allowed the suspension to take place from January 1 of the year until December 31 of the year and to renew itself automatically on January 1. The government is using a subterfuge in this instance. It is attempting to do indirectly what would be against the law if it attempted to do it directly.

It might be useful to put on the record the report made by the committee, which is quite brief and explains more succinctly than I can the position taken by the committee. It states as follows:

1. In accordance with its permanent reference, Section 26 of the Statutory Instruments Act, S.C. 1970-71-72, C.38, your Joint Committee has determined to draw to the special attention of both Houses Section 6(a) of the Atlantic Coast Marine Plant Regulations as made by SOR/81-363. In your Committee's judgment this provision is ultra vires Section 34.3(b) of the Fisheries Act. in addition, of Section 6(a) were to be held valid by the courts, your Committee's judgment is that it amounts to an unusual and unexpected use of the power conferred on the Governor-in-Council by Section 34.3(b) of the Fisheries Act.

2. Section 34.2 of the Fisheries Act empowers the Minister to set conditions, of types there defined, in licences issued for the harvesting of marine plants. Section 34.3(a) of the Act empowers the Governor-in-Council to make regulations prohibiting, subject to the conditions of any licence issued by the Minister under Section 34.2, the harvesting of marine plants. Section 34.3(b) of the Act empowers the Governor-in-Council to make regulations prohibiting, notwithstanding the conditions of any licence, the harvesting of marine plants or any class thereof in any area or areas of the coastal waters of Canada for such period or periods as are specified in any such regulation. Section 6(a) of the Regulations under report prohibits the harvesting of Irish moss of the species *Chondrus crispus*, wire weed or horsetail notwithstanding the conditions of a licence issued by the Minister, during the period "from January 1 to December 31". To stipulate a period from January 1 to December 31 is to make the limitation or prohibition indefinite, or even perpetual, and to reproduce in substance the very provision in the original Section 6(a) to which your Committee objected in its Eighth Report for this Session (Statutory Instrument No. 13). That report was withdrawn when the Minister caused the then Section 6(a) to be revoked.

3. The original form of Section 6(a), as made by SOR/78-867, failed to specify any period at all during which harvesting was prohibited notwithstanding the terms of a licence. The justification for this failure to abide by the requirements of Section 34.3(b) of the Act was that the failure to specify any period amounted to the specification of an indefinite period which complied with the requirement that harvesting be prohibited "for such period or periods as are specified". The line of reasoning that failure to specify any period amounted to the specification of a period, albeit an indefinite one, was rejected by Addy J., in the Federal Court of Canada in *Dantex Wollen Co. Inc. v. Minister of Industry, Trade & Commerce* [1979] 2 F.C. 585. To specify a period from January 1 to December 31 as has now been done appears to your Committee to be a further attempt to specify an indefinite period in contravention of the statutory requirement to specify "such period or periods" during which marine plants may not be harvested notwithstanding the conditions of a harvesting licence. If your Committee is wrong in its legal conclusion it is of the view that Parliament never intended, in enacting Section 34.3(b), of the Fisheries Act, to allow a licence to be in effect suspended indefinitely and that the attempt to achieve this result by specifying an indefinite period of prohibition amounts to an unusual and unexpected use of power. What Parliament has in contemplation was the imposition of prohibitions of certain duration. It is true that the indefinite period now provided for in Section 6(a) is limited in area. If, however, a power is needed to suspend a licence in a particular area for an indefinite period, Parliament should be asked to grant the power. The Minister has rejected this course as impractical. He has also rejected your Committee's suggestion that the conditions attached to licences be altered so that they specify on their face that they can not be used in the location now specified in Section 6(a) of the Regulations. By rejecting these suggestions the Minister is issuing or continuing in force licences which are in a sense counterfeit. Your Committee regards this as an abuse of Section 34.3(b) of the Fisheries Act.

That was the report I tabled in Parliament on June 29, along with the motion to concur.

I should like to deal with some of the substance of that report, Mr. Speaker. The issue at stake is important as it relates to the role of Parliament in holding the government to account and in ensuring that, where Parliament delegates power to the executive, the government acts in a way which is proper and is within the law. No issue in Canada can be more important than respect for the rule of law. When the government decides that, notwithstanding what the law says, it has the right to take actions which may very well be illegal or, as the committee suggested, to issue licences which are in effect counterfeit, then respect for the law by all Canadians suffers as a result.

• (1520)

This is an issue, Mr. Speaker, which has continued over the course of three Parliaments. It is one which has vexed the committee now since 1979, and it obviously is a concern of the minister as well. We suggested a number of alternatives which could have been considered by the minister. First, he could have considered changing the condition of a licence or amending Section 34(3)(b) of the act. This would have allowed the minister to do what he wanted but in a legal and proper way and within that which Parliament contemplated at the time it passed the legislation. I think that is an essential consideration for us to keep in mind.

We wrote to the minister—the correspondence is appended to various committee reports and is available for members to examine—to make the suggestion on October 23, 1981 and we did not receive a response until March 18, 1982, which reads as follows:

I apologize for the lateness of my reply to your letter of October 23, 1981.

I acknowledge the complaints that the Committee has raised on Section 6(*a*) and agree that the authority to make this regulation is Section 34.3(*b*) of the Fisheries Act. As requested by the Committee, I have taken steps to specify a period in which the harvesting of Irish moss, wire weed or horsetail in a specified area is prohibited. This period is deemed necessary for the proper management of this resource.

The concern of the committee, Mr. Speaker, does not relate to the question of policy and whether or not it is necessary from time to time to suspend the right of people to harvest Irish moss. The issue is whether or not the process being followed by the government is legal and within that which was contemplated by Parliament. The minister continues as follows:

The two options you have suggested—changing the conditions of a licence or amending 34.3(*b*) of the Act are not practical. Consequently, I am not disposed to making further changes to Section 6(*a*) of the subject Regulations, as with the amendments that have been made by SOR/81-363, Section 6(*a*) is, in my view, within the parameters of the regulation making authority set out in Section 34.3(*b*) of the Act.

The critical statement made by the minister was this:

The two options you have suggested . . . are not practical. Consequently, I am not disposed to making further changes—

The issue at stake here is not the convenience of the government, not whether or not it would take time for the government to bring the law into conformity with what it would like it to be. The issue is the rule of law and whether the government has a responsibility to obey the law of the land and to act