

FISHERIES IN PUGET SOUND:  
PUBLIC GOOD AND PRIVATE INTEREST

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edited by  
Manfred C. Vernon  
&  
James W. Scott

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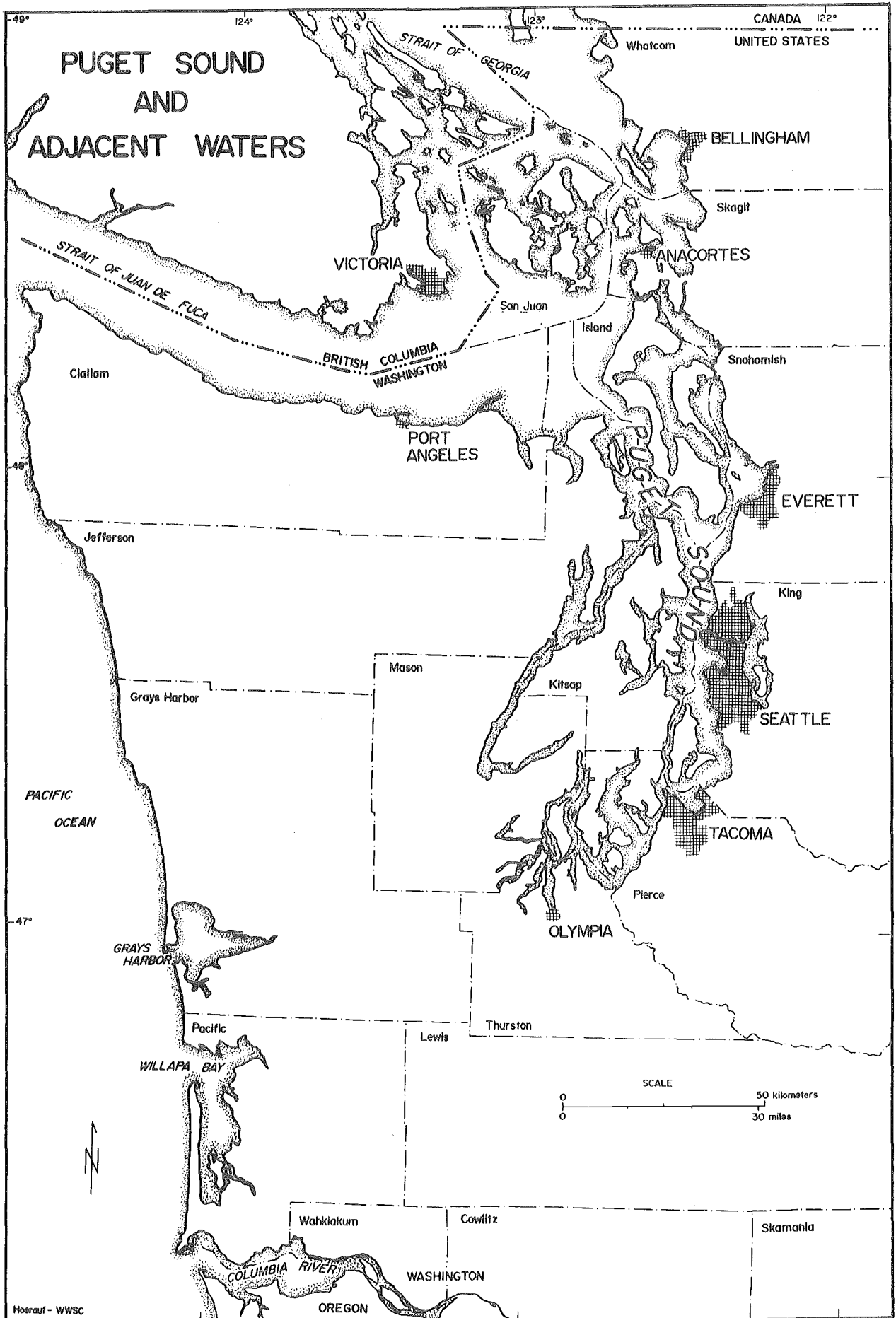


TABLE OF CONTENTS

	Page
Preface - Manfred C. Vernon & James W. Scott . . . . .	v
The Range and Purpose of the Conference - Manfred C. Vernon. . . . .	1
An Overview of the Fisheries: Their Use and Abuse and a Projection on Limitations - James Crutchfield . . . . .	4
The Fisheries as a Resource - Panel Discussion . . . . .	17
Statement of State Senator H. A. "Barney" Goltz. . . . .	17
Statement of Peter Granger. . . . .	22
Statement of State Representative John Martinis . . . . .	24
The Problems of the Fisheries: A Diversity of Views . . . . .	27
The Processing Industry - Jay Bornstein . . . . .	27
The Purse Seiners - Wallace Green . . . . .	28
The Gill Netters - Dave Millholland . . . . .	33
The State Department of Fisheries - Henry Wendler . . . . .	35
Symposium - Canada and the Puget Sound Fisheries . . . . .	39
Moderator's Comments - Keith A. Murray. . . . .	39
Comments of Donald McKernan . . . . .	40
Comments of Robert L. Monahan . . . . .	45
Comments of The Honorable Robert Wenman, M.P. . . . .	48
Comments of Henry Wendler . . . . .	52
Symposium: The Boldt Decision and Its Impact on the Puget Sound Fisheries. . . . .	54
Comments of Mason D. Morisset . . . . .	54
Comments of Bill Lowman . . . . .	59
Comments of Steven Chase. . . . .	63
Comments of State Representative John Martinis . . . . .	64
Comments of Catherine Tally . . . . .	65
Panel Discussion of Humanists: "Where Do We Go From Here?" . . . . .	68
Comments of Tim Hansen. . . . .	68
Comments of Robert W. Goedecke. . . . .	71
Comments of James W. Scott. . . . .	72
The Conference Assessed - Manfred C. Vernon. . . . .	75
Program of Conference. . . . .	78

## PREFACE

With three conferences successfully completed and an ambitious, three-part conference about to begin, the Center for Pacific Northwest Studies can claim to have established a worthwhile tradition at Western Washington State College. The idea of holding a biennial conference on some regional theme was tried out in April 1974 and by May 1977 four conferences will have been held. The biennial conference has become an annual affair.

It is not easy to assess the importance of the conferences. Without doubt local interest has increased steadily since the first conference was held three years ago, and it has become, very largely as a result of the fine support given by the Bureau for Faculty Research, a progressively easier matter to mount the conferences. The subjects that have been addressed in the conferences--transportation in Puget Sound; man, government and the sea; the fisheries of Puget Sound; and oil in Washington waters--are matters of current and continuing concern to citizens of the state. The aim of each conference has been to provide opportunity for topics to be dealt with in multi-faceted rather than one-sided ways. This is not to say that every point of view has been presented; rather that emotion has been matched by reason, and subjective impression by objective fact. In the process no interest group has been provided with an unchallenged or sacrosanct podium. For the participants, we believe, more light has been shed than heat generated in the conferences held to date. The Center is hopeful that this will continue to occur.

This new Occasional Paper brings together most of the main talks and statements presented at the third of the Center's conferences. In 1976 appeared the proceedings of its five-day conference MAN, GOVERNMENT AND THE SEA: NORTHERN PUGET SOUND AND THE STRAIT OF GEORGIA, held in September 1975. More recently the proceedings of its April 1974 conference TRANSPORTATION IN THE PUGET SOUND REGION: PAST, PRESENT AND FUTURE, were published. In both publications it became necessary to limit the "proceedings" to printing of the major talks and papers. The same practice has been adhered to in this.

As most of the talks presented and statements made were available to us only as typed transcripts of the tapes of the conference, this has necessitated

the editors making various corrections and changes. We can but hope that the final results do justice to the original presentations.

We are deeply grateful to the many persons who individually and collectively helped to make the conference such a success. We wish to express our thanks to the speakers, discussants and to those persons chairing sessions who offered their services so willingly and presented their views so well; to the Director of Public Information and his staff, particularly Chris Goldsmith, who eased the tasks of off-campus publicity; to Ken Anderson, Print Shop supervisor, who carried out our requests with speed and skill; to Dan Turbeville, Gene Hoerauf and Anita Johnson of the Department of Geography and Regional Planning, who cooperated and helped in numerous ways, including the mounting of displays and the preparation of maps; to members of the news media including Haynes Fay of KGMI radio, who hosted a special program on his "Impact" series, Al Swift, Public Affairs Director of KVOS television, who arranged for a special program on the station's "Outlook" series and who acted as chairman of one of the sessions of the conference, and particularly to Bill Honeysett, Publisher of the Bellingham Herald, who made available space for publicizing the conference in the weeks before it took place and ensured that each session of the conference was fully reported; and most of all our thanks go to our colleagues on the organizing committee who worked so hard, individually and as a team--Jane Clark, Director of the Bureau for Faculty Research; Phyllis Bultmann of the Department of History; Don Alper of the Department of Political Science; and Pam Hamilton and Geri Walker of the Bureau for Faculty Research.

Finally, we would like to express our sincere thanks to the Washington Commission for the Humanities for a matching grant that made this conference possible, as a similar grant had made possible our 1975 conference on Man, Government and the Sea. With professional humanists acting as panel discussants, the views of government personnel, technical experts and social scientists, who provided the "meat" of the conference, were examined critically and analyzed convincingly in humanistic terms. "Public good" and "private interest" became more than facile phrases and innocuous catchwords.

Manfred C. Vernon  
James W. Scott

## THE RANGE AND PURPOSE OF THE CONFERENCE

Manfred C. Vernon  
Western Washington State College

This conference, sponsored like its predecessor by a grant from the Washington Commission for the Humanities, has been developed as an outgrowth of the Conference on Man Government and the Sea, held in September 1975. A popular wish for it was expressed in answer to a questionnaire to determine the outstanding problems for our region. The leading choice was the fisheries, since it involves political, historical, and international, as well as economic, questions of outstanding magnitude. We, the organizers of the last and also of this conference, felt the same way and unanimously agreed upon it as the choice of topic for our meetings today and tomorrow. It is a matter of fact, and certainly no exaggeration that the fishing profession today is facing a variety of overwhelming problems and issues, all of which need constructive solutions. It is also for the same reason that we accepted this challenge as an invitation to the humanist to listen to a variety of facts, opinions, opposing views, and possible confrontations in order to ponder this mass of evidence. Hopefully, the humanist might then come to some constructive conclusions, which could be helpful in finding some peace, some calm, some mutual sympathy for all of those involved in fisheries and related activities. At least it appears to me that the quintessence of humanism is the capacity for compassion, evaluation and ultimate judgment in regard to the problems of a society. Will the answer be all for some or nothing for others? Will it be silence at a time when voices should be heard? Will the answers provide convenient compromise or should they be within the confines of true democracy in an attempt to find as much benefit as possible for as many people as possible? Today and tomorrow we will be listening to many reports and statements which will bring to our attention many rough spots for our whole society, and perhaps shake its foundation and bring on new problems. Is this society of ours capable of facing all these problems, and moving toward the right kind of solution full of determination, quietly and serenely, but also with restraint and empathy? Many of us will speak, all of us will listen, or had best listen. Some in this room will and should be forced to listen with great intensity, and thereafter work on solutions which will move us away from positions of antagonism--in the confines of government service,

through thoughtful treatment in the public media, or through other outlets of public opinion.

There is something about the sea around us that has ever tempted mankind. It has been a highway, a border, a protector against invasions. It also has been used in ever-increasing fashion for purposes of transportation, and last, but certainly not least, because of the rich resources that we find in it or beneath it. Indeed with a rapidly growing population, the world has increased steadily its attention toward the sea, particularly since we long held the view that the food resources of the sea were endless and could never be depleted. We now know better. We must give increasing thought to conservation of species much in demand and experiment with others hitherto neglected. Who in earlier years would have given much thought to the use of the spiny dogfish or to Pacific hake. Other societies, with greater need for the protein from the sea, have incorporated these species into their diet, while at best we are prepared to consider such creatures for possible intake at some future date.

We have decided to deal with a few well chosen topics during the conference. Our choice is limited to the discussion of four subject areas: 1) the nature of resource itself; 2) the multitude of problems besetting the fishing industry in Puget Sound; 3) the presence of our northern neighbor, Canada, and the mutual sharing of resources; and 4) the Boldt decision and its impact on the fisheries in our region. There are, of course, many more topics that we could refer to, and make part of this discussion, but we are determined to confine our attention to matters close to home. Among other topics that might have been chosen are the 200-mile limit, and international fishing problems. Time will not allow full discussion of these matters. It might be useful, however, to quote Canada's External Affairs Minister, Allan McKirchen, who has said

There will be no fisheries resource left to protect if action is not taken. Now, because the fish stocks will be so depleted as to disappear as a resource of commercial significance, not only the fish, but our Canadian fishermen, too, are an endangered species.

I have a feeling, come to think about it, that the same could have been said here. Many will feel protected by this new water curtain. Indeed, probably most of the fishermen here are very satisfied with the 200-mile zone, but there are others who worry. Certainly other fishermen in the U.S. such as those in the tuna industry are concerned with this limitation. It should be

mentioned that the 200-mile fishery zone will give the U.S. control over vastly increased territorial waters. It will give us also control over some of the richest fishing waters in the world, and it has been estimated that those waters could produce about 18 billion pounds of fish a year, or roughly 10 per cent of the total world fishing production. The 200-mile zone will cost us probably additional millions of dollars just to have the coast guard re-activate ships and planes around here to enforce it. While the 200-mile economic zone has been accepted by a multitude of nations as national policy, little in regard to international regulations has been achieved in the recent Law of the Sea Conferences. An observer can very easily feel quite depressed about the chances for a speedy international agreement satisfactory to most with due regard to the survival of certain species since it will involve significant concessions in the field of conservation and ecological consolidation.

No, it is certainly closer to home so that we have to wonder as to the ultimate protection of the resource; we are all under the impact of federal and state conflicts that will invite leaders to find solutions favorable to all, or perhaps to forget about matters and to be just despondent. Reading our newspapers the last few days we see the dilemma that faces State Fisheries Director Don Moos, who has stated that his department cannot comply with the federal court's injunction issued some days ago against commercial salmon-trawling off Washington's coast.

Thus, we enter this conference with an awareness of an overabundance of problems, hard to solve and trying to individuals and society. All of us need to study the facts, and to balance them in order to find a modus vivendi for the future. We are proud to have with us so many distinguished participants. We believe that this is a well-balanced program of thoughtful and considerate personages, contradictory yet also complementary in nature. We are happy to have them with us. They are, I must say, for us a very fine haul, and in finishing my observations I will have to turn once more to the technique of fisheries. Sometimes I have a feeling it is easier for me, who knows nothing about fishing itself, to catch the fish than the fishermen themselves. And so I can say that, while we are very proud of all the people that are with us today, you also should have seen some of the fish that got away from us, and thus this conference. Thank you.



AN OVERVIEW OF THE FISHERIES: THEIR USE AND ABUSE  
AND A PROJECTION ON LIMITATIONS

James Crutchfield  
University of Washington

I hope you will forgive me today if, in talking on my subject, I am fairly blunt. There are two reasons for it. I find it difficult in a way, and the subject does not really lend itself to "pussy-footing" any longer, so if I tread on sensitive toes perhaps that will stimulate a bit of discussion, and I will be glad to get sorted out on it.

I would like to indicate first a couple of central themes that seem to me to run through any description of the state of the Puget Sound fisheries today. One of them is that those fisheries were in very serious condition and, in certain cases, critical condition, before the Boldt decision and they will continue to be in serious condition as far as income, employment, and the viability of the resources are concerned, after we have made the necessary adjustments to comply with the interpretation of the law. My second theme is that there is little to be gained at this stage of the game in seeking out villains, whether it be a judge, or those who are responsible for a considerable amount of mismanagement, because they incorrectly specified objectives for the fisheries of this state, or whether the search is directed at fishermen and fishermen's groups who have frequently taken more delight at infighting among themselves, frequently over relatively trivial points of issue, neglecting the considerable collective strength which they have as a political force and, as a result, being considerably underrepresented in influence, despite their very considerable influence to the state as a whole. And finally I think some kind of an indictment should be made to the people of the state as a whole, ranging from the Governor, through the Legislature, through academia and the fishing community. We have failed to recognize that Puget Sound cannot be treated in bits and pieces. The problem of maintaining water quality, the problem of land use on the waterfront and upstream, the problems of good logging practices, all of these are integral to the life of Puget Sound, a magnificent resource, unmatched really in any other part of the country. Somehow, in our frantic efforts to salvage what we regard as our own little piece of the action, the totality of the physical, biological, and human systems that we call Puget Sound have gotten pretty short shrift. And perhaps that is the proper setting within

which to talk about the fishery.

In describing the state of the fisheries I would like to give you an impression, some parts of which you may want to correct in later discussion but which in general I think would be accepted by most people looking at it. In the first place, we concentrate pretty heavily, as I am sure we will in this conference, on salmon, to a lesser extent shellfish, and on some specialized but increasingly important bottom fish populations, which have been exploited both commercially and by sports fishermen. But basically this is a salmon fish and shellfish area. Probably 85 to 90 per cent of the total value of the catch and of the employment that the living resources of the area support are concentrated in those operations. Anybody connected with fisheries from the practical end down to the biological research end will of course recognize that we are dealing with some very high order and specialized predators in a very complicated environment. The dangers to salmon and to shellfish may well become dangers to organisms far distant in the food web and these have received very little attention. Again, it is a matter of searching out only the obvious for political, and sometimes research, attention.

#### Trends in Catches

Let me just summarize very briefly. As far as sockeye are concerned, trends show a population fairly well stabilized and holding. Coho bottomed out probably in the late-60's, but there have been some encouraging increases in the Puget Sound catch over the last few years. Chinook have shown some slight recovery and populations are holding reasonably well, although both Chinook and Coho at levels far below those enjoyed in earlier decades. The population of pink salmon, on the other hand, is very near, if not quite at a complete disaster level, at least as far as Puget Sound runs are concerned. They are down to a level where we literally are not getting total runs, satisfactory for escapement only, in many of our pink rivers, and the possibility of real extinction of some of these important populations is all too real. Chum salmon are declining fairly steadily in numbers but for reasons not well understood.

Apparently this is a coastwide phenomenon not confined to Puget Sound itself. Going beyond these somewhat bland statements, let me take a more penetrating look, although time prevents my going into as many details as we really should. As far as sockeye are concerned, a lot of the gains realized

were pretty much once-and-for-all gains, resulting from solution of the Hells Gate problems. We have made only small incremental gains since then, largely as the result of the development of a scientifically well-balanced and sound program that has won the respect of commercial fishermen, as well as political decision-makers both in Canada and in the United States. There is a possibility, how real and how large I am simply not qualified to judge, that production of sockeye can be expanded significantly through artificial enhancement measures--not by conventional hatchery techniques, but by improvement of spawning channels and a variety of other means, if we can somehow get out of the ludicrous snarl into which we have gotten ourselves with the Canadians. As you know, we share that fishery on a 50-50 basis--for all practical purposes a Fraser River fishery--and because we take half the catch, it is extremely difficult for Canadians to justify investment that has to be taken to test and hopefully to realize some of the potential for expansion in that area. Precisely the same argument goes on on this side of the border where a lot of our very successful Coho hatchery operations turn out fish that are taken by Canadian trawlers off the west coast of Vancouver Island. This seems to me to be the kind of problem that should not be overwhelmingly difficult to resolve, since it is perfectly possible to define a set of solutions with no losers, and some very clear gainers on both sides. But we have been mucking around with it now for the better part of ten years, with very little progress registered until recently.

With respect to Coho, Chinook and Steelhead, the technology of hatchery operations has improved tremendously, as I am sure all of you recognize. What you may not realize is that we are now in a situation where we have been able to maintain, and even increase, the Puget Sound catch of each of these species, but by progressive substitution of artificially raised fish for naturally raised fish that are declining in numbers. There are, however, limits to that process in spite of a lot of loose talk that is heard to the contrary. The demands for hatchery locations in terms of water quality coming in, in terms of effluent going out, are very demanding, and the number of sites where we can hope, in the face of persistent and increasing pressures of other uses of the land and other uses of the other water systems involved, to maintain continuously expanding hatchery production simply are not there. At best we are substituting increasingly expensive artificial propagation for virtually free natural production. I have no opposition to this at all. I think it is

splendid that the progress has been made. But let's not kid ourselves that it can go on indefinitely or costlessly.

Pinks: we really have problems there. How much of these are due to a series of very unfortunate natural conditions at critical periods in the life cycle of these odd-year fish, how much simply to over-fishing and poor management, or to habitat destruction, to which the pinks are particularly vulnerable, I don't know. I don't know whether anybody else knows either. But it seems unreasonable that with a body of water basically as sound in quality as Puget Sound, that we cannot find answers to this catastrophic decline in a fish so tremendously important to our commercial industry and certainly far from trivial in importance to a growing recreational fishery. As things are now, we are in very deep trouble indeed.

Shellfish: again the figures are misleading, because if you look at landings, you get landings from out of area. The best figures I have, and I suspect they are not entirely reliable, on shellfish taken from within Puget Sound, are certainly far from encouraging. Crab are not holding their own. Oysters are, but oysters face the possibility, the likelihood, that the increasing pressure for recreational as well as commercial and industrial sites in the very areas that are most suited for oyster culture is going to price oyster producers out of the market as far as the crucial land-fill water inputs are concerned. The price of oysters being what it is, it may take some time for this to occur, but even with some excellent advances in oyster rearing technology we will do very well indeed to hold our own in shellfish production.

Finally, with regard to sport fishing, there has been, as all of you know, a steady increase in pressure on salmon resources, and increasingly in recent years on bottom fish resources as well, as salmon becomes tougher and tougher to catch. Pressures also from recreational boating activities. The growth in boating has stimulated fishing interests, since sport fishing is a sort of naturally related activity that goes along with the boating boom. Last year sport fisherman took within the Puget Sound area something like one quarter of the total catch of Chinook and Silby. If you take into account the leapfrogging in the sport fishing that has resulted in the huge growth in catch and effort in the ocean fishery, part of which at least is based on Puget Sound run fish, the proportion taken is even larger.

### Commercial Value of the Puget Sound Fisheries

In terms of industry size we have, unfortunately, no really satisfactory common denominator for measuring the economic dimensions of sport and commercial fishing. But if you take it roughly in terms of roughly \$18 to \$25 million annually, ex-vessel to fishermen, double that amount for the wholesale value of fish processed in the state of Washington, the industry certainly generates something in the neighborhood of \$50 to \$60 million a year annually in income to people of the state of Washington. The recreational fishery may well generate incomes closely comparable to that. If you take the state as a whole, and even though the catch of the recreational fisheries inside the Sound that is east of the Strait of Juan de Fuca is a small part of the total catch, it accounts for pretty close to 70 per cent of the total number of angler days--over a million angler days within Puget Sound for salmon alone in 1974. And since the product of sport fishing is fishing rather than fish as such, the magnitude of that industry has to be taken into account in looking at the long-term future of the industry. I want to say more about that later. A good solid viable commercial fishery and an equally solid and viable recreational fishery not only can exist side by side, but with some fairly modest rearrangement of management techniques they could produce larger catches for both groups. We are not doing a particularly effective job in allocating fish among recreational and commercial use by turning our backs on the problem and letting the allocation be done pretty much by accident, as we are doing at the present time.

### The Fisheries Assessed

We are not in any position to be complacent about the future of fisheries in the state of Washington generally, and in Puget Sound in particular. We have been very successful so far in substituting artificially-reared fish for declining wild stocks, but for only two species. With a considerable amount of additional effort it seems virtually certain that we could do the same thing with Chums. The Japanese have had spectacular success in rearing Chums, and there is no reason to believe that we could not do the same thing. The present price of Chums now going into the fresh and frozen market makes this a very attractive venture indeed. But even with all these things going for us, the likelihood that we can expand the aggregate catch of the major fish and shellfish which are the backbone of both sport and commercial fisheries

in Puget Sound is very dim indeed. We will be doing well to hold our own in most of these areas, looking at the matter in a realistic political and economic setting. Why? Why can't we do better than that? Let me give you some reasons. These again reflect in part my subjective judgment. First, I would say that among the least important things, almost trivial in their effects, are two very near and dear to everybody's heart--foreign fishing and pollution. Foreign fishing has cut deeply into stocks of some fish available to, although not in all cases exploited fully or at all, by American fishermen. The species in which we are interested in Puget Sound, in fact, are not being affected in any very significant way by foreign fishing operations at the present time. The number two candidate, at the present at least, is pollution. Yet Puget Sound as a whole, with the exception of a couple of areas, is a remarkably clean, unstressed, inland body of water. And in the areas where our most significant problems exist due to pulp and paper, food processing, some types of metal processing, and municipal waste, I think we are well on the way toward satisfactory long-term solutions.

Where then does the problem lie? On the supply side. I think there is general agreement among people in the position to evaluate, that the main culprit is lousy, unwise, and frequently unmanaged, land-use practice. The forest products industry--one of our major sources of income and employment--will, on the whole, observe what is basically a sound set of restrictions in trying to protect water quality if and when someone is looking over its shoulders with a pair of handcuffs. For much of the time, however, the industry operates in a way that causes persistent, and in some cases willful, damage to the basic areas which nurture our prime sport and commercial species. Not every firm does this, obviously. Some of the major firms in the pulp and paper industry in this part of the country have outstanding records in terms of management and conservation, in the broad sense of the word. But nobody who has ever looked at forest activities can deny that this has been a major factor accounting for the decline in availability of our major anadromous fish. The less obvious one, and probably the more serious, certainly for the Puget Sound, is the tremendous crowding of population in the state of Washington along the banks of rivers that sustain our salmon population and around the estuaries that sustain our shell and bottom fish as well. This is not pollution in the normal sense of the word. It is basically a matter of habitat disturbance, habitat destruction, all of it done in the name of something good:

the channelizing of rivers to prevent floods, and in the process destroying spawning areas and breeding areas nearby, silting and the like, and the development of suburban areas and recreational second home areas, each one of which chews up its share of the tiny spawning creeks that are the backbone of an anadromous species. By and large the greatest damage to sustained production or expansion of our major fishery resources does not lie in Puget Sound, or even on the margins of Puget Sound, but upstream from Puget Sound. And even the somewhat limp and compromise-ridden Shoreline Management Act that we now have cannot deal effectively with that, and that is where we have really lost ground.

We are also in deep trouble, and were in deep trouble, prior to the Boldt decision, with respect to our pattern of utilization, particularly of our salmon resources. As long as we continue to treat access to salmon fishing as a God-given right that cannot be restricted or limited in any way, as long as effort cannot be controlled, we are not going to be able to manage salmon resources given the best of efforts, the best of funding, the best of technology. To realize more than a small fraction of its total potential we have at the present time and prior to Judge Boldt's decision, something in the neighborhood conservatively of two and a half to three times the amount of gear in the water that is required to harvest the salmon catch available to us. This not only creates tremendous difficulties from the standpoint of simple control over the management process, but the nature of the animal is such that we are fishing very intensely for a day or two, or maybe three, on whatever fish happen to be in the gauntlet at the time. The other four, five or six days entire subraces may go through virtually untouched. We know a great deal more about balanced processing of the resources of Puget Sound than the framework under which we are operating permits us to utilize. And the best we can hope to do then is to get heavy overfishing of some stock, much too light fishing of others, and a persistently lower level of output than fishery science and properly managed management technique would make available to us.

A lesser but still most aggravating problem is our inability to come to grips with the fact that the sensible alignment of sport and commercial fishing activity is to have the bulk of the sport fishing activity out in front, at which point escapement can be reasonably well-determined without the frequently most annoying aspect of large unharvested surpluses going upstream, useful to nobody, not required for propagation. We have got the thing completely

backward at the present time. Nobody seems to have either the courage politically or the legislative technique to free the hands of a Department of Fisheries and then require it to deal effectively with the reordering of the way in which we harvest the fish. Various types of restrictions, the fact that we have got far more gear in the water than we can possibly justify, the fact that this forces management to operate on the basis of a kind of hair-raising, edge-of-the-razor, balancing act all the time, gives us a distinctly second and third best act of management. Basically, we rely on area and time closures, and to a very considerable degree, on outlawing efficient types of fishing gear. In fact we have groups of fishing people in the federal fishery agency developing new and efficient types of gear, and other people in both federal and state establishments devising means of preventing their use. To the fisherman, an incredible book-size catalogue of minute hair-raising kinds of regulations to which he is subject simply cannot be avoided as long as the amount of effort in the water is so great that really unrestricted fishing, even for short periods of time, could bring complete disaster. It is not a question of pointing fingers, either at the fishermen, or at the management. It is simply that the framework in which both of them operate makes no economic or biological sense at all. And yet over the years, since 1963, when a group of us at the University of Washington undertook, at the request of the Legislature, to outline a program under which excessive gear at the salmon fishery might be reduced, slowly and in ways that would provide an absolute minimum of pressure and individual hardship on the fishermen, a program has been available. The report that was completed in 1963 does just that, yet it has sat there mildewing, as far as I can tell, in the intervening thirteen years. When I went back and read it over in preparing some remarks to give you today I found that the only real changes I would want to make for a sensible, reasonable, constitutional, and economically sensible way of getting the fishery back on its economic feet, are to make the losses bigger, and the tasks harder than they were thirteen years ago. The possibilities are there. What needs to be done is no dark secret. What is lacking is the will and effort to get it done. And how I explain that, I simply do not know.

I would offer a couple of suggestions for what they are worth. One is that the inability, until the last year or so, of the commercial fishing group to identify a series of common problems that all of them have to face successfully if they are not to die, has been a major obstacle. As long as the



attitude prevails that it is more fun to put the screws to the purse seiners than to get rich as far as gill netters or trollers are concerned, and vice versa, you are not going to carry much weight in effecting legislative changes that represent major changes in management concepts. Old ideas die hard, and the fishermen are not going to get an improved management framework if all five major groups are speaking with five different voices. The results of the situation, as I say, are unbalanced harvesting, dangerously exposed positions in the sense that if the management authority makes one really serious error, on a one or two day gauntlet-type fishery, the results are going to be with us for cycle after cycle to come. We are still trying to manage an inside net fishery in the Sound, and by inference a sport fishery in the Sound as well, with a virtually wide-open ocean troll fishery, and a wide open ocean sport fishery, as if somehow the two were not related. And as long as that remains virtually uncontrolled, it is difficult to see how rational management of the inside fishery is possible.

How much is it costing us to have all of that gear in the water? We made some estimates five or six years ago that if we could get the amount of gear down to a level that would permit us an average five-day fishing week in the season, the Puget Sound salmon fishers and the more restricted bottom fisheries could probably generate something in the neighborhood of \$7 to \$10 million a year more in net revenue than they are getting at the present time. Whether this goes to the state in taxes and licenses, to fishermen in better incomes, or anywhere else, is a matter, I think, for somebody else to decide. But the waste of \$7 to \$10 million at prices prevailing five or six years ago--a figure that may look more like \$10 to \$15 million, is pretty hard to brush off. We are also getting a lot less fish than we would be able to get if the amount of gear were at a level that provided five days worth of feedback to the management authority, instead of a day or two feedback, and that provided some more tailored control over our harvesting of individual species, and the subgroups within those species. I have not been able to get anybody to estimate how much we are losing in the physical yield, but it must be very substantial indeed.

Finally, and by no means unimportant, the Office of Management and Budget of the Federal Government, can read. It may come as a surprise to some of you, but they do read, and they can count without much difficulty. When they look at a fishery in which total landings have been declining slightly, or perhaps holding stable, but in which three times the amount of labor and capital is

being expended, it becomes pretty hard to elicit federal support for enhancement of other salmon programs, especially if all we are going to get out of it is more unnecessary gear and fishermen. And that is a problem of thoroughly real proportions at the federal level.

I am not going to try to elaborate in any real detail my own views of the impact of the Boldt decision since that is a matter that you will be taking up in much detail in one of your specific workshops. And I cannot, for obvious reasons, comment on the legal issues involved. I could only comment as an informed layman that regardless of the correctness of what might be called the liability issue, whether Indian fishermen are or are not entitled to fisheries under treaty, I must assume that is correct since it has been reviewed carefully by Appellate Court and the Supreme Court and been upheld. I do not understand the 50-50 division. All I can say is that the judge probably had two choices, 0 or 50, because he did not really have to justify those--and anything else would have required justification, which would have been pretty hard to come by. The impact on management, unquestionably, is severe. Yet it would be silly to say that the Boldt decision makes management of the Puget Sound salmon resources impossible. Clearly it can be done but saying it can be done, in a technical sense, to transfer very large proportions of the catch from one group of people to another without causing extremely severe economic hardship, is quite another. It is very difficult, when you look at the numbers available to us, to avoid the conclusion that the immediate impact is to add substantially to harvesting capacity at a time when the fish available will not even provide minimum satisfactory income to all existing participants. There is no way that all can be accommodated without very severe substantial losses to most everyone concerned, including Indian fishermen. It raises, then, the strongest possible argument for moving, not next year or the year after next, but immediately into some kind of a vigorous program to reduce the excess capacity in the Puget Sound fishery. It has got to be done on a basis which is developed by and generally agreed to by most of the commercial fisherman of the area. There is no way in which a professor, a legislator, or a judge can actually devise a limited entry or gear reduction program that will be as fair to all as would be required to make it work. But it can be done. A beginning has been made in Canada, an even smaller beginning in Alaska, and several quite successful programs have been undertaken in other countries. We simply must get this done if we are not to face an impossible situation both from the standpoint of protection of the

long-run productivity of our fish stocks in Puget Sound, and the viability of a future industry, and probably of our recreational fishery that rests on it. The argument that somehow we can blunt the negative effect of the Boldt decision on some groups of fishermen by simply substituting new artificially-propagated fish to keep non-Indian landings at previous levels is simply wishful thinking. I hope that the plan to do that will somehow emerge. If it does, it is going to come trotting in on the back of a unicorn and that's just about as likely.

Therefore, let me make a plea for a broader view of the management of Puget Sound as a whole. As I indicated to you earlier, I think the major threat to the viability of both commercial and recreational fishing in the area lies not in fishing, or even in fish management, and certainly not in direct pollution, but in our failure to use the land/water system. Puget Sound must be seen as an ecological unit and governed accordingly. We have no mechanism for doing that. We have no political institutions that will do it properly at the present time, and yet somehow it has to be done. One problem with which all of you are familiar provides warning of the need to act to achieve this. The proposals to transport large amounts of petroleum products on Puget Sound have enormous ramifications for waterfront utilization, the possibility of catastrophic damage to fisheries, jobs and incomes within the region here, and the contribution that Alaskan oil can make to the American economy as a whole. We saw that problem coming at least four years ago, and to this day we do not have as a state a uniform, carefully thought out plan that will deal with the alternative that Alaskan oil calls for. In point of fact, we don't even know at the present time what is going to be done with the Alaskan oil. A little blurb in the paper suggested an answer that the more cynical of you have been suggesting for a long time: it will be going to Japan. We have got real problems in that matter, just as we may face in the fisheries. The fastest growing uses of Puget Sound are recreational and residential. And these show up very clearly in the skyrocketing prices for waterfront property throughout the Puget Sound region and beyond.

Somehow we have got to come to grips with the fact that a lot of other activities, including fishing, are now up against the fact that everyone cannot have everything he wants out of Puget Sound. And the question that faces us is whether the market forces and the political mechanisms are capable of dealing with the increasingly complex, increasingly emotional conflict over land use. The demands of the oil industry are vociferous, and of nuclear power. There

will be others in the future. Yet we insist on treating each one as if we had never heard of the problem before, and each time it happens the fisheries die a little more. Again, we may have been looking too closely at the fisheries and not closely enough at the much broader environment of the system in which they are harvested.

Finally, I would suggest that there are some decisions to be made within the state that relate to that broader environment that are not being made, and are probably going by default rather than by decision. These are decisions which have to be made within the state about the growth rate of the Puget Sound region, and of the state of Washington as a whole. Obviously, we cannot require passports at the border, and issue them in Alice Springs, Australia, every Easter, tempting as that might be to some of us. But we can undertake to stop a process of competitive local bidding for industries which are barely tolerable in environmental terms. The question of whether we want to grow rapidly and dirty, or slowly maintaining a highly desirable environment and the highly desirable pattern of natural resource-oriented industries that that will bring us, rests on decisions that are partly, though not entirely, within the state's jurisdiction.

Further, the way in which we use energy is something that is partly national, partly regional, but again partly within the state's own jurisdiction. As long as we accept blindly and fatuously the idea that energy grows, or that energy use is going to grow at 5 per cent or 5.9 per cent per year regardless of what we do, we are essentially turning our backs on everything we have learned about our ability to control our own economic and environmental affairs. It need not grow that much, but if it is not to grow that much, then action needs to be taken. And the actions that relate to energy supply and energy utilization within this state may turn out to be as important to the welfare of the fisheries as any set of decisions we make.

Now we can, within reasonable limits, say something about the size and composition of the Washington that we want to live in but there is one aspect of this that bothers me deeply, and for which I have no answer. I leave it with you as a question that should come up, I think, in some of the sessions that follow. To what extent can we resolve the paradox that exists in the state of Washington that a very high proportion of our well-to-do urban residents live in a fairly small part of the Puget Sound region? From their standpoint, the most desirable use of much of the rural area bordering on Puget Sound

would be to keep it as pristine, as near natural, state as possible, so that we can enjoy its beauty, enjoy good fishing, enjoy the hunting or viewing of wildlife, and boating. From the standpoint, however, of people who have to make their living from the water in these isolated areas, the relative importance of jobs and income is a very different matter indeed. Somehow we have to come to grips with the fact that we have a kind of quasi-colonial attitude toward Puget Sound, and as a Seattle resident I am afraid I am all too conscious of the difference in values, the difference in what seems to me obviously logical to do with it, as compared with my friends and neighbors who live in the less populated areas. So there are things to be done, and I sincerely hope that this conference will bring out in the open some of the steps that we can and should take to preserve the area and its fisheries.

PANEL DISCUSSION: "THE FISHERIES AS A RESOURCE"

Statement of State Senator H. A. "Barney" Goltz

Some statistics on Washington State fishing industry. Though the commercial fishing industry has been in turmoil for the past two years, the economic importance of the commercial catch has not diminished. From the most currently available statistics (1974) the wholesale value of the fish, shellfish and other sea products totaled \$133 million. To show the significance of this figure, the value of these sea products was about four-fifths of the value of cattle grown in our state, which is amazing to many of our eastside residents. If indeed you wish to rank the value of the sea products in order to compare with agricultural commodities, it would rank in seventh place. With 150 million pounds of sea products harvested annually, it is truly an important source of high protein food which many of us so greatly enjoy. The makeup of the production shows that the salmon catch amounted to about one-third of the total poundage of the sea production. Other major production classes included bottom fish, oysters, other shellfish, shrimp, halibut, crab and albacore tuna.

In addition to the harvest of the commercial fishermen, the sports fishermen in 1974 experienced their second largest catch in history. They managed to successfully land one and one-third million salmon.

The state of Washington is well known for the excellent sport fishing in its surrounding waters. People come from all areas of the Central U.S. and the Midwest, and the money spent here by the tourist on recreational fishing serves to stimulate our state's economy. Several ports such as Ilwaco, Westport, LaPush, and Neah Bay yield on an average of one to two fish per person per trip.

Historical statistics on Washington salmon hatcheries. To illustrate Washington State's record of increased salmon production, the number of salmon planted from state hatcheries has doubled since 1960. In 1974, the number of salmon released was 154 million as compared to 78 million in 1960.

Because there is a high correlation between salmon size and survivability, a more significant indication of the increased efforts to expand salmon

production, we should look at poundage of salmon released. In 1960, 410,000 pounds of salmon were planted.

Through construction of new hatcheries more intensive use of existing facilities, and improved scientific and management techniques, the poundage of salmon in 1974 increased tenfold over the production in 1960. In 1974, the state of Washington's hatchery system produced over 4 million pounds of salmon for release.

"Boat buy back." The recent federal court decision reallocating the amount of salmon to be caught by fishing groups has created turmoil in the non-Indian commercial fishing industry of this state. Many people do not agree with the Boldt Decision, but if we are to have a legal system with any authority, we must abide by the ruling whether or not we agree with it.

Since that decision was reached, I have been concerned about minimizing the hardships of the commercial fishermen. The Washington State Legislature, in an effort which I approve, has passed legislation aimed at reducing the hardships created by that decision and maintaining the economic well-being and stability of the commercial fishing industry.

There is an area of great financial hardship where a sizeable investment has been made in fishing vessels and associated gear. Due to the substantially restricted salmon fishing for non-Indian commercial fishermen, there is an overabundance of commercial fishing gear in the State Waters. Certain commercial fishermen who had old boats or were just marginally making a living are being forced out of fishing. The Legislature enacted a Gear Reduction Program (or Buy Back) which authorizes the Department of Fisheries to purchase vessels, gear, and permits from commercial fishermen who wish to participate. The permits, gear, and fishing vessels purchased by the state through a federal grant are permanently retired from the commercial fishing industry within the state. The vessels must come from the Puget Sound area to qualify under the program. The deadline for applying to participate in the program is June 30, 1977. To date 108 commercial vessels have been purchased through this program.

The money comes from a federal grant through the Economic Development Administration, and these federal funds amount to \$2.4 million. Of the 108 commercial fishing boats which have been purchased, 56 have been auctioned and the remaining 52 will be sold at an auction on June 19. This program represents only a small fraction of the approximately 10,000 commercial vessels in the state. However, the program will continue to be in effect for another

year and a half (to December 1977), and it is hoped that the reduction, however small, will aid in producing an economically viable commercial fishery.

Other fishermen, through the transitional period, may be threatened by foreclosure on their vessels or gear because of the inability to pay interest on their boat mortgages. In response to this problem, state legislation was enacted which made federal impact funds available for loan purposes. The State Department of General Administration, with cooperation from the Department of Fisheries, is administering this program.

Retraining program. Many commercial fishermen who sold their boats through the Gear Reduction Program no longer have an employable trade, and therefore have no viable means of earning an income. In order to provide a means for these people to develop a new skill or trade, a Retraining Program started in April of this year. The emphases of the program are being concentrated in the vocational/technical demand areas.

There are two alternative courses which may be followed in this program: First, on-the-job training (OJT), whereby the employer agrees to train and employ the enrollee, and in return, half of the employee's wages are paid from the federal grant moneys.

Choosing the second alternative, a program participant is entitled to enroll in a vocational/technical school for a period of up to two years. This does not mean attending the first two years of a four-year college but rather a vocational program which will train the participant in a two year period for a new trade. Money from the federal grant pays for the tuition, fees, certain equipment, books and also a minimum weekly allowance of \$80. It is too early to evaluate its effectiveness because of the recent initiation of this program. However, it is important to pursue the endeavor of assisting persons into retraining for a meaningful livelihood.

Washington salmon enhancement program. Though the state in the past has pursued a policy of improving the salmon catch, the federal court decision two years ago has made it increasingly imperative that the state of Washington formulate a plan which will maximize the level of salmon stocks. On the Enhancement Advisory Committee are members of the Legislature, the fish processing industry, commercial and sports fishermen, and the Department of Fisheries. The goal of the study is to provide recommendations in order to formulate a statewide enhancement program. A consulting team has submitted to the Enhancement Advisory Committee a problem statement which lists eleven



areas of consideration where enhancement looks promising. These areas range from increasing the salmon stock levels in the lower Columbia and in Puget Sound, to improving information-gathering for salmon run predictions.

After analyses of these areas are completed, a financial plan is to be developed in order to determine the sources, timing, and level of funding needed to implement the plans. Finally, a study report will be prepared which identifies the areas which contribute most to meeting the goal of the salmon enhancement program.

Canadian enhancement program. Scientists estimate that the current population of Pacific salmon in Canadian waters is probably about half of what it was before 1900. Since that time, the Canadian government has spent large amounts of public funds to protect the remaining salmon resource and to develop salmonid enhancement technology. Since 1945 the government of Canada has built fifty enhancement facilities in British Columbia, including hatcheries, fish passages, spawning grounds and other projects. The capital cost has been over \$30 million. The goal of the current ten-year Canadian enhancement program is to double the current production of salmon and reviving the salmon to the pre-1900 level. Included in their program are plans for approximately ten hatcheries, twenty spawning channels, and several hundred incubation boxes. The cost of the total enhancement project may reach \$300 million over the ten-year period.

Conclusion. The Washington State fishing resource is being threatened on many sides and it is the Legislature's intent to improve the whole resource to the greatest extent possible while providing a balanced approach for both use and conservation of this resource. The resource is being threatened by dams and stream obstructions which have an effect on spawning waters; it is being threatened by indiscriminate logging practices which we hope will be controlled through the new Washington Forest Practices Act; it is being threatened by marine water pollution which we hope will be controlled in the near future through the efforts of the Legislature, the Department of Ecology, and the federal government; it is being threatened by increased sports and recreational fishing; and it is being threatened by the general problems of increasing urbanization and increased water resource use. Part of the job of the Legislature is to achieve a balance between use and conservation; we must solve these problems in cooperation with state agencies, the federal government, and the citizens that use the fishing resource, by cooperatively enacting programs which will alleviate the pressures on the resource and

remove the threats which I have mentioned.

Part of the impact of the Boldt Decision has been that certain sovereign Indian tribes have the right to regulate their own fishery. There are twenty-seven tribes in Washington involved in this process. In addition, we have the various commercial fishing interests, the sports fishing interests, and the Departments of Fisheries and Game in the state, the state of Oregon, plus the federal government and various international agreements with Canada. With all of these various interests, part of the job of the Legislature must be an attempt to bring a rational management program to the state's fishery resource along with adequate enforcement to ensure that the management programs are carried out. The next few years will bring continued conflicts among various user groups and conservation groups. I hope that the Legislature can aid in bringing some aid in solving the problems of the fishing resource.

In conclusion, I see the following legislative policies being delineated:

1. The Legislature is attempting to increase the sports fishing programs and balance them with the commercial and conservation interest. It must be remembered that the sports fishing industry brings in substantial out-of-state dollars to the state of Washington and the impact can be felt statewide.
2. The Legislature, through the enhancement program, and through changes in regulation policies, is attempting to solve the problems of the commercial and Indian fishery by providing an increased and adequate catch.
3. The Legislature is vitally concerned with providing a stable, economically efficient and viable fishery in order to maintain the valuable food resource, both for the citizens of this state and for the export market.
4. It is clearly the intent of the Legislature to protect the Puget Sound and adjacent waters from oil spills and oil pollution; continued research on the inventory of the resource in the Puget Sound is one part of this program. In addition, control of tanker traffic, adequate considerations of oil spill prevention and cleanup must be programs which the Legislature addresses.
5. It must be remembered that the cost/benefit ratio of the fishing resource is high. For, like the forests, the money that is put into the resource, if managed properly, can be multiplied over and over

again so that for government dollars spent, the state gets back many times what it invests.

6. The Legislature is concerned with maintaining the biological balance of the Puget Sound and with conservation of the resource. Continued monitoring through the base-line program of the Department of Ecology and continued research by the institutions of higher education on the Puget Sound resource is a vital concern.
7. The Legislature faces in the next session a real need to increase hatchery production for all fishermen, and through the salmon enhancement proposals and greater federal contributions to aid in the implementation of the Boldt Decision, the value of the Washington State fisheries resource will be maintained and enhanced.

Statement of Peter Granger, Marine Field Agent,  
Washington Sea Grant

Fishing in Puget Sound has traditionally been and is currently dominated by salmon; no one will argue that. Yet, with only a finite amount of salmon returning each year, and with that resource "pie," so to speak, being divided among a larger and larger group of fishermen--increasing both by gear group and ethnic group--we must ask ourselves what are there as alternatives for the local fishermen, both to supplement and, in some cases, to supplant (or actually substitute) his salmon income? I would like to take a quick look at what traditional alternatives there have been and then offer some possibilities for new ventures.

The main alternative fishery most Puget Sound fishermen have taken advantage of is not really a local fishery at all. Of course I am speaking of fishing for salmon in Alaska when the season is either poor or closed down here. Men from Blaine, Bellingham, Anacortes, on down the line, go to Cordova, Kodiak, Cook Inlet, Bristol Bay, S.E. Alaska in spring and early summer, then return for the sockeye season here. Alaska's "Limited Entry" policy has pretty well closed the door for aspiring fishermen to choose this alternative unless they have sufficient capital to purchase a permit.

The second most popular alternative, I would say, has been Dungeness crabbing, although as a third alternative a fair amount of boats go dragging for ground fish in the off-season. However, both these fisheries, as they exist

in Puget Sound, offer openings for only a limited amount of gear and both are close to saturation point at the present time. A fourth alternative is the North Sound herring fishery that has become quite lucrative in its three years of existence. Only a certain number of licenses were issued in 1973 and that's where it stopped.

The list of alternatives tails off very sharply after these four. Others might include: black cod fishing off the coast; long-lining for cod; smelt fishing; hake fishing; dogfish fishing; fishing in Californian waters for bonito, albacore, herring; chartering as a packer.

What then does the future hold for further development of the fisheries of Puget Sound? If we look at under-utilized species we find the age-old problem of market demand dictating which fish are desirable and for what price. Hake, for instance, is an under-utilized species that abounds in Puget Sound, but currently it sells for only two or three cents per pound at the dock and certainly it won't be replacing cod, flounder, or even fish sticks of pollack, on our tables for quite some time. Likewise the market dictates that the herring carcasses from the roe fishery be reduced to fish meal rather than be processed as a food item. In addition, the dragger has to shovel thousands of pounds of undersized groundfish overboard because there is no market for them.

Recently there has been a flurry of activity over dogfish and Arrowac Fisheries in Ferndale has processed over half a million pounds in some months. Yet the market for dogfish is only overseas because of its high mercury content. Consequently the half million pounds of fish translates to only \$20,000 gross value to fishermen who have delivered it at the dock.

In our Sea Grant office at the harbor we have had quite a few inquiries as to alternative fisheries this winter. Some gillnetters and draggers have gone out and caught a few dogfish, but what do you tell a fisherman who asks about getting into the spot prawn industry of Southern California which will only support four or five boats as of now, or the gillnetter who wants to hang a small trawl to go after a bottom-fish resource that cannot support many more boats?

In brief, if any real alternatives exist I believe they will come from two directions in the future--note that I do not say near future.

1. As a result of extended jurisdiction to the 200-mile limit, depending on how soon the proposed regional councils become operational and formulate management plans for the 200-mile zone, new opportunities

in groundfish and under-utilized species may open up for local boats. This will mean, of course, that boats will be forced to leave Puget Sound to fish at least part of the year, and so hardly a regional alternative.

2. What then of the salmon fishery? I believe that the fishermen need to get involved in artificially propagating salmon. The Indian fishermen are certainly involved and the non-Indian fishermen should likewise be. I know there is opposition to an ocean ranching bill currently dormant in the legislature, which proposes the raising and releasing of salmon for profit. Why not legislate a law as Alaska has done, setting up non-profit enterprises. If run by fishermen this would be to their direct benefit. But in the final analysis, the key to alternatives in Puget Sound really involves creating new salmon runs, recreating ones that used to exist, and enhancing the ones we've already got.

Statement of State Representative John Martinis, Everett

My position in the fisheries world is very political. Those people who think that fisheries is not political have to address themselves to reality. As long as there are people involved in the industry or in the sports side of it, or in the research part of it, there is going to be politics involved in the fishing industry. The fisheries always has been in this United States a political problem.

I think one of the major problems facing Canadian or Puget Sound fisheries is the problem of Canadian-American relations. Take the Fraser River about which we had a treaty agreement with a 50-50 split of the catch. American fishermen would like to enhance the Fraser River, but the Canadian federal government says "no, we don't want to put any dollars into it." We then talk to members of the industry and find the fishermen in British Columbia are a little disappointed in their government's attitude for they themselves would like to enhance the Fraser River run. We could then enter into a new treaty and equally share the enhancement program.

Then we have Puget Sound where we have another 50-50 split, but this is not by treaty. The Canadians harvest 50 percent of our Chinook, 50 percent of our Coho but, depending on whom you talk to these days, percentages will

vary. I like to run them up to around 70 percent, but the technicians like to get me down to a good even 50 percent.

Washington State Department of Fisheries, in collaboration with the members of the commercial fishing industry, and the sports fishery, right now are doing a study on what we can do to enhance the salmon fishing in Puget Sound. One of the major problems that we will run into selling such a program to the industry, and selling it to the people who are going to pay the bills is "are we going to pay for 50 percent of our fish to go to a foreign fishery?" When we are harvesting 50 percent of fish that are raised in a foreign land, namely the Fraser River, we pay our share. We are willing to enter into a 50-50 agreement financially to enhance their fishing, and we will take our 50 percent. But they are not willing to do that, nor are they willing to enhance the Puget Sound stocks of fish of which they will take 50 percent even without a treaty and possibly take more.

The Washington State Enhancement Program is a study funded by a federal grant for some \$300,000. The Department of Fisheries is administering the program and the firm of Kramer, Chin and Mayo, which did the enhancement studies in the state of Alaska, is handling the short-run enhancement study on what can be done now. However, I think that this study will have to come up with some real concrete proposals because dollars are going to be hard to get. We have an Indian fisheries--and I'm not criticizing the Indians in their efforts--that does not pay landing tax. We have Canadian fishermen not paying a landing tax. We have a segment of our industry that only pays 50 percent of the landing tax that the other part of the industry pays. So all of these things are going to have to be worked out. Washington fishermen seem very willing to contribute their share when it gets to the final ribbon cutting on the program.

Recently, the director of Fisheries has locked horns with the off-shore troll fishing industry and with Judge Boldt on the curtailment of the troll fishery off our coast. The legislature has been blamed by the department for the problem that we have right now. The fishermen are faced with the problem, are very willing to face the fact and take their case to the courts rather than enter into an allocation program that would virtually give the director of Fisheries overall control--he would be a virtual dictator, a czar of salmon fishing on the Pacific Coast and Puget Sound. These problems may soon be moot. The federal government will take over the coastal fisheries to the 200-mile

limit. So we are faced with something in 1976 that is going to be gone next year. I don't blame the legislature for not plunging headlong into a program for which they really did not see any light at the end of the tunnel. In the meantime the director has to maintain authority even though he does need some dictatorial powers to realistically manage fisheries, which he basically has now, and the legislature, the representatives of the people, must maintain some control.

As regards license limitation and a moratorium on the issuance of additional salmon licenses, I take issue with the previous speaker. This has been a project of mine ever since I entered the legislature to enact a moratorium which would eventually evolve into a limitation program. Again this became a people problem. You can say it is part of the way politics were played. We are in the third year of the moratorium at the present time. Some of the fishermen like it, some of them don't. We have been criticized for the philosophy of the moratorium. Many people will be very critical of a limited entry because they believe it will no longer be a free enterprise industry. It will be a franchise. Well, I realize it has to be that way as the good doctor advocates. What he is advocating on limited entry I think has to be. So we will try it. We are formulating legislation right now to present to the 1977 session of the legislature. Some people like it, others don't. It's going to be a political decision.

In essence, fisheries in Puget Sound, like fisheries around the world, is a people problem, a political problem.

## THE PROBLEMS OF THE FISHERIES: A DIVERSITY OF VIEWS

### The Processing Industry

Jay Bornstein, Bellingham

I have been asked to give some views on the problems of the processing industry. We have certain problems different from those of the fishermen. I will try to cover these briefly, and then go on to consider some of the problems we have in common.

One of the main problems we are faced with is quality control, in other words, trying to preserve the quality of the catch all the way from the fisherman to the consumer. We also have the problem of waste disposal and utilization of offal in useful by-products. Environmental quality is quite a concern as well, and we have problems concerned with distribution and promotion. All are very basic to fish processing.

One of the major concerns we have as an industry is efficient resource management. The core of the problem is maintenance of the resource in perpetuity; which can only be achieved by good management. Who decides what sort of management? And under what schemes can management be carried out? Management involves political, economic, biological, sociological, and judicial aspects. To handle all of these aspects, resource management may come under the surveillance of a number of departments. It was mentioned earlier this morning that there are some 32 different agencies requiring compliance in order to achieve overall management. Management of fisheries, like the development of fishery schemes, is overly fragmented and piecemeal, with a confusing collage of often overlapping and contradictory agencies and guidelines. Everybody can find fault with this type of a system. It is put together in so many different forms. Now is the time to search out solutions. Solution to pollution is not delusion. In other words, put all these different schemes, all these different managers, all these enforcement agencies, into a single fisheries agency. Give fisheries the respect of agriculture, and establish, as in Canada, a Ministry (or Department) of Fisheries. Fish are a valuable resource. Let's handle the resource properly by putting it in the



hands of fishery people. Give fisheries the clout needed to do the job. It is becoming increasingly difficult to be regulated by and to deal with individuals who do not have a fisheries background.

I am not advocating, however, direct federal control, and the establishment of a federal agency. The nearest thing to an agency of this type is the National Marine Fishery Service, with whom we have worked closely in certain matters. For example, at the present time we have a monitoring of water to be used in a water stream in our plant. The National Marine Fishery Service is taking water samples for data accumulation and information that can be used in other plants. As there is no information bank in this particular field, this will be a great help to the fisheries. The crux of my statement today is that we need a place to go to, somebody to talk with, somebody with clout and understanding, to enhance the value of the fisheries as a natural resource in this region.

#### Some Problems Faced by Purse Seine Fishermen

Wallace Green

Today I have been asked to speak on the problems facing the purse seine segment of the net fisheries . . . and there are many problems!

My background in this business is simply that I am a purse seine fisherman and have been for 31 years, with a family background in seining going back to the last century. I am on the Board of Directors of the Seiners Association.

Today I have six problems to discuss, many of them interrelated. One of our big concerns is with the International Pacific Salmon Fisheries Commission. This joint commission of Canadians and Americans was set up in 1937 to manage and enhance the sockeye and pink salmon fisheries in the Fraser River. It had to work with a river system in which the salmon had virtually been wiped out by a catastrophic slide at Hell's Gate. Costs and expertise have been shared and what has come to be is success in rehabilitation and the enhancing of sockeye and pink salmon stocks. The catch which travels through American waters and spawns in a Canadian river is split about equally. With an extremely successful record the commission has the utmost respect of fishermen. It is one of the few commissions with fishermen and processors from the industry on its advisory board. It has become a backbone of the salmon industry in the state of Washington and especially Northern Puget Sound. The Fraser River produces

practically all the canned salmon in Washington and the bulk of our summer fishing through September 15, and much of our fall fishing is dependent on this river system. The bulk of the seiners' income is made during this period. With fishing the fifth largest industry in the state and the largest single industry in Whatcom County, a large share of the success is due to the Commission's effectiveness. It might be noted also that well over one half of the state fish tax on salmon comes from fish caught returning to the Fraser River system.

At the present time the State Department of Fisheries is contemplating trading off these years of research and effort in order to keep Canadian trollers from fishing off the Washington Coast for Washington-reared coho and king salmon. Traditionally, Canadian and American fishermen have fished up and down the coast as the fish move north and south. Not surprisingly, commercial fishermen do not relish the thought of upsetting something as successful as the International Salmon Commission. So far the Commission has been able to devote most of its time to the problem of maintaining and increasing the fish runs. Lately, however, the Commission has been under more pressure from Ottawa and Washington, D.C. to make decisions and compromises which may not be in the best interest of fish runs. Let's not saddle this Commission with any further political problems. It knows how to enhance the fish stocks; let it do that unimpeded!

A better solution to the weakening of this successful Commission is to create a stronger state hatchery program than that presently in being to produce more fish. This is an entirely feasible matter. At the same time Oregon, Alaska, and British Columbia should be encouraged to expand hatcheries also and add to the fish stocks along the entire northwest coast. In short, fishermen do not want to put the International Salmon Commission in jeopardy. The Commission hitherto has been involved only with sockeye and pink salmon which our State Fisheries Department has not been able to maintain on a sustained basis at all.

It should be noted, however, that some species of salmon--pinks and sockeye--have not been successfully reared in hatcheries, yet the State Department of Fisheries can provide help in making more spawning channels available and in cleaning up existing streams used by these fish. On the other hand, the state fisheries has done a good job in raising coho and king salmon, an effort that should be further expanded. I emphatically say State Fisheries Department because we the fishermen feel this is a public natural

resource and we are not in favor of private fish farms, the problems concerning which could be considerable. The people who invest in these fish farms would have a vested interest in any attempt to restrict commercial and sports fishing in order to get a larger return for their farms. If the state continues to operate all hatcheries, such problems are automatically eliminated. The state alone should manage the natural resource.

A bill was introduced in the legislature last session which would have given the State Director of Fisheries power to regulate the fisheries for social and economic, as well as conservation reasons. We fishermen are thankful this bill did not pass. At present the Director of Fisheries in Washington has more authority than any of the fisheries regulatory agencies on the Pacific Coast. We do not believe that our Fisheries Department should be in the position to manage social issues. The Fisheries Department should be restricted to the management of fish.

Returning to the matter of hatcheries it should be noted that the State of Washington Fisheries Department has made considerable technological advances in the raising of chum salmon. We would encourage the State Fisheries to expand their programs on chums and to rebuild our late fall runs. The Japanese likewise have been very successful in the last few years in raising chums, utilizing technology learned here.

Another area of concern which is facing us is the 200-mile limit. Most people have the feeling that passage of this law has solved all our fishing problems. The law goes into effect immediately, but enforcement does not begin until March 1, 1977. This law entitled "The Fishery Conservation and Management Act of 1976," establishes an exclusive U.S. fisheries and management zone of 200 miles. Each coastal state will continue to have control over its waters within three miles of its shores, although some matters may come under federal jurisdiction. Under the law the United States will have control over management of the fisheries resource so that it will not be overfished. Foreign fleets will continue to fish off our coast for the law does not enact that Americans alone can fish in this area. It does, however, set up a massive bureaucracy, and as most of us know, it is usually more difficult to work with bureaucracy on the federal level than on the state level. Such a remote organization may result in very little fishermen's input. Politicians and the scientific community may come to control the fisherman's future. Direct input is what we desire.

The 200-mile limit could possibly be detrimental to our salmon fishery as the salmon produced in U.S. rivers range over a wide area in the Pacific-- at times as far as 1,000 miles off shore where they migrate and mature. Japan presently has an agreement with the United States to restrict its fishing for salmon west of 175° longitude, a line approximately between Hawaii and the western extremity of the Aleutian Islands. However, when the 200-mile limit comes into effect, any existing bilateral or unilateral fishing treaties with foreign fishing nations that conflict with management concepts will have to be renegotiated. The Japanese may fish within 200 miles of our Washington coast for salmon, along with other nations.

Japan currently takes 40 percent of its total fish products from within 200 miles of the Alaska coast. Consequently, if we do not let Japan harvest enough fish in that area, she might conceivably move her salmon effort to our 200-mile limit. This could be tragic if the Japanese intercept the salmon, because we cannot control high seas catches well enough to ensure their escapement to the proper streams and rivers along the American coast. This law is just being implemented. We pray that it will not be a bureaucratic nightmare for the fisherman.

Environmentalists also are creating a few problems. Generally, the concerns of environmentalists and fishermen run parallel. However, I sometimes wonder if some of the environmentalists' actions are not creating an adverse balance in our fisheries. An example of this is the sea otter in California. Not many years ago there was a big push to save the sea otter and extensive sections of the Californian coastline were closed to abalone fishing, as a result of which scores of fishermen were put out of work. Last winter when I was talking to the California Fish and Game Department they said that many of these same environmental groups were now asking them to control sea otters because the Pismo Beach clams were being destroyed by their increased numbers.

I wonder if this same thing is happening with the seal and sea lion populations in Alaska. It is estimated that there are one and one-half million seals and 300,000 sea lions in Alaskan waters. If salmon are available, a sea lion will destroy fifty salmon a day and a seal ten a day. If those numbers of animals had one good day feeding, they would eat more than the commercial fishermen catch all year in Alaska. Maybe there is an overpopulation of seals and sea lions. There used to be a better balance when seals were eaten by the local people, but today they eat beef and pork, not seals. This means

thousands more salmon predators each year. What I am saying is that we need to exercise more prudence and less emotion before we pass laws like "The Marine Mammal Act of 1972."

Finally we come to our biggest immediate problem--one which most fishermen have a hard time comprehending: the Boldt Decision. I don't know how many of you have read the Point Elliot Treaty of 1855. If you haven't, please do so, and you will plainly understand the fishermen's dismay. This is an easy-reading, simply-worded document which seems self-explanatory. The controversy arises over Judge Boldt's interpretation of Article V, which reads as follows:

The right of taking fish at usual and accustomed grounds and stations is further secured to said Indians in common with the citizens of the Territory.

Judge Boldt has ruled that this means Indians are entitled to 50 percent of the fish in Washington, in effect that the words "in common with" mean 50 percent. In no way can we understand this reasoning. Many people have concluded that the Indian fishermen were not allowed to fish before this much-publicized decision. This is not true. They have always had the same rights to fish in state waters at any time other citizens could fish, as well as their right to fish on the reservations. What Judge Boldt has done is set up a system for a super citizen, one who has the rights of other citizens plus.

One of the main problems created by this decision is how to implement and control fish catches and escapements. At the same time the State Fisheries Department is trying to manage the fisheries, we have more than twenty independent tribes doing the same thing, with Judge Boldt as referee. Since the handing down of this "in common with" decision, non-Indian fishermen have found the fishing regulations increasingly confusing. The Fisheries Department is now walking a tight rope trying to manage a public fishery and at the same time to comply with Judge Boldt's orders. The court regulations enforced last year and in the previous year all but eliminated the non-Indians' "usual and accustomed" fishing areas on Puget Sound. We have been crowded into smaller areas to fish and had our days of fishing drastically cut. Last fall fishermen traveled all night to areas the state was to open to fishing the next day only to find that Judge Boldt's orders had forced closure of the areas that night. It is frustrating for the Fisheries Department to always be in court and equally frustrating for fishermen to try to make a living in the face of these confrontations. The non-Indian fisherman has had his fishing days cut

drastically while the Indian fisherman continues fishing. "In common with" just means more for one segment of citizens.

Finally we have problems of how to finance the fisheries. With the implementing of the Boldt decision, we automatically eliminate a portion of the fish taxes because the Indian fishermen do not pay fish taxes to the state as non-Indian fishermen do. The hatcheries and fisheries programs have been financed in the past through fish taxes on the catch. Forty-five percent of the State Department of Fisheries' budget for salmon each year comes from fish taxes and license fees, neither of which the Indians pay. You can envision the financial stringencies this will work on management and enhancement programs.

In conclusion, we are extremely concerned with this decision not only as fishermen, but as American citizens. Although we accept the Boldt decision as the law, we feel we would be remiss not to try to change it. The principle is simply wrong. You can imagine the feelings of fishermen who have worked and invested in an extremely interesting and competitive business only to be struck down by this type of decision which endangers our future livelihood.

#### The Gill Netters

Dave Millholland, Anacortes

I was interested this morning in the allusions to politics. It reminds me of a book written by Dr. Richard Cooley, a book written many years ago and one that alludes to the fish traps in Alaska. The name of the book is Alaska: A Challenge in Conservation. I feel that we are still there. The Puget Sound Gill Netters which I represent was dedicated to preserving a fisheries management code when the fish traps were removed in 1934. The Puget Sound gill netters have never lobbied a bill through Olympia to hurt any other kind of gear. Our people are concerned about catching fish at the proper time, that is when they have reached the final size at which they are in prime condition before they spawn.

But to turn to the problems of Puget Sound. Certainly we could talk for a great time about these for they are many, the greatest of which is the Boldt decision. This does not allow for proper management, it is unconstitutional, it discriminates, it allows for over-fishing and it creates chaos in what had been a stable fishery since 1934. It no longer permits the opportunity to make a good living on Puget Sound, for fishermen who choose to follow regulations that are the best the department can propose. Consequently, fishermen who have

never had a bad season in the past are now facing declining incomes. When hard-working, dedicated fishermen can no longer make a living, it is time that the problems be assessed, and we appreciate the opportunity given us by this conference. The Boldt decision must be changed, and all fishermen must again be treated as equals. Then and only then can other problems be solved.

It is obvious that a viable program is being maintained on Coho and Chinook salmon, with a high-seas troll catch, as well as a charter fleet effective year round in Puget Sound's successful sport fishery. Even with this large fishery, there is still a good return of Coho and an increasing amount of Chinook for the net fishermen. If a program of like magnitude were instituted for Chum salmon, and perhaps pink salmon, it is easy to see that the return of these generally non-biting salmon would be totally available to the net fishermen who have been hurt the worst. The Japanese program on Chum salmon started in the early 60's with programs recommended by the State of Washington Department of Fisheries, is now counted in the millions of fish. Over a billion eggs are planted for an average harvestable run of 15 million fish. Monies for this type of program can and should be obtained from the fishermen. Landing taxes as well as other monies collected should be made available. For example, of a gill net's cost of \$4,000, over \$1,000 presently goes to the federal government as excise tax. Foreign fines also should be used for this very important rehabilitation program.

Turning to another matter, our state is making a mistake in handling our immediate problem with Canada as if we were a separate country and not a state. As we go into the implementation of the 200-mile limit I hope we can use the mistakes of the past to formulate guidelines for the future. It is interesting to note that lines for the 200-mile limit have not yet been drawn, yet Canada has already met with Russia, and has worked out certain rules and agreements. I would have hoped that inasmuch as we met first with the Russians, on adoption of the 12-mile limit, then the Japanese, and finally with Canada, we would have made a real strong move to initiate talks with Canada before the same sort of mistakes are made all over again. The 200-mile limit can and should be of great benefit to American fishermen. It can also be an instrument of federal controls that could restrict American fishermen to the point of harassment, while failing adequately to control foreign fleets. Because of our long-time peaceful arrangements with Canada, it appears to me that what should be uppermost in our minds is the rehabilitation of runs of anadromous stocks in both countries. This

should be done to the best of our abilities and with fullest use of our expertise. We should not be so concerned as to who catches whose fish, for there should be plenty for everyone.

### Problems Faced by Fishermen

Henry O. Wendler  
Department of Fisheries, State of Washington

Within the next few months, and as a result of historic legislation establishing a 200-mile fishing zone and management authority, the responsibility to conserve and manage certain fishery resources will be vested in regional councils.

This approach, to my way of thinking, will permit conservation authority to be retained at the local level rather than having the federal government dictate the regulation decisions within the zone. Many of you are aware there is a vacuum in managing the high seas fisheries beyond the territorial sea. The roles of the state and federal governments are not clearly defined since present management lies mainly with the various states whose policies, interests, and authority often differ.

The legislation (H.R. 200 - Fishery Conservation and Management Act of 1976) changes all of this. In large part it clarifies the authority of the state and federal governments, so that optimum management strategies can be conducted in those areas formerly indistinctly defined and really not under anyone's control.

Optimally controlled fisheries will benefit the resource and the participants in it. We look upon this legislation as an opportunity to "put our money where our mouth is." State expertise and accumulated knowledge can now be channeled into a cohesive, coastwide unit whose authority transcends the often-divided, self-serving policies of adjacent states. And, in turn, regulations stemming from that authority will provide for optimum yields to the various using groups.

Part of the solution to protecting the finite resources off our coasts is, of course, obtaining and enforcing international fishing agreements. The recently passed federal legislation allows for this and within the next few months the U.S. Government will actively seek and secure those necessary agreements.



Closer to home, we believe it to be imperative that an agreement with Canada be concluded as early as possible so that both the United States and Canada can get on with respective salmon programs which will produce more fish to the benefit of each country. The most recent meetings of the two countries held in May 1976 show promise of an early solution to the interception problem.

But let's look at other problems faced by fishermen, particularly salmon fishermen, problems I am sure you have heard about before.

1. Finite resources. As the natural environment declines, natural or wild runs of chinook and coho decline also. These are being largely replaced by hatchery enhancement; but cost is high and it is increasing.

2. Excess capitalization of fishing fleets. Next to the supply of salmon, the most important single issue affecting the economic well-being of the fishermen is, of course, too many fishermen and vessels. In 1975, for example, there were nearly 6,200 licensed salmon fishermen operating a variety of mobile fishing platforms in the state. As stated earlier, the salmon supply is relatively finite, thus it can be fully harvested with a given amount of certain kinds of gear. In my opinion, a fishing fleet not exceeding 2,700 vessels, "properly mixed" as to type of gear used, could harvest the salmon resource despite year-to-year variations in abundance. If this point of view is accepted, more than twice as many fishermen as would be required are presently serving no useful purpose and in effect are on welfare. The presumption here is, of course, that one goal of a salmon utilization scheme must be adequate income levels for fishermen--and this can only be done by limiting fishing power in proportion to the limited resource.

I am aware that if license limitation is initiated, financial ruin will come to some fishermen and it needs to be decided who will stay and who will go.

3. Catch transfer. Another problem facing inside fishermen in particular is the uncontrolled transfer of catch from one fishery to another. Puget Sound and Columbia River gill net fishermen have suffered repeatedly in seasonal cutbacks as more and more chinook and coho are captured in the ocean rather than in near-shore fisheries. Canadian fishermen have usurped traditional trolling grounds of U.S. fishermen off the west coast of Vancouver Island. This has been a passive thing--one fishery gains political advantage

or simply corks another, and gradually the catch shifts. It is, of course, a form of allocation and, from the manager's view, it has resulted from lack of rules or power to enforce rules about who has a right to catch what. The Boldt decision has had a similar effect, except that this is enforced, conscious allocation, and the only difference is that the transfer is obvious.

4. Waste from improper fishing techniques. It is admittedly difficult to determine precisely the amount of wastage that results from non-sensible fishing procedures. However, we can say at this time that the order-of-magnitude wastage of salmon from runs originating in Washington State is one-half to one million fish per year. One reason why some runs appear more diminished than they really are is that our fishing methods needlessly kill many fish that do not appear in the catch--hooking (shaker) mortality, gill net dropout, and other incidental deaths.

Improper fishing techniques often result in hatchery surpluses--the bane of the fishermen and industry. We know that sockeye, chum, coho, and pink salmon tend to enter streams at sex ratios not greatly different from 1:1, but where one sex predominates, it is usually the male. The ocean fisheries for chinook are selective to older fish and females; this, in addition to the peculiarities of life history, results in male chinook typically outnumbering females in the streams by three or more to one. These excess males include "jacks" and three-year-old males that are now wasted and serve no purpose. Progressive development of selective fishing gear or strategies to take advantage of taking perhaps another one quarter million of these fish has been prevented by restrictive regulation and legislation.

5. Interception. I addressed this subject earlier in another sense. Interception means to us that someone else is catching our fish or vice versa. The definition of "our" used by the United States as well as Canada is those salmon spawned and nurtured in streams on land that we own. The only additional point I wish to emphasize here is that a sensible salmon utilization system must promote protection and enhancement of the resources and promote the required investments needed to maintain that system. Because Canada catches such a high proportion (more than 50 percent for chinook and coho) of Puget Sound origin, enhancement for northern Washington, at least, makes little sense without an agreement to limit those interceptions.

6. The peculiar problems of the offshore fisheries. We have two primary offshore salmon fisheries: troll and sport. The values derived from each are

quite different; one provides income from sale of salmon as food, the other is primarily a service industry involving recreation where the food value of the catch is valuable but incidental. Therefore, the applicable seasons, size limits, and so forth are not, or at least should not be, based on the same criteria.

I previously commented that offshore fisheries for chinook salmon also have the unfortunate quality of selectively catching females and older, larger fish, thus changing the age-sex composition of the spawners in a presumably negative way. This occurs because males tend to mature at younger ages than females, with resultant smaller chance of being caught. Older, thus larger, fish are more susceptible to being caught because they stay in the ocean longer.

The Boldt decision has had a curious and somewhat ironic effect on the share of the offshore fishermen with respect to non-Indian inshore fishermen. Commercial fishermen have resisted this federal decision principally by assuring through the courts that the Washington Department of Fisheries does not have the authority to allocate salmon to treaty Indians. Since the decision talks about 50-50 catch division, court actions have occurred after it has become clear that the Indians cannot get their share late in the season. This, in turn, means that all the impact falls on the tail-end fisheries and, because the Department cannot allocate, it cannot spread the effects of this reduction more fairly over all non-treaty fisheries. The offshore fisheries had been taking a continuously greater catch share pre-Boldt simply because they got the first crack at the fish; so far, the Boldt decision has compounded this effect.

Summing up, a number of things need to be done:

1. Gear limitation--as soon as possible.
2. Regulation of offshore fisheries--already attempted and now in the courts for review.
3. Reduction of inshore wastage--special openings, gear research.
4. Settlement of the United States-Canada interception problem.
5. Enhancement of resources.
6. Resource sharing and the right to allocate. This will require special legislation.
7. Guarantees of non-extinction--maintenance of all viable fisheries, reduction of conflict, gear limitation.

## SYMPOSIUM: CANADA AND THE PUGET SOUND FISHERIES

### Introduction

Keith Murray, WWSC, Moderator

The title of the conference is "The Fisheries of Puget Sound: Public Good and Private Interest." Tonight is one of the "public good" sessions dealing with a topic that is extraordinarily complex. My role in this is to provide a little of the historical background. It is amazing how many of the conflicts that we have had in the United States, especially in the state of Washington, with Canada, have been over conservation or border questions. Usually they are tied together.

I remind those of you who are familiar with it, that our San Juan boundary dispute of the 1870's was mixed up completely with the "Alabama" claims and also the fisheries, but on the east coast in Newfoundland. We sat around for years and years and years trying to figure out the proper boundary between the United States and Canada out here in the islands.

After the purchase of Alaska, the United States took the position, roughly in the early 1880's, that all of the international waters between the Alaskan coast and the international dateline in the Bering Sea were territorial waters in which others could not fish, and speaking of 200-mile limits, it might be noted that this earlier claim was considerably bigger than that. An American naval vessel actually seized Canadian vessels involved in what was then called "the Seal Fisheries." A settlement of sorts was arranged in 1893. This got loused up again with the Klondike "gold rush," when the question became what the boundary should be in the panhandle of Alaska between British Columbia and Alaska. Once again the catching and killing of seals on the high seas was in question and it was not until 1911 when the seal population had been reduced to about 70,000 animals on the Pribilof Islands that the matter was settled.

There followed a kind of detante or thaw in relations that lasted until the first World War with the establishment of the International Joint Commission to deal with boundary problems between the United States States and Canada.

Arrangements regarding two other marine resources--halibut and salmon--were made after World War I. After prolonged negotiations in the 1920's the Halibut Convention was worked out, and instead of regulating the take of great 200 or 300 pound halibuts, overfishing had led to severe depletion and 20 pound halibuts, hitherto referred to as "chickens." The other species was salmon, and it took a series of man-made disasters before the two countries began to react. One of these was a kind of fish cannery war in August, 1909, when on a number of days during that month as many as a quarter of a million salmon were taken in Bellingham Bay alone. These were Puget Sound fish, not part of the Fraser run. The cannery could not possibly process that many fish. There is a picture in this building in the Jeffcott collection that shows just one trap in Bellingham Bay with 60,000 salmon in it. They did not make it to their spawning grounds up the Nooksack and, having been trapped and too many to be canned, they were transported to Orcas Island and dumped. I once asked a very old man who had been in the fisheries business back in 1909 why they did this. He said, "Well, it was primarily to keep our rivals from getting the fish." So the canneries took them all, and they wondered why the fish never came back. But in due course the International Pacific Salmon Fisheries Commission came into being.

To discuss the matter of mutual good between the two countries we have four persons: one Canadian and three Americans.

Comments of Donald McKernan,  
University of Washington

I am delighted that the chairman has talked about the North Pacific fur seals because this is an example of one of the successes of the Canada and the United States relations in the broad field of marine affairs.

I would like to start my discussion, if I may, by stating a couple of facts--(I believe them to be facts, at least). I think these two countries, Canada and the United States, have contributed more to the fisheries science, particularly as fisheries science relates to the management of living resources of the sea, than any other two countries of the world.

The second fact is these two countries have cooperated more in terms of international fisheries problems than any other two countries in the world. The most successful record of international fisheries management in existence today comes from the cooperation between Canada and the United States. To

take the example of the North Pacific seal populations: I happen to know a little about this as a former director of the Bureau of Fisheries, where I was in charge of fur seals. It is true that Canadians and Americans, as well as Russians and Japanese, hunted these animals until about 1911 when there were 110,000 animals remaining from a once-enormous herd. They were concentrated in the Pribilof Islands and the Robin Comodorsky Islands in the western Aleutians. An international conservation rally led by the United States and Canada brought about a recovery of this great sea mammal herd so that by the 1960's there were about a million and three quarters of these animals. In fact scientists from all four countries associated with the commission--the United States, the U.S.S.R., Canada, and Japan--believed that the stock had grown too high. Productivity as a result had been reduced, and so we began thinning the herd. This is a success story almost unequaled.

The halibut fisheries our chairman has mentioned also. This is another fishery in which many were from Northern European stocks, including Scandinavians, settled in British Columbia and the Pacific Northwest. They had so overfished these resources by the early 1900's that the two nations got together as civilized human beings at a time when there was not too much known about the science and management of fisheries. The two countries succeeded in rebuilding these stocks to the point that, whereas in the early 1900's the fishermen of the two countries had been catching about 30 million pounds a year, in the 1950's and the early 1960's the catch was about up to 70 million pounds. More recently the catch and productivity of that stock has dropped, not because of the actions of Canadian and United States fishermen, but because of foreign fishermen who have cut into these stocks in their search for other species in the North Pacific.

There are other records of success in the cooperation between these two countries. The International Great Lakes Fisheries Commission where the two countries saw an invasion of lamprey reduce the stock of Great Lakes trout and several species of white fish, some of them almost to zero. The two countries got together, formed an international commission, and by research and actions on the basis of that research, they restored to all of the Great Lakes the productivity of Great Lakes trout. In recent years both countries have introduced other species of Pacific salmon and in Canada a fish they call the splake which is a crossbreed. The productivity of the Great Lakes fisheries has been restored by cooperation among scientists and managers of these two countries.

In whaling, after some years of failure, cooperation between Canada and the United States has regained some control of this activity. Today all of main whaling stocks, in my judgment, are under adequate management and control.

The International North Pacific Fisheries Commission involving the United States, Canada and Japan, is another success story. Here we succeeded in restoring and preventing foreign fishing from essentially devastating the great runs of salmon from the Sacramento River in California to the Yukon and Arctic rivers in the north. It is true that the Japanese continue to take some stock of both countries--Canadian Yukon stock and our Bristol Bay stocks--but for the most part all of the salmon stocks of British Columbia are completely protected from the high seas fisheries of Japan in the central and western north Pacific as are the stocks of the United States and the Gulf of Alaska and further south.

The Northwest Atlantic Fisheries Multilateral Convention of seventeen nations is another example of what two countries working very closely together and applying what I really consider to be brilliant science with sound judgment and management can do, in spite of enormous increases in fishing effort in the northwestern Atlantic. Likewise, in the Interamerican Tropical Tuna Commission the two countries have cooperated.

The Fraser River, the Canadian river that produced enormous quantities of fish for both countries in the past, has an extremely interesting history that has been touched upon by our chairman. In the early years, of course, the major fishery was that of the United States. The Canadian fishery developed later and rather rapidly. The fish runs of the Fraser River themselves declined in 1911 and 1912 primarily because of the slides in the Fraser River canyon, following the location of railroads on both sides of the canyon. It took the scientists of both countries a number of years and a great deal of money to solve the ensuing problems. They succeeded in solving the technical problems which of course then led to further problems--management of these resources and the allocation and division of the catch. The result was the establishment of the International Pacific Salmon Commission. This has been uniquely successful. There are no salmon runs in the world, in my judgment, that have been so ably managed as these runs of the Fraser River, managed cooperatively through the commission and its very capable staff of Canadian and American scientists working together as a team under the supervision of a commission composed of Canadians and Americans. Even so, problems have

arisen because of the success. These problems are really the kind I think both countries welcome. They are problems of the United States wanting more of the runs, and the Canadians wanting more of the runs, and feeling that the division of the catch may not be adequate from either country's point of view. It certainly is better than quarreling or having problems because of no fish, or very few fish to be divided among the fishermen of the two countries.

So in recent years the two countries have sought ways to study the question of the intermingling of stocks of fish, not only Fraser River stock, but also the increasing runs of chinook salmon and coho salmon. These runs are primarily the result of the semi-artificial propagation by the United States. Heavy intermingling of these species taken by the enormously efficient troll fisheries of Canada and the United States has raised questions of interception, conservation and allocation in the last thirty years or so. As yet we have not solved the problems.

Recently both countries have enacted legislation to extend their jurisdiction to 200 miles. The Canadian 200-mile limit comes into effect January 1, and that of the United States on March 1. This extension of jurisdiction will have profound effect on the fisheries of both countries. Canadian fishermen fish off the coastline of the United States, they troll fish off the coast of Alaska and Washington, where they take very large quantities of salmon of British Columbia origin, as well as of United States origin. Likewise, the United States in the Straits of Juan de Fuca and in northern Puget Sound takes very large quantities of sockeye and pink salmon bound for the Fraser River, and some chum salmon and some king salmon also. The Canadians have a halibut fishery off Alaska, and a black cod fishery off Alaska. The United States has major fisheries for ground fish off Canada.

Now, of course, this suggests to the professional conservationist, as I hope it does to the interested public, that there are some common things that we must think about in unraveling this very complicated, complex problem.

In the first place there has got to be conservation of the resources. This ought to be the primary consideration of both countries, and conservation will require the cooperation of both nations. Regardless of where Canadian fishermen and United States fishermen fish in the future, there is no question that the two nations must work together in concert to adequately conserve these particular resources.

If you will grant me that particular hypothesis then of course the second



question is: How do you divide these allocated runs? In almost all cases these are fished by numbers of different kinds of people, from gill netters and purse seiners in northern Puget Sound, to trollers, sport fishermen, long liners, otter trollers, and so forth. One must consider the immensely complicated problem of providing a division, which on the one hand provides conservation resources, and on the other hand provides for a fair and equitable division of the catch. But what is fair and equitable? Obviously this is a problem that has confronted us for the last two decades in the revising of current treaties. On one hand, the United States and its fishermen believe that what is fair and equitable is what provides just about what we want. On the other hand, the Canadians think that the present division according to the Fraser River treaty is a Canadian river. The Canadians have given up certain things that were not given up in the Columbia River, for example, when that river was developed for reclamation, navigation or flood control.

These particular complicated problems are the ones that the negotiators of the two countries are attempting to resolve. First, they are trying to provide a balance in the interception rates, and perhaps a reduction in these rates; secondly, adequate conservation of the resources; and thirdly, allocation of five species of salmon among perhaps a dozen different groups of individuals in the private sector on both sides of the border.

In my judgment considerable progress had been made and considerable understanding achieved. Progress has been made towards understanding and agreeing on ways to conserve the resource on one hand, and to provide for a reduction of intermingling on the other. There are still difficult problems of allocation among the users to be resolved. But I must say that if anywhere in the world these particular issues can be settled and achieved with good will, with fairness and understanding on both sides, it is here in northern Puget Sound, where the interests of the two countries, the background of their people, and the precedence that has been set here, such as has been set nowhere else in the world, should lead to a successful and fairly early resolution of these particularly complicated matters.

Comments of Robert L. Monahan  
Geography & Regional Planning  
Western Washington State College

I am here to speak for the largest international group interested in the salmon--the consumers. The new "old" approach to the salmon problem will please many, offend some, and enrage a few. However, it will have the effect of reducing some of the points which create international friction; it has the potential for providing balm for the offended, may soothe the enraged, and it also has the potential for providing more and cheaper salmon for all those who enjoy "our greatest food from the sea."\*

The title I give to this revolutionary new treatment of the salmon industry is "The Consumer Approach to Salmon Management and Harvest." The basic theme underlying the consumer design for the salmon lies in the primacy of the owner and ultimate user of the salmon, the public. Because salmon are a common property resource and because consumers outnumber all other interested pressure groups, organizations, associations and assorted (or sordid) assemblages, satisfying the needs and demands of the consumer will bring the greatest amount of satisfaction and will benefit the productivity of the salmon resources as well.

The following principles are basic to the Consumer Approach:

1. Maximum efficiency in harvest--efficiency here is the economist's use of the term indicating minimization of costs.
2. Maximizing production of salmon.
3. Maximizing efficiency in processing.
4. Maximizing efficiency in marketing and distribution.

Judicious application of the above principles should result in minimum cost to the consumer, a primary interest for myself and for many. It could also result in an increased return to the owners. Income generated here can be used to enhance the resource and/or lighten the tax burden on the public, the owners of the resource.

Let us briefly look at the principles, concentrating on the ones which influence international aspects of the fishery. The harvest operation is the portion of the industry which is most involved in international relations and which is also least efficient. The inefficiency of purse seines, gill nets,

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\*The modest label attached to canned salmon by the Salmon Packers Association.

trollers and reef nets in harvesting salmon is well known. With the possible exception of reef nets, all forms of gear mentioned are involved in various parts of the international problems of salmon and even the stationary reef net gear is part of the international regulations governing the Fraser River runs. There are interception problems involving salmon destined for Washington streams along the west side of Vancouver Island. There are problems involving the interception of British Columbia fish off the coast of Washington and of course there is the annual juggling act of dividing the Fraser River runs equally between B.C. and U.S. fishermen.

The management of the fishery can be greatly improved by harvesting at or near the river mouth of origin. This seemingly revolutionary concept was practiced by the Indian people of the region for many hundreds of years. I was pleased to learn the Department of Fisheries and the Indian people of South Puget Sound are thinking of reviving this form of harvesting in the Budd Inlet area. The equipment invented and developed by the Indians has been little modified by technology because, since 1891, in the state of Washington we have struggled to make the fishery less efficient! This has served as a strong deterrent to those who would build a better fish trap or other catching device. Fixed gear, such as a trap, operating at or very near the mouth of a stream harvests the fish which spawn in that stream, and if all salmon harvest is conducted in this fashion, the interception problem, an important issue in international salmon management, would be resolved. If a trap or other more efficient live holding device was used it would permit optimum escapement into each stream. Fisheries biologists have the techniques and tools to make assessments of optimum numbers of spawning fish on a stream-by-stream basis. In addition, it would permit selective breeding and, over the long haul, a general increase in the size and thrift of the fish. The feasibility, practicability and results of breeding improved stock have been well established by Emeritus Professor Loren Donaldson of the University of Washington.

What does all this have to do with Canada and Canadians? As indicated earlier, it reduces the points of friction and allows clear segregation of the races of salmon on the basis of their national and natural origin. It also would benefit the Canadian consumers, and there are many, by giving them a greater quantity of salmon at a lower cost so that the average working man of even the Atlantic Provinces might again make the acquaintance

of both fresh and canned salmon.

Now, is the proposer of the above a heartless demigod with no concern for the humans involved but solely interested in improving conditions for salmon production? Of course not. The interest in improving the human condition of millions of consumers has already been stated, and my concern for the thousands of fishermen, some of whom are (or have been!) my friends and acquaintances, is deep-seated, long standing, and sincere. The fishermen must be reimbursed for their investment with the normal allowances for depreciation, etc. They must be given an opportunity to shift to other gainful employment or, in many cases, to fish until reaching the age of retirement. New entry would be stopped and fishermen and gear phased out over an extended period of time. It might even be necessary to extend opportunities to acquire entry skills into new occupations, but the versatility, resourcefulness and ingenuity of the individual fishermen have been a source of wonder and admiration to me for many years.

In Washington State we are at a point which makes a move toward this plan very attractive. Non-Indian fishermen complain that they cannot live with the Boldt decision, and Indian fishermen are not fully geared to take their half with conventional gear. I think the primary interest of the Indian peoples is receiving their share of the fish and not in catching them in ways developed by non-Indians. We heard earlier in this conference that there is more than twice as much gear as is required for efficient harvest with our inefficient techniques.

We must set a date towards which all groups, international and domestic, can work and 1991 or 1996 seem conservative and reasonable in terms of working out the details and retiring the bulk of our active commercial fishermen and gear. We, the consumers and owners of the resource, must also forego the short-run benefits of the saving for the humanistic goal of minimizing the hardship on our fellowmen who are fishermen and for the long-term goal of producing more salmon at lower cost. If we can use our respective Canadian and American energies constructively to attack the problem of producing more salmon at less cost and in the process minimize the international friction, millions of consumers on both sides of the border will benefit.

The earlier-stated goals for Canadian and American consumers, of greater efficiency in processing, distribution, and marketing, have not been dealt with and are not of critical international concern. However, I am certain

benefits would come from international cooperation in improving efficiency in these areas. The details of increasing the efficiency in the production of salmon have not been discussed, but the value of international cooperation among biologists responsible for this aspect of the Consumer Approach has been clearly established.

Let us get moving on the issue of improving things for the owners of the resource who are also the consumers. In the process we can minimize the hardship on the individual fisherman and alleviate the major areas of international friction. Much more can be provided but let us take up those issues in the discussion and perhaps even in future conferences which focus on various aspects of the Consumer Approach.

Comments of The Honorable Robert Wenman  
Member of Parliament for Fraser Valley West

Canada is a very young country. In international affairs it is cautious. We have good reason to be cautious because we have so much to lose. We have, of course, much to gain in a world of peace, but I must say that as Canada enters negotiations of any kind with the United States there is fear of the giant.

For those of you who are United States Citizens it is perhaps hard for you to realize what a giant you are. A few statistics might bring things into focus. The population of Canada is about 22 or 23 million. The population of the United States is around 250 million; multiply the one by ten and you are pretty close.

As Bellingham feels the influence of Vancouver, so Canada feels the same kind of cultural influence overall. When you think in terms of money, the budget of the United States is, I believe, somewhere around 410 billion. In Canada this year we passed a record budget of about 41 billion. So there is a big money gap. Yet we appreciate negotiating with you because we have so many problems in common and, in fact, as our Peach Arch tells us, we are "brothers of a common mother." I feel therefore that I can be frank with you tonight.

If we look at past negotiations between Canada and the United States you will understand why Canadians are a little bit skeptical about some of the agreements. Look at the 54°40' agreement or at the Skagit agreement. They

looked so good at the time. Or even the Columbia River agreement which is being questioned now, or at the Hell's Gate agreement by which Canada gave away much of its fishing rights in perpetuity. It is so astounding that it is not even an issue anymore, because I think there is general agreement that this really cannot continue. Few American citizens really hold it as a viable agreement today. Americans should be complimented for their skillful negotiation, at the very least.

Coming to tonight's topic I get a little bit concerned. I hear talk of this common property resource of fisheries. Immediately I become suspect because I start to wonder what we mean by that. Do we mean that we are looking at the general question of continental resource policy? That we somehow share a common continent with common resources and that we should have equal sharing of these resources? I can assure you that Canada has long since rejected that position.

So, as we consider programs like the enhancement program for which Americans have very generously offered money and assistance to help us get it going, we can only say that we appreciate their generosity, but that Canada has decided to go it alone. In other words, we accept responsibility for the program even though we do not at the present time have the resources to carry it through. To us a \$300 million program, out of a total \$41 billion budget, is a lot of money. This is a big commitment for Canada, but a commitment we are placing towards enhancement now.

I could talk for some time about the boundary agreement. As our negotiators meet today, Canada has taken a rather strong position. As I understand it, basically we are saying we will start from point zero and start to re-negotiate all of our agreements, and to move forward on this basis. I admire the courage of our Canadian negotiators but somehow the fear of the giant rests in the back of my mind. I will be very cautious before I support my government in its signing any kind of an agreement. But to get back to fisheries, and to canvas negotiating attitudes I will quote Dr. Larkin of the University of British Columbia, who well states the Canadian fear of the giant in the matter of fisheries. Accordingly the government has

chosen a creeping approach favoring a half-hearted commitment to science, a weak-kneed approach to license limitation, a blunt-elbowed approach to international negotiations, a soft-headed approach to subsidies, and a long-winded approach to planning. The approach is typically Canadian, deliberate to the point of being paralytic, and lacking any clear focus on

long-term national goals. Perhaps our fisheries policy will however turn out to be a triumph in advertance. Fortunately the pressure of Canada to develop its fisheries because of our low density population, and so forth, has not been as great, and hopefully we can learn from other fisheries of the world about enhancement programs and we can take from those programs the problems and carry them forward. The lack of action we have taken might in the longer term prove to be the most positive thing we could have done.

The fact in fishing at the moment is, as long as anyone is free to go fishing, that there is no alternative in the fishing industry except for our fishermen to become more efficient. As a fisherman I am speaking of the commercial fisherman as opposed to the sports fisherman. But as the competition increases, in order to survive he must become more efficient. As he becomes more efficient, the fishing stocks will be overharvested. The scientist in turn will invent new restrictions, the industry get more frantic, the government administrators more harassed in their attempts to gain control. Moreover there is no sense in limiting the number of fishermen unless you are prepared to reduce their numbers as they become more efficient. Also we observe that we have a salmon fleet that is at least three times more powerful than necessary. We have far more east coast fishermen in Canada than we need, most of whom are fishing in an uneconomic manner, however charming and quaint the decaying fishing villages of the east seem to be. In the world fisheries as a whole, there is one awesome fact. That fact is that there are enough fishing capabilities to take twice the present world catch, were they not regulated to prevent their reaching that full potential.

In Canada, for example, we have 20,000 fishermen on the east coast, 11,000 on the west coast. What we are doing by maintaining this level of fisheries in Canada, is providing a guaranteed annual income. Unfortunately the guaranteed annual income tends to be around \$1,500.00. Surely the fishing industry would be better off not having 31,000 fishermen at \$1,500.00 a year but, say, 10,000 fishermen at \$5,000.00 a year.

Perhaps this is the kind of thing that we need to look towards. This is, of course, very difficult. If we were to look strictly at the fishery programs as we should do, we would look to some of the scientific and technological knowledge that is available to us. We would apply science to the ocean as we have applied science to the earth in so many of our resource fields. Within the fishing industry we hear of exotic programs of satellite operation for

monitoring sea conditions, and detecting numbers and locations of fish stocks. Salmon taken at traps could be sampled using spectrometers that could instantly feed data to a computer that could identify their origin. An hour-by-hour compilation of catch, with comparison of historic statistics, could ensure tighter control over harvest stock. A variety of electronic gadgets could record movement of salmon upstream to insure that any delays were quickly investigated, and any obstacles quickly removed. Special breeding programs could develop new strains of salmon that would go to certain parts of the ocean. And on and on it goes.

We know of modern harvesting facilities where we could cut back the number of plants, and take with very few fishermen the full harvest in a much more efficient way. Unfortunately this is not socially acceptable because of the traditional fishing patterns that we have, the nature of our fishery communities, and the attitude that still prevails that somehow the sea is open for all that wish to fish.

There is too much boat and plant capacity for available resources. This is the result of open access to the resource. This access must be curtailed and controlled. But to curtail and control this access means the curtailment of one of those great natural freedoms that we talk about, the freedom to go to the sea and catch fish. We do not look at it as a harvest, we look at it as a right. To curtail that right has very severe philosophical and psychological implications, let alone the distress and conflict that will result between competitive interest groups, be they sports fishermen, commercial fishermen, or the vested national interest of the sovereign states.

However we are making great strides forward, and we are moving into areas of the unknown as we develop the 200-mile limit. Unfortunately, for Canada and the west coast the establishment of 200-mile limit really has limited significance. Although we have declared our 200-mile limit, it is rather meaningless and empty when you recognize the restriction of the Alaskan pan-handle and the concept of interception. So it is of utmost importance to Canada, and to the United States that new agreements be settled quickly, fairly, efficiently. While these are being discussed there are many areas of continued cooperation. I like the tone of debate here tonight. I like the seeming willingness to be cooperative, to move to negotiated settlement. But as we move towards negotiated settlement I want to say on behalf of Canada that while fifty years ago we might have seemed open to a velvet-gloved seduction



into a continental resource policy, and while we now might well obtain a courtship in today's society, the kind of contract we are going to bargain for is a contract of equal partners. I am not saying when I hear mention of a continental resource policy that I fear negotiations with the United States to the extent that I will not participate actively in good faith. But the United States must be prepared to meet a Canada that wants, expects, and insists upon an equal partnership. Compromise and cooperation will only be achieved when the sovereignty of Canada is recognized the the vested interest of Canada is recognized as important as the vested interest of our great friend, the United States.

#### Comments of Henry Wendler

I would like to be more or less a devil's advocate tonight and look at a sidelight Professor McKernan has alluded to, as have other panelists. Really what we are talking about is the plight of the Puget Sound fishermen versus Canada and the plight of the Puget Sound fishermen versus the gill netters of the Columbia River, Washington sportsmen and, as Dr. Monahan pointed out, the citizens of the state--taxpayers and consumers. Look at it from the state point of view rather than United States versus Canada. The state has an obligation to all of its citizens irrespective of whether they are sportsmen in the Columbia River, gill netters in the Columbia River, trollers, etc. The Northern Puget Sound Fishery--and this is where I am being somewhat of a devil's advocate--is very dependent on Fraser River salmon, particularly sockeye and pink salmon, but those other fishermen that we have an obligation to do not have as great a stake in, say, the Fraser River as do the Puget Sound fishermen.

As a result, on an overall basis, the state has always advocated a settlement of the interception problem with Canada, and in much the same way as Mr. Wenman has stated, so that each country could provide its citizens with the benefit of an enhancement program that they paid for. This is exactly what I pointed out earlier this afternoon in the panel on "Problems of Fishing Industry." We want to promote protection of our own resources and enhance them for the benefit of all our citizens. It is an important thing to remember.

I will end on more or less a questioning note. If we continue in the same vein as now, with no agreement on the interception problem, I wonder what

the Puget Sound fishermen would do if eight hundred more gill netters from the Columbia River and, say two hundred and fifty more gill netters from the coast decided to fish in the convention waters?

SYMPOSIUM: THE BOLDT DECISION AND ITS IMPACT

ON THE PUGET SOUND FISHERIES

Comments of Mason Morisset, Seattle

If my remarks this morning had a title, it would be "The Boldt Decision, The Agony of Victory and the Joy of Defeat." I say that because the decision has had that effect on the Indian tribes here in Western Washington. It has been an agonizing victory, a victory which has led almost to more difficulties than existed before the decision and a victory which has not led to a great increase in fishing in terms of income to individual fishermen. I would like to address a few remarks this morning to you about a basic concept, constitutional law and history, which are necessary to understand the Boldt decision. We find as we go about the state talking to groups about the Boldt decision, that everyone knows about it and has an opinion about why it is right or wrong, but no one really understands the background or the context in which it was decided. I find, for example, that most people do not realize that it was not the white man who discovered the northwest territory, that it was not really owned by France, and purchased from them by the federal government, but rather the northwest was Indian territory, and historians and constitutional lawyers agree that before our land here, the state of Washington, was settled by our ancestors, before the property claims of France were extinguished by the Louisiana purchase, before the property claims of Russia and Great Britain and Spain were extinguished by purchase or negotiation or conquest, the Indian tribes had what we call dominion and control over this land. They were the sovereign nation in this area. And in that capacity they had not only dominion and control--which is a governmental concept, concept of a sovereign, the right to oust those who do not belong, to engage in warfare to protect a territory, and so on--they also had absolute and exclusive property ownership.

So we see that before the treaties that we have heard so much about, the Indian tribes had a melding of two of the most powerful ideas in the Western world, dominion and control of government and property ownership. And that was the situation when the westward expansion began. Now dominion and control

being a governmental concept, and an international law concept, can be lost by various means. In the case here in the northwest territory, dominion law was de facto lost in conquest--either violent or non-violent--or by creeping incursion of the white man into the area by settlement, by increasing military presence of the federal government, the setting up of territorial government, and so on. So we find that by 1850 the tribal dominion and control of the northwest territory was rapidly passing away. Here in the Puget Sound area, the tribes had been somewhat less warlike than tribes further to the east, so that their dominion and control was lost by a kind of sliding process of others simply moving in, setting up a government, settling the land, and taking over. East of the mountains things were a little bit wilder. We have all read about Chief Joseph's problems with the military in the late 1870's. But here in Puget Sound dominion control gradually gave way to this process of moving in, with the federal government taking over and establishing a military presence.

However, none of that action, that is the effective takeover of the northwest territory, worked to end the Indian ownership of the land, the water, everything in and on and below that. This is something that I think most people fail to understand. I hear many speakers and writers talk about the treaties granting or giving something to the Indians. Exactly the reverse is true. The United States Congress and every court that has had a chance to examine this has come to the same conclusion: that the treaties were grants from the Indians to the white men, because the tribes were the owners of the land, the waters, the fish, the game, the trees, and they agreed to give up that ownership, giving some of it to the white man, and reserving some for themselves. And that gets us to the question, what did they reserve? I am sure, as many of you know by now, the treaties which the Boldt decision considers all contain similar language to the effect that the right of fishing and hunting, in common with other citizens of the territory, would be reserved for the Indians. The question therefore becomes, "Having had the right to fish and hunt for all the fish, and exclusive ownership rights, what did the Indians give up?" Judge Boldt has held, as many of you now know, that they gave up the right to half the harvestable fish. That is all they gave up. They retained everything else; all other rights of ownership, all other rights of governmental control, and those rights continue today.

Now it is a well known principle of constitutional law that the treaties made by the Congress of the United States, technically the Senate, are the

supreme laws of the land. There is a clause in the constitution that says this. This is a simple point that is missed by many people. We hear arguments that the treaties are unfair, or that decision is unfair, because a certain class of people have rights under it that they are superior to people of another class. This is somehow supposed to be unconstitutional. The argument is circular, because the treaties themselves and their provisions are constitutional. They are part of the constitution, they are part of the supreme law of the land. To that principle that the treaties are the supreme law of the land we add the principle that has been held by the United States Supreme Court since the beginning of the Republic, that the rights reserved in a treaty do not pass away, do not go away, do not end by the passage of time. They can only be ended by the action of the United States Congress, which action would have to be taken with consideration of substantive due process of law. That is, there can be no taking of property without due compensation. So we have two principles that we need to understand about the treaties: 1) They are the supreme law of the land, superior to state law, binding on all persons, all courts, all judges. The rights reserved therein are of an equal stature with all the rights granted in our constitution, or bill of rights. 2) Whatever the rights are, they do not go away through misuse or non-use or the passage of time.

Thus the question became in the Boldt decision, as it had been in numerous other cases that have been fought over the years, "What is the nature of that right that was reserved?" There is no question that it was reserved, no question that it is the supreme law of the land, no question that it has not disappeared with the passage of time, but what was the right, what was the definition of that right? Judge Boldt found essentially three things. He found that the state had no authority to regulate that Indian fishing, except in the interest of conservation. He decided that the concept of fishing meant to take only those fish available, that in effect if you took more of those fish than were needed to perpetuate the run of a species, you were no longer fishing, as it is commonly understood today, rather you were destroying a resource. So he held that a state did have residual power to regulate for conservation, to protect run species from destruction. Beyond that, the state of Washington as a state government has no power to regulate the federally protected fishing rights, a right which is superior under our constitutional law. It is part of our constitutional law, part of the supreme law of the land, and state laws must be subservient to that.

Secondly, he held that the phrase "in common with" meant sharing equally, and that at treaty times, the Indians must have understood the phrase to mean that they would have the right to half the fish taken off the reservation, and the non-Indians would have the right to the other half. Thus we have argued in court, and not gotten too far with it because at treaty times we do not think the Indians anticipated the great crush of population that would be upon them. They probably had no thought that allowing a few whites to fish in common with them at their usual places would lead to a situation where they were vastly outnumbered, in terms of fishermen, types of gear, and so on. Nevertheless, Boldt did hold, and it was supported by the evidence, and supported by constitutional theory, that the two parties to the treaty, the Indian tribes on the one hand, and the federal government on the other, had agreed that each party should get half the fish.

Thirdly, Boldt held that this dominion and control, which I spoke about earlier, as to regulation of treaty fishermen had not gone away from the treaty, and he held that the treaty tribal government could, under certain circumstances, regulate treaty fishing. It is often said that the Boldt decision states that the Indian fishermen may regulate themselves. That is simply incorrect. The Boldt decision holds that of three governments that might exercise regulatory control, federal, state and tribal, in certain circumstances the tribal government would have that authority over the fishermen. We could go on and on regarding the details of the decision and of the numerous rulings of the court. I was going through my personal time records and discovered that I have been in Boldt's court fifty times since February 1974 when the decision was handed down. A variety of reasons account for this. Numerous problems have popped up, leading to numerous proceedings which turned out not to be necessary at all. There are also continuing problems which have not yet worked themselves out. Among these problems are the natural versus artificial question on which the State Supreme Court handed down an opinion, that the Indians were not entitled to artificially propagate steelhead in the Puyallup, a decision which makes no mention of United States versus Washington. The latter case has been upheld by the Ninth Circuit Court and has been denied tertiary hearing by the Supreme Court. There are problems about what species are to be included within the ruling--herring have already been held to be protected, and it is no secret that we plan to expand protection to other species which can be shown through anthropological evidence to have been within the realm of fishing at the time

of the treaty. What is probably going to become the knottiest and most difficult problem is the problem with the Sockeye Commission. Under the International Pacific Sockeye Act we have problems with the bilateral agreement with Canada which allows, in our opinion, excessive trolling off shore of Washington waters. We have now the 200-mile zone fishing legislation, which will set up regional commissions to regulate off-shore fishing, all of which affect not only those tribes which have usual and accustomed places in the ocean but all Puget Sound tribes who are concerned about what goes on there in terms of getting fish back in their usual and accustomed places along the rivers of the Sound.

So far the victory, which it was in legal terms, has been an agony for the Indian tribes. The first year of the decision, the tribal share of major runs actually decreased. We have seen propaganda which quite frankly upsets me, published by a federal agency, which indicated that in the first year of the decision fishermen experienced extreme economic distress because of the Boldt decision, and that was simply incorrect. What has happened in the commercial fisheries has been raging inflation, particularly in the cost of fuel; the issuing of an extra 700 gill net license on top of already too many licenses; not to mention poor fish runs in 1974, and other problems. Those factors have been the root causes of displacement of commercial fishermen. We do not have the final figures for 1975 yet. I think these will show an increase in the Indian share, but it should be clear that the displacement from non-Indian to Indian has so far been quite slow and gradual. We do want to displace the fish eventually--that is the whole idea of the decision--to eventually have Indian fishermen as a class catch 50 percent of the harvestable share. They are not anywhere near that figure yet.

In brief, the Boldt decision has not, by itself, caused the severe economic dislocation the commercial fishermen have experienced. There are other factors at play, one of which is that there simply are not enough fish. If we can agree that there is need for more effort, more federal money, more private money to enhance the fishery, things will be improved for all citizens. For their part the Indian tribes are putting their mouths where their pocketbooks are. The Quinalts already have an active operating fishery. The Makah tribe, which my firm represents, is now in partnership with the federal government to build an \$8 million hatchery. The tribe is providing the 130 acres necessary for that, and on their small budget this contribution represents far more of

an effort than the federal effort. The Lummi are partners in the hatchery business with the Nooksacks. The Tulalip tribe has fish-rearing ponds, and various other tribes are making important efforts to enhance the fishery for the benefit of all citizens, and that we hope will be the idea of the future, to get together to produce more fish.

Comments of Bill Lowman, Anacortes  
Puget Sound Gillnetters Association

Instead of being a neutral presentation Mr. Morisset, acting as an attorney for the Indians, has given a presentation favoring the treaty Indians, and I am faced with a very limited time to try to respond.

First of all, in order for any treaty to be the supreme law of the land, as Judge Boldt, as well as most attorneys for the Indians, the Indians themselves and many panelists yesterday and today have said, it must conform to the Constitution, otherwise it is not the supreme law of the land. The supreme law of the land is the Constitution itself together with legislative acts which do not conflict with the Constitution. The first case which pinpointed this was the case of Marberry versus Madison. Our great Chief Justice John Marshall, writing the opinion for the majority of the court, stated that any legislative act which is repugnant to the Constitution must be declared null and void. A treaty has the same force as a legislative act. Therefore, any treaty which does not conform to the Constitution, which conflicts with it, which is repugnant to it, must be declared null and void, or at least those parts of the treaty which do not conform to the Constitution of the United States must be declared null and void. The Point Elliott Treaty of 1855, as originally written by Governor Isaac I. Stevens, and agreed to by some 27 Indian tribes in January 1955, and which we have lived with all these many years since, was a valid treaty. Time cannot erase that, not time alone. We had no quarrel with that treaty. We continued to live with that treaty until Judge Boldt distorted it. He actually rewrote the phrase, or the paragraph in regard to fishing, and by so doing came up with a miscarriage of justice which is working a hardship on all citizens of the state of Washington, including Indians.

There have been many other cases involving Indian treaties such as the Cherokee tobacco case, the Cherokee nation versus the United States, in which it was ruled that an Indian treaty must conform to the Constitution of the



United States. The thinking was this. If, in fact, one treaty can rob you of one of your rights, enough treaties could rob you of all your rights. Then you would have no constitution, and you would have no United States. This is the simple doctrine which our supreme court has consistently upheld down through the years. It is a very sound concept, very easy to understand.

However, when Judge Boldt came up with his incredible decision, he twisted the treaty to where it was no longer constitutional, although this will have to be tested in court. Why is it unconstitutional? It is unconstitutional because it has set up class citizenship. It has made the Indians a super-citizen. Indians now have many rights which other citizens did not enjoy in the first place. Because of their unique position they may be at one time or another wards of the government, at other times strictly sovereign people, and at still other times citizens enjoying all the benefits of citizenship, having been made citizens June 2, 1924. Now with the Boldt decision they now acquired rights which would certainly cause Governor Stevens to roll over in his grave.

The case of the Indians versus the state of Washington has been tried many times. Prior to 1921 there were five cases which tested the fishing clause of the Indian treaties, and each time it was ruled that the state had the right to regulate the Indians once they were off reservation. In the classic case of Yakama versus Washington, when the tribe called upon General Hazard Stevens, the son of Governor Isaac Stevens, to be their prize witness in this particular case, they hoped he would get on the stand under oath and state that "usual and accustomed places," meant any place. He did not do that. When he took his place on the stand he stated that he had been a witness at the signing of the treaty, and testified that his father had explained to the Indians over and over again that once off the reservation they were subject to the same laws of all other citizens of the United States. Consequently, the Indians lost that case, and they have lost consistently through the years in state courts, and as far as the Supreme Court of the United States. Included are the cases of Billy Shuckake versus Egen, Nisqually 1, 2 and 3, and Puyallup 1, 2 and 3.

In none of these cases was the doctrine of apportionment, of dividing the fish considered by any court. As a matter of fact, quite consistently the other way around. Justice Douglas, in one of the most recent opinions, wrote the majority opinion, with all justices participating, in which he definitely ruled out any apportionment of fish. The idea of "in common" was the same as

we are using these lights in common. Anyway, we could go on and on with court cases here, but as I say, consistently our Supreme Court has ruled that the treaty as written by Governor Stevens and signed by the Indians was a valid treaty, and that it should be adhered to with full understanding of the language in it. The words "in common" are our big problem here. Judge Boldt put an interpretation on the words "in common" which no other judge has ever done. In Black's Law Dictionary the words "in common" are taken to mean that there shall be no numerical division inferred. In the Yakima treaty, for example, there is mention of using the highway in common; everyone knows what that means. The Indian knew, we knew. Is there anyone in this room who ever thought that the words "in common" meant a percentage of the use of anything? Yet Judge Boldt found, for whatever reason, that the words "in common" had a numerical meaning. By so doing he has created this Frankenstein with which we are now saddled, and with which we have to wrestle.

He has also said that "To my drying breath I will see that it is implemented." Well, it is going to be a question then of who dies first, isn't it? I am not speaking of violence; legal channels are what we are referring to. Every time a legal effort is made to enforce the Boldt decision, I can assure you that the commercial and sports fishermen, and many other people are beginning to see that they also are implicated in this horrendous thing, especially when phase two is put into force. This merely says that anything adverse to the runs of salmon is also Indian business, meaning that the environment now becomes almost the total say of the treaty Indians. This, of course, will give them control over nuclear power plants, dam building, channel building, siltation, irrigation, logging practices, dumping of any kind of implement into any kind of water which will eventually end up in a stream or river and eventually into the ocean. Great and broad powers are involved here. The Indians have in fact already started a suit against Puget Power on the Stoop River Dam, Puget Power having built the dam a long time ago, twenty-five or so years back. The suit is for some \$45 million. This is the type of thing that Judge Boldt has set in motion with phase two.

Judge Boldt is so far out that most attorneys with whom I have spoken--except those representing the Indians--and who have had the opportunity to prosecute non-Indian fishermen, hesitate to do so. Pick on any technicality. Judges have questioned the constitutionality of any charge; they would rather throw it out on a technicality. These judges feel it is morally wrong to

arrest one citizen for what another citizen can do and get away with legally. They have stated this. Your own Judge Leslie A. Lee of Whatcom County, stated this when he released last summer many fishermen who had been arrested while fishing alongside of Indians, who were fishing there legally under the Boldt decision. Judge Rough of Pierce County gave a definitive statement in regard to enforcing the law of one citizen while letting others go free. But, rather than listen to me, let's listen to our own Supreme Court Justice Hugh Rosellini on the matter of hatchery steelhead salmon recently. In referring to Judge Boldt's ruling he said:

I feel that any apportionment of the fish run is contrary to the treaty, and the constitution of the United States and Washington. Apportionment cannot be sustained by the law, or the facts of the case. I find nothing in the language in the treaty of Medicine Creek or in the treaty of Point Elliot that would even imply that fish runs are to be apportioned between the Indians and the white settlers. In fact, the treaties negate any such interpretation. . . .

There is no word in any of the articles, or in any other treaty to suggest that either the Indians or the white settlers intended the Indian tribes to have a superior right to fish not equally enjoyed by all citizens of the territory. . . .

None of these treaties contains a hint that the Indians would acquire fishing rights superior to the citizens of the territory, or that the Indians would have a property right to 45 percent of the fish runs, or any fraction of any fish run. The treaty gave the Indians and the settlers a right to be held in common, the privilege or opportunity of catching fish.

In conclusion, it must be remembered that before the incredible doctrine of apportionment was announced the Indians had the same right to fish, and in the same manner as non-Indians. The treaty Indians could fish as sportsmen, or as commercial fishermen, whether it was by trawling, gill netting, or set net. I would hold that the treaty does not permit or contemplate any allocation of the fish, but rather the opportunity to fish and catch fish in the same manner as any citizen.

Comments of Steven Chase, Everett

My sympathies are naturally with the non-Indian fishermen with whom I have worked for so many years. They are just great people--industrious, honest, fiercely independent, loving their chosen work. It would be difficult to think of a group of people less deserving of this cruel shambles. Nonetheless, it seems to me that the treatment of Indians by our forefathers, and indeed even in our lifetime, is one of the blackest stages of our history. If the Indians do not come out second best in this present legal tangle, it will be the first time in my remembrance that they ever came out other than second best. I am not nearly as familiar with the legal technicalities as many of you in the room, but I am impressed that it was reviewed by the Ninth Circuit Court of Appeals, and reviewed by the United States Supreme Court. I do not think it is going to be changed in the near future. Modified, yes.

It is my judgment that the commercial fishing industry would be better advised to spend their time in trying to improve the environment for salmon and in attempting to see that more salmon are propagated. I think that the time is right. There is enormous sympathy for the industry with the voters of the state of Washington. If the commercial industry would come up with a program to increase the runs for salmon, the people would support it with the necessary funding.

Marvin Durning says that one of the keystones of his platform in his candidacy for governor is that enough money will be spent--\$250 million is the figure that he comes up with--to increase the salmon run. It is a popular thing. I am distressed that the only action on this thing is Initiative 52 sponsored by the sports fishermen. I would suggest that the interests of the sportsmen are not synonymous with those of the commercial fishermen. Therefore I would suggest a four-point program: 1) The hatchery and fish farming program must be expanded. At the University of Washington they have a little pool that is four feet wide, and one foot deep, and they bring in so many salmon that have been artificially started that it was the fourth most important farming stream on Puget Sound for the chinook salmon run. 2) The characteristics of salmon must be improved. All of you are familiar with the work of Professor Donaldson by which the number of eggs in the females have been increased from 2,500 to 10,000 and the length of time at sea for the average fish has been decreased from four, five or six to under three years. 3) Timing of fish runs should be improved. Hatcheries now receive

almost all salmon on Puget Sound in September and October. We need spring runs of fish, new runs such as have been introduced into Lake Washington, like even-year humpy runs. 4) A boat buy-back program should be instituted such as has been so successful in Canada.

Comments of State Representative John Martinis, Everett

I think emotions are running fairly high today although this is probably the most rational group that I have sat down with to discuss the Boldt decision since its handing down. I think there is something we have to face now, even though Mr. Lowman does not agree. The Boldt decision as it stands now is the law of the land. It may not be written into the constitution, but it is a judicial decision basically that we have to obey.

What are we going to do about it? Are we going to sit around the conference table and throw barbs at each other, criticize? When are we going to sit down at the table and talk about recovery from the shambles that the fisheries is in in the state of Washington because of a court decision? I personally disagree with the Boldt decision. I think he went too far. We can talk about a 50-50 split. But it's not a 50-50 split. It's a 70-30 split. It's 50-50 of the off-reservation fishing. That's never been brought up here. The Indians are also entitled to their ceremonial fish, and subsistence. I'm not bringing that up as an argument. But I think that we have got to sit down, we have got to talk about it. We have got to put it back together again. I like what has happened in other battles around the country on racial issues, on minorities. I think what is happening here is that we are polarizing the citizens of the state of Washington right now. They are not willing to talk. They are enemies. They are throwing barbs at each other. Until we can stop this, we are going to continue to have problems with the Boldt decision, and we are not going to be able to handle the fisheries in the state of Washington in a rational manner.

Until fisheries is brought under a single management concept within the Indian nation and with the non-treaty fishermen, the Indians are going to have to have a central authority to govern all treaty tribes in the state of Washington, and to set their regulations. That organization or that party can sit down with non-treaty Indians and discuss which seasons and which runs are going to have to be protected. This is something that will have to come about.

I don't think that the federal government is going to come to our aid until we have worked out some of our differences.

In Olympia at the present time the Legislature, the Department of Fisheries, and representatives from all segments of the industry, both sports and commercial, and the Indians, are sitting down and we are talking about an enhancement program in the state of Washington. But where is the money going to come from for this enhancement program? Are the non-Indians going to be willing to contribute 50 or 75 percent when maybe they are only going to be entitled to harvest 20 percent of the run. I hardly think so. The non-Indian groups are not expecting the Indian to contribute that much. We are going to have to look towards the federal government for the enhancement program. I hesitate to go to the federal government because everything you get from them has strings attached to it. But that seems our only salvation. We are operating fisheries in the state of Washington under a federal court decision. The federal government in the end is eventually going to have to bail us out. They are going to have to contribute 75 to 80 percent of the funds for the enhancement program. I guess you can back that up on paper. Some people disagree with me. In Puget Sound the Canadians are harvesting 50 percent of the coho and the chinook that came originally from Puget Sound. Then the Indians are harvesting 50 to 75 percent of those fish that return to Puget Sound--say about 35 percent of the overall run, and that leaves the non-Indian only 15-20 percent that they are entitled to. Granted, these percentages do not always work out the way the Boldt decision is put together.

We are going to have to sit down, and we are going to have to talk. My position has been anti-Boldt from the onset of the Boldt decision. I have moderated my position to a middle position now. It is about time that everyone who is interested in the fisheries resource in the state of Washington sits down and talks in a very rational matter.

#### Comments of Catherine Tally, Lummi Nation

I would like to speak from the Indian family point of view. I have five sons that have never had the opportunity to start fishing. This is the first year my family is going to try to do some fishing. The question here I would like to present is "How many people in America work together in a livelihood as a family?" I have seen our Indian families go to work to try to make a

livelihood for themselves and their children. Husband and wife, sometimes children, all go out in the boat to fish together. I've seen the same thing happen with a non-Indian commercial fisherman. Just where in the United States can we do this?

I can't remember the last time that I had a whole salmon in my home to cook for my family. Or to even preserve a salmon for winter use by my family. There was a time when my brothers and my nephews would give me salmon to do with whatever I wanted, but if they were to do that now it would be taking food away from their own families.

I can't remember the last time that I had a herring. It has been way over three years since I last saw a herring. We can no longer go to beaches to dig for clams; even to go get an octopus, which is a delicacy--we can no longer do that. I can't even remember the last time I tasted a hooligan. They are that scarce, they are diminishing. All we have to do is to look at the streams and the rivers to see the debris that is coming from the logging areas and is diminishing the natural spawn. All you have to do is to go and look. You don't have to read any sophisticated data or anything like that. A number of speakers have talked about the catching of the fish, and their conservation. I think you'd better go right back to where it starts from, and that's where the natural spawn is. How many people are concentrating on that area? Not very many.

I was very interested in some of the material made available by the Washington Sea Grant program. It's amazing to see how many millions of dollars that the non-Indian commercial fishermen are bringing in--millions of dollars. They say that the fish are diminishing but none of them would ever live in the area. In an Indian family situation this is our home. We live here. Every cent that we have goes right back into the community. We have no stores on the reservation. Everything we buy is purchased in the City of Bellingham. Our food, our clothing, our furniture for our homes, everything goes right back into the economy. How many of the commercial fishermen spend their money in the state of Washington?

I really didn't want to get involved in the Point Elliot treaty. But this treaty protects my rights as an individual, my children's rights, my descendants' rights that are not yet born--I only have one grandchild as yet. I would like to read a brief summary of the findings from the United States District Court versus the State of Washington, which states that

all parties in the case agree that reservation fishing is subject to state regulations. That treaties are the supreme law of the land, that Indian fishing rights are a right, not a privilege, that citizen fishing is a privilege, not a right. Indians reserve the right to fish in stations and grounds and their usual and accustomed fishing areas. The state has a right to regulate off-reservation fishing, but must be strictly limited to the conservation and preservation of salmon. The burden of proof rests with the state. No regulations to off-treaty fishing can be enforced except when it has been shown that conservation and preservation are necessary. The state cannot restrict Indian treaty fishing without first restricting non-treaty fishermen. This means that non-treaty fishermen must reduce intake in order to satisfy Indian treaty fishing rights. Therefore non-treaty fishermen shall have the opportunity to take up to 50 percent of the harvest of fish that may be taken by all fishermen. Treaty fishermen shall have the same rights. However, on reservations fishing is an exclusive right of those reservation Indians.

The rights that we retain for ourselves are hunting and fishing rights. Those rights cannot be bought or sold. They are not transferable. Even if we wanted to, we couldn't do so.



PANEL DISCUSSION OF HUMANISTS:

WHERE DO WE GO FROM HERE?

Comments of Tim Hansen, Department of English  
University of Puget Sound

I have a few things I would like to say and I would like to keep these as short as possible. I think the most important thing for us to recognize is the law of the land. Let me set out some things I have learned about the law of the land which I think all of us should reflect on with some degree of seriousness. The first, and one that we have heard repeatedly stated, is that Indians are citizens of the United States, who enjoy no rights or privileges which are distinct from those which the rest of us have. That is not true. The 14th Amendment has been referred to numerous times; however, if you read the 14th Amendment with care you will notice a phrase there which ought to cause you to do some thinking: "Indians not taxed are excluded from the apportionment of legislators. Indians not taxed are excluded from civil rights acts." We recognize, as we have recognized throughout our history, that the Indians are a unique group in our country.

John Marshall has been referred to many times by people who believe that he supports their side of this particular issue. Marshall redefined the relationship of the Indians by calling them a dependent sovereign nation. Indians within the territorial boundaries of the United States are restrained from making alliances with foreign powers. In all other respects they are sovereign. I would like to read you a couple of quotations which I think will flesh out the latter point and the reason I am doing this is to point out that where we go from here is to start out from the basis of sound rather than partial knowledge. Regarding treaty rights, United States versus Weimans in 1905 states "The treaty was not a grant of rights to the Indians, but a grant of rights from them, a reservation of those rights not granted." What that means is that Governor Stevens came out here and said "We would like you to cede us some land," and the Indians said "Very well, in return for ceding

you the land we will reserve certain rights to ourselves, including a fishing right." The analogy may be inexact, but if I call a restaurant and reserve a place to eat, I am saying I have a prior right to that place to eat. What we said to the Indians is that "we recognize that you had rights long before our arrival here," and repeatedly the Supreme Court has upheld the meaning of the word "reserved" to mean that indeed the Indians did reserve certain rights to themselves. Regarding treaties and how they are read gets us back to Marshall. Marshall said this in Worcester versus Georgia:

In construing any treaty between the United States and an Indian tribe it must always be born in mind that the negotiations from the treaty are conducted on the part of the United States, an enlightened and powerful nation, by representatives skilled in diplomacy, masters of a written language, understanding the modes and forms, and creating the various technical estates known to their law, and assisted by an interpreter employed by themselves; that the treaty is drawn up by them, and in their own language; that the Indians, on the other hand, are a weak and dependent people, who have no written language and are wholly unfamiliar with the forms of legal expression and whose only knowledge of the terms in which the treaty is framed is that imparted to them by the interpreter employed by the United States; and that the treaty must therefore not be construed according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by the Indians.

So Marshall, the man we have had held up to us as the preeminent expert in these matters, stated a long time ago that when treaties are construed, they may not be construed to the disadvantage of the Indians. Those are matters of fact, and I think we have to recognize them before we go any further.

Another matter of fact, and I am going a long way back here but I am terribly certain of this, concerns international opinion on the validity of these treaties. One reason that we will never take these treaties to the World Court is that the United States has always fudged on a world court. We have never said we would join in a World Court unequivocally. One major reason we did not do so is that we did not want the Indians to appeal to the World Court because we were afraid of what would happen. That also is a matter of fact.

So I think what we should do first of all is to recognize that we are not dealing with super-citizens when we are dealing with Indians; we are not dealing with special citizens; we are dealing with a unique people. In return for our getting rights to vast acreages of land and huge natural resources,

we agreed that the Indians could reserve certain rights for themselves and we, through our own inattention, have allowed the situation to develop as it has. It is not the individual gill-netter who did this. It was the state government and the federal government.

The thing that I would like to get around to eventually is that this is a human problem. We should keep these things in mind. We should not be bemused by them. We should recognize that human beings are losing their livelihood. We should recognize that all kinds of bad things are happening. Another thing I would like to point out is that we have seen a tremendous amount of solicitude for the fishermen at this conference.

A further thing I would like to suggest to you is, as I've been listening to arguments here there has been much talk about the Boldt decision. It is not the Boldt decision. It is the United States versus Washington. The ruling has been upheld by the Supreme Court. I have also heard a tremendous amount about Judge Boldt who is held up as a kind of boogeyman. People say they do not agree with the Boldt decision. What happens then, as far as I am concerned, is inaction, and the result of the inaction is human cost. I have talked to people here who are gill-netters who have done a tremendous amount of fishing during their lives, and they are going broke, while we sit around and talk about whether or not we agree with the Boldt decision. It is the United States versus Washington, and this has been upheld by the Supreme Court. I think it is time to get the boogeyman out of our heads and start working on this matter in a way that will resolve things.

Another thing I have heard that bothers me tremendously is ownership of salmon. I cannot conceive of "owning" salmon. Those salmon have been running up the rivers since long before the Indians got here. I think we have lost respect for the salmon, which we treat as some kind of chattel. If we had respected the salmon throughout, the salmon species would not be in the shape they are in right now. So it might be appropriate for us to grant to the lowly salmon, which will probably outlast us all, enough respect at least to treat it as more than a sort of human resource.

The final comment I would make is that I hope very much that people at the local level, and I think this will work, will see that operating at the national or international level is incredibly time-consuming. It results in 50-50 shares. It results in all kinds of unfortunate things. I would like to suggest further that some kind of coalition at a local level would seem to

me to be very appropriate. Particularly, I think it would be a way of shaming the politicians into doing something. Again I refer to what I said yesterday. If the sports fishermen and the gill-netters and the Indians together would file suit against, say, Weyerhaeuser for destruction of spawning beds, I think the effect would be tremendous. For one thing, it would stop the destruction of the runs, and for another it would prove that the thing we have heard about many times here in the last two days--cooperation--is possible.

Comments of Robert W. Goedecke, Department of Philosophy  
Central Washington State College

This conference started with James Crutchfield's technical analyses of fishing runs, the modes of catching fish, and technical modes of controlling the catching of fish. Dr. Crutchfield ignored, or hardly mentioned, the law and human rights. But all the discussion since that time has striven towards the problem of reading the constitution, reading the state constitution, the nature of our federal system, the problem of state versus national powers and finally, as Tim Hansen suggested, the legal question of property and fish. Actually, if the Boldt decision did anything, it brought up the problem of property and fish in the ocean, a new conception, not at all clear, as to who does own the fish. Do the fish belong to the national or state government, or to a regional commission? Do half belong to Canada, and half to the United States? Or are they the property of whoever catches them? These questions have not been fully clarified.

Ten years ago Justice Douglas predicted that we would have to have property rights in the ocean, on the ocean floor, and in the resources of the ocean. Now we see that this is happening. We talk about free enterprise and the ocean, but free enterprise in a society requires property, contracts, and law. Moving away from fishing, in the old days in the West cattle grazed everywhere; now they graze on ranches with fences. Something like this is happening in the ocean. Fish rights like water rights will be carefully guarded, bought and sold. As for the question of what is going to happen, I am very pessimistic on this. It raises the question of a new feudalism versus free enterprise. Will the government just regulate fishing, or will it own and allow disbursement of the fish that it considers its own?

If I have made statements about the harmony of various fishermen, let me

say that it also is the case that fishing is very competitive, and if one man catches a fish, no other fisherman is going to catch that particular fish. There may be cooperation but there is also competition among fishermen. What the Boldt decision did--or if you prefer, the United States versus Washington--was to shake everybody out of talking simply about the technical problems of fishing, and moving them to the human problems of fishing. Now these problems can be solved either by legal or by bureaucratic methods. If by law, and if the law is related to the actual reality of the fishing industry--including the realities of the people who make their livelihood by it--then that will be a healthy situation. If what we get is bureaucracy--which tends to be the case when the government moves in, rather than law--then we will have increase in the scientific knowledge of fisheries and hatcheries, and a certain awareness of the powers of nature, but will also have an expanded bureaucracy which will continue to build up its own power at the expense of both the Indians and the independent individual white fishermen.

If you ask me literally "where do we go from here?" I suspect that the Golden Age of the independent fishermen is over, and that we are moving toward increased government bureaucracy, with more limited entry into the field of fishing and greater control by large corporations.

Comments of James Scott,  
Center for Pacific Northwest Studies,  
Western Washington State College

Almost one year ago, before the start of the academic year just ended, we had a five-day conference entitled Man, Government and the Sea: Northern Puget Sound and the Strait of Georgia, one evening of which was devoted to the question of the Indian fisheries. I came away from that meeting feeling that more light than heat had been shed, that mutual understanding had been considerably enhanced, that some sort of compromise, if not whole-hearted cooperation could be achieved. Now, after a day and a half of deliberations, I am far less sanguine, far more concerned that our attitudes and thoughts may be hardening, that our positions have become more intransigent, and that the problems we face may be incapable of any solution short of enactment and enforcement of rigid rules and controls. I hope I am proved wrong.

I do not want to criticize individual statements and search out particular positions to attack, but may I say that I think it is fruitless for either side

to search for scapegoats, and churlish, if not childish, to call for the impeachment of Judge Boldt, and to refer to his decisions as those of the Baloney Court. What does this achieve, other than to inflame still further emotions that have been played upon too long and too often in unproductive and, in the final outcome, unreasoning ways?

It occurred to me the other night that the plight of the Pacific Northwest fisheries might be characterized as Greek tragedy. I see now, on further thought, that I was wrong. There are no sinister, blind, elemental forces at work--at least I hope not; the forces are the all too-common human failings of greed and envy, resentment and disparagement, suspicion and ignorance. And while the two sides marshal their forces and their arguments, and take up their adversary positions, engaging in litigation and mutual recrimination, a resource is dying. Litigation will, I believe, not get us where I hope we want to go, perhaps not get us anywhere. Judgments handed down from on high have a way of being ignored or resented or both. The Emancipation Declaration of 1862 and the recent busing orders of the Supreme Court are excellent examples of this. Perhaps, as Dr. James O'Brien noted in his humanist's commentary of last September, we are becoming increasingly ungovernable.

As a humanist, I believe one should take, as Dr. Keith Murray noted last night, the long view, by bringing to the problem historical perspective and the light of reason of thousands of years of human culture--Indian no less than Western, but this is a tall order. It is easy to take a stand, to become involved emotionally, to assume an adversary position. It is incredibly difficult, even for the professional humanist, to shed this emotional involvement, and to rely on reason and intellect alone, for there are human forces involved, events happening that impinge on our everyday lives, directly or indirectly.

As I see it today, we have not progressed very far along the road to a satisfactory solution. We are at the stage of confrontation and conflict, a stage at which anger flares, verbal attacks are made and litigation quickly ensues. Hopefully we can move soon beyond this stage, and there are three positions, as I see it, that might be attained, given the particular circumstances necessary to reach each of these.

The first is that of COMPROMISE, each side voluntarily agreeing to give up something, to agree, perhaps to disagree on much, but to learn to accept the inevitable need for some apportionment of the resources that each can live with. I do not hold too much hope that compromise will be attainable--it seems

to me, speaking as a European born, that compromise is anathema to the American psyche.

The second is that of MANDATORY ALLOCATION of resources by some federal agency, an allocation that would be strictly enforced by officials appointed for the specific purpose. But with this the opportunity for free enterprise disappears. Although it may seem as if some elements of mandatory control are here already, I fear they will need to further be increased.

Finally, there is the position of COOPERATION AND COLLABORATION. Why cannot the resource be developed truly in common by both Indian and non-Indian fishermen? There are obviously enormous problems involved with this, but if these could be solved then perhaps a resource that is presently being depleted and in danger of being destroyed, can be saved and even restored to its former high levels of productivity.

In summation then, confrontation and conflict must give way to cooperation sooner or later if this highly important resource is not to become another victim of man's thoughtlessness, rapacity and greed. Senator Barney Goltz spoke at the last conference of the need for a new regional ethic for the Puget Sound. I could not agree more. An important part of this ethic must be the resolution of the problem of the fisheries.

## THE CONFERENCE ASSESSED

Manfred Vernon

To stand here and to speak about things developed in the program for which I feel I am very heavily responsible is not an easy task because, while I am a political scientist, I am actually retired from activities of this kind. While I have been for many years a lawyer, I feel that I should react to what has been said yesterday and today as a humanist. I've given much thought to what the word humanist stands for. I have argued this in other places and I do feel that for me it is the reaction of one human being to other human beings and the appreciation of the concerns and problems these people have. In other words, I would say that, although I am the principal organizer of this conference, and while I am absolutely responsible for having approached most, if not all, of the participants here today, I also came here to listen and to learn, even though I have spent much of my life with many of the problems discussed today, particularly things like the meaning of treaties, the exceptional exquisite quality of the United States Constitution, the respect for the law but the dignity of the individual.

And having listened, I must say that much of what I would like to say has to do with a human reaction to an utterly tragic and complex situation. While having some idea of where we should go from here, I do not know, for instance, the direction of a better life for all. Adversaries they may be today, but friends and cooperators they must be tomorrow. I would say that perhaps different thoughts might have been aired looking into an interpretation, not so much of the Constitution of the United States, but perhaps the treaties made in pursuance of it: in the words of the Constitution. "This Constitution and all laws made in pursuance thereof, and treaties made under the authority of the United States of the supreme law of the land." In other words, a treaty really is not made within the confines of the constitution but under the authority of the United States. Such a treaty is the law of the land. Thus I feel that in order to be constructive we should not spend too much time discussing what the Constitution was driving at. The Constitution regarding treaties has been tested too often and sometimes a law has



been declared unconstitutional and a treaty has been created that made the thing constitutional. Such a treaty concerns the chasing of migratory birds. A law was enacted that said they could not be hunted anymore. The Supreme Court declared it unconstitutional, but suggested that perhaps a treaty would help. A treaty was signed between the United States and Great Britain, as the legal authority of present day Canada, that eliminated the possibility of reckless shooting of migratory birds. It was made very clear that citizens of the state of Missouri, for example, could not hunt birds even if they had the basic rights to hunt as citizens of the state of Missouri. The treaty went beyond the law of the state. This concept is basic.

However, I do feel that perhaps a somewhat similar approach could have come in the Boldt decision. I personally prefer that there be no distinctions made between Indians and non-Indians. The law should not invite us to be in distinction one to another. We are cultivating the adversary system. We talk about winners and losers, and sometimes of being on top, at other times on the bottom of things. Public interest vis-à-vis private interest or public good versus private interests should not mean the state taking over at the expense of individual interests. I think ultimately the public good that we are talking about is the totality of all individual interests together.

It is necessary to take a different look at the sea. The sea is not a farmyard. It is not a barnyard. The sea has not been divided in the same way as the land on which we live. The sea is truly a public domain. It belongs to all or, as some international lawyers have said, it belongs to nobody. But in the meantime all of us have a right to the sea and a claim to the sea in the sense that it must depend on the body politic--the state--to decide whether we can go "down to the sea" or not. Perhaps a very intensive system of licensing should be considered. It means also, as Dr. Crutchfield pointed out, that there are much too many of us taking to the sea for purposes of fishing, and that this ultimately leads to weeding and depletion of stocks. Whatever happens, I would like to see the development of a greater degree of equity. This is something that has bothered me, and in listening intently today to discussion of the Boldt decision, it seems to me that adoption of a principle of equity would have been more generous. I'm not talking about a 50-50 split. I could argue for a long time that the words "in common" can be interpreted in many ways. Personally I have my doubts that "in common" has been interpreted properly.

I would say that, regardless of the findings of the decision, a greater concept of human charity, of dignity, of respect for all, would have been served by the decision being more generous in time. We say "Take your time. Rome was not built in one day." I think that in a democracy this kind of consideration should have been extended, and as a result I feel that it would have been very worthwhile. And thus I feel that had there been this kind of concept perhaps the whole thing could have been staggered over a longer period of time and the older generation of fishermen could have died out or retired from the scene; that young men could have systematically moved in, but in smaller numbers. However, the limitation of licenses might have been better. I feel very clearly that dialogue on the Boldt decision, as far as its implications and consequences are concerned, should not come to an end but should continue. In the future we had best work together or else we will sink together.

CENTER FOR PACIFIC NORTHWEST STUDIES

&

BUREAU FOR FACULTY RESEARCH

WESTERN WASHINGTON STATE COLLEGE  
Bellingham, Washington 98225

Conference

FISHERIES IN PUGET SOUND: PUBLIC  
GOOD & PRIVATE INTERESTS

June 18 & 19, 1976  
Arntzen Hall 100

PROGRAM

Friday, June 18:

- 8:30 a.m. Registration
- 9:20 a.m. Morning Session  
Mrs. Ritajean Butterworth, Board of Trustees, W.W.S.C.,  
chairperson.  
"Welcome to Western"  
Dr. Samuel P. Kelly, Dean Elect, Graduate Affairs &  
Research.
- 9:30 a.m. "The Range and Purpose of the Conference" Dr. Manfred C.  
Vernon, Political Science, W.W.S.C.
- 9:45 a.m. "An Overview of the Fisheries: Their Use and Abuse and a  
Projection on Limitations" Dr. James Crutchfield,  
University of Washington.
- 10:35 a.m. Coffee Break
- 10:50 a.m. Panel Discussion: "The Fisheries as a Resource" Dr. James  
Crutchfield, State Senator H. A. "Barney" Goltz,  
Bellingham, Mr. Peter Granger, Washington Sea Grant,  
State Representative John Martinis, Everett.
- 12:15 p.m. Lunch recess.
- 1:30 p.m. Afternoon Session  
Mr. Tom Glenn, Manager, Port of Bellingham, chairperson.  
"The Problems of the Fisheries: A Diversity of Views."  
Mr. Jay Bornstein (Processing industry)  
Mr. Wallace Green (Purse-seiner)  
Mr. Dave Millholland (Gill-netter)  
Mr. Henry Wendler (Department of Fisheries, State of  
Washington).

3:00 p.m. Coffee Break  
 3:15 p.m. Panel Discussion: "The Humanists React"  
 Moderator: Dr. George Mariz, History, W.W.S.C.  
 Members: Dr. Don Alper, Political Science, W.W.S.C.  
 Dr. Robert W. Goedecke, Philosophy, C.W.S.C., chairperson.  
 Dr. Tim Hansen, English, University of Puget Sound.

4:30-  
 7:30 p.m. Recess  
 7:30 p.m. Evening Session  
 Dr. Keith A. Murray, History, W.W.S.C., chairperson.  
 Symposium: "Canada and the Puget Sound Fisheries."  
 Members:  
 Professor Donald McKernan, University of Washington.  
 Dr. Robert Monahan, Geography & Regional Planning, W.W.S.C.  
 Mr. Henry Wendler,  
 Hon. Robert Wenman,  
 M. P. Fraser Valley West, & other Canadian Spokesmen.

Saturday, June 19:

8:45 a.m. Registration  
 9:00 a.m. Morning Session:  
 Mr. Al Swift, Public Affairs Director, KVOS, Bellingham,  
 chairperson.  
 Symposium: "The Boldt Decision and its Impact on the Puget  
 Sound Fisheries."  
 Members: Mr. Sam Cagey, Lummi Nation, Mr. Steven Chase,  
 Everett,  
 Mr. Steven Chase, Everett,  
 Mr. Bill Lowman, Anacortes,  
 Representative John Martinis, Everett,  
 Mr. Mason D. Morissett, Seattle.

10:30 a.m. Coffee Break  
 10:45 a.m. Panel Discussion of Humanists: "Where do we go from here?"  
 Dr. Robert W. Goedecke, W. W.S.C.,  
 Dr. Tim Hansen, U.P.S.  
 Dr. James Scott, Center for P.N.W. Studies, W.W.S.C.  
 Dr. Manfred Vernon.

12:15 p.m. "The Conference Assessed" Dr. Manfred Vernon.  
 12:30 p.m. Conference adjourns.

#### Organizing Committee

Donald Alper, Political Science, W.W.S.C.  
 Phyllis Bultmann, History, W.W.S.C.  
 Jane Clark, Director, Bureau for Faculty Research  
 Pam Hamilton, Bureau for Faculty Research  
 James W. Scott, Director, Center for PNW Studies, W.W.S.C.  
 Geri Walker, Bureau for Faculty Research  
 Manfred C. Vernon, Political Science, W.W.S.C., Director of  
 Conference.