

Committee Reports

form of Bill C-54, would legalize the particular legislation which is referred to in this document?

Also, could one not conclude that if this regulation which covers a zone within the area so covered by the said regulatory authority in the Act, were improperly passed that, legally, by singling out a portion of that area one would in fact have passed a regulation covering the entire area, as is the case under the Act and as is prescribed in the regulation?

Does the hon. gentleman know about what I am talking with respect to the second question? I am not sure that he does.

Mr. Kaplan: Mr. Speaker, I think I would like to pull out the minutes of the committee meeting which were taken before we decided to table the report. The issues raised by the Hon. Member are precisely the issues which preoccupied the members of the committee for the time in which we studied the regulation. We were very concerned about the exact points which the Hon. Member mentions. However, we were able to resolve them.

The Hon. Member has asked whether or not the regulation could be legalized by the Act which is presently before the House. I suppose it could, if it contained a provision stating that all *ultra vires* regulations which have been put out before are now legal. However, it does not do that, of course. All it does is to give a fresh and more enlightened regulation-making authority to the Minister and to certain officials under the Act. It does not validate an existing regulation which was not valid under the statute under which it received its generation. No, the existing regulation is still a bad one. That is why we took the trouble of putting it into the report. It is not an easy thing to ask Conservative members of a committee to sign a report which criticizes the Minister of Transport. Yet they were prepared to do that because they recognized the importance of trying to get the new Government, as we did with the former Government, to comply with the rule of law.

The Hon. Member's second question is an interesting one. It is one on which we spent a great deal of time. It dealt with whether or not a court might give life to that invalid regulation by removing the portion of it which accounts for the invalidities. The section in question, in effect, says to the Minister: "You can put forward a regulation banning ships from the whole of the area south of the 60th parallel but you cannot ban a little piece of it". What the Minister tried to do here is ban the boats in a little zone. The Hon. Member is saying: Why does the court not just read away the reference to the small zone, because without it it would be perfectly valid regulation? That was not done because, in our opinion, and our law officer conforms this, the limited zone was the essence of the regulation and there was no interest at all on the part of the authority to ban such vessels from the whole of Canada. After all, we need those vessels. They bring us oil and they take oil out of the country. We need them but we do not want them to go into the ecologically sensitive areas of Canada where they can damage the shoreline or fisheries and compete in that way with other economic and ecological interests. The court will not allow that. The only real way out is for the Minister of Transport to take the advice of the committee. He does not

even have to rescind the regulation because, in our view, it is invalid. I would like to see Head Harbour Passage protected, but I would like to see it protected by valid legislation.

[*Translation*]

Several attempts were made to convince various officials of that department. One does not begin by writing directly to the Minister. One begins by making representations to the department's counsels. Now and then they are invited to appear before our committee to listen to our arguments and give us their views because, obviously, lawyers are there to advise department officials whose opinions differ from ours. But just the same, when in the end the Minister says something like "I'll see you in court", that does not appear to us to be the proper way to proceed!

[*English*]

Mr. Layton: I rise on a point of order, Mr. Speaker. If we might revert to the introduction of Bills, I could introduce a Bill on behalf of the Minister of Energy, Mines and Resources (Miss Carney).

Mr. Deputy Speaker: Pursuant to order made earlier this day, we will now revert to the introduction of Bills.

* * *

● (1415)

CANADA PETROLEUM RESOURCES ACT

MEASURE TO ENACT

Hon. Bob Layton (for Minister of Energy, Mines and Resources) moved for leave to introduce Bill C-92, an Act to regulate interest in petroleum in relation to frontier lands, to amend the Oil and Gas Production and Conservation Act, and to repeal the Canada Oil and Gas Act.

Mr. Deputy Speaker: Shall the Hon. Minister have leave to introduce the Bill?

Some Hon. Members: Agreed.

Motion agreed to, Bill read the first time and ordered to be printed.

* * *

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

CONCURRENCE IN FOURTH REPORT OF STANDING JOINT COMMITTEE

The House resumed consideration of the motion of Mr. Kaplan to concur in the fourth report of the Standing Joint Committee on Regulations and Other Statutory Instruments.

Mr. Doug Lewis (Parliamentary Secretary to President of the Privy Council): Mr. Speaker, I appreciate this opportunity to address the House with respect to the report which has been