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FISHERY LEGISLATION OF 1972

GOVERNMENT

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HEARINGS

BEFORE THE

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SUBCOMMITTEE ON OCEANS AND ATMOSPHERE

OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-SECOND CONGRESS

SECOND SESSION

ON

S. 3358

TO PROHIBIT THE USE OF CERTAIN SMALL VESSELS IN
UNITED STATES FISHERIES

H.R. 9501

TO AMEND THE NORTH PACIFIC FISHERIES ACT OF 1954,
AND FOR OTHER PURPOSES

JUNE 22, 1972

Serial No. 92-68

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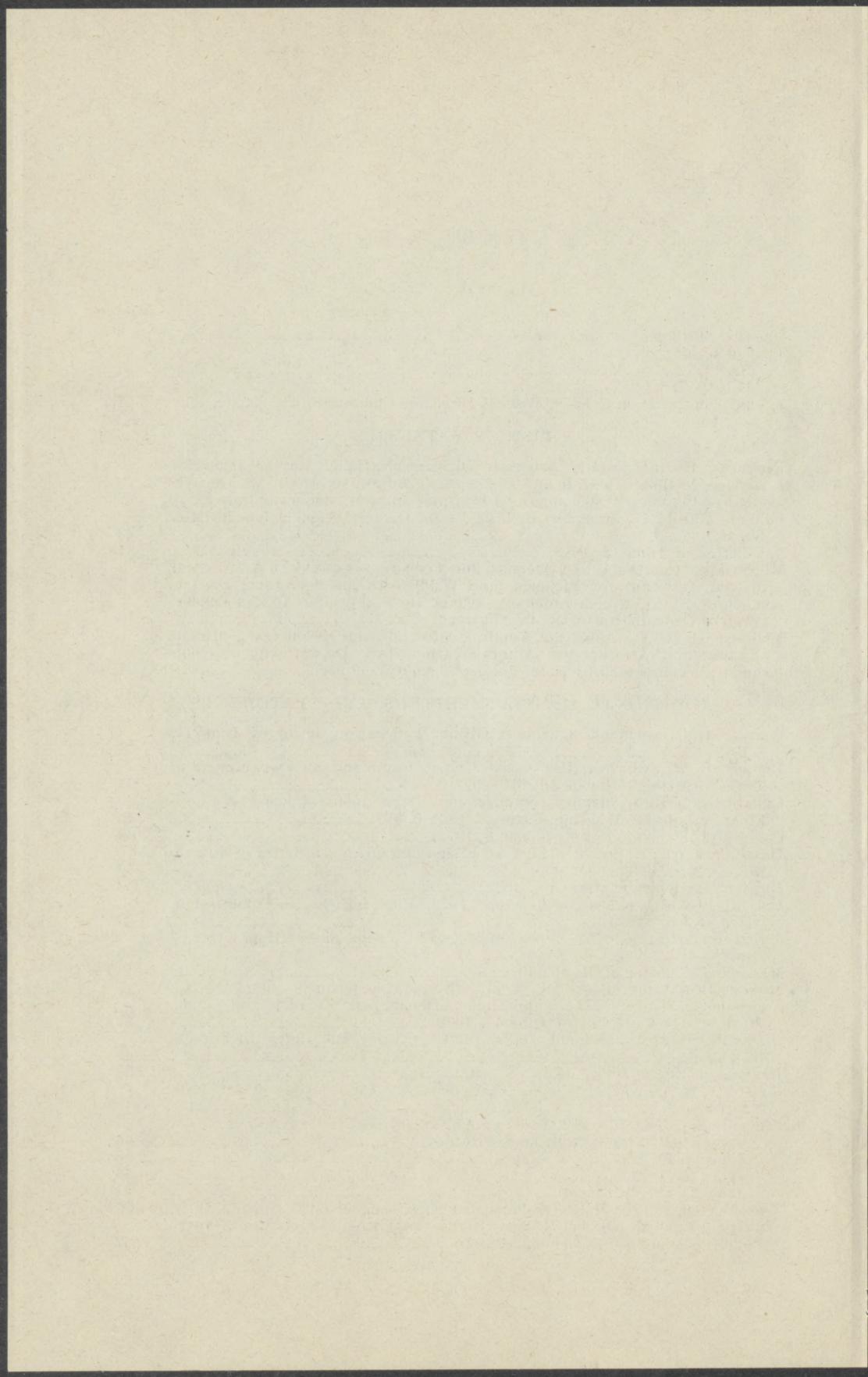
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FISHERY LEGISLATION OF 1972

THURSDAY, JUNE 22, 1972

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON OCEANS AND ATMOSPHERE,
Washington, D.C.

This subcommittee met, pursuant to notice, at 1 p.m., in room 6202, New Senate Office Building, Hon. Ted Stevens, presiding.
Present: Senator Stevens.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. The committee will come to order. We are considering two bills today, the first is S. 3358, a bill to prohibit the use of certain small vessels in U.S. fisheries. The second is H.R. 9501, a bill to amend the North Pacific Fisheries Act of 1954.

Both of these bills are of considerable importance to the fishing people of the Pacific Northwest. S. 3358 is of additional importance to the people of the United States. S. 3358 defines vessels of United States, in 16 U.S.C. 1085 to exclude vessels under 5 tons, if such vessels were constructed outside of the United States and cannot be used in the fisheries of the country in which they were constructed. Section 2 states that the act shall affect no vessel acquired prior to the date of enactment. The purpose of this bill is to relieve American fisheries from future overcrowding by unsafe vessels as a result of fishboat auctions continually undertaken in Canada.

These auctions have several undesirable results. First, they result in an overcrowding of American fisheries causing ill economic effects. Because of the overcrowded conditions many Americans cannot make a living.

Moreover, because there are too many fishermen in these areas, severe limits must be enforced to preserve the fish. Second, many of these boats are unsafe and cannot meet Coast Guard standards. They present a very real hazard to the men whose lives must depend upon them.

Third, they represent a plethora of cheap craft on the market which serve only to further devalue the vessels already fishing in American waters and owned by Americans.

I hope everyone notes that the second bill is intended to apply only to vessels which are acquired at auction in a foreign country, and if that is not clear, we will certainly make it clear.

H.R. 9501 amends the North Pacific Fisheries Act of 1964. It sets out in full several provisions of the Northwest Atlantic Fisheries Act

Staff member assigned to this hearing: John Wedin.

now incorporated by reference. It substitutes references to the Secretary of Commerce for the Secretary of Interior. It provides for the appointment of alternate commissioners to the Commission and designates certain personnel as special Government employees.

It does the same for certain other commissions. It revises the election of Commission members, redefines their term of office and makes additional substantive changes. This bill is also extremely important because this Commission has great authority and responsibility over the North Pacific Fisheries.

(The bills and agency comments follow :)

92D CONGRESS
2D SESSION

S. 3358

IN THE SENATE OF THE UNITED STATES

MARCH 15, 1972

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To prohibit the use of certain small vessels in United States fisheries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 5 of the Act entitled "An Act to prohibit fishing
4 in the territorial waters of the United States and in certain
5 other areas by vessels other than vessels of the United States
6 and by persons in charge of such vessels", approved May 20,
7 1964 (16 U.S.C. 1085), is amended by inserting at the end
8 thereof the following:

9 “(e) As used in this Act, the term ‘vessel of the United
10 States’ does not include a vessel of less than five tons if such
11 vessel was constructed outside the United States and cannot

II

★(Star Print)

1 be used in the fisheries of the country in which it was
2 constructed.”.

3 SEC. 2. This Act shall affect no vessel acquired prior to
4 the date of enactment.

92D CONGRESS
2D SESSION

H. R. 9501

IN THE SENATE OF THE UNITED STATES

JUNE 6, 1972

Read twice and referred to the Committee on Commerce

AN ACT

To amend the North Pacific Fisheries Act of 1954, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—AMENDMENT OF THE NORTH
4 PACIFIC FISHERIES ACT OF 1954

5 SEC. 101. The North Pacific Fisheries Act of 1954
6 (hereinafter in this title referred to as the "Act") is
7 amended by redesignating section 7 as section 8 and by
8 inserting immediately after section 6 the following new
9 section:

10 "SEC. 7. The Secretary of Commerce is authorized and
11 directed to administer and enforce all the provisions of the

II

1 Convention, this Act, and regulations issued pursuant thereto,
2 except to the extent otherwise provided for in this Act. In
3 carrying out such functions he is authorized and directed
4 to adopt such regulations as may be necessary to carry out
5 the purposes and objectives of the Convention and this Act,
6 and, with the concurrence of the Secretary of State, he may
7 cooperate with the duly authorized officials of the government
8 of any party to the Convention. He shall adopt such regula-
9 tions on consultation with the United States Section and
10 they shall apply only to stocks of fish in the Convention area
11 north of the parallel of north latitude of 48 degrees and 30
12 minutes. No such regulations shall apply in the Convention
13 area south of the 49th parallel of north latitude with respect
14 to sockeye salmon (*Oncorhynchus nerka*) or pink salmon
15 (*Oncorhynchus gorbuscha*).”.

16 SEC. 102. Section 8 of the Act is amended—

- 17 (1) by redesignating such section as section 9;
18 (2) by redesignating subsections (a), (b), (c),
19 and (d), as subsections (b), (c), (d), and (e), re-
20 spectively;
21 (3) by striking out “subsection (a)” each place it
22 appears in subsections (c), (d), and (e), as so redesign-
23 dated by paragraph (1) of this section, and inserting in
24 lieu thereof at each such place “subsection (b)”; and
25 (4) by inserting immediately after “SEC. 9.”, as

1 so redesignated by paragraph (1) of this section, the
2 following new subsection:

3 “(a) Enforcement activities under the provisions of
4 this Act relating to vessels engaged in fishing and subject
5 to the jurisdiction of the United States shall be primarily
6 the responsibility of the Secretary of the Department in
7 which the Coast Guard is operating, in cooperation with
8 the Secretary of Commerce. The Secretary of the Depart-
9 ment in which the Coast Guard is operating, with the con-
10 currence of the Secretary of Commerce and the Secretary
11 of State, is authorized to adopt such regulations as may be
12 necessary to provide for procedures and methods of enforce-
13 ment pursuant to articles 9 and 10 of the Convention.”.

14 SEC. 103. Section 9 of the Act is redesignated as sub-
15 section (f) of section 9, as so redesignated by paragraph (1)
16 of section 102 of this title.

17 SEC. 104. Section 10 of the Act is amended—

18 (1) by redesignating subsections (a), (b), (c),
19 (d), and (e) as subsections (b), (c), (d), (e), and
20 (f), respectively;

21 (2) by striking out “subsection (a)” each place
22 it appears in subsection (c), as so redesignated by para-
23 graph (1) of this section, and inserting in lieu thereof
24 at each place “subsection (b)”;

1 (3) by inserting immediately after "SEC. 10." the
2 following new subsection:

3 “(a) It shall be unlawful for any person subject to
4 the jurisdiction of the United States to engage in fishing
5 in violation of any regulation adopted pursuant to this Act
6 or of any order of a court issued pursuant to section 11
7 of this Act; to ship, transport, purchase, sell, offer for sale,
8 import, export, or have in custody, possession, or control
9 any fish taken or retained in violation of any such regula-
10 tion or order; to fail to make, keep, submit, or furnish
11 any record or report required of him by such regulation, or
12 to refuse to permit any officer authorized to enforce such
13 regulations to inspect such record or report at any reasonable
14 time.”; and

15 (4) by adding at the end thereof the following new
16 subsection:

17 “(g) It shall be unlawful for any person or vessel sub-
18 ject to the jurisdiction of the United States to do any act
19 prohibited or fail to do any act required by any regulation
20 adopted pursuant to this Act.”.

21 SEC. 105. Section 11 of the Act is amended—

22 (1) by striking out “subsection (a), (b), or (c)”
23 in subsection (a) of such section and inserting in lieu
24 thereof “subsection (b), (c), or (d)”;

25 (2) by striking out “subsection (d)” in subsection

1 (b) of such section and inserting in lieu thereof "sub-
2 section (e)";

3 (3) by striking out "subsection (e)" in subsection
4 (e) of such section and inserting in lieu thereof "sub-
5 section (f)"; and

6 (4) by amending subsection (d) of such section
7 to read as follows:

8 " (d) Any person violating any other provision of this
9 Act or any regulation adopted pursuant to this Act, upon
10 conviction, shall be fined for a first offense not more than
11 \$500 and for a subsequent offense committed within five
12 years not more than \$1,000 and for such subsequent offense
13 the court may order forfeited, in whole or in part, the fish
14 taken by such person, or the fishing gear involved in such
15 fishing, or both, or the monetary value thereof. Such for-
16 feited fish or fishing gear shall be disposed of in accordance
17 with the direction of the court."

18 SEC. 106. Section 12 of the Act is amended to read
19 as follows:

20 "SEC. 12. (a) Any duly authorized enforcement officer
21 or employee of the Department of Commerce; any Coast
22 Guard officer; any United States marshal or deputy United
23 States marshal; any customs officer; and any other person
24 authorized to enforce the provisions of the Convention, this

1 Act, and the regulations issued pursuant thereto, shall have
2 power without warrant or other process to arrest any person
3 subject to the jurisdiction of the United States committing
4 in his presence or view a violation of the Convention or of
5 this Act, or of the regulations issued pursuant thereto, and
6 to take such person immediately for examination before a
7 justice or judge or any other official designated in section
8 3041 of title 18 of the United States Code; and shall have
9 power, without warrant or other process, to search any
10 vessel subject to the jurisdiction of the United States when
11 he has reasonable cause to believe that such vessel is engag-
12 ing in fishing in violation of the provisions of the Conven-
13 tion or this Act, or the regulations issued pursuant thereto.
14 Any person authorized to enforce the provisions of the Con-
15 vention, this Act, or the regulations issued pursuant thereto,
16 shall have power to execute any warrant or process issued
17 by an officer or court of competent jurisdiction for the en-
18 forcement of this Act, and shall have power with a search
19 warrant to search any vessel, vehicle, person, or place at
20 any time. The judges of the United States district courts and
21 the United States magistrates may, within their respective
22 jurisdictions, upon proper oath or affirmation showing prob-
23 able cause, issue warrants in all such cases. Any person au-
24 thorized to enforce the provisions of the Convention, this
25 Act, or the regulations issued pursuant thereto may, except

1 in the case of a first offense, seize, whenever and wherever
2 lawfully found, all fish taken or retained, and all fishing gear
3 involved in fishing, contrary to the provisions of the Con-
4 vention or this Act or to regulations issued pursuant there-
5 to. Any property so seized shall not be disposed of except
6 pursuant to the order of a court of competent jurisdiction or
7 the provisions of subsection (b) of this section, or, if perish-
8 able, in the manner prescribed by regulations of the Secre-
9 tary of Commerce.

10 “(b) Notwithstanding the provisions of section 2464
11 of title 28, United States Code, when a warrant of arrest
12 or other process in rem is issued in any cause under this
13 section, the marshal or other officer shall stay the execution
14 of such process, or discharge any property seized if the proc-
15 ess has been levied, on receiving from the claimant of the
16 property a bond or stipulation for double the value of the
17 property with sufficient surety to be approved by a judge
18 of the district court having jurisdiction of the offense, con-
19 ditioned to deliver the property seized, if condemned, with-
20 out impairment in value or, in the discretion of the court,
21 to pay its equivalent value in money or otherwise to answer
22 the decree of the court in such cause. Such bond or stipu-
23 lation shall be returned to the court and judgment thereon
24 against both the principal and sureties may be recovered in

1 event of any breach of the conditions thereof as determined
2 by the court.”.

3 SEC. 107. (a) In subsection (b) of section 9 of the
4 Act, as so redesignated by section 102 of this title, strike
5 out “Coast Guard in cooperation with the Fish and Wild-
6 life Service and the Bureau of Customs” and insert in lieu
7 thereof “Secretary of the Department in which the Coast
8 Guard is operating, in cooperation with the Secretary of
9 Commerce and the Secretary of the Treasury”.

10 (b) In subsections (c) and (e) of section 9 of the Act,
11 as so redesignated by section 102 of this title, strike out “Fish
12 and Wildlife Service” and insert in lieu thereof “Depart-
13 ment of Commerce”.

14 (c) In subsection (f) of section 9 of the Act, as so
15 redesignated by section 103 of this title, and in subsection
16 (b) of section 13 of such Act, strike out “Secretary of the
17 Interior” and insert in lieu thereof “Secretary of Com-
18 merce”.

19 SEC. 108. (a) Section 3 of the Act is amended to read
20 as follows:

21 “SEC. 3. (a) The United States shall be represented on
22 the Commission by not more than four United States Com-
23 missioners to be appointed by the President and to serve at his
24 pleasure; except that after January 1, 1973, (1) each
25 United States Commissioner shall be appointed for a term

1 of office of not to exceed four years, but is eligible for reap-
2 pointment; and (2) any United States Commissioner may
3 be appointed for a lesser term if necessary to insure that
4 the term of office of not more than one Commissioner will
5 expire in any one year. Of such Commissioners, who shall
6 receive no compensation for their services as Commissioners,
7 one shall be an official of the United States Government,
8 and each of the others shall be a person residing in a State,
9 the residents of which maintain a substantial fishery in the
10 Convention area.

11 “(b) The Secretary of State, in consultation with the
12 Secretary of Commerce, may designate from time to time
13 Alternate United States Commissioners to the Commission.
14 An Alternate United States Commissioner may exercise,
15 at any meeting of the Commission or of the United States
16 Section or of the Advisory Committee established pursuant
17 to section 4, all powers and duties of a United States Com-
18 missioner in the absence of a duly designated Commissioner
19 for whatever reason. The number of such Alternate United
20 States Commissioners that may be designated for any such
21 meeting shall be limited to the number of authorized United
22 States Commissioners that will not be present.”.

23 (b) The second sentence of section 4 (d) of the Act is
24 amended by striking out “may” and inserting in lieu thereof
25 “shall”.

1 (c) Section 5 of the Act is repealed.

2 (d) Section 13 (a) (1) of the Act is amended by insert-
3 ing immediately after "Commissioners" the following: "or
4 Alternate Commissioners".

5 TITLE II—ALTERNATE COMMISSIONERS

6 SEC. 201. In order to insure appropriate representation
7 at meetings of international fisheries commissions, the Sec-
8 retary of State, in consultation with the Secretary of Com-
9 merce or of the Interior as appropriate may designate from
10 time to time Alternate United States Commissioners to the
11 North Pacific Fur Seal Commission, the Inter-American
12 Tropical Tuna Commission, the International Pacific Hali-
13 but Commission, the Great Lakes Fishery Commission, the
14 International Whaling Commission, the Commission for the
15 Conservation of Shrimp in the Eastern Gulf of Mexico, the
16 International Commission for the Conservation of Atlantic
17 Tunas, and any similar commission (other than the Inter-
18 national Commission for the Northwest Atlantic Fisheries
19 and the International North Pacific Fisheries Commission)
20 established pursuant to a convention between the United
21 States and other governments. Alternate United States Com-
22 missioners may exercise, at any meeting of the respective
23 Commission or of the United States Section thereof, all
24 powers and duties of a United States Commissioner in the
25 absence of a duly designated Commissioner for whatever

1 reason. The number of such Alternate United States Com-
2 missioners that may be designated for any such meeting
3 shall be limited to the number of authorized United States
4 Commissioners that will not be present. In the event that
5 there are Deputy United States Commissioners pursuant to
6 the convention or statute, such Deputy United States Com-
7 missioners shall have precedence over any Alternate Com-
8 missioners so designated pursuant to this title.

9 SEC. 202. Alternate United States Commissioners shall
10 receive no compensation for their services. They may be
11 paid travel expenses and per diem in lieu of subsistence at
12 the rates authorized by section 5703 of title 5, United
13 States Code, when engaged in the performance of their
14 duties.

15 SEC. 203. (a) Section 5 of the Great Lakes Fisheries
16 Act of 1956 (16 U.S.C. 934) is repealed.

17 (b) Section 5 of the Tuna Conventions Act of 1950
18 (16 U.S.C. 954) is repealed.

Passed the House of Representatives June 5, 1972.

Attest:

W. PAT JENNINGS,

Clerk.

FEDERAL MARITIME COMMISSION,
Washington, D.C., April 21, 1972.

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 Federal Maritime Commission with respect to S. 3358, a bill to prohibit the use of certain small vessels in the United States fisheries.

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Office of Management and Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

HELEN DELICH BENTLEY, *Chairman.*

Senator STEVENS. I am pleased to record we have received a number of written statements from people throughout the country in reference to these bills. We shall insert them in the hearing record at the appropriate place. In addition, the record will be kept open until July 7 in order to permit any additional statements from people who wish to submit written testimony. We have representatives of the Federal Government and private industry here today. Our first witness is our old friend, Ambassador Donald McKernan.

STATEMENT OF AMBASSADOR DONALD L. MCKERNAN, COORDINATOR OF OCEAN AFFAIRS AND SPECIAL ASSISTANT FOR FISHERIES AND WILDLIFE TO THE SECRETARY, DEPARTMENT OF STATE; ACCOMPANIED BY STUART BLOW, FOREIGN AFFAIRS OFFICER, OFFICE OF COORDINATOR OF OCEAN AFFAIRS

Mr. MCKERNAN. Thank you, Senator Stevens. I appreciate this opportunity to appear before you and to offer comments of the Department of State on S. 3358, a bill that would prohibit the use of certain small boats in U.S. fisheries.

The Department understands that the intent of S. 3358 is to deal with a problem which might arise from the operation of a program of the Government of Canada to rationalize the salmon fisheries in British Columbia by reducing the salmon fishing fleet.

Under this program certain salmon fishing vessels may be removed from the fleet in phases. Once eliminated from the fleet, these vessels may not again be licensed to engage in salmon fishing in Canada, but may be sold for other uses.

Many of the vessels to be removed are vessels of less than five tons and are thus exempt from the general prohibition on the use in the U.S. fisheries of vessels constructed abroad. They could therefore be purchased by Americans at presumably quite reduced prices and employed, for example, in the salmon fisheries in southeastern Alaska.

Should numbers of such vessels be introduced into the southeastern Alaska salmon fisheries, it would have the effect of creating economic problems arising from expansion of the southeastern Alaska fleet.

We understand and are sympathetic to the concerns of the Alaska salmon fishermen regarding the potential problems created by the Canadian program.

On the other hand, we believe it would be undesirable to impose additional general restrictions on the ability of the American fisherman to purchase his equipment from the most economic sources and thus to make his operations more competitive with those of other countries.

In the circumstances, we consider that S. 3358 as now worded is unnecessarily broad in scope. We believe the essential purpose of the bill could be accomplished—as we understand the Department of Commerce is recommending—by amending it so as to limit its application only to foreign-built vessels of less than 5 tons for use in a fishery of a type from which the vessel has been withdrawn in accordance with fishing fleet reduction regulations of a foreign country.

There might be any number of other reasons, apart from fleet reduction regulations, why a foreign-built vessel might not be used in the fisheries of the country in which constructed, and limitation of the effect of the legislation in the manner suggested would permit American fishermen to continue to purchase and use foreign-built vessels of less than 5 tons except for those involved in the kind of situation now at hand.

Since the Canadian fleet reduction program can be presumed to be temporary in nature, the effective duration of the legislation should be limited.

It has occurred to us that S. 3358 might preferably be recast so as to amend title 46 of the United States Code rather than the act of May 20, 1964.

However in view of the complexities of the law and regulations regarding this subject, we would defer to the views of other agencies on the question.

Mr. Chairman, I am perfectly willing to go on and give the comments of the Department on the other piece of legislation before you this afternoon or I would be willing to stop and answer any questions here.

Senator STEVENS. Why don't you go ahead, Mr. Ambassador. We will put both the records together so that comments on H.R. 9501 would be in order also.

Mr. McKERNAN. Thank you, Mr. Chairman.

I am pleased to have this opportunity to present the views of the department on H.R. 9501, a bill to amend the North Pacific Fisheries Act of 1954, and for other purposes.

The Department recommends early enactment of H.R. 9501. This bill would accomplish in substance what was contained in titles II and III of legislation proposed by the Department to both Houses of Congress on April 26, 1971.

That legislation was introduced in the Senate as S. 1822 of May 11, 1971. It was introduced in the House as H.R. 8791 which upon consideration of the House was separated into two bills, H.R. 9181, which has already been enacted into law as Public Law 92-87, and H.R. 9501.

The need for H.R. 9501 arises basically from the fact that certain provisions of the Northwest Atlantic Fisheries Act of 1950 are incorporated in the North Pacific Fisheries Act by reference, and some of these provisions have been amended by Public Law 92-87.

Title I of H.R. 9501 would therefore amend the North Pacific Fisheries Act to take these amendments of the Northwest Atlantic

Act into account. We considered it desirable to insert all of the pertinent provisions in the North Pacific Fisheries Act which are applicable to it so that the Act might stand alone.

Title I of H.R. 9501 accomplishes this purpose. Title I also clarifies language and takes into account changes which have taken place since the enactment of the North Pacific Act, such as the transfer of fisheries responsibilities from the Department of the Interior to the Department of Commerce.

Title II of the proposed legislation provides for the appointment of alternate U.S. Commissioners to the various international fisheries commissions. The U.S. Commissioners on such commissions are appointed by the President in accordance with implementing legislation such as the two acts I have mentioned.

For various reasons, including routine vacancies, illness and other obligations, some of the U.S. Commissioners may not be able to be present at one or other meeting of the respective commissions. At times this puts the United States at a disadvantage since other nations members of these commissions are usually represented by a full complement. The proposed legislation would allow the Secretary of State to designate Alternate Commissioners to attend meetings at which he finds that the United States would not otherwise be represented by the full number of Commissioners to which it is entitled.

Such designations would be for the meeting at hand only and would be solely for the purpose of insuring appropriate representation of the United States at the meeting without having to seek approval of the President to cover a temporary situation. The President's authority to make permanent appointments of Commissioners would, of course, remain unimpaired.

The authorization sought under title II would extend to all present international fisheries commissions except one, the International Pacific Salmon Fisheries Commission, since the Convention which established that Commission provides that Commissioners must be appointed by the President.

Such a limitation is contained in no other fisheries convention. For procedural reasons, authority to designate Alternate Commissioners to the International North Pacific Fisheries Commission is contained in section 108 of title I of H.R. 9501 and the authority to designate Alternate Commissioners to the International Commission for the Northwest Atlantic Fisheries is contained in section 111 of Public Law 92-87.

During consideration by the House, certain amendments and additions were made to the original language of the bill. These changes have to do with the procedures for appointment and the term of office of Commissioners, provisions for the payment of travel expenses of Alternate Commissioners and of certain members of the advisory committee to the U.S. section, authorization to the Coast Guard to issue regulations necessary to carry out enforcement responsibilities, and updating to the provisions relating to the applicability of the conflict of interest statutes, including similar changes in the Great Lakes Fisheries Act and the Tuna Conventions Act.

We have no objections to, and in fact support, all these amendments and additions with the sole exception of section 108(b) which would amend section 4 of the North Pacific Act so as to make mandatory,

rather than discretionary, the payment of expenses for three members of the advisory committee incident to their attendance at meetings.

We believe this would be an undesirable precedent. To make mandatory the payment of expenses of these advisers to the U.S. section, North Pacific Fisheries Commission, would afford them an advantage over industry members of delegations to other conferences in the fisheries and other fields and would reduce our flexibility in applying our limited available conference funds to the most pressing needs.

Thank you, Mr. Chairman.

Senator STEVENS. With regard to the first bill, Mr. McKernan, S. 3358, so far as I personally am concerned, your suggestion to limit the scope would be acceptable.

Do you know of any other means by which we could prohibit the entrance of these small boats that are being sold at these auctions from entering the U.S. fleet unless we do enact a bill such as this?

Mr. MCKERNAN. I really know of no other way the Federal Government could do so. I presume individual States might enact legislation affecting citizens of those States or affecting activities within the territories of those States, but other than that, I think this is probably the only way.

Senator STEVENS. And in regard to the other bill, H.R. 9501, I note your objection to section 108(b).

As I understand that section, it would make mandatory the payment of only the expenses of the three members of the advisory committee.

Is that so substantial an objection that you would not favor the bill if we didn't agree with you?

Mr. MCKERNAN. Well, no. Our objection is not that substantial, Senator.

This, of course, would set a precedent for the other eight commissions, eight active commissions, and advisory committees to those commissions, and obviously the Department would like to have discretion. The Congress in its wisdom has not given us adequate funds to fully fund the advisors as provided for now permissively in the laws, or in the statutes, implementing these commissions, and obviously the Department would take, or does take the view that we need some discretion.

I could point out, Senator, that sometimes it is extremely important to have adequate numbers of the advisory committee present at a North Pacific meeting being held in Tokyo, Japan, for example, on some critical issue. Other times it might be more important for some of the other commissioners.

Now, I appreciate your interest in this very important commission, but I would point out that there are other commissions, and the payment of these advisors to these commissions is a permissive thing so that the Department can use its judgment and its limited funds in the best way possible.

Senator STEVENS. I think we can understand that, but this is three out of 20, isn't it—the three specific commissioners as opposed to the alternates. Their actual expenses would be required by the House bill?

Mr. MCKERNAN. These are advisors.

Senator STEVENS. Yes; advisors.

Mr. McKERNAN. These are advisors that usually are chosen by the industry advisors to attend, and obviously it is an advantage to have their way paid by government, because in some circumstances these people do not represent organizations, but may be particularly skilled fishermen who are on the advisory commission for a specific purpose. Even so, I think from the standpoint of operating with limited funds, we would prefer to have discretionary authority rather than mandatory authority.

Senator STEVENS. In practice, have you paid their way?

Mr. McKERNAN. Oh, yes. We usually pay the way of some. In recent years, with the shortage of funds, I do not recall that we have paid the way of all three. I believe this last year, for example, we paid the way of two.

It was one or two.

But I think every year we have paid the way of some.

Senator STEVENS. You suggest that a time limit be made in your statement in regard to S. 3358. Do you have any idea how long we could reasonably anticipate the auction sales to continue in Canada?

Mr. McKERNAN. No. I would think the phaseout of this class of boat might be on the order of a couple of years or so from now. I understand that the National Fishery Service has looked at this more carefully than I have, Senator, and I think it is their view that 2 years is about the right time, and I would tend to agree with that without having any more specific information.

They are phasing out this smaller class of boat. I believe this class of boat is operated by part-time fishermen and they are trying to upgrade the economics of their fishery and reduce the fishing effort.

Senator STEVENS. Just as an interesting sidelight, how are plans progressing in terms of attempting to include Korea into the North Pacific Convention?

Mr. McKERNAN. Well, Senator, that is due to your most generous and able help, and I certainly, at this time, would like to acknowledge the tremendous support that you have given the Department in this. I think we are very near a solution to this problem. We have been discussing one relatively small item.

I have had an opportunity to talk to the west coast members of the industry within the past couple of days. They were here attending a State Department advisory committee meeting, and we have accepted what we believe to be the last suggestion by the Koreans that was still separating us from agreement, so that I am optimistic we are now at the end of the trail, and that we will both sign this agreement, which will be a 5-year agreement, as you will recall, very shortly. I am optimistic that within the next couple of weeks we will have it wound up.

Again, I want to thank you personally for your personal interventions and help in this manner. You have been very helpful indeed.

Senator STEVENS. I am grateful to you for those comments. We will talk about the ramifications of that in regard to other items at a later date.

Very good.

We thank you very much. I apologize to you for keeping you waiting because of the other hearing.

I would like to put in the record at this point the letter we received from the Department of Fish and Game of the State of Alaska, which supports the enactment of S. 3358.

(The letter follows:)

STATE OF ALASKA,
DEPARTMENT OF FISH AND GAME,
Juneau, Alaska, June 14, 1972.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee, New Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: We request this letter be entered into your record of the June 15, 1972 Commerce Committee hearing on S. 3358 by Senator Stevens.

We strongly urge the passage of S. 3358. The present (1972) registration in Southeastern Alaska for drift net vessels is 567, which exceeds by 40 vessels the previous high of 527 set in 1968. Some of the 1972 increase has been identified as related to the purchase by Alaskan fishermen of both Puget Sound and Alaska residency of Canadian vessels available under the governmental "buy back plan". Three such sales have been held and a fourth is advertised for June 17, 1972. Our information indicates that the vessels are being sold for about 40 cents on the dollar which is bringing speculators into the fishing business. We can anticipate that more vessel sales will be made by the Canadian Department of Fisheries in its continuing effort to reduce the British Columbia salmon fishing fleet to the desired level. Thus, the flow of cheap surplus vessels to Alaska will continue for some time.

In Alaska the commercial fishing fleet is already at the saturation level. More vessels will cause shorter fishing periods, will lower the average economic yield per fisherman and is in direct conflict with the State's ultimate goal of first stabilizing and then reducing fishing effort to provide a better dollar return to the fishermen under our sustained yield program.

Sincerely yours,

WALLACE H. NOERENBERG,
Commissioner.

Mr. McKERNAN. Senator, I forgot to mention that I asked Mr. Stuart Blow of my staff to accompany me to the stand in case we got into the details of the legislation.

Senator STEVENS. Thank you very much, Mr. Blow. Perhaps if there were others present, we might have more questions, but I like to quit while I am ahead.

Thank you very much.

Mr. Wallace of NOAA.

Nice to see you. Go right ahead.

**STATEMENT OF DAVID H. WALLACE, ASSOCIATE ADMINISTRATOR
MARINE RESOURCES, NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE; ACCOMPANIED BY RAUD JOHNSON, GENERAL COUNSEL**

Mr. WALLACE. Thank you, Senator. First I would like to present Mr. Raud Johnson, who is the general counsel of NOAA, and I would appreciate it if he might be allowed to sit with me.

Senator STEVENS. We are very happy to see you, Mr. Johnson.

Mr. JOHNSON. Thank you, Senator.

Mr. WALLACE. Mr. Chairman, it is a pleasure to be here today to discuss with you S. 3358, a bill to prohibit the use of certain small vessels in U.S. fisheries.

S. 3358 would amend the act of May 20, 1964, as amended (the so-called Bartlett Act), by adding to the definitions section a new subsection (e). Under the new subsection, the term "vessel of the United

States" would be defined, for the purposes of the act, so as to exclude from such term any boat of less than 5 net tons if such boat were constructed outside the United States and cannot be used in the fisheries of the country in which it was built. This new definition would, in effect, prohibit the use of such boats for fishing activities in our territorial waters or within any waters in which the United States has the same rights in respect to fisheries as it has in its own territorial waters (i.e., the contiguous fishing zone). On the other hand, since the amendment applies to the "Bartlett Act," this prohibition would not prevent the use of such vessels by U.S. fishermen beyond our 12-mile contiguous fishing zone nor prevent them from landing in the United States the catch which was taken outside 12 miles.

From our general knowledge of fisheries problems, we understand the circumstances which have prompted the introduction of this measure. It might be useful to the committee in assessing the need, and impact, of this bill if we first discuss some of these pertinent background facts. Recently, Canada instituted a fisheries management program which, we understand, provides for a system of limited entry in the salmon fishery off the west coast of Canada. Under this system, the Government of Canada is gradually retiring each year certain salmon fishing boats that have been determined to be surplus to the amount of fishing effort they feel is adequate for the fishery. The government purchases these boats from the fishermen as part of their program to compensate the fishermen who leave the fishery.

Periodically, the government auctions off the boats that it has purchased from its fishermen. For the most part, the boats are being bought by Americans. A good many of them are being acquired for use in the U.S. salmon fishery off the coast of Alaska. We also understand that a substantial number of these boats have been bought by residents of other coastal States, principally the State of Washington, and it is probable that some of these boats will be used in the salmon fishery of the Pacific Northwest. By our best estimates, the entire U.S. salmon fishery is at the present time overcapitalized; that is, there is already too much gear and too many boats involved in this fishery relative to the available resource. A substantial influx of additional boats would have adverse effects on the economic viability of the fishing units already present in the fishery as well as on the resource itself. This could endanger the well-being of the entire fishery both from an economic and conservation point of view. The situation is aggravated by the fact that most of the boats being acquired from Canada are old and inefficient, thus accentuating the problem of having too many inefficient boats in the fishery.

In view of the foregoing, we sympathize with the desires embodied in this legislation, to prevent additional boats from entering the Northwest Pacific salmon fishery. At present, the United States does not have any authority to control the number of vessels engaged in any of our fisheries as do the Canadians. S. 3358 would partially fill this gap by prohibiting the use of these Canadian-built salmon boats throughout U.S. territorial waters and the contiguous fishing zone.

On the other hand, while we are in agreement with what appears to be the objective of this bill, we are concerned about other problems which the bill may present if enacted in its present form. The basic difficulty is that the bill attacks only one aspect of the more general

problem of adequately managing U.S. fisheries for optimum economic, social and conservation benefits. It is directed solely at the problem of overcapitalization of a fishery and only to the extent that such overcapitalization results from the availability of excess foreign-built boats of a particular size. It does not address any of the other important aspects of fisheries management. It does not contain the general grant of authority and the necessary criteria and standards for exercising such authority which would be appropriate to a truly successful Federal effort to improve fisheries management.

At the same time, however, the bill is too broad and indefinite in scope. Although it is aimed at a particular problem in a particular fishery, as presently written, the bill would also prevent the entry into any U.S. fisheries within the territorial sea or contiguous fishery zone of foreign-built boats less than 5 net tons that cannot be used in the country of their construction. This is true regardless of whether the particular U.S. fishery concerned is overcapitalized. Moreover, the bill is not limited in duration. Thus, as time goes on, its inhibiting effect could be substantial. For example, in New England there are some 2,500 boats built in Canada that are used in various fisheries without adverse consequences. It may well be that surplus boats from Canada or elsewhere could prove highly useful in certain U.S. fisheries where additional vessels can be absorbed. Creating an arbitrary blanket prohibition on the use of all such surplus foreign vessels in U.S. waters is an unsound and unwieldy method of management.

Finally, the bill has certain problems of draftsmanship. For example, in our opinion it was drafted as an amendment to the wrong statute and is thus very difficult to enforce and incapable of effectively excluding the Canadian vessels as it was intended. If the bill is to be enacted into law, it would seem preferable to restructure the bill so as to make it an independent statute. In this way the bill could be reworded to prevent use of the vessels regardless of whether they were employed in U.S. waters or on the high seas.

The United States needs comprehensive long-range management of all of its fisheries. NOAA and its predecessors have been working on a number of new concepts which, if fully implemented, may solve many of the problems facing our commercial fishing industry generally, including the problem of excess fishing effort known as overcapitalization. The Commission on Marine Science Engineering and Resources took particular note of overcapitalization and recommended that action be taken to reduce excess fishing effort in order to improve the net economic return and thereby rehabilitate the harvesting segment of the U.S. fishing industry. At the same time, however, the Commission further recommended that the legal restrictions on the use of foreign-built fishing vessels by U.S. fishermen in our domestic fisheries be eliminated. We believe these two recommendations must be kept in mind when planning for the future development of our fisheries.

Since 1970, when we began some economic studies on a fishery-by-fishery basis, we have been working toward the development of comprehensive management programs. While our plans are not yet mature, we can well envision including among the management tools to be used such powers as the authority to impose a moratorium on additional fishing vessels entering certain fisheries, possible programs

for gear reduction in certain fisheries, and establishing uniform fishery management regulations. The subject is highly complex and requires close and effective cooperation and consultation with the States and the fishing industry. It will also undoubtedly require additional legislative authority for implementation. To attempt to anticipate the proposals which will eventuate from our present analysis by adopting S. 3358 in its present form would be inadvisable. We therefore cannot support the bill as written.

Nevertheless, as I stated, Mr. Chairman, we understand the current problem and the objective of this bill. If the bill were revised and limited so as to solve the immediate problem, we could well be favorably disposed toward it. However, both this department and other involved agencies, such as the Department of State and the Department of Transportation, would want to carefully examine any alternative bill. In any event, we would suggest that the committee consider amending the bill in the following respects:

1. Restructure the bill to be an independent statute.
2. Limit the duration of the bill to a 2-year period only.
3. Clarify the language which describes the types of vessels which are the subject of the legislation.
4. Insert appropriate qualifications to limit the prohibitions of the bill on the use of such vessels to only those instances where their use would lead to or aggravate an overcapitalization problem.

Mr. Chairman, this concludes my remarks on this bill. I will be happy to attempt to answer any questions which you have.

Senator STEVENS. Thank you very much, Mr. Wallace. There is a vote, which will force me to leave in a little while. I will return as quickly as possible. Your first suggestion is understandable. This bill was prepared according to my information by the Senate's legislative counsel and we would have no objection, I feel, to an independent statute. This amendment to the bill was deemed to be the place to put it. If you have objection to that, we certainly have no opposition. The limitation and duration of the bill for 2 years would seem to meet our immediate problem. If we need to extend it later, I am sure we could review it again.

In terms of describing the type of vessel subject to legislation, I think we have some difficulty with that. We are talking about any of the vessels that Canadians sell by auction that are under 5 tons. If we describe the means of disposition rather than the vessel, would that be acceptable to you? I am talking about official government auction. Of course, we want to prevent a private individual from buying at auction and reselling to our people, too. Mr. Johnson, would you like to comment on that.

Mr. JOHNSON. Thank you, Senator.

I think that the addition of the phraseology concerning auctions would obviously more clearly pinpoint the effect of the bill. I would raise for your consideration, however, the possibility that if the Canadians, or another country with a similar program, wish to circumvent your statute, they would simply stop having auctions and sell the boat some other way.

I think one of the points that came to our minds when we read the draft statute was that it says that it applies to boats which "cannot be used in the fisheries of the country where it was built."

Now, there may be a number of countries which export vessels that don't have a certain type of fishery. They just build boats for export, but they are able to build them for a wide variety of fisheries which they themselves don't use or possess, and thus the bill would catch them, and I don't think that was the intent of the bill reading it in the context that we received it.

Senator STEVENS. I think we are in agreement on intent. We would welcome your suggestion. If you could work with the members of the committee staff and my staff. I am certain we would be able to agree on item No. 3 without any problem.

No. 4 seems to imply that someone would have the discretion to allow these vessels which were sold at auction in Canada to enter our fishery, and this is precisely what we don't want.

Am I misinterpreting your item No. 4?

Mr. WALLACE. Senator, I think that there are some instances where for example, one of these vessels that is being sold at auction might prove to be a useful vessel—and this is on the opposite coast, so it isn't a very good example—but in the lobster fishing industry that is pursued on the east coast, I can visualize there might be these kinds of circumstances.

I think this concept of overcapitalization certainly would prevent the utilization of these vessels, in the salmon fishery, in either Alaska or the Pacific Northwest.

Senator STEVENS. Could we agree then that the vessels could be used in a U.S. fishery with the approval of the administrator of NOAA, but that that discretion would not apply to the salmon fishery?

Mr. WALLACE. I think we have already determined and we believe that the salmon fishery already is overcapitalized. We have said this in our testimony. I don't know whether that will continue indefinitely or not.

Certainly, I think if there were a 2-year bill, there would be adequate protection to the salmon industry.

Senator STEVENS. Do you have something to add, Mr. Johnson?

Mr. JOHNSON. Yes, Senator.

Without attempting to work out a bill at this moment, if you, as I believe you were implying a moment ago, are asking some assistance, a legislative drafting service, basically we would be very pleased to cooperate with your staff or anybody else on the committee.

There are a host of ways which the fourth point that we raised could be addressed, either giving discretionary authority, or setting up an objective standard. Hypothetically, for example, one could say that the boats, if they were of this nature, in other words, foreign surplus boats resulting from a limited entry scheme, could not be used within U.S. waters by U.S. fishermen to fish for the same species that they had been used for fishing in the other countries. This in effect, would accomplish the purpose with respect to salmon, because these are salmon boats, and thus they couldn't be used for fishing for salmon when used by Americans. There are a host of ways the problem can be addressed.

Senator STEVENS. Gentlemen, could I be excused? I will be right back.

(Recess.)

Senator STEVENS. Thank you very much, gentlemen. We have got a series of votes and I will try not to hold you up if possible.

As I understand your comments, your department would favor the bill if we restructured it as indicated on page 6?

Mr. WALLACE. Yes; that is correct.

Senator STEVENS. And you would be willing to assist us in doing that?

Mr. WALLACE. We would be happy to.

Senator STEVENS. I welcome your assistance and, if it is necessary, I would formally request that you give us drafting service for such restructuring of the bill.

Mr. WALLACE. I think that your request at this moment, Senator, is sufficient for us, and we would be happy to work with you or appropriate staff.

Senator STEVENS. I wanted to ask just one question about the general comments you made.

I am sure that people in the fishing industry in the Pacific Northwest in general would welcome some effort toward a Federal position on gear limitation.

Are you working on that now?

Mr. WALLACE. Yes; we are, Senator, and we are already carrying on conversations with the States, the State of Alaska and other States, about this particular concept. We intend to have in-depth discussions with the industry also in this particular area.

We feel that in the future, it is going to be extremely important that the Federal Government, working with the States and the industry, develop appropriate management techniques which will enable us truly to manage our fisheries.

At the present time, this is a rather serious problem, because we don't really have the legislative mandate to do this.

Senator STEVENS. You don't have the legislative mandate to do it.

Mr. WALLACE. That is right.

Senator STEVENS. Do you think a resolution from the Congress asking you to pursue this course and to submit legislation within a particular period of time would be welcome?

Mr. WALLACE. I don't really, believe, Senator, at this moment that we need a resolution to do this because we are working on this very hard. We certainly wouldn't object to such a resolution.

Senator STEVENS. Maybe I misunderstood your comment about legislative mandate.

Mr. WALLACE. I was a little confusing, I guess. What I meant was we do not have the legislative authority to put into effect appropriate regulations or controls. We do not need a mandate to carry on these preliminary studies and evaluations which we are currently doing at the present time.

Senator STEVENS. It would seem that the Pacific Northwest, particularly Oregon, Washington, and Alaska would be an appropriate place to start. I would be pleased to help in any way in order to interest the people of those three States in such procedure.

At one time I considered some sort of interstate compact dealing with the subject of gear limitation within the region itself.

Mr. WALLACE. Senator, we have also been having preliminary conversations with the Pacific Marine Fisheries Commission—looking at this in the same context that you mentioned.

We believe that the participation of the Commission, as well as the

individual States and the industry is vital to resolution of this problem, and we feel that we must work with all of them in order to get together the kind of viable program that can receive general support and accomplish the goal that we want, which is a sound and viable and successful fishing industry.

Senator STEVENS. Do you gentlemen have any comments on H.R. 9501?

Mr. WALLACE. Yes; we do, Senator. We have Mr. Kirkness here who will be presenting the statement in regard to this.

Senator STEVENS. I certainly thank you very much.

Mr. WALLACE. Thank you very much.

Senator STEVENS. We appreciate your support, and we will be most happy to have your assistance on drafting the bill.

We will take up the question of whether the legislative council, feels we should continue to amend the Bartlett Act. I personally see no problem with an independent statute.

Mr. WALLACE. We would be happy to assist in any way we can.

Senator STEVENS. Thank you very much. Thank you, Mr. Johnson.

We are certainly pleased to have you here, too.

Walt, are you ready to comment on H.R. 9501?

STATEMENT OF WALTER KIRKNESS, DEPUTY ASSOCIATE DIRECTOR, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE; ACCOMPANIED BY RAUD JOHNSON, GENERAL COUNSEL.

Mr. KIRKNESS. I am Walter Kirkness, and Mr. Johnson, the general counsel of NOAA, will also be at my right hand here.

Mr. Chairman, I appreciate the opportunity to make a statement in support of House-passed H.R. 9501, a bill to amend the North Pacific Fisheries Act of 1954, and for other purposes.

The North Pacific Fisheries Act is the implementing legislation for the International Convention for the High Seas Fisheries of the North Pacific Ocean. The original act of 1954 contained in section 12 a provision which incorporated by reference the language contained in sections 9, 10, 11, and part of section 7 of the Northwest Atlantic Fisheries Act of 1950 which is the implementing legislation for the International Convention for the Northwest Atlantic Fisheries.

The Northwest Atlantic Fisheries Act was amended by Public Law 92-87 on August 11, 1971, to bring it into accord with two new protocols which entered into force on December 19, 1969. The changes made in the Northwest Atlantic Fisheries Act through Public Law 92-87 make those sections inappropriate for continued incorporation by reference into the North Pacific Fisheries Act.

Therefore, it is necessary to amend the North Pacific Fisheries Act to insert in the statute the language that had earlier been incorporated by reference. The subject bill, H.R. 9501, will serve this purpose by providing the technical amendments necessary for the North Pacific Fisheries Act to stand alone.

A further provision in H.R. 9501 permits the Secretary of State, in consultation with the Secretary of Commerce, to designate Alter-

nate Commissioners to the International North Fisheries Commission so that in the event of the absence of a regularly appointed Commissioner, the United States will be assured of full representation at meetings of the Commission. Title II of the proposed bill provides that Alternate Commissioners can also be designated for other specified international fishery commissions.

Other provisions in H.R. 9501 reflect technical amendments necessary as a result of reorganization plan No. 4 of 1970.

We do not have any comments to offer on the technical amendments added to the bill by the House concerning the U.S. Commissioners, since this is a matter which is of primary concern to the Department of Justice and the Department of State.

Senator STEVENS. We certainly thank you for your testimony, Mr. Kirkness.

I gather that no one has any questions about our position to H.R. 9501 except for the one reference that has been made. We appreciate your statement.

I do have one comment, Mr. Johnson, concerning the other bill before we move on. Would you agree in this drafting service that the limitation on the entry of these vessels that are sold by auction, or which are actually the result of a gear reduction program in a foreign country, should not enter our fishery in any event without approval of NOAA or some Federal agency?

Mr. JOHNSON. Senator, I think there are a number of ways of attacking the problem.

One question that one must keep in mind with a limited purpose bill such as this one, in view of the fact, which we have already testified to today, that the National Marine Fishery Service is going into a very extensive and detailed investigation into the whole subject of proper Federal-State regulation of fisheries, is whether or not putting a discretionary power in this particular bill doesn't raise as great a number of issues as an overall fisheries management bill would.

In other words, you would have to start thinking up standards and criteria and so forth.

The discretionary route is not necessarily the best one, although I wouldn't exclude it. I think your staff would want to consider a host of possibilities.

Senator STEVENS. I just wanted to make certain we were on the same wavelength. The feeling that I have found to be prevalent on the west coast, and in Alaska particularly is that we don't want the effects of gear limitations included in the authority which the Canadian Government has now, which results in an overpopulation or overcapitalization. I want to make certain that we have a mechanism for achieving that.

If we did not have a total blanket prohibition, at least we should have some place where we could be heard before the vessels could enter the U.S. fishery.

If they want them in the North Atlantic, that is fine with me.

Mr. WALLACE. Senator, I would like to say at this point again that we are in sympathy with what you are attempting to do.

I can assure you that we will do our best to advise with you as to the most appropriate mechanism to accomplish this goal.

Senator STEVENS. Thank you very much. I thank you Mr. Johnson and Mr. Kirkness.

Mr. Lokken, I am informed we have your letter here to Senator Magnuson.

Did you wish to add to that in any way?

STATEMENT OF HAROLD E. LOKKEN, MANAGER, FISHING VESSEL OWNERS' ASSOCIATION, SEATTLE, WASH.

Mr. LOKKEN. Well, I have just a brief oral statement.

Senator STEVENS. All right, sir, fine.

The record should show that we are indebted to our chairman, the senior Senator from Washington, for permitting us to hold this hearing while the Senate is in session so we can treat the one bill as a semiemergency measure and try to move along.

We will put in the record following your oral comments, your letter to the chairman.

Mr. LOKKEN. Very good.

My name is Harold Lokken, manager of Fishing Vessel Owner's Association in Seattle, and in this statement I am joined by William Saletic, the manager of the Seiners Association, also in Seattle, so the statement is made in behalf of both organizations.

I am referring to H.R. 9501 particularly.

It does three things that we favor:

First, it fixes terms of commissioners to 4 years.

At the present time, commissioners serve during the pleasure of the President, and normally stay for long periods of time. By limiting the terms to 4 years with a provision also allowing their reappointment, it gives us an opportunity periodically to change commissioners when changed conditions in the fishery are required.

This could allow us to have a commissioner for a 4-year period and then perhaps have a different commissioner for the second 4-year period if conditions warrant, and if, also, the subjects discussed by the commissioners and the commission require special talents of the commissioners, special knowledge and special fields, so that they can be alternated in that way, and make the operation of the commission more efficient.

It would provide continuity in the commission by staggering their terms as well, so that at no one time would all four commissioners leave the commission.

They could leave, or their terms could expire at each of the 4-year terms of the commissioners.

The second refers to alternate commissioners. Other testimony has indicated that this is desirable.

I think that no one opposes having alternate commissioners in the event the original commissioners are unable to attend the meetings.

We have had meetings in the past where we have had two commissioners, and I think in one meeting we had for a time only one, and this, of course, hampers the work of the commission considerably.

Also, the language in the current bill that refers to alternate commissioners states that their expenses may be paid, which leaves it discretionary, and I think the alternate commissioners, as well as the regular commissioners, should have their expenses paid while attending meetings.

Now, it might be that the language as it is now stated would allow the commissioners, or would require that the alternate commissioners'

expenses be paid, but the language was not clear to me, and I think it should be clear so that there isn't any doubt.

The third recommendation—

Senator STEVENS. May I interrupt you, Mr. Lokken. Wouldn't it be sufficient if we required that they be paid in the same manner as the other 17 members?

Mr. LOKKEN. I am referring to commissioners now.

Senator STEVENS. I see.

Mr. LOKKEN. The alternate commissioners should have their expenses reimbursed when attending commission meetings as commissioners the same as the regular commissioners are.

Senator STEVENS. You are right. I was thinking about the advisory in Mr. McKernan's comment.

Mr. LOKKEN. Now, then, the third recommendation we make refers to the advisory committee. You are correct when you stated that not more than three at the present time may have their expenses paid while attending commission meetings.

I might add at this point that commission meetings are held in three locations: One year it is held in Japan, a second year in Canada, a third year in the United States, so that the expenses would be to locations in those three places generally on the Pacific coast.

So that the amount that is involved to me is rather infinitesimal.

I would guess that on an average the expense would be \$1,500 a year.

The reason why we think that the expense should be paid is that it is only a small part of the expense of the advisory committee procedure, three out of 20.

In addition to the commission annual meeting, we generally have an advisory committee meeting, a U.S. section meeting once a year. As far as I know, no advisory members have been paid on this. We don't think it should be discretionary on the part of the State Department to pay some years and not other years.

There have been years when no expenses of advisors have been paid insofar as I am aware.

Now, the statement was made by Mr. McKernan that this would create a precedent that would be unwanted by the State Department.

The precedent is already there in the existing bill, which says they may be paid, and changing the word may or shall I don't think would create any precedent that would be harmful to them. These other commissions can stand on their own feet as to whether or not their advisers are paid or not.

I might state that the changes that I have outlined here have the approval of the entire advisory committee of the North Pacific Fisheries Commission.

This concludes my statement on H.R. 9501.

Senator STEVENS. Very good. Your letter to the chairman pertained to this bill also.

Do you have comments on the second bill, S. 3358?

Mr. LOKKEN. Very brief comments would be like this: That we are in favor of limiting the importation of such vessels, in this particular instance, from Canada, where they have overcapitalization of their fleet. We don't think that that overcapitalization should be exported to the United States. I think it is wrong. We have too many vessels now, as well as Canada, so that they are merely exporting their problem to the United States, and I think this is wrong.

Other testimony here earlier in the hearing refers to the possibility that some of those vessels might be needed in some fisheries.

Well, I know of no fisheries in the United States now that are undercapitalized, that could use more vessels, and if there are such fisheries, we have plenty of excess capacity in the U.S. fishing industry that could be diverted from one segment to another.

So I think this would not apply.

I am also against the limitation in the bill to 2 years.

I think it should be indeterminant, or a longer period of time, because once there is a 2-year limit, it is nothing then for the Canadians to hold their vessels back until the bill expires and then export them more or less all at once, so that by having it open-ended that way, I think it defeats the general purpose of the bill.

Senator STEVENS. How long would these vessels have to be inactive before they would require substantial reconditioning to go back to the market?

Mr. LOKKEN. How long would they have to be out of service before they would have to be, you might say, refurbished?

Senator STEVENS. Yes; how long would they have to lay them up before a purchaser would go to great lengths to make them useful again?

Mr. LOKKEN. It would be quite a long time, because they would be kept up in the interim period. The basic condition of the vessel would not deteriorate. The engines, of course, could be cared for and the hulls painted, so that the time would not be too great a factor.

Another thought that one of the members in the audience made, and I am just going to offer it for consideration—I haven't given it too much thought at the present time—and that is, that you might prohibit the bringing in of used vessels.

This might solve some of the problems that has been suggested by the witnesses.

Senator STEVENS. I think you made a good point about the time direction. However, if it is a temporary piece of legislation, I think we could agree that it ought to expire at some definite time; whether 2 years is sufficient can be debated with Mr. Johnson and Mr. Wallace, but it would seem there must be some reasonable period of time in which to require Congress to review it again and see if it is still necessary before extending it.

Mr. LOKKEN. If it is necessary to have some limitation, I would suggest 5 years.

Senator STEVENS. That seems reasonable. That time frame is the one we were just discussing here.

We certainly thank you for your assistance and support, Mr. Lokken. I thank you for writing to the chairman as you did about the other bill.

Mr. LOKKEN. Thank you for the chance to testify.

(The letter follows:)

FISHING VESSEL OWNERS' ASSOCIATION INC.,
Seattle, Wash., June 12, 1972.

Senator WARREN G. MAGNUSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR: We have just been informed that a hearing will be held on June 15, 1972, by the Senate Committee on Commerce on H.R. 9501 which bill amends the North Pacific Fisheries Act of 1954.

This prompts us to write to you in support of the bill and urge you to do what you can to assure its passage by the Senate. The bill should be passed as it corrects the weaknesses that are contained in the 1954 legislation in several respects.

First, it provides stated terms for commissioners with terms staggered to provide for continued experienced commissioners on the Commission at all times with a further provision to allow for the reappointment of commissioners as many times as their record of service warrants. This provision by setting out stated terms permits the infusion of new blood into the Commission from time to time and allows the Commission greater flexibility to change as basic conditions in North Pacific fisheries change.

Second, it provides for the designation of alternate commissioners to serve when appointed commissioners are unable to serve temporarily. This insures the presence of a full complement of commissioners at all times, something which has not always been the case under the existing law.

Third, it provides for the payment of transportation expense and per diem to not more than three of an advisory committee now consisting of twenty members. This provides for more equity in financing the cost of the work of the U.S. Section of the Commission by lending a small percentage of financial support to the work of the Advisory Committee.

The foregoing views are not those of ourselves alone. They have the full approval of the official Advisory Committee to the U.S. Section of the International North Pacific Fisheries Commission.

Your assistance will be appreciated.

Sincerely yours,

HAROLD E. LOKKEN, *Manager.*

Senator STEVENS. Mr. Wakefield, did you wish to add some comments?

STATEMENT OF LOWELL WAKEFIELD, MEMBER, U.S. ADVISORY COMMITTEE, INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION, ALASKA

MR. WAKEFIELD. Yes; I do, Mr. Senator.

First I want to thank you and your staff for inviting me to come here.

My name is Lowell Wakefield, and I live in a small fishing village near Kodiak, called Port Lions.

First, I want to say that I am not really qualified to comment intelligently and in detail on S. 3358. I have spent a lifetime fishing in the fish business in Alaska but it has been limited to the herring industry and the crab industry, and I am really not familiar with the problems you are trying to address yourself to in this bill.

However, I can't let the opportunity go by and not say that I know enough about you and your interests, I know enough about the position of the Alaska Department of Fish and Game, and I know enough about Mr. Wallace to be very impressed that there must be a need for something of this kind, and I wish to express my appreciation as an individual that you are working in this direction.

I do feel somewhat more qualified to comment on H.R. 9501, because for approximately 17 years, I think it is, at least since the Commission held its first meeting right here in Washington, D.C., I have been on the Advisory Committee of the International North Pacific Fisheries Commission.

I think that all of the provisions that are in H.R. 9501, including the mandatory payment of at least three, the mandatory payment of expenses to Commission meetings, of at least three members of the Advisory Committee are all very, very valuable.

In other words, I agree completely with Mr. Lokken's testimony on this subject. Mr. Lokken has been on the Advisory Committee as you know for a long time also. Very often in the earlier years of the Commission I feel that it was particularly advantageous to have the Federal Government paying for three advisors, because this often gave us an opportunity to get the advice of counsel, of people who otherwise would not have been able to attend the session, and I do think this is a very constructive thing, and I think in recent years, the fact that it has been treated as an optional matter by the State Department, and the State Department has more often than not opted to not pick up any expenses, has not been very good.

Thank you again for the opportunity.

Senator STEVENS. Thank you very much, Mr. Wakefield. I am sure we appreciate your taking the time to express the support of H.R. 9501.

Is there anyone else who would like to testify on either of these bills today?

If not, as I stated at the beginning, the record will be kept open until July 7 for any additional statements.

I should note the presence of the Advisor to the Governor on International Fisheries, the former State Senator, Harold Hansen.

We appreciate your being here, Mr. Hansen.

If you have any comments to make, we would be pleased to hear from you, sir.

Mr. HANSEN. Senator, I would be plowing the same ground. I feel in accord with what has been presented here to you today, so with that, I might add, I am happy to see you again.

Senator STEVENS. Thank you very much.

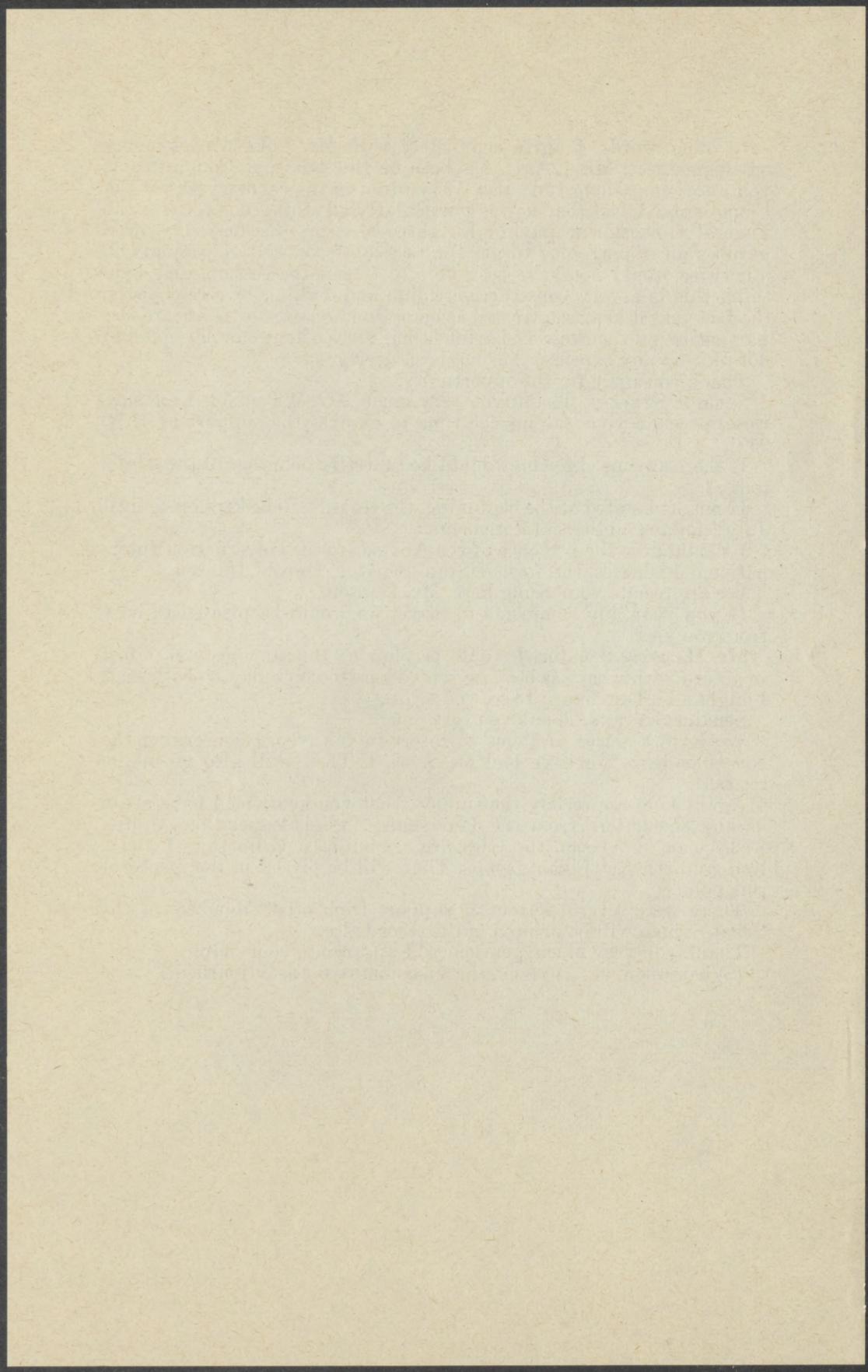
We have a series of items to insert in the record concerning the correspondence we have had on S. 3358. These will also go in the record.

Again I do appreciate the support that you gentlemen have given us and the letters from the Petersburg Vessel Association, United Fisherman of Alaska, the Gillnetters, Southeast Gillnetters Federation, and the Ketchikan groups. They will be placed in the record at this point.

There were several letters of support from other Members of the Senate which will be printed in the record also.

Thank you very much, gentlemen. I appreciate your help.

(Whereupon, at 3:40 p.m., the subcommittee was adjourned.)



ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

COMMENTS OF SENATOR STEVENS IN THE CONGRESSIONAL RECORD

Mr. STEVENS, Mr. President, I have often remarked on the fishing problems facing the state of Alaska. An excellent article on this subject appeared last November in the Southeastern Log on pages 12-13. This article entitled "Fishing Off Alaska Big Business" by Normand Dupre concerned an interview with Elmer Rasmuson, one of four American members on the International North Pacific Fisheries Commission. Mr. Rasmuson, a Native Alaskan, has long been involved in the fishing business both officially because of his position on this Commission and unofficially because of his position as an officer of one of the major banks in our State. Mr. Rasmuson is extremely knowledgeable in this area and is the first and only Alaskan ever to be appointed to the Commission. This article is particularly timely because H.R. 9501, a bill to amend the North Pacific Fisheries Act, has recently been the subject of hearings by the Senate Commerce Committee.

I recommend this article to my colleagues and request that it be printed in the Congressional Record at this point.

FISHING OFF ALASKA BIG BUSINESS

(By Normand Dupre, Log Staff Writer)

Elmer Rasmuson has urged Alaskans to take the lead in formulating a policy the United States can present to the Law of the Sea convention to be held by the United Nations in 1973.

Rasmuson, one of four American members on the International North Pacific Fisheries Commission, emphasized the necessity of the U.S. taking a strong stand.

Every member nation of the UN will be represented and each will have only one vote, even landlocked nations. He said any nation with a firm plan to present would have an advantage over nations without a formulated policy.

And, he said, Alaska is the state to whom the convention's agreements could have the greatest effect because of its vast fishery. With the exception of the state of Washington, no other state has the interest in fishery problems that Alaska has. Rasmuson said the state should begin formulating a plan now that the U.S. can take to the convention. If it doesn't have a plan probably no one else in the United States will, he indicated.

Rasmuson pointed out that Alaska has more coastline than the rest of the U.S. taken together and it has two-thirds the total U.S. continental shelf.

Rasmuson, chairman of the board of the National Bank of Alaska, spoke Nov. 11 at Ketchikan Community College at the invitation of the Seine Boat Owners and Operators and Richard Whittaker, state representative.

The three-nation North Pacific Fisheries Commission, of which Rasmuson is a U.S. member, will undoubtedly contribute information to the 1973 convention.

The commission was established by representatives from the United States, Canada and Japan in 1953, to assure the maximum sustained productivity of fish in the North Pacific and to conserve the resource, Rasmuson said.

Japan lost many of its traditional fishing grounds as a result of World War II and so it moved its fleets into the North Pacific nearer Alaska and Canada. This resulted in the treaty that created the commission.

The incursion of the large and efficient Japanese fleets resulted in real or potential conflicts with which the commission was asked to deal.

These involved fishing rights on the vast continental shelf north of the Aleutian chain in the Bering Sea. Japanese fishermen also moved down along the coast of Southeastern Alaska, into the Gulf of Alaska and along and around the Aleutian Islands.

The commission was created by a treaty that would last 10 years, and indefinitely after that if none of the member nations wished to withdraw. None did and the treaty remains in force today.

The commission is composed of four commissioners from each of the three nations, and although it had no research staff of its own, the commission was provided with three 20-member advisory staffs one for each nation.

Rasmuson is the first and only Alaskan to be appointed to the commission.

The American advisory board is made up largely of Alaskans and others from the NW states, Rasmuson said, in recognition of the area's contribution to the nation's fisheries.

Alaskan members include Jack Cotant, Ketchikan; Gordon Jensen, Petersburg; Jay Hammond, Naknek, and Clem Tillion, Halibut Cove.

"The commission never takes an action that doesn't represent the consensus of the advisory board," Rasmuson said.

The Alaska-born banker said he now feels the lack of a research staff is an asset. The board gets large amounts of information from a variety of agencies in the United States including the Alaska Department of Fish and Game, the National Marine Fisheries Service of the U.S. Department of Commerce, the University of Washington's fisheries institute and the international halibut commission. These contribute many new ideas to the commission, he said.

A major accomplishment of the commission and one that has been more advantageous to the United States than to the other two members is the so-called abstention line that roughly divides the North Pacific and the Aleutian chain for salmon fishing rights.

The line runs north and south along the 175 degrees west longitude, prohibits Japanese fishing east of the line. The United States refrains from salmon fishing west of the line, which runs across Atka Island in the Adreanof group.

By virtue of historic use that dates to the 1930s Japanese fishing efforts in limited areas surround some of the Aleutian Islands west of the line even within the 12-mile limit.

In addition to the line, the U.S. and Japan yearly negotiate a salmon quota for Japan's high seas catch.

Conditions under which Japan agreed to the line are that the United States use and harvest the salmon fisheries east of the line, that the U.S. manage that fishery and that the U.S. continue scientific studies of the salmon fishery.

Rasmuson said he believes the United States fishermen, especially Alaskans, have gotten the better part of the bargain with the line.

He cited figures which show that only 10 percent of the Bristol Bay salmon run (the largest run in Alaskan waters) ever migrate west of the line, and that Bristol Bay red salmon make up only three percent of the Japanese catch.

Therefore, he surmises, while the line does not work perfectly it does protect about 90 percent of Alaskan salmon, he said, the United States has managed by negotiation to lower the quota the Japanese can take.

Since the birth of the commission, the Soviet Union and South Korea have joined in North Pacific fishing but neither is a member of the commission.

Rasmuson said he would rather they keep out. He cited several reasons for this view. Bilateral treaties have been very effective especially with the Russians in curbing their fishing efforts in which Alaskans have a great interest. Also, he feels the entrance of the nations would "water down the vote" of the other members.

There is also the problem of political conflicts between Russia and South Korea, a staunch anti-Communist nation, that would make the two hard to get along with on the commission.

Another factor is the sudden recent decrease in fishing by South Korea in the North Pacific after several years of building up their effort.

Rasmuson suspects the Koreans never intended to vie seriously for the North Pacific fisheries but only wanted to edge into the Japanese market.

A bilateral treaty was negotiated last year with Russia and Japan by which both agreed to phase out tangle net gear used to catch king and tanner crab on the Bering shelf. Since then, he said, the Japanese this year have used crab pots almost exclusively. In addition the quota has been cut.

The problem with tangle nets is that they snag and destroy stationary gear as the nets are dragged across the ocean bottom. There have, in fact been incidents in which American boat owners have raised howls over destruction of their gear on the high seas.

One such case involved Petersburg Fisheries Inc., two of whose boats lost more than \$10,000 worth of gear in two instances to Russian trawlers.

While the Japanese respond to pressure, "a lot of this is too little too late. The Japanese wait until the fish stocks drop too far before taking corrective measures," he said.

By other bilateral treaties the Russians have agreed to refrain from salmon fishing on the high seas, a major source of fish product for Japan. Neither the United States nor Canada fish salmon on the high seas because of potential damage to runs in parent streams.

Now the commission is trying to reduce the Russian take of king crab, but the Russians are sticklers for scientific data before they make a decision, and research effort still is needed to prove overfishing.

The Russians are greatly concerned with stocks of fish the United States does not use but might use later—pollack and black cod. Perch and black cod are human foods frequently found in fish sticks and pollack is used in pet foods.

In the eastern Bering Sea, Rasmuson said, it is known Russian and Japanese trawling picks up a lot of young halibut. U.S. and Canadian members have been trying to get permission for observers to go aboard the trawlers next year to watch for violations.

Already American agents of the National Marine Fisheries Service have been allowed aboard foreign vessels including Russian research boats in the Bering. This, according to an official in the NMFS, has been of lopsided advantage to our side because most of our knowledge of fisheries is published and readily available to all, while Russian studies remain unpublished, hidden away in a file somewhere.

Looking to other legal means of protecting American fisheries Rasmuson said he favors the continental shelf doctrine over a 200-mile limit.

The continental shelf doctrine, adopted by an international agreement in 1958, states among other things that creatures that live on a continental shelf belong to the nation on whose coast the shelf is located. This refers primarily to crab, which lives on the bottom, and not to fish which live in the water above the shelf.

Rasmuson claims the United States would be better protected by the shelf doctrine because there are large areas of the Bering shelf outside of 200 miles and also because good fishing drops off beyond the edge of the shelf anyway.

As for the 200-mile limit, Rasmuson said that since the United States is fighting the 200-mile limit in Latin American countries it is not likely the government could support one at home.

By Mr. STEVENS:

S. 3358. A bill to prohibit the use of certain small vessels in U.S. fisheries. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, I am today introducing a bill to prohibit the use of certain small vessels in the fisheries of the United States. This bill will amend section 5 of Public Law 88-308, approved May 20, 1964—16 U.S.C. 1085. It will define "vessel of the United States" to exclude a vessel of less than 5 tons if such vessel was constructed outside the United States and cannot be used in the fisheries of the country in which it was constructed.

This legislation is necessary to correct a problem of great concern to many fishermen in southeast Alaska. As the enclosed letters from Alaska State Representative Mike Miller of Juneau and Messrs. Jim Beaton and Bruce Lewis—see exhibits 1 and 2—indicate, the Alaska fishing industry is faced with an over-entry of Canadian vessels into our already crowded fishery. Canada has instituted a gear limitation program under which boats are being purchased by the Canadian Government and retired from the Canadian fishing industry. These vessels are then resold at auction to non-Canadians, particularly Alaskans. This year alone, 350 such vessels are to go on the auction block. One term of the sale is that the boats can never again be utilized in the Canadian fishing industry. Because the United States has no such stipulation, many Americans are presently buying these boats at a very small percentage—30 to 50 percent—of their actual worth and entering our own industry with them. This does not permit an orderly management program and is a great problem to the many career fishermen of our State.

As I shall indicate in some detail in a minute, the U.S. maritime laws presently prohibit the entry of such boats over 5 tons; however, a vast portion of these boats are smaller than 5 tons net. This then is the problem the bill is designed to correct.

Section 1 of Public Law 88-308, approved May 20, 1964—16 U.S.C. 1081—states that it is unlawful for any vessel, "except a vessel of the United States" to engage in the fisheries within the territorial waters of the United States. However,

the Bureau of Customs, the agency which is in charge of the documenting of American vessels, has held in Treasury Decision 56382(6) contained in Bureau letter dated February 26, 1965—attached as exhibit 3—that the legislative history of Public Law 88-308 indicates no intention on the part of Congress to disturb the administrative practice, followed at least since 1940, permitting vessels of less than 5 net tons, whether built in the United States or in a foreign country, and whether owned by U.S. citizens or by alien residents in the United States, to engage in the American fisheries including such fishing operations within the U.S. territorial waters. Therefore, even though a strict interpretation of section 1 would seem to preclude all vessels not documented under the laws of the United States, including vessels of less than 5 net tons, which are ineligible for documentation because of their small size, from engaging in the American fisheries, the legislative history of that particular statute will not sustain such a literal interpretation of the statute.

Because this administrative interpretation is of such weight and of such precedent, I am informed legislation is necessary to correct the situation.

Mr. President, for this reason, I offer this bill, I request that it be printed in its entirety in the CONGRESSIONAL RECORD at this point and that exhibits 1, 2 and 3 be included as well.

There being no objection, the bill and exhibits were ordered to be printed in the RECORD, as follows:

S. 3358

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 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 (16 U.S.C. 1085), is amended by inserting at the end thereof the following:

"(e) As used in this Act, the term 'vessel of the United States' does not include a vessel of less than five tons if such vessel was constructed outside the United States and cannot be used in the fisheries of the country in which it was constructed."

EXHIBIT 1

ALASKA HOUSE OF REPRESENTATIVES,
February 15, 1972.

HON. TED STEVENS,
*U.S. Senate,
Washington, D.C.*

HON. MIKE GRAVEL,
*U.S. Senate,
Washington, D.C.*

HON. NICK BEGICH,
*House of Representatives,
Washington, D.C.*

DEAR TED, MIKE, AND NICK: In recent months a situation has developed which I believe bears scrutiny, both at the federal and state level. This is a new policy by the British Columbia government of removing gear from their fisheries by means of purchasing Canadian boats then "dumping" them on the market with the provision that such boats are not to be used again in the *Canadian* fishery.

These boats, I am told, are purchased from the fishermen for full market value and are being resold in a series of auctions at prices as low as 30 to 50 percent of value.

From the Canadian viewpoint, this is a pretty realistic program. Like us, they have too much gear in the water and they know it. They are taking this step to eliminate some excess gear.

The problem for us arises from the fact that while these boats cannot ever again be used to fish in Canada, they can and will be used to fish in Alaska. The feeling among a large number of our fishermen is that any arrangement which will result in more gear coming into Alaskan waters is an undesirable arrangement. They fear that the availability of a large number of commercial fishing boats at extremely cheap prices could very well have this effect.

I am not sure what the solution should be. Possibly, it should be along the lines of prohibiting the commercial use in American waters of boats that have

been banned in foreign waters. The Department of Fish and Game, at my request, has requested copies of the Canadian regulations plus data on this program. I will forward this material to you as soon as it is available. In the meantime, I wanted you to be aware of the concern which exists over this situation.

Best personal regards.
Sincerely,

MIKE MILLER,
Representative, District 4 (Juneau).

P.S.—Ted, I believe—if I interpreted your remarks before the legislature correctly—that you are already aware of this situation and are working on it. We appreciate your interest and hope that something can be done about this problem before it gets to be one of major proportions.

SOUTHEAST GILLNET FEDERATION,
Juneau, Alaska.

Senator TED STEVENS,
*Old Senate Office Building,
Washington, D.C.*

DEAR SENATOR STEVENS: It has been brought to our attention that a situation is developing that will be very detrimental to the fishery's resource of Alaska.

The primary problem of the Alaska salmon industry is the over entry of vessels into this already crowded fishery. The Canadians with a similar problem have taken positive action through legislation and are now instituting a gear limitation program whereby boats are being bought by the government and retired from their overcrowded fishery. In this way the fishery can be more orderly managed from a conservation standpoint and more important from the human standpoint those remaining in the fishery can make a decent living. This gives you a very brief background of the problem and what is happening, now comes the punch line.

The Canadians are stipulating that these boats can never be used in the Canadian fishery again as a term of the sale (auction). However, we have no such stipulation, therefore Americans are buying these boats at thirty cents on the dollar entering them in our already overcrowded fishery thereby in essence solving the Canadians initial problem, finding them a continuance of this program and compounding the management of our already huge salmon fleet. Of course the Jones Act stops boats over five tons but a vast segment of the combination gillnet troll fleet is under five tons net. Already numerous boats have been sold to Americans from Washington and Southeast Alaska and slated to enter our fishery. Even more traumatic is the fact that 800 more boats are slated to go on the block in the immediate future.

We support you in your endeavours to solve our various fisheries problems such as development of our off shore fleet, continental shelf and jurisdiction limits, but in all honesty this type of legislation while being needed is of little value if we cannot figure out ways of orderly managing the fisheries we have always had.

For the sake of expediency the foregoing is a very brief summation of our problem. We will be willing to meet with you any time any place and expounding on this or any other problem related to our fisheries with you.

Thanking you in advance,

JIM BEATON,
President.
BRUCE LEWIS,
Secretary-Treasurer.

EXHIBIT 3

FEBRUARY 26, 1965.

Hon. ROY L. PETERSON,
*Collector of Customs,
Seattle, Wash.*

DEAR MR. PETERSON: Your letters of October 21, 1964, and January 8, 1965, inquire whether foreign-built vessels of less than five net tons may continue to engage in the American fisheries notwithstanding Public Law 88-308, approved May 20, 1964 (sections 1081-1085, title 16, United States Code).

Public Law 88-308 in part provides that it is unlawful for any vessel "except a vessel of the United States" to engage in fishing in United States territorial waters. A strict interpretation of the statute would seem to preclude all vessels not documented as vessels of the United States, including vessels of less than five net tons which are ineligible for documentation because of their size, from engaging in the American fisheries. We find nothing in the language of the statute or in its legislative history, however, which would sustain such an interpretation. The legislative history clearly indicates that it is the intent of the Congress to prohibit "foreign" vessels from engaging in fishing in the prescribed waters, and we believe that for purposes of the statute foreign vessels are vessels of foreign flag or registry, or vessels owned by aliens not resident in the United States.

The Bureau is of the opinion, therefore, that in enacting Public Law 88-308, there was no intent on the part of the Congress to disturb the administrative practice, followed at least since 1940, which permits vessels of less than five net tons, whether built in the United States or of foreign-build, owned by United States citizens or by aliens resident in the United States, to engage in the American fisheries, including such operations in United States territorial waters. Consequently, this practice may continue as heretofore.

The bill H.R. 559 (71st Congress, 1st Session), to which your letter of October 21, 1964, refers, was introduced on January 3, 1941, but failed of enactment.

We are returning the letter which [name withheld] addressed to you on October 19, 1964, for reply directly to him in accordance with the views we have expressed. As he is concerned with the use of a Canadian-built commercial salmon gillnetter of less than five net tons in the Alaska fisheries, we are forwarding a copy of this letter, together with a copy of [name withheld] letter, to the collector of customs at Juneau.

Sincerely yours,

LESTER D. JOHNSON,
Acting Commissioner of Customs.

U.S. BUREAU OF CUSTOMS,
February 16, 1965.

To: The file.

Subject: Vessels of less than 5 net tons in the American fisheries.

R.S. 4311 (46 U.S.C. 251) in part provides that vessels of 20 tons and upwards, enrolled and having a license in force, or vessels of less than 20 tons, which, although not enrolled have a license in force, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the American fisheries.

It has been the practice of the Bureau of Customs and of the Bureau of Marine Inspection and Navigation, its predecessor agency in the administration of the navigation laws, at least since 1940, however, to permit vessels of less than five net tons, which are ineligible for documentation because of their size, when owned or purchased by residents of the United States, to engage in the American fisheries (Memorandum dated November 5, 1942, Chief Counsel to Commissioner of Customs; undated "memorandum of authorities"; Bureau letters December 6, 1945, 217.3, to collector of customs, Juneau, Alaska; March 12, 1953, to [name withheld]; June 19, 1957, 217.3, to [name withheld]; June 22, 1960, 211.12, to [name withheld]; October 30, 1961, 217.3, to [name withheld]).

Public Law 88-308, approved May 20, 1964 (16 U.S.C. 1081-1085), in part provides that it is unlawful, under penalty of forfeiture, for any vessel "except a vessel of the United States" to engage in fishing in United States territorial waters. The collector of customs at Seattle, Washington, under dates of October 21, 1964, and January 8, 1965, has inquired whether this statute precludes a foreign-built vessel of less than 5 net tons from engaging in the American fisheries. Engaging in the American fisheries is deemed to include fishing in the territorial waters of the United States (Bureau letter October 30, 1961, 217.3, to [name withheld]).

A strict interpretation of the statute would seem to preclude all vessels not documented as vessels of the United States, including vessels of less than five net tons, from engaging in the American fisheries. Such an interpretation, contrary to long-established administrative practice, would result in vessels of less than five net tons, even if built in the United States and owned by citizens of the United States, being ineligible to engage in the American fisheries.

The legislative history of Public Law 88-308 (U.S. Code Congressional and Administrative News, 1964, pp. 1243-1258), however, clearly indicates an intent on the part of the Congress to prohibit "foreign" vessels from engaging in the fisheries in the proscribed waters. House Report (Merchant Marine and Fisheries Committee) No. 1356, April 28, 1964, states the purpose of the bill is to make it unlawful for a "foreign" vessel to engage in the fisheries. Under the heading, "What the Bill Does: Section-by-Section-Analysis," the Committee states:

"Section 1 of the bill makes it unlawful for any foreign vessel * * * to engage in the fisheries within the territorial waters of the United States * * *"

The House report and the Senate report (Commerce Committee) No. 500, September 13, 1963, as well, repeatedly refer to an intent to bar "foreign" vessels from the American fisheries. The comments of the Department of the Interior dated February 18, 1964, on the proposed legislation, appended to the House report, include repeated references to "foreign-flag" vessels as barred from the fisheries, and other departmental reports also refer to "foreign" vessels. Nowhere is there any indication that the legislation is designed to apply to vessels of less than five net tons owned or purchased by residents of the United States, the subject of the administrative practice referred to above.

A foreign vessel has been said to be a vessel owned by residents in or sailing under the flag of a foreign nation. This term (a foreign vessel) does not mean a vessel in which foreigners domiciled in the United States have an interest. *The Sally*, 1 Gall. 58, Case No. 12, 257, 21 F. Cases 242, C.C. D. Mass. (1812).

Vessels of less than five net tons owned by citizens of the United States, whether built in the United States or of foreign-build, are not foreign vessels. It is less clear, however, whether vessels of less than five net tons owned by aliens resident in the United States are foreign vessels. Footnote 9 to section 4.3, Customs Regulations, states that every undocumented vessel of five net tons or over owned by an alien, whether or not such alien is a resident of the United States, is a foreign vessel. Bureau letter July 27, 1960, 211.1, to the collector of customs, New York, N.Y., states: "There appears to be no reason for any other or different interpretation merely because the vessel involved may be of less than five net tons". The footnote and letter cited refer to the exemption of a vessel from entry and clearance requirements in certain circumstances.

The administrative practice referred to, which appears even to antedate the Chief Counsel's memorandum of November 5, 1942, does not recognize a distinction, however, in respect to vessels of less than five net tons engaging in the fisheries, between such vessels owned by citizens of the United States and those owned by aliens resident in the United States. The several Bureau decisions referred to do not make such a distinction. Neither, apparently section 4.96(b), Customs Regulations, in stating that * * * no vessel employed in fishing, other than a vessel of the United States or a vessel of less than five net tons "owned in the United States" shall come into a port or place in the United States. In the circumstances, therefore, it does not appear that a vessel of less than five net tons owned by an alien resident in the United States is a foreign vessel within the purview of Public Law 88-308.

It appears that for the purposes of the statute, foreign vessels are vessels of foreign flag or registry, or vessels owned by aliens not resident in the United States. No intent on the part of the Congress is found to disturb the long-continued administrative practice which permits vessels of less than five net tons, whether built in the United States or of foreign-build, owned by United States citizens or by aliens resident in the United States, to engage in the American fisheries. Accordingly, the collector at Seattle should be advised that this practice may continue as heretofore.

PROHIBITION ON CERTAIN VESSELS IN U.S. FISHERIES—ORDER FOR A STAR PRINT
OF S. 3358

Mr. STEVENS. Mr. President the Commerce Committee will shortly be conducting hearings on my bill, S. 2258, to prohibit the use of certain small vessels in U.S. fisheries.

I ask unanimous consent that a star print be made of S. 3358, adding on page 2, after line 2, a new section 2, reading "This Act shall affect no vessel acquired prior to the date of enactment."

The purpose of this addition is to protect those persons who previously purchased Canadian vessels and have substantial sums of money invested in them.

The PRESIDING OFFICER (Mr. TAFT). Without objection it is so ordered.

SOUTHEAST GILLNET FEDERATION,
February 23, 1972.

The Honorable TED STEVENS,
U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENS: I received your correspondence in relation to your introducing for us a bill to alleviate the problem of Canadian boats being dumped into our over-gearred Alaskan fishery. The wording of the Bill was fine and should alleviate the problem. We fishermen appreciate it when you take time from your heavy work load and try on our behalf to solve some of the myriad of problems that beset us. Fisheries being the largest single (from the Alaskans employed standpoint) industry in Alaska, we fishermen feel shortchanged on representation. Effort on your part, such as work on this Bill, I assure you, will not be forgotten.

Besides being President of the Southeast Gillnet Federation I am also on the six-man forming committee of the newly formed United Fishermen of Alaska, and on the Board of Directors of this group, a statewide fishermen's group representing eighteen organizations whose principal aims are dealing with statewide issues. We are strictly politically oriented and endeavor to endorse candidates in elections. Incidentally, I might add, many erroneous statements have been printed concerning the UFA. To set the record straight, we are not diametrically opposed to the pipeline only to not having the best and safest pipeline possible. We are actually conservative in our views, willing to negotiate on all issues. We realize there are other interests developing in Alaska, and resolve to work toward creating a new Alaska, but one of course with fisheries evolving into its orderly and proper place.

In closing, I would like to thank you again for your work on our behalf; I realize you will work to get this Bill through but I wonder if you might not be able to get a press release out to the effect that this Bill is in the works. Another sale is scheduled in March less than a month away. Any publicity to the effect that Congress is trying to alleviate this problem may dissuade borderline potential buyers.

Thank you,

JAMES E. BEATON, *President.*

PETERSBURG FISHERIES, INC.,
Petersburg, Alaska, April 15, 1972.

Senator TED STEVENS,
Senate Office Building,
Washington, D.C.

DEAR TED: Enclosed find an article from the magazine, Western Fisheries, February 1972.

It further shows the threat to Alaska fishermen from further devaluation of existing fleets and additional gear.

Since then they have had one more sale but I am sure that many of the 824 boats mentioned are still to be sold.

I am encouraging the fishing groups to support your bill S3358.

Thanks for your help on the Ocean Affairs Advisory Committee. I will do my best.

Very truly yours,

BOB THORSTENSON.

DECEMBER 11 FISHBOAT AUCTION

This list of 49 fishboats sold at the December 11 auction of the federal government's Fishing Vessel Buy-Back Program was released by the Fisheries Service early in February. It shows name of boat, price paid to owner, price sold at auction, difference, and purchaser.

The next auction will be held March 4, again at Wes-Del Marina, and will feature a telephone hook-up with Prince Rupert, where 28 former Nelson Bros. gillnetters will be on the block. There will probably be close to 50 boats auctioned off, according to buy-back manager Doug Bell, who says his appraisers are working their way through a list of 824 boats offered to the plan.

Vessel and Purchaser	Paid	Sold	Difference
Kathy Gail, R. Carmichael, Campbell River	\$11,500	\$6,000	\$5,500
El Sueno, S. Pentec, Bellingham	18,060	6,500	11,560
Aero, T. Devereaux, Tacoma	20,753	10,500	10,253
Iroquois II, B. Bendickson, Vancouver	14,228	9,250	4,978
Skedan's Bay, J. Danielson, Burton, Wash.	12,863	7,750	5,113
Lady Janice, J. Peterson, San Mateo	30,197	17,000	13,197
Nipentuck, Dr. Phillip Ney, Victoria	50,663	22,000	28,663
Gotland II, B. Roberts, Vancouver	39,358	21,000	18,358
Melrilla, L. Peterson, Vancouver	37,275	14,500	22,775
Sea Gay II, L. Pedersen, Seattle	25,830	16,000	9,830
Fulmar II, A. Easter, Seattle	30,293	15,250	15,043
Road Runner, F. J. Miller, Mt. Vernon	16,538	9,500	7,038
Wellamo, R. Abse, Seattle	23,363	13,250	10,113
Wanderlust, L. Proctor, Vancouver	25,725	10,500	15,225
Lorne R., J. Imlah, Astoria, Oreg.	11,708	7,750	3,958
North Pacific, R. Babicki, West Vancouver	42,525	19,000	23,525
Laredo, J. B. Buchanan, Vancouver	66,675	16,000	50,675
Santa Rita, D. MacAndrew, North Vancouver	41,017	6,500	34,607
Offshore Wind, R. Edmondson, Lund, B.C.	37,353	17,250	20,103
Ice Breaker, R. Whittaker, West Vancouver	29,925	8,500	21,425
Sambo, W. Sturgeon, H. Walkena, Everson, Wash.	9,713	4,500	5,213
Ursa Major, Dr. J. Bridges, Burnaby	36,383	14,500	21,883
Cape Spencer, E. A. Dunn, Blaine	20,236	9,000	11,236
Anita C, J. Williams, Terrace	16,642	7,000	9,642
Umeo, R. Smith, Ganges	21,950	7,000	14,950
Helen E., J. McKinnon, Burnaby	20,212	6,000	14,212
Torneo, M. Carlson, Coquitlam	14,888	4,700	10,188
Mint II, J. Williamson, Juneau	14,351	4,750	9,601
Andora, J. Karuza, Tacoma	12,863	7,500	5,363
Dee Cee M, Mrs. T. Hood, Vancouver	17,063	8,000	9,063
Kismet II, R. Howe, Kent, Wash.	12,180	4,250	7,930
Varden, O. Hansen, Vancouver	8,663	3,250	5,413
Miss April, T. Lourovich, Tacoma	10,762	7,000	3,762
Margetie Ann, M. Gdowski, Vancouver	6,904	4,250	2,654
Diane IX, P. Modoun, Gig Harbor, Wash.	5,828	4,500	1,328
Miss Nevada, T. Giles, Koksilah, B.C.	14,487	6,500	8,187
Geni, J. Tara, Ladner	6,720	4,250	2,470
London I, R. Easton, Terrace	6,878	4,000	2,878
Alesund, R. Parker, R. Arthur, Richmond	7,088	4,000	3,088
Gibson Girl, G. Pepper, Clinton, Wash.	7,853	4,250	3,603
Bruce Dawn, L. Deschambault, Vancouver	4,095	4,000	95
Seal, K. Jackson, Sumner, Wash.	4,331	3,250	1,081
Viking, E. Stephens, Vancouver	2,573	1,900	653
Joy C, G. Gagne, Sechelt	2,520	2,250	270
Renegade, Mr. Keetling, Seattle	3,780	3,000	780
Evening Ripple, C. Hamley, Blaine	1,050	800	250
77, B. Bourke, Delta	2,599	2,000	599
Little Geo, Gregor Enterprises, Poulsa, Wash.	20,738	6,750	13,988
Ocean Prowler, Western Mar. Chtrts, Sacramento	17,850	7,750	10,100

KETCHIKAN, ALASKA, May 3, 1972.

Senator TED STEVENS,
Old Senate Office Building,
Washington, D.C.

DEAR TED: Your proposal to prohibit the use of fishing boats which have been banned in their country of origin from fishing in the waters of the United States is a good one.

These boats are being brought in here and sold to fishermen at a huge profit and half of them are junk as well as obsolete. I was aboard two of them and I would not have gone to Prince Rupert to get them had they been given to me. It is bad enough to allow them to be used as pleasure boats here. At least these are ruled out of commercial work. Too many of our fishing boats are too old, too small and out of date now.

Our fishing fleets should have large modern boats at least equal to the foreign boats that we in the U.S. are subsidizing by allowing them to fish in our waters and then sell us some of these fish.

Your truly,

TED MEADOR.

U.S. SENATE,
Washington, D.C., May 10, 1972.

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

MY DEAR MR. CHAIRMAN: I am transmitting for the consideration and attention of the members of your committee, copies of correspondence I have received from the North Lubec Manufacturing and Canning Company, Maine and the Holmes Packing Corporation of Eastport, Maine with reference to the pending bill S. 3358.

Sincerely yours,

MARGARET CHASE SMITH,
U.S. Senator.

Enclosures.

NORTH LUBEC MANUFACTURING & CANNING CO.,
North Lubec, Maine, May 5, 1972.

Re: S. 3358

HON. MARGARET CHASE SMITH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR SMITH: The Fisheries Information Bulletin of the National Cannery Association reported on March 24, 1972, the introduction in the Senate on March 15, 1972, a bill to prohibit the use of certain small vessels in United States Fisheries and indicated the intent of said Bill was to exclude a vessel of less than 5 ton constructed outside of the United States to engage in fisheries of the United States under certain conditions.

In view of the information contained in the above-referred to Bulletin, we requested the Fisheries Product Division of the National Cannery Association obtain for us and forward copies of Bill S-3358 and a copy of Public Law 88-305. We subsequently received from the National Cannery Association copy of the Bill as requested and copy of Public Law 88-308 and information to the effect that Senator Stevens' office sought amendment language from people in the fishing industry which would allow continued use of equipment built in other countries that has been used in the past and information as to hardships that might result from passage of the Bill as originally introduced.

We would respectfully request that you support an amendment to the Bill in question which would provide for continued use of foreign built vessels of under the 5 ton already in use in the fisheries within United States territorial waters and for the use of foreign built vessels of under 5 ton which were on order and/or under construction which could lawfully have been brought in and used in the fisheries of the United States within the territorial waters of the United States under the law governing such matters prior to the introduction of S. 3358.

I am enclosing a photocopy of a letter directed to Mr. Robert D. Nordstrom, Director, Fishery Products Division, National Cannery Association, On April 28, 1972, which sets forth circumstances relating to the particular situation of the North Lubec Mfg. & Canning Company. It is my understanding that there may be a good many foreign built boats fishing on the Maine coast at this time and quite probable some on order of under 5 ton which would be affected by the Bill in question.

It is my further understanding that there are a fairly substantial number of vessels built and under 5 ton fishing off the coast of Alaska which would be adversely affected by the Bill as originally drawn.

It would appear that some protection may reasonably be requested for such vessels already fishing and for such vessels already contracted for and under construction.

May I thank you in advance for your assistance in this matter.

Very truly yours,

EUGENE L. BAILEY.

NORTH LUBEC MANUFACTURING & CANNING Co.,
North Lubec, Maine, April 28, 1972.

Mr. ROBERT D. NORDSTROM,
*Director, Fishery Products Division,
 National Cannery Association, Washington, D.C.*

DEAR MR. NORDSTROM: We acknowledge and thank you very sincerely for your letter of April 24th, the Bill S-3358 in the U.S. Senate, and copy of Public Law 88-308.

Our Interest, i.e., the North Lubec Mfg. & Canning Co., in this Bill results from the fact that one of the fishermen we finance in part has ordered a boat or vessel constructed in Nova Scotia and which vessel is presently under construction with delivery anticipated around June unless there is some change.

It is my understanding that this boat or vessel which will be used in seining off the Maine coast is under 5 tons as existing regulations do not permit the use of vessels in the fishery of over 5 tons.

It appears from information available to us that this craft currently under construction could present problems. First, if the law were passed before construction was completed, it appears the vessel could not be brought in for fishing on the Maine Coast. Second, it appears that in the event the vessel was brought in before the Bill became law, it might become illegal to use same in fishery on the Maine coast.

It is not entirely clear to me even with the copy of the Bill and the Public Law as furnished by your office as to just how this would operate to affect our particular situation.

The boat or vessel under construction is being procured specifically for use in the Maine coast hearing fishery and possibly in the shrimp fishery and will never fish in the Canadian territorial waters.

From the information you have furnished, it would appear that there may well be some boats or vessels operating at the present time in the Maine herring fishery under 5 tons built in Canada, used in Canada which would be excluded from further fishing on the Maine coast.

For ourselves, again North Lubec Mfg. & Canning Co., having now invested certain sums of money in the procurement of a boat or vessel which would have been legal at the time of our agreement, we would certainly hope that some provision can be made for our protection or more specifically for the protection of our fisherman.

I think it may be advisable for me to discuss this with Dick Reed in order that he may determine if other Maine cannery are involved and to what degree.

With regard to Customs regulations concerning foreign vessels over 5 tons, I would note our files contain a copy of a letter from the Treasury Department, Bureau of Customs, Portland, Maine, dated March 23, 1962, to another Maine cannery reading in part as follows:

"An American resident may import a boat under 5 net tons, which is to be used for commercial fishing free of duty upon the filing of an affidavit. The boat must be measured by the U.S. Customs officer at the port of entry, and if it is found to be over 5 net tons, it cannot engage in the coastwise trade or fisheries, but must be confined to foreign trade."

If I can furnish any additional information which will be of benefit to you, please advise.

Again, thank you for the information furnished, and please give us any advice you have in the matter at this time when you have reviewed the circumstances relating to our particular situation.

Very truly yours,

By: EUGENE L. BAILEY.

P.S. I am attaching some initial thoughts relative to a possible amendment offering protection for investments already made likely to be injured under S. 3358.

S. 3358 as introduced in the Senate of the United States—a Bill to prohibit the use of certain small vessels in United States Fisheries provides "(e) As used in this Act, the term 'vessel of the United States' does not include a vessel of less than five tons if such vessel was constructed outside the United States and cannot be used in the fisheries of the country in which it was constructed."

It would seem that it would not be at all unreasonable to suggest that any amendment of the existing law should provide for continued use of foreign built vessels of under five ton already in use in the fisheries within the territorial waters of the United States and for the use of foreign built vessels of under five ton on order and under construction which could lawfully have been brought into and used in the fisheries within the territorial waters of the United States under the law governing such matters prior to the introduction of S. 3358.

HOLMES PACKING CORP.,
Eastport, Maine, May 2, 1972.

Re: S. 3358—3/15/72

HON. MARGARET CHASE SMITH,
U.S. Senate,
Washington, D.C.

DEAR MRS. SMITH: It has been brought to our attention that the above bill will have a great effect on the Coast of Maine.

For example, we have one boat under five tons used for seining which was purchased in Canada some 10 years ago. We understand this boat will be barred if the above bill goes into law.

We believe that if it is necessary to pass any legislation to prevent small foreign boats from being brought in in the future that it is an unreasonable thing to make the law retroactive.

We hope you can see that a proper amendment is prepared.

Very truly yours,

By: M. B. PIKE.

STATE OF MAINE,
DEPARTMENT OF SEA AND SHORE FISHERIES,
Augusta, Maine, June 6, 1972.

HON. TED STEVENS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: It has come to our attention that on March 15 of this year you introduced a Bill to prohibit the use of certain small vessels in the United States fisheries (S. 3358).

While we are not certain as to the exact meaning or intent of this proposed legislation, it does appear that this could be unreasonably restrictive to various segments of Maine's commercial fishing industry—especially to our sardine and lobster fisheries.

It would be appreciated if you would clarify the purposes of this Bill generally. In addition, it would be helpful if you would inform us as to whether or not this would have a retroactive effect on our fishing fleet. It appears to us that, as presently worded, vessels built outside the United States but presently operating in the domestic fisheries would be ruled out, along with any new construction in the future. The status of vessels that may be presently under construction as a result of contracts with United States fishermen would also seem to be in question.

Since these matters are of the greatest importance to members of our commercial fisheries, any information you can furnish us will be appreciated.

Sincerely,

RICHARD P. CHOATE,
Deputy Commissioner.

JUNE 9, 1972.

RICHARD P. CHOATE,
Deputy Commissioner, Department of Sea and Shore Fisheries,
Augusta, Maine

DEAR MR. CHOATE: Thank you for your letter of June 6, 1972 concerning S. 3358, a bill to prohibit the use of certain small vessels in the United States fisheries.

I am enclosing for your information a copy of my introductory statement as it appeared in the March 15 Congressional Record at pages S. 3996-98. Also en-

closed please find a copy of my remarks on an amendment to S. 3358 as it appeared in the Congressional Record of June 8 at page 9815. I believe these will clarify any intent in introducing this legislation.

I do not intend this bill to be restrictive to any segments of the fishing industry. Nor do I intend that vessels built outside the United States but presently operating in the domestic fisheries will be excluded along with any new construction in the future. Neither do I intend that vessels presently under construction, or even not yet under construction but with contracts executed by all parties be excluded.

As you may be aware, hearings by the Senate Commerce Committee will be held at 10 A.M. in Room 1318, New Senate Office Building on Thursday, June 15, 1972. Should you desire to testify or submit a written statement, kindly inform Chairman Warren G. Magnuson of the Committee or me accordingly.

With best wishes,
Cordially,

TED STEVENS,
U.S. Senator.

U.S. SENATE,
Washington, D.C., June 7, 1972.

HON. TED STEVENS.

DEAR TED: I have received a number of letters from representatives of the fishing in Maine expressing concern about the possible adverse effects upon their industries if S. 3358 is enacted in its present form.

I sympathize with the problem of the increasing number of fishing vessels being purchased at a discount from Canada, and being used by the Alaskan salmon fishing industry. However, I feel that S. 3358, in its present form, could have the unintended effect of prohibiting the use of other Canadian built vessels upon which many of Maine's fishermen rely. I would hope, therefore, that S. 3358 could be amended in order to limit its coverage.

I am enclosing a copy of a letter from Mr. Eugene Bailey to the National Cannery Association¹ which discusses the problem in depth. This is typical of the situation of many Maine fishermen.

With best regards,

EDMUND S. MUSKIE,
U.S. Senator.

NORTH LUBEC MANUFACTURING & CANNING CO.,
April 28, 1972.

Mr. ROBERT D. NORDSTROM,
*Director, Fishery Products Division,
National Cannery Association,
Washington, D.C.*

DEAR MR. NORDSTROM: We acknowledge and thank you very sincerely for your letter of April 24th, the Bill S-3358 in the U.S. Senate, and copy of Public Law 33-308.

Our interest, i.e., the North Lubec Mfg. & Canning Co., in this Bill results from the fact that one of the fishermen we finance in part has ordered a boat or vessel constructed in Nova Scotia and which vessel is presently under construction with delivery anticipated around June unless there is some change.

It is my understanding that this boat or vessel which will be used in seining off the Maine coast is under 5 tons as existing regulations do not permit the use of vessels in the fishery of over 5 tons.

It appears from information available to us that this craft currently under construction could present problems. First, if the law were passed before construction was completed, it appears the vessel could not be brought in for fishing on the Maine coast. Second, it appears that in the event the vessel was brought in before the Bill became law, it might become illegal to use same in fishery on the Maine coast.

It is not entirely clear to me even with the copy of the bill and the Public Law as furnished by your office as to just how this would operate to affect our particular situation.

The boat or vessel under construction is being procured specifically for use in the Maine coast herring fishery and possibly in the shrimp fishery and will never fish in the Canadian territorial waters.

¹ See p. 44.

From the information you have furnished, it would appear that there may well be some boats or vessels operating at the present time in the Maine herring fishery under 5 tons built in Canada, used in Canada which would be excluded from further fishing on the Maine coast.

For ourselves, again North Lubec Mfg. & Canning Co., having now invested certain sums of money in the procurement of a boat or vessel which would have been legal at the time of our agreement, we would certainly hope that some provision can be made for our protection or more specifically for the protection of our fishermen.

I think it may be advisable for me to discuss this with Dick Reed in order that he may determine if other Maine canners are involved and to what degree.

With regard to Customs regulations concerning foreign vessels over 5 tons, I would note our files contain a copy of a letter from the Treasury Department, Bureau of Customs, Portland, Maine, dated March 23, 1962, to another Maine canner reading in part as follows:

"An American resident may import a boat under 5 net tons, which is to be used for commercial fishing, free of duty upon the filing of an affidavit. The boat may be measured by the U.S. Customs officer at the port of entry, and if it is found to be over 5 net tons, it cannot engage in the coastwise trade or fisheries, but must be confined to foreign trade.

If I can furnish any additional information which will be of benefit to you, please advise.

Again, thank you for the information furnished, and please give us any advice you may have is the matter at this time when you have reviewed the circumstances relating to our particular situation.

Very truly yours,

By _____.

P.S.—I am attaching some initial thoughts relative to a possible amendment offering protection for investments already made likely to be injured under S. 3358.

S. 3358 as introduced in the Senate of the United States—a Bill to prohibit the use of certain small vessels in United States Fisheries provides "(o) As used in this Act, the term 'vessel of the United States' does not include a vessel of less than five tons if such vessel was constructed outside the United States and cannot be used in the fisheries of the country in which it was constructed."

It would seem that it would not be at all unreasonable to suggest that any amendment of the existing law should provide for continued use of foreign built vessels of under five tons already in use in the fisheries within the territorial waters of the United States and for the use of foreign built vessels of under five tons on order and under construction which could lawfully have been brought into and used in the fisheries within the territorial waters of the United States under the law governing such matters prior to the introduction of S. 3358.

JUNE 14, 1972.

HON. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR ED: Thank you for your letter of June 7 on S. 3358. To alleviate the problem you mentioned, which was also discussed with Max Gruenberg, my legislative assistant, by Mr. Church of your staff, I have introduced the enclosed amendment. I trust this will solve the problem.

It is not my intent that this bill will affect vessels previously purchased in Canada and presently in use in the United States, or vessels previously purchased under fully executed contracts with Canadian boat building firms.

I am inserting your letter in the official hearing record.

Hearings on this bill have been rescheduled for 1:00 PM on Thursday, June 22. Should you desire to testify or submit a statement, we'll be most happy to accommodate you.

With best regards,
Cordially,

TED STEVENS, U.S. Senator.

OAKSMITH BOAT SALES, INC.,
Seattle, Wash., June 8, 1972.

Senator TED STEVENS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: Many thanks for the opportunity to submit this statement for your hearings June 15, 1972 on your bill S. 3358.

Our company is the oldest commercial vessel sales organization in the United States as we have been in this business of only fishing vessel and commercial vessels sales since 1935. For many years I was in the fishing business as a fisherman and as an operator of fishing vessels and a couple of salmon canneries in Alaska where I was born.

Your bill is very important and timely. This sale of foreign fishing vessels to our country is very deadly in that the present fishing vessels owned by U.S. citizens are being threatened by these cheap foreign vessels coming in an saturating our present fleets. This is so in Alaska as well as our State of Washington.

Our own fleets are growing in size and here we have foreign countries who are cutting the size of their fleets by taking vessels out of their fleet and then selling them to U.S. fishermen to enlarge our fleet. If any foreign vessel is taken out of that country's fleet and not allowed to engage in fishing in that country then it should not be allowed for that country to sell those vessels to U.S. fishermen to license and fish in our waters.

If the same vessel enlargement of our fleet is done with U.S. built fishing vessels built with U.S. labor in U.S. Shipyards then we have no argument. The vessel is taxed and such on the value of the vessel built in our country. Right now a sale in our neighbor Canada is coming up on the 17th of this month possibly the fourth of such sales. The U.S. fishermen that are now in Alaska fishing or getting ready to fish will find when they return south that many of their vessels have gone down in value at least ten percent due to this sale. Also this will divide the catch more and cut down on the income of each fisherman and of course his income tax to our government.

Believe possible to amend your bill to not allow any fishing vessels of foreign bottom to come into U.S. for fishing. Now under 5 tons net is allowed. Also possible fishing vessels built foreign for fishing in our waters should be taxed with duty as are yachts. NO duty now on fishing vessels under five ton net. Also your amendment not to affect boats previously purchased should be "prior to today's hearings" and this might deter purchase of vessels on sale June 17th.

Very kindest personal regards,

GERALD OAKSMITH, *President.*

PETERSBURG VESSEL OWNERS ASSOCIATION,
Petersburg, Alaska, June 8, 1972.

The Honorable TED STEVENS,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for advising us of the forthcoming hearings on SB 3358. It's regretful that personal testimony by any of our members is impossible due to the fact that we're in the midst of the fishing season. Consequently, we'll have to settle for the much less impact-carrying method of written testimony.

We're most emphatically against having any Canadian-auctioned boats enter our already overcrowded fisheries. If the Canadian government feels it's necessary to protect their fisheries by not allowing these boats to re-enter commercial fishing in Canada, it is only logical to assume our government will protect our fisheries in the same manner.

Furthermore, an influx of these inexpensive boats into our commercial fishing fleet will tend to de-value the existing fleet, making it almost impossible for us to sell our boats at a competitive price.

Respectfully yours,

(MRS.) DARLYNE CONN, *Secretary.*

PETERSBURG VESSEL OWNERS ASSOCIATION,
Petersburg, Alaska, June 8, 1972.

The Honorable TED STEVENS,
*U.S. Senate,
 Old Senate Office Building,
 Washington, D.C.*

DEAR TED: I would like to add my support to SB 3358. At present both Washington and Alaska are studying means of gear limitation because the fishing fleets in both areas are more than adequate to harvest the existing runs of fish.

The situation in Alaska is no different than it is in Canada where these boats are being taken out of the fisheries and sold at public auction with the stipulation that they can never again enter the Canadian fishery. The present Alaska gillnet fleet is too large for the existing net areas. Consequently each boat's share of the fish available is smaller. This forces more and more gillnetters into other types of fishing, which in turn adds boats to the already oversized troll and halibut fleets who are fishing on ever-reduced quotas and hamstrung by the present FDA regulation on mercury.

I've gillnetted, seined, and long-lined in Alaska for forty years. I've watched the gillnet fleet grow, and I've talked with the fishermen. We all agree the one thing not needed is more boats. The turnover in American built gillnet boats at this time is large enough to take care of new people entering this fishery. On the other hand, people retiring from fishing would, in order to sell their boats, have to sell in competition with the cheaper Canadian auction boats.

I agree that the Canadian built boats now fishing in Alaska should be allowed to continue fishing, but that once a boat has been taken out of the Canadian fisheries it should not be sold to enter the U.S. as a commercial fishing boat.

Sincerely yours,

ARIL MATHISEN, *President.*

UNITED FISHERMEN OF ALASKA,
Juneau, Alaska, June 8, 1972.

The Honorable TED STEVENS,
*U.S. Senate,
 Old Senate Office Building, Washington, D.C.*

DEAR SENATOR STEVENS: This letter will serve as a statement of position by the United Fishermen of Alaska in preparation for the June 15th hearing on the proposed legislation restricting the sale of Canadian vessels to American fishermen. The United Fishermen of Alaska are totally in support of the passage of this bill and urge your support of it.

The sale of these vessels to West Coast fishermen has added to the already horrendous problem of Alaskans attempting to preserve and protect their fisheries. The sale would also increase an already awesome task of the United States Coast Guard to provide emergency assistance since the vessels have been "retired".

We feel that the enactment of this legislation is vital. We will appreciate your efforts.

Sincerely,

FRED HALTNER, JR., *President.*

WRANGELL, ALASKA, *June 10, 1972.*

DEAR MR. TED STEVENS: I received your telegram your senate Bill 338 is not exactly what we corresponded about in regards to foreign built boats over 5 tons regardless of date of purchase. There are too many loop holes such as post dated bills of sale and other ways and means around this bill I personally think the original bill was a better bill for all concerned. But I'm glad to hear that some one is concerned enough to at least try for something to help the situation.

Sincerely yours,

H. HANSEN.

PACIFIC MARINE FISHERIES COMMISSION,
Portland, Orcg., June 12, 1972.

Hon. TED STEVENS,
*United States Senate,
 Washington, D.C.*

DEAR SENATOR STEVENS: Thank you for sending me a copy of your bill S. 3358, designed to prohibit use in U.S. fisheries of vessels under 5 tons which are barred

from the fisheries of their country of origin. While I am not knowledgeable concerning all possible ramifications of this bill, I can comment with respect to limited entry considerations for American fisheries. Clearly there is need to take action wherever possible to protect already overcrowded U.S. fisheries against further overcrowding, and therefore against increasing pressure upon the resource and coincident depression of earnings for U.S. fishermen. Your remarks on the floor of the Senate March 15 when you introduced your bill were cogent and effective.

As you know, the State of Alaska is so concerned about over-capitalization of the salmon fisheries that a constitutional amendment is pending to give the State the power to limit entry into those economically troubled fisheries. Canada has already instituted such a limited entry program, and thereby has created our U.S. problem, since vessels retired by government action from the Canadian fishery are now being dumped into the equally overcrowded U.S. fishery. Since these fisheries problems are parallel, it seems incongruous that we should permit Canada's economic gain through fleet reduction to generate an economic loss to the U.S. through inflation of an already too large fishing fleet.

Other states and the federal government are actively exploring procedures for limiting effort in other overcrowded and over-capitalized fisheries, both for the good of the resource and in order to bolster the sagging economic returns which are inevitable when too many fishermen are competing wastefully for a limited resource. Your bill should help to stem the flow of small foreign vessels into our fisheries—a flow which only compounds an already difficult problem.

Yours sincerely,

JOHN P. HARVILLE,
Executive Director.

JUNE 23, 1972.

ADM. CHESTER R. BENDER,
The Commandant, U.S. Coast Guard, Department of Transportation, Washington, D.C.

DEAR ADMIRAL BENDER: The Subcommittee on Oceans and Atmosphere of the Senate Commerce Committee conducted hearings on S. 3358, a bill to prohibit the use of certain small vessels in the U.S. fisheries and H.R. 9501, a bill amending the North Pacific Fisheries Act of 1954.

At that hearing, Ambassador McKernan from the State Department testified, as did David Wallace, Associate Administrator for Marine Resources in the National Oceanic and Atmospheric Administration, and Walter Kirkness of the National Marine Fisheries Service. Ambassador McKernan and Mr. Wallace suggested several specific revisions of S. 3358. Mr. Kirkness testified on H.R. 9501.

Because of the Coast Guard's expertise in both of these areas, I would like to formally request that you submit a written statement on either or both of these bills as you see fit. The Hearing Record will remain open until July 7. My apologies for not having contacted you earlier; this was the result of a staff oversight.

With best regards,
Cordially,

TED STEVENS,
U.S. Senator.

DEPARTMENT OF TRANSPORTATION,
UNITED STATES COAST GUARD,
July 10, 1972.

Hon. TED STEVENS,
*Committee on Commerce,
United States Senate, Washington, D.C.*

DEAR SENATOR STEVENS: This is response to your letter of June 23, 1972 concerning the recent Commerce Committee hearings on H.R. 9501 and S. 3358.

H.R. 9501 amends the enabling statute for the International Convention for the High Seas Fisheries of the North Pacific Ocean of 1952. This Department earlier had the opportunity of commenting on the bill before the House Merchant Marine and Fisheries Committee. The bill as passed by the House reflects minor amendment recommended by this Department and we have no objection to its enactment. A copy of our earlier comment to the House Committee is enclosed.

S. 3358 would amend the Act of May 20, 1964 (16 U.S.C. 1085) to prohibit the use of certain foreign built vessels in United States fisheries. We have recently been engaged in discussion of the bill with the National Oceanic and Atmospheric

Administration. We concur generally with the Administration views as stated by that agency and particularly with the conclusion that amendment of 16 U.S.C. 1085 is not an effective way to attain the bill's objective, i.e. to restrain the use in the Alaska fisheries of Canadian built fishing vessels which may no longer be used in the Canadian fisheries. If the Committee is to act favorably on a bill in this area, we would consider the preferred legislative approach to be a separate statute of delineated scope to deal expressly with the problem that you identify.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

Enclosure.

FEBRUARY, 5, 1972.

HON. EDWARD A. GARMATZ,
*Chairman, Merchant Marine and Fisheries Committee, House of Representatives,
Washington, D.C.*

DEAR CHAIRMAN: Reference is made to your request for the comments of this Department on H.R. 9501, a bill

"To amend the North Pacific Fisheries Act of 1954, and for other purposes."

The bill incorporates necessary amplifying and clarifying technical amendments to the enabling statute for the International Convention for the High Seas Fisheries of the North Pacific Ocean of 1952, and minor changes to reflect Reorganization Plan No. 4 of 1970. It also deals with the assignment of administrative and enforcement responsibilities under the Convention, the Act, and the implementing regulations.

Traditionally in the area of fisheries regulations, the Department of Commerce (and previously the Department of Interior) has been given the responsibility for administering and enforcing the conservation aspects of the fisheries laws, while the Department in which the Coast Guard is operating has been charged with responsibility for enforcement of those laws at sea. This pattern is reflected in P.L. 92-87, enacted August 11, 1971, amending the Northwest Atlantic Fisheries Act of 1950.

While H.R. 9501 tracks P.L. 92-87 in assigning enforcement responsibility at sea to the Secretary of the Department in which the Coast Guard is operating, it does not incorporate authority to issue regulations in furtherance of that enforcement responsibility as does P.L. 92-87. While the Department recognizes that the North Pacific Fisheries Act is more comprehensive in detail relating to enforcement than the Northwest Atlantic Fisheries Act, we do not feel that the need for authority to promulgate regulations is necessarily eliminated. It is evident that under the Northwest Atlantic Fisheries Act and other fisheries conventions dealing with conduct of fishing operations here will be a need for regulations relating to enforcement to insure uniform and complete interpretation of the fisheries laws as applied to United States fishermen by the various governmental agencies. Implementation of the North Pacific Fisheries Act should be within the scope of these regulations in the interest of consistency and uniformity. Accordingly, the Department recommends that the language of section 102(4) of H.R. 9501 be amended to provide authority parallel to that created by section 106 of P.L. 92-87. This could be accomplished by adding the following sentence within the quotes on page 3, line 8:

"The Secretary of the Department in which the Coast Guard is operating, with the concurrence of the Secretary of Commerce and the Secretary of State, is authorized and directed to adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to articles 9 and 10 of the convention."

Subject to the foregoing comment, the Department of Transportation has no objection to the enactment of H.R. 9501.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN W. BARNUM,
General Counsel.

ELMER RASMUSON,
Anchorage, Alaska, July 5, 1972.

The Honorable THEODORE F. STEVENS,
United States Senate,
Senate Office Building,
Washington, D.C.

DEAR TED: This is in reply to your telegram regarding hearings on HR 9501 amending the North Pacific Fisheries Act.

I was not aware that the bill was up for amendment but having received information as to the proposed changes, I do not have any objection. I presume that the proposal to have specific terms of office for the Commissioners is designed to enable staggered appointment and retirement.

Warm personal regards.

Cordially,

ELMER RASMUSON.

Juneau, Alaska, June 14, 1972.

The Honorable TED STEVENS,
Senate Commerce Committee, Washington, D.C.:

Pertaining to S. 3358, relating to sale of Canadian fishing vessels by Senator Stevens, I appeal to you on a bi-partisan basis to stop this ridiculous situation.

If you are ecology oriented stop it to save the pressure on our fishery. If you are a conservative stop it because it violates the concept of the free enterprise system. If you are a liberal stop it because it is causing poor fishermen to become poorer. If you are none of these perhaps you fall into the minority of people with common sense. In that case by all means support S. 3358 because it stands on its own merit. Senator Stevens bill is a step in the right direction toward Congress doing something of plus value the people of Alaska can identify and understand.

Thank you.

JIM BEATON,
President, Southeast Gillnet Federation.

Petersburg, Alaska, June 12, 1972.

TED STEVENS,
United States Senator,
New Senate Office Building,
Washington, D.C.:

Imperative that your bill S. 3358 be implemented right away. The influx of Canadian built boats, which has resulted from the gear reduction program in Canada, is creating a terrific hardship on Alaska and Washington fishermen. The valuation on the American fleet is reduced with each Canadian action. This dumping of boats on the market reduces the value of the privately owned American fleet. More boats are being put into an already overcrowded fishery, therefore reducing earnings to American fishermen.

ROBERT M. THORSTENSON,
Petersburg Fisheries, Inc.

