, in favor of fishermen who live close to the grounds and close to the packers and discriminates against those that must operate in remote areas or with scattered packers.

Now, that completes my presentation except that a couple of questions were asked Mr. Johansen, one by Congressman Pelly about the danger of the gun at the head of the packer at the beginning of the season.

I think, Congressman, that the history of bargaining with the Alaska salmon industry from 1934 on at least to 1946 pretty well dispels this.

There are two things. The first is that to the resident of Alaska who is there this is a very important part of his yearly income and he hates to tie it up. This is very important to him.

Senator Bartlett knows that, for example, in the Dillingham area, to many of them, it is their only cash.

Mr. PELLY. The gun is really at his head.

Mr. VANCE. The gun is really at his head.

As to the fisherman who comes from outside, he has made the same commitment that the packer has. He has severed other employment or other earning capability and gotten himself some fishing grounds.

I think it is historically true that both sides have rushed to get these agreements into shape. It is just as much of a hazard for one as for the other.

Then the question was asked as to when did the trouble start. I have outlined the antitrust point there.

And then the comment about marketing associations. We have the difficulty with them working there.

Now, Judge Laughlin of Hawaii, who ruled against the union in one of the cases when it tried to claim it was a marketing association, said that he doubted that any association that had any crewmember in it could be a true marketing association under the law as it now exists.

Certainly the marketing association, then, if you divide it into or try to divide it into three groups where you have to have a simultaneous but separate bargaining—well, I have explained that difficulty with the marketing association.

Other than that, there is the problem of the marketing association being able to ask for support. This was what happened to the Kodiak Fish Producer's Association on the king crab in 1959. They asked for the support of the cannery workers. Some of the outside boats were coming in. Mr. Johansen mentioned one of the agreements that we think is so terrible. The situation is getting worse.

At the risk of educating our opposition, they are relying upon this doctrine which has been a fairly recent development. They are going

to have every fisherman as not an employee of anybody and not entitled to the Jones Act, not entitled to any unemployment compensation, paying part of the insurance on the boat, and all of these things. And when they have got that situation, then, sure they can run up there in the king crab and undercut the local boats.

This is what they were doing up there in 1956, and the local boats called upon the support of the local cannery workers union, and they were found guilty for doing this, and this would be a violation under the present law. It is one of the things they seek to change.

There is one other thing I want to point out which is not in the brief. These particular problems are not just related to the fishermen's unions either.

For example, in the history of the Teamsters' Union, it has had a bitter struggle for years against the independent vendor system where they try to make out that every driver of a milk truck owns his own truck and is operating by himself and sign him up. And their dairy drivers, their laundry drivers.

Now, they have finally got around to where they are trying to sell them the over-the-road trucks. But the Teamsters' Union by reason of the advantages which we do not have here has been able to circumvent this device.

But it is a device which is ruining the fishermen as such and any organization that he attempts to form for his own self-preservation.

Senator BARTLETT. That concludes your statement?

Mr. VANCE. That concludes my statement.

Senator BARTLETT. Congressman Pelly?

Mr. PELLY. Well, I would only comment, Senator, that the legal snarl which you have described reminds me of myself trying to untangle my own fishing line without my glasses—either that or Alice in Wonderland.

I think it is terribly complicated, and I can see from your very fine brief which you have submitted that there is a possibility by legislation that this matter could be clarified without in any way changing the basic concept that the fisherman actually is an employee and is entitled to negotiation.

You have made a very strong case, and I want to congratulate you.

I think that this might well have a great bearing on our being able to convince our colleagues in Washington that this is the logical solution.

Mr. VANCE. Thank you very much, Congressman.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. I just have one or two questions.

If I understand it, then, at the present time fishermen are not included—I do not know whether they are excluded specifically, but they are not included generally—in marketing associations? Is that your understanding of the present status?

Mr. VANCE. No. On the marketing association in Bristol Bay I am not too familiar with just how it does work, whether both members who work on the gillnet boat, the so-called independent boat, are members of the marketing association or not. I believe this to be true. However, if it is true, they are skating on thin ground if what Judge Laughlin said in Hawaii is true. It would be an illegal association

in his opinion if the crew member belonged to the same association as his partner, the master.

Mr. FOSTER. And the first sentence of the amendment would take care of that problem? Is that correct?

Mr. VANCE. That is correct.

Mr. FOSTER. This is the last question. The second sentence you say: "Such an organization may bargain," et cetera.

What does this "such an organization" refer to? Only those which have been added by the first sentence?

Mr. VANCE. I do not have those amendments before me, Mr. Foster, but it was my intention after S. 3093 was amended—I sent in certain ideas on suggested amendments—that in the "such an organization" phrase it would include all organizations that could legally bargain under the bill, whether it called it a union or a marketing association or a benevolent association or whatever title they wanted to give themselves.

Mr. FOSTER. Thank you. No further questions.

Senator BARTLETT. I am not going to ask you any questions, Mr. Vance. I shall say that since the basis of this whole proposition is legal and that you have made quite a distinct contribution in your oral discussion and in the brief, I should judge, Tom, that the brief ought to be made a part of the record.

Mr. PELLY. I would hope so.

Senator BARTLETT. Because this is part and parcel, bone and marrow of the whole thing.

So the brief that you have written and presented to the committee will be part of the record, Mr. Vance.

Mr. VANCE. Thank you, Senator. We have extra copies should any of the agencies in Washington desire them.

Senator BARTLETT. We may call upon you.

(The brief of Mr. Vance follows:)

BRIEF IN SUPPORT OF LEGISLATION RESTORING BARGAINING RIGHTS TO FISHERMEN'S UNIONS, SUBMITTED BY THE SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA

I. SUMMARY OF ARGUMENT

The fisherman is a workman. Though he has historically throughout the world fished on a "share" basis, nonetheless he has always been considered by the admiralty courts of this country and England as a mariner, and as an employee of the vessel and/or its owners and his share has been considered a wage.

For all purposes but one the various laws and the courts still so regard him. That one purpose is collective bargaining.

As the law of collective bargaining developed by legislation and decision with its resultant protections for other workmen, this variance in means of compensation unfortunately provided the stumbling block which barred the fisherman from the rights of collective bargaining accorded other American workmen.

The development of the industrial and capital complex for the fish processors has proceeded along the lines of industrial and capital complex in other industries. Government technical and scientific assistance to the industry, while slow in coming, is recognized as a necessity and now proceeding apace. Fishermen's unions are regulated by the Landrum-Griffin law and other regulations the same as other similar organizations.

But the fisherman is barred from negotiating his wages because to do so he must bargain a "price" and this is held to violate Federal antitrust acts.

He still stands, legally, today where his fellow industrial worker stood about 1910 when any boycott or strike in support of wage demands was a crime under Federal antitrust laws.

We ask legislation to correct this deficiency.

II. ALTHOUGH THE FISHERMAN HAS HISTORICALLY THROUGHOUT THE WORLD FISHED ON A "SHARE" BASIS, NONETHELESS HE HAS ALWAYS BEEN CONSIDERED BY THE ADMIRALTY COURTS OF THIS COUNTRY AND ENGLAND AS A MARINER, AN EMPLOYEE OF THE VESSEL AND/OR ITS OWNERS, AND HIS SHARE AS A WAGE

In 35 C.Y.C. 1241 it was said :

"In the earliest periods of maritime commerce, a common method of compensating the seaman was to allow him a share in the profits of the voyage, and this method has been continued as to whaling and fishing voyages; and the validity of the contracts providing for such a mode of compensation has been upheld by the courts. This lay or share given to the seaman does not create any partnership in the profits of the voyage, nor does it constitute him a part owner, but is in the nature of wages and is governed by the same rules, entitles the seaman to the usual maritime lien upon the vessel for wages, and brings him within the statute prohibiting an assignment of wages prior to the accrual thereof. In some instances, by usage, the lay is subject to a lien for supplies furnished the seaman during the voyage by the master."

The earliest reported decision our research discloses was that of *Wilkinson v. Frasier*, decided by the Court of King's Bench in 1802 (170 Eng. Rep. 684). That was a suit for wages brought by a whaler engaged to work on shares.

"Lord Alvanley said, * * * That the plaintiff, and the other sailors, were hired by the defendant and the owners, to serve on board the ship for wages to be paid to him; and the share was in the nature of wages, unliquidated at the time, but capable of being reduced to a certainty on the sale of the oil, which had taken place: and that he should not therefore consider them as partners, but as entitled to wages to the extent of their proportion in the produce of the voyage."

The question of shares as wages arose in the United States District Court for the District of Maine in 1837. *The Crusader* (6 Fed. Case No. 3, 456, Fed. Cas. p. 927), the court there said :

"There is indeed a class of cases bearing an analogy to what this is contended to be, over which the admiralty holds an undisputed jurisdiction. I allude to fishing voyages in which it is common for the fishermen to be engaged for a share of the proceeds of the voyage, instead of wages at a fixed rate (act Congress, June 19, 1813, ch. 2, sec. 2 (3 Stat. 2)). This kind of engagement, does, indeed, constitute a species of imperfect partnership (1 Valin, Comm. 676; Abb. Shipp. 442). The men become directly interested in the fruits of the adventure, and depend for their remuneration on its success. But the fishermen are not in such cases considered as partners with the owner in the proper sense of the word. The shares for which they contract are in the nature of wages, and an action of assumpsit lies at common law, or a libel may be brought in the admiralty for their share of the proceeds or profits of the adventure to be ascertained by a final settlement of the voyage. *Wilkinson v. Frasier* (4 Esp. 182); *Macomber v. Thompson* (case No. 8, 919); *The Frederick* (5 C. Rob. Adm. 8)."

The court further said (p. 928) :

"* * * An agreement by seamen to receive as a compensation for their services a share of the freight or the profits of a voyage does not constitute them partners with the owners."

The court continued :

"If an agreement to receive as a compensation a share of the profits does not in the transaction of ordinary business necessarily create a partnership, there is less reason for allowing it to have, as a matter of necessity, that effect in contracts for maritime service, in which from the fact that in all times agreements of this kind have been more common and familiar, a partnership would be less easily presumed. The custom in the cod and whale fisheries to engage the fishermen for a share of the fruits of the voyage has been already mentioned. It is not unusual to engage seamen in freighting and trading voyages for a share of the freight, or profit. Such contracts are not only known with us, but are

common in other maritime countries. The ordinance of the marine of Louis XIV enumerates four modes in which mariners are engaged, that is, for wages by the month, or for the voyage; for a share of the freight, or profits (Liv. 3, title 4, art. 1). Valin in his Commentary, says, that in all times the engagement for a part of the freight has been customary (vol. 1, p. 670); and it still continues to be a usual mode of hiring seamen in that country for coasting voyages (2 Boul. P. Dr. Mar. p. 170). In all maritime countries it is the ordinary mode in which seamen are engaged for cruising in privateers, and from very early times, it appears from the old maritime ordinances that the engagement of mariners for a share of the freight was one of the most common forms of seamen's contracts (Jus Navale Rhodiorum, par. 2, cc. 1, 8, Edit. Pardessus; Jugemens d'Oleron art. 16, and Cleirac on art. 8, note 34; Laws of Wisbuy, art. 30; Roccus, note 43) *But it was never doubted that the contracts of seamen in all these cases were properly contracts of hiring and not of partnership. The share which they receive of the fruits of the adventure, to be ascertained at its final settlement, is in the nature of wages.*" [Emphasis supplied.]

In 1844, the matter came before the famous Justice Story, sitting as circuit justice in the District Court of Massachusetts *Coffin v. Jenkins* (C.C.D. Mass., 1844, 5 Fed. Cas. p. 1189, Fed. Cas. No. 2,948), Justice Story said:

"This cause has been argued at great length; but after all, it turns upon a single inquiry, and that is, whether there has been a desertion on the part of the libellant, during the whaling voyage, by which he has, according to the principles of the maritime law, forfeited his right to his lay or share in the proceeds and catchings of the voyage. This lay or share does not, according to law, create any partnership in the profits of the voyage, as has been sometimes erroneously supposed; but it is in the nature of wages for seamen in the common merchants service, and is governed by the same rules. This opinion was adopted by Lord Alvanley in *Wilkinson v. Frasier* (4 Esp. 182); and more recently in the Court of Exchequer, in *Perrott v. Bryant* (2 Younge & C. Exch. 61); in *Mair v. Glennie* (4 Maule & S. 240); by the Court of King's Bench, and by the Supreme Court of Massachusetts in Boston, in *Barter v. Redman* (3 Pick. 435), in *Rice v. Austin* (17 Mass. 197, 203, 206), and in *Grozier v. Atwood* (4 Pick. 234). The same doctrine was held by Lord Stowell in *The Frederick* (5 C. Rob. Adm. 8). Indeed, I consider it too well settled now to admit of any reasonable doubt. * * *

Congress, itself, in 1813 recognized shares as wages when it enacted a law relating to the bank and cod fisheries requiring agreements in writing and providing for the discipline of the fishermen on such vessels equally with other mariners and providing further:

"SEC. 2. And be it further enacted, That where an agreement or contract shall be so made and signed for a fishing voyage or for the fishing season, and any fish which may have been caught on board such vessel during the same, shall be delivered to the owner or to his agent for cure, and shall be sold by said owner or agent, *such vessel shall, for the term of 6 months after such sale, be liable and answerable for the skipper's and every other fisherman's share of such fish, and may be proceeded against in the same form and to the same effect as any other vessel is by law liable and may be proceeded against for the wages of seamen or mariners in the merchant service.* [Emphasis supplied.] (3 Stat. at Large, p. 2, act of July 29, 1813, ch. 35.)

The Court of Appeals for the Ninth Circuit in 1928 recognized this ancient principle in *United States v. Laflin, et al.* (24 Fed. (2d) 683, 685, C.A. 9, 1928), where the court said:

"* * * It has been the maritime law from the time of Oleron that agreements, by which seamen, engaged in a fishing or whaling voyage, are to receive for their services shares of the profits of the voyage, are contracts of hiring, and the shares so agreed upon are in the nature of wages, to recover which actions may be maintained after the end of the voyage. *Wilkinson v. Frasier* (8 Esp. 141); *The Crusader* (Fed. Cas. No. 3,456, 1 Ware, 448); *Reed v. Hussey* (Fed. Cas. No. 11,646, Blatchf. & How, 525,539); *Coffin v. Jenkins* (Fed. Cas. No. 2,948, 3 Story, 108); *Crowell v. Knight* (Fed. Cas. No. 3,445, 2 Lowell, 307).

"It is well settled by the decisions that in whaling ventures the sailors who have a certain lay or share in the proceeds as wages are never regarded as partners with the owners, though they may participate in the profits of the voyage; and it is equally well settled that neither the officers nor members of the crew may join with the owners in a recovery of the proceeds of the voyage, and that the owners of the vessel and projectors of the voyage are the owners of the products thereof. * * *

III. FOR ALL THE VARIOUS LAWS EXCEPT THAT OF COLLECTIVE BARGAINING, THE COURTS STILL REGARD THE FISHERMAN AS A SEAMAN AND AN EMPLOYEE OF THE VESSEL AND/OR ITS OWNERS

A. The fisherman is a seaman under the doctrine of maintenance and cure. In *1 Norris*, Law of Seamen (second ed. 1962, sec 551, p. 606), it is said:

"Fishermen, or other seamen, whose compensation is based on lays or shares in the success of the venture, are entitled to maintenance and cure."

Many cases are cited by Norris in support of this statement.

In the case of *Knight v. Parsons* (14 Fed. Cas. p. 777, Fed. Cas. No. 7, 886, D.C.D. Mass. 1855), a mackerel fisherman fishing on shares brought an action to recover the cost of medical treatment in accordance with the ancient maritime law that a seaman is entitled to maintenance and cure for illness arising in the service of the vessel. Holding that a share fisherman was a seaman under this rule, the court said:

"It is conceded that hired seamen are, as a general rule, entitled to be treated for sickness, at the ship's expense, and, if they leave the vessel from necessity, or for the common benefit, they are entitled to the reasonable expenses of their cure and return. It is conceded that this rule is extended to whalemén, who receive a lay, or share of the oil taken; but it is contended that this lay is only a mode of fixing compensation, they being in fact but hired seamen, their pay being graduated by the success of the voyage. But I can see no difference, in principle, between the whalemén and the mackerelmen. As whales must be taken by united efforts, separate accounts cannot be kept, as was done here, and as is usually done in mackerel vessels; but each man is paid according to his supposed capacity as a whaleman, the rates of lays being graduated accordingly. In this voyage, the contract with the owners does not require that the crew should divide according to each man's catchings, but gives the skipper and the crew one half, and leaves them to divide as they please, and it is optional with them all, or any two or more of them, to 'heave together,' as the phrase is, if they please. The owners, in the one species of fishery, as well as the other, furnish all the stores, provisions, and outfits, and the crew are paid according to the success of the enterprise. I think that, under this contract, the crew are rather to be deemed hired seamen than partners or joint contractors. It has long been decided that, in the whale fisheries, the crew have no specific property in the oil, but only a right to the proceeds of the oil; and the contract in this case seems to give the owners the right to sell the fish, and the crew have only a pecuniary claim, calculated upon the amount of fish caught. *Baxter v. Rodman* (3 Pick. 435); *Grozier v. Atwood*, (4 Pick. 234); *Bishop v. Shepherd* (23 Pick. 492); *Reed v. Hussey* (case No. 11,646)."

B. Fishermen are seamen within the meaning of the Jones Act, 46 U.S.C.A. 688.

In *Domandich v. Doratich* (5 P. 2d 310, 165 Wash. 315), the Supreme Court of the State of Washington, holding that a share fisherman was a seaman under this statute, said:

"On this branch of the case, we conclude that the respondent was a 'seaman' within the contemplation of the Jones Act, and had a right to avail himself of the provisions of the Federal Employers Liability Act."

In *Norris* (op. cit. sec. 667, p. 810), it is said:

"Fishermen are seamen. They have been held to be so for the purposes of the Jones Act. * * *"

Norris cites cases from the Courts of Appeals of the first, fifth and ninth Circuits to this effect.

C. Fishermen are seamen generally. *Putnam v. Lower* (236 Fed. (2d) 561 (C.A. 1956)).

In an early case, the *Ocean Spray*, in the district court of Oregon, in 1876 (Fed. Cas. 10, 412), it was urged that a person employed abroad the vessel as a seal hunter was not a seaman. Holding that he was, the court said:

"No case has been cited upon the point of whether a sealer is to be considered a mariner, and therefore entitled to a lien upon the vessel for his wages. It is admitted that such persons as surgeons, carpenters, cooks, stewards, and cabin boys are considered mariners. But it is claimed that this is so for the reason that these persons all aid in the navigation and preservation of the vessel. But I think the better reason is found in the fact that they are collaborators in the leading purpose of the voyage. Upon this ground, even if it be admitted that the libellants shipped and served as sealers only, they ought to be deemed

mariners. They were certainly collaborators, and the principal laborers, in the only purpose of this voyage—the taking of fur seal. The seamen, who have an undoubted lien upon the vessel for their wages, only contributed to this purpose by navigating it. Without these sealers the voyage must have been profitless, because the purpose of it could not have been accomplished.”

So, in *The Carrier Dove* (97 Fed. 111, (1899)), it was said:

“Fishermen are seamen, having uses and customs peculiar to their business, but are at the same time, except as modified by their peculiar contracts, express or implied, protected by the law, as other seamen are.” Accord: *Osland v. Star Fish & Oyster Co.* (107 F. 2d 113 (1939); *The Montague* (53 F. Supp. 548).

D. Fishermen are employees within the meaning of various laws. This question has arisen in connection with the unemployment laws. In *Skrivanich v. Davis* (29 Wn. 2d 150, 186 P. 2d 364), the question was presented to the Washington State Supreme Court under the Washington State Unemployment Compensation Act. The supreme court described in detail the general plan of operation of a purse seine fishing vessel, the method of selecting a crew and of fishing on shares, etc. The supreme court defined the problem as:

“The sole question presented upon the appeal to this court is whether appellants (boatowners) are ‘employers’ within the meaning of the (Unemployment Compensation Act of Washington) and therefore liable for unemployment compensation contributions by reason of the shares paid by them to their crewmembers. The same question is presented by appellants’ (boatowners) form of statement; namely, whether the crewmembers are persons in appellant’s employment, within the purview of that legislative act.”

The position of the boatowners was stated as follows:

“Appellants (boatowners) contend, however, that the services of the crews were not performed for the appellants, and that no wages or remuneration was ever paid to the crewmembers out of funds belonging to the appellants. In other words, the contention in its final analysis is that the services of the crews were performed under a joint venture between appellants (boatowners) and their crews, and that the remuneration to the crews was simply a proportionate share of an existing joint property in the fish and the proceeds derived therefrom.”

The court held contrary to the position of the boatowners and instead held that the fishermen were employees of the boatowners and that their shares were, under the law, wages. The Washington Supreme Court had these interesting things to say:

“So, in the case at bar, the duties performed by the various members of the crews constituted personal services performed for the benefit of the boatowners, thereby falling within the term ‘employment,’ as used in the Unemployment Compensation Act.

“We are of the further opinion that, under the evidence and the legal authorities bearing upon the subject, the remuneration received by the crewmembers constituted wages and was paid out of funds belonging to the owners of the fishing vessels.

“The basis upon which the members of the crews were compensated and the procedure under which they were paid their remuneration, have already been explained. They were each paid a share of the net earnings after the deduction of certain expenses. This method has been followed generally from time immemorial, and, in this State, from early days. It has always been regarded as a method of providing for the payment of wages.

“In *United States v. Laflin* (24 F. (2d) 683), the Circuit Court of Appeals for the Ninth Circuit said:

“It has been the maritime law from the time of Oleron that agreements, by which seamen, engaged in a fishing or whaling voyage, are to receive for their services shares of the profits of the voyage, are contracts of hiring, and the shares so agreed upon are in the nature of wages, to recover which actions may be maintained after the end of the voyage (citing cases).”

“and again:

“It is well settled by the decisions that in whaling ventures the sailors who have a certain lay or share in the proceeds as wages are never regarded as partners with the owners, though they may participate in the profits of the voyage; and it is equally well settled that neither the officers nor members of the crew may join with the owners in a recovery of the proceeds of the voyage, and that the owners of the vessel and projectors of the voyage are the owners of the products thereof.”

"Cases to the same effect will be found collected in Notes (1942), 137 A.L.R. 159(k).

"Although, under the contracts, the members of the respective crews were and are entitled to receive a share of the profits, such shares are not to be regarded as a specific interest in a business or in the profits thereof, but rather as a stipulated proportion of the proceeds as compensation for their labor or services. The distinction between profits received as profits, and profits received in payment of an obligation, is fully and well explained in *Sheldon v. Little* (111 Vt. 301, 15 A. (2d) 574, 137 A.L.R. 1).

"In our opinion, the fish when caught and the proceeds thereof when the fish were sold belonged to the owners of the boats, who became obligated to pay to the members of the crews their respective shares as and when the proceeds were collected."

Whether share fishermen are employees is also inherent in the cases under the Jones Act because the existence of the employer-employee relationship is essential to an action thereunder—2 Norris, op. cit., p. 812 says:

"Fishermen, like other seamen, in order to maintain an action to recover for personal injuries under the Jones Act must first establish that there exists between them and the person sued the relationship of employer and employee."

Norris points out that under certain circumstances the master is the employer and goes on to say:

"If the evidence shows that the master of the fishing boat was actually an employee of the owner, and acted as an agent in the hiring of the men, then the owner is the employer. Such question is one of fact * * *"

This means that under the Jones Act the fisherman is deemed an employee but the question of who is his employer is submitted to the jury in each separate case as a question of fact. *Southern Shellfish Co., Inc. v. Plaisance* (196 Fed. (2) 312); *Hudins v. Gregory* (219 Fed. (2d) 255).

The Internal Revenue Service recently contended in the U.S. Supreme Court that fish processors who own fishing boats are the employers of the share fishermen for the purposes of requiring such processors to pay social security and unemployment taxes. *Enochs v. Williams Packing Company* (decided May 28, 1962, — U.S. —, 8 L. ed. (2d) 292). The Supreme Court held that the position of the Internal Revenue Service was not so unreasonable as to justify an injunction against the collection of the tax. The Supreme Court noted that "curiously" in a prior case the Department of Justice had taken a contrary position.

The War Labor Board treated the earnings of share fishermen as wages and disputes over fish prices as a labor dispute (Industrial and Labor Relations Review, vol. 3, No. 4, July 1950; labor agreements in the west coast fishing industry: "Restraint of Trade or Basis of Industrial Stability?", by Roger L. Randall, reprinted in pt. 2 of the hearings before the Merchant Marine and Fisheries Subcommittee on problems of North Pacific fisheries, at p. 297, 306). Thus we find that under virtually all laws, decisional, legislative, and administrative, fishermen are held to be seamen and employees, and that this position is urged and advocated not only by the fishermen themselves and their unions, but by various departments of the State and Federal Governments which regulate their affairs and collect taxes on their endeavors.

IV. USE OF THE ANTITRUST LAWS AGAINST ORGANIZED GROUPS OF WORKMEN GENERALLY AND LIMITATION THEREOF BY LABOR LAWS

Fishermen's unions and organizations have not been the sole targets of prosecution under the antitrust laws. Fishermen's unions and organizations, however, are the only groups of organized workmen who have not obtained the benefit of legislation modifying application of the antitrust laws. Consideration of the use of antitrust laws against fishermen's organizations is in a very real sense incomplete without some understanding of the historical use of the antitrust laws against labor in general.

At the risk of being tedious, therefore, we consider it essential to make reference to these matters, and at the risk of being inaccurate, we will generalize and be brief.

In the famous *Danbury Hatter's* cases, *Loewe v. Lawlor* (208 U.S. 274, 28 S. Ct. 301, 52 L. ed. 488) and *Lawlor v. Loewe* (235 U.S. 522, 35 S. Ct. 170, 59 L. ed. 341), decided in 1908 and 1915, respectively, the Supreme Court held that union boycotts were violations of the Sherman Antitrust Act as being in restraint

of trade. Although there was some conduct in that case which would still be regarded as unlawful, the court went so far as to say that the mere "circulation of a list of 'unfair dealers', manifestly intended to put the ban upon those whose names appear therein, * * * is within the prohibitions of the Sherman Act if it is intended to restrain and restrains commerce among the States."

There were of course also hundreds of lower court cases in which unions were charged with being in violation of the antitrust laws before, during and after the *Danbury Hatters* litigation.

Congress enacted the Clayton Act in 1914. That act provided in part:

"The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, * * * or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws" (15 U.S.C.A., sec. 17).

The act went on to provide that no Federal court injunction should issue in any case "involving or growing out of, a dispute concerning terms or conditions of employment. * * *" The act further provided that no court order should prohibit any person or persons, singly or in concert, from terminating their employment or from ceasing to work or persuading others to do so or from ceasing to patronize or employ any party to such dispute or persuading others to do so, etc., and further provided "* * * nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States" (29 U.S.C., sec. 52).

This act came to the attention of the U.S. Supreme Court in *Duplex Printing Press Co. v. Deering* (1921) 254 U.S. 443, 41 S. Ct. 172, 65 L. ed. 349). The Court held the Clayton Act had not legalized the strike and boycott therein under consideration, and intimated that Congress had accomplished nothing in the passage of the Clayton Act.

Later in 1921, in *American Steel Foundries v. Tri-City Central T. Council* (257 U.S. 184, 42 S. Ct. 72), the Court, in a decision by Chief Justice Taft, quoted the Clayton Act in full and held Congress had accomplished nothing by its passage, saying:

"This introduces no new principle into the equity jurisprudence of those (Federal) courts. It is merely declaratory of what was the best practice always. Congress thought it wise to stabilize this rule of action and render it uniform."

In 1932, Congress then enacted the Norris-LaGuardia Act and made it clear it was changing the law as laid down in those decisions. Congress inserted a declaration of public policy to guide the Court in the interpretation of the statute. The key words of the policy declared were:

"Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership associations, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect, his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, * * * it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment * * *" (29 U.S.C.A., sec. 102).

This declaration of policy was substantially repeated and is still contained in the Labor-Management Relations Act as first enacted in 1935 and as amended in 1947 and 1959 (29 U.S.C.A., sec. 151). However, something more was added. That section says in part, "The inequality of bargaining power between (unorganized) employees * * * and employers * * * substantially burdens * * * commerce, and tends to aggravate recurrent business depressions, by depressing wage rates, * * * and by preventing the stabilization of competitive wage rates and working conditions within and between industries. [Emphasis supplied.]

Following these legislative changes, the U.S. Supreme Court in *United States v. Hutcheson* (312 U.S. 219, 61 S. Ct. 463, 85 L. ed. 788); *Allen Bradley Co. et al. v. Local Union No. 3* (325 U.S. 797, 65 S. Ct. 1533); and *Hunt v. Crumboch* (325 U.S. 821, 65 S. Ct. 1545, 89 L. ed. 1954), has arrived at the rule that so long as a union acts in its self-interest and does not combine with nonlabor groups, its activities in support of its aims are not a violation of any of the antitrust laws of the United States.

In *International Bros. of Teamsters v. Oliver* (358 US 283, 79 S. Ct. 297, 3 L. ed. (2d) 312), the Court has gone one step further and held that if the negotiation in concert of a price or rate is incidental to and for the protection of earnings negotiated by a union by collective bargaining, such arrangements are protected by the labor acts as against the charge of illegality under antitrust laws. The case arose when the Teamsters Union, representing truck owners and drivers, insisted on negotiating the terms of the lease of the truck in conjunction with the negotiation of the wage scale of the owner while driving. This was held by the Supreme Court of Ohio to be unlawful under the antitrust laws of Ohio (Similar to the Sherman Act). The U.S. Supreme Court reversed and said the activity was protected. Thus unions, except fishermen's unions, are not subject to Federal antitrust laws unless they act in aid of an employer conspiracy in restraint of trade.

V. FISHERMEN'S ORGANIZATIONS HAVE BEEN DENIED THE PROTECTION OF LABOR LAWS AS WELL AS THAT OF THE MARKETING ACT OF 1934

Fishermen's unions have been denied the protection of the Clayton, Norris-LaGuardia, and Labor-Management Relations Acts.

Basically, the differences relied upon for this result are twofold: First, the fishermen fish on shares; second, boatowners are frequently members of the union.

We have not heretofore adverted to this second factor. Traditionally in the practice of fishing on shares, the boat owner gets a given share. The captain gets a part of the crew's share for his services as skipper, and this has been the practice for hundreds of years. In some cases, the captain also owns the boat. Under these circumstances, if he is a member of the union, while he negotiates a price of the fish which, as it does for the crew members, determines his wage as skipper, he is also incidentally negotiating the price of the hire of his boat.

The formation, growth, and development of the fishermen's unions very closely paralleled that of their counterparts and affiliates, in the industrial world. It is believed that during the course of the hearings, the Alaska Fishermen's Union, for example, can establish it has been organized and functioning since about 1903. From that time on the Columbia River unions, and the Alaska Fishermen's Union on the west coast, and undoubtedly those on the east coast with which this writer is unfamiliar, entered into agreements with the packers and buyers of their fish for the price thereof which determined the wages of the crew, including the skipper.

The members of this committee and of Congress generally surely would need no evidence of the fact that the packing, processing, and marketing of fish products has proceeded to develop in capital structure and management functions to the same extent as other industries.

In about 1940, in the Columbia River fishing area, the union and the packers had reached an agreement as to price but the packers refused to enter into an agreement whereby they would purchase only from members of the union, which is the fishermen's union's equivalent of a closed shop (at that time legal in an industrial plant). The packers instituted an action in the Federal District Court for an injunction alleging the acts of the fishermen's union were a violation of the Federal antitrust laws. An injunction was issued. *Columbia River Packers v. Hinton* (34 F. Supp. 970). On appeal to the Court of Appeals for the 9th Circuit, the decision was reversed, that court holding unanimously that the acts of the union were protected by the provisions of the Norris-LaGuardia Act (117 Fed. (2d) 310).

On appeal to the U.S. Supreme Court, that Court stating the facts solely from the point of view of the boat owner-fisherman, and totally ignoring and without reference to, the legal history which has been set forth above, reversed the court below. The court, referring to all fishermen as boat owners, held they were not employees, but were independent contractors, and were not negotiating wages but only prices. Therefore, the court said, the conduct of the union was a violation of the Federal antitrust laws and it was not protected by the Norris-LaGuardia Act (315 U.S. 143, 62 S. Ct. 520, 86 L. ed. 750). On remand, the point was raised by the union that it was protected by the provisions of the Fishermen's Marketing Act of 1934, and this contention was then rejected by the Court of Appeals (131 Fed. (2d) 88).

The U.S. Supreme Court decision in *Hinton* was rendered early in 1942. The matter there lay dormant for the war years because the War Labor Board took jurisdiction of the matter, and incidentally, treated the fishermen as employees and the fish prices as wages, notwithstanding the *Hinton* decision. The history of the War Labor Board activity is fully set out at page 306 of the report of the hearings conducted by Senator Bartlett on North Pacific fisheries problems in 1961.

As far as Alaska was concerned, immediately after the war the Department of Justice gave written assurance to the Alaska Salmon Industry, Inc., that there would be no criminal prosecution under the antitrust laws for negotiating fish prices with the union. Such bargaining, therefore, continued.

The author of the treatise, which was set forth in the Bartlett hearing, and which was written in 1950, correctly prophesied "such an arrangement cannot permanently endure, and of course both the cannery and unions are still subject to civil suit at any time by either the Government or some allegedly offended third party."

In the meantime, an action was brought by a cannery group in *Hawaiian Tuna Packers Ltd. v. ILWU* (D.C. Hawaii, 72 F. Supp. 562). Criminal proceedings were brought by the U.S. Department of Justice, both on the west coast and in the gulf district (*Local 36, ILWU v. United States*, 177 Fed. (2d) 320, and *Gulf Shrimpers and Oystermen's Association v. United States*, 236 Fed. (2d) 658). In all of these cases, the defendant unions unsuccessfully tried to claim the protection of both the Federal labor acts and the Marketing Act of 1934, and all of such defenses were rejected.

In 1954, in a final coup de grace, the Federal Trade Commission, not being bound legally or morally by the Department of Justice's grant of immunity to the Alaska Salmon Industry, issued its complaint against all of the packers and unions involved in the salmon fishing industry in Alaska. Because of the court decisions, the complexity and expense of the proceedings involving, as it did, every cannery in Alaska and every fishing union, and also perhaps because of a competitive situation then existing between unions representing fishermen in Alaska, the case was not contested and a cease and desist order was accordingly issued.

In line with these decisions, the National Labor Relations Board has been constrained to hold it cannot view the fishermen as the employees of the cannery or processor to whom the fish are sold.

In *Alaska Salmon Industry, Inc.* (81 NLRB p. 215 (1949), 23 LRRM 1496), the National Labor Relations Board refused to entertain a petition for an election among fishermen seeking certification for the union as representative for collective bargaining of the fishermen and designating the cannery for which they fished as their employer.

The gist of the Board's decision is contained in the following:

"The petitioner has directed our attention to the need which these fishermen have for collective bargaining through their own representatives. We are aware, moreover, of the fact that all of the parties involved herein desire that the Board take jurisdiction in this case. We cannot, however, go contrary to the express mandate of Congress by asserting jurisdiction over persons whom the act expressly removes from our jurisdiction. Applying to the term 'independent contractor' the common law tests of agency and giving the term its conventional meaning, as Congress says we must, we conclude in view of the above circumstances that the seine and gillnet fishermen herein petitioned for are independent contractors within the meaning of the act."

This decision was reaffirmed in 1954 in the case of *Alaska Salmon Industry, Inc.* (110 NLRB p. 1451, 35 LRRM 1158).

The Board has certified the gillnet fishermen operating on company boats in the Bristol Bay area as employees of the canneries, and in deference thereto, this group was excepted from the Federal Trade Commission order of 1954. The Board, however, has never been willing to enlarge its view of the matter and in fact, strangely enough, refuses to hold an election among the identical kind of fishermen fishing in the Port Moller area.

It should be noted the Board will hold an election if the fishermen are designated as the employees of the master of the vessel and if the vessel does a sufficient volume of business to qualify under the Board's discretionary jurisdictional standards. This is of no help because of the practical situation. The masters of the vessels change from year to year. Therefore, by the time a union could get an election and be certified, the master might be changed and the certification would be of no value. Furthermore, the union cannot negotiate

and police such a multitude of contracts as would thus be required. Most important, however, is the fact that the master is in no position to bargain. His pay as master and what he could pay the crew is dependent entirely upon the price he in turn may obtain from the processor. Therefore, bargaining with the master is futile. Bargaining should, and must, to be effective, be done by and between the party or parties who are in a position to determine and to pass on, as they do the wages of their other employees, the cost of catching, processing and selling the product.

As can be seen with reference to the Bristol Bay situation, it is possible for fish price bargaining to be legal under present rulings. It is, at least tacitly, agreed by most authorities, notwithstanding the *Hinton* decision, that if circumstances are such that the fisherman can be deemed the employee of the fish buyer, bargaining over the price is legal. After the execution of the consent decree before the Federal Trade Commission in 1954, affiliates of the Seafarers International Union attempted to find a practical way to use this legal theory in Alaska operations. The plan was that fishermen's cooperatives set up under Alaska law and the Marketing Act of 1934 would be, and were, formed. The membership would consist of boatowners and skippers only. The unions would consist only of the so-called boat pullers or crews of the vessels. The union would thereupon petition for an election to the National Labor Relations Board with the boatowners association or cooperative listed as the employer in a multi-employer unit. Thereafter the union would negotiate with the association for the minimum price on which the crew's share was to be based, and the association would in turn bargain with the canners or other buyers. Such an arrangement is now in fact in operation as regards beam trawl fishing in the Puget Sound area with the full approval of the regional offices of the Federal Trade Commission and the National Labor Relations Board. We understand similar arrangements are working in connection with certain fisheries in California. The arrangement is impracticable in that the negotiations must be carried on separately but simultaneously, since of course the association members cannot pay, at least in any material amount, any more than they receive. Furthermore, since it is a distortion of the historical fishermen's practice, there is the ever-failing human tendency of the men themselves to fall into their historical pattern and try to do directly what they must under the law do indirectly. It is a cumbersome mechanism which those unskilled in the finest arts of antitrust law are unable to fathom. In other words, it is just not a practicable operation for fishermen, their union representatives, the boatowners, and the fish dealers to operate. It is, however, and has been, better than nothing.

These devices have proved totally useless in the Alaska fisheries and we understand they have also failed in the New England and gulf fisheries. This method of operation, cumbersome and impractical as it is, can only function where the fishing area is in close to the market, the buyers and processors are all in close proximity, where the season is of considerable duration and where the fishing grounds are near the residences of the skippers and members of the crews of the vessels. All of these factors are nonexistent in the Alaska fisheries.

We have mentioned this in order to point out two things: First, what the unions seek to accomplish is not actually illegal, it is only that the method which they must use as a practical matter to accomplish it is now illegal. Secondly, it shows that the present state of the law discriminates in favor of some fishermen's groups as opposed to others, purely because of the happenstance of the location and nature of the fishery.

Some uniformity is essential to stability of labor relations, as the policy declaration of the Taft-Hartley Act notes. Commonly, therefore, it has been the practice for competitive industries to form associations for the purpose of collective bargaining with the representatives of the employees of their members in order that the costs may be uniform. Thus, for example, the Pacific Maritime Association negotiates contracts with the longshore union and with all of the offshore unions for most of the stevedoring and ship operating companies on the west coast. For this purpose under the labor act the association is deemed the employer, although, as a legal entity it employs no one.

So, as the unions have sought the right to bargain for their fish prices as determinative of their earnings, they have always been and now are agreeable and even in favor of the immunity extending equally to groups of fish processors, buyers, and sellers, in order that such groups may combine together for such bargaining or remain separate as the individual employers wish in similar manner as the shippers and stevedores operate.

VI. THE REMEDY

At the request of the Seafarers International Union on behalf of its fishery affiliates, the author of this memorandum drafted proposed legislation which, in modified form, was introduced in the Senate as S. 1265, the effect of which would have been to amend the Taft-Hartley Act to designate fishermen as the employees of the fish processors for the purposes of collective bargaining only.

It is still the opinion of this author that such legislation would provide the most workable solution to the problem, principally because it would provide a forum, that is, the National Labor Relations Board, to resolve problems which will arise. Furthermore, under such legislation the restrictions imposed by the Taft-Hartley Act both on the conduct of the employers and the unions would from definite guidelines for their conduct. However, this legislation engendered some controversy because, as we believe, some of the persons affected feel unable to project its impact on their affairs, and, as is natural, were fearful of these unknown results.

Some persons and parties who would be affected by any such legislation apparently prefer to have direct legislation amending the Fishermen's Marketing Act since it would apply only to this industry and they would not be required to look elsewhere, as to the Taft-Hartley Act, for a delineation of their rights, liabilities, and responsibilities.

The author of the article written in 1950 and incorporated in the reports of Senator Bartlett's hearings above cited was also inclined favorably to this solution of the problem, for he said:

(P. 311, 312 of Report of Hearings by Senator Bartlett:)

"However, this same Fishermen's Marketing Act, behind which the fishermen's unions have been seeking somewhat dubious refuge, may actually prove by proper amendment to be the most logical legislative vehicle for clarifying the entire situation. Such an amendment could establish clearly the legal right of all fishermen to organize into unions of their own choosing and the reciprocal right of both such unions and dealers or associations of dealers to engage in collective bargaining over fish prices or other methods of compensation, as well as the whole gamut of various relationships subsumed under the heading of working conditions" (Industrial and Labor Relations Review, Vol. 3, No. 4, July 1950; "Labor Agreements in the West Coast Fishing Industry: Restraint of Trade or Basis of Industrial Stability?" (by Roger L. Randall)).

The Seafarers International Union, on behalf of its fishery affiliates on the west coast, on the east coast and in the gulf area, wishes to support any legislation which would restore the bargaining rights exercised by the unions from 1903 to 1946. After such legislation is enacted and the unions, the industry, and the Government agencies have a period of 3 or 4 years to observe it in operation, surely it could be modified or amended to cope with any problems or inequities which may arise or any practices which may prove objectionable.

Respectfully submitted.

SEAFARERS INTERNATIONAL UNION,
OF NORTH AMERICA,
By J. DUANE VANCE, *Attorney.*

SEATTLE, WASH.

Senator BARTLETT. In light of the fact that some of the witnesses later on are going to be relatively brief, let's take a recess until 2:15.

(Discussion off the record.)

We will start at 2 o'clock.

(Whereupon, at 12:05 p.m., the hearing was recessed, to be reconvened at 2 p.m. this date.)

AFTERNOON SESSION

Senator BARTLETT. The committee will be in order. The next witness is John Hawk, Seafarers International.

Did you come clear up from San Francisco to testify on this bill, Mr. Hawk?

STATEMENT OF JOHN HAWK, INTERNATIONAL REPRESENTATIVE,
SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA,
AFL-CIO

Mr. HAWK. I certainly did. And I am amazed, Senator. I know the rough schedule you had in Congress to adjourn Congress, and the organization I represent certainly appreciates your calling these meetings.

Of course, we do not like to see you overworked, but we certainly appreciate your coming right from a heavy schedule here giving us an opportunity to state what is on our mind.

Senator BARTLETT. Looking at the representation at the table, you can tell the youth, vigor, and what not in the representation for Washington State and Alaska. Especially emphasize the youth, please.

But I queried you on your coming from San Francisco merely as an indicator of the importance you attach to this legislation—that you came clear up here in order to present your views to the committee.

Mr. HAWK. Well, Senator, the international union that I represent also represents affiliated organizations from Boston to Dillingham, Alaska, and we are very much interested in this legislation.

Senator BARTLETT. You represent what organization in Dillingham?

Mr. HAWK. The Bering Sea Fishermen's Union.

Senator BARTLETT. Who heads that up locally?

Mr. HAWK. Locally?

Senator BARTLETT. In Dillingham.

Mr. HAWK. Jim Downey is the secretary-treasurer.

Senator BARTLETT. And in that connection I want to say that while I was in Anchorage, where I remained for a couple of days until yesterday morning, I heard from Mr. Downey who, as a matter of fact, will be in Seattle tomorrow, who expressed great regret that he could not be here to testify in person but said that he did not worry as much as he would otherwise because he knew he would be so ably represented by you.

Mr. HAWK. Thank you very much.

Along those lines, Senator, I talked to Jim Downey yesterday, and I believe Jim Downey is going to have a representative from his union testify in behalf of his organization before your committee when they hold hearings in Dillingham.

Senator BARTLETT. We are going to meet there on Friday, and we will arrive there probably around noon. We are willing to take testimony all that afternoon and all night if necessary if the reporter will stay with us.

Mr. HAWK. According to Jim, there will be a representative representing the Bering Sea Fishermen's Union available to testify.

Senator BARTLETT. Very well.

Mr. HAWK. Mr. Chairman, Congressman Pelly, my name is John Hawk. I am an international representative of the Seafarers International Union of North America, AFL-CIO. Our international union is a federation of unions made up in the main of commercial fishermen, fish cannery workers, and merchant seamen, with a membership bordering 80,000. Approximately 10,000 of these members are commercial fishermen, and I am speaking on their behalf.

The principal ports out of which these fishermen fish are Boston, Gloucester, and New Bedford, Mass.; New York City, N.Y.; San Diego, San Pedro, Monterey, and San Francisco, Calif.; Astoria, Oreg.; Seattle and Bellingham, Wash.; Dillingham, Bristol Bay, Alaska, and for that matter, in all areas of Alaska.

Fifteen years ago our international union issued charters to trade unions that were formulated by fishermen on the gulf coast of Florida, Alabama, Mississippi, Louisiana, and Texas. These fishermen were strictly employee fishermen. By that I mean that none of these fishermen had any money invested in a fishing boat or its fishing gear, but were employed by the boatowners. However, these fishermen, through their trade unions, tried to exercise their rights under the Labor-Management Relations Act, 1947, the Clayton Act, and the Norris-LaGuardia Act, and bargain for a guaranteed minimum fish price (wages in this case) before going out to catch fish.

The U.S. Department of Justice stepped in with pricefixing indictments, and consequently, all these unions were eventually destroyed and a great injustice done to these "employee" fishermen.

In an attempt to correct this situation 11 years ago during the 1st session of the 82d Congress and upon the request of the Seafarers International Union of North America, Senator Bartlett, your co-author of Senate bill 3093, and our good friend, Senator Warren G. Magnuson, introduced Senate bill 2176 which would have accomplished exactly what this bill shall accomplish, if enacted.

I bring this out to give this honorable committee an idea how long our international union and its affiliated unions have been trying to correct this grave injustice foisted upon employee fishermen and their trade unions based on the interpretation of one law without consideration of other laws of this land that should come into bearing.

The dockside delivery price of fish is by no means the major factor in determining the cost of fish to the public on the consumer's market. With the exception of the employee fishermen, all labor in connection with processing fish, butchering for the fresh fish market or for freezing or canning, machine operators, packers, engineers, warehouse workers, truckers, et cetera, are free to exercise their rights to collective bargaining for working conditions and wages.

Wages and all other expenses involved before the fish go on the consumers' market, whether or not the fish is fresh, frozen, or in a can, have, in my opinion, a greater bearing on the cost of fish to the consuming public than the dockside delivery price of fish paid to an independent boatowner and his employee or employees.

If I may digress here a moment, my coworker, Brother George Johansen, stated for the record that he had heard from representatives of east coast unions as to what went on there. They have an auction system in Boston, Mass., and they have an auction system also in New Bedford.

Well, I was there personally, and it is not hearsay. I have gone to the fish pier where they hold these auctions when the boats come in. And as George said, on a Friday there were two boats. There were 2 million pounds of fish. All these fish were caught out in the Georgia Banks, and so forth. The price of the fish when the gavel went down was, I believe, 14 cents a pound for haddock and cod.

On a Monday morning, the next day they auctioned the fish, there were 10 fishing boats in.

Now, this is in the middle of January. These fishing boats come in all weighted down with ice. These fishing boats came from the same area that the two boats came from that were in and delivered their fish on Friday.

There were 10 or 12 million pounds of fish in the boats that went up for auction this morning, and the price when the gavel went down was 6 cents a pound.

Now, here are fishermen, here are boatowners, bucking the elements, doing the same kind of work, undergoing the same stress and strain, and they come in 2 days later and there is a 60-percent differential in the income insofar as the wages for the fisherman and also for the boatowner.

The boatowner that came in on Monday got 60-percent less total receipts for his fish than the boatowner that came in on a Friday.

Mr. PELLY. The consumer got the same price in both cases, did he?

Mr. HAWK. I was going to come to that, Congressman.

As far as the consumers' market is concerned, the housewife went down to the fish markets in Boston and she paid the same thing for her fish on Friday and Saturday as on Monday and Tuesday, the same as the people paid for the fish on Friday and Saturday.

Now, if that isn't an injustice and if that situation shouldn't be alleviated insofar as the boatowner and the fishermen are concerned, then I don't know what I am talking about.

Because as far as being unfair, it certainly is unfair.

And as far as the consumer is concerned, the consumer pays the same price.

So what we are asking for here is to have the right to bargain for a minimum fish price and know what we are going to get or what the fishermen are going to get before they go out fishing.

Now, that is good for the fishermen. It is good for the boatowner. And it is good for the canner. Because then they know what their operations are going to cost. They will have a general idea what they are confronted with.

Mr. PELLY. You support a stabilized price. Is that it?

Mr. HAWK. Well, I would say a minimum price.

You see, the situations in different fishing areas are different. Take for example the Alaska fishery. I think it is to the advantage of everybody involved in the fishery, the fishermen, the boatowners, and the canners, the operators, to be able to negotiate a price.

It isn't a case of a price there. It is a season price. It isn't a case of minimal price, because you don't have an auction. But then they can all calculate as to how much of a margin they have, and before they invest or anybody goes that is all worked out and they have ample time to work it out.

It is different in different fisheries. In Massachusetts, for example, I am talking about two ports. I am talking about Boston and New Bedford. They have the auction system there.

The auction system in Boston is different than it is in New Bedford. They have a time element in New Bedford. When it is 7 o'clock the auction goes on. At 7:30, boom. Whatever the price is that has been offered, that is the price for the fish for that particular day.

So I mean by a minimum price a minimum would be a maximum insofar as Alaska is concerned or the Alaska fishery.

The same thing would hold true in California.

I have worked with our fishermen's union in all of these areas from time to time and am fairly familiar with their operations, with one exception, and that is the gulf coast area. However, representatives of our affiliated east coast fishermen's unions shall be present to testify on Senate bill 3093 and companion bills H.R. 11562, H.R. 11573 and H.R. 11606 when the respective committees hold hearings on the east coast.

When I say "the east coast," I mean 9 chances out of 10 in Washington, D.C.

No doubt they are more qualified than I to give you the more detailed information the committee may desire.

Of course, you have heard from our attorney. Our attorney, Mr. J. Duane Vance, is here with us today to give your committee some legal background and history of this problem, which he has done already.

Mr. Lester Balinger, secretary-treasurer of the Cannery Workers & Fishermen's Union of San Diego, Calif., is now attending a tuna conference in Japan along with representatives of our Government and all segments of the California tuna industry. Mr. Balinger requested me to express his regrets that he could not be here today. However, he prepared a brief which I have here with me and which he requested me to read into the record with your kind permission.

In closing, I want to assure this committee that the Seafarers International Union of North America and all fishermen members of our affiliated fishermen's unions from Boston, Mass., to Dillingham, Alaska, are 100 percent in favor of Senate bill 3093 and we shall cooperate with this committee in supplying any information you may want concerning any area of our fishing operations.

Thank you.

Senator BARTLETT. All right. Thank you, Mr. Hawk, for a helpful statement.

With reference to Mr. Balinger's written views, I would like to suggest that we will incorporate them in the record as if they had been read to save time.

Mr. HAWK. I see. Well, I thought you might want to ask me some questions. I am pretty familiar with it. It is only seven pages.

Senator BARTLETT. Let's take a look at it, John.

Let's do this, John. We will look it over as we go along, and if we have any questions we will call you back. Because his statement is way, way longer than yours, and if we had every statement read by absent witnesses we never would get through with the hearings. Any questions would appear in the record as if they were here.

Mr. HAWK. All right.

Senator BARTLETT. Congressman Pelly, have you any questions?

Mr. PELLY. I have no questions.

I had the pleasure of discussing this subject with the witness in Washington, and I think he is a pretty good salesman as far as I am concerned. He certainly made a very good case.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. No questions.

Senator BARTLETT. I only want to ask you one thing that I think of at the moment, John. That is this:

You had part of your statement devoted to the proposition that the dockside delivery price of fish is not at all a major factor in determining what the housewife will pay for the can of fish on the shelf, for example, and I do not want to try to pin you down because I know there would be variances in every case, and I know this would be a proposition for someone in the pencil division, but have any studies been prepared or do we have any more exact evidence as to what part of the price burden is represented by the dockside delivery price?

Mr. HAWK. I don't have them right at hand, Senator, but I will do my best, and I am pretty sure that I can have it broken down and make that information available to your committee.

Senator BARTLETT. I don't want you to go to too much trouble right now, because maybe it is available somewhere else. Maybe the Government agencies have that information.

Why don't you hold your fire before you go to a lot of work on that, and we will see if we can get it from the Government first.

If you do not agree with that, you will have a chance to offer rebuttal.

But I think the record should have something on this subject.

Mr. HAWK. All right. We can't go to too much trouble and too much work, because this is a bad situation, and it has existed so long. And you have been kind enough to come right from the adjournment of Congress and give us an opportunity to present our views and facts in this matter, and I can't go to too much trouble to help prove our case.

Senator BARTLETT. Well, all right, then, you go ahead and do that, and at this point I will suggest that you send this evidence you are going to present later.

For the purposes of the proper channeling, perhaps it had best be sent to Mr. William C. Foster, 248 Senate Office Building, Washington, D.C., and that will apply also to any others who have additional written material to submit.

We are going to hold the record open for a period of 1 month from now for such submissions in case you have additions to make or alterations. Or there might be someone in some other organization or some individual who did not have a chance to appear here or at any of the hearings in Alaska. We will keep the record open for them.

Mr. HAWK. Thank you.

Senator BARTLETT. We will probably be calling you back, John, on the Balinger statement later on.

Mr. HAWK. Thank you very much.

Senator BARTLETT. Next witness is Joe Jurich.

Joe, can you hold off a few minutes? We have another witness who has another meeting he wants to go to.

Dan Luketa, Fishermen's Marketing Association. Is Dan Luketa here?

STATEMENT OF DAN LUKETA, MANAGER, FISHERMEN'S MARKETING ASSOCIATION OF WASHINGTON, INC., SEATTLE, WASH.

Mr. LUKETA. May I read this statement?

Senator BARTLETT. Yes. Sit down and enjoy yourself. Identify yourself and let loose.

Mr. LUKETA. All right.

Statement of Dan Luketa, manager, Fishermen's Marketing Association of Washington, Inc. I guess the date is unnecessary.

Senator BARTLETT. You might give the mailing address.

Mr. LUKETA. 8306 16th Avenue NW., Seattle, Wash.

My name is Dan Luketa. I have been a member of the fishing industry in the Pacific Northwest, California, Mexico, and Alaska for approximately 30 years. I have been engaged in the trawl fishery, as a captain of a vessel and owner, since about 1940.

I am here today to represent the Fishermen's Marketing Association of Washington as manager, a position I have held for the past year, prior to that time I served the trawlers as their president.

The Fishermen's Marketing Association of Washington, Inc., is composed of a group of trawl vessel owners who deliver ground fish into ports of the State of Washington. Our annual production approximates 40 million pounds. The membership of our organization also includes former members of the Northwest Trawlers Association, a group which has appeared before this subcommittee in the past. We number about 60 vessels.

We are appearing here today on S. 3093, a bill sponsored by Senator Magnuson and Senator Bartlett. Though we have had extreme difficulties with the Federal Trade Commission in previous situations involving the negotiations of price of fish with dealers in the State of Washington, it is our sincere feeling that the changes contemplated in the Fishermen's Marketing Act would not provide a solution. It is our feeling that the act is proper as written, though interpretations in the past have been wholly lacking in justice.

The changes as contemplated, in our opinion, would render our bargaining power as boatowners valueless with the employees or crew members. Crewmen, under the suggested changes, would bypass the owners organization and deal directly with buyers leaving us in a position where we would be unable to properly function.

We have long operated under the Fishermen's Marketing Act of 1934 and recognize the bad points in the law. We do, however, feel that the act as written is sufficiently sound to far outweigh any disadvantages. Though we would wish to strengthen the language, we do not at this time favor a major amendment to the act as suggested by S. 3093.

Following our difficulties with the Federal Trade Commission in recent years, we thoroughly appreciate the U.S. Senate's interest in our problems and thank them for the opportunity to appear here today. It is our opinion, however, that with proper interpretation of the language of the original act, we are not in need of further amendments.

We appreciate the fact that the hearing on this bill today is designed to get at the facts rather than to provide a hearing endorsement of the legislation. Inasmuch as our vessels fish year round, there is no oppor-

tunity for thorough discussion of the measure. We shall do so at our meeting at the end of the calendar year and be prepared with an exhaustive statement prior to the convening of Congress in January.

We wish to thank you again for the opportunity to state our views.

Senator BARTLETT. We appreciate your appearing here, Mr. Luketa, and we will await that further statement.

In the meantime, you said that all would be well or comparatively well if the act were properly interpreted. Now, how would you have that interpretation run so that it would be proper in your viewpoint?

Mr. LUKETA. Well, we have run into the situation—this happened almost 3 years ago, where the canneries in negotiating prices—well, we negotiate prices annually. In other words, we fix the price of the bottom fish from January to January of each year. And we had two associations. This is the first time that had happened that year. We had the Fishermen's Marketing Association of Washington with their offices in Seattle, and we had another Northwest Trawlers' Association of Bellingham. And we merged.

All right. And the dealers right away got hold of a lawyer, and they wrote up a brief on it and presented it to the Fair Trade Commission.

All right. There had been previous to this about five or six cases. We called the Justice Department in San Francisco and asked them their opinion of it, and they said that 2 organizations or 10 organizations, as long as they had the same things in common, would not be violating any law, so we went ahead on it.

All right. And the Fair Trade Commission jumped on us and told us to separate.

All right. We're a small group. We haven't the resources to fight the U.S. Government. We felt that if we had we could have gone to court and we could have whipped them, because all the legal departments of the Justice Department said that we were on the right track. But we walked away from it.

So we disbanded, and we reorganized under the one group.

Now we are all together in one association and doing the same thing we had done under the two. No difference.

In December of each year we ask the canners for the price. Now, this has been happening for 20 years. We have a fixed price.

I heard a lot of opposition about this, about fixing prices. We are setting the price for our group. Not for the whole coast, but for our own group we are setting the price, and it has worked real good.

But we do not like to have the National Labor Relations Board have one way of interpreting this Marketing Act and the Federal Trade Commission having a different interpretation.

This is the trouble we are running into, and this is what we want to avoid. We want this spelled out. And if there is something wrong with what we are doing, we would like to know it.

Senator BARTLETT. Well, let me boil it down—

Mr. LUKETA. Yes.

Senator BARTLETT. So I will be surely clear on what you have in mind.

Mr. LUKETA. Yes.

Senator BARTLETT. Is the law being properly interpreted now as far as your group is concerned, or is it not?

Mr. LUKETA. No. It definitely is not.

In the Marketing Act of 1934 it said that the dealers or processors, the fishermen and the boatowners can be in one organization, can work simultaneously together, and operate in all functions together. But the U.S. Government in all its agencies says this cannot be done. They cite us every time we try to apply the act.

All the bottom fish boatowners are in marketing associations. Eureka, Calif., has a good one. The crews and the boatowners are working together.

In Oregon they are working together—very successfully.

And we in the State of Washington are working very good, having no trouble. The only trouble we have is with the Government, because the Government jumps in and every year or two, cites us and breaks up our organization, weakens us.

Senator BARTLETT. Well, that apparently is the trouble that the people who sponsor this legislation have had too. Their troubles are with Government also.

Mr. LUKETA. Yes. I mean this seems to be. In other words, I think we are all trying to get out from under the Sherman Antitrust Act.

Senator BARTLETT. Now, what you have said is a further explanation of your statement that the interpretations have been wholly lacking in justice?

Mr. LUKETA. Right.

Senator BARTLETT. But if they had been just, from the standpoint of the objections you voice, would they have been just so far as the fishermen here are concerned?

Mr. LUKETA. Yes. Well, here is the thing. I mean the difference I believe between Vance and George Johansen is the chain of command.

In other words, in this letter I am citing this and mainly this. You have a chain of command here. Bjornstein Seafoods is a dealer. All right. He has employees. These are filterers and cannery workers around the plant.

I am a boatowner. I employ a crew, crewmembers.

All right. The crewmembers have tied me up, and I am their employer. I am paying their social security. I am paying their withholding tax. And I am on the record as being the employer.

All right. What they want to do is bypass the boatowner.

All right. They could go direct to Bjornstein and ask him for a price and sidetrack us. We wouldn't have a voice in it. They want to put the shoe on the other foot.

This has to be a chain of command. As an employer I want to have a voice in the price also.

Senator BARTLETT. Well, another witness stated that the way it is now the boatowner receives a bonus in some instances and actually he is not too concerned about what the fishermen receive, that he is content because he gets the extra money anyway and so he will take whatever is offered and this binds the crewmembers.

Do you have any comment on that?

Mr. LUKETA. Yes, I have a comment. I think if that practice exists—and I have personal knowledge of it—that practice should be abolished.

Senator BARTLETT. How are we going to abolish it?

Mr. LUKETA. What?

Senator BARTLETT. How are we going to abolish it?

Mr. LUKETA. I don't think there has been an effort to abolish it—in other words, by the unions themselves.

You have two good unions here, strong unions. They are both strong unions.

All right. They can strike. If these bonuses are paid, and which I believe personally they are, this could be stopped by them. All they have to do is strike for those rights and for their fair share of the bonus if there is a bonus.

Senator BARTLETT. Now, as I infer, you opposed the bill principally because of this danger that you see—that the crewmembers might bypass the boatowners. Right?

Mr. LUKETA. Right.

Senator BARTLETT. Do you have any other objections to it?

Mr. LUKETA. Well, here we have been operating now for roughly—other than running from the Federal Trade Commission—about 20 years, under this Fishermen's Marketing Act. Actually it is just about 18 or 19 years ago since they put this act in.

All right. Now, every provision in that act is correct. We can function under it a hundred percent. Eureka is operating under it, and there are dozens of marketing associations that are functioning.

Now, all of a sudden you want to inject something—not you personally but I mean there is something injected—in there that will destroy the Marketing Act which is broad in scope and it has a lot of protection for crewmembers, boatowners, and everything. And it protects us in the fact that we can negotiate a fixed price, which we have been doing for 20 years for our commodities.

Senator BARTLETT. You being the boatowners?

Mr. LUKETA. No, no—fishermen. The fishermen share the same as I do.

In other words, we are on a share basis. The boat gets 40 percent, and the crew gets the balance. All right. If I get 10 cents a pound, they get their fair share. We are not on the auction system like on the Boston coast.

Senator BARTLETT. Who does the actual negotiating?

Mr. LUKETA. The boatowners, the way it is working right now. The crewmembers ask the boatowner what they want. Right now they come—

Senator BARTLETT. You mean they tell the boatowner what they want?

Mr. LUKETA. Yes. In other words, let's say there is a price of rock-fish of 5 cents. All right. Now, for 1963 they say they would like a cent increase to 6 cents. All right. We take these figures to Bjornstein Seafood and we ask for 6 cents.

All right. He comes back with 5½ cents. All right. We take it to the union and ask them if they will accept it. All right. If the union and us can get together and we agree on this price, then we go and sign with Bjornstein.

Senator BARTLETT. Well, do the boatowners always accept the recommendations of the fishermen?

Mr. LUKETA. Not entirely. In some instances that has been too high for the market conditions.

Senator BARTLETT. If the boatowners believe the prices to be too high, how is final settlement reached before you go and negotiate with the buyers? In a negotiating process? Or who has the real authority?

Mr. LUKETA. The final authority I would say right today, the way it has been the last 3 years, is in the strike process of the union. In other words, we went out, and 2 years ago we were out for 3 months before the union would accept the price that the dealers had offered the boatowners—no, that was 3 years ago we had 3 months on strike—2 years ago we were 1 month on strike. This past year everything went smooth.

Senator BARTLETT. Well, did the boatowners agree that the strike was a good thing, or did they want to take the price the buyers offered?

Mr. LUKETA. No, no; it was mutually agreed that the price was incorrect, and we stayed out for 3 months.

Senator BARTLETT. The boatowners and the fishermen were one?

Mr. LUKETA. One, yes.

Senator BARTLETT. All right. Thank you, Mr. Luketa.

Congressman Pelly?

Mr. PELLY. Well, I would just like to clarify one thing in my mind. I think basically you support the objectives but you do not approve of any arrangement which would bypass the captains. Is that correct? The owners?

Mr. LUKETA. Right. Now, I don't know what act I'd cite there of direct employer-employee relationship. Why it's injected in the Fishermen's Marketing Act I don't know. But if this should go through, if they did inject it there, the boatowners would be the only employer in the United States that would be bypassed, that couldn't even talk to their own employees.

Mr. PELLY. You would study the thing with the idea of perhaps suggesting strengthening language which would allow associations in common to negotiate? Is that right?

Mr. LUKETA. That's right. This is what I mean.

If, say, Eureka and the State of Washington would like to get together on a thing, I think this should be allowed.

Mr. PELLY. And you will meet before the new year and probably submit some testimony?

Mr. LUKETA. Further evidence on that.

Senator BARTLETT. All right. We will welcome your suggestions too.

I would urge all of you when you are sending further recommendations or additional statements to mail copies to Mr. Pelly in the House of Representatives, because he will want to see them and be able to review them too.

Mr. LUKETA. All right. I heard one address. Mr. Foster's, was it?

Senator BARTLETT. William C. Foster. He will write it down for you. And then, of course, Congressman Pelly can be reached at the House of Representatives.

Mr. PELLY. I think that anything that will be done will probably be done more or less in common, and if the Senate takes action they will probably notify me, and I will do the same thing on the House side.

Mr. LUKETA. One final thing I would like to say.

For instance, we have a hard time to get prices. But if this does go through, it breaks every marketing association. We have to throw them all out and start over again. I mean we are busted in business. It wouldn't function as a marketing association then because it has got a hole punched right into it. We would have to dissolve and start over, the boatowners' associations. We'd have absolutely no power.

Mr. PELLY. Maybe you could reconcile your differences before the matter ever gets to Washington and work with Mr. Johansen and others and try to reconcile those things without calling upon laymen like ourselves to try to solve your differences.

Mr. LUKETA. Yes. Thanks very much.

Senator BARTLETT. We will entertain the ardent hope that that may be done at least.

Mr. LUKETA. We have got to do a lot of talking this winter I guess if it can be arranged.

Senator BARTLETT. You have got a couple of months for talking.

Now, my apologies, Mr. Jurich. Are you ready?

STATEMENT OF JOE JURICH, SECRETARY-TREASURER, LOCAL 3, ILWU

Mr. JURICH. Chairman Bartlett, Congressman Pelly, and staff and other members of the committee—

Senator BARTLETT. You don't have a written statement?

Mr. JURICH. I first want to say that I don't have a written statement to read. I would like to at this time have the privilege of presenting some oral opinions on this matter and to submit a brief, as you have already outlined, for reference or for additional information if the committee so chooses.

Senator BARTLETT. Permission granted.

Mr. JURICH. Mr. Chairman, I have been in the fishing industry since about 1927 or 1928. I have been a fisherman for quite some time. And I am here in support of Senate bill 3093. I do want to—

Senator BARTLETT. Wait a minute. I think George is going to say he can't hear you. Is that right?

Mr. JOHANSEN. That's right. I can't hardly hear Joe.

Mr. JURICH. Joe Jurich, secretary-treasurer of Local 3, ILWU.

Mr. Chairman, as brought out by the previous speakers, you are well aware that the fishermen's organizations have been harassed, and I use the word advisedly, persecuted for a good many years, so that we find ourselves in this jungle of legal morass, and we really don't know where we are going.

Now, I mention this because I can point out that when I started fishing we had no unions. We formed union organizations in the fishing industry in the middle 1930's. That excludes some certain specific areas where they did have unions prior to that. But that is generally speaking.

Then for a short time we were able to operate under the same rules and regulations as nearly all other labor organizations were able to enjoy.

We made some progress. And I will say that in my opinion the progress we made in the industry was one of the stabilizations in the industry.

In 1930 when I was fishing we got paid off in rope and cases of salmon, and so on and so forth. This is speaking of Puget Sound.

After we were able to get organized there were 22 cannerys operating in the Puget Sound area, and during this period of time no cannerys went broke. I think this will be in a way an answer to the questions that the Congressman and the Senator have raised about what will the unions do in this particular field.

We have found that it has been good and it has been constructive.

We have our problems as well as the cannerys have their problems. I think there are men here who know that we have sat around and negotiated for hour after hour and day and night, and the negotiating committee would shake hands and walk out of the door thinking we've arrived at a certain specified rate of pay for the fishermen, and we hit the sidewalk and within 15 minutes some individual may boost it a little bit to try and steal somebody else's fishermen.

Now, the committee in all honesty representing the industry and the unions, tried to bring about a stabilization. We have been confronted with that problem, of course. We know it's there.

But to top it off, we found that we could do a pretty good job in representing the consumer because I think basically you want to remember that all of these people who work in the industry, fishermen and allied workers, are consumers themselves.

We have always felt the pressure of the consumer's resistance in the fishing industry. I think the other people who feel it, of course, are the farmers. That is before some of this redtape business got into it.

But basically in the fishing industry we know that we could only go so far because the consumer would only pay so much. So we tried to get our fair share out of that by negotiating with the industry for hours, wages and conditions.

The word "price" has been used, but I for one have been beat over the head for so long I call it the "minimum rate of pay on a piecework basis," if you want to call it that.

During the War Labor Board days, they had to come up with a word, so they used the word "labor venture." We have used that.

And in our struggles with the antitrust people and with the Federal Trade Commission we have tried to bring out some of this material.

In our latest struggle—not the one in 1954; that created plenty of headaches—we asked the Federal Trade Commission to subpoena the books of the various cannerys at that hearing there, and we told them that those books would show the thing that we were trying to bring out, that we were not the ones who were doing this but it is the cannerys' responsibility for the things that they themselves did.

As George Johansen pointed out, he says: "In instances where conditions are particularly adapted to them. In other areas, the act has more or less been ineffective because it does not apply to the practical situation."

Now, he is speaking of the associations and the co-ops.

Well, if you will look at the history of this thing, you will find that some of these co-ops have now turned into stock companies. I refer to one in Astoria and the one at Anacortes, Wash.

This is one of the reasons that under the Marketing Act this has been accomplished, and therefore it does need clarification, because if we were allowed to negotiate directly with that segment of the industry that we have relations with or believe we have relations with, we could smooth out a number of these problems.

Now, also during that period of time we established an agreement in Puget Sound that was effective for many years.

In 1951 I was employed on the purse seiner *Catherine M.* At the conclusion of that season, and before we were paid off, the cannery made an adjustment. Now, this adjustment was before the payoff, so we got 1 cent a pound additional for pink salmon and 2 cents for sockeye. And at that time the cannery stated or let the word out that that would be the last time they would have an adjustment.

Because from then on started this bonus and under-the-table deals that you have heard much about and I think will hear more about, where the vessel owners have been paid off in various ways, either by charter or by producing so much, and above that they get an incentive, whether it could be 10 percent or something else, but a straight across-the-board percentage deal.

There are so many variations of it.

There is one thing that disturbs us greatly on this thing, on this bonus deal. The record will show that when we were faced with the possibility that the Puget Sound cannery were going to seek a permanent injunction and triple-damage suit, I made it my business to go down to the Department of Fisheries and find out such information as I could. I found that in their applications for license there are virtually three columns, Mr. Chairman. One said the operator of the boat. Then there was a license number. And then there was the owner of the boat.

I have in handwriting some notes on it there. I can just remember one, offhand, the *Mildred*, license No. 3004.

So if these marketing associations represent the vessel owners or the captains—and at the present time it could be one or both—we would still be confronted with the fact that indirectly we would be negotiating with the person who actually owns it, though it cannot be brought out unless it is brought out by some court proceedings, and we find it most difficult to do that because of the time, money, and expense involved in establishing our case.

Therefore, we think that an amendment to this granting the right of fishermen to negotiate with the buyer would be of the utmost help to us.

I can illustrate another instance that happened in 1959. The cannery association or the group made up primarily of the Puget Sound Cannery Association through the vessel owners' association offered 30 cents. Another company that was not active in the association at the time submitted a proposal to us that, "We will pay you 34 cents a pound." The current rate was 30 cents a pound.

I said, "Why didn't you submit it through your association?"

"No, we will submit it to the union."

And he said, "I'm trying to make a point."

And I said, "Well, I have an idea of what point you're trying to make."

We have been through this hassle for some period of time, and the actual working fisherman is part and parcel of this whole machine as a partner, et cetera, et cetera.

So this offer was 34 cents. There were 350-some boats fishing in the Puget Sound area. And I will give any man in this room or any person in this room a guess as to the number of vessels that swung over from 30 to 34 cents with over 350 boats fishing in this area.

Well, whatever your guess may have been, the actual number of boats that sold to this company, which would have put on record 34 cents a pound, which would be the rate of pay, of which the fisherman would get his share, was exactly zero.

In other words, the fishermen employed on the purse seine boats and the reef net gear in particular have no voice in where their fish is going to be sold.

The only protection and the only rights they have are if they have a union that can bargain for them for these various items that we have mentioned, and we think that this bill, that the hearings are now being held on, is only the beginning.

I am not an optimist that this is going to be changed overnight, but I do think it is something that will help clear the air, and it will bring out a number of viewpoints of a number of people here and there.

I know the committee does intend to hold hearings in San Pedro, and I hope they do, for the reason that our sister local down there has gone through several years of legal battles, and I think that they can bring out some additional legal problems that might help the committee in preparing legislation that will restore the fishermen to the equality of other working people with a right to collective bargaining.

Mr. Chairman, if there are no further questions I will present a brief on this.

Senator BARTLETT. Mr. Jurich, actually if this bill were to become law, there would be an overnight change, would there not?

Mr. JURICH. Well, perhaps I have been in the industry too long, Mr. Chairman. I don't think that it would change that fast. I think that with enabling legislation that we hope for that will clear the air, my guess is it would take anywhere from 3 to 7 years to clear this thing up. You know. Legal battles, interpretations, and so on.

Senator BARTLETT. Now, Mr. Luketa informed the committee that, in his judgment, translation of the text of S. 3093 from bill form to a law would wreck these marketing associations. Do you care to comment on that?

Mr. JURICH. Mr. Chairman, a marketing association, if it is operating as a true marketing association, and if they will accept responsibility of an association, will not be wrecked by this, but they must accept their responsibility.

Senator BARTLETT. What do you mean by that?

Mr. JURICH. As he pointed out, marketing associations are very successful in Eureka, Astoria, and a number of other places there. These are isolated areas. They are working within a situation that I'm not currently up to date on, but I know it from past history.

On a minor scale they might be able to do it. For instance, they had an association in Bellingham that ought to suit the boatowners very well. They had what they called a marketing association and even

forced the crewmembers to join that association. But they did not permit them representation on the board or at their meetings.

Now, in that case there, it depends on what he says. He says he bargains with the union. That's fine. He can continue to bargain with the union. And if he's in a position to accept the responsibility of the association, then he will not be injured, providing that they have the means to accept that responsibility.

But if he is only a strawman between the actual working fishermen and the ultimate responsible party, whether it is the processing plant or cold storage plant or whoever it may be, there is a technical question there how far they want to go, I agree, but I don't think necessarily that *carte blanche* the associations will be destroyed.

Senator BARTLETT. He said that if this came about, the owners would be bypassed, and the crew would deal directly with the buyers and the fellows who own the boats would be without any jurisdiction at all.

He submitted that this wouldn't be a good proposition. Do you have any comment on that?

Mr. JURICH. I can only say this, Mr. Chairman. In all of the years that we were permitted to bargain, the boatowners by whatever name they were known were always a part of this whole structure.

The thing is that if the vessel owners want to set themselves aside for the purpose of getting these bonuses—and going back to that again, when we were negotiating with them we had this question in the agreement. One canner says, "Do you mean if I give John Smith a turkey that the crew should have a share of it?"

"Well," I said, "technically, yes. But," I said, "realistically we probably wouldn't."

So that I see no reason why the crewmembers, through their own organization and the vessel owners through their own organization, by whatever name they want to call it, will not be working together tomorrow and for many days and maybe many years to come.

Senator BARTLETT. Mr. Pelly?

Mr. PELLY. Well, I must say that I see that there is some conflict here between the boatowners and the crewmembers.

Actually, is there any negotiation between the boatowners' associations and the crewmembers' associations or unions?

Mr. JURICH. Mr. Chairman, the answer to that is that we have with the purse seine vessel owners' marketing association a working agreement as to the hours and working conditions of our members employed on the vessels belonging to the association.

It is not the same one as Mr. Luketa represents. This other association probably has 200 or 225 votes in it.

Mr. PELLY. Well, would it be possible for negotiations to be carried on between the crewmembers and the boatowners to provide that there would be no bonuses or that there would be a set price on which there would be some agreement on the price, minimum price?

Mr. JURICH. I would say on the question of the bonus I think that there would be a solution to that. I have talked to many vessel owners on this particular subject, and I pointed out to them that there isn't one simple answer to it.

The whole question of fishery management comes into the picture, Mr. Pelly, on the basis that at the present time there is too much

gear operating in Puget Sound and other areas. They have had to attempt restrictive rules and regulations on it, and it has worked a hardship.

Let me try to answer your question another way. I would say this: That a bona fide fisherman who has put in his whole lifetime in the fishing industry—and some of us are getting pretty old—deserves at least something similar to what he had say at least 25 years ago, a right to bargain and a right to make a living.

The right to make a living would simply mean that what we are engaged in at the present time is limited gear in each area. And if we had limited gear it would mean that we hope that there would be bigger shares for each fisherman.

A skipper or a vessel owner would have a good crew, not what we are up against today where there is such a tremendous turnover you don't know from one year to another who your crewmembers are.

But if you had a good bona fide crew and there was a limited number of boats to catch the number of fish as they did this summer here under the rules of the Commission, in the long run the skipper's share or the boatowner's share would be sufficient to take care of what he has and he wouldn't need these bonuses and under-the-table deals.

Mr. PELLY. Well, that would be a matter of negotiation and not have anything to do with the law, however, would it?

Mr. JURICH. No, we could do that by negotiation as we have already on these working agreements by arbitration and final award.

Mr. PELLY. How about the imports from Canada affecting that situation and the number of boats that fish off Vancouver Island? Would that change the picture at all? Is there any regulation that affects that?

Mr. JURICH. Insofar as that, they will go into the international picture, and there are ramifications.

Mr. PELLY. Generally speaking you have made the statement that you have been successful in limiting gear which would in turn help the income of the fishermen. Now, isn't that subject to tremendous fluctuation on account of imports from Canada?

Mr. JURICH. Well, Canada, of course, would have some effect on it there. Canada is willing to grant us concessions on international fishery problems, providing Mr. Bartlett's State will open up some doors in southeastern Alaska for the Canadians.

Mr. PELLY. But we import, as I understand, more bottom fish from Canada than we produce ourselves by far.

Mr. JURICH. Oh, getting back to that, yes.

Mr. PELLY. As I see this thing, you have indicated the hope of the fisherman is to get a decent enough income so he will stay on one vessel. There can be a limitation. But it just seems to me if we did limit it, in turn we could suffer on account of imports greatly.

Mr. JURICH. On that question, Mr. Pelly, we have been on record, both the international fishermen and allied workers, and at one time virtually all of the organized fishermen were under one setup and we discussed and kicked that around for a long period of time. We don't believe that a higher tax on imports or complete bar is the answer.

We have taken the position, supported by the fishermen at the various unit meetings, that a quota system is the solution to that.

Mr. PELLY. All I wanted to get in the record was something that might be relevant to this particular bill in which there is a hearing as regards foreign imports. And if we are going to permit unions to negotiate, all I want to know and have stated in the record is whether imports would have any bearing on that.

It would seem to me it would work in the other direction. It would be helpful to have this legislation.

Mr. JURICH. I think it would, Mr. Pelly, because I think that if the fishermen were permitted to have a strong enough organization and they have enough of an organization where the finances would permit them to do research work, which we were able to do prior to the 1954 and 1956 FTC attack, sir, I think we could come up with some answers that would be very helpful to our Congressmen.

I know from my own experience in representing the fishermen many years ago that we did a lot of this work, and the record, I suppose, old as it is, may be still there somewhere.

Mr. PELLY. Well, I would hope maybe a statement might be placed in the record by some authorities or people that were competent as to any effect of this particular legislation on the general picture of imports from Canada.

I think it can be done by statements better than someone who is not familiar with it like myself trying to draw an answer out of you, Joe, because I really don't know exactly what I'm trying to get at except that I recognize it is a real problem. It should be in the record.

Mr. JURICH. Speaking only for myself, Mr. Pelly, I think that I would like to take that and give it some thought and present it to you at a later date, because that wanders into a field that at this time I wasn't ready to discuss.

Mr. PELLY. I would appreciate reading it when you do, because I think it would be helpful.

Mr. JURICH. Yes.

Mr. PELLY. Thank you.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. No questions.

Senator BARTLETT. Referring to the desire of our Canadian friends, Joe, to fish in Alaska waters, they had better go and talk with the Russians and get a priority. You know, you have got to stand in line here before you can come in. [Laughter.]

Mr. JURICH. That is a good answer, Mr. Chairman. I think that is one of the problems.

On that one point, as you say, you made a rule this morning and you were the first one to break it.

Senator BARTLETT. I know it.

Mr. JURICH. I think most of the fishermen, most of the industry are very much concerned about what is happening in our North Pacific fish situation. I discussed it with George Johansen during the noon hour, and we feel that every effort should be made to bring those interested Governments and peoples into some sort of a round table conference as soon as possible so that some adequate program of

fishery management can be adopted. And name it what you will, I don't care. The name doesn't mean anything.

(The brief previously referred to follows:)

IN SUPPORT OF LEGISLATION RESTORING BARGAINING RIGHTS TO FISHERMEN'S UNIONS, SUBMITTED BY LOCAL 3, INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION FISHERMEN & ALLIED WORKERS

These bills are necessary of enactment so that fishermen who are currently being paid on piecework rates shall have the same rights as other workers now enjoy. The conditions now faced by these working fishermen have become progressively worse since the several agencies, Department of Justice, Antitrust, Federal Trade Commission, National Labor Relations Board, etc., have in the past few years, both in and out of court, created such a legal jungle that only such legislation as proposed in S. 3093 will be of aid in clearing up the present mess.

Local 3, ILWU, Fishermen & Allied Workers, is a relatively small organization as trade unions go. Our membership covers virtually all areas of fishing in the Pacific Northwest and Alaska. Our members reside primarily in Alaska, Washington, Oregon, California, as well as a few in several other States of the Union. Since we now have no agreement with the salmon canners, we find their control, or influence, manifests itself in many ways.

In 1951, the writer was a crew member of the *MV Catherine M*. Upon completion of the summer season, the company, Fishermen's Packing Corp., made an adjustment on rates we were paid, increasing sockeye 2 cents per pound and pinks 1 cent per pound, before we were paid off. The crew shared this increase. Subsequently, we were informed that there would be no future adjustments which would bear on the income of the members of the crew. This is still in effect today in virtually all instances affecting crew members.

At about this time, various devices were used to pirate fishing captains and/or boats from one company to another. This was done in somewhat the following manner:

- (a) Chartering a vessel for a stated amount.
- (b) Buying a vessel at a high price with the stipulation that the captain shall agree to deliver solely to that company for at least 5 years, or as directed by its representatives.
- (c) Buying or leasing a vessel for the use of a captain who shall furnish his own net.
- (d) Bonuses to captain—a stated percentage to the captain, or a graduated percentage above a certain amount of fish delivered—and other.
- (e) The companies do many other things to keep control of these vessels:
 - (1) Buying a boat for a captain.
 - (2) Assume heavy mortgages.
 - (3) Lease a vessel to the captain at minimum rates.
 - (4) Furnish the vessel, the captain privileged to own the gear. This is an especially good deal for the captain.

Fishermen's Packing Corp., on its 25th anniversary, issued a brochure which contains the following information:

OFFICERS

President: Jack Repanich (also captain of the *MV Locks*; purse seiner).
 Second vice president: Andrew Vitalich (also captain of the *MV Catherine M*; purse seiner).
 Assistant secretary: George Cuculich (also captain of the *MV New Oregon*; purse seiner).
 Treasurer: Frank Barcott, Jr. (also captain of the *MV Lemes II*).

DIRECTORS

Paul Serka (1962 captain of the *MV Brookfield*; purse seiner).
 Paul Martinis (controlling owner and former captain of the *MV Iceland*, *MV Dreamland*, *MV Wonderland*, and *MV St. Christopher*).
 Steve Zitkovich (captain of the *MV Rough Rider*; purse seiner).
 Numerous captains are listed as stockholders of this corporation. It is very difficult for the average fisherman to know when he is talking to a fishing cap-

tain, or an officer-stockholder of this corporation. Obviously, the corporation, through its officers and stockholders, wields a strong influence on behalf of the company, against the interests of the working fishermen-crew members aboard the vessels delivering to that corporation.

On the writer representing his union: When it appeared that the Puget Sound Cannery Association was about to seek a permanent injunction against our organization, we went down to the license department of the Washington State Department of Fisheries, and found the following rather interesting information:

Application for boat licenses and registration

Name of owner	Captain or skipper	Boat name
Farwest Fishermen, Inc.		Cleveland.
Do		Inventor.
Do		Vigilant.
Do		Emancipator.
Sebastian-Stuart Fish Co.		Radio.
Do		Fleet.
Do		Jackie A.
Farwest Fishermen, Inc.		Cypress.
Sebastian-Stuart Fish Co.		Mars.
Do		Waterland.
Do		Starlight.
Do		Orion.
Washington Fish & Oyster Co.		Frostland.
Do		Flamingo.
Do		Recruit.
New England Fish Co.		Congress.
Fidalgo Island Packing Co., Inc.		Fidalgo II.
Do		Fidalgo I.
New England Fish Co.		Ocean Cape.
Do		Radar.
Do		Ranger.
Libby, McNeill & Libby		Libby No. 2.
Do		Libby No. 3.
Do		Libby No. 4.
Do		Libby No. 10.
Do		Libby No. 11.
Do		Libby No. 12.
Do		Top Notch.
Do		Comet.
Whiz Fish Products Co.		R. P. No. 1.
Nakat Packing Corp.		Mary Eleanor.
Do		Anita.
Do		Menlo.
Columbia River Packers Association, Inc.		Francis J.
Do		Kathleen K.
Do		Sunbeam.
American Packing Co.		Viewpoint.
Do		Halo Wawa.
Fidalgo Island Packing Co., Inc.		Wanderer II.
Do		Zlarin.
Do		Linda Jo.
Whiz Fish Products Co. (R. O. Pierce)		Gail.
Do		Panther.
Do		Jeanie.
Nakat Packing Co.	J. Maloney	Mildred.
Pacific American Fisheries.	John D. Suryan.	Mona Lisa.
Nakat Packing Co.	S. Nickelson	Nancy Rose.
New England Fish Co.	Leo Woods.	Ocean Cape.
Pacific American Fisheries.	J. Toland	Pafco 10.
Do	F. Barcott	Pafco 12.
Do	V. Semorin, Jr.	Pafco 13.
Do	G. Bowman	Pafco 14.
Do	R. Maricleh	Pafco 15.
Wards Cove	J. Duffy	Prosperity.
Nakat Packing Co.	W. Hossfeld	St. Janet.
Columbia River Packers	Frank Zuanich	Francis J.
Whitney & Co.	Robert Verrall	Howard B.
Pacific American Fisheries.	Vince Muljat	Illusion.
Farwest Wrangell Co.	Joel Moss	Melody.
Peterson Boat Bulldg.	A. Kuljis, Jr.	Memories.
Nakat Packing Co.	A. Denny	Menlo.
Pelican PK & E. Manlon	Eli Manlon	Claudia H.
Wards Cove	G. Holmstrom	Crest.
Whitney & Co.	Nick Voykovich	Dora R.
Nakat Packing Co.	Orv Stammes	Dream Maid.
Pacific American Fisheries.	Joe Lucin	Fare Well.
Washington Fish & Oyster Co.	T. Novak	Flamingo.

The preceding list is only a minor portion of the boats listed; however, we feel that this is sufficient to give you an idea of who the owners are according to the record. We found many licenses issued to, Captain, care of the company.

In the Federal Trade Commission's decision of October 8, 1956, docket No. 6376, in the matter of *Puget Sound Salmon Cannery, Inc. v. Local 3*, the following companies are listed as part of the case:

Alaska Packers Association
American Packing Co.
Columbia River Packers Association,
Inc.
Farwest Fishermen, Inc.
Fishermen's Packing Corp.

New England Fish Co.
Pacific American Fisheries, Inc.
Sebastian-Stuart Fish Co.
Washington Fish & Oyster Co.
Whiz Fish Products Co.

On page 3 of this decision:

"The record clearly shows that the skippers of purse-seine vessels are independent businessmen."

This is a part of the final order.

The union appealed from the examiner's initial decision, filed March 19, 1956, which became the decision of the Commission, May 8, 1956. In our appeal to the Commission, we raised only one question, "Did the hearing examiner err by denying said respondent's application for the issuance of certain subpoenas duces tecum directed to 10 respondent cannerys?"

Our appeal asked for the right to examine the books of these companies, which we contended would prove that the companies owned and/or controlled these vessels. At a later date we were able to secure from the records of the Department of Fisheries of the State of Washington, the previously mentioned information re license application and vessel ownership. We feel strongly that this information on license application supports the position we took in requesting that the companies' books be made available for the hearing, but was denied to us by the Commission, and therefore throwing us further into a position of harassment, and denial of our rights as a union representing working fishermen, by these and other companies, and certain Government agencies.

In 1959, a Puget Sound cannery called the union office and made an oral offer to us that they would put on the ticket 4 cents a pound more than the Puget Sound Cannerys, at that time, were placing on their tickets. This increased rate, by being put on the tickets, meant that all crewmembers aboard these seiners, would automatically gain a 12-percent increase in their wages for the season. The union, through channels available to us, leaflets, personal contact, etc., informed the fleet of this offer. There were approximately 350 boats fishing at that time, and the company was prepared and equipped to handle a large volume of salmon on the fishing grounds. We were later informed that not a single boat delivered fish to this company, even though on the face of it, it was a substantial increase. Only those vessels previously committed continued delivery to this company. This is another illustration of what we have been contending for some time—that through various means at their command, these companies control the delivery of salmon.

Another means of control is by furnishing from 100 percent of the cost of the fuel oil for the season, down to crediting a boat with a stated amount of money, and it is here where we have found that the crews have been charged for the fuel oil, though, as we previously stated, the company paid from part, to all, of the fuel bill. Who gets this money, we do not know.

In answer to the following question, put by a member of the committee:

"If fishermen are given the right to bargain collectively, would they make it impossible for the company to compete with foreign imports?"

The union has had practical experience on this matter in the herring industry. Both our fishermen and the plant workers have accepted wage cuts to keep the industry in operation. Furthermore, the fishermen are cognizant of the fact that imports have been a club over their heads for many years, and that tieups in this seasonal industry could be very costly to them. Unless seriously provoked, fishermen and plant workers do not like to engage in tieups (strikes), except as a last step in negotiating a fair agreement.

In summary, we feel that the above presentation, made on behalf of working fishermen, tells its own story. When the fishermen regain their right to collective bargaining, the following would, in due time, develop:

(a) Greater stabilization in the industry.

(b) An opportunity for fishermen to present their views on national and international fishery problems. The latter, insofar as the Pacific Northwest is concerned, presents a very dark picture. We feel that these thousands of working people could contribute much toward a better understanding of these problems when they are given the right to organize, so they would not have to speak as individuals, but could have qualified representatives speak for them, through their organization.

(c) Fishermen are treated the same as other workers under social security, unemployment insurance, withholding tax. They are hired and fired, and are protected under the Jones Act, and they should have the right to bargain collectively for wages, hours, and conditions.

(d) In 1962, in excess of 2,000 fishermen began and completed their season without knowing what their pay would be.

Respectfully submitted.

LOCAL 3, I.L.W.U., FISHERMEN & ALLIED WORKERS,
By JOE JURICH, *Secretary-Treasurer*.

Senator BARTLETT. Instead of making a speech in reply to what you said, I will only say hallelujah.

We will now stand in recess for a few minutes.

(Whereupon, a recess was taken.)

Senator BARTLETT. The committee will be in order.

The next witness will be Dick Jansen of Cordova, who is, among many other things, a member of the Alaska Fish and Game Board and formerly chairman of the said board.

Sit down, Dick.

We would much rather have you testify at Cordova because when you have a hearing at Cordova you have a big community crab feast, so it is my regret your testimony isn't to be given where it ought to be given. But since that isn't to be, we are glad to have you here.

STATEMENT OF RICHARD JANSEN, BOATOWNER AND COMMERCIAL FISHERMAN, CORDOVA, ALASKA

Mr. JANSEN. Thank you, Senator and Congressman Pelly.

Today I am going to try to add something new to this meeting. I am representing only myself as a boatowner and a commercial fisherman.

I have worked for years for different fishermen's organizations, but last year I decided I could make more money as a fisherman. Now, as a fisherman, I probably believe I could make more money as a wage earner, but I bought a boat and I'm stuck with it.

Senator BARTLETT. How long have you had the boat?

Mr. JANSEN. One year.

I guess I'm in the same fix most of my fellow fishermen are in. I only own part of the boat. The cannery is financing the rest. So I am one of these bonded fishermen you hear of so frequently in these meetings.

I have noted since 1954 from personal observations that the price of canned salmon has reached or last year had reached an alltime high.

In fact, as a consumer, you had to pay more for the price of salmon last year than you ever have had to in the past.

But as a fisherman our prices went up, granted, but not in the same proportion as the prices of fish to the consumer.

So I doubt very much that the Federal Trade Commission ruling had any effect upon the price of canned salmon to the consumer. This is just a personal opinion, personal observation.

But I think investigations probably would bear this out to be true.

I don't think either the canneries, the producers or the fishermen would be injured by the passage of Senate bill S. 3093 and I personally like the language in the bill as a fisherman.

It seems like every year you get into a snarl with your packer, your fellow fisherman and everybody to try and figure out where you stand legally. Can you do this or can't you do it. And the amount of questions you have as a fisherman seem to vary with the number of fishermen you have and the number of packers you have.

Everybody seems to have a different idea of whether he can bargain or can't bargain or what method you can bargain under.

I believe this bill is an attempt to clarify this situation and I think it will clarify it by giving your fishermen the right to bargain collectively, whether you call it a union, an association, whatever you wish to call it, or a boatowners' association, or maybe you could even get away with calling it a lodge if you wanted to.

But just so long as you have the right to collectively bargain together, I believe this would help both the fishermen and the packers—probably the fishermen the most.

Because I believe most fishermen are in the same situation I am in. The only way you can get strength is in numbers.

You go to your individual canner that you bought your boat through, your gear, and you're into him about \$10,000, and it's pretty hard to tell him that you want to have another 10 cents a fish or you're not going to fish for him, because he might say, "Well, buddy, hand over the \$10,000 or your boat." So there you are.

I think what we need is the right to bargain collectively and I think we can overcome this situation to a certain degree.

I came down to Seattle to the fair city of Seattle to see the fair, so I attended this meeting on a spur-of-the-moment deal. I didn't prepare any statement or any notes. I am just attempting to decipher some of the scribbling I have been doing during the meeting. So if you will bear with me I might figure out some of the notes.

I think it has been brought out pretty clearly in this hearing that resident fishermen in Alaska are probably more dependent on the fish price than any other fishermen in the industry.

But even at that, all the fishermen are dependent on getting a price for their fish. And I believe that when you are in an area such as Alaska where you get fairly good production of salmon even in a poor year and your markets essentially are quite far from you, you must deal with the processor. Fish must be canned, frozen, or something must be done to it in order to get it to the market, because the fish will only keep for about 48 hours, and it's impossible for the fishermen to sell the volume that they are capable of catching in a small community.

It has to be processed to be made available to a greater public. Therefore, giving the fishermen the chance to catch more fish, the volume is the only thing that will give you a chance to make any money anyway.

So here what I am trying to lead up to is we must deal with the processor. And how are we going to deal with him? I think the only way to deal with the processor and the only way the processor can deal with us is over the table. I think we have to get together and iron out our price and that will be it.

I don't think we can pull an auction system. I don't think it would be very good for Alaska, or any other method you come up with.

This prior to 1954 was the way it was handled through all the years that I have been associated with the fisheries. And, true, some of the packers went broke. Some of the fishermen did. But generally I think it is on a management level rather than the price basis.

I think with that I'll keep quiet before my partner in my boat hears what I have said.

Senator BARTLETT. Good.

Mr. Pelly?

Mr. PELLY. Well, I certainly want to say that I think it is fine that you were down here, because your testimony represents to me a real background. And you as a boatowner still owing on your boat represent the individual that I think basically we want to help.

I was thinking about your statement with regard to the difficulty being that you are so far away from the market up in Alaska at times. You have to sell. It can't hold over. You can't have auctions the way you do in other places, in New York, for example, on vegetables. They hold an auction down on the docks every night starting at midnight, but they only let a certain number of carloads of celery come in from Texas and grapefruit from Florida. They don't flood the market. They can't hold it back, so that basically only the fair amount that can be consumed goes into that area.

But you can't do that with fish, and I think that means to me that something must be done to protect the fisherman, and I think probably the public in the long run will gain through some such arrangements.

Otherwise you will have bankruptcies and difficulties. You will have canners pulling out of areas. You will have unemployment. And in the end it is the public that suffers. That seems to me to be true, and I do truly appreciate your testimony.

Thank you.

Senator BARTLETT. Mr. Jansen, Mr. Luketa represented to the committee a fear on the part of some boatowners that if this bill were passed the owners would be bypassed although they own the property from which the fishing would be done and they would be relatively without any voice at all in price determination.

Now, you are a boatowner, and apparently you don't entertain that fear.

Mr. JANSEN. No. In our area generally the boatowners and the crew are generally in the same organization. The primary cause for this in our area is that in the gillnetting fisheries we have one gillnet and one fisherman. Then we change over to seining, and we have a seiner, a boatowner which I am, and a crew, which is generally composed of these gillnetters.

So that at one time they are an operator and the next time they are a crewmember.

And my belief is that the owner will always find a way to express himself. And sometimes you do it through your crew. The boatowner is in something like the same position as the cannery once in a while. You tell your crew what to do, and if they don't do it you get a new crew.

Senator BARTLETT. If Mr. Luketa's point has validity, it might apply then in situations other than those to be found at Cordova?

Mr. JANSEN. I think if I was to operate in his area I would make myself heard.

Senator BARTLETT. I don't doubt it, Dick. I have known you for a good many years, and I am sure you would.

What kind of season did you have at Cordova?

Mr. JANSEN. We had a good one this year.

Senator BARTLETT. What kind of season did Dick Jansen have?

Mr. JANSEN. Well, we made enough to come down to the fair.

Senator BARTLETT. And pay the interest?

Mr. JANSEN. Yes.

Senator BARTLETT. The interest on the boat?

Mr. JANSEN. Yes. We paid a little on our boat. We paid the interest on it, the insurance, and kept our other partner happy.

Senator BARTLETT. That isn't easy ever.

Mr. JANSEN. No.

Senator BARTLETT. So the record will be complete in respect to this, I might add that if the committee desires any historical research done on this subject, aside from the law, we could call upon Mrs. Jansen, who, in addition to being a housewife, is a writer, and she emphasizes historical subjects and has written a lot of very useful Alaska material.

Thank you, Dick.

Mr. JANSEN. Thank you, Senator Bartlett and Congressman Pelly.

Senator BARTLETT. Mr. Morrison, please.

STATEMENT OF SETH W. MORRISON, ATTORNEY, ON BEHALF OF ASSOCIATION OF PACIFIC FISHERIES, SEATTLE, WASH.

Mr. MORRISON. Thank you, Senator and Representative Pelly.

I also have a written statement to help expedite this matter and give you a basis for statement of position of a portion of the industry.

I am Seth W. Morrison. I am an attorney for the Association of Pacific Fisheries, which is a group composed of a majority of the salmon packers in Oregon, Washington, and Alaska.

I have been associated in the salmon business in connection with my legal work for approximately 12 years, most of that under the tutelage of Edward W. Allen, who is my senior partner in the firm of Allen, DeGarmo & Leedy.

Senator BARTLETT. A great mentor, I might add.

Mr. MORRISON. I was going to point out without going into my qualifications that if you assume I have been under him you know I have heard a good deal about the salmon industry.

Senator BARTLETT. If you will permit one further interruption, Mr. Allen wrote a very learned paper, extraordinarily useful, on the North Pacific fishery situation, which I placed in the Congressional Record the other day, and I think you all ought to read it, everyone interested in the fishery.

If anyone wants it and Mr. Allen isn't readily available, copies may be secured by writing my office in Washington, D.C.

It is worthwhile reading.

Mr. MORRISON. He very much appreciated your kind comments in connection with introducing that statement, Senator.

Getting to the present situation, our position is one of requesting that the sort of consideration which has been undertaken and will con-

tinue to be undertaken in your sessions be extended with a full appreciation of some of the problems which we have faced.

They have been touched on lightly here, but there are others that we would like to develop in further detail.

As indicated, except for Bristol Bay, in which collective bargaining has been going on since 1903 by the Alaska Fishermen's Union, active negotiations do not occur in connect with fishermen until approximately 1934.

In 1934, Hugh S. Johnson, who was then the Administrator of the National Recovery Act, directed the salmon packers to negotiate fish prices with the unions, established for crewmen and not on the basis of whether in fact they were independent or what have you.

But, if you recall, at that time the purpose was to set minimum prices in an attempt to get the industry going, and this was part of the program.

This continued off and on. In 1936 the fishermen's unions met in Seattle and organized a council which later became known as the Maritime Federation of the Pacific.

This council continued in efforts to organize in collective-bargaining arrangements, and it was, I suppose, although with some reservation, more or less assumed that the matter of fish prices could be negotiated by fishermen and with the buyers of the fish.

Of course, again a distinction has to be drawn between fishermen who are operators or owners of a vessel and the fishermen who are crewmen. The expression I believe has been used interchangeably here without that distinction.

And there is no argument but what fishermen have been and are employees of the master of the vessel. The problem with which we are here faced is whether the Congress, considering this legislation, is going to go one step further and, disregarding the historical relationship of who is owner and who is employee and who is buyer, is going to set up a direct route between the crewman-employee and the ultimate purchaser of the fish, the packer.

Now, quickly, shortcutting the history, up until 1949 the collective-bargaining process had gone on, possibly as a matter of expediency but without too much question, until in 1949, in proceedings before the NLRB—and this happened to be 2 years before the *Hinton* decision, which Mr. Vance has referred to—in cases involving Alaska Salmon Industry, Inc., which was then the bargaining association for the salmon industry packers, and the United Fishermen of Cook Inlet in one case, and the United Fishermen of Alaska, which represented the westward district in the other, the Board considered the status of these persons and stated as follows:

Applying these standards to the facts noted above, we are persuaded that the fishermen involved herein are independent contractors. Although some elements of the relationship between the fishermen and the canneries suggest that they are employees, an overall view, in our opinion, compels a contrary finding. In particular, we note that: (1) a large percentage of fishermen own their own boats and gear; (2) they determine where and how they fish; (3) the crewmembers determine among themselves how much each member of the crew will be paid; (4) the skippers, both "company" and "independent," select their own crews; (5) the charge account at the cannery store is kept in the name of the skipper and he is responsible for its payment; (6) the contract is renewed each year, and, occasionally, the fishermen fish for a different cannery than the year preceding; (7) the fishermen are not supervised by the cannery and they fre-

quently have exclusive rights in a certain area; (8) no income or social security taxes are deducted from the sum due the vast majority of the fishermen; and (9) for the most part, the skippers stand to lose or gain by the quantity and quality of work performed by those working under them.

Now, as stated, this was the decision of the National Labor Relations Board entered in the Alaska situation even before the *Hinton* decision.

The Supreme Court of the United States came along in the *Hinton* case and again determined that these people were independent.

Even more recently the Ninth Circuit in the case of *Local 36, International Fishermen and Allied Workers of America v. United States*, again affirmed the fact that these were independent fishermen, that the fishermen were independent producers.

Now, this doesn't answer the question that is before you here, whether they are to continue in that status. But we wish to at least narrow the issue so it is not a question of contending that the individual crew men are joint entrepreneurs or anyone in that status. The sole question is whether the crew men are to deal as they now can directly with associations of the boatowners or the boatowners themselves or whether they are to deal in I suppose what would be a triangle arrangement with the packers as well as the boatowners or to the exclusion of the boatowners.

That is why I say the question isn't quite as simple as some might indicate that it is, although Mr. Luketa certainly referred to one of the problems.

Now, following these decisions, the Federal Trade Commission issued its order about which we have all heard.

In considering legislation we have got to consider, and this appears on page 6 of our statement, that each one of the people in this room, the packers, Mr. Johansen and his union, Mr. Jurich I believe in a separate proceeding, all the rest of us are now subject to a cease and desist order which provides that we shall cease and desist from in any manner jointly, together, or what have you:

(1) Fixing, establishing, maintaining or adhering to, in any manner or by any method whatever, the price or prices at which any type of raw or fresh salmon caught in the fishing areas or districts of Alaska are to be purchased or sold.

(2) Fixing any uniform or minimum price.

(3) Jointly or collectively negotiating such price.

(4) Authorizing or empowering any association to do so on behalf of us.

Now, this is a broad, strongly worded cease and desist order that was entered after considerable negotiations and finally approved by the Federal Trade Commission, and it continues to be effective on all of us.

There is the provision in that order which states:

Provided, however, That nothing herein contained shall prevent any association of bona fide salmon fishermen, acting pursuant to and in accordance with, the provisions of the Fishermen's Marketing Act (15 U.S.C.A. pars. 521, 522) from performing any of the acts and practices permitted by said Act; * * *

After the entry of this order, as stated, the traditional negotiations between the various unions and the salmon packers immediately terminated except for Bristol Bay.

Thereafter, the packers dealt individually with the fishermen or dealt with, negotiated with, the various co-ops as discussed here.

Also thereafter the Alaska Fishermen's Union and the Alaska salmon industry and other interested parties again submitted the question of the status of these fishermen.

By this we are talking about the fishing boat captains. There is no question but what the crew members are employees of the captain as we understand the law now. This was the question of the fishing boat captains or operators, whether the boat is owned completely in their own name, whether the boat is owned in their own name and financed in part or very substantially by the company, or whether the boat is owned entirely by the company. And each of these categories were considered.

The board again determined that these people were independent producers.

With that final determination in 1954, after the entry of the cease and desist order, everyone's hands were tied, so to speak, as far as any other arrangements.

The cease and desist order has a recitation in it that the decisions of the National Labor Relations Board in determining whether the status of these or any persons involved is the status of employer-employee or independent contractors would—I have forgotten the exact expression—but would be given full consideration, and we believe in fact would be substantially controlling.

So that the question and problem raised are not solely by the Federal Trade Commission but also by the determination of the National Labor Relations Board over a period of several years.

Now, recognizing that, of course, it would take an act of Congress to substantially change the arrangement insofar as what has appeared in the past—that is, unions acting in the historic capacity of labor organizations as we understand them with the protection of Norris-LaGuardia and what have you operating directly on the price of the product—we understand that that is not what is contemplated by the present act. However, it is not at all clear to us at the present time what results would be obtained from the proposed amendment.

We have this in mind: The fishing boat captains can negotiate fish prices through associations, as Mr. Luketa and others have stated has been done to greater or less extent in other areas. The unions can negotiate, of course, with the captains concerning the shares and working conditions of the crew, as stated again in the record here. This is between the captains or operators of the vessels, regardless of whether they own their vessel or it is being financed or what their relationship is, and the crew itself.

Now, if the union is going to represent the captain, this, of course, is duplication. The captains have to deal through associations.

Conversely, as stated here, many crewmembers belong to the associations. If the union is not going to include the captains, then, of course, we face the problem of: With whom are the buyers, the packers of the fish going to negotiate? Are they going to negotiate with the vessel owners and operators who presumably own the fish? Are they going to negotiate with the crewmembers? Or are they going to negotiate in some sort of a triangle?

We are not at the present time recommending any answer. We don't have a conclusion. We are pointing out that it is most important in considering this legislation to determine whether and in what manner

this conflict is going to be resolved so that it is perfectly clear from the negotiation and from the legislation just who stands where and with whom these people are permitted to bargain or discuss price and with whom they are not.

Now, if as appears to be pending, H.R. 11562—

Senator BARTLETT. Off the record.

(Remarks off the record.)

Mr. MORRISON. I believe Mr. Pelly's bill has certain additional language permitting joint and several negotiations between buyers and sellers which I do not believe appears in S. 3093.

However, we understood that the purpose of this hearing was to consider generally all the variations that might come up on this legislation, and consequently I will feel free to comment on that part.

Senator BARTLETT. That is correct.

Mr. MORRISON. It would appear that the purpose is to authorize industrywide negotiations with groups of packers. Such an amendment would have to clearly provide—because of the precise terms of the cease and desist order we have and the general law applicable—that all such negotiations and any agreements executed pursuant to such negotiations would be entirely exempt from antitrust and trade control and would further have to provide for a repeal, in our view, of the "Undue price enhancing" provisions of section 522.

You may recall, Senator, that section 521 of 15 provides for the organization of a marketing association and authorizes the fishermen to go out and negotiate through the association. Section 522 provides that if it is deemed that they are unduly enhancing the price of fish—and none of us knows what undue enhancing is, but that is the language in there—then the Secretary of the Interior through Fish and Wildlife, would commence some sort of proceeding and apparently attempt to second-guess the fish price determination.

What would occur on that I don't know, but I think that if you are going to go the route of a full exemption and permit what in effect would be bargaining between crewmen and vessel owners and operators, you would have to have such an exemption as you have in the farmers' marketing orders.

A typical exemption there under 7 U.S.C.A., section 608b, is:

The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

And there we are talking to a marketing order, which, incidentally, is developed by direction of the Secretary of Agriculture as I understand it.

Well, of course, this language is sufficient to give us protection from the antitrust impact. However, this exemption applies to a marketing order, including the fixing of minimum prices pursuant to agreements executed by or on behalf of the U.S. Secretary of Agriculture and not exclusively by the parties themselves.

Now, I think everyone here would strongly oppose receiving an exemption in the area of fish price determination if it was at the expense of having governmental intervention of authority or control in the market in the fish industry that exists.

In other words, I think they have had about a sufficiency of Government intervention, and certainly any such modification which

would bring in additional Government intervention in the fish price determination would be strongly opposed.

Now, we submitted here alternatives to the proposed amendment, or, rather, in the sense of considerations. Whether they are alternatives or not is to be determined at the end of this hearing.

In the case of salmon caught in purse seine vessels, as you know, the proceeds of those ventures are divided on a share or lay basis. It can vary all the way from 6 to 12 shares.

A typical situation is the vessel receives two shares, the seine receives two shares, and the balance goes to the crew.

We are aware that there is an infinite number of variations in this situation, but this is typical.

Now, one of the principal problems which has occurred is the great increase in costs in the fishing vessel, the purse seine vessel that is being utilized and produced and manufactured today, as compared to what was the case even as short a time as 10 years ago.

As an example, in southeastern Alaska in 1950 the boat shares averaged approximately \$3,500, and the cost of operating a seine vessel—in other words, the cost that the owner of the vessel had to pay from his boat share, whether he be financed, independent, or what have you—was about the same. So he made comparatively little from the boat. And these are averages.

At that time the cost of construction of a purse seine vessel in southeastern Alaska would run from \$30,000 to \$50,000.

In contrast, in 1960 a competitive seine boat cost in the neighborhood of \$75,000 to construct, and if you add the power block and the seine skiff you have added another \$10,000 to the cost, and the total investment in the boat can run all the way from \$85,000 to even as high as \$100,000.

Now, the cost of operation of such a vessel is approximately \$12,000 per year, including depreciation, insurance, repairs and the other factors involved.

Yet in 1960 the typical earnings of such vessel were in the neighborhood of \$1,500 on a two-share basis.

In 1961, which is the best of the last 5-year cycle, the earnings were in the neighborhood of \$3,500.

Now, obviously, under such an arrangement, with the investment in the vessel itself, which is the machinery that permits the catching of the fish without which there wouldn't be any jobs for the crewmen, something has got to be gone to balance off and meet the basic cost of this investment.

Now, it is true that if the vessel owner also has a seine he can pick up another two shares, and the seine will cost him about \$9,000 with a \$2,000 to \$3,000 per year replacement cost, so that he has a chance of making some profit there, but it is far out of proportion to what the loss is going to be on the boat if you go on a strictly share basis.

Now, we might point out that the improved fishing vessels represent a source of greater income to the individual crewmen, not from the standpoint of increasing the actual price of fish but from the standpoint of a greater likelihood of having a larger catch, and that, of course, is the basic source from which the crewman makes good money. He would rather have a few cents less on a big haul than a few cents more on a small one.

We are not, of course, suggesting that he doesn't want to get the best price obtainable but simply pointing out there are a lot of other economic factors here besides just the matter of labor or the historic arrangement which existed, and that is the high cost of the equipment that is presently required, the necessity for making some adjustment to allow for the amortization of that cost.

Now, the Association of Pacific Fisheries is not prepared to make any recommendation to this committee other than to point out the obvious fact that any legislative changes in the area of fish price determination will require considerably more study and analysis than it is believed any of the parties have had an opportunity to give it to date.

We do not assert that the present method cannot be improved, but we are understandably concerned that any contemplated change constitute an improvement in fact and not simply represent another complication imposed upon an industry already laboring under grave difficulties of foreign exploitation and competition and changes in cycles.

We do request an opportunity to supplement our views after further consideration and study.

I would like to point out one thing. I think maybe it is fairly obvious. But there has been discussion here as to the relationship between the cost of fish and whether there is any change in the market. We quite agree that obviously it may cost the packers more in one year and there might be so much pack that the market factor will reduce the price that year, but certainly in a 2- or 3-year period the price of fish has got to have an important bearing on what it eventually costs the consumer, and it is somewhere between 50 and 70 percent of the total price. I mean this is our own figure and our best estimate. So this is a factor.

Whether we are now prepared to believe that because of considerations here a grave exclusion, exception to the normal law applying between buyer and sellers and independent producers is going to be carved out, whether the considerations which brought on the imposition of the Federal Trade Commission order should be disregarded or should be followed are all matters which we believe are going to take considerable thought.

As I say, we will be very interested in the developments of this hearing, and we would like to submit supplemental views when our own group has had more of an opportunity to consider all of the ramifications of this legislation.

Senator BARTLETT. Thank you, Mr. Morrison.

Do you have statistical data to support your conclusion that the fish price determines somewhere between 50 and 70 percent of the total cost?

Mr. MORRISON. I have none at the moment. I am assured by Mr. Jay Gage, Stan Terrent and other people that is their present best estimate.

I am sure that statistical data could be submitted on that, and we would be happy to do so.

Senator BARTLETT. That is why I asked the question. I will ask Mr. Foster of my staff to ask the Department of the Interior to obtain this data for the committee.

(The requested data follows:)

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
BUREAU OF COMMERCIAL FISHERIES,
Washington, D.C., January 14, 1963.

MR. WILLIAM C. FOSTER,
Staff Attorney to Senator E. L. Bartlett,
U.S. Senate, Washington, D.C.

DEAR MR. FOSTER: This letter supplements our acknowledgment of your letter of December 6 in which you requested information on fish prices in connection with hearings held this fall on S. 3093. Enclosed herewith you will find several tables showing the percentage of the retail price which can be attributed to the sales price received by fishermen for the species of fish and shellfish you mentioned. The percentage indicated as the producers margin reflects payment to primary producers for whole fish or shellfish whereas the final retail price reflects payment for the dressed or processed product which may consist of only 25 to 65 percent of the weight of the whole fish or shellfish. The stated percentages do not reflect a direct ratio of producers prices to final retail prices. For each fishery product, appropriate allowance has been made for weight loss during processing.

As indicated above, an important element in determining producers margins for fish and shellfish is the amount that these products, as sold in retail outlets, have been processed—changed from their original landed form as whole fish or shellfish. Conversion factors, the percentage of a given quantity of a fish or shellfish that is left after processing into a particular form, are used to make the needed adjustment in ex-vessel prices. For example, in the enclosed table on producers margins for frozen salmon steak a conversion factor indicating that an ex-vessel equivalent of 0.6515 is applied to the whole fish when it is steaked. This means that in determining producers margins for frozen salmon steaks, the following procedure is used.

For 1961, from available statistics it is determined that 6,900,000 pounds of whole king salmon were landed in the State of Washington valued at \$2,443,000 or an average ex-vessel price of 35.4 cents. Applying the conversion factor for frozen salmon steak (0.6515) to the quantity landed we get an equivalent of 4,497,500 pounds of frozen salmon steak which could be processed from this quantity of fish for which fishermen were paid \$2,443,000 or an equivalent average price of 54.3 cents. Dividing the latter ex-vessel equivalent price by the average retail price at New York City for frozen salmon steak which is 128.0 cents, we get a producers margin of 43.4 percent of that particular retail price.

We are also forwarding herewith a detailed table giving the weighted average price paid to fishermen for salmon and other species of fish and shellfish in the Pacific Coast States of California, Oregon, and Washington.

I would like to suggest that the figures showing the percentage of the fishermen's price to the retail price to be used with discretion. These figures do not give precisely the actual portion of the retail price received by fishermen for the particular species of fish and shellfish. They are merely estimates based on the data and methods of calculation described in the tables. These estimates can be used best to show trends over periods of time and general indications of the portion of the retail price received by fishermen.

Except for pink salmon, we have not forwarded detailed data on prices paid to fishermen for salmon and other fishery products in Alaska. The data on pink salmon are important for your purpose and although they are not an exact reflection of prices paid to fishermen they are reliable to indicate trends. During the past several decades, reimbursement to the fishermen for many of the other fishery products has varied tremendously with the complicated arrangements attendant on bringing out-of-State fishermen to the area and for other reasons. It has not been feasible for us to obtain all the details and records of reimbursement to the fishermen. Accordingly, the production and value data we have recorded do not accurately reflect true market values. We trust that the data we have supplied for the California-Washington-Oregon area will give sufficient indication of fish and shellfish prices on the Pacific coast for your purposes.

We hope that the enclosed tables will be helpful to the Committee on Commerce. Any additional available data or information needed by the committee will be furnished at your request.

Sincerely yours,

DONALD L. MCKERNAN, *Director.*

Production, prices, and producers' margins for frozen medium shrimp (31-40 count), 1950-61¹

Year	Production ²		Prices (cents per pound)		Producers' ⁴ margins
	Quantity	Value	Ex-vessel ³	Retail	
	<i>Thousand pounds</i>	<i>Thousand dollars</i>			<i>Percent</i>
1950 ⁵	16,975	\$6,451	38.0	69.0	55.1
1951 ⁵	21,662	8,231	38.0	75.0	50.7
1952 ⁵	22,178	9,049	40.8	75.0	54.4
1953 ⁵	25,113	11,251	44.8	78.0	57.4
1954 ⁵	26,528	10,920	41.2	74.0	55.7
1955 ⁵	23,759	10,929	46.0	70.0	65.7
1956 ⁵	20,436	10,590	51.8	77.0	67.3
1957 ⁵	18,302	11,517	63.0	85.0	74.1
1958 ⁵	22,092	13,622	61.7	84.0	73.5
1959 ⁵	29,551	12,424	42.0	71.0	59.2
1960 ⁵	31,011	14,424	46.5	69.0	67.4
1961 ⁶	19,167	10,604	55.3	(7)	(7)

¹ Gulf area production and Washington, D.C., retail market prices.

² Heads-off weights and prices.

³ Ex-vessel price is the amount actually received by the fisherman for his catch.

⁴ A producers margin or share is the proportion he receives of the retail price that the consumer pays for the product.

⁵ Estimated.

⁶ Preliminary.

⁷ Not available.

Production, prices, and producers' margins for frozen salmon steak, 1950-61¹

Year	Production ²		Prices (cents per pound)			Producers' margins ⁶
	Quantity	Value	Ex-vessel ³	Steak ⁴	Retail ⁵	
	<i>Thousand pounds</i>	<i>Thousand dollars</i>				<i>Percent</i>
1950.....	8,820	2,265	25.7	39.5	81.0	48.8
1951.....	10,908	2,957	27.1	41.7	86.0	48.5
1952.....	11,618	2,908	25.0	38.5	85.0	45.3
1953.....	10,842	2,585	23.8	36.6	85.0	43.1
1954.....	9,268	2,494	26.9	41.4	89.0	46.6
1955.....	10,035	2,856	28.5	43.8	90.0	48.7
1956.....	8,291	2,677	32.3	49.5	97.0	51.0
1957.....	8,394	2,597	30.9	47.5	96.0	49.5
1958.....	7,227	2,500	34.6	53.1	108.0	49.2
1959.....	5,884	1,927	32.7	50.2	111.0	45.2
1960.....	4,636	1,827	39.4	60.5	128.0	47.3
1961 ⁷	6,900	2,443	35.4	54.3	125.0	43.4

¹ State of Washington production and New York City retail market prices.

² Production of king salmon only.

³ Ex-vessel price is the amount actually received by the fisherman for his catch.

⁴ Ex-vessel equivalent 0.6515 applied to fish when steaked.

⁵ Price year May-April.

⁶ A producers margin or share is the proportion he receives of the retail price that the consumer pays for the product. Ex-vessel equivalent, a yield of 0.6515, mentioned in footnote 4, has to be taken into account in making this computation.

⁷ Preliminary.

Production, prices, and producers' margins for fresh crabmeat, 1950-61¹

Year	Production		Prices (cents per pound)			Producers' ⁴ margins
	Quantity	Value	Ex-vessel ²	Picked meat ³	Retail	
	<i>Thousand pounds</i>	<i>Thousand dollars</i>				<i>Percent</i>
1950-----	73,918	2,652	3.6	28.3	89.0	31.8
1951-----	64,757	2,370	3.7	29.1	104.0	28.0
1952-----	61,036	2,449	4.0	31.5	92.0	34.2
1953-----	58,697	2,648	4.5	36.4	112.0	32.3
1954-----	51,543	2,086	4.0	31.5	89.0	35.4
1955-----	42,119	2,339	5.6	44.1	122.0	36.1
1956-----	46,953	3,278	6.9	54.3	106.0	51.2
1957-----	53,249	3,197	6.0	47.2	124.0	38.1
1958-----	44,849	2,488	5.5	43.7	123.0	35.5
1959-----	42,335	3,221	7.6	59.9	113.0	53.0
1960-----	66,338	3,535	5.3	42.0	-----	35.0
1961 ⁵ -----	70,634	3,411	4.8	38.0	(⁶)	(⁶)

¹ Chesapeake Bay area production of blue crabs, hard, and Baltimore retail market prices.² Ex-vessel price is the amount actually received by the fisherman for his catch.³ Ex-vessel equivalent 0.127 applied to picked crab meat.⁴ A producers margin or share is the proportion he receives of the retail price that the consumer pays for the product. Ex-vessel equivalent, a yield of 0.127, mentioned in footnote 3, has to be taken into account in making this computation.⁵ Preliminary.⁶ Not available.*Production, prices, and producers' margins for frozen halibut steak, 1950-61¹*

Year	Production		Prices (cents per pound)			Producers' ⁴ margins
	Quantity	Value	Ex-vessel ²	Steak ³	Retail ⁴	
	<i>Thousand pounds</i>	<i>Thousand dollars</i>				<i>Percent</i>
1950-----	7,384	1,968	26.6	49.3	74.0	66.6
1951-----	9,641	2,103	21.8	40.4	76.0	53.1
1952-----	11,299	2,564	22.7	42.0	75.0	56.0
1953-----	12,985	2,244	17.3	32.0	75.0	42.7
1954-----	15,986	3,119	19.5	36.1	75.0	48.1
1955-----	13,755	2,269	16.5	30.5	76.0	40.1
1956-----	13,526	3,427	25.3	46.9	84.0	55.8
1957-----	14,496	2,934	20.2	37.4	83.0	45.1
1958-----	15,161	3,715	24.5	45.4	89.0	51.0
1959-----	17,223	3,742	21.7	40.2	88.0	45.7
1960-----	15,722	2,911	18.5	34.3	90.0	38.1
1961 ⁶ -----	12,600	2,987	23.7	43.9	90.0	48.8

¹ Seattle, Wash., production and New York City retail market prices.² Ex-vessel price is the amount actually received by the fisherman for his catch.³ Ex-vessel equivalent 0.54 applied to fish when steaked.⁴ Price year May-April.⁵ A producers margin or share is the proportion he receives of the retail price that the consumer pays for the product. Ex-vessel equivalent, a yield of 0.54, mentioned in footnote 3, has to be taken into account in making this computation.⁶ Preliminary.

Production, prices, and producers' margins for canned pink salmon, 1950-61¹

Year	Production		Prices (cents per pound)			Producers' margins ⁵
	Quantity	Value	Ex-vessel ²	Canned ³	Retail ⁴	
	Thousand pounds	Thousand dollars				Percent
1950.....	85,728	6,767	7.9	11.8	53	22.3
1951.....	113,666	13,137	11.6	17.3	60	28.8
1952.....	79,510	7,502	9.4	14.0	54	25.9
1953.....	62,677	5,196	8.3	12.4	52	23.8
1954.....	88,692	7,908	8.9	13.3	53	25.1
1955.....	96,496	8,568	8.9	13.3	58	22.9
1956.....	102,151	9,256	9.1	13.6	61	22.3
1957.....	54,083	5,881	10.9	16.3	63	25.9
1958.....	120,698	11,055	9.2	13.7	62	22.1
1959.....	48,047	4,921	10.2	15.3	63	24.3
1960.....	52,577	6,815	13.0	19.3	66	29.2
1961 ⁶	103,538	10,115	9.8	14.6	76	19.2

¹ Alaskan production of pink or humpback salmon and Bureau of Labor Statistics retail prices for the United States.

² Ex-vessel price is the amount actually received by the fisherman for his catch.

³ Ex-vessel equivalent 0.67 applied to fish when canned.

⁴ Price year May-April.

⁵ A producers margin or share is the proportion he receives of the retail price that the consumer pays for the product. Ex-vessel equivalent, a yield of 0.67, mentioned in footnote 3, has to be taken into account in making this computation.

⁶ Preliminary.

Prices received by fishermen in the Pacific coast area for principal species of fish and shellfish, 1930-60¹

[Cents per pound]

Species	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939
FISH										
Anchovies.....	1.25	1.95	1.00	1.26	1.55	1.68	1.03	1.77	1.22	1.02
Barracuda.....	7.96	8.67	5.33	4.00	4.35	4.24	4.73	5.49	6.28	4.55
Carp.....	2.82	3.80	2.15	2.13	1.89	1.69	2.04	3.07	3.08	3.36
Catfish and bullheads.....	13.39	12.94	10.63	11.63	12.43	11.03	12.13	11.22	13.14	12.44
Cod.....	1.57	1.19	1.09	.97	1.34	1.41	1.57	1.54	1.37	1.31
Flounders.....	6.31	4.84	3.80	4.14	5.00	5.02	4.61	4.60	4.80	3.07
Groupers.....	(2)	4.55	5.26	(2)	4.92	6.45	3.28	5.17	4.41	4.88
Hake.....	1.78	2.13	1.42	.97	1.01	1.09	1.08	1.05	1.01	.98
Halibut.....	12.04	7.16	4.49	6.40	7.18	7.93	8.56	8.91	8.08	8.38
Herring, sea.....	.94	.97	1.10	.74	.56	.90	.76	.95	.80	.81
Horse mackerel (Jack).....	2.98	3.02	2.61	1.19	.95	.43	.83	.99	1.11	.98
Kingfish.....	2.41	2.42	2.46	2.13	2.37	2.34	2.45	2.48	2.64	2.76
Lingcod.....	3.92	3.54	2.75	2.94	3.20	3.23	3.01	3.70	2.76	2.63
Mackerel (Pacific).....	1.46	1.11	.76	.60	.63	.76	.93	1.10	1.08	1.06
Ratfish.....	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	.20
Rockfish ²	3.88	3.36	3.03	3.19	3.52	3.70	3.50	4.38	4.24	3.67
Sablefish.....	4.20	3.20	2.31	2.72	3.26	3.37	3.66	4.86	4.14	5.09
Salmon, total.....	8.01	3.47	3.15	4.38	5.69	4.69	5.79	5.67	6.58	5.56
Red or sockeye.....	9.58	8.27	5.75	8.87	6.44	9.91	8.89	10.47	7.76	9.47
Chinook or king.....	10.97	6.38	4.08	5.99	7.02	6.69	7.58	8.06	8.97	8.35
Chum or keta.....	.92	1.01	.80	2.24	2.08	2.55	1.70	2.57	2.16	2.87
Pink.....	2.94	1.25	1.45	2.35	3.14	2.30	1.61	2.51	2.56	2.61
Silver or coho.....	5.47	3.58	2.58	3.99	4.41	4.65	4.70	5.51	5.60	5.75
Sardine, Pacific (pilchard).....	.48	.39	.26	.30	.37	.39	.47	.60	.57	.55
Sea bass.....	8.13	7.27	4.33	5.37	5.51	5.86	6.97	7.33	7.56	7.04
Black.....	5.08	4.40	3.59	4.01	4.42	5.39	5.53	5.60	5.88	5.21
White.....	8.86	8.30	7.56	5.93	6.57	6.17	7.67	9.47	8.59	7.82
Shad.....	2.69	2.36	2.17	2.24	2.92	2.82	2.24	3.79	3.78	4.08
Sharks (including grayfish).....	1.28	.80	1.53	1.91	2.28	1.44	1.25	1.14	1.74	1.78
Skates.....	2.08	2.29	1.71	1.03	1.29	.98	1.05	2.01	.95	.54
Smelt.....	3.45	2.91	2.69	2.50	2.17	2.57	3.24	5.85	3.67	2.81
Steelhead trout.....	8.37	4.85	2.48	5.26	5.80	5.55	5.35	5.91	6.18	6.37
Swordfish.....	13.32	13.69	8.75	8.34	14.02	11.06	11.09	13.60	11.22	10.94
Tuna and tuna-like fishes.....	5.37	4.53	3.79	4.19	4.70	4.71	4.96	5.58	5.60	5.05
Albacore.....	8.39	8.11	5.00	(2)	7.44	8.17	9.25	8.15	5.45	5.33
Bluefin.....	5.65	4.78	4.76	5.17	4.61	4.55	4.87	5.71	5.54	5.09
Bonito.....	3.23	1.59	1.85	1.78	2.40	2.90	3.06	3.66	3.69	3.24
Skipjack.....	3.86	3.05	3.47	3.67	4.01	4.00	4.41	4.92	5.00	4.32
Yellowfin.....	5.99	5.41	4.08	4.45	5.01	5.01	5.28	5.96	6.01	5.35
Yellowtail.....	4.40	3.33	2.84	2.26	3.37	2.87	2.96	3.95	3.71	3.35
Miscellaneous fish.....	6.71	6.72	5.22	4.66	4.73	5.08	4.52	4.90	4.23	4.88

See footnotes at end of table, p. 109.

Prices received by fishermen in the Pacific coast area for principal species of fish and shellfish, 1930-60¹—Continued

[Cents per pound]

Species	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949
FISH										
Anchovies.....	0.92	1.12	1.48	1.85	1.72	1.92	2.24	1.78	3.23	1.66
Barracuda.....	4.68	6.38	9.63	17.38	12.88	12.52	12.85	13.17	15.48	14.89
Carp.....	3.00	2.56	5.09	4.17	5.26	7.32	4.73	6.28	5.23	3.20
Catfish and bullheads.....	13.82	15.25	18.71	22.38	23.46	24.24	26.59	14.17	18.18	19.31
Cod.....	1.42	2.14	2.85	5.70	7.91	5.32	5.21	3.99	4.10	3.70
Flounders.....	2.91	3.37	5.14	5.88	6.05	5.35	5.76	5.72	5.76	5.46
Groupers.....	3.80	6.47	10.85	19.51	15.96	13.04	11.39	13.71	16.90	16.84
Hake.....	1.27	1.02	1.04	8.47	7.85	16.67	.60	1.00	1.67	.50
Halibut.....	9.89	9.57	12.62	19.23	15.29	15.75	19.69	21.77	19.25	17.95
Herring, sea.....	1.32	1.47	2.27	2.78	2.37	2.48	1.89	2.57	2.11	4.04
Horse mackerel (Jack).....	1.60	1.64	1.91	1.86	1.79	1.61	2.17	2.58	2.93	2.17
Kingfish.....	2.67	3.08	5.63	6.55	6.52	5.43	5.26	5.88	5.91	5.24
Lingcod.....	2.59	3.96	6.20	8.27	11.58	11.75	11.92	10.22	12.67	9.20
Mackerel (Pacific).....	1.06	1.29	1.82	1.98	2.04	2.08	2.66	2.99	3.51	2.58
Ratfish.....	.32	3.9	.90	1.04	1.48	1.30	2.25	1.54	.94	.88
Rockfish.....	3.52	3.90	5.00	5.25	4.19	4.56	4.69	4.20	4.87	4.58
Sablefish.....	4.08	7.70	10.02	9.54	10.60	9.88	12.61	12.21	13.59	9.10
Salmon, total.....	7.12	8.53	12.94	13.39	12.36	10.52	17.11	16.94	23.07	14.64
Red or sockeye.....	12.79	13.02	16.04	16.10	15.98	16.49	18.07	24.85	30.33	21.29
Chinook or king.....	7.90	9.48	14.65	16.65	13.01	15.21	17.04	20.26	23.80	20.72
Chum or keta.....	2.77	5.66	6.52	6.65	7.34	6.98	15.71	14.96	16.68	12.02
Pink.....	2.68	4.62	4.88	5.01	4.00	5.00	(2)	13.90	(2)	10.00
Silver or coho.....	6.04	8.60	13.23	13.73	11.89	11.37	17.59	18.69	23.56	16.06
Sardine, Pacific (pilchard).....	.53	.73	1.07	1.11	1.11	1.11	1.37	2.26	2.95	1.70
Sea bass.....	7.10	9.53	13.50	23.32	15.70	12.78	17.74	20.46	22.92	20.14
Black.....	5.75	7.80	12.43	22.43	17.24	12.12	15.94	16.39	16.49	14.04
White.....	7.67	10.32	14.26	24.60	14.21	13.28	18.99	21.33	24.06	20.64
Shad.....	3.06	4.47	3.65	4.76	4.45	5.18	7.29	5.87	6.38	6.64
Sharks (including grayfish).....	4.01	11.41	19.22	19.75	12.23	12.60	16.48	15.77	14.79	13.00
Skates.....	.33	.49	.58	.43	.97	1.29	2.13	1.12	.58	1.60
Smelt.....	2.76	4.77	5.29	5.79	6.42	6.05	4.30	6.82	6.16	6.87
Steelhead trout.....	6.15	7.58	11.02	10.52	10.62	11.14	13.94	16.30	17.20	14.00
Swordfish.....	13.30	15.92	21.08	30.56	30.17	30.30	31.32	31.98	31.78	44.44
Tuna and tunalike fishes.....	5.59	6.66	11.00	11.49	11.75	11.76	12.02	16.16	18.38	16.22
Albacore.....	6.87	14.35	19.40	16.27	16.41	19.49	19.82	25.26	29.63	18.32
Bluefin.....	5.59	6.10	9.02	9.51	9.53	9.63	10.19	15.94	16.79	16.25
Bonito.....	3.70	4.24	6.97	7.98	8.46	8.00	9.53	11.73	11.63	9.73
Skipjack.....	4.84	5.32	8.61	8.94	8.97	8.94	10.42	14.46	15.74	14.81
Yellowfin.....	5.90	6.32	9.25	9.91	9.93	9.97	11.48	15.58	16.75	16.27
Yellowtail.....	3.41	3.90	7.08	7.48	7.92	8.26	8.20	11.29	11.13	9.37
Miscellaneous fish.....	4.86	5.59	9.90	11.12	12.21	10.50	10.24	11.29	13.84	12.26
SHELLFISH										
Abalone.....	20.09	18.44	13.68	14.52	16.28	14.86	14.09	16.23	21.70	21.33
Clams, total ²	15.19	14.33	14.74	10.73	10.47	11.92	11.59	11.71	13.43	12.26
Hard.....	7.38	4.78	4.93	5.38	5.90	7.15	7.51	7.15	7.89	8.66
Pismo.....	45.45	38.46	25.93	23.08	20.00	20.41	21.15	19.64	20.37	20.83
Razor.....	18.97	18.46	20.57	14.31	14.33	15.60	15.14	19.53	17.26	14.65
Soft.....	17.74	20.41	22.95	22.22	22.54	20.83	20.69	26.67	21.43	12.50
Mixed.....	20.00	25.00	13.33	6.25	5.26	5.33	6.98	8.97	8.60	9.09
Crabs, dungeness.....	8.79	7.73	6.20	5.75	6.60	8.35	8.37	8.63	5.10	5.04
Lobster, spiny.....	18.87	16.64	13.95	13.81	15.22	15.91	11.09	12.33	14.94	16.05
Oysters, total ³	60.26	25.57	11.68	10.55	10.88	11.52	10.22	9.55	8.48	7.58
Eastern, market.....	41.33	31.98	33.33	38.33	43.33	47.69	31.67	33.82	37.50	37.50
Pacific, market (Japanese).....	36.40	13.91	6.13	6.58	7.24	8.03	7.17	7.12	6.43	5.93
Western, market.....	81.96	79.02	51.48	53.10	56.67	61.54	67.51	71.89	68.36	62.75
Shrimp.....	1.76	1.71	1.61	1.68	1.74	1.71	1.92	2.07	2.14	2.01
Squid.....	1.07	.80	.71	1.70	2.08	2.87	2.60	3.18	2.29	2.00
Miscellaneous species.....	11.22	9.54	10.06	8.98	8.20	7.34	8.07	9.22	8.56	9.64

See footnotes at end of table, p. 109.

Prices received by fishermen in the Pacific coast area for principal species of fish and shellfish, 1930-60¹—Continued

[Cents per pound]

Species	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949
SHELLFISH										
Abalone.....	26.96	29.50	39.39	40.44	44.48	55.97	60.62	57.49	57.43	55.74
Clams, total ²	11.93	13.99	19.95	27.16	29.76	25.84	30.32	36.83	47.67	46.65
Hard.....	8.82	15.11	17.00	25.40	27.54	27.64	29.46	30.42	32.12	31.98
Pismo.....	19.05	20.00	21.74	36.36	33.33	42.86	52.94	53.33	(2)	(2)
Razor.....	13.28	13.11	23.75	35.42	34.63	26.22	31.19	39.45	55.66	63.68
Soft.....	15.00	14.29	17.39	20.00	20.00	25.00	14.29	14.29	(2)	(2)
Mixed.....	8.70	(2)	(2)	10.00	10.81	11.29	20.00	26.09	26.67	25.00
Crabs, dungeness.....	4.96	6.21	8.24	9.33	8.76	8.74	13.35	10.06	10.54	10.30
Lobster, spiny.....	15.41	15.47	24.26	31.10	26.51	24.01	33.82	31.87	40.67	33.93
Oysters, total ²	6.85	8.88	10.54	41.10	18.65	18.21	18.48	18.71	20.22	25.46
Eastern market.....	44.44	50.00	66.67	58.33	78.57	88.89	108.33	115.79	113.04	83.33
Pacific (Japanese).....	5.67	7.67	9.12	39.21	17.08	16.93	17.03	17.02	17.88	22.65
Western.....	59.91	63.46	70.00	124.00	99.37	99.34	127.22	136.99	137.66	137.44
Shrimp.....	1.67	2.34	2.71	6.84	5.38	5.39	10.04	7.10	7.09	7.57
Squid.....	1.72	2.13	3.44	2.89	2.73	2.80	3.20	2.69	2.69	2.68
Miscellaneous shellfish.....	10.77	12.41	17.39	21.43	20.00	13.16	10.16	17.35	12.94	15.14

Species	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960
FISH											
Anchovies.....	1.72	2.07	2.07	1.99	2.01	1.34	1.27	1.26	1.29	1.39	1.46
Barracuda.....	14.57	16.94	15.76	16.68	14.84	15.55	17.80	15.69	12.57	9.89	11.38
Carp.....	2.35	4.40	5.48	5.21	5.28	6.15	4.20	4.72	4.27	3.74	3.42
Catfish and bullheads.....	19.00	21.43	20.22	20.00	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Cod.....	3.85	5.39	5.27	4.29	3.91	3.82	3.93	4.88	4.38	5.02	4.90
Flounders.....	5.26	7.43	7.40	6.11	5.98	5.61	5.36	6.14	5.79	6.36	6.59
Grouper.....	18.92	20.03	19.90	22.08	16.86	19.51	18.87	17.34	16.72	19.58	20.47
Hake.....	1.94	1.90	2.61	1.61	1.42	1.44	1.59	1.61	1.51	1.70	1.11
Hallibut.....	20.62	17.15	17.60	13.39	14.94	12.48	19.06	15.23	18.40	16.28	13.86
Herring, sea.....	2.04	1.77	2.63	2.43	3.97	4.02	3.92	3.54	1.54	2.02	2.69
House mackerel (Jack).....	1.93	2.24	3.25	3.58	3.81	1.99	2.02	1.95	2.41	2.39	2.11
Kingfish.....	4.82	6.45	3.91	5.16	5.25	5.24	4.16	(2)	(2)	(2)	(2)
Lingcod.....	7.23	8.88	8.96	6.74	6.74	4.75	5.10	5.63	5.22	5.27	4.94
Mackerel (Pacific).....	2.43	2.78	3.81	4.39	3.19	2.28	2.13	1.98	2.43	2.55	2.06
Ratfish.....	.96	.97	.77	.78	.79	.70	.77	.77	.88	.88	.48
Rockfish.....	4.19	5.52	5.33	4.17	4.07	3.85	3.90	4.07	4.20	4.53	4.63
Sablefish.....	8.78	8.57	9.24	8.91	9.06	8.50	7.57	8.63	7.64	8.95	9.60
Salmon, total.....	23.25	20.63	20.52	17.60	24.91	22.14	30.30	23.66	28.78	27.17	39.42
Red or sockeye.....	25.81	30.68	28.35	26.68	28.31	29.35	33.61	31.33	36.21	31.31	32.69
Chinook or king.....	24.88	27.19	24.82	23.75	27.50	29.81	32.78	13.00	13.06	37.79	45.26
Chum or keta.....	15.67	13.39	11.60	9.86	10.41	14.45	16.79	41.11	17.39	17.84	22.26
Pink.....	13.33	15.00	9.09	11.59	(2)	14.52	20.00	30.60	27.93	15.38	18.18
Silver or coho.....	25.16	21.69	17.35	16.75	19.38	21.41	26.52	21.73	29.14	28.41	38.77
Sardine, Pacific (pilchard).....	1.70	2.20	3.65	5.58	2.71	2.11	2.41	3.90	2.62	1.98	2.06
Sea bass.....	20.52	22.65	27.56	24.36	19.15	21.23	21.76	17.72	13.83	13.55	23.60
Black.....	15.89	16.55	15.29	16.50	13.43	14.75	15.41	14.05	13.42	14.00	15.29
White.....	21.03	23.81	30.86	28.06	20.81	23.84	23.68	18.31	13.86	13.51	25.22
Shad.....	6.64	6.98	7.94	7.82	7.95	7.97	8.72	8.28	9.17	9.33	7.46
Sharks (including grayfish).....	5.32	4.54	2.82	2.70	3.33	2.50	3.26	3.27	1.40	2.10	3.43
Skates.....	1.17	1.14	.63	.98	.70	.68	.79	.84	.92	.95	.80
Smelt.....	8.41	11.24	12.23	9.78	9.72	6.94	7.39	5.42	4.57	6.25	9.59
Steelhead trout.....	16.21	21.45	18.03	17.88	19.20	19.44	21.01	21.70	22.08	20.78	25.66
Swordfish.....	46.15	44.30	37.74	47.55	52.17	42.96	40.36	41.49	34.96	37.95	44.92
Tuna and tunalike fishes.....	15.69	15.04	15.26	15.48	10.41	14.64	13.17	12.65	13.40	13.04	12.42
Albacore.....	19.11	15.66	17.40	19.94	20.10	16.23	17.13	14.43	20.54	18.65	14.77
Bluefin.....	15.39	15.64	16.01	15.86	16.90	14.26	13.07	11.90	13.12	12.35	12.18
Bonito.....	9.77	9.52	9.62	9.76	7.76	5.84	5.47	5.94	3.91	3.88	2.96
Skipjack.....	14.30	14.28	12.86	13.78	15.18	13.42	11.47	11.00	11.54	10.58	10.35
Yellowfin.....	15.34	15.46	15.81	15.98	17.23	15.31	13.50	13.26	13.52	12.98	12.45
Yellowtail.....	8.90	9.49	9.25	9.40	8.39	7.93	8.62	7.07	8.24	8.23	9.24
Miscellaneous fish.....	12.95	13.26	13.30	15.00	16.97	14.84	16.34	11.85	10.94	5.66	5.82

See footnotes at end of table, p. 109.

Prices received by fishermen in the Pacific coast area for principal species of fish and shellfish, 1930-60¹—Continued

[Cents per pound]

Species	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960
SHELLFISH											
Abalone.....	46.65	44.68	45.04	46.50	45.98	50.54	53.13	54.15	50.06	54.44	58.15
Clams, total ²	47.00	49.78	39.61	38.36	35.15	35.75	39.39	33.25	33.51	34.63	38.75
Hard.....	33.58	52.44	42.36	40.06	42.22	42.86	35.85	30.53	37.98	39.45	41.06
Razor.....	64.26	50.63	39.19	37.75	26.73	28.74	44.71	36.81	29.42	36.59	53.40
Mixed.....	23.68	23.68	22.50	27.78	28.57	27.59	29.63	29.17	29.41	31.25	35.71
Crabs, dungeness ⁴	11.90	13.40	13.69	14.61	13.05	13.59	11.90	8.29	10.70	14.25	15.73
Lobsters, spiny.....	31.69	36.65	41.76	47.07	45.34	50.52	52.31	58.18	61.45	60.47	67.23
Oysters, total ³	29.96	22.88	20.12	17.06	17.09	21.27	23.67	19.17	19.46	18.75	20.65
Eastern, market.....	100.00	112.00	130.43	155.56	161.11	180.00	190.00	188.24	225.00	300.00	(²)
Pacific (Japanese).....	25.76	21.40	18.73	15.39	15.67	20.11	22.88	18.48	18.56	18.00	19.87
Western.....	141.96	142.04	114.17	141.88	151.04	198.28	244.44	187.10	294.12	227.91	208.89
Shrimp.....	8.42	10.27	8.72	8.47	8.36	8.18	8.82	8.37	8.11	9.78	9.37
Squid.....	2.62	2.71	4.66	2.31	2.17	1.64	1.73	1.67	1.98	1.74	2.81
Miscellaneous shellfish.....	16.44	18.11	11.29	10.14	10.39	9.64	9.77	9.27	10.48	15.79	18.75

¹ Species equaling 1,000,000 pounds in quantity or \$100,000 in value in any 1 year surveyed.

² Not available.

³ Not all species in this group amounted to 1,000,000 pounds or \$100,000 in any 1 year surveyed; they are listed in order to give a complete breakdown.

⁴ Other crabs are included with dungeness crabs.

Senator BARTLETT. Now, the industry itself, as I understand it, asked immediately after the war for a waiver so that the practice could be continued that is now sought through the mechanism of this bill, S. 3093, and the corresponding bill in the House?

Mr. MORRISON. What they did was this: They wrote to the Attorney General's office and said, "Now, we have been negotiating fish prices," first under the direction of the War Labor Board which exercised control at that time, and at the conclusion they said, "We are continuing to negotiate. We have these other proceedings. What is your advice?"

Mr. Wendell Berge wrote back as follows:

Pending further study of the status of salmon fishermen as members of a legitimate labor union, the Department can make no representation that it may not institute a civil proceeding. However, from the information which you have submitted, it appears that in such a proceeding the Alaska Salmon Industry, Inc., and its members, should not be the sole parties defendant but should be joined with the unions who are parties to the collective-bargaining agreement.

In other words, it had been under the wartime situation—control situation. Nobody had looked at it too closely after these decisions, and all Justice told us was:

We are not going to put you in jail for it, so you continue, and we will tell you when to quit.

And in 1954 they told us to quit.

Senator BARTLETT. The Alaska Salmon Industry, Inc., took a gamble?

Mr. MORRISON. It was a fairly safe gamble that nothing would happen. They had been assured of a warning in advance.

Senator BARTLETT. The Alaska Salmon Industry, Inc.

It was the Federal Trade Commission, not Justice, that told the industry to quit?

Mr. MORRISON. That's correct.

Senator BARTLETT. Why did the industry want to continue this at the time?

Mr. MORRISON. I think there had been a historic arrangement to that time and the requests and demands of the unions then involved, and their feeling was that the matter was going to be determined one way or another and "let's at least be protected and not raise the issue itself but let's be protected from any serious consequences which could otherwise flow from a deliberate industry violation of the anti-trust laws."

Senator BARTLETT. Then I infer, and if I infer incorrectly you will so advise me, that there is nothing in the statement you have presented here to indicate that by and by you may not urge enactment of a bill with amendments you propose. You are not taking a position at this time is what I am trying to say.

Mr. MORRISON. That is correct, Senator. We are not. We simply wish to point out some of the problems and request time for further study, because, frankly, we have not made up our own minds. We have not sufficiently considered some of these complications and how they are going to come about.

As I say, clearly, if this bill comes about at the cost of additional Government intervention in the price determination field, then we don't want to go in that direction. If that can be avoided and we can go some other way, this might be more palatable.

Senator BARTLETT. Obviously we are going to have to hear from the east coast and gulf fishermen. As indicated, they have a stake here.

I have a feeling, and it is nothing more than a feeling, that some of the Government agencies may have rather positive views one way or another, and, of course, as is true of all legislation, we will be hearing from them.

Mr. Pelly?

Mr. PELLY. No questions.

Senator BARTLETT. Thank you, Mr. Morrison.

Mr. MORRISON. Thank you, Senator.

(Whereupon a recess was taken.)

Senator BARTLETT. The committee will be in order.

We are possessed of a bit of time yet, so I am going to ask Mr. Hawk to come back to present all or as much as he cares to of Mr. Balingers statement. After that Mr. Vance desires to make a short statement to clarify a point.

I will ask now if there is anyone else in the room who desires to be heard. (No response.)

Apparently not.

OK, John.

STATEMENT OF LESTER BALINGER, ON BEHALF OF THE CANNERY WORKERS & FISHERMEN'S UNION, OF SAN DIEGO, CALIF., AND THE SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

Mr. HAWK. This is a statement of Lester Balingers, representing the Cannery Workers & Fishermen's Union, of San Diego, Calif., and the Seafarers International Union of North America, AFL-CIO, before the subcommittee of the Committee on Commerce of the U.S. Senate.

Hon. E. L. Bartlett, chairman, and members of the subcommittee of the Committee on Commerce of the U.S. Senate, my name is Lester Balinger; I am secretary-treasurer of the Cannery Workers & Fishermen's Union, of San Diego, Calif., and a vice president of the Seafarers International Union of North America, AFL-CIO. I live in San Diego, Calif.

I am speaking here today only on behalf of my own local union, as the other many affiliates of our international union in the fish field will no doubt testify in the interest of their organizations.

The Cannery Workers & Fishermen's Union represented all the crewmembers on all the boats that were known as the baitboat fleet. However, to become more competitive with the Japanese tuna fishermen, our baitboat fleet has almost entirely converted to the purse seine method of fishing. Our union members, along with our sister AFL-CIO union in San Pedro, account for approximately 75 to 80 percent of all the tuna caught by all domestic fishing vessels in the United States. The Cannery Workers & Fishermen's Union, AFL-CIO, is wholeheartedly in favor of Senate bill 3093.

The crewmembers aboard our many contracted fishing vessels have an equal interest with the boatowners in the sale of their catches, as their sole and only compensation for their fishing and sailing services is to share in the net receipts from the sale of their catch of fish, with the boatowner receiving more than 50 percent of such net receipts and the crew dividing the balance. The price and volume of fish sold by the domestic boatowner thereby bears as direct ratio to the amount of pay the tuna fishermen receive. We, therefore, feel very strongly that we should have the legal right to negotiate directly with the buyer of the product of our labor as the price of the product directly sets our wages.

An experienced tuna fisherman is a highly skilled, highly productive man. He does not learn his trade in a few months, but only after years of apprenticeship and experience. Production per man per day of our tuna fishermen is by far the highest of any other tuna fishermen in the world. The tuna clippers have complex combinations of machinery requiring men of special competence to operate the refrigeration, electrical, pumping, and propulsion systems. Under reasonably free operation, boats will spend as much as 75 percent of the year at sea, to which must be added time preparing to unload, unloading, and reconditioning.

Our crews receive no guarantee. Tuna fishing, in this and other respects, is a gamble, the same as farming was before the U.S. Government started subsidizing the farmers and the agriculture industry. A fishing boat leaves with a full crew, supplies, and the necessary equipment to make a fishing trip of approximately 25 to 90 days. Many times they do not succeed in obtaining a large catch. If they do, then obviously it is necessary that the fishermen have an available market for their fish. When our fishermen have made good fishing trips, they many times returned, only to find that large shipments of Japanese frozen tuna had arrived in the United States at lower prices, substantially curtailing their market.

The tuna canneries in southern California are practically the sole purchasers of the domestic tuna catch. Depressed sales prices and the replacement of these cannery markets by foreign tuna for many

years combined to reduce the boatowner's income and to curtail the earnings of our laboring fishermen when the cost of living continued to rise.

The boatowners, too, sustained a similar reduction in income when preferential buying of Japanese tuna, at lower prices, caused a decline in their sales and a subsequent reduction in their operations. As a result, and probably in a desperate attempt at survival, the boatowners of the vessels of our fleet, which are reduced in numbers from that of 10 years ago, embarked upon an imaginative and intelligent research program. Dramatic technological changes were made in both the method and manner of commercial tuna fishing, the most important of which was a change from bait to purse seine operations. These important and expensive technological changes at the same time as the conduct of an intensive advertising campaign by the tuna canners increased consumer demand and consumption of canned tuna, made a surge in fishing results and caused an increase in the tuna fisherman's income.

So, for approximately the past 2 years, though Japanese imported tuna has increased, this condition has not materially bothered our reduced fleet, because most of the boats that are left could operate at near capacity and return a livable wage for most of the remaining crewmembers. Even then, the condition of our fleet was not good, because in the past 10 years, the number of boats in our domestic fleet has declined approximately 30 percent with approximately 1,000 less available crewmember jobs. These are, at best, cold figures and give no indication of the great turnover of crewmembers, the consequent loss of essential skills and the effects on families.

But, as has been true so many times in our long history, relief was only temporary and wage stability unexpectedly short lived for those remaining with the fleet. Within the past month, the tuna canneries in southern California have reduced the price of yellowfin tuna from \$310 a ton to \$290, a skipjack from \$270 a ton to \$250 a ton and have announced a reduction in the price of bluefin tuna from \$300 a ton to \$250 a ton. The reasons given by one cannery official for this reduction are: "Bluefin is being caught off southern California faster than the canners can handle it. There's a glut on the market. We felt a drop in price was necessary."

The real reason for these reductions in fish prices was: The canneries back in the early part of the year contracted with the Japanese exporters for a large quantity of tuna (at a price per ton in excess of what they were paying for domestic fish). This tuna started arriving from Japan in August. Our boats started catching bluefin tuna along with yellowfin and skipjack tuna at a better than average pace. The result was, as usual, that our boats sat and waited until the Japanese fish was out of the way.

There are also some other factors involved. For example, one of the large canneries has contracts with a group of Mexican boats to take their deliveries. These Mexican boats unload in Ensenada, Mexico, and then truck their fish to San Pedro. This fish was and is being processed by this cannery while our fishermen sit and wait to get unloaded.

I point out these things to show that unless we have the right to negotiate contracts directly with the cannery as to fish prices and

unloading schedules we will be plagued with these same conditions year after year, as we have since 1951.

Under present conditions the crewmember is an innocent, unwilling, and helpless pawn. As pointed out previously, his income is solely and exclusively based upon his portion of the crew's share of the net receipts the boatowner receives from the sale of the catch. He is prohibited, by law and by injunction, from participating in negotiations for or the consummation of the sales price of the fish.

Several years ago the U.S. Federal Trade Commission issued complaints, in a series of Federal Trade Commission proceedings, against the various and several segments of many of the domestic fishing industries, such as crab, salmon, tuna, et cetera. On August 26, 1956, it issued its complaint against our tuna industry, charging the canneries, boatowners, boatowner cooperatives, and unions representing crewmembers with engaging in unfair practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act, the most important of which was price-fixing. Settlement of the action was ultimately accomplished, with an order prohibiting all the unions in our domestic fleet from:

- (1) Establishing, fixing or maintaining prices for the sale or purchase of raw tuna fish;
- (2) Attempting to participate in such sales or purchase prices of raw tuna fish by threats, coercion, or compulsion;
- (3) Negotiating, jointly or collectively, by any means or method, for the sale or purchase of said raw tuna fish; and
- (4) Threatening, coercing or compelling, by any means or method, purchasers of raw tuna fish to pay, adhere to, or comply with, any particular or specific prices for the purchase or sale of same.

Since the foregoing sweeping injunctions became effective and the order of the Federal Trade Commission was signed on July 24, 1957, our unions, and the crewmembers they represent, have been helpless in and prevented from being a part of the negotiations between the boatowners and the canneries for the sales price and other purchase conditions of each load of fish caught by them. This condition has worked to the substantial detriment of our domestic tuna fleet crewmember and has meant less bargaining strength on the part of the boatowner seller. As a consequence, the income of our crewmember has been reduced, resulting in a proportionate reduction in the economy of every business activity of the community affected by the many incidents of our domestic tuna fishing industry.

We are, therefore, strongly and vitally in favor of Senate bill 3093, which would overrule the effects of our present law in the particulars heretofore mentioned as well as the prohibitions of the U.S. Federal Trade Commission.

Senate bill 3093 would permit our unions to participate in the negotiations and the establishment of prices for the sale and purchase of their catches. Having a direct financial interest in those prices, and by directly earning a proportion thereof, the crewmembers would, in effect, be negotiating their actual wages—a right accorded the unions representing those hourly paid employees in appropriate units under the Labor Management Relations Act of 1947, as amended, sometimes known as the Taft-Hartley Act.

The crewmembers who catch the fish are the actual producer, and, in our opinion, it is only fair, just, and equitable that they be permitted to have a voice in the sales price to be paid by the canner buyer of their catch and on which their livelihoods and earnings directly depend.

But, until such a bill be passed, the tuna fishermen will remain a part of one of those very few groups who are prohibited from negotiating their wages, because the tuna fisherman cannot participate now in the setting of the sales price of his catch.

We have tried all known or thought-of methods to keep the income of our fishermen current with those doing comparable shoreside work and in pace with the ever-increasing cost of living. The results have fallen short of our objectives. The annual income of our tuna fleet fisherman, in many instances, based as it is upon these price negotiations for the sale of the crew's catches between the boatowner and the canner, does not constitute just payment under the American standard of living in view of his arduous and long hours, risks, and isolation while at sea, away from his family and associations. A fisherman, unlike the usual shoreside worker on an 8-hour-day, 5-day-a-week basis, worked 15 to 16 hours a day, 7 days a week and does not get time off for a holiday, except when it falls on one of the crew's birthday, which calls for some type of celebration on the boat after the day's work is finished.

In very few, if any, industries is a worker required to take the gamble and the large investment before he starts to work that our crewmembers do. Since they are not allowed to participate in the sales price of their catch, their income is directly affected—a condition which should have been alleviated years ago. It is necessary that this situation be remedied by the passage of Senate bill 3093. Our fishermen should be provided the opportunity of a reasonably decent living under our American standards. All of them are good, loyal Americans, many of whom have been called on once or even twice by their Government, and they readily responded to these calls to defend the principles for which we stand.

If they were permitted to jointly participate with the boatowner in negotiating the sales price the cannery must pay for the vessel's catch, we sincerely believe the combined bargaining strength of the boatowner and his crew would cause an increase in the ex-vessel sales price of the fish on which the fisherman's livelihood depends and a proportionate rise in his earnings.

The word "future" has been on every fisherman's lips since imports of tuna have wrecked our industry. Our fishermen, at the end of a bad year, have looked to the next in the hope of better times to come. However, instead of hoped-for improvement, in recent years they have found steadily reduced prices and are nearing the end of the line. Their future depends on protective or remedial legislation. Without such legislation there is no future.

Accordingly, we strongly recommend and urge to this subcommittee a favorable report on Senate bill 3093 and its ultimate and final passage by the U.S. Senate, a bill which we sincerely believe will result in needed and vital protection to the many crewmembers of our domestic tuna fishing industry and an expanding, healthier tuna industry.

Senator BARTLETT. Thank you, Mr. Hawk.

I would not want to comment on this, because, after all, this is an expression of the conclusions reached by Mr. Balinger and not you. But if Mr. Morrison should be correct in his declaration that between 50 and 70 percent of the final cost of the fish is attributable to the price of the fish when caught and Mr. Balinger states that the American tuna industry has been wrecked by imports, wouldn't the American industry be put in an even sorrier and worse competitive situation if fish prices were to go up and if those prices were to be reflected in the cans of tuna bound for the grocery shelves?

Mr. HAWK. Well, there is a passage in his brief here that states that the tuna cannery had made arrangements to buy fish at a very high price from the Japanese, although his boats had been coming in with loads of tuna, and the cannery pay less for tuna here. His boats are tied up with a belly full of tuna.

I have seen 10,000 tons of tuna laying in the bellies of those boats down in San Diego Harbor, laying there for a month or longer while they are processing Japanese fish, imported fish, or trucking fish up from Mexico.

I think that the solution lies in this bill, inasmuch as we could all sit down at the same table.

We have been beating around the bush—there's no question about it—for years insofar as the price is concerned.

Of course, we have been considered within the law for years, except from time to time up crops this question of violating the Sherman Anti-Trust Act.

I mean for years to my knowledge the boatowner goes in and negotiates a price of fish, for tunafish or sardines or mackerel or anchovies, and then he comes back to the union and says, "Well, this is what I'm offering."

So the union says, "Well, as far as we're concerned, it's not good enough for us. We're not going to go fishing."

So I mean this is folderol. Sure, we're going to negotiate, and which we do. We're within the law. We can negotiate working conditions, shares. We can negotiate all of that. And how much the boatowner is going to take off the top for expenses.

But then the principal thing, which is the price, we can't negotiate. We have got to go around the corner. Everybody knows that, I mean. But we don't sit down. We simply deal with the boatowner.

But now since this order came out, when the boatowner goes over, how much negotiating he does these days I don't know. But if we don't like the price or if our fishermen don't like the price, we are going to hang the button anyway, I mean, so we might just as well clear the situation up and have the right to sit down and negotiate, the three of us together.

And as far as the consumer is concerned, it isn't going to cost the consumer any more on the consumers' market.

And then we could head off deals like this paying more for fish over in Japan as the penalty to our own boats and our own fishermen.

Senator BARTLETT. Mr. Pelly?

Mr. PELLY. No questions.

I would certainly say that this adds a great deal of clarity to the picture. I think that it is a very fine statement. It indicates the community of interest of the boatowner and the crew, and that cer-

tainly is a three-way negotiation that would be very helpful to all concerned.

Mr. HAWK. Well, that is the way it has been going on down in San Pedro and San Diego for years. The boatowner goes in and deals with the canner. Then he comes back to us. We tell him we don't like it. He maybe agrees with us. But he needs our strength, because we're the ones who have the right to hang the button if we don't like what the price is going to be, because our wages are going to be based on the price.

And the fishermen and the canneries have been in business down there for years, and it isn't growing smaller as far as the industry is concerned. The industry is expanding. It is only the pocketbooks of the fishermen that are getting smaller.

Senator BARTLETT. Thank you, John.

Mr. HAWK. Thank you.

Senator BARTLETT. Mr. Balinger ought to be proud of your presentation of his statement.

Mr. HAWK. I think he could do a better job.

Senator BARTLETT. I think you had something further to offer, Mr. Vance.

**FURTHER STATEMENT OF J. DUANE VANCE, ATTORNEY, ON
BEHALF OF THE SEAFARERS INTERNATIONAL UNION OF NORTH
AMERICA, SEATTLE, WASH.**

Mr. VANCE. Senator, Mr. Pelly, I just want to briefly make one more statement in view of the statement made here by Mr. Luketa.

I did not realize that Mr. Luketa was going to testify, and I am concerned that the record might indicate that there is some conflict between Mr. Luketa's position and that of the Alaska Fishermen's Union and the Seafarers International Union of North America, when, as a matter of fact, there is not.

We have not much quarrel with Mr. Luketa. As a matter of fact, on page 24 of the brief which I have submitted and which is in the record I discussed the type of situation that Mr. Luketa is engaged in. Among other things I say:

Such an arrangement is now in fact in operation as regards beam trawl fishing in the Puget Sound area with the full approval of the regional offices of the Federal Trade Commission and the National Labor Relations Board. We understand similar arrangements are working in connection with certain fisheries in California.

And I further go on to point out that these devices have proven totally useless in Alaska, that the device in the beam trawl industry, the success of this operation, whereby the union represents the crewmembers, the boatowners belong to a marketing association, and the processors, the canners deal with them, is a tripartite arrangement, and, as Mr. Hawk has just said, one runs to the other, then the other one runs over there, and then you go back around the horn and back down.

This can only successfully work, as in beam trawling, where it is almost a year-round operation. The fishermen, the boatowners live here. The offices of the association are here. The buyers are here. And this tedious and endless running back and forth can be accomplished.

Now, as I pointed out, in 1954 we tried to set up four cooperatives in Alaska with the idea that this same enterprise could be engaged in, and it just fell flat on its face because it won't work. The captains are scattered all over from California to the northern part of Alaska. The canneries are not there together. The crew is not together. You cannot have this tripartite separate but simultaneous negotiation. It just won't work.

I think that what Mr. Luketa overlooks is that this legislation doesn't mandatorily require any particular segment of this industry to conduct its business in any particular way. It would be permissive only.

Obviously, if it were passed, each segment of the industry would tend to fall back to a certain degree into its customary, traditional patterns which were developed over the years.

Now, Dick Jansen, for example, has said he had no concern about belonging to the same union with his crewmembers. That was done in Cordova for years.

An even better example was the United Fishermen of Alaska in Kodiak, which was a very excellent union and a great organization, but in an area where the owner traditionally is on the boat, where he has a large crew, where the use of the facilities of the Board is available.

We had to go to the Board recently in this matter.

And you can use all these technical procedures that will work, but I don't think there is any intention on the part of the unions that I represent to try to force Mr. Luketa or anybody else into any particular form of procedure. We seek permissive legislation that will permit each type of fishing and each type of canning to operate in a manner that is either traditional or best suited to the needs of that particular fishery.

Senator BARTLETT. Thank you.

Mr. Foster has a question, I believe.

Mr. FOSTER. Just one quick one here.

The other day in the paper—and I read this quickly so I am not certain—they spoke of a situation in Canada in terms of a strike or anticipated strike by some fisherman's union in their negotiations, and this just at that time raised the question in my mind as to what the Canadian law was.

How does Canada, our neighbor to the north and between here and Alaska, solve this problem?

It sounded like, although this may be incorrect, they did have some negotiations under the Canadian law. I don't know whether this might be pertinent or not or whether you had any information on it or could get it very easily for the committee.

If you can, I would only say that you might include that in any type of correspondence you would add to the record, and I think it might be helpful if you have an opportunity to do that.

Mr. VANCE. I will be glad to add that. The Seafarers International has attorneys there, and I can get information. However, I certainly don't have it.

All I can tell you is that the labor laws in Canada are so much different than they are here that I just shy away from it as hard as I can.

Mr. FOSTER. It may not be any help at all.

Mr. MORRISON. Mr. Joe Jurich may have an answer.

Senator BARTLETT. Mr. Jurich?

Mr. JURICH. Mr. Chairman, the answer to Mr. Foster's question is that the Canadian fishermen and our fishermen down here when we were sister organizations, virtually one organization at one time, operated pretty much in the same way by at one time negotiating directly with the canners as the Canadian fishermen are still doing today.

They negotiate directly with the companies and are proceeding to do so and have been doing so with the exception over there they have a mediation and conciliation program, and it is a little different than we have here.

I was trying to think of the name that was thrown into the problem up there. It is the same thing as the Federal Trade Commission. What do you call it, Herald? Do you know?

Mr. HERALD O'NEILL. It is an arbitration procedure.

Mr. JURICH. No—

Mr. O'NEILL. It is an adjustment deal, but—

Senator BARTLETT. Please identify yourself.

Mr. O'NEILL. Herald O'Neill, executive secretary of the Association of Pacific Fisheries.

Mr. JURICH. It is the Combines Act. Excuse me.

Mr. O'NEILL. The Combines Act is an act somewhat similar to the Sherman Antitrust Act. The Government can move in and have these hearings, which they have done now over a period of about 3 years that I guess it has been going on, and it still isn't settled.

They haven't told the fishermen, have they, as I recall, or the canners, whether—

Mr. JURICH. No—

Mr. O'NEILL. They have given them a period. Like the Department of Justice gave the Alaska salmon industry. They have been letting them go for the meantime and continuing negotiations.

Mr. JURICH. They are still in negotiations. They still draft contracts, and they are currently in negotiation with a segment of the British Columbia industry. That is herring industry for the present time.

Senator BARTLETT. Thank you very much.

The committee will now stand in recess until sometime tomorrow morning in Ketchikan, Alaska.

Let the record show the committee is deeply appreciative of the courtesy and hospitality of the Ninth Circuit Court of Appeals for permitting us to use this hearing room. The chief judge of that court is Richard H. Chambers.

(Whereupon, at 4:58 p.m., the hearing was recessed, to be reconvened in Ketchikan, Alaska, on Tuesday, October 16, 1962.)



COLLECTIVE BARGAINING FOR FISHERMEN

TUESDAY, OCTOBER 16, 1962

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Ketchikan, Alaska.

The committee met at 1:40 p.m., in the Fish and Wildlife Laboratory, Hon. E. L. (Bob) Bartlett presiding.

Senator BARTLETT. The committee will be in order.

Off the record.

(Remarks off the record.)

Senator BARTLETT. We will go on the record now.

The first witness on my list is Walter Pihlman.

Walter, are you here?

Mr. GEORGE ANDERSON. He is working. He won't be here until later.

Senator BARTLETT. Oscar?

STATEMENT OF OSCAR ERICKSEN, KETCHIKAN, ALASKA

Mr. ERICKSEN. Mr. Chairman, thank you for the opportunity of appearing here today regarding S. 3093. I am a resident of Alaska and have been a fishermen's union agent for 12 years and now here completely independent of any organization. I wholeheartedly support S. 3093, the bill to give fishermen collective bargaining rights.

An individual unorganized fisherman is commonly helpless to exercise actual liberty of contract and protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment; it is necessary that he have full freedom of association and designation of representatives of his own choosing for the purpose of collective bargaining.

That is pretty short, and that is all I have in that line.

The reason I got this here is because the fishermen have to work long hours from dark in the morning to dark at night, and none of them know when they are leaving the fishing bank and getting to Ketchikan or to home port wherever they are going to sell their product how much they are going to get.

I think this bill is the best that has happened for many, many years, and I thank you, Bartlett, very much for that, including Senator Magnuson.

So all the fishermen hear of nowadays is the closing and the opening of fishing season and how many days they can fish. Of course, I believe most of them live up to it almost 100 percent. I wouldn't say 100 percent.

But when they come to work, how much money they are going to have after the season is over they don't know, and most of them are broke before the first of the year, so if they ever can get bargaining rights so they can deal with the employer that would be a big help for themselves and feed their families.

That's all I have now.

Senator BARTLETT. Well, Oscar, some people say they are not entitled to this because they aren't employees but they share in the proceeds of the boat's take and they don't get wages and so why should they be allowed to bargain collectively as this bill would permit them to do.

Mr. ERICKSEN. My position is this: What do you share when you don't get anything for your share?

I believe most of the fishermen would be happy to hear that they can get minimum price as far as their share is concerned. Share and working for a living is the same thing.

Of course, working on a boat is the worst labor work that you have. It is worse than labor ashore because you have no place to sleep. You cook in the same place where you live, and so on.

I'm standing on this: That a share is the same thing as wages and employment, work. It is the same as labor ashore.

Senator BARTLETT. You say they really are employees? It is just a difference in the way they are paid?

Mr. ERICKSEN. Difference in the way they are paid. That's correct. That's the only way I can see it.

Senator BARTLETT. All right, Oscar.

Mr. Foster, do you have any questions.

Mr. FOSTER. No questions.

Senator BARTLETT. Thank you, Oscar. Thank you for appearing and being the first witness at this Ketchikan hearing.

Mr. ERICKSEN. Now I would like to say a little bit about other things, about fishing, if I can do it later on.

Senator BARTLETT. You had better do it now, I think, although I think we had better foreclose any discussion—and I am not saying this only to you, Oscar—

Mr. ERICKSEN. No, no.

Senator BARTLETT. But to everyone here, let's not talk about anything relating strictly to State administration. The Congress has nothing to do with that anymore anyway.

But anything else, shoot. So go ahead, Oscar.

Mr. ERICKSEN. I think for us to build up a salmon run and any other fisheries we have to cooperate first with other States. And of course we have done it so far pretty well with other States of the United States.

Senator BARTLETT. Could I interrupt you there, Oscar?

Mr. ERICKSEN. Yes.

Senator BARTLETT. I want to ask you if you know the bill I introduced became law the other day permitting Alaska to join with the other Pacific coast States in this effort to conserve and preserve salmon?

Mr. ERICKSEN. I overlooked that. I haven't seen that.

Senator BARTLETT. I just thought I would call it to your attention. It went through the Congress with no opposition naturally at all.

Mr. ERICKSEN. Well, then, I must drop it.

Senator BARTLETT. No, no, go ahead. I just put that in.

Mr. ERICKSEN. Because we have to cooperate first with the States and then with foreign countries. If you don't do that, we get run over.

And like you said a while ago, we are No. 5. We used to be No. 1. And Japan, and most likely Russia and China, are way above us.

If we don't cooperate with foreign nations, they can run wild. They are doing it already, running wild, and they will do that because they don't care. They are allowed to fish outside of the 3-mile limit.

And by the way, now, when I am talking about the limit, you got the telegram once from the chamber of commerce to recommend to the Geneva Conference about the 12-mile limit, didn't you? Do you remember?

Senator BARTLETT. How long ago?

Mr. FOSTER. That was some time ago.

Mr. ERICKSEN. Some time ago. That was sent from the Chamber of Commerce of Ketchikan. I was the one that made the motion, and I had a pretty hard fight to get that through, because my intention was to send it directly to Geneva and, of course, a copy to you.

But that didn't work, so we had to change that to make an amendment to it, so we sent it to you.

I understand you wired it over to Geneva at that time.

Senator BARTLETT. Oh, yes. A long time ago, yes.

Mr. ERICKSEN. That is quite a while ago.

Senator BARTLETT. Yes.

Mr. ERICKSEN. Of course, the way it looks now we need more than 6 miles or 12 miles. At least to the Continental Shelf. If we had that 10 years ago, I don't think we would have had much trouble with fishing, and I don't think we would have stayed very far behind the rest of the nations.

That's all.

Senator BARTLETT. Thank you, Oscar. Thank you for your contribution.

I should mention, in addition to saying that the hearings opened in Seattle yesterday all devoted to this one bill, that from here we are going on to Petersburg, hold a hearing there, next to Anchorage, and wind up at Dillingham on Friday.

Mr. ERICKSEN. Well, I am hoping that every fisherman is testifying regarding your bill, because I think it is a good bill.

Senator BARTLETT. Thank you.

Nils Nelson.

STATEMENT OF N. E. NELSON, KETCHIKAN, ALASKA

Mr. NELSON. In this particular committee you can open up anything that has to do on a national basis in connection with fisheries? Isn't that correct?

Senator BARTLETT. Surely.

Mr. NELSON. Well, due to the terrific influx of foreign fishing vessels in the State of Alaska waters or adjacent to the State's waters, it is very important that the 3-mile limit be extended to a 12-mile limit, with this so-called base line, which the way it has been explained to me will give us more actually in some areas than just 12 miles.

I'm not too familiar with it, but I do know——

Senator BARTLETT. I think that is right.

Mr. NELSON. That countries in this world have adopted this system and went through the World Court with it and won out.

As I understand it, Russia has recognized that particular limit for fisheries purposes.

Senator BARTLETT. Which limits, Nils?

Mr. NELSON. The 12-mile limit.

But, as you know, we do not have it in the United States proper, nor do we have it in Alaska.

The Alaska State Fish and Game Commission has officially asked for a limit to be extended to 12 miles for the purpose of conservation and regulation. It is a very important thing not only in salmon but in any other species of fish that is in the Pacific Ocean.

Therefore, I urge you to do all in your power to see that this limit be extended to at least 12 miles. That is what they have asked for, what the State has asked for.

It is going to help out not only in the Bering Sea and the Gulf of Alaska, Kodiak, Alaska, or the Aleutian Chain, but right here in our own neighborhood in time to come. There is no question in my mind about that.

I have one more subject, and on this one here I have to ask you a question.

I am not too familiar with this so-called Magnuson bill, the subsidy bill, the building of fishing boats. I have had some briefing on it, but I still don't get it.

Is this on a straight across-the-board proposition of subsidy or is it specifically for some specific type of boats?

If it is straight across the board, I would be opposed to it for the simple reason we have too many boats now. We do not have fish enough to support the boats and the gear and equipment we already have in the field.

Senator BARTLETT. May I interrupt you there?

Mr. NELSON. Yes; go ahead.

Senator BARTLETT. One purpose of the amended bill which is designed to replace the original law is to take care of just this situation, Nils. It is to provide for the retirement from the fleet of some of the older outmoded vessels which aren't truly competitive in the American fleet and surely not competitive with some of the foreign competition in a manner best designed not to hurt the owners of those vessels but to permit them to get newer ones, more modern ones, better ones, and lay up the old ones.

This is just like they do in the subsidy program for the merchant marine fleet. They constantly strive to modernize, to improve, and put the old ones in the mothball fleet.

This is one reason for offering an amended bill, to do just this, because you are right that if you just use a lot of new ones in addition to the old ones the situation would get worse instead of better.

Mr. NELSON. Well, on the other hand, if this subsidy was along the lines of putting bigger vessels into the field in competition with foreign nations to establish a historical right in the fisheries anywhere in the Gulf or the Bering Sea in Alaska in relation to the State of Alaska's waters, then I would go for it, for the simple reason—I have

said this 2 years ago and I will repeat it—that we will eventually see allocation of fisheries on the high seas within 25 years due to the tremendous effort that all nations in the world now are practically putting into it.

Just to give you an example, no one in the 1920's ever thought that there would ever be an allocation in the whaling industry in the Antarctic. Just look at what it is today.

The same thing is going to happen throughout the world with this tremendous effort and pressure brought on our fisheries. There is no question about it.

Now, if this subsidy was given to vessels of that type that could go out there in direct competition with these foreign nations in order for us to establish historical rights, sure, then I would go for it, because we are behind the eight ball whenever these allocations take place, because we do not have this.

In the 1920's, yes, we had codfish in the Bering Sea. We never caught what we called the scrap-fish variety of fish.

So if that was the thought behind it, I would be all for it.

That's all I have. Thank you.

Senator BARTLETT. Just a moment. Would you please give your mailing address?

Mr. NELSON. My address is 2520 Third Avenue, Ketchikan, N. E. Nelson.

Senator BARTLETT. Thank you.

The next witness is Robert Lindsey.

Mr. GEORGE ANDERSON. Robert is out of town.

Senator BARTLETT. I know it. In fact, he was down at the hearings in Seattle yesterday morning, and we couldn't get to him. I thought he would be there to testify yesterday afternoon, but he did not appear.

So let me say here that anyone who sees him on his return can tell him that he can submit a statement in writing.

The record is going to be held open for 1 month for supplementary statements or for brandnew statements, and these should be sent to Mr. William C. Foster, 248 Senate Office Building, Washington, D.C. They will be placed in the printed hearings just as if they were delivered.

Jim Pinkerton.

STATEMENT OF JAMES G. PINKERTON, MANAGER, KETCHIKAN COLD STORAGE CO., KETCHIKAN, ALASKA

Mr. PINKERTON. My name is James G. Pinkerton. I am manager of the Ketchikan Cold Storage Co.

Senator BARTLETT. What is your mailing address, please?

Mr. PINKERTON. Box 1309, Ketchikan.

Senator, it is a pleasure to be here to contribute what I can to this hearing.

Now, I would like to ask if there are any questions the Senator would like to ask.

Senator BARTLETT. No; we will try to develop some questions later. You just go ahead and make a statement, and some questions may flow from that.

Mr. PINKERTON. I would like to say that I feel that our fisheries are in dire need of development in areas not heretofore exploited.

I make reference here to bottom fishing.

There have been statements made that there is not sufficient bottom fish available in Alaskan waters and adjoining waters to support such a fishery. I believe that theory has been proven wrong by the production being taken by the Japanese and Russian fleets, which, according to the most recent information made available to me by the Bureau of Commercial Fisheries, now exceeds 1 million tons per year, a large portion of which is utilized for food fish.

Now, I can think of no better way at this time to improve the economy of Alaska than to establish a bottom fishery to harvest these fish and to put them on the American market in competition with imported bottom fish filets and fish blocks.

Now, this might require a certain amount of Federal assistance in construction of the vessels. You know on the east coast they are able to get one-third subsidy if the vessel takes more than 51 percent of its catch in one of either five or six species of bottom fish. That includes cod, haddock, and perch that I know of specifically. And it has to be Atlantic perch.

Now, we need assistance for machinery and for vessel construction and for training of the necessary crews and shore personnel to get into this type of fishery.

I would like to inquire of the Senator whether or not he thinks we should proceed toward this development.

Senator BARTLETT. Well, you reverse the role. I was supposed to be mute. But I don't mind answering that. I most assuredly do, Jim, and my only fear is we may be coming to a realization of the need for this somewhat belatedly, because the discouraging fact is that we have established no historical fishery in this situation, and since that is the case we can't make an exclusive claim.

But, nevertheless, I think we must step out boldly and with imagination and competitively with any nation that wants to face us.

Mr. PINKERTON. Those thoughts are in accord with what I have been thinking, that if we can get the facilities, the machinery and shoreside facilities and the vessels which can operate alongside the Japanese and the Russians, we will take our chances in harvesting this fish both for food and for fish meal and fish oils.

I don't think there will be a great deal of profit in it to begin with, but at least we will be providing more nearly year-round employment for our people who are now engaged in the fishing industry some 4 or 5 months per year.

Senator BARTLETT. How do you think the American market would respond to these species of fish? Let me ask you that, Mr. Pinkerton.

Mr. PINKERTON. I believe there is an excellent demand. I have made some surveys lately in connection with perch, and as far east as Chicago there is a good market for perch, Pacific Ocean perch.

With the coming of our ferry system and daily transportation out of Alaska becoming available in a manner not heretofore available, we will be in a position to provide food—that is, fish—to the tables of the population centers as far east as Chicago.

Senator BARTLETT. What kind of ground fish are available and which would be the most easily exploitable commercially?

Mr. PINKERTON. Perch and cod primarily, but you have a very delectable item known as sole up here too, which the machinery for filleting has not yet been finalized for. They have baiter equipment available from Germany which is a highly mechanized form of filleting bottom fish and would enable us to create an entirely new industry up here.

It is only through the use of this particular machinery that the Russians and the Japanese are able to maintain the fleets that they have now in the Bering Sea and in the northern Pacific in taking these fish.

There is too much work involved to do it by hand, regardless of the price of wages, so they do it mechanically.

Those machines are available to us if we are willing to lay out the money and construct the plant and the ships.

Senator BARTLETT. Are there other kinds of ground fish available?

Mr. PINKERTON. You have got cod and sole and flounder and perch. Those are the main ones.

Senator BARTLETT. As to this sole, is it a true sole or—

Mr. PINKERTON. You have got English sole, you have got Patrole sole, and several other species. There are about five. And it's good.

Senator BARTLETT. Is the English sole comparable in quality with the sole off of Great Britain?

Mr. PINKERTON. Well, I understand it is better.

Senator BARTLETT. I am going to believe you without inquiring further.

Now, most of the Atlantic coast fish are ground fish, are they not, that are placed on the commercial market?

Mr. PINKERTON. Yes; they are.

Senator BARTLETT. You spoke about the ferry system to be inaugurated that will make your marketing problem easier. Will you explain that for the sake the record?

Mr. PINKERTON. We will be able to load direct from processing plant into refrigerated vans the finished product, which will then be hauled aboard the ferry and/or loaded into rail cars at the new Saxman terminal, and in the case of the ferry the refrigerated vans would be hauled to Prince Rupert, and they could roll over the highway to Seattle in 40 hours and thence anywhere in the United States the same as fishery products originating in the Puget Sound area.

Now, this service has not been available to southeastern Alaska ports in the past. And in volume production, daily deliveries would be very important to keep the tonnage moving. We would be making a lot of fresh shipments as well as frozen, and in the case of refrigerated vans you would be moving the product under controlled temperatures, and we could put fresh fish into California with its 17 million population down there.

There is a good market for true cod down there.

Senator BARTLETT. How would you go to Chicago?

Mr. PINKERTON. Over the highway.

Senator BARTLETT. Except if you had a train freight car?

Mr. PINKERTON. It was published in the paper just recently that the Propeller Club in Seattle had been informed that the Canadian National Railway is going to offer piggyback service from southeastern Alaska once the ferry starts operation.

Now, you have piggyback service available out of Seattle now and out of Vancouver on the Canadian Pacific. And when that service becomes available out of Prince Rupert, we will be able to load fish in vans at any of the southeastern Alaska ports where the ferry calls, and the vans will be put aboard flatcars at Prince Rupert and hauled to the Midwest and discharged directly at the consignee's door.

Senator BARTLETT. The cold storage plant which you manage handles at this time what kinds of fish?

Mr. PINKERTON. Primarily halibut, with as much salmon as we can buy and a considerable amount of sable fish when available. I might say the Japanese have gone into the sable fish or black cod as it is known up here extensively lately. They are fishing in the Bering Sea with long lines.

They are heading and gutting the fish with baiter equipment, and they are turning out an excellent product at a price we find it most difficult to compete with.

Senator BARTLETT. This is new for them?

Mr. PINKERTON. This is new within the last 2 years, and they are using the mechanized form of processing, and they are taking off the nape, they are removing some of the belly flap, and from this product the smoker gets 10 percent better recovery than from fish processed in the customary manner in which we have been handling the fish in prior years.

Senator BARTLETT. Do we import any of that Japanese sable?

Mr. PINKERTON. It is brought into New York. It is brought into Los Angeles. And it is carried inland from those respective ports.

Senator BARTLETT. Mr. Pinkerton, do you have any familiarity with the bill which particularly brought the committee to Alaska at this time, S. 3093? And if so, do you desire to make any comments concerning it?

Mr. PINKERTON. The only comment I would have in connection with it is that I would have no opposition to negotiating on fish prices so long as they are legal, so long as the process is made legal.

Senator BARTLETT. As it now is not?

Mr. PINKERTON. That is correct.

Senator BARTLETT. In 1954 a ruling to that effect was handed down by the Federal Trade Commission.

Mr. PINKERTON. And we ran up against the antitrust laws, did we not?

Senator BARTLETT. That is right. And, as a matter of fact, legislation comparable to S. 3093 has been before the Congress in one form or another for something like a decade. Doubtless we will hold a further hearing at least in Washington so the views of the interested Government agencies may be expressed.

Mr. Foster, do you have any questions?

Mr. FOSTER. No questions.

Senator BARTLETT. Do you have anything further, Mr. Pinkerton?

Mr. PINKERTON. I believe that covers the thoughts I had in mind at this moment, and I appreciate having been afforded an opportunity to appear.

Senator BARTLETT. If you have anything additional, put it down on paper and send it in, and it will be printed.

Mr. PINKERTON. Thank you, Senator Bartlett.

Senator BARTLETT. And it will also be considered.

Mr. PINKERTON. Thank you.

Senator BARTLETT. Which is perhaps much more important.

Philip Hoffman.

STATEMENT OF PHILIP HOFFMAN, KETCHIKAN, ALASKA

Mr. HOFFMAN. I would like to speak in support of your bill.

Senator BARTLETT. Give your address first.

Mr. HOFFMAN. My name is Philip Hoffman. My address is Box 1023, Ketchikan.

I would like to speak in support of your bill. I think it is something that is needed up in this country.

We see a lot of times where seine boat skippers have a tough time getting crewmembers when they go out fishing, and if they do get a crew they generally get high school kids or maybe "winos," and so forth. They don't get guys competent on these boats.

And I think the big reason for it is that the crewmember has absolutely nothing to say about the price of fish he's going to get.

We see various deals made up between canneries and seine boat skippers in terms of bonuses, and so forth. We see humpies—that is, pink salmon—being sold for 45 and 50 cents apiece down in the Puget Sound area. The same fish are selling for perhaps 12 and 14 cents a pound. We don't have it up here.

And, secondly—

Senator BARTLETT. You don't have what up here?

Mr. HOFFMAN. This fish by the pound. That may not be within your jurisdiction.

Senator BARTLETT. That's all right.

Mr. HOFFMAN. I am just using this example.

Senator BARTLETT. Go ahead. You would be better off, you think, if you had fish bought and sold by the pound?

Mr. HOFFMAN. Yes.

Senator BARTLETT. Why?

Mr. HOFFMAN. Well, fish are worth more by the pound than they are by the piece. We buy spuds by the pound. I don't know why the fish buyers buy fish by the piece.

Now, getting back to the first reason, as far as seineboat skippers, and not being able to get competent crewmembers, a lot of times it is simply because of the reason that we have no bargaining rights—that is, crewmembers.

However, certain times of the year, notably around Christmastime, a skipper would get a bonus for fish that he has put into the cannery, perhaps 10 cents a fish. And yet the crewmember doesn't see anything of this so-called bonus. I believe that the crewmember is entitled to it.

But I doubt very much if any of them have ever received any of this bonus, so-called bonus money.

There may be a few more things that enter into the picture. I think a lot of it is attributed to the fact that the crewmember has nothing to say in the price of fish.

Also, you have in your amendment of the Fishery Marketing Act here a clause saying that the fisherman is a sort of combination pro-

ducer, worker, and independent entrepreneur. Well, that is true in a certain respect, Senator, but I wouldn't say it is completely true.

If a guy goes out here and goes fishing with his own boat and he has nothing to say about what he's going to get for the fish, I can't see where he is a businessman.

I say that even though he owns his own boat and gear that he's out there as a workingman using the tools of his trade, and he should be given bargaining rights.

That's all I have got.

Senator BARTLETT. Just a minute or two. I want to ask you at least one question if you don't mind.

Well, now, who establishes the price of the fish?

Mr. HOFFMAN. Well, that's a good question, Senator. From what I have seen of it, the canneries are the only ones that have established the price.

I don't see where it's any kind of a competitive buying setup now. We see cannery tenders buying fish for various canneries, and each and every one of these canneries are paying the same price. There is absolutely no competitive buying like there should be and used to be.

Senator BARTLETT. Well, does the cannery in your judgment set that price for the whole season, or does it set it from day to day?

Mr. HOFFMAN. When the season starts, the price has been set, and I have seen the price, for example, that has remained that way for weeks on end, even months on end, and the only thing that would raise the price would be an independent buyer coming on the fishing ground and offering a penny or two more or a nickel or so more per fish or per pound, whichever the case may be.

I would also like to elaborate on this. Many times certain boats that are in debt to a cannery have been threatened with perhaps losing their gear or perhaps even losing their boats if they failed to sell fish to these various canneries that they are in debt to.

So I would say, it is a deal whereby fishermen have been in debt perhaps through fault of their own, perhaps not, but the fact is that they are in debt, and they have absolutely nothing to say in regard to how much they are going to get for their fish. I think it's an unhealthy situation.

Senator BARTLETT. What does the buyer say? Does the buyer go to the captain of the boat and say, "I'll give you x cents"? Is the captain the man the buyer deals with?

Mr. HOFFMAN. Well, I would say that there are various kinds of under-the-board dealings and above-the-board dealings. It is nothing definite, Senator. I would say it all depends on the case. If there is an independent buyer and an independent fisherman, things should happen that wouldn't otherwise.

Senator BARTLETT. Let me ask you this now. Let's say they have six fishermen on a boat and they thought they were getting a bad deal. Do they ever go to the captain and say, "Look, we want a square deal here or we're going to walk off this thing"?

Mr. HOFFMAN. Yes, that's right, Senator, yes, that has happened.

I was on a boat once where it happened. A cash buyer came on the ground and paid a few cents more per fish, and the skipper of the boat wouldn't sell to this cash buyer because the understanding was

that the skipper would sell all his fish to the cannery, mainly because he might have been in debt to the cannery.

The cannery perhaps bought it new gear or financed him for an engine, or so forth. The skipper may not have owned the boat entirely.

But the man on deck is the guy that is taking it on the chin.

I believe that just because the skipper is in debt up to his neck and a cash buyer comes along and offers a few cents more for fish—I don't see why the crewmember, the guy on deck, should have to take it on the chin.

Senator BARTLETT. Well, should he be allowed to take out his money in the form of shares and still bargain, as this bill proposes he be entitled to do, or should the whole setup be changed and he be made simply an employee?

Mr. HOFFMAN. Well, regardless of which way it is, I still say that the crewmembers who belong to an organization or a union, whichever the case may be, should have bargaining rights.

In other words, before they go out fishing they should know exactly what they are going to get for their fish.

I believe that is going to change the overall picture. I think we are going to see more competent crews and we are going to see better conditions for the crewmembers also.

Senator BARTLETT. You say today the crewmembers just don't know what they are going to get. Well, of course, it is understandable that they wouldn't know what the gross was coming to them individually because it is a share proposition. But they don't know what price is going to be paid for the fish? Is that right?

Mr. HOFFMAN. That's correct.

Senator BARTLETT. Well, can't they find out from the skipper? He must know.

Mr. HOFFMAN. I doubt if he knows. I doubt very much if he does. He might find out later on.

Senator BARTLETT. Isn't he taking an awful gamble by going out at all if he doesn't know?

Mr. HOFFMAN. I would say so. I definitely would. I couldn't argue that point. I would say he would be.

Senator BARTLETT. But fishermen are not reluctant to take a chance. We know that.

Mr. HOFFMAN. Yes, that's right.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. No questions.

Senator BARTLETT. Thank you, Phil.

George, do you want to go now or do you want to wait?

Mr. GEORGE ANDERSON. I would like to wait.

Senator BARTLETT. We will recess and have coffee before we hear another soul.

(Whereupon, a recess was taken.)

Senator BARTLETT. The next witness is Carl Guggenbickler.

STATEMENT OF CARL GUGGENBICKLER, WRANGELL, ALASKA

Mr. GUGGENBICKLER. Mr. Chairman, my name is Carl Guggenbickler, Box 795, Wrangell, Alaska. I am down representing the trollers exclusively of Wrangell.

Senator BARTLETT. You came down especially for this?

Mr. GUGGENBICKLER. That's right. And they wish for me to convey their thoughts and intentions in commending you and your actions as far as their livelihood is concerned.

And on this bill S. 3093 I have possibly a few thoughts.

In our organization, the lack of bargaining power—

Senator BARTLETT. What do you mean by your organization, Carl?

Mr. GUGGENBICKLER. Well, to go back, at one time we had one of the finest unions in southeast Alaska, the Alaska Trollers' Union. When we lost the right to bargain for a minimum price, we lost our membership.

Consequently, it hurt in the respect that we lost the rights or the ability—not the rights, but the ability—to take part in political action preferably in the State.

We have no body to work through, and that was one of the thoughts I wished to convey in that respect.

The other is a cheap fish brought against the troll fishery by the so-called net fisheries and their lack of being able to bargain and demand the proper price for their fish.

It has developed in the past 3 or 4 years, possibly a little longer, more so in the last year or two, that the price of fresh fish has become to some of us, due to the lack of fish, our only recourse, our only chance of staying aboard.

In out-of-the-way places where they have no bargaining power and no competition in the buying of the fish, there is a large quantity of cheap fish that will enter in against our fish, consequently dragging the price of our fish down.

And I speak that in this respect: We have quite a co-op within the troll organization. It also buy gillnet fish and seine fish. It handles crab, shrimp—

Senator BARTLETT. You said a co-op?

Mr. GUGGENBICKLER. This is the halibut producers' co-op. It operates from California to Seward. It works on the theory of what the market will bear. That's the way our returns are more or less based from it.

So it is plain to see if we get a group of cheap fish on the market competing with our fish that the prices of our fish are consequently cheaper. Our returns become less than they would be if their fish was in comparable prices to ours.

One little item is Wrangell itself. It is a small cold storage. It does not have what is known as co-op facilities. It is an individual buyer setup with absolutely no competition.

And in that respect I myself have to go out of town in order to get a price for my fish. They will not pay me what a cold storage in other towns is able to pay me or has to pay me in order to get my fish.

Senator BARTLETT. Where do you go?

Mr. GUGGENBICKLER. I have come down here. I sell primarily in Pelican and Petersburg.

Senator BARTLETT. All right. If you go to Pelican, how far do you have to travel?

Mr. GUGGENBICKLER. It depends, Bob, on the area I'm fishing from.

Senator BARTLETT. Let's say you started out from Wrangell.

Mr. GUGGENBICKLER. If I started out from Wrangell, primarily the port would be Petersburg.

And if I was to sell across the dock, they can grant me a better break in either the large or the whites than my home town is willing to give me. The price is possibly a little better, but it's primarily in the break, the fringe benefits in that regard.

There are five grades of salmon, small, medium, large, large red, and large white, and you can understand with the going break in Wrangell at 12 pounds and if I gain 2 pounds on the breaks in Petersburg why I would go to Petersburg.

And if you don't have any organization whereby you can do any dealing, bear any pressure whatsoever, the small type boat who is not able to move is entirely up against the wall as being able to demand or ask for any price other than what the buyer is willing to give him in this particular instance.

However, our co-op does have buyers in all other ports of Alaska—that is, in Southeastern.

Senator BARTLETT. You say all others. You mean all except Wrangell?

Mr. GUGGENBICKLER. All except Wrangell.

That is about the extent of it, Bob. I do not wish to take up any more time.

Senator BARTLETT. You belong to the co-op then?

Mr. GUGGENBICKLER. I belong to the co-op, yes.

Senator BARTLETT. What relationship does that have to a marketing association?

Mr. GUGGENBICKLER. Actually, Bob, there is another man in the hall I would sooner have answer that. I'm not quite too familiar.

Senator BARTLETT. All right. But you think that your position would be improved if this document before us, S. 3093 weren't a piece of paper but were a law?

Mr. GUGGENBICKLER. Absolutely.

Using a common figure, if I was to see that the market could pay me four bits a pound for a size of fish, say a large red, and there was other fish coming on or being produced and put on the market at from 30 to 40 cents a pound, there would have to be a common medium brought about in order to meet that cheap fish.

Consequently, my 50-cent fish would have to drop down in order to meet that.

Senator BARTLETT. I am not going to ask you to give an answer to this unless you care to, because I realize it is a proposition of statistics and I don't suppose you have had your pencil out on this particular subject.

But down in Seattle yesterday some of our witnesses told us that insofar as the housewife who buys a can of salmon, for example, on the shelves of the grocery store is concerned, it doesn't make much difference or no substantial difference what the price of the fish delivered to the cannery, for example, is, that there are so many other factors which enter in that this is—well, I won't say it isn't consequential, but it isn't vital, and that you could raise the price of fish considerably to the fisherman, to the crew member, and at the same time no increase in the price of the can of salmon on the shelf of the store would be reflected.

Then another witness came on and said this isn't so because somewhere between 50 and 70 percent of the total price of the processed product is reflected in the fish delivery price.

Now, I am not going to ask you to comment on that, but if you want to, go to it.

Mr. GUGGENBICKLER. Mr. Chairman, the most I could say in regard to anything is what the housewife is able and willing to pay will set the price of most any food.

If a can of tuna is 40 cents a pound and something else is considerably cheaper and comparable in quality, which is she going to buy?

The same thing applies to salmon. There are many grades of salmon, some of which I wouldn't eat. I don't think others of us would do it.

And there would be something that would be highly to be thought of as quality control. We could all better ourselves on quality control. That has no bearing on this, however.

Senator BARTLETT. What caused the price of salmon to slump this year, in your opinion? I mean after it had been put on the market down south.

Mr. GUGGENBICKLER. Mr. Chairman, that is something for the net fishermen. They could probably answer you very much better than I as a hook-and-line fisherman.

I have got one of the highest prices for my fish this year that I have ever received, but—

Senator BARTLETT. You are kind of talking about quality indirectly?

Mr. GUGGENBICKLER. Amongst all the fishermen, the nets, my own gear as well.

I don't know whether I am helping you any on this.

Senator BARTLETT. I understand what you mean.

Mr. GUGGENBICKLER. Does this box understand what I mean?

Senator BARTLETT. I think so. I think those who read the record will be those who are interested in the general subject and who will comprehend.

Well, thank you, Carl.

Mr. GUGGENBICKLER. You bet, Mr. Bartlett. It's been a pleasure.

Senator BARTLETT. I am particularly glad you came down especially to testify before the committee. We did want to hold a meeting at Wrangell, but time limitations always enter in.

We are going to Petersburg, and the principal reason we are going to Petersburg—not even in Juneau—is because more interest was originally and continually expressed in this subject from Ketchikan and Petersburg than from any other ports in Southeast.

Don Newman.

STATEMENT OF DON NEWMAN, KETCHIKAN, ALASKA

Mr. NEWMAN. My name is Don Newman. My address is 1043 Woodland Avenue, Ketchikan.

I would like to speak on that bill there. I have heard everybody speaking for it, and I am totally against it as an individual fisherman and one who enjoys my independence to go out and fish and bargain my own price.

It is not against the law for an individual to haggle for his own price, and I can't see handing that right over to any union or organized labor.

They have got the whole country tied up except for us as it is now.

And I think I am the only one here today so far that has spoke up against it, and my only reason for being against it is it gives you the incentive to own your own boat and have a boat good enough to pack your fish to town and bargain for a price or co-op them, and that should be plenty for a man if he wants to co-op his fish and get the best possible price.

Senator BARTLETT. Don't be bashful. There are others who are going to oppose this bill before we get through. We know that.

Mr. NEWMAN. There is nothing in the book that says you can't go for the best price by co-oping. They will try for the best price on the market.

And to give it to the unions—that's what it would be if you passed that bill and say we could bargain for fish prices—would be just handing us over to the union, because they haven't quit trying to organize us in 10 or 15 years that I have been fishing.

So I don't know. That's about all I have got on that bill. I am just totally against it for the sake of independence.

Senator BARTLETT. You are a gill-netter, are you not, Don?

Mr. NEWMAN. That's right.

Senator BARTLETT. Well, let's try to get this related to the bill itself. Where do you fish?

Mr. NEWMAN. I fish in small areas a lot in Alaska. I think we have got one-tenth of 1 percent of the net fishing area in Alaska. Strictly a smalltime operation according to—I don't know.

It took gillnet fishing away here when the traps came in. We used to be able to fish all over, but now we are struggling for small areas at a time, and so far we have got just very little area.

Senator BARTLETT. Do you fish near Ketchikan?

Mr. NEWMAN. I fish down from Three Point to the Canadian boundary mostly.

Senator BARTLETT. How many fish with you?

Mr. NEWMAN. Just by myself.

Senator BARTLETT. By yourself?

Mr. NEWMAN. Yes.

Senator BARTLETT. How do you get the price for your fish determined?

Mr. NEWMAN. I get it determined before I go out. I will walk around to these guys, independents, and ask them.

Senator BARTLETT. You can go out and bargain now?

Mr. NEWMAN. I believe I can legally.

Senator BARTLETT. And you could bargain with or without the bill?

Mr. NEWMAN. Yes. As an individual I can.

Senator BARTLETT. Yes.

Mr. NEWMAN. Other crewmembers could bargain with the skippers, and the skipper in turn could go to the cannery.

Senator BARTLETT. Of course, those who are really for the bill say they are done in there. They don't want the skipper to bargain for them. They will do their own bargaining.

Sometimes they don't exactly trust the skipper because they say he is getting a little bonus in which they don't share, and they would rather have a direct contact so they could establish their own fish price.

Now, if I understand you correctly, you are, in effect, telling us you think the crewmember is OK as the situation now is. No. 2, you yourself, in your independent operation, wouldn't be affected by the bill one way or another. Is that right?

Mr. NEWMAN. I think I would be. If the crewmembers went on a strike for a better price, more than the cannery thought they could pay, when I was getting twice as much as that someplace else, I would have to honor a strike because if it was a union they would have the whole waterfront tied up. It would be handing it right over to organized labor is what it would be doing.

Senator BARTLETT. Well, organized labor is to be found in canneries, and whatnot, anyway, is it not?

Mr. NEWMAN. Yes; but not as far as tying it up for the delivery of fish.

Senator BARTLETT. Of course, the fishermen today are restrained on account of the Federal Trade Commission ruling in 1954 from bargaining collectively as to fish price, but nothing is to prevent them from walking off. They can tie her up just as rapidly today as they could with this bill being made a law, could they not?

Mr. NEWMAN. Yes, sure, they could walk off if they didn't like the fish price, or if they wanted to they could go and pay their bills off with a fish and wildlife loan that we have got and fish for the best price, which is always the best bargaining deal.

Senator BARTLETT. What is that again?

Mr. NEWMAN. We have got a fish and wildlife loan here that will pay off any mortgage over 2 years old, and they could go independent, like there are a few seiners independent now and don't have to go for that cannery price.

I think the cannery price this summer was 44 cents on humpies. Mine delivered to town averaged 97.

Senator BARTLETT. Where did you sell yours?

Mr. NEWMAN. I sold them to cold storage in town.

Senator BARTLETT. I think that, of course, is one of the complaints that the crewmembers make, that the skipper will make a deal with the cannery, and oftentimes it will be at a lower price than could be obtained otherwise because maybe the skipper is in debt to the cannery or for whatever reason.

Mr. NEWMAN. Yes.

Senator BARTLETT. Does that appeal to you as being logical?

Mr. NEWMAN. Yes, but by the same token there they could as a crew and employees of the skipper strike against him.

Senator BARTLETT. Oh, yes. They have that right at any time. But—

Mr. NEWMAN. And they can tell him he has to sell to the highest bidder.

Senator BARTLETT. But he doesn't have to though. I mean in the sense that they have no right, no legal right, to go into the negotiations.

But I shouldn't be debating it or discussing it. I hope I'm impartial, and——

Mr. NEWMAN. They have the right to bargain with the skipper.

Senator BARTLETT. Go ahead and explain that.

Mr. NEWMAN. Because there are employer and employee relations there, and they have the right to bargain with the skipper.

Senator BARTLETT. We have been told all during the testimony that they aren't employees and that is the nub of the whole situation here.

Mr. NEWMAN. I am an employee when I go herring fishing in the winter as a crewmember. I get my W-2 form.

Senator BARTLETT. Do you get wages?

Mr. NEWMAN. No, I get a share, but——

Senator BARTLETT. Shares? Well, that is the whole point. The courts have ruled—the Federal Trade Commission has said—that these fishermen aren't employees as is the fellow who works as a clerk in the store, for example, that that employer-employee relationship does not exist.

But, in any case, you inform the committee that your opinion is that the fishermen are better off under existing circumstances and this bill ought not to be passed? Is that right?

Mr. NEWMAN. I am better off. I testify for myself as an individual.

Senator BARTLETT. You have every right to do so.

Mr. NEWMAN. Yes.

Senator BARTLETT. Bill Foster, do you have a question?

Mr. FOSTER. I just will perhaps add a couple of points and questions.

I think that is a good question that you raised as to the bargaining power that fishermen as crew have concerning their relationship with the boatowner. There are certainly those who sincerely believe that under the present law, as muddled as it is, and confusion is one of our problems, that they can bargain regarding working conditions, they can bargain regarding the appropriate shares and what share the boat will get, et cetera, but they cannot bargain regarding the price of the fish.

Now, it was also suggested that there may be instances unknown, of course, to anyone testifying, but there may be instances in which the fishermen were kind of suggesting something or another about the price of fish during the negotiation. But it apparently is as clear as anything is that this is beyond the pale, and the courts have consistently held that they are not to speak of the price of fish. They can talk about working conditions and other things.

But I raise this again only to point out that this is apparently an area of much concern and controversy and discussion and not very clearly spelled out in the law at the present time, partly because of the confusion, different positions that courts have taken from time to time, and the position of the Federal Trade Commission.

I would say one other thing. I have appreciated your comments, and I think it would be helpful for the record to explain the comments you made regarding how this legislation you feel might affect you.

Although in some of your operations you work independent of any crew, still you feel that this might tie up the only avenues that you may have open for the sale of your fish.

I presume that what we are talking about here is that you are afraid that the labor unions when they are negotiating, as they could under

this bill, would have the right to picket and not only withhold their fish from the market but also set up a picket line and that you then would not be able to sell your fish in the same way that you can now or might even be kept from any possibility of selling the fish.

Now, this is the first time that possibility has been raised, and there has been nothing placed in the record so far, I think, that would clarify precisely what authority any organization that would come within the scope of this act would have in terms of its bargaining rights.

It is clear that they can bargain, but precisely how far they can go in the bargaining and whether or not a situation that you described could actually take place has really not been made clear.

Mr. NEWMAN. That is the only thing. It would tie up my outlet for the fish.

Mr. FOSTER. As I understand it, therefore, if the bill did not do that, it wouldn't affect your operation one way or the other?

Mr. NEWMAN. No, it wouldn't. It wouldn't hit me on price.

Mr. FOSTER. It wouldn't help you or hurt you?

Mr. NEWMAN. No, other than just the same organization that gets the crew members, if he has the docks and stuff like that they could ask for a ridiculous price, which they have been doing nowadays. Wages is clean out of hand. A guy can't afford to do anything around this part of the country.

If they did ask a dollar a pound, they couldn't afford to pay it, and they'd tie up the waterfront, and it's likely to.

There is nothing to hold those guys back that would belong to a union like that to throw their sleeping bag on the boat and they've got it made. We guys with the boats have got investments and everything. That is the thing.

There is nothing lost if they strike; they don't fish. They lose a month's work maybe. I lose my season, because that's my livelihood.

I haven't landed a job in this town for 10 years, just been fishing.

Senator BARTLETT. What kind of boat do you have?

Mr. NEWMAN. Gillnetter.

Senator BARTLETT. How big?

Mr. NEWMAN. Thirty-eight feet.

Senator BARTLETT. Go ahead.

Mr. NEWMAN. That's all I have.

Senator BARTLETT. All right, Don. Fine. Thank you.

Harold Gudbranson.

STATEMENT OF HAROLD GUDBRANSON, KETCHIKAN, ALASKA

Mr. GUDBRANSON. My name is Harold Gudbranson. My address is Box 1536, Ketchikan.

I am the agent of the Alaska Fishermen's Union in Ketchikan, and today I am also speaking for the Seafarers International Union of North America.

I am speaking favorably for Senate bill 3093.

We believe that the fishermen in the United States are entitled to all the rights and privileges of all the other wageearners in the United States.

Specifically, we believe that the fishermen have the right to negotiate for wages or price of fish, as it would be in this case, and other condi-

tions, that they should have a right to join any organization of their own choosing and have that organization bargain for them.

We also believe that if this Senate bill 3093 is favorably acted on by the Senate the things that we desire will be accomplished.

Senator BARTLETT. And the House. Don't forget the House. They have to act too.

Mr. GUDBRANSON. Yes. I was going to mention those companion bills in the House. Thank you for reminding me.

The Alaska Fishermen's Union and the Seafarers International have worked and are working and will continue to work for the passage of this legislation which will bring the fishermen out from under the restrictions that were imposed upon them under the Federal Trade Commission in 1954.

And that, Mr. Chairman, is the extent of my statement.

Senator BARTLETT. Is the Alaska Fishermen's Union affiliated with AFL-CIO?

Mr. GUDBRANSON. Yes, the Seafarers International is an affiliate of the AFL-CIO.

Senator BARTLETT. Now, Don Newman said he had a fear that if the bill passed the unions would have an absolute control and this might be detrimental to the fishermen. And I think he had every right to express that belief, and I am glad he came up here to say so, even if he is in a minority.

What is your opinion about that?

Mr. GUDBRANSON. I certainly believe with you, Senator, that he had every right to express that opinion. I do not believe that that would be the case in the event that this bill were to pass and the other conditions were to come about as we have stated.

It is merely a fear on his part that the unions or whatever organization represents the fishermen will demand such a high price for fish that they won't be able to operate and it will cause the cessation of fisheries which will cause lack of market for his product.

Now, Don, is fishing for the fresh fish market, which is considerably different from the cannery market in the price of fish, of course.

And also there is the fact that if the seiners, for instance, were to demand an exorbitantly high price and the canneries were to refuse to operate, I don't see that there is necessarily any reason to believe that the fresh fish operator should not continue to operate.

Senator BARTLETT. You don't think that they would price themselves out of the market?

Mr. GUDBRANSON. I don't think so.

Senator BARTLETT. How long prior to 1954 did crewmembers enjoy the right to bargain collectively?

Mr. GUDBRANSON. To my knowledge they have had that privilege for a long time. I wasn't connected with the fishing in that sense before 1951 so I can't answer your question specifically.

Senator BARTLETT. Well, we know, of course, that there was a grant of immunity or some such during the war and that subsequently the Justice Department in a written statement said:

We don't know whether such bargaining would constitute a violation of the antitrust laws or not, but go ahead for the time being at least, and we don't think you will get in any trouble—

which was a clear signal that they could proceed with this type of bargaining.

Then, as you related, in 1954 the Federal Trade Commission said otherwise.

I should like to ask if you know by reason of personal experience whether any of the adverse situations which opponents of the bill at this time now fear might take place actually did take place during the many years that this bargaining right was vested in crewmembers.

Mr. GUDBRANSON. I'm sorry, Senator, I can't answer that question, because I was not connected with the fisheries at that time.

Senator BARTLETT. All right. I will continue to put the question to those who may have been here at that time.

How long have you been in Ketchikan?

Mr. GUDBRANSON. I came here 2 years ago.

Senator BARTLETT. From where?

Mr. GUDBRANSON. From Bellingham, Wash.

Senator BARTLETT. And is my understanding correct you represent the Alaska Fishermen's Union here?

Mr. GUDBRANSON. That's correct.

Senator BARTLETT. Who was your predecessor in that position?

Mr. GUDBRANSON. Oscar Ericksen.

Senator BARTLETT. And you don't represent Seafarers but are only speaking for them?

Mr. GUDBRANSON. That's correct. Only on this occasion am I speaking for the Seafarers.

Senator BARTLETT. Mr. Johansen, George Johansen, secretary-treasurer of the Alaska Fishermen's Union, and John Hawk, of Seafarers, testified for the bill in Seattle yesterday.

Mr. GUDBRANSON. Yes.

Senator BARTLETT. Thank you very much.

Mr. GUDBRANSON. Thank you.

Senator BARTLETT. Robert Cogo.

STATEMENT OF ROBERT COGO, CRAIG, ALASKA

Mr. Cogo. Mr. Chairman, my name is Robert Cogo. My address is Box 525, Craig, Alaska.

I don't see anybody from the west coast here so—

Senator BARTLETT. You are. You are an adequate spokesman, Bob.

Mr. Cogo. I don't exactly represent any group. I didn't know that this hearing was to take place, and I just found out the other day while I was over here, although I am the chairman of the local Craig Community Association which is an IRA setup from the Federal Government.

Senator BARTLETT. You had better explain what IRA is, because if this were an Interior Committee of either the House or Senate everyone would understand, but Commerce, no.

Mr. Cogo. It is the organization federally incorporated under the Indian Reorganization Act.

Senator BARTLETT. The so-called Wheeler-Howard Act?

Mr. Cogo. Yes. And they have canneries in Hydaburg, Kake, and Klawock.

I am also an official of the local A and B at Craig. But, as I say, I didn't come over here to represent anybody.

Just to supplement my income I have a small business over there, a confectionery store, which largely depends on the earnings of the fishing population. And in season, to supplement my income, I go out on the boat. I cook and do my work on deck. That's purse seine boats.

I was also the local agent over there for the old union setup, up to the year they outlawed us and said we couldn't bargain collectively for fish prices.

Senator BARTLETT. What was the name of that union?

Mr. Cogo. International Fishermen and Allied Workers, I believe it was, of America. It was set up under the CIO.

And at one phase of it, union organizations were under the Seafarers International. I don't remember. It's so far back, probably 20 years or more.

But up to that time I think when the Blue Eagle came into effect we had no fish price out there on the west coast. They gave us anything they wanted to. So the boys said, "We're going over to Ketchikan, because they are more organized over there. They are getting 8 cents for their pinks, and we are getting only $3\frac{1}{2}$ cents out there."

Now, when the Blue Eagle came into effect, the superintendents told us, "We don't have to give you this, but we are going to give it to you." So they raised our price to $6\frac{1}{4}$ cents or something like that.

That was the first time we ever got a raise out on the coast, on the west coast of Prince Wales Island.

And that gave us the idea of organizing. And when the union men came in, we organized with them, in trying to set up a fish price.

We had our ups and downs. We weren't perfect. We had our battles. We were tied up for weeks and months at a time. We lost all our preseason work trying to get a fish price.

But finally when we could see that we were getting organized in some respects, we were getting out a working agreement of our own, how we should behave and how we should act toward the boatowners, stuff like that, they outlawed us, so we have been without any bargaining rights whatsoever.

Now, I think this bill here is a good thing as far as bargaining. The ordinary crewmen on a boat—there are from an average five to six, in some cases eight pullers, seine boat pullers on each boat—have no way of asking for what they think they should get in return for their fishing.

And when they outlawed the unions, they told us, "You folks go to your skipper. Tell him what you want. And he in turn will go to the company superintendent and tell him what he wants."

But that has never worked out.

Now, I have been on the boat for a good many years. I have been out there purse seining. I have been out on boats where they used oars. When I was a kid I was a plunger man. That is how I started out. And I followed this fishing off the coast there.

We fish inside the 3-mile limit off the coast for our living. It's tough. But we get good returns when we get good fish, prime fish that comes in from the Pacific Ocean. And we have no way of asking for a good price for a good fish.

You might say that we bring in fresh fish right from the ocean.

So I think that this bill is a good thing, that if the fisherman sees his way to organize, well, I think it would be better for the boatowners and better for the fishermen as a whole. Then he can rely on any working agreement that he might have in the line of behavior of the boat crews. They wouldn't be running off when they want to or don't show up for work and stuff like that. He would be fined or be put ashore.

Now, in the past few years when the unions were outlawed, I think they set up a price of 42 cents and said, "That's where we are going to start, and we will give you a scale. If your fish runs, say, 15 to a case, you will get so much more, a cent more or something like that. And if it comes down to say 14 fish to a case, you will get another cent." And so on.

So that actually the fish price between the Ketchikan district here and the west coast is different all the time. It may vary 3 or 4 cents to the fish.

Actually, I saw a scale out there where we were getting 45 cents for our fish during the same 2-week period they were getting 49 cents over here.

So there is nothing uniform in the fish price.

Last year our pink salmon ran about 12 to a case. They were exceptionally large, large fish. So everybody was happy. We were going to get the limit. We were going to get this scale, and they pegged it at 50 cents.

Now, we could have probably got way over 60 cents with our fish and be done with it on a scale like that, but they wouldn't give it to us.

What happens? Around Christmas everybody is getting bonus checks, fine bonus checks. The boat pullers I figure lost from \$500 to \$800 to \$1,000 a share.

Senator BARTLETT. I don't follow you. You said around Christmas everyone was getting bonus checks?

Mr. Cogo. That is the boatowner.

Senator BARTLETT. The boatowners?

Mr. Cogo. And the captains that are running the company boats. He gets a share and a half. And based on this percentage he gets a share and a half bonus.

Now, the boatowner gets probably two or four shares of bonus money.

Now, I have got a son-in-law that just got a seine, using a company boat, and he has got a power block and I think a powerskiff. And a pretty good bonus comes to him.

My other son-in-law is skipper on a company boat, and he has got his bonus on a share and a half based on the catch.

Now, I think that a group of men that agrees to go with the skipper—he in turn is hired by the company to run a boat or take his fish, say, on a private boat that goes out—should all be treated alike.

Where they pegged the fish at 50 cents on the large fish, as it was a year ago, when they were running 12 to a case, the boat pullers got that 50 cents and no more. Now, they could have paid us over 60 cents for our fish easy and we would all be paid off and be satisfied if we could have bargained for that. But we can't do that

Now, they can do anything they want with us.

I have got a statement here that doesn't show anything, just how much. It doesn't say if I got a thousand pinks or two red salmon. And I have got 2 years' statements to show for it. Not one thing is written down.

Senator BARTLETT. Do you mind if I look at one of those?

Mr. Cogo. All right.

I wrote to Seattle 2 weeks ago asking for a copy, a breakdown, of all the fish we caught and what we got paid for them, and I never got an answer.

Now, that is the kind of thing we are up against.

If a boat puller is given the right to bargain and if he wants to join an association of his choice, or whatever unions come in, or associations, marketing associations, I think he should have the right to stand up and ask for what they want collectively.

Let's do away with all this bonusing that comes in after the season is over. Because we feel that's our money. We can't get our hands on it because the company says, "We're giving it to the boatowners because we have to help them pay their bills."

Senator BARTLETT. Go ahead.

Mr. Cogo. I think that's about all.

Senator BARTLETT. Bob, you said you thought that the boatowners would be better off with this bill passed. Why?

Mr. Cogo. Well, I think they would be able to draw on a better crew if they did go to an association or a union hall where they could hire men, and they in turn would have a working agreement.

Now, a lot of times the crews start quitting about a week ahead of time just to keep from washing the gear down, cleaning the boat and putting the stuff away. They get away when there is a good chance to get away and don't have to do that work.

They don't show up for Sunday repair work, stuff like that.

There is no way to control these men. But if you had an organization where you would have it written down that if he is not there or this and that, and all the agreement there, I think the boatowners would be better off, and the crews. They could hire better crews.

Senator BARTLETT. Do you have a co-op or a marketing association over there?

Mr. Cogo. No. The closest we have is a cannery there in Klawok, in Hyaburg. But our association——

Senator BARTLETT. Well, that isn't a co-op. It's an IRA co-op, but it doesn't bargain for fish prices; does it?

Mr. Cogo. No; and they don't bargain for fish prices, although the members that signed up with that particular association like there in Klawok get a bonus on the pack, on some of the profit. Everybody gets something.

But they didn't know what to do with the boat crews. So that is the big question now. What shall we do with the boat crews? And nobody seems to know.

Senator BARTLETT. Well, obviously you believe the crew members are receiving too little now. You have been telling the committee that. Now, do you have a fear that if they have a right to bargain together that they might price themselves out of the market, that they might ask for too much?

Mr. Cogo. I don't think so. I think the way they started here on the old union system was they set a minimum price, and from there on they can go up, and if your fish is running large give them a few more cents. But I don't think it would be out of line.

I think that was the big trouble from the year before where our fish ran big and we didn't get enough, and consequently the bonuses were big.

Senator BARTLETT. Thank you, Bob.

Mr. Foster?

Mr. Cogo. I want to add this. I hear them talking about this extension of lines for fishing and stuff like that. I live out there where the herring spawn. That is one of the spawning areas on the west coast of Prince Wales Island at Craig.

Every year during the month of March there is just a great amount, tons and tons of herring that come in there to spawn.

Now, a few years ago this Amos Berg—he is a photographer and writer for the National Geographic Society—flew out, and he was watching it, and he was watching the operations of the natives gathering herring eggs, stuff like that, taking pictures.

And finally he flew in off the coast, and he said for 13 or 14 miles there was just a solid mass of that fish coming in off the coast.

Who is to prevent these people from taking those fish when they come in like that if they spot them from the air?

He called that a phenomenon of nature, herring coming in off the coast. They are coming in over the Continental Shelf, and there is nothing to prevent these foreign trollers from coming in to take that fish if they are outside the 3-mile limit.

And I think that the time is coming when they are going to do that. I just kind of have that fear.

Something like that happened in Kodiak there where the fish come up out of the deep into the shallower bases, even though it is quite a few miles off the coast yet. And they can see that from the air.

And in this one instance this Amos Berg said there was a 14-mile stretch of solid mass of herring coming in off the coast. They flew over watching it, and they called that the phenomenon of nature. That was in the local papers at the time.

Senator BARTLETT. He's right.

Mr. Cogo. So that's all I have, Mr. Chairman. Thank you.

Senator BARTLETT. Bill?

Mr. FOSTER. Just this question: Under the bill, what would you expect that the position of the boatowner would be in negotiating the price of fish?

Mr. Cogo. Well, I don't know what relation, unless he is put in the category of the crew itself.

You see, in the cannery case, where the boat is owned by the cannery, they put a man on there to run that boat, and he gets a share and a half. He gets another half share where the crew doesn't get that.

But a private boat, I suppose, his share would run the same. I suppose that would be his share.

Mr. FOSTER. Good. I am just trying to get the picture of the situation.

You have got, say, a man with his own boat and his crew, and they have certain differences, of course. But one thing they both have in common, it would seem, is an interest in getting as much as they can for the fish, and so in that instance you would like for them to be working together.

Now, they then are sitting there on the boat in a room getting ready to negotiate on the price of the fish, and you have got the captain and the crew. Are they going to discuss the thing out as each one roughly representing one share or something like that and take a vote on it, or is it expected that the union would include most vessel owners, or is it more likely that the crew would get organized in a union and actually they would do the direct bargaining on the price of the fish themselves?

I raise these questions with you because in your earlier testimony you said that you had had these problems presented at an earlier time when you were able to do this, that you recognized that there were certain problems, that you had reached a point at which you had established your relationship with the boatowner, and you seemed to be on a level keel in solving some of these problems.

I thought maybe you could help the committee by discussing some of them and your experience with them.

Mr. Cogo. I believe that on the British Columbia coast there we have purse seiners something like ours there, and they are pretty well organized. They bargain for their fish. And sometimes they will set a fish price, from what I understand, by a working agreement, a year or so ahead of time. It runs probably 2 years, with certain stipulations on probably the price of fish.

I have talked to a boat puller from over there here this summer, and he told me that, "You folks got nothing over here." He says, "You don't know what you folks are getting for your fish. I asked the skipper. He doesn't know. Over on the Canadian side," he says, "we are organized. We know within reason what we are going to get for it. We have a working agreement with the skipper, and he in turn gets the benefit of a better organized crew."

I think it is that way all around. If things are put down on paper where the boatowner is satisfied, and the crew, that's the main thing. But the way it is going now I can't see. There is a lot of trouble over this bonus money. Out on the coast there have been fist fights over it.

I know one boat skipper, because he is my son-in-law, has been passing out money of his own share just to hold a couple of keymen on his boat. They told him, "If you don't give us some of that money we are not going to fish with you next summer."

That's the thing you're up against.

Senator BARTLETT. Were you born on the west coast, Bob?

Mr. COGO. I was born in Klinkwan, Alaska, Old Hyda Village.

Senator BARTLETT. Where is that?

Mr. Cogo. That is close to old Hunter Bay cannery there. That's about 15 miles above the boundary line there from Cape Shacon, Cordova Bay. We moved from there in 1910 when they consolidated Howkan and Klinkwan Village, and my father took up a job there in Craig, and we have been there ever since.

Senator BARTLETT. Since what year?

Mr. Cogo. 1910. Hydaburg was established in 1911 where they took the people from Klinkwan and Howkan and merged the two towns into one town at Hydaburg. Some families moved down to Craig.

Senator BARTLETT. You have been around awhile.

Mr. Cogo. Yes.

Senator BARTLETT. Thank you, Bob.

Mr. Gilmore.

STATEMENT OF HAROLD GILMORE, VICE PRESIDENT, ALASKA TROLLERS ASSOCIATION

Mr. GILMORE. Senator Bartlett, I am Harold Gilmore. I am vice president of the Alaska Trollers Association. Our address is box 696.

I just want to make it short. I just want to say that we are on record as supporting your bill. That's about all I have to say really.

Well, we have never discussed in our meetings this 12-mile limit, but that probably will come up sometime, and I think I could say we would be in favor of anything we can work out that way.

Senator BARTLETT. Do you see any dangers in this bill to anyone?

Mr. GILMORE. No, I don't see any danger to anyone.

After hearing Don Newman's objection to it, I might possibly say just privately I could see that, well, judging from the past, there could be sometimes a tie-up or something that way that would affect a man in private bargaining. But I see nothing under present conditions.

Senator BARTLETT. So you are for it?

Mr. GILMORE. Well, I will say we are for it, yes.

Senator BARTLETT. Right.

Mr. GILMORE. Our organization is on record.

Senator BARTLETT. Thank you, Harold. Your viewpoint certainly will be considered.

Walter Pihlman.

STATEMENT OF WALTER PIHLMAN, SOUTH POINT, HIGGINS, ALASKA

Mr. PIHLMAN. I would like to say something. My name is Walter Pihlman.

Senator BARTLETT. What is your address.

Mr. PIHLMAN. I live at South Point, Higgins. That is 14 miles north of Ketchikan.

Senator BARTLETT. What is the mailing address?

Mr. PIHLMAN. Well, that is my residence. My mailing address is box 778, Ward Cove.

I don't know whether to speak as an individual. I hold office in a local union. I haven't been expressly authorized to speak for the union, but I am sure that the union, had we had time to hold a meeting this summer, would have authorized me.

So I will say that whatever I say I am sure will have the backing of the union I represent.

I am the vice president of Unit 5, Local 61, ILWU, which is composed of boat pullers.

I myself am a troller and have been for the last 12 years. I own my own boat.

You may wonder why I hold office in a union that is composed of boat pullers. This Unit 5 originally was what is known as Local 30, ILWU, and prior to that it was Local 30, International Fishermen and Allied Workers of America, CIO.

I know a little bit about the history of the local union fishing situation.

I didn't intend to go back into the past history of our unions. First of all, I wanted to testify on the bill. I want to say that the issue as far as I am concerned is a moral issue, whether a part of our population, part of our working population, is going to be denied the rights that are given, you might say, so freely to the majority of our people.

I think of the farmers, for instance. Not that I am against subsidies or help to any group of people. But I think of the farmers and our Government working hand in hand with the farmers to keep the price of the products high.

And the antitrust laws were instituted with the idea of protecting the consumer.

So it makes me wonder where does the consumer fit in when my Government, which prohibits me from making my conditions better, my segment of the industry, will help another segment of the U.S. industry to better their condition at the expense of the consumer. That is my interpretation.

And I also think of conditions, and I am sure they exist, where carriers such as airlines are prohibited from lowering their fares.

And it seems to me in cases like this the consumer is never protected.

My understanding of the antitrust laws is that the reason they were passed was to protect the consumer. I want to be corrected if I am wrong on that.

A conspiracy, say, would exist if we signed a contract with the canneries to establish fish prices. A conspiracy would exist at the expense of the consumer. Is that interpretation right?

Senator BARTLETT. Your interpretation is correct, in part. It is broader than that, but that certainly is a segment of it.

Mr. PIHLMAN. Yes, I understand that.

As I say, I am in favor of the bill. I am sorry I didn't hear all the testimony. I came in while Don Newman was testifying. And I would want to touch on that a little bit—not on his testimony. I don't want to take exception to Don Newman's testimony. But being in trade union work, as I have, and tied up with all the union work, the organizing that goes with unions, I have more than once run across this type of opposition.

I recall last year there was opposition to this bill from fishermen, and I assume they were boatowners, I think in the Petersburg area.

It seems to me that generally that opposition, while it may be honest, is selfish in origin. There is no other way to put it.

A man that owns his own boat naturally is afraid that he is going to be stopped from fishing in a real good productive year. I suppose it's natural.

Myself, I am a troller. I belong to the boat pullers' union. And yet if, say, the boat pullers should decide to go on strike and tie the thing up, no one would ever have to force me to not sell my fish. I would be glad to stop and give the boys a hand.

I don't know. It's farfetched at this time to say that if a bill such as this or an amendment was passed that such and such things would happen, that there would be strikes. I think that is a groundless fear.

And, furthermore, I don't think that anyone is going to move in and organize just like that overnight.

From my experience, I found that any group of workers, whether fishermen or industrial workers, when the need is great enough, will organize themselves. No one will have to come in.

And this fear that has been brought forth, that has been used time and time again in Alaska, that outside unions would come in and dominate and call strikes and disrupt our economy is just so much hogwash, so much propaganda.

I believe that any group of fishermen that had the right to bargain for fish prices and other conditions—well, I believe there are laws in our land that restrain from any action that isn't legal. And if any action they might take is legal, well, what of it? They have a perfect right. So has every other citizen in the United States that is organized.

So I think a question like that is irrelevant to the issue. I don't think it's important enough.

I have no other testimony. I am just kind of off the cuff. I wasn't really prepared.

Senator BARTLETT. Walt, let me present what might perhaps be the attitude of the boatowner in this, a boatowner who would be opposed to it, who might say, "These fellows want the best of both worlds. They want to have a share arrangement. They don't want to be on wages. They want to participate in the profits we all hope to make if we have a good season. And at the same time they want to be employees for the purpose of negotiating fish prices.

"And so here I am, having made this considerable investment in a boat, and I'm the guy who has to pay the mortgage and who has to pay the interest and who will be hard put to it in case fishing is bad and I have to turn the back or the bank grabs it. Yet these fellows who are sharing with me in the profits on an agreed basis want to move from that area into the other one at the same time and have both, and I don't think that's fair."

The boatowner might say that. What is your reply to that?

Mr. PIHLMAN. Well, in the first place, we should look at the condition as it exists today. I don't believe you will find very many seine boatowners that will admit to owning their own boat. I think they are boatowners without title to their boats. There are not very many. I wouldn't be able to say that the percentage is.

Senator BARTLETT. Just so we can nail this down, what do you mean? That they never will own their boats? Or at this time the boats are heavily mortgaged?

Mr. PIHLMAN. At this time they are heavily mortgaged and that the boatowner can only benefit by the action of his crew.

If his crew is able to negotiate better fish prices and better conditions, the boatowner or the boat skipper can only benefit. I don't see how he can be injured.

Senator BARTLETT. Well, he might be one of these independent old birds who says, "I've got the money in here, or at least I've got the mortgage, and I know more about what price that I can get than a bunch of guys in the crew."

And some people here have said that they aren't the best crew members anyway because they won't be under these circumstances. "And why should I let them take over my business?"

Mr. PIHLMAN. Well, that is true, but we are not talking about the crew taking over the skipper's business. We are talking about negotiating for a fish price that is fair.

Senator BARTLETT. But, again, let me be the advocate of the owner, who would say, "By my work, by my energy, by my superiority if you please over these guys, I have acquired this boat, whether I have legal title to it or not, and I'm better situated to get a decent price for all of us than these lousy crewmembers who quit me a week before the season ends and who won't do anything on Sunday. Why should they have any right to negotiate here? I'm the responsible party."

Take a whack at that one.

Mr. PIHLMAN. There might be a few skippers that feel that way. But I don't think that you're going to find that combination. I think you're not going to find a lousy crew, a crew that is that lousy.

We were talking about stability in the fishing industry. That was one prime reason for organizing, to set up working rules. There is a contract now, a working rule contract. It is very crude, and it is limited. It is between the boatowners and the boatpullers. The boatpullers have already signed and agreed to certain conditions. And these conditions would never give any boatowner any cause for complaint.

They specify that boatpullers shall do so much work on the seine. He shall do this and that. If he doesn't show up, he shall be fired. If he is drunk, he shall be fired.

Senator BARTLETT. That seems kind of unfair.

Mr. PIHLMAN. Well, it all depends who gets drunk I suppose.

But along that line, I know that there is some opposition from boatowners. I suppose it's natural. But I feel that a bill of this type is absolutely necessary.

Senator BARTLETT. Walter, is there a marketing association here or co-op that would be comparable?

Mr. PIHLMAN. Well, the trollers have a marketing association.

Senator BARTLETT. Do you belong to it?

Mr. PIHLMAN. For fresh fish. No, I don't.

Senator BARTLETT. And they negotiate? I mean the association negotiates for fish prices?

Mr. PIHLMAN. I don't know. Harold Gilmore and Bo Smith—I think it's a brain child of Bo Smith's.

Senator BARTLETT. He is going to testify after a while.

Mr. PIHLMAN. So you had better save it for him.

Senator BARTLETT. I will save it for him.

Mr. PIHLMAN. And there are several co-ops in this town. Well, there is a halibut producers' co-op, but in addition to that I think Phillips sells fish on his own, on a commission basis. But as far as I know, there is no negotiating except under the table.

Senator BARTLETT. How long have you been here?

Mr. PIHLMAN. In Ketchikan?

Senator BARTLETT. Yes.

Mr. PIHLMAN. Since 1940.

Senator BARTLETT. Can you make any contribution to this question which keeps popping up in my mind? I think if we could go back to the past, prior to 1954, and get some factual account of what the situation was then, whether the crewmembers took advantage of the boatowners, how they behaved themselves, whether the relationships between the skipper and the crewmen were good, whether this worked out to the glory and benefit of both parties, namely, the skipper and the crewmen, without hurting the consumer, I think if we got some answers to those and associated questions we would be in a better position to judge whether we ought to reinstate that situation.

Mr. PIHLMAN. Well, Senator, I will tell you how good that relationship was.

Even the individual fishtrap owner was all for it. Because every time the seiners got an increase in the price of fish, the fishtrap owners got an increase.

In fact, Perry Jenkins, one of the oldtimers, said, "The organized seiners are the best friends we have got, because when they negotiate a bigger price for the humpies we get it automatically from the cannery."

And there was a very good relationship with the boatowners or the boat skippers. I'll call them boat skippers. And I'm sure that at that time most of them did not own their boats, and they were running the boats for the canner or they had mortgages on them.

Senator BARTLETT. And they never priced themselves out of the market?

Mr. PIHLMAN. I seined when I was here in the early 1940's. When I first started to seine, humpies were 18 cents apiece. The organization that existed here was stagnated. But in the late 1940's it began to negotiate. They probably had negotiated fish prices in the past. I don't know.

But there was a working agreement or a contract with the Alaska salmon industry which was renewed every year, but it wasn't until the late 1940's that we began to ask for higher fish prices, and every year we increased the price of fish.

We negotiated, signed a contract with the industry. And if I remember right, we brought the price of fish up to 44 cents up to the time that the Justice Department moved against the local and issued an injunction. And since then the fish prices have remained about the same.

Senator BARTLETT. Do you think, Walt, that increase in the price of fish for the fishermen tended to price the product out of the market?

Mr. PIHLMAN. I am glad you asked that. I was going to say something about that right from the beginning.

I don't think that negotiating fish prices has a thing to do with what the product sells for. I don't think that is true of most products.

Senator BARTLETT. Why?

Mr. PIHLMAN. I don't believe that the fishermen have any direct control of what the processor is going to ask for that fish. Those are factors that are beyond the control of the fisherman.

He is primarily interested in, first of all, getting enough to make his expenses, feed his family, and experience has shown that that is just about all he is able to do.

Senator BARTLETT. Well, is it or is it not true that the processor is going to have to charge more at some point if he is required to pay more for the raw product?

Mr. PIHLMAN. Well, no, that is not true either. The processor is probably getting too big a share of the dollar. He will just have to take a little less of it.

Senator BARTLETT. He is highly competitive with tuna, with other fish, and with meat. He has to keep the price competitive, does he not, if he is going to be able to sell?

Mr. PIHLMAN. I agree with you there.

Senator BARTLETT. Bill?

Mr. FOSTER. No questions.

Senator BARTLETT. Anything more, Walt?

Mr. PIHLMAN. No, I can't think of anything now. If I do, I would like to have a chance to say something.

Senator BARTLETT. Write it out, send it in to Bill Foster, and in she goes.

Mr. PIHLMAN. All right. Thank you.

Senator BARTLETT. Thank you.

Now, we have two remaining witnesses according to this list, Senator Smith and George Anderson.

Is there anyone else who wants to be heard first?

(No response.)

George Anderson.

STATEMENT OF GEORGE ANDERSON, RESIDENT INTERNATIONAL REPRESENTATIVE, INTERNATIONAL LONGSHOREMEN & WAREHOUSEMEN'S UNION

Mr. ANDERSON. My name is George Anderson. My address is 728 Water Street, Ketchikan.

I am resident international representative for the International Longshoremen and Warehousemen's Union.

We are speaking in favor of the bill because we believe that this is the only way that the fisherman is going to have some say in procuring his livelihood.

At the present time we have some 220 fishermen in our organization. They include so-called boatowners as well as boat pullers.

Senator BARTLETT. You are speaking about the organization in its entirety throughout Alaska?

Mr. ANDERSON. No, I am speaking about the organization as far as Ketchikan area is concerned.

Senator BARTLETT. Right. Boatowners too?

Mr. ANDERSON. Yes. And the people that belong to our organization that are so-called boatowners are highly in favor of the bill, and so are the boat pullers.

I believe from past history that the boatowners, boat skippers belong to the union as well as the boat pullers.

This is a highly effective organization, and I don't think it did anything as far as restricting commerce or trade or anything of that sort.

It is true that they had their ups and downs, but in my experience in unionism I find as the labor unions grow up and the industry grows up and we stabilize it that we find that we no longer have the strikes that we used to have.

In the longshore industry we haven't had a strike in the longshore industry on the west coast since 1948.

In local cold-storage unions—we represent the cold-storage workers—we haven't had a strike since 1952.

Senator BARTLETT. They belong to the ILWU also?

Mr. ANDERSON. They belong to the ILWU. We have got good conditions for them. We try to take a fair share, or our share, of the dollar that comes out of it, and we don't think that the people have been priced out of the business.

That is about all I have to say.

Senator BARTLETT. Does that conclude your statement?

Mr. ANDERSON. Yes.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. No questions.

Senator BARTLETT. George, what disadvantages, in your opinion, do the crewmen suffer from now?

Mr. ANDERSON. The disadvantages are they get no settlement slips to any great extent. They don't know what they are fishing for. They don't know how many fish they have sold. There's no way of demanding that.

We put several cases within our local labor department trying to get something done, and they can't even do anything about it.

Senator BARTLETT. How does this work mechanically? Now, the skipper presumably negotiates with the buyer for the price, although I believe one witness said here today that maybe he just takes a chance and goes out and catches the fish and sells them at the price offered.

But is there any conversation between the crewmen and the skipper relating to prices as a customary thing?

Mr. ANDERSON. No; there is not.

Senator BARTLETT. You mean the crewmen simply depend, without talking with him, upon the skipper to get the best price he can, and then they take their chances based on that?

Mr. ANDERSON. Well, even the skipper doesn't have much say-so in his price of fish as far as purse seiners are concerned and the salmon industry.

The salmon industry poses a price on a sliding scale, that if so many fish make a case of salmon they get such-and-such a price for certain species.

Senator BARTLETT. So skippers and fishermen alike are confronted with an established price, and in no case or in few cases, you tell us, is there any negotiation, any bargaining?

Mr. ANDERSON. At the present time, no.

Senator BARTLETT. Thank you, George.

Mr. ANDERSON. Senator Bartlett, there is one more thing that I would like to speak on.

I recently returned from Europe from inspecting and talking with the fishing industry over there. And the fishing industry over there is about a hundred years ahead of the American fishing industry.

Senator BARTLETT. How and why?

Mr. ANDERSON. Modern gear, modern fish plants, modern processing methods, and also because of the fact that either the Government subsidized the boatowner or they subsidized the fishermen directly.

Senator BARTLETT. In what way is the fisherman directly subsidized?

Mr. ANDERSON. Well, in England, for instance, the Government sets a price for fish, and the fish come into the market. The fish buyer pays less than that price. Then the Government in turn pays the fisherman directly for a day's wages.

Senator BARTLETT. Here there would be a scream or two uttered if that were attempted.

Mr. ANDERSON. Oh, there would be a great scream uttered.

Senator BARTLETT. I should think the buyer would always try to go way down, then, knowing the Government would take up the slack.

Mr. ANDERSON. Well, I think it has a certain tendency toward that way.

Of course, from what I observed over there, they bid more on the quality of fish than the buyers do in this country, what little bit of bidding that there is done.

Senator BARTLETT. How about their vessels? Are they more modern than ours?

Mr. ANDERSON. Yes, sir.

Senator BARTLETT. Go ahead. I interrupted you.

Mr. ANDERSON. They have fleets over there that would run ours to shame. And they have conditions over there in all the fishhouses where there is room for the men to change their clothes. They go to work like a white man, and they change into their fishing clothes, and they go out on their boats. When they come in from the fishing grounds, they go in and take a shower and put their fishing clothes away and dress up and go home.

Senator BARTLETT. Did you have any opportunity to find out how the fisherman in England, for example, gets his pay?

Mr. ANDERSON. He gets his pay through the companies over there, and, as I say, if the company that bought his fish didn't get the market price that was set by the Government, then the Government in turn would give the money so that he would be paid his subsidy.

Senator BARTLETT. Is he an employee?

Mr. ANDERSON. He is an employee.

Senator BARTLETT. So much per day or per week or whatever?

Mr. ANDERSON. Yes. They have a minimum per day.

Senator BARTLETT. And how much of the European system or what parts of it would you recommend we adopt to make ourselves competitive?

Mr. ANDERSON. Well, I think that in certain types of fisheries that certainly I don't see where any individual American fisherman could buy a vessel that would cost between \$500,000 and \$1 million.

Senator BARTLETT. They have some of those over there?

Mr. ANDERSON. Yes. And I think that there are some being built on the east coast, and they are a 100-foot vessel for trawling, and the price quoted to me by commercial fisheries was in the neighborhood of \$400,000 for it, and if we are to establish that kind of fishery here in Alaska I would see no way that we could establish it with individual fishermen or even within the industry unless there was some type of subsidy for it.

Senator BARTLETT. The Government would have to go into it?

Mr. ANDERSON. I believe so.

Senator BARTLETT. Is there any Government program now that would accomplish this?

Mr. ANDERSON. No Government program now, unless the bill was amended to include Pacific Ocean bottom fish along with the Atlantic Ocean bottom fish.

Senator BARTLETT. That construction subsidy bill?

Mr. ANDERSON. The construction subsidy bill.

Senator BARTLETT. Do you have anything further?

Mr. ANDERSON. Nothing further.

Mr. FOSTER. I would like to ask a couple of questions if I may.

No. 1, has any thought been given by your organization as to whether or not you would be in support of an amendment to that bill which would include the Pacific coast on a construction subsidy?

Mr. ANDERSON. Yes, sir.

Mr. FOSTER. What would your position be on that matter?

Mr. ANDERSON. Our position is to support it.

Mr. FOSTER. Has your organization ever given any attention to the possibility of working out some subsidy approach on the price of fish as the United Kingdom does and other European nations?

Mr. ANDERSON. We haven't got that far along in our studies as yet. We know it is very controversial within the United States.

We feel that something should be done about it. We just don't know how to approach it.

Our international office is researching the matter, and I think that when the subsidy bill comes up they will present a paper on it.

Mr. FOSTER. You may be familiar with the fact that in Britain their legislative procedure and approach are a little bit different from ours, in that when a problem arises they often establish a so-called royal commission and direct the royal commission to make studies and investigations of an area and then come back with a report a year or so later.

The most extensive investigation of this area that we have been discussing was included in a royal commission report published some 2 years ago, in which they review the entire situation in Britain, recommended certain changes, and extended at that time their whole approach in terms of subsidizing the price of fish.

There has been some attention given this report by the industry and by the committee, and there is some interest here, but as far as I know there has been no legislation advanced.

I don't know that any thorough investigation of this subject has taken place, but I think the committee would be interested in anything that is developed by your association.

Mr. ANDERSON. Well, that is my understanding anyhow, that Jeff is having the international research it and come up with recommendations.

Senator BARTLETT. Right. We will await those with interest.

Thank you, Mr. Anderson.

The committee will stand in recess for about 2 minutes.

(Whereupon, a recess was taken.)

Senator BARTLETT. The committee will be in order.

State Senator Smith, please.

STATEMENT OF W. O. SMITH, STATE SENATOR, STATE OF ALASKA

Mr. SMITH. Thank you, Bob.

My name is W. O. Smith. My mailing address is 3104 Tongass Avenue, Ketchikan.

Despite the lateness of the hour, I do want to go back and say just a word about the Bartlett amendment to the Trade Expansion Act.

Senator BARTLETT. Take all the time you want.

Mr. SMITH. Mention here was made of an international conference on fisheries, and I think it is extremely important that everything possible be done to bring that about as quickly as possible.

I think that probably the United States has more at stake in this field than almost any other nation. I don't think that we can expect to have unexploited stocks—that is, unutilized stocks—of fish adjacent to our territorial waters, outside our territorial waters, that are not being utilized and expect to keep other nationals from coming in and utilizing those stocks.

Now, I think that the Bartlett amendment has placed the United States in a position in which it has never been before. We have gone to these conferences before with no bargaining power whatsoever. I think that through the acceptance of this amendment by the Congress of the United States that we now do have such a bargaining power.

On Senate bill 3093 on which the hearings are to be held today I will say that in the last session of the State legislature I introduced Senate Joint Memorial No. 49, urging Congress to enact the predecessor to this bill, Senate bill 1265.

Senator BARTLETT. May I interrupt you, Bo?

Mr. SMITH. Certainly.

Senator BARTLETT. Can you supply a copy of that for inclusion in the record? It will be placed in the record immediately following your testimony.

Mr. SMITH. I do not have a copy. You mean of this—

Senator BARTLETT. When was that adopted by the legislature?

Mr. SMITH. It was not adopted by the legislature, Bob. It was introduced. I'm just coming to that. But I will furnish you a copy before you leave town.

I wanted to get to the fact that it was not finally adopted. It did pass the Senate without a dissenting vote. It was not until it reached the House side that I found that there was real opposition to enactment of this legislation.

And if Don Newman is still here, he won't feel so much alone when he recognizes that this opposition was powerful enough that this resolution which passed the Senate unanimously did not get out of committee on the House side.

The basis of that opposition was, as it was given to me, the fear that the bargaining power would fall into the hands of nonresident fishermen to a certain degree, and this was particularly true of the fishermen from the Bristol Bay area.

The opposition also came from, I would say, the cooperative group—that is, the fishermen who belong to cooperative marketing associations.

And I think, probably, although I was never able to pin it down exactly, that this opposition was based on the fear expressed by Mr. Newman.

Now, as I read this proposed amendment to Senate bill 3093, nowhere in it can I find anything that would even indicate that any organization could under any circumstances obtain exclusive bargaining rights for the fishermen as a whole. As I see it, it limits the bargaining rights of an organization to bargain for its members only.

Now, Mr. Foster might correct me at any moment, because I am simply giving the contents of the bill as I see them. Now, under those circumstances, I could see no reason to fear, either from the standpoint of the local resident fisherman or the cooperative associations. I could see nothing that they have to fear.

Now, I can see especially in connection with the seine fishery where the fishermen do have a problem. Now, I'm not certain at all that passage of this bill will—in fact, I am sure it will not—automatically correct the situations which do exist. I am sure that, as is always the case, it is going to take an effort on the part of a majority of those who are engaged in that type of fishing, first to form themselves into an organization so that they can bargain for themselves. But I still do not see anything in this bill that could conceivably give them a right to bargain for anyone else.

I think for those reasons that I would recommend enactment of this legislation.

There were a number of questions asked. One of them was: Is there a cooperative marketing association here in Ketchikan?

Insofar as the troll fishermen and the halibut fisherman are concerned, the answer is "Yes." Insofar as the seine fisherman is concerned, to my knowledge, no.

The cooperative movement has actually given the troll fisherman and to a large degree the halibut fisherman the highest prices that they have enjoyed in many, many years. I think we have a unique situation that may continue to exist for a while, or it may not. But, in connection with the troll fishery, we have been dealing with a product that is scarce, a product that is in demand, and as a result we have gotten extremely high prices.

There was another question asked as to whether the price paid to the fisherman affected the price which the consumer must pay. Of course, under conceivable circumstances it could. I think anyone can see that if the price of fish in a competitive market was near enough to the price which was paid to the fishermen that any increase naturally would have to be passed on.

But I would say in my opinion that it is very, very seldom that the price paid to fishermen actually does have an effect on the price that the consumer pays.

I doubt if even any of the cannery would argue that they would take less than the full amount that the competitive market would afford regardless of what price they had to pay for the fish.

I think generally that just about covers what I have to say.

Senator BARTLETT. Bo, do you recall circumstances, conditions, and results in the days before the Federal Trade Commission and the Department of Justice clamped down in 1954?

Mr. SMITH. Well, I am sorry, Bob, that I have never been a seine fisherman. I have never worked on a seineboat. I have always been a troller. And the same conditions did not exist.

In other words, we didn't have the problem with crewmembers versus the boatowner, and such as that. So I am not going to be much help there.

Senator BARTLETT. You would have to quarrel with yourself.

Mr. SMITH. That's right.

Senator BARTLETT. You made a very good statement, Bo, as always. I want to say in this connection that over the years, 20 years, I guess, I have found you to be extremely well informed in all aspects of the fishery and being possessed at all times of a vital interest in the welfare of the fishermen of this and all other Alaska districts. I think much is owed to you in this connection, because you have always fought in their behalf.

Mr. SMITH. Bob, I would like to add just one other comment, and that is in connection with the seeking to obtain a 12-mile limit to our territorial waters.

I recognize fully the things that Mr. Foster has said, and I agree with what he said. But at the same time I think that we should pursue every avenue that might be open to us to obtain this objective.

We shouldn't for a minute think that this is going to solve the problems in connection with foreign fishing, because most of that at the present time is carried on outside our 12-mile limit. So, while it would help protect our own fisheries to a certain extent, it certainly is only a small part of an overall picture.

Senator BARTLETT. I suppose about 95 percent of the people in this room, including myself, entertain the honest belief that when the trap went, all we had to do was rebuild our fishery and everything would be well. And now we face this fierce threat from foreign competition.

And those of you who have said this afternoon that that is more likely to increase than diminish are assuredly correct. It is inevitable.

Thank you very much, Senator Smith.

Mr. SMITH. Thank you.

(The bill introduced by Senator Smith in the State legislature follows:)

SENATE JOINT RESOLUTION 49

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE—SECOND SESSION

Relating to proposed Federal legislation permitting fishermen to bargain collectively

Be it resolved by the Legislature of the State of Alaska in second legislature, second session, assembled:

Whereas the right to bargain collectively is recognized as a fundamental right of labor, under both Alaskan and Federal law; and

Whereas collective bargaining is presently authorized under Federal law only where a narrowly defined employer-employee relationship exists; and

Whereas the fishing industry presents a situation where many fishermen are not legally termed employees of a processor or canner but are nonetheless,

through tying arrangements, often in the same bargaining position with relation to the price paid for the fish as direct employees; and

Whereas under the present National Labor Relations Act those fishermen do not have the right to bargain collectively with a processor or canner for the price to be paid for fish; and

Whereas there is presently before the Senate of the United States S. 1265 to amend the National Labor Relations Act to grant all fishermen who bear a close and dependent relation to a canner or processor to whom they sell their fish an employee status for the purpose of collective bargaining: Be it

Resolved by the Legislature of the State of Alaska in second legislature, second session assembled, That the Legislature of Alaska wholeheartedly supports the amendment to the National Labor Relations Act proposed in S. 1265 and respectfully urges the Congress of the United States to adopt the measure; and be it further

Resolved, That copies of this resolution be mailed to Senator Lister Hill, chairman of the Senate Committee on Labor and Public Welfare; Vice President Lyndon B. Johnson, President of the Senate; Representative John W. McCormack, Speaker of the House of Representatives; and the Alaska delegation to Congress.

Senator BARTLETT. I want to mention, since Senator Smith did allude again to the Bartlett amendment, that it was cosponsored by Senator Magnuson, chairman of the committee, the Commerce Committee; Senator Jackson, also of the State of Washington; Senator Smathers, of Florida; and Senator Ben Smith, of Massachusetts.

In that connection, I would like to say that all of us who are concerned with the fishing industry are going to lose a real friend when Ben Smith departs from the Senate this year.

He has been actively concerned in behalf of the industry and has worked hard and effectively during his short tenure in the Senate. I can only hope his successor, whoever he may be, will take a like interest. Also, I should say that I was one of the cosponsors of the Magnuson resolution, relating to the calling of an international conference.

I mention these things primarily in an effort to demonstrate that, increasingly, we who are involved legislatively in the fishing situation are working cooperatively, are working together, are working as a team, and I think this is fairly new and is extremely useful.

Now, if there are no further witnesses, the committee—

Mr. ANDERSON. Chairman Bartlett—

Senator BARTLETT. Yes, George?

Mr. ANDERSON. Before you close, I think while I was in Washington the President of the United States dignified the fishing industry by saying that the Government must do something about it, and I believe it is the first time that a President has spoken that way in many years.

Senator BARTLETT. I think that is the first time the President has ever so spoken, Mr. Anderson.

And I ought to relate here, as I did at Seattle, the fact that the week before last—I guess it was in Washington—we had two very important meetings. Members of the Congress, members of the business side of the industry, and on the labor side—George Johansen was there—met first with Deputy Under Secretary of State Johnson and his associate on the broad spectrum of the North Pacific fishery, and the following day we met with Secretary Udall.

The meetings were highly constructive.

As most of you probably know, the Japanese, in considering what to do about the North Pacific Treaty when its first 10-year period expires, are saying, at least unofficially in their newspapers, that through industry sources, that they intend to do their very best to eliminate the theory, principle, and operation of abstention.

At these meetings in Washington, this firm commitment was made: The U.S. Government will be adamant on this proposition. It will insist upon abstention.

I think no more useful result could have been had in conferences than that. Because this we must do. We all knew it. We didn't know how the executive branch of Government would react. We were pleased and delighted to learn that they intend to, as the saying has it, hold tough.

I think we are all cheered especially by the fact that Secretary Udall was right in our corner from the word "go." He is knowledgeable about this.

You remember over in Tokyo last November he appeared before the Commission meeting, the first Cabinet officer ever to do so, and made a mighty strong statement on behalf of the Kennedy administration.

What he had to say at this closed meeting in Washington the other day indicated he hasn't forgotten—in fact, has become even more interested and we have a powerful ally in the person of Secretary Udall.

Before closing the meeting, I want to extend the committee's very real thanks to Dr. Murray L. Hayes, director of the laboratory here, in Ketchikan, for making this conference room available, and to the members of his staff for having been so helpful in all things, including the supplying of some of the best coffee we have had for quite a while.

The committee will now stand in recess until tomorrow morning when we will reconvene in Petersburg.

(Whereupon, at 5 p.m., the subcommittee recessed, to reconvene in Petersburg, Alaska, on Wednesday, October 17, 1962.)

COLLECTIVE BARGAINING FOR FISHERMEN

WEDNESDAY, OCTOBER 17, 1962

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Petersburg, Alaska.

The committee met at 10:10 a.m., in council chambers, Municipal Building, Hon. E. L. (Bob) Bartlett presiding.

Senator BARTLETT. The committee will be in order.

We open here at Petersburg today the third in a series of hearings concerned with S. 3093, which is a bill intended to amend the Fisheries Marketing Act of 1934, an act originally designed to provide fishermen with the right of self-association for cooperative improvement of their conditions.

This bill would make clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish and other aquatic products on which the livelihood of their members depends.

As most of you here realize, I am certain, a bill of this nature is not new. In various forms this legislative proposal has been presented for at least 10 years.

During hearings which I held in Alaska last year, there was considerable testimony on the bill then before the Congress, and a rather substantial record was built up, but it was thought that more testimony was desirable and even necessary before any further action could be taken.

Actually I am here at the specific request of Chairman Magnuson of the Senate Commerce Committee, on which I serve, who desired that the hearings be held on the west coast and in Alaska as soon as possible after adjournment of Congress.

It is possible that later there will be a hearing at Washington. Requests have been made for another session at New York, and very possibly the committee will have to go down to the gulf coast.

We held our first hearing of the year day before yesterday in Seattle, yesterday at Ketchikan, here at Petersburg this morning, and tomorrow afternoon we will meet in Anchorage, and the following day in Dillingham.

It is hoped that all the testimony that has been taken and will be taken will bring together a comprehensive record of the facts pertinent to the problem.

It is desired that insofar as possible testimony be limited to the specific subject before us; namely, the provisions of S. 3093.

However, I do not intend to foreclose testimony on any other subject relating to the fishery, about which witnesses might want to talk,

provided that such testimony does not cover subjects exclusively under State jurisdiction, where Congress would have no authority in any case to act.

With that as a preliminary, we will call our first witness, who will be Gordon Jensen.

OK, Gordon.

STATEMENT OF GORDON JENSEN, PETERSBURG, ALASKA

Mr. JENSEN. Well, I just would like a chance to explain the way we handle our products from the long-line fishery.

We have our own cooperative setup here. The Halibut Producers' Cooperative is the name. And we have had very little trouble with marketing our fish.

The fishermen and the vessel owners here go out and catch the product, and it is processed through local or public processing plants, and it is marketed through our own marketing association.

So as far as bargaining for prices and such, we have very little need for such, and we feel that if such permission was granted to an organization in this area it would certainly confuse the issue and cause us a certain amount of difficulty, since we would probably be represented by people that aren't as close to the fishery as we are.

Senator BARTLETT. Does that complete your statement?

Mr. JENSEN. Yes.

Senator BARTLETT. Mr. Jensen, you are referring to a co-op—

Mr. JENSEN. Yes.

Senator BARTLETT. Dealing entirely with halibut?

Mr. JENSEN. Yes. I am just discussing the statement that deals with the long-line fishery, because that is what I am interested in.

Senator BARTLETT. All right. Are you a boatowner?

Mr. JENSEN. Yes; I am a vessel owner.

Senator BARTLETT. How many crewmembers do you have on your vessel?

Mr. JENSEN. I have four. There are four besides myself.

Senator BARTLETT. And when are your halibut prices fixed? At the start of the season? Or are they changed from time to time?

Mr. JENSEN. They are changed from time to time depending on—

Senator BARTLETT. When you go out on your fish trip, do you have any idea what your prices will be?

Mr. JENSEN. No; we really don't. There are just rumors that they might be at a certain level.

Senator BARTLETT. You just go out filled with hope?

Mr. JENSEN. Yes. This was before this cooperative setup was started in this area.

Senator BARTLETT. Did that change things?

Mr. JENSEN. Well, we still don't know what we are going to get, but we expect to get all the fish is worth, since the amount we get is determined by the efficiency of our organization.

Senator BARTLETT. When was the co-op started?

Mr. JENSEN. Oh, this is I'd say almost 20 years ago now.

Senator BARTLETT. Does it operate in Petersburg only?

Mr. JENSEN. No. Well, our head offices are in Seattle, and the principal long-line fishery operation is here, yes.

Senator BARTLETT. What is the name of the co-op?

Mr. JENSEN. Halibut Producers' Cooperative.

Senator BARTLETT. And the principal office is here?

Mr. JENSEN. No; the principal office, the head office, is in Seattle, since it has to do with trawlers and other types of fisheries.

Senator BARTLETT. It isn't confined to halibut fishermen?

Mr. JENSEN. No. We have shrimp and crab and——

Senator BARTLETT. Who heads up the co-op?

Mr. JENSEN. We have a man named Walter Johnson in Seattle who is the present manager, and there are members from all types of the fisheries on the board that governs the cooperative.

Senator BARTLETT. Does the co-op bargain with the buyers on prices?

Mr. JENSEN. No. No; we have no bargaining interest at all. We just bring our fish in and have it processed and sell it for whatever the market will bring.

Senator BARTLETT. You sell as individual vessel owners?

Mr. JENSEN. No; we sell through the cooperative. The cooperative does the selling for us. We are members of it.

Senator BARTLETT. So the co-op in a manner unknown to you, then, as far as the technicalities are concerned, does do the bargaining for prices?

Mr. JENSEN. Yes. It's on the open market.

Senator BARTLETT. When you unload here and turn your fish over to the co-op, do you know immediately what prices you are going to get?

Mr. JENSEN. No; we don't. We just have an advance is all.

Senator BARTLETT. You have an advance?

Mr. JENSEN. Yes; to take care of our costs, our immediate costs.

Senator BARTLETT. You say your immediate costs?

Mr. JENSEN. Yes.

Senator BARTLETT. Do you mean this relates to the vessel owners?

Mr. JENSEN. Well, expenses, and then a certain amount to carry us over until final——

Senator BARTLETT. How do you pay your crewmen?

Mr. JENSEN. We have set rates. It's all on a share basis.

Senator BARTLETT. It's on a share basis?

Mr. JENSEN. Yes.

Senator BARTLETT. How many shares in your vessel, for example?

Mr. JENSEN. Well, we have the boat. The vessel owner gets 20 percent of the gross. And then the expenses and costs of the fishing trip are taken out and the rest is divided five ways.

Senator BARTLETT. Five ways?

Mr. JENSEN. Yes.

Senator BARTLETT. That is, one for you——

Mr. JENSEN. One for me.

Senator BARTLETT (continuing). And one for each of the four members?

Mr. JENSEN. Yes.

Senator BARTLETT. Do they ever squawk on account of their inability to control the price paid for the halibut?

Mr. JENSEN. Well, as far as the cooperative, the members of the cooperative, no.

Senator BARTLETT. I mean the crewmembers.

Mr. JENSEN. No; because they have agreed to handle their fish this way. When they go out on a boat that delivers to the cooperative, they have to agree to deliver there or have their fish handled this way, so it's of their own choosing.

Senator BARTLETT. Does anyone ever slip you a bonus over and above that which might go to the crewmembers?

Mr. JENSEN. No; not the cooperative setup. We all share alike.

Senator BARTLETT. Bonuses are not paid by anyone?

Mr. JENSEN. Not in the long-line fishing, no.

Senator BARTLETT. You think the co-op plan is very good?

Mr. JENSEN. We are very satisfied.

Senator BARTLETT. Have you ever heard of any dissatisfaction on the long-line fishery on the part of crewmembers?

Mr. JENSEN. Only on outside cooperative members; yes.

Senator BARTLETT. What do they complain about?

Mr. JENSEN. They would certainly like to get out and get higher prices, of course, but I am strictly speaking of the cooperative itself, since I am a member, and that is the way I handle all my products, I mean.

Senator BARTLETT. Just what are the advantages to you as a vessel owner of belonging to this co-op?

Mr. JENSEN. Well, it certainly is a blessing not to have to go out and bargain for prices every time we come in. If we had to bargain and deal with buyers on every trip——

Senator BARTLETT. Every load?

Mr. JENSEN. This way we certainly eliminate that problem, and we expect to get as much or more as fishermen that sell on the outside.

This is determined by the efficiency of the organization, of course.

Senator BARTLETT. Has the co-op always in your opinion dealt fairly with you?

Mr. JENSEN. Oh, yes. We are very satisfied with it. If it doesn't, we will certainly do something about the people who are managing our business for us. They can be very rapidly replaced.

Senator BARTLETT. How would you replace them?

Mr. JENSEN. Well, request the directors to replace them, of course.

Senator BARTLETT. How many directors have you?

Mr. JENSEN. Well, we have a board of 12 members in Seattle, and we have an advisory group here.

Senator BARTLETT. Twelve directors who live right in Seattle?

Mr. JENSEN. Yes. And we have members, and we recommend to them the way we'd like to have this thing run, and our requests are usually——

Senator BARTLETT. Are there any Alaska members of the board?

Mr. JENSEN. Well, there are some that are members that fish. The bulk of the members that are on this board fish in Alaska and they are up here.

Senator BARTLETT. Do any of them live here?

Mr. JENSEN. No, they don't live here. They are summer residents. But we aren't able to have members down there since the board is in Seattle. We let them take care of it.

Senator BARTLETT. Do you think this gives the Alaska fisherman the voice he ought to have in the affairs of the co-op when there is no resident member of the board of directors?

Mr. JENSEN. Oh, yes, we do, since we have our own board here that recommends to them, and our requests are always taken care of.

Senator BARTLETT. They follow your recommendations?

Mr. JENSEN. Oh, absolutely. We are the major producers. They just about have to.

Senator BARTLETT. You are the major producers of halibut?

Mr. JENSEN. Yes.

Senator BARTLETT. But you are not the major producers of all fish products that are handled by the co-op, are you?

Mr. JENSEN. No, but people in Alaska are though.

Senator BARTLETT. How does the halibut fishery rate in the co-op in order of importance?

Mr. JENSEN. Well, it's probably about second after shrimp right now.

Senator BARTLETT. Shrimp is leading?

Mr. JENSEN. Yes.

Senator BARTLETT. Where does the shrimp come from would you guess?

Mr. JENSEN. Well, the shrimp is processed in Seward, Alaska.

Senator BARTLETT. That is No. 1 now?

Mr. JENSEN. That is No. 1 in volume, yes.

Senator BARTLETT. In volume?

Mr. JENSEN. Yes.

Senator BARTLETT. In dollar value?

Mr. JENSEN. Yes, I would say in dollar value too.

Senator BARTLETT. Well, when you deliver your halibut here does the co-op have a cold storage facility?

Mr. JENSEN. Well, these are handled in public plants, yes, facilities. We don't have our own.

Senator BARTLETT. Does the co-op have a man here who notes the amount of fish you land?

Mr. JENSEN. Oh, yes, we have managers that take care of our business in shore plants.

Senator BARTLETT. In every port?

Mr. JENSEN. Yes.

Senator BARTLETT. Mr. Foster, do you have any questions?

Mr. FOSTER. Yes, sir.

We have had some testimony before on the record that indicated that in many instances the so-called vessel owners actually didn't own their vessels, that they were vessel owners that were either tied very closely to the cannery or they were vessel owners who were deeply in debt and with mortgages on their vessels, and that this made them depend in part on the cannery or whoever had provided the finances to purchase the vessel.

I wonder if you could say something about the status of the vessel owner here in Petersburg. Do most vessel owners actually own their vessels, or are they tied up with some type of financial arrangement?

Mr. JENSEN. Well, I'd say the bulk of the vessel owners here have individual ownership, and there are a few that have ties with the bigger companies, but I think this is due largely to the predominant halibut fishery here, since the companies that deal in the halibut do not have facilities to buy or have vessels operated by captains that don't own their vessels.

Mr. FOSTER. When you sell to the co-op here and other people sell to the co-op, I presume that this gives the co-op the possibility of holding the fish until they feel like it's an opportune time to sell.

In other words, other fishermen come in and they have a load of fish. They try to search around to find the best place to sell their fish at the highest price. They are under quite a bit of pressure to go ahead and sell them rather quickly. And this gives them what might be considered a weak bargaining position because they have got to do something.

Whereas, as a member of the co-op, you can bring your fish in, give them to the co-op, they give you part payment, and then the co-op can hold the fish off the market for a period of time or take advantage of the sales more effectively, and it strengthens the bargaining position through the co-op of both the crew and the boatowners. Would that be true?

Mr. JENSEN. Well, first I would like to state that we don't sell to the co-op. We deliver to it. Because we own the organization ourselves.

Mr. FOSTER. Yes.

Mr. JENSEN. And to a certain extent it is a sort of pleasure to deliver your fish and let someone else worry about it from then on.

But the companies, the fish companies, have the same chance that we have to hold the fish and sell it at the best possible time.

So there is certainly not too much of an advantage that way. But we feel to a certain extent the advantage we have, our best advantage, would be in the efficiency of our organization. That is what we'd like to try to make a little extra profit from.

It isn't that our organization can hold it longer than the other; the buyers and the companies have the same chance. And probably more have finances and sometimes they are better able to do it than we are. But if we can grow enough and be able to control a certain segment of the quota, that's our only chance of bargaining and being able to get extra for it.

Mr. FOSTER. As a boatowner, aren't you more likely to get a higher price by being able to deliver to your co-op in unison with other vessel owners when they deliver and then as a bloc are able to go onto the market with the cooperative representatives speaking for you, among others, and bargaining, as it were, for a more acceptable price? Aren't you in a stronger bargaining position?

Mr. JENSEN. Yes. This is one of our objectives, yes. This is what we hope to achieve in the end, yes.

Mr. FOSTER. One other question. Does your co-op include the fishermen, or is it just the co-op composed of the vessel owners?

Mr. JENSEN. Well, the co-op is mostly a vessel owners' project, but we are doing this with the permission of the crews. We can't get people to go out with us unless they agree with us in handling it or doing it this way.

Mr. FOSTER. They don't have any vote though? The crew?

Mr. JENSEN. Not on the board of directors, no. But they certainly have a voice in this local organization here. Very much so.

Mr. FOSTER. Oh, they do?

Mr. JENSEN. Well, they certainly can urge us, and they have membership in our local organization, yes.

Mr. FOSTER. So the crew does have membership in your local organization, your local co-op?

Mr. JENSEN. Oh, sure. They have a voice in determining how this thing is to be run, yes.

Mr. FOSTER. When your local organization of the co-op has a meeting here, then, you have representatives from various vessel owners there and crewmembers are there?

Mr. JENSEN. Oh, yes.

Mr. FOSTER. And the question comes up as to what you should do on some matter, and this is just openly discussed by all concerned?

Mr. JENSEN. Absolutely.

Mr. FOSTER. Everyone has the same vote, and decision is made, and recommendation is then passed on?

Mr. JENSEN. Yes. We feel very little need for provisions of bargaining. That's for sure, since we're all in on this together.

Mr. FOSTER. Actually, under this 1934 act, which I understand you are organized under, it does speak of not only vessel owners being participants but also they say fishermen. And I think it is proper to include fishermen in these organizations.

There has been apparently a district court case, a Federal district court case, suggesting that the act should not be interpreted to permit fishermen in. But in a number of instances they are.

There is apparently some question, legal question, as to whether or not fishermen should be permitted into co-ops. In many instances they are, and they are here.

And when they are, this, of course, does mean that they participate in the co-op, can have the co-op to bargain, so to speak, with the buyer or with the canner for the price of the fish in terms of the act.

Thank you.

Senator BARTLETT. Gordon, what is the longest you have had to wait for full return in terms of money on the fish you have delivered?

Mr. JENSEN. Well, see, we usually get our full return by June of the following year.

Senator BARTLETT. June of the following year?

Mr. JENSEN. Yes.

Senator BARTLETT. Does this subject the vessel owners to financial crisis now and then?

Mr. JENSEN. No, it's just a problem. The biggest problem is the first year you join an organization like this, you see, because the first year you only get your advance, you see, and then next year you have the advance from the year before and the final advance from the year before and your first advance from the year you're fishing. You get along fine. Just the first hurdle is the worst.

Senator BARTLETT. Then Ed Lockin would hope perhaps there would be a lot of first-year men in the organization that would have to go to him for carryover money?

Mr. JENSEN. I suppose it would be a good deal for him all right.

But we are usually a fairly stable group here in town, and I think we don't have many problems.

Senator BARTLETT. I think that's an understatement. You don't have many problems here in town.

Gordon, coming down to the bill itself would you care to make a comment whether you are for it or "agin" it?

Now, the salmon industry down at Seattle had an attorney appear, and they gave a very learned legal and historical paper and said they were going to reserve judgment on a position regarding the bill until a later date. Do you have your mind made up now?

Mr. JENSEN. Oh, I'd say that we're certainly not too acquainted with this thing either, but we have had some experience with what might come from a thing like this, like coastwise negotiations for certain types of fish, and we would certainly frown on such a thing, because the bargaining is being handled by people that are certainly not very close to our organization or our fishing problems. That's for sure.

Senator BARTLETT. I gather that the burden of your testimony is that you are quite content with the situation as it exists.

Mr. JENSEN. We certainly are. This is why I wanted to explain this thing. We are certainly very happy the way things are going now. Things are under our own control more than they would be otherwise.

Senator BARTLETT. And you don't think that the crewmembers want to shift the control in any way?

Mr. JENSEN. Certainly not in this area; no. I think they're getting a better deal now than they have ever had or ever will have again and more to say than they have in their own business. That's for sure.

Senator BARTLETT. Do you have any association with the State government, Mr. Jensen?

Mr. JENSEN. Yes, I am a member of the board of fish and game; yes.

Senator BARTLETT. How many members on that board?

Mr. JENSEN. We have 10 members on the board.

Senator BARTLETT. Ten?

Mr. JENSEN. Yes.

Senator BARTLETT. And you, among other things, draw up the regulations for fishing all through the State?

Mr. JENSEN. Yes, that's right.

Senator BARTLETT. Well, thank you very much, Mr. Jensen, for a helpful statement.

Gordon, will you give your mailing address?

Mr. JENSEN. Box 264, Petersburg.

Senator BARTLETT. Mr. Kenneth Stedman.

STATEMENT OF KENNETH STEDMAN, SECRETARY, PETERSBURG FISHERMEN'S UNION, PETERSBURG, ALASKA

Mr. STEDMAN. I am Kenneth Stedman, secretary of the Petersburg Fishermen's Union, independent, here in Petersburg.

Senator BARTLETT. Where does it get its mail?

Mr. STEDMAN. Box 555, Petersburg.

What I have to say is for the union, and it is in agreement with what Mr. Jensen said.

I have done a lot of traveling for the union in the last 2 years, and I have talked to members of the vessel owners and the unions outside of Petersburg, and they are quite envious of our position here in Petersburg as more or less labor and management between the union and the vessel owners.

We have no troubles between the two of us, and if we ever have any troubles they are settled quite peacefully through more or less a round-table discussion.

This union here I should explain is composed of longline and seine members. That is what our union is. We negotiate with the vessel owners here in Petersburg on our working agreement. It has nothing to do with the price of the fish but on the working agreement. There have been no major problems with that.

We have discussed this bill since we received our first copy, I believe last spring, of it, and at that time we wrote to you requesting that public hearings be held before any action was taken.

Senator BARTLETT. And here we are.

Mr. STEDMAN. And here we are, yes.

The other day we met, and we discussed this bill again. And we are of the opinion that we are quite happy the way things are. We get along fine. There are no major problems. And maybe by passage of such a bill something will come up that would be not to our advantage that would change our situation that exists here in Petersburg now.

Senator BARTLETT. Does that complete your statement?

Mr. STEDMAN. Yes, sir.

Senator BARTLETT. Ken, what union is this?

Mr. STEDMAN. Petersburg Fishermen's Union, independent.

Senator BARTLETT. Independent?

Mr. STEDMAN. Yes.

Senator BARTLETT. Are you associated in any way with any other union anywhere else?

Mr. STEDMAN. No. No, we are independent. That's strictly a local union.

Senator BARTLETT. How many members?

Mr. STEDMAN. I would say 73 this year.

Senator BARTLETT. And you negotiate on everything except price?

Mr. STEDMAN. Yes. Our working agreement is on conditions.

Senator BARTLETT. And you have no desire whatsoever at this time at least to enter into negotiations for your members relating to fish prices?

Mr. STEDMAN. Well, I would say no, not at the present time.

Senator BARTLETT. Well, what was your position with the union?

Mr. STEDMAN. I am the secretary-treasurer.

Senator BARTLETT. How long have you been such?

Mr. STEDMAN. This is my first year as that.

Senator BARTLETT. First year?

Mr. STEDMAN. Yes.

Senator BARTLETT. How long have you been in the fishing business here?

Mr. STEDMAN. Well, except for a stay in the Army—I started in 1947 and I spent about 8 years in the Army and then a couple years working somewhere else, so offhand I couldn't think of how many years it has been, but it has been 6 or 7 years.

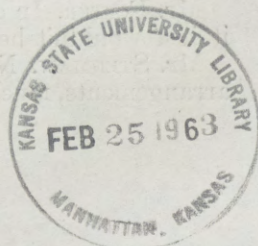
Senator BARTLETT. I was going to put to you a question that will be referred to another witness, then, whose memory might go back further.

Do you do any fishing yourself?

Mr. STEDMAN. Yes, I am a crewmember.

Senator BARTLETT. You are a crewmember?

Mr. STEDMAN. Of a boat here in town, yes.



Senator BARTLETT. Seine?

Mr. STEDMAN. Long-line and seine both.

Senator BARTLETT. You never felt frustrated or set upon because you couldn't have any part in the fixing of the price for which the fish that you participated in catching were sold?

Mr. STEDMAN. Well, 2 years ago there was a major effort made by the unions from Seattle up to us on negotiating for the price of fish, and we were at that time in favor of that. The effort fell through, and since then they formed a cooperative here in town, and we felt at the time that this cooperative was formed that any effort to bargain for the price of fish in the halibut game just wouldn't work. There are too many different unions involved and two different countries, Canada and the United States, on the halibut.

So I would say that the majority of the members are of the opinion that the bargaining for a price on halibut is a thing that wouldn't work.

Senator BARTLETT. Any other unions here, fishing unions?

Mr. STEDMAN. No. We are the only fishermen's union in Petersburg.

Senator BARTLETT. I don't think I have any more questions.

Mr. Foster?

Mr. FOSTER. Yes.

Now, you represent long-line and seine. Who is not included? What fishermen in Petersburg are not included in your union?

Mr. STEDMAN. The shellfish fishermen when they are fishing shellfish. Although when they fish halibut or go seining, they are usually members.

Gillnetters, of course. Because our union prohibits anybody belonging who owns either a vessel or a seine. So any member that is a gillnetter would not belong to our union.

And that's about all the fisheries we have.

Mr. FOSTER. You spoke of an attempt from outside unions to come in 2 years ago to talk about bargaining on halibut prices, and you looked at the situation and decided, for reasons, that that would not be desirable. Have there been any attempts made by outside unions along other lines to have you or encourage you or others to bargain on the price of anything other than halibut?

Mr. STEDMAN. On any fisheries other than the halibut—which would be the seining, of course—we have heard nothing from outside unions officially. Of course, we hear rumors and various other things.

But we consider ourselves in a better position than they are in our working agreements with our local vessel owners on final settlement for the fish we catch.

We have in our agreements a bonus clause where any bonuses that are received for fish are to be taken care of the same as any other moneys, to be shared and shared alike between the vessel owners and the union. And we, so far as I know, are the only union that has such an agreement.

So, therefore, I feel that the seining unions wouldn't care to bother us.

Mr. FOSTER. In other words, you feel like they may be all right but it just wouldn't help your situation here very much?

Mr. STEDMAN. No, I consider we are ahead of them in our financial arrangements, much farther ahead.

Mr. FOSTER. So, in your working agreements that you have, no discussion is ever brought up in terms of the price? You talk about shares, you talk about the conditions on the vessel, and things like that?

Mr. STEDMAN. Correct.

Mr. FOSTER. But never mention price?

Mr. STEDMAN. No. No definite set price.

Mr. FOSTER. Do you have in your union any members who are also members of the co-op?

Mr. STEDMAN. I would say—this is just a rough estimate—that there would be 80 percent of our members who are fishing on cooperative boats. I fish on a co-op boat. And I am also a member of the local co-op advisory board here.

Mr. FOSTER. Well, if you as a fisherman on a co-op boat—and as I understand it, most fishermen on co-op boats—can also participate in the co-op, I presume you can participate in the co-op meetings and vote and express your thoughts there. And there they talk about price I presume.

And as a member of the union you work with the crew and talk about what you should be getting in terms of bonuses and other things, sharing that with the vessel owner.

Are there any problems involved in this? Sometimes it might give the appearance that you are meeting here one time with your crew and the next time you are meeting with the crew and the vessel owners on other matters perhaps but there is, then, first, quite a bit of interchange between the two; and, second, does that present any particular problem?

Mr. STEDMAN. We have had no problems in the last 2 years now that we've got a strong co-op 2 years ago, and there has not been one problem raised in arguing on the difference between members fishing on non-co-op boats and as union members and members who fish on co-op boats that are union members.

If any discussion comes up—and they are minor when they do come up on such a thing—we go on the impression that we are a fishermen's union first and those members that belong and fish on co-op boats, that comes second.

Mr. FOSTER. No further questions.

Senator BARTLETT. Thank you very much.

Adolph Mathisen.

STATEMENT OF ADOLPH MATHISEN, PETERSBURG, ALASKA

Mr. MATHISEN. Senator Bartlett, my name is Adolph Mathisen. My mailing address is Box 335, Petersburg, Alaska.

I will confine my remarks primarily to the salmon seining. I'd like to go back to the probable earlier history of the salmon seining during the time of the salmon traps.

During the time of the salmon traps, the fishermen here, seiners, were at a very small number, and the primary reason for that was when there was an abundance of salmon in the traps the seiners were sort of left at loose ends. He had no particular place to which he might deliver. If the canneries saw fit to cut them off, that's what they did.

But with the disappearance of traps the picture is somewhat changed. The cannery operator then became quite concerned over the welfare of the seiners, and so he did all he could to woo the various seiners into delivering fish to his particular cannery.

And with that they made generous offers primarily to the stateside fishermen. They gave them guarantees, run money, fuel money, and other bonuses in addition to this run money and fuel.

So the Alaskans were then left at a disadvantage. We took whatever the canneries saw fit to give. And by our small number we were rather a helpless lot.

As time went on, the news got around to the Alaskan fishermen that these stateside canneries were giving these bonuses to their stateside fishermen as an incentive for them to come up and fish for them.

Well, we were, of course, somewhat benefited by that too but not to the extent that it benefited the stateside fishermen.

So to better our own lot we joined in an operation with a small cannery here. I say "we," but that was a fair percent of the local seiners, and with the agreement that we would share in the profit of the sale of the salmon.

We were given all going prices. We were given all bonuses that were paid to their regular cannery fishermen here. In addition to that, we were allowed to share in the profit with the cannery.

Well, using last year as an example, we bettered our lot by probably 20, 25 cents a fish over the going price plus the 20-percent bonus.

Well, now, that was quite—

Senator BARTLETT. Will you say that over again, please?

Mr. MATHISEN. We benefited to an extent of about 20 to 25 cents per fish over the going price paid by the cannery plus the 20-percent bonus paid by the cannery.

In addition to that, we got another 20 or 25 cents per fish.

Well, that is quite a gain, quite a substantial gain.

The crew shares in all of that. In our agreement with the union we agree that all moneys received for the sale of fish are divided equally with the crew.

Our settlement is somewhat different than the halibut. The approved type of settlement among the seine boats is this: The fuel money comes off of the top or the gross. The boat's share then is taken from what is left.

We have another agreement there where if the crewman assists in the hanging of the seine that there is 4 percent allowed. We have an agreement where 35 percent is a normal take, and if the crewman works with the hanging of the seine we allow 39 percent. This 4 percent is divided equally among those employed in the hanging of the seine. So they also share in that.

Then the groceries are taken off, and then the balance is divided equally between the crewmen and the owner.

Well, now, we feel that this has been a very workable and a very satisfactory arrangement. The crewman is not unhappy about it, or he hasn't been. He knows that whatever money the fish will bring that he will share in it.

So we were quite concerned with the bill. In fact, the vessel owners opposed this bill 2 years ago for the simple reason that we felt that

our situation as we existed here was a more satisfactory one than could probably be arranged otherwise.

We felt that if the local union members became a part of, say, a statewide organization that they would lose the privilege that they have now, that they would bargain as a group or as a whole unit rather than as a local group, which could be both to our detriment and their detriment.

This sharing of the profit has worked out so satisfactorily that we are happy with it and hope it would not be disrupted.

That's about all the remarks I have to make on the seining.

Senator BARTLETT. Do you want to cover another subject, Adolph?

Mr. MATHISEN. I'll be glad to if I'm able.

Senator BARTLETT. You are highly competent in the fishing area.

Mr. MATHISEN. Thank you.

Senator BARTLETT. Just one moment.

You wanted to cover another subject, Mr. Mathisen?

Mr. MATHISEN. If you wish. Any specific subject?

Senator BARTLETT. Well, yes. But maybe we should ask some questions—

Mr. MATHISEN. If you wish.

Senator BARTLETT. Relating to this first.

Now, you said during your testimony that you discovered that canneries were offering outside seiners bonuses to come up here and fish, and a bit later you said, "We were somewhat benefited too." You meant you were benefited because they started to give you bonuses?

Mr. MATHISEN. Yes, Bob. As the knowledge became known to the Alaskan fishermen, they became a little bit concerned, and a little dissatisfied, so they in turn requested that they also receive some of these benefits.

Well, we didn't know and we were not able to find out just exactly what these stateside fishermen bonuses were. There were individuals who would mention they had a better price and had run money. There was secrecy about it to a certain extent.

So then we, of course, were a bit unhappy because we weren't receiving the same deal.

But, now, there was a difference between our relationship with the canner and the relationship with the canner stateside. Stateside the union bargained for the price, and the price that they agreed with the canner was the price that they were paid for fish.

The bonus in addition to that which was paid to the boatowner stateside was not divided with the crewman. That was his own money to keep as he saw fit.

Well, a crewman down there, of course, had bargained for the price, so he was bound by his agreement.

We went further than that. We said, "We will divide all moneys with the crewman," which is actually the proper way to do it because they were also concerned in the operation of the vessel and the catching of the fish.

So we then divided all the moneys received from the sale of the fish with the crewmen.

Did I answer your question?

Senator BARTLETT. You did, sir.

Now, has the number of seiners, operating out of Petersburg increased since the traps or most of them went out?

Mr. MATHISEN. Bob, the number of seiners have increased considerably. The canneries, of course, were most anxious to replace their traps that they lost with the boats, and they made all kind of inducements to increase their gear by buying boats, financing boats, any method they could think of to increase the number of boats, including some local boats that have been financed through the cannery.

The number I wouldn't just know, but it's quite a substantial number, and it increases almost every year.

Senator BARTLETT. Would you think that the canneries have partial ownership of quite a few of the seine boats based here?

Mr. MATHISEN. No, Bob. We're in a rather unique position here. I think probably you might safely say that it's the only place in all of Alaska and probably Puget Sound where we have a predominantly independent fleet.

And I think the reason, primary reason, for that is the fact that we have a dual fishery, primarily a dual fishery, halibut and seining. And most of these boats are engaged in halibut season in the spring, take advantage of that, and experience has shown that in the past years that if it's a good halibut season we could afford to go seining.

Of course, now the picture has changed a little bit. Now it becomes more attractive to go seining.

But with the two fisheries—and, of course, we have the gillnet and other—but with a diversified fishery it has created a very stable economy, and I think Petersburg is probably in one of the better positions of any of the fleets in Alaska.

Senator BARTLETT. You may not be willing to say it but there is an additional reason—that you have some pretty good fishermen operating out of here and some pretty hard-working fishermen.

Mr. MATHISEN. Yes, I think you can truthfully say that the Norwegian has historically been a hard-working nation, and as a nation of fishermen they are extremely hard working.

Senator BARTLETT. Would you care to comment on the Swedes? [Laughter.]

Mr. MATHISEN. Well, they're fairly good too. [Laughter.]

Senator BARTLETT. Off the record.

(Remarks off the record.)

Mr. MATHISEN. That's about all I have to make on that unless you have some other questions.

Senator BARTLETT. Yes, Adolph.

Elsewhere we have been told that the canneries own a good part of the fishing fleet in any one port and that the skipper, the nominal owner, has mortgages all over the thing and that the cannery deals with him, and that often an independent buyer might offer a higher price for the fish but he is bound to deliver it to this particular cannery and therefore the crew members suffer.

They have no right to negotiate, no right to enter into any bargaining arrangements concerning the price of the fish, and they are hurt badly.

They submit that they ought to have a voice in determining what the price to be paid is, so that they can protect their economic situation. They say that unless this is done through some such arrangement as is proposed in the bill before us there is no hope for them because the situation will not only continue as is but may get worse.

The harmony which exists here we have been told does not prevail elsewhere.

Likewise, the committee has been informed that in some places the situation is so bad that the skipper has to rely upon second-rate men. The first-class fellows simply won't fish under these conditions because they don't make enough and do better elsewhere.

Now, I wouldn't want you to comment on this, because it is a legal question, but it has been suggested that this bill is permissive only in nature and would not necessarily have a mandatory effect on any given locality, so that if it became law and Ken's union continued in being here and Ken's union members wanted the status quo to be maintained, they could resist the effort which might be made by any other union to come in here, and so that there would be no change so far as Petersburg is concerned, but at the same time other ports that might be adversely affected by the status quo would be able to make corrections they desired.

I am not going to ask you to comment on that because, as I say, it is a legal, technical matter certainly beyond me, and I don't suppose you would have any more knowledge of it than I.

But I just offer this.

Mr. MATHISEN. Well, Bob, I can make this comment. Getting back to the "share the profit," it did also help the crewmen who were working on cannery boats in this way:

The "share the profit" thing originated in Petersburg. I think I am safe in saying that. The reason for it being started here, of course, is the smaller cannery also needed fishermen, and to make it more attractive to deliver they offered this "share the profit" plan.

Well, 2 years ago there was no justification from any cannery operation in southeast Alaska to give any bonus to the fishermen, but the specialty processors in their dealing with the fishermen had agreed to share the profit. The year prior to that there had been a fair season, so the processors were able to pay a "share the profit" during this season where there had been no profit with the other canneries.

So they in turn were forced then to somewhat match the price paid by the Petersburg processors. So it established a precedent. Even though the other canneries did not make a profit, they were compelled to make a bonus payment to the fishermen who were not members of the "share the profit" but were fishermen aboard these canneries' subsidized boats.

So they benefited too to the extent of 20 percent from our experience in sharing the profit.

So, as I said before, the prices that have been bargained by these stateside fishermen set a pattern of price payment. In instances we benefit by it too. But we by our operation of "share the profit" turn around and also benefit them.

The "share the profit" bonus that we got forced them to pay an additional bonus too.

So it's sort of a leverage to be used as a wedge to drive the price up, and it so far has worked satisfactorily.

Like I said before, we have such a very fine relationship with our union here, we certainly wouldn't want any change at the present time that would disturb this.

If they became a part of a statewide organization—or say even go further than that and suppose they became a part of the Puget Sound organization—and the bargaining was taken away from them by a majority if they were compelled to join or any other way that might disturb it, it could be the cause for disunity and disharmony, and we wouldn't particularly care for that.

In defense of the bill, Bob, I want to say this: That there is nothing wrong with bargaining for higher prices. There's nothing wrong with higher prices. They're always good. The higher, of course, the better. The better the economy is.

Senator BARTLETT. Well, on that very point, we have heard two contrary stories, "we" being the committee. One is that so far as the housewife is concerned, when she buys a can of salmon, for example, from the grocer's shelf, really the price paid for the raw product by the buyer to the fisherman hasn't any important bearing on the can price, that there are so many other factors, so many diverse elements that enter into this that the price paid to the fisherman could go way up and still there would be no necessity for raising the retail price.

And on the other hand we were informed down in Seattle that if this were to occur, of course, the retail price would have to go up, because this submission had it that between 50 and 70 percent of the retail price was based upon the price of the raw material from the fishing vessel to the buyer.

And we don't know. We're going to make an effort to find out.

It was also stated by the witness who told about the 50 to 70 percent factor that we had better be pretty careful here, that salmon, after all, is highly competitive with tuna, with other fish products, and with meat, and that we could price ourselves right out of the market.

We are going to, as I said, see if we can get some expert testimony to try to relate this to reality.

Mr. MATHISEN. Bob, I might add that I don't know if this is true of all areas, but in our particular area—and I am speaking now of the area of north of Petersburg and the area south of Petersburg—there is quite a fluctuation in the size of fish. One year there can be 20 or 25 to the case. Not this past season but the season before they were as big as, say, 12 fish to the case.

So you have quite a variation, and the variation in size is somewhat taken care of by a graduation in the price paid to the fisherman.

On the price schedule as we practice it here—and I do not say that this is general, but in our area—when the fish are of a certain size the price is a certain amount. As the fish get bigger the price just goes up accordingly.

So it is worked on the basis of a sliding scale which is comparable to selling fish by the pound.

Senator BARTLETT. How is the quality of the salmon this year?

Mr. MATHISEN. I think, generally speaking, the quality of salmon was good. There were some instances where poor quality of fish did get into the cans, but they were not a significant amount.

But we did have a bumper crop of salmon in Kodiak area, and it did tend to affect the price. The price dropped \$3 to \$4 a case.

There again it does affect the share-the-profit too. It is all based on the wholesale price of fish, so when the price goes down, of course, our share of the profit will go down too.

But, generally speaking, the price is not too bad at all. It did not drop enough to cause any alarm.

And, of course, there is always the chance that it might go up again.

If probably smaller canners or even larger canners who had an excessive amount of salmon wanted to move it fast, they would reduce the price to get it off the market.

So I think the price of fish—canned salmon—is still very healthy.

Senator BARTLETT. Thank you.

Do you have any questions, Mr. Foster?

Mr. FOSTER. Just one or two.

It has been somewhat difficult to follow the rather complicated economic structure that seems to surround each community and the fishing environment there. And when the committee is interested in trying to consider legislation on a nationwide basis and you have such tremendous variations between not only east coast, west coast, and gulf coast but, if you take the west coast by itself, the tremendous variations between California, Washington, and Alaska, and then combined with the numerous variations you have got right here in the State, it is very difficult to try to even grasp what one piece of legislation would do in one area because it will have a different effect in another area.

I think that there has been some testimony given to the committee which strongly indicates that at least certain areas are not favored by strong vessel owner organizations, and they cannot depend upon a year-around harvest where they have got not only halibut but salmon or something else that would tie in. They don't have the strong economic base that you have here, and they don't have the strong independent vessel owners owning their own vessels like you do here. They also don't have a local union with which vessel owners have worked closely where they could work out a lot of these problems, particularly this unusual situation of profit sharing.

There are many areas which have been far less fortunate. In fact, I don't know of any situation that the committee has heard so far that has been as fortunate as you have it.

There are apparently situations in which the crewmen are working on vessels that the captains do not own, and they have very, very limited voice.

I do think it is important that we look very carefully at the bill to see what effect it has had on each community, and I think the testimony you have given here has been very, very helpful to get the picture.

Mr. MATHISEN. Bill, I think I can use an example in very close proximity of Kake. The union men from Kake about 2 years ago were quite concerned—I'm saying this in support of the bill—over the method of settlement. See, there is not a uniform pattern for making these settlements. It can vary between boats. It can vary between communities.

This man I talked with had been a crewman on a Kake boat, and he was very unhappy over the settlement. The reason he was unhappy was because the boatowner took a share far in excess of what other boats were taking. There was really nothing to stop him from doing that. There was no union to bargain for him for higher price or any kind of working agreement.

So for that reason he was forced to take whatever settlement the vessel owner chose to give him.

Of course, there is a responsibility with that too. The vessel owner may do that one year, but next year he may find a difficult time of getting a crew. And this is what happened.

But in the meantime the crewman had suffered his rightful share of that season's earnings.

So there are discrepancies in settlement, and they vary from port to port and boat to boat.

Mr. FOSTER. There is only one other question.

Sometime back, the committee, in September 1960 or so, acquired a list of fishery co-ops in the United States for the committee record and noted two co-ops in Petersburg, the Petersburg Fishing Vessel Cooperative and the Petersburg Fishing Vessel Owners' Cooperative.

I wondered if you could say anything about the profit-sharing, how that ties in with either one of these co-ops or whether there is any relationship there.

Mr. MATHISEN. Well, I can't recall the year, but when we became aware of the responsibility or the penalty for bargaining as we were, knowing that we could be held liable for losses, we made an effort to secure ourself against that eventuality.

So we organized a cooperative marketing association in Petersburg, and it still exists, but so far we have had no occasion to use it. The agreement we have now with the canneries has made that unnecessary.

Of course, we're all members of the Halibut Producers' Cooperative, and so if we are dissatisfied with any one settlement or any one agreement we still have the advantage of using the sales organization that we have already set up.

So even with salmon there were a certain amount of deliveries to the Halibut Producers' Cooperative, and the price received for those fish was the highest price that has ever been paid anywhere in this area.

Some of the members who participated received over a dollar per fish—I am talking about pink salmon—which is establishing an all-time record for price for salmon, pink salmon, in Alaska.

So we have different means of taking advantage of conditions which give us the greatest return, and it is certainly something we would like to retain.

Mr. FOSTER. That's all.

Senator BARTLETT. Mr. Mathiesen, do you own a fishing vessel?

Mr. MATHISEN. Yes; I own a combination halibut and seine boat.

Senator BARTLETT. How many crewmembers do you have for halibut fishing?

Mr. MATHISEN. It varies with the season. We run a shorter crew in the halibut season, and then we use four crewmen for seining.

Senator BARTLETT. How many for halibut?

Mr. MATHISEN. It varies. From three to five—three to four, rather—depending upon the type of operation you want to engage in.

Senator BARTLETT. Where do you fish chiefly for halibut?

Mr. MATHISEN. We fish locally. I'd say within a radius of 60 or 80 miles.

Senator BARTLETT. You spoke about forming this association when you discovered that everything had been switched around and you

might be held in violation of law. I think that was back in 1954 when the Federal Trade Commission pronounced on the subject. Up until that time crewmembers could bargain collectively; could they not? I think the answer is "Yes."

Mr. MATHISEN. I believe it is yes, Bob.

Senator BARTLETT. Well, did they here?

Mr. MATHISEN. They did not here; no.

Senator BARTLETT. No?

Mr. MATHISEN. We had a different arrangement than they have stateside.

Senator BARTLETT. It never applied here?

Mr. MATHISEN. Off the record.

(Remarks off the record.)

Senator BARTLETT. All right. Thank you very much, Mr. Mathisen.

Mr. MATHISEN. No other questions?

Senator BARTLETT. It was a very helpful statement.

No other questions. Let me say though, before I forget it, that the record will be held open for a month, and anyone who has testified who wishes to offer a supplementary statement or anyone who hasn't testified and desires to do so in writnig may accomplish this by sending the testimony to Mr. William C. Foster, 248 Senate Office Building, Washington, D.C.

Off the record.

(Remarks off the record.)

Senator BARTLETT. The committee will now stand in recess for a brief time.

(Whereupon, a recess was taken.)

Senator BARTLETT. State Representative John Longworth will be the next witness.

STATEMENT OF JOHN LONGWORTH, STATE REPRESENTATIVE, STATE OF ALASKA

Mr. LONGWORTH. John Longworth, Box 328, Petersburg. I speak in my own behalf. I am not speaking as representing any particular group.

But Petersburg I believe has the largest independently owned fleet in Alaska. It is with this in mind that I would question the advisability of enactment of this measure.

The bill, S. 3093, as I see it, is too vague. Guidelines and limitations are not spelled out in a clearcut manner.

I am genuinely concerned as to how this fleet would benefit by provisions of this bill.

As it now stands, we handle fish either through a cooperative on a profit-sharing basis or regular dockside sales.

I believe it is correct to state that the settlements for our local fleet reflect a higher return to fishermen in dollar value of fish sold than any other port in the Northwest.

This is probably the only port where the so-called skipper's bonus is shared with fishermen.

Were this measure, S. 3093, to be enacted, I am concerned whether our local Petersburg Fishermen's Union, Independent, our Petersburg

Vessel Owners' Association, or our cooperative or our profit-sharing arrangement would stand. Who then would step in? Who would be our voice? How much control would be exerted over us?

I realize the committee is not here to be questioned but I do feel that there are several questions that might fairly be posed to the committee.

In one instance, in the bill, what does the word "such" mean on line 5, page 2 of S. 3093?

And, two, would our fishermen be put under the National Labor Relations Board Act?

No. 3. if we were under the National Labor Relations Board, could our union, our marketing association, and our cooperative be wiped out by establishing a larger bargaining unit say for all southeastern Alaska or even all of Alaska?

No. 4, would it create a positive employer-employee relationship?

Until these questions are answered, until it is spelled out in specific that we will benefit rather than lose, and until it is guaranteed within the law that our freedom as we now know it shall be maintained rather than diminished, I would continue to oppose the bill.

Now, in adding to that, Senator Bartlett added something about permissive legislation. I would be apprehensive of permissive Federal legislation. It's bad enough at the State level. And the reason I say that is the agencies involved through regulation usually go around some of the law, and I think that permissive legislation might become mandatory.

I think that that's all I have to say, Senator Bartlett.

Senator BARTLETT. Well, Representative Longworth, I think the questions you put are pertinent to the bill under consideration, and we're going to make special note of them, and answers to those questions will be supplied.

I should think that the best way to do that will be to ask them directly of the Government witnesses when they testify on this bill at some later and undetermined date in Washington. Because as yet we haven't had anyone in Government appear.

The Federal Trade Commission surely will want to be heard or should be heard. And the Justice Department will have to be called in.

I should think the Department of the Interior would have a contribution to make, and perhaps other Federal departments or agencies.

We will ask them the questions you propounded now and doubtless a multitude of others.

I don't know that I have any questions to put to you, Representative Longworth. You made your position clear. You are satisfied with the situation as it is now. You fear that the bill would alter that situation to the detriment of the fishing group here, and you don't want it passed. Nothing could be clearer.

Mr. Foster, have you any questions?

Mr. FOSTER. No questions.

Mr. LONGWORTH. Senator, I would like to add the fact that I do not think the situation as it stands is perfect. But I would be reluctant to go this route to make it better without knowing more about it than we do.

I think that we have a chance of worsening rather than bettering our position under this particular measure.

Senator BARTLETT. Do you have any recollection of the situation before the 1954 action of the Federal trade Commission?

Mr. LONGWORTH. I do not.

Senator BARTLETT. How long have you lived in Petersburg?

Mr. LONGWORTH. Twenty-one years.

Senator BARTLETT. Do you fish?

Mr. LONGWORTH. Occasionally.

Senator BARTLETT. Are you a vessel owner?

Mr. LONGWORTH. No, I am not.

Senator BARTLETT. And I suppose that testimony from no one in Petersburg on the point I have in mind would be helpful, because, as Mr. Mathisen said, crewmembers never did engage in collective bargaining on this issue here even in those days when it was legally permissible. So whatever we desire to learn on that score will have to come from elsewhere.

Thank you very much, Jack.

Mr. LONGWORTH. Thank you.

Senator BARTLETT. Now, is there anyone else here who would want to be heard at this time?

(No response.)

Apparently not.

I want to compliment the Petersburg witnesses upon being clear, to the point, and concise.

And don't forget that if anything else occurs to any of you that you want to submit, the record will be open for another month, and whatever you have to send in by way of writing will be included in the printed hearings.

The committee will stand in recess until 5 p.m. on Alaska Day, October 18, when we will reconvene in Anchorage in the Loussac Library.

(Whereupon, at 11:40 a.m., the subcommittee recessed to reconvene in Anchorage, Alaska, on Thursday, October 18, 1962.)

COLLECTIVE BARGAINING FOR FISHERMEN

THURSDAY, OCTOBER 18, 1962

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Anchorage, Alaska.

The subcommittee met at 5:20 p.m., in the Loussac Library, Hon. E. L. (Bob) Bartlett presiding.

Senator BARTLETT. The committee will be in order.

This hearing in Anchorage was to have been a continuation of a series which began in Seattle. Subsequent meetings were held in Ketchikan and Petersburg on S. 3093, a bill to amend the Fisheries Marketing Act of 1934 by making clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends.

We had sought to have the hearings in Alaska at such places as had expressed the greatest interest in the legislation. That is why we have met to date at Ketchikan and Petersburg.

There was a very considerable volume of correspondence developed from Anchorage on S. 3093, and, therefore, a special effort was made to set this hearing immediately after the parties' arrival from Juneau today.

However, the record should show that we have been waiting for about 25 minutes after the time announced for the convening of the hearing, and there are no witnesses apparently here to testify for or against the bill.

Are there any in the room?

Yes, sir?

STATEMENT OF MILAN TUCKER, ON BEHALF OF COOK INLET FISHERMEN'S ASSOCIATION

Mr. TUCKER. My name is Milan Tucker. I represent the local Fishermen's Association here at Cook Inlet.

Senator BARTLETT. Come forward. We welcome you if you want to testify.

Mr. TUCKER. Well, we have been hoping very strongly that this bill would pass.

Senator BARTLETT. Come on over here and sit down. This will be the only hearing probably in a long while where there is only one witness. You may have, sir, unlimited time.

I wish you would give your name again to the reporter.

Mr. TUCKER. Milan Tucker.

Senator BARTLETT. Your mailing address, Mr. Tucker?

Mr. TUCKER. Cook Inlet Setnetters' Association.

Senator BARTLETT. What is the mailing address for that association?

Mr. TUCKER. 1001 E Street, Anchorage.

Senator BARTLETT. What is your position with the association?

Mr. TUCKER. I am president of the association.

Senator BARTLETT. You have been such for how long?

Mr. TUCKER. For about 8 months now.

Senator BARTLETT. How many members in the association?

Mr. TUCKER. Oh, roughly 130 or 120.

Senator BARTLETT. What are the rules for eligibility for membership in the association?

Mr. TUCKER. Well, the association was formed in 1955 when we were made aware we no longer had collective bargaining rights, and it was formed as a co-op.

Its bylaws state that in order to be a member a person must be an active commercial setnet fisherman.

The Anchorage situation was such that the primary concern at the time was with the upper inlet, the part of the inlet roughly from the forelands to Anchorage, and this association was to cover that part of the inlet. As such, it was drawn up as a setnetters' association.

We have found in the time since we have had it formed up that the average fisherman, being on the fishing grounds most of the summer and working at an average living in the winter, isn't nearly as well able to take care of his business under the form of a board of directors or having it done with committee work.

Too often some of the boys either have a good season and take a trip here and there or they have a bad season and they have to go to work. A good deal of the time in the fall they are out moose hunting. They are not available.

And if we had our collective-bargaining rights and could delegate total authority to a business agent under a setup similar to a union, I believe we would be in a good deal stronger position not only in our efforts at bargaining for price but in our overall business entirely.

Senator BARTLETT. You are interested in salmon principally or exclusively?

Mr. TUCKER. At the moment, exclusively, yes.

Senator BARTLETT. How are prices set for salmon in Cook Inlet at this time?

Mr. TUCKER. The only way that we have at this time is for an appointed committee of fishermen to meet with the packers. In the normal course of affairs we meet with the packers separately. The prices aren't always decided, you might say, on a fair basis for each area.

At the present time we feel that the fish price in the upper inlet is somewhat higher than the price in the lower inlet, even in the case where the actual price of the fish is the same due to the cost of getting it into the can in the upper inlet being a higher cost.

Senator BARTLETT. Why is that again, please?

Mr. TUCKER. The mechanical means of getting the fish back into the cannery and getting it into the can involves a higher cost in the upper inlet than it does in the lower inlet.

Senator BARTLETT. Why should that be?

Mr. TUCKER. Partly because some of the lower inlet is fishing with mobile gear—that is, driftnets. And these men are closer to the canneries. Their fish aren't handled as often. They are able to be picked up quicker, shorter distance to travel.

Well, in the upper inlet it's strictly a setnet fishery by law, and the tenders have longer runs to make and have to handle the fish more often. Rough weather is a constant factor, and the overall operating cost on the cannery is figured roughly at about 10 cents a fish higher—perhaps even more so.

Senator BARTLETT. When these committees of fishermen meet with the packers in reference to prices, they do so representing the association?

Mr. TUCKER. Well, when our committee meets, it does, representing the association, but the way the situation in the inlet is now there are three or four marketing associations scattered over the whole inlet and it is very difficult to arrive at any type of price negotiations, in that there are three or four groups negotiating with the several canneries, not always at the same times. There is a good deal of whipsawing back and forth. It's very hard to agree on any price figure with any one canner.

Senator BARTLETT. You come out with different prices then?

Mr. TUCKER. And it is very difficult to come out with any price increase which we feel is well justified in the last 2 years.

Communications are difficult between the fishermen's groups. And the several co-ops don't actually work as one. And it leaves us in rather a weak position.

In order to have authority to act in any one co-op, a quorum of the board of directors has to be called in a meeting, which has to be done with due notice and all that sort of thing. And you have got to scare up the quorum and get them in off the fishing grounds.

And with three or four different boards of directors and a short season, it's a very difficult thing to come up with any equitable price of fish over the inlet as a whole.

We feel if we had collective-bargaining rights, as we once had, that this could be centralized and, for that matter, could very probably be handled before the fishing season is ever open, possibly even before the canners come up from Seattle.

Senator BARTLETT. At the present time do prices change during the season?

Mr. TUCKER. Other than just in very small individual cases they do not.

Now, this year the prices changed after the season started. They were granted raises which actually weren't negotiated until about the 12th of July. The season on that type of fish opened the 1st of July.

Senator BARTLETT. Do you have any idea of how many salmon fishermen there are operating in Cook Inlet in a typical year?

Mr. TUCKER. In a typical year there are probably in the gillnet fishermen alone 1,500 or 1,600.

Now, in the beach seiners I am not sure how many more that would bring in.

Senator BARTLETT. What kind of a year was this? Good, bad, or indifferent?

Mr. TUCKER. In the lower part of Cook Inlet it was an excellent year, one of the best that they have ever had. In the upper part of Cook Inlet, it was a little below average. The average take for individual fishermen was probably 70 percent of 1960, which was figured as a good year.

Senator BARTLETT. What will a fisherman gross in an average year?

Mr. TUCKER. Well, the fishermen, the setnetters, the crux of the matter as to what the man is going to gross lies basically in the locations—that is, the sites which he has to fish. The sites actually are pinpointed sites on the beach or on river bars. And if these sites are in the main travel of the fish toward the main spawning streams, the men do quite well.

On the overall average, I would say they run anywhere—on a year like this—from \$1,500 to \$25,000.

Senator BARTLETT. Considerable spread?

Mr. TUCKER. It's like how long is a string? There is as much difference between the take on a location as there is in the number of locations in the inlet.

Senator BARTLETT. Does the average fisherman on Cook Inlet, salmon fisherman, depend exclusively on that fishing for his livelihood, or is he forced to follow other occupations?

Mr. TUCKER. Well, the fishermen in some areas can just about make their living fishing. But with the fishery in the depleted condition it is and with the fishing season held to two 24-hour periods a week, I would say that the greater majority of the fishermen have to work other than that.

Senator BARTLETT. What do they do?

Mr. TUCKER. You name it, and they're doing it.

Senator BARTLETT. Do a lot of them homestead?

Mr. TUCKER. Quite a few.

Out of 120 of our membership, I would say that there are probably 75 of them on jobs here in the city now.

Senator BARTLETT. How long have you been fishing?

Mr. TUCKER. I started in 1951.

Senator BARTLETT. Do you fish in the upper Cook Inlet?

Mr. TUCKER. Yes.

Senator BARTLETT. Have you examined the bill that is before the committee, Mr. Tucker?

Mr. TUCKER. Not too well. We have been behind in our work all spring. Actually, we just reactivated this last spring, and we haven't caught up with ourselves as yet.

The main part of the bill—that is, what I consider to be the main part, in restoring collective bargaining rights to fishermen for their products—I feel would put the fishermen in a much stronger position in all of their business as well as in their price bargaining.

Senator BARTLETT. How do you mean?

Mr. TUCKER. We could more or less go back to a centralized authority, a business agent acting for everyone.

The way it is now we have a bunch of fishermen who are trying to earn a living, do their fishing and do their association work, their price bargaining, their political work.

At the moment we're in very strong controversy with some of the practices of some of the oil companies here.

Whereas if we could have a central business agent who could be a permanent year-round person or persons with an office and they could handle this business for all of the fishermen rather than a few of the fishermen trying to handle the business while they are trying to make their living, and so forth, I believe we'd be three times as strong as we are now.

Senator BARTLETT. So the committee is to understand that you approve the objectives of this bill and that you speak for yourself and also for the Cook Inlet Setnetters' Association?

Mr. TUCKER. For the association, yes.

Senator BARTLETT. Do you have any questions, Mr. Foster?

Mr. FOSTER. Yes, sir.

I wonder if you would clarify for the record why the marketing co-ops—your association—now cannot have one bargaining agent? Why is it, as you put it, you need to have a quorum before you can act? Why is that?

Mr. TUCKER. Well, at the present time we flatly, in the course of bargaining for fish, cannot boycott or strike. We can cut a cannery down to one fish per man per day, something like that, which is impossible to do. In order to catch that fish, you have got to put out a net, and you might catch 200, and you can't throw the 199 away.

And we set it up as a co-op form with a board of directors to run it—

Mr. FOSTER. Excuse me. Did you have to do it that way under the law?

Mr. TUCKER. The advice from the attorney was such that that was our best position at the time.

Mr. FOSTER. Various States have different laws on the subject. Under the act you can create a marketing association in any State, but you have to do it according to the corporation laws or the co-op laws of the State, and some States have one type of co-op law and corporation law and others have another.

I think that there are instances in which some State laws—I am not sure what the situation is here—do permit bargaining by one party, one agent, under their law.

That was the reason I wanted to get that on the record. Apparently there is a problem there, and it may be a problem of State law rather than a problem of Federal. Obviously that really inflicts some difficulties in terms of bargaining.

You mentioned that it was not possible under the present law for you to withhold fish. That is, you can't strike. You have to go ahead and put out your nets. I presume you can mend nets. You do have trouble with your nets from time to time. You can do extra work on your nets or something like that.

Mr. TUCKER. Yes.

Mr. FOSTER. Do you ever run into a period in which you have a particularly difficult time with your nets, where you have to spend as long as several days or a week or so working on the nets?

Mr. TUCKER. Very often you run into that sort of a thing. But when your fishing season is broken down into about 20 days out of the year, you flatly cannot afford to waste too much time bargaining for fish.

As I earlier stated, we didn't begin to negotiate this year until after what we call the red season had started, which is the time of the year when the four species of small fish run. And the fish in the lower inlet run over a longer period of time than ours do.

But if we happen to be negotiating for price or are hung up for authority over the wrong 2 or 3 days, our season is gone for the year.

And as far as fishermen having gear work or repair work or maintenance to do, he can probably—if he has a very large outfit and wants to keep it up quite well—spend pretty much 3 or 3½ months of the year on the beach along with his fishing time dovetailed in.

But our primary weakness now is that in trying to deal through the officers of our co-ops, our officers have to be, by our bylaws, fishermen. We, in other words, have to pull ourselves out of our annual income, leave our outfits on the beach, whether they are ready to go or not, try and bargain in the short time that we have available, try and communicate with the outfits on the other end of the inlet as to how they are doing, and it's an extremely difficult thing to do.

This year when our price committee went back to the beach they were within 24 hours of the actual run, the run coming. And out of seven of us I would say that four of us were ready to fish and never did get ready to fish, still aren't ready.

Whereas if we could have a business agent, a centralized authority who could go and bargain for our fish price as such, we could retain the man on a year-round business basis.

Mr. FOSTER. You have been fishing here since 1951. I gather, then, that you were when you did have unions.

Mr. TUCKER. Yes.

Mr. FOSTER. Now, what unions were here at that time?

Mr. TUCKER. The union that we had here at the time was the Alaska Fishermen's Union. Now, just what they were with I don't remember.

Mr. FOSTER. You are not certain whether they were affiliated with any international?

Mr. TUCKER. No.

Mr. FOSTER. Was there only one union at that time?

Mr. TUCKER. In the upper inlet in my knowledge as being active I believe so.

Mr. FOSTER. This in your opinion gave them certain strength that has since been diffused by the creation of some three marketing associations which can't have, apparently, any bargaining agent for them?

Mr. TUCKER. Well, we could have a bargaining agent for us, but he doesn't have too much power as such. He has to maintain communications with almost every fisherman on the inlet every day of the week if there's negotiations going on, which is almost impossible.

Because, as we have been given advice by the attorney, we cannot strike or boycott—we can cut delivery but we can't just call a strike and sit down, not that we would like to call a strike—the packers are very well aware of this, and we have no bluff to pull.

Mr. FOSTER. Now, before 1954 you could strike? You did have the other weapons that are available to a labor union that may not be available to a marketing association? Is that correct?

Mr. TUCKER. Yes. And the packers knew that we had full-time representatives who dealt for us. And he didn't feel that he also had the personal interest point between our ribs while we are in at the bargaining table and our outfits aren't being ready to fish and our fish are getting closer every day.

And we're not in the position to do this business strictly in the line of being an elected member. We need to go fishing and make a living too. And, of course, they are very well aware of this, and we have to call the bluff a lot stronger or take a lot stronger stand with them now than I believe we would.

Mr. FOSTER. Did the union before 1954 ever strike or picket or boycott?

Mr. TUCKER. I have been told that they did. Now, the exact instances and times I couldn't name. But in previous years I know that there were certain instances when it was found necessary, at least in certain local instances, and it was done.

Mr. FOSTER. Would you think that, if this bill was enacted that unions would have the authority to negotiate collectively on the price of fish, your present marketing associations, your three or four present marketing associations, would survive?

Mr. TUCKER. The necessity for their survival would not be nearly as acute.

Now, I don't know in my own mind. There are no two fishermen that think alike, and I couldn't sit up here and prophesy. But I don't believe that the associations would be needed, nor would we need to try and support two organizations in any one locality.

We could do our marketing business just as easily through a local union type of setup.

I don't believe that fish price being what it is now and fishing time being what it is now that even if the entire Cook Inlet were one solid united union with bargaining rights that you would see a strike next year. I know you wouldn't have seen one this year.

Mr. FOSTER. On the price?

Mr. TUCKER. No. But we would be in a good deal stronger position to bargain.

Mr. FOSTER. What do you bargain for other than price? Anything?

Mr. TUCKER. Well, in the various packers running their business in their different ways we sometimes have to try and bargain for individual things with the individual packer.

We sometimes have a certain amount of trouble with tender service perhaps from one cannery, and we have to try and clarify their objections to that and get it in writing in our contract.

Or we may feel that the packers who are furnishing gear to the fishermen on credit are taking too heavy a markup or furnishing inferior gear, and we have to try and take steps against that in our contract.

And in some instances where some of the men want to do a certain amount of fresh market selling we have to clarify those things in our contract.

There are quite a number of things other than just the actual laid-in price of fish that we try to work with.

Mr. FOSTER. Do the fishermen, by and large, own their own gear, or—

Mr. TUCKER. Almost a hundred percent.

Mr. FOSTER. Now, when I say "own," I mean do they have full title? Is a substantial amount of the gear under mortgage or loan of some type?

Mr. TUCKER. Other than in the instances of very, very poor years—now, 1961 in the upper inlet was almost a record poor year for the fishermen, and this spring a great many of the fishermen owed money on their gear. But in an average year they owe for what they buy in the spring, and in about 95 percent of the cases it is paid before the end of the season—that is, within 60 days.

Mr. FOSTER. So the usual situation is the fisherman does borrow money to obtain his gear, and if you have a good year you expect to pay that off sometime during the season?

Mr. TUCKER. Well, this used to be a pretty good rule of thumb, although the fishermen more and more nowadays are going into buying gear either through their marketing associations or on their own.

We find that we can get extremely good discounts. And for the men who want to go ahead and get their gear the previous winter for the following summer we have found ways that we can buy wholesale and obtain very good prices, and it is becoming more attractive to more of the men.

In years back, oh, 95 percent, 98 percent of the men bought their gear through canneries, but I would say that figure is dropping very strongly now.

Mr. FOSTER. The marketing association has been helpful for you in terms of getting gear at a lower price because you have been able to act as an economic unit in terms of purchasing gear and as that have been able to obtain a better price?

Mr. TUCKER. Yes.

Senator BARTLETT. Well, that gear which is not independently purchased by the individual or through the marketing association comes now from cannery financing or from commercial bank loans?

Mr. TUCKER. No, that comes from cannery financing. In the fishing picture as it is right now, bank loans are the nearest thing to impossible you can find.

Senator BARTLETT. You can't march into a bank and get a loan ordinarily on this type of operation?

Mr. TUCKER. If you are in the type of operation where you are using a larger boat in drift fishing, crab fishing, and your personal credit is such that you could qualify for the loan anyway, you can. But not otherwise. The picture is just too risky right now.

Senator BARTLETT. Mr. Tucker, some witnesses at hearings heretofore have expressed the fear that if a bill of this nature were enacted into law that a result might be that fishermen having the right to bargain collectively would act immediately and uniformly to keep driving the price of the delivered fish up, to the point where the salmon would be priced out of the market, that the housewife would be so appalled by the price confronting her that when she went to the grocery shelf that she would buy tuna or hamburger or beefsteak or turkey or something else.

One witness said this could very well result because he declared that the price of the delivered product depends somewhere between 50 and 70 percent upon the price of the fish when purchased from the fisherman.

Other witnesses have said, "nonsense," that this factor is of relative unimportance, that there are so many considerations involved in the final price that this one shouldn't be given undue emphasis and economically can't be given undue emphasis.

Have you ever studied this proposition or do you have any views upon it?

Mr. TUCKER. I took a trip early this spring in the course of trying to acquaint myself with the actual opinions of the individual fishermen. The method was simply the dory and a pair of kickers. I went down the inlet, stopped at each man's place from Anchorage on beyond Granite Point on the west side of the inlet and most of the upper east side.

I talked to almost all the fishermen. A few I didn't make on a time factor. Some of these men had fished as little as 3 years. Some of them had fished 27 years.

One of our prime worries this spring was price. And all of the men cautioned me that we didn't want to hit too hard for price and price ourselves out of the market.

I think in the last 5 or 6 years that the fishermen themselves have become very well aware of this.

Senator BARTLETT. They are cognizant of the danger that exists?

Mr. TUCKER. We now feel that certain species of fish in relation to their canned price are about as high as they can possibly go. We feel there are one or two species that definitely should have a certain percentage of raise.

But if we do get that raise, if the cost of living then goes down very much, eventually we are going to have to take a cut in our fish price.

Senator BARTLETT. Will you hold for a minute?

Mr. TUCKER. We all feel if the cost of living, the general index of living, were to go down very far, we would very likely wind up taking a cut in our fish price, because the last man in the world that wants to see fish priced off the shelf is the fisherman.

Now, many years ago the packers were buying fish in some instances at ridiculously low prices. The only ways to get those prices up were some pretty hard strikes. And I can see where there may be the opinion that if we got our bargaining right back we'd immediately try and hang them up for an enormous price increase, whereas actually, as I say, in some species we don't feel there is any room for an increase.

In two species here on the inlet we feel that there is some room, and in the others the only way we can ever get more for the raw fish is to develop a fresh market.

So I don't believe that there is going to be too much pressure trying to price the fish off the market.

Senator BARTLETT. Well, thank you, Mr. Tucker.

Do you have anything else to offer?

Mr. TUCKER. I think that is pretty well most of it.

Senator BARTLETT. You have covered the subject very helpfully, and we thank you for having come.

Mr. Shadura.

We almost had to adjourn for want of a witness.

STATEMENT OF ALEX SHADURA, ANCHORAGE, ALASKA

Mr. SHADURA. I am sorry this happened. One of the reasons is that many of the people that wanted to testify live many miles away.

In fact, I am just back from a 200-mile trip at this minute, and I talked to various fishermen on the peninsula.

Senator BARTLETT. Alex, before proceeding further, would you give your name and mailing address?

Mr. SHADURA. Alex Shadura. My mailing address is Box 4657, Anchorage.

Senator BARTLETT. Are you appearing here in an individual capacity or do you represent an organization or organizations?

Mr. SHADURA. I appear here individually, but I also speak in behalf of some of those people with whom I have talked today.

Senator BARTLETT. As individuals or organized groups?

Mr. SHADURA. Well, one of them is the president of the Kenai Peninsula Fishermen's Association, Bud Keener.

Senator BARTLETT. Is that a marketing association?

Mr. SHADURA. Yes.

Senator BARTLETT. Who is he?

Mr. SHADURA. He is the president. It is a similar organization to that of the Cook Inlet Setnetters' Association but it's on the lower half of Cook Inlet.

Senator BARTLETT. What is his name?

Mr. SHADURA. Bud Keener.

Senator BARTLETT. Where does he live?

Mr. SHADURA. His mailing address is Clam Gulch.

Senator BARTLETT. OK, Alex. Go ahead in your own way.

Mr. SHADURA. You just asked Mr. Tucker a question regarding the raising of prices or if that would eventually price the product out of the market. I feel this is a false assumption.

As you know, pricing the product out would depend on our basic law of economics, of supply and demand. It has nothing to do with what the cost of raw product is.

If the price was so exorbitant the consumer would refuse to buy, and it would reflect and reverse, and balance would be created.

I think this has been something that has been said many times, and I don't think it's right.

I think when this all came about that there wasn't enough investigation and adequate hearings in Alaska before the antitrust suits were filed against the fishermen, because if they had realized the peculiar problems that there are in Alaska they might have ruled differently.

I attended those hearings, but they were all held mostly in Seattle. And the problems of the Alaska fishermen are unique.

We'll take for instance the situation here in Cook Inlet. Actually, with the exception of a handful of fishermen, the fishermen are not independent; are all subject to certain rules or certain obligations to the cannery. I don't know of hardly any that aren't under those types of obligations.

Senator BARTLETT. What kinds of obligations do you refer to?

Mr. SHADURA. Well, it's something like the old store system that we had, where you purchased supplies throughout the winter or in the early spring and you paid your obligation in the fall. Maybe you were even at the end of the year. And this goes on continuously.

But for this privilege the buyer usually stipulates that you shall sell only to this one buyer. This is the stipulation.

Senator BARTLETT. You mean this is—

Mr. SHADURA. This is the general practice.

Senator BARTLETT. That is what the fellow pays for getting the credit?

Mr. SHADURA. For instance, I have been a Libby, McNeill & Libby fisherman for many years. But in extending the credit to me and extending supplies to me or maybe advancing sometimes in emergencies cash during the winter months, they in turn expected me to sell all my fish to them.

So there is really no independence there. We are, in fact, employees of the company, not independent fishermen.

In the Prince William Sound area I just recently talked to people in the BIA, and—

Senator BARTLETT. You mean Bureau of Indian Affairs?

Mr. SHADURA. Yes. I would rather not mention their names, for I don't want to jeopardize their positions, seeing that they're in a Government agency.

But they have told me the same situation prevails there, that the fishermen are subject to the will of the companies at the end of the season. Like for instance some of them made very well this year, but they were obligated from the year past, and at the end of the season, instead of giving them part of this summer's earnings to carry them over through the year, they demanded and took all their earnings for the year.

Well, I don't see anything independent about this type of a fisherman.

We have a situation here on Cook Inlet where under our cooperative system some of the fishermen are subject to the will of the various canneries who refuse to sign contracts with the cooperative because they feel the cooperatives don't have enough weight. So they can pay as they see fit. Whether they want to pay the going price or not is entirely up to them. And this has happened.

There is a differential here on Cook Inlet in the prices of fish being paid. It's the same type of fish. It's caught in the same water but paid differently because of the fact of their refusal to sign contracts.

We have one here. It's Snug Harbor Packing Co. It jointly works with the Pacific American Fisheries. It has one of these arrangements. We have another one here at Berman Packing Co. at Ninilchik.

Now, the two cooperative groups, the Cook Inlet Setnetters and the Kenai Peninsula Fishermen's Association, this year had assessed themselves 1 cent apiece per fish for the purpose of helping themselves. In other words, there are many problems arising. And for the protection of themselves they wanted to develop a fund so they could use this fund in any way they saw fit to protect their industry in every aspect.

These two canneries have refused to honor the signed statements by members of these cooperatives and refused to turn over the money.

I think that the passage of this amendment will help many of the native population in Alaska.

"As you know, Senator Bartlett, they are people that have to be guided, have to be helped. They're the ones that do not understand all the ramifications of cooperative law, as many of us don't understand. So, consequently, their memberships in these organizations are very few.

And under the setup we had before, where they were members of unions, they all participated. They have understood better the workings of union operations than they do this. It's a complicated law.

I spoke recently to a new section of the Research and Development Section of the BIA set up under Philleo Nash, including Mr. Abramson and Dr. Phillips and Mr. Sharp, Mr. Cassaway, who are trying their best now to set up a program of developing industries for the native population, and in discussing this cooperative law I could see that there were many things that were not understandable.

So I think this amendment here would help to clarify, would really make a better situation for the people that are producing the raw product and for the industry as a whole.

I would just like to mention some of the people here that would have liked to come here and speak in their behalf and asked that their name be mentioned.

There is Harry Mann, who now happens to be the steward, labor steward, in the refinery, the Kenai refinery, so he can't get away; Philip Wilson, from Kenai; Charles Simons, from Kasilof; Bob Schmidt, from Seldovia; George Miller, Jr., from Kenai; and, of course, I have already mentioned Bud Keener's name.

I would be glad to answer any questions if you would like to ask me.

Senator BARTLETT. Before any questions are put to you, I might say that those whose names you have mentioned and any others will be given 1 month to submit written statements if they care to do so, and if they do this, those statements will be incorporated in the written record.

Anyone is privileged to do this. You and Mr. Tucker and anyone else who may testify here today may supplement in writing your oral statements.

These should be sent to Mr. William C. Foster, 258 Senate Office Building, Washington, D.C., and we will be glad to have any of those that are sent in so the committee may make a more complete record.

You spoke, Alex, about different prices paid for the same kind and quality of fish coming from the same locations. Would you dwell on that a bit more, develop it somewhat further?

Mr. SHADURA. Well, I would say that the way we're functioning now I don't know too well if we're really functioning legally or not under the Marketing Cooperative Act, but, nevertheless, we bargain individually or cooperatively. We bargain for prices. It's been a procedure that has been going on in Alaska from the beginning of the fishing industry.

It's something that is historical with us, and I guess everyone realizes if there is a law that exists that possibly it's because we don't understand that we continue to do things in our old usual way.

Senator BARTLETT. Wait a minute. You're bargaining just the way you were before 1954?

Mr. SHADURA. Well, yes and no. It's very confusing. Nobody has really clarified this cooperative law.

Senator BARTLETT. Well, if the answer is yes more than no, why do you need this? Because you are bargaining anyway.

Mr. SHADURA. But we want to do things according to law. Everybody tells us we're always illegal. We want to do something in a legal way.

Senator BARTLETT. Well, even so, if you're bargaining now and the boom hasn't been lowered on you—

Mr. SHADURA. Well, it may be tomorrow. That is what we are concerned about.

Senator BARTLETT. It has not been for 8 years?

Mr. SHADURA. There's one thing that has actually scared the fishing organizations from fighting this order that was put in. I know what it was because Alaska Fishermen's Union was one of the people concerned. They had a sum of \$50,000 or \$60,000 gathered over many, many years, and they were concerned that if the ruling went against them—I mean they were practically forced to accept the ruling because if the ruling went against them and the fine fell upon them that they would be cleaned out overnight.

Senator BARTLETT. Let's go back to this bargaining, Alex. Who does the bargaining?

Mr. SHADURA. The bargaining is done by a bargaining committee by each one of these organizations.

Senator BARTLETT. The marketing associations?

Mr. SHADURA. Yes.

Senator BARTLETT. But those marketing associations were organized subsequent to 1954?

Mr. SHADURA. Yes.

Senator BARTLETT. So bargaining isn't done now then as it was before?

Mr. SHADURA. Well—

Senator BARTLETT. It was done on a union basis before, was it not?

Mr. SHADURA. It was done on a union basis, but there is some similarity between the two.

Senator BARTLETT. Except now you have no muscle to your bargaining?

Mr. SHADURA. No, that's no muscle.

Senator BARTLETT. You can't, for example, strike. And a strike is a rather powerful economic weapon on behalf of labor, is it not?

Mr. SHADURA. Yes, that is. It is the main weapon.

Senator BARTLETT. But you are foreclosed from that at this time?

Mr. SHADURA. Yes, we are.

Senator BARTLETT. So it's bargaining in an entirely different sense from that which you experienced and enjoyed, I take it, before?

Mr. SHADURA. Our procedure for bargaining is the same, but we couldn't follow through. Actually, if it wasn't for the good price that they were having on the market—I think it was a matter of the profit level diminishing—I don't think that they would even consider us. They would apply the pressures on us.

Senator BARTLETT. Talk to us a bit more, if you will, Alex, about when you said the canneries bear down and discriminate by paying X cents to Mr. A for a fish and A cents to Mr. Y, or whatever—different prices.

Mr. SHADURA. In the middle of the inlet there is an island called the Kaligan Island.

Senator BARTLETT. All right.

Mr. SHADURA. And this happens to be central. Kenai River Packing Co. which has a contract with our association, the Columbia Ward that buys fish that has a contract with us, the Seldovia Compact group down there, the Seldovia-Port Graham Consolidation, they come and buy from the Kaligan Island area, as does the PAF, Snug Harbor combination. Yet they receive 4 cents a fish less for humpbacks or the pink salmon, and they receive 2 cents a fish less for reds.

Senator BARTLETT. Less than what?

Mr. SHADURA. Less than we do, than the people that belong to the cooperatives.

Senator BARTLETT. The people who don't belong to it?

Mr. SHADURA. Well, they also belong to the cooperatives, but these two companies will not recognize and sign contracts with the cooperatives.

Senator BARTLETT. Say it again, please. The companies will not sign contracts with some cooperatives but will sign contracts with others?

Mr. SHADURA. That's right.

Senator BARTLETT. Why? Do you know or is it said?

Mr. SHADURA. Because it happens to be that they are only a small segment of their total fishery that comes from that area, so they leave those people at the mercy to do as best they can.

Senator BARTLETT. Now, has there ever been an example where a cannery might get provoked at Mr. Shadura and pay him less than it might pay Mr. Tucker?

Mr. SHADURA. Yes; there have been situations. I think Mr. Tucker probably could answer that because he is in the situation here where that prevails more than it does in our area.

It happens to be Mr. Shadura is a good fisherman, has good locations, and so consequently he's in a better bargaining position than many, more than the average.

But there's many who don't have this individual bargaining power.

Senator BARTLETT. Did you belong to a union before 1954?

Mr. SHADURA. I belonged to the Alaska Fishermen's Union for 18 years.

Senator BARTLETT. Do you belong now?

Mr. SHADURA. I do not belong now. I haven't belonged in the period between the time I was a member of Alaska Fishermen's Union and this act came into being or the order came into being. I was a packer myself for a while.

Senator BARTLETT. When?

Mr. SHADURA. In 1948, 1947; 1948-51.

Senator BARTLETT. You bought fish then?

Mr. SHADURA. I bought fish, and I was a co-owner and also a packer, individual packer.

Senator BARTLETT. And now you only fish?

Mr. SHADURA. That's right.

Senator BARTLETT. And you sell your fish?

Mr. SHADURA. That's right.

Senator BARTLETT. Well, in the days before 1954 did you as a fisherman enjoy better prices, comparative prices, better conditions all around than since then?

Mr. SHADURA. Yes, I think that generally the—well, when we came back from the service—let me go back to 1946 and let me go back even to 1941, 1940. We had an agreement at the time that during the war period that the fishermen would not ask for a raise in prices. When I left for the service the price of fish was at 36 cents.

When I returned from the service in 1946, the price was still at 36 cents. But in the meantime I wouldn't have to tell you what the difference was in the selling price, because the Government allowed the operators additional raises even under the price control structure.

So a number of us veterans who were members of the Alaska Fishermen's Union said it was an unfair practice on the part of the industry, and we decided to work collectively to get a better share of the dollar that was being made off the fishery. We thought it was unfair.

And from that time on we were able to get a more equitable and a better living for the people in the fishing industry.

Everything was going along real fine. There was nothing except that I think possibly someone was interested in disassembling this collective effort on our part and so applied the pressures which led to the antitrust order.

Senator BARTLETT. Well, have you lived in Alaska long? That's a loaded question.

Mr. SHADURA. That's a loaded question. I was born here.

Senator BARTLETT. Where?

Mr. SHADURA. I was born at Kenai.

Senator BARTLETT. So you have seen fishing in all its stages, all its agonies and glories for quite a while?

Mr. SHADURA. Yes. I could write a book. Maybe I will one of these days.

Senator BARTLETT. I think you ought to.

Mr. SHADURA. I cut my teeth in 1921. My father took me out the first time in 1921.

Senator BARTLETT. You'll be giving away your age here pretty quick, Alex.

Mr. SHADURA. I'm 39. [Laughter.]

Senator BARTLETT. Mr. Foster, do you have any questions?

Mr. FOSTER. I have two.

You were about to develop what was to me going to be an interesting point, and I would just like to complete it for the record. You said in 1942 the price of fish was 36 cents.

Mr. SHADURA. 1941.

Mr. FOSTER. No, excuse me; 1942. This was before the war.

Mr. SHADURA. 1941. I was in the service in 1942.

Mr. FOSTER. What was the price of fish in 1941?

Mr. SHADURA. 36 cents.

Mr. FOSTER. In 1946 what was the price of fish?

Mr. SHADURA. 36 cents.

Mr. FOSTER. In 1954 what was the price of fish?

Mr. SHADURA. In 1954?

Mr. FOSTER. At the time that they issued the order.

Mr. SHADURA. I think it was about \$1.25.

Mr. FOSTER. What is the price of fish this last year?

Mr. SHADURA. \$1.47. I'm talking on the red salmon scale now.

Mr. FOSTER. Yes.

Mr. SHADURA. The humpbacks in 1941 were about 4 cents, and I think they went up in 1946 to about 16 cents.

Mr. FOSTER. They went up during the war then?

Mr. SHADURA. The new price that we had in 1946 was I think around 16 cents. No, they didn't—

Mr. FOSTER. After you negotiated, then?

Mr. SHADURA. After we negotiated.

Mr. FOSTER. I see.

Mr. SHADURA. I can't recall exactly the figures.

Mr. FOSTER. Do you want to continue with that? Do you recall what the figures might have been in 1954 or 1961?

Mr. SHADURA. In 1954 the pink price was around—

Senator BARTLETT. Which price?

Mr. SHADURA. The pink price. I would say that it would be—I can't really recall. Thirty-three cents, something like that. In 1954 I believe it was 33 cents. It was a very exceptional pink year here, one of the heaviest pink years we had with the exception of this year.

Mr. FOSTER. This year the price was what?

Mr. SHADURA. This year the price is 51. We negotiated from 47 to 51 this year.

Mr. FOSTER. If the committee wanted to get the price of fish year by year for this area, could that be made available to the committee?

Mr. SHADURA. Yes; I'm sure that between the collective—

Mr. FOSTER. Efforts?

Mr. SHADURA. That collectively between the members that recall these things—I think there are some records. Aren't there some records, Milan, in the office?

Mr. TUCKER. I believe we can even show you the discrepancies in prices and the discrepancies in bargaining since 1954 and the fact that we have bargained but never collectively.

As of now we have a hodgepodge of prices all over the area. None of them are equal. None of them are fair.

Mr. FOSTER. I think that would be helpful for the record.

I don't have further questions.

Mr. SHADURA. I would like to mention this one thing. I was also a member of the National Cannery Association at one time. After this had occurred, I think that some in the industry thought this was a good thing, the applying of the order. But after it occurred there was turmoil there for about 2 years, and they wished that nothing like this had ever happened.

Whoever instigated it, I think, was sorry that it happened.

I think generally the whole development of the fishery in Alaska has been good under an industry-union arrangement. It's been very good. I don't think there's been any reason why it should ever have been changed.

Mr. FOSTER. It might be pointed out that at the hearing in Seattle where industry was represented, they did not take a clear stand against this bill, and they more or less awaited later judgment.

Senator BARTLETT. Yes, I think that is important for you to know, that the industry was represented by an attorney who presented a paper giving the background more or less of this entire situation but reserving an industry judgment until a later date.

Mr. SHADURA. I want to emphasize again that the fishermen that I know here in Alaska never at any time can ever be accused of collusion to raise—which they were accused of. This was never their intent. Their only intent, in their collective actions, was to receive a wage that they could live by, and they felt that the industry could well afford to pay. And this is the only thing that they have ever done. Nothing more.

And if they ever felt that the consumer was hurt, I think the fisherman, you know, is one of the prime consumers especially of fish, and he'd be the first to change his attitude.

I think this thing should be erased completely in this argument that has been put up. It should be erased.

Senator BARTLETT. Thank you very much, Mr. Shadura.

Are there any other witnesses?

If not, the committee will stand in recess.

Mr. FOSTER. We have another witness.

Senator BARTLETT. We won't stand in recess. We welcome you.

STATEMENT OF MRS. B. J. COBB, NUKA ISLAND VIA SELDOVIA, ALASKA

Mrs. COBB. I more or less am representing just myself, but I think I speak for most of the seiners in the outer district.

Senator BARTLETT. Will you please identify yourself?

Mrs. COBB. Mrs. B. J. Cobb, Nuka Island via Seldovia, Alaska. I have been fishing up here 9 years.

Senator BARTLETT. You have our undivided attention.

Mrs. COBB. In the outer district the seiners now are in a pretty bad position.

Senator BARTLETT. What do you mean by the outer district?

Mrs. COBB. I'm speaking for anything below Anchor Point, on to Seward, which is just seining. And there's, oh, approximately 200 seine boats in that area.

Senator BARTLETT. You are not referring to any shore-based net operations?

Mrs. COBB. No, sir.

And at the present time it's pretty hard for us to do any negotiating on our own because one cannery has almost full control of that whole area, and for this reason we are taking quite a beating because we can't—there is no competition to give us a chance to bargain with them other than if we could do so through a union.

Senator BARTLETT. Where do you sell your fish? You don't have to name the cannery.

Mrs. COBB. Seldovia-Port Graham Consolidation.

Senator BARTLETT. How many seine boats operate in that area would you say?

Mrs. COBB. Approximately, oh, I'd say from 150 to 200.

Senator BARTLETT. Do you own a boat?

Mrs. COBB. Yes.

Senator BARTLETT. Do you go out and fish?

Mrs. COBB. Yes; up until this year I was set netter on Kaligan Island.

Senator BARTLETT. This is your first year of seining?

Mrs. COBB. Yes.

Senator BARTLETT. Which do you like better?

Mrs. COBB. Seining.

Senator BARTLETT. Why?

Mrs. COBB. I don't know. Everybody that goes seining always likes seining the best I guess.

Senator BARTLETT. Well, how many crewmembers do you have?

Mrs. COBB. I had two.

Senator BARTLETT. You had two?

Mrs. COBB. My father and my son were with me.

Senator BARTLETT. Did they ever feel you were discriminating against them?

Mrs. COBB. No.

Senator BARTLETT. Were you ever given a bonus by the cannery?

Mrs. COBB. No; I think I will get one for last year on Kaligan Island. I don't know yet.

Senator BARTLETT. But if you have the same crewmembers your situation wouldn't be comparable with that of other places we have held hearings at where they——

Mrs. COBB. Well, I did last year on Kaligan Island as a set netter.

Senator BARTLETT. You what?

Mrs. COBB. I had another crewmember.

Senator BARTLETT. You didn't have any bonus arrangement?

Mrs. COBB. No.

Senator BARTLETT. You see, down in some other places the crewmembers allege that the skipper gets tied up with the cannery in one way or another and they slip him a bonus which he doesn't divide, although this certainly wasn't the case at Petersburg, with the crewmembers; that he makes a deal with the particular cannery or alternatively that he is so in debt in the cannery that he has to sell to the one outfit, and sometimes an independent buyer comes on the scene offering a higher price and the skipper says, "Nix, I'm going to our old cannery."

And the crewmembers are all concerned about this because they see additional profits for them evaporating.

Mrs. COBB. Well, that can very well happen on the seine boats because that is generally the case I would say. Fifty percent at least of the seiners are in debt to the canneries for their boat and equipment.

Now, in my case it's different. I'm completely independent of the canneries. But I know for a fact that most of them are.

And it's just like he says. They are just not here because they all live so far away to speak for themselves in this matter.

Senator BARTLETT. Do you think this is a good bill?

Mrs. COBB. Yes, I do.

Senator BARTLETT. And do you think, if this bill were, instead of being what it is, actually a law, that the union could force a cannery such as the one you have described to give more equitable, fair price treatment to the seiners?

Mrs. COBB. I should think so.

Senator BARTLETT. And you would think so, I presume, because this would be the only way the cannery could get any fish? If they threatened to strike, or struck, the cannery would be cut off from a source of supply? But the way it is now there is no united economic front on the part of the seiners?

Mrs. COBB. That's right.

Senator BARTLETT. Is that right?

Mrs. COBB. Yes.

Senator BARTLETT. Will you proceed, please? I interrupted you. I didn't mean to.

Mrs. COBB. That is about all I have to say about it except that like I say at the present time we have no bargaining power at all because we have no competition in the canneries and the buyers themselves.

Senator BARTLETT. I'll bet you have a terrifically long list of applicants though to be crewmembers.

Mrs. COBB. No.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. Are the captains of the vessels there organized in any type of marketing co-op?

Mrs. COBB. Well, there are a few that do belong to the Alaska Fishermen's Association, but the majority of them have dropped out, so, therefore, they do not have.

Senator BARTLETT. That is a marketing association?

Mrs. COBB. That's right.

Mr. FOSTER. That is the marketing association for that area?

Mrs. COBB. Yes.

Mr. FOSTER. Do you belong?

Mrs. COBB. No; and I never have.

Mr. FOSTER. Do you know when that association began operation?

Mrs. COBB. Well, I don't know. It seems to me it's been in operation for a great many years, but they don't have the powers that they used to have.

Mr. FOSTER. Now, the crew on the vessels, are they organized in any way?

Mrs. COBB. No.

Mr. FOSTER. They are entirely unrepresented?

Mrs. COBB. I doubt it. There are a few of the oldtime fishermen but most of the fishermen—well, to be quite frank with you, nowadays most of the fishermen are composed of their families, a great deal of them.

Mr. FOSTER. And these vessels usually include a captain and two—

Mrs. COBB. Two helpers.

Mr. FOSTER. Two helpers?

Mrs. COBB. Yes.

Mr. FOSTER. Helpers are usually members of the family?

Mrs. COBB. Most generally, or young boys just out of school.

Mr. FOSTER. You work on a share basis?

Mrs. COBB. Yes.

Mr. FOSTER. And from discussions you have had with others similarly situated, you would think that if they could have a union and the bargaining power of that was provided under this bill that they would become organized and would be interested in having this authority?

Mrs. COBB. I definitely think so. I can give you a good example of what happened in my area. Now, I am on Nuka Island, which is around the point from where most of the boats fish, and there were around 6 boats there at the time, and the fish and game department opened up the creeks there, and the manager of this fish company came down and went into 1 bay where a man was sitting there with approximately 14,000 fish in his net.

And, of course, everybody knows that the seine season was very good this year. And he was in a position where he didn't care whether the fisherman made it or not. So he said, "Well, I don't want your fish. Just let them go."

Then he goes into the next bay. There's another fisherman sitting there with 10,000 fish, but he had those on board. And he owed the company some money where this other man didn't. He owed him some money. So he made him sign a statement saying that he would accept 35 cents for the fish when everybody else was getting 40 cents for the fish.

Well, the man had already pulled in 10,000 fish, so he went ahead and signed that statement, where now he's trying to rectify that.

And to me that was very unfair. And if we had had a power of the union that would never have happened.

So, in other words, this man over here had the same identical fish that this man did here. They were exactly the same fish. And he had to let his go.

Mr. FOSTER. He let them go?

Mrs. COBB. He let them go. He cut a hole in his seine to let them go.

Then I come in with another boatload of fish. They put 35 cents on my ticket. But I wouldn't go for it because I hadn't signed anything.

Mr. FOSTER. What did you do?

Mrs. COBB. I went to the cannery and said, "I won't take it." So he paid me the 40 cents.

Mr. FOSTER. You just bargained with him yourself?

Mrs. COBB. Yes.

So that's the situation we have down there. And I really feel that if we could bargain collectively with the cannery that we would have a much better chance.

My idea was in signing that 35 cents that he's going to try and knock the price down to the seiners next year. There was some reason for it.

Senator BARTLETT. I wonder why he would tell a fellow with 14,000 fish to let them go. Did he have a desire to do other than to put up the maximum pack possible?

Mrs. COBB. Well, he said that the fish were inferior because fish and game department had opened the streams too late.

So we sent in some of the fish to the biologist, and there was nothing wrong with them. The only thing was, although he would not admit it, his cannery was overloaded. He was sending fish to Kodiak and to Prince William Sound to be processed. But—

Senator BARTLETT. If the quality of those 14,000 fish was bad, wouldn't the quality of the 10,000 be the same?

Mrs. COBB. Yes. They were identical fish.

Senator BARTLETT. But he had more fish than he could pack?

Mrs. COBB. Well, he had as many fish as he wanted. Let's put it that way.

Senator BARTLETT. You said he was sending some——

Mrs. COBB. He was sending some but he still could send more.

Senator BARTLETT. Yes. So you're for the bill?

Mrs. COBB. I am, yes.

Senator BARTLETT. Thank you very much.

Alex Shadura.

FURTHER STATEMENT OF ALEX SHADURA, ANCHORAGE, ALASKA

Mr. SHADURA. There is one other very important point that we overlooked.

That is, since the act of 1954, or since this order of 1954, the end price of the fish, the market price of the fish, has raised more rapidly, and there has been more extensive raises than during the period of collective bargaining, the time that we were bargaining under the union.

Senator BARTLETT. I think, Alex, you had better furnish for the record positive arithmetic on that.

Mr. SHADURA. We'd like to furnish that.

Senator BARTLETT. Yes. Because I sense that a general statement wouldn't be accepted by those with an opposite viewpoint.

So if you would spell that out in writing to Mr. Foster——

Mr. SHADURA. Yes, I can. I know definitely the figures. And especially in the lower grade fish, in the pink salmon and in the chum fish. Not so much in the red fish but in the lower grade fish.

So I just want to make this as a matter of record.

Senator BARTLETT. All right. Are there any further witnesses?

Mr. Tucker?

FURTHER STATEMENT OF MILAN TUCKER, ON BEHALF OF COOK INLET FISHERMEN'S ASSOCIATION

Mr. TUCKER. Might I make another couple of points?

Senator BARTLETT. You might.

Mr. TUCKER. While I was up here talking I lost myself, which I often do.

We have, of course, bargained ever since 1954, but what we have never been able to do is bargain collectively. And where we have gotten what appear to be very extensive price increases, as Alex said, we will submit a letter showing the variance in price over the time.

And the end price of the product has gone up a great deal more since we weren't allowed to bargain collectively.

But now we have gotten to the situation where if a setnetter in the instance of a setnetter on the beach comes in to the bad graces of a cannery operator, particularly in certain areas, say for instance in the upper inlet, where he only has service available from two operators, if he winds up in a bind with either one of the canneries that he's operating for and he is, as a great many of the boys in the upper inlet are, still using cannery credit, they can, if they feel it necessary, come right down on the beach and pull the gear out from under him. He can hardly be called a businessman.

Right at the present time we have one packer on the upper inlet operating at a disadvantage of not less than 10 cents a fish. He claims 20 cents. And we have a second packer servicing in the upper inlet but he is only servicing, oh, not more than 10 men.

Well, those 10 belong to our marketing association.

He is primarily concerned with the men in the lower inlet where he gets the major part of his catch, and we have very, very little bargaining power with him in the event of any type of a dispute.

Unless it pleases him to meet the going price on the inlet, as they say, he actually could pay those 6, 8, or 10 men pretty much as he pleases.

And if a dispute on any of this sort of thing arises in the middle of the season under the co-op setup now we would have to call our board of directors off the beach, which could very likely happen right on a run when they can't leave the beach, so the dispute is never settled, and the man is treated as an individual according to however well he can bargain for himself.

The reason that we have to depend so strongly on our board of directors is that this fishery problem up here, in its various types of gear and various forms and weather and areas, is a mess of unique problems all unto itself.

We can't go out on the street and hire a man to do our business because he doesn't know our business. It takes a fisherman to do it, and a fisherman hasn't the time to do it.

Senator BARTLETT. Do I infer correctly from what you say now and what you said before that the association is, in fact, a relatively inefficient organization for accomplishing the purposes that you desire?

Mr. TUCKER. Very inefficient.

Too often the major pressures that are put upon us are put upon us at the exact time that we have to be fishing and can't take care of it.

So, as I said earlier, when I was here at the table, we have been behind on our work all summer. We're still behind.

Senator BARTLETT. When your board of directors meets, it isn't as if the General Motors board went into session? You don't give them a fee, do you?

Mr. TUCKER. No.

Senator BARTLETT. No, I didn't think so.

Mr. TUCKER. It's written into our bylaws under advice from our attorney that the board of directors shall receive no recompense for their services.

You might say in the case of the young lady who was testifying on the seiners and the seine boats' marketing association if they had a seven-man board of directors and seven men had to come in and tie up \$30,000 seine boats, you just can't get anything done.

So we badly need to get out from under this and get in a position where we can bargain collectively and centralize our authority. Then we could pick a fisherman on a 4- or 5-year basis, give him a security and incentive to work for and retain him as a business agent and go ahead and do our business.

Now, as I say, we bargain for prices every year. We have never been able to bargain collectively. We can never all get together at the critical time. And we have a packer on the upper inlet operating at a 10- to 20-cent-a-fish disadvantage. And we have the packers in the

Seldovia-Port Graham Consolidation buying fish in the central inlet at prices that put the packer in the upper inlet at an extreme disadvantage when he markets his fish. His costs are considerably higher but his market price has to be the same.

I believe that in certain instances we can even show a benefit to the packers on the thing.

I believe that's about all I have got on it.

Senator BARTLETT. Thank you, Mr. Tucker.

If there is no further testimony to be offered, the committee will stand in recess but will not do so until after the chairman has expressed his thanks to those in charge of the Loussac Library for making these very convenient and comfortable facilities available for this hearing today.

The committee now will be in recess until sometime tomorrow when, weather permitting, we shall reassemble at Dillingham.

(Whereupon, at 6:47 p.m., the subcommittee recessed, to be reconvened at Dillingham, Alaska, on Friday, October 19, 1962.)

Selkirk-Fort Graham Consolidation paying fish in the central in-
 let at prices that put the dealer on the spot with an extreme dis-
 advantage when he must sell his fish. The dealer is considerably higher
 but the market price has to be paid.

I believe that in certain instances we can even show a benefit to the
 packer on the fish.

I believe that about all I have got to say.
 Senator HARRIS: Thank you, Mr. Tolson.

It there is no further testimony to be offered, the committee will
 stand in recess but will do so until after the chairman has ex-
 amined the exhibits in the industry of the James-Lake fishery for making
 these very convenient and comfortable facilities available for the
 hearing today.

The committee now will be in recess until sometime tomorrow when
 we will resume our work. We shall resume at 10 o'clock.
 (The committee recessed at 4:17 p.m. The subsequent recessed to recon-
 vene at Billingsham, Alaska, on Friday, October 16, 1933.)

COLLECTIVE BARGAINING FOR FISHERMEN

FRIDAY, OCTOBER 19, 1962

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Dillingham, Alaska.

The subcommittee met at 3:40 p.m., in the high school auditorium, Dillingham, Alaska, Hon. E. L. (Bob) Bartlett presiding.

Senator BARTLETT. The committee will be in order.

This hearing in Dillingham is the fifth in a series of Senate Commerce Committee hearings being held on S. 3093. The hearings commenced in Seattle last Monday, and the committee proceeded from there to Ketchikan, to Petersburg, thence to Anchorage, and now, and perhaps, finally, so far as the Alaska section of the hearings is concerned, to Bristol Bay.

It is possible that later on another hearing will be held in Kodiak. This has not yet been finally determined.

It is certain that a further hearing or hearings will be held in Washington, possibly also in California and other east coast and gulf coast communities.

The bill now before us was introduced by Senator Magnuson, chairman of the Commerce Committee of the U.S. Senate, and its purpose is to amend the Fisheries Marketing Act of 1934, which was a law originally enacted and designed to provide fishermen with the right of self-association for cooperative improvement of their condition.

This bill is intended to make it clear that fishermen's organizations, regardless of their technical legal status, would have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends.

Legislation of this general nature has been before the Congress for several years, substantially, in fact, since the Government back in 1954 held that fishermen or crewmembers of vessels could no longer bargain collectively in respect to fish prices.

The bill under consideration was, as I say, introduced by Senator Magnuson, was cosponsored by me, and we both acted, as the saying goes, by request.

And in the House of Representatives there is an identical bill introduced by our own Congressman, Congressman Rivers, and also by request. This is H.R. 11159.

When the committee held its first session in Seattle following adjournment of the 87th Congress, we were fortunate enough to have with us Representative Pelly of Washington State, who is a member of the House Merchant Marine and Fisheries Committee.

Today in Dillingham it is our good fortune to have with the committee Alaska's Congressman, Hon. Ralph J. Rivers.

I yield gladly to you, my own Congressman, for whatever preliminary statement you may care to make.

STATEMENT OF HON. RALPH J. RIVERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. RIVERS. Mr. Chairman, I want to express my pleasure and gratitude at the invitation to sit with you at this hearing and will say that I will devote my major efforts to listening to the witnesses instead of saying very much myself, reserving only the right to ask a question or two perhaps.

I am interested in this because I did introduce it by request. That is a trial balloon type of thing. You want to find out what the reaction on the home front is.

I have no desire to pursue it if it doesn't meet with the satisfaction of our constituents.

We are trying to get a consensus of opinion. For that reason, these hearings are being held. Is that about right, Bob?

Senator BARTLETT. I think that is a correct description. The proposed legislation is somewhat controversial in nature.

Mr. RIVERS. That concludes my preliminary remarks, Mr. Chairman.

Senator BARTLETT. Now, while it is true that the committee is here specifically to take testimony relating to S. 3093, it is not intended to foreclose testimony on any other matter relating to the fishery which residents of Dillingham or people from other places in Alaska who may be here might care to offer. The way will be cleared for them in case they care to do so to testify in a general way.

Carl Nunn, could you tell the committee if a list of witnesses has been arranged?

Mr. CARL NUNN. There is no specific list of witnesses.

Senator BARTLETT. All right. Let's handle it this way then. Will all of those who care to testify stand so we can take down their names and get some sort of an order of appearance?

Truman Emberg is No. 1, Miles Brandon No. 2, Earl Tilden No. 3. That will be enough to go with. I have no doubt whatsoever that by the time these three witnesses have concluded that others will desire to be heard.

Truman, how about you coming up first.

We welcome you, Mr. Emberg. Through many years it has been my privilege on many occasions, both as Delegate in Congress from the then Territory of Alaska and as a Senator from Alaska, to have the privilege of listening to your testimony, which is always lucid, which is always in the interests of the people of your area and of Alaska.

So once again I have the honor of welcoming you to testify before a congressional committee.

STATEMENT OF TRUMAN EMBERG, DILLINGHAM, ALASKA

Mr. EMBERG. Thank you, Senator.

I wish to appear in favor of this bill. A year ago I appeared before your committee, and at that time I didn't take a stand for or against. At that time the business agent or the manager for our association was not present, being in the hospital at Anchorage, and I thought primarily that their viewpoint should be known.

Now at this meeting I wish to take a definite stand in favor of this bill.

As I understand it, this will enable independent fishermen, their employees, or those who work with them on a share basis to engage in collective bargaining. I believe this is at present a rather twilight area in the law. To me it would be inconceivable if we sat down in the spring to negotiate a contract or a price agreement and were told by the courts that this was not possible because it was illegal. I think there would be chaos in Bristol Bay.

I think we need a decision on this matter to clarify the legal aspects of it.

I, as a fisherman individually, have nothing to fear from passage of this bill.

That concludes what I have to say in regard to this. I would like to go a little bit afield, Senator, with your permission.

Senator BARTLETT. Surely you have the permission, but perhaps, Mr. Emborg, it would be best to conclude this section first. And if you do not interpose any objection, we will perhaps want to ask you a few questions.

Congressman Rivers?

Mr. RIVERS. Mr. Chairman, for the record and based upon my memory, what was before us a year ago was legislation along this general line but quite a different bill.

The one before us a year ago was to amend the Taft-Hartley Act to say that persons working on shares and the skippers of vessels would for the purpose of collective bargaining be deemed to be employees and therefore not be barred from doing so through the antitrust laws.

That did prove to be really controversial.

This I think is going to meet with more favor than the one did that was before us last year.

As stated by the chairman, this is to authorize fishermen who organize, and where the organization contains two categories, those who have interests in the vessel and those who are employees, to bargain collectively and not be in violation of the antitrust laws.

Do you understand that this creates a situation which is optional whereby people in the district can avail themselves of it if they want to and they do not have to if they do not want to.

Mr. EMBERG. That is my understanding, sir. The twilight area I spoke of was in regard to the national labor laws.

Mr. RIVERS. Yes, indeed.

That is all, Mr. Chairman.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. No questions.

Senator BARTLETT. Do you fish here?

Mr. EMBERG. Yes, sir.



Senator BARTLETT. Do you fish as a boatowner, crewmember, or what, Mr. Emberg?

Mr. EMBERG. Well, for quite a few years now I have fished as a boatowner.

Senator BARTLETT. How many crewmembers do you have?

Mr. EMBERG. Usually I have one crewmember fishing with me.

Senator BARTLETT. How do you pay him. In wages or by shares?

Mr. EMBERG. By share. I always pay my boat puller or crewmember on a one-third basis. That is one-third of the gross.

Senator BARTLETT. How do you know what your price is going to be?

Mr. EMBERG. Because we have been able to negotiate those prices through our elected representatives in our marketing association. These people negotiate the prices in advance of the season.

Senator BARTLETT. You are guided by these decisions reached by your representatives in the marketing association? You take their word, or do you ever do any independent negotiating with the canneries?

Mr. EMBERG. I don't negotiate independently with the canneries.

Senator BARTLETT. The canneries do not negotiate independently with you?

Mr. EMBERG. No.

Senator BARTLETT. Let me explain what I had in mind there. Down in southeast, and in Seattle too as I recall, complaints were made by some who favored this legislation that the skipper of the boat would be under an obligation to the cannery or otherwise would be indebted to the cannery and he would make his arrangements with the cannery as to price, and the crewmembers would not be able to participate at all in the setting of the price.

Sometimes he would get an under-the-table bonus which they would not share, and sometimes an independent fish buyer would come out on the grounds and offer more but the skipper, having his firm commitment to the cannery, would say no and would go in and sell at lesser price.

The crewmembers felt they were being robbed of money they otherwise could have had.

Does this situation obtain in Bristol Bay at all?

Mr. EMBERG. Well, certainly in Bristol Bay many of the boatowners are indebted to the canneries. They have borrowed money to purchase boats, to purchase gear.

I can only speak for myself in this respect that this has never influenced fish prices. I have always fished for the price that was negotiated by the representatives of the association with the canners that I was fishing for at that time if I had made arrangement to fish for a special cannery.

And this is usually done, of course: That if you owe money to a cannery for a boat purchase or for nets or for any other reason that your fish are primarily delivered to that cannery.

I can't speak for the boat pullers. I don't think this condition occurs so much here in Bristol Bay, because one's prices are set. I don't know of any buyers here offering more once the fishing starts.

I don't believe the boat pullers here have that same complaint. If they have, I'd like to hear from them.

Senator BARTLETT. Do you think it works as well in respect to prices paid to boatowners and their crewmembers as was the case prior to 1954?

Mr. EMBERG. I personally don't believe that the fishermen in Bristol Bay are in as good a position to negotiate agreements in the fish prices as they were under the Taft-Hartley Act, under the National Labor Relations Act, under the labor laws of this territory, now as independents when no one knows what legal rights they have.

Senator BARTLETT. Well, as a matter of fact, I guess the fishermen wouldn't have any economic weapon to bring to bear, would they? They are expressly forbidden from striking in respect to any controversy that might arise over the prices.

Mr. EMBERG. Senator, this I think is the weakness of the economic position of fishermen in Bristol Bay when it comes to negotiating contracts. All we can do is pull our gear—in other words, cease fishing.

Senator BARTLETT. Take a holiday?

Mr. EMBERG. Yes. And if it happens to be a year in which the runs are small or expected to be small, then all we accomplish is to give the people who do fish, who do not go with us in our bargaining tactics, probably twice as much fishing time as they would otherwise have. And we have not affected the supply of raw fish to the packers with whom we are negotiating in any manner.

Senator BARTLETT. It is a kind of hit-and-miss proposition, whereas if there were legal authority to do this sort of thing without question then the fishermen would have union representation and the unions would have a weight to bring to bear that the fishermen working under the marketing associations could not possibly have? Is that right?

Mr. EMBERG. I believe that if the fishermen chose to affiliate or to have union connections and chose this type of backing and this method of negotiation for their prices that would be available, and I think this is highly desirable.

Senator BARTLETT. How many unions do you have in Bristol Bay?

Mr. EMBERG. Resident unions?

Senator BARTLETT. Of any nature.

Mr. EMBERG. In Bristol Bay we have representing nonresident fishermen the Alaska Fishermen's Union, and representing—excuse me. To go back to the Alaska Fishermen's Union, I believe, although this is not a matter of factual knowledge with me, that the Alaska Fishermen's Union represents both independent and company fishermen in Bristol Bay.

Then in Bristol Bay we also have representing independents a resident group, the Bristol Bay Fish Producers' Association, another resident group representing independents called the Western Alaska Cooperative Marketing Association. And we have a third group representing the employee fishermen, and that is the Bering Sea Fishermen's Union.

Senator BARTLETT. Now, does the Bering Sea Fishermen's Union have national affiliation?

Mr. EMBERG. Yes. They are affiliated with the Seafarers International Union.

Senator BARTLETT. And that is a unit of AFL-CIO?

Mr. EMBERG. Yes, sir.

Senator BARTLETT. How about the Alaska Fishermen's Union?

Mr. EMBERG. They are also a unit of the same now as I understand it.

Senator BARTLETT. But were not?

Mr. EMBERG. They were not some 10 years ago.

Senator BARTLETT. What is the numerical division, would you judge?

Mr. EMBERG. Most of the fishermen in Bristol Bay are represented by the two independent marketing associations. I would judge that at present probably 85 to 90 percent of them. The unions as such in Bristol Bay do not represent very many members.

We are getting into another "twilight area" here because there are so many different private agreements by people who fish in Bristol Bay, some of which you can neither term as "independent" nor "company fishermen" as we used to 10 years ago. We knew what a company fisherman was. Now we don't really know who is an employee and who isn't.

Senator BARTLETT. Do you think this bill would tend to straighten out that situation if it needs straightening out?

Mr. EMBERG. I believe it would.

Senator BARTLETT. Do you have any connection with any of these unions or marketing associations in an official way?

Mr. EMBERG. Not in an official way. I am a member.

Senator BARTLETT. You are a member of what?

Mr. EMBERG. I am a member of the Western Alaska Cooperative Marketing Association.

Senator BARTLETT. Only that?

Mr. EMBERG. Only that.

Senator BARTLETT. Thank you, Mr. Emberg.

Does that stimulate any questions, Ralph?

Mr. RIVERS. No. I was very interested in the explanation of this situation. Thank you.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. I wonder if you would talk about the marketing association for a moment. This came into existence after 1954 or not?

Mr. EMBERG. After 1954. As a result of the Federal Trade Commission hearing and a ruling issued by the Federal Trade Commission I believe on February 22 of 1954, it was reported to us at that time that the union, the Bering Sea Fishermen's Union, was forbidden to represent independent fishermen in price negotiation.

Mr. FOSTER. Were you a member of the Bering Sea Fishermen's Union before 1954?

Mr. EMBERG. Yes. I had the pleasure of serving as assistant agent or business agent under Jim Downey, who was the president or business agent.

Mr. FOSTER. And since 1954 the general trend has been for those who had been members of the union or two unions to move in the direction of use of marketing associations in order to at least get together to the extent that is permitted under the law?

Mr. EMBERG. It is my personal conviction that since 1954 it has been the policy of the employers or the canners in Bristol Bay not to hire residents as company fishermen but to buy fish from them as inde-

pendents. There are very few resident company fishermen in Bristol Bay at this time.

Mr. FOSTER. Are most of the resident fishermen in Bristol Bay members of some marketing association?

Mr. EMBERG. I imagine that over half are. And it is the pattern in Bristol Bay so far as I know that the payments even to the non-members are made according to the terms—the purchases are made according to the terms—of the marketing agreements as they are negotiated with the associations.

Mr. FOSTER. Now, do these associations include both the vessel owner and the crew or just vessel owners?

Mr. EMBERG. They include both, sir.

Mr. FOSTER. Does the marketing association perform any function other than acting as a bargaining agent for the vessel owners and the fishermen? For example, has the marketing association as an association attempted to have cold storage or to buy gear collectively or anything along that line?

Mr. EMBERG. Not to any appreciable extent have they engaged in businesses relating to fishing.

Another of the main functions here has been the representation of the fishermen in trying to shape or recommend the type of fishing regulations that will be in force in Bristol Bay. This is very important here. I'm not so sure that it's so important in other fisheries as it happens to be in this salmon fishery where the runs are so short and so intense and the questions of how we are to be regulated in time and place and manner of fishing are prescribed.

In this respect I think the work of the associations is invaluable to the fishermen here.

Mr. FOSTER. Would you think that if you had this legislation which would permit unions—and, as it has been explained at least to the committee, this legislation would also authorize marketing associations—to bargain collectively and include the fishermen, that it would strengthen the position of the fishermen in Bristol Bay by bringing more of them into the organization, and therefore the voice of the organization in terms of regulation and other matters would be strengthened or not?

Mr. EMBERG. I have not considered this problem before. Frankly, I'd like to reserve answer on that.

Mr. FOSTER. Yes.

You mentioned approximately 50 percent were members, and I wondered whether that 50 percent who were not members were not members for the reason that they do not believe that the marketing association as it is presently constituted is sufficiently strong, or is there perhaps some other reason? But we may get that on the record later on from some other witness.

Senator BARTLETT. Now that you mentioned you want to reserve judgment on that, Mr. Emberg, it reminds me that this is as appropriate a time as any other to say the record will be held open for 30 days for additional or supplementary statements, and, if made, those should be sent to Mr. William Foster, 248 Senate Office Building, Washington 25, D.C.

Now, you wanted to discuss another matter or other matters?

Mr. EMBERG. Yes, while I have a chance to talk to you and the committee here.

Senator BARTLETT. Surely.

Mr. EMBERG. Senator, I would like to say that in regard to the international situation and the salmon picture, I have always been a little worried that our main reliance was on the principle of abstention.

It seemed to me that the experience of the past 10 years has shown that this means that the Japanese refrain or abstain from taking salmon that belong to everybody but the people of Bristol Bay.

And I'm mighty happy to congratulate you on this amendment to the Trade Act, because I think this is what we need—some economic sanctions that can be applied.

As I say, I am happy that you were successful in getting the amendment.

Senator BARTLETT. Mr. Foster and I will gladly relate to you in detail outside of the hearing the circumstances, and we will tell you now that it wasn't easy.

Mr. EMBERG. I realize that. And that concludes what I have to say.

Senator BARTLETT. Mr. Brandon.

Before Mr. Brandon testifies, I shall say that several people in the room I last saw elsewhere.

I am kind of used to seeing Miles Brandon in the uniform of a Capitol policeman guarding all the tourists, the Senators, and what not, at the Capitol, and very efficiently. He is one of the favorites down there.

The last time I saw Bob Kallenberg and Dean Paddock was over in Tokyo, and I think all three of us are willing to return again if forced to do so in connection with anything.

We are glad to have you here. Give your name and mailing address to the reporter.

STATEMENT OF MILES BRANDON, DILLINGHAM, ALASKA

Mr. BRANDON. Miles Brandon, Dillingham, Alaska.

I wish to testify on S. 3093 as being in favor of the bill, in that I believe that it will strengthen our association, marketing association, in Bristol Bay.

However, in the bill I notice the absence of mentioning the set-netter known as the beach fisherman with nets situated on the beach. I think the bill mentions "employees" or "shares of vessels," does it not, Senator?

Senator BARTLETT. Just active fishermen.

Mr. BRANDON. It mentions "active fishermen"?

Senator BARTLETT. Whose income is dependent on the ex-vessel price. I should think that would be sufficiently broad—

Mr. BRANDON. Yes, sir.

Senator BARTLETT (continuing). In its meaning to include the group you have in mind.

Mr. BRANDON. Yes, sir. Well, I was afraid after reading the bill that it had neglected to mention the setnetter, but I see there, since you have pointed it out, "active fishermen."

Senator BARTLETT. Setnetters are very active, as we know.

Mr. BRANDON. Yes, sir. They are very active in our association.

Senator BARTLETT. Active in fishing, too.

Mr. BRANDON. Yes, sir.

Senator BARTLETT. They have to be active if they are going to get any fish, I guess.

Mr. BRANDON. However, I feel that on this bill, as Mr. Truman Emberg emphasized, we happen to be in the twilight zone or maybe on the shady side of the law when our association negotiates for our fish prices. If this bill is to legalize our association or the position of our association, I definitely am in favor of the bill.

At first the source of the bill, which I think is in terms you might say of request, we understand came from Seattle interests. But I feel that we shouldn't let the Seattle interests prevent us from legalizing our association.

You know that the feeling in Bristol Bay is that as to Seattle interests or the Alaska Fishermen's Union, if I may mention, and how we feel about Johansen, we have always felt that we cannot trust Johansen. But that is mainly history. But I feel that, since it is supposed that this bill derived from the request of the Alaska Fishermen's Union or by Johansen, it should not more or less blind us to the fact that this bill will help our association and strengthen it.

So I want to be listed as in favor of S. 3093.

Senator BARTLETT. Thank you, Miles.

Congressman Rivers?

Mr. RIVERS. I have nothing to add to this excellent presentation. Thank you, Miles.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. I wonder if you would have a few moments to give a little background and description of your association, how it works.

Let me say that the committee has heard testimony from a number of marketing associations all of which under the present law to a point can negotiate fish prices legally, and do. There are limits as to what economic weapons they can use in negotiating these prices.

Of course, you can't strike. I am sure that that has never occurred or never would occur. There may be occasions on which nets need repair work or vessels or other things and it will occur in unison. I am not sure that doesn't occur from time to time. But, of course, there are no strikes.

But I wonder if you would describe how your marketing association does work, something about the number of members and what its problems are and what it's concerned with.

Mr. BRANDON. Well, I do not know the exact membership excepting that, like Mr. Emberg says, we do have over 50 percent of the fishermen, resident fishermen in Bristol Bay. And our negotiations are in charge of our secretary-treasurer—I think that is his title—along with some board members.

They in turn then go to the industry or to the canneries and then negotiate for our fish prices.

However, right now I feel I would like to decline from that because there are members in the hall here who have been members of the negotiating committee. They would be able to give you a legal or a more specific definition of how the association works.

We do have, like I say, a negotiation committee. Then they do negotiate with the industry's representatives.

I think that you mentioned the term "strike." I think I'd like to steer away from that and use the term maybe "a price dispute."

Mr. FOSTER. All right.

Mr. BRANDON. If there is a price dispute, then the membership after a meeting decide what steps to take and what to do. To mention strike would be—I'd be careful to use that term "strike."

Senator BARTLETT. Why?

Mr. BRANDON. Well, because it does come in with unions. We are not a union. We happen to be an association. It might be legally a strike, but I think we'd rather—

Senator BARTLETT. But you deny it?

Mr. BRANDON. I deny it and I'd rather term it as a price dispute.

Senator BARTLETT. We understand.

Do you belong to the association, Miles?

Mr. BRANDON. Yes, sir, I do.

Senator BARTLETT. Pay your dues?

Mr. BRANDON. Yes, sir.

Senator BARTLETT. What are the dues?

Mr. BRANDON. \$50 a year.

Senator BARTLETT. You are a faithful member then.

Mr. FOSTER. No further questions.

Senator BARTLETT. All right. Thank you, sir.

Mr. Tilden, please.

We are glad to have you here, Mr. Tilden.

STATEMENT OF EARL (RED) TILDEN, DILLINGHAM, ALASKA

Mr. TILDEN. We thank you, Senator.

My name is Red Tilden. Pretty soon they'll call me "Whitey" after a couple more of these hearings.

I didn't prepare any testimony for this hearing, but naturally the one that we are most concerned with is this copy here. And I was surprised at how few of these there were in town.

In fact, Carl Nunn came and borrowed mine, and Paul Brandon borrowed it from him, and today we tried to find another one and couldn't even find Paul to get mine back. It's surprising that a bill of this importance wasn't more publicized in this area. I don't think that I can add very much to—

Senator BARTLETT. Let me interrupt you, Red. I'll bet you anything that I'll go to blame my office staff and say, "Why didn't you send copies out?" and my legal counsel will show me letters that went out to about a hundred people with five copies of the bill each and they have been lost since they came out.

Mr. TILDEN. Probably. I don't know.

Senator BARTLETT. We try to cover the scene adequately. Ralph Rivers sent some out, too, but that was quite a while ago.

Mr. TILDEN. Actually I can't add a great deal to this after the excellent testimony of Mr. Emberg and Mr. Brandon except that we were naturally curious as to who requested it.

On the one last year, you stated that 7298 or your 1265 was introduced at the suggestion of Mr. George Johansen. And it has been mentioned before George Johansen or the Alaska Fishermen's Union

for many years has been no particular friend of ours. In fact, it has no resident fishermen in Bristol Bay to the best of my knowledge. He deals strictly with outsiders. His membership are Seattle and California residents. He has no jurisdiction over our fishermen whatever.

At the present time the trend has been in the entire industry here, as Mr. Emberg mentioned, toward an independent status. That is, facing poor years, whoever owns the boat and gear and fishes and pays for the cost of the operation is the one that loses.

Therefore, the company position is that they would rather hire independent fishermen. Then if you have a poor year the fisherman loses. If they put a \$10,000 boat out there, furnish the nets, the gear, the gas, the oil, the groceries, and they have a poor year, they lose. So they want to put them all on an independent status.

And whether this is common knowledge I don't know, but in Seattle last year they held a coastwise gill netters' meeting in Seattle—possibly you heard of it—and the result of that meeting was the independent fishermen hired by these same companies that we fish for, nonresident independent fishermen, were undecided whether to organize an association of their own or to join up with ours.

In fact, they wrote me a very nice letter and asked if I would come out to Seattle and organize them as a group and accept them into our organization.

I couldn't naturally do anything about it myself, but I called a meeting of the boys and asked what their opinion of it was, and they simply decided to table it for the time being. They didn't refuse any of them membership. In fact, we took some of them in this year when they came out independently.

But the idea of recruiting a large body of nonresident fishermen to come up here and compete with our own fishermen, we could not see it.

And immediately after this meeting—this was in March—comes a bill out making it possible for the Alaska Fishermen's Union to again have jurisdiction over the independent fishermen in the bay. Is there something underlying that, or is it rude to ask that question?

Senator BARTLETT. Well, I like to keep the situation—

Mr. TILDEN. We don't like to name names.

Senator BARTLETT. I like to keep the situation reversed, Red, where I ask all the questions, but I have no hesitancy in answering this at all. I couldn't state authoritatively the points of origin of this legislation which is similar if not identical with that which has been pending before the Congress for a good long while now.

However, it's no secret that Mr. Johansen, secretary-treasurer of the Alaska Fishermen's Union, is strongly in favor of it, and it is no secret that the Seafarers International is strongly in favor of it.

Mr. TILDEN. No; and there's no mystery why they would be, either.

Senator BARTLETT. I don't know and don't pretend to know that. But what I do know is Mr. John Hawk came up to Seattle from San Francisco especially to testify before this very subcommittee of the Senate Commerce Committee Monday last in favor of the bill. I don't know—

Mr. TILDEN. Certainly.

Senator BARTLETT. And it isn't my job, of course, to inquire into the motivations.

Mr. TILDEN. That is why I asked you if it's out of order to name names in a hearing of this kind. There are certain names that have come up like the Bering Sea Fishermen's Union. We all know Jim Downey. Jim Downey is the secretary-treasurer, manager, you might say, of the Bering Sea Fishermen's Union here.

Prior to 1954, practically all—well, I would say every fisherman in the Nushagak area here was a dues-paying member of the Bering Sea Fishermen's Union, because it was a closed shop. In fact, I was delegate at one of the local canneries here, and every single one of those fishermen, setnetters, boat fishermen, boat pullers and all, paid dues to the Bering Sea Fishermen's Union, because in their contract the company would have to pay one-third more for any fish that were not union fish, because at that time we worked under, you know, run money. The boys handled the freight off the scows and all that. That was part of the deal. And the idea was if you had to handle nonunion fish the boys should get paid for it.

Well, the result was there were no nonunion fish. Everyone was a member of the Bering Sea Fishermen's Union.

After 1955 the independent association was organized here, the first one we had, and the Bering Sea Fishermen's Union had jurisdiction over only the cookhouse employees, beach gang, tendermen, and perhaps a few others. I'm not familiar with that contract. I don't have one for this year.

But they do not have any fishermen except, as Mr. Emberg mentioned a while ago, a few company fishermen fishing for one company in Togiak at the present time, where the company furnishes the boats, furnishes the gear, and pays them the company price, which usually runs about two-thirds. It does this year again.

We mentioned that a while ago, or Mr. Emberg did, that the ordinary boat puller's share or partner's share, crew member's share, is usually a third, and the company price runs the same way. The company price is two-thirds of the independent price at the present time. We get \$1.031½ for red salmon; they get 64 cents.

This is almost in parallel all the way down the line. Whoever furnishes the boat and gear gets one-third of the cost, and that's the way it has been.

But this is the point I would like to bring out. I don't blame Jim Downey at all or John Hawk for being a little excited about this. They see a little revenue back in the till again. That's very fine, and that I believe is their primary interest.

Now, if that is out of order to say that, I beg your pardon, but that's the way it appears from here.

Senator BARTLETT. Do you have any connection in any manner at all with the Bering Sea Fishermen's Union?

Mr. TILDEN. No, sir.

Senator BARTLETT. What is your connection?

Mr. TILDEN. I have been a member of the Bering Sea Fishermen's Union in the past. I worked as a delegate at canneries here under Jim Downey.

Senator BARTLETT. Now, I mean.

Mr. TILDEN. At the present time I am manager of the marketing association I just mentioned, the Western Alaska Marketing Association.

Senator BARTLETT. And, of course, that naturally has no union affiliation at all?

Mr. TILDEN. None whatever. We do have members that belong to both, because the Bering Sea Fishermen's Union establishes the wage and hour scale for preseason and fall season work, and many of the boys that engage in this type of activity belong to both.

Senator BARTLETT. Well, are you inclined to be for or against this legislative proposal?

Mr. TILDEN. It would be a little foolish to be against it when it's exactly what I asked Mr. Rivers for there last December. It is almost word for word I noticed with the—

Senator BARTLETT. Yes, but the members of the Senate committee who will read this have no idea what you asked Mr. Rivers last December, so, if you will, just state for the record now your attitude toward the bill. That will make a much better record.

Mr. TILDEN. Well, my attitude toward the bill is that I can't see where it can hurt us, and it might be able to help us—that is, clarify our position once and for all as far as the legality of our agreements. As far as getting along with these other outfits, I think we can hold our own with them.

Senator BARTLETT. If that were to become a law, do you think the marketing association would remain in somewhat its present status, Mr. Tilden, or would one or another union come in and take over this right of collective bargaining?

Mr. TILDEN. No; what it will do, it will affect the nonresidents far more than it does the residents. And I believe that is the reason that some Seattle unions are in favor of it or pushing it.

We had not planned on making any wholesale recruiting of these outside fishermen anyhow, and this will put them in a position again to negotiate regardless of whether they are company fishermen or independents through their Alaska Fishermen's Union the way they have been. And we always have a little clause in our contract that we receive the same increases that they do as far as independent status, and so we may be in a position to gain by it.

Senator BARTLETT. How many members do you have in your association? Don't answer that if there is anything secret about it.

Mr. TILDEN. Nothing secret at all. It is not enough.

Senator BARTLETT. Naturally not.

Mr. TILDEN. I was working on the roster last night. We have between 350 and 400 this summer, and the returns are not all in at the present time.

Senator BARTLETT. How do you go about arranging for fish prices?

Mr. TILDEN. Well, our contracts at the present time have gone year by year. And shortly after the regulations—well, usually, and now again this year they will hold their annual meeting of the Fish and Game Board, and this year in Cordova in December. Most all of the chief processors will have representatives there. And when the regulations are established, they know about how much gear they can put in the bay and make their plans for the coming season.

Then shortly after the first of the year, possibly before, the representatives of the various larger processors contact us and we set up a meeting, right here in Dillingham, and negotiate our prices for the coming season.

Senator BARTLETT. And have you ever had any difficulty with the canneries about weaseling out or welching upon promises made then?

Mr. TILDEN. None.

Senator BARTLETT. So you have had no difficulties in that respect, and the prices that you negotiated have been satisfactory to the members of your association?

Mr. TILDEN. No, they haven't been satisfactory because they're too low. But there again this area here receives the lowest price for raw salmon of any district in Alaska with the exception of Kodiak Island, and that is under Johansen's jurisdiction so I wouldn't comment on that.

Senator BARTLETT. Why do they receive the lowest price here of any area in Alaska?

Mr. TILDEN. Well, now, that is a good question. They claim it is because of their increased higher freight costs here, their higher cannery workers' cost, their transportation problem, all kind of reasons.

Senator BARTLETT. Why should cannery workers cost them more here than elsewhere?

Mr. TILDEN. Well, now, for that you'd have to I suppose talk to the cannery workers' delegate who is not here.

Now, I'm not even sure that they do, but they always bring that up to us that the cannery workers here receive a higher scale than anywhere else in the State.

One thing they do have here is they work on a guarantee. That is, when they bring a boy in here from Kuskoquim they guarantee him I believe it's at least \$400 regardless of whether he works a week or 2 weeks or 10 days or 10 hours. He still gets that guarantee, beside his transportation and board.

Whether there is any other area where they receive that benefit I don't know.

Senator BARTLETT. Have you fellows ever said, "Well, we're tired of this business of not getting what we ought to for our fish; we've been underpaid last year and the year before that, always, and we just don't think we're going to fish this year"? Has that situation ever arisen?

Mr. TILDEN. It did, yes.

Senator BARTLETT. When?

Mr. TILDEN. 1959.

Senator BARTLETT. Tell us something about the history of that, will you?

Mr. TILDEN. Well, on the history of that, actually we simply asked, the boys asked, for a price which we thought was perfectly reasonable. All the major processors refused to pay that. So the boys didn't fish.

Now, here again, to quote Mr. Brandon, this was not a strike. It was a price dispute. And actually—

Senator BARTLETT. You just didn't go fishing?

Mr. TILDEN. Any processor that wanted to step out of line at that time and offer even 5 cents more could have the total output of the district here. But they stayed more or less together.

Some of the boys got together and got a market in Anchorage and flew their fish to Anchorage and still came out better than what the companies offered here.

Now, that speaks well for airplane transportation, and it speaks well for the packers in Anchorage, but it doesn't speak very well for our large processors.

Senator BARTLETT. Well, did they go out all summer?

Mr. TILDEN. No; it went on for about a week.

Senator BARTLETT. How was it settled?

Mr. TILDEN. How was it settled? Finally we reached a median point where it was not as good as our original demand but it was way above their original offer.

Senator BARTLETT. About a halfway point?

Mr. TILDEN. About that.

Mr. RIVERS. You split the difference?

Mr. TILDEN. Split the difference.

Senator BARTLETT. And there hasn't been any trouble in that sense since?

Mr. TILDEN. Not at all. In fact, they have shown us a great deal more respect since then than they did before.

Senator BARTLETT. But you are still notably underpaid?

Mr. TILDEN. We feel so compared with other areas. For example—

Senator BARTLETT. Give us an example, yes.

Mr. TILDEN. Well, one example is on our red salmon. That is the chief product here. We get \$1.03½ for red salmon. He weighs on the average 6 pounds. It takes from—

Senator BARTLETT. That is the price you get no matter what he weighs?

Mr. TILDEN. Right. Of course, with our standard-sized gear of 5½ inches or 5¾ inches, it is selective anyhow. If they were very large they don't gill, and if they're too small they go through. So during the bulk of the season the fish would run about that average size.

What I was going to say was the price in Cook Inlet last year was \$1.45 for the same fish. They run 10 to 14 in the case just the same size as ours do. They say it's because the freight rates are cheaper, that all they have to do is go to Seward and put their cans on a van and haul them down to the cannery and put the fish on the van and haul it back to Seward and they don't have to longshore, they don't have to lighter their stuff out on the ship.

The only thing that was wrong with that last spring was the road wasn't even finished so they could get the trailers in there.

Senator BARTLETT. They are paying more anyway?

Mr. TILDEN. They are still paying almost half again as much, yes.

Senator BARTLETT. Congressman Rivers?

Mr. RIVERS. What do they pay for the red salmon in Puget Sound?

Mr. TILDEN. Well, we have some members in our organization that also belong to a cooperative there in Everett or Bellingham. They got 47½ cents a pound for their reds. And again at Christmas they got a bonus on top of that.

Mr. RIVERS. How does that average out per salmon?

Mr. TILDEN. Well, that would average to nearer \$3 than our \$1. And that as I understand it all goes down to the salmon terminal all in a pile unlabeled and it all goes on the market.

Senator BARTLETT. Fresh market?

Mr. TILDEN. No. Canned.

Senator BARTLETT. How in the world can that be competitive?

Mr. TILDEN. Well—

Senator BARTLETT. Does it all hit the grocer at the same price? If so, it would seem that the fellow who packs here is going to make a profit enormously larger than the fellow who packs in Puget Sound.

Mr. TILDEN. Well, of course, they do have an argument. They have a mild investment here say in a shore camp. They have thousands of dollars tied up in floating stock that's only used 1 month or 2 months at most out of the year. They can always blame it on Alaska Steam, you know—the freight rates.

And, again, they claim their help costs them more, which no doubt it does, higher than Washington.

But we still can't see where there is that much difference. For example, I couldn't help but notice the figures. I got a copy of the figures. Mr. Paddock is here. He would have more on this than I would. But the total catch of salmon here in Bristol Bay was around 5 million red salmon—that's our main product—which is slightly over \$5 million total value to the fishermen.

Mr. RIVERS. Gross.

Mr. TILDEN. Yes. In the statement that goes along with the figures he gave me he states that the wholesale value of the Bristol Bay pack was \$16 million, which is about right for case pack. I still cannot see where it costs \$2 to pack every dollar's worth of fish. It just doesn't look right.

Now, no doubt, the value of the pack is in excess of \$16 million, but the fishermen only receive \$5 million of that. The rest goes for processing and transportation.

Mr. RIVERS. May I interject, Mr. Chairman?

Senator BARLETT. Yes.

Mr. RIVERS. The fact that the canneries on Puget Sound are right on the borderline of the mass market, I guess, which does do away with the need of transporting the pack from Bristol Bay to Seattle, is an appreciable item, and that would enable them to pay the Puget Sound fishermen a higher price per fish and still maybe come out ahead.

And you mentioned lower wages for cannery workers down there.

I think the remote location here though and the high cost of transportation and the high cost of doing business up here are the reason that you fellows are being held down on the price of fish. They try to make up all these disadvantages by keeping the price of fish below where it should be.

That is just my impression. Do you care to comment on that?

Mr. TILDEN. Well, naturally, they have to operate at a profit in order to come up here and buy our fish. But I still believe that we are underpaid. I don't—

Mr. RIVERS. I expect it would take an accounting to really establish—

Mr. TILDEN. It would. And that brings up an interesting item. Years ago under the Alaska Fishermen's Union—that was before Johansen was ever head of it; old Andrew Vigen was at the time in San Francisco—our delegate to the wage scale and agreement committee and some others suggested they set up a factfinding committee, as they would call it, composed of some union members and some industry members and to sit down and discuss the matter to come to some logical conclusion.

Well, at that time the Alaska Packers, to mention one, were not about to have anyone look at their books and see what their profits were. Of course, at that time the red salmon was 9¼ cents here, too.

Mr. RIVERS. The accounting I visualized would involve exactly what the situation was in Puget Sound as compared to what it is up here.

Mr. TILDEN. Right.

Mr. RIVERS. I have no other questions, Mr. Chairman.

Senator BARTLETT. Well, I'll tell you what. Do you have further testimony?

Mr. TILDEN. Nothing special except that I'd like to recommend to you on that Senate resolution as far as setting up an international fisheries conference in regard to our pelagic fisheries. That hasn't been brought up. But I certainly want to recommend that. It goes along with what we recommended last year. We recommended taking it to the U.N. But this would probably serve the purpose better, and we are certainly in favor of it.

Senator BARTLETT. We are glad to have your views on that. Thank you very much.

The committee will stand in recess for a few minutes.

(Whereupon a recess was taken.)

Senator BARTLETT. The committee will be in order.

Are there any further witnesses? If so, will they please stand up?

Yes, sir? Do you want to come up and testify?

STATEMENT OF FRANKLIN SMITH, DILLINGHAM, ALASKA

Mr. SMITH. Franklin Smith, Dillingham.

Senator BARTLETT. We are glad to have you here, Mr. Smith, and we will be pleased to hear whatever testimony you care to offer.

Mr. SMITH. I have listened to the testimony given thus far, and I don't have a great deal to add.

In discussing this fishery problem among our men here just briefly, of course our main concern, as has been brought out already, is to try to bring the price of fish here up to a comparative price in other areas. And I will give one example or two examples of areas where we feel that our price should be a great deal closer.

For instance, Cook Inlet in 1942, when all fisheries practically in Cook Inlet and in Dillingham, Bristol Bay, were company fishing. The price of fish that year that we received was 1 cent more for red salmon than they received in Cook Inlet. That is the only time to my knowledge that we received more than they did.

Later on, there was quite an upsurge in unions, and several very militant men down on Cook Inlet got busy and organized the people, and their prices immediately began to show increases. And through the years they have gone way ahead of us on fish prices.

One of their superintendents made a statement to, I believe, the president or agent of Cook Inlet Marketing Association that it cost them more to pack and get salmon to market from Cook Inlet than it does from Bristol Bay.

Now, this was made by the superintendent of a cannery, large cannery, who operates here and also negotiates on the Cook Inlet. And we believe that his statement is true, because we believe that the way they handle their fish there, the long hauls in picking up this fish in a long area up and down Cook Inlet, it costs them a lot to get that fish and bring it back to the cannery.

Then at the present time they are trucking this canned salmon to the ship, which means extra handling. And I can well believe that it costs them more to put that salmon on the market from Cook Inlet than it does from here.

Now, if that is true and we're getting this year \$1.03½ for red salmon and they got a 5-cent increase I was told—I had a letter from a friend in Cook Inlet stating that he received \$1.50 for his red salmon there this year, which was a 5-cent increase over last year—if then this statement is true, we are being underpaid to that extent at least of the price that they now receive for fish.

Now going into what we might use as a means of increasing this price, we know that in the field of agriculture that co-ops do get help from Government, and money is set aside to give them support whereby they can get loans and carry on, perhaps handle their own equipment more and come out ahead financially. I would suggest for the record that we look into this aspect of it in regard to the fishery.

Why, if the farmer could get this, couldn't the fisherman have something of this nature?

In other words, if money were available for the people who have boats here and that are partly paid for. Some of them owe \$1,000, maybe some \$4,000 or more. Or maybe quite a few have paid for their boats. And say we set a deadline in our negotiations for fish price the 1st of March or the 1st of April, whatever time we might set, and we tell the salmon industry that we want certain increases which we feel are reasonable.

If at the end of that time they are not willing to sign a contract for the season, we say, "All right. Then we will provide a market for fish." And if funds were available so that these contracts could be picked up from the companies through the marketing association, your fisherman would be free to know that their marketing association carried the weight of being able to bring sums of money to care for that fish and get it to a market so that they would be assured of a livelihood for that year.

Our big problem is the economic condition that persists here, the fact that people owe for their boats, are paying on their boats or paying insurance or making boat payments, and as a result of this they feel deeply obligated to fish, and when the time comes for the season to begin and the contract isn't signed, it's a pretty difficult situation for them to face because many of them are down to their last dollar and perhaps even beyond that and are indebted to trading companies here who have been good enough to advance them credit.

It is a difficult situation to face a fishing season for most of the people here perhaps if they have to sit on the beach say for a week waiting for a fish price.

Now, in the history of this organization which has been I believe in existence for 4 years, we have received increases each year. They haven't been large, but we have come up from I believe somewhere in the neighborhood of 80 cents a fish up to \$1.03 in this time.

The first year that we stayed out, held off for a fish price, we lost about a week and a half of fishing time. As a result of that we got I believe a 5-cent increase that year or something to that extent.

The thing that happens is this: Take the overall increase in these years. Had we not stayed out and held off for this price, we would probably still be getting 85 cents or something of in that area. So actually we gained by that.

But it is difficult to tell a man or to tell a group of people who are dependent on this fishing for their livelihood that they're going to be ahead by losing fishing time that particular year when they need that money so badly.

Now, rather than go on further with this, I would like to hear any question you might have that I might be able to help you with, or perhaps you can enlighten us in regard to the possibility of fishermen's co-ops receiving funds that might be set aside.

Senator BARTLETT. Mr. Smith, pursuing that line of thought, how mechanically would the association operate even if it had quite a supply of money in receiving fish from the fishermen and getting them to market and all of that in the event of a situation such as you described where they decided not to deal with the canneries?

Mr. SMITH. In the first place, the first fish we handle in the year is the king salmon. The salmon industry has told us that they lose money on the king salmon, that it's not a good marketable fish in the can.

We know from studying this situation ourselves that the king salmon does lose color and is not particularly attractive in the can as far as something to look at. And they sell many of them I believe on the market as chum or the dog salmon.

Senator BARTLETT. A pity.

Mr. SMITH. That is what they tell us. I am not sure if that's what happens.

The thing is that the king salmon could be handled with refrigeration. We would need a refrigeration unit. It would need to be brought in and handled by people who know how to handle fresh fish flown to market.

I will give you one example of what happened in regard to some fish I shipped to Los Angeles. I sent 125 pounds of king salmon to Los Angeles to some people there. It cost me \$39 to ship the salmon by air freight from Dillingham to Englewood in Los Angeles.

That leaves quite a differential just by air freight, which, of course, could be improved considerably if planes were brought in such as boxcars or whatever plane is the practical type of thing. Perhaps through the Flying Tiger group who operate out of Tacoma, Wash., I believe.

With a large fleet of planes which would be available if there were contracts to handle and fly fish say to Seattle, Portland, Denver or wherever the market might be, these planes could take this king salmon, which would increase the value of the fish because it would be going on the fresh fish market.

These people in Los Angeles were just wild about this fish. They said, "How can we get more?" There was a large number of people who enjoyed the banquet from this fish. And they said, "We just can't buy fish like this in Los Angeles."

So we know that there is a market for this fish if it can be handled.

Now, as far as the red salmon, which is the heavy run we experience here—and, of course, in Nushagak we have a heavy run of chum salmon and dog salmon which is worth considerably more than what we are getting for it, which we know by the cost per case, the quotations that are given—we would be forced to perhaps lease or get someone who had money or capital to buy scows or large refrigeration ships to handle this fish.

Senator BARTLETT. Which fish are you talking about right now?

Mr. SMITH. I'm talking about the red salmon now, the sockeye.

Senator BARTLETT. You're talking about a tremendous volume of fish?

Mr. SMITH. That's right.

Senator BARTLETT. What would you do with it if you had a refrigerator ship? Then what would you do?

Mr. SMITH. Then that fish you could can as you were able to can it, either here or some place else.

Now, the weakness of us handling fish, as I see it here as a resident of this area now for 26 years, is that we have a large body of people in this area economically who depend on this fishery. We have cannery workers coming from all over Alaska who come to these canneries. There are more and more of them, until I believe the crews are made up mainly in the canneries of these cannery workers. And we also have a lot of beach men, and we have cooks and stewards and waitresses and a lot of people in Alaska who are benefiting from this canning operation.

But I believe this: That if we had money available so that we could hold that as a means of pressure, you might say, we could bring this price of fish up much closer to what it is worth than what we are getting.

Does that partly answer your question?

Senator BARTLETT. I am still not quite convinced. Because, look, you have a certain number of canneries. I don't remember exactly how many there are on Bristol Bay to pack all these salmon. If all the fishermen on all the bay were to unite in marketing associations of one kind or another with an intention of giving themselves economic strength by the method you described, it would seem to me that they would have to have a comparable number of canneries to put up the fish or the effort would be foredoomed to failure.

In other words, you would have to move into the whole operative procedure, which would require investment of some millions of dollars right at the outset.

Mr. SMITH. That is true. However, this fact remains: That the salmon industry as a whole is in such a position at the present time as I understand it that they need every fish they can possibly get. And even a small operation of fish, say 50 boats or 100 boats, that they would lose in Nushagak or in Kvichak, either one, would hurt them pretty badly—that is, in losing that amount of fish.

So even if you were only able as a beginning to serve such fishermen as are not obligated to the companies, to the packers as such, you would still be able to break down that barrier of getting over this price that they are trying to hold you to.

I mean, you would be able to show by your operation that there was more money in canning salmon than what they are willing to pay.

Senator BARTLETT. Well, in any case, Mr. Smith, you have presented an interesting line of thought here. And Mr. Foster on my right, who is not only a lawyer but an economist, will, I am sure be willing to examine the Marketing Act very closely to determine if anything along the order you suggest might be achieved.

Mr. SMITH. Thank you.

Senator BARTLETT. Mr. Rivers?

Mr. RIVERS. No questions.

Senator BARTLETT. Do you have anything more, Mr. Smith?

Mr. SMITH. No, thank you.

Senator BARTLETT. Thank you very, very much.

Do we have any other witnesses?

Mr. Paddock, I want the record to show that Mr. Dean Paddock is not here exactly as a voluntary witness. He is here at my personal request to give us for the record a general description of the Bristol Bay fishery this year and, if he cares to go a bit into the past and if he cares to make any projections into the future, that will be permissible, too.

We are glad to have you here, Mr. Paddock.

**STATEMENT OF DEAN PADDOCK, AREA MANAGEMENT BIOLOGIST,
COMMERCIAL FISHERIES DIVISION, ALASKA DEPARTMENT OF
FISH AND GAME**

Mr. PADDOCK. Thank you, Bob.

I wasn't just quite sure and I'm still not quite sure what I should say here to make this—

Senator BARTLETT. Well, would you prefer that we develop a line of questions?

Mr. PADDOCK. Well, if I could perhaps make a few statements, that might make that a little easier.

You spoke of a general statement in regard to the status of the fishery, and that made me think of some of the changes which have been occurring here over the past few years.

I am afraid that I don't rate as an oldtimer here in comparison with some of the previous witnesses who have 20 and 30 years here in this area, intimate association with the fishery. This was my seventh year here in the bay.

Senator BARTLETT. You are qualified as a cheechako, but we'll let you talk anyway.

Mr. PADDOCK. But in these last 7 years there has been a very subtle but a very definite transition come about in the situation, particularly, I think, in the economic picture, although there has been quite a marked change in the biological aspect too.

Particularly in the last 3 years—I will put a plug in here now for the management of the fisheries by the State of Alaska—we feel that the management of the fishery by the State has been good biologically

and it has been good economically—that is, that the people here have been able to realize a greater total return from the resource than has sometimes been the case in the past.

Those of us who have been associated with the Department's and the State's management of the fishery are proud of this fact, that we have been able to utilize portions of runs and certain runs that weren't previously utilized.

Seven years ago we didn't realize we were faced with some of the problems that we have today. I remember when I first came here we thought of the great potential of our high seas fisheries, the bottom fish fishery and the herring fishery, the crab fishery, the shrimp fishery here in the Bering Sea. And we figured that this was just a matter of time until we more or less grew into the place where it was economically feasible for Alaskans to go out there and reap this harvest.

We weren't particularly disturbed, most of us, about the fisheries on the high seas for salmon by nationals of other countries.

But this is all changed now. And while our management of the resource that gets through these high seas nets of other countries we feel is good, yet we are struggling for existence as a fishery here because of the biological threat posed by this harvest on the high seas.

We have to insure adequate escapement from the remnant of the run that comes through to us, and it is difficult to predict just exactly what the effect of that effort on the high seas may be from year to year. Because there are certain things that are still unknown about the behavior of these various stocks of fish.

But we have to make do with what we have left. And we recognize now that this is a threat to the fishery and, as such, is a threat to the economic welfare of the people of the area and the individual fishermen.

Regarding the potential fishery that we have always just pictured as something waiting for us to go out there and collect, we can't look at it that way any more now because if we as Alaskans were able to go out there in force today we'd have to shove pretty hard with our elbows to get a place in line. And this changes the attitude that we must take toward it.

It's an economic struggle that we're engaged in there primarily rather than a biological one at this time, although it won't be long before perhaps these other stocks will be in serious biological trouble.

I think that the observation that we can make here on this is that to effectively do something which would enable people here in Bristol Bay to go out there and harvest this resource that's right on our very doorstep is something which is beyond our present resources.

I don't believe that it's necessary to enlarge on that statement any further.

But the resources of the individual fisherman here in Dillingham today simply do not permit of any plan which would enable him to go out there and compete in this fishery, although to the best of our knowledge the stocks of these various species are there and awaiting American exploitation.

In regard to the Bristol Bay fishery of this year, I don't know what generalized statements we could make other than it was pretty much as predicted. We expect certain fluctuations from year to year in this fishery, and I think that this situation is something that has always

been there and will probably continue to be there until we obtain a much better understanding of the population dynamics of some of these runs that we now have.

Prognostications for the future are dependent largely, I think, upon the success which this country has in negotiating with the other countries which are presently exploiting the resource on the high seas.

Now, I'd like or prefer to have you pose any further questions.

Senator BARTLETT. Thank you, Dean.

Congressman RIVERS?

Mr. RIVERS. No questions.

Senator BARTLETT. Mr. Foster?

Mr. FOSTER. I have a couple of specific questions I'd like for you to help us with in terms of preparing a record for the committee.

I wonder if you would describe in some general way the transportation problem that is facing Bristol Bay in terms of moving the resource, the fish, down to the market in the south 48.

Mr. PADDOCK. Practically all of our salmon here are processed in two different ways. The main one, of course, is canning. And these canned fish are shipped out by steamship, by Alaska Steam.

The second way is by freezing. And fish that are taken out frozen are generally taken out by an individual operator who has his own freezer ship. He comes up here and buys these fish and gets his load and takes them back outside where he disposes of them in one of several ways.

If we were to consider expansion of any potential fishery, it would probably involve enlarging the ability of transportation facilities to handle frozen fish.

Say if we were to go into a bottom fish fishery, then we would probably be handling frozen fillets.

One of the big problems here, of course, is the fact that our fishery, our salmon fishery, is seasonal, and also our transportation by steamship is rather seasonal. That makes the whole operation a rather seasonal operation.

I am not an expert on steamship rates, but our transportation at present has to be either by water or by air, and, of course, air transportation is prohibitive for anything except a specialty item such as fresh king salmon is considered at the present time. It's practically out of reach of many people because it is a pretty expensive item to buy a fresh king salmon steak nowadays.

Mr. FOSTER. Is this freezer ship, this purchasing fresh salmon, a new trend that is developing even further? Or is this a trend that came about at one time and now has hit a plateau? Where do we stand in that development?

Mr. PADDOCK. I wish I could answer that for you more authoritatively. I don't believe that the marketing of fresh salmon or fresh frozen salmon even has extended as far as it might.

It's customary to find these marketed around the fishing centers and in the larger cities of the west coast. I think we could say that safely.

Mr. FOSTER. When the freezer ship comes up here and buys salmon, does it pay the same price that the cannery pays?

Mr. PADDOCK. Yes.

Mr. FOSTER. So you have the cannery based here buying salmon. Then you have the freezer ship that stays offshore a distance and the fishermen, I guess some of the independents, can go either way, and the price is the same?

Mr. PADDOCK. The price is the same; yes. And oftentimes these freezer ships are operated by some of the same people who are engaging in canning operations themselves. It's used to satisfy a slightly different type of market.

Mr. FOSTER. One other question. What type of vessel is used in Bristol Bay primarily?

Mr. PADDOCK. I think you are striking at one of our problems here. The Bristol Bay fishery is a gill-net fishery, and the length of the vessel is by regulation limited to 32 feet overall.

Mr. FOSTER. Does this give the local fisherman any particular advantage or disadvantage?

Mr. PADDOCK. No. No. The same type of vessel is used by both the resident and the nonresident fishermen.

Mr. FOSTER. Let me try to ask the question in a different way. If there were no limits on size of vessel, would that play to the benefit or detriment of the local fishermen?

Mr. PADDOCK. Well, that's a complicated question. I'm not sure I can answer it satisfactorily. Let's say that in the manner in which our fishery is presently carried out and in the manner in which management feels that it is best to carry out the salmon fishery these boats are well adapted.

Larger vessels would not be efficient in many cases in our present fishery. However, larger boats are required for exploitation of the potential which we are not utilizing.

Mr. RIVERS. You are referring to the potential on the high seas beyond the 3-mile limit; are you?

Mr. PADDOCK. Yes; but not of salmon.

Mr. RIVERS. You are speaking about ground fish? That is the exploitation you are speaking about?

Mr. PADDOCK. Yes. Crab. Shrimp. Ground fish. These 32-foot boats just aren't adequate to go out there and battle the elements. But they are splendidly adapted to our present fishery.

In fact, in some cases smaller boats might be used to advantage in certain of the rivers.

Mr. FOSTER. And what is the usual crew on board one of these vessels?

Mr. PADDOCK. Two persons is the usual crew.

Mr. FOSTER. No further questions.

Senator BARTLETT. For the sake of the record, Dean, will you give your full name and your position and your address?

Mr. PADDOCK. My name is Dean Paddock. I am the area management biologist for the Commercial Fisheries Division of the Alaska Department of Fish and Game. My address is Dillingham, Alaska.

Senator BARTLETT. You referred at the outset of your testimony—and very helpful it has been too—to biologic changes which have been occurring in salmon. Would you tell us a little more about those changes?

Mr. PADDOCK. I hope that I didn't say something which I didn't intend. I think I was thinking in terms of the effect on the runs of the regulations which have been exerted upon the resource over the course of the years.

Senator BARTLETT. You didn't mean any change in the body of the fish from year to year?

Mr. RIVERS. You were speaking of the biological problems changing as the years have gone by? Is that what you had in mind?

Mr. PADDOCK. Well, yes. In my mind the management of the resource is closely tied in with the biology of the species in contrast to the economics of the fishery which has been one of the major subjects of discussion here today.

But our knowledge of the life history of these fish has been improved markedly in the last few years and also our ideas of what regulations should accomplish have also improved.

And you recall a few years back that management felt that it was meeting its objectives if it split the run up 50-50 into catch and escape. In recent years our understanding of the requirements which go into maintaining these stocks somewhere near their optimum has improved, and each year now we have an objective which we are shooting for in the way of escape, and the remainder of the run can be harvested for the benefit of the people who engage in the fishery.

Senator BARTLETT. What is that objective?

Mr. PADDOCK. Let's say that it varies from river to river and somewhat from year to year, but—

Senator BARTLETT. The 50-50 escapement was established by law, was it not, in the White Act of 1924?

Mr. PADDOCK. That is right.

Senator BARTLETT. Followed maybe by breach in observance but this was the law in any case.

Mr. PADDOCK. Yes. I am sure we all agree with what the law was trying to accomplish, and that was to obtain an adequate escapement. But, of course, when we realize that the returns to a given river may vary due to natural causes somewhat in the magnitude of 50 or even 100 times, we can see that in a poor year 50 percent would be practically nothing, and in a big year it would possibly be far more than would be required.

Senator BARTLETT. So that concept, that flat 50-50 escapement, has no positive validity. In fact, the very contrary is true according to modern biologic thinking?

Mr. PADDOCK. Very definitely so.

Senator BARTLETT. How many cases of reds were packed in Bristol Bay this year?

Mr. PADDOCK. Bill, can you help me out on that?

Mr. KALLENBERG. No, I do not know.

Senator BARTLETT. We'll strike the question.

Mr. TILDEN. 445,000, I believe.

Mr. PADDOCK. Mr. Tilden has the sheet I gave him the other day.

Mr. TILDEN. You didn't have the pack figures on it. I just guessed.

Mr. PADDOCK. Something like half a million.

Senator BARTLETT. Let me rephrase it. What I am trying to arrive at is this: You knew, of course, that the take of salmon would be much less than it was last year?

Mr. PADDOCK. That's right.

Senator BARTLETT. All right. Was it about what you expected or more or less than that which you expected?

Mr. PADDOCK. The entire return of Bristol Bay was very close to the overall run predicted. It was just slightly more than the mid-point expected. Our prediction was for somewhere between 6 and 12 million with the most logical return being around 9 million. And the actual return was slightly more than 10 million.

Senator BARTLETT. Would you break this down by river systems?

Mr. PADDOCK. Yes.

Senator, in most any given year in Bristol Bay the larger return will be to the Kvichak River, and this year the prediction there was for about 5½ million.

Here in the Nushagak we experienced a better run than predicted. The total run of red salmon was expected to be only around a million fish, and we ended up with a total of a little over 2 million.

Our predictions for the individual rivers don't have reliability that the overall prediction has. There is room for improvement there. Nevertheless, when these returns do come back showing some variation, the flexibility which the managing agency presently has is well able to cope with the situation and still protect the resource in the event that the runs are lower than anticipated and also able to harvest the surplus fish in the event that they are better than expected.

I will qualify this last statement and say that we definitely have to depend upon the full cooperation of the salmon industry in the years of our big runs because it is a real problem to pack millions of fish in the course of a brief few weeks.

In order to adequately do this in our big year—that is presuming we will have big years again in the future, if the high seas fishery does not prevent us from this—it is a real problem to handle those fish in the short time that they come in.

Senator BARTLETT. Do you care to complete the analysis of the other rivers?

Mr. PADDOCK. Yes. On the Egegik River this year a very poor return was predicted. Seven hundred thousand fish were expected, and that would just about take care of what we feel our biological requirements for escapement are. Of course, we can't leave the fishery and the people that live in the area high and dry so the Alaska Board of Fish and Game made provision for the taking of a certain number of fish there while insisting that the escapement should not be permitted to drop to the point where the run would be placed in serious jeopardy.

We were very happy to see that the return there this year exceeded the prediction. We had a return of nearly a million and a half fish. And a million of these were secured for escapement.

On the Ugashik River we had a situation which was just the converse of this. We had a rather large return predicted, while a small one materialized.

Senator BARTLETT. What was the return predicted?

Mr. PADDOCK. The predicted return was for 1,700,000 fish, and the return which materialized was 500,000. Of this 500,000, half of them were permitted to be taken by the fishery and half of them were taken for escapement.

The fishery there was restricted in a very drastic manner this year.

Senator BARTLETT. Well, was that sound management policy to let as few as 250,000 go up for spawning?

Mr. PADDOCK. Yes, 250,000 fish in that system is not a situation where you're denying the spawning grounds of a substantial escapement.

Let's say that we haven't studied that system as much as we would like, and it will probably as a result be a longer time before we are able to define our optimum escapement goals on that system.

Senator BARTLETT. What would you guess as the optimum at this time?

Mr. PADDOCK. Well, let's say that our goal there this year was between half a million and 1 million fish. We have found great variability in the returns of various sized escapements in that system, and in the past there have been excellent returns for escapements smaller than half a million.

We have had excellent returns for escapements in the magnitude of 400,000.

But we feel that our goals should be conservative and should not willingly risk placing the resource in jeopardy.

Senator BARTLETT. The fact of the matter is, is it not, Mr. Paddock, that although man's knowledge on this subject has increased mightily in a scientific sense in we'll say the last decade, salmon just are so contrary they do not act the way they are supposed to?

Mr. PADDOCK. I hesitate to agree with that 100 percent, Senator.

Senator BARTLETT. You can't use the figure of 100 percent in any calculations?

Mr. PADDOCK. Let's say I would like to hedge on that. I would like to say that our research has been directed in certain areas and no two areas are alike.

I would prefer to think that there are very definite reasons for this wide variation that we observe but that they may be different there in the Ugashik district than they are in the Naknek or the Kvichak or here on the Nushagak where they have been studied more extensively.

Senator BARTLETT. Do you know when Federal Fish and Wildlife real biological, scientific studies commenced on the Bristol Bay rivers?

Mr. PADDOCK. There has been a program going back many years. You realize I could get in real trouble answering that question in an offhand manner. But the first year that their program assumed really significant proportions I would say was 1956.

Senator BARTLETT. I will say—and I am sure that the officials of the Fish and Wildlife Service will appreciate it because I have not said an unkind word about them for quite a while; I guess I haven't since statehood came—that they started very, very late in doing that which they should have done long, long before.

Anyway, one more question at least. Now, let's say that a circumstance arises which causes you to believe that the fishing season should be limited by 6 hours or extended by 12, or whatever. This evidence is unexpectedly produced to you and verified. Do you have authority to make the changes on the spot, or do you have to go to Juneau for permission?

Mr. PADDOCK. We have authority to make these changes on the spot.

I will say that the Bristol Bay fisheries here is of such importance that the commissioner of the department himself is usually present during the critical portion of the season. But we have this authority to make these changes quickly in order to meet these goals.

One of the limiting factors—in fact, this is at the present time the limiting factor—is we must of necessity, to serve the people who engage in the fishery, give sufficient notice to enable all of the fishermen to make a reasonable effort to take advantage of whatever opening we may make.

In other words, we can't just arbitrarily open it without considering the needs of the fishermen, although occasions have arisen when we have felt that it was of such prime importance to open an area that openings have been made quicker than we would have liked to have made them.

But we have been, particularly this last year, doing everything within our power to notify all concerned so that the fishery would be conducted in an orderly fashion.

Does that—

Senator BARTLETT. That's fine. Thank you very much, Mr. Paddock, for a very useful statement.

Are there any other witnesses?

(No response.)

Senator BARTLETT. If not, the committee will stand in adjournment.

(Whereupon, at 5:46 p.m., the subcommittee adjourned subject to the call of the chairman.)

COLLECTIVE BARGAINING FOR FISHERMEN

THURSDAY, NOVEMBER 8, 1962

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Kodiak, Alaska.

The subcommittee met, pursuant to notice, at 8:15 p.m., Hon. E. L. (Bob) Bartlett presiding.

Senator BARTLETT. The subcommittee will be in order.

This is a subcommittee of the Merchant Marine and Fisheries Subcommittee of the U.S. Senate Commerce Committee.

The hearing here in Kodiak tonight will concern primarily S. 3093, which was introduced by Senator Magnuson, chairman of the committee, and which I joined in cosponsoring.

The measure has for its purpose that amendment of the Fisheries Marketing Act of 1934, an act originally designed to provide fishermen with the right of self-association for cooperative improvement of their conditions. This bill would make clear that fishermen's organizations, regardless of their technical, legal status, would have a voice in the ex-vessel sale of fish on which the livelihood of their members depends. Legislation approaching this problem has been introduced in Congress on several different occasions. However, I believe this is the first time it has been before the Commerce Committee.

Hearings were held on a similar bill by me last year, and a helpful record was made at that time. However, it was thought that a more complete record was necessary before any further action could be taken. Senator Magnuson, therefore, requested that I hold hearings on the west coast immediately after Congress adjourned, and hearings have been held in Seattle, and in Alaska—Ketchikan, Petersburg, Anchorage, and Dillingham, and it is planned to hold a further hearing at San Pedro, Calif., later in the year.

Now I want to state here that the Alaskan communities named at which hearings were previously held were those from which expressions of interest had been received on this bill, either verbally or in written form, and it is obvious that there have been more hearings in Alaska than any other point on this bill. I did not plan to come to Kodiak, because nothing had been received from Kodiak regarding the bill. But one day over in Anchorage I received a telephone call from Loyd Cannon, who said that there was a great interest in the bill here, that the fishermen were most desirous that they be given an opportunity to be heard, and so I said I would check subsequently with Chairman Magnuson to determine his wishes in the matter. And I did, and his wishes were that I come to Kodiak, in accordance with

the desires expressed by Mr. Cannon. And so the committee meets here tonight.

I said that the testimony is intended to cover primarily this particular bill, and that is the case. However, if fishermen or others desire to testify on other subjects connected with fishing in general, I will be glad to entertain and to receive that testimony.

I think it must be especially desirable in light of the most recent episode if we could get something down here and now which later might be reflected in the printed report of the committee regarding the Russian intrusion into these nearby waters, something official as it were, something permanent in nature, denoting an expression of the people, of the American fishermen, primarily concerned. So if anyone wants to testify on that subject, they can do so without necessarily making any reference to S. 3093 at all.

To go back to that bill, as many of you remember, prior to 1954, fishermen did bargain collectively on prices. There was a little bit of an uproar about this during or immediately after the war, in which the Department of Justice manifested an interest, and implied that the antitrust laws were, perhaps, being violated—were being violated. But it was commonly agreed between government and industry, the fishermen, that collective bargaining could proceed.

And this was the case until 1954, when an administrative determination, participated in chiefly by the Federal Trade Commission and by the Department of Justice, said collective bargaining of this nature did run counter to the antitrust laws. And so since then, all bargaining of this nature has been carried on in a collective way only through marketing associations. In each year since then, there has been a rather persistent demand on the part of some fishermen that the former status be restored. They said that the marketing associations, however well-intentioned, could not do the job for them that unions could do, and that the marketing associations were without power, in every case, to gain and hold a fair price for the product for the members, whereas the unions were in possession of stronger economic weapons.

I should say that the views of the Government departments concerned on this legislation have not yet been given to the committee. This will be done subsequently in Washington. Doubtless the Department of the Interior will be heard, the Justice Department, the Federal Trade Commission, and perhaps others. In the meantime, we want your opinions so that the committee will be better guided in making its final determinations.

Mr. Cannon, can you tell me who first desires to testify tonight?

Mr. CANNON. Senator Bartlett, I'll start off the testimony on this bill.

Senator BARTLETT. Will you identify yourself?

Mr. CANNON. Lloyd Cannon, president of the United Fishermen's Marketing Association. We represent 700 local fishermen.

Senator BARTLETT. Your mailing address?

Mr. CANNON. Box 1035, Kodiak, Alaska.

STATEMENT OF LLOYD CANNON, KODIAK, ALASKA, PRESIDENT OF
THE UNITED FISHERMEN'S MARKETING ASSOCIATION

Mr. CANNON. When we requested your hearing here, Bob, it was just previous to our yearly price struggle with the operators to get, let's say, a percentage of what we should get for a pack. Most of the fishermen were in town at that time and were available for testimony, and since then the price has been settled with the packers, and members of the marketing association's boats are back out on the grounds and consequently there will be very few of us to testify here.

But at the meeting we had, it was discussed with the membership, and they felt that House bill 3093 was real favorable to our—

Senator BARTLETT. Senate bill.

Mr. CANNON. Senate bill, I mean.

Senator BARTLETT. Although there are comparable—identical bills, I believe, before the House of Representatives.

These numbers, by the way, Lloyd, won't mean anything next year, because new bills will have to be introduced in the 87th Congress, and they will bear different numbers.

Mr. CANNON. We might go back to the time, in 1954, that you mentioned here, Senator Bob, at the time that the Federal Trade Commission stepped in and broke up our old organization. Shortly after that, of course, the crewmen formed a union, the boatowners formed a boatowners association, and it was impossible to make this function right, due to the fact that, by the time you got two of the parties, the crew and the boatowners, agreed on the price, at that time the cannery wouldn't agree on it, and if you got the boatowners and the cannery agreeable on the set price, the crewmen wanted more money. So, consequently, we all couldn't set down at the same table and negotiate on something. We'd come up with practically an impossible situation, to come to some fair means of splitting up the proceeds of the fisheries' products.

Some of the other problems we'd run into, of course, where shortly after that the companies, when we didn't have any organization or means of talking to them—our crab price at that time, I believe went from \$1.50 a crab to about 6 cents a pound, which is approximately 60 cents a crab—

Senator BARTLETT. When you say "at that time," what do you mean?

Mr. CANNON. 1954. At the time that the Federal Trade Commission stepped in and broke up our union, which did the price negotiation on the raw fish products.

Our crab market went from approximately \$1.50 a crab down to about 60 cents, due to the fact that we had no organization at that time whatsoever to protect us.

Senator BARTLETT. You're talking about king crab?

Mr. CANNON. King crab.

Senator BARTLETT. Did this change come all at one time, or was it gradual?

Mr. CANNON. It was all at one time. In a year's period of time, she just completely—at that time, we tried to do something about it. Some of the companies went to fishermen who were not within this local area, and they did come up and fish for the 6 cents a pound, and so consequently we were forced to start fishing for king crab at approximately 6 cents a pound.

Senator BARTLETT. And you attribute this principally or solely to the Federal Trade Commission ruling?

Mr. CANNON. Solely to it. Due to the fact that before it, we had the union, and we could hold our price line. If a drop was demanded, it wouldn't have come in such a terrific amount at one time.

Our salmon price held just about the same for the years through that period, with no increase whatsoever to meet the increase in everything else on a national level. The price just stayed the same, year after year, and, of course, the last few years, we have got a marketing association going which is operating fairly well, but which still doesn't give the fishermen what they really need. We've got all kinds of legal papers to sign and go through, and I would say it's bordering on being legal, our whole association.

But we certainly figure that this bill, as written now—we feel that it will give us what we need to reorganize and, let's say, maintain a stable price on fisheries' products.

Senator BARTLETT. Does that conclude your opening statement?

Mr. CANNON. Well, yes. That's most of the statement.

I feel certain that if we had this bill go into effect we would find that the price of fish would be more stable and not this up and down. A lot of the operators at the present time complain they are real hard hit, due to the fact that certain companies can go outside and get fishermen who will come into the area and fish for half of what the going price is. So, consequently, their canned product on the market that they put out undercuts the other operators' costs. So they are not in the same competitive field in the market.

And we feel that this bill will make it so that the operators will have to, let's say, maintain a general price trend in the fish business, without completely going from extreme highs to extreme lows.

Senator BARTLETT. Is there a union here now, a fisherman's union?

Mr. CANNON. No. Just a straight marketing association.

Senator BARTLETT. None at all.

How do you deal with the canneries in negotiating prices, you of the marketing association?

Mr. CANNON. Well, we talk to them individually, individual companies, and we tell them what are our needs as far as our increased costs of gear, boats, insurance rates, cost of living; we more or less just ask them if they can't come up part way to, let's say, offset this yearly increase in expenses that we find.

And there's actually no way that we can sit down and demand it of them. We more or less have to sit and talk to them, and, of course, the members of the association at the time, if they won't give us this, just the members of the association will not produce a product for the association, for sale to these companies.

Senator BARTLETT. Well, that was going to be my next question. Does the marketing association have any means whatsoever to enforce any of these requests or demands for certain fish prices?

Mr. CANNON. For its own members it has it, but as far as fishermen who are not members of the marketing association, they go on fishing regardless of what our association does. If we tie up and say we will not furnish a product for these companies because of this price differential, that we can't earn a living at it, they can still get fishermen who will come in and try this fishing game, and deliver them for prices under what we are asking.

Senator BARTLETT. Have you a legal right to tie up?

Mr. CANNON. Definitely, under this marketing association. It's like a grocery store; if he wants 36 cents for a can of peas instead of 25, all he does is reach up on the shelf and mark up 36 cents, and you can take it or leave it. And our marketing association is the same way. We reach up and mark it up a half a cent a pound for the product that we're producing, and they can either buy it or not buy it, one of the two.

Senator BARTLETT. Well, let's say this bill became law. How would that prevent the canneries from getting fishermen up here who would undercut what I suppose would be the local union?

Mr. CANNON. Well, if it was a union, we could definitely ask the cannery workers to go along with us, and, let's say, not process this thing. We could also tell the companies that, if you want to buy from our association, our union will sell you our product as long as we are the sole, let's say, producers of this product, and if you bring in other boats, they have to be members of this organization in order to produce our product for you.

Senator BARTLETT. You could strike then?

Mr. CANNON. Yes, we'd have the power of strike that we did have previously.

Senator BARTLETT. And now you don't; is that right? You can lay up your boats, but you don't have an opportunity to have a concerted effort such as you relate, involving the cannery workers?

Mr. CANNON. That's very true. We can't. There is no way we can go down and even hint that we would like the cannery workers to lay off, or put tickets on the docks so that they won't, or the other fishermen won't cross the picket line.

Senator BARTLETT. So you personally favor this bill, or at least the end result, which its enactment would bring?

Mr. CANNON. I personally do, and as the representative of the United Fishermen's Marketing Association—they went on record as unanimously supporting this bill.

Senator BARTLETT. When was that?

Mr. CANNON. The 26th of November.

Senator BARTLETT. When?

Mr. CANNON. October 26.

Senator BARTLETT. And how many members does the association have?

Mr. CANNON. Seven hundred.

Senator BARTLETT. How many boatowners involved?

Mr. CANNON. Well, I can't give you the exact breakdown, but I imagine about 250 vessel owners.

Senator BARTLETT. And they endorse it, too?

Mr. CANNON. Yes.

Senator BARTLETT. All right, Mr. Cannon.

Do you want to comment on the experiences that have taken place here the last several weeks in reference to Kodiak crab fishermen and the Russian fishing boats?

Mr. CANNON. Yes, I'll make some comments on it. I don't know what results we'll get, Senator Bob.

As you know, we had the State Department boys up here and we got no results whatsoever so far, not even a reply as to what they're trying to do.

As you know, we had a lot of testimony from a lot of the fishermen involved in the incidents with the Russians where they lost thousands of dollars worth of gear, plus many more thousands of dollars worth of fisheries products due to loss of this gear before replacement could be made.

Senator BARTLETT. Loyd, would you relate in greater detail as to timing, and how the loss of gear came about, so that anyone reading this record will be able to grasp the whole situation.

Mr. CANNON. Well, we might go back to the 1st of July of 1962. There were approximately 10 boats that left Kodiak at that time to go out to their usual fishing grounds. At that time we went to these grounds which are on the edge of the shelf south and east of Sitkanak and Two-Headed Island area. At that time, there was a large concentration of Russian fishing vessels on the edge of this shelf. We didn't feel that we could put our gear where we had normally fished for the last 15 years, so we picked a secondary area, moved into that, which is an inside area approximately, 12 to 18 miles offshore in the same southeast southerly direction from these islands. And at that time, the Russians were fishing the outside edge where we had fished previously, and we took the secondary area on the inside.

And everything went along real smooth until about—I don't know just exactly what was the date of the first incident when the boats started losing gear there—

Senator BARTLETT. American boats?

Mr. CANNON. American boats.

But at that time, the Russians were apparently coming in at night and dragging their trawls through the American gear, causing heavy losses of the gear, and at that time, we requested help from our Senators, Governors, State Department, and anybody we could get to lend an ear. As American citizens, we felt that we were entitled to this. Now we're not sure.

And, of course, the State Department did send members up here, apparently representing the Russian Government, asking us to apologize for having our gear in the way of these Russian fishing operations. So consequently, we have added more radar buoys and more lights to our gear.

And this morning my boat phoned in and notified us that over half of her gear had been lost last night, and that the weather was bad today and he wouldn't know exactly how much of our gear had been lost until he had a chance to get out tomorrow morning.

That's about the works, Bob.

Senator BARTLETT. I am going to identify in point of time, which I failed to do at the opening of the meeting. The meeting convened at approximately 8 p.m. in Kodiak, November 8. So the episode to which you refer, Mr. Cannon, occurred late on the right of November 7 or immediately after midnight on November 8?

Mr. CANNON. That's right. That's correct.

Senator BARTLETT. Now when you talk about "gear," what do you mean?

MR. CANNON. Our crab pots. We have approximately 30 of them, and as we know it at the present time, from our information, we have at least 15 of them gone, and possibly more than that.

Senator BARTLETT. What do the crab pots cost?

MR. CANNON. Well, between \$200 and \$300, Senator Bob, depending on how elaborate you go with them. And I think I went just about as elaborate as anybody, and I would say that mine are in the neighborhood of \$250 apiece.

Senator BARTLETT. Now you said the Russian ship. How big was it?

MR. CANNON. A 200-foot vessel of the stern trawl type.

Senator BARTLETT. Made not one but two passes through the gear?

MR. CANNON. According to the report from the skipper who is presently skipper on it, the boat started at the south end and went north through the gear, picked up this gear, redumped it, and started at the north and went back through it south again. And he was within 100 yards of the vessel at the time that this was happening.

Senator BARTLETT. And could the skipper of your vessel see the Russian ship?

MR. CANNON. Very clearly.

Senator BARTLETT. And on account of poor radio communication, you have not yet had a full account of what happened? Is that right?

MR. CANNON. That is correct, Bob.

Senator BARTLETT. How far out at sea did this take place?

MR. CANNON. Approximately $7\frac{1}{2}$ miles offshore.

Senator BARTLETT. Do you know how many Russian ships there are out there—fishing boats?

MR. CANNON. There was only one involved in this incident right here, but we have a report from an Alaska Department of Fish and Game plane that immediately outside of this area, there are still 40 boats working of the Russian fleet.

Senator BARTLETT. Do you know what the Russians are fishing?

MR. CANNON. What they are fishing?

Senator BARTLETT. Yes.

MR. CANNON. To the best of my knowledge, and from all of the information that we are able to get at the present time, it looks like they're just fishing ocean perch and crab and halibut, and the rest are incidental fish that they are taking.

Senator BARTLETT. But they are fishing for crab, though?

MR. CANNON. I don't believe that they are fishing for crab on this side of the Aleutian chain, or the Kodiak district, with the intention of catching crab. They catch them incidental with their other fish. But I don't believe that they are out there purposely fishing crab, according to all reports that we can get at this time.

Senator BARTLETT. Now describe this trawling operation in more detail, will you?

MR. CANNON. Well, I don't know just what phase—

Senator BARTLETT. How do they fish for them?

MR. CANNON. Well, the crab normally lay flat on the bottom, or travel right on the bottom, and all of the trawling that is going on at the present is midwater trawling that has been developed in the last few years, where the ground line of the trawl is actually on the bottom in some cases, and the trawl itself travels 6 to 10 feet above

the bottom. I don't know. I'm not real familiar with this type of gear, and the only report I can get on it is from the U.S. Fish and Wildlife Service, and they have taken pictures of this Russian gear on the bottom—not on the bottom, but in the position off the bottom that it fishes. And they have determined that this is the way the Russians are taking their ocean perch, by fishing off of the bottom approximately 6 to 10 feet.

Senator BARTLETT. And if they were there primarily to catch crab they would put the trawl right down on the bottom?

Mr. CANNON. Yes.

Senator BARTLETT. What if a Kodiak fisherman desired to catch crab that way? Would he outfit himself with a similar trawl and go out?

Mr. CANNON. Well, at one time we did fish them that way, Senator Bob, and we found that the destruction of the females and undersized crabs and the males themselves was terrific in volume, and so the State of Alaska put regulations into effect to stop this type of destruction to the crab fisheries. And we found that the pot fishing is really fishing, and from a biological point of view, it doesn't destroy the females and small males and immature crab in this area.

Senator BARTLETT. Trawls take everything with it?

Mr. CANNON. They take everything, and the legs stick out, and shells break. It's a real destructive way to fish crab. We did this for quite a few years, and it was through the fishermen involved in the Kodiak area that actually the State of Alaska put into effect the regulations outlawing this type of trawling for crab.

Senator BARTLETT. That was the next question that I wanted to ask you. Despite the fact that you have answered it already, I want to emphasize this: the State regulations came into being primarily because the fishermen believed in conservation, and they urged the State to do this.

Mr. CANNON. That's true, and before statehood days, we had no say in our fisheries. We watched our salmon depleted by traps, means that we definitely knew were going to take us years to rebuild our fisheries. The fishermen felt that in the crab fisheries, we had a chance to start off with a big crop of them and get a sustained yield year after year, and so we asked that these regulations be put into effect, so that we would have a fishery and not completely kill it off and try to rebuild it like we are presently our salmon fishery.

Senator BARTLETT. Well, if you lost 15 pots last night from your vessel, your fishing boat, and they were worth \$250 each, you suffered a monetary loss of over \$3,000 right then and there.

Mr. CANNON. That's true. But that is a real small amount compared to the amount we are going to lose before this gear can be replaced and back out on the grounds, fishing.

Senator BARTLETT. You mean to say that this will be a minor part of it?

Mr. CANNON. Very minor. The 15 pots are capable of taking approximately \$1,000 worth of crab a day, and if it takes us 2 weeks, which it will, by the time we get steel out of Seattle and web and equipment out of Seattle up here, and to get equipment built and back out on the grounds, it will probably be a period of 3 weeks or 20 days, and it could amount to as much as a \$20,000 loss in the production of crab.

Senator BARTLETT. When did Russian fishing vessels first appear off the Kodiak coast?

Mr. CANNON. Well, we had heard reports, oh, 2 years ago, of research vessels in this area working things, but nothing that we could, let's say, put our teeth into. To our knowledge in the Kodiak coast this spring was the first time that they did put any amount of vessels in, that really affected our fisheries.

Senator BARTLETT. Were your crab pots marked so they could be observed by the Russians?

Mr. CANNON. Yes. We had radar buoys put on the end of our strings, as Mr. Harrington had requested us to do.

Senator BARTLETT. Now Mr. Harrington being the State Department representative who visited here earlier in connection with the first incident?

Mr. CANNON. Yes. That's correct.

And he recommended first, that we were practically in the wrong for being out there, but he did recommend that we mark our gear a little more clearly, put radar buoys or something, so that the Russians could actually know that the gear was there. We did this, and apparently it made the Russians a little more accurate. They got a little bit more of our gear this time than they ever did previously, so I think we'll take all the buoys off.

Senator BARTLETT. Is this the biggest loss suffered by an individual boatowner, so far as you know?

Mr. CANNON. I believe this is the biggest single loss that has occurred, although a lot of the other boats have lost a lot of gear that they felt was due to the Russians, that they actually didn't claim that way. But the part that they did claim they lost, I'm certain that they did lose it. A lot of them lost gear, but they didn't know whether they lost it by the Russians or not, but a lot of them definitely knew that they had lost it by the Russian fleet.

Senator BARTLETT. Well, if the Soviet vessels continue to do this sort of thing, the eventual result will be, if the American fishermen take it, that they will have to retire from this fishing grounds, will they not?

Mr. CANNON. Well, I would say, "Yes, it's the only thing we can do at present." You can see, after losses like this occurred, that we have to leave these grounds. If our Government isn't going to protect us on these grounds, take it into our own hands to protect ourselves, and I believe that the boys at the present time are getting right at the verge of this, that we'd beter take some action, after we've fished these grounds for years and considered them our fisheries. Myself, definitely I feel we're right on the verge of recommending that we handle it ourselves.

Senator BARTLETT. All right. Thank you, Mr. Cannon.

I think it's very important that this be put down and especially so because this thing happened less than 24 hours ago.

Do you have anything else to offer?

Mr. CANNON. No, nothing more, Senator Bartlett.

I believe some of the other boys have something to say. I know we have some in the audience at the present time. I know Lee Andrich. He owns the *Merganser*, and he testified earlier about his loss against the Russians.

Senator BARTLETT. Spell the name of the boat.

Mr. CANNON. My boat, or Lee's?

Senator BARTLETT. Lee's—both, but yours first.

Mr. CANNON. My boat is the *Oceanatic*.

Senator BARTLETT. And yours?

Mr. CANNON. He's the *Merganser*.

I believe he's setting in the crowd, and he testified in front of Mr. Harrington—

Senator BARTLETT. Do you know how to spell *Merganser*?

Mr. CANNON. No, but he can tell you when he takes over.

Senator BARTLETT. OK.

Who's next?

STATEMENT OF LEE ANDRICH, KODIAK, ALASKA

Mr. ANDRICH. My name is Lee Andrich. I'm skipper of the *Merganser*.

Senator BARTLETT. Spell it.

Mr. ANDRICH. *M-e-r-g-a-n-s-e-r*.

My mailing address is Post Office Box 1563, Kodiak.

Senator BARTLETT. You've lived here how long?

Mr. ANDRICH. One year.

Senator BARTLETT. What do you fish?

Mr. ANDRICH. Crab.

Senator BARTLETT. Did you have any—

Mr. ANDRICH. That's king crab.

Senator BARTLETT. Let me ask you this first: do you want to make any expression regarding the bill which has primarily brought the subcommittee to Kodiak?

Mr. ANDRICH. Well, sir, I was very much interested in the bill. At the time I came here, I didn't know exactly what it really was, and that's why I came here, to find out. And now that I've listened and talked to you, I think that I really am in favor of the bill. In fact, I know I am in favor of the bill.

Senator BARTLETT. As a boatowner?

Mr. ANDRICH. As a boatowner.

Senator BARTLETT. How many men do you have on your boat?

Mr. ANDRICH. I have nothing but relations, and there is four of us altogether.

Senator BARTLETT. Do you get along pretty good or pretty bad?

Mr. ANDRICH. Oh, we have our ups and downs. [Laughter.]

Senator BARTLETT. Anyway, you endorse the bill?

Mr. ANDRICH. Yes, wholeheartedly.

Senator BARTLETT. Now we understand you have had an experience or two with the Russians.

Mr. ANDRICH. Yes, off Two-Headed Island. We were fishing approximately 8 miles offshore there. We were about 9 to 11 miles offshore, and the Russians were 8 miles. The mother ship was anchored up there. We observed it and went along side of it and took pictures.

At that time, when they were out there, we were having fair fishing, and when they proceeded to come inside of our gear or through our gear, we suffered a greater loss than we ever experienced before that in gear. This operation when we lost them would be in the nighttime and the next day, when we come there, we wouldn't have any pots.

And usually, if you lose a gear, a pot will turn over, but the tides aren't that strong there for my gear, some gear will turn over, but usually you will get ahold of the buoy next day, and when you pick it up, the pot will break off because the line is chafed there. But all my pots are double buoyed 40-inch bags filled with air, and almost all my lines were new when I started out this season, so I couldn't say that it was due to the old gear. I've only been in the fishery 1 year, and replaced the whole string of gear already. So I wouldn't say that it was the old gear or anything that was rotten that just fell apart.

We had been fishing, like I say, before this all the time and hadn't suffered any pot loss at all in fact until the Russians moved into our area—it's not our area; it's international, the water is, but still it's where we were fishing. So I'm just like Loyd.

I think Mr. Harrington had a good point, to mark your gear, but that's just like an off limits sign when you're in the service. That's where everybody goes.

Senator BARTLETT. Did you mark your gear?

Mr. ANDRICH. Oh, yes. Mine has been marked from the start.

Senator BARTLETT. And you suffered these losses notwithstanding?

Mr. ANDRICH. Yes.

Senator BARTLETT. More than once?

Mr. ANDRICH. More than once.

Senator BARTLETT. You didn't, as I understand it, you didn't—

Mr. ANDRICH. I didn't observe it.

Senator BARTLETT. Do you know anyone except Loyd's skipper who did?

Mr. ANDRICH. No, but—well, I heard that *Jenny C.*, or George Johnson—he was off Two-Headed one night and anchored on his gear and the Russians started coming through it and he started throwing his searchlight around so that they would know that he was there.

Senator BARTLETT. So what did they do?

Mr. ANDRICH. I didn't hear the report as to what happened.

Senator BARTLETT. What do you figure your losses have been, aside from this fishing time, approximately?

Mr. ANDRICH. Well, just in part, \$1,600.

Senator BARTLETT. How many pots did you lose?

Mr. ANDRICH. Around six.

Senator BARTLETT. Thank you, Lee.

Do you have anything else?

Mr. ANDRICH. No. That's all.

Thank you, Senator.

Senator BARTLETT. We're glad to get this down.

Who's next?

STATEMENT OF JAN BEUKERS, KODIAK, MANAGER, UNITED FISHERMEN MARKETING ASSOCIATION

Mr. BEUKERS. My name is Jan Beukers. My mailing address is Box 1035, Kodiak, Alaska. I am the manager for the United Fishermen Marketing Association.

I guess the members of this association, at the last meeting, were in favor of your bill there, and the reason they're in favor of this bill

is because, the way the situation is now, we haven't got any bargaining power like any other organization has, like the automobile industry has, or any other kind of industry.

After all, a fisherman, to my way of looking at it, is nothing else than a workingman, and a hard-working man. He puts in more hours than anybody else. He hasn't got a timeclock. And I understand a businessman is somebody who invests money in something for sale, and the fisherman hasn't got that. If his catch is poor, he has got nothing for sale. So a fisherman, in other words, is just a laborer. He sells his labor. He works with his hands out there. But it seems like the laws prohibit him from bargaining with the company. And I think there should be something done about it, just like the bill, to give these fishermen the right to bargain with the canneries, and if they can't get a price for their produce, to be able to put out a picket line and call a strike, like they did before. That way, you've got a bite in it.

This way, if some of these other boats want to go out and fish at the price that the cannery wants to pay, there's nothing to stop them. The cannery workers will go to the cannery and work just the same. You can't put a picket line out to hold them back, and as a steamer comes in, bringing supplies to the cannery—cans, and whatever he may need in the cannery—these fishermen can't go out on the dock and stop the longshoremen, either. Whereas you could if you had a union—in other words, the bargaining right.

That's about all I have to say in defense of the bill.

Senator BARTLETT. When was this marketing association formed?

Mr. BEUKERS. In Kodiak.

Senator BARTLETT. When? Right after the 1954 decision?

Mr. BEUKERS. This marketing association was formed in 1959, it was organized, and before that, they had a boatowners association. But the boatowners association didn't work because the skippers and owners had to negotiate with the canneries and, in turn, the fishermen had to negotiate with the skippers, and as long as one liked the price the other one didn't. So there was always trouble.

Senator BARTLETT. Well, the marketing association was organized, then, to take care of the situation which was really brought into being by the 1954 decision?

Mr. BEUKERS. That's right.

Senator BARTLETT. Now if S. 3093 were law, do you think it would result in a considerable increase, so far as the fishermen are concerned, in the price of salmon?

Mr. BEUKERS. Absolutely so.

Senator BARTLETT. The next question: would that make the price of the product so much higher on the grocery shelves that the housewife would say, "No, this is getting too high for me, this salmon. I can't afford to buy it any more." And she would turn to some competitive product.

Mr. BEUKERS. I don't think so.

Senator BARTLETT. Why?

Mr. BEUKERS. Because after all, fishermen are reasonable, too. They have to buy their produce as well as sell it.

Senator BARTLETT. Do you think that the retail price of salmon could stand much of a boost and still be competitive?

Mr. BEUKERS. Well, it could stand somewhat of a boost, maybe.

Senator BARTLETT. I'm asking these questions for a special reason. We have had widely conflicting testimony, and I suspect that it can be answered only maybe when we get back in Washington and the Government departments testify as to what weight the price the fisherman receives for his product bears in the total price of the finished product.

Some witnesses have said it's all important, and others have said it's relatively inconsequential. I frankly don't know.

Mr. BEUKERS. Well, the canneries sell the fish by weight, so much in a can. Now these fishermen around here especially, they sell their fish per piece. Now this year, the fish happen to be small, one of the very few years. But as a general rule, the fish around Kodiak Island are large fish, so these fishermen maybe want to negotiate the price per pound.

Senator BARTLETT. I should tell you and the others in the audience that industry to date has not taken the position for the bill nor against it. They had an attorney up here for them at the opening session in Seattle and a brief was submitted for the record with the declaration that later on, the industry would make its recommendation. So we don't know to this day whether the industry is for it or against it.

Mr. BEUKERS. Well, I don't believe the fishermen are radical people. The only thing they want is living conditions. That's what they are after. They're not out to destroy the canneries, or any operators, or anything like this. The only thing these people want is a fair living. I don't believe there's any fishermen around this area that would like to see the canneries close up.

Senator BARTLETT. You say they're not getting a fair break now in their prices?

Mr. BEUKERS. No.

Senator BARTLETT. Do you have anything more?

Mr. BEUKERS. No, that's all I have.

Senator BARTLETT. Thank you very much.

Who is next?

We welcome you, Mr. Cannon.

STATEMENT OF PAT CANNON, KODIAK, ALASKA

Mr. CANNON. My name is Pat Cannon, Box 973, Kodiak, skipper of the *Swallow*. I've lived here in Kodiak for the last 23 years steady now, and have been fishing most of that time. I was president of the United Fishermen's Union for some 10 years, which at that time was associated with the Sailors' Union of the Pacific.

In 1954, the Federal Trade Commission broke up our union because the skippers and the crews belonged to the same union. At that time, we had to form another organization so that we might have a bargaining agent for the price of aquatic products in this vicinity, so we formed the Kodiak Processors Association, of which I was president some 4 years. The union of the boatpullers continued to function as a union at that time. They had to deal with the Processors Association for the conditions on the boat, and what share that they wanted; and the processors in turn had to deal with the canneries as to what price they should get for their products.

It didn't work out because there was too much confusion, and, as a result, the union had no power to enforce their demands. The only ones they could make their demands on were the boatowners or independent fishermen such as gill netters. And it didn't work out, and, as a result, the Processors' Association finally ceased to be, with the exception of a few members, and later another organization was organized that permitted the boatowners and the crewmembers to belong to the same marketing association. Since that time, it has successfully sold the fish for their members, and a bill of this type, if it were to come into law, could change this to where the marketing associations would then have power to enforce some of their demands. As a result now—and it always has been since the days of territory—so many fishermen migrating to Alaska during the fishing season do not belong to the local organization and have, at various times, went fishing before a price negotiation was completed, and, as a result, the local fishermen never got the price that was asked.

Now this is something that we've had considerable trouble with for a good number of years. Companies would send the majority of the fishermen from out in the States, and the local organization would have to just go along with whatever they could get at that time.

I certainly am in favor of this bill. I think if it goes into effect, and you have an organization to do your bargaining for your fish, I think that there will be more harmony with industry and everyone else concerned in the fishing effort.

Senator BARTLETT. You make this statement as a boatowner?

Mr. CANNON. Yes. I am skipper of the boat *Swallow*, and I also have a barge that works in the fishery during the summertime.

Senator BARTLETT. Do you fish crab, king crab?

Mr. CANNON. Momentarily I'm not, but I fished last winter and I'm also going to go out again this winter.

Senator BARTLETT. I should have mentioned—I forgot to do so—that the Seafarers International affiliated with the AFL-CIO has likewise endorsed the bill.

Thank you, Pat.

Who is next, please?

STATEMENT OF GIL JARVELA, CHIEF PILOT FOR KODIAK AIRWAYS, KODIAK, ALASKA

Mr. JARVELA. My name is Gil Jarvela. I have resided in Kodiak for 14 years. My occupation is chief pilot for Kodiak Airways. I am also a representative in the State legislature, and, I might add, have been newly reelected for another 2-year term.

Senator BARTLETT. Forty-eight hours ago?

Mr. JARVELA. Yes.

In regards to Senate bill 3093, I have talked mostly to fishermen. I have heard nothing from industry as far as their being against it. It seems to me that everything I have heard has been in support of this amendment, and I feel that it will do just as it is designed to do, clarify the situation that has been a burden to both industry and to the fishermen.

I don't have anything else to say in regards to this bill at this time, but I would like, then, to refer to the Russian situation.

Senator BARTLETT. Do so.

Mr. JARVELA. I have observed the Russians in their fishing endeavor for the past—about 10 months, I guess it is. In flying around this area, I first observed them south of Chirikof Island, and I was at the hearing when Mr. Harrington appeared in Kodiak some few weeks ago, and I felt that it was very clearly pointed out to him at that time that there should be no doubt in anybody's mind that the Russians realized that there was an American fishing effort being carried on in the area consisting of the waters between Portlock banks and south of that area, south of Kishanak, toward Chirikof Island.

Now it was also clearly pointed out to Mr. Harrington that our fishing effort is a pot effort, consisting of crab pots that are marked by buoys. These pots are set during the daytime and the fishermen go back to the beach in the evening, waiting for another day or favorable weather to go back out and pick them up again. Now, while they have been planting these pots, the Russians have been carrying on their fisheries in the same vicinity and have seen our fishermen setting these pots. They know what is going on. And yet they have consistently carried on their system of fisheries, which consists of drags. It was pointed out to Mr. Harrington that any fisherman realizes that a drag type of fishery does not work alongside a pot type of fishery, where there is a buoy that is anchored that cannot be moved to facilitate somebody's dragging through the area. The pot is set there for the time being, and it is not able to move. If the drag fishery comes along and goes right through the same area, it's bound to destroy or catch the line that goes to the buoy, from the buoy to the pot, and it probably busts the line, busts the buoy, and consequently the pot, the line, and everything else is lost.

Now, it has been pointed out to Mr. Harrington that any fisherman who has done any kind of fishing certainly realizes that these two particular types of fisheries do not coincide, and yet they are consistently fishing in this area.

After the hearing was concluded, Mr. Harrington came up with the suggestion that our pots be better identified as far as their buoys are concerned by putting flags or some sort of radar reflector or lights or some sort of a mechanism that would make them easier to see. He thought that probably the Russians did not see them, and they were knocking down our buoys because they were not able to see them. It has always been pointed out that they have knocked down buoys that have been marked very well with lights, by the way.

Now just lately we have come up here—in fact, yesterday we received word that pots that were properly identified as Mr. Harrington suggested, had radar reflectors, had flags, everything that he wanted was done; this time one of our own fishermen observed a Russian vessel go through not once but twice through the gear that was properly marked, destroying an unknown amount of the gear.

Now he promised, Mr. Harrington promised that if we had marking of some sort on these buoys that would be positive, such as a radar reflector, and if something of this nature happened again, then he had grounds to really do something. Now just for the record, I want him to know that now he has the grounds, he has the tools to work with, and we would certainly like to see something happen.

Senator BARTLETT. In response to that, Representative Jarvela, as you perhaps know—I think you do know—it's my intention to be in touch with him by telephone, with Mr. Harrington by telephone tomorrow. I think it's a very vital point which you brought out, which I hadn't known before, namely that if there is something positive of this kind to get a fix on that they in the State Department would be in a better position to make representations to the Soviet Government, and I certainly intend to communicate this to him.

Mr. JARVELA. I'd like to state that Mr. Harrington mentioned that most of the testimony that he heard was hearsay, that people—at least these fishermen—said that these things happened, and that this type of testimony wouldn't hold up in a real court of law. Now he wanted concrete proof, and this is what we have now in this last case, created by the Russians going through the gear yesterday, or some time early this morning. And we feel that possibly now he might have something to work with.

Senator BARTLETT. We have, as I understand it, (1) the facts that the pots were adequately marked in a recommended manner; (2) that the gear was destroyed; (3) that the Russian ship was actually sighted; and my understanding further is that Mr. Cannon is awaiting transmission of more factual information from the skipper. Is that right?

Mr. JARVELA. Right.

He went through not once, but twice, and he was observed doing it.

Senator BARTLETT. Thank you, Representative Jarvela.

Who's next, please?

STATEMENT OF PETE DEVEAU, KODIAK, STATE REPRESENTATIVE IN THE ALASKAN LEGISLATURE

Mr. DEVEAU. My name is Pete Deveau, former State Representative—

Senator BARTLETT. You still are, aren't you?

Mr. DEVEAU. Well, up until January 23.

And formerly a cannery operator here in the Kodiak area from 1949 until 1958.

Senator BARTLETT. What's your mailing address?

Mr. DEVEAU. Box 1577, Kodiak.

I thought of interest to the congressional committee would be the conservation method which has been introduced by the packers and the fishermen since the inception of the crab fisheries on Kodiak.

Now back in 1949—1948 and 1949—when we first started fishing king crab, we used the former gear of the *Pacific Explorer* when Nick Bez was sent up there by the Government into Bristol Bay to explore the possibilities of the commercial potential of king crab. Now that gear that he formerly used up there in Bristol Bay quite successfully—in fact, it was the largest crab pack up to that time that ever came out of Alaska, some 19,000 cases. We used that gear in the Kodiak area. That was the inception of the king crab fisheries in Kodiak.

But we found from the very start that we destroyed, mutilated, and downright killed a great number of female crabs. So due to the pressure by the fishermen and the packers, tangle gear was outlawed in approximately 1952.

And then, of course, we went to the outer trawling method of catching king crab.

In 1954 we had a then small and understaffed department of fish and game which sent a biologist over here and through the cooperation of the fishermen, this biologist went down and spent all winter in the winter fisheries at Alapak, and here's the surprising conclusion that he came to: He counted 1,008,000 king crabs, and of these 1,008,000 king crabs, he found out 445,000 female crabs are either killed outright or severely damaged, and the take to the cannery or the usable male crabs is only 120,000. So of course with these concrete figures, it alarmed the industry and it also alarmed the fishermen on Kodiak, so we outlawed outer trawling for king crab.

Now when we outlawed outer trawling for king crab, we had no jurisdiction beyond the 3-mile limit. In other words, although we imposed a ban on outer trawling for king crab in the Kodiak area, they could still go outside the 3-mile limit and fish king crab.

In the 1960 session of the legislature, I introduced what was called House bill 300, the landing law. Now this landing law gave the Alaska Department of Fish and Game jurisdiction beyond the 3-mile limit when the crab are caught by means, method, and at times unlawful inside of the 3-mile limit. So this further gave us a tool for conservation of crab in the Kodiak area because it had been proven conclusively that the crabs migrate in and out of State waters.

Now at the present time, we have a regulatory area in the Kodiak area that extends far into the fishing grounds that the Russians are using. At the present time, we don't have any concrete evidence that the Russians are fishing king crab, but we do know that their research vessels have been over here sampling our king crab grounds. Now historically in the Kodiak area, the Kodiak area is the only area in Alaska where historically we have a legal right or a moral right to our king crab grounds. At one time, we tried to get the fish and game—Oscar Dyson, a member of the fish and game board, and Loyd Cannon, and myself called Mr. Kurtness in Juneau, and we asked him to declare a regulatory area and clean out the Aleutian Islands on this side. Now we couldn't claim on the other side, because the Japanese already had a historical right to the king crab fisheries. But we thought if we could declare a regulatory area and impose the restrictions that were necessary in the different areas, why we would have a legal background to face the Russians or the Japanese in case they did come over on this side.

But to date, Kodiak area is the only area where we can historically claim our water beyond the 3-mile limit.

Senator BARTLETT. And the Kodiak area is the only one that is being clobbered by the Russians.

Mr. DEVEAU. That's right.

Senator BARTLETT. Thank you, Representative Deveau.

If there is no further testimony then, the committee will adjourn the hearings in Alaska. The next hearing probably will be held in San Pedro, Calif.

Thank you.

(Whereupon the hearing was adjourned.)

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION,
SEATTLE ILWU PENSIONERS' CLUB,
Seattle, Wash., May 23, 1962.

HON. WARREN G. MAGNUSON,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: The fishing industry, as you probably are aware, is perhaps one of the most hazardous in labor.

The purchase of gear, boats, clothing, and accessories has been acknowledged to be probably the most expensive. We firmly assert that under these circumstances the fishermen who are in effect in the same category as manufacturers and/or employers should under our democratic form of government have the privilege of bargaining for prices to assure a just return on their investments.

We ask that you support to the fullest extent of your position and get support to insure the passage of said bill, S. 3093.

Respectfully yours,

J. J. WHITNEY, *Secretary-Treasurer.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, April 16, 1962.

xxxx

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: In reply to your request of April 3, 1962, for our comment on S. 3093, entitled "A bill to make clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends," you are advised we have no firsthand knowledge of the subject of the bill and, therefore, offer no comment or recommendation concerning the proposed legislation.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

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