

Federal Licencing Policies for the Atlantic Inshore Fishery and their Implementation in Newfoundland, 1973-1981

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Federal Licencing Policies for the Atlantic Inshore Fishery and their Implementation in Newfoundland, 1973-1981

THE FISHERY, LIKE MANY FORMS OF human activity, can be regulated through a system of customary and largely local practices, or through a system of formally constituted rules, regulations and laws emanating from the state. To a very large degree, the nature and form of state regulation sets the parameters within which local regulation is possible. Since the fisheries on Canada's Atlantic and Pacific coasts differ greatly, this paper is limited to a consideration of the development of fisheries policy for Canada's east coast. Moreover, although the federal government has clear responsibility for 'fish in the sea', once fish are landed they are largely within provincial jurisdiction. While the general orientation of federal fisheries policies remains essentially the same throughout the whole Atlantic region, the impact of and responses to such policies vary greatly from province to province. Because the fishery assumes greater significance in both the economy and the social life of Newfoundland than in the other Atlantic provinces, federal fisheries policies tend to have a greater impact there than elsewhere in Atlantic Canada. As a result, the provincial response also tends to be more vigorous and vehement than elsewhere. The Newfoundland experience therefore provides particularly useful insights into the nature of public policy formation in Canada.

In recent years, numerous works have appeared outlining the development of Canadian east coast fisheries policy. Most focus on developments since the early 1960s, while providing brief summaries of earlier political activity, usually beginning with the assignation of "sea coast and inland fisheries" to the federal government under the British North America Act of 1867. These works frequently see Canadian fishing policy as having passed through a series of periods, stages or cycles, each with its own orientation. For example, Susan McCorquodale argues that it is useful to think of fishery policy in terms of cycles that are determined in large part by biological and economic factors, and she divides Canadian fisheries policy into the periods prior to 1950, 1950-70, and from 1977 onward.¹ R.D.S. MacDonald is concerned primarily with issues of administration within the Canadian Department of Fisheries and Oceans. He describes the period from 1945 to 1977 as one in which administrative and decision-making structures were put in place, while the period from 1977 to 1981 was concerned largely with issues of

1 Susan McCorquodale, "The Management of a Common Property Resource: Fisheries Policy in Atlantic Canada", in Michael Atkinson and Marsha A. Chandler, eds., *The Politics of Canadian Public Policy* (Toronto, 1983), esp. p. 156.

extended jurisdiction and the 200 mile limit.² L. Gene Barrett focuses on the extent to which the state took an active interest in regulation. In contrast with most other works, he sees the period from 1939 to 1973 as “a laissez-faire phase” with little state involvement in the fishery, and the period since 1974 as one of renewed regulation.³ Finally, in the most comprehensive review of fisheries policy yet available, Dianne Draper identifies three major periods:

The first, Confederation to 1965, was characterized by a biological emphasis. Responses to fisheries problems and pressures were primarily reactive and *ad hoc*. The second phase, 1965 to 1976, saw the addition of economic and social considerations to the biological basis of management. The recent period 1977 onward, is associated with implementation of the “200 mile limit”.⁴

All these analyses agree that there have been significant changes in the direction and value orientation of Canadian fishery policy. Most emphasize a significant change in value orientation beginning in the late 1950s or 1960s, when the focus of concern shifted from the purely biological aspects of fish stock conservation to a broader consideration of the social and economic aspects of the fishery. All analysts emphasize a further change in focus around 1976 as a result of Canada’s declaration of jurisdiction over a 200 mile limit as part of the International Law of the Sea deliberations.⁵

The shift in policy direction in the 1950s and 1960s was directly related to the development of the economic theory of common property as applied to the fisheries. While the works just referred to have used a variety of criteria to identify various policy periods, in general they have not focused on the extent to

- 2 R.D.S. MacDonald, “Canadian Fisheries Policy and the Development of Atlantic Coast Groundfisheries Management”, in Cynthia Lamson and Arthur J. Hanson, eds., *Atlantic Fisheries and Coastal Communities: Fisheries Decision-Making Case Studies* (Halifax, 1984), pp. 15-76.
- 3 See L. Gene Barrett, “The State and Capital in the Fishing Industry: The Case of Nova Scotia”, paper presented to the Annual Meeting of the Canadian Political Science Association, Halifax, May 1981, p. 1. Also L. Gene Barrett, “Capital and the State in Atlantic Canada: The Structural Context of Fishery Policy Between 1939 and 1977”, in Lamson and Hanson, eds., *Atlantic Fisheries and Coastal Communities* pp. 77-104.
- 4 Dianne Draper, “Ocean Exploitation: Efficiency and Equity Questions in Fisheries Management”, in Bruce Mitchell and W.R. Derrick Sewell, eds., *Canadian Resource Policies: Problems and Prospects* (Toronto, 1981), p. 111.
- 5 This change meant that Canada had declared itself to have regulatory jurisdiction over fishing within 200 miles of its coastline and could now limit the extent of fishing by foreign fishing fleets on the various ‘banks’, which are to be found about 50 to 100 miles offshore. The greatest impact of this new power was on Canada’s ‘offshore’ fleet, but with the acquisition of control over these offshore fish stocks, Canada’s fishery planners now clearly believed that they were in a position to ‘rationalize’ all aspects of the fishing industry including the inshore and processing sectors. As part of this thrust toward ‘rationalization’, Canada developed regulations designed to increase the fish stocks that had previously been depleted by the over-fishing of offshore vessels.

which the common property perspective transformed the way in which the regulation of the fishery was perceived. Instead of focusing on the 'outcomes' in terms of the stages of fishery policy, this paper will examine the 'process' involved in the formation of such policies. It will be argued that the introduction of the common property perspective involved a new way of viewing the fishery and led to a changing view of the nature of fisheries regulation itself. Prior to the introduction and acceptance of the common property perspective, the regulation of the fishery was considered primarily in terms of biological conservation. In contrast, the common property perspective treated the fishery as an economic and social system which could not be regulated solely in terms of biological considerations.

With the development of the theory of common property in the 1960s and 1970s, economists virtually replaced biologists as the dominant professional group involved with shaping Canadian fisheries policy.⁶ As Parzival Copes states, "serious economic analysis of the common property problem of the fishery started only in the mid 1950s and it took a decade for useful policy prescriptions to work their way into government plans".⁷ J. Douglas House has recently expanded on this point:

While Canadian fisheries policies did not come to fruition until the late 1970s and early 1980s, the philosophical and theoretical seeds for these policies were sown much earlier by economists such as H. Scott Gordon and Parzival Copes. A set of assumptions and principles emanating from fisheries economics has influenced the thinking of federal and provincial officials and policy-makers and, to a large extent, the general public.⁸

The economic theory of common property as applied to the fishery had its origins in the analysis of H. Scott Gordon who argued that the fishery had traditionally been treated as a "common property resource" to which all persons had rights of access.⁹ Gordon contended that, with open access, it was not

6 Biologists still play a significant role in fisheries conservation. However, this paper suggests that the power to control federal fisheries policy is now largely in the hands of those who accept the assumptions of the common property model. Of course, such assumptions can now also be held by biologists as well as economists. That this quickly became the case is evident in a paper by A.W.H. Needler, "Evolution to Canadian Fisheries Management: Towards Economic Rationalization", *Journal of the Fisheries Research Board of Canada*, 36 (1979), pp. 716-24.

7 Parzival Copes, "The Evolution of Marine Fisheries Policy in Canada", in Peter N. Nemetz, ed., *Resource Policy: International Perspectives* (Montreal, 1980), p. 132.

8 J. Douglas House, "Canadian Fisheries Policies and Troubled Newfoundland Communities", paper prepared for Social Research and Public Policy Formation in the Fisheries: Norwegian and Atlantic Canadian Experiences: An International Working Seminar, Tromsø, Norway, June 1986, p. 2.

9 H. Scott Gordon, "The Economic Theory of a Common Property Resource: The Fishery",

rational for an individual fisherman to refrain from fishing in order to ensure the conservation of the fish stocks. If he did so, other persons would undoubtedly take advantage of his actions and capture his share of the available resource. Gordon concluded:

There appears then, to be some truth in the conservative dictum that everybody's property is nobody's property. Wealth that is free for all is valued by none because he who is foolhardy enough to wait for its proper time of use will only find that it has been taken by another.... The fish in the sea are valueless to the fisherman, because there is no assurance that they will be there for him tomorrow if they are left behind today.

Consequently, the rational action for each individual in a common property, open access fishery was to take as much catch as is possible before it is appropriated by others. The only alternative that Gordon envisaged was some form of regulation — the commons must in some way be 'fenced' so as to turn it into private property: "This is why fishermen are not wealthy, despite the fact that the fishery resources of the sea are the richest and most indestructible available to man. By and large, the only fisherman who becomes rich is one who makes a lucky catch or one who participates in a fishery that is put under a form of social control that turns the open resource into property rights".¹⁰ In his widely quoted analysis, Garrett Hardin extended Gordon's position to all situations in which a form of common property exists. The result of such a system of ownership, he argued, was invariably the depletion of the common resource. "Ruin is the destination toward which all men rush, each pursuing his own best interests in a society that believes in the freedom of the commons. Freedom in the commons brings ruin to all".¹¹ The clear implication of this analysis for Canada's east coast fishery was that a focus solely on the biological aspects of conservation in a situation of open access would not, in and of itself, be sufficient to conserve fish stocks. Economic and social regulation in addition to biological regulation, was what was desperately needed.

For those interested in the nature of scientific explanation or what is sometimes referred to as the sociology of science, this transformation provides an interesting case study of the way in which one academic discipline was able essentially to supplant another in its claims to expertise with regard to the formulation of fisheries policies. While one might think it logical that biologists would have the virtual monopoly to claims of expertise with regard to the conservation of fish stocks, the impact of the common property work of Gordon

Journal of Political Economy, 62 (1954), pp. 124-42. It is useful to point out that most writers have tended to equate common property with open access. However, the two are analytically and practically separable, and this has major implications for the development of fisheries policy.

¹⁰ *Ibid.*, pp. 123, 132.

¹¹ Garrett Hardin, "The Tragedy of the Commons", *Science*, No. 162 (1968), p. 1244.

and others was apparently so pervasive that biological projection was often complemented or even replaced by economic models concerning the requirements of limited access. Since economists also had very legitimate claims to expertise with regard to the issues of production and marketing fish, this combination gave them an extremely significant influence in the development of all aspects of fisheries policy. Economists are probably now more influential than biologists in the formation of overall fishery policy, and the economic model dealing with open access common property resources has come to dominate considerations of fisheries conservation. Yet these economic theories were essentially based on social and psychological variables having to do with the nature of human motivation under conditions of common property. Although such issues usually are not the domain of economists but are rather the 'preserve' of anthropologists, sociologists and social psychologists, the latter were not able to capitalize on the new developments in the way that economists did, and were thus unable to increase significantly their role in the development of fishery policy and regulation.

Building on Gordon's and Hardin's work, numerous works appeared throughout the 1960s and 1970s on the implications of the common property character of the fishery.¹² This period of conceptual development culminated in two conferences in the United States sponsored by the Institute for Marine Studies at the University of Washington,¹³ and a symposium in the *Journal of the Fisheries Research Board of Canada* in 1979 which contained articles by leading fisheries economists. The papers published in the Fisheries Research Board symposium provide a series of statements and some level of synthesis of the ideas developed by Canadian fisheries economists over the preceding two decades. In that sense they are a good indication of the 'state of the art' in fisheries economics in the mid-1970s. Since most analysts who have reviewed the development of Canadian fisheries policy agree that there was a change in the direction of fisheries policy development beginning in the mid-1970s, these papers also provide an excellent insight into the ideas and values which formed the basis of that shift.

A review of this body of literature indicates that, based on Gordon's analysis, there was total and universal acceptance that a common property, open access fishery led to overcrowding and the depletion of the fish stocks. As W.C. MacKenzie succinctly declared, "it is accepted on theoretical grounds that under conditions of open access the tendency to overcrowding and depression is

12 See Anthony Scott, "Regulation and the Location of Jurisdictional Powers: The Fishery", *Osgoode Hall Law Journal*, 20 (1982), pp. 780-805, for a listing and description of the most important of these works.

13 See J. Carl Mundt, ed., *Limited Entry Into The Commercial Fisheries* (Seattle, 1975); R. Bruce Retting and Jay C. Ginter, eds., *Limited Entry As a Fishery Management Tool: Proceedings of a National Conference to Consider Limited Entry As a Tool in Fishery Management* (Seattle, 1978).

universal and inexorable".¹⁴ There was also general agreement that measures were necessary to move excess labour out of the fishery and to prevent additional labour from entering it. However, there was no consensus on which persons were best omitted. MacKenzie argued that the fishery serves as the employer of last resort, with the consequence that excess labour enters the fishery when work is unavailable elsewhere. In a delightful turn of phrase, he declared that "The received image of the poor fisherman is to be stood on its head — he is a fisherman because he is poor, not the other way around". For MacKenzie, measures were needed "to eliminate dabblers" and he pointed to growing "resistance to the influx of newcomers, regarded as interlopers and 'moonlighters'". Indeed, MacKenzie argued that the occupational pluralism practiced by many fishermen was a response to the fact that they were unable to get an adequate living from fishing alone.¹⁵ The elimination of "dabblers" and "moonlighters" was thus seen by him as one way of establishing a full-time fishery labour force.

In contrast, J.A. Crutchfield argued that the part-timer problem was not a simple one for "there are obviously many fisheries in which part-time participation is dictated by the availability of fish, weather conditions on the grounds, or concentrations of fish sufficiently dense to harvest them economically". While noting that "most analyses of entry limitation...have tended to assume uncritically that economic efficiency would be improved if the fishery were to shift more and more to professional, full-time fishermen", he suggested that licencing regulations might actually hamper such a procedure, since fishermen might not be able to move from species to species as they would lack the necessary licences to do so. As a consequence, licencing and limited entry might actually mitigate against the development of a full-time professional fishery labour force.¹⁶ In a similar vein, Anthony Scott chastised those who

14 W.C. MacKenzie, "Rational Fisheries Management in a Depressed Region: The Atlantic Groundfishery", *Journal of the Fisheries Research Board of Canada*, 36 (1979), p. 811. Despite these assertions of "universality" and "inexorability", there is now a large body of literature which clearly demonstrates that there are situations and conditions where the common property character of a resource, even under conditions of open access, does not necessarily lead to its depletion. See, for example, William Bloomquist and Elinor Ostrom, "Institutional Capacity and the Resolution of a Commons Dilemma", *Policy Studies Review*, 5, 2 (1985), pp. 764-69; Elinor Ostrom, "Institutional Arrangements for Resolving the Commons Dilemma: Some Contending Approaches", unpublished paper presented to the National Conference of the American Society for Public Administration, March 1985. A discussion of some of that body of literature is to be found in Ralph Matthews and John Phyne, "Regulating the Newfoundland Inshore Fishery: Traditional Values Versus State Control in the Regulation of a Common Property Resource", *The Journal of Canadian Studies* (1988 forthcoming).

15 *Ibid.*, pp. 816, 817, 815, 812.

16 See J.A. Crutchfield, "Economic and Social Implications of the Main Policy Alternatives for Controlling Fishing Effort", *Journal of the Fisheries Research Board of Canada*, 36 (1979), pp. 742-53. It is interesting to realize just how closely Crutchfield's analysis has turned out to be an

argued for the expulsion of part-time fishermen as economically inefficient: "These are many conceivable alternative discriminatory systems: entry can be rationed by race, colour, creed, etc.; by bribery of officials; by queuing; and by lottery. The arbitrary expulsion of part-time and "sport" fishermen with low catches...should take a prize for high-handed, inefficient discrimination". Scott, in fact, emphasized the social nature of fishery regulation as much as he did its economic aspects. He contended that such regulations have a "distributive bias" by "effectively excluding potential fishermen from one social or economic grouping and conserving or protecting the stock for exploitation by another". He cautioned economists to consider their motives for regulation and noted that there is a clear tendency for fisheries regulations to "multiply": "Overfishing regulations that reduce one component of fishing effort induce further controls to suppress increases in other components". As a result, "the net benefit of regulation can easily tend to zero". Indeed, he suggested that the main fact concerning fishery regulation that had been learned to date was that ad hoc fisheries restrictions were more inefficient than "the evils of common property".¹⁷

Fisheries economists were also aware that the regulation of the fishery might be achieved either through taxes on excess production, or through some form of property rights which would regulate access. From the perspective of classical economic theory, a system of taxes which provided a disincentive for persons to overfish had a distinct advantage. Such a system would allow the fishery to be "left entirely to the market without fear of biological depletion, excessive inputs in general, or incorrect combinations of inputs".¹⁸ However, there was a general consensus that some form of property rights was preferable, if only on administrative and political grounds, to a taxation system. Classical economists themselves contended that, as a tool for fishery regulation, a taxation system was simply too open to the possibilities of political corruption.¹⁹ Furthermore, there would be enormous difficulties in getting politicians to risk their political careers by agreeing to accept a level of taxation determined by economists and biologists.²⁰

All of these works therefore assumed that some form of "limited entry" regulation within the fishery was necessary in order to create property rights.

apt description of the plight of many Newfoundland longliner operators in the wake of licensing. Many longliner operators have faced bankruptcy because they were not able to obtain the necessary range of species licenses that are required to cover the interest and operating costs of their boats.

17 Anthony Scott, "Development of An Economic Theory on Fisheries Regulation", *Journal of the Fisheries Research Board of Canada*, 36 (1979), pp. 731, 726-8.

18 Crutchfield, "Economic and Social Implications of the Main Policy Alternatives for Controlling Fishing Effort", p. 742.

19 Scott, "Development of Economic Theory on Fisheries Regulation", p. 739.

20 Crutchfield, "Economic and Social Implications of the Main Policy Alternatives for Controlling Fishing Effort", pp. 744-5.

The problem was whether the conditions of limited entry and conservation were best served through the licencing of boats, through the licencing of fishermen, and/or through the establishment of quotas. When these papers were written, some limited entry procedures had already been enacted in both Alaska and British Columbia. Indeed, two of the papers dealt directly with the west coast experience,²¹ where limited entry was regulated primarily through a system of boat licences and fishing seasons.²² Licences were related to the size of the boat and treated as a form of private property which could be bought and sold by individual fishermen. As a result, the market value of a licence tended to become related to the long term income it could generate. If fishermen wished to increase the size of their boat, they were required to purchase additional licences for smaller boats equivalent to the length of their new boat. In such a system, the original licence holders were usually able to make massive personal gains by selling their licences. However, those who purchased the licences were then required to make enough income from them to offset the debt they had incurred in purchasing them. Quite frequently, in order to do so, they purchased larger and more efficient boats and equipment, again increasing their debt level. Because this move placed a further strain on the capacity of the existing fish stocks, the government frequently had to shorten the fishing season in which these boats were permitted to operate. This regulation, in turn, frequently led to the purchase of even more technologically advanced equipment to capture as much of the fish as was possible in the time available. And so the vicious cycle continued.

Primarily because of the west coast experience, the general inclination in these papers was to prefer some form of quota system,²³ which was referred to as "quantitative rights". David G. Moloney and Peter M. Pearse here pointed out that "the appeal of this approach lies mainly in two unique features, one relating to efficiency, the other to distribution. For the first, quantitative rights cut to the

21 G. Alex Fraser, "Limited Entry: Experience of the British Columbia Salmon Fishery", *Journal of the Fisheries Research Board of Canada*, 36 (1979), pp. 757-62; Peter H. Pearse and James E. Wilen, "Impact of Canada's Pacific Salmon Fleet Control Program", *Journal of the Fisheries Research Board of Canada*, 36 (1979), pp. 763-78.

22 The discussion of the west coast experience which follows is a synopsis of several works on 'limited entry' regulation of the west coast fishery during this period. In addition to the two works by G. Alex Fraser and by Peter H. Pearse and James E. Wilen cited above, these include Brian Hayward, "The B.C. Salmon Fishery: a Consideration of the Effects of Licencing", *B.C. Studies*, No. 50 (1981), pp. 39-51; J. Carl Mundt, ed., *Limited Entry into the Commercial Fisheries* (Seattle, 1975); Peter H. Pearse and James E. Wilen, "Impact of Canada's Pacific Fleet Control Program", *Journal of the Fisheries Research Board of Canada*, 36 (1979), pp. 764-769; and R. Bruce Retting and Jay C. Ginter, eds., *Limited Entry As a Fishery Management Tool: Proceedings of a National Conference to Consider Limited Entry As a Tool in Fishery Management* (Seattle, 1978).

23 Wilen, "Fishermen Behaviour and the Design of Efficient Fisheries Regulation Programs"; Scott, "Development of Economic Theory on Fisheries Regulation".

basic cause of economic waste in fishing: rights to take specific quantities of fish largely eliminate individual fishermen's incentives to protect and increase their shares of the catch by defensively and competitively increasing their fishing power. For the second, this technique admits full flexibility with respect to the division of resource rents between the government and the participating fishermen".²⁴ In these works there was also a constant use of the word 'rational' to describe the perspective advocated. To be sure, the advocates of any perspective tend to suggest that their perspective is in some way more rational than others, or to imply that competing approaches are in some way non-rational. However, the continual use of the term 'rational' in this case would seem to be an excessive example of this tendency. One of the ways in which newly emerging paradigms can frequently be identified is by the distinctive use of 'code words' or 'code phrases' that they employ.²⁵ The continuous use of the word 'rational' and the constant call for 'rational fisheries management' gives these terms the status of 'code words' with which to identify those who adhered to the 'tragedy of the commons' perspective on fishing policy.

The papers just summarized were written by leading fisheries economists as well as senior policy analysis employed by the Canadian Department of Fisheries and Oceans (hereafter referred to as DFO). They provided the basic 'ideas' and arguments in favour of the regulation and 'rationalization' of the east coast fishery. However, ideas by academics, or even by senior bureaucrats, do not necessarily become policy — no matter how 'rational' they may appear. The politicians in power must be convinced both of the legitimacy of the ideas and that any new policies based on them will not seriously undermine their political base. The problem with the proposals for limiting access to the fishery based on the common property perspective was that they clearly had the potential for generating political repercussions since they could and likely would lead to the elimination of a significant number of part-time jobs and the closure of the fishery as an employer of last resort. Consequently, the actual policy process leading to the implementation of limited access regulations involved a lengthy 'political debate' in addition to the scholarly one just outlined. The public aspect of that debate took place in a series of position papers on fishery development, commission reports, and public addresses by the politicians themselves.

The political process leading to the ultimate implementation of limited access regulations to control the inshore fishery involved a number of 'political actors'. At the federal level there were the administrators and advisors committed to fisheries 'rationalization' along the lines just outlined. In addition there were the federal politicians who, for the most part, had little interest in the question of

24 David G. Moloney and Peter H. Pearse, "Quantitative Rights as an Instrument for Regulating Commercial Fisheries", *Journal of the Fisheries Research Board of Canada*, 36 (1979), p. 865.

25 These code words are frequently referred to as jargon by those who do not subscribe to the particular paradigm.

fishery development. The east coast fishery is far removed from the dominant population bases of the country and hence the dominant areas of federal political support. Thus, a federal decision with regard to the east coast fishery has relatively little impact on the re-election chances of the party in power. This geographic and political distance sometimes allows the federal government to take non-political stands with regard to the fishery, or at least stands which run contrary to the dominant class interests in the Atlantic region.²⁶ Indeed, the federal government frequently supports fishery policies which favour fishermen over the dominant corporate interests involved in the fishing industry. At other times, however, this distance may allow the politicians a somewhat different sense of political freedom: freedom to implement fisheries policy which may favour one group of fishermen over another. An important federal 'actor' in this process is the minister responsible for fisheries policy. Although the majority of his political colleagues may be far removed from the local issues on the east coast, the federal minister in charge of fisheries is invariably from one of the four Atlantic provinces or from British Columbia, i.e. provinces in which the fishery is important. Throughout the period from the mid 1960s through to 1984, all but one of the federal fisheries ministers were from the east coast and thus tended to have a personal interest in the potential social and political impact of limited access regulations on that region. A particularly important figure was the Hon. Romeo LeBlanc, a New Brunswick native who held the fisheries ministry through the late 1970s and early 1980s and who took a direct decision-making role in the development of Canadian fisheries policy.

Although the Government of Canada had instituted a licencing and "rationalization" program in the British Columbia fisheries as early as 1968,²⁷ no similar program for the east coast was started at that time. Instead, federal east coast efforts centered around the negotiation of the 200 mile limit at the "Law of the Sea" conference in 1973. In 1973 and 1974 there was a virtual economic collapse of the east coast fishery, and the Government of Canada found itself having to provide well over \$140,000,000 in additional subsidies to fishermen and fish plants between 1974 and 1976.²⁸ In response to this crisis Canada attempted to receive international recognition and consent to extend its jurisdiction over fisheries to 200 miles from its coastline. When it was unable to get such consent, it unilaterally declared a 200 mile fishing limit effective January 1977.²⁹ In 1973, Canada also announced that it would introduce a

26 Matthews, *The Creation of Regional Dependency* (Toronto, 1983), pp. 193-215.

27 Copes, "The Evolution of Marine Fisheries Policy in Canada", pp. 136-42; Draper, "Ocean Exploitation", p. 118.

28 McCorquodale, "The Management of a Common Property Resource", p. 159; Michael J. Kirby, *Navigating Troubled Waters: A New Policy for the Atlantic Fisheries* (Ottawa, 1982), p. 19.

29 Copes, "The Evolution of Marine Fisheries Policy in Canada", pp. 141-2; Draper, "Ocean Exploitation", pp. 120-1.

general licencing system for east coast fishermen, although this system was not made fully operational until 1975. In addition a licence was now required for all vessels. Licencing of lobster fishermen had been inaugurated on the east coast as early as 1967 and had been quickly extended as a means of controlling the catch of other shellfish, salmon and herring, but no previous attempt had been made to restrict the catch of groundfish such as cod or to require any form of general licence for fishermen.³⁰

The impetus for licencing was the federal government's expectation that its control over a 200 mile fishery jurisdiction would, for the first time, allow it to set quotas and regulate catches throughout the whole of the east coast fishery. To do that, a detailed inventory of fishermen was deemed necessary. Yet, in announcing the plan, the Minister of Fisheries, the Hon. Jack Davis, declared that this federal initiative was a response to "a sudden upsurge in Atlantic fishing vessel construction in 1973" and was a move to encourage expansion of the offshore sector. He further declared that such a licencing program would not harm any current fishermen, and suggested that licencing was simply a measure to identify who were the legitimate fishermen: "All fishermen presently in the industry will be protected.... To do this we need to know who are bona fide fishermen and who are not".³¹ To a considerable degree, the licencing policy as inaugurated in 1974-1975 was consistent with the Minister's 1973 announcement. The licencing system operated simply as a registry, and no distinction was made between full and part time fishermen. Moreover, there appears to have been no attempt to use the licencing system as a vehicle to close off the fishery from those who would resort to it as an employer of last resort. Licences were freely available to all who requested them, as is evidenced by the considerable growth in numbers of fishing vessels and officially registered fishermen during the period between 1975 and 1981.³² In sum, though licencing of inshore fishermen was inaugurated in the mid-1970s it operated simply as a registration program. There was no attempt at that time to use it as a means of limiting access; public policy still had not

30 Peter R. Sinclair, "Return of the Cod: State Intervention in the Newfoundland Fisheries", paper presented to the Annual Meeting of the Rural Sociological Society, University of Guelph, August 1982; and to the Conference on the Political Economy of Food and Agriculture in Advanced Industrial Societies, Toronto, August 1981. As the name suggests, groundfish are those fish species which swim near the ocean floor rather than near the surface.

31 Canada, *House of Commons Debates*, 1973, pp. 7175-6 (14 November 1973).

32 Parzival Copes, "Fisheries Management on Canada's Atlantic Coast: Economic Factors and Socio-Political Constraints", *The Canadian Journal of Regional Science*, 6 (1983), pp. 16-7 documents that between 1974 and 1980 the number of registered fishermen in Newfoundland rose from 15,351 to 35,080. Since fishermen were generally well aware that such a registry could be used in future as a record of participation and as a means of determining who were the legitimate or "bona fide" fishermen, it is likely that many applied for fishing licences to ensure that the fishery as an employment option was not closed to them in future on the basis of a retroactive use of the registry. Copes' data tend to support this interpretation, since he estimates that in 1980 there were only 21,297 persons for whom the fishery was an occupation.

addressed the problem of the “tragedy of the commons”.

The first public recognition by the federal government of “the tragedy of the commons” on the east coast is to be found in a May 1976 document entitled *Policy for Canada’s Commercial Fisheries*. In a discussion of the Atlantic fishery it declared that “In an open-access, free-for-all fishery, competing fishermen try to catch all the fish available to them, regardless of the consequences. Unless they are checked, the usual consequence is a collapse of the fishery: that is, resource extinction in the commercial sense, repeating in a fishery context ‘the tragedy of the commons’”. The report also recommended a reduction in the number of fishermen in Atlantic Canada: “A reduction in the number of people employed in the primary fisheries would have different effects in different communities.... Where adverse social side effects such as reduced employment opportunities can be kept within acceptable limits, restructuring should proceed”.³³ Copes notes that “The document clearly confirmed the economic analysis that had emerged over the previous fifteen years. It acknowledged the need to apply limited entry universally, to reduce significantly the excessive manpower of the inshore fishery, and to rationalize the dispersed and fragmented processing industry”.³⁴ While the document did not so much “confirm the economic analysis” as assert it, Copes is right in observing that the significance of the 1976 policy document lay in its explicit acknowledgment and acceptance of the “tragedy of the commons” perspective as developed by economists, and in its declaration that the way to overcome such a problem was through a reduction in the number of fishermen.

Although this document presumably outlined the policy position of the federal government with regard to licencing, it did not clearly articulate how the government would deal with two key issues: the relation of the inshore fishery to the offshore fishery, and the relationship between full-time and part-time fishermen. With respect to the first issue, the Hon. Romeo LeBlanc, who replaced Davis as Minister of Fisheries and Oceans, clearly was instrumental in fostering the interests of the inshore and near shore fishermen over the offshore fishermen.³⁵ One possible reason why the federal stance on part-time fishermen was not clearly articulated in the 1976 policy document nor in subsequent announcements, was the potential political consequences of doing so. There was a deliberate effort in subsequent federal statements to imply that, in some unspecified way, limiting access through licencing and quotas would benefit all

33 Government of Canada, *Policy for Canada’s Commercial Fisheries* (Ottawa, 1976), pp. 39, 56.

34 Copes, “The Evolution of Marine Fisheries Policy in Canada”, p. 142.

35 An analysis of Mr. LeBlanc’s role can be found in Copes, “The Evolution of Marine Fisheries Policy in Canada”, pp. 143-4; Ralph Matthews, “Class Interests and the Role of the State in the Development of Canada’s East Coast Fishery”, *Canadian Issues: Journal of the Association for Canadian Studies*, 3 (1980), pp. 115-24; and Matthews, *The Creation of Regional Dependency*, pp. 194-215.

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fishermen. In one instance, the Minister referred to licencing as “regulating for people”, and in another speech he declared that “By means such as limited entry, licence control, quotas and overall fleet coordination, we protect for each fisherman his share of the fishing grounds. Our first preoccupation is to protect existing fishermen and consolidate the good health of their fishery”.³⁶

When avoidance of the part-timer question proved impossible, the federal government chose to maintain the euphemism of “bona fide fishermen” that had been used when the policy was first announced in 1973. Just as the term ‘rational’ had become a code phrase to identify those economic theorists who espoused the “tragedy of the commons” perspective, so the term “bona fide fishermen” became a code phrase used by those policy makers who were increasingly committed to the use of licencing as a means for limiting access to the inshore fishery. Thus, in a highly confrontational speech to Atlantic Provinces fisheries ministers the federal minister asked: “When the increase in cod trap fishermen means the bona fide fishermen, by the luck of the draw, finds his berth in a barren patch, will the province encourage restrictions on the numbers of new fishermen?”³⁷ Likewise, a DFO “News Release” that dealt with the way in which licencing regulations might affect fishermen was quick to emphasize that “there will be...no restrictions on bona fide fishermen, as determined through an appeal committee, using longline and baited trawls, and on non-bona fide fishermen using handlines”.³⁸ The obvious implication was that there were some “non-bona fide fishermen” who would be subject to considerable restriction. Indeed, it would appear that the only persons who might fit the circumlocutory category of “non-bona fide fishermen” were those who fished part-time using gear that was more sophisticated than the simple handline. Looked at the other way around, this announcement essentially stated that government fisheries policy would henceforth involve discrimination toward the vast majority of part-time fishermen.

This announcement reflected a decided shift in federal licencing policy beginning around 1979. This shift in direction was undoubtedly influenced by the massive increase in numbers of licenced fishermen. However, the immediate impetus was a review of Canadian fishery policy undertaken by C.R. Levelton of the federal DFO at the request of LeBlanc. Levelton’s instructions explicitly

36 Romeo LeBlanc, “Notes for a Speech By the Hon. Romeo LeBlanc to the Fishery Ministers of the Atlantic Region”, Moncton, New Brunswick, 10 November 1978, p. 2; Romeo LeBlanc, “Notes for Remarks by the Hon. Romeo LeBlanc, Minister of Fisheries, at the Federal-Provincial Conference of First Ministers on the Economy”, Ottawa, 29 November 1978, p. 3. Texts provided by the Department of Fisheries and Oceans, Ottawa.

37 LeBlanc, “Notes for a Speech by the Hon. Romeo LeBlanc, to the Fishery Ministers of the Atlantic Region”, p. 14.

38 Government of Canada, “Freeze on Inshore Groundfish Fishing Licences Partially Lifted”, *News Release: Communiqué*, Number NR-HQ-79-30E, Department of Fisheries and Oceans (Ottawa, 1979), p. 2. Text obtained from the Department of Fisheries and Oceans, Ottawa.

required him to “Review and evaluate the licencing systems of Canada’s east coast commercial fisheries and provide recommendations concerning the role and type of a future licensing and fee system. Particular emphasis will be placed on the groundfish fishery and its relationships with other fisheries”.³⁹ Levelton’s final report provided a long and detailed list of recommendations. Among those which directly affected inshore fishermen were recommendations that licences be issued to individuals rather than to vessels; that a categorization of licences be implemented so as to differentiate “regular fishermen, apprentices and casual fishermen”; that the sale and transfer of licences from one person to another be prohibited; and that there be a simple and universal registration of all fishing vessels.⁴⁰

The position of the federal Minister on the Levelton Report was revealed in a March 1980 speech by LeBlanc to the United Maritime Fishermen. He stated:

We need further definition of who should get a chance to fish, who should get a licence. A year ago Cliff Levelton, formerly a top manager in the fisheries department, finished a study that I commissioned on Atlantic licencing.... It’s time we dusted off the Levelton Report and made some decisions on such matters. Meanwhile, until the existing fleet has enough fish for a decent living, and until we think through the whole question, we should as a rule give out no additional licences.⁴¹

In the same speech, the Minister declared his opposition both to “the rationalizers wanting to develop and consolidate everything in sight, even if it means doing away with small fishing villages”, and to “the rural romantics arguing that we must preserve the coastal way of life at all costs, even when it means preserving poverty”. On the other hand, he betrayed his own acceptance of the position of ‘the rationalizers’ by giving his own eloquent statement of the tragedy of the commons argument:

If you let loose that kind of economic self-interest in fisheries, with everybody fishing as he wants, taking from a resource that belongs to no individual, you end up destroying your neighbor and yourself. In free

39 C.R. Levelton, *Toward An Atlantic Coast Commercial Fisheries Licencing System: A Report Prepared for the Department of Fisheries and Oceans, Government of Canada* (Ottawa, 1981). Levelton was commissioned to write the report in 1978 at which time the terms of reference required that he “provide to the minister periodic progress reports and a final report by April 15th, 1979” (p. 2), but the report was not available to the public in published form until 1981.

40 *Ibid.*, pp. 83-5.

41 Romeo LeBlanc, “Notes for a Speech by the Hon. Romeo LeBlanc, Minister of Fisheries and Oceans, at the 50th Anniversary Meeting of the United Maritime Fishermen”, Moncton, New Brunswick, 19 March 1980, p. 5. Text obtained from the Department of Fisheries and Oceans, Ottawa.

fisheries, good times create bad times, attracting more and more boats to chase fewer and fewer fish, producing less and less money to divide among more and more people.⁴²

In retrospect, such a statement would suggest that official acceptance of limited access licencing could not be far off.

Mr. LeBlanc made the first public announcement of federal acceptance of such a policy only six months later, in September 1980, in his closing remarks to a conference on the groundfishery.⁴³ After first talking at length about how he had listened to all their deliberations and stayed up late into the evening reading their submissions, he informed all those in attendance that he was presenting his own final decision because someone in his position “can’t pass the buck to somebody else, and at some point what he has heard will have to be either accepted or rejected, or somewhat adjusted”. He even went so far as to suggest that, in forming his views, he had rejected the position laid down for him by his own officials:

If you detect a certain nervousness amongst some of my officials, it’s because I decided the speech that was written for me before the seminar would not be very convincing, if I heard something new and different at the seminar. So for that reason I’m speaking from my own handwriting, and if sometimes I stumble, it has to do more with my writing than my elocution.⁴⁴

It is highly *unlikely* that his officials were upset with the announcement that he then went on to make, namely that limited access licencing involving a distinction between full-time and part-time fishermen would be introduced early in 1981. It was a mark of Mr. LeBlanc’s political skill that he managed to make this announcement in such a way as to imply that it was contrary to the wishes of his officials and a direct response to the requests that he do so by “25,000 fishermen”. Furthermore, he left the impression that the administration of the program would largely be in the hands of the fishermen. So as to provide the ‘flavour’ of this announcement and because many of the details of the ensuing licencing regulations were outlined in his statement, it is quoted at length below:

42 *Ibid.*, pp. 2-3.

43 Sinclair, “Return of the Cod”, p. 22, indicates that the Minister, Romeo LeBlanc, first announced the inauguration of limited access licencing in an address to the Newfoundland Fish, Food and Allied Workers Union in November 1980. Though LeBlanc did indeed announce the program there and elaborate on the distinction between full and part time fishermen, the first announcement was actually at the Memramcook meeting, a month earlier.

44 Romeo LeBlanc, “An Address by the Hon. Romeo LeBlanc, Minister of Fisheries and Oceans, at the Gulf Ground Fish Seminar”, Memramcook, New Brunswick, 25 September 1980, p. 2.

The fact is that we have been talking about licensing long enough, and we must move.... Licensing is a chief concern of the industry as a whole, but especially of fishermen.... On the basis of very extensive and exhaustive consultations that have already been held with more than 25,000 fishermen and other representatives of the industry, it looks as if a consensus is emerging, or has emerged, in favour of categorizing personal fishing licences into three main groups — the full-time, the apprentice and the part-time or casual. I want to make it very clear we are not proposing to threaten anybody's modest livelihood. We're looking at categories of fishing licences.

Coupled with such a new regime will be the creation of local licensing allocation and appeal committees chaired by people who are not members of the federal bureaucracy. The majority of the members of these committees will be fishermen. My intention is to implement these two key recommendations early in 1981....

These two additional changes alone should go a long way in recognizing legitimate local concerns in the management of the fishery, by giving fishermen a direct voice in licensing issues which affect their livelihoods and their lives. So that there will be no misunderstanding, I want to make it clear that these are the kinds of changes being proposed and requested by the fishermen themselves, and not by some committee of officials in some supposed ivory tower.⁴⁵

Thus, the shift in the value orientation of fishery regulation based on the economic theory of common property finally became a matter of state policy in 1981. Once again it would appear that Romeo LeBlanc, the Minister of Fisheries and Oceans, played a critical role in determining the direction and shape of fisheries policy.

One reason why it took nearly 30 years from the time of Gordon's original article until the economic rationalist position was declared to be the basis of Canadian fishery policy was undoubtedly the federal politicians' own caution with regard to the social and political consequences of such policies. However, the delay was also due to the nature of the provincial responses to such policies. The following pages will examine the nature of that response in the province of Newfoundland and Labrador.⁴⁶ It will be argued that the Newfoundland

45 *Ibid.*, pp. 5-6.

46 The response to limited entry licensing has varied from province to province throughout the Atlantic region. Though alike in some respects, there are also major differences in the inshore fisheries of the four Atlantic provinces, including differences in the proportion of various species caught, the types of gear used, the social and economic divisions among fishermen, and in the significance of the fishery to the political process in each province. Such differences have influenced the response of each government and make it difficult to compare the responses of the provinces in any meaningful way without providing a wealth of detail beyond the scope of a

response can best be understood in the context of the history of provincial government policy there. This context includes not only policies directly related to the regulation of the fishery, but also those broader social policies, such as the Resettlement Program, which had a major impact on the communities in which fishermen live.

Newfoundland fishermen, of course, were not subject to Canadian fisheries regulation until Newfoundland and Canada joined in 1949. Whereas the various analyses of Canadian fisheries policy cited earlier all stress that until relatively recently Canadian fisheries policies emphasized biological conservation,⁴⁷ Kent O. Martin argues that prior to confederation, Newfoundland fisheries policies “were not enacted primarily with a view toward husbanding the resource, i.e. conservation. Rather they [were] a political response on the part of the government to the ecologic and social needs of various inshore fishing communities”. Martin contends that the Newfoundland government originally became involved in fisheries regulation because of pressure brought to bear by inshore fishermen on elected representatives, requesting that the latter do something to settle local fishing disputes arising out of the use of different technologies. As a result, Newfoundland’s traditional fishing regulations were primarily social policies designed to maintain a social status quo, not conservation policies. These regulations allowed a local fisherman to “remain secure in the knowledge that he would have at least an equal chance (ideally) to catch his rightful share of the resource”. Martin also argues that Newfoundland fisheries regulations supported the cultural facade of equality and egalitarianism that existed in the rural Newfoundland fishing culture and that the Newfoundland fisheries regulations were essentially the codification of local arrangements into law, thereby permitting “the avoidance of conflict and the maintenance of the egalitarian-relations veneer”. Despite the fact that actual behaviour on the fishing ground involves “distrust, competition, and manoeuvring” and “intense competition”, Martin emphasizes that the regulations were designed to ensure that this was “not allowed public acknowledgement ashore”.⁴⁸ In short, rather than attempting to maximize the benefits from fishing of any one category of fishermen, Newfoundland fishing regulations seem to have been directed toward maintaining both equality of opportunity and equality of results.

Martin’s depiction of early fisheries policies in Newfoundland as being deliberately designed to preserve the egalitarian and non-competitive character

single paper. This paper will limit its consideration of the provincial response to one province, Newfoundland.

47 Draper, “Ocean Exploitation”, p. 114; McCorquodale, “The Management of a Common Property Resource”, p. 156.

48 Kent O. Martin, “Play by the Rules or Don’t Play at All: Space Division and Resource Allocation in a Rural Newfoundland Fishing Community”, in Raoul Andersen, ed., *North Atlantic Maritime Cultures: Anthropological Essays on Changing Adaptations* (The Hague, 1979), pp. 284, 284-6, 298, 292, 289.

of Newfoundland fishing villages has a ring of authenticity to it, given the character of life in most isolated rural Newfoundland communities. Under conditions where men and women must live and work in close proximity and isolation while competing for the same resource, it is likely that numerous cultural proscriptions and norms arose that were designed to defuse the obvious basis for potential conflict. Whether, in reality, Newfoundland regulations and norms were any more oriented in this way than in Atlantic Canada is open to question, but there is little in the various works on the development of Canadian fisheries policies cited previously that in any way suggests a concern with egalitarian considerations or with the regulation of community conflict. Based on Martin's analysis, it would appear that the historical orientation of Newfoundland fishery policy would have led Newfoundland fishermen, with some justification, to view the role of the state in the regulation of the fishery as directed toward supporting their traditional practices and as enforcing the veneer of equality among fishermen.

To be sure, events since confederation may have done much to undermine such a faith, particularly the Newfoundland Resettlement Program, a deliberately orchestrated federal and provincial attempt to undermine the traditional communal way of life and the values on which it was based. On the other hand, the vehemence of the response to such policies ultimately became so great that it forced their abandonment and made it virtually impossible for any future provincial administration to openly advocate policies and programs which in any way undermined the traditional values and integrity of rural community life. In that sense, the Resettlement Program, while being a clear exception to the generalization that Newfoundland fisheries policies emphasize egalitarian and egalitarian norms aimed at reducing communal conflict, may in fact be the exception that established the rule. If such is the case, then Newfoundland fisheries policies in the beginning and again today are founded in a set of values which are not consistent with federal fisheries policy. Indeed, the values inherent in current Canadian fisheries policy appear to give little credence to the ability of local customary regulations to police adequately the fishery. Current federal policy also attempts to enhance the economic benefits received by some fishermen, even if this decision means that this will lessen the economic benefits received by others.

In examining the Newfoundland response to federal limited access inshore fishery policies, it is necessary to focus on a variety of 'actors' from both within and outside the provincial government who were involved in various ways in shaping the policy process and the provincial response. The provincial politicians and their advisors played a major role in the debate, but their 'interests' in the matter were not necessarily unified. Given the persuasiveness of the economic arguments, they might be expected to favour the development of a strong professional labour force of full-time fishermen. However, the implications of that position were that many part-time fishermen might well suffer, and

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these part-time fishermen were also voters. As a consequence, the provincial government reaction to the imposition of licencing and limited access policies can best be described as mixed.

In addition to the policy makers, there were a number of other groups and individuals who attempted to influence the provincial response. These included academics and other 'experts'. However, the Newfoundland 'actor' outside of government that played the most crucial role was the Newfoundland Fishermen, Food and Allied Workers Union. This Union represented all fishermen: part-time and full-time; inshore, near shore, and offshore. Given the conflicting interests of these various groups of fishermen, the stance of the Union toward licencing and limited access became a critical factor in the implementation of limited access regulations.

The initial Newfoundland government reaction was general (if somewhat guarded) approval of licencing and of limited access. Thus, in 1973, only two days after the federal fisheries minister declared his intention of introducing a licencing scheme for the east coast fishery, his Newfoundland counterpart, the Hon. Harold Collins, publicly expressed his support for the action. He stated that he accepted "the need to match the fishing efforts and resources", and assured fishermen that there was no intention in such action of "plotting the destruction of the Newfoundland inshore fishery".⁴⁹ Although such statements indicate support for the initial use of licencing as a means for the 'registration' of fishermen, they did not necessarily indicate support for the use of licencing as the basis of a program of limited access. However, in 1978, the provincial government released a *White Paper on Strategies and Programs for Fisheries Development to 1985*. While this document never explicitly mentioned the limiting of access to part-time fishermen, it gave tacit support to the idea. It declared that the fishery could "no longer remain an employer of last resort", that there was a need for a "select corps of professional fishermen", and that licencing would benefit those who could "maintain an effective presence within the harvesting sector":

From a licensing policy perspective, for example, the aim of both levels of government must be to ascertain, with input from fishermen's organizations and industry, that level of fishing effort which each species fishery can sustain in order to generate a reasonable income for those who can maintain an effective presence within the harvesting sector.

Given this approach, it is inevitable that the fishery will no longer remain an employer of last resort. The status of fishermen will rise, since with appropriate levels of training, a select corps of professional fishermen will emerge over the longer term.

49 Statement by the Hon. Harold Collins, quoted in *Report of the Committee on Federal Licensing Policy and Its Implications for the Newfoundland Fisheries* (St. John's, 1974), p. 14.

However, the document also emphasized the Newfoundland government's continuing support of traditional settlement patterns.

Social and economic considerations are, in the final analysis, the basis around which fisheries development strategies are initiated and implemented....

The Province's commitment to fisheries development and its commitment to maintaining the settlement pattern which exists throughout Newfoundland and Labrador reflects the contribution which the fishing industry makes to the economy both from a social and an economic perspective.⁵⁰

The problem not faced in this policy document was that the two positions were largely incompatible. Fisheries development in terms of economic considerations involved the closure of the fishery as an employer of last resort. Such policies were, at least to some degree, in opposition to social policies committed to the maintenance of the traditional settlement pattern.⁵¹

Between 1978 and 1980 the Newfoundland Government clearly overcame its indecision on this matter. A number of factors may have contributed to his decision. For example, several reports had been published in Newfoundland which cautioned against the use of licencing as a means of excluding part-time fishermen from active involvement in the fishery. The most significant of these was the *Report of the Committee on Federal Licensing Policy and Its Implications for the Newfoundland Fisheries*. It contended that "the proposed licencing policy seems to rest on the assumption that the provincial government and local fishermen do not already have the necessary means to control entry and allocation to the inshore fisheries without resorting to a higher organizational level" and pointed out that "entry to the inshore fishery, far from being wholly uncontrolled (as is often assumed) has long been regulated according to customary rules and regulations emanating from the local level". In short, it challenged the very "tragedy of the commons" argument on which the limited entry policy was based. The *Report* also pointed out that the survival of many coastal communities, particularly along the northeast coast of Newfoundland,

50 Government of Newfoundland and Labrador, *White Paper on Strategies and Programs for Fisheries Development to 1985* (St. John's, 1978), pp. 22-4.

51 Ironically, it was this same dilemma that had brought down an earlier attempt at fisheries 'rationalization' involving the centralization and resettlement of the population. Though the 1978 *White Paper* explicitly rejected past attempts at 'rationalization' involving centralization and resettlement of population (pp. 21-2), its authors appear to have been unaware that the same issues are involved in licencing and limited access. Indeed, it is just this point which formed the basis of W.S.W. Novak's pamphlet "*Like It Or Not You Will Be Resettled*": *Some Economic and Geographical Implications of the Licencing Policy in the Newfoundland Fishery* (Mount Pearl, Newfoundland, 1980).

had traditionally depended on “occupational pluralism” and argued that limited access licencing directly threatened the survival of many of them.

In Newfoundland today it [occupational pluralism] is still an adaptation to a shortage of employment opportunities which are not seasonally based. Any fisheries licensing policy which ignores that fact is on dangerous ground. It should be understood that implied in all this is the staggering cost of relocating a substantial proportion of the remaining rural population of Newfoundland and Labrador to urban centres.⁵²

By the early 1970s, the previous efforts to resettle communities had received widespread local condemnation and had fallen into ill-repute. It would have been political suicide for any provincial government to support new policies that could in any way be linked to population relocation. In response to these and other problems, the Hon. Frank Moores, Premier of Newfoundland, in a February 1978 address to the National First Ministers Conference, called upon the Prime Minister of Canada and all other provincial Premiers to “support the principle that control of licensing policy be delegated to the Province for a five year period, and that the Federal Government recognize our right to participate in the establishment and allocation of quotas”.⁵³ In addition, in August 1980, the Newfoundland government established a Royal Commission with the mandate to inquire into “the impact of limited entry and other licencing schemes upon the incomes of inshore fishermen, the future evolution of the inshore fishery, and the social and economic development of communities predominantly dependent upon the inshore fishery”.⁵⁴ However, the Commission had barely been appointed when Mr. LeBlanc announced his decision to implement a limited access licencing policy. The Province’s new Premier, the Hon. Brian Peckford, was clearly outraged at the decision and at the federal rejection of the province’s request for jurisdiction over licencing. Thus, in the fall of 1980, shortly after Mr. LeBlanc’s announcement, the Newfoundland government issued a pamphlet which strongly opposed the federal licencing program:

A new licensing policy has been introduced by the Federal Government

52 *Report of the Committee on Federal Licensing Policy and Its Implications for the Newfoundland Fisheries* (St. John’s, 1974), pp. 18, 22. This committee was established by the President of Memorial University of Newfoundland apparently as a result of his own concerns with the impact of licencing policy on Newfoundland society. Its members consisted entirely of faculty members of Memorial University, many of whom had previous research experience related to rural Newfoundland fishing communities.

53 Hon. Frank D. Moores, “Fisheries in the Future: A Paper to be presented at the First Ministers’ Conference, Ottawa, February 13-15, 1978” (St. John’s, 1978), p. 5. Text provided by the Office of the Premier, Government of Newfoundland and Labrador, St. John’s.

54 Brose Paddock *et al.*, *Report of the Royal Commission to Inquire into the Inshore Fishery of Newfoundland and Labrador: Phases II and III* (St. John’s, 1981), p. x.

which in effect classifies 2/3 of our fishermen as “part-time”. This could have tremendous effect on hundreds of small rural communities that depend in whole or in part on the inshore fishery.

Along with the new licensing policy, the notion of an inshore quota has been introduced. We can see the day coming when the inshore fishing could close down in late August due to quota restriction. What happens to the poor fisherman who had a bad July and wants to make it up in September?

Your provincial government does not agree with these policies or the abrupt way that they were put in place.

The document concluded with the statement that “Major decisions should await the outcome of the Royal Commission and the constitutional process”.⁵⁵

The Newfoundland government has, since 1980, maintained its strong opposition to the federal licencing program with its provision for limited access. Thus, in 1982 it issued a statement which declared that “The provincial Government has taken the view that the right to fish is a local birthright.... We would put limitations on the number of larger boats and the amount of gear, not the number of fishermen”.⁵⁶ Thus the Newfoundland government has opted for ‘social’ and ‘settlement’ considerations over those related to economic ‘rationality’. From the perspective of those political economists who would argue that the state operates in the interest of the dominant capitalist class, such a position seems to make little sense. However, in the political and social context of Newfoundland the government had little choice. As Copes has noted, “a deliberate rationalization of the fishery that bars a proportion of the fishing population from the only employment available to them is socially and politically unacceptable. For this reason, it appears almost impossible to achieve substantial rationalization of the fishing industry before the general employment situation...has been improved”.⁵⁷ In sum, the value basis of Newfoundland fisheries policy today remains very similar to that of pre-confederation days as described by Martin.⁵⁸ The concern of provincial fishery policy still rests primarily with the ‘social’ aspects of the fishery policy rather than with conservation issues. Furthermore, there is a clear interest in maintaining the equalitarian ethos which has traditionally been a major part of the rural Newfoundland value system, even though it is largely mythical.

55 Government of Newfoundland and Labrador, *The Fishery: A Business and a Way of Life* (St. John's, 1980), pp. 3, 4.

56 Quoted, in Parzival Copes, “Fisheries Management on Canada's Atlantic Coast: Economic Factors and Socio-Political Constraints”, *The Canadian Journal of Regional Science*, 6 (1983), p. 26.

57 Parzival Copes, “Canada's Atlantic Coast Fisheries: Policy Development and the Impact of Extended Jurisdiction”, *Canadian Public Policy*, 4 (1978), pp. 162-8.

58 Martin, “Play By the Rules or Don't Play At All”.

On the other hand, the federal government, because of its political and geographic distance, was able to introduce fisheries policies that were virtually the principles of 'economic rationality' put in concrete form. The one time the Newfoundland government supported such principles was when it introduced the community resettlement program. Even then, it was responding more to federal probing rather than its own value orientation.⁵⁹ Simply put, it could not risk the social and political consequences of supporting such principles again.

The fishermen's union was the other major 'political actor' in the decision by the federal government to implement limited access licencing. The Newfoundland Fishermen, Food and Allied Workers Union was the largest union of fishermen in Atlantic Canada. In Newfoundland it represented all inshore and offshore fishermen as well as fish plant workers. Given that the interests of these various groupings were often in conflict, the Union was frequently faced with the difficult decision of supporting the interest of some of its members at the expense of others.⁶⁰ Limited access licencing required the Union to choose between the interests of some 8,000 members who were full-time fishermen and the interests of some 15,000 members who were part-time fishermen. The Union chose to serve the interests of full-time fishermen.

The Union had long been an ardent advocate of limited access licencing and in 1977, even prior to the implementation of an official licencing distinction between full and part-time fishermen, the Union had incorporated such a distinction into its agreements with fish processing facilities. Under the agreement, in times of a "fish glut",⁶¹ fish buyers were required to purchase fish from "bona fide fishermen" before purchasing the catch from "moonlighters". The agreement also established that the Union local in any community was the body that would determine who were the "bona fide fishermen". The agreement was explained to fishermen in a Union announcement which read in part:

The key new clause in the contract deals with the handling of fish during the June glut.

"In each area", says Article 4.06 of the contract, "a fisherman's committee will submit a list of bona fide fishermen to the companies concerned, to

59 Those who have written in support of the Newfoundland Resettlement Program have frequently argued that the policy was originally introduced by the provincial government. While the Newfoundland government did have a community 'centralization' program in the 1950s and early 1960s prior to the inauguration of the joint federal-provincial resettlement program in 1965, that program was much different in design and in the 'sociological' process which it engendered than the later program in which the federal government was involved. The extent to which the two programs were sociologically different in orientation and process have been documented by this author, most recently in "The Outport Breakup", *Horizon Canada*, 9, 102 (1987), pp. 2438-43.

60 Mathews, *The Creation of Regional Dependency*, pp. 202-4.

61 A "fish glut" occurs when there are more fresh fish caught in any area than the existing processing plant in that area can process. This situation occurs quite frequently in most areas when the fish "strike in" in pursuit of caplin or other smaller fish on which they feed.

enable the parties to ensure that these fishermen have the first opportunity to sell their catch to those companies they regularly supply, during periods of over-supply”.

What this means is that during the glut, the *bona fide* fishermen will get priority over moonlighters in the sale of fish, provided the fishermen’s committee lists only full time fishermen. If the committee wants to include moonlighters on the list it can do so, but it will be at the expense of the full time fishermen....

There’s an old saying in Newfoundland that “everyone has a right to fish”, but what the new collective agreement establishes is that full-time fishermen enjoy special rights in selling their catch.⁶²

In the same vein, when the federal government appointed C.R. Levelton to undertake a review of licencing, the Union submitted a proposal to him which declared that “the union recognizes controlled entry as one of the key tools of fisheries management”. The Union submission also proposed a division of licence holders into “A” and “B” categories. A “B” category licence holder would still have the right to fish, but would not be allowed to sell fish in time of glut, nor participate in the community “draw” for trap berths.⁶³ When Levelton supported the Union proposal for limited access, the Union applauded his report. It also described what it felt to be the “two main parts of the licencing problem”: “First, the question of who are the *bona fide fishermen* who should get first crack on the grounds, financial assistance and so forth; and secondly, the question of how access to the restricted fisheries (lobster, salmon, herring, crab, shrimp) should be distributed among these *bona fide fishermen*”.⁶⁴ In making such a statement, the Union was “upping the ante” by implying that protected species licences now held by part-time fishermen should be taken from them and awarded to “*bona fide*”, full-time fishermen. By March 1980 the Union was also giving the federal government public advice concerning other aspects of licencing policy. Thus it contended that the government should “Licence the man, not the boat” and argued that “when he ceases fishing, then the licence should revert to the government”.⁶⁵ In April of that year the Union applauded the statement by the representative of DFO appointed to deal with licencing in eastern Canada who reportedly declared that “a committee of fishermen should tell the federal government who the *bona fide fishermen* are...instead of the

62 Newfoundland Fishermen, Food and Allied Workers Unions, “Full-time Fishermen Get Priority”, *Union Forum*, (July 1977), p. 9.

63 Newfoundland, Fishermen, Food and Allied Workers Union, “The Need for Licencing Controls”, *Union Forum* (March 1979), p. 17.

64 Newfoundland, Fishermen, Food and Allied Workers Union, “Licencing: Prompt Action Needed”, *Union Forum* (July 1979), p. 13, emphasis added.

65 Newfoundland Fishermen, Food and Allied Workers Union, “Licence the Man: Not the Boat”, *Union Forum* (March 1980), p. 21.

federal government telling the fishermen who are the *bona fide fishermen*".⁶⁶

It was undoubtedly these clear statements from the Union which formed the basis of Mr. LeBlanc's declaration that, in deciding to implement a limited access licencing policy, he was responding to the requests of 25,000 fishermen. After all, the NFFAWU represented 25,000 fishermen. However, even more significant is the fact that the policy announced by Mr. LeBlanc contained almost every feature that was advocated by the Union. It distinguished between full-time and part-time fishermen; licenced the man, not the boat; required that licences revert to the government when not in use, rather than become private property; and declared that the Union's fishermen's committee in each community would have the power of decision concerning any appeals of part-time status. The federal licencing policy was a massive and strategically important victory for the Union. Moreover, it was an absolute defeat for the Newfoundland government. In formulating its policy, the federal government had totally ignored the provincial government's request to have control over the licencing of fishermen. On the other hand, the federal government had delegated a significant aspect of that power to the Union. In 1978 Premier Moores had clearly described the powerlessness of the Newfoundland government when he stated:

Newfoundland has a smaller measure of control over our economic destiny than any other province in this Federation. We believe that we must have greater control over our energy and fishery resources.... In the case of fisheries, we as a province have neither ownership nor control over a resource which is of vital importance, socially and economically.... I don't think there is another Province in Canada whose economic sovereignty is as seriously impaired as is that of my Province.⁶⁷

In 1981, the province was forced to watch while a significant measure of the power to control one of its key resources — a power that it so desperately wanted — was given to yet a third party. Under the circumstances, it is easy to understand the fury and utter sense of impotence that Premier Peckford and other members of his administration displayed in their response to the licencing program.

At this point, Newfoundland had lost two 'battles' over the fishery. It had lost the battle concerning the definition of the problem and the desirable direction for future policy. It had been unable to convince the federal government that a concern for "social considerations" should take precedence over the considerations of "economic rationality" which derived from the "tragedy of the commons" perspective. However, even more insulting was its loss of control over

66 Newfoundland Fishermen, Food and Allied Workers Union, "Licensing: System Under Review", *Union Forum* (April 1980), p. 18, emphasis added.

67 Moores, "Fisheries in the Future", p. 3.

the policy implementation process. The rejection of Newfoundland's plea for some measure of control over the harvesting of one of its major resources, and the alliance between the DFO and NFFAWU with regard to the regulation of licencing, virtually ensured a continuing conflict between the two levels of government responsible for bringing "rationality" to the fishery.

This paper has described only one phase in an ongoing battle between the federal and Newfoundland government over the right to regulate the inshore fisheries off Newfoundland's rocky coast. However, both of these protagonists had, by 1981, firmly articulated the values and rhetoric on which their conflicting positions were based. The federal position, based as it was on established economic theories of common property, had a far more clearly articulated set of assumptions, propositions and conclusions. These contrasted sharply with the less systematically developed statements about maintaining the quality of community life that were the basis of the Newfoundland position. As is frequently the case when economic "rationality" is pitted against concerns for social vitality and quality of life, the economic position carries with it an aura of objective truth while those who advocate social concerns appear to have based their positions on a set of largely unsubstantiated subjective beliefs. Yet the economic rationalist position also contains certain weaknesses and value biases. For example, it is premised on the assumption that the open access fishery involves unbridled competition of all against all, although there is ample anthropological and sociological evidence that this does not occur in most local fisheries. Furthermore, it implies that the limiting of access through licencing procedures will, in some way, eliminate competition in the inshore fishery and forestall overfishing. Yet limited access regulations by themselves do little more than limit the right to compete to a select number of fishermen. These fishermen remain in competition both for fish, and for the income to be derived from the sale of fish. Thus, the federal and provincial positions may also be viewed as competing metaphors, providing alternative visions of the most desirable basis of fisheries regulation.