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90-35 MISCELLANEOUS FISHERY LEGISLATION

GOVERNMENT  
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COMMITTEE ON COMMERCE  
HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON  
MERCHANT MARINE AND FISHERIES  
OF THE  
COMMITTEE ON COMMERCE  
UNITED STATES SENATE  
NINETIETH CONGRESS

KANSAS STATE  
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FIRST SESSION  
ON  
S. 1260, S. 1752, S. 1784, S. 1798, S. 2047, S. 2232,  
S. 2269, S.J. Res. 75, and S.J. Res. 103  
NINE BILLS RELATING TO THE COMMERCIAL FISHING  
INDUSTRY

SEPTEMBER 20, 21, AND 22, 1967

Serial No. 90-35

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## MISCELLANEOUS FISHERY LEGISLATION

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WEDNESDAY, SEPTEMBER 20, 1967

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,  
*Washington, D.C.*

The subcommittee met at 10:08 a.m., in room 5110, New Senate Office Building, Hon. E. L. Bartlett, chairman of the subcommittee, presiding.\*

Senator BARTLETT. The committee will be in order.

### OPENING STATEMENT BY THE CHAIRMAN

This morning is the first of 3 days of hearings on nine bills relating to the commercial fishing industry and I wish to welcome the distinguished group of witnesses present to give testimony.

I will not go into detail on these measures—some are of major importance to affected segments of the U.S. commercial fishing industry; others are more in the form of amendment to existing legislation as a matter of clarification. As the witness lists may be long during these coming 3 days, I may have to ask that you limit your testimony; but in all cases, be assured that your full statements will be made a part of the printed record.

The U.S. commercial fishing industry has long been beset with problems, and the Congress has worked diligently to discover those programs which might aid the offshore fishermen and the other important segments of the industry, that America might return to its rightful place in the world fisheries community. The chairman of the full Commerce Committee, Senator Magnuson, and I, I think it is correct to state, have been intimately associated with many of these legislative efforts, as have many other Members of the U.S. Senate, a number of whom will be appearing before the subcommittee during these hearings. Certainly, in the development of legislative direction, we need the expressions of the fishing industry and the fishery agencies of government, and I am hopeful that these 3 days of hearings may provide some of that essential direction.

I have been told that the general discussion of as many as nine pieces of legislation in 3 days of hearings is something unusual to this committee, but I think those of you present will appreciate the opportunity to appear on behalf of a number of them on one visit, particularly those of you coming great distances. We will take the bills en masse, as it were. As you appear, you may testify on any or all, and

\*The professional staff member in charge of these proceedings was John H. Wedin.

we will make whatever segregation in the record best presents the development of each issue.

The matters for consideration this morning—and again tomorrow and Friday—are as follows. The list is neither in order of importance nor introduction:

Senate Joint Resolution 103, introduced by Senator Magnuson, which would authorize and direct the Secretary of the Interior to conduct a survey of the coastal and fresh water commercial fishery resources of the United States.

Senate Joint Resolution 75, introduced by Senator Hatfield, authorizing a similar study.

S. 1798, by Senator Magnuson, to provide for fishermen's cooperative banking facilities.

S. 2269, by Senator Magnuson, Senator Kuchel of California, and myself, to provide additional protection for owners of private fishing vessels seized by foreign countries. Senator Kuchel will not be able to testify in person because he is in Vietnam.

S. 2232, introduced by Senator Gruening, to provide forfeiture of vessels convicted a second time of violating U.S. territorial waters.

S. 1784, by Senator Church and Senator Jordan, to amend the Anadromous Fish Act to authorize the State of Idaho to participate.

S. 2047, by Senator Magnuson, to provide for exemption of certain vessels engaged in the fishing industry from requirements of certain laws.

S. 1752, by Senator Magnuson, to prohibit fishing in territorial waters of the United States and in certain other areas.

S. 1260, by Senator Magnuson, to amend the Northwest Atlantic Fisheries Act of 1960.

(The bills and joint resolutions follow; also the text of Senator Magnuson's remarks on the floor of the Senate introducing S.J. Res. 103.)

(Agency comments on the above legislation will be found at the end of the first day's hearing.)

[S.J. Res. 103, 90th Cong., First Sess.]

**JOINT RESOLUTION** To authorize and direct the Secretary of the Interior to conduct a survey of the coastal and fresh-water commercial fishery resources of the United States, its territories, and possessions

Whereas the United States has the richest and most extensive coastal and inland fishery resources of any nation but has failed to develop, to utilize, and to conserve her fishery resources to the fullest extent; and

Whereas the fishery resources of the United States and of waters contiguous to the United States have, by their variety and abundance, attracted the fishing fleets of many European and Asiatic nations and encouraged them to send fishing vessels to these waters which are more numerous, larger, and superior in capacity and equipment to those of the United States and with such enterprise and capabilities as to threaten these resources with depletion or extinction; and

Whereas the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas came into force and effect on March 20, 1966, and the convention for the first time under international law recognizes the dominant and special interest and rights of a coastal nation to adopt regulations to conserve fishery resources adjacent to its coast under conservation programs based on scientific studies of the resources; and

Whereas additional biological data must be gathered and scientific resource studies be completed to provide for an effective implementation of our rights and obligations to conserve our coastal fishery resources under the 1958 convention; and

Whereas the last comprehensive survey of said resources was conducted over twenty years ago, and new, current information is necessary for action in

preservation and utilization of our present and future national fishery interests :  
Therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to conduct a survey of the character, extent, and condition of the coastal and fresh water sport and commercial fishery resources, including both those resources now being utilized by United States and foreign fishermen and those potential resources which are latent and unused, of the United States, its territories, and possessions, including coastal and distant water fishery resources in which the United States has an interest or right.

SEC. 2. The Secretary of the Interior is directed to submit through the President a report to the Congress as soon as practicable, but not later than three years after enactment of this Act, concerning the results of the survey authorized and directed in the preceding section, along with recommendations for legislation thereon.

SEC. 3. There is authorized to be appropriated, out of moneys in the Treasury not otherwise appropriated, such funds as may be necessary for the purpose of carrying out the provisions of the joint resolution, but not to exceed \$3,000,000.

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[S.J. Res. 75, 90th Cong., First Sess.]

JOINT RESOLUTION To authorize and direct the Secretary of the Interior to conduct a survey of the coastal and fresh-water commercial fishery resources of the United States, its territories, and possessions

Whereas the United States has the richest and most extensive coastal and inland fishery resources of any nation but has failed to develop, to utilize, and to conserve her fishery resources to the fullest extent ; and

Whereas the fishery resources of the United States and of waters contiguous to the United States have, by their variety and abundance, attracted the fishing fleets of many European and Asiatic nations and encouraged them to send fishing vessels to these waters which are more numerous, larger, and superior in capacity and equipment to those of the United States and with such enterprise and capabilities as to threaten these resources with depletion or extinction ; and

Whereas the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas came into force and effect on March 20, 1966, and the convention for the first time under international law recognizes the dominant and special interest and rights of a coastal nation to adopt regulations to conserve fishery resources adjacent to its coast under conservation programs based on scientific studies of the resources ; and

Whereas additional knowledge of the distribution and magnitude of latent and underutilized aquatic resources must be gathered to provide for an effective implementation of our recently acquired rights to conserve our coastal fishery resources under the 1958 convention : Therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to conduct a survey utilizing extant data sources of the character, extent, and condition of the coastal and freshwater commercial and recreational fishery resources, including both those resources now being utilized by United States and foreign fishermen and those potential resources which are latent and unused, of the United States, its territories and possessions, including coastal and distant water fishery resources in which the United States has an interest or right.

SEC. 2. The Secretary of the Interior is directed to submit through the President a report to the Congress as soon as practicable, but not later than January 1, 1969, concerning the results of the survey authorized and directed in the preceding section.

SEC. 3. For those potential or underutilized resources for which extant information is considered wholly inadequate to characterize the distribution and extent of the stocks, the Bureau of Commercial Fisheries is authorized to initiate additional studies to more satisfactorily delineate their magnitude and distribution.

SEC. 4. There is authorized to be appropriated, out of moneys in the Treasury not otherwise appropriated, such funds as may be necessary for the purpose of carrying out the provisions of this joint resolution, but not to exceed \$600,000.

[S. 1260, 90th Cong., First Sess.]

A BILL To amend the Northwest Atlantic Fisheries Act of 1950 (Public Law 845-81)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Northwest Atlantic Fisheries Act of 1950 (64 Stat. 1067; 16 U.S.C. 981-991) is amended as follows:

- (a) By inserting the words "or mammal" after the word "fish" in section 2(g).
- (b) By deleting the words "outside of the United States" in section 4(b).

[S. 1752, 90th Cong., First Sess.]

A BILL To amend the Act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled "An Act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels," approved May 20, 1964 (78 Stat. 194), is amended by replacing the first sentence of section 1 with the following:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it is unlawful for any vessel, **except** a vessel of the United States, or for any master or other person in charge of such a vessel, to engage in the fisheries within the territorial waters of the United States, its territories and possessions and the Commonwealth of Puerto Rico, or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters or in such waters to engage in activities in support of a foreign fishery fleet or to engage in the taking of any Continental Shelf fishery resource which appertains to the United States except as provided in this Act or as expressly provided by an international agreement to which the United States is a party."

[S. 1784, 90th Cong., First Sess.]

A BILL To amend the Act of October 30, 1965 (79 Stat. 1125), so as to authorize the State of Idaho to participate under the provisions of such Act

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 5 of the Act entitled "An Act to authorize the Secretary of the Interior to initiate with the several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish, and for other purposes", approved October 30, 1965 (79 Stat. 1125; 16 U.S.C. 757e), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that the State of Idaho may be a participant under this Act".

[S. 1798, 90th Cong., First Sess.]

A BILL To amend section 4 of the Fish and Wildlife Act of 1956, as amended

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 4 of the Fish and Wildlife Act of 1956 (70 Stat. 1121), as amended (16 U.S.C. 742c), is amended by adding at the end thereof the following new subsection:

"(f) The Secretary of the Interior is authorized, under such rules and regulations and under such terms and conditions as he may prescribe, to make loans to any fishermen's cooperative association meeting the requirements of the Act of June 25, 1934 (48 Stat. 1213), as amended (15 U.S.C. 521-522), and existing as of the date of enactment of this subsection, for the following purposes: (1) to finance the purchase of fish and shellfish or products thereof and the cost of storing fish and shellfish and the products thereof in cold storage or other storage facilities owned, leased, or used by such association; (2) to provide operating capital needed to supplement the capital funds of such association; and (3) to finance or refinance the acquisition by purchase or lease of land, buildings, and equipment and the construction or reconstruction of buildings

or other improvements used by such association in connection with activities related solely to the storage, processing, preparation for market, handling, or marketing of fish and shellfish or the products thereof. No loan shall be made under this subsection if, in the judgment of the Secretary, the loan will increase the production of any fish or shellfish which is commonly produced in excess of annual marketing requirements, or will materially contribute to the depletion of any fish or shellfish species contrary to sound conservation practices. There is authorized to be appropriated to the fisheries loan fund the sum of \$5,000,000 to carry out the provisions of this subsection, in addition to any sums authorized by subsection (c) of this section."

SEC. 2. (a) The first sentence of section 4(b) (4) of the Fish and Wildlife Act of 1956, as amended, is amended by striking the period at the end thereof and adding the following: "and to fishermen's cooperative associations."

(b) Section 4(b) (5) of the Fish and Wildlife Act of 1956, as amended, is amended by striking the period at the end thereof and inserting "or to enable it, in the case of a fishermen's cooperative association, to operate and manage the association efficiently and effectively for the mutual benefit of the members thereof."

[S. 2047, 90th Cong., First Sess.]

A BILL To exempt certain vessels engaged in the fishing industry from the requirements of certain laws

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4426 of the Revised Statutes of the United States (46 U.S.C. 404) is amended by adding at the end thereof the following sentence: "As used herein, the phrase 'engaged in fishing as a regular business' includes cannery tender or fishing tender vessels of not more than five hundred gross tons which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations."

SEC. 2. Section 1 of the Act of August 27, 1935 (46 U.S.C. 88), is amended by designating the existing section as subsection (a) and by adding a new subsection (b) as follows:

"(b) All cannery tender or fishing tender vessels of not more than five hundred gross tons except those constructed after the effective date of this subsection or those converted to either of such services after five years from the effective date of this subsection are exempt from the requirements of this Act."

SEC. 3. The first proviso of section 1 of the Act of June 20, 1936 (46 U.S.C. 367), is amended by adding at the end thereof the following sentence: "As used herein, the phrase 'any vessel engaged in the fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industries' includes cannery tender or fishing tender vessels of not more than five hundred gross tons which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations."

SEC. 4. The first subparagraph of section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a(1)) is amended by adding at the end thereof the following sentence: "Notwithstanding the first sentence hereof, cannery tenders, fishing tenders or fishing vessels of not more than five hundred gross tons when engaged exclusively in the fishing industry shall be allowed to have on board inflammable or combustible cargo in bulk to the extent and upon conditions as may be required by regulations promulgated by the Secretary of the department in which the Coast Guard is operating."

SEC. 5. This Act is effective upon enactment.

[S. 2232, 90th Cong., First Sess.]

A BILL To amend section 1082 of title 16, United States Code, relating to the prohibition of foreign fishing in the territorial waters of the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1082 of subsection (b) of chapter 21, title 16 of the United States Code, as amended, is hereby amended by adding at the end thereof the following:

"Any vessel employed for a second time in any manner in connection with the violation of this chapter including its tackle, apparel, furniture, appurtenances, cargo, and stores shall be forfeited and all fish taken or retained in violation of this chapter or the monetary value thereof shall be forfeited".

[S. 2269, 90th Cong., First Sess.]

A BILL To amend the Act of August 27, 1954, relative to the unlawful seizure of fishing vessels of the United States by foreign countries

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1971-1976), is amended by adding at the end thereof a new section to read as follows:

"SEC. 7. (a) The Secretary, upon receipt of an application filed with him at any time after the effective date of this section by the owner of any vessel of the United States which is documented or certified as a commercial fishing vessel, shall enter into an agreement with such owner subject to the provisions of this section and such other terms and conditions as the Secretary deems appropriate. Such agreement shall provide that, if said vessel is seized by a foreign country and detained under the conditions of section 2 of this Act, the Secretary shall guarantee—

"(1) the owner of such vessel for all actual costs, except those covered by section 3 of this Act incurred by the owner during the seizure and detention period and as a direct result thereof, as determined by the Secretary, resulting from (A) any damage to, or destruction of, such vessel, or its fishing gear or other equipment, (B) from the loss or confiscation of such vessel, gear, or equipment, or (C) from dockage fees or utilities;

"(2) the owner of such vessel and its crew for the market value of fish caught before seizure of such vessel and confiscated or spoiled during the period of detention; and

"(3) the owner of such vessel and its crew for not to exceed 50 per centum of the gross income lost as a direct result of such seizure and detention, as determined by the Secretary of the Interior, based on the value of the average catch per day's fishing during the three most recent calendar years immediately preceding such seizure and detention of the vessel seized, or, if such experience is not available, then of all commercial fishing vessels of the United States engaged in the same fishery as that of the type and size of the seized vessel.

"(b) Payments made by the Secretary under paragraphs (2) and (3) of subsection (a) of this section shall be distributed by the Secretary in accordance with the usual practices and procedures of the particular segment of the United States commercial fishing industry to which the seized vessel belongs relative to the sale of fish caught and the distribution of the proceeds of such sale.

"(c) The Secretary shall from time to time establish by regulation fees which shall be paid by the owners of vessels entering into agreements under this section. Such fees shall be adequate (1) to recover the costs of administering this section, and (2) to cover a reasonable portion of any payments made by the Secretary under this section. All fees collected by the Secretary shall be credited to a separate account established in the Treasury of the United States which shall remain available without fiscal year limitation to carry out the provisions of this section. All payments under this section shall be made first out of such fees so long as they are available, and thereafter out of funds which are hereby authorized to be appropriated to such account to carry out the provisions of this section.

"(d) All determinations made under this section shall be final. No payment under this section shall be made with respect to any losses covered by any policy of insurance or other provision of law.

"(e) The provisions of this section shall be effective for forty-eight consecutive months beginning one hundred and eighty days after the enactment of this section. The Secretary shall issue such regulations and take such other measures as he deems appropriate to implement the provisions of this section prior to such effective date.

"(f) For the purposes of this section—

"(1) the term 'Secretary' means the Secretary of the Interior.

"(2) the term 'owner' includes any charterer of a commercial fishing vessel."

SEC. 2. Section 3 of the Act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1973), is amended by inserting a comma after the word "fine" wherever it appears and the words "license fee, registration fee, or any other direct charge".

SEC. 3. The Act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1971-1976), as amended by this Act, may be cited as the "Fishermen's Protective Act of 1967".

[From the Congressional Record, Aug. 11, 1967]

SURVEY OF COASTAL AND FRESH-WATER COMMERCIAL FISHERY RESOURCES OF THE UNITED STATES

Mr. MAGNUSON. Mr. President, the 1958 Law of the Sea Conference at Geneva, Switzerland, adopted four major conventions in an effort to codify some of the existing law, and also to seek agreement and understanding on some of the existing uncertainties in relation to the use of the world oceans.

One of the most important of these was the Convention on Fishing and Conservation of the Living Resources of the High Seas which came into force and effect on March 20, 1966. It is particularly important to our U.S. fishermen in its recognition for the first time in international law of the dominant and special interest of a coastal nation to adopt regulations to conserve adjacent fishery resources.

Basically, this convention defines what is meant by freedom of fishing on the high seas. It commits the signatory nations to require their fishermen to conserve high seas resources. It also defines "conservation" as follows:

"The aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply of food and other marine products."

Specifically, the convention provides:

First. An obligation for all signatory nations to adopt high seas conservation measures "if necessary" when only their own nationals are involved, and to negotiate conservation regulations when two or more nations are involved. The latter regulations apply to other states subsequently fishing the same area unless new regulations are negotiated.

Second. It recognizes the right of a coastal state (a) to "maintain" productivity of adjacent high seas fisheries and to take part in conservation research and regulation even though its nationals do not fish there; (b) to negotiate with any state whose nationals fish adjacent seas and/or whose conservation measures there opposes those of the coastal state; (c) if 6 months of negotiation fail, to unilaterally take conservation measures binding on foreign fishermen—such regulations being nondiscriminatory, urgently needed, and based on "scientific finding"; (d) to request other nations to take conservation measures on high seas fisheries.

Third. It provides for a special five-man commission of neutral experts to arbitrate a binding, compulsory settlement in disputes arising from the preceding situations. The conservation measures at issue must be supported by "scientific findings," necessary, nondiscriminatory, and "practicable." A decision must be reached by the commission within 8 months.

Fourth. It provides also for new examination of problems when changes affect the situation in later years, covers the type of fisheries conducted by equipment embedded in the ocean floor, defines the term "nationals," and contains procedural articles.

The conference vote in 1958 was 45 in favor, one against, with 18 abstentions—a solid endorsement.

As I mentioned the necessary 22 ratifications were obtained on March 20, 1966. As of July 1, 1967, there were 25 parties to the convention as follows: Australia, Cambodia, Colombia, Dominican Republic, Finland, Haiti, Jamaica, Malagasy Republic, Malawi, Malaysia, Mexico, Netherlands, Nigeria, Portugal, Senegal, Sierra Leone, South Africa, Switzerland, Trinidad and Tobago, Uganda, United Kingdom, United States, Upper Volta, Venezuela, Yugoslavia.

An examination of the signatories reveals that among the nonratifiers are such nations as Japan and the Soviet Union, both of which are a current matter of concern in their fisheries adjacent to the U.S. Coast. It might be argued that this important convention, therefore, does not apply to them. I would dispute that, however, for it seems to me that the principles established here are first of all, developing world law, and second, the best thing we have at present to suit the world in the settlement of disputes between coastal and distant water nations.

Arthur Dean, chairman of the U.S. delegation at the 1958 Geneva Conference, referred to this convention as "one of the most striking accomplishments" of the Conference, and called it "the first comprehensive international legislation, complete with arbitral procedures, on the subject."

In its report to the President recommending submission of the convention to the Senate for advice and consent to ratification, the Department of State said:

"The convention on fisheries conservation lays down rules of law based on sound conservation principles which should do much to assure preservation and increase of an important source of the world's food."

There is a catch in all of this, however. It is a problem which has consistently plagued the United States in dealing with distant water fishing nations who seek to harvest our adjacent resources. Under article 7, in order to adopt unilateral conservation measures for the protection of our fisheries, the "measures adopted" must be "based on appropriate scientific findings." We have good scientists in our State and Federal fishery management agencies, and given the proper tools, they can present the proper case to those foreign fishing nations.

The problem lies in our lack of knowledge of many of these resources. In some cases, we do not know the size of the stock in question, nor do we know the maximum sustainable yield. Without this information, our scientists hands are tied in negotiations with these nations, and the alternative could well be the decimation of the resource before such scientific data is available. This is a frightening prospect, but one which our fishery negotiators face regularly in their efforts to protect and conserve this vast adjacent ocean wealth.

The Senate joint resolution which I am introducing today would be a big step toward alleviating this problem. The measure would authorize and direct the Secretary of the Interior to conduct a survey of these resources, not only those now utilized by ourselves and foreign fishing nations, but those latent resources which may some day exceed in importance those we now harvest.

To carry out this task, there is authorized to be appropriated up to \$600,000.

Mr. President, this is an essential effort, not merely for the assistance of our commercial and recreational fishermen, but for the higher purpose of conservation of natural resources adjacent to our shores. In my judgment, the 1958 Geneva Fishing and Conservation Conventions extends a responsibility, and even an obligation, on the United States to carry forth this effort.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 103) to authorize and direct the Secretary of the Interior to conduct a survey of the costal and fresh-water commercial fishery resources of the United States, its territories, and possessions, introduced by Mr. MAGNUSON, was received, read twice by its title, and referred to the Committee on Commerce.

Senator BARTLETT. This is an impressive array of proposed legislation, and we have an equally impressive list of witnesses this morning, so without further delay I will call the first witness, our colleague, Senator Jordan, of Idaho.

#### STATEMENT OF HON. LEN B. JORDAN, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator JORDAN. Thank you, Mr. Chairman.

Senator BARTLETT. Glad to have you here.

Senator JORDAN. Mr. Chairman, I shall direct my testimony this morning particularly to S. 1784, an amendment cosponsored by Senator Church and myself, to Public Law 89-304.

I appreciate the opportunity to present my views to this committee on this important matter.

Our amendment, S. 1784, would permit Idaho to come under the terms of Public Law 89-304 as equal participants with Washington and Oregon. Idaho at present is prevented from participation in the law because all of Idaho's anadromous fish streams are within the Columbia Basin.

And I think, Mr. Chairman, this was an oversight when the enabling legislation was drafted.

We in Idaho are intensely interested in the future of anadromous fish for many reasons. Our rivers have furnished and now supply some of the most important spawning beds for Chinook salmon and steelhead that run to the ocean from the Columbia River drainage. This fish hatches on gravel streambeds and spends the first year or so of its life in fresh water, before heading for the open sea. It lives in salt water for about 18 months or longer then returns to its native tributary to die in the process of spawning another generation of salmon and steelhead. Because of the loss in numbers between the ocean and the spawning beds of these returning fish, we have been forced, at times in the past, to close our Idaho streams because there were not sufficient fish being permitted to migrate to our rivers to allow both sport fishing and spawning.

In addition to the Bonneville Dam on the Columbia River, we now have the other dams, The Dalles, John Day, and McNary Dams on the main river. Also under construction or authorized on the Lower Snake River are Ice Harbor, Lower Monumental, Little Goose, and Lower Granite which migrating fish must navigate before they reach Idaho. Upstream from Lewiston the Asotin and China Gardens Dams on the Snake River will add further complications.

This brings up some interesting questions, Mr Chairman:

1. Will upstream migrant fish be able to negotiate the 10 dams when they are actually all in operation?

2. If not, will we need additional hatcheries such as the one now planned in connection with the Dworshak Dam on the north fork of the Clearwater River? Should we consider artificial spawning beds?

3. What effect on migrating fish will the increased water temperature have when and if we develop nuclear and thermo powerplants on our streams?

4. How can we best protect our fingerling anadromous fish on their journey to the sea through the various water temperatures and water pressures caused by pools back of these dams and drops through the penstocks and the turbines?

5. Studies will be needed concerning impairment of water quality. What effect, if any, will there be on fish migrating to spawning beds and to fingerling fish on their way to the sea and on the habitat caused by changes in salinities and nutrients?

6. In the past it was usually considered that dams on these rivers should not exceed 90 feet in height. I recall it was considered that dams on the main stem of the rivers had to be kept within a limit of 100 feet in height because this was considered the outside maximum tolerable limit that fish could negotiate.

Now we have at least two dams, the Pelton and the Cowlitz, which exceed that height. Have we now decided migratory fish can negotiate higher dams, or have our fish ladders and downstream passages been considerably improved?

7. Idaho must have more voice in determining the numbers of salmon and steelhead that are taken by commercial fishermen and under Indian treaty terms in the lower stretches of the Columbia River. Will attention be given to this situation in the enchancement programs under Public Law 89-304?

To find the answers and to have them properly documented and considered it will require the full cooperation of all the States involved as well as the Federal Government. If the committee agrees to our amendment, Idaho will be able to qualify for money which is authorized under Public Law 89-304. It is my hope that you and members of the committee will give Idaho the opportunity to participate in this important program.

This concludes my statement.

Senator BARTLETT. Thank you, Senator. I think instead of asking you the answers to the several questions you propounded I will put them to some of the experts in the Bureau of Commercial Fisheries.

Senator JORDAN. Yes, it is my hope, Mr. Chairman, the studies underway under this enabling legislation might encompass the broad range of questions that I enunciated here because I think they all need answering.

Senator BARTLETT. Do you have any information as to why it was that Idaho wasn't included in the original act?

Senator JORDAN. No, I rather expected we were until apparently the Department of Interior decided we weren't, and I think it was an oversight inasmuch as we do supply a substantial part of the spawning beds of these anadromous fish. I think it was an oversight when we were not included if we were not in fact included. I am not sure we weren't but the interpretation handed down to us is we weren't included, and I think we should be.

Senator BARTLETT. I had a hearing at Lewiston one year as acting chairman of a subcommittee of this committee, and I am inclined to agree with you—do agree with you, in fact—that it is a requirement that the States and the Federal Government do all within their power not only to save the salmon running on the Columbia but to increase it. It is very important not to be lost because of planned construction. I know the job is difficult but I think it is possible of achievement.

Senator JORDAN. We still remember your hearings up there, Mr. Chairman, and we appreciate the interest you have always shown in our problems.

Senator BARTLETT. And I will say here and now although I suspect it would deny Alaska some of the money it is now receiving under this act unless we can increase the amount of the authorization and the appropriations to follow, that I would be very much for this.

Thank you.

Senator JORDAN. Thank you, Mr. Chairman.

Senator BARTLETT. Is there anyone else here to testify on the bill in favor of which Senator Jordan just appeared as a witness, S. 1784?

Mr. CROWTHER. Mr. Chairman, we will but we would prefer to go through the entire list of bills if it meets with your approval.

Senator BARTLETT. All right.

Representative Van Deerlin, you are not going to talk about the Columbia River, I suspect.

#### STATEMENT OF HON. LIONEL VAN DEERLIN, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. VAN DEERLIN. I thought, Senator, if you would let me lead you from the fresh water problems that Senator Jordan has discussed, down to the briny deep of salt waters I would be a little more at home.

Senator BARTLETT. We will make that transition swiftly and we welcome you here.

Mr. VAN DEERLIN. Thank you.

These two bills, S. 2269 and similar House bill H.R. 4451 would, as you know, amend the Fishermen's Protective Act with the objective of affording more protection to our fishermen against the aggressions of some Latin American nations who seem to have made harassment of our fishing fleets a part of their foreign policy.

As you know, because you have visited there, I represent a constituency in San Diego, Calif. San Diego is the home of the tuna fishing fleet which was once very prosperous and could continue to be prosperous, but which has fallen into troublous times.

I also come to you with an appeal that the Senate should perform a familiar role, that of rectifying mistakes made on the other side of Capitol Hill. We of the House sometimes feel that this is a project that falls to us when something comes over on which the Senate has not seen eye to eye with the House.

In the case of this legislation, the House on Monday of this week considered H.R. 4451 under suspension of the rules, which requires a two-thirds vote. I don't think I need explore the political implications when I tell you that on Mondays we usually lack 100 to 125 members from nearby States and that frequently, when legislation is brought up under suspension, there is resentment among members. Suspensions don't do too well on rollecall votes. This one was defeated, but it is my belief that if the Senate acts positively and decisively on this that the House will surely reconsider what I think was an unfortunate decision on Monday.

These bills have the strong support of the tuna industry and the fishing industry generally, which will be made clear in subsequent testimony today. There have been 102 seizures of foreign-flag fishing vessels reported to the State Department over the last 8 years. This is an average of nearly 13 a year and it is significant that the number has been rising rather than falling.

Now neither of these bills will in themselves end harassment of our fishing vessels. But either bill would serve notice that the Congress stands squarely behind our fishermen.

The authors of the legislation, wisely in my view, have put a 4-year time limit on this legislation. That gives the State Department considerable leeway for working out binding agreements to end this continuing problem, and it would make it possible to do this without punitive measures against our neighbors to the south.

There is considerable sentiment in both bodies—sentiment with which I do not concur because I think it is the wrong approach—to cut off the foreign aid flatly, foreign aid to any nation which is guilty of harassing our fishing fleets or American citizens on the high seas. While I would disapprove this as a starter, I don't think there is any question that the sentiment will be for taking such punitive measures if these nations remain adamant in their refusal to work out binding agreements rather than the thin *modus vivendi* which has been achieved with some of them.

In closing, I would like to commend the leadership of the chairman of your full committee, Senator Magnuson, of our own senior Senator from California, Tom Kuchel, and surely of yourself, Senator Bartlett,

for your campaign to win fairer treatment for our fishermen, many of them my constituents. I am confident that your subcommittee will expedite approval of S. 2269, the excellent bill which the three of you have coauthored.

Senator BARTLETT. Well, thank you, Congressman.

Seizures have continued this year, have they not?

Mr. VAN DEERLIN. They have continued and the rather troublous overtone is that the amount of the fees established and the fines have increased from around \$12,000-\$14,000 to as high as \$65,000 in single instances.

Senator BARTLETT. Do you know what the recommendation of the executive branch of the Government is, if there is unanimity among the several departments in respect to the bill in testimony given before the House committee?

Mr. VAN DEERLIN. There was no declared opposition, finally. We have approval from the State Department.

They will not oppose this. The State Department, as you know, must be careful in the positions that it takes publicly, but there is no question that the State Department's hand is rendered stronger in negotiations when there is a firm show of determination on Capitol Hill.

Senator BARTLETT. That was a terrific victory for the proponents of this bill when the tacit agreement of the State Department was had. There can be no doubt about that.

What happened in the House Monday by way of the vote?

Mr. VAN DEERLIN. We lost it by between 25 and 30 votes.

Senator BARTLETT. I see, it is a rollcall vote, 147 to 175.

Mr. VAN DEERLIN. And the significant figure, Senator, will be in the numbers not voting.

Senator BARTLETT. 110 did not vote, I notice.

Mr. VAN DEERLIN. I am reluctant to come over here and apologize for anything that my branch has done, but I have reason to feel that we can correct that on a second time around, if they get legislation sent over from the Senate.

Senator BARTLETT. If all goes well, we will give you that opportunity.

Thank you very much.

Mr. VAN DEERLIN. Thank you. I am very grateful to you.

(The prepared text of Mr. Van Deerlin follows:)

PREPARED STATEMENT OF CONGRESSMAN LIONEL VAN DEERLIN

Mr. Chairman and members of the subcommittee, I regard my appearance before you today as both an honor and a duty. S. 2269 and a similar House bill, H.R. 4451, would do much to alleviate the injustices suffered by our commercial fishermen who are attempting to operate in the waters off Latin America. The Fisheries Protective Act, which the pending bills would amend, is simply inadequate to give our fishermen the protection they need and deserve today, when certain South American countries seem to have made high seas aggression a part of their foreign policy.

As you are aware, H.R. 4451 failed to win a majority when it came before the House two days ago. It is my hope and conviction that the House will reverse what I regard as an ill-considered decision if the Senate now gives emphatic approval to this legislation.

S. 2269, like H.R. 4451, would substantially increase the compensation payable to fishermen who run afoul of the excessive sovereignty claims of such nations as Peru and Ecuador.

These bills, I might say, are strongly supported by all major elements of the tuna fishing industry, which has been put in the almost untenable position of

having to cope with cut-rate foreign competition while trying to dodge Latin gunboats.

I think the extent of this problem was made graphically clear by Don McKernan, our fisheries ambassador, when he testified last June before the House Subcommittee on Fisheries and Wildlife Conservation. Mr. McKernan, whose credentials are well known to all the Members of this Subcommittee, disclosed that 102 seizures of U.S. flag fishing vessels have been reported to the State Department in just the last eight years. That's an average of nearly 13 seizures a year, and the figure appears to be rising.

Obviously, neither H.R. 4451 or S. 2269 will, in itself, end the high seas harassment of U.S. fishing boats. But either bill would serve notice that the U.S. Congress stands squarely behind our fishermen. The authors have—wisely, in my view—put a four-year time limit on their legislation. If a binding agreement is not reached within that period to ensure the offshore rights of our fishermen, perhaps punitive measures will have to be taken by the United States. I personally hope that drastic action, such as the mandatory cut-off of an offending nation's foreign aid entitlement, will never be necessary. But the ultimate answer is with the offenders. They will largely determine, by their response to the pending bills, and to the continuing attempts by our State Department to negotiate a realistic settlement, our own future course.

In closing, I would like to commend the leadership of Senators Magnuson, Kuchel and Bartlett in the campaign to win fairer treatment for the fishermen. I am confident that the Subcommittee will expedite approval of S. 2269, the excellent bill which they have co-authored.

Senator BARTLETT. Mr. Crowther, if you please. Will you please identify those who accompany you?

**STATEMENT OF HAROLD E. CROWTHER, DIRECTOR, BUREAU OF COMMERCIAL FISHERIES, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, D.C.; ACCOMPANIED BY DAVID FINNEGAN, ATTORNEY ADVISER, DIVISION OF LEGISLATION, OFFICE OF THE SOLICITOR, DEPARTMENT OF THE INTERIOR; WILLIAM TERRY, ASSISTANT DIRECTOR FOR INTERNATIONAL AFFAIRS, BUREAU OF COMMERCIAL FISHERIES, DEPARTMENT OF THE INTERIOR; AND WALT KIRKNESS, ALASKA.**

Mr. CROWTHER. Yes, Mr. Chairman, I have on my right Mr. David Finnegan, Attorney Adviser, Division of Legislation, the Office of the Solicitor, Department of Interior; on my left, Mr. William Terry, Assistant Director for International Affairs in the Bureau of Commercial Fisheries, Department of Interior.

Senator BARTLETT. You are going to testify on all these bills and resolutions at one time?

Mr. CROWTHER. Yes, sir.

With your permission, Mr. Chairman, I would like to read the testimony which covers the eight bills that are being considered.

Senator BARTLETT. Proceed.

Mr. CROWTHER. Mr. Chairman and members of the committee, I appreciate this opportunity to express the Department's views on a series of bills affecting the commercial fishing industry and the fishery resources of the United States.

The first bill to be considered is S. 2269. S. 2269 amends the Fishermen's Protective Act of 1954. The 1954 act now requires the Secretary of State to attend to the welfare of the crew of a U.S. vessel illegally seized by a foreign country and to secure the prompt release of the vessel and crew. In carrying out these functions, the Secretary of State must find that there is no dispute of material facts relative to

the vessel's location and activities when seized. If the vessel owners must also pay a fine to secure release, then the act directs the Secretary of the Treasury to reimburse the owner in an amount that represents the fine.

The act does not apply to seizures made by a country at war with the United States or seizures made under a fishery convention or treaty to which the United States is a party. The Secretary of State is also directed to recover from the foreign country the amounts expended by the United States under this act. The act applies to fishing vessels and other vessels of the United States.

This Department strives to stimulate the development of a strong, prosperous, and thriving commercial fishing industry.

We have consistently encouraged the U.S. commercial fishing industry to increase rapidly their exploitation of the fishery resources of the high seas; that is, beyond the territorial waters of foreign countries. In addition, the United States has constantly, over the years, asserted the doctrine of the freedom of the seas.

Despite this policy, American fishing vessels continue to be harassed and unlawfully seized and detained while conducting fishing operations on the high seas. The illegal seizure and unlawful detention of U.S. fishing vessels is the result of certain nations extending their jurisdiction over extreme distances from their coasts, to as much as 200 miles, far beyond internationally accepted limits.

In a recent case, seizure took place about 75 miles off the coast of the offending foreign country. The U.S. Government has firmly and consistently taken the position that such extension of jurisdiction has no basis in international law. On the occasion of each unlawful seizure, the U.S. Government has lodged strong protests against the responsible government and has devoted considerable efforts in seeking the release of the detained vessel as expeditiously as possible.

The illegal seizures and detentions of our fishing vessels continue and, in fact, appear to be increasing.

With more countries unilaterally making similar unreasonable and unjustified claims, it is likely that such seizures may well increase.

The 1954 act has been successful and a decided aid to the commercial fishing industry in this country.

These seizures and subsequent detentions, however, represent a nuisance to the vessel owner, and, in some cases, a constant source of danger to themselves and their crews. Even more importantly, these seizures and detentions result in substantial economic losses to these U.S. citizens. The objective of S. 2269 is to give these fishing vessel owners and, indirectly, their crews, an opportunity to recoup some of these losses.

We agree that some additional assistance to U.S. fishermen is needed while negotiations are continued with the foreign countries to resolve the problem of fisheries jurisdiction. S. 2269 will provide this assistance.

S. 2269 authorizes a 4-year program of guarantees to the vessel owners and their crews. Under the bill, the Secretary of the Interior will guarantee the vessel owners that he will reimburse them for costs incurred, less any depreciation, as a direct result of illegal seizure or detention, or both, for loss, et cetera, to their vessels, gear, or equipment, and for dockage fees, and utilities.

In addition, the Secretary will pay such owners and their crews up to 50 percent of any income lost as a direct result of such illegal seizure or detention, or both. In making this latter payment, the Secretary will base his determination on the value of the average catch per day's fishing during the three most recent calendar years prior to the seizure of the seized vessel. If such experience is not available, then the Secretary may base his determination on the experience of all fishing vessels of the United States of the same type and size.

In reviewing the history of seizures, we note that many vessels, but particularly vessels engaged in the shrimp fishery, have had their gear and catch confiscated. During the past 5 years, shrimp valued at as much as \$2,300 for a single vessel and gear valued at as much as \$1,500, also for a single vessel, have been confiscated. There have also been occasions in both the shrimp and tuna fisheries where a vessel or small support craft have been damaged.

Again, in examining the history of past seizures, we find the income that illegally seized vessels could potentially have earned during detention amounted to fairly substantial sums. For example, tuna vessels seized in 1966 and 1967 lost a potential income ranging from \$1,543 to \$2,752 for every day that they were detained. In the shrimp fishery, vessels lost a potential income of \$354 a day for each day of detention.

The extent of the economic loss suffered can be seen if we examine the tuna vessel seizures which occurred during the 12-month period, March 1966-February 1967. The 12-month period was chosen since (1) it reflects the most recent seizures and (2) includes the maximum number of seizures in a 12-month period, thereby providing an indication as to the total amount of loss suffered in a 12-month period.

There was a total of 18 seizures during this period. The vessels were detained for 1-6 days, a total of 64 days and an average of 3.6 days per vessel. They lost, as a result of detention, incomes ranging from \$2,752 upward to almost \$13,000. On the basis of a 50-percent guarantee, this lost income amounts to \$1,376 to \$6,260 per vessel, or a grand total of \$66,479. These calculations were based on the average of all tuna fishing vessels of the United States engaged in the same fishery as that of the type and size of the seized vessel.

The bill provides for the establishment of fees to be paid by the vessel owners to cover a reasonable portion of the costs of this added assistance program. We believe that these fees should be adequate to cover all of the program's administrative expenses and about 25 percent of any payments made under the guarantee.

It has come to our attention that, in some cases, foreign countries have required fishing vessel owners to purchase fishing licenses or pay registration fees or other charges in lieu of fines to secure the release of their vessel and crew. While these charges are probably in reality equivalent to a fine, the 1954 act has been interpreted as not being available for making reimbursements for such charges.

We believe that such charges should be reimbursed because they are a condition precedent to the prompt release of the vessel and crew, just as a fine is a condition precedent to this release. S. 2269 provides for such reimbursement. These charges would not be included in our estimation of the costs of the guarantee program for the purpose of establishing fees.

That concludes my testimony on S. 2269.

Senator BARTLETT. All right. I think perhaps it would be best if we would present our questions to you at the conclusion of your testimony on each bill, Mr. Crowther; and Mr. Wedin has a question.

Mr. WEDIN. Do you expect this bill will, in addition to being obviously an economic aid to the fishermen—also give some of the CEP countries some fear that the United States is going to protect its citizens a little better and thereby reduce seizures, or do you think it will retain its status quo or increase?

Mr. CROWTHER. In my opinion, it will have very little effect on the CEP countries. Ecuador recently has increased its fines that it intends to level against vessels. I think the countries would regard this really as compensation to the fishermen, would not regard it as encouraging entry to the waters they consider theirs. So I don't see any effect on this.

Mr. WEDIN. You don't see this as a demonstration of strength on the part of the United States to protect its people in foreign waters?

Mr. CROWTHER. Yes, it is a demonstration of strength, but I don't see it as being sufficient to result in some retaliation by the other countries.

Senator BARTLETT. Mr. Crowther, you testified that the Secretary of State is directed under the provisions of the bill to recover from the foreign country the amounts expended by the United States under this act. Do you have any information as to how he might proceed in what might prove to be a most difficult task?

Mr. CROWTHER. I believe it is true—and I think the Department of State would be more expert in this field—I believe in each case that a strong protest has been lodged with the offending country—I recall from testimony of State witnesses before the House of Representatives that they have not been successful up to this point in recovering any of the fines levied against our vessels.

Senator BARTLETT. What do you think the bill means when it has application to fishing vessels of the United States and other vessels? What would these other vessels be?

Mr. CROWTHER. If I am not mistaken, this term was taken out—I believe it is not included in the bill as it is now written. It was in a former bill, I believe, Mr. Chairman, but does not appear in this bill.

Senator BARTLETT. So the committee doesn't have to give cognizance to that part of your testimony?

Mr. CROWTHER. The act now applies to fishing vessels only.

Senator BARTLETT. I see. You are talking about the existing law?

Mr. CROWTHER. I mean the bill that we are considering now applies to fishing vessels only.

Senator BARTLETT. I understand. What are the countries which have extended fishery boundaries beyond 12 miles with which we are now concerned?

Mr. CROWTHER. I believe there are seven in the Latin American countries: Chile, Ecuador, Peru, Panama, and Argentina. Mr. Terry mentioned that El Salvador and Nicaragua also are included in this list.

Senator BARTLETT. With which countries have we had the greatest difficulties?

Mr. CROWTHER. With Chile, Ecuador, and Peru. This has been the source of our greatest trouble.

Senator BARTLETT. Have you made any estimate of what the annual cost of this bill might be if it is enacted into law based upon the seizures during the last 12 months?

Mr. CROWTHER. Yes, we have. We estimate that the cost for 1 year, the total cost for 1 year would be approximately \$230,000, of which the cost to the Government would be \$142,500.

Senator BARTLETT. I beg your pardon?

Mr. CROWTHER. The cost to the Federal Government would be \$142,500, and the fisherman, because of the fee attached to it, would pay approximately \$87,500. These are based on the seizures during the most recent 12 month period that we have records for.

Senator BARTLETT. How would these fees be handled? Would they go into a Government fund?

Mr. CROWTHER. Yes, if this bill should be enacted, we would be required to make an estimate of the amount of expenditures by the Department of Interior for purposes of this bill and then make a levy against the representatives of the fishing industry, against the boat-owners. We have not determined precisely how this formula will work, but undoubtedly it will have to be on a ratio basis according to the value of the vessel, the amount of the catch, and the value of the catch. We will make this determination. If we are incorrect in our estimate during the first year, it will probably have to be adjusted during the next year.

Senator BARTLETT. It would be on a boat-by-boat basis?

Mr. CROWTHER. It would be on a boat-by-boat basis. You suggested, Mr. Chairman, the possibility of a revolving fund. The money collected from fees would go into a revolving fund, and this would be used to make any of these payments, and if and when the fund should become exhausted then we would have to resort to appropriations to obtain money to reimburse the owners of the vessels.

Senator BARTLETT. But based on past experience, the total outlay of money by the public would not amount to a quarter of a million dollars?

Mr. CROWTHER. No, it would not.

Senator BARTLETT. Mr. Crowther, have you noticed any differences in our relationships with these Latin American countries since the United States provided for its fishery zone extending 9 miles beyond the territorial sea?

Mr. CROWTHER. Mr. Chairman, Mr. Terry has just returned from Mexico and has been in a series of negotiations with Latin American countries, and perhaps I might call on him for an answer to that question.

Senator BARTLETT. I am sure he would be happy to answer it.

Mr. CROWTHER. I am sure he will.

Mr. TERRY. Mr. Chairman, I can't say that I have detected any change in the nature of our relations with the three countries with whom we have had the most difficulty which I would attribute to the enactment of your bill. There perhaps have been some changes in our relationships with the three, but I am not sure that I could attribute them to that fact.

Senator BARTLETT. They haven't said informally "Well, you have gone up to 12 miles, so this is justification for our being at 200?"

Mr. TERRY. No.

Senator BARTLETT. Well, I am happy to hear that.

Do you want to proceed with your testimony on the next bill?

Mr. CROWTHER. Mr. Chairman, at the beginning of your questioning I think you asked about measures—I don't remember exactly what your question was. Perhaps I can say this: That the bill is for a 4-year period. It is for what might be considered a trial period, and at the end of the 4-year period it would be provided that we could take stronger or different measures if it appeared necessary, if during our experience during the 4 years of operation under the act, if it were passed, we could then judge what steps should be taken in the future. So we would be in a position to take stronger or different measures than those provided in the bill at that time.

Senator BARTLETT. And during that 4-year-trial period the maximum amount of tax dollars that might be committed to the program would be in the neighborhood of \$600,000?

Mr. CROWTHER. It would be approximately \$920,000, the total. The Government's share of that would be, we estimate, approximately \$570,000, and the fishermen's share approximately \$350,000.

Senator BARTLETT. Right. Thank you, Mr. Crowther.

Now you want to testify on S. 1260, as I understand it.

Mr. CROWTHER. Yes, sir.

S. 1260 amends the Northwest Atlantic Fisheries Act of 1950.

The Northwest Atlantic Fisheries Act of 1950 is the implementing legislation for the International Convention for the Northwest Atlantic Fisheries, which entered into force July 3, 1950. Fourteen governments are now parties to this convention.

The Commission established under this convention meets annually to exchange information and deliberate on the condition of those stocks of fish which fall within the purview of the Commission's responsibility and to recommend to the member governments proposals for joint regulatory action for conservation of the fisheries.

In 1961 the Commission adopted a resolution to bring harp and hood seals under the provisions of the convention. A protocol to the convention was drafted in 1963. In July 1964 the United States deposited its ratification. In April 1966, with the formal adherence and ratification of all members party to the convention, the protocol entered into force, and was proclaimed by the President on May 23, 1966.

S. 1260 with the amendments suggested in the Department's report will implement the protocol.

It should be noted that the United States does not have a harp and hood seal fishery in the convention area, but it would be most desirable for the U.S. Government to be empowered to fulfill the obligations it assumed in ratifying the protocol, and to be prepared to fully support the enforcement of any measures for the conservation of the harp and hood seals which may be adopted by the Commission.

Information available to the Commission indicates that these resources face the danger of being overexploited, and conservation measures are deemed necessary.

There are three nations which have a substantive interest in the harp and hood seal fisheries. They are Canada, Norway, and Denmark. They are all signatories to the convention and are already engaged in studying the resources and preparing specific recommendations for their conservation.

S. 1260 also proposes a further amendment to the act to remove an ambiguity relating to payment of expenses incurred by members of the

industry advisory committee serving the U.S. section of the Commission for the Northwest Atlantic Fisheries.

Mr. Chairman, that concludes my testimony on this bill.

Senator BARTLETT. What is that ambiguity?

Mr. CROWTHER. As written—perhaps I can turn to it. Perhaps I can just cite it from memory.

The members of the advisory committee shall receive no compensation for the services as such members. On approval by the United States commissioners no more than five members of the advisory committee designated by the committee may be paid for their actual transportation expenses and per diem incident to the attendance of meetings outside the United States of the Commission or a panel thereof.

The State Department in its consideration in making payments interpreted this as meaning this applied only to meetings outside the United States and so there should be no compensation for meetings within the United States. It is unclear. There are other ways that this could be interpreted. We believe that it is desirable to specify the number which may attend with paid expenses, and we think by a very simple modification of the bill that this can become clear and would specify that not more than five would attend overseas meetings, and at the same time would leave open the attendance and the payment for this attendance at domestic meetings.

Senator BARTLETT. Otherwise the advisers might be chiefly significant by their absence?

Mr. CROWTHER. Yes, sir. It could be.

Senator BARTLETT. No further questions.

Now S. 2047, Mr. Crowther.

Mr. CROWTHER. S. 2047 pertains primarily to vessels documented as fishing vessels engaged in the salmon fishing industry of the Pacific Northwest and Alaska as support vessels.

These vessels are called cannery tender vessels or fishing tender vessels and although not engaged in the actual capture of the fish, are essential to the entire fishing operation. They tend to the primary needs of the fishing fleets and processing plants. Both processing plants and fishing grounds are normally situated in isolated areas. The fishing vessels must be supplied with food and other necessities and the fish must be collected from such vessels daily for delivery to the processing plants to insure prime quality food for the American public. People must also be available to operate these plants. No other practicable means of supply is available.

The salmon industry of the Pacific Northwest and Alaska depends upon the use of these vessels and their documentation as fishing vessels as provided for in S. 2047. S. 2047 as amended by the Department will assure that the support vessels used in this important facet of the fishing industry will be able to carry out their operations in accordance with established procedures.

The Department's draft bill amends a 1961 statute which now authorizes fishing vessels to take the catch of another fishing vessel aboard on the high seas and transport it free of charge to a U.S. port. That act was designed to continue a practice of transferring cargo from one fishing vessel to another. Like the present situation, that practice was being threatened by a strict interpretation and enforcement of an existing statute by the Coast Guard.

Our draft bill authorizes fishing vessels, cannery tenders, and fishing tender vessels to continue present practices of carrying fish, cargo, stores, and people to and from vessels, canneries, and other facilities and locations used in the salmon and crab fisheries of the Pacific Northwest and Alaska without regard to the requirements in three named statutes. The only limitation is that such activities must, as in the case of the 1961 act, be carried on free of charge. We believe that this approach is a reasonable one and urge enactment.

The nature of fishing operations in Alaska, such as the frequent fuel needs of the small vessels previously described, entail a necessity for the transport of large quantities of inflammable liquid cargo in bulk by the various tenders. Section 5 of S. 2047 would permit this practice to continue to the extent permitted by Coast Guard regulation. We do not object to this approach, but defer to the Secretary of Transportation for his views on this subject.

That concludes my testimony on this bill, sir.

SENATOR BARTLETT. What troubles the Coast Guard about the existing law, Mr. Crowther?

MR. CROWTHER. I am not sure I understood your question.

SENATOR BARTLETT. What troubles the Coast Guard about existing law?

MR. CROWTHER. I believe the Coast Guard feels that the law as now requires that these vessels, since they are not strictly fishing vessels, must be subject to the load line determinations and also to the safety provisions of the law. They feel that the law must be amended if the United States is desirous of having these fishing vessels operate in the salmon and king crab industries.

Well, it would appear to us to be almost impossible to convert these vessels to comply with the Coast Guard regulations. So this bill is merely a means of having the vessels removed from Coast Guard jurisdiction in regard to load line and safety regulations in order that they may operate as they have been operating in the past.

SENATOR BARTLETT. Will you describe the typical situation in which this practice is needed?

MR. CROWTHER. Well, I have one of our staff now who is certainly an expert in this; Walt Kirkness from Alaska has just joined us, and I asked him to be aboard to answer any technical questions on this, and perhaps we could hear it directly from him, with your permission.

SENATOR BARTLETT. Let him come forward, then.

MR. KIRKNESS. Mr. Chairman, a typical situation would be, let us say, in Bristol Bay where a tender will go out from the cannery to receive fish, normally a 24-hour fishing period, and will serve perhaps from 25 to 100 gillnet boats which are roughly 32 feet in length. They will pick up the catch and return; if the fishing season is of sufficient length, will have to fuel these boats so they can continue fishing, and in most cases provide supplies to the boat, food, water, and its facilities.

Another case would be the fishery which may take place as far as 200 miles from the cannery where there will be a fleet of, let us say, 30 or 40 boats fishing which actually during the season, the month and a half, will never get back to the main supply point, the cannery, and the cannery tender will have to provide all the supplies for the fishing fleet during this month and a half.

They are also used to some degree in transporting personnel from local airline points out to the isolated canneries in the region.

Senator BARTLETT. During this year they had all better stayed at home in bed during that 6 weeks period as far as practical results of getting fish are concerned.

Now this doesn't mean then, Mr. Kirkness, from what you have told us that fishing vessels that otherwise would be required to put in to an Alaskan port for supplies of whatever kind will be serviced by ships from some other State, some smaller State, and thus deny the Alaska business community the sale of food, fuel, and so forth?

Mr. KIRKNESS. The cannery and fishery tenders attend to the services primarily of the fishing fleet. Sometime in emergency situations where there is no other means of transportation they will transport something from the main supply center to isolated areas. This is done as a gratis. There is no charge made for it, and it is done on an emergency basis because no other means of transportation is available.

Senator BARTLETT. This won't be hurtful then, in your judgment, to Alaska business?

Mr. KIRKNESS. I think it would be beneficial.

Senator BARTLETT. No further questions.

Mr. CROWTHER. Mr. Chairman, I would like to point out one of the things we mentioned in our statement is by requiring this service to be free I think there can be no chance of interference with normal commercial operations.

Senator BARTLETT. Very good.

Now, S. 2232.

Mr. CROWTHER. S. 2232 amends section 2(b) of the 1964 act by providing a mandatory forfeiture of a vessel and/or its equipment, and so forth, if the vessel violates the act a second time. At present the act authorizes, not mandates, a forfeiture of the vessel and/or its equipment for a violation of the act.

We strongly oppose any legislation that requires a forfeiture of a vessel or other property. Forfeiture is a harsh remedy and should be applied judiciously. Had such a law been in effect, the United States would have been compelled to confiscate the Soviet medium trawler, SRTM-8457, which was seized for a second time this year for violation of the 1966 act. She was initially seized on March 2, 1967. The captain of the vessel, who was fined \$5,000, was reprimanded by his government and relieved of his command. When the vessel was seized for a second time on August 3, 1967, another captain was in command. A mandatory confiscation of the vessel would not have been appropriate under the particular circumstances.

Further, a U.S. law requiring mandatory confiscation of a vessel would likely stimulate other countries to take similar action against U.S. vessels engaged in high seas fisheries. Certain nations have extended their jurisdiction, fishing or territorial, over extreme distances from their coasts far beyond internationally accepted limits. They have seized and detained U.S. fishing vessels and imposed fines on the captains of such vessels in spite of the fact that these seizures and detentions were considered illegal by the United States. They have laws permitting the confiscation of vessels. We do not wish to stimulate them to do so, for whatever reason.

It is also possible that a vessel owner may not be aware of the fact that his captain is deliberately violating our laws. The act of 1964 now provides severe penalties for violations. We should consider each

case on its merits and levy a forfeiture only when the evidence demonstrates that such action is clearly warranted.

We therefore recommend against the enactment of S. 2232.

That concludes my statement.

Senator BARTLETT. The committee understands that Senator Gruening, who authored the bill, will appear before us Friday, and obviously he will present a contrary point of view.

Let me ask you this, Mr. Crowther. How do you actually know that the Soviet skipper who was fined \$5,000 for the March 2 violation was relieved of his command?

Mr. CROWTHER. Our only source of information is from embassy officials who told us that this in fact was the case. We would assume, too, that since a new captain was on the vessel that some action must have been taken against the other one. But we have no assurance beyond the word of the embassy official.

Senator BARTLETT. What happened to the skipper of the same vessel which we later seized?

Mr. CROWTHER. I have no information on that.

Senator BARTLETT. You don't know whether he was relieved of his command or not?

Mr. CROWTHER. No, sir; I do not.

Senator BARTLETT. Did you hear the report that the first skipper was beached for a year or some such period?

Mr. CROWTHER. I heard a report that he was removed from his command and was given a menial task. I don't know exactly what this means.

Senator BARTLETT. Did you likewise hear the report, unverified, of course, that he will be required to pay back to the Soviet Government the amount of the fine levied against him in the District Court of Alaska?

Mr. CROWTHER. Yes, sir; we have heard of that, but we have not verified it.

Senator BARTLETT. Do you have an opinion on this—and if you don't care to express one, well and good, because you would have no basis upon which to make a factual conclusion—do you believe these vessel skippers have violated our territorial waters or the 12-mile fishing zone against the express order of their Government?

Mr. CROWTHER. I can give you my personal opinion. I have no official opinion.

Senator BARTLETT. All right; personal.

Mr. CROWTHER. I believe that the skippers of these vessels are instructed by their Government to observe our territorial limits and also the limits in the contiguous zone. I think violations are an attempt to make the quota of fish which they are assigned and they take chances with the hope of not being caught.

I also believe, although we are against this particular act of mandatory seizure, that the fines or confiscations levied against the vessels should be adequate to make it unattractive to come into our waters. But I believe that the people who are on the scene and who know most about this should have the flexibility of making this judgment rather than having it done through legislation.

Senator BARTLETT. Now you told the committee what happened in respect to the judicial determination relating to the seizure of the Soviet trawler in the first instance. What happened in the second?

Mr. CROWTHER. May I ask Mr. Terry to respond to that?

Mr. TERRY. Mr. Chairman, I am not sure that I can respond—

Senator BARTLETT. I am sure Mr. Kirkness can if you aren't able to. You try it.

Mr. TERRY. I am not sure that this will be in precise legal terms. My understanding is the initial criminal charges under the statute were not pressed, and that an "out of court" settlement was made which resulted in the Soviet Government paying, I think, \$20,000. I don't know exactly the legal dimensions of this.

Senator BARTLETT. Would it be correct to say the gear was seized technically and the Soviet Government redeemed it by paying a fine of \$20,000?

Mr. TERRY. This is approximately correct.

Senator BARTLETT. Mr. Kirkness nods his head.

Mr. CROWTHER. I think the bond was actually put up and then forfeited.

Mr. FINNEGAN. It was forfeiture of gear in the proceedings in court, but they agreed to pay the \$20,000 in lieu thereof.

Senator BARTLETT. And the check actually arrived and was put in the bank and it was a good check, I understand.

Mr. FINNEGAN. I don't know about the check. I hope so.

Senator BARTLETT. Mr. Wedin has a question.

Mr. WEDIN. What do you think about the surveillance we have up there now? We have had some vessels confiscated obviously and seized and brought in. Do you think our surveillance is adequate to represent what percentage, would you say, of the vessels actually violating Alaskan waters?

Mr. CROWTHER. In my opinion, and based on discussions with our enforcement officers, there are a number of violations that we are not able to move against. The question then is whether additional surveillance would be able to be more effective. The coast line that we are required to patrol—the Coast Guard is required to patrol along with our assistance by having an observer aboard—is tremendous. There is no doubt that additional vessels would uncover or would have a chance of uncovering more violations. Whether it would be worth the expense of doing this I am not certain.

One of the problems, of course, is the cloudy weather and the difficulty of observing these by air, because this is usually the method of spotting, and then having a surface vessel come within view. Whether increased surveillance would be substantially more effective than it is now I am not sure.

Mr. WEDIN. Do you think we apprehend, let's say, 10 percent of the violations?

Mr. CROWTHER. Any figure I gave on that would be a pure estimate. I am not sure. We do know from—at least we are told by our enforcement people that they are confident that there are the violations.

Mr. WEDIN. How many are observed and not apprehended? I mean roughly. Or is there a figure? Obviously not, I suppose.

Mr. CROWTHER. We estimate that perhaps 25 percent of those we observe are really apprehended.

Senator BARTLETT. Well, as a matter of fact, Mr. Crowther, unless we had that new Coast Guard cutter, the *Confidence*, traveling those waters the apprehensions would be fewer than they have been?

Mr. CROWTHER. Yes.

Senate BARTLETT. And the situation will be vastly improved when the Coast Guard receives delivery at Kodiak of the long-range, land-based planes. Now they depend upon the Drummond Albatross, which is an excellent plane, but an old plane with limited range, and since the skies off the Aleutian chain are always blue the planes will be able to spot every violator, I am sure.

Now, S. 1798.

Mr. CROWTHER. There are in the United States about 105 fishery cooperative associations with more than 10,000 members. They directly and indirectly account for one-fifth to one-fourth the total dollar value of fish and shellfish produced each year. Besides processing and marketing the catches of fishermen, they handle at substantial savings the supplies, equipment, and other items used by fishermen in their operations. There are also a few groups which underwrite their own marine insurance. Fishery cooperatives are found in all important producing segments of our domestic fishery industry. They may be found in coastal areas from Maine to Alaska as well as in some inland areas.

Fishery cooperatives need dependable credit facilities. Lack of such facilities has seriously handicapped these organizations in their efforts to assist fishermen to keep their income at a level that compares favorably with the average individual income for equivalent skilled effort in other areas of the labor market. Due to the peculiar organizations and operating principles of cooperatives as business enterprises it is extremely difficult for them to secure loans through conventional credit sources.

Fishermen are often at an economic disadvantage when competing in the market. Sometimes a fisherman must take whatever price is being paid when he reaches port due to the highly perishable nature of his produce. He is in no position to shop from buyer to buyer to obtain the best price. He has no facilities for unloading and putting his catch in cold storage until he can find a suitable market. Thus, any assistance he obtains to provide alternative market outlets, including credit assistance to help set up improved marketing facilities, will improve his economic position.

In order to provide the necessary facilities to properly handle and market the catch of members the cooperative often needs more capital than the fishermen are able to provide. However, local lending institutions are very reluctant to loan money to fishery cooperatives because they have little experience in dealing with this type of enterprise. As a result, it is very difficult for most fishery cooperatives to secure loan funds from conventional sources. Thus, there is a serious gap in available credit facilities for making loans to fishery cooperatives. The establishment of the credit facilities proposed in S. 1798 would fill this gap.

Emphasis on Government credit programs for the fishing industry has been placed on vessel financing with scant attention being given to the many other capital requirements of the fishery producer, processor, and distributor. The present provisions of the fisheries loan fund regulations are of only very limited value in assisting the financial operation of fishery cooperatives. Thus, while it is possible for fishery cooperatives to qualify as loan applicants, those who borrow from the fund can use the money for only that part of their activities which relate to vessel operations. The fisheries loan fund cannot now be used

to finance activities generally considered as "marketing," which is the primary function of cooperatives.

The Small Business Administration, in some cases, considers fishery cooperatives ineligible under its definition of a small business and in other cases because they do not have complete control of the entire production of its members. Local banks are usually reluctant to make loans to fishery cooperatives because their officials are not familiar with this type of organization; and, further, the banks usually have more desirable, less risky choices of loan applications.

We recommend the enactment of S. 1798.

Senator BARTLETT. Mr. WEDIN.

Mr. WEDIN. Isn't this basically patterned after the farmer cooperative banks? How successful have they been?

Mr. CROWTHER. The farmers' cooperative banks have been extremely successful, and under this arrangement the initial loans are made to the cooperatives, and then by the stock arrangement the cooperatives are in time able to return all of the Government's money and operate entirely on its own. This has happened in many cases in the agricultural community.

Mr. WEDIN. It has been a very useful tool, then, for the farmers?

Mr. CROWTHER. It has been very useful.

Mr. WEDIN. Do you think \$5 million is adequate in light of the fact we have 105 fishery cooperatives that might theoretically be applying?

Mr. CROWTHER. This, in our estimate, probably would be adequate. We are not, of course, certain what the borrowing requirements would be on this fund if it actually went into effect.

Mr. Finnegan mentioned that the \$5 million is added to the \$20 million authorization which we already have in the fund, but this fund I believe would be set aside as a separate entity we could draw on. We are not certain whether it would be enough, but our estimate now is it would be sufficient.

Mr. WEDIN. There wouldn't be any possibility of this overlapping or drawing from our own fishery loan fund? This is a separate thing, isn't it?

Mr. CROWTHER. I would hope it would be kept separate. I think it is an entirely different operation and I would hope this would be maintained by itself, although the bill does not make this clear. I would hope there would not be intermingling.

Senator BARTLETT. No questions from me on that bill, S. 1784.

Mr. CROWTHER. S. 1784 would amend section 5 of the Anadromous Fish Conservation Act of October 30, 1965, specifically to permit the State of Idaho to participate in the program authorized by the act. The Anadromous Fish Conservation Act provides in section 5 that its provisions shall not be construed to affect, modify, or apply to the same area as the provisions of the Mitchell Act of May 11, 1938, as amended. The area excluded by section 5 of the Anadromous Fish Conservation Act is the Columbia River Basin, which includes most of the State of Idaho. The other States in the basin are a large portion of Washington, Oregon, and Montana, and smaller portions of Wyoming, Utah, and Nevada. S. 1784 would give Idaho the opportunity to receive the benefits of both the Mitchell Act and the Anadromous Fish Act.

We have no information which would justify special treatment for the State of Idaho. We recommend against enactment of S. 1784. At the time the Anadromous Fish Act was under consideration by the Congress, the Department described the program being carried on under the terms of the Mitchell Act in cooperation with the States of Washington, Oregon, and Idaho and indicated its favorable effect upon the fishery resources of the Columbia River Basin. It was stated that the new legislation would not replace or alter that program, but would have the effect of expanding that program to the entire Nation under separate authority.

In 1957, the State of Idaho became a participant in the Columbia River fishery development program under the provisions of the Mitchell Act. The primary participation by the State has been construction and operation of screens at irrigation diversions in the Salmon River Basin, construction of fishways, stream clearance, and studies designed to improve management operations. A total of \$3,357,000 Federal funds has been spent in Idaho under the Mitchell Act for these purposes through June 30, 1967. In addition, \$450,000 has been spent for the conduct of the Bureau of Commercial Fisheries' fish passage program, and \$41,000 in Federal grant-in-aid funds have been obligated by the Bureau of Commercial Fisheries for an Idaho project on steelhead trout under the Commercial Fisheries Research and Development Act of 1964.

During fiscal year 1968, a total of \$105,500 Federal aid is programed for the State of Idaho, of which \$85,000 is under the Mitchell Act and \$20,500 is under the Commercial Fisheries Research and Development Act. In addition, \$26,000 is programed for research by the Bureau's fish passage program.

That concludes my statement, Mr. Chairman.

Senator BARTLETT. Are we to understand from what you have said that the areas helped by the Anadromous Fish Act aren't covered by the Mitchell Act and the other program?

Mr. CROWTHER. In testimony before the House, I believe it was, it was questioned whether this would duplicate what we call the Columbia River Basin work which is financed through the Mitchell Act. In our testimony we said that we would hope this would not alter or interfere with that particular program. So the two programs are separate. The Anadromous Fish Act funds then do not apply to the Columbia River Basin, and this excludes most of Idaho. There is a small portion in the southeast portion of the State that would be applicable, but this is only a minor part.

Senator BARTLETT. And you feel that the programs already in being are adequate to do what can be done in respect to the Columbia River Basin?

Mr. CROWTHER. I would not say that there are sufficient funds to perform all that we think should be done in the area, but we do not see reason to pick out Idaho as an exception. Perhaps the same thing would apply also to Washington. We are doing a substantial amount of work in the Columbia River Basin, Mr. Chairman, and it has been quite successful. I would not want to go on record as saying that we are doing all we should do in this.

Senator BARTLETT. You do not favor an amendment that would include Idaho or other geographical or political areas, then, at this time in the Anadromous Fish Act?

Mr. CROWTHER. No, we believe if additional work and additional funding is needed it should really be financed under the present Columbia River Basin work now, under the Mitchell Act. And Mr. Finnegan reminds me this does not have limitation. There are no matching fund requirements under the Mitchell Act. So in effect we are saying if there is to be additional funding for the State of Idaho and the other States in the Columbia River Basin this should be done under the Mitchell Act and not the Anadromous Fish Act.

Senator BARTLETT. Is Congress funding up to the amount of authorization for the Columbia River Basin?

Mr. CROWTHER. There is no dollar limitation for it, Mr. Chairman.

Senator BARTLETT. Which Mitchell has his name imperishably linked with this act?

Mr. CROWTHER. That was before my entrance into the fisheries, and the Federal Government.

Senator BARTLETT. It was just curiosity.

Mr. CROWTHER. I don't know.

Senator BARTLETT. I have no further questions.

Mr. CROWTHER. Senate Joint Resolution 103 authorizes and directs the Secretary of the Interior to conduct a survey of the coastal and freshwater commercial and recreational fishery resources of the United States, its territories, and possessions. We interpret coastal fishery resources to mean all fishery resources found on or above the Continental Shelf of the United States, its territories and possessions.

Senate Joint Resolution 103 is similar to a resolution enacted May 11, 1944, from which resulted Senate Document No. 51, 79th Congress, first session, entitled "Fishery Resources of the United States."

The Fish and Wildlife Act of 1956, as amended, directs the Department of the Interior to conduct general and continuing investigations of the commercial and sport fisheries, among other things, and to make available the information gained from these investigations, including appropriate reports to the Congress and the public.

Presently, we are compiling a "Fishery Resources Atlas" that will review much of what we have learned about our most important commercial fisheries. Several monographs have been completed which review the status of knowledge for our major shrimp species, sardines, and tunas. We provide industry with summary results of exploratory fishing cruises and compile detailed statistical reports of commercial catches and value. We also have compiled information on the estimated potential catches for many species now harvested as well as for several species that now are not utilized.

Sport fishing particularly in marine waters, has expanded greatly since 1944. Its impact upon the general economy has been substantial with the broadening of this recreational opportunity for millions of the public. The growth of supporting industries, typically represented by tackle, boat, trailer, and outboard motor manufacturers, has been enormous as has been the expansion of service and related industries. Thousands of Americans find employment and security in these fields. For years statistics of the commercial fish catch and its value have been well covered. However, we lack such documentation of the recreational harvest which supports this important segment of our economy. Estimates of the sport catch in salt water range from 500 million pounds to over a billion pounds annually. Sound management of our

fishery resources requires that we know more definitely the take from both fresh and salt water.

Wise management of the fishery resources of our inland and coastal waters is a very large task in itself. The Department, in close cooperation with the States, has for many years devoted a great deal of effort to this problem. We have by no means resolved all the past problems of our domestic fisheries, and we must continually face new problems and recreational demands created by the steady growth of our human population and a rapidly expanding economy.

Under authority of the Fish and Wildlife Coordination Act, the Fish and Wildlife Service participates in the planning of Federal and federally licensed projects which can affect fish and wildlife resources. The surveys proposed in Senate Joint Resolution 103 would provide up-to-date information of use in assessing the effects of water development projects on fishery resources.

For example, it would permit more accurate and meaningful appraisals of economic benefits and of potential losses or gains as a result of water development programs. The more we know about our fishery resources, both sport and commercial, the more accurately we can prescribe engineering or other features needed to protect and enhance these resources as a part of these projects.

A great revolution has developed in world fisheries since World War II as certain nations have sought to increase their supply of animal protein from the sea. The United States has lagged in this extension of high seas fisheries whereas such nations as Japan and the Soviet Union have forged ahead. There are definite signs, however, of growth in our domestic high seas fisheries. For the moment at least, we still remain a coastal fishing Nation and much of our demand for fishery products has been met by increasing our imports. As you know, we now import about two-thirds of the fishery products that we consume. These developments have created difficult new problems for the American fishing industry, which we are attempting to solve by a variety of international and domestic activities. We have not been unsuccessful in these endeavors but we must remain alert to direct our efforts in ways which offer the greatest promise of economic stability and growth of our own fisheries.

It is in the Nation's interest to play an increasingly important part in international fishery affairs. Continued and expanded exploitation by foreign nationals can exert serious competitive influence on our commercial and sport fisheries. Many of the exploited species traverse large areas of the ocean and rank among our most highly prized sport fishes.

The survey and report which this resolution would direct the Secretary of the Interior to conduct and prepare would provide a summary of the status of our fisheries at this critical stage of their history. It would provide the Congress, the fishing industry, the public, and the Department with an inventory of resources now utilized as well as those of potential commercial and recreational value in our inland and marine waters. It would evaluate the magnitude of foreign fishery activities in our coastal waters and identify and assess our distant water fisheries.

Enactment of Senate Joint Resolution 103 is not necessary to authorize this survey because we already have such authority. An advantage

of our present authority is that it does not limit time or funds and, therefore, affords the flexibility that is desirable for any survey of the scope contemplated. Because of other budgetary priorities and needs, funds have not been budgeted or appropriated for a broad survey of the entire fisheries. We do, however, gather and compile such information for several of our most important commercial species. If your committee believes that this legislation is desirable for purposes of emphasis we urge that no fixed date be established for reports to Congress and that the dollar limitation be removed.

S. 1752 amends the act of May 20, 1964, which prohibits fishing in the territorial waters of the United States and in certain other areas by foreign vessels.

Since the initial appearance of foreign fishing vessels some years ago, in 1958 in the eastern Bering Sea, in 1962 in the Gulf of Alaska, in 1966 off the Pacific Northwest, and beginning this year off California, their numbers have not only increased greatly, but in many areas foreign fisherman are competing directly with our fisherman for the same resources off our coasts. A similar situation prevails off the Atlantic coast, where foreign vessels first appeared in 1961 and it is presently estimated that the numbers of foreign fishing vessels operating off our shores total over 1,000 vessels.

These large foreign fishing flotillas are serviced by fleets of support vessels, including fuel and water tankers, supply ships, and repair ships. The support vessels are an integral part of the fishing fleet. In addition to supplying the fishing vessels with food, fuel, gear, and other provisions necessary to conduct fishing operations, they also receive the catches from the fishing fleet for transport to home ports, thus making it possible for the fishing and processing vessels to remain on the fishing grounds for sustained periods.

Following enactment of the 1966 act establishing the contiguous zone which provides for the continuation of traditional fishing by foreign states within the zone as may be recognized by the United States, we negotiated agreements with the Soviet Union and with Japan. The agreement with the Soviet Union which relates to the northeastern Pacific was concluded in February 1967 and that with Japan, May 1967. Each of these agreements provides for loading and transfer operations to be conducted within certain localities in the contiguous zone in the Aleutian Islands, in the Gulf of Alaska, and off the Pacific Northwest. Since the conclusion of these agreements, there have been incidents where foreign vessels have conducted support operations within our protected waters, within 12 miles, in localities other than those specified in the agreements.

S. 1752 makes it unlawful for a foreign vessel in our territorial waters or contiguous zone to engage in support of a foreign fishery fleet, even when the foreign fishing fleet is not fishing within the contiguous zone. For example, it would be unlawful to fuel or provision a foreign vessel in these waters, or to receive fish from such vessel, even when the foreign fishing vessel is operating outside our protected waters.

We do not object to this legislation from the standpoint of this Department's interest and concern for our fisheries resources, but we believe that the term "to engage in activities in support of a foreign fishing fleet" should be defined to make it clear what activities are

unlawful. The Department will submit a report on this bill suggesting an appropriate amendment early next week.

This concludes my statement, Mr. Chairman.

Senator BARTLETT. Thank you, Mr. Crowther.

This member of the committee believes, in spite of what you said, that the resolution is needed for obvious reasons, and I think they are rather well set forth in the two completing paragraphs of your statement. And I will not go further into that, but I have a feeling that if you had unilateral authority to express the views of the executive branch of the Government they might just possibly coincide with mine.

Now, S. 1752, obviously this is a good bill, and obviously this is a worthy bill. This bill should be reported out immediately, and would be before next week were it not for the fact that we are going to submit an amendment next week.

Thank you very much.

The committee will be in recess for 5 minutes.

(Recess.)

Senator BARTLETT. The committee will be in order.

There will be a requirement to go over until tomorrow after the next witness appears and testifies, but before we get through with these hearings we will give everyone who wants to testify ample time to do so.

The next witness, the final witness of the day, will be Mr. D. E. Reinhardt, manager of the Halibut Producers Cooperative in Seattle, Wash.

**STATEMENT OF DONALD E. REINHARDT, GENERAL MANAGER,  
HALIBUT PRODUCERS COOPERATIVE, SEATTLE, WASH.**

Mr. REINHARDT. Mr. Chairman and members of the committee, I appreciate the opportunity to express my views on Senate bill 1798. My name is Donald E. Reinhardt, general manager of the Halibut Producers Cooperative in Seattle, Wash.

I wish to make the following statements in support of Senate bill 1798 on behalf of the Halibut Producers Cooperative, the Seiners Association, and the Fishermen's Cooperative Association, all of Seattle. You will recognize these names as fishermen's cooperative marketing associations with 400, 225, and 1,000 members, respectively.

Our fishermen support this bill but feel the following changes would make the legislation more effective:

1. The bill states that no loan will be made if, in the judgment of the Secretary, certain conditions exist. One of these conditions is stated on lines 14 through 16—"the loan will increase the production of any fish or shellfish which is commonly produced in excess of annual marketing requirements." This line should be reworded to define annual marketing requirements.

2. In our opinion the \$5 million will not begin to meet the requirements of the industry. The Halibut Producers Cooperative alone has needed to borrow in excess of two and a half million dollars for an extended period of time in 1 year in order to finance its fish inventories and accounts receivable. The program, to be effective, would have to meet all the requirements of a particular cooperative. Once a loan had

been made, commercial channels would be reluctant to make a subordinate loan.

3. The industry would prefer to qualify for loans from banks for cooperatives which have served the farmers so effectively for many years or to have a similar fishery bank for cooperatives established.

Even without the incorporation of the foregoing suggested changes, the fishermen of the west coast support this bill. With Senate bill 1798, fishermen's organizations would have the benefit of the experience and understanding of the Bureau of Commercial Fisheries on a much closer relationship. The Kennedy round of tariffs has increased the difficulty for the U.S. fishing industry to compete in American markets for the future. A fact that many fishery cooperatives have been established shows the need for the American fishermen to obtain the last dollar of value from his product. Many bankers do not understand marketing cooperatives and impose a higher than normal interest rate plus other restrictions on their loans to cooperatives. These facts place fishery cooperatives at a competitive disadvantage.

This concludes our statement, Mr. Chairman. Are there any questions?

Senator BARTLETT. Thank you, Mr. Reinhardt.

It is noted that you testified not only for your own cooperative but for others. You might care to note those.

Mr. REINHARDT. Yes, sir. I am testifying for the Seiners Association, Mr. William G. Saletic, the executive manager; and for the Fishermen's Cooperative Association, Mrs. Elizabeth Haggard, acting manager.

Senator BARTLETT. Are there other co-ops in the Pacific Northwest?

Mr. REINHARDT. Yes, there are other cooperatives. I am not aware of any other fishery cooperatives.

Senator BARTLETT. If you were to make an estimate, how much money do you think would be required adequately by these three for this one area of the Nation alone?

Mr. REINHARDT. I would say these three could use up the entire \$5 million. This would be an estimate.

Senator BARTLETT. What interest rate do you have to pay from banks?

Mr. REINHARDT. Currently we are paying 7 percent. I believe—

Senator BARTLETT. You have to fish hard and fast.

Mr. REINHARDT. I beg your pardon?

Senator BARTLETT. You have to fish hard and fast.

Mr. REINHARDT. Hard and fast.

Senator BARTLETT. What are the other restrictions in addition to high interest rates which banks impose on fishery cooperatives?

Mr. REINHARDT. An example would be the burdensome collateral requirements, such as supporting all our loan with negotiable warehouse receipts, up to the full amount promptly, and whereas they would only loan as a general policy anywhere from 60 to 80 percent of the value.

To emphasize that a little further, it takes a good deal of time, sometimes, to get the collateral through the bank from the outlying warehouses. And sometimes this delay causes problems.

Senator BARTLETT. As you know, these are tough times from a budgetary standpoint, so I am glad to have you note that these three fishery cooperatives from the Pacific Northwest will endorse this legislation

introduced by Chairman Magnuson. Even if it came to pass, all the changes that you desire and which might be advisable are not absolutely essential to earn your support.

A start is better than nothing. Do you agree?

Mr. REINHARDT. I do.

Mr. WEDIN. Mr. Reinhardt, could you clarify for the record the three associations or marketing cooperatives that you are representing today? What species do they catch? Your own, for example, is called Halibut.

Mr. REINHARDT. I will be glad to do that. Starting with the Halibut Producers Cooperatives, the majority of our members are salmon trollers. We have in excess of 300 active salmon trollers which produce anywhere from 70 to 80 percent of our volume.

We have approximately 25 gill net members who fish primarily in Alaska.

We have approximately 15 active halibut members who also produce primarily in Alaska. The western region primarily on halibut.

The overall poundage between halibut and troll salmon is about equal, but the value is much greater on salmon.

On our gill net production, it is not completely stabilized. Some years it is quite good and other years it is very poor.

The Seiners Association, one of the cosponsors, are primarily or exclusively in salmon, and they operate in Washington and Alaska.

The Fishermen's Cooperative Association are composed primarily of salmon trollers, and they operate primarily in the State of Washington. However, they have a plant in Oregon, also.

Senator BARTLETT. Which is the largest of the three in terms of the members?

Mr. REINHARDT. In terms of members, the Fishermen's Cooperative Association is the largest. They do not engage in marketing to the extent that the Halibut Producers Cooperative does. In gross volume of business, I would say the Halibut Producers Cooperative is the largest, with annual business between \$4 and \$5 million.

Senator BARTLETT. Yours?

Mr. REINHARDT. Yes.

Senator BARTLETT. Between \$4 and \$5 million.

Mr. REINHARDT. Yes.

Senator BARTLETT. Would you give consideration to change the name of the association?

Mr. REINHARDT. We haven't seriously, no. I don't know exactly why.

Senator BARTLETT. Thank you very much. We are glad to have you here.

Mr. REINHARDT. Thank you.

Senator BARTLETT. Your testimony makes a real contribution.

The committee will be in recess until 9:30 tomorrow morning.

(Whereupon, at 12:02 p.m., the committee was adjourned, to reconvene at 9:30 a.m., Thursday, September 21, 1967.)

(Agency comments on the proposed bills and joint resolutions follow:)

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., September 15, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Your Committee has requested the comments of this Department on S. 1260, a bill "To amend the Northwest Atlantic Fisheries Act of 1950 (Public Law 845-81)."

We recommend the enactment of S. 1260 with the amendments suggested below. S. 1260 amends the Northwest Atlantic Fisheries Act of 1950 (64 Stat. 1067; 16 U.S.C. 981-991). The amendment broadens the scope of the Act to give protection to mammals, as well as fish. It also removes an ambiguity in the Act relating to payment of expenses incurred by members of the industry advisory committee serving the United States section of the Commission for the Northwest Atlantic Fisheries.

We believe that these changes in the Act are needed to fully implement the Convention. The Departments of Justice and State have suggested further changes in the Act which are also designed to implement the Convention. The amendments suggested below will carry out these suggestions.

We therefore suggest that lines 5 through 8 of S. 1260 be amended to read as follows:

"(a) By changing the period in section 2(a) of the Act to a comma and adding the following words: 'and all agreements and protocols amendatory thereof and supplemental thereto, including the declaration of understanding of April 24, 1961, and the protocol of July 15, 1963.'

"(b) By adding a new subsection (h) to section 2 of the Act to read as follows: 'Fish: The word "fish" means any species of fish, mollusks, crustaceans and all forms of marine animal or plant life covered by the Convention.'

"(c) By deleting the words 'outside of the United States' in section 4(b) of the Act."

It should be noted that the term "marine animal" includes mammals.

We recommend that the reference in the title of the bill to "Public Law 845-81" should be changed to "Public Law 81-845".

The Departments of State and Justice concur in these changes in the Act. The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRY R. ANDERSON,  
Assistant Secretary of the Interior.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D.C., September 19, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 1260, a bill "To amend the Northwest Atlantic Fisheries Act of 1950 (Public Law 845-81)."

The Northwest Atlantic Fisheries Act of 1950, 54 Stat. 1067, 16 U.S.C. 981-991, implements the International Convention for the Northwest Atlantic Fisheries, 1 U.S.T. 477. That convention originally related only to the taking of fish; by a protocol of July 15, 1963, which became effective following its ratification by Italy on April 29, 1966, it was extended to cover the taking of harp and hood seal. T.I.A.S. 6011. Subsection (a) of S. 1260 is designed to conform to that extension by expanding the definition of "fishing" in section 2(g) of the Act, 16 U.S.C. 981 (g), to include the taking of mammals as well as fish.

While the matter does not concern the operations of this Department, we think it obviously desirable to conform the coverage of the Act to the expanded coverage of the Convention. However, the proposed amendment may not be altogether adequate for that purpose. The Act makes various references to "fish," "fisheries," and "fishermen." Secs. 4, 9, 10, 11, 16 U.S.C. 983, 988, 989, 990.

While it should reasonably be inferred that all those terms are to be understood as being broadened to include harp and hood seal, sealing, and sealers, it would be safer to make this explicit, particularly because of the penal nature of some of the provisions.

At the same time, you might want to consider similarly enlarging the same definitions to include mollusks, in view of the Declaration of Understanding of April 24, 1961, 14 U.S.T. (Pt. 1) 924, stating that the terms "fish," "fishery," and "fishing" in the Convention include mollusks as well as finny fish. This seems particularly desirable in view of the fact that when the Act was under consideration it was specifically pointed out that the Convention related only to finny fish and not to mollusks or crustacea. See Hearings, Subcommittee of the House Foreign Affairs Committee, H.R. 6725 and S. 2801, 81st Cong., 2d sess., p. 37.

It would also be appropriate to amend the definition of "Convention" in section 2(a) of the Act, to make clear that it includes amendments such as the 1961 Declaration of Understanding and the 1963 Protocol, as well as the Convention "signed at Washington under date of February 8, 1949," as now referred to.

Section 4 of the Act, 16 U.S.C. 983, provides for an advisory committee to advise the United States Commissioners under the Convention, and permits not more than five of them to be paid per diem and travel expenses for attendance at meetings outside of the United States. Subsection (b) of S. 1260 would delete that limitation, so as to permit such payments also for attendance at meetings within the United States. This proposal involves policy considerations as to which the Department of Justice makes no recommendation; but you may note that members of some similar advisory groups are now allowed such payments for attendance at meetings within the United States. *E.g.*, Act of August 9, 1939, sec. 2, 22 U.S.C. 502.

The Department of Justice has no objection to the enactment of this legislation, but feels that it would be improved by the amendments suggested above.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,  
*Deputy Attorney General.*

DEPARTMENT OF STATE,  
*Washington, D.C., September 20, 1967.*

Hon. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your letter of May 12, 1967 enclosed a copy of S. 1752, A Bill to amend the Act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels, on which the Department of State's comments were requested.

The purpose of the proposed legislation is to amend section 1 of the Act approved May 20, 1964 (78 Stat. 194) so as to make it unlawful for any vessel except a vessel of the United States, or for any master or other person in charge of such a vessel, "to engage in activities in support of a foreign fishery fleet" within the territorial waters of the United States, or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters, i.e., the 9-mile contiguous fishing zone. Exception would be made for rights accorded by international agreement.

It is possible to construe the phrase in the bill "activities in support of a foreign fishing fleet" as extending the Act of October 14, 1966. We believe that the 1966 legislation was confined, and strictly confined, to establishing effective national control of fisheries operations in the 9-mile zone contiguous to United States territorial waters; it did not otherwise assert United States jurisdiction in that zone. We also understand that the purpose of the present bill is not to extend United States jurisdiction as asserted in 1966, but only to clarify the impact of that assertion of jurisdiction.

If our understanding is correct, the Department of State fully supports S. 1752. If, however, our understanding is incorrect, we should point out that the United States has taken the position that an assertion of jurisdiction beyond the territorial sea for purposes other than fisheries is inconsistent with international law and freedom of the seas.

In fact, the United States already has two agreements, one with Japan (TIAS 6287) and one with the U.S.S.R. (TIAS 6218), which designate limited areas within the contiguous zone in which vessels of the Soviet Union and Japan would conduct loading operations. The explicit assertion in the bill of authority over fishing support operations in this sense, would, therefore, be in accord with developing international practice.

On the other hand, while coastal States may extend their jurisdiction over fishing operations beyond their territorial waters, we believe it would be a mistake to broaden our control beyond activities uniquely associated with the conduct of fishing operations. Such a development could support the claims made by some other States to a 12-mile breadth to their territorial waters.

For this reason, the Department of State suggests the adoption of S. 1752 with clarifying language or legislative history that limits the application to activities uniquely associated with the conduct of fishing operations.

The Bureau of the Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,  
*Assistant Secretary for Congressional Relations.*

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OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., September 22, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 1752, a bill "To amend the Act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels."

Section 1 of the Act of May 20, 1964, P.L. 88-308, 78 Stat. 194, 16 U.S.C. 1081, forbids foreign vessels or their masters to "engage in the fisheries" in the territorial waters or exclusive fishery zone of the United States. S. 1752 would amend that section by adding a further prohibition, that in such waters such vessels or masters must not "engage in activities in support of a foreign fishery fleet."

This bill is identical to H.R. 10227 and is similar in purpose to H.R. 1139, though the latter would accomplish that purpose by broadening the definition of "fisheries" rather than by a separate prohibition of supportive activities. The Department of Justice makes no recommendation on whether the measure should be enacted.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,  
*Deputy Attorney General.*

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GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., September 25, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of Commerce with respect to S. 1752, a bill to amend the Act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels.

The Act referred to above is the Act of May 20, 1964, which, *inter alia*, makes it unlawful for any vessel, except a vessel of the United States, or for any master or other person in charge of such a vessel to engage in the fisheries within the territorial waters of the United States, its territories and possessions and the Commonwealth of Puerto Rico, or within the nine-mile contiguous fishery zone of the United States, S. 1752 would amend the Act of 1964 to further prohibit foreign vessels from engaging in activities in support of a foreign fishery fleet within such waters.

We understand that the primary purpose of S. 1752 is to prevent the transfer of fish from vessels of a foreign fishery fleet to the fleet's mothership within the 12-mile exclusive U.S. fishery zone even where such fish have been taken on the high seas. We are informed that it was the intent of the Act of 1964 to prohibit such activities but that the U.S. Coast Guard, believing the Act of 1964 to be too vague with regard to the transfer of fish from one vessel to another, has been unwilling to seize foreign fishing vessels making such transfers; consequently, the purpose of S. 1752 is to clarify the Act of 1964 rather than to implement a new policy of the United States.

It would appear that enactment of S. 1752 would have little impact on U.S. foreign and domestic trade. Accordingly, the Department of Commerce interposes no objection to its enactment.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

JOSEPH W. BARTLETT,  
*General Counsel.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., October 4, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: Your committee has requested this Department's comments on S. 1752, a bill to amend the act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels.

S. 1752 amends the first sentence of section 1 of the act of May 20, 1964 (16 U.S.C. 1081-1085). This sentence now makes it unlawful for any person in charge of a vessel, other than a U.S. vessel, to engage in the fisheries within this country's territorial waters or within the fisheries zone contiguous to those waters which was established by the act of October 14, 1966 (16 U.S.C. 1091-1094). This sentence also makes it unlawful for such person to take any Continental Shelf fishery resource which appertains to the United States. The objective is to protect the U.S. fisheries within these waters.

S. 1752 would also make it unlawful for a foreign vessel, while in our contiguous zone, to engage in activities in support of a foreign fishery fleet, even when the foreign fishing fleet is not fishing within the contiguous zone or territorial waters.

The purpose of the bill is to protect the U.S. fisheries through the establishment of criminal sanctions. We do not object to this clarification of our jurisdiction under the 1964 act. In our testimony of last week, we indicated that the support activities should be defined for enforcement purposes. On further consideration, we believe that the term is clear enough and that such a definition is unnecessary.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,  
*Deputy Assistant Secretary of the Interior.*

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DEPARTMENT OF AGRICULTURE,  
*Washington, D.C., September 11, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: As requested by your letter of May 18, 1967, here is the Department of Agriculture's report on S. 1784, "To amend the Act of October 30, 1965 (79 Stat. 1125), so as to authorize the State of Idaho to participate under the provisions of such Act."

The provisions of the Anadromous and Great Lakes Fisheries Act of October 30, 1965 (79 Stat. 1125), do not apply to the Columbia River Drainage, which

is covered by the Act of May 11, 1938 (52 Stat. 345), as amended (16 U.S.C. 775-757). S. 1784 would amend the Anadromous and Great Lakes Fisheries Act so as to permit the State of Idaho to participate in the programs authorized by that Act.

This Department would not be affected directly by S. 1784 except where projects to be financed under the provisions of this bill might involve fish habitat in the National Forests in Idaho. Part of the spawning habitat for the fishery resources of the Columbia River Drainage is within the National Forests under the jurisdiction of this Department. It is likely that some of the projects for which grants would be authorized by this bill would be on National Forest lands.

The Department of Agriculture has authority to carry out fishery conservation programs within the National Forests. Under the Multiple Used-Sustained Yield Act (74 Stat. 215), the Secretary of Agriculture is directed to administer the National Forests for multiple use and sustained yield of their several products and services, including fish. He is further authorized to cooperate with State and local agencies in National Forest development.

The need for improvement and development of fish and wildlife habitat resources on National Forests is recognized in the "Development Program for the National Forests." This program embraces all of the renewable resources of the National Forest System—water, timber, recreation, forage, and fish and wildlife habitat.

Fishery engineering studies and surveys and desirable fish structural or vegetative manipulation projects on National Forest lands are frequently carried out by the fish and game departments of the respective States in which the National Forests are located. Such projects are initiated and conducted with the approval and permission of this Department. Coordinated land-use practices to assure a maximum return of the varied goods and services from these National Forest lands can best be attained if all planning and development has the prior approval of the Department having primary jurisdiction. This is the concept under which existing programs have been successful. Such review and prior approval is provided for in the Anadromous and Great Lake Fisheries Act and would be applicable to any projects carried out with funds provided under the provisions of S. 1784.

Subject to the foregoing comments, we defer to the recommendation of the Secretary of the Interior concerning enactment of this bill.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,  
*Secretary.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., September 18, 1967.*

Hon. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: Your Committee has requested this Department's comments on S. 1784, a bill "To amend the Act of October 30, 1965 (79 Stat. 1125), so as to authorize the State of Idaho to participate under the provisions of such Act."

S. 1784 would amend section 5 of the Anadromous Fish Conservation Act of October 30, 1965 (16 U.S.C. 757e). Section 5 now provides that the 1965 Act will not be construed "to affect, modify, or apply to" area covered by the Act of May 11, 1938, as amended (16 U.S.C. 755-757). This Act is often referred to as the Mitchell Act. The area referred to in section 5 is the Columbia River Basin which includes most of Idaho. The other States in the basin are a large portion of Oregon, Washington, and Montana, and smaller portions of Wyoming, Utah, and Nevada. S. 1784 would give Idaho the opportunity to receive the benefits of both the 1938 Act and the 1965 Act.

We recommend against the enactment of the bill.

At the time the 1965 Act was under consideration by the Congress, this Department described the program being carried on under the terms of the Mitchell Act in cooperation with the States of Washington, Oregon, and Idaho and indicated its favorable effect upon the fishery resources of the Columbia Basin. We urged that the new legislation not replace or alter that program.

All streams in Idaho, except for a very small section in the southeastern corner of the State, drain into the Columbia River system. Since 1957, a total of \$3,357,000 of Federal funds has been made available to Idaho under the Mitchell Act for use in the Columbia River Basin. Under that Act, a State is not required to provide matching funds. In addition, \$41,000 in Federal funds have been obligated by this Department for an Idaho project under the Commercial Fisheries Research and Development Act of 1964. Other monies have been spent over the years to provide for the needs of anadromous fish in the basin by the Corps of Engineers, the Bureau of Reclamation, and the Idaho Power Company.

The Kooskia hatchery now under construction by our Department along Clear Creek, near Kooskia, Idaho, and the hatchery to be constructed at Dworshak Dam by the Corps of Engineers and operated by our Department will cost several million dollars. We believe that the anadromous fish needs of Idaho have and are still receiving adequate treatment without the need of providing additional authority for this fishery in that State.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,  
*Deputy Assistant Secretary of the Interior.*

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OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., September 20, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 1784, a bill "To amend the Act of October 30, 1965 (79 Stat. 1125), so as to authorize the State of Idaho to participate under the provisions of such Act".

This legislation would allow the State of Idaho to participate in the benefits of the Act of October 30, 1965, which authorizes the Secretary of the Interior to enter into cooperative agreements with States for the conservation and development of anadromous fish. The 1965 legislation includes provisions for the sharing of costs between the States and the Federal Government for research, stream-clearing activities, and construction and operation of hatcheries and other facilities. Section 5 of the 1965 Act provides, however, that the program should not affect, modify or apply to areas affected by the Columbia River fishery development program, which, under the Act of May 11, 1938, 52 Stat. 345 (16 U.S.C. secs. 755-757), includes Oregon, Washington and Idaho. S. 1784 would withdraw this exclusion as to Idaho.

The Department of Justice feels that this bill presents no question of law but only a question of policy, on which we defer to the views of the Department of the Interior.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,  
*Deputy Attorney General.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., September 19, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: Your Committee has requested this Department's views and recommendations on S. 1798, a bill "To amend section 4 of the Fish and Wildlife Act of 1956, as amended."

We recommend the enactment of S. 1798, with an amendment suggested below. The bill adds a new subsection to section 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c). Section 4 now authorizes the Secretary of the Interior to make low-interest, long-term loans for the financing and refinanc-

ing of constructing, purchasing, equipping, maintaining, etc., commercial fishing vessels and gear. A \$20 million revolving fund is authorized for such loans. The program will expire on June 30, 1970.

The bill authorizes the Secretary to make loans to any fishermen's cooperative association meeting the requirements of the Act of June 25, 1934, as amended (15 U.S.C. 521-522). The association must be in existence on the date of enactment of this bill. The bill does not extend the life of the revolving fund, but increases the fund authorization from \$20 million to \$25 million.

Fishery cooperatives are not now eligible to borrow through the Farm Credit System as they were not included in the provisions of the Farm Credit Acts. The Small Business Administration, in many cases, considers them ineligible under its definition of a small business and also because many fishery cooperatives do not have exclusive marketing agreements with their members. Most local banks are not familiar with these organizations as loan risks and usually have more than enough attractive loan applications of less risk to make use of all available loan funds. In addition, such credit facilities as proposed in the legislation would influence the shift of additional resources into specific areas where family income is low and the unemployment rate is high. Furthermore, fishery cooperatives are frequently located in rural areas where their success greatly influences the health of the entire local economy such as the one located at Point Judith, Rhode Island. Loans to cooperative organizations also would increase the total use of underutilized and unutilized fish and shellfish resources using manpower and other resources not otherwise fully employed.

Fishery cooperatives cannot rely solely on the membership for operating capital. Characteristically, seasonal peak production periods create excessive strains on their capital structure due to the extremely perishable nature of seafood products and the need to process and hold the products in storage. Furthermore, members of these organizations have often found it necessary to ask supply houses, dealers, and canners to make cash trip advances or give them credit for essential supplies. Such methods of financing fishing operations have in some cases reduced the fishermen's independence in the market place. The absence of adequate credit facilities and the conditions resulting from this inadequacy present a strong case in favor of providing a public credit source suited to the particular needs of the fishery cooperatives.

We recommend that section 1 of the bill be amended by deleting the comma after the bracket on line 11, page 1 and the words "and existing as of the date of enactment of this subsection," which are found on that same line and line 1 of page 2.

As proposed, only cooperatives organized prior to the enactment of the bill would be eligible to apply for a loan. Cooperatives organized after the date of enactment would not be eligible regardless of need or circumstance. They would be at a disadvantage in regard to the credit facilities which would be available to the older cooperatives. This could tend to discourage fishermen from organizing cooperatives.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,  
*Deputy Assistant Secretary of the Interior.*

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THE GENERAL COUNSEL OF THE TREASURY,  
*Washington, D.C., September 20, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 1798, "To amend section 4 of the Fish and Wildlife Act of 1956, as amended."

Under section 4 of the Fish and Wildlife Act of 1956 (70 Stat. 1121), as amended, (16 U.S.C. 742c), the Secretary of the Interior is authorized to make loans for financing and refinancing of operations, maintenance, replacement, repair and equipment of fishing gear and vessels, and for research into the basic problems of fisheries. The proposed legislation would add a new subsection (f) to authorize loans under section 4 to fishermen's cooperative associations to finance the purchase and storage of fish, to provide operating capital, and to

finance the acquisition of land, buildings and equipment used by such associations in the handling or marketing of fish.

Under section 4(b) of the Fish and Wildlife Act of 1956, as amended by Public Law 89-85, approved July 24, 1965, loans made under section 4 bear an interest rate of not less than (a) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose. These provisions are consistent with the recommendations of the President's Committee on Federal Credit Programs and the policy of the Administration.

The Department has no independent knowledge with regard to the gap in available credit that the bill is designed to fill. Accordingly, the Department has no comment to make on the general merits of the bill.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

FRED B. SMITH,  
*General Counsel.*

THE WHITE HOUSE,  
*Washington, October 4, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman,  
Committee on Commerce, U.S. Senate,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for comments on S. 1798, a bill to amend section 4 of the Fish and Wildlife Act of 1956, as amended.

The purpose of S. 1798 is to add a new subsection to the Act authorizing the Secretary of the Interior to make loans to any fisherman's cooperative association meeting the requirements of the law, " \* \* \* (1) to finance the purchase of fish and shellfish or products thereof and the cost of storing fish and shellfish and the products thereof in cold storage or other storage facilities owned, leased, or used by such association; (2) to provide operating capital needed to supplement the capital funds of such association; and (3) to finance or refinance the acquisition by purchase or lease of land, buildings, and equipment and the construction or reconstruction of buildings or other improvements used by such association in connection with activities related solely to the storage, processing, preparation for market, handling, or marketing of fish and shellfish or the products thereof. No loan shall be made under this subsection if, in the judgment of the Secretary, the loan will increase the production of any fish or shellfish which is commonly produced in excess of annual marketing requirements, or will materially contribute to the depletion of any fish or shellfish species contrary to sound conservation practices. There is authorized to be appropriated to the fisheries loan fund the sum of \$5,000,000 to carry out the provisions of this subsection, in addition to any sums authorized by subsection (c) of this section \* \* \* "

This amendment would provide funds for loans to fishery cooperatives. At present, unlike agricultural cooperatives, fishermen's cooperatives must turn to commercial sources for most of their financial needs. Traditionally, fishery cooperatives have not been considered prime lending risks by lending institutions. Often they have difficulty in borrowing funds at reasonable rates of interest to finance their activities.

All segments of the American fishing industry need financial assistance and capital improvements to become competitive with other nations such as Norway, Russia, and Japan. This would be a step forward in making domestic fishermen more productive and efficient. Moreover, we need to further develop this source of high protein food.

Therefore, this office supports the amendment to the Fish and Wildlife Act of 1966 as proposed by S. 1798, 90th Congress. The Bureau of the Budget advises that enactment of this bill would be in accord with the legislative program of the President.

Sincerely,

BETTY FURNESS,  
*Special Assistant to the President  
for Consumer Affairs.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., September 19, 1967.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: Your Committee has requested this Department's comments on S. 2047, a bill "To exempt certain vessels engaged in the fishing industry from the requirements of certain laws."

We recommend the enactment of S. 2047 in the form of the enclosed revised bill.

The primary purpose of this legislation is to assist the commercial fishing industry of the Pacific Northwest and Alaska, particularly the salmon and crab fisheries, by removing some statutory impediments to practices that have been in existence for many years.

The salmon and crab fishing industry has shore-based canneries in Seattle and various locations in Alaska. Many of the canneries in Alaska are in isolated areas. Cannery tender vessels, fishing vessels, and fishing tender vessels carry fish and supplies to and from vessels and canneries. They also carry fish products from the canneries to markets in the Pacific Northwest and Alaska. In addition, these tenders and fishing vessels also carry personnel to and from the canneries. These practices have continued for many years because it is impractical for cargo or passenger vessels to do this work.

Until recently the Coast Guard generally has not applied the inspection and load line laws to these vessels, particularly the cannery tender vessels, because there was some question as to their applicability to these vessels. We understand that the Coast Guard now believes that these laws do apply to these vessels. Such an interpretation would probably cause a halt in these practices with a resulting economic disruption of these fisheries. S. 2047 is designed to exempt these vessels from these laws and thereby continue the present practices. We agree with this objective, but we believe it should be limited to the problem area only—that is, the Pacific Northwest and Alaska. The enclosed draft bill is so limited.

The enclosed draft bill amends a 1961 statute which now authorizes fishing vessels to take the catch of another fishing vessel aboard on the high seas and transport it free of charge to a United States port.

That Act was designed to continue a practice of transferring cargo from one fishing vessel to another. Like the present situation that practice was being threatened by a strict interpretation and enforcement of an existing statute by the Coast Guard.

Our draft bill authorizes fishing vessels, cannery tenders, and fishing tender vessels to continue present practices of carrying fish, cargo, stores, and people to and from vessels, canneries, and other facilities and locations used in the salmon and crab fisheries of the Pacific Northwest and Alaska without regard to the requirements in three named statutes. The only limitation is that such activities must, as in the case of the 1961 Act, be carried on free of charge. We believe that this approach is a reasonable one and urge enactment.

S. 2047 also covers another problem area. The nature of fishing operations in Alaskan waters entails the transport of large quantities of inflammable liquid cargo in bulk. Fuel, for example, is often transported with the aid of wooden barges equipped with tanks on board. Section 5 of S. 1247 would permit this practice to continue to the extent permitted by Coast Guard regulation. We do not object to this approach, but defer to the Secretary of Transportation for his views on this subject.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,  
*Deputy Assistant Secretary of the Interior.*

A BILL TO EXEMPT SOME VESSELS ENGAGED IN THE SALMON AND CRAB FISHERIES OF THE PACIFIC NORTHWEST AND ALASKA FROM SOME LAWS RELATING TO DOCUMENTATION AND INSPECTION OF VESSELS

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of August 30, 1961 (75 Stat. 410; 46 U.S.C. 404a), is amended by adding a new section at the end thereof to read as follows:

"SEC. 2. Any vessel which does not exceed five hundred gross tons and which is documented, enrolled, licensed, or registered for use in the coastwise trade or fisheries, is authorized without regard to the requirements of section 4426 of the Revised Statutes, as amended (46 U.S.C. 404), section 1 of the Act of August 27, 1935 (49 Stat. 888; 46 U.S.C. 88), and section 1 of the Act of June 20, 1936 (49 Stat. 1545), as amended (46 U.S.C. 367), to engage in the transportation of, without monetary consideration, fish, fishery products, cargo, supplies, stores, or personnel to and from any vessel or facility of any kind or description which is heretofore or hereafter used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska."

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DEPARTMENT OF STATE,  
Washington, D.C., September 19, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of August 8, 1967, requested the Department's views on S. 2232. This bill would require forfeiture of any vessel, including its tackle, apparel, furniture, appurtenances, cargo and stores, that had been "employed for a second time in any manner" in violation of the prohibition on foreign fishing within U.S. territorial waters or its contiguous fishing zone. The Department opposes the enactment of this bill.

The present law, 16 U.S.C. Sec. 1082(b), provides that vessels unlawfully fishing in these waters and fish taken in violation of the law are subject to forfeiture. We believe it would be most unwise to require forfeiture of the vessel in every case of a second violation.

Under most statutes providing penalties for violations of law, a maximum is established and discretion is left to the sentencing judge to determine what penalty should be applied within the maximum. Under the proposed legislation the discretion of the sentencing judge would be removed and even in the case of a minor offense an extremely costly penalty would be required. When it is realized that the value of many of the foreign vessels fishing off the coast of the United States runs into the millions of dollars, it can be seen how vastly disproportionate the penalty proposed in S. 2232 could be to the seriousness of the offense and the damage done to United States fishing interests. We think it far preferable as a matter of elementary fairness to leave the determination of the appropriate penalty to the discretion of the court.

Moreover, the mandatory application of disproportionate penalties could complicate the efforts of the United States to achieve fisheries agreements with other countries that are designed to provide our domestic fisheries with more protection than the contiguous fishing zone affords. In addition, the application of such penalties would undercut our efforts to obtain the release of American fishing vessels seized while fishing within areas considered by other countries to be under their exclusive fishing jurisdiction, and might encourage these countries to impose similar penalties.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,  
Assistant Secretary for Congressional Relations.

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., September 20, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U. S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Your Committee has requested this Department's comments on a bill S. 2232, which amends the Act of May 20, 1964 (16 U.S.C. 1081-1085). That Act now makes it unlawful for any person in charge of a vessel, other than a United States vessel, to engage in the fisheries within this country's territorial waters or within the fisheries zone contiguous to those waters which was established by the Act of October 14, 1966 (16 U.S.C. 1091-1094). It also makes it unlawful for such person to take any Continental Shelf fishery resource

which appertains to the United States. The objective is to protect the United States fisheries within these waters, both from a conservation and an economic standpoint.

S. 2232 amends section 2(b) of the 1964 Act by providing a mandatory forfeiture of a vessel and/or its equipment, etc., if the vessel violates the Act a second time. At present the Act authorizes, not mandates, a forfeiture of the vessel and/or its equipment for the first and successive violations of the Act.

We are strongly opposed to any legislation that requires a forfeiture of a vessel or other personal property, even in the case of second offenses. Forfeiture is a harsh remedy. It should be applied judiciously. It may be that the vessel owner is not aware of the fact that his captain is deliberately violating the Act. We should consider each case on its merits and levy a forfeiture only when the evidence demonstrates that such action is clearly warranted.

We recommend against the enactment of S. 2232.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRY R. ANDERSON,  
*Assistant Secretary of the Interior.*

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OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., September 20, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the view of the Department of Justice on S. 2232, a bill "To amend section 1082 of title 16, United States Code, relating to the prohibition of foreign fishing in the territorial waters of the United States".

At present, 16 U.S.C. 1082(b) provides that vessels, tackle, etc., employed in any manner in violation of the prohibitions against foreign fishing in American territorial waters or in the exclusive fisheries zone extending nine geographical miles farther seaward as established by the Act of October 14, 1966, 16 U.S.C. 1091-1094, "shall be subject to forfeiture" and that fish taken or retained in violation thereof, or their value, "shall be forfeited". S. 2232 would amend the subsection to make forfeiture of the vessel and its tackle, etc., mandatory rather than discretionary for second offenders.

The recent trend of legislation and the policy of this Department have been to get away from mandatory minimum penalties which deprive courts of power to mitigate penalties where particular circumstances would make it appropriate to do so. A recent example of this trend is seen in the Clean Water Restoration Act of 1966, P.L. 89-753, 80 Stat. 1246, section 211 of which amended section 4 of the Oil Pollution Act, 1924, 33 U.S.C. 434, in various ways, including elimination of mandatory fines and imprisonment. Mandatory forfeiture of a vessel could be an excessively harsh penalty in the case of a second offense that was trivial, inadvertent, or unauthorized. While the exasperation caused by repeated offenses is understandable, a sounder approach is to authorize a greater maximum penalty for second offenses (as for example, in the Tuna Conventions Act of 1950, 16 U.S.C. 957), without depriving the court of its power to suit the penalty to the circumstances of the particular case.

These considerations, important as they are in ordinary criminal matters affecting individuals, are even more important with respect to the prohibition of foreign fishing. These cases always involve foreign property and citizens, and diplomatic considerations, often of great delicacy and importance, may make it particularly desirable to avoid imposition of penalties harsher than the actual circumstances may reasonably justify.

The Department of Justice recommends against enactment of this legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,  
*Deputy Attorney General.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., August 29, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Your Committee has requested this Department's views and recommendations on S. 2269, a bill "To amend the Act of August 27, 1954, relative to the unlawful seizure of fishing vessels of the United States by foreign countries."

We recommend the enactment of S. 2269 with the amendment suggested below.

The Fishermen's Protective Act directs the Secretary of State to attend to the welfare of the crew of any vessel of the United States seized by a foreign country on the basis of rights or claims not recognized by this country in territorial waters or on the high seas. The State Department is also directed to secure the release of the vessel and crew. In carrying out these functions, the Secretary must find that there is no dispute of material facts relative to the vessel's location and activities when seized. If the vessel owners must also pay a fine to secure release, then the Act directs the Secretary of the Treasury to reimburse the owner in an amount that represents the fine.

The Act does not apply to seizures made by a country at war with the United States or seizures made under a fishery convention or treaty to which the United States is a party. The Secretary of State is also directed to recover from the foreign country the amounts expended by the United States under this Act. The Act applies to fishing vessels and other vessels of the United States.

The Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a *et seq.*), declares—

"... that the fishing industry, in its several branches, can prosper and thus fulfill its proper function in national life only if certain fundamental needs are satisfied by means that are consistent with the public interest and in accord with constitutional functions of governments. Among these needs are:

\* \* \* \* \*

"(2) Protection of opportunity—... to fish on the high seas in accordance with international law;"

In administering the 1956 Act, this Department strives to stimulate the development of a strong, prosperous, and thriving commercial fishing industry. We have consistently encouraged the United States commercial fishing industry to increase rapidly their exploitation of the fishery resources of the high seas—that is, beyond the territorial waters of foreign countries.

In addition, the United States has constantly, over the years, asserted the doctrine of the freedom of the seas. In this regard, the Department of State in 1954 said:

"The traditional policy of the United States is to support the principle of the freedom of the seas, and it has consistently opposed the efforts of other countries to limit the freedom of the seas by excessive claims to territorial waters. It is the practice of the Department officially to protest claims to the territorial waters greater in breadth than 3 marine miles from the coast [and fisheries jurisdiction in excess of 12 miles] since it is the view of the Department that under international law it is not required to recognize such claims... In implementation of that policy every reasonable peaceful effort is being made by the Department to protect American nationals engaged in fishing or other occupations on the high seas." (See S. Rept. 2214, 83rd Cong.)

Despite this policy, American fishing vessels continue to be harassed and unlawfully seized and detained while conducting fishing operations on the high seas. The illegal seizure and unlawful detention of United States fishing vessels is the result of certain nations extending their jurisdiction over extreme distances from their coasts, to as much as 200 miles, far beyond internationally accepted limits. In a recent case, seizure took place about 75 miles off the coast of the offending foreign country. The United States Government has firmly and consistently taken the position that such extension of jurisdiction has no basis in international law. On the occasion of each unlawful seizure, the United States Government has lodged strong protests against the responsible government and has devoted considerable efforts in seeking the release of the detained vessel as expeditiously as possible.

The illegal seizures and detentions of our fishing vessels continue and, in fact, appear to be increasing. With more countries unilaterally making similar unreasonable and unjustified claims, it is likely that such seizures may well increase.

Efforts to resolve the problem of fisheries jurisdiction by negotiation have been largely unproductive and, more importantly, have been extremely slow in the eyes of the affected fishermen and vessel owners who are exercising their rights under the "freedom of the seas" doctrine.

The principal purpose of the 1954 Act is to provide a clear direction to the Secretary of State to take whatever steps may be necessary to insure the welfare of a seized vessel and its crew while it is unlawfully detained by a foreign country and to obtain the immediate release of the vessel and crew. In addition, the 1954 Act provides that if a fine must be paid by the vessel owners to obtain the release of the vessel and crew, then such owners shall be reimbursed by the United States. The reimbursement directly relates to, and is in aid of, the primary purpose of the Act—namely, the prompt release of the vessel and crew.

To this extent, the 1954 Act has been successful and a decided aid to the commercial fishing industry in this country.

These seizures and subsequent detentions, however, represent a nuisance to the vessel owner, and, in some cases, a constant source of danger to themselves and their crews. Even more importantly, these seizures and detentions result in substantial economic losses to these United States citizens. The objective of S. 2269 is to give these fishing vessel owners and, indirectly, their crews, an opportunity to recoup some of these losses.

We agree that some additional assistance to United States fishermen is needed while negotiations are continued with the foreign countries to resolve the problem of fisheries jurisdiction. S. 2269 will provide this assistance.

S. 2269 authorizes a 4-year program of guarantees to the vessel owners and their crews. Under the bill, the Secretary of the Interior will guarantee the vessel owners that he will reimburse them for costs incurred, less any depreciation, as a direct result of illegal seizure or detention, or both, for loss, etc., to their vessels, gear, or equipment, and for dockage fees, and utilities. In addition, the Secretary will pay such owners and their crews up to 50 percent of any income lost as a direct result of such illegal seizure or detention, or both. In making this latter payment, the Secretary will base his determination on the value of the average catch per day's fishing during the three most recent calendar years prior to the seizure of the seized vessel. If such experience is not available, then the Secretary may base his determination on the experience of all fishing vessels of the United States of the same type and size.

We believe it is important to limit the income loss provisions to 50 percent, although we recognize that it will not compensate the vessels and their crews fully. The highly speculative nature of this feature in the bill leads us to the conclusion that the percentage should be so restricted.

While we firmly believe that this program is needed, we also believe that the United States should not bear its entire cost. Accordingly, the bill provides for the establishment of fees to be paid by the vessel owners to cover a reasonable portion of the costs of this added assistance program. We believe that these fees should be adequate to cover all of the program's administrative expenses and about 25 percent of any payments made under the guarantee. We recognize, however, that experience may show that it is unreasonable to expect to recover all of these costs to this extent. If this is the case, we will make appropriate adjustments in order to provide the needed assistance.

As we have indicated, we also believe that this program should be viewed as a temporary measure. S. 2269 limits it to 4 years. During this time, we hope to be able to enter into negotiations which will obviate the need for an extension of the program. In any event, we will review the program at the end of this period to determine what course of action should be taken.

Lastly, it has come to our attention that, in some cases, foreign countries have required fishing vessel owners to purchase fishing licenses or pay registration fees or other charges in lieu of fines to secure the release of their vessel and crew. While these charges are probably in reality equivalent to a fine, the 1954 Act has been interpreted as not being available for making reimbursements for such charges. We believe that such charges should be reimbursed because they are a condition precedent to the prompt release of the vessel and crew, just as a fine is a condition precedent to this release. S. 2269 provides for such reimbursement. These charges would not be included in our estimation of the costs of the guarantee program for the purpose of establishing fees.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program, and that if the Committee determines that enactment of S. 2269 is necessary, the Bureau of the Budget strongly believes that the program should be a temporary one, pending continued diplomatic efforts to achieve a lasting solution to the problem.

Sincerely yours,

STANLEY A. CAIN,  
*Assistant Secretary of the Interior.*

DEPARTMENT OF STATE,  
*Washington, D.C., September 6, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I refer to your letter of August 11 requesting a report on S. 2269, a bill "To amend the Act of August 27, 1954, relative to the unlawful seizure of fishing vessels of the United States by foreign countries."

The Act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1971-1976), commonly known as the Fishermen's Protective Act, provides that when any private vessel documented or certified under the laws of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States and there is no dispute of material facts as to the location or activity of the vessel at the time of such seizure, the Secretary of State shall as soon as practicable take appropriate action to attend to the welfare of the vessel and its crew and to secure their release. The Act further provides that any fine paid by the owners to secure release of their vessel under these conditions shall be reimbursed by the Secretary of the Treasury upon certification of the Secretary of State. The Act also directs the Secretary of State to take appropriate action to recover expenditures under this Act from the foreign countries whose seizure of United States vessels occasioned such expenditures.

If enacted, S. 2269 would amend the Act of August 27, 1954, in the following ways:

1. For all United States vessels, it would broaden the scope of reimbursements to be made by the Secretary of the Treasury upon certification by the Secretary of State to include license fees, registration fees, and any other direct charges in addition to fines.
2. For United States commercial fishing vessels, it would empower the Secretary of the Interior to enter into agreements with vessel owners to guarantee payment to the owners of certain actual costs resulting from seizure and detention of a vessel, including damage, destruction, loss, or confiscation of the vessel, its fishing gear, or other equipment, dockage and utility fees, payment to the owners and crew of the market value of fish confiscated or spoiled during detention of the vessel, and payment to owners and crew of up to 50 percent of estimated gross income lost as a result of the seizure and detention of the vessel. The Secretary of the Interior would be authorized to establish by regulation fees to be paid by vessel owners entering into such agreement, the fees to be adequate to cover the cost of administering the guarantee system and a reasonable portion of payments under the system. Payments would not be made for losses covered by insurance or by any other provision of law, and the effectiveness of the guarantee system would be limited to four years commencing 180 days after enactment.

It is the position of this Government to support the free operations of our fishing vessels outside national fisheries jurisdiction extending to a distance of not more than twelve miles from the coasts of all countries, subject only to international law and agreements. It is also the policy of this Government to support the development of the American fishing industry. Nevertheless, unless effective protection is afforded to American fishing vessels operating in zones of the high seas regarded by foreign governments as within their national jurisdiction on the basis of claims which we consider to be without foundation in international law, both the legal rights espoused by this Government and the continued development of the American fishing industry will suffer.

The Department of State is seeking a positive solution for the vexing problem of seizures of United States fishing vessels on the high seas by certain countries. We hope that negotiations for this purpose will take place during the present

years and that they will result in a termination of the practice of seizures. Pending the completion of these negotiations, there is always the risk of further seizures and further unfair and illegal impositions on our fishermen.

As a matter of principle, the items for which this bill would provide compensation out of public funds are in reality claims against foreign governments. They are but one type of a countless variety of claims by United States citizens against foreign governments throughout the world. All such claims are based on conduct of the foreign government claimed by the Government of the United States to have been improper or illegal under international law. It may be pointed out that cases here involving fishing vessels are no different, for example, than claims arising out of taking property and other international claims. Such claims have not been paid out of public funds.

But in this particular case—that of fishing vessels wrongfully seized on the high seas—Congress has passed the Act of August 27, 1954, for the purpose of assisting the owners of seized vessels to obtain the prompt release of their vessels and crews. Its goal is to give our fishing fleet some protection in addition to that provided by diplomacy.

The Act of August 27, 1954, has been of some assistance to the American fishing industry in maintaining and exercising its rights under international law, despite the harassment of seizures which the United States considers illegal. However, the Act is not fully effective in its purpose of obtaining the prompt release of vessel and crew. In order to obtain prompt release, owners of vessels are often required not only to pay a fine, but to purchase a fishing license and a temporary registration, and sometimes to pay other fees.

The Department believes that under the circumstances it would be appropriate to establish a temporary program whereby United States fishermen who are willing to share in the costs can be provided some additional assistance while negotiation efforts continue and that such an approach will not undermine the principle against public compensation for private claims against foreign governments.

Accordingly, the Department recommends amendment of the Act of August 27, 1954, as provided in S. 2269.

The Department believes that these amendments would provide a substantial measure of relief to the American fishing industry without incentive for abuse and serve to support the positions of this Government both in developing our fishing industry and in maintaining our rights under international law.

The Bureau of the Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report and that if the Committee determines that enactment of S. 2269 is necessary the Bureau strongly believes that the guarantee program should be a temporary one, as provided in the bill, pending continued diplomatic efforts to achieve a lasting solution to the problem.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,  
*Assistant Secretary for Congressional Relations.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., October 30, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: Your letter of August 11, 1967, invites our comments on S. 2269, a bill to amend the Act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1971-1976), relative to the unlawful seizure of fishing vessels of the United States by foreign countries.

Under section 3 of the Act of August 27, 1954, the owners of private vessels documented or certificated under the laws of the United States which are seized by a foreign country under the conditions enumerated in section 2 are to be reimbursed by the Secretary of the Treasury in the amount certified to him by the Secretary of State as being the amount of the fine actually paid in order to secure the prompt release of the vessel and crew. Section 2 of S. 2269 would amend said section 3 to authorize reimbursement for "license fee, registration fee, or any other direct charge" in addition to the fine actually paid in order to secure the release of the vessel and crew.

S. 2269 would also add a new section 7 under which the owners of vessels of the United States documented or certified as a commercial fishing vessel whose vessels are seized by foreign countries, upon entering into agreements with the Secretary of the Interior, would be indemnified for all actual costs, other than those covered by section 3 of the Act, incurred by the owners of such vessels during periods of seizure and detention and as a direct result thereof, as determined by the Secretary, resulting from (A) any damage to, or destruction of, such vessel, or its fishing gear or other equipment, (B) the loss or confiscation of such vessel, gear or equipment, or (C) dockage fees or utilities. The owners and the crews also would be indemnified for (1) the market value of fish caught before seizure of such vessels and confiscated or spoiled during the period of detention, and (2) not to exceed 50 per centum of the gross income lost, on the basis of certain stated factors, by being unable to fish as a direct result of such seizure and detention. The bill further provides for the Secretary to establish by regulation fees to be paid by the owners of vessels entering into indemnification agreements, such fees to be adequate (1) to cover the cost of administering the program and (2) to cover a reasonable portion of any payments made by the Secretary under the program.

While we recognized that the proposed legislation is a matter of policy for the determination of the Congress, we believe that the legislation could establish a precedent for other citizens of the United States to request reimbursement, or an insurance program, from the Government for the value of properties that are seized by foreign countries in violation of treaties or international law. The provisions of proposed subsection 7(c) covering the establishment of fees to be paid by the owners of vessels entering into agreements under the program, allows the Secretary a considerable amount of latitude in determining what would be a reasonable portion of the cost of the program to be covered by such fees. It would appear, depending on circumstances, that the cost of the program to be borne by the Government could become substantial, particularly if on account of the program the vessel owners should become more daring in fishing in waters claimed by foreign countries.

For the foregoing reasons, we believe that if S. 2269 is to receive favorable consideration, the bill should be amended to clarify the respective financial responsibility of the Government and of vessel owners generally under the proposed indemnity program.

Sincerely yours,

FRANK H. WEITZEL,  
*Assistant Comptroller General  
of the United States.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., September 19, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: Your Committee has requested this Department's views and recommendations on S.J. Res. 103, a resolution "To authorize and direct the Secretary of the Interior to conduct a survey of the coastal and fresh-water commercial fishery resources of the United States, its territories, and possessions", and a similar resolution S.J. Res. 75.

S.J. Res. 103 directs the Secretary of the Interior to conduct a survey of the coastal and fresh-water sport and commercial fishery resources of the United States. The Secretary is also directed to submit his report on the study through the President to the Congress by January 1, 1969. The Secretary is to utilize existing data sources to carry out the study. In the case of potential or underutilized resources for which such data are not available, the resolution authorizes the Bureau of Commercial Fisheries of this Department to conduct additional studies. The resolution authorizes an appropriation of \$600,000 for the study.

These resolutions are very similar to a resolution enacted May 11, 1944 (58 Stat. 220), from which resulted Senate Document No. 51, 79th Congress, 1st Session, entitled "Fishery Resources of the United States". A survey of this type would provide a meaningful review of the present coastal and fresh-water fishery resources of the United States.

Enactment of this legislation is not necessary to authorize this study because the Department already has the necessary authority. Moreover, our present

authority is not limited in time or amount, and therefore affords the flexibility that is desirable for any study of this kind. No funds have been budgeted or appropriated for this work to date due to other budgetary priorities and needs.

If, however, your Committee believes that such legislation is desirable for purposes of emphasis, we urge that no fixed date be established for reporting to the Congress and that the dollar limitation be removed. These changes would continue our present flexibility while still requiring us to conduct the study. Also, the reference to "the Bureau of Commercial Fisheries" in section 3 of S.J. Res. 103 should be changed to "the Secretary of the Interior".

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,  
*Deputy Assistant Secretary of the Interior.*

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OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., September 22, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S.J. Res. 103, a joint resolution "To authorize and direct the Secretary of the Interior to conduct a survey of the coastal and fresh-water commercial fishery resources of the United States, its territories, and possessions."

Under the Convention on Fishing and Conservation of the Living Resources of the High Seas, which entered into force March 20, 1966, T.I.A.S. 5969, high seas fisheries are subject to nondiscriminatory conservation regulation by agreement among the adjacent coastal nation, nations whose nationals fish the area, and nations having some other special interest in conservation in the area. Where no agreement can be reached, regulations imposed by the adjacent coastal nation or by the nations originally fishing the area must be observed pending decision by a special commission provided for by the Convention. Such regulations imposed by the coastal nation or by the commission must rest on scientific findings as to their necessity and practicability. The purpose of S.J. Res. 103 is to provide the necessary scientific data to support such conservation regulations under that Convention.

S.J. Res. 103 would authorize and direct the Secretary of the Interior to make a study of the commercial and recreational fishery resources of the United States and of high seas areas where the United States has special rights or interests. Existing data should be used, to be supplemented, where wholly inadequate, by additional studies by the Bureau of Commercial Fisheries. Appropriation of not over \$600,000 would be authorized.

This measure does not affect the work of the Department of Justice, and our only comments relate to small matters of wording. The reference to "coastal" fishery resources in the title, in the first and fourth paragraphs of the preamble, and in line 5 on page 2, is unduly restrictive. While "coastal" is not a term or precise meaning, the waters landward of the three-mile limit are often referred to as the "coastal waters" of the United States, and "coastal" fishery resources might be understood as having a similar connotation. If this measure is to reach the full scope of the Convention, a broader term, such as "marine," would be preferable, particularly since the Convention recognizes national interests even in remote areas of the high seas. While the resolution would authorize a survey of "commercial and recreational fishery resources" (page 2, line 6), the title is limited to commercial fishery resources. It would be more accurate either to delete "commercial" from the title or to add "and recreational." The reference to fishery resources "of the United States" in the title is also inaccurate. The fishery resources "of the United States" are those within our inland waters, territorial sea, or exclusive fishery zone. They are subject to the complete control of the United States and therefore are not within the scope of the Convention on Fishing and Conservation of the Living Resources of the High Seas. In view of these comments, a more accurate statement of the purpose of the measure would be, "To authorize and direct the Secretary of the Interior to conduct a survey of marine and fresh-water fishery resources in which the United States has a right or interest." Cf. line 11, page 2.

Whether this legislation should be enacted involves policy considerations as to which the Department of Justice makes no recommendation. This Department has made no recommendation as to similar legislation in the recent past.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,  
*Deputy Attorney General.*

DEPARTMENT OF STATE,  
*Washington, D.C., October 5, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your letters of April 21, 1967, and August 14, 1967, to Secretary Rusk requested the Department's comments on Senate Joint Resolution 75 and Senate Joint Resolution 103 to authorize and direct the Secretary of the Interior to conduct a survey of the coastal and fresh-water commercial fishery resources of the United States, its territories, and possessions.

The Department believes that a sound fishing industry is in the best interests of the United States, and takes such action as is appropriate with foreign governments and international organizations to protect the rights and interests of the American fishing industry on the high seas. To this end, several international fisheries conservation conventions have been entered into and the United States participates actively in the international fisheries commissions which have been established by these conventions. The U.S. Commissioners on these bodies are responsible to the Secretary of State. In addition, various bilateral and multilateral discussions are held with other countries concerning fisheries conservation problems of interest to the United States, under the auspices of this Department. Therefore, it is important to the Department of State that a high degree of knowledge be maintained of the fishery resources off our coasts. It is our belief that the results of the proposed survey would aid materially in the conduct of fishery commission business and our discussions with foreign governments, and the Department would favor the enactment of the proposed legislation as far as its international aspects are concerned.

The resolution, however, also covers matters of domestic concern, and the Department defers to the Department of the Interior on such matters.

The Department notes that the resolution refers to the entry into force on March 20, 1966, of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas and the need for additional scientific information in order to carry out our rights and obligations under the convention. We believe that the entry into force of this convention reinforces the general need cited above for addition information concerning the fisheries resources off our coasts.

The Bureau of the Budget advises that from the standpoint of the administration's program, there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,  
*Assistant Secretary for Congressional Relations.*

## MISCELLANEOUS FISHERY LEGISLATION

THURSDAY, SEPTEMBER 21, 1967

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,  
*Washington, D.C.*

The subcommittee met at 9:30 a.m. in room 5110, New Senate Office Building, the Honorable E. L. Bartlett, chairman of the subcommittee, presiding.

Senator BARTLETT. The committee is in order.

The first witness this morning will be Senator Frank Church.

### STATEMENT OF HON. FRANK CHURCH, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator BARTLETT. Senator Church, we welcome you.

Senator CHURCH. Thank you very much, Mr. Chairman.

Mr. Chairman, I appreciate this opportunity to appear before your subcommittee and urge approval of S. 1784, the bill to amend the Anadromous Fish Act, Public Law 89-304, which I introduced May 16 on behalf of myself and my distinguished colleague from Idaho, Senator Jordan.

The purpose of the Anadromous Fish Act, Mr. Chairman, is to conserve, develop, and enhance the supply of salmon and similar fish which ascend fresh water streams to spawn.

It provides that the Secretary of the Interior may enter into agreements with the States for cooperative action and for matching Federal grants of up to 50 percent for these important programs.

Unfortunately, the Anadromous Fish Act prohibits the spending of funds in the Columbia River drainage. Congress excluded the Columbia drainage because Federal funding was made to that area through the Mitchell Act of May 11, 1938. The Mitchell Act, however, excluded the upper Columbia, and it was not until 1958 that my State of Idaho was allowed to participate in that program.

As I mentioned earlier, the Anadromous Fish Act approved by the 89th Congress, specifically prohibits spending Federal funds in the Columbia River drainage. This was appropriate, Mr. Chairman, for our sister States of Washington and Oregon, because they have numerous anadromous fish streams that pour into the Pacific, and in the case of Washington, also into Puget Sound, all outside of Columbia drainage.

But Idaho's great Snake, Salmon, and Clearwater Rivers—one of the last major spawning grounds for salmon and steelhead trout—are part of the Columbia drainage, and thus excluded from the benefits of the act.

Downstream dams, Indian and commercial fishing have reduced the great runs of salmon and steelhead in the Pacific Northwest, and in Idaho, where this major nursery is located. This is added reason why we should be allowed to participate in this program. With one of the best fish and game departments in the Nation, Idaho is already spending large sums of money on research and management of the anadromous fish, but further Federal assistance is needed.

The bill simply amends the Anadromous Fish Act so as to authorize the State of Idaho to participate under its provisions. This is not, Mr. Chairman, just because it is only fair and equitable, but because these fish sustain an estimated \$50 million annual industry in the Pacific Northwest. The runs must be preserved and the major spawning complex is in Idaho where much of the research and work must be done.

Mr. Chairman, I understand the Interior Department has recommended against enactment of S. 1784 because it would give Idaho the opportunity to receive the benefits of both the Mitchell Act of 1938 and the Anadromous Fish Conservation Act of 1965. It is true that Idaho would receive the benefits of both, but so do her sister States of Oregon and Washington.

The Anadromous Fish Conservation Act, while eliminating Idaho benefits by eliminating use of funds in the Columbia Basin drainage, does provide funds for Washington and Oregon to use on their several rivers that drain to the sea. Idaho has no such rivers, yet she has the major spawning network for the Columbia River which runs through both Washington and Oregon. The Idaho Fish and Game Department reports that our runs of spring and summer Chinook and that fine sportsfish, the steelhead, continue to dwindle.

The Interior Department in its report also points out that two major salmon and steelhead hatcheries are under construction or programmed for Idaho, one near Kooskia, Idaho, on a tributary of the Clearwater, and another at Dworshak Dam. While this is true, there is no certainty they will adequately restore the runs in this great watershed. Neither of these hatcheries is expected to produce fish until after 1970.

Meanwhile, we must make every effort to preserve and restore the runs of these great fish, and I firmly believe that Idaho should become a full working partner in that effort. The enactment of S. 1784 would accomplish this purpose.

I would like to thank you for allowing my appearance. With your permission I would like to insert in the record two letters, one from the Idaho Fish and Game Department urging enactment of this legislation; and the other from the Pacific Marine Fisheries Commission also endorsing and urging passage.

Mr. Chairman, may I add, as you are well aware the construction of the network of dams on the Columbia and the lower Snake River constitutes a formidable threat to the preservation of the salmon, and it would be a terrible loss if this resource, which ought to be maintained in perpetuity, is extinguished.

I think this is a critical time for us to devote as much attention as possible to the preservation of these fish and the full working partici-

pation of Idaho, along with Oregon and Washington. The benefits of this act would certainly contribute to that objective.

(The letters referred to follow:)

STATEMENT FROM THE IDAHO FISH AND GAME DEPARTMENT REGARDING THE ANADROMOUS FISH ACT, PUBLIC LAW 89-304

The Anadromous Fish Act passed by the Congress October 31, 1965 (79 Stat. 1125) authorized the Secretary of the Interior to initiate with the several states a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish and for other purposes. Section 5 of the Act states that "This Act shall not be construed to affect, modify, or apply to the same areas as the provisions of the Act of May 11, 1938 (52 Stat. 345) as amended (16 U.S.C. 755-757)." This Act provided for the lower Columbia River Fisheries Development Program which was enacted in 1938. At that time, the upper Columbia River was excluded from participation in the Act and it was not until 1958 that Idaho became a participant.

Public Law 89-304 prohibits the spending of monies on anadromous fish in the Columbia River drainage. It was the intent of the state and federal agencies to require the participating states of Oregon and Washington to spend their funds on anadromous fisheries in drainages other than the Columbia. Since Idaho's waters which contain anadromous species of fish all drain into the Columbia River system, Idaho was the only state with an anadromous fishery which was prohibited from participating under the Act.

On May 31, 1967, the executive committee of the Pacific Marine Fisheries Commission met in Portland, Oregon, and passed a resolution recommending that Idaho be permitted to participate in the anadromous fisheries program under PL 89-304. The executive secretary was directed to "advise Senators Church and Jordan that the member states of the Pacific Marine Fisheries Commission were in favor of S. 1784 and to send copies of the letter to other congressional delegates of the Pacific Marine Fisheries Commission member states." The membership of the Pacific Marine Fisheries Commission is composed of the States of Washington, Oregon, California and Idaho. The Bureau of Commercial Fisheries has, likewise, approved Idaho's participation in the program.

If S. 1784 is approved, Idaho's apportionment would be the minimum allowable under the Act. Participants under PL 89-304 are required to match federal funds. Idaho is prepared to meet this obligation. The Idaho Fish and Game Commission urges the Congress to approve S. 1784.

PACIFIC MARINE FISHERIES COMMISSION,  
*Portland, Oreg., September 15, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The Pacific Marine Fisheries Commission urges the passage of S. 1784—to amend the Anadromous Fish Act to authorize participation by the State of Idaho.

Idaho at present is prevented from participation in the Act because all of Idaho's anadromous fish streams are within the Columbia River drainage. Idaho has some of the most important of the few remaining "upper-river" salmon and steelhead runs in the Columbia River drainage and has spent, and is continuing to spend, large sums of money and effort on the protection and enhancement of these runs.

California, Oregon and Washington, who are partners with Idaho in the Pacific Marine Fisheries Compact, since they have anadromous fish streams outside the Columbia River drainage, can participate in the Anadromous Fish Act. They regard Idaho's exclusion as an inequity and a negation of Congress' desire to encourage each and every State to expand its anadromous fish programs.

The Pacific Marine Fisheries Commission thanks the Commerce Committee for the opportunity to file this statement in favor of S. 1784.

Respectfully,

LEON A. VERHOEVEN,  
*Executive Director.*

Senator BARTLETT. Thank you, Senator Church.

Perhaps you will be good enough to submit, at a later date, for the

record, a statement which I imagine you can obtain from the Idaho Commission, as to the comparative runs during the last decade or so. You stated they are dwindling, which we know, and I think some precise figures might be helpful for the committee.

Senator CHURCH. Mr. Chairman, I would be pleased to do that.

I might also add at this point a chart which shows the percentage of the spring, summer and fall Chinook and the summer Steelhead that come from the Northwest, that are born and produced in Idaho. I think this illustrates, Mr. Chairman, the tremendous importance of Idaho as the spawning ground for the fish.

For example, spring Chinook, 224,000. Thirty percent were produced in Idaho.

Summer Chinook, 94,000; 41 percent were produced in Idaho.

Summer Steelhead, 212,000; 55 percent were produced in Idaho.

COLUMBIA RIVER FISH RUNS

Species	Average run in Columbia River	Percentage produced by Idaho
Spring Chinook.....	224,000	30
Summer Chinook.....	94,000	41
Fall Chinook.....	365,000	5
Summer steelhead.....	212,000	55

So I think it indicates that Idaho is fully as important as either Oregon or Washington to the spawning of these fish, and yet Idaho is one of the three States in the Columbia drainage not participating in the benefits of this act.

Senator BARTLETT. What are the other two, do you know?

Senator CHURCH. I understand these are Montana and Wyoming.

Senator BARTLETT. Senator, aside from everything else, aside from the opposition of the Interior Department, I must say that we all react on account of personal observations, and mine in this case is inclined to be somewhat favorable, because I remember when you and I held hearings in Lewiston, and then made that great trip to the Snake River in an airplane, the likes of which I never rode in before or since.

Senator CHURCH. Yes.

Senator BARTLETT. And there is no doubt whatsoever that there is an imperative need to maintain and enhance, if we can, the run of salmon from these Idaho streams.

Thank you very much.

Senator CHURCH. Thank you, Mr. Chairman.

I was in Lewiston last Sunday and your trip there is still remembered. Several of your friends asked that I convey their regards to you.

Senator BARTLETT. Thank you. It comes closer to being a town similar to an Alaska town than any I have ever been in.

Senator CHURCH. Thank you, Mr. Chairman.

Senator BARTLETT. The next witness is Ambassador Donald McKernan.

Mr. McKERNAN. Mr. Chairman, with your permission I will bring Mr. Burdick Brittin, my deputy with me, to help answer some specific questions.

STATEMENT OF AMBASSADOR DONALD MCKERNAN, SPECIAL ASSISTANT TO THE SECRETARY FOR FISHERIES AND WILDLIFE, U.S. DEPARTMENT OF STATE, WASHINGTON, D.C., ACCOMPANIED BY BURDICK BRITTIN

Mr. MCKERNAN. Mr. Chairman, my name is Donald McKernan, and I am special assistant for fisheries and wildlife to the Secretary of State. I am glad to have the opportunity to appear before your committee today and to make a statement on several bills relating to fisheries.

Senator BARTLETT. You are special assistant for fisheries and wildlife to the Secretary of State, but while you are acting in a negotiating capacity, you are also ranked as an ambassador; is that not so?

Mr. MCKERNAN. Yes, Mr. Chairman.

Senator BARTLETT. And you are certainly negotiating now, so I will refer to you henceforth as ambassador.

Mr. MCKERNAN. Thank you, Mr. Chairman.

The first of these bills is S. 2269, a bill to amend the act of August 27, 1954, relative to the unlawful seizure of fishing vessels of the United States by foreign countries.

The Department of State recommends the enactment of this bill.

The act of August 27, 1954, commonly known as the Fishermen's Protective Act, provides that in cases where a private vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States, and when there is not dispute of material facts as to the location or activity of such vessel at the time of seizure, fines paid in order to secure the prompt release of the vessel shall be reimbursed by the Secretary of the Treasury upon certification of the Secretary of State.

The bill under consideration would amend the act of August 27, 1954, as follows:

1. For all U.S. vessels, it would broaden the scope of reimbursements to be made by the Secretary of the Treasury upon certification by the Secretary of State to include license fees, registration fees, and any other direct charges in addition to fines.

2. For U.S. commercial fishing vessels, it would add a new section which would empower the Secretary of the Interior to enter into agreements with vessel owners to guarantee payment to the owners of certain actual costs resulting from seizure and detention of a vessel, including damage, destruction, loss or confiscation of the vessel, its fishing gear or other equipment, dockage and utility fees, payment to the owner and crew of the market value of fish confiscated or spoiled during the detention of the vessel, and payment to owners and crew of up to 50 percent of estimated gross income lost as a result of the seizure or detention. The Secretary of the Interior would be authorized to establish fees to be paid by vessel owners entering into such agreements, the fees to be adequate to cover the cost of administration of the guarantee system and a reasonable portion of payments under this system. The establishment of the guarantee system would be limited to 4 years beginning 180 days after enactment.

It is our position that American fishing vessels have the right to operate freely outside national fisheries jurisdiction extending not

more than 12 miles from the coasts of all countries, subject only to international law and agreements. It is also our policy to support the development of the American fishing industry. In maintaining and advancing these policies we have encountered serious problems arising out of seizures by foreign governments of American fishing vessels in areas of the high seas on the basis of claims which we consider to be without foundation in international law.

The Department of State is actively seeking a positive and lasting solution to these problems. We hope that negotiations to this end will come about within the near future. However, pending the successful completion of such negotiations we continue to face the risk of further seizures and consequent hardships for our fishermen.

The act of August 27, 1954, has been of assistance to the American fishing industry. However, it is not fully effective in its purpose of obtaining prompt release of vessel and crew. Vessel owners are often required not only to pay a fine but also to purchase a fishing license and registration and on occasion to pay other fees incident to the seizure and detention.

Under these circumstances we believe it would be appropriate to establish a temporary program to provide additional assistance to American fishermen who are willing to share the costs. The Department believes these amendments would provide a substantial measure of relief to U.S. fishermen without incentive for abuse and would serve to support the positions of this Government in developing our fishing industry and in maintaining our rights under international law.

Accordingly we recommend the amendment of the act of August 27, 1954, as provided in S. 2269.

Senator BARTLETT. Mr. Ambassador, do you think there would be any difficulty, any considerable difficulty, in estimating what the losses were?

Mr. MCKERNAN. No. I don't believe so. The out-of-pocket losses of course can be substantiated, and have in fact been substantiated in the past. I see no problem here.

The matter of the amount of catch that might have been taken during this period can also be computed on the basis of the past recorded catch. The Inter-American Tuna Commission keeps excellent statistics on the catch by American vessels, American-flag vessels.

Senator BARTLETT. Is it true that the compensation would be paid from the fund jointly established by the Government and by industry?

Mr. MCKERNAN. Yes. The industry would be paying for part of this, that is the additive costs and part of the costs of payment from the fund.

Senator BARTLETT. Now, as provided for in S. 2296, this bill, if it became law, would run for a period of 4 years; is that right?

Mr. MCKERNAN. Yes.

Senator BARTLETT. We were told yesterday by Mr. Crowther, Director of the Bureau of Commercial Fisheries, that it is estimated that the total Federal cost during the life of the act would not exceed \$600,000. It would be roughly \$150,000 a year. Is that in harmony with your own conclusions?

Mr. MCKERNAN. That is approximately so, Mr. Chairman.

Senator BARTLETT. Mr. Wedin thinks it was \$120,000, something over \$900,000 total.

Mr. McKERNAN. It is a little hard to judge, but it seems to me that it is in this general magnitude. This corresponds very well with the estimates that we have made independently, Mr. Chairman.

Senator BARTLETT. Did you testify before the House Merchant Marine and Fisheries Committee on this bill?

Mr. McKERNAN. Yes; I did.

Senator BARTLETT. A shattering event, as you know, took place Monday, or perhaps you didn't know, because you have been down in Mexico. While you were in Mexico negotiating, something happened on the floor of the House. The companion bill went down to defeat when an attempt was made to bring it up under suspension of the rules, which requires a two-thirds vote.

In light of that misfortune over there, is it worthwhile in your judgment for this committee and for the Senate to try to put the bill through?

Mr. McKERNAN. I believe so, Mr. Chairman. I think this was a very unfortunate thing that happened in the House. My own judgment is that this bill is very necessary.

I would hope that it could be brought up again under some appropriate procedures in the House. But I would strongly recommend that this committee and the Senate proceed and pass this legislation which I believe is necessary as a temporary measure until we can successfully negotiate and end to this conflict, which, incidently, finds the U.S. fishermen caught between the differences of opinion between our Government and the governments of certain Latin American countries with respect to jurisdiction over waters off their coasts.

It seems to me, Mr. Chairman, that the fisherman is protecting the rights of Americans on the high seas, and it is unfortunate that he has been made to carry such a very heavy and disproportionate load.

This legislation, it seems to me, tends to be only fair, because it tends to represent some protection for him against the losses noted earlier. Additionally, from the standpoint of the Department of State, we want to do everything we can to get him out fishing, so he can continue to bring the riches of the sea back to our country and enhance the welfare of our fishing industry.

Senator BARTLETT. We are told that one of the arguments made in the House against the bill was that it failed to carry some mandatory language cutting off foreign aid or the like unless these Central American countries came around to our way of thinking.

Do you have any information as to whether the State Department would approve legislation with mandatory features?

Mr. McKERNAN. I am quite certain, Mr. Chairman, that the Department would not approve any legislation which carried a mandatory clause ending foreign aid to those nations that have opposing views concerning jurisdiction.

It seems to me, at least in my personal judgment, that this would not solve the problem. I note that the general foreign policy of this country is to encourage greater cooperation between South American countries and the United States.

It is my understanding that this is proceeding quite satisfactorily. Legislation making the cutoff of aid mandatory would operate against our general policy and I doubt very much if these countries could be bludgeoned by this particular action. I am convinced, Mr. Chairman,

that we must sit down and talk to these countries and attempt to work out a solution which will be fair and equitable to all concerned. It is obvious that these countries do have rich resources off their coasts, some of which are providing very important wealth to them.

For example, the anchoveta fishery off Peru, is the biggest fishery in the world. I can understand their concern. It seems to me we ought to be capable of negotiating with them, discussing and understanding mutual problems, and thus find a solution to the problem without threats and without impairment of the broad and positive foreign policies of this country.

Therefore, I don't believe that a mandatory provision in this bill would accomplish a satisfactory solution to the problem.

Senator BARTLETT. How is the Peruvian fishery? Is it maintained at a high level or is it declining?

Mr. McKERNAN. No; it is being maintained at a very high level. Scientists from the United States have been cooperating very closely with scientists of the United Nations specialized agencies, such as FAO and the Peruvian scientists; also there is quite an effective conservation program in effect right now and this fishery is being maintained at a very high level of productivity. In fact, I think this year, because of market conditions, the fishery very likely didn't take all of the fish that could have been taken.

Senator BARTLETT. Do these countries down there which go out to 200 miles claim that as a territorial sea or as a fishery zone?

Mr. McKERNAN. This is somewhat complicated, but the majority of them who do claim these excessive jurisdictions claim these as territorial jurisdictions.

Senator BARTLETT. All right, Mr. Ambassador, you may proceed to the next bill.

Mr. McKERNAN. I would like next to comment on S. 1260, a bill to amend the Northwest Atlantic Fisheries Act of 1950. This act is the implementing legislation for the International Convention for the Northwest Atlantic Fisheries, 1949, and amendments are now being proposed in order to take into account certain changes in the convention and for other purposes. At present the act is concerned only with the conservation of fish and shellfish. A protocol to the convention entered into force on April 29, 1966, and was proclaimed by the President on May 23, 1966. This protocol permits the conservation of harp and hood seals under the terms of the convention. Although U.S. citizens do not participate in the hunting of harp and hood seals at present, the Department of State believes that the U.S. Government should be in a position to enforce such measures for the conservation of these mammals as may come into force under the protocol and thus to fulfill obligations which this Government assumed in ratifying. In fact, conservation measures for harp and hood seals were adopted by the International Commission for the Northwest Atlantic Fisheries at its 1967 annual meeting. These measures are expected to enter into force early in 1968. It would, therefore be desirable that the act of 1950 be amended expeditiously in order that the United States may enforce these measures as necessary once they enter into force.

Another purpose of the bill is to remove an ambiguity in the act. Section 4(b) provides that not more than five members of the industry advisory committee to the U.S. Commissioners on the Commission,

upon approval by the Commissioners, may be paid their expenses "incident to attendance at meetings outside of the United States \* \* \*." The Department of State has interpreted this provision to mean that up to five committee members may be paid their expenses to Commission or panel meetings outside the United States but that no committee member may have his way paid for any meetings within the United States. This is inequitable since it requires committee members to pay their own expenses if they are to attend such meetings in this country. Another possible interpretation is that not more than five committee members may have their expenses paid to meetings outside the United States but that there is no limit on members who may have their way paid to meetings inside the United States.

This would also be undesirable. We believe that clarification is needed and that the act should clearly limit the number of committee members who may have their expenses paid to meetings but that it should be possible to pay their expenses to meetings held within the United States.

Since the submission of the original draft legislation other agencies of the Government have suggested modifications of the draft. These modifications would have the effect of more clearly including hood and harp seals, sealing and sealers, within the scope of the Act. They would also enlarge the definition of fish in the act to include mollusks and other forms of marine life, thus taking into account the declaration of understanding of April 24, 1961, 14 UST (pt. 1) 924. This declaration states that the terms "fish," "fishery," and "fishing" in the convention include mollusks as well as finny fish. The suggested changes would also amend the definition of "convention" in the act to make clear that it includes amendments such as the 1961 declaration of understanding and the 1963 protocol, as well as the convention of 1949.

The proposed changes are quite agreeable to the Department of State and we recommend enactment of the bill as amended.

Senator BARTLETT. Mr. Ambassador, does the bill as we have it before us now, S. 1260, incorporate all of the changes you suggested?

Mr. McKERNAN. Yes.

Senator BARTLETT. What does UST mean?

Mr. BRITTIN. U.S. treaty, sir.

Senator BARTLETT. Your statement used the same word as did that of Mr. Crowther yesterday, the word being "ambiguity." It doesn't seem to me there is any ambiguity at all. This says you can't pay them. I have no further questions. Mr. Wedin?

Mr. WEDIN. Yes. Assuming the bill is passed, what are the prospects of the State Department being able to pay these things? What kind of funds do you have, for example, for committee members, advisory people? I think you know what I am getting at. We have a number of international meetings coming up, and we have some advisers, some of whom are present in this room, who do not have individual expenses from their own organizations to go to these places and to fulfill an obligation for the United States for instance.

Do you have funds available, assuming you have the authority?

Mr. McKERNAN. I don't have funds in my own special budget within the Department, but the Department does have a limited amount of funds for this purpose. However, the Department does not have anywhere near enough, Mr. Counsel, and therefore it is necessary to be

very selective and sometimes, at least at certain times of the year, when international meetings have arisen that were not contemplated, it is sometimes necessary to reduce the numbers going, or even sometimes necessary to refuse to pay for any advisory committee members.

But the Department takes the view that we should pay these expenses for committee members, because as you say it is possible for some members who represent large associations, are capable of paying their own way; but on the other hand, other very valuable advisers, as we both know, sometimes are eliminated because the expenses would have to come out of their own pocket, which obviously is not fair.

Of course, it has been my experience, in fishery negotiations and fishery commissions' meetings that it is essential to have representation from a broad spectrum of the American fishing industry, from fishermen, boatowners, processors, and in some cases distributors of fishery products.

So basically it is our policy to provide these expenses. Unfortunately from a practical point of view, the Department is usually unable to do so simply because enough funds are not available.

Mr. WEDIN. Being a little more specific now, we have forthcoming very shortly the meetings in Tokyo, of the North Pacific Commission. We have some meetings coming up in Moscow. I am not really clear on this, from your last letter, whether this covers the Mid-Atlantic, and the people in the Northwest seem to be confused, whether this is the renewal of the Soviet agreement.

Certainly we need industry advisers, whether it covers either one or both. Is the Department going to be in a position to pay industry advisers to attend these meetings? Certainly the United States will benefit from such contributions.

Mr. McKERNAN. Well, we are going to do the best we can. I can't tell you positively because these funds have positive limitations.

But it certainly will be our recommendation to have adequate representation of industry and we believe strongly that it is the responsibility of the Department to provide for adequate funds to pay the way of these people.

But I, of course, am not in a position to promise this. I can simply say I will do the very best I can.

Senator BARTLETT. At the same time you know there is an imperative need at this time to hold down Federal spending.

Mr. McKERNAN. I am made aware of it almost daily, Mr. Chairman.

Senator BARTLETT. When is the meeting in Tokyo?

Mr. McKERNAN. In early November. I believe it starts November 4, approximately that time anyway, Mr. Chairman.

I would point out for the record and for other members of this committee that you have been a valuable adviser at these meetings in the past, and I would like to take this opportunity, on behalf of the American section of the Commission, invite you to attend and to lend your expertise in this field to that meeting.

Senator BARTLETT. You are very kind, of course, but I have to be mindful of the huge deficit which we are incurring in the Federal Government.

Mr. McKERNAN. Mr. Chairman, I would like to correct for the record, the meeting starts on the 6th instead of the 4th as I said.

Senator BARTLETT. Do you know, Mr. Ambassador, if there is a companion bill in the house to the one we are discussing?

Mr. McKERNAN. Yes.

Senator BARTLETT. S. 1260?

Mr. McKERNAN. I am not certain about that, Mr. Chairman, could I provide that for the record?

Senator BARTLETT. We don't need to. We can discover that without any difficulty. We should know. All right, you may proceed.

Mr. McKERNAN. The next of the four bills is S. 2232 to amend section 1082 of title 16, United States Code, relating to the prohibition of foreign fishing in the territorial waters of the United States. This bill would require forfeiture of any vessel, including its tackle, apparel, furniture, appurtenance, cargo, and stores, that had been "employed for a second time in any manner" in violation of the prohibition on foreign fishing within U.S. territorial waters or contiguous fisheries zone. The Department opposes the enactment of this bill.

The present law provides that vessels unlawfully fishing in these waters, their gear and their catch taken in violation of the law are subject to forfeiture. We believe that discretion should be left to the courts to determine what penalties should be applied within the maximum, as is the case under most statutes providing penalties for violation of law. Under the proposed legislation this discretion would be removed and a very heavy penalty would be required even in cases where the second violation was a relatively minor offense. We feel that the existing legislation can be made an effective deterrent to unlawful foreign fishing without a mandatory penalty of such severe nature in every case of a second offense. The value of many of the foreign fishing vessels operating near our coast runs into the millions of dollars and the penalty proposed in the draft legislation could be greatly disproportionate to the nature of the offense and the damage to our fishing interests.

Such legislation might also have a damaging effect on certain broad interests of the U.S. fisheries. It might encourage other countries to impose similar penalties against our own fishing vessels which may be seized while fishing within areas considered by other countries to be under their fishery jurisdiction. Further, the mandatory application of such penalties as envisaged in S. 2232 might very well make it much more difficult for us to obtain agreements with other countries designed to afford more protection to our domestic fisheries than our present contiguous fishery zone provides.

Senator BARTLETT. I have no questions, Mr. Ambassador. But in light of the fact that my name appears as a cosponsor of this bill, I must say I am profoundly shocked by the opposition of the Department of State. Mr. Wedin?

Mr. WEDIN. No questions.

Senator BARTLETT. The next bill.

Mr. McKERNAN. Finally I should like to comment on S. 1752, to amend the act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels. This bill would amend the act of May 20, 1964, by specifically prohibiting foreign vessels and nationals from engaging in activities in support of a foreign fishery fleet within U.S. territorial waters or contiguous fishery zone.

It has been assumed by many, I believe, that such support activities by foreign vessels and nationals would logically be included within

the definition of "fisheries" or "fishing" as used in the act of May 20, 1964. However, the act does not include any specific ban on such support activities, and I understand that there is a question as to the applicability of the law to foreign nationals and vessels engaged in support operations within waters in which the United States exercises jurisdiction over fisheries. In this connection we note that Japan and the Soviet Union have agreed to the incorporation in bilateral agreements with the United States of the principle of control by the United States over the loading and transfer operations of their vessels within our contiguous fisheries zone.

The Department feels that S. 1752 would provide a useful clarification of this situation, and we therefore support the enactment of the bill. We believe, however, that clarifying language or legislative history should be adopted to make clear that the bill is not intended to expand the jurisdiction of the United States over the contiguous zone beyond what was asserted in 1966. At that time, the United States asserted jurisdiction over fisheries in the 9-mile zone; this jurisdiction was the same as the jurisdiction over fisheries that the United States had asserted, consistent with its domestic law and navigation treaties, in its territorial sea.

Any attempt to expand our jurisdiction beyond fisheries operations would be inconsistent with our own positions on the requirements of international law and freedom of the seas.

Moreover, it would probably encourage other nations similarly to broaden their assertions of jurisdiction over the high seas. Consequently, the Department of State believes that the point should be made clearly that the United States does not by this legislation intend to expand its jurisdiction over the 9-mile zone.

Senator BARTLETT. At this point in the record will be inserted a letter addressed to the chairman, Chairman Magnuson, relating to this bill from the Assistant Secretary for Congressional Relations, Department of State, William B. Macomber.

(The letter follows:)

DEPARTMENT OF STATE,  
Washington, D.C. September 20, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of May 12, 1967 enclosed a copy of S. 1752. A Bill to amend the Act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels, on which the Department of State's comments were requested.

The purpose of the proposed legislation is to amend section 1 of the Act approved May 20, 1964 (78 Stat. 194) so as to make it unlawful for any vessel except a vessel of the United States, or for any master or other person in charge of such a vessel, "to engage in activities in support of a foreign fishery fleet" within the territorial waters of the United States or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters, i.e., the 9-mile contiguous fishing zone. Exception would be made for rights accorded by international agreement.

It is possible to construe the phrase in the bill "activities in support of a foreign fishing fleet" as extending the Act of October 14, 1966. We believe that the 1966 legislation was confined, and strictly confined, to establishing effective national control of fisheries operations in the 9-mile zone contiguous to United States territorial waters; it did not otherwise assert United States jurisdiction in that zone. We also understand that the purpose of the present bill is not to extend United States jurisdiction as asserted in 1966, but only to clarify the impact of that assertion of jurisdiction.

If our understanding is correct, the Department of State fully supports S. 1752. If, however, our understanding is incorrect, we should point out that the United States has taken the position that an assertion of jurisdiction beyond the territorial sea for purposes other than fisheries is inconsistent with international law and freedom of the seas.

In fact, the United States already has two agreements, one with Japan (TIAS 6287) and one with the U.S.S.R. (TIAS 6218), which designate limited areas within the contiguous zone in which vessels of the Soviet Union and Japan would conduct loading operations. The explicit assertion in the bill of authority over fishing support operations in this sense, would therefore, be in accord with developing international practice.

On the other hand, while coastal States may extend their jurisdiction over fishing operations beyond their territorial waters, we believe it would be a mistake to broaden our control beyond activities uniquely associated with the conduct of fishing operations. Such a development could support the claims made by some other States to a 12-mile breadth to their territorial waters.

For this reason, the Department of State suggests the adoption of S. 1752 with clarifying language or legislative history that limits the application to activities uniquely associated with the conduct of fishing operations.

The Bureau of the Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,  
*Assistant Secretary for Congressional Relations.*

Senator BARTLETT. I have no other questions, thank you very much, Mr. Ambassador.

The next witness is Mr. William R. Neblett, executive director, National Shrimp Congress.

**STATEMENT OF WILLIAM R. NEBLETT, EXECUTIVE DIRECTOR,  
NATIONAL SHRIMP CONGRESS, INC., KEY WEST, FLA.**

Mr. NEBLETT. Mr. Chairman, I must apologize to the committee for not having a prepared statement and unfortunately recent illness and recent negotiations in Mexico and hurricanes and other activities have prevented the preparation of such a statement.

Following the distinguished Ambassador from the Department of State, the shrimp industry which I represent could almost say "Me too" to the remarks of the Ambassador.

I would like to say one or two short words concerning the domestic shrimp industry.

The National Shrimp Congress has as member associations the Texas Shrimp Association, Louisiana Shrimp Association, the Florida Shrimp Association, and Southeastern Fisheries. Broadly, we represent about 70 percent of the domestic shrimp industry which is the number one industry in dollar value in the United States.

Mr. Crowther of the Interior Department, Bureau of Commercial Fisheries, has estimated that this year the domestic shrimp fishery will produce over \$100 million to the shrimp fishermen and the vessels, which will be the first time in our country's history that this much money has come to any one fishery.

The domestic shrimp fishery also accounts for approximately 25 percent of all of the domestic fisheries in the country.

Fisheries are beset with many hazards, as the men who go down to the sea in the ships can testify and as the recent hurricane off Brownsville has evidenced. But one of the many hazards we do have is the hazard of dealing in international waters and off unfriendly coasts.

With regard to the shrimp crop, many U.S. shrimp vessels fish near the coast of Latin countries, and off the coast of South America, so that to us the international facets of this in fishing are very important.

The shrimp fleet has to be mobile, and the larger newer vessels have the necessary mobility to go wherever the shrimp are, because the shrimp beds are found in many different places at different times of the year.

Our larger vessels are capable of leaving an American port and staying at sea for 6 weeks to 2 months without landing at any foreign port.

With regard to the specific legislation that is proposed here, with respect to S. 2269 to provide additional protection for owners of private fishing vessels seized by foreign countries, the shrimp industry of the United States is very definitely in favor and urges the passage of this legislation despite the temporary setback in the House. We believe this is a fair piece of legislation as proposed. It is a partnership affair in which the domestic industry shares, as it is not one of the giveaway programs, to which some of the public might be opposed.

With regard to S. 2232, which would provide the seizure of the vessel convicted a second time of violating U.S. territorial waters, the shrimp industry is definitely opposed to the enactment of this legislation.

The Senator will recall that while S. 1988 was still pending passage here in Washington, on the House side, that an incident occurred in my hometown of Key West, where four Cuban vessels were seized. This matter was handled by local courts, not even Federal courts. But with due regard to the interests of the U.S. fisheries, the matter was very capably disposed of, the fines were assessed against the vessels and they have not come back.

In Admiralty law the control of the vessel itself is always the important point. Every court has an absolute control of what the disposition of the case will be, because the vessel is in its possession, in an in-rem proceeding, and therefore the ultimate penalty that can be assessed against the vessel is the seizure of the vessel and this is always within the court's jurisdiction.

It appears to me that not only would we be taking an important decision away from local judges in local circumstances, but we would also not be doing a good service to our relations with countries elsewhere. Now this is particularly true with us in shrimp, and I feel sure in tuna, who engage in distant fishing off the coasts of other nations.

Our experience in negotiating with these nations around the conference table is that they do their homework and they are thoroughly familiar with our own laws, our own procedures, our own incidents, and wherever it suits their national interests, they use these matters against us. Therefore to avoid such retaliation on the part of any of these countries with whom we have incidents, and yet with whom we are still discussing possibilities of fishery settlements, I believe that this legislation would be most harmful.

With regard to the Senate Joint Resolution 103 authorizing and directing the Secretary of the Interior to conduct a survey of the coastal and fresh water commercial fishery resources of the United States, we urge that this be favorably considered, and it is similar to a resolution in the last session of the Congress, I believe 78, which we certainly thought should be backed.

There are tremendous coastal resources that have not yet been explored, and one of the things that prevents us from really studying the international matter of the boundaries and the control of fisheries is the lack of knowledge of the various species that may be very commercially important to this country.

The National Shrimp Congress and the domestic industry is also in favor of S. 1752, which would prohibit fishing in territorial waters of the United States and certain other areas by the use of processing vessels, and also that would help—that also I believe helps the king crab which is covered under the Continental Shelf theory.

As to the other bills proposed and hearings being heard today, either we have no objection or no particular favoritism toward these bills, but we believe that the committee in its wisdom will certainly handle them well, and we thank the committee for its interest and support of the U.S. fisheries.

Senator BARTLETT. Mr. Wedin?

Mr. WEDIN. No questions.

Senator BARTLETT. No questions.

Thank you.

Mr. Jay S. Gage, general superintendent, New England Fish Co., Seattle, Wash.

**STATEMENT OF JAY S. GAGE, GENERAL SUPERINTENDENT,  
NEW ENGLAND FISH CO., SEATTLE, WASH.**

Mr. GAGE. Senator Bartlett, my name is Jay S. Gage, I am vice president of the New England Fish Co., and I am here today in behalf of the Association of Pacific Fisheries, which is an organization of canners in the Pacific Northwest and particularly in the Alaska salmon industry.

I have no prepared statement, but Mr. Biele is prepared to make a statement tomorrow and will submit it to the committee.

If I may, Senator, I would like to briefly describe what a cannery tender is, because there apparently is some confusion with respect to the definition of a "cannery tender" vessel and how it is used.

I presume that you are well aware of this, but a cannery tender is a vessel that is used to transport fish from the fishing grounds after they have been caught by the fishermen to the point of processing, which is a cannery. Necessarily to get this vessel to the location in Alaska involves a northbound trip and a southbound trip.

The northbound trip for the vessel is outfitted with supplies that are necessary to the canning operation, and we also carry supplies which are used by independent fishermen in the particular area and we do this as an accommodation. In no way do we construe this as "freight for hire" in the sense that those words are used by the Coast Guard and in the legal fraternity. These are accommodations made to not only fishermen, but to communities.

I might cite as an example the community of Egegik in Bristol Bay. We transported the building materials for the new school. We did this without charge and as an accommodation to the community. This is done customarily and has been done since the inception of the canning business.

The recent interpretation by the Coast Guard in the 13th Naval District and also the 17th Naval District apparently cloud this issue to some degree.

Also a cannery tender is used to move supplies from the cannery to the fishermen, particularly fuel and groceries. A good example of this would be in the Copper River area, where gasoline, bread, pastries, meat, vegetables are daily transported to the fishing grounds by the cannery tender.

Likewise a cannery tender is used to transport personnel from the fishing ground to the cannery and to the communities adjacent thereto. These are members of the public, and in a good many instances they are people in State and Federal Government that are concerned with the fishery, and it is necessary that they—and it is the only way that they can—get to a cannery location.

It seems to members of the association almost ridiculous that this can be construed as either carrying personnel or cargo for hire. And S. 2047 would clarify this issue. And we urge its enactment.

Senator, I think there is nothing else I can say, unless you have any questions.

Senator BARTLETT. Mr. Wedin?

Mr. WEDIN. I have no questions.

Senator BARTLETT. What is the size of the average cannery tender, Mr. Gage?

Mr. GAGE. Cannery tenders range in tonnage from an average of 30 gross tons to slightly over 300 tons. The overall length is anywhere from 40 feet to 200 feet.

Senator BARTLETT. How many canneries does your company have in Bristol Bay?

Mr. GAGE. Our cannery—our company has two canneries in Bristol Bay. There are about 160 cannery tender vessels used in the Alaska salmon industry.

Senator BARTLETT. Where are your canneries in Bristol Bay located?

Mr. GAGE. Egegik, Naknek, Kvichak.

Senator BARTLETT. You made a huge profit in Bristol Bay this year, did you not?

Mr. GAGE. Senator, we had the biggest flop since 1897, 70 years.

Senator BARTLETT. Do you have any canneries elsewhere in Alaska?

Mr. GAGE. Yes, sir; Senator, we have a cannery at Uganik, Alaska, Sand Point, Orca—I might as well keep going—Chatham, Noyes Island, and Ketchikan.

Senator BARTLETT. Actually this was the worst salmon packing season during this century in Alaska, was it not?

Mr. GAGE. Yes, it was.

Senator BARTLETT. Some huge losses were sustained by the packers, the fishermen and by the cannery workers; right?

Mr. GAGE. That is correct. Particularly in areas where—well, it is almost unbelievable, our cannery in Ketchikan we have operated continuously since 1907, and the total pack this year was 2,205 cases, as compared to 220,000 cases last year.

Senator BARTLETT. Mr. Mortem, the Director of the Bureau of Indian Affairs, was telling me he talked to an Eskimo fisherman from up north not long ago whose total check for the season was \$1.53.

I have no further questions. The committee will be in recess for 5 minutes.

(Recess.)

Senator BARTLETT. Mr. Gage, have predictions yet been made as to the 1968 salmon season in Alaska?

Mr. GAGE. The only formal prediction, Senator, is an initial forecast by the Alaska Department of Fish and Game for the Bristol Bay run. This is indicated to be in the neighborhood of this year's size run, approximately 5 million fish for the commercial fishery.

Senator BARTLETT. Another disaster?

Mr. GAGE. Yes, sir.

Senator BARTLETT. How about the pinks, the pink run?

Mr. GAGE. Well, there is no specific forecast yet for the various pink salmon areas, but on a cyclical basis we don't look for a big run in 1968.

Senator BARTLETT. Thank you very much.

The next witness is August Felando, general manager, American Tunaboat Association, San Diego, Calif.

**STATEMENT OF AUGUST FELANDO, GENERAL MANAGER, AMERICAN TUNABOAT ASSOCIATION, SAN DIEGO, CALIF., AND CHARLES E. JACKSON, TUNA RESEARCH FOUNDATION, WASHINGTON, D.C.**

Let the record show that instead of appearing independently and following Mr. Felando, Mr. Charles E. Jackson, Tuna Research Foundation, Washington, D.C., is accompanying Mr. Felando on the witness stand.

Mr. FELANDO. Thank you, Mr. Chairman.

I am August Felando and I am appearing before this subcommittee on behalf of the American Tunaboat Association. I am the general manager of this nonprofit fishery cooperative association, incorporated under the laws of the State of California, with its principal office of business in San Diego, Calif.

The American Tunaboat Association has been in existence for over 40 years. The membership is comprised exclusively of tuna fishing vessel owners. Annually, our members catch and unload over 60 percent of all tropical tunas landed in the United States by vessels operating from the United States. Some of our members operate from Puerto Rico. Of the some 38,000 tons of frozen tuna carrying capacity in the entire American tuna fleet, about 25,000 tons is represented by the membership of the American Tunaboat Association.

For the purpose of this hearing, I am also representing the National Marine Terminal, Inc. This firm operates 12 modern tuna purse seiners from San Diego, Calif. In addition, I am authorized to speak for the Fishermen's Cooperative Association of San Pedro.

For purposes of insertion into the record, I would appreciate inclusion of not only this statement, but affidavits and tables that form a part of my statement. The cream colored folder is a listing of the tables. For instance, table I lists the entire tuna fleet as in existence during the period from 1961 through September 1967, listing what vessels have been involved in incidents during that period of time.

Senator BARTLETT. Well, I think this will be rather valuable for the permanent record and it will be incorporated in the record with your statement.

Mr. FELANDO. Thank you very much, Senator.

With regard to the position on S. 2269, the membership of the American Tunaboat Association, National Marine Terminal, Inc., and the membership of the Fishermen's Cooperative Association of San Pedro strongly support and urge the passage of S. 2269.

I might say in December 1966 a resolution was adopted by the Congress of American Fisherman in Seattle, Wash., that also approved of the amendment of the Fisherman's Protective Act. The purpose of S. 2269 is to amend the U.S. Vessel Protective Act so as to permit the owners and crewmembers aboard a U.S. fishing vessel to be equitably reimbursed and/or compensated for all costs and/or losses directly resulting from a seizure and detention by a foreign country on the basis of rights or claims asserted by such foreign country in territorial waters or the high seas which are not recognized by the United States.

The bill amends the act of August 27, 1954, by (1) adding a new section; (2) inserting additional words in the existing law in section 3 of the act; (3) offering a new citation of the act.

General comments:

1. S. 2269 does not change in any way the condition precedent to relief established by the requirement of section 2 of the act.

The act has application only in cases where—

(a) a vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; and

(b) there is no dispute of material facts with respect to the location or activity of such vessels at the time of such seizure.

In other words, the claimant must still prove that the right of the United States with respect to the freedom of navigation or freedom of fishing had been violated by the action of a foreign country in seizing a vessel of the United States.

Thus, the seizure must originate first from the action of a foreign country. This foreign country must be in disagreement with the position of the United States as to the basis of rights or claims in territorial waters or high seas. This foreign country must have a policy to seize U.S.-flag vessels if such vessels enter into waters covered by the dispute. And, this foreign country must have a law that requires the imposition of sanctions on the vessel seized.

Next, this seizure must be proven wrongful by the claimant, that is, the owner's claim must be sufficient in itself to form the basis of a claim by the United States against the foreign country. For in section 5 of the act, Congress imposes a duty on the Secretary of State that he "shall take such actions as he may deem appropriate to make and collect on claims against a foreign country for amounts expended by the United States under the provisions of this act because of the seizure of a U.S. vessel by such country."

In this connection, I believe it would be both relevant to the business of this subcommittee today, and proper for me to refer to correspondence exchange between the Department of State and me as to the application of the U.S. Vessel Protective Act in seizure cases. In a letter I received from Mr. Leonard C. Meeker, the Legal Adviser, Department of State, dated November 4, 1966, it was stated as follows:

Secretary Rusk has asked me to reply to your letter of October 10, 1966, in which you inquire in substance whether the Department would regard the provisions of 22 U.S.C. 1971-76 henceforth as applicable to the seizure of a vessel

fishing within 12 miles of the coast of a country claiming a 12 mile territorial sea.

By its terms, the statute applies only in the case of a vessel seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States. . . . As you are aware, the United States now claims a contiguous fisheries zone extending nine miles beyond the 3 mile territorial sea. The question is thus whether the United States is prepared to regard as illegal a seizure made by another country where the United States Government would take similar action in parallel circumstance.

In view of the foregoing it is the opinion of the Department of State that the provisions of 22 U.S.C. 1971-76 would not apply to a case in which a United States vessel had been seized while fishing within 12 miles of the coast of a country claiming a 12 mile territorial sea.

2. S. 2269 would represent an acceptance by the Government to increase its share of the economic losses sustained by owners and crews of fishing vessels of the United States.

(a) What is the Government's share now?

Under the present act, the owners of the vessel are not reimbursed for all amounts paid by them to the foreign country to secure the prompt release of the vessel and crew. By virtue of the interpretation of the act made by the Legal Adviser, Department of State, only amounts actually paid by the owners to the foreign country that is described by the laws of such country as a "fine" are recoverable under the act.

Example: Claim referred to by the Department of State as L/C POL 33-4 Peru/U.S./*Clipperton*, which was seized off Peru in June 1965.

As a condition precedent for the release of the tuna fishing vessel, *Clipperton* and crew, the owners were required to actually pay the Republic of Peru a "tax" based upon the amount of the fine. The sum paid was \$106.92. As a further condition precedent for the release of the vessel and crew, the owners were required to purchase from the Republic of Peru a fishing license and vessel registration document at a total cost of \$3,564. (The fine paid by the owners came to \$7,128.) But for the acquisition of such license and registration document, the *Clipperton* would have been seized and forced back into a Peruvian port a few days after it was released. As the master of the *Clipperton* relates in an affidavit made available to this subcommittee, 2 days after being released he was stopped about 60 miles off the coast of Peru by a Peruvian warship. Because of the possession of the license and registration document aboard his vessel, he was able to avoid a return trip to a Peruvian port under seizure.

In the *Clipperton* case, George W. Spangler, Assistant Legal Adviser, advised me in a letter dated September 27, 1965, as follows:

Since Section 3 of the Act specifically limits reimbursement to the "amount of the fine actually paid," it is the Department's view that the Act is not broad enough to justify reimbursement for the amount expended for the fishing license (\$3,564.00) or the tax (\$106.92).

Other examples: In the *Hornet* case, the vessel was seized on June 13, 1965, some 96 miles off the coast of Peru after being spotted by jet aircraft and intercepted by a destroyer. No fine was imposed, but the master was advised that if he purchased a fishing license at a cost of \$5,036, he would be released. If he chose not to purchase such license, he could not be released and possibly he would be fined as well. The master felt compelled to purchase the license.

Similar circumstances existed in the following seizures:

*San Jason:* Where the vessel entered the port of Talara, Peru, on June 4, 1965, for the purpose of securing medical aid and air transportation for an ill engineer.

*San Juan:* Where the vessel was seized some 44 miles from shore by a Peruvian destroyer on June 11, 1965.

Besides Peru, the records maintained by the American Tunaboat Association reveal that Ecuador also imposes the requirement that a seized vessel and crew be released only after the owners purchase a fishing license and registration document.

As table II, attached hereto, indicates, our cost in payment of license fees during the period from January 1961 to September 1967 comes to \$66,131.10. Such amount in addition to the fines paid, \$224,122.90, was required to be actually paid in order to secure the prompt release of the vessels and crews of tuna clippers during the period 1961-September 15, 1967.

In Ecuador and Peru, the payments that are required by a foreign-flag fishing vessel to obtain the authorization to fish include both a registration (*Matricula*) and fishing license (*Permiso de Pesca*).

For purposes of advising this subcommittee, I have attached to this statement, the following documents:

1. A copy of the Law of Peru, as translated by the Department of State, relating as of this date, to the regulation of fishing by foreign vessels in Peruvian waters, exhibit A.

2. A copy of information by the Consul of Ecuador, San Diego, which incidentally states in the body of the document that they claim a territorial sea of 200 miles, and also a study of the Ecuadorean law by the Department of State, exhibit B.

At the present time, in Peru, the registration (*Matricula*) costs \$500 and the fishing license (*Permiso de Pesca*) costs \$12 per net registered ton of the vessel licensed. As of July 1967, Ecuador charges \$350 for registration and \$35 per net registered ton for the fishing license. The largest U.S. tuna clipper to date is 625 net registered tons, the average vessel ranges from 170 to 200 net registered tons.

(The documents referred to will be found at the end of the day's record, September 21, 1967.)

Mr. FELANDO. (b) The proposed bill in section 2 increases the Government's share:

In our opinion, therefore, the present provisions of section 3 of the act of August 27, 1954, are totally inadequate in that they provide for a limited or partial reimbursement to the owners of U.S. vessels seized by a foreign country on international waters. Our experience abundantly establishes the fact that the cost of registration fees, license fees, taxes, and other direct charges must be actually paid in order to secure the prompt release of the seized vessel and arrested crew. For these reasons we urge the amendment of section 3 as proposed by S. 2269 in its section 2.

Such reimbursement is equitable because it reduces the economic burden placed upon the vessel owners, a burden that would not come about if U.S. vessels were free from wrongful seizures on the high seas. It is evident that additional time is required by the Department of State to resolve the differences of opinion regarding the extent to which U.S. tuna vessels can exercise the freedom to fish on the high seas off Ecuador, Peru, and Chile. While such diplomatic activities continue, the most effective means of asserting the doctrine of freedom of the seas by the United States is to insure the fact that U.S. fishing

vessels are actively participating in the harvest of the resources of the high seas.

At the present time, the best way to insure the active participation of U.S.-flag tuna vessels off the coasts of Ecuador, Peru, and Chile is to have Congress adopt a law that will equitably share the economic losses between the Government and the individual vessel owners.

I believe it is desirable to avoid a situation or precedent where U.S.-flag tuna fishing vessels are required to openly and expressly surrender to the will of the Governments of Ecuador, Peru, and Chile, and admit that off the shores of these countries the high seas commence at least 200 miles off the coast. Such precedent would be established if U.S. vessels are compelled to purchase fishing licenses to fish within 200 miles of such coasts, or if such vessels are forced to avoid such coasts. Both alternatives would result in the eventual destruction of the U.S. tuna fishing fleet.

(c) S. 2269 establishes a plan for the Government and vessel owners to jointly finance an insurance program to reduce the losses resulting from a wrongful seizure:

With respect to the amendment proposed by S. 2269, wherein a new section to the act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1971-76), I have the following comments in support of such proposal:

Should a vessel, its gear, or catch aboard U.S. tuna fishing vessels—as distinguished from Russian vessels which are government owned—be confiscated, most, if not all, vessel owners would suffer financial ruin. Such disaster would result from an act that his government considers legal, that is, fishing on the high seas, and from the failure of his government to insure such vessel owner freedom from wrongful seizure on the high seas. In our opinion, therefore, the proposed amendment as offered in S. 2269 in section 7 is equitable and essential to the survival of the U.S. tuna fleet.

Under the proposed bill, the added section 7 would not change the responsibility of the Secretary of State to determine the application of the act to a seizure where reimbursement is limited to the payment of a fine or license fees, or both. But, as to cases where the owners are seeking reimbursement for other costs or loss of catch not caught as a direct result of such seizure and detention, then section 7 requires the Secretary of the Interior to determine the amount to be paid. In our opinion, section 7 proposes a most sensible, practical, and equitable means of reimbursing the damaged parties. The use of the experts and factfinding mechanisms available to the Secretary of the Interior through the Bureau of Commercial Fisheries is extremely wise.

It is clear that section 8(a) is absolutely needed because it satisfies a deficiency in the present act that must be met. I again refer to the letter of Leonard C. Meeker, the Legal Adviser, Department of State dated November 4, 1966:

The statute to which you refer directs the Secretary of State, in certain cases, to take such action as he deems appropriate to attend to the welfare of a seized United States vessel and its crew, and to certify to the Secretary of the Treasury any claim for the amount of the fine actually paid in order to secure the prompt release of the vessel and crew. There is no authority under the Act for reimbursement by the Secretary of the Treasury of the value of any cargo that might be confiscated by a foreign government.

In the case of the tuna vessel, *Day Island*, seized by the Government of Colombia on February 3, 1966, the owner of such vessel and crew

were threatened with the confiscation of its valuable cargo of tuna. As you know, the crew aboard tuna vessels are compensated on the basis of the fish caught, and as such, have a direct interest in the fish cargo.

It is clear, therefore, that the Minister of Agriculture had the authority under the law of Colombia to confiscate the catch, gear, and equipment of the *Day Island*.

When the vessels *Sun Europa* and *Day Island* were seized by the Government of Panama, confiscations of their cargoes were threatened. As the members of this subcommittee know, Panama unilaterally declared a territorial sea of 200 miles in February 1967. Under this law, the Minister of Agriculture, Commerce, and Industries has the power to impose a maximum fine of \$100,000 and/or to confiscate the catch, the vessel, its gear, and equipment.

Under the present law of Ecuador, the Government has the authority to confiscate the vessel if the fine imposed is not paid within 5 days.

In view of the inadequacy of the present provisions of the act of August 27, 1954, and because of the real possibility that costs as outlined in section 7 (a) (1) could be incurred by the vessel owner and crew, we strongly support such proposed amendment. It is my understanding that the shrimp vessel owners and crews have sustained substantial losses in connection with seizures and detentions, particularly as to confiscated catch, fishing gear, and equipment.

Thus far I have discussed the need for amending the U.S. Vessel Protective Act so as to provide equitable reimbursement for a situation in which the fish cargo or vessel is confiscated by a foreign government in connection with a wrongful seizure. I would now like to refer you to the occurrences that have taken place in the tuna fleet in which a warship of a foreign country has damaged a U.S. tuna vessel in connection with seizure incidents.

Incidentally, Mr. Chairman, I think you have photographs available to you illustrating this incident I am going to refer to now.

Senator BARTLETT. Yes.

Mr. FELANDO. We also have additional photographs relating to former U.S. vessels, former jet aircraft, that have been used in the seizures.

Senator BARTLETT. Yes. This and the other material which you submitted will be incorporated in the file.

Mr. FELANDO. Thank you, Mr. Chairman.

In my mind, the most flagrant example is the *Mayflower* case, which occurred on December 6, 1965. In this instance, a Peruvian naval vessel intercepted and attempted to seize the tuna vessel *Mayflower* at a point some 75 miles off the coast of Peru. This matter was thoroughly investigated by the U.S. Coast Guard and a copy of such report is available to the members of this subcommittee. The photographs indicate the damaging and converting by the Peruvian Navy of a small outboard used by the *Mayflower* in connection with its fishing operation. The photographs also show the Peruvian naval officer armed with his shotgun, just after spraying the bridge and pilot house of the *Mayflower*. Fortunately, the master and navigator, the only members of the 13-man crew hit, were only slightly wounded by the shotgun pellets.

There are other incidents that I can detail indicating instances in which U.S. tuna vessels have been damaged. But, unless the members so desire, I will not press this point further.

Senator BARTLETT. Mr. Felando, is it true that the Peruvian naval vessel which seized the *Mayflower* was a former U.S. Navy tug?

Mr. FELANDO. Yes, steel hull, modern U.S. Navy tug.

Senator BARTLETT. Presumably given by us to Peru?

Mr. FELANDO. Correct.

Senator BARTLETT. You may continue.

Mr. FELANDO. I would like to now comment on why we have not supported an amendment to the act of August 27, 1954, to compensate injured fishermen or the heirs or legal representatives of deceased fishermen. We have been advised that such provision for relief would cause many complications and would require such lengthy amendments as to cause difficulty with the passage of any legislation. Upon the basis of such advice, we have withdrawn support from other proposed bills that deal with this particular subject, and therefore do not bring it up before this subcommittee at this time.

But, for purposes of establishing the record, let me refer you to table I, wherein is listed the names of the vessels that have been involved in seizures, harassments, and seizure incidents, many of which involved high risks of injury or death to U.S. fishermen.

Better than 50 percent of the U.S. tuna fleet have been involved in either seizures, harassments, or incidents during this period January 1961 through September 1967.

I also refer you to the affidavits included in the large black exhibit and also to the report made by the U.S. Coast Guard regarding the seizures of the tuna vessels, *Western Ace* and *Chicken of the Sea* on October 28, 1962, in which Peruvian soldiers boarded the *Western Ace* shooting their guns. Or to the affidavit of the master of the *Lou Jean*, who was heading his vessel homeward bound, during the evening off El Salvador, on April 28, 1962, when he was surprised by shooting from an unidentified and unlighted warship. In my opinion, however, the most serious example of possible harm that could result to U.S. fishermen during a seizure incident occurred on May 25, 1963, when the *White Star* and the *Ranger* were seized by Ecuadorean warships and when 23 other U.S. tuna vessels protested the seizures. I hope the members of this subcommittee will request further information regarding this incident from representatives of the Department of State and the Bureau of Commercial Fisheries concerning the serious nature of the seizure incidents that have occurred off Peru and Ecuador.

As to section 7(a)(3), wherein the owners of a seized vessel and its crew are equitably compensated for the fish not caught during the enforced idleness of the seized vessel and crew, I have the following comments:

Table IV has been prepared for this subcommittee for the purposes of indicating the losses sustained by the U.S. tuna fleet during the period January 1961 to September 1967. Our estimate, using the tables concerning price, catch rate, and composition of catch comes to \$564,-677.50. Our method of computing the losses was not based upon the formulas prescribed in section 7(a)(3), however, we have no objection to such formula. In the tuna industry, the average catch per day at sea is carefully and scientifically established by the Inter-American Tropical Tuna Commission. The language concerning the distribution of the compensation would have application in the tuna industry quite easily because collective bargaining agreements prevail in the industry. In our view, therefore, we have no objections to section 7(a)(3).

I should like to point out only two instances to illustrate the need for section 7(a) (3). On August 3, 1962, the tuna vessel, *White Star*, was seized by the Government of Ecuador. Thirty-four days later, the vessel was released. No fine was imposed. During that period of detention, the crew left the vessel and the vessel sustained serious damage from lack of care and maintenance. As a result of such seizure, the owners had no recovery for the losses sustained under the U.S. Vessel Protective Act. The same result occurred in the case involving the *Lou Jean* and the seizures in which the foreign country admitted error.

Other comments:

Congress, when it enacted the U.S. Vessel Protective Act, imposed a duty upon the Secretary of State to recover from the foreign country any money expended by the United States under the provisions of this act. In Report No. 2214, of the Senate Committee on Interstate and Foreign Commerce, August 4, 1954, pages 3 and 4, concerning this act, it was stated:

Section 5 is for the purpose of letting the Secretary of State know that the Congress expects him, eventually, to recover from the foreign country and money expended by the United States Government under this Bill because of the seizure of a United States vessel by such country. Once again, however, utmost flexibility in the conduct of foreign affairs is retained by the Executive by instructing the Secretary of State to take only such actions as he may deem appropriate to make and collect such claims, without any specification as to the time or other condition. . . . it is expected that in all cases where owners are reimbursed for fines paid to secure release of vessels and crews seized under asserted foreign claims, the United States will aggressively seek restitution of such amounts from the foreign countries involved.

I am informed and believe that the United States has not collected any claims from any foreign country since the enactment of the act. For this reason alone, I am completely sympathetic with proposals to assist the collection of the amounts paid under the act.

I note this bill does not have any such provisions and I bring this particular proposal to the attention of the chairman. For instance, the withholding of each fiscal year out of foreign aid funds the sum of \$200,000 from each country which has at any time during the preceding year wrongfully seized, inspected, detained U.S. vessels in international waters or that compel U.S. vessels to purchase licenses to fish or engage in commerce in international waters. Essentially, it was proposed that payments made by the United States to nations that attempt to enforce a claim of sovereignty in the world's oceans in defiance to recognize international law be reduced by the amount they extract from the U.S. fishing industry.

In this connection, the following represents my latest information concerning total U.S. assistance to Ecuador, Panama, and Peru through the Alliance for Progress for the period, 1961-66 in U.S. dollars:

Country	Population	AID	Eximbank	Food for peace	Social Progress Trust Fund	Peace Corps	Total
Ecuador.....	4,800,000	96,700,000	16,000,000	27,100,000	27,800,000	9,600,000	177,209,000
Panama.....	1,231,000	68,800,000	12,900,000	3,600,000	12,900,000	10,000,000	108,200,000
Peru.....	11,250,000	90,100,000	85,400,000	47,000,000	45,200,000	12,300,000	279,800,000
Total.....	17,281,000	255,600,000	114,300,000	77,700,000	85,900,000	31,900,000	565,209,000

You will notice the total for all three countries came to a little better than a half billion dollars.

There is an unidentified portion of \$89,800,000 by the U.S. AID regional office for Central America and Panama. And an unidentified part of \$606,300,000 which the United States contributes to IADB Fund and others should be included in the half billion I mentioned above.

The above compilation does not include the amounts given to these three countries in the form of military assistance. But, we do know that both Ecuador and Peru receive considerable aid, as indicated by the affidavits of Toma Santos, master of the *Ronnie S.*, and John Cvitanich, master of the *Determined*, Ecuador recently received gifts of modern warships from the United States. In addition, the Ecuadorean crews that participated in the seizures of these two tuna clippers in February 1967, had just completed a 6-month training tour in the United States.

As was mentioned on the floor of the House on March 22, 1967 (Congressional Record), H. 3193, as follows:

To make matters worse, United States Naval vessels supplied to our neighbors in South America under our military assistance program have been used in making these illegal seizures. Furthermore, this use of those United States vessels, I am informed by the United States State Department, does not conform to our agreed purpose in making these vessels available.

. . . United States vessels on loan to South American countries under military assistance programs:

Peru: Two destroyers.

Not included in the above is: \$1,196,000.00 in boats provided Ecuador, which are smaller than destroyers . . .

For use by this subcommittee, I have photographs and slides of the vessels and aircraft used by the Peru and Ecuador against our tuna clippers.

Based upon a report printed in the Congressional Record July 20, 1966, pages 15726-15728, Ecuador has received \$42.2 million in military grants; Panama, \$1.6 million in loans and Peru, \$106.6 million in grants and 18.9 million in loans during the period 1946-65.

#### BACKGROUND OF THE BILL

We strongly support the objectives of the proposed S. 2269 before this subcommittee, because a proper amendment of the reimbursement aspect of the U.S. Vessel Protective Act will prevent a reluctance on the part of the U.S. high-seas fishing fleets to participate in those fisheries of the high seas where jurisdictional claims are made and enforced by warships and aircraft by foreign countries contrary to international law.

Article 2 of the Convention on the High Seas (Law of the Sea Convention (No. II)), April 29, 1958, states as follows:

The high seas being open to all nations, no state may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

1. Freedom of navigation.
2. Freedom of fishing.
3. Freedom to lay submarine cables and pipelines.
4. Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law shall be exercised by all States with reasonable regard to the interests of other States in the exercise of the freedom of the high seas.

This Convention entered into force September 30, 1962, and it was ratified by the President of the United States March 24, 1961, and proclaimed by him on November 9, 1962. As of September 1, 1966, 38 countries have ratified this Convention; 22 ratifications were necessary to bring it into force.

This Convention clearly establishes the fact that U.S. fishermen operating on the high seas do not do so under right which pertains to them individually. Such freedom to fish on the high seas pertains only to sovereign countries and therefore, to the United States of America. The extent to which U.S. citizens can exercise their freedom to fish on the high seas is subject to the action taken by the U.S. Government. If a U.S. fisherman has his freedom to fish on the high seas interfered with or denied, his only recourse is to seek relief from the U.S. Government. Only a sovereign state can defend its rights as declared by the Convention on the High Seas and international law against another sovereign state. Thus, to grant the protection that is required under the U.S. Vessel Protective Act, is also to establish a most effective means of asserting the doctrine of freedom of the seas. For there is no better way of establishing the freedom to fish on the high seas than to actively exercise such freedom in a proper and rational harvest of the resources of the high seas.

In order to exercise the freedom to fish on the high seas off Latin America, it is essential that the U.S. Vessel Protective Act be amended so as to provide an adequate and equitable reimbursement of all costs and losses directly resulting from an unlawful seizure and detention.

The members of our association must be assured of a measure of protection against economic loss if the United States continues to assert that its citizens have the freedom to fish on the high seas. As the attached tables indicate, the costs and losses since 1961 have not been inconsiderable. Such total expense does not include the thousands of dollars that were expended by the U.S. fishermen to Ecuador and Peru for purposes of avoiding seizures and risk of harm to person and property. The affidavits establishing this practice are before you in exhibit D, the large black booklet.<sup>1</sup>

According to a tabulation provided by the Department of State, 96 nations in the United Nations system have asserted their positions concerning the breadth of territorial sea and fishing jurisdiction. Only Guinea in Africa claims limits beyond 12 miles; only Korea claims limits beyond 12 miles in East Asia and Pacific; no nation in Europe or North America claims limits beyond 12 miles; and only India claims limits beyond 12 miles in South Asia and the Near East. In South and Central America and in the Caribbean, there are eight countries that claim limits beyond 12 miles, namely: Argentina, Chile, Dominican Republic, Ecuador, El Salvador, Nicaragua, Panama, and Peru.

And yet, only two countries have been actively using force to assert, maintain, and substantiate their claims. These are Ecuador and Peru. Panama has announced intentions to actively search out and seize our vessels. Since 1961, fishing vessels of the United States, Japan, Canada, and Mexico have been seized by warships of Peru and Ecuador. As table I indicates, better than 50 percent of the vessels in the U.S. tuna clipper fleet have been either chased, seized, shot at, or harassed since 1961.

<sup>1</sup> The material referred to is to be found in the subcommittee files.

In our opinion, the present Governments of Ecuador and Peru are deliberately obstructing attempts by the world to live by rule of law rather than by rule of force in matters of the law of the sea. Proof comes from their flagrant use of warships and aircraft to enforce a claim of sovereignty in conflict with international agreements manifested by the 1958 Geneva Law of the Sea Conventions, and with the conduct of almost all coastal nations. Such defiance creates problems of respect for rule by international law and for resolution of difficulties through procedures established by the United Nations. Further, the enforcement of the doctrines claimed by Peru and Ecuador requires actions that necessarily result in confrontations between sovereigns, if not today, then tomorrow, thereby stimulating conflict between nations. In short, Peru and Ecuador, in asserting and enforcing the "200 mile" doctrine, represent a form of intervention by force or arms upon the collective sovereignty of all nations as that sovereignty is recognized on the high seas.

As was stated during the House hearings on the act of August 27, 1954:

It will be the right of the United States, under international law, and not that of the individual fisherman, which is being tested. The only means the United States has, in practice, to maintain these rights is to continue their exercise by its fishermen. Unless the owners of these vessels can be assured of the protection of their government and the acceptance by their government of a share of the economic risk of exercising such rights, they cannot continue to take the risk of sending their vessels into such waters. Unless, on the other hand, they do continue to fish in the challenged waters, these rights of the United States will stand in danger of being atrophied and lost. page 23.

#### CONCLUSION

Our members want it clearly understood that they do not believe that any amendment of the U.S. Vessel Protective Act, even if it provided 100 percent relief, is the final answer to our problems of Peru, Ecuador, and Chile. They view this act only as a temporary measure that is designed to provide partial relief from the economic losses sustained after the fact of a seizure. They know that this act cannot prevent wrongful seizures. They also recognize that no legislation can relieve them of the fear of harm or actual injury, or of the constant worry and frustrations confronted by them on the high seas off Chile, Ecuador, and Peru.

Our members have experienced the great deal of redtape, time, expense, and anxiety involved in the processing of claims under the present act, and they do not expect any future changes in this area by virtue of the passage of S. 2269.

I might say in part of table II, page 3, we have tabulated the timelag that results in processing of claims. The highest timelag, up to certification at this point, has been, from time of seizure until payment, 488 days.

However, we have four seizures that occurred in May 1966, and they still have not received payment. Our members view reliance upon a claims statute as an extremely poor business proposition, but one that is presently required as a condition for survival.

Our members hope that a proper amendment of the U.S. Vessel Protective Act, as is provided in S. 2269, will provide a basis for our Government to engage in every reasonable, peaceful effort to protect

them and their crews while they pursue their livelihood on the high seas as recognized by their Government. To have an active U.S. fishing fleet on the high seas is a necessary ingredient in any treaty, agreement, or convention that would be established by our Government and other countries in a matter dealing with the freedom to fish on the high seas. And our members believe that only by a treaty, agreement, or convention can we resolve our problems off Latin America.

We strongly support S. 2269, and are hopeful that the subcommittee will report it favorably for passage during this session of Congress.

Thank you.

(The tables referred to follow :)

T A B L E I  
LISTING OF UNITED STATES TUNA CLIPPERS INVOLVED IN  
SEIZURE INCIDENTS AND HARASSMENTS 1961 - SEPT. 1967

PAGE 1

NAME OF VESSEL	VESSELS INVOLVED IN SEIZURE INCIDENTS			VESSELS INVOLVED IN HARASSMENTS			STATUS OF VESSEL
	PERU OCT., 1962	ECUADOR MAY 1966	PERU OCT. 1966	ECUADOR JAN. 1967	PERU FEB. 1967	ECUADOR FEB. 1967	
San King		Yes			Yes		
SOUTHERN PACIFIC*							
DETERMINED (see Summary)							
Clayby Lynn							
RECONDA (ex SUN LADSON)							
Southert Queen						June 1965	
RUTHE H.			Yes			Feb. 1967	
JO LINDA							
ECUADOR							
SALADON							
Pleasant							
CHERRY BLANCO		Yes					
Dimitriade							
CONSTITUTION			Yes				
JEANNE LOISE							
AMERICAN BOY			Yes				
WEST POINT			Yes				
WEST HINDA							
SUN HINDA							
JOE BUCKLEY							
JOE FAN							
ALAMANDIE		Yes					
Quikley		Yes					
Cluskey							
Cluskey Nell							
Cluskey							
YSLIANTO							
ANTHONY							
GREVILLE							
SEA-FRIDE							
Lupa Patricia							
ANTONETTE B.		Yes					
ROBERTA		Yes			Yes		
South Coast						Jan. 1967	
ECUADOR			Yes				
SOUTHERN SEAS OF THE SEAS		Yes				1962 & 1966	
Remon							
Starbrest							
MARY LOU							
HISLOPE			Yes				
BRAD OF PORTUGAL							

VESSELS INVOLVED IN  
HARASSMENTS  
ONLY

PERU  
OTHER

ECUADOR

SEIZURES ONLY

PERU

OTHER

ECUADOR

PERU

OTHER

ECUADOR

PERU

OTHER

ECUADOR

PERU

OTHER

ECUADOR

PERU

OTHER

ECUADOR

PERU

OTHER

Peru 1963  
Colombia 1962  
Colombia 1962  
Colombia 1962

Ecuador 1962  
Peru & Ecuador 1962  
Peru 1962  
Mexico 1965

Peru 1962 Ecuador 1961  
(1962  
(El Salvador

Ecuador 1962  
Peru 1962 & 1966

Peru 1962  
Ecuador 1961 & 1963

Ecuador 1962  
Peru 1962 & 1966

Peru 1962  
Peru 1962 & 1966  
Peru 1965

Peru 1962  
Peru 1962 & 1966  
Peru 1965

Peru 1962  
Peru 1962 & 1966  
Peru 1965

Peru 1962  
Peru 1962 & 1966  
Peru 1965

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Peru 1962 & 1966  
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Peru 1962  
Peru 1962 & 1966  
Peru 1965

Peru 1962  
Peru 1962 & 1966  
Peru 1965

Peru 1962  
Peru 1962 & 1966  
Peru 1965

Peru 1962  
Peru 1962 & 1966  
Peru 1965



TABLE I  
LISTING OF UNITED STATES TUNA CLIPPERS INVOLVED IN  
SEIZURE INCIDENTS AND HARASSMENTS 1961 - SEPT. 1967

PAGE 3

NAME OF VESSEL	VESSELS INVOLVED IN SEIZURE INCIDENTS		VESSELS INVOLVED IN HARASSMENTS		VESSELS INVOLVED IN SEIZURES ONLY		VESSELS INVOLVED IN HARASSMENTS		STATUS OF VESSEL	
	PERU	ECUADOR	PERU	ECUADOR	PERU	ECUADOR	OTHER	ONLY		
	OCT. 1962	MAY 1963	MAY 1966	OCT. 1966	JAN. 1967	FEB. 1967	ECUADOR	PERU	OTHER	ONLY
Juan del Rio										
TYPHEID										
MISCHUKI	Yes									
WEST BORN	Yes									
PACIFIC KNIGHT (SOUTH-AMERICA)										
COMCHO		Yes		Yes			JULY 1965			Peru 1961 Peru 1967
WALTER		Yes								
UNION STATES		Yes								
SAN BORN (WEST)		Yes								
CHUMBOCA										
CHARO VIRGINIA										
MARY A.		Yes								
MARY BARBARA		Yes								
Lisa Sargent		Yes								
LARA ROE		Yes					NOV. 1962			Ecuador 1962
BIRDSEA K.		Yes								
CLIFFORD		Yes								
MOTILIOUS		Yes								
LIXINGOR		Yes								
KREMER OREN		Yes								
DAY ISLAND		Yes								
APRIAN		Yes								
SAN JUAN		Yes								
FLORIAN		Yes								
RIZAM PACTIC		Yes								
HORSET										
CARLSEW										
CITY OF EMOMBA										
EASTERN PACIFIC										
CUMBER JOAN										
ABRES C.										
Bralia										
Olympia										
Golden Glow										
Milla B.										
Kitty Hawk										
Mary Carmen										
Mimi Loch										
Netra Dame										
SANTA ANITA										
(E)										

FOREIGN COUNTRY ADMITTED SEIZURE IN ERROR. VESSEL IMMEDIATELY RELEASED



TABLE II  
LISTING OF SEIZURES OF UNITED STATES FUNA CLIPPERS 1961  
SEPT. 1967, BY DATES OF SEIZURE AND  
RELEASE, FINES AND OTHER COSTS PAID, CLAIM HISTORY

PAGE 1

NAME OF VESSEL	OFFICIAL NUMBER	SEIZURE DATE	RELEASE DATE	TOTAL DAYS NOT FISHING	FOREIGN COUNTRY	AMOUNT OF FINE	AMOUNT OF LICENSE FEES, ETC.	TOTAL OTHER COSTS	DATE CLAIM ACKNOWLEDGED	DATE CLAIM CERTIFIED	DATE CLAIM PAID
SHAMOCK	253 836	1/21/61	3/24/61	4	Panama	2,500.00	NONE	714 85	5/4/61	7/10/61	N/A
SEA TIGONIN	270 154	8/12/62	8/24/62	13	Colombia	2,277 90	NONE	40 30	N/A	1/7/63	6/3/63
WESTERN ACE	263 848	8/28/62	9/31/62	4	Ecuador	NONE	5180 00	N/A	5/21/62		
LAU JEAN	249 580	4/28/62	5/7/62	6	EI Salvador	NONE	NONE	200 00			
WHITE STAR	249 135	8/7/62	8/10/62	35	Ecuador	NONE	NONE	N/A			
LARRY ROE	278 930	8/24/62	8/24/62	1	Ecuador	NONE	NONE	N/A			
EVELYN R.	280 063	8/10/62	8/13/62	4	Ecuador	NONE	NONE	N/A	N/A	N/A	N/A
WESTERN ACE	263 848	10/28/62	11/7/62	5	Peru	5000 00	NONE	N/A	N/A	N/A	N/A
CHICKEN OF THE SEA	248 779	10/28/62	11/7/62	5	Peru	10000 00	NONE	N/A	N/A	N/A	N/A
BEATRICE	271 940	11/18/62	11/18/62	1	Ecuador	NONE	NONE	NONE			
LARRY ROE	278 930	11/1/62	11/1/62	1	Ecuador	150 00	NONE	NONE			
SEA TIGONIN	289 819	5/23/63	5/23/63	1	Ecuador	NONE	NONE	NONE			
RANGER	263 538	5/23/63	5/11/63	18	Ecuador	9504 00	2882 20	78 50			
WHITE STAR	249 335	5/23/63	5/11/63	18	Ecuador	11184 00	3002 30	78 50			
ESPERICLO SANTO	248 755	5/13/63	5/18/63	4	Ecuador	NONE	2766 20	N/A			
RANGER	263 538	5/29/63	5/29/63	1,2	Ecuador	NONE	NONE	NONE			
PHILIP B.	262 512	5/1/63	5/1/63	1	Peru	NONE	NONE	NONE			
FRENDA	262 966	5/1/63	5/1/63	1	Peru	NONE	NONE	NONE			
RUTHER B.	262 512	8/19/63	8/19/63	1	Peru	NONE	NONE	NONE			
WESTERN ACE	264 287	8/11/63	8/19/63	1	Peru	NONE	NONE	NONE			
WESTERN ACE	241 122	12/30/63	12/30/63	11	Ecuador	NONE	NONE	N/A			
WEST COAST	249 363	12/30/63	12/30/63	2	Ecuador	NONE	NONE	N/A			
SANTA ANITA	268 546	2/4/64	2/4/64	1	Ecuador	NONE	NONE	NONE			
JAMES C.	262 870	12/1/64	12/1/64	1	Ecuador	NONE	NONE	NONE			
MURKINS	285 304	2/17/65	2/17/65	1	Peru	NONE	5084 00	N/A			
WESTERN KING	273 287	2/17/65	2/17/65	1	Peru	NONE	4628 00	N/A			
CLIFFERTON	285 518	5/14/65	5/14/65	11	Peru	7128 00	3564 00	1517 86	7/39/65	8/4/65	9/27/65
SUN JASON	261 846	6/1/65	6/1/65	1,2	Peru	NONE	NONE	NONE			
SUN JASON	269 819	6/1/65	6/1/65	1	Peru	NONE	1976 00	N/A			
SUN JASON	269 819	6/1/65	6/1/65	1	Peru	NONE	5888 00	N/A	N/A	N/A	N/A
HORNET	269 761	6/1/65	6/14/65	2	Peru	NONE	5036 00	N/A	N/A	N/A	N/A
CUNCHO	270 585	7/28/65	7/28/65	1	Ecuador	NONE	NONE	NONE			
WHITE STAR	245 934	10/7/65	11/1/65	28	Ecuador	11184 00	2766 20	N/A	N/A	N/A	N/A
MARY BARBARA	262 716	12/30/65	12/30/65	1	Peru	1000 00	NONE	N/A	N/A	N/A	N/A
DAY ISLAND	268 260	2/7/66	2/7/66	16	Colombia	5000 00	NONE	2058 62	5/12/66	6/1/66	6/6/67
SUN EDONA	260 279	3/7/66	3/7/66	2	Panama	10000 00	NONE	NONE	4/18/66	4/29/66	6/6/67
SUN EDONA	260 276	4/28/66	4/28/66	2	Peru	NONE	NONE	NONE			
MARCHONIA	268 260	5/21/66	5/21/66	2	Panama	10000 00	NONE	588 36	9/13/66	9/21/66	6/6/67
DAY ISLAND	268 260	5/21/66	5/21/66	2	Peru	12160 00	NONE	805 41	9/13/66	9/21/66	7/24/67
DAY ISLAND	268 260	5/21/66	5/21/66	2	Peru	11776 00	NONE	NONE	1/10/67	1/24/67	7/24/67

TABLE II  
LISTING OF SEIZURES OF UNITED STATES TUNA CLIPPERS 1961 - SEPTEMBER 1967,  
BY DATES OF SEIZURE AND RELEASE, FINES AND OTHER COSTS PAID, CLAIM HISTORY

PAGE 2

NAME OF VESSEL	OFFICIAL NUMBER	SEIZURE DATE	RELEASE DATE	TOTAL DAYS NOT FISHING	FOREIGN COUNTRY	AMOUNT OF FINE	AMOUNT OF PENALTIES, FEES, ETC.	TOTAL CLAIMS PAID	DATE CLAIM FILED	DATE CLAIM RECOGNIZED	DATE CLAIM CERTIFIED	TOTAL CLAIM PAID
MILDRIM	391 488	5/24/66	5/24/66	1	Peru	11,812.00	NONE		7/18/66	7/29/66	7/17/67	
CHICKEN OF THE SEA	248 779	5/24/66	5/24/66	1	Peru	7,040.00	NONE					
CLYD OF TACOMA	295 035	6/14/66	6/14/66	2	Ecuador	NONE	NONE					
CLIFFERON	285 518	6/14/66	6/14/66	2	Ecuador	NONE	NONE					
RONNIE E.	255 825	10/2/66	10/2/66	2	Peru	7,384.00	NONE	599.66	1/14/67	2/2/67	6/30/67	
SUN EUROPA	247 879	10/4/66	10/4/66	5	Peru	NONE	NONE					
HASTERN PACIFIC	500 009	10/4/66	10/4/66	5	Peru	9,904.00	NONE	647.14	1/31/67	2/14/67	8/1/67	
SHAMROCK	253 836	10/10/66	10/13/66	4	Mexico	NONE	NONE					
NEW ERA	250 882	1/7/67	1/11/67	4	Ecuador	7,200.00	3,000.00					
INDAVOR	258 822	1/7/67	1/11/67	4	Ecuador	8,484.00	2,486.00	900.00	3/9/67	3/29/67	3/31/67	6/6/67
VICTORIA	249 539	1/7/67	1/11/67	4	Ecuador	8,484.00	2,486.00	900.00	3/9/67	3/29/67	3/31/67	6/6/67
SEXPREME	263 220	1/29/67	1/29/67	7	Ecuador	17,488.00	3,382.00	1,000.00	3/13/67	3/20/67	3/31/67	6/6/67
GAILBERN	291 814	1/29/67	1/29/67	3	Ecuador	17,488.00	3,382.00	1,000.00	3/22/67	3/30/67	4/10/67	6/6/67
HORNET	289 761	1/29/67	1/29/67	3	Peru	17,088.00	NONE	684.67	3/30/67	4/21/67	8/1/67	
DEFENSE	240 796	1/29/67	1/29/67	3	Peru	19,072.00	NONE	697.56	3/30/67	4/21/67	8/1/67	
CITY OF LOS ANGELES	247 156	1/7/67	1/7/67	1	Mexico	NONE	NONE					
RONNIE S.	255 825	2/15/67	2/15/67	1	Mexico	12,768.00	3,392.00	927.77	4/1/67	4/21/67	6/28/67	
DETERMINED	263 420	2/15/67	2/15/67	4	Ecuador	8,784.00	2,396.00	1,000.00				
HANSER	253 538	2/15/67	2/15/67	4	Ecuador	9,504.00	2,376.00	1,016.52				
SUN HAWK	243 270	5/5/67	5/5/67	4	Ecuador	NONE	NONE					
WESTERN KING	273 287	7/4/67	7/4/67	9	Mexico	17,512.00	4,628.00	691.00				
RAY ISLAND	288 260	8/3/67	8/4/67	1/2	Ecuador	NONE	NONE					
AMERICAN QUEEN	258 201	8/3/67	8/4/67	1	Ecuador	NONE	NONE					
TABLE II - STATISTICAL SUMMARY - Part One												
Total Estimated Days Lost From Seizures	305	DAYS LOST BY YEAR			1961	1962	1963	1964	1965	1966	September-1967	
Total Fines Paid For Release of Vessels	\$243,231.90				4	71	59	2	51	54	60	
Total Licenses & Matriculas Paid For Release of Vessels	\$66,131.10	----- incomplete (2 - information not available) -----										
Total Other Costs	\$14,713.29	----- incomplete (23 - information not available) -----										

TABLE II (Continued)  
STATISTICAL SUMMARY - Part Two- Time Lag in Seizure Claim Process

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NAME OF VESSEL	Seizure Date	Date Claim Filed	Days Seizure & Filing	Date Claim Certified	Days Between Filing & Certification	Date Claim Paid	Days Between Certification & Payment	Total Days: Seizure to Start Claim Process
1 SHAWROCK	3/21/61	5/29/61	69 DAYS	7/10/61	42 DAYS	IN/A	447 DAYS	111 (C) DAYS
2 SAN JACQUIN	2/12/62	5/8/62	85	1/7/63	244	6/3/63	476	476
3 CLIPPERTON	6/4/65	7/29/65	55	9/27/65	60	11/24/65	173	173
4 DAY ISLAND	2/2/66	5/12/66	98	10/27/66	168	5/6/67	486	486
5 SUN EUROPA	3/4/66	4/18/66	45	3/2/67	318	6/6/67	459	459
6 DAY ISLAND	5/12/66	9/13/66	124	3/2/67	170	6/6/67	390	390
7 SAN JUAN	5/23/66	9/13/66	113	7/24/67	314	UNPAID	427 (C)	427 (C)
8 SAN JUAN	5/23/66	1/10/67	212	7/24/67	195	UNPAID	420 (C)	420 (C)
9 PILGRIM	5/23/66	7/18/66	56	7/17/67	354	UNPAID	271 (C)	271 (C)
10 RONNIE S.	10/2/66	1/14/67	104	6/30/67	157	UNPAID	302 (C)	302 (C)
11 EASTERN PACIFIC	10/3/66	1/31/67	120	8/1/67	182	UNPAID	150	150
12 ENFEEVOR	1/7/67	3/9/67	61	3/31/67	22	6/6/67	67	67
13 VICTORIA	1/7/67	3/13/67	65	3/31/67	18	6/6/67	57	57
14 SEPRIME	1/20/67	3/22/67	61	4/10/67	19	6/6/67	137	137
15 CARIBBEAN	1/26/67	3/20/67	63	8/1/67	124	UNPAID	187 (C)	187 (C)
16 HORNET	1/26/67	3/20/67	63	8/1/67	124	UNPAID	187 (C)	187 (C)
17 RONNIE S.	2/15/67	4/12/67	56	6/28/67	77	UNPAID	133 (C)	133 (C)
<p>AVERAGE----- 86.5 days ----- 153.4 days ----- 80.1 days ----- 302.9 days through                      ( 6-vessels ) Payment ( 6 vessels )</p> <p>RANGE -----Low - 45 days -----Low - 18 days -----Low - 57 days -----Low - 137 days -----Low - 111 days                      High - 232 days -----High - 354 days -----High - 222 days -----High - 489 days -----High - 427 days</p>								

Note: (C) denotes only the length of time between seizure and certification.

T. B. L. E. III  
LISTING OF SEIZURES OF UNITED STATES TUNA CLIPPERS  
LOCATION, IDENTIFICATION OF SEIZING VESSELS  
1961 - SEPT. 1967, BY DATE,

NAME OF VESSEL	OFFICIAL NUMBER	SEIZURE DATE	FOREIGN COUNTRY	LOCATION OF SEIZURE		MILES FROM SHORE	NAME OF SEIZING VESSEL	REMARKS
				LATITUDE & LONGITUDE				
SHAROCK	253 836	3/21/61	Panama	08° 47' N. Lat. 78° 13' W. Long.	90° True	11 1/2 miles	Not Available	Vessel at anchor, performing anchor repairs.
SAN MANUEL	270 154	2/12/62	Colombia	05° 43' N. Lat. 77° 32' 30" W. Lg		7.9 miles SW		Vessel in net with net in water.
WESTERN ACE	263 848	3/28/62	Ecuador	Not Available		Mar. Mantca, Ecuador	Not Available	Vessel fishing.
LADY JEAN	249 580	4/28/62	El Salvador	15° 48' N. Lat. 88° 50' N. Lg.		About 15 miles off Rio Tempa River	G.D.-2	Vessel traveling homeward bound.
WHITE STAR	249 335	8/3/62	Ecuador	Not Available		Not Available	Not Available	Vessel traveling.
LARRY ROE	278 930	8/24/62	Ecuador	Galapagos Islands		Not Applicable	Not Available	Vessel fishing.
EVYLAN R.	230 063	9/10/62	Ecuador	Galapagos Islands		Not Available	Not Applicable	Vessel entered port
WESTERN ACE	263 848	10/26/62	Peru	05° 50' S. Lat. 81° 08' W. Lg.		About 11 miles off coast of Peru	Soldiera aboard "ANCEH"	Vessel fishing
CHICKEN OF THE SEA	248 779	10/28/62	Peru	05° 50' S. Lat. 81° 08' W. Lg.		About 11 miles off coast of Peru	Soldiers aboard "ANCEH"	Vessel fishing
ELSIROE	271 940	11/19/62	Ecuador	Galapagos Islands		No. of Cape Berkeley, San Isabella	Not available	Vessel fishing.
LARRY ROE	278 930	11/ /62	Ecuador	Galapagos Islands		Wreck Bay, San Cristobal	Not available	Vessel fishing.
SAN JUAN	289 819	5/22/63	Ecuador	0° 44' S. Lat 80° 53' W. Lg.		About 8 miles off Mantca	Not available	Vessel fishing, ship's documents converted
RANGER	253 538	5/25/63	Ecuador	0° 22' N. Lat. 80° 17' W. Lg.		1 1/2 miles, 240° True, Cujinas Island	D.I.O.-2; JAMESHII: D.O.I	Vessel fishing.
WHITE STAR	249 335	5/25/63	Ecuador	0° 22' N. Lat. 80° 17' W. Long.		1 1/2 miles, 260° True Cujinas Island	D.I.O.-2; JAMESHII: D.O.I	Vessel traveling.
ESPIRITO SANTO	248 755	6/13/63	Ecuador	Port of Salinas		Not applicable	Not available	Vessel entered port to buy license.
RANGER	253 538	6/29/63	Ecuador	Not available		About 50 miles off coast of Ecuador	Not available	Seizure in error.
ROTHIE B.	252 612	6/ /63	Peru	Not available		About 27 miles off coast of Peru	Not available	Seizure in error.
FREEDOM	262 968	6/ /63	Peru	Not available		About 27 miles off coast of Peru	Not available	Seizure in error.
ROTHIE B.	252 612	8/19/63	Peru	Not available		About 38 miles off coast of Peru	Not available	Vessel traveling.
LETSPED	254 297	9/19/63	Peru	Not available		About 38 miles off coast of Peru	Not available	Vessel traveling.
WESTERN SKY	241 122	12/20/63	Ecuador	Galapagos Islands		Wreck Bay, San Cristobal	Not applicable	Seizure in error.
WEST COAST	249 363	12/29/63	Ecuador	Galapagos Islands		Wreck Bay, San Cristobal	Not applicable	Seizure in error.
SANTA ANITA	258 646	2/4/64	Ecuador	Galapagos Islands		Not applicable	Not applicable	Vessel entered to seek aid for hurt seaman.

TABLE III  
LISTING OF SEIZURES OF UNITED STATES TUNA CLIPPERS  
LOCATION, IDENTIFICATION OF SEIZING VESSELS  
1961 - SEPT. 1967, BY DATE,

NAME OF VESSEL	OFFICIAL NUMBER	SEIZURE DATE	FOREIGN COUNTRY	LATITUDE & LONGITUDE	LOCATION OF SEIZURE MILES FROM SHORE	NAME OF SEIZING VESSEL	REMARKS
AMES C.	263 870	12/5/64	Ecuador	Chalabada Islands	Not applicable	Not applicable	Vessel on anchor.
MUTULOS	285 804	2/17/63	Ecuador	Port of Talara	Not applicable	Not applicable	Evented seeking aid for hurt man.
WESTERN KING	283 807	2/17/63	Ecuador	Port of Talara	Not applicable	Not applicable	Vessel entered for provisions.
CLIFFERTON	285 518	6/4/65	Peru	Port of Chimbote, Peru	Not applicable	Not applicable	Vessel entered to perform emergency repairs.
CLIFFERTON	285 518	6/4/65	Peru	Near 09° 00' S. Lat. 80° 40' N. Lr.	About 60 miles off coast of Peru	B.A.P. CALFEZ #68	Seizure in error.
SUN JACON	251 946	6/4/65	Peru	Port of Talara, Peru	Not applicable	Not applicable	Vessel entered to seek aid for ill fisherman.
SAN JUAN	289 819	6/11/65	Peru	09° 05' S. Lat. 79° 35' N. Lr.	About 44 miles off Huancayo Island	B.A.P. CALFEZ #69	Vessel fishing.
HORNET	289 761	6/13/65	Peru	06° 27' S. Lat. 80° 11' N. Lr.	About 96 miles off coast of Peru.	B.A.P. CALFEZ #68	Vessel travelling.
CONCHO	270 585	7/20/65	Ecuador	Not available	Near Salinas, Ecuador	Not available	Vessel travelling.
WHITE STAR	249 335	10/25/65	Ecuador	09° 43' S. Lat. 80° 55' N. Lr.	About 17 miles from shore	Not available	Seizure in error. Drifting, engine under repair.
MARY BARBARA	275 716	12/30/65	Peru	Part of Callao, Peru	Not applicable	Not applicable	Entered to obtain engine parts.
DAY ISLAND	288 260	2/3/66	Colombia	7° 00' S. Lat. 79° 40' 08" W. Lr.	Chipe Warzo & Petruces	ALMIRANTE PADILLA	Vessel travelling towards Panama.
SUN EUROZA	247 979	3/2/66	Panama	07° 35' N. Lat. 79° 35' W. Lr.	About 51 miles from Panama Canal	Not applicable	Vessel in set with net in water.
MAURITANIA	250 236	4/20/66	Peru	07° 10' S. Lat. 81° 25' N. Lr.	About 40 miles from Pta. Picos	B.A.P. DIEZ CONSUECO #49	Vessel travelling.
DAY ISLAND	288 260	5/12/66	Panama	07° 12' 42" N. Lat. 79° 42' W. Lr.	About 29 miles from Pta. Picos	Saladero aboard private vessel	Vessel travelling.
DAY ISLAND	288 260	5/23/66	Peru	06° 42' N. Lr.	About 17 miles from Pta. Picos & Pta Sol	WARSHIP #25	Vessel just completed "set".
SUN JUAN	289 819	5/23/66	Peru	07° 44' S. Lat. 81° 20' N. Lr.	About 17 miles from Pta. Picos & Pta Sol	WARSHIP #25	Vessel fishing.
FLORIM	291 488	5/23/66	Peru	07° 45' N. Lat. 81° 25' N. Lr.	About 17 miles from Pta. Picos & Pta Sol	WARSHIP #25	Vessel fishing.
CHICKEN OF THE SEA	248 779	5/23/66	Peru	07° 44' S. Lat. 81° 36' W. Lr.	Pta Picos & Pta Sol	WARSHIP #25	Vessel fishing.
CITY OF TACOMA	295 035	6/24/66	Ecuador	Near Salinas, Ecuador	Not available	B.A.P. QUITO 52-71	Seizure in error, vessel released
CLIFFERTON	285 518	6/24/66	Ecuador	Near Salinas, Ecuador	Not available	B.A.P. QUITO 52-71	Seizure in error, vessel released
RONNIE S.	255 975	10/2/66	Peru	24 miles, by radar bearing off shore	West 1/4 North of Zoritos, Peru	B.A.P. SANWILLAW #22	Drifting, seeking for fish.
SUN EUROPA	247 979	10/2/66	Peru	28 miles, by radar bearing off shore	2600 true of 3060 bear, 4110 mag, by radar bearing	B.A.P. SANWILLAW #22	Vessel travelling.
EASTERN PACIFIC	500 099	10/3/66	Peru	28 miles, by radar bearing off shore	2600 true of 3060 bear, 4110 mag, by radar bearing	B.A.P. VELARDE #21	Vessel drifting at 5:30 A.M.

TABLE III  
LISTING OF SEIZURES OF UNITED STATES TUNA CLIPPERS  
LOCATION, IDENTIFICATION OF SEIZING VESSELS  
1961 - SEPT. 1967, BY DATE.

NAME OF VESSEL	OFFICIAL NUMBER	SEIZURE DATE	FOREIGN COUNTRY	LATITUDE & LONGITUDE	LOCATION	MILES FROM SHORE	NAME OF SEIZING VESSEL	REMARKS
SHAWROCK	253 836	10/10/64	Mexico	Chetopa Island 08° 20' N. Lt. 80° 21' W. Lt.	Not applicable Chetopa Island 3 miles from Santa Elena	Not applicable	Not applicable	Seizure in error, vessel released
NEW ERA	250 862	1/7/67	Ecuador	08° 40' S. Lt. 80° 45' W. Lt.	Chetopa Island	3 miles from Santa Elena	B.A.R. CNVAME	Vessel traveling towards Peru.
ENDENBOR	258 022	1/7/67	Ecuador	08° 40' S. Lt. 80° 45' W. Lt.	Chetopa Island	3 miles from Santa Elena	B.A.R. CNVAME	Vessel traveling towards Peru.
VICTORIA	249 539	1/7/67	Ecuador	08° 42' S. Lt. 80° 40' W. Lt.	50 miles from Port of Salinas	50 miles from Port of Salinas	B.A.R. CNVAME	Vessel traveling towards Peru.
SEA-FRAME	263 220	1/20/67	Ecuador	08° 43' S. Lt. 80° 40' W. Lt.	60 miles west of Santa Clara Island	60 miles west of Santa Clara Island	B.A.R. QUITE LC-71	Vessel traveling towards Peru.
CARIBBEAN	231 814	1/25/67	Peru	08° 08' S. Lt. 80° 08' W. Lt.	15 miles from Patacos, Peru	15 miles from Patacos, Peru	Not available #24	Vessel drifting at night.
HORNET	289 761	1/26/67	Peru	08° 27' S. Lt. 80° 02' W. Lt.	15 miles from Patacos, Peru	15 miles from Patacos, Peru	B.A.R. VELANDER #21	Traveling, seized at 2220 hours.
DEFENSE	240 796	1/7/67	Mexico	Tres Marias Islands	Not applicable	Not applicable	Not available	Seized in error, vessel released.
CITY OF LOS ANGELES.	257 156	1/7/67	Mexico	Tres Marias Islands	Not applicable	Not applicable	Not available	Seized in error, vessel released.
RONNIE S.	235 975	1/15/67	Ecuador	08° 03' W. Lt. 80° 03' W. Lt.	25 miles from Patacos, Peru	25 miles from Patacos, Peru	B.A.R. GUAYACUIL LC-72	Vessel in set, net in water.
DETERMINED	261 420	1/15/67	Ecuador	08° 07' S. Lt. 80° 04' W. Lt.	25 miles from Patacos, Peru	25 miles from Patacos, Peru	B.A.R. GUAYACUIL LC-72	Vessel in set, net in water.
DANGER	253 538	1/15/67	Ecuador	08° 05' S. Lt. 80° 03' W. Lt.	22 miles from Patacos, Peru	22 miles from Patacos, Peru	B.A.R. GUAYACUIL LC-72	Vessel traveling.
SUN HAWK	249 270	1/5/67	Mexico	9 miles S.W. of Todos Santos, Baja, Calif.	9 miles S.W. of Todos Santos, Baja, Calif.	9 miles S.W. of Todos Santos, Baja, Calif.	Not available	Seized in error, vessel released.
WESTERN KING	273 287	7/4/67	Ecuador	00° 19' S. Lt. 80° 53' W. Long	24 miles off Cabo Pasador, Ecuador	24 miles off Cabo Pasador, Ecuador	B.A.R. ESMERALDES	Seizure proceeded by aircraft over flight at 1730 hours, vessel traveling.
DAY ISLAND	288 860	8/9/67	Ecuador	01° 26' S. Lt. 80° 58' W. Long.	10-1/2 miles SSE of Isla La Plata	10-1/2 miles SSE of Isla La Plata	B.A.R. ESMERALDES	Seizure in error, vessel released 0230 hours, 8/4/67
AMERICAN QUEEN	258 801	8/9/67	Ecuador	9 miles off Isla Salango, Ecuador	9 miles off Isla Salango, Ecuador	9 miles off Isla Salango, Ecuador	B.A.R. ESMERALDES	Seizure in error, vessel released 0230 hours, 8/4/67

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TABLE IV  
PROVING LOSSES ARISING FROM DEFENTION OF VESSEL  
UNDER SEIZURE AND ENFORCED IDLENESS OF THE VESSEL

NAME OF VESSEL *	SEIZURE DATE	(A) DAYS IN SEIZURE	(B) TONS OF CATCH BAY	(C) (A) x (B) TONS	COMPOSITION OF CATCH			ESTIMATED CATCH (F) x (D) Yellowfin	(G) - (A) x (E) Skajack	(G) - (C) x (E) Skajack	MTD. AVERAGE PRICE 3 (I) Yellowfin	(I) x (J) Skajack	TOTAL OPPORTUNITY COST OF IDLE DAYS = (H) x (F) + (I) x (G)
					(D) % YF	(E) % SJ	(F) % SJ						
SHAMROCK	B 3/7/1961	4	6.4	25.6	55.0	45.0	14.1	11.5	\$250	\$210	\$5,940.00		
SAN JOAQUIN	3 2/1/1962	11	3.7	70.9	36.1	56.0	21.6	21.6	300	260	21,360.00		
WESTERN ACE	5 3/7/1962	4	3.7	24.8	43.0	56.0	9.6	13.2	310	270	6,540.00		
LOU JEAN	2 8/7/1962	4	3.7	34.3	73.0	21.0	27.0	7.2	310	270	10,314.00		
WHITE STAR	3 8/7/1962	3	3.7	19.5	47.9	52.1	9.6	10.9	290	250	53,699.00		
EVILIN R.	4 9/7/1962	4	6.3	23.2	53.0	45.0	13.9	11.3	250	250	6,956.00		
WESTERN ACE	5 10/7/1962	4	3.7	28.5	42.0	59.0	13.9	14.5	250	250	7,605.00		
CHICKEN OF THE SEA	10/7/1962	15	3.7	128.5	47.9	54.1	13.9	14.8	250	250	7,671.00		
RANGER	4 5/7/1963	18	6.8	122.4	63.8	54.2	28.1	44.3	265	200	27,994.50		
WHITE STAR	7 5/7/1963	18	6.8	122.4	47.9	54.1	38.6	61.6	245	250	27,117.00		
ESTERITO SHANTY	8 6/7/1963	4	6.8	27.2	44.5	55.5	12.1	13.1	285	195	5,999.00		
EASTERN SKY	1 12/7/1963	11	6.8	74.8	88.1	11.9	63.9	6.9	286	213	13,421.10		
WEST COAST	8 12/7/1963	2	8.1	16.2	55.0	45.0	8.9	7.3	286	213	3,292.30		
CLIFFERTON	8 6/7/1965	11	6.4	70.4	44.5	55.3	31.3	38.1	287	226	17,819.20		
SUN OASOR	5 6/7/1965	3	6.4	19.2	57.5	42.5	10.0	9.2	287	226	4,849.20		
SAN JUAN	9 6/7/1965	3	6.4	19.2	42.0	58.0	8.1	11.1	287	226	4,833.30		
HORNET	9 6/7/1965	2	6.4	12.8	42.0	58.0	5.4	7.4	287	226	3,220.20		
WHITE STAR	7 10/7/1965	28	6.4	179.2	47.9	54.1	65.8	93.4	291	230	46,449.60		
DNX ISLAND	9 2/7/1966	16	7.1	113.6	42.0	58.0	47.7	65.9	419	364	43,373.90		
SUN EUROPA	6 3/7/1966	2	7.1	14.2	52.2	47.8	7.4	6.8	388	335	5,149.20		
MAURITANIA	5 4/7/1966	2	7.1	14.2	42.5	42.5	8.2	6.0	353	288	4,662.60		
DNX ISLAND	9 5/7/1966	3	7.1	21.3	42.0	58.0	8.9	12.4	335	280	6,453.30		
DNX ISLAND	9 5/7/1966	2	7.1	14.2	42.0	58.0	6.0	8.2	335	280	4,304.00		
SAN JUAN	9 5/7/1966	2	7.1	14.2	42.0	58.0	6.0	8.2	335	280	4,304.00		
PILGRIM	9 5/7/1966	2	7.1	14.2	42.0	58.0	6.0	8.2	335	280	4,304.00		
CH. OF THE SEA	7 5/7/1966	2	7.1	14.2	47.9	54.1	6.8	7.4	335	280	4,350.00		
CITY OF TACOMA	6 6/7/1966	2	7.1	14.2	42.0	58.0	6.0	8.2	335	280	4,304.00		
CLIFFERTON	8 6/7/1966	2	7.1	14.2	44.5	59.5	6.3	7.9	335	280	4,322.50		
RONNIE S.	4 10/7/1966	5	7.1	35.5	63.8	38.2	24.6	12.9	337	270	11,551.20		
SUN EUROPA	6 10/7/1966	5	7.1	35.5	52.2	47.8	18.5	17.0	357	270	11,194.50		
EASTERN PACIFIC	9 10/7/1966	5	7.1	35.5	42.0	58.0	14.9	20.6	357	270	10,681.30		
SHAMROCK	2 10/7/1966	4	7.1	28.4	79.0	21.0	24.4	6.0	357	270	9,646.80		
NEM ERA	4 1/7/1967	7	10.1	70.7	63.8	36.2	43.1	25.6	318	243	20,232.60		
ENDEAVOR	5 1/7/1967	7	10.1	70.7	57.5	42.5	40.7	30.0	318	243	19,947.60		
VICTORIA	6 1/7/1967	5	10.1	70.7	52.2	47.8	38.9	33.6	318	243	20,232.60		
SEMPRE	5 1/7/1967	7	10.1	70.7	57.5	42.5	40.7	30.0	318	243	20,232.60		

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 TABLE IV  
 PROVING LOSSES ARISING FROM DETENTION OF VESSEL  
 UNDER SEIZURE AND ENFORCED IDLENESS OF THE VESSEL

NAME OF VESSEL	SEIZURE DATE	(A) DAYS IDLE	(B) STANDARD CATCH RATE Tonnage/day	(C) *a x b CATCH RATE TONNAGE	(D) COMPOSITION OF CATCH		(E) % SJ	(F) ESTIMATED CATCH		(G) WTD. AVERAGE PRICE	(H) * (F) x (G) TOTAL OPPORTUNITY COST
					% YF	% SF		Yellowfin	Skipjack		
CARIBBEAN	9 1/1967	3	10.1	30.3	42.0	58.0	12.7	17.6	318	243	\$ 8,315.40
HORNET	9 1/1967	3	10.1	30.3	42.0	58.0	12.7	17.6	318	243	\$ 8,315.40
RONNIE S. DETERMINED	4 1/1967	4	10.1	40.4	63.8	36.2	25.8	14.6	318	243	11,732.20
RANGER	4 1/1967	4	10.1	40.4	63.8	36.2	25.8	14.6	318	243	11,732.20
* Tonnage class of vessel as described in TABLE C											
1 As derived from TABLE -- B											
2 As derived from TABLE -- C											
3 The weighted average price of fish sold in the month following that of seizure, as derived from TABLE -- A											
WESTERN KING	9 7/1967	9	10.1	90.9	42.0	58.0	38.2	52.7	264	199	\$ 20,572.10
										TOTAL	\$ 564,677.50

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TABLE IV  
PROVING LOSSES ARISING FROM DETENTION OF VESSEL  
UNDER SEIZURE AND ENFORCED IDLENESS OF THE VESSEL

TABLE A - AVERAGE WEIGHTED PRICES in dollars per short ton to California based tuna clipper for YELLOWFIN & SKIPPACK by month and year - 1961-June 1967												
YELLOWFIN PRICES:	MONTHS											
	January	February	March	April	May	June	July	August	September	October	November	December
1961 -	250	250	250	250	250	250	260	260	270	280	290	290
1962 -	300	300	300	310	310	310	310	290	290	290	290	290
1963 -	290	290	290	340	345	345	345	240	240	240	240	245
1964 -	246	273	274	271	278	270	270	270	270	270	270	270
1965 -	270	270	270	275	283	287	287	280	275	275	291	326
1966 -	395	447	449	348	353	325	321	330	348	341	347	345
1967 -	357	316	297	276	264	264	264	264				
SKIPPACK PRICES:												
1961 -	210	210	210	210	210	210	210	210	220	210	240	240
1962 -	240	240	240	270	270	270	270	250	250	240	240	240
1963 -	250	250	250	240	240	200	195	200	200	200	200	200
1964 -	213	210	209	209	215	200	200	200	200	200	200	200
1965 -	200	200	200	205	243	227	236	211	205	205	210	276
1966 -	340	374	364	335	296	280	266	274	275	282	270	274
1967 -	285	243	218	199	199	199	199					

TABLE C COMPOSITION OF CATCH for year 1962 by specie & vessel size												
PUSE SEINERS	VESSEL CAPACITY IN TONS											
	Yellowfin	Skippack	Catch/Dav	Yellowfin	Skippack	Catch/Dav	Yellowfin	Skippack	Catch/Dav	Yellowfin	Skippack	Percent
1961 -	5.2	1.6	6.8	3.5	2.9	6.4	1	100 - 149			881	21.9
1962 -	3.1	2.6	5.7	3.3	3.0	6.3	2	150 - 199			791	29.1
1963 -	3.2	3.6	6.8	4.2	3.9	8.1	3	200 - 249			70.9	29.1
1964 -	4.7	2.4	7.1	3.6	3.5	7.1	4	250 - 299			63.8	36.1
1965 -	3.7	2.7	6.4	3.8	3.5	7.3	5	300 - 349			27.5	42.8
1966 -	4.7	2.4	7.1	2.8	2.6	5.4	6	350 - 399			32.2	52.1
Apr. 1967	5.3	4.8	10.1	3.1	1.3	4.4	7	400 - 449			47.9	55.1
							8	450 - 499			42.0	58.0
							9	500 and over			35.0	45.0
							10	Baliboats (estimate)				

SOURCE: Inter-American Tropical Tuna Commission (IATTC)

SOURCE: Department of Interior, Bureau of Commercial Fisheries & American Fur and Seal Association

TABLE B - STANDARDIZED CATCH RATE and total catch per day's fishing in short tons by specie and year

TABLE D  
TOTAL BAITBOATS  
Yellowfin Skippack Catch/Dav

TABLE E  
TOTAL  
Yellowfin Skippack Catch/Dav

SOURCE: Inter-American Tropical Tuna Commission (IATTC)

Senator BARTLETT. Thank you, Mr. Felando.

Do you have an independent statement, Mr. Jackson?

Mr. JACKSON. Just a brief statement, Mr. Chairman.

I am the Washington representative of the Van Camp Sea Food Co., of Long Beach, Calif., a division of the Ralston Purina Co. Our firm is a member of the Tuna Research Foundation, Inc., of Terminal Island, Calif. Its executive director, Charles R. Carry, is regretfully unable to be present at this hearing today because of urgent business matters requiring his attention in California. He has asked me to speak on behalf of the foundation.

The membership of the Tuna Research Foundation represents 80 percent of the domestic pack of processed tuna in California and Puerto Rico and owns or has a substantial financial interest in 35 tuna vessels. The subject matter of S. 2269 is of vital concern to them, and they urge prompt and favorable consideration by your committee.

The Tuna Research Foundation and the American Tunaboat Association are coordinating their efforts in vigorous support of S. 2269. The foundation is in full accord with the testimony of Mr. August Felando.

Senator BARTLETT. Thank you, Mr. Jackson.

Mr. Felando, because a companion bill was defeated in the House Monday, do you believe there is any point in the Senate proceeding further?

Mr. FELANDO. I think it is urgent that the Senate continue.

Senator BARTLETT. What do you think will happen in the House, if this committee and the Senate itself passes the bill?

Mr. FELANDO. I hope that we will be able to—by “we” I mean the industry—that we will be able to explain our problem a little better than we have apparently in the past, and hopefully try to convince people that this legislation is essential and desperately needed by the industry.

Senator BARTLETT. You don't take the position that all is lost then?

Mr. FELANDO. No.

Senator BARTLETT. Are these fines or whatever they may be in any particular case paid by the individual boat owner or does the association have a fund to draw upon?

Mr. FELANDO. No; the association does not have funds, although we have been considering that possibility. What happens generally is that the managing owner will contact the other individual owners and they will assess each other and come up with the money, and send it down to the country involved. Or they will contact a bank and make a loan. Or they will make an arrangement with a canner, so as soon as the vessel comes back to the United States, the amount loaned by the canner will go to reduce the total gross received for the sale of the fish.

But we have no fund established for any purpose of this kind.

Senator BARTLETT. Have any cargoes of fish actually been taken by any of these Governments?

Mr. FELANDO. Not any of tuna; of shrimp, yes.

Senator BARTLETT. Why was it, do you happen to know, Mr. Felando, that the crew of the *White Star* left the vessel when it was seized by the Ecuadorean Government?

Mr. FELANDO. Well, after a period of about a month, and there was no indication of just when the Ecuadorean Government was going to

let them leave, it is my understanding that frankly a lot of the crew members have families to provide for and they just could not take it any longer—any further substantial financial loss—and they just felt compelled to leave the vessel and take care of their families and seek employment elsewhere.

Senator BARTLETT. They flew home?

Mr. FELANDO. Yes.

Senator BARTLETT. The same was true of the crew of the *Lou Jean*?

Mr. FELANDO. No; the boat was loaded and after a period of approximately 1 week the vessel was released and they went home.

Senator BARTLETT. Have a considerable number of the vessels belonging to your association shifted operations from San Diego to Puerto Rico?

Mr. FELANDO. No. The only substantial shift that has taken place has been in the construction of new vessels. Most of the new vessels—there have been approximately 17 vessels entering the fleet since 1961, and most of these vessels, with the exception of four, are operating in Puerto Rico. These four operate in San Diego.

Senator BARTLETT. Do any of the countries, or did any of the countries which we are concerned with here, the Latin American countries, sign or ratify the convention on the high seas?

Mr. FELANDO. Not to my knowledge. I do not believe—I know definitely that Peru has not signed these conventions and Ecuador has not, Chile has not. In fact, Peru goes to the extent of not even participating with the Inter-American Tropical Tuna Commission, on the grounds, I believe, that membership in that Commission would affect their position on the claim to a territorial sea.

Senator BARTLETT. You told us that aside from vessels flying the American flag, those of Japan, Canada, and Mexico have likewise been seized by Peruvian and Ecuadorean warships.

Mr. FELANDO. Yes.

Senator BARTLETT. Has the treatment dealt out to them been comparable with what our fishermen have experienced?

Mr. FELANDO. As to the imposition of fines, I believe that the treatment of Ecuador is the same for our vessels and Japan. I do not have that much information as to the treatment of Japanese vessels, if any have been seized off Peru. Ecuador seized a Japanese vessel in February 1967 and the fine was based on the same formulas as applied to U.S. vessels.

Senator BARTLETT. Do you know whether the Japanese Government lodged a protest?

Mr. FELANDO. I do not know.

Senator BARTLETT. Are there any Soviet ships fishing down there?

Mr. FELANDO. We have seen exploratory vessels of the Russian fleet off Central America, and one vessel that was close to Colombia. I do not have any direct knowledge of the presence of any Russian vessels off Ecuador and Peru.

I do know of a visit of a Russian vessel in a port of Chile, this year or the latter part of last year.

Senator BARTLETT. Then they don't have an active tuna fleet fishing in those waters?

Mr. FELANDO. No; they don't. To our knowledge they have no active tuna fishing fleet in the eastern Pacific.

Senator BARTLETT. I have no further questions.

Mr. Wedin?

Mr. WEDIN. No questions.

Senator BARTLETT. Thank you very much.

Mr. FELANDO. Mr. Chairman, I would like to also make a request to submit a statement regarding the other bills before this committee. I didn't have the time to submit such a statement because of my presence in Mexico.

Senator BARTLETT. The record will be open for 10 days. But let me ask you right now, if I may, about a bill, the number of which I will give you very soon, because I am tremendously concerned about the opposition expressed by the Department of the Interior and the Department of State—anyway, it is Senator Gruening's bill.

Mr. FELANDO. Yes; I am familiar with the contents of that bill. We oppose that bill. We agree with the statements that were made by the Department of the Interior and the Department of State on that legislation.

Senator BARTLETT. What?

Mr. FELANDO. And also based on my most recent experience in Mexico, along with Mr. Neblett, I found that the Mexican Government, the officials who represented Mexico, were extremely well versed in the law and agreements of the United States relating to fishery matters. And I feel that this mandatory provision that is contained in Senator Gruening's bill would be harmful to the industry.

Senator BARTLETT. You have just been down in Mexico?

Mr. FELANDO. Yes.

Senator BARTLETT. You weren't brainwashed there?

Mr. FELANDO. No, I don't consider myself—I like to brainwash the Government sometimes on our particular issues, but I don't think I have ever been brainwashed.

Senator BARTLETT. Well, you have 10 days to submit your other statements.

Mr. FELANDO. Thank you very much.

I might say we are in agreement fully with Mr. Rinehart with regard to that bank cooperative bill.

Senator BARTLETT. You want more money too?

Mr. FELANDO. We might need more money to pay the fines.

Thank you very much.

Senator BARTLETT. Thank you gentlemen.

There will be placed in the record at the appropriate point a wire from the members of the Board of Selectmen, Chatham, Mass., endorsing S. 1798; likewise a statement by Senator Hatfield, of Oregon, pertaining to Senate Joint Resolution 75 and Senate Joint Resolution 103.

(The telegram and statement follow:)

#### STATEMENT OF SENATOR MARK O. HATFIELD

On April 19 of this year I introduced before the Senate a joint resolution, S.J. Res. 75, proposing a Department of Interior survey of the coastal and fresh-water commercial fishery resources of the United States. I proposed this study at that time, and I encourage this subcommittee to favorably consider it now, not only because the fishing industry is so crucial to the economy of my native state of Oregon, but because the resources of our oceans are becoming increasingly vital to us as a nation as we and other countries around the world attempt to support our rapidly growing populations.

There are a number of reasons why I feel such a survey is necessary at this time, and I would like to briefly outline them for you as these hearings begin.

(1) *The obsolescence of our previous study*

It has been twenty-two years since a comprehensive and sophisticated study of our nation's fishery resources was made to Congress in 1945. This report, entitled "Fishery Resources of the United States" (Senate Document 51), effectively brought together most of the information then known about our coastal and fresh-water resources. However useful though it may have been in 1945, this report is no longer an adequate guide for industry, state and national policy today. For example, Senate Document 51 made little mention of foreign competition because such rivalry was not considered a serious problem at that time.

In the several decades since this study, new fishery resources have been realized: the oyster industry of the East Coast, the abundance of tuna and shrimp off the Oregon coast, to mention only a few. The United States has dropped from its stature as the second greatest commercial fishery nation in the world to fifth place since World War II.

(2) *The growing attention to ocean protein*

As technological advance has raced to overtake soaring birth rates during this latest decade, scientists have repeatedly stressed the potential of the ocean as a source of food. Despite the fact that seventy-one (71) percent of the world's surface is covered by the ocean, only about one to two percent of the world's total food supply is now obtained from the sea. The increased interest in the food protein of the sea has been a partial outgrowth of the new awareness of the importance of animal protein to human development. Our own Secretary of the Interior was recently authorized under Public Law 701 to develop, through the use of demonstration plants, practicable and economic means for the production by the commercial fishing industry of fish protein concentrate. This concentrate is eighty (80) percent protein and is often added to fortify various types of flour. The United States, as possessor of some of the richest and most extensive coastal and inland fishery resources of any nation, must have a reliable estimate of these resources now that the growing world food crisis necessitates the development and conservation of them by our national government.

(3) *International competition and the growing need for fishery conservation:*

From the days of the Portuguese voyage to the banks of New England in search of cod and herring and the development of the English whaling industry off the coast of Alaska, the fishery resources of the waters contiguous to the United States have, by their variety and abundance, attracted the fishing fleets of many European and Asiatic nations. This interest on the part of foreign nations continues today and has expanded in recent years. Beginning in 1963, for example, we in the Pacific Northwest have witnessed the increasing presence of Russian fishing fleets that have steadily moved south from the Gulf of Alaska to the waters just off the coasts of Oregon and northern California. From the 1965 to 1966 season these fleets, complete with large refrigerator storage ships, have increased estimated Russian catches of perch and hake off our Pacific coast from three to 280 million pounds.

	1965	1966
Perch:		
U.S. ....	25	30
U.S.S.R. ....	3	50
Hake:		
U.S. ....	3	12
U.S.S.R. ....	0	230

Note: Taken from minutes of annual meeting of the Pacific Marine Fisheries Commission, Nov. 17-18, 1966, Seattle, Wash.

In order to reach an international agreement with Russia, Japan or any other nation over the conservation of our fishery resources and thus to safeguard the future of our nation's own fishing industry, a survey of the effects of this increasing foreign competition is essential.

(4) *The increased possibility of international co-operation*

Since 1945 the United States has successfully extended its claim to waters twelve miles off shore. In 1958 the Geneva Convention recognized the right of coastal states to demand from foreign nations fishing in such waters adherence

to conservation programs designed to maintain stocks and sustained yields of fish. As I have suggested above, a national fishery conservation program on the part of the United States, that would now be supported by international law, is dependent upon an up-to-date inventory of our present coastal fishery resources.

On July 31 of this year, 2500 lawyers and jurists representing 100 countries at the World Peace through Law Conference in Geneva adopted a resolution recommending that the United Nations should proclaim its jurisdiction and control over the resources of the high seas. As debate increases over the question of international regulation and conservation of fishery resources on the high seas, the United States would benefit, I am sure, in taking the initiative to study its own territorial fishery resources. With the more reliable knowledge this study will bring, our representatives at the United Nations conference tables will be better able to determine a policy that is consistent with our national interests and relevant to the most pressing needs of open ocean fishery conservation.

So in view of these four major developments since the last comprehensive report on fishery resources was made to Congress over twenty years ago, I believe our nation and our fishing industries would benefit from a new and up-to-date study.

The means are available today for undertaking such a study. New technological developments, such as sonar and aerial survey methods, combined with the increased number of oceanographers and marine biologists currently working in our Department of Interior or available to it through our universities would make this report to Congress both feasible and highly reliable.

Essentially this could be a two-part study: an up-dated compilation of presently known information about our coastal and fresh-water fisheries and a later additional research report undertaken in response to the deficiencies in our knowledge pointed out by the first study.

Last year this subcommittee favorably reported and the Senate passed Joint Resolution 29, which appropriated \$200,000 for a study similar to the one I have outlined above. The House was unable to act on the bill before adjournment. At that time, however, the Bureau of Commercial Fisheries advised that at least \$400,000 would be necessary just to compile present knowledge that would be useful to our legislative and executive bodies in formulating policies of resource conservation and development. I have been advised through discussion with numerous officials from the Department of Interior that a much larger sum will be required to complete a program of research necessary to provide a more complete study. I have therefore allowed for an appropriation of up to \$3,000,000, a sum more realistic to accomplish the sort of useful study this legislation envisions and that this country needs at a time when our fishery resources are becoming increasingly important and dangerously threatened by foreign competition and an absence of a unified national conservation program.

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CHATHAM, MASS., *September 19, 1967.*

COMMITTEE ON COMMERCE,  
*Subcommittee on Merchant Marine and Fisheries,*  
*U.S. Senate, Washington, D.C.*

GENTLEMEN: We urge your immediate approval of S. 1798, believing it will have a beneficial effect upon commercial fishing, one of Chatham's basic industries.

Very truly yours,

ROBERT A. MCNEECE,  
DAVID F. RYDER,  
EVERETT C. SMALL,

*Board of Selectmen, Town of Chatham, Mass.*

(Whereupon, at 11:35 a.m., the subcommittee was adjourned, to reconvene at 10 a.m. on Friday, September 22, 1967.)

(The documents referred to in Mr. Felando's statement follow:)

## EXHIBIT A

DECREE ESTABLISHED IN THE GOVERNMENT HOUSE, IN LIMA, PERU, THE 5TH DAY OF JANUARY, NINETEEN HUNDRED AND FIFTY-SIX

*Translation*

WHEREAS THE PRESIDENT OF THE REPUBLIC:

Considering that it is necessary to establish the rules and regulations necessary to grant permits for fishing vessels with foreign flags, that wish to engage in fishing activities in waters under the national jurisdiction; pursuing the protection and conservation of the use of live sea resources essential to our national life, and to the economy of the Country or its food production:

With the approving vote of the Cabinet RESOLVES

Approved, the following:

REGULATIONS TO GRANT FISHING PERMITS TO FOREIGN SHIPS TO FISH IN JURISDICTIONAL WATERS OF PERU

## I—GENERAL REQUIREMENTS

Article 1. The Government can grant permission to foreign flag fishing vessels for operation in jurisdictional waters of Peru, under the specifications established in the present Decree.

Article 2. This Decree also includes foreign flag ships under contract to work for the benefit and use of national companies, with the limitations and exceptions herein stipulated. It does not include vessels exclusively dedicated to the supply of fresh or frozen fish for the national market consumption. In this case, the Fishing Permits shall be subject to the established regulations.

Article 3. The Permanent Commission (Peruvian Section) of the Congress for the Exploitation and Conservation of the Sea Resources in the South Pacific Ocean, in agreement with relevant studies, may pass conservation measures that settle or restrict the yearly fishing quota.

In this case, the number of permits granted to boats should not exceed that of the number specified by the aforementioned Commission.

Article 4. The fishing Permits referred to in the foregoing articles will be granted only for fishing whale, tuna, and skipjack, as well as the respective bait.

Fishing operations of other species will not be granted in any case.

## II—APPLICATION AND TRANSACTION OF FISHING PERMITS

Article 5. To be able to operate in jurisdictional Peruvian waters, foreign ships must display a Matricula and a Fishing Permit.

The Matricula will be valid for one calendar year. The Fishing Permit will be valid for one hundred days (100) beginning from the granting date.

Article 6. For the Matricula, each boat will pay US\$500.00 (five hundred and no/000 dollars) and for the Fishing Permit, each boat will pay US\$12.00 (twelve and no/100 dollars) per net ton of registration. This amount may be changed in accordance with the fluctuation of the product's value, in the international market.

Article 7. The applications will be made to the: Director de Pesqueria y Caza del Ministerio de Agricultura (Fish and Wildlife Ministry of Agriculture) or to the Peruvian Consulates, with jurisdiction in the sailing port.

Article 8. The application must be accompanied by the following documents:

A) Evidence of having an Agent or Representative in Peru, legally authorized to be responsible for infractions that the vessel may incur against the present regulations.

B) Evidence of ownership or legal representation of the boats for which the permit is to be petitioned.

C) Photostat copy of the Vessels' Matricula and Registration.

D) Receipt of payment made to the Caja de Depositos y Consignaciones or to the Consulate and made payable to the order of the mentioned Caja, in the amounts stipulated in Article No. 6.

E) Written Agreement to observe and abide, and have knowledge of the conditions of the present Decree.

Article 9. The Consulates must grant Fishing Permits as stipulated in Articles 5 and 6, when they grant a Matricula, using for this purpose the respective forms and advising the Ministry of Foreign Relations, General Port Director, National

Merchant Marine Department, Fish & Wildlife Ministry of Agriculture, and the Institute of the Sea of Peru.

Article 10. Permits, or Fishing Licenses for refrigerator boats will only be granted when such boats perform as mother ships to fishing boats authorized to fish, in agreement with the present Regulations. These Refrigerator Vessels, when soliciting Fishing Permits, shall only pay the Matricula Fee required in Article No. 6, being exempt from paying the Fishing Permit fee, but, the fish that they receive will be subject to the same export tax established for fish exported by national companies.

### III—RIGHTS AND DUTIES OF THE PETITIONERS

Article 11. Vessels with authorization to fish in Peruvian jurisdictional waters, shall perform their tasks within the legal limits, submitting to the requirements in force and to the requirements that might be established in the future; being, at all times, obligated to advise, by any means of communication, the dates of entrance and departure in Peruvian waters.

Noncompliance of this Requirement, or of the renewal of the expired Fishing Permit, shall be subject to a fine of US\$2,000.00 (two thousand and no/100 dollars).

Article 12. All fishing activities of such boats will be subject to the control of the Office of the Director of Fisheries & Wildlife Department which will set the limitations and prohibitions and will prescribe the technical specifications that may deem convenient to the conservation of ichthyological abundance.

Article 13. Fishing operations must be performed in such a manner as not to interfere with regular navigation activities and the Fishing Permit will never grant rights that prevent or interfere with the fishing tasks of the local residents.

Article 14. The fishing bait must be attained by the vessels, for their own use, hereby prohibiting its sale or transfer to other boats.

Article 15. It is hereby absolutely prohibited to fish anchoveta and sardines for industrial purposes.

Article 16. The transfer of fish to any other vessel, at high seas or in a port, is hereby prohibited, except in the cases when the product is to be exported, whereas the transfer should be carried out at the port, under supervision of maritime and customhouse officers.

Article 17. It is hereby also prohibited to approach the Points or Guano Islands, in accordance with the regulations of the Port Director and the National Merchant Marine Departments.

Article 18. The following operations are also prohibited:

A) The use of explosives, poisonous substances and any other forbidden and harmful methods.

B) To carry forbidden fishing nets or allow fishing boats to carry explosives or poisonous substances on board.

C) To leave at shore and to throw into the water, in zones marked by the respective conditions, products or waste from fishing.

D) The use of fishing dragnets in protected areas, in open waters, in which sedentary species exist.

E) To remove fishing products in reserved zones, sheltered places or at times when fishing is prohibited.

F) To kill, mutilate, or disable, in any way, fish that may be caught while fishing for bait and that is not usable for this purpose.

Captains or Masters of the vessels shall have the responsibility of seeing that the fish caught and not usable for bait or to feed the crew, is returned to the sea.

Article 19. It is hereby forbidden for any crew member of these boats to sell fish, for local market consumption, except in cases where the proper authorities have granted permission.

Article 20. The Captain of the vessel is hereby under obligation to receive on board and to provide lodging and food to the person that, eventually, may be nominated by the adequate authority of technical and statistical fishing control, while the boats are operating in Peruvian waters.

Article 21. It is hereby prohibited to refrigerator fishing boats, that perform as mother ships for the tuna clippers, to operate away from port. They must remain anchored from the time of arrival to the time of departure from Peruvian port, after having undergone the necessary control inspection by the authorities in charge.

Article 22. The Captain, as well as the Vessel's Agents, or Legal Representatives, as referred to in Paragraph A, of Article No. 8, assume full responsibility for any violation of national laws and regulations that may be committed.

Article 23. Boats that have received Permits to operate in Peruvian jurisdictional waters, may use port facilities to obtain provisions, water, fuel, for repairs, etc., that might be needed during the time that the Permit is in force.

Article 24. In addition, they may engage the services of national people, that might be needed to form part of their regular crew.

#### IV—VIOLATIONS AND FINES

Article 25. Foreign Flag Vessels that are discovered performing fishing operations within Peruvian jurisdictional waters, without the necessary Fishing Permit and Matricula, will be fined with an amount double to the respective fees which they are subject to pay, in accordance with Article No. 6.

Article 26. Any other violations shall be sanctioned in accordance with the legal regulations in force.

#### V—REMITTANCE OF FUNDS

Article 27. Funds collected from Fishing Permits and Matriculas, in accordance with the present Decree, will be received by Caja de Depositos y Consignaciones, in an account denominated "Fondos Para Investigaciones Hidrobiologicas". These funds will be placed at the disposition of the Institute of the Sea of Peru, to cover for expenses to carry out their investigation plans.

Article 28. The present Decree shall be authenticated by the Department of State, Department of the Navy, and Department of Agriculture.

Decree established in the Government House, in Lima, Peru, the 5th day of January, Nineteen Hundred and Fifty-six.

s/MANUEL A. ODRIA,  
*President of Peru.*

s/LUIS E. LLOSA G.P.

This Decree includes the changes made by the Government of Peru on April 30, 1965.

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#### EXHIBIT B

#### CONSULADO DEL ECUADOR, SAN DIEGO, CALIFORNIA

#### MEMORANDUM

In conformity with its internal legislation, and with the international conventions to which Ecuador is a Party, the territorial waters of the Republic extend to a distance of Two Hundred Nautical Miles.

Within these territorial waters the Republic of Ecuador exercises complete sovereignty and jurisdiction.

In order to engage in fishing operations in the territorial waters of the Republic of Ecuador, the following regulations must be observed.

Any vessel wishing to operate in territorial waters of the Republic of Ecuador must previously obtain from the Ecuadorean Consulate having jurisdiction over its home port, or from the Ecuadorean Consulate nearest to its route, the Fishing License for the Vessel.

Said License must be carried on board by the Captain of the fishing vessel, together with those other indispensable documents required by the Maritime rules.

The Fishing License is valid from the date of issuance until the 31st. of December of the year in which it is obtained. The cost of the License is \$200.00, United States currency.

Possession of the License on the part of a fishing vessel enables it to obtain, at the time required, the corresponding Fishing Permit which authorizes its entrance into Ecuadorean waters, and the start of fishing operations.

The Fishing *Permit* is obtained, as is the License, from the Ecuadorean Consulate having jurisdiction over the port from which the vessel sails, or from the Ecuadorean Consulate nearest to its route.

The Fishing *Permit* is valid only for a single voyage; that is to say, from the moment the journey *is begun* until that of the departure of the vessel from Ecuadorean waters, and for a term of 100 days for those vessels which shall have obtained their *Permits* from any of the Consulates of Ecuador in California.

The fee for the Fishing *Permit* is in accordance with the net registered tonnage of the vessel, and the species of fishes intended to be caught :

	<i>Per ton</i>
For Bacalao filet.....	US\$24. 00
For Swordfish.....	20. 00
For Tuna.....	12. 00
For Shark.....	12. 00
For Bacalao.....	8. 00

The Fishing Permit is issued in an original and seven copies. In order to obtain it, the interested party must present, at the Consulate, the Crew List in quadruplicate (original and three copies). The Consul will return to the applicant, the Original forms of the Fishing Permit, and the Crew List, duly legalized.

The Fishing Permit can be issued by radio when the vessel which requests it is on the high seas, but near Ecuadorean waters.

In the latter case, prompt issuance of the Permit will be facilitated by the presentation of a copy of the Crew List, in quadruplicate, to the Consulate in the home port of the vessel, by its Maritime Agent.

The Consul will transmit by cable to the Ecuadorean Authorities, the data regarding issuance of the Fishing Permit, and any other necessary details.

The Fishing Permit when issued by radio, is valid for 85 days. Any vessel which shall have obtained the permit thus, may not use it until 24 hours have elapsed after the date of issuance.

Before said 24 hours have elapsed, the vessel may not legally enter Ecuadorean waters.

The Fishing Law of Ecuador establishes that "For foreign flag vessels, it is considered a crime of contraband :

- a) entry of a vessel in territorial waters of the Republic when not carrying the License, and the Fishing Permit, or when it is encountered in said waters once the term of the Permit has expired ;
- b) Illegal transfer of fish to another vessel. In this case the sanction applies to both vessels ;
- c) Engaging in fishing operations with documents issued by officials not authorized by the Law ;
- d) Fishing a determined species while being authorized for another ;
- e) Sailing from Ecuadorean waters without presenting its documentation : the License, the Fishing Permit, and all other pertinent documents, to the respective Port Captain or Port Organization that performs his duties.

For this reason, in "Permiso de Pesca" (Fishing Permit) appears a note which says, "Before starting fishing operations, a current Fishing Permit must be visaed in the nearest Port Captain's Office".

Vessels committing any of the infractions indicated under a), b), c), d), and e), shall be sanctioned according to the Law by :

- 1) A fine of four times the cost of the corresponding Fishing Permit, in addition to the payment of the Court costs and respective taxes.
- 2) A fine, double the amount of the previous one, for each recurrence :
- 3) Confiscation of the vessel, when at the expiration of the legal period and within a grace period (final and not subject to any additional extension) of five days, the amount of the fine remains unpaid.
- 4) Loss of the fishing rights and to obtain permits as long as the vessel fails to pay the fine corresponding to its violation.

Whatever additional information may be required regarding this matter, the Consulate of Ecuador will be pleased to provide upon request.

SAN DIEGO, CALIFORNIA.

ECUADOREAN LAW AS IT APPLIES TO THE OPERATIONS OF  
AMERICAN TUNA FISHING VESSELS

In general terms, the body of Ecuadorean law applicable to the operations of American tuna fishing vessels, is made up of the Fishing and Maritime Hunting Law as codified in 1961 (and hereafter cited as Fishing Law), various treaty agreements with Peru and Chile, and a number of Decree Laws. This paper is an effort to condense and clarify this body of law, excluding all portions not applicable to American and other foreign flag tuna vessels not operating from ports in Ecuador.

*A. General and Special Zones Where Ecuador Exercises Controls on Fishing by Foreign Vessels*

The Government of Ecuador claims that the Ecuadorean territorial sea extends outward for two-hundred marine miles from the line of lowest tide on the most salient points of the continental coast and from the outermost islands of the Colon (or Galapagos) Archipelago. This claim was advanced in Decree No. 1542, dated November 10, 1966 and printed in Official Register No. 158 of November 11, 1966. Within this expanse of sea, the Government of Ecuador claims the right to regulate and control fishing activities of both domestic and foreign vessels. In addition, Decree No. 991 of May 23, 1961 (printed in Official Register No. 229 of June 2, 1961) prohibits foreign vessels from engaging in bait fishing in the zone lying coastward of a line drawn from the point of the Santa Elena Peninsula to the point of Cabo Pasado. Another zone of special interest, although not yet reflected in Ecuadorian law, is the result of a treaty agreement with Peru and Chile reached at Lima in 1954. In this agreement, the three nations reserved a zone stretching from the coast out to a distance of twelve marine miles, within which only national fishermen would be permitted. Although Ecuador's representative was a signatory to this agreement in 1954, the Government of Ecuador did not take necessary action to ratify it until 1964 (Decree No. 2556, dated November 9, 1964, printed in Official Register No. 376 of November 18, 1964).

*B. Documentary Requirements for Foreign Flag Vessels to Enter Ecuadorean Claimed Waters to Fish for Tuna or Purchase Fish*

Ecuador's Fishing Law specifies (Article 10) that fishing activities by foreign flag vessels may be authorized subject to pertinent legal and regulatory dispositions. It also requires that all fishing activities must be specifically authorized in writing (Article 15). In the case of foreign flag tuna fishing vessels, this authorization includes both a registration (matricula) and fishing license (permiso de pesca), without which they may not enter into Ecuadorian territorial waters (Article 21). These fishing documents will only be granted to petitioners who certify in writing (Article 22) that they will submit to the Ecuadorian laws and regulations and pay the fees and taxes determined in them. The present interpretation of the Fishing Law is that vessels desiring to fish in Ecuadorean waters must first be registered prior to departure from port by the Ecuadorean Consulate within whose jurisdiction the port of origin of the vessel is located. As only Consuls of career have authority, if there is no Consul serving the port of origin of the vessel, the Consulate closest to the course followed by the vessel may issue registration (Articles 22 and 23). This registration is valid from the date of issuance until December 31 of the same year (Article 23). Fishing licenses may be obtained from the same Consulate at which the vessel is registered either (a) prior to the departure of the vessel, (b) while on the high seas prior to entry into Ecuadorean claimed waters, and (c) while in Ecuadorean waters if the vessel wishes to continue fishing immediately upon expiry of a current license (Articles 22 and 24). In the latter two cases, the license is obtained by radio, but is given the same legal rights as those granted prior to the departure of the vessel (Article 24). The license is valid for either one voyage, that is to say until the vessel enters port to sell its catch or transfers its catch to another vessel (Article 25), or for (a) 100 days if issued in writing by Consulates in California or the Gulf of Mexico, (b) 80 days if issued in writing by Consulates in Central or South America, (c) 85 days if issued by radio by Consulates in California or the Gulf of Mexico, and (d) 75 days if issued by radio by Consulates in Central or South America (Article 26). In the case of vessels either fishing for tuna or purchasing tuna the registration costs US\$200.00, while the license costs US\$12.00 per net registered ton of the vessel being licensed (Article 29 and Decrees 415 of September 9, 1963 published in Official Register No. 58 of September 18, 1963, and 892 of October 31, 1963 published in Official Register No. 113 of November 25, 1963). When foreign flag fishing vessels coming to purchase fish from local fishermen have a permit to establish themselves in the country, i.e. in an Ecuadorean port, they only have to pay 50 percent of the fees stated above (Decree No. 682-F of March 31, 1964 printed in Official Register No. 230 of April 20, 1964).

*C. Obligations and Prohibitions Applicable to Fishing Vessels Operating in Ecuadorean Claimed Waters*

Any vessel fishing in Ecuadorean claimed waters, whether a domestic or a foreign vessel, may not transfer its fishing authorization to another (Article 18), nor may it offload its catch onto any other except as provided for in the law (Article 27). Also, no commercial fishing activity has the right to deprive or

make difficult the fishing of local inhabitants fishing for domestic consumption (Article 17). Vessels are also required to abide by legal periods for exploitation of the various species (Article 49-1), observe size limitations as set forth in regulations (Article 49-2), establish the legal origin of fish caught (Article 49-3), return to the water those live fish not to be utilized (Article 49-5), register prior to use the method of fishing to be employed (Article 49-7), and furnish information, upon request by the Fisheries Department, as to the origin of the catch (Article 49-8). In their fishing activities vessels are prohibited from utilizing explosives (Article 50-1), toxic or noxious substances (Article 50-2), substances whose purpose is to blind or kill fish (Article 50-8), and from blocking spawning runs (Article 50-4), and from abandoning on beaches or banks or in the water any fish products or waste (Article 50-5). In addition to the above, foreign flag fishing vessels are specifically prohibited from (a) entering into Ecuadorean territorial seas without the proper authorization, or remaining in these seas when the authorization has expired (Article 52-a), (b) transferring fish illegally from one vessel to another (Article 52-b), (c) operating with expired or fraudulently obtained documents or with documents obtained from an unauthorized official (Article 52-c), (d) fishing for one species when authorization was issued for another (Article 52-d), and (e) leaving Ecuadorean claimed waters without first presenting the registration and fishing license and other pertinent documents to the Captaincy of the Port or other port authority for visaing (Article 52-e). In addition to all of the above, fishing activities may at any time be prohibited, limited and conditioned by the President of the Republic (Article 13).

#### *D. Sanctions Applicable to Vessels Violating Laws on Fishing*

Foreign flag fishing vessels which are found to have violated any part of the body of Ecuadorean fishing law may be fined or otherwise sanctioned as follows: (a) fined by an amount equal to four times any unpaid fees corresponding to the fishing permit, without prejudice to the payment of all respective fees and taxes (Article 52-1), (b) double this fine in all cases of repetition (Article 52-2), and (c) the confiscation of the vessel if its fines are not paid within five days (Article 52-3). In cases where vessels are in violation of the law but escape capture they lose all right to fish and to obtain authorization to fish until such time as their fine is paid (Article 52-4).

#### *E. Procedural Arrangements Followed in Cases of Violation of Ecuadorean Fishing Law*

In all recent cases where foreign flag fishing vessels were believed to be in violation of the law they have been arrested by a vessel of the Ecuadorean Navy and carried to the nearest Ecuadorean port. A hearing is then held before the Captain of the Port, with a summary record being taken of the testimony of the Captains (and possibly some crew members) of both the seized and seizing vessel. This summary is then forwarded to the Ministry of National Defense in Quito, where a report is prepared, based on the summary, and then forwarded to the Minister of Industries and Commerce for final judgment. The Minister of Industries and Commerce may find that the vessel was not in violation of the law, in which case he will inform the Port Captain to release the vessel, or he may find the vessel guilty and impose a fine. In the latter case the Minister sets the fine and notifies the General Command of the Ecuadorean Navy (Comandancia General de la Marina) in Guayaquil, to which the fine is paid. If the fine is not paid within five days, and this fact is attested to by Captain of the Port or his representative and witnessed by the Captain of the vessel which seized the captured vessel (Article 52-3). All fines, as well as the returns from the fishing registrations and licenses, are divided between the National Investment Fund (60 percent) and the Ecuadorean Navy (40 percent) in accordance with Decree No. 1344 of October 19, 1966 (published in Official Register No. 149 of October 27, 1966).

#### *F. Additional Measures Now Being Considered by the Ecuadorean Constituent Assembly Which, if Passed, Will Affect Foreign Fishing*

The Ecuadorean Constituent Assembly now has before it for consideration at least three bills which, if passed, will also affect the operations of foreign flag fishing vessels operating off Ecuador. The first of these is aimed at establishing a forty marine mile "closed zone" off the coast which would be reserved for national fishermen, as well as increasing the registration and license fees of foreign vessels fishing in the remainder of the claimed two-hundred mile "territorial sea". The fees set forth in this proposal are US\$600.00 for the registration (instead of

US\$200.00) and US\$50.00 per net registered ton for the license (instead of US\$12.00). A second proposal would authorize the Ecuadorean Navy to purchase six torpedo launches to enforce Ecuador's "rights" in the two-hundred miles. The third bill is aimed at excluding purse seine type fishing vessels from a forty mile zone off the coast, reserving this for live bait fishing until such time as the Ecuadorean fishing fleet acquires purse seiners. This latter bill is similar to a Decree issued in 1962 (and revoked in 1963) closing a zone of forty miles off the coast from the Santa Elena Peninsula to Cabo Pasado.

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PACIFIC MARINE FISHERIES COMMISSION,  
*Portland, Oreg., September 15, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The Pacific Marine Fisheries Commission, which is an interstate agency of California, Idaho, Oregon and Washington, desires the passage of legislation such as S. J. Res. 103 and S. J. Res. 75—to authorize and direct the Secretary of Interior to conduct a survey of the coastal and freshwater commercial fishery resources of the United States.

A resolution on this subject was enacted in 1955. It resulted in the very useful Document No. 51, 79th Congress, 1st Session, entitled "Fisheries Resources of the United States." An updating and expansion in scope of this document is needed because of the world-wide intensification of fishing; the changes in fishing vessels, equipment and techniques; the increasing harvests of more pounds and more species of fish; the increasing world demands for protein foods; and the deteriorating status of fisheries in the United States both from a domestic as well as a world-wide point of view.

Waters off the coasts of the United States are being invaded by large foreign fishing fleets, and the fishery resources are being reduced in abundance in some instances even before U.S. fisheries become established on those resources. Imports of fishery products are increasing at a time when the national output of fishery products is decreasing in spite of the following facts:

The U.S. market for fishery products is the largest in the world. In 1965 the U.S. used over 10 billion pounds (round weight), or nearly 10% of the world's fish production. The U.S. demand is growing rapidly, having increased from 5.6 billion pounds in 1948 to 10.5 billion pounds in 1965. The per capita use of fish also increased from 38 pounds in 1948 to about 60 pounds in 1965. Fishery imports in 1965 cost this nation almost \$600 million at a time when the known resources off our immediate coasts, in their present undeveloped condition, are capable of producing twice our annual needs on a sustained basis. The \$600 million paid for imported fish was a sizeable portion of the U.S. foreign exchange deficit. If we do not harvest and manage the fisheries off our own coasts, other nations will, and we will continue as we have been, beginning with 1963 to import more fish than we produce ourselves.

The world is faced with a problem of protein malnutrition. From an article in the January 1967 issue of *CURRENT* by Judith Randal, entitled, "People Versus Resources, Does Hunger Reduce Intelligence?", I infer that only 20 million tons of the 160 million tons of protein presently available to the world per year are fish protein. The oceans of the world can produce a much greater proportion of the needed protein, and a nation with abundant marine fisheries adjacent to its own shores is certainly fortunate to be able to help both its own people and the undernourished peoples in other parts of the world. Fishery products not only satisfy hunger but they promote good health. Yet here we sit with no, or uncertain, knowledge about the extent and, in many instances, without making any attempt to use these resources. If we do not use them, other nations will, to our detriment both politically and financially.

The numbers of U.S. fishermen, fishing vessels and shore workers are decreasing although they are strategic assets in time of war or emergency. We can not reverse this trend without information with which to stimulate and plan greater use of the fishery resources in or adjacent to the United States and in the world's oceans.

In closing, I wish to thank you, Mr. Chairman and your Committee, on behalf of the Pacific Marine Fisheries Commission for the opportunity to file this statement in favor of legislation such as S. J. Res. 103 and S. J. Res. 75.

Respectfully,

LEON A. VERHOEVEN,  
*Executive Director.*

[Telegram]

ATLANTIC FISHERMEN'S UNION,  
Boston, Mass., September 20, 1967.

Senator WARREN G. MAGNUSON,  
Chairman, U.S. Senate, Committee on Commerce,  
Washington, D.C.:

The Atlantic Fishermen's Union wishes to be recorded in favor of the following bills S.J. Resolution 103 and S.J. Resolution 75, S. 1798, S. 2269, S. 2232, S. 1784, S. 2047, S. 1752, S. 1260.

JAMES D. ACKERT, *President.*

CANNERY WORKERS AND FISHERMEN'S UNION,  
San Diego, Calif., September 31, 1967.

HON. WARREN G. MAGNUSON,  
Washington, D.C.:

Please be advised that the Cannery Workers and Fishermen's Union is very much in favor of the enactment of S. 2269, which amends the Fishermen's Protective Act. We earnestly and respectfully solicit your support in getting this bill out of committee, and the passage of same by the Senate.

LESTER BALINGER,  
*Secretary-Treasurer.*

FISHERMEN'S UNION LOCAL 33, ILWU,  
San Pedro, Calif., September 20, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Senate Committee on Commerce,  
Washington, D.C.:

Please be advised that our organization is in full accord and support of S. 2269 and respectfully request that you and your committee support and approve the passage of this bill.

Respectfully yours,

JOHN J. ROYAL, *Secretary-Treasurer.*

THE NATIONAL CONVENTION OF THE PROPELLER CLUB OF THE UNITED STATES,  
HONOLULU, HAWAII, OCTOBER 11-13, 1967

RESOLUTIONS ADOPTED AT THE CONVENTION

*Protection for U.S. commercial fishing vessels*

The Propeller Club of the United States supports and endorses the principles involved in the proposed amendments to the U.S. Vessel Protective Act of August 27, 1954, now under consideration by the Congress of the United States.

The Propeller Club believes that corrective action is required (1) to maintain the traditional freedom of the seas policy of the United States and (2) to oppose the efforts of other countries to limit freedom of the seas by excessive claims of territorial waters.

The Propeller Club urges the Federal Government to make every effort to negotiate a lasting solution to this problem which has proved such a menace to the U.S. fishing industry and to commercial fishermen, including the fear of harassment, injury or death that may result from seizure incidents.

NATIONAL CANNERS ASSOCIATION,  
Washington, D.C., August 29, 1967.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MAGNUSON: We would like to express for the record our support for S. 2269, currently pending before your Committee, which would amend the Act of August 27, 1954 to permit broadened compensation to U.S. fishing

vessel owners for costs incurred when their boats are seized by foreign countries for fishing in international waters. We urge the enactment of this legislation to provide a more equitable and realistic compensation to U.S. vessel owners and fishermen.

As you well know, this problem has particular pertinence to the U.S. tuna fleet operating on the high seas off the coast of Latin America. Our tuna vessels have been subjected to increasing harassment by Latin American governments on the basis of exorbitant jurisdictional claims over areas of the high seas which have historically and traditionally been fished by the U.S. fleet. These claims are in contravention to international law and are not recognized by the U.S. and a large majority of the international community.

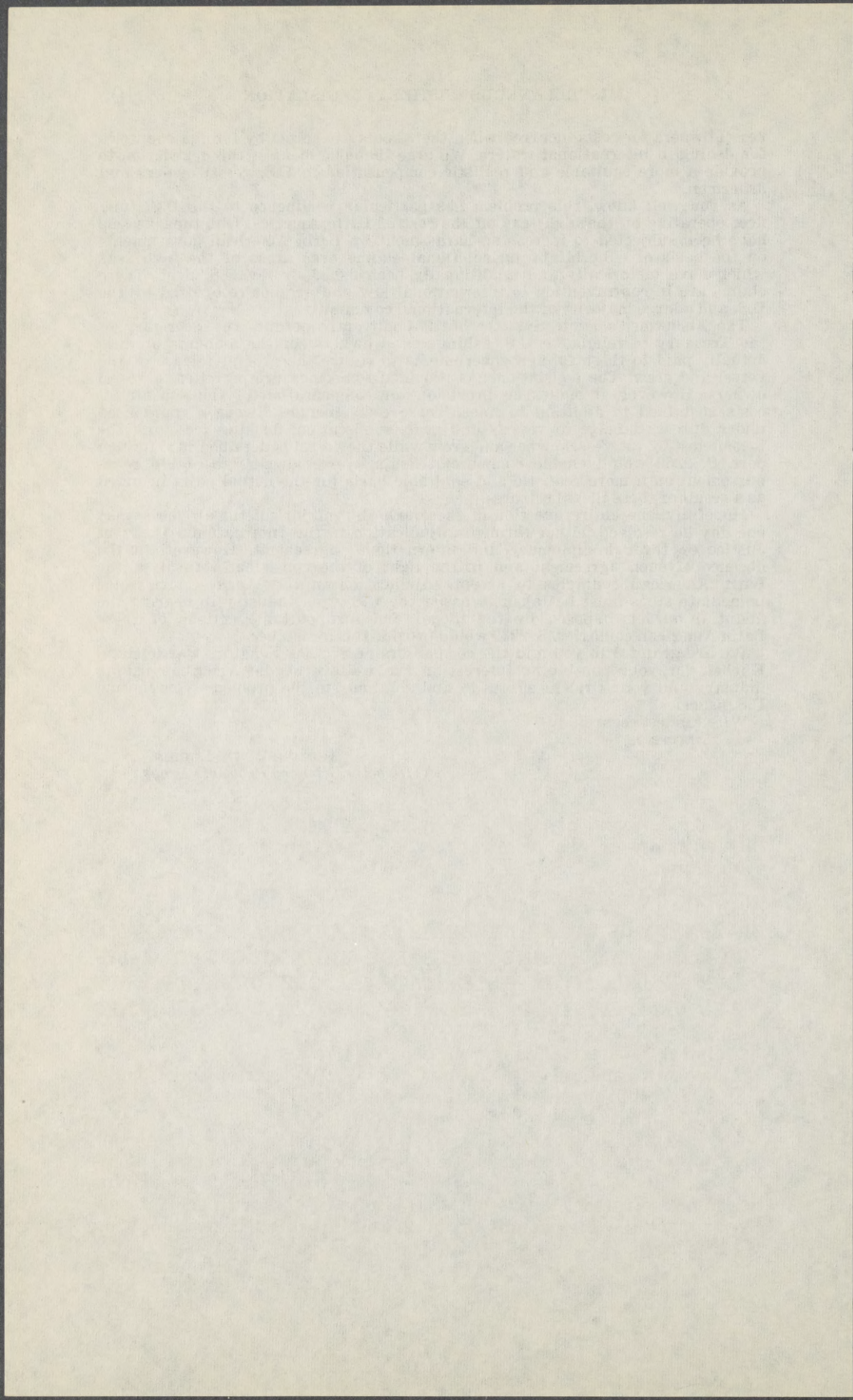
The Fishermen's Protective Act of 1954 currently permits the Secretary of the Treasury to reimburse U.S. fishing vessel owners for the amounts of fines actually paid to these foreign governments to secure the prompt release of the vessel and crew. The legislation has provided some measure of relief to vessel owners. However, it makes no provision for compensation of the substantial costs sustained in addition to fines. These costs include "licenses" purchased under duress, damage to vessels and gear, confiscation, docking fees, and the income lost by the vessel owner and crew while the vessel is detained in a foreign port. S. 2269 would enable commercial fishing vessel owners to obtain reimbursement on a more realistic and equitable basis for the actual costs incurred as a result of these illegal seizures.

Hopefully, the entire question of these exorbitant jurisdictional claims may one day be resolved, either through adjudication in the International Court of Justice or through diplomacy and international agreement. However, in the absence of such agreement and in the light of the consistent refusal of the Latin American countries to accept adjudication in the World Court, some immediate steps must be taken to assist the U.S. tuna industry in bearing the financial burden imposed by the illegal and insupportable actions of these Latin American countries. S. 2269 would provide this assistance.

We are grateful to you and the co-sponsors of S. 2269, Senators Bartlett and Kuchel, for your continuing interest in the welfare of the American fishing industry and your tireless efforts to find solutions to the problems confronting U.S. fisheries.

With kindest regards,  
*Sincerely,*

RONALD W. DE LUCIEN,  
*Director, Fishery Products Program.*



## MISCELLANEOUS FISHERY LEGISLATION

FRIDAY, SEPTEMBER 22, 1967

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,  
*Washington, D.C.*

The subcommittee met at 10 a.m. in room 5110, New Senate Office Building, the Honorable E. L. Bartlett, chairman of the subcommittee, presiding.

Senator BARTLETT. The committee will be in order.

The first witness this morning will be Rear Admiral Murphy, Chief of the Office of Merchant Marine and Safety of the U.S. Coast Guard.

My information is that Admiral Murphy has been on the witness list each day since Wednesday, but his appearance Friday is no signal that there has been any reluctance on the part of the Coast Guard to testify, but rather the delay has come about because of the need for considerable discussion and clarification on S. 2047. And I am well aware of positive and authoritative information that meetings on this matter have been going on day and night between the affected Pacific Northwest fishing industry and the Coast Guard.

It is possible, I don't know what Admiral Murphy is going to say, but it is possible that his testimony this morning and the position he expresses may not be exactly what has been sought for Alaska fishing industry operations. But I am hopeful and fairly sure that it will represent a great deal of progress during the last 3 days. And I should like to commend the Admiral and his staff for their sympathetic cooperation.

Admiral Murphy?

**STATEMENT OF REAR ADM. CHARLES P. MURPHY, CHIEF, OFFICE OF MERCHANT MARINE AND SAFETY, U.S. COAST GUARD, WASHINGTON, D.C.; ACCOMPANIED BY COMDR. CLIFFORD F. DE WOLF AND CAPT. WINFORD W. BARROW, U.S. COAST GUARD STAFF**

Admiral MURPHY. Thank you, Senator Bartlett.

I have with me today, Senator, Capt. W. W. Barrow and Comdr. C. F. DeWolf from the Coast Guard staff. We appreciate this opportunity to appear before you and comment on S. 2047.

I would like to apologize for the postponements in presenting our position on this bill which the Department of Transportation has requested. This was necessary, as you pointed out, to provide opportunities for some further discussions and also to discuss with the Interior Department the suggestions made on the bill in their testimony on Wednesday.

The bill would provide clear exemptions for fishing vessels and cannery tender vessels and fishing tender vessels less than 500 gross tons from complete application of certain laws which require inspection, loadlines, and relate to the safety precautions necessary for carrying inflammable and combustible cargo.

During the past several years, problems have come to light on these types of vessels and their operations. The most obvious problem which came to our attention related to the tenders and other vessels carrying petroleum products and dispensing them to other fishing vessels in the industry. This operation as it was first noted included some, what we considered, very hazardous procedures and it did represent a clear violation of the Tank Vessel Inspection Act (46 U.S.C. 391(a)), which makes it clear that any vessel which has on board these petroleum products and dispenses them from the vessel, carried as cargo, is subject to full inspection by the Coast Guard.

On further investigation, this practice was found to be quite widespread. It had developed gradually and over a long period of time became widespread. Other aspects were noted which related also to the carriage of cargo and personnel on these vessels. These also were in an area where they might be considered violations of existing statutes, but the clear position of these operations depended somewhat on the interpretation of the statutes which of course give wide latitude to vessels in the fishing industry.

With respect to the tender-type vessels, which do not actually fish, there was a genuine question as to whether the existing laws were intended to include these vessels with respect to carrying cargo and personnel or passengers.

The Coast Guard met with representatives of the industry on a number of occasions, discussed the ramifications of these developments, particularly the hazards which some of them presented. The discussions led to a clear understanding on our part that a sudden move by the Coast Guard into this field and sudden application of the strict wording of these statutes to all of these operations would disrupt the industry from an economic point of view and would cause considerable difficulty.

We took two actions based on this study. We did discuss with the owners and obtained agreement on their part that jointly we would attack the hazardous procedures and would come up with a program for interim corrections, steps that could be taken to correct the hazards that did exist on a temporary basis.

The second step which we took was recognizing the long established legislative pattern which did give certain exemptions to vessels which were in the fishing industry. We brought these conditions to the attention of congressional committees, with the thought that it might be desirable to clarify these points before a firm, final action was taken.

This bill, S. 2047, was clearly drafted to clarify and resolve these problems which I am describing. The question now is: What is the position of the Department of Transportation and the Coast Guard with respect to this bill?

Unfortunately it is necessary on our part to express a strong concern with respect to a proposal which would extend even slightly an exemption from safety requirements applied to vessels which as a class do not enjoy a good safety record. Preliminary Coast Guard studies, which have been underway for some years, indicate that in the fishing

industry as a whole, this is on all coasts and in all waters, the casualty rate is high. The loss of life is high.

Senator BARTLETT. Admiral, are you referring to tenders here, when you say the accident rate is high, and the loss of life is high? Are you referring to cannery tenders?

Admiral MURPHY. I am referring to the fishing industry as a whole, on all coasts, all U.S. fishing vessel operations for which we have casualty records.

The causes for this relate to faults in some cases in design and construction and maintenance of the vessels, and in addition personnel faults of course contribute to these casualties.

Another point we have to consider is that other maritime nations are far ahead of the United States in establishing safety standards for fishing vessels under their flags.

In the light of this, the Department feels that it cannot support S. 2047 in its present form. However, we fully recognize that sudden application of any new safety requirements to a large number of vessels such as these could have severe economic impact.

The Department feels that it would support S. 2047 if it contained a 5-year limitation on the effect of the exemptions created in the bill. This would provide time for orderly completion of the Coast Guard's study of the fishing vessel problem as a whole in all waters, it would provide for discussion of proposed safety programs with fishing vessels' interests, and an attempt would be made to develop a safety program which would improve this present casualty record.

During this 5-year period we would hope to submit for consideration a legislative program which would reflect the results of this study after having sought support from the industry and adopted or proposed a program which would have support from all sides in an effort to solve this problem. This approach has been discussed with the Interior Department and they have agreed to this approach.

In addition to the 5-year limitation, we would agree with the Interior Department's suggestion 2 days ago that the present scope of the exemptions referred to in S. 2047 be limited to the area which has evidenced the present problem. In other words, the Pacific Northwest and Alaska.

Senator BARTLETT. Will you please repeat what you just said, Admiral, about the Pacific Northwest?

Admiral MURPHY. Yes.

In the Interior Department's proposal 2 days ago, they did recommend that the scope of this particular bill be limited to apply only, to provide this exemption only in the Pacific Northwest and Alaskan waters. We would support this, because this is the only area that has shown a need for this specific exemption at the moment.

This covers the Department's position on the bill, Senator, and if you have any questions, we will try to answer them.

Senator BARTLETT. Your statement was not in written form, was it, Admiral?

Admiral MURPHY. No, sir.

Senator BARTLETT. Let it be noted that this is the first time in history that testimony has been given before a congressional committee of which I am a member without the statement being prepared in writing. I congratulate you.

Admiral MURPHY. I was afraid you might be disappointed.

Senator BARTLETT. No. Generally they are prepared, mimeographed, and they run 23½ pages.

Admiral, you said the accident rate in the fishing industry is high. Have you made any studies to determine what the accident rate in respect to these tenders is as compared with the fishing industry as a whole?

Admiral MURPHY. We keep each year an indication of what the fishing vessel industry as a whole, what the casualties add up to for the year. We have not separated this out in terms of the tenders as opposed to the fishing vessels themselves.

We have in the last few days taken a specific check of this in recent months, and we don't find that there is any significant casualty rate relating specifically to those vessels, we don't have specific incidents in recent months to point a finger directly at the cannery tender vessels.

Senator BARTLETT. Of course if a bill is passed, and a 5-year limitation is placed on it, doubtless you will make a more intensive study, segregating the tender class of vessels from those that engage merely in fishing?

Admiral MURPHY. We would do this, yes, sir. We do feel that the overall problem relates to fishing vessels in general, that there is a problem in this area.

As you probably are aware, their insurance rates have been very high, almost prohibitive in some years, and this relates to their casualty record. And our figures support the fact that there is a problem here which needs to be looked at.

There have been previous proposals to apply certain requirement to these vessels, but nothing has come of them.

Senator BARTLETT. How long has the Coast Guard been studying this problem?

Admiral MURPHY. I am not sure how far in the dim past, but I know we have a specific study that was completed in 1955 and the Coast Guard roles and missions study which I believe was completed about 1964. There was further emphasis of this problem and our studies have continued since those two dates.

Senator BARTLETT. How does the casualty rate aboard commercial fishing vessels relate with, for example, pleasure and recreational craft?

Admiral MURPHY. I would have to check figures. We can certainly get that and give you figures on that point.

Senator BARTLETT. Will you do that?

Admiral MURPHY. Yes, sir.

Senator BARTLETT. Thank you very much for your testimony, Admiral Murphy, and let me express the hope before you leave the witness stand that the Coast Guard is not called upon so frequently in the future as it has been in the past to supply vessels for Vietnam or you will all be going around in rowboats only. That statement has no relation at all to this bill.

Thank you very much.

Senator BARTLETT. All right. The next witness is my colleague from Alaska, Senator Ernest Gruening, who is going to testify on S. 2232.

STATEMENT OF HON. ERNEST GRUENING, A U.S. SENATOR FROM  
THE STATE OF ALASKA

Senator GRUENING. Mr. Chairman, I appreciate the opportunity of appearing here this morning in support of S. 2232, which I introduced on August 22 of this year and which my colleague, the chairman of this subcommittee, Senator Bartlett, cosponsored.

I would say that this legislation, this proposal, is a sequel brought about by events, a sequel to two pieces of legislation originating with my colleague, the senior Senator from Alaska, the first being legislation enacted, I believe, in the 88th Congress which extended the fishing zone from 3 to 12 miles, and then a subsequent piece of legislation also initiated by Senator Bartlett which provided penalties for the violation of this zone by vessels from foreign countries.

Now, these penalties which were provided in this second piece of legislation apparently were not enforced to the degree that they seemed to prevent these violations. So this piece of legislation, S. 2232, would increase the penalties already provided by law prohibiting fishing in territorial waters.

The present law prohibiting foreign fishing vessels from fishing in the territorial waters of the United States, except under certain prescribed conditions, provides the following penalties:

1. Any person violating the law can be fined a maximum of \$10,000 or imprisoned for not more than 1 year, or both;
2. The vessel employed in violating the law, as well as its tackle, apparel, furniture, appurtenances, and stores are subject to seizure.

The imposition of any or all of these penalties lies within the discretion of the court.

Judged by the cases which have arisen in Alaska this year, the penalties provided have not been sufficient, as applied by the courts, to act as a deterrent to repeated violations. The penalties are there, but the court has not seen fit to apply them, except to a very modest degree.

Three violations of the law by Russian fishing vessels have already occurred. The captain of the first vessel seized on March 2 was fined only \$5,000. Twenty days later, on March 22, a second Russian vessel was seized in U.S. territorial waters and the captain of that vessel was fined \$10,000. The third violation of our fishing rights took place on August 3. This time also it was a Russian fishing vessel that was involved. However, there had since been a change in the skipper of the vessel, but the vessel itself was the same one seized on March 22.

In the third instance, the U.S. attorney in Anchorage, Mr. Richard McVeigh, dismissed the charge against the Russian skipper and libeled the vessel's gear, which the Russians redeemed for \$20,000.

It is not difficult to understand why the two previous "pats on the wrist" administered by the court were not sufficient to deter the same vessel from repeating the violation on August 3. It has been reported to me that on one of the previous incidents the vessel involved had \$60,000 worth of fish in its hold. Even after deducting the small fine, that vessel found it quite profitable to violate the law prohibiting fishing in territorial waters.

As part of its program of building "bridges to the East" and in the forlorn hope that somehow the acts of leniency in Alaska would per-

suade the Russians to stop furnishing military supplies to the Vietcong or to intercede with the Vietnamese Communists to bring about negotiations there, the Department of State interceded on behalf of the Russians with the Department of Justice not to press for stiffer penalties.

In doing so, the Department of State was being incredibly naive. Leniency toward those of its citizens who violate the laws of the United States will not change the policy of the Soviet Union. Nor should the interests of Alaskans be sacrificed for a fallacious assumption.

It is an outrage, in my view, for the State of Alaska to be forced to watch the Russians ravish its valuable fishing resources time and again with relative impunity. The leniency in the administration of the present law is an open invitation to the Japanese and the Canadians to fish in U.S. waters, and to the Russians to repeat such violations.

The changes which I propose in the law deal with the discretionary penalties now provided by the existing legislation. My bill would require the forfeiture of any vessel employed for the second time in violating the law prohibiting fishing in U.S. territorial waters. In addition, that vessel's tackle, apparel, furniture, appurtenances, cargo, and stores would be also forfeited.

Perhaps even these proposed changes in penalties are not stiff enough. It may be that the committee would want to consider raising the maximum penalty even for a first offense to a maximum of \$50,000. Needless to say, these penalties would have no significance unless the penalties were made mandatory. The actions by the U.S. attorney in libeling the vessel's gear indicates that the \$10,000 maximum fine provided by the present law are insufficient to deter future violators.

In commenting on S. 2232, the Department of Justice stated that the trend "of legislation and the policy of this Department have been to get away from mandatory minimum penalties which deprive courts of power to mitigate penalties where particular circumstances would make it appropriate to do so."

The Department of Justice, in my view, misses the point.

Ordinary objectives of domestic law are not here involved. We are instead dealing with foreign governments, not individuals. When a fishing vessel of the Soviet Union is caught repeatedly violating the laws of the United States prohibiting fishing in its territorial waters the court needs no probation department report on the possibility of rehabilitating the offender. That is the procedure in crimes by domestic individuals, not when the acts of transgression are committed by foreign governments.

Mr. Chairman, in my view the poaching of foreign vessels in Alaskan waters must be stopped and it is my hope that this legislation, with such modifications thereof as the committee sees fit to recommend, is desirable.

Senator BARTLETT. Thank you, Senator Gruening.

Testimony was previously offered on this bill earlier this week by representatives of the Department of Interior and the Department of State. And in the far distance I can hear the scribbling of pens engaged in writing veto recommendations.

I would like to read to you for your comment testimony offered on this bill on Wednesday of this week by Harold E. Crowther, Director of the Bureau of Commercial Fisheries, U.S. Department of the Interior. Mr. Crowther said:

We strongly oppose any legislation that requires the forfeiture of a vessel or other property. Forfeiture is a harsh remedy and should be applied judiciously. Had such a law been in effect, the United States would have been compelled to confiscate the Soviet medium trawler, SRTM-8457, which was seized for a second time this year for violation of the 1966 Act. She was initially seized on March 2, 1967. The captain of the vessel, who was fined \$5,000, was reprimanded by his Government and relieved of his command. When the vessel was seized for a second time on August 3, 1967, another captain was in command. A mandatory confiscation of the vessel would not have been appropriate under the particular circumstances.

Further, a United States law requiring mandatory confiscation of a vessel would likely stimulate other countries to take similar action against United States vessels engaged in high seas fisheries. Certain nations have extended their jurisdiction, fishing or territorial, over extreme distances from their coasts far beyond internationally accepted limits. They have seized and detained United States fishing vessels and imposed fines on the captains of such vessels in spite of the fact that these seizures and detentions were considered illegal by the United States. They have laws permitting the confiscation of vessels. We do not wish to stimulate them to do so, for whatever reason.

It is also possible that a vessel owner may not be aware of the fact that his captain is deliberately violating our laws. The Act of 1964 now provides severe penalties for violations. We should consider each case on its merits and levy a forfeiture only when the evidence demonstrates that such action is clearly warranted.

We therefore recommend against the enactment of S. 2232.

That was the testimony given by Mr. Crowther. And yesterday Ambassador McKernan of the State Department testified on this bill in part in these words:

The present law provides that vessels unlawfully fishing in these waters, their gear and their catch taken in violation of the law are subject to forfeiture. We believe that discretion should be left to the courts to determine what penalties should be applied within the maximum, as is the case under most statutes providing penalties for violation of law. Under the proposed legislation this discretion would be removed and a very heavy penalty would be required even in cases where the second violation was a relatively minor offense. We feel that the existing legislation can be made an effective deterrent to unlawful foreign fishing without a mandatory penalty of such severe nature in every case of a second offense. The value of many of the foreign fishing vessels operating near our coast runs into the millions of dollars and the penalty proposed in the draft legislation could be greatly disproportionate to the nature of the offense and the damage to our fishing interests.

Such legislation might also have a damaging effect on certain broad interests of the United States fisheries. It might encourage other countries to impose similar penalties against our own fishing vessels which may be seized while fishing within areas considered by other countries to be under their fishery jurisdiction. Further, the mandatory application of such penalties as envisaged in S. 2232 might very well make it much more difficult for us to obtain agreements with other countries designed to afford more protection to our domestic fisheries than our present contiguous fishery zone provides.

I knew, Senator, that you would want to comment on those two statements.

Senator GRUENING. I am very happy to comment on those statements. They appear to me to be evidence of a weak-kneed, wishy-washy foreign policy, which would sacrifice the interests, the legitimate interests of our Alaskan fishermen.

Now, this is an interesting illustration of how one Department whose interests should be that of the fishermen's yields weakly to the pressure of another Department. We have analogies of that not merely in the field of fisheries but in the field of mining, where for instance the Treasury Department, with a fantastic theory that anything helping gold will somehow create a panic in the monetary market. The Interior

Department has no such conviction. It would be its duty, as the agency in charge of mining, to support bills that would aid mining. But nevertheless it weakly and meekly follows the lead of the Treasury Department.

Here we have an analogy where the Interior Department, whose interests should be the preservation of Alaskan fishermen, yields weakly to the State Department.

This statement that if we do this it will encourage the seizure of our vessels by other nations refers to a situation in South America, where certain countries such as Peru and Ecuador and Chile have established a wider fishing zone and have been tempted at various times to arrest and have arrested and imprisoned our fishermen and held up their vessels.

Now, there would be a very simple remedy for that, if we—that is the State Department—had the guts and the courage to act, and simply hold up in those cases the lavish foreign aid which we are showering upon these nations. But the State Department has never seen fit to support that kind of a policy. Here again American interests are sacrificed to foreign.

I would say that I would hope that the committee will proceed with this legislation and let it be vetoed, and let the action of the Government in not protecting our fishermen be made crystal clear to all concerned. I think this is an issue on which those of us who represent the people of Alaska can have no other thought. At least, that is my opinion.

Senator BARTLETT. There is no doubt whatsoever that you had some comment to make upon those two statements, Senator. I have a fear, however, that those who read this complete record may think we have been in collusion and collaboration, because yesterday I brought up the subject of gold, too.

Senator GRUENING. I may say for the record that I had no knowledge of that, and my comment was wholly spontaneous and unrelated to any previous comment of my colleague.

Senator BARTLETT. It would have to be that way, because the transcript hasn't been returned from yesterday.

Senator GRUENING. That is true.

I thank the Chairman.

Senator BARTLETT. Thank you very much, Senator Gruening.

The next witness will be Jacob Dykstra, president of the Point Judith Fishermen's Cooperative Association, Point Judith, R.I.

We remember the testimony presented last year by Mr. Dykstra before this subcommittee in behalf of the 12-mile-limit bill.

It might also be well to note in the record that in addition to directing the operation of the Point Judith Fishermen's Cooperative, Mr. Dykstra also regularly captains the fishing vessel *Two Brothers* out of Point Judith and has an unusual familiarity with the problems of the fishing industry, both at sea and ashore.

Mr. Dykstra just returned from the fishing grounds last Wednesday and with good flounder fishing which he discovered there, he appears this morning at some sacrifice, because he ought to be out there fishing and making some money.

Mr. Dykstra.

**STATEMENT OF JACOB DYKSTRA, PRESIDENT, POINT JUDITH FISHERMEN'S PROTECTIVE ASSOCIATION, INC., POINT JUDITH, R.I.**

Mr. DYKSTRA. Mr. Chairman, I am Jacob Dykstra, president of the Point Judith Fishermen's Cooperative Association of Point Judith, R.I., which is an organization composed of 50 medium and small draggers.

I wish to thank you for the opportunity to appear before this subcommittee this morning. With your permission, I would make the following comments on the legislation under consideration.

In regard to S. 1798, our fishermen support this bill and urge its enactment. The need for the establishment of credit facilities for fisheries cooperatives has long been recognized, and several attempts have been made to secure passage of legislation in this end over the years. S. 1798 is the most simply worded and easily administered bill proposed to date.

Our co-op has been in business for 20 years buying, selling, processing, and handling fish for its members, and providing them with gear and supplies. We can testify from firsthand experience that one of the most difficult problems facing a fishery co-op is obtaining adequate financing to conduct its operations and provide funds for construction and improvement of physical facilities. Improved financing would greatly contribute to the orderly marketing of our fish and thus enable the fisherman to produce a better product and realize increased income.

We believe that the following changes would improve this bill:

(1) Provision that at some future date, fishing co-ops be allowed to participate in an expanded credit program.

(2) A substantial increase in the funds provided.

(3) provision that new founded fishery cooperatives be included in the act. The limitation that only cooperatives existing at the time of enactment of the legislation are eligible would put new co-ops at a competitive disadvantage in the formative period when they are invariably desperately underfinanced, and would discourage launching of new ventures.

While asking your consideration of these changes, we feel that the bill with or without them is an excellent step toward reducing the financial burdens of fishery co-ops and the American fisherman.

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We strongly support the conducting of the type of survey proposed. It has been my personal experience that whether we are trying to solve some of our domestic fishery problems or to negotiate with other countries on fishery matters, a continual stumbling block is the wholly inadequate knowledge of our own coastal resources. If we are to preserve and properly utilize these resources, more information is the only basis for effective decision and action.

S. 2269

This bill provides for the futher protection for U.S. distant water fisherman. We in New England are fortunate in not presently being faced with the problems this legislation is designed to alleviate. However, we are sympathetic with the segments of the fishing fleet that will

be provided with some relief by S. 2269 and do not consider it in any way detrimental to our interests. It may indeed benefit us in the future.

S. 1260

I have been an industry adviser to the U.S. Commissioners to the International Commission for the Northwest Atlantic Fisheries for a number of years. Anything that would make this a more effective organization would be most welcome. We support this legislation.

Senator BARTLETT. The committee thanks you for your appearance, Mr. Dykstra. We are glad you came down. We will give very, very serious consideration to the changes in S. 1798 that you have recommended.

The industry seems to be agreed, the co-op industry, if that is the right word, that the funds are inadequate for the job that needs to be done. However, we all realize the limitations which we face and we do the best we can here.

Thank you very much.

Tell me, before you leave, how was fishing this summer off your coast?

Mr. DYKSTRA. Only fair. Not as good as it has been in the past 2 or 3 years.

Senator BARTLETT. What types, what species of fish do you catch principally?

Mr. DYKSTRA. Most of our boats fish in combination for fish to be used for food and fish to be used industrially for fishmeal. Of the food fish, the most prominent species are flounder, porgies, butterfish, haddock, and some others in smaller amounts. We have a very mixed fishery. The industrial fish are predominantly red hake, or has been until the Russians started fishing on them. And all sorts of rough fish such as skates, fish that are not normally used for food fish.

Senator BARTLETT. Tell us more about the Russians and the red hake.

Mr. DYKSTRA. Well, the red hake in our area migrates offshore in the wintertime to the edge of the Continental Shelf, which in our area is quite wide, it is about one hundred miles offshore, the edge of the shelf. The fish migrate out to the edge of the shelf in the wintertime and back in close to shore, within 10 or 20 miles of shore in the summertime.

Traditionally our fishermen have caught the red hake on the inshore grounds, with small vessels, where they could economically exploit the resource.

In recent years the Russians have moved in with a massive effort on the edge of the shelf in the wintertime with large vessels and have substantially reduced the resource when it is offshore, before it comes in for spawning inshore. And we have noticed a very drastic decline.

The figures from the Bureau of Commercial Fisheries show the increase in Russian production has exactly paralleled the decrease in American production. In other words, at the time we were catching 80 percent, they were catching 20 percent. Now it is the other way around. They are catching the 80 percent and we are catching the 20 percent.

Senator BARTLETT. Would you say they are failing to heed proper conservation measure?

Mr. DYKSTRA. I would say so, yes, sir, particularly for the reason that these fish come in in the spring of the year and spawn on the in-shore grounds, and they are seriously depleting them before they are allowed to come in and spawn, and this I think is causing the decrease.

Senator BARTLETT. Do they have a pretty sizable fleet out there, the Russians?

Mr. DYKSTRA. Yes, they do. In our area, the land south of Cape Cod, not including George's Bank or Grand Bank area, right in the small area from Cape Cod down off New York and Virginia, they had as many as 125 vessels at one time fishing.

Senator BARTLETT. They have some big fellows, mother ships, so they can stay there a long time?

Mr. DYKSTRA. That is right. They have a mixed fleet, some of the very large trawlers and some of the side trawlers with the necessary support vessels for them.

Senator BARTLETT. I wonder where their water comes from.

Mr. DYKSTRA. Pardon me?

Senator BARTLETT. I was going to ask where their water, drinking water and water for other uses comes from. Mr. Wedin says from Canada.

Mr. DYKSTRA. Yes. I have been in Halifax and seen their vessels there. This is their principal port, Halifax, Nova Scotia. I have been there and seen them taking on water and all other supplies, a number of Russian ships were in drydock there, undergoing repair. And I understand that some of the southernmost segments of the fleet are now being supplied in Cuba.

Senator BARTLETT. Do you have any knowledge as to whether they take all of their catch back to Russia?

Mr. DYKSTRA. I don't have any precise knowledge of this, but I don't know of any, at least extensive, case where they have not taken the fish back to Russia. Particularly that they have not landed it in American ports. They may perhaps take some of it to countries to which they have—say in Africa, somewhere like that.

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

The next and I believe the final witness is E. C. Biele, of Bogle, Gates, Dobrin, Wakefield & Long, Seattle, Wash.

**STATEMENT OF EDWARD C. BIELE, COUNSEL, BOGLE, GATES,  
DOBRIN, WAKEFIELD & LONG, SEATTLE, WASH.**

Mr. Biele appears on the same subject as did Mr. Gage yesterday.

I should note and do note that he has been a prime participant in the discussions which have been going on outside of the committee hearings these past few days, in an effort to resolve the problems faced by cannery tenders of Alaska. His experience on this difficult subject goes back many years and he can be and is now cited as an expert on the problems in my State which result from a long coastline and the needs of fishermen and natives alike, often in small and remote villages.

Mr. Biele, we are glad to have you here.

Mr. BIELE. Thank you, Senator.

Senator, I appear on behalf of the Association of Pacific Fisheries. I have submitted a prepared written statement.

The Association of Pacific Fisheries supports S. 2047 as a house-keeping measure, whose thrust is to clarify the ambiguous statutes en-

acted many years ago without apparent consideration of possible application to the unique mode of operation that prevails in the salmon fishing industry of Alaska. That mode of operation has been imposed by the geography of Alaska and the peculiarities of salmon. It is the only way the industry can operate, and upon it depends the livelihood and existence of many Alaskans who reside in remote fishing communities. It is dissimilar to any other mode of operation in the American fishing industry.

The heart of all operations in the Alaska salmon industry are upward of 160 service vessels commonly known as cannery tender or fishing tender vessels. These vessels range in size from about 25 to slightly over 300 gross tons. They operate from Puget Sound to Alaska and in the coastal water of Alaska. During the off season many are laid up in the major ports of Alaska or Washington. Some, however, engage in crab fishing during the off season. It is from the nature of their service that they are called cannery tender or fishing tender vessels and any one vessel can at different times be engaged in either of the two services.

At the beginning of the salmon season, cannery tenders when proceeding to processing facilities, carry cargoes of supplies of all kinds including fuel to the isolated operating locations where salmon fishing and processing are conducted. These supplies are both for the native fishermen who live year round in communities adjacent to the canneries and also are for use in the processing of caught fish. Quite frequently these supplies are the only ones received by the native fishermen and include fuel, food, clothing, and the very necessities of life. Without supplies of cans, salt, fuel, et cetera the canneries could not operate. As the only available transportation in and out of remote operating locations these vessels necessarily transport fishing and cannery personnel. They are not used to transport the salmon pack to market at the end of the season, nor do the owners of these vessels use them for the carriage of cargo or personnel outside of the fishing industry, nor do they compete with established common carriers.

Fishing tender vessels, which as mentioned are usually the same vessels that transport the supplies to the processing facilities at the beginning of the season, take supplies, including fuel, out to the actual catching vessels which during the run of fish remain on the fishing grounds. They also "pick up" the caught fish and deliver them to the processing facility for canning or freezing. As the only available transportation they carry fishing and other personnel between the canneries and the fishing vessels.

Without the uninterrupted services of these vessels it is safe to say that the Alaska salmon industry would quickly cease and many small communities would be abandoned. For many years the administration of the inspection laws by the Coast Guard and its predecessor, the Steamboat Inspection Service, deemed cannery tender and fishing tender vessels to be the same as fishing vessels. This was done in recognition of their involvement in the fishing industry and because such administration was required by the various statutes. As this committee knows, except for certain specific statutory requirements, fishing vessels are exempted from the inspection laws. About 5 years ago, however, the Coast Guard announced an intention to reverse the longstanding administrative treatment of fishing tender and cannery tender vessels and to require their inspection. Through a series

of interpretations of statutes, which in our judgment are completely improper and are legally unsupportable, coupled with a very technical and impractical application of these interpretations, the Coast Guard proposed to require all cannery tender and fishing tender vessels to obtain certificates of inspection because of application of 46 U.S.C. 376 and 404 and also to obtain loadlines by application of the Coastwise Loadline Act, 46 U.S.C. 88. Our comments are directed largely to those sections of S. 2047 which pertain to the subjects of inspection and loadline.

Section 1 (46 U.S.C. 404) : Section 1 of S. 2047 proposes to add clarifying language to 46 U.S.C. 404 which now reads in pertinent part :

\* \* \* All vessels of above fifteen gross tons carrying freight for hire and all vessels of above fifteen gross tons and in excess of sixty-five feet in length carrying passengers for hire, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors, shall be subject to all the provisions of this section relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of title 52 of the Revised Statutes applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applicable, the said vessels, their masters, officers, and owners shall be subject to the provisions of sections 494-498 of this title, relating to the imposition and enforcement of penalties and the enforcement of law: \* \* \*

The clarification provided by S. 2047 confirms that cannery tender and fishing tender vessels are just as much engaged in the fishing business as are catching vessels and as they were so considered since 1906 when the fishing exemption was enacted. It will avoid strained and absurd interpretations of what is "freight for hire" under the administrative definition found at 46 CFR 24.10-5 reading :

The carriage of any goods, wares, or merchandise or any other freight for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel.

A few examples of application of the recent interpretations will show the impractical and absurd results in prospect. Thus it has been suggested that the carriage of canning or fishing supplies belonging to other than a vessel's owner when an emergency arises and one owner has a breakdown and his competitor furnishes his vessel with the expectation of similar help in the future constitutes a "valuable consideration" because of the expectation of a similar accommodation in the future. And it is suggested that carrying supplies to a fisherman in a remote community when he has agreed to sell his entire catch to the owner of the cannery tender carrying the supplies constitutes an indirect consideration equivalent to hire.

Another example is when two canneries undertake a joint agreement whereby a fishing tender owned by one "picks up" fish from fishing vessels for both cannery owners because there are not enough total fish being caught in the particular area to justify two tenders, the carriage of fish for the nonvessel owner being considered carriage of cargo for hire. And supplies of cans furnished by the major can companies are purchased under arrangements whereby the can companies retain ownership of the cans until they are consumed, but the cans are transported on cannery tender vessels. Because the cargoes of cans do not belong to the vessel owners at the time of carriage it has been suggested that the practice constitutes carriage of freight for hire thereby requiring inspection. We could submit other examples of absurd results flowing from the failure to treat cannery tender and fishing tender vessels on

the same basis as fishing vessels by a failure to recognize that all are engaged in the fishing business.

Section 2 (46 U.S.C. 88), Section 2 of S. 2047 proposes to add clarifying language to 46 U.S.C. 88, commonly known as the Coastwise Load Line Act, 1935, which now reads in pertinent part:

Load lines are established for merchant vessels of one hundred and fifty gross tons or over, loading at or proceeding to sea from any port or place within the United States or its possessions for a coastwise voyage by sea. By "coastwise voyage by sea" is meant a voyage on which a vessel in the usual course of her employment proceeds from one port or place in the United States or her possessions to another port or place in the United States or her possessions and passes outside the line dividing inland waters from the high seas, as defined in section 151 of Title 33.

The clarification of S. 2047 would recognize that cannery tender and fishing tender vessels over 150 gross tons now in existence will not have to obtain loadlines when operating on waters where such are required. Existing vessels can be converted to cannery or fishing tender services within 5 years without requiring loadlines, but all new construction will need loadlines. The clarification with respect to present vessels is consistent with the administrative practice since 1935 when the Coastwise Load Line Act was enacted. Up until the recent interpretations by the Coast Guard, cannery tender and fishing tender vessels were not required to have loadlines as they were not deemed "merchant vessels," the test for requiring a loadline on a vessel.

The recent interpretation by the Coast Guard applicable to cannery tender and fishing tender vessels is that whenever they carry any cargo including fish, however owned, these vessels must have loadlines. This rough test for determining what is or is not a "merchant vessel" is inconsistent with the decision of the U.S. Supreme Court in *Calmar Steamship Corp. v. United States*, 345 U.S. 466 (1953), wherein the Court decided that the merchant character of a vessel is fixed by her employment in the direct earning of money for her owner, not by the nature of her cargo. Thus in determining whether a concerned vessel is, or is not, a merchant vessel it is necessary to determine the character of the business in which she and her owner are engaged. A "merchant" is one in the business of buying and selling. *Sealy v. Helvering*, 77 F. 2d 323, 324 (2d Cir., 1935). Transportation of cargo incidental to a fishing and canning business does not convert the vessel owner into a "merchant," nor his vessel into a "merchant vessel." Canning and processing of fish is a manufacturing operating, not the business of a merchant. Thus in *Magnolia Petroleum Co. v. The City of Broken Bow*, 87 P. 2d 319, 321 (Okla.), it was held:

A merchant is one who buys to sell, or buys and sells, goods or merchandise in a store or shop. Two essentials are necessary to constitute one a merchant in the ordinary meaning of the word, namely, that he must keep a shop or store for that purpose. The courts give the ordinary meaning to the terms "merchant" and "manufacturer." One who simply manufactures an article and sells it is not a merchant. Although a manufacturer may be a merchant if he buys and sells goods, he does not become one by disposing of the goods he has produced, at a manufacturer's profit. We are aware of no section of our statutes, nor has our attention been called to any, which defines the terms "merchant" or "manufacturer" and in the absence of such provision these words must be given their ordinary meanings above discussed.

The principle we assert was adopted by the U.S. District Court for the Western District of Washington, Northern Division, in the only reported case under the Coastwise Load Line Act, *United States v.*

*Reefer King*, 90 F. Supp. 236 (W.D. Wash., 1950). In that case the vessel *Reefer King* was bareboat chartered by a merchant who carried his own cargo from Seattle to Honolulu for the purpose of reselling it during a shortage of vessels due to a strike. Judge Bowen found both selling and shipping of the cargo was essential to make the *Reefer King* a "merchant vessel" under the Coastwise Load Line Act. Implicit in the decision is the principle that if cargo is not to be resold in the ordinary course of commerce, the *Reefer King* would not have been subject to the Coastwise Load Line Act as a "merchant vessel."

Another case discussing the meaning of a "merchant ship" in *In re Jupp*, 274 Fed. 494 (W.D. Wash., 1921), wherein it was held that a merchant is a person who buys and sells for profit and a cable ship was not a "merchant ship" with the following discussion:

A merchant ship must be a ship that is engaged in a carrying trade in connection with trade and commerce, and not merely engaged in the transportation of such goods as may be necessary for repairs of cable lines of a privately owned concern, and which goods are not designed for the general trade.

If section 2 of S. 2047 is adopted it will confirm what the courts have held and what was an administrative practice of about 30 years' duration.

Section 3 (46 U.S.C. 367): Section 3 of S. 2047 proposes to clarify 46 U.S.C. 367 which provides for the inspection of seagoing vessels of 300 gross tons and over propelled in full or in part by internal combustion engines. The statute has an exception, however, which reads as follows:

\* \* \* *Provided*, That this section shall not apply to any vessel engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry: \* \* \*

The proposed bill would confirm that cannery tender and fishing tender vessels are engaged in a branch of the "fishery" just as much as are catching vessels. Using the interpretative rule of *ejusdem generis* it has been suggested that the words "any other branch of the fishery" in the present statute refer to any type of fish other than those enumerated and to any other sea resource which fall within the kelp and sponge family. By further construction the exempted vessels are only those engaged in catching or removing from their natural state the natural resources mentioned in the preceding sentence. As 46 U.S.C. 367 is construed, it has the same effect as 46 U.S.C. 404, and all we previously said about the latter is applicable to section 3 of the present bill.

Section 4 (46 U.S.C. 391a): Section 4 of S. 2047 proposes to clarify the Coast Guard's status in inspecting cannery tender and fishing tender vessels under the authority of 46 U.S.C. 391a, commonly known as the Tanker Act, which is applicable to:

All vessels, regardless of tonnage, size, or manner of propulsion, and whether self-propelled or not, and whether carrying freight or passengers for hire or not, that shall have on board any inflammable or combustible liquid cargo in bulk, except public vessels owned by the United States, other than those engaged in commercial service, shall be considered steam vessels for the purposes of title 52 of the Revised Statutes and shall be subject to the provisions thereof: *Provided*, That this section shall not apply to vessels having on board only inflammable or combustible liquid for use as fuel or stores or to vessels carrying liquid cargo only in drums, barrels, or other packages.

At the present time cannery tender and fishing tender vessels which carry fuel to outlying canneries and dispense it to fishing vessels on

the fishing grounds are inspected by the Coast Guard under interim regulations and given certificates of compliance. It is a fair statement that the Coast Guard's regulations have been complied with by the industry. Our understanding is that section 4 is considered needed for technical purposes by the Coast Guard. While the Association of Pacific Fisheries doubts whether this section of the bill is needed, we ask that it be enacted.

In conclusion the Association of Pacific Fisheries respectfully urges that S. 2047 be enacted into the statutes of the United States.

Senator, that completes my prepared statement.

With your indulgence, I would make a response to the Coast Guard's proposal, Admiral Murphy's statement this morning in which he indicated that the Coast Guard was for the bill with two reservations. One was that it should be limited to Alaska and the Pacific Northwest as suggested by the Department of Interior. With that the Association of Pacific Fisheries takes no question. Obviously this measure will only affect vessels in those areas.

The second reservation of the Coast Guard was the time limitation of 5 years while a study was to be made of the entire fishing industry as I understood Admiral Murphy's remarks. As to this the Association of Pacific Fisheries takes the view that this is an impractical thing with respect to this bill, because if the entire fishing industry is to be studied, any recommendations that will come up in the future obviously will be much larger than this particular segment of the industry which has been studied, to my knowledge, at least since 1964.

We have had discussions in the past, and this bill is the result of studies that have gone on since at least 1964. And as a practical matter, I might say that the studies have been conducted by people who have been in the Coast Guard and have since been transferred—some have remained—but I don't think we are going to get in 5 years a much different study than we have now.

As for the safety record of the cannery tenders and the fishing tenders, to my knowledge they have been very good. There is a distinction which you pointed out, as to fishing vessels themselves as opposed to the tenders. And as to the fishing vessels, I believe it is a fair statement that in Alaska the crab fishing vessels have a poor safety record. They operate in probably the worst waters in the world, it is a very hazardous operation itself, and a clear distinction should be made between the fishing vessels in Alaska crab fishing and these vessels which operate as fishery and cannery tenders.

I thank you, Mr. Chairman.

Senator BARTLETT. Thank you, Mr. Biele. You anticipated all of my questions. Thank you very much.

We have now completed the 3 days of scheduled hearings on the nine bills relating to fisheries before this Merchant Marine and Fisheries Subcommittee of the Senate Commerce Committee.

In my judgment the testimony and response to the committee's questioning have been of an unusually high character and I feel certain we have developed a record which will be most useful to this committee and the U.S. Senate in properly acting upon the legislation in question.

I am particularly pleased, despite my earlier warnings, that we did not have to ask witnesses to brief their statements. Instead we have had ample time for their complete oral testimony as well as sufficient time to ask those questions which we felt necessary for clarification.

I appreciate the patience and courtesy of all of the witnesses, realizing that many have had to come great distances in order to bring to us their expertise on the issues at hand. The willingness of the witnesses to adjust their own schedules to accommodate our needs has been commendable indeed. And I can assure you that the record we have made since Wednesday of this week will be one for thoughtful study in the days ahead and when the days ahead have passed, I hope that we will be taking some action on this legislation which we have studied.

This has been a very difficult and a very complicated schedule as the nine legislative proposals before us have not been particularly related one to the other, other than their application has been to the commercial fishing industry.

The committee is extremely appreciative of the time and patience of the witnesses in assisting to provide the proper analyses of their impact. As I said yesterday, the record will remain open for 10 days, thereby giving witnesses an opportunity to supplement their testimony in light of statements which may have been made after they themselves testified. And also this will provide a forum for those who were unable to be present.

The committee will be adjourned.

(Whereupon, at 11:25 a.m., the hearing was concluded.)

(The following letters were subsequently received for the record:)

STATEMENT OF HONORABLE THOMAS M. PELLY A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF WASHINGTON

Mr. Chairman and members of the committee; I appreciate this opportunity to state my views in support of S. 2269, which would extend the reimbursement coverage to owners of United States fishing vessels illegally seized on the high seas by foreign countries.

Under existing law enacted in 1954, the only relief furnished to these seized American fishing vessels is for the fine imposed to secure the release of the vessel and its crew. No relief has been furnished for the substantial economic loss incurred by our fishermen as a result of such seizure and the ensuing period of detention pending release of the vessel.

The issue arising out of these seizures because of the extraordinary jurisdictional claims of certain Latin American countries is not one involving simply a test of the rights of individual American fishermen. Rather, it is a test of the rights of the United States under international law. The only means by which these rights can be maintained is to assure American fishermen either the protection of their government, or acceptance by their government of a share of the economic risk involved in maintaining these internationally recognized rights. The other alternative—failure to continue to fish in these challenged waters—and bowing to these extraordinary claims which are not recognized under international law could only result in running the risk of losing such rights.

The traditional policy of the United States is to support the principle of the freedom of the high seas and to consistently oppose the efforts of other countries to extend their claims beyond those recognized by international law. It is the practice of the United States to protest claims to territorial waters greater in breadth than 3 marine miles from the coast and to exclusive fisheries jurisdiction in excess of 12 miles from the coast. As you are aware, there was enacted into law in the 89th Congress, an act which would extend United States fisheries jurisdiction out to a distance of 12 miles from our shores. Prior to the passage of this Act in October of 1966, the United States recognized only 3 miles for both territorial and exclusive fisheries claims by any nation.

Mr. Chairman, In South and Central America and the Caribbean, there are 8 countries that claim fisheries jurisdiction beyond 12 miles, six of which claim fishing limits out to 200 miles from their shores. These countries are Chile, Ecuador, El Salvador, Nicaragua, Panama and Peru.

In the last 15 years, Latin American nations have seized and detained more than 80 tuna vessels of the United States. Last year alone, 14 of our fishing vessels were seized and subjected to fines imposed by Colombia, Ecuador, and Peru. Three other American fishing vessels were seized in a similar manner by Mexico and Panama. In 1966, the U.S. Government reimbursed owners of American vessels seized upon the high seas more than \$83,000 in fines levied by these Latin American nations. From 1961 to June 1967 the industry has paid \$61,603.10 in license and registration fees for release of vessels. This amount is in addition to the fines imposed by foreign governments since 1955 which have amounted to \$489,470. It is my understanding, incidentally, that the United States has not collected any claim from any foreign country for having reimbursed our fishermen for these fines since the enactment of the U. S. Vessel Protective Act. The total amount of claims certified by our government, which have not been repaid, is \$332,702.80.

To add insult to injury, naval vessels supplied under our Military Assistance Program, according to the U. S. State Department, in some instances have been used in these seizures.

The additional economic loss incurred by our fishermen detained in Latin American ports for which there is presently no reimbursement has been even greater. It has been estimated that the economic loss for the period 1961 to June 1967 is \$544,105.40. This figure was arrived at by using the average catch per day at sea as established by the Inter-American Tropical Tuna Commission.

As I have just stated, none of these claims have been honored by the Latin American nations involved. Thus, in the final analysis, the net effect of the failure of these nations to honor our legitimate claims is that the American taxpayer by indirection is being required to pay tribute to these nations in the form of reimbursement fines. It is a tribute no less onerous than that which the Barbary pirates tried to assess against American shipping in the 19th Century and which a rightfully indignant United States then refused to pay. We should be no less indignant today over the tribute currently being exacted through the harassment of our fishermen.

Mr. Chairman, as you are aware, the House under Suspension of the Rules rejected my bill, H.R. 4451, which is identical to S. 2269 because a great number of Members wished to amend the bill in its present form. The amendment would have made it mandatory upon the President to suspend foreign aid to countries who illegally seize our fishing vessels. My initial bill included this amendment.

In urging that your Committee, Mr. Chairman, take favorable action on S. 2269 I am mindful that this is temporary compensatory legislation! It is to be hoped that before it expires a mutually satisfactory agreement can be worked out with Latin American countries so as to terminate all illegal seizures. Meanwhile, I would hope that Coast Guard protection will be afforded our fishermen.

Finally, Mr. Chairman, I urge your Committee to consider attaching a new section to this bill as sent over by the Department of the Interior which would provide that the amount of any unpaid claims against any foreign governments in connection with the fines and other costs of releasing American fishing vessels be deducted from any amounts given to such countries under the Foreign Assistance Act. In my opinion such a provision would meet with enthusiastic approval when the bill would be considered by the House.

I wish to thank the Committee for this opportunity to appear.

STATE OF OREGON,  
FISH COMMISSION OF OREGON,  
*Portland, September 19, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Senate Committee on Commerce,  
Washington, D.C.*

DEAR SENATOR MAGNUSON: The Fish Commission of Oregon offers the following comments regarding Senate Joint Resolutions 75 and 103 which propose a survey of the character, extent, and condition of the coastal and fresh-water fishery resources of the United States by the Secretary of the Interior.

We have reviewed the provisions of the resolutions, we support their principle, and concur with the need for such legislation. We recognize the urgent need of maintaining current inventories on the status and potential of the resource, the management of the fisheries, and the development of the most efficient means of harvesting and processing the commercial landings of foodfish. The information to be collected under either bill can be of tremendous value in a variety of ways

to the state and federal] governments in providing for optimum use of the fishery resources involved. The fishing industry and related business can realize great benefit as well.

Because of the proposed scope of the survey, it appears logical to have it financed and conducted by the federal government. However, because of the statutory responsibilities of the states for managing the fishery resources within their political boundaries, consultation, coordination, and cooperation with the state agencies where appropriate should be clearly spelled out. We welcome a critical and impartial look at present regulations, as well as management practices and programs as they relate to the over-all needs of the resources involved. The views of the respective state agencies concerning specific treaties, conventions, and compacts, where appropriate, should be made a part of the formal report by the Bureau of Commercial Fisheries.

We support the principle of Senate Joint Resolutions 75 and 103 and urge favorable consideration of them with inclusion of the points mentioned above. It also appears to us that the time allowed for submission of Interior's report and the level of funding as contained in SJR 75 is more realistic than that provided in SJR 103.

We appreciate the opportunity to present our comments to the committee and have them made a part of the record.

Sincerely,

ROBERT W. SCHONING,  
*State Fisheries Director.*

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NATIONAL WILDLIFE FEDERATION,  
*Washington, D.C., September 20, 1967.*

Senator E. L. BARTLETT,  
*Chairman, Subcommittee on Merchant Marine and Fisheries,  
Senate Committee on Commerce,  
Washington, D.C.*

DEAR MR. CHAIRMAN: The National Wildlife Federation welcomes the invitation to comment upon S. 1784, permitting Idaho to participate in the Anadromous Fish Conservation Act.

We are hopeful that Idaho can be qualified to participate in the Act. Idaho is in a peculiar position in that large numbers of the anadromous fisheries of the Columbia River drainage use streams of this state as spawning sifes. Yet, Idaho does not reap the benefits of many of these spawning activities and actually had been forced to close its fishing seasons as a conservation measure. This is a result of actions on down-streams portions of the Columbia system to take fish and to bar their upstream passage. The result has been that Idaho, as a major spawning area, is faced with solving many anadromous fisheries problems without the necessary financial resources. Funds from the Columbia River Fisheries Development program are inadequate.

We hope that the advice of the Pacific Marine Fisheries Commission can be taken and Idaho will be qualified to participate in the Anadromous Fisheries program.

Thank you for the opportunity of making these remarks.

Sincerely,

THOMAS L. KIMBALL,  
*Executive Director.*

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IDAHO FISH AND GAME DEPARTMENT,  
*September 25, 1967.*

Mr. PORTER WARD,  
*Senate Interior and Insular Affairs Committee,  
Washington, D.C.*

DEAR PORTER: I take pleasure in attaching hereto some of the material which has been assembled in short form and which we discussed over the telephone. It is submitted as supporting data for use in strengthening testimonies given by Idaho senators in support of an amendment to Public Law 89-304.

Of the species and races of salmon in the Columbia River drainage above Bonneville Dam, the spring chinook salmon has been able to maintain its numbers at a higher ratio than have other species and races; nevertheless, it can be seen from Table 1 that this race of fish has shown a gradual decline since 1957.

The summer chinook salmon is in a much more precarious condition. Its numbers have gone steadily downward and at a rather rapid rate since 1957 (see Table 2). Figure 1 presents the same information in graph form. It will also be noted from Figure 1 that all fishing was curtailed or closed entirely in the Columbia River drainage from 1964 through 1967. Idaho has had a closed season on summer chinook from 1965 through 1967.

The run of summer steelhead has been holding somewhat more steady than the salmon species; the run of steelhead in 1967 to date is reported to be the lowest on record.

For a number of years, Idaho has made an inventory of the salmon spawning beds in the Salmon River drainage. Redd counts are not intended to give an indication of the total number of fish in a run; they are valuable, however, in establishing an up or down trend in a fish population. Again, from Table 4, it can be established that the trend in the number of both spring and summer chinook spawning in the Salmon River drainage is steadily going downward. It should be pointed out that the low figure of 4,257 redds counted in the Salmon River drainage in 1965 was the result of overfishing on the spring chinook salmon by commercial fishermen from Oregon and Washington. That year, Idaho did not have a salmon season on either spring or summer chinook. Our 1967 redd counts have not been completed so the data is omitted from the table. Table 5 is included to show the downward trend of fishermen harvest of chinook salmon which would include both spring and summer salmon and steelhead trout from Idaho waters.

Again, the picture is the same. The size of the run of fish into the Columbia River is reflected in the harvest of fish in Idaho. It is our conviction and likewise it is the feeling of the other agencies who must share in the management of the salmon and steelhead, that unless more information is collected and better management practices are instituted, the run of these fish will continue to decline.

We sincerely appreciate the efforts of Senator Church and Senator Jordan in their attempt to get Public Law 89-304 amended which would permit Idaho to participate in this program. If we can provide additional information to assist in this effort, please feel free to call on us at any time.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT,  
JOHN R. WOODWORTH,

*Director.*

ROBERT L. SALTER,

*Assistant Director.*

Enclosures.

TABLE 1.—*Spring Chinook Salmon*

Year:	<i>Run into Columbia</i>	Year—Continued	<i>Run into Columbia</i>
1950 -----	119, 653	1959 -----	137, 511
1951 -----	205, 860	1960 -----	133, 909
1952 -----	245, 844	1961 -----	161, 448
1953 -----	229, 403	1962 -----	109, 769
1954 -----	188, 717	1963 -----	147, 299
1955 -----	281, 004	1964 -----	147, 376
1956 -----	216, 910	1965 -----	157, 701
1957 -----	252, 990	1966 -----	150, 939
1958 -----	198, 543		

TABLE 2.—*Summer Chinook Salmon*

Year:	<i>Columbia Run into</i>	Year—Continued	<i>Columbia Run into</i>
1950 -----	69, 350	1959 -----	169, 737
1951 -----	116, 397	1960 -----	142, 606
1952 -----	114, 452	1961 -----	129, 164
1953 -----	94, 973	1962 -----	108, 022
1954 -----	114, 751	1963 -----	100, 016
1955 -----	147, 683	1964 -----	91, 175
1956 -----	195, 202	1965 -----	75, 974
1957 -----	206, 995	1966 -----	71, 977
1958 -----	187, 497		

TABLE 3.—Summer Steelhead

Year:	Run into Columbia	Year—Continued	Run into Columbia
1950	179,000	1959	232,000
1951	244,000	1960	200,000
1952	383,000	1961	228,000
1953	361,000	1962	252,000
1954	289,000	1963	229,000
1955	299,000	1964	160,000
1956	201,000	1965	207,000
1957	230,000	1966	179,000
1958	211,000		

TABLE 4.—COMPARABLE REDD COUNTS: SALMON RIVER DRAINAGE

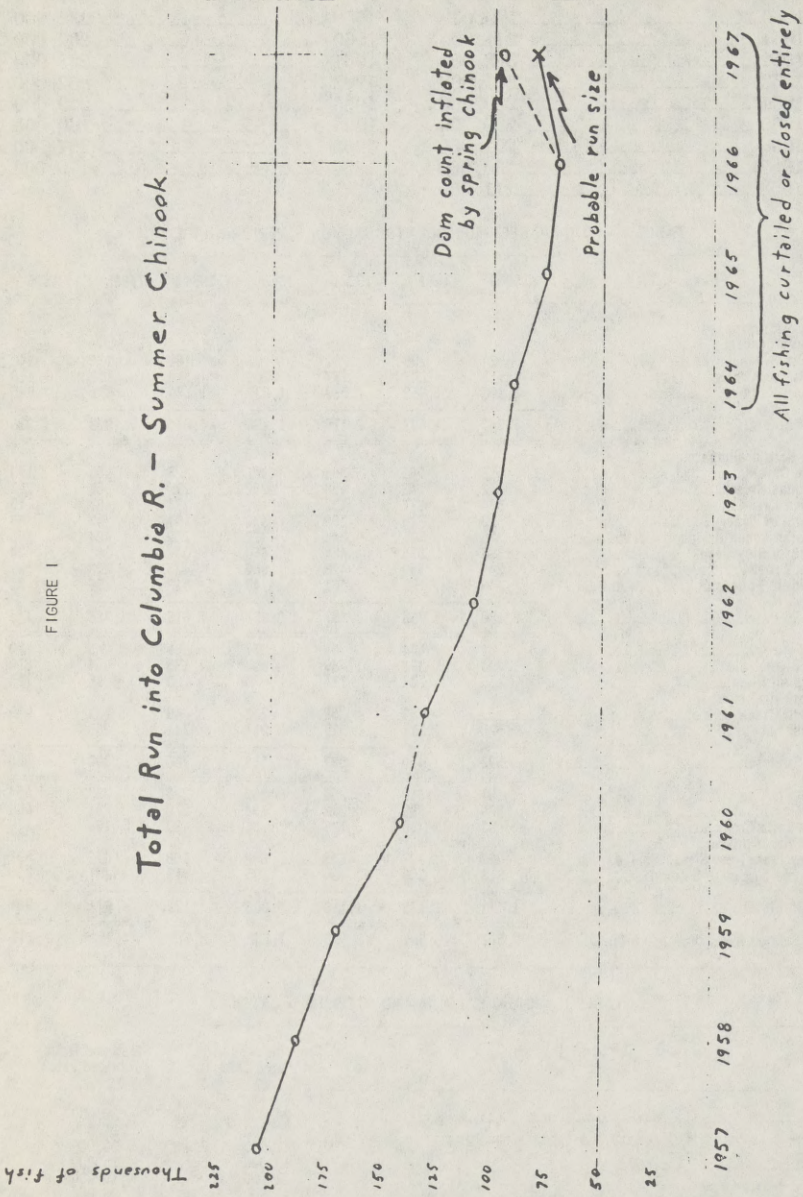
Stream	1960	1961	1962	1963	1964	1965	1966
<b>South Fork drainage:</b>							
Secesh River							
Lake Creek	524	198	292	163	181	134	140
Johnson Creek	517	207	297	266	310	116	110
South Fork	2,306	1,058	1,589	1,057	1,124	678	980
Subtotal	3,347	1,463	2,178	1,486	1,615	928	1,230
<b>Middle Fork drainage:</b>							
Big Creek	511	542	591	401	326	158	179
Camas Creek	112	142	124	252	279	51	212
Loon Creek	334	131	157	131	228	87	119
Sulphur Creek	79	239	169	332	97	43	63
Marsh Creek drainage	316	546	345	372	709	404	406
Bear Valley Creek	386	675	484	460	342	301	534
Elk Creek	346	384	426	654	425	203	541
Middle Fork	46	79	61	49	213	39	91
Subtotal	2,130	2,738	2,357	2,651	2,619	1,286	2,145
<b>North Fork</b>							
Lemhi River	91	144	84	71	86	5	70
Pahsimeroi River	1,434	1,871	1,489	364	1,185	454	819
East Fork drainage:	216	103	114	75	99	16	113
Herd Creek		283	58	202	49	31	79
East Fork	525	1,117	529	911	711	269	727
Subtotal	525	1,400	587	1,113	760	300	806
<b>Yankee Fork</b>							
Yankee Fork	101	310	255	362	278	233	454
Valley Creek	224	389	272	191	270	261	403
Alturas Lake Creek	33	30	138	86	80	101	119
<b>Salmon River proper:</b>							
Upstream from Sheep Bridge	653	777	653	638	706	472	699
Sheep Bridge to Salmon	818	356	465	195	415	201	390
Subtotal	1,471	1,133	1,118	833	1,121	673	1,089
Salmon River drainage total	9,572	9,581	8,592	7,232	8,113	4,257	7,038

TABLE 5.—IDAHO SALMON AND STEELHEAD CATCH

Year	Chinook salmon estimated catch	Steelhead trout, estimated catch
1958	24,000	30,000
1959	20,000	31,000
1960	21,000	30,000
1961	13,000	25,000
1962	12,000	19,000
1963	12,000	26,000
1964	8,000	18,000
1965	0	19,524

FIGURE 1

Total Run into Columbia R. - Summer Chinook



NATIONAL FISHERIES INSTITUTE, INC.,  
*Washington, D.C., September 27, 1967.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
 United States Senate,  
 Washington, D.C.*

DEAR MR. CHAIRMAN: The National Fisheries Institute favors passage of S. 1784, to include the State of Idaho in the provisions of the Anadromous Fish Act of October 30, 1965.

\* \* \* \* \*

DEAR MR. CHAIRMAN: The National Fisheries Institute wishes to go on record in support of S. 1798, to amend the Fish & Wildlife Act of 1956, so that benefits available under this Act may be more fully extended to fishermen's cooperative associations.

\* \* \* \* \*

DEAR MR. CHAIRMAN: The National Fisheries Institute supports S. 2269, providing additional protection for owners of private fishing vessels seized by foreign nations.

The monetary loss caused by seizure of a vessel extends far beyond compensation now available. We believe the provisions of the bill are necessary in the interests of justice to the United States fish producers.

In supporting this bill, we also urge continuation of necessary diplomatic efforts to eliminate the cause of the seizures.

\* \* \* \* \*

DEAR MR. CHAIRMAN: The National Fisheries Institute strongly favors passage of S. J. Res. 103, The decline of our domestic fish-producing industry is visibly evident, yet decisions to provide a measure of protection for our coastal and freshwater resources are impossible without current information.

The Institute favors S. J. Res. 103 rather than the similar S. J. Res. 75 because the former calls for completion of the resource survey by January 1, 1969, rather than at a later date. The need for more complete resource data is with us today and the survey must be completed as soon as possible if we are to benefit from it.

We urge speedy passage of this resolution.

\* \* \* \* \*

DEAR MR. CHAIRMAN: The National Fisheries Institute favors passage of S. 1260, to amend the Northwest Atlantic Fisheries Act of 1950.

\* \* \* \* \*

DEAR MR. CHAIRMAN: The National Fisheries Institute strongly urges passage of S. 2047, extending to cannery tender vessels exemption from certain regulations.

The cannery tenders are an integral part of the fishery fleet, and as such should be entitled to the same exemptions as all other fishing vessels.

The National Fisheries Institute endorses the statement of the Association of Pacific Fisheries in which the need for passage of S. 2047 is clearly defined.

We support this position and urge speedy enactment of S. 2047.

Sincerely yours,

LEE J. WEDDIG,  
*Executive Director.*

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ASSOCIATION OF PACIFIC FISHERIES,  
*Seattle, Wash., September 28, 1967.*

HON. E. L. BARTLETT,  
*Chairman, Subcommittee on Merchant Marine and Fisheries, Committee on  
 Commerce, United States Senate, Washington, D.C.*

DEAR SENATOR BARTLETT: The Association of Pacific Fisheries is a trade association representing salmon canners of Alaska, Oregon and Washington, who annually produce approximately 87% of the canned salmon pack of the United States.

We would like to comment for the record on several bills which were before the Subcommittee on Merchant Marine and Fisheries the week of September 20-22, 1967.

The members of this Association strongly urge the passage and early enactment into law of S. 2047, a bill to exempt certain vessels engaged in the fishing industry from the requirements of certain laws. We believe that the exemption of fishing tender vessels or cannery tenders is necessary to the continued economic success of an industry which is beset with serious problems of the adequacy of raw material supply and foreign competition for this raw material.

We make this request because of the nature and use of these specific vessels. As you know, at the beginning of the salmon canning season these vessels transport goods which are necessary for cannery operations and for local residents to remote areas. During the season these vessels take supplies and fuel out to the fishing vessels and then haul catches from the fishing grounds to the canneries. When the occasion arises these vessels may carry fishing and other personnel between canneries, fishing vessels and other support facilities for the industry.

Because of the unique usages of these vessels, we again urge the enactment of S. 2047 into law to clarify the existing Coast Guard regulations and legislation affecting adversely the present operation of these vessels.

We also wish to support the early enactment of S. 2269—a bill to provide for broadened compensation to U.S. fishing vessel owners whose boats are seized while fishing in international waters. The United States cannot countenance the harassment of United States fishing vessels by South and Central American governments based on wholly unrealistic jurisdictional claims of high seas areas which are not recognized by this country and most of the other nations.

We would also request the early enactment into law of S. 1752—a bill to amend the Act prohibiting fishing in the territorial waters of the United States to prohibit foreign vessels from engaging in activities in support of foreign fishing vessels. We had considered that the intent of the original Act included restrictions on support vessels and, therefore, support S. 1752 to detail this intent.

Finally, we wish to indicate our support of S.J. Res. 103—a bill to direct the survey of the coastal and freshwater resources of the United States. We believe that a complete and current evaluation of these resources will contribute greatly to a broadened base of our present fisheries to the benefit of the fisherman, processors and production workers.

We respectfully request that these four bills be enacted into law in the best interest of the fishing industry of the United States.

Sincerely yours,

W. V. YONKER,  
*Executive Vice President.*



