

## DISCUSSION

### Economic Session

Discussion Leader: ARNE SUOMELA

Discussion Panel: L. C. RINGHAVER, JOHN F. LINEHAN

### An Introduction to the Problems of Marine Insurance in the Fishery Industry

R. KAHN

- Q. Suomela: Dr. Kahn, you described the insurance situation in some areas of the United States as satisfactory and other areas as unsatisfactory. Can you explain the difference?
- A. Kahn: It is a question of personalities, which play an important part in the insurance situation—personalities in the fishing industry on one side and personalities in the courts on the other. In Texas, in New Orleans, and in the Gulf coast areas insurance rates are generally lower than in other areas. This is due in part to the great care which is given to the fishing vessel by owners in this area. I wish I could say the same for other areas. This makes a difference in rates. Also in Texas, the courts or juries are not inclined to respond to excessive demands for compensation in case of accidents, while in the eastern states—in Massachusetts for example—the courts and juries respond more liberally to claims in cases of accidents and sicknesses. Insurance companies, knowing of this, charge lower rates in some areas than in others.
- Q. Ringhaver: How many boats constitute a fleet for insurance purposes?
- A. Linehan: In New Bedford we have had several cases arise where an owner with two vessels would have the rates rise on both vessels because he had had a bad loss experience on one of them. For insurance purposes apparently two or more vessels constitute a fleet.
- One reason marine insurance has so many problems and rates are out of proportion is that the fishing people do not seem to be interested in insurance. In New England we have suffered terrifically from poor insurance practice; anyone who is involved in the fishing industry should know that unless he can insure his vessels he can't even fish. In New England our principal problem today is insurance, and I think people had better become interested in it soon.
- Dr. Kahn mentioned the phrase "equal justice under the law" and he went on to say that in the final analysis government officials must take a stand on important problems of insurance. Mr. Robas said that it is most important that Congress take fishermen out of the Jones Act, and place them under a Seaman's Compensation Act which would be both fair to crew members and to owners. Dr.

Kahn, what position will the Department of the Interior take on any effort that we in the industry make toward eliminating the Jones Act and writing a seaman's compensation act?

- A. Kahn: Nobody could answer this but the Secretary of the Interior. The elimination of the Jones Act is easily said, but it would be difficult to do. The seaman's unions oppose such a move. Regardless of whether the Jones Act continues or not, by proper education of both the boat owners and fishermen much can be done to eliminate difficulties. Perhaps under the Saltenstall Bill we will have some money available to do educational work, for example, to train the fishermen to use proper care when using inflammable material, and to train the boat owner to have inspections of the vessels from time to time and to see that the captain is properly selected, to train the captains to take care of their vessels, etc. Such an educational movement would increase the confidence of the insurance companies, and they would come back and ask for business. The hope for lower insurance rates comes when competition among the insurance companies is revived.

#### **Problems Affecting Fisheries Marine Insurance on the Atlantic and Gulf Coasts of the United States**

JEROME SACHS

- Q. Suomela: Mr. Sachs, you said that marine insurance premiums in the United States are not fixed by the regulatory authorities. Should fishing vessel owners try to work out a solution of their insurance problems by use of some sort of mutual group self-insurance scheme on a cooperative basis? Could the Department of Commerce give them advice on such possibilities?
- A. Sachs: It should be possible for the vessel owners to get together to set up a system of mutual self-insurance. However, such a system would have to be operated subject to certain definite limitations on its undertakings of risks. Such a system would obviously not do away with the difficulties now present, but such a scheme might be useful in providing a means whereby the vessel owners themselves could take an active hand in group self-correction of underlying difficulties and hazards. I think that such a group scheme should involve the use of deductibles, that is, the group should think in terms of taking care of or self-insuring the first claims and of placing the excesses with the insurance companies. As a matter of fact, the so-called "Clubs" in the London marine insurance market developed in this way. Originally, Lloyd's had not wanted to provide P & I insurance for fear it would result in indiscriminate hiring of incompetent crews, etc. To make this type of coverage

more attractive to Lloyd's, the vessel owners got together among themselves and formed these "Clubs" within which the member vessel owners insured each other on the small claims, and looked to Lloyd's for taking care of the larger claims. In summation, a mutual self-insurance system could, in theory, be developed among the owners of commercial fishing vessels. However, the nature of the hazards being what they are, the vessel owners, in practice, would have to be forthright in their dealings with each other. Since, as a group, the vessel owners would be self-insuring their own claims to the extent of the amount of the deductible, misrepresentation on claims or failure to improve the conditions surrounding the risk would simply mean that the member vessel owners of such a group would be taking unfair advantage of each other, and certainly no one should be able to spot this faster than the other suffering member vessel owners. In other words, the vessel owners singly and collectively would have to be vigilant in the screening of claims and in getting after their own members to improve the underwriting conditions.

- Q. Suomela: Licensing of fishing vessel captains and engineers is related to this problem. Because of the lack of education on the part of some of the captains and the engineers they cannot even get their papers. In such cases how can the men obtain their licenses?
- A. Sachs: Licensing of navigating personnel or marine engineering personnel is inevitable if any significant step is to be taken in reducing claims. The licensing procedure should, however, be applied realistically. I do not think literacy need be the conclusive factor. I have a considerable amount of respect for the judgment of men who have had practical experience; it seems to me that there must be some kind of sense of the sea which is developed out of the sheer experience of living on the sea, and having it does not necessarily involve being literate. With the view to breaking down resistance to the adoption of a licensing requirement, a license should perhaps be required only of new personnel, with licenses being automatically given to those who have already been operating for a designated number of years. Any educational techniques should not be academic in approach, but emphasize the practical. I would certainly not give anything that would set up insurmountable blocks to a man without schooling.
- Q. Linehan: Mr. Sachs, you mentioned that there was no general attempt on the part of boat owners to reduce the cost of premiums, but we've been through a series of depressions, when the cost of premiums has actually tied up boats in New Bedford. Some attempt has been made on the part of boat owners of my acquaintances to reduce costs, but they have found that regardless of what they do as in-

dividuals the cost continues to rise in general with the costs to other owners. Owners who have not had any losses over a period of two or three years find their rates just as high as those whose boats have had high claims and as a result they have thrown up their hands in despair.

A. Sachs:

The insurance companies are remiss, in my judgment, if they don't reduce rates for good risks and raise the rates for bad risks. Sometimes, however, the insurance companies—and it happens in all fields—will demand a high rate from an insured with a good record, because of their general "sense" of the market, i.e. the insurance company has the feeling that the general market is bad and they will insist on a high rate. In general the insurance companies, in my judgment, should not write insurance if the risk is unsatisfactory, not withstanding any pressures of brokers or anyone else, but at the same time, they should go out of their way to be helpful to those vessel owners who are showing a capacity to improve the risk.

Q. Linehan:

We have discussed licensing of captains and engineers; would you advocate the examination of the crew members so that they would be qualified as ablebodied seamen before they were allowed to go fishing?

A. Sachs:

The general direction should be one of increasing the skill of fishermen as seamen. With a small crew on a small boat, situations are constantly coming up requiring men to do a variety of jobs. Therefore, I would say that there should be more stringent requirements on fishing boats than on bigger vessels, where the loss of the services of one man is proportionately less crippling. For the ordinary fisherman maybe a license ought not be required, but instead a systematic persistent effort should be made to increase the skill of the crews about all kinds of marine problems, including navigating.

Q. Ringhaver:

Mr. Sachs, from your information on accidents that occur, do you not believe there are more due to the negligence of the men than the safe seaworthiness of the vessel?

A. Sachs:

I don't know.

Q. Ringhaver:

In our experience we find that in most cases there has definitely been negligence, and sometimes we find that the same accidents will recur time and time again. Don't you believe that if the insurance companies would check into these recurring types of accidents that there could be a remedy which would involve a saving?

A. Sachs:

It is apparent that there has been a lack of an integrated approach to the insurance problem. The vessel owners talk critically of the crews; crews similarly feel that most of the problems flow from the fact that the vessel owners are not keeping up their boats; the insurance companies in turn can possibly be criticized for all sorts of things that

they are or are not doing. Everyone in the industry should get together if progress is to be made. The establishment of some kind of commission would seem desirable, on which there should be representatives of the vessel owners, the representatives of the insurance companies, representatives of the brokers, and representatives of some of the banks that are active in financing the boats. A study should be made of this pressing problem on an integrated long-term basis.

Q. Wheelock:

I would like to ask Mr. Sachs if he could explore in his own department the possibility of using the service of the Coast Guard in connection with vessel inspections. My experience is largely in the Navy, and I know that quality cannot be maintained without unbiased and frequent inspection. At Scripps Institute of Oceanography, the five vessels that we operate are public vessels and not subject to any inspection, yet we have asked the Coast Guard for their routine inspection. They have given that to us free, and although we are not bound by any of their requirements because of the nature of the vessels, it has been a tremendous help to us to know their attitude toward our vessels. I know also that that service is available free to private yachtsmen; I'm not sure that it is open to commercial fishermen, but I think so. It has a great advantage if they would give it free; the vessel owners would get a good inspection, and whether they did anything about it or not at least they would know what to do. How can fishermen go about getting this service?

A. Sachs:

The Coast Guard is part of the Treasury Department and not of the Commerce Department, so that I'm not in a position to explore the question helpfully within my own department. If the inspection of the Coast Guard were made available to commercial fishermen, legislation would appear to be required. I think that a bill would have to be enacted in order to extend the facilities of the Coast Guard to fishing vessels. I also feel that if the Coast Guard were to enter this field that it should be more in the role of enforcing regulations and standards set up by the industry itself rather than for the Coast Guard to set up the standards and regulations. There is no reason why the government cannot enforce regulations for commercial fishing vessels, just as it does for other types, if the industry wants it. The law exists, all you have to do is to extend it to additional categories.

Q. Galler:

Has there been any systematic attempt to bring together information on the various types of accidents and casualties occurring in the industry, and to make a careful statistical analysis of causes of these types of accidents and their frequency?

A. Sachs:

To my knowledge no systematic analysis has been made.

Insurance rates in this field are not regulated and there has been little dependence on statistics.

Linehan  
(Comment):

We have been trying for a year to get statistics showing what categories of claims were being placed. With an eye to improving safety standards we wanted to know how many claims were put in due to crushed hands, how many due to lost fingers, how many due to crushed ribs. We ran into a stone wall with the insurance companies. They will not divulge any information on what their claims are or the frequency of claims of any particular type. Since we couldn't get it ourselves we went to the Commonwealth of Massachusetts, attempting through the Commissioner of Insurance to get the information officially. He had no success. At present the Federal Reserve Bank of Boston is attempting to get some statistics.

Galler:  
(Comment):

May I present to you for consideration experience along similar lines in other fields. Perhaps it might have some application here. After World War II, Cornell University became interested in this type of a situation as it occurs in non-commercial aircraft. They set up an organization to bring together facts from as many different sources as were available on the subject of causes of crashes and causes of injuries. These data were evaluated not only in terms of dollars and cents but in improvements in design and engineering. As a result of their efforts there has been a tremendous interest generated in the industry, which was not interested at the beginning. A similar effort being made to engineer safety into automobiles began by this same organization. They have got cooperation from the traffic bureaus and the local police authorities in various states and now the automobile industry itself is presenting information to this group which 10 years ago it would never have dreamed of giving them. So at least in those two fields there is a tremendous amount of information which is being accumulated, analyzed in terms of good practical applications, and is being turned back to the industry for its own use. Perhaps the experience of the Cornell Aerial Group might be brought into the vessel insurance situation.

### **Employee's Liability and Workmen's Compensation Insurance in the Fishing Industry in Cuba**

ABELARDO GARCIA MENDEZ

Q. Suomela: I believe according to your presentation, Mr. Garcia, that fishermen in Cuba are subject to workmen's compensation laws. Is the workmen's compensation the same in all provinces in Cuba?

A. Garcia: Yes.

- Q. Linehan: You mentioned in your paper that all claims for compensation for injury must be submitted within 24 hours after the boat lands in a Cuban port. We have a serious situation in New England where often the owner doesn't know a claim has been levied against him until six months or a year later when he receives a court summons. After the 24 hour period in Cuba, is the claim void, or what happens if he doesn't file within 24 hours?
- A. Garcia: He is supposed to notify the municipal court within 24 hours of any accident occurring during working hours. Now that is the law applying to any industrial or mercantile business, but the law specifically gives a longer period of time for fishing boats. The 24 hours is for the employer to make a report when he gets back to port. If a fishing boat is out for, say six weeks in the Gulf, and an accident occurs on the first day, the captain or the pilot of the boat is not obliged to report until he gets back into a Cuban port, or if he gets back into a foreign port with a Cuban Consulate. That only applies to the report made by the employer. To take a specific example, suppose a man on a fishing trip handles a 300 pound ice block and receives a rupture. If he is not conscious of that rupture until, say after 4 months, he has the right to make a claim within a year from the day when the accident occurred.
- Q. Whiteleather: Does the government of Cuba carry on any sort of an educational program in regards to safety, in the interest of reducing rates on workmen's compensation?
- A. Garcia: No. The insurance companies have a chapter of the National Safety Council and through that we have been trying for the last 10 or 15 years to make our nation conscious of safety. Our biggest problems now is safety for automobile drivers.
- Q. Kahn: What is the highest compensation possible in case of the death of a fisherman?
- A. Garcia: The maximum payment depends on how many children the fisherman has. If he leaves a widow and one child, she will get a pension of 20 per cent of his annual salary and the child will get 30 per cent. If the widow remarries the child will be cared for until he is 21. When there are two or more children the wife still gets 20 per cent and the children will get 45 per cent, but the total cannot be over 70 per cent.

### **Fishing Vessel Insurance in Barbados, B.W.I.**

DUDLEY W. WILES

- Q. Suomela: Mr. Wiles, according to your paper, the fishing industry in Barbados is handicapped due to insurance rates. Could you give us any estimate of the magnitude of this, in terms

of layoffs of vessels? What has been done by your government to improve the situation?

A. Wiles:

Actually there has been no layoff of the fishing fleet because of lack of insurance, because there is no compulsory insurance unless the particular boat owner has enjoyed a loan from the government sources for repairing or building such boats. The man covers his own losses if he doesn't have a policy. We are trying to encourage vessel insurance because every time a vessel owner is hurt financially by a loss he falls back harder on the government loan scheme. The result is more money being required to finance replacement and repairs of vessels. That is why we think very earnestly on this insurance problem. But we are conscious of the very high rate being charged, 12% - 15%. We are going to have to choose between commercial insurance companies or the device of floating insurance within our own government loan scheme. I have worked up loss figures very carefully over the last 10 years and if the government is going to be able to handle any mass emergency, such as might occur as the result of a hurricane, the government had better decide now to use some of that loan scheme money as the capital for the formation of an insurance plan. In this way everyone would have the opportunity of subscribing towards helping himself.

Q. Eddy:

Do you think there is a serious weakness in the construction of fishing vessels in Barbados? Do they lack qualities that they could have if standards were set up by the government, and the government required fishermen to meet those standards prior to being insured? In my experience the fishermen are vitally concerned with the quality of their craft. Their operation depends upon their faith in the strength of their vessel. I wonder if the establishment of minimum construction specifications would relieve the situation that you have complained about?

A. Wiles:

I feel that the low standards of our boats are the cause of the high insurance rates. We are launching a scheme of a gradual mechanization of the old fishing fleet; it will probably take us five or six years to get anywhere with it. The government began the scheme only 10 days before I left Barbados. I feel pleased to have been able to get them to accept it, and here again I must thank the Gulf and Caribbean Fisheries Institute. Having attended the last meeting where the mechanization of boats was discussed, I got the full backing of a meeting of this size with relation of the importance of gradual change-over to mechanization. Ordinarily the government might have been persuaded to undertake the scheme in another three to five years, but it has come in 10 months. Our Assembly granted \$25,000 to assist in mechanization of about



six boats. We want to make the change gradually, over five years, taking five boats each year. The results are to be watched. I don't think they'll be watched longer than three years and then we will probably extend it to fifty boats a year, because fish does mean a great deal to our island. When it comes to standards we are insisting that the boats be large; the forward section would be decked and a small cabin would be built as protection for the engine and a section of the hull. The after section of the boat may be an open cockpit or it may also be decked. The insurance rate on such a boat, I think, will be considerably less than the present boats, since the chances of losses will be considerably reduced. Standards for boats are definitely coming and we are trying to establish a minimum standard which would be acceptable, not only on the government loan scheme to qualify the boats for loans for mechanization, but also to give a minimum standard which would qualify them for insurance.

#### **A Fisherman and His Insurance: A Case History of Hull and P. & I. Claims**

JOHN ROBAS

- Q. Ringhaver: Did that experience with your engine have any effect on your premium the following year?
- A. Robas: No.
- Q. Ringhaver: What disposition was made of the engine?
- A. Robas: I could do anything I chose with the engine. It was mine and had I been able to repair it and use it, I could have done so. However, it is almost impossible to seal an engine of that size so we sold it for junk.
- Linehan  
(Comment): In Massachusetts, insurance policies being written now do not and cannot contain the Inch Maree clause. Policies in the south are still being written with the Inch Maree clause included.
- Q. Robas: Have there been any severe and numerous claims for engine damage?
- A. Linehan: Yes.
- Q. Robas: I am amazed that that situation prevails, but I presume that the underwriters went as far as they could go and then eliminated the clause.
- Linehan  
(Comment): I want to support your statement that it is most important that Congress take the fishermen out of the provisions of the Jones Act and place them under seaman's compensation. Any action that is taken by any group in the United States to establish such a law, will get the wholehearted support of Massachusetts. I hope that if nothing else comes out of this conference, it will produce an American

council of commercial boat owners to try to work collectively toward that end.

Robas  
(Comment):

I anticipate that any move made to remove fishermen from their present favorable position will meet with bitter opposition from the seaman's unions. It will take a number of years and a lot of hard work to put through such legislation. However, I think that we may be faced with that decision, or tie the boats up.

Q. Garcia:

I want to congratulate Mr. Robas for his statement that he reads his policy every now and then. That should be a universal custom. Mr. Robas gave me the impression that the United States owners and fishermen can have the coverage of the workmen's compensation. Wouldn't the seaman be better off to be under the workmen's compensation law where there are fixed regulations on how to handle a claim before the claim was made? In other words, if a man gets hurt he has definite rights and a definite indemnification, fixed according to his salary. At present the indemnification as I gather from Mr. Robas may be any amount.

A. Robas:

It would be desirable for a seaman to have workmen's compensation, where an injured seaman has definite rights and definite obligations laid out well in advance. With P. & I. insurance he must actually sue the owner. That brings us to the question of a seaman's compensation law that would be precisely suited to marine life. I think it would result in tremendous economies. Most of the seafaring nations of the world have such a law—Norway, Denmark, Holland to name just a few. I am told reliably that their protection and indemnity insurance, which covers many of the things that ours does, costs them roughly one quarter as much as an American pays for the same service. I think some time soon—not this year or next—we are going to find ourselves confronted with a necessity of going out of business or getting our fishermen under a seaman's compensation act modeled after that of some of those in European countries.

Garcia  
(Comment):

The medical director in our company has been handling most of the injuries and sicknesses suffered by American seamen in Cuba, and I can tell you that those men get the best hospitals, with all kinds of luxuries. That is because the fees are not regulated as ours are so the cost of seaman's insurance is terrifically high.

Robas  
(Comment):

I know of one case where a seaman was seriously injured on the Campeche banks. He was crushed between two boats trying to jump from one to another while they were transferring shrimp. They landed him at the nearest port in Mexico and they were fortunate enough to get him ashore alive. The port was a small town with very limited hospital facilities. In the meantime, the master of the

vessel called his owner and had relayed word. The owner in turn advised his underwriter. The P. & I. underwriters reached Mexico by radio and they ordered an airplane to fly the injured man to Miami. When the plane arrived in Miami there was an ambulance waiting at the airport with a doctor aboard, and they rushed him to the hospital and were successful in saving his life. That was taken up entirely upon the initiative of the P. & I. underwriters. I see no manner in which the service that was given that injured man could have possibly been improved on, because absolutely no expense was spared.

Q. Crawford: Do you carry both P. & I. and Workmen's Compensation? On my fleet of boats I have both and I'm wondering if we still need both.

A. Robas: I believe that you are needlessly spending money for Workmen's Compensation. If you have Workmen's Compensation and a man is injured, the Workmen's Compensation underwriters may very well settle with that man for, say \$3,000. He can then take the \$3,000 and sue you, under marine laws. If you have P. & I. insurance alone you pay only the first \$50, if you hold a \$50 deductible policy. If the seaman sued me for \$75,000 for T.B. it cannot cost me more than \$50.00. Thus, if you are carrying Workmen's Compensation and P. & I. insurance on the same vessel you are wasting money that you are paying on Workmen's Compensation.