

April 15, 2012

George Washington, Thomas Jefferson, and Alexander Hamilton and an Early Case of
Shared Capitalism in American History: The Cod Fishery

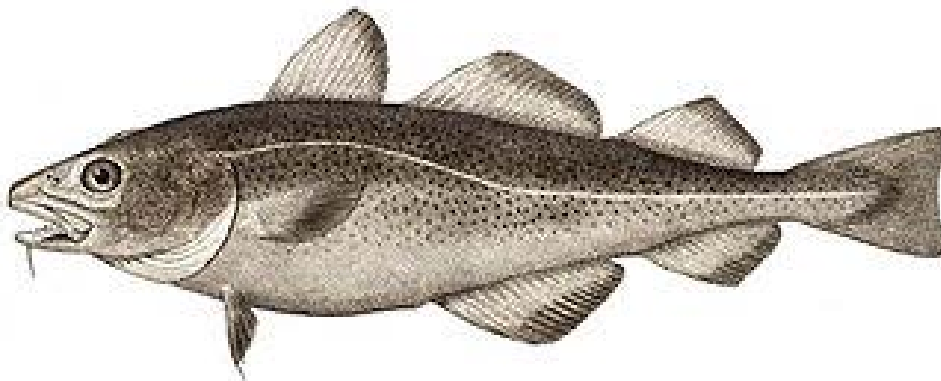
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Working Paper

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Abstract

This paper discusses one of the first, if not the first, cases in American history, where the new leaders of the United States Government dealt with the issue of broad-based profit sharing and the concept of shares in industry by citizens in the emerging capitalism in the country. As a result of importance of the cod fishery for supplying sailors to the nascent revolutionary Navy, the British went out of their way to destroy the ships of the cod fishery. George Washington gave the new Secretary of State Thomas Jefferson the job to help rebuild the fishery. After some investigation and debate, Congress created “allowances” (incentives) to be shared between the owner(s) of the ship (3/8s) and the crew (5/8ths) based on the tonnage of ships that went out during cod season. The allowances were in lieu of earlier duties and taxes weighed down the industry. The new law was signed by the President George Washington. The law said that the allowances could be paid only if the long-standing full profit sharing on the entire fish catch itself was memorialized in a written agreement between the owner or skipper and the crew before the voyage. The paper discusses fishing for cod, profit sharing in the American fisheries, cod fish markets worldwide, the collapse of the fisheries during the Revolutionary War, the Jefferson Report, the subsequent debate in Congress over the fisheries law, the implementation of the agreement by the Treasury Department under Alexander Hamilton, how the law itself later evolved, the Federal support for profit sharing in subsequent years until the law was repealed after the Civil War, the new context that undermined the cod fishery, and some brief implications for contemporary social policy.

Fishermen like to talk about their esprit de corps, and it is true that there is a warm camaraderie, a sense of being part of an elite brotherhood... But fishing is a constant struggle for economic survival. Each man works for shares of the catch... Meanwhile, New Englanders were becoming a commercial people, independent and prosperous and resentful of monopolies. While the West Indies sugar planters were thriving on protected markets, New Englanders were growing rich on free-trade capitalism. Theirs was the cult of the individual, with commerce becoming almost the New England religion. Even the fishermen were independent entrepreneurs, working not on salary but, as they still do in most of the world, for a share of the catch. Adam Smith, the eighteenth-century economist, singled out the New England fishery for praise in his seminal work on capitalism, *The Wealth of Nations*. To Smith, the fishery was an exciting example of how an economy could flourish if individuals were given an unrestricted commercial environment.

Mark Kurlansky, *Cod: A Biography of the Fish that Changed the World* (1997: 113, 75)

Introduction

Many early histories of profit sharing and equity sharing in American history (which can be grouped together using the term “shared capitalism”) discuss the emergence of worker-owned firms in the late 1700’s after the American Revolution (Commons I and II, 1918) when craftspeople disagreed with attempts by master craftsmen to turn the craft workers from an independent entrepreneur with a share of the

profits and ownership into factory workers. Some histories address the early emergence of cooperative endeavors and profit sharing in the mid to late 1800's, particularly in New England (Adams, 1888). It is very likely, however, that one of the earliest developed forms of profit sharing in American history is the cod fishery of New England. Some historians have only very briefly referred to this phenomenon (Adams, 1888: 17). Some nineteenth century government reports of the State of Massachusetts Bureau of Statistics of Labor have provided a statistical overview (State of Massachusetts, 1886: 166-171) and some early scholarly studies of profit sharing have discussed it (Gilman, 1889: 20-28). However, a fascinating and unique dimension of the cod fishery profit sharing in American history has not been studied in sufficient detail. That aspect is the division between the owners and the sharesmen (fishermen) according to the customary profit sharing approach of the allowance assigned by one of the first laws of the new American Republic to alleviate the tax and duties burden on the industry and the accompanying requirement that owners could not receive their allowance for a particular voyage unless a written contract specified that the ship owner would agree to the customary profit sharing practice on the entire catch of fish. Indeed, these were not minor economic policies. The cod fishery included 8% of the adult male working population before the American Revolution and represented 35% of the value of exports of New England with only livestock being second with 20% of exports. (Magra, 2006: 16). The cod fishery comprised one of the first and most important global commodity foods in early American history.

This study examines the involvement of President George Washington, Secretary of State Thomas Jefferson, and Secretary of the Treasury Alexander Hamilton

in the First Congress of the young United States in a study of the industry, a plan to encourage its revival by removing tax barriers after the industry's decimation during the American Revolution, and notably, one of the first pieces of industrial and employment legislation in American history which sought to insure that broad-based profit sharing on the catch was encouraged by the new Federal Government in one of the young Congress' first laws and one of the Washington Administration's first acts of economic policy. What was particularly interesting about this policy was that the approach did not involve government intrusion into the industry, government ownership of the industry, excessive government regulation of the industry, rather the removal of tax barriers and the encouragement of market incentives so that the industry could thrive. An early history of the industry (McFarland, 1911: 136) mentions the law but ignores the legislative support for profit sharing. One study that has long been considered the authoritative history of the cod fishery has completely ignored both profit sharing in the industry and the role of this law in underlining government support of the idea. (Innis, 1940: 221).ⁱ Another more recent study mentions the shares in reference to the early Newfoundland cod fishery but does not examine the interesting story of the young Washington Administration. (Pope, 2003: 165, 175-178). One more recent study discusses the role of the cod fishery in the American revolution and discusses shares in the industry from the point of view of individual voyages from specific ports but does not touch on the profit sharing legislation. (Magra, 2009).

Cod, Cod Markets and Fishing For Cod

Cod is a white fish with a clean non-oily taste that is flaky, easily prepared and seasoned and also easily salted. Dried cod has been around since the Viking Period. Mark Kurlansky, author of *Cod: A Biography of the Fish that Changed the World* (1997), reports that these features led cod to become a favored fish on the international market with dried salted cod attaining the status of an international commodity from around 800 A.D. in the Viking Period for over a thousand years until the 1800's. Southern Europe particularly became a favored market for dried cod especially after the Catholic Church banned both sex and meat on Fridays. The cod industry partially explains the emergence of many of the towns on the New England Coast.

Cod fish tend to travel in schools and live near the bottom of the ocean. They are bottom feeders although they do not seek the greatest depths. They are concentrated in coastal waters or at the continental shelf near the coast before the slope down to the deepest part of the ocean begins. Thus, they are often referred to as part of the coastal fishery although they were also fished farther out on banks that were also teeming with the fish. Cod are located in colder waters of the North Atlantic where historically they have been most numerous. They typically range from forty to two hundred pounds in weight. Because of their mild flavor and low oil content, the cod fish has long been a highly desirable fish for consumption and for international trade. The fish is 17% protein when it is fresh and wet and 80% protein when it is dry. It was thus a favored compact protein source for both export and for naval supplies on long voyages. In fact, if properly cured, it kept quite well for a long time even in hot climates. (Pope, 2003: 10; Kurlansky, 1997: 34) This paper focuses on the cod fishery in the Northwest Atlantic off the coast of

the United States, in fact, heaviest concentration of cod is in the Northeast part of the Atlantic Ocean.

In her study, *Cabot, Cod and the Colonists* (1997), Heather Pringle tells of the development of the industry off the Atlantic coast of North America. Italian mariner Giovanni Caboto, who we know now as John Cabot, discovered waters plentiful with cod in the Northwest Atlantic as he was looking for a western route for Asia's spices after he sailed from England in May of 1497. At the time some historians believe that the European waters were getting exhausted of fish. While finding fish was not his main goal, indeed, he did not discover Asia, but his voyage did lead to the explosion of the fishing industry. In a letter to the Duke of Milan, Raimondo di Soncino said of Cabot's voyage:

They declare that the sea there is full of fish that can be taken not only with nets but with fishing-baskets, a stone being placed in the basket to sink it in the water And the said Englishmen, his [Cabot's] partners, say that they can bring so many fish that this kingdom will have no more business with Iceland, with which country it has a very great trade in the fish called stock-fish.

By the 1520's many European ships from Brittany, Portugal, Normandy, and England were coming to the Newfoundland fishing grounds. Many of these sailors from Spain, France, and Portugal cured the fish on their ships. Their countries had amply supplies of salt that they "poured over the layers of fresh fish in the holds." They rarely landed except to collect wood or seek refuge from the weather. These fish were called "wet bulk" or "green fish" not because of the color but because they were partially cured right out of the water.

With a more limited supply of salt, the English developed a different approach

that was to affect the profit sharing dimension of the industry much later. They built wooden stages and drying platforms known as flakes. The goal was to completely dry the fish and turn it into a portable commodity for easy transport and export. The fish were more lightly salted and had to be turned until the drying was complete. The English fish were viewed as more valuable and “commanded a higher price.” In the 1600’s fishermen operating smaller vessels caught the cod closer to the shore and landed quickly in order to dry it using this method. (Vickers, 1994: 124-126) In the eighteenth century because of larger ships and greater distance from shore, workers would use what was called a “combination cure,” namely, cleaning and boning the cod as it came out of the ocean, lightly salting it, storing it, and then finishing the salting and drying process when they returned to shore. This work on board was in fact an early version of the “factory ship.” (Magra, 2006: 54, 141-2, 146, 187-188). Thousands of tons of English fish began to flood Southern European markets that used the fish for home use and to supply the nourishment needs of sailors on ships who were involved in exploration, conquest, and war. As Pringle writes: “Lightly salted dried cod resisted rot for years – even in tropical climates – making it an ideal lightweight naval ration. Intent on conquering Central and South America and ransacking lands for gold, the Spanish navy depended on English dried fish.” (1997)

In the English Colonies and later the young United States, the cod fishery was concentrated in Gloucester, Marblehead, Beverly, Ipswich, and in Provincetown and other towns on Cape Cod and the coast of Massachusetts. Typically, cod fishing involved groups of fishermen using individual lines with bait on hooks because the fish were concentrated closer to the bottom of the sea. In these conditions net fishing did not

make much sense although more industrial forms of fishing were later developed. Before the eighteenth century, the fishing was done in smaller ships closer to the shore called shallops averaging six tons closer to the shore with smaller crews of three. Afterwards, larger ships called schooners with crews that ranged from 7 to 14-18 fishermen would be used. These ships, which went on longer voyages onto the banks “were typically 20 to 100 tons in burden ‘two-masted oceangoing craft – thirty-five to sixty-five feet in length and fully decked with a raised forecastle or cabin abaft.’ ” (Magra, 2006: 35 and 35n; Vickers, 1994: 145 and 121n). After the catch, using the English method, the cod would be dried on the shore and then shipped to markets. Because of the nearness of the cod fisheries to the shore, families of the fishermen were involved in the cod industry as a result of the shore-based drying work although later the drying was done by larger operations run by the owners of ships and the merchants who sold the fish.

In a terrible and tragic part of the business, the exports to the West Indies were used to feed slaves.ⁱⁱ Magra links the use of larger ships, their distance from the coast, the need to salt the fish while they were wet and take longer to return to the coast for the drying, and the fact that, obviously, the combination curing method produced more low quality fish, as creating more fish for the slave market. It is a case of where technology determined the market. (Magra, 2006: 142). One unexplored issue in the historiography of the industry is the hypocrisy of New England being such a center of anti-slavery thought and practice, while the cod fishery actually supplied the food for slaves. A lot of the cod by weight (although much less of the exports in dollar value) from 1789-1790 went to the West Indies to feed slaves on sugar cane plantations.ⁱⁱⁱ Ironically, many New England politicians and citizens and local Churches stridently condemned slavery as

some of their exports fed those same slaves. As three leading maritime historians have written in a major maritime history of the time about this part of this trade that was infamously triangular: “New England foodstuffs fed Caribbean slaves, who produced sugar consumed by English workers, who manufactured goods purchased by New England farmers.” These historians also document the involvement of some black men in the industry. For example, there is evidence that, after the Revolution, some of the ship owners increasingly relied on black men who were slaves on the lam or freedmen as sailors and “about half of the nation’s free blacks resided... in northern seaport cities.”^{iv}

Profit Sharing in the American Fisheries

The labor intensive combination of strong individual effort in the context of the energetic team-based nature of early cod fishing encouraged the use of profit sharing. Indeed, the fishermen were referred to as “sharesmen” and the concept was widely used to describe them (Goode, 1887:98) notably also in court cases where the division of shares were being occasionally argued. (Lowell, 1877: 307) The concept of “sharesmen” had also become part of the Title of the United States Legal Code dealing with shipping. (United States, 1958: 231-3). Nicholas Paine Gilman, author of *Profit Sharing Between Employer and Employee* (1891: 23-24) described a late 1800’s perspective of the share system this way:

The method of remuneration once in common use at Provincetown first deducted from the proceeds of the catch what was called a “great general average.” This included the cost of stores for the trip, ice, bait, fishing-gear, and minor expenses,. The owners then

received two fifths and the crew three fifths of the balance, no one receiving wages. In fishing for cod, haddock, and other fish, where hook and line are used, each man keeps his own account of his catch, and receives his pay accordingly. When two men fish together in a dory, the account of each dory is kept separately. The basis of division, at Gloucester, the great fish-market of America, gives the crew one half the net proceeds and the owners the other half, and this is now the usual plan. The owners furnish the vessel in complete order, and provide the fishing-gear and provisions. As soon as the schooner returns from the Banks, the catch is sold or is valued at the market-price at that date. The accounts are adjusted, and the division of profits made, at the end of the season... In the cod-fishery, the captain sometimes selects five or six sailors of unusual efficiency, who are to share with him equally. They employ other hands, "half-liners," who are paid strictly according to the number of fish they have caught...The wages system, owners and fishermen agree, would not work. The owners say: "We would get a lot of loafers, and the business would go to ruin. The present system is strictly cooperative. When the men are not getting a good living, our business is losing money terribly. It is noticeable that the poorest men are to be found in seining, in which all share equally. In cod-fishing, the men make it hard for a fellow who does not earn his share of the expenses..."... The product sharing system makes every sailor a partner in the enterprise, and brings to bear upon his mind every motive to zeal and good order. Harmony is the rule on fishing schooners: the division rarely raises a dissension. The crew are constantly thinking of the common interest, which bids them be economical of the material used, careful of nets and lines, and eager to fill each moment of action with the moist profitable endeavor. They work with passionate zeal when they have struck a "school" of fish, and they waste no time in the subsequent packing and salting. (p. 25)

The exact approach to sharing depended on the size of the ship used and the number of fishermen. The system also encouraged equity sharing. Captains were often part owners of the ships. Gilman says that proprietors of the vessels wanted good sailors to become skippers who were partners in order to align their interested with those of the owner. A quarter of the captains on Cape Cod were estimated to be part-owners of the ships. (p. 26) One unique aspect of the share form of capitalism in the cod fishery is the market-based aspect that has received so little attention in the historiography of the industry. In fact, in some cases the value of the shares of the fishermen was adjusted well after the team landed on shore according to the quality of the fish and the price that the dried fish would fetch on the world market. (Pope, 203: 181). Thus, more than a

hundred years before the development of stock markets in the United States, simple fishermen's employee shares were tied to the value of a world commodity and recalibrated based on the quality of their work. As can well be imagined, the "quality" of their work had many aspects to it, such as, how quickly they fished, how quickly they returned to shore, how carefully the fish were cleaned and pre-salted, and how much fish exportable at the highest price resulted from the entire process.

The Collapse of the Fisheries in the War

Every war spells ruin for the shipping of the country where the fighting takes place, and the Revolution was no exception. Colonial merchantmen everywhere were either paralyzed for the duration of the war or were snapped up by the King's ships if they took a chance and tried to slip through the British blockade. Trade was at a standstill, vessels began to fall to pieces from disuse. The suffering, everywhere acute, was doubly hard on the Cape, for the British, quick to see the strategic value of Provincetown Harbor as a base for naval operations, took possession of it without any opposition – or any chance of opposition – from the handful of fishing shanties that in 1775 comprised the town. A detachment of His Majesty's Navy, including the celebrated Somerset, sailed in and made themselves entirely at home there, sallying forth often enough to spread terror among the Cape villages by menacing cruises up and down both shores of the virtually defenseless peninsula. Such tactics not only killed all trade on the Cape but, what was worse, ruined the vessels. Seven years is too long a time for any sort of craft to be kept out of water; by the time Cornwallis had surrendered, the brigs and schooners that lay shored up on the beaches of every Cape village looked like phantoms indeed. With seams opened, planking warped and paint blistered, they were enough to discourage any but determined sailors from going to sea again.

Shipmasters of Cape Cod (1935: 14)

The American Revolutionary War lasted from 1775-1783 during which time the British went out of their way to paralyze and destroy the important cod fishery because of

its economic and its national security importance. (See McFarland, 1911: 121-128).

During the war, seamen from the cod fishery participated in naval actions against the British both as members of a very small navy and as privateers. As historian Christopher Magra relates, “They fought at sea on coast guard vessels, state and Continental warships, and privateers, helping to secure American military command of the sea and permit overseas supplies of gunpowder to pierce the British blockade. Fishermen also built sea-coast defenses and fought on land... Workers in the fishing industries took the leading roles in the formation of the first American Navy, the first American coast guard, and the first American Marines.” (2006: 289). The national security importance of the industry was not lost on the first Presidential administration. George Washington started his first term as President on March 6, 1789. Jefferson returned from France some months later in September of 1789 where he was serving as Minister to that country. Washington then asked him to serve as the first U.S. Secretary of State, a post that he began on March 22, 1790. In April of 1790 the Massachusetts State Government made a request regarding the cod fishery to the Congress and the Administration. Reflecting the priority of the cod fishery issue, the Washington Administration, based on a request from the Congress, resolved quickly to let Jefferson examine the state of the U.S. cod fishery and figure out how to save it. The industry was a major source of export.

For about three or four years up to the Revolutionary War, Thomas Jefferson estimated that the cod fishery “before the late war” in Massachusetts “employed six hundred and sixty five vessels, of twenty-five thousand six hundred and fifty tons, and 4000 men and 28,000 Ton of Shipping and produced about 250,000 [British pounds] a year.” He goes on to say that the industry was “annihilated during the war, their vessels,

utensils, and fishermen destroyed, their markets in the Mediterranean and British America lost, and their produce dutied in those of France, their competitors enabled by bounties to meet and undersell them at the few markets remaining open without any public aid and indeed paying aid to the public.” (Jefferson, 1974: 206-207) Part of this destruction was direct: His Majesty’s Navy and privateers worked hard to push the cod fishery’s ships out of the ocean. Trade in the British West Indies market was barred to the American cod fishery. (Labaree et. al, 1998: 179).

In his report, Jefferson produced a table (p. 221) giving an historical view of the cod-fisheries of France, England and the United States that documented the decimation of the U.S. the industry. The value in dollars in 1775, the year the Revolutionary War started was \$1.071 million producing 350,500 Kentals of fish. A kental is a form of the word quintal that means a hundred weight. Jefferson’s table shows no estimates for the industry until 1786, three years after the war ended. In 1786, the dollar value of the cod catch has fallen by almost half to \$609,900 and the catch has fallen 28% to 250,650 Kentals. The tonnage of shipping in the cod industry had fallen by almost a quarter, and the number of men employed had fallen far more than that. Since the American fisheries took 230,000 Kentals of fish in 1731, it is clear that the impact of the Revolutionary War was to reduce the American cod fishery to its state over a half a century earlier! Meanwhile, estimates of the British cod-fishery catch rose from 616,000 kentals in 1784 to 732,000 kentals in 1787. America may have won the war but it lost a large proportion of one of its oldest and its most valuable commercial industries in New England.

The Jefferson Report of 1791

Thomas Jefferson prepared his report and sent it to the Speaker of the House of Representatives under his own signature on February 1, 1791. It was just 10 months after he assumed his cabinet post. In his letter he apologizes for the delay saying that “I can assure you it has not been a moment longer than the difficulty of producing and digesting the materials” (p. 206). His extensive Report on the American Fisheries by the Secretary of State^v (p. 206-228) represents a research tour de force and a careful business analysis of the industry combined with a deft political analysis of the industry’s impact on the economy and national security. He had some staff assistance including Henry Remsen who was then the Chief Clerk of newly created the Department of State. He also had a thorough report of the Committee of Inquiry to Governor John Hancock of Massachusetts on the issue that was sent to him on October 13, 1790. Jefferson also drew liberally from a book series that he owned, the six volume, *Anderson’s Historical and Chronological Deduction on the Origin of Commerce* (1790). His files indicate that he collected a sheaf of letters and other research materials. Notes to the Jefferson papers suggest that a letter from owners of ships of the cod fishery on February 1, 1790 was also one of the key events leading up to the report. (p. 222) While part of the report also dealt separately with the whale fishery, Jefferson considered them two distinct industries. (p. 211-218). This study focuses exclusively on the cod fishery.

The business case that Jefferson makes in his report is subtle but conclusive. First, as Jefferson noted, much of the physical capital (vessels and utensils) and human

capital (fishermen) were destroyed. From an operations point of view, fewer sales spread over less physical and human capital would have reduced the productivity of the industry and thus increased its expenses. Second, the fish produced by the Americans was now subject to a British and a French duty and the British were out to destroy U.S. access to markets. Third, both the British and the French employed the use of incentives (bounties) paid to their fishing industry with the effect according to Jefferson that “their competitors enabled by bounties to meet and undersell them [the American fishing operators] at the few markets remaining open.” Exhibit Number 5 of the report provides evidence of the essentially losing operation of the Marblehead fishery in the form of a February 1, 1790 letter from 13 ship owners with detailed accounts of why their ships earned so little and in some years turned a loss. In his report Jefferson draws the same conclusion as the owners that “the profits on the sales in the years 1787.8 were too small to afford a living to the fishermen, and on those of 1789 there was such a loss as to withdraw 33 vessels of the Town of Marblehead alone from the further pursuit of this business” (p. 209) The prediction is that more and more ships would be withdrawn and England would take the lead in the industry. Finally, the report lays out a significant disadvantage actually imposed by the young U.S. government, namely, and ironically, barriers to the industry’s development actually imposed by the young Government itself in the form of taxes and duties such as tonnage and Naval duties on the vessels and impost duties on the supplies used in the fishery production (salt, hooks, lines, leads, duck, cordage, cables, iron, hemp, and twine) and in the “nourishment” of the seamen (tea, rum, sugar, and molasses). There was also a tax levied on the coarse woolens of the fishermen and a poll tax on each of them levied by the State of Massachusetts. Jefferson adds up the taxes from duties

and concludes “When a business is so nearly in equilibrium, that one can hardly discern whether the profit be sufficient to continue it, or not, smaller sums than these suffice to turn the scale against it.” (p. 210-211) Ironically, after a war partly motivated by anti-tax fervor, America’s leading industry was being smothered in taxes and government bureaucracy.

A key part of Jefferson’s business case has to do with the fact that the cod fishery was an accessible local business that could involve many citizens and their families as partners. This section of the report is critical in order to understand the First Congress of the United States’ later legislative and legal endorsement of profit sharing for the broad group of fishermen. Jefferson points out that the fishery is close by, the fish can be brought home by the fishermen “to be salted by their wives and children” essentially creating a family business so that even the winter fisheries create a form of “household manufactures”, that the smallness of the vessels and the short voyages required requires “a small capital, that the quality of the mariners (“skill, activity, enterprise, sobriety, and order” is superior), and finally, that, a local industry, in this case, from a heavily wooded mainland, made the provisions cheaper and the casks (barrels) cheaper. He estimated that cheaper casks could account for an increased profit of 15%. (p. 201-211)^{vi} While larger ships definitely fished the cod grounds, Jefferson was sensitive to the traditional small business nature of the industry which would continue to play a role in the fishery.

Part of the business equation was that foreign powers gave bounties to the cod fisheries in their nations. Jefferson covers the idea of bounties, namely incentives paid to fishermen by governments, quite briefly in his report. He notes that France “seeing that her fishermen could not maintain their competition without some public patronage,

adopted the experiment of bounties on her own fish and duties on that of foreign nations brought into her markets.” (p. 208) Regarding the English, he says that “they have given from 18 to 50 pounds sterling on every fishing vessel complying with certain conditions. This policy is said to have been so far successful as to have raised the number of seamen employed in that business in 1786 to 14,000, and the quantity of fish taken to 732,000 Kentals.” (p. 209) These interventions and subsidies by foreign governments play a role in his analysis since he evaluates the lack of competitiveness of the cod fishery as partly explained by “Bounties to individuals in competition with us.” This is probably one of the earliest arguments in American history about the impact of the unfair support of other governments for their domestic industries for a commodity that is the subject of globalization and globalized trade. Jefferson is unquestionably saying that foreign bounties upset the evenness of the playing field and that the cod fishery cannot be seen out of this context.^{vii} Throughout his report are explicitly argues for free markets and what would be called today ”an even playing field.”

The national economic and national security case that Jefferson makes was starker. Early in the report he calls the state of the industry an “embarrassment” and complains that the industry may be “dependent on the will of others.” (p. 207). It ends up that various foreign relations issues were deeply intertwined with the cod fishery crisis and this might explain why the Secretary of State was assigned the problem. After the Treaty of Paris ratified by the U.S. Congress in January of 1784, according to Jefferson, “the plan of the English Government since the peace has been to prohibit all foreign fish in their markets” (p. 209) Jefferson’s arguments indicate that a number of very costly factors were at play for the young American government that constituted impacts far

beyond the value of a major export industry and source of employment for one region of the country. These were not immediately apparent without a more complex analysis. First, the fishery was, as he wrote, one of three “nurseries for forming seamen.” He wrote that the well-developed first nursery, the coastal trade carrying products between the thirteen new States along the Atlantic, “was stable. “ However, the collapse of the second nursery, the cod fishery, together with the fact that the third nursery, heavy cargo ships for most of the foreign trade which was “now in the hands of foreigners,” would impact the entire future of human capital for fishing and for foreign trade. He estimated that the seamen, partly trained by the fishery, could be part of a potential U.S.-based shipping industry of “10,000 seamen” that would “be worth 2 Millions of dollars annually.” (p. 218) He notes that it was common for foreign shippers, especially the British, to make proposals which could see thousands of mariners (in this case giving the example of France) “transferred to the marine strength of another nation, and carry over with them an art which they possessed almost exclusively.” (p. 214) This is probably of the earliest examples in American history (other than the recruitment of soldiers for the American Revolution itself) of a subtle human capital argument about the importance of recruitment of highly trained workers for the economic future of an industry.

Jefferson then crystallized his case by merging the local business operations and the national economic security arguments. He asserted that “The loss of seamen would be followed by other losses in a long train.” He spelled it out saying he meant the loss of seamen would make ships useless, would threaten the ship timber, iron, hemp, and ship building industries. If U.S. provisions were in foreign bottoms they would be saddled with “war freight and insurance.” He said that it was too risky that “the nation which is

our carrier [England] has 3. Years of war for any 4. Years of peace .” He foresees not only the loss of the ability of the U.S. to carry its own produce (earlier estimated as \$ 2. Million per year) but the concomitant inability of the U.S. as a neutral power to garner the business of belligerents which could amount to a business of \$ 5-6. Million per year. He concludes, “It is easier, as well as better, to stop this train at it’s entrance, than when it shall have ruined or banished whole classes of useful and industrious citizens.” (p. 219)

Jefferson made very focused economic arguments, yet underlying his entire analysis was the firmly held belief shared by many Founders, as John Adams put it, that “the fisheries were a Nursery of seamen and a source of naval power” that could not be replaced.” (Ferling, 2010: 250). This argument was well understood at the time and its relevance to how the economic policy evolves should not be underestimated. In a memorandum prepared at the request of Assistant Secretary of the Treasury Tench Coxe for Jefferson by Philadelphia merchant Joseph Anthony the benefits of the fishery are summarized as food, livelihoods for the fishermen, and “the nursing of Seamen to qualify us as a Nation for Naval establishments and the carrying of trade.” (p. 196)

Jefferson and Broad-Based Shares in the Cod Industry

Since then they have Extended the fishery much further, and of Course, their vessals fitted at much greater Expense. Formerly they Rig’d their Sloops Very Plain and Spareing. The Captain and the Crew Drew one half, and agreed among themselves in what Proportion to Divide the fare. Sometimes the Owners hire the men by the month,

and give them about Common Seamans wages, which at that time was not more than Six Dollars a month throughout New England; at other times they would give them a fixed Sum for a Share, Success or Not, but they were generally found the most attentive, when their Dependence was on a Share of what they Caught.

Joseph Anthony, a Philadelphia merchant, Letter to Tench Coxe, Assistant Secretary of the Treasury under Secretary of the Treasury Alexander Hamilton, Philadelphia, November 27, 1790^{viii} (Attached to the Jefferson Report)

Jefferson was aware of the broad-based use of shares by the cod fishermen. While there was no Secretary of Commerce to whom to give the investigation, it is clear from the historical record that Tench Coxe, the Assistant Secretary of the Treasury under Alexander Hamilton, was sending materials to Jefferson and serving as his lead reasearcher. It is interesting and notable that, despite his growing rivalry with Secretary of the Treasury Alexander Hamilton at this time and their deep policy conflict over Hamilton's proposal for the first Bank of the United States and many other issues, that Hamilton's right hand man, Tench Coxe was essentially staffing Jefferson on the fishery issue and serving as his researcher, and that essentially, both departments were cooperating on the fishery issue. The third Congress of the United States began meeting in Philadelphia in Congress Hall (now Independence Hall) from December 6, 1790-March 3, 1791. Indeed, these events were in very close association. Jefferson was working closely with Hamilton's top aide in studying the fisheries as he and his minions

were fighting Hamilton tooth and nail in the debate and chartering of the First Bank of the United States which passed this same Congress on February 25, 1791, just 24 days after the fishery report was sent up to the House by Jefferson.

Coxe's role in educating the new government about profit sharing is interesting since Hamilton is often portrayed as exclusively worried about the interests of the financial elite and its bond with the Federalist Party. This story offers a much more subtle interpretation of how deep these differences went. The seat of the U.S. Government moved from New York to Philadelphia in July of 1790. The context suggests that Coxe was looking for a respected local businessman who could comment on the industry but who was familiar with New England and the industry. Coxe tells Jefferson in a note included in the report that he "has the honor to enclose... a letter containing some further information concerning the fisheries: also a table of prices refer'd to in his notes, and a little estimate of the profits of the cod fishery" and he introduces Joseph Anthony as "bred to the Sea out of Rhode Island, " "a man of judgment and probity," and "now a partner of one of the principal houses in Philadelphia, who do half of the New England business of the port."

Anthony is no mere former resident of New England. He was now a major Philadelphia merchant. On November 29, 1790, 60 days before Jefferson files his report with the House of Representatives, Jefferson has access to the above letter to Coxe from Anthony where Anthony describes the system of broad sharing in the industry and explicitly says that it is more productive than fixed wages. (p. 196-197) Jefferson marks this Enclosure I and includes it in his report to the House. (p. 196) As an illustration of the care which Coxe took to study the industry, the report contains Enclosure II (p. 197)

entitled “Answers to Queries on the Fisheries by Joseph Anthony [ca. 27 Nov. 1790]”, namely Anthony’s succinct answers to a series of questions posed by Coxe. Following are the questions and answers one dealing with the size and value of the ships and the issue of the shares that would later become central to the Washington Administration’s economic policy on the industry:

1. What is the most convenient and advantageous size or Tonnage for a Vessel proper for the Cod Fishery? 45 to 60 Tons Schooner.

2. What is such a vessel worth with her provisions, advanced wages, and fishing implements on board, as she stands when cleared for the Banks the first voyage? About five to seven hundred pounds L[awful] Money....

3. What are her monthly Expenses: if possible note her Officers and Mens Wages, &c., particularly. *The officers and men are Commonly on Shares. The Terms we are unacquainted with.*

Jefferson said the industry helped create essentially a family business that required an investment of “small capital” echoing George Washington’s view that people of moderate capital could get access to property. Jefferson saw the fishing family as entrepreneurs involved in “household manufacture.”^{ix} During the winter months when other forms of agriculture did not demand much time, the drying of the fish involved members of the whole family in a simple assembly line of sorts: the seamen at sea and the seaman with his wife and the entire family including the children participating in the drying and salting process. In effect, the cod fishermen were not the typical farm family

owning land, but these families essentially farmed the ocean and processed and then arranged the export of the catch.

Cod fisherman and ship owners were concerned about the effects of tariffs on imports they needed to operate the fishery. In July 1789, Congress had legislated duties on “molasses, rim, fish hooks, lead, cordage, salt, and a variety of other commodities important to the fishermen.” (Labaree et. al., 1998: 179) Paying these tariffs were essentially taxes that served as a burden for the fishermen and made it hard for them to have part of this business, to compete in the world cod market and to make living and maybe a profit. The young government used these tariffs to fund its operations. But tariffs on the supplies used by cod fishermen created a barrier to restarting the industry and a burden on these family businesses from their perspective. Thomas Jefferson’s report found out that many nations, including England and France, gave incentives to outfit ships to rapidly build up their industry, called bounties.

Jefferson was opposed to outright bailouts of the industry and he never envisioned a state-owned or controlled industry. He repeatedly spoke of free markets in the industry. (p. 220) However, he did eventually go along with the idea of modest incentives to get the industry moving again particularly if they removed the burden of taxes that fell on the industry from the tariffs and addressed the uneven playing field in the guise of bounties and duties and monopolies created by other countries in the globalized market for this commodity. The ideas of allowances in the cod fishery fit into his free market thinking precisely because of the size of the tax barriers that had been erected. As a proponent of small government and low taxes, Jefferson’s report particularly dealt with the heavy weight that duties and taxation put on the livelihood of the individual fisherman. A large

part of his recommendation envisions a “drawback” essentially relieving the fisherman of the burden for those taxes and also a bounty. In the end, Congress took this approach.

Jefferson concludes his report in the spirit that he had described the entire cod fishery industry as one where enterprise was accessible to the individual fisherman and the fisherman’s family. He did not make definite recommendations. He left to the Congress to decide specifically what to do, although the options that Jefferson was laying before Congress are quite clear in his conclusion to his report:

It will rest therefore with the wisdom of the Legislature to decide whether prohibition should not be opposed to prohibition, and high duty to high duty, on the fish of other Nations; whether any and which of the Naval and other duties may be remitted, or an equivalent given to the fisherman in the form of drawback or bounty: and whether the loss of markets abroad may not in some degree be compensated by creating markets at home, to which might be contributed the constituting fish a part of the military ration in stations not to distant from navigation, a part of the necessary sea-stores of vessels, and the encouraging private individuals to let fishermen share with the cultivator in furnishing the supplies of the Table. (p. 211)

The Debate Over the Fisheries: Owners and Shippers and Fishermen

Since Jefferson’s report arrived at the House of Representatives on February 1, 1791, an entire year elapsed during which the report was considered until Congress

actually passed the cod fishery law in February of 1792. According to the surviving public record, the bulk of the debate took place in February 1792. The report that went to the House of Representatives contained in it an unexpressed conflict between the owners of the cod fishery ships and the broad group of fishermen themselves. While both Tench Coxe and Jefferson gave airtime in the research and the report to the issue of broad-based shares and even its necessity for high productivity, this idea was surprisingly missing from the February 1, 1790 letter from the 13 ship owners of Marblehead to Jefferson complaining about the impact of high duties and taxes on their profits. This was not just one of many letters although there were many letters. This letter was prominently quoted and mentioned in the report. The letter ends with an invitation to pay the bounty directly to the owners of the vessels:

That the Bounty granted to the fishery by Congress as a Compensation for the Duty on Salt, this Committee humbly Conceive will not operate to that Purpose so effectually, as if paid direct into the Hand of the Owners of Vessells, instead of the Shippers of the fish.
(p. 226)

Initially, Congress simply instituted a drawback in 1789, meaning that the young government had duties on imported salt in force and when fish and meat were exported to foreign countries using imported salt, it was possible to receive allowances in order to “draw back” the original duties on the salt. An initial Act of Congress in 1789 granted five cents a barrel on pickled fish and salted provisions and five cents a quintal on dried fish exported from the United States in lieu of a drawback of the duties imposed on the importation of salt used in the curing.^x Then, in 1790, Congress decided to call this a bounty in lieu of the drawback to ten cents a barrel on pickled fish and salted provisions

and ten cents a quintal on dried fish as the duty on salt had doubled to twelve cents a bushel. (Gales & Seaton, 1830: 178) One can see that the letter from the Marblehead owners disagreed with the concept that this drawback would go to the shippers of fish. Thus, initially the actual broad group of fishermen and their family business partners were left out of this system of drawbacks. Here the owners are asking for the bounty to come to them. Slowly the role of sailors and fishermen in American capitalism got defined. More needs to be understood about whether a debate took place between the fishermen and the owners of the ships on this matter. The fact that the later law actually required the owners to both share the bounty with the fishermen and sign a contract that they would continue to observe broad-based profit sharing on the catch suggests that there was some discussion and debate, although the level or specific dynamics are not fully clear. However, there is no question that the Marblehead owners did not mention the customary broad-based profit sharing in the industry and did not try to persuade or educate Jefferson about broad-based profit sharing in their letter to his research group. The wealthy and established merchant Joseph Anthony to whom Tench Coxe of Treasury turned definitely *did* see it as his role as a source of objective information to prominently cover these issues with Treasury.

Little in the historical record is available on how the drawback rights for shippers turned into bounties shared between the entire crew and the owners. It is however clear that the drawback was not shared except with the merchants themselves. There is no question, however, that gradually during this period the rights of the fishermen to share in this expanding enterprise in early American capitalism grew in national awareness and expanded in the halls of Congress. Ships were one of the largest collections of workers

in an employee-employer relationship in the young nation so it is no surprise that First Congress passed a law on July 20, 1790 that laid out work conditions for seamen. From December 1, 1790 every master or commander of a ship had to have a written agreement before a voyage declaring the length of the voyage while every seaman had to agree to be available for the time period or there was a wage penalty. Workers had the right to one third of their wages before the voyage ended and the balance upon the completion of the voyage. The law provided a procedure by which members of the crew other than the captain could move for the repair of leaky or faulty ships, the requirement of a chest of medicines on board, and minimum per person requirements of water, salted meat, and “wholesome ship-bread. If seamen received a lower allowance then the commander had to pay them an extra day’s wages for each day of ‘short allowance.’ ” Other laws provided strict rules for keeping track of seamen as voyages ensued, for making records of seamen seized by foreign powers, and for hospital care and relief for sick and disabled seaman. (Graydon, 1803: 378-382.)

What were the circumstances leading to a recognition of the rights of the fishermen in this process? Jefferson alludes in his report to the practice of foreign powers trying to attach U.S. fishermen to serve on the ships and in the industries of other countries. In a letter to Jefferson on June 23, 1790 John Coffin Jones Sr., a wealthy Boston merchant who was a member of the Massachusetts House of Representatives from 1786-1796, described the competitive market for the skills of the fishermen in the whale fishery as England tried to essentially destroy the fishery by taking all of its productive workers:

She (England) has not only subjected, the Whalebone and Oil taken by this Country, to very high Duties at her markets; restricting the transportation of them to British Bottoms; but has given large bounties to her own vessels employ'd in this Fishery, and used every method to entice the American Whalers, without whose aid they could not succeed, into their service. In consequence of these measures, the Whalefishery declin'd here very much and would have entirely failed, had it not at that time been prevented by the introduction of Oil and Whalebone into France; But even this prospect, important and flattering as it was, under those unfortunate circumstances, has been since nearly destroy'd by the treacherous and insidious measures of the People of the Society of Quakers inhabitants of the Island of Nantucket, the place from whence the Whalefishery was principally carried on. Some of the most influential of those Characters, finding their wishes and secret machinations for a subjugation of this country to GBritian ineffectual, the close of the War, went to the Court of [398] London with propositions for transporting the Whalers of Nantucket to some of the British Territories, for the purpose of transferring this bussiness to that Country. But at that period the British Cabinet, being employ'd upon objects of the greatest magnitude, could not find leisure, immediately to attend to their representations.

This allegation is not widely reported or known in American history but it sheds light on the “fight for talent” that was already having an early impact on the economic and national security of the young country. Soon thereafter, the system of shares and broad-based profit sharing by the fishermen of the cod industry started to play a larger role in the debate. As noted, Tench Coxe of Treasury brings it to Jefferson’s attention on November 29, 1790. Jefferson inserts material on the profit sharing to his Report on the Fisheries on February 1, 1791. Congress then repeals the drawback and goes in a completely new direction. The fishermen and their supporters in Congress worked hard to institute a profit sharing arrangement for the incentive that would be split between the crew and the managers and financiers of the vessel. This is one of those cases in American history where a form of broad-based shared capitalism is instituted by the government over against a narrower vision sponsored by a small minority. The idea of shares now emerge as part of the Congressional debate in both the Senate and the House of Representatives.

The record of the House shows that most of the debate in the House of Representatives took place on Friday (February 3), Monday (February 6,) Tuesday (February 7), Wednesday (February 8) and Thursday (February 9) in Philadelphia. (Library of Congress, 2012: 362-402) The House received the bill from the Senate for consideration. According to *The Maritime History of Massachusetts* (Morrison, 1921: 134) “Senator George Cabot, formerly the owner of Beverly fishermen, framed and put through the act of February 9, 1792, granting a bounty of one dollar to two dollars and a half per ton (depending on the size) to vessels engaged in the cod fishery four months in the year; three-eighths of the bounty to go to the owner, the rest to be divided among the crew.” As an owner of ships in the industry, Senator Cabot, an early descendant of Henry Cabot Lodge, would have been familiar with the over century’s old practice of broad-based profit sharing on the catch. Cabot’s father was a Salem ship merchant and dropped out of Harvard College to go to sea and was a ship captain at the age of twenty-one. He was a Federalist and was elected to the Senate on March 4, 1791. It appears that Senator Cabot was carefully studying the issue while Jefferson was preparing his report. He exchanged a series of very detailed personal letters with Alexander Hamilton with detailed discussions about the cod fishery in October of 1791. (Lodge, 1878: 46-51) The fact that Senator Cabot drafts the Senate bill with a central role for profit sharing suggests that there was some level of awareness among some of the owners of the ships about the importance of the shared capitalist practices in the industry and appreciation of the importance of the shares to attracting sailors and rebuilding the industry. More research is required on this issue.

In the cod fishery debates in the U.S. House of Representatives on February 6th of 1792 before the law dealing with profit sharing passed, there is the clearest statement yet by Representative Samuel Livermore of the role of shares in the bill. Livermore was a graduate of Princeton University, a lawyer, a member of the Continental Congress, and former Chief Justice of the New Hampshire Superior Court. He was also a Federalist and member of the First and Second Congresses. His narrative fills in the story of how drawbacks to shippers evolved into bounties for fishermen and also Congressional endorsement of profit sharing by fishermen:

The bill now under consideration has two important objects in view. The one is, to give encouragement to our fishermen, and, by that encouragement, to increase their numbers; the other is to govern those fishermen by certain laws, by which they will be kept under due restraint. Both these objects are of great importance to such persons as choose to employ their capitals in the fishery business. And I believe it will not be disputed that the business itself is of considerable importance to the United States, insomuch as it affords a certain proportion of remittance or exportation to foreign countries, and does not impoverish the country, but enriches it by the addition of so much wealth drawn from the sea. *It is the object of those gentlemen who favor the bill that the fishermen should have some encouragement, not given to them at the expense of the United States, but directed to them out of what was in the former law, called a drawback of the duty on salt. The calculation, as I understand it, has been made as nearly as possible to give that drawback, not to the merchants who export the fish, but to the fishermen who take it, in order to increase that description of men, without whose assistance it is vain to expect any benefit from the fisheries; for if the merchants at present engaged in that branch possessed the whole capital of the United States, yet, if they cannot get fishermen, they cannot carry on the fishery. This is done by a particular class of men, who must be not only expert seamen, but also accustomed to taking the fish and curing it. If these men cannot be had, the capital cannot be employed, and those who undertake the business cannot carry it on, or reap any profit from it.* Whilst the drawback is payable only to the merchant who exports the fish, it is impossible to convince the fishermen that they reap from it any advantage whatever; or, if the more discerning amongst them do perceive any advantage in it, the others who are not so clear-sighted cannot discern it, and are therefore not disposed to undertake the business. It is, however, of considerable importance to the merchants that the fisherman should receive a proper encouragement, even if they were obliged to allow him a bounty out of their own pocket. The government of the fishermen, after their engagement in this business is also necessary to be provided for; otherwise, frequent instances may occur among that class of men of quitting one vessel to embark on board another, or of shipping themselves for a foreign voyage, before the expiration of the fishing season. In the latter case, the vessel lies useless on the owners hands, and he,

together with the whole expense of the outfit, loses all his prospects of future gain. (Benton, 1857: 360)

The fears of John Coffin Jones about the possibility of a mass turnover of fishermen appear to ring true in Rep. Livermore's more succinct summary of the industry recruitment problem:

It is only fixing for the merchants engaged in this branch a clear and equitable ratio for distributing among the fishermen the encouragement which they think necessary to attach those people to the business and to prevent them from going to other occupations on the land. (Benton, 1857: 361)

A detailed reading analysis of the debate indicates that the most important section of the proposed law for our analysis, namely, the decision by Congress to make the traditional broad-based profit sharing on the entire catch a condition for receiving the industry incentive, was not mentioned or discussed. The importance of the customary profit sharing in the industry seems to have been taken for granted and no opposition from either side of the aisle was expressed about it. More research needs to be done to understand how the participants in the Congressional debate thought of this idea.

Nevertheless, the allowances section of the proposed cod fishery bill was very controversial and Representative after Representative sought changes, opposed the entire bill or opposed certain sections. While there is no record of opposition to the section about broad-based profit sharing for the industry or even broad-based profit-sharing of the allowance, there was heated debate on the idea of the allowance itself. The opposition on this issue of the bill can be summarized in these arguments:

1. While it is not unconstitutional for Congress to regulate commerce, it is unconstitutional for Congress to favor one particular employee group or industry.

(Library of Congress, 2012: 364, 380)

2. If the industry was really productive it would not need any encouragement, so aid to the industry is only going to help an industry that should disappear. (Library of Congress, 2012: 364)

Much of the opposition came from Southern Senators, some of whom were evidently concerned about the precedent that regulation of industry would have on slavery. A major and note-worthy opponent was James Madison, then the leader of the anti-Federalist faction in the Congress, who said:

In the conflict I feel between my disposition on one hand to afford every constitution and encouragement to the fisheries, and my dislike on the other, of the consequences apprehended from some clauses of the bill... which are, in my judgment, contrary to the true meaning, and even strike at the characteristic principles of the existing Constitution.... There are consequences, sir, still more extensive, which, as they follow clearly from the doctrine combated, must either be admitted, or the doctrine must be given up. If Congress can apply money indefinitely to the general welfare, and are the sole and supreme judges of the general welfare, they may take the care of religion into their own hands; they may establish teachers in every State, county, parish, and pay them out of the public Treasury; they may take into their own hands the education of children establishing in like manner schools throughout the Union; they may undertake the regulation of all roads, other than post roads. In short, everything, from the highest object of State legislation, down to the most minute object of police, would be thrown under the power of Congress; for every object I have mentioned would admit the application of money, and might be called if Congress pleased provisions for the general welfare.

In his long speech Madison objected to the use of government funds for an allowance, however, he did not object to the government's support of broad based profit sharing.

Congress continued to regulate the cod fishery without much controversy and there was little organized opposition to that. For example, a separate Act of December 31, 1792 and subsequent acts codified detailed rules for the registration of ships and the evaluation of their tonnage. (Graydon, 1803: 388-402 and 403-420)

The First Appearance of Profit Sharing in U.S. Legislation

On Thursday February 9th, the members of the House took a vote and passed the cod fishery bill 38 to 21 in Philadelphia. (Library of Congress – House of Representatives, 2012: 402) The bill was returned to the Senate with some minor wording amendments (mainly to remove the word “bounty”) on Friday February 10, 1793 and the Senate agreed that day to the amendments and the bill went to the President. (Library of Congress - Senate, 2012: 84) On February 16, 1792, President George Washington signed into law a bill that said that an incentive for ships to actually go out to fish for cod would be broadly distributed three-eighths to the owners of the vessel and five-eighths to the entire crew. The “allowance” as the incentive was called was presented principally as a payment in lieu of taxes and duties paid, thus many members of Congress saw it not as a direct subsidy but rather as a tax reduction bill. The law was updated from time to time and stayed in force for many years.^{xi} Specifically, a based on the weight of vessels engaged in cod fishing amounting to \$1.50 per ton up to 30 tons and \$2.50 per ton over 30 tons up to a maximum of \$170 per ship each year for cod ships that actually went out to sea.

The idea was simple: give direct incentives so that bigger ships would be built and the entire industry itself would be quickly rebuilt. The big question of policy for the young Government was who should receive these allowances and incentives? This story illustrates that some of the Founders of the American Republic and many members of the first Congress were capable of understanding the importance of all citizens having an opportunity to broadly share the fruits of economic life. They did not automatically

accept the right and privilege of the ship owners to the incentive. In this instance, both Congress and the Administration and the Treasury Department recognized that the performance of the crews depended on shared incentives. They saw clearly the right of the government to use one of its principal domestic powers – taxation -- in reverse, namely, to reduce taxes in order to encourage independent economic activity and remove the barriers for individual citizens to participate in a business. In this one case, some of America's first political leaders recognized the rights to economic liberty of a broad group of citizens – the fishermen – and did not exclusively pay attention to the more powerful class who actually owned and financed the ships, and who, no doubt, had good lobbyists working for them.

The limited historiography on the cod fishery law that followed Jefferson's report has, as far as the evidence to date suggests, focused exclusively on the broad-based allowance system. But, clearly, the most significant and the most interesting detail about the "bounties" and incentives is that the Federal government required in the same 1792 law that no allowances could be paid to the owner of the ship unless the ship owner had a written profit sharing agreement with all the fishermen affirming that the traditional and customary shared capitalist practice of broad profit-sharing on the entire catch itself would be honored. The English had used the share system as early as the fifteenth century. (Kowaleski, 2000: 28 as cited in Magra, 2006: 104) According to the law Washington signed and subsequent revisions of the it, the owners had to produce this written agreement when they requested payment of the their share of the allowance. So, in the end, the law insured profit sharing in two ways: both the allowance in order to

encourage the industry's revival was shared between the crew and the owners and the custom of broad-based profit sharing on the entire catch had to be honored.

The owners of large cod ships were required to have these signed profit sharing agreements with the sailors before the ship left the port. The penalty to the owner was the same as the penalty for desertion of a ship. This probably the first documented case in American history where shared capitalism became the law of the land. The actual language of the law, while stilted, is well worth reading for its historic significance:

No ship or vessel of twenty tons or upwards, employed asforesaid, shall be entitled to the allowance granted by this act, unless the skipper or master thereof shall, before he proceeds on any fishing voyage, make an agreement in writing or in print of any vessel of the burthen of twenty tons or upwards qualified according to law for carrying on the bank or other cod fisheries, bound from a port of the United States to be employed in any such fishery at sea, shall, before proceeding on such fishing voyage, make an agreement in writing or in print with every fisherman who may be employed therein, excepting only any apprentice or servant of himself or owner, and in addition to such terms of shipment as may be agreed on, shall in such agreement express whether the same is to continue for one voyage or for the fishing season, and shall also express that the fish or the proceeds of such fishing voyage or voyages which may appertain to the fishermen, shall be divided among them in proportion to the quantities or number of said fish which they may respectively have caught which agreement shall be endorsed or countersigned by the owner of such fishing vessel or his agent.^{xii}

More research needs to be done on George Washington's involvement in the legislation. In fact, Washington sometimes wrote of the idea of broad distribution of property. He occasionally defended this notion, as in his use of proportionate profit sharing after the Battle of Trenton.^{xiii} In his letters and reports written during the Revolutionary War, he went out of his way repeatedly to request grants of public land to establish his former officers and soldiers as independent property owners after their service in the Revolutionary War, supporting the general idea of shared capitalism.^{xiv} His support of this legislation is consistent with his support of the idea of broad-based

property ownership and an industrial organization in the young United States, that supported people of “moderate capital.” He expressed these sentiments in a letter to Richard Henderson on June 19, 1788 in this way:

In the first place, it is a point conceded, that America, under an efficient government, will be the most favorable country of any kind in the world for persons of industry and frugality, possessed of moderate capital, to inhabit. It is also believed that it will not be less advantageous to the happiness of the lowest class of people because of the equal distribution of property...^{xv}

Implementation by Alexander Hamilton’s Treasury and Customs Houses

The resolution of the debate over bounties and allowances for rebuilding the American cod industry brought together some unlikely political personalities. Regarding the Secretary of the Treasury, Alexander Hamilton, Jefferson was in constant public and private conflict with him over economic policies throughout this period, particularly about Hamilton’s proposal to create a Bank of the United States and fund the public debt. As noted, Hamilton’s assistant staffed Jefferson and Hamilton’s Treasury Department carefully implemented this concept of broad-based incentives through the customs offices that he supervised at the various ports after the bill was passed. In Hamilton’s own famous *Report on the Subject of Manufactures* submitted to the young Congress on December 5, 1791 several weeks before the cod law came up for debate, Hamilton specifically mentioned and strongly supported these incentives for the cod fishery. (2007: 51-52, 55) Hamilton was a supporter of having a strong financial and corporate leadership group in the new country unlike Jefferson. Hamilton also understood the role

of incentives in economic life and the burdens that taxes represented and he did not use his considerable political power and influence in the Washington Administration in order to block the profit sharing approach. As he was a member of the Federalist political grouping, the fact that the bill was being pushed by a Federalist Administration, the Federalist bastion (Massachusetts), and important Federalist political figures certainly helped Hamilton support it.

Writing in his *Report o the Subject of Manufactures*, long considered his most important written work for the young Congress, the young Secretary of the Treasury specifically and strongly endorsed the fishing bounties saying, “This has been found to be one of the most efficacious means...It is a species of encouragement more positive and direct than any other, and for that very reason, has a more immediate tendency to stimulate and uphold new enterprise, increasing the chances of profit, and diminishing the risks of loss in the first attempts.” Perhaps, referring to the issues over who should receive the cod fishery bounties, Hamilton went on to write that: “There is a degree of prejudice against bounties, from an appearance of giving away the public money without an immediate consideration, and from a supposition that they serve to enrich particular classes at the expense of the community.” With the cod fishery, this problem was avoided. (Hamilton, 2007: 51-52, 55).

Hamilton’s Treasury Department was a very small operation at the time. Hamilton’s staff kept a record of letters sent and received from the operators of the Custom’s Houses that the Treasury supervised. The author has confirmed by an examination of these original logbooks in the handwriting of Hamilton’s assistants at the National Archives that letter traffic was a regular event at Treasury related to the cod

fishery law, specifically, reports on the allowances. The letters were always labeled “Allowances to fishing vessels.”^{xvi} Hamilton’s Treasury actually practiced profit sharing itself. The Custom’s Agents who collected duties and supervised commercial operations for the department were given a share of their own revenues. These same Customs Agents who were “profit sharers” were responsible for allowing allowances five-eighths of which went to the “sharesmen” of the cod fishery as a rebate for taxes and duties.

Evolution of the Cod Fishery Policy

This system of allowances distributed on the of the broad-based profit sharing customs of the industry and the Federal Government’s endorsement of broad-based profit sharing as an ongoing practice of the industry and a condition for reception fo the allowances continued well into the 1800’s and contributed to the building up of the fishing fleet again along with the economic stabilization of the often tenuous New England fishing communities. The allowances were increased by one-fifth in an additional act of Congress on May 2 of 1792. In 1793, Congress provided more tax relief for by allowing cod ships to buy supplies such as salt at any foreign port without paying duties. In 1797, the cod allowances were increased by a third. The idea was that they would continue “as long as the duties on salt were paid.” (McFarland, 1911: 137).

Thomas Jefferson was President from March 4, 1801 to March 4, 1809 and the cod fisheries did not lose his personal attention. Despite Jefferson’s misgivings about bounties in general, the system continued through most of the two terms of his

Presidency from 1801 to 1807. Jefferson disliked taxes and he was uncomfortable with anything smacking of favoring entrenched financial interests. The allowances fit his political style. Jefferson addressed the cod fishery early in his term according to one government report:

President Jefferson, in his message to Congress in 1802, spoke of “fostering our fisheries as nurseries of navigation, and for the nurture of man,” as among “the landmarks by which we were to be guided in all our proceedings;” and made further allusion to the subject in his annual communication the following year. His remarks in the second message, were referred to a committee of Congress, who, in their report, said that there was too much reason to believe that both the whale and the cod fisheries had been for some time on the decline, and that it was more than doubtful that the United States employed as many men and tons in these branches of industry as when they were colonies or previous to the Revolution. As a means to reanimate them, they recommended that ships and vessels actually and exclusively employed in these fisheries should not, in future, be subject to the payment of the tonnage-duty levied on other vessels; that fishermen and other persons actually employed in catching whales and fish should be exempt from the usual charge of hospital money and that the bounty or allowance under existing laws should be paid in cases of shipwreck or loss of vessels without deduction.

A Geographical Review of the Fisheries Industries and Fishing Communities for the Year 1800 (Goode, 1887: 124-9).

Jefferson’s first term was marked by two aspects near and dear to his “republican ideology,” namely, opposition to new taxes and a strident desire to broaden the territory of the United States through the Louisiana Purchase, which he explicitly said was for the purpose of spreading the system of broad-based property ownership to a growing citizenry. (Wood, 2009: 357-399). Supporting a law that distributed allowances according to the profit sharing formula and which endorsed the continuation of broad-based profit sharing among New England fishermen was not far off the mark from his wider shared capitalist vision. On February 1, 1803, now President Thomas Jefferson’s Secretary of the Treasury, Albert Gallatin, was still sending reports up to the Speaker of

the House of Representatives about the allowances and how they had helped turn around the cod fishery.^{xvii}

Various questions led to a pause in the allowances for two years of his Presidency. On March 3, 1807, at the beginning of the last two years of the Jeffersonian Presidency, in line with his anti-tax vision, Jefferson signed a bill repealing all taxes on imported salt and as a result the allowances to the crews and the owners were eliminated. (Gales & Seaton, 1830: 178). There were no allowances from 1807 to July 29, 1813. The tonnage of the cod fishery reached its highest point in 1807 at 69,306 tons although it fluctuated during the period. (McFarland, 1911: 137). It is important to note, for the purposes of this analysis, that the requirement of broad-based profit sharing for the distribution of the allowance, and more importantly, for the sharing of profits on the entire catch, continued to be a part of subsequent Congressional legislation.

Until further research is done, it is unclear what all of Jefferson's and the Congress' motives were for this repeal. Jefferson may have considered that the ending of the salt-based customs revenue cancelled out the need for the allowance as they had been tied together in a previous Congressional discussion. Or perhaps the entire question got caught up with his very controversial Embargo Act of 1807 that forbade American exports to the parties to the Napoleonic War. Northern economic interests opposed the embargo and the quite sudden end of U.S. exports to which it led with the end of the duty on foreign salt may explain what happened. There is no question that the dominant event during this period was the collapse of exports as a result of the embargo which historians now consider one of the most inadvisable parts of Jefferson's administration. Jefferson was a strong believer in embargoes as a way of punishing foreign powers but

the effect on the cod fishery was a disaster as ship tonnage in that industry fell to 34,486 tons after the Embargo Act passed. (McFarland, 1911: 138).

James Madison was President of the United States from 1809-1817. As noted above, Madison strongly opposed the cod fishery allowances and they were not resuscitated during his first term as President. More research is needed on discussions about the fishery during his first term. However, all of this changed during Madison's second term. In 1813, Congress brought back the allowances starting on December 31, 1814. In this act, cod vessels were allowed \$2.40 a ton for vessels between 20 and 40 tons and \$4 A ton above 30 tons with a maximum allowance of \$275, but the collector had to be satisfied that the cod fish were cured with foreign salt since the salt duty was nor revived as a war tax of 20 cents a bushel. The tax deregulation aspect becomes clear again. Subsequently, the allowances were continued without limitation.

The War of 1812 was another disaster for the industry. By 1814, the cod fishery's tonnage fell to its lowest point of 17,855 tons. (McFarland, 1911: 139). After 1817, three-fourths of the crew had to be American citizens in order to receive the allowances. By 1818, the tonnage of the industry rebounded to 69,107 tons. From 1783 to 1818, the total allowance paid to fishing vessels was \$2,166,894.33. An overall report on the industry concludes that "The system of granting allowances to vessels engaged in the cod fisheries... acted as a stimulus to the industry... The expansion of the industry was not confined to a few of the leading fishing ports of New England, it was widespread throughout the coast towns of the country from New Bedford to Eastport. All along the coast of Maine new settlements were being made – mere fishing hamlets in the earlier period of their history." While is it not widely known, the cod fishery also developed,

although to a lesser extent, in Connecticut, Rhode Island, and even New York State where the tonnage was always below 900 tons. (McFarland, 1911: 137, 143, 150). In 1819, the allowance went to \$3.50 a ton on vessels from 5 to 30 tons and \$4 above thirty tons with a maximum allowance of \$360. (Gales & Seaton, 1830: 178; McFarland, 1911: 137-8). The profit sharing bounty was continually revised up to the time of the Civil War with some small gaps and the legislative norm that broad-based profit sharing was a requirement for owners to get access to their share of the bounty remained in the law.

Change and the Future of the Industry

The development of larger ships and later trawlers which developed a way to harvest cod without the use of individual lines by dragging the bottom for cod led to a great change in the industry. Once vessels could be powered by other than wind power, combined with the use of nets, the potential reach of fishing vessels increased. Later as the ships turned themselves into factories and frozen food assembly lines with the inventions of Clarence Birdsye methods of freezing food, the industry underwent a profound change. Ships became large factories. The level of capital necessary to own these productive assets increases and the industry started evolving in the case of the larger ships into a wage system. Nevertheless, the custom of “sharesmen” and profit sharing has remained part of the small and medium-sized fishing industry.

Conclusion

This is one of the first cases, and perhaps the first case, in American history where the Founders and a Presidential Administration and the Congress dealt with economic policy in regards to shared capitalism, in this circumstance, profit sharing. This story illustrates that some of the Founders of the American Republic and many members of the first Congresses were capable of understanding the importance of all citizens having an opportunity to broadly share the fruits of economic life. They did not automatically accept the right and privilege of the merchants or the ship owners to the incentive for upbuilding the cod fishery which came about by deregulating taxes and duties. In this instance, many in the young Government recognized that the performance of the crews depended on shared incentives. They recognized that the human capital of the industry was a key part of the industry and that this included the way the fishermen were compensated. They saw clearly the right of the government to use one of its principal domestic powers – taxation -- in reverse, namely, to reduce taxes in order to encourage independent economic activity and remove the barriers for individual citizens to participate in a business. Certainly, many politicians at the time were not consistent in their defense of this point of view to every group and every person. This story is not like a fairy tale. Some of the Founders of the American republic spoke of ideals and they lived imperfectly in a confused time. As the role of low quality cod fish exports in feeding slaves in the British West Indies indicates, there was no shortage of rank hypocrisy.

This case also shows something that is typical of the time, namely, the desire to encourage citizens to do the economic work of the country themselves rather than have the state do it for them. Congress did not take over the fishing industry or the shipping industry. It did not control the prices of the industry. It did not set up a state-owned company to rebuild the industry. Congress did not impose a tax to pay welfare to the suffering fishermen in order to redistribute wealth from the haves to the have-nots. The public did not organize a campaign of vilification simply to attack the owners and investors in ships. Many of those who supported the profit sharing idea wanted a fair rewards system consistent with the evidence of how well shared capitalism had worked in the industry. Congress did not create a huge tax to finance the takeover of the fishing industry. Rather, it removed the burdens of taxes on the fishermen themselves and recognized that fairness and broad-based incentives had some role to play in economic life while also recognizing that the owners of the ships also had a right to profit. This story illustrates the willingness of some of the Founders and members of Congress to pay close attention to the idea that those who create the wealth could share in it and citizens should have a “piece of the pie.”

How could the deeply divided Congress and politicians with such vastly different political views such as Thomas Jefferson and Alexander Hamilton take into account broad-based profit sharing in the cod industry in making national policy? How can this story shed light on broad-based profit sharing and property ownership in the American experiment. These Founders could entertain these ideas, because, despite some fundamental differences over how the economy should be structured, there was general, albeit imperfect, agreement that the American Republic required a strong and expanding

middle class and a generally equitable – although not equal -- distribution of wealth in order to survive as a republic. In his sweeping history of the early Republic, 1789-1815, *Empire of Liberty: A History of the Early Republic, 1789-1815*, Gordon S. Wood, the pre-eminent historian of this period, writing as part of the *Oxford History of the United States* series, echoes the George Washington comment in his letter to Richard Henderson, and suggests that there was significant support across much of the political spectrum for the notion that a democratic republic required an equitable although not strictly equal distribution of wealth:

Americans knew only too well that republics were very delicate polities that required a special kind of society – a society of equal and virtuous citizens.... Republics demanded far more morally from their citizens than monarchies demanded of their subjects... The social hierarchies that republics would permit would be based solely on individual merit and talent... Since antiquity, theorists had assumed that a republican state required a general equality of property-holding among its citizens. Although most Americans in 1776 believed that not everyone in a republic had to have the same amount of property...(A)ll took for granted, that a society could not long remain republican if a tiny minority controlled most of the wealth and the bulk of the population remained dependent servants or poor landless laborers. (Wood, 2009: 7-8)

Many of the Founders had a vision of a nation of farmers and artisans and mechanics who independently owned enough property to thrive and maintain the political independence necessary to be virtuous citizens.. In any discussion of labor and capital at that time, capital, meant mostly land and to some extent crafts and small businesses that citizens could use to support their families from the income on that capital. For many of these farmers and artisans, the landed property that belonged to them and their tools and shops and crafts supported them, with what is today called capital income. Many

pocketed the profits of their agriculture and crafts and they owned their farms and businesses. Thus, many citizens derived income from owning the means of producing wealth. Very few citizens at that time were wage laborers. In the case of the cod fishery and many other fisheries, laborers were entitled to a share of the profits. Despite many other contradictions, it was viewed as part of the way things were done.

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Endnotes

¹Innis mentions the allowances that the law assigned to vessels without mentioning that the allowances would be distributed between the owner and the crew and, most importantly, that a condition of the distribution of the allowances is that broad-based

profit sharing on the entire catch be insured by a written agreement between the captain and the crew.

ⁱⁱ See Roland, Bolster, and Keyssar, 2008: 12, 31-36, 65, 82-98; Kurlansky, 1997: 82-83 and Labaree, Fowler, Hattendorf, Safford, Sloan, and German, 1998: 24, 33-34, and 179 on the bounty system.

ⁱⁱⁱ On the share from 1789-1790, see table No. 3 in Jefferson, 1974: 19: 225. The share going to the West Indies varies depending on the period and is the source of some conflicting reports.

^{iv} See also, Roland, Bolster, and Keyssar, 2008: 65. See also, Eric Williams, 1944: 51-84, especially, 59, 108, 116, and 118.

^v Jefferson, 1974: 19: 206-228.

^{vi} Coxe provided very detailed information of the impact of these duties and taxes on individual sailors that is included in footnotes to the Jefferson report in Jefferson, 1974: 227 along with further detail on the fishery that is included in other footnotes to the report on pps. 195-6

^{vii} Jefferson also discusses the widespread use of bounties in the fishery by other nations in 1974: 211-213.

^{viii} Jefferson, 1974, 19: 195-197.

^{ix} Jefferson, 1974: 19: 210.

^x At the time the duty on salt was six cents a bushel. See, p. 178.

^{xi} Graydon, 1803: 215-218. The bounty, now called an allowance in the law, had a seven year term and was increased by 20% on May 2, 1792 and by 30% on July 8, 1797. On April 12, 1800, it was extended for ten years from March 3, 1800.

^{xii} See Section IV of the law in Graydon, 1803: 216, Section IV.

^{xiii} See Chernow, 2010: 277.

^{xiv} See Chernow, 2010: 256. See nn. 62 for original source.

^{xv} See Washington, 2011: Image (manuscript page) 144-148. (Series 2 Letterbooks, Letterbook 15)

^{xvi} This was based on an extensive review of letter traffic in Alexander Hamilton's log books conducted by the author at the National Archives in College Park, Maryland on February 23, 2012.

^{xvii} See United States Congress, 1832: 7: 511

End