



Canada. Parl. H.of C. J
Standing Comm.on Marine 103
& Fisheries, 1952/53. H7
Minutes of 1952/53
proceedings & M3A1
evidence.

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HOUSE OF COMMONS
Seventh Session—Twenty-first Parliament
1952-53

STANDING COMMITTEE

ON

MARINE AND FISHERIES

Chairman: T. G. W. ASHMOVER, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

FRIDAY, FEBRUARY 6, 1953
MONDAY, FEBRUARY 9, 1953

Bill No. 44 (Letter E of the Senate)
An Act to Protect the Coastal Fisheries

WITNESSES:

Mr. Stewart Bates, Deputy Minister, Department of Fisheries;
Mr. G. E. Clark, Assistant Deputy Minister, Department of Fisheries;
Mr. J. V. Osgood, Director of Legal Services, Department of Fisheries;
Mr. J. P. Erickson-Stow, Legal Division, Department of External Affairs.

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STANDING COMMITTEE
ON
MARINE AND FISHERIES

Chairman: T. G. W. Ashbourne, Esq.

Vice-Chairman: A. W. Stuart, Esq.

Messrs:

Applewhaite	Gillis	MacLean (<i>Queens</i>)
Arsenault	Harrison	MacNaught
Balcom	Henderson	Maltais
Bennett	Higgins	McLean (<i>Huron-Perth</i>)
Black (<i>Cumberland</i>)	James	McLure
Blackmore	Kirk (<i>Antigonish-</i> <i>Guysborough</i>)	Mott
Breton	Langlois (<i>Gaspé</i>)	Pearkes
Cannon	Leger	Robichaud
Catherwood	Macdonald (<i>Edmonton</i> <i>East</i>)	Stick
Côté (<i>Metapedia-Matane</i>)	MacInnis	Thomas
Fulford		Wood
Gibson		

(Quorum—10)

A. SMALL,
Clerk of the Committee.

ORDERS OF REFERENCE

HOUSE OF COMMONS,
MONDAY, January 12, 1953.

Resolved—That the following Members do compose the Standing Committee on Marine and Fisheries:—

Messrs.

Applewhaite	Gibson	MacInnis
Arsenault	Gillis	MacLean (<i>Queens</i>)
Ashbourne	Harrison	MacNaught
Balcom	Henderson	Maltais
Bennett	Higgins	McLean (<i>Huron-Perth</i>)
Black (<i>Cumberland</i>)	James	McLure
Blackmore	Kirk (<i>Antigonish-</i> <i>Guysborough</i>)	Mott
Breton	Langlois (<i>Gaspé</i>)	Pearkes
Cannon	Leger	Robichaud
Catherwood	Macdonald (<i>Edmonton</i> <i>East</i>)	Stick
Côté (<i>Metapedia-Matane</i>)		Stuart (<i>Charlotte</i>)
Fulford		Thomas
		Wood—35.

Ordered—That the Standing Committee on Marine and Fisheries be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

FRIDAY, January 30, 1953.

Ordered,—That the following Bill be referred to the said Committee:—

Bill No. 44 (Letter E of the Senate), intituled: "An Act to Protect the Coastal Fisheries".

FRIDAY, February 6, 1953.

Ordered,—That the said Committee be empowered to print, from day to day, 750 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

Ordered,—That the said Committee be granted leave to sit while the House is sitting.

TUESDAY, February 10, 1953.

Ordered,—That the name of Mr. Browne (*St. John's West*) be substituted for that of Mr. Catherwood on the said Committee.

Attest.

LÉON J. RAYMOND,
Clerk of the House.

STANDING COMMITTEE

REPORT TO THE HOUSE

FRIDAY, February 6, 1953.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

FIRST REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, 750 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

2. That it be granted leave to sit while the House is sitting.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,
Chairman.

MINUTES OF PROCEEDINGS

FRIDAY, February 6, 1953.

The Standing Committee on Marine and Fisheries met at 11:00 o'clock a.m. this day for organization purposes. The Chairman, Mr. T. G. W. Ashbourne, presided.

Members present: Messrs. Applewhaite, Ashbourne, Balcom, Bennett, Black (*Cumberland*), Cannon, Catherwood, Côté (*Matapedia-Matane*), Fulford, Gibson, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLure, Mott, Parkes, and Stick.

The Chairman thanked the Committee for the honour again conferred on him and informed the members present of the business referred by the House to the Committee; namely, Bill No. 44 (Letter E of the Senate), intituled: "An Act to Protect the Coastal Fisheries", copies of which were distributed to members present.

On motion of Mr. Balcom,

Resolved,—That Mr. Stuart (*Charlotte*) be Vice-Chairman of the Committee.

On motion of Mr. Fulford,

Resolved,—That permission be sought to print, from day to day, 750 copies in English and 200 copies in French of the Minutes of Proceedings and Evidence.

On motion of Mr. Bennett,

Resolved,—That a Sub-Committee on Agenda and Procedure, comprised of the Chairman and 6 Members to be named by him, be appointed.

On motion of Mr. Mott,

Resolved,—That permission be sought to sit while the House is sitting.

Following a brief discussion on its future programme, on motion of Mr. Applewhaite the Committee adjourned at 11:10 o'clock a.m. to the call of the Chair.

MONDAY, February 9, 1953.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

Members present: Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Catherwood, Gibson, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacLean (*Queens*), MacNaught, McLean (*Huron-Perth*), McLure, Parkes, Robichaud, Stick and Stuart (*Charlotte*).

In attendance: Hon. James Sinclair, Minister, Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

The Chairman announced the names of members of the Sub-Committee on Agenda and Procedure to act with him thereon, namely: Messrs. Applewhaite, MacInnis, MacNaught, Parkes, Stuart (*Charlotte*) and Thomas.

The Chairman presented and read the First Report of the Sub-Committee on Agenda and Procedure which is as follows:—

FRIDAY, February 6, 1953.

Your Sub-Committee met on February 6th and has agreed to recommend as follows:

That the following persons be called to appear before the Committee at 11.00 o'clock a.m., Monday, February 9, 1953: Mr. Stewart Bates, Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and an official from the Department of External Affairs.

On motion of Mr. Applewhaite.

Resolved,—That the First Report of the Sub-Committee on Agenda and Procedure be now concurred in.

The Committee proceeded to its consideration of Bill No. 44 (Letter E of the Senate), An Act to Protect the Coastal Fisheries.

The Hon. James Sinclair addressed the Committee, giving a statement on territorial waters.

During the course of this sitting, the Committee called, heard, and questioned Messrs. Bates, Clark, Ozere, and Erichsen-Brown, and made the following progress on the Bill:

Clauses 1 to 6 inclusive were severally considered and adopted.

On Clause 7:

After discussion and questioning thereon, the Clause was allowed to stand.

At 1.05 p.m., the Committee adjourned until 11.00 a.m., Friday, February 13.

A. SMALL,
Clerk of the Committee.

EVIDENCE

FEBRUARY 9, 1953.

The CHAIRMAN: Order. I see a quorum present. I would like to announce the names of the members of the sub-committee on agenda and procedure acting with me. They are Messrs. Applewhaite, MacInnis, MacNaught, Parkes, Stuart and Thomas.

I have the honour to present the first report of the sub-committee. (*See Minutes of Proceedings*).

This report is now before you for adoption.

Mr. APPLEWHAITE: I move the adoption of the report.

Mr. GIBSON: I second the motion.

The CHAIRMAN: It has been moved by Mr. Applewhaite and seconded by Mr. Gibson that this report be now concurred in. Are you ready for the question? Shall the motion carry?

Carried.

I am glad this morning to see that we have from the Department of Fisheries the Minister, the Honourable James Sinclair, and also Mr. Stewart Bates, the Deputy Minister, and Mr. S. V. Ozere, Director of Legal Service, and, from the Department of External Affairs, the Legal Division, Mr. J. P. Erichsen-Brown. We are very glad to have these gentlemen with us this morning and we shall be glad to have statements from them.

Clause 1.

1. This Act may be cited as the *Coastal Fisheries Protection Act*.

Mr. McLURE: Mr. Chairman, before going on with this, I have just passed a note to Mr. MacNaught and I was wondering if I could get a little advice on it. I think that Mr. MacNaught gave some advice on the matter before, but I did not happen to be here at the time.

Mr. MacNAUGHT: Mr. Chairman, I presume that this has some reference to the question which was asked by Mr. Robichaud in the House. At that time the Minister said our officials were keeping a close watch on it, and that when we have anything specific to report, a statement would be made in the House. We have nothing further to report on it. Perhaps, Mr. Bates could let us know if we have any recent information on the efforts of a private member to introduce an Act in relation to Fisheries in the State House of Massachusetts.

Mr. Stewart BATES (Deputy Minister of Fisheries): Mr. Chairman, we understand that the hearing in the United States has been postponed until the 11th of March. We have nothing further to report.

The CHAIRMAN: Now, gentlemen, we would be pleased if the Hon. Mr. Sinclair would come forward and make his statement to the committee.

Hon. Mr. SINCLAIR: Mr. Chairman and gentlemen, I followed the debate in the House, but I was not there for the very end of it because I had to go to Newfoundland. Mr. MacNaught was conducting the bill through but in the debate there was one question on which I think a statement of government policy should be made. It was this matter of territorial waters to which most of the debate related.

We have had such debates on previous occasions when fisheries bills were up. The desire of most fishermen in Canada is understandable, that our territorial waters be extended out as far as possible to preserve the inshore fisheries.

There have been suggestions about extending it to 12 miles, and even to the continental shelf. There was some discussion upon it in the debates of 2 or 3 years ago when a declaration was made by the President of the United States at that time, President Truman. His action was debated. It had a statement which was sometimes misunderstood, that the Americans would exercise legal authority over fisheries out to the continental shelf. My recollection was that this was very quickly followed by such action on the part of South American countries, and there was violent protest by many countries as to these restrictions by certain South American states, saying that they were interested in conservation out to the continental shelf.

The second development, however, in recent years, has been the decision of the International Court on the dispute between Norway and Great Britain as to where the line should be drawn. The Norwegians in general claimed that it was from headland to headland, not following the contours of the shore. The British challenged this in the case, and the Norwegians won.

This was immediately followed by action taken by other countries, notably Iceland, and it is easy to see how unilateral action taken by one country can have effects which are not dreamed of when that action is taken.

Iceland, in general, decided to outline her boundaries from headland to headland, the main corners, so to speak, of the country. Iceland is rather horseshoe shaped and they decided to run their territorial lines around the country in as simple a line as possible, including very large areas as part of their territorial waters.

The British, I think, have not yet taken that matter to the International Court, but the British trawlers have removed themselves from that area. The repercussions were immediate. While the British Government has yet to take any action, the port facilities in the principal fishing ports have been denied to Icelandic fishing boats, and some of the long shoremen's trade unions have refused to unload Icelandic boats. As a consequence, Iceland has been cut off from a major market for its fish, namely, the British market.

This has been reflected even as far as Canada, because Iceland had to look elsewhere for markets, and in their search they included the American market in which they had very little interest up to this time, up to the time this situation developed. But in the last few years, exports of fresh and frozen fish from Iceland to America have increased from 5 million pounds to about 35 million pounds a year. Normally our fishing fleets would expect to get the bulk of that increase. However, while we have held our own in the American market, we are finding the competition of this Icelandic fish very difficult.

I have used that as an example of what happens when one country, by itself, tries to alter international law.

As British people, we have long experienced the freedom of the seas, which has meant freedom up to 3 miles from the other countries' shores. Now, if arbitrarily, and without any international discussion, we were to extend our limits out to the continental shelf, we would be in the position of having to try to enforce such a law against the people who may have historical interests in such waters. That is especially true of the eastern coast where, since 1498 at least, the peoples of Britain, France, and Portugal have been fishing.

I have, actually, a formal statement which sums the thing up.

Definition of territorial waters is a complex question, affecting as it does, many interests at home and abroad. Last year's judgment of the International Court of Justice in the fisheries dispute between the United Kingdom and Norway, has provoked a study of this question and re-examination of the

principles underlying international practice in respect of territorial waters. The government agencies of many countries with maritime interests are re-examining their policies on this subject, as a result of this decision of the International Court.

Some countries, hastily—perhaps too hastily—have attempted to apply the principles which they thought the judgment in the United Kingdom-Norway dispute announced. Iceland was one of those countries which I have just mentioned. Most governments, however, including ourselves, are proceeding more cautiously because of the complexity of the problems involved. We are however giving very serious thought to these problems. At present, an inter-departmental committee representing government interests of a number of government departments and agencies concerned, is studying the implications of the judgment of the International Court as well as the more recent international developments because of that judgment. The committee is being assisted in its labours by Professor George Curtis, Dean of the Faculty of Law of the University of British Columbia, engaged by the government as its legal advisor.

When the committee makes its report, the government will be in position to act, if it decides to make any adjustments in the delineation of territorial waters in so far as Canada is concerned.

And here is the important part which gives the relationship of this committee to the bill which is now before us.

The bill before you gives the Governor in Council the power to designate territorial waters. It does not itself alter the practice as to territorial waters. The practice we have followed is continued, but it does provide authority to change the practice if it is ever decided by the government to do so.

If, as a consequence of the steps taken by our government and other governments international action should result in a change of the present territorial boundaries, this bill would cover the new situation as well as it covers the present situation. That is the only statement I wanted to make on this bill. It was a statement, I knew, of very much concern, because every member is interested in this matter.

Mr. PEARKES: Yes, Mr. Chairman, and it is of concern to every nation which is interested in fishing.

Hon. Mr. SINCLAIR: Each nation has the same concern; it would like to extend its territorial waters for some sorts of fishing; it would like to keep the coastal waters in which their fishermen had been engaging, within its own national boundary.

Mr. KIRK: The Minister mentioned certain countries having fished since away back in 1498. Had that been done by agreement, or was it just sort of squatting?

Hon. Mr. SINCLAIR: It was the old principle of the freedom of the seas; the seas were there as well as the Indians.

Mr. ROBICHAUD: There was no Canada then.

Hon. Mr. SINCLAIR: There was no Canada as such. There were various Indian tribes down in Nova Scotia; but I do not believe there were many Indians in Newfoundland.

Mr. KIRK: But there was no agreement.

Hon. Mr. SINCLAIR: Very severe wars were fought in Newfoundland for the control of the fishing, and the shore fishing passed from one nation to another until the British established their sovereignty over it; and even that sovereignty was affected by the last treaty of 1904 with the French.

Mr. STICK: I have it here and I shall be making a statement in a moment.

Hon. Mr. SINCLAIR: The French and the Americans still have certain rights on the Newfoundland coasts; but fishing on the Grand Banks is probably a very

good example of the fact that in the background the British, in respect to having freedom of the seas, as do many nations, feel that they have a historic right in the fisheries which are not within our 3 mile limit, but which may be upon our continental shelf. On the west coast, fisheries in the Hecate Strait have been exploited by the Americans and ourselves for many years and are within that category. But I suppose that most national fisheries in the world today are fishing off the east coast and the Grand Banks, which, for almost 400 years, have been exploited by at least 4 or 5 nations, and more recently by 9 nations.

The CHAIRMAN: Thank you very much Mr. Sinclair.

Mr. STICK: Mr. Chairman, this bill affects Newfoundland in a very special way. As you all know, Newfoundland was founded on the fisheries and the fisheries have been in existence, as Mr. Sinclair has said, since about 1498. This bill, which empowers the government to extend the limits of our protection beyond the more or less 3-mile limit, is something I think should be gone into by the committee rather thoroughly, and I would like this morning, if I may take up the time of the committee briefly, to quote something of the nature of this bill which will affect the fisheries in Newfoundland. As the minister has said, the matter of the territorial waters is not clearly defined yet by international law. Something has been done along those lines, but it is not conclusive yet, and I want to quote now from a report of the Permanent Court of Arbitration at The Hague dealing with the North Atlantic Coast fisheries:

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry and cure fish on certain coasts, bays, harbours and creeks of His Britannic Majesty's Dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Straits of Belleisle and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty forever, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.—And the United States hereby renounce forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's Dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

That was the question before The Hague court.

Mr. APPLEWHAITE: What was the date of that arbitration?

Mr. STICK: The 20th day of October, 1818—Convention signed at London between Great Britain and the United States on the 20th day of October, 1818. That was the first. That dispute was taken before The Hague court, and now I will read the judgment. The judgment of the court at The Hague was as follows:

In case of bays the three marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the three marine miles are to be measured following the sinuosities of the coast.

But considering the Tribunal cannot overlook that this answer to Question V, although correct in principle and the only one possible in view of the want of a sufficient basis for a more concrete answer, is not entirely satisfactory as to its practical applicability, and that it leaves room for doubts and differences in practice. Therefore the Tribunal considers it its duty to render the decision more practicable and to remove the danger of future differences by adjoining to it, a recommendation in virtue of the responsibilities imposed by Art. IV of the Special Agreement.

Considering, moreover, that in treaties with France, with the North German Confederation and the German Empire and likewise in the North Sea Convention, Great Britain has adopted for similar cases the rule that only bays of ten miles width should be considered as those wherein the fishing is reserved to nationals. And that in the course of the negotiations between Great Britain and the United States a similar rule has been on various occasions proposed and adopted by Great Britain in instructions to the naval officers stationed on these coasts. And that though these circumstances are not sufficient to constitute this a principle of international law, it seems reasonable to propose this rule with certain exceptions, all the more that this rule with such exception has already formed the basis of an agreement between the two powers.

Now therefore this Tribunal in pursuance of the provisions of Art. IV hereby recommends for the consideration and acceptance of the high contracting parties the following rules and method of procedure for determining the limits of the bays hereinbefore enumerated.

1.

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

2.

In the following bays where the configuration of the coast and the local climatic conditions are such that foreign fishermen when within the geographic headlands might reasonably and *bona fide* believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

And then it goes on to specify certain bays. I won't put that on record.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Heads.

And then it goes on further, and this is the final part:

It is understood that nothing in these rules refers either to the Bay of Fundy considered as a whole part from its bays and creeks or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce dated February 21, 1909, and March 4, 1909; or to Conception Bay, which was provided for by the decision of the Privy Council in the case of the Direct United States Cable Company v. The Anglo American Telegraph Company, in which decision the United States have acquiesced.

The CHAIRMAN: Would you be good enough, Mr. Stick, to tell us the title of the book from which you are reading?

Mr. STICK: Session Papers, Vol. XLV, No. 24, 1911.

Mr. Chairman, I would now like to quote from Digest of International Law by Hackworth, Volume I, Chapters I-V, page 628, in connection with the same subject:

Various points of view with reference to the breadth of the territorial waters were expressed provisionally or in principle in the second committee of the Conference for the Codification of International Law held at The Hague in 1930, at its thirteenth meeting held on April 3. The delegates of certain states were in favour of the acceptance of the principle of a zone on the high sea contiguous to the territorial sea in which the coastal state would be able to exercise certain control. The views as expressed in the meeting of April 3 on these subjects were summarized as follows: Union of South Africa, 3 miles; Germany, 3 miles; United States, 3 miles; Belgium, 3 miles; Great Britain, 3 miles, Canada, 3 miles, Chile 6 or 3 miles; China, 3 miles; Colombia, 6 miles;

Cuba, 6 miles; Denmark, 3 miles; Spain, 6 miles; Finland, 4 miles— and perhaps what is more important to us in Newfoundland—

Italy, 6 miles; Poland, 3 miles; and Portugal, 12 or 6 miles.

So you will see generally from this that the matter has not been finally settled yet. Some countries favour 6 and 12 miles, but most of them favour the 3 mile limit, and it is very interesting that Portugal favours 12 miles, and, as you know the Portugese have been fishing in Newfoundland waters for centuries, and I think if we ever make an agreement with them we can use that as a basis for an agreement making it 12 miles.

I want to quote now from a book by H. A. Smith entitled "Great Britain and the Law of Nations", at page 131:

The question of the breadth of a bay arose in the North Atlantic Fisheries Arbitration at The Hague in 1910. The Tribunal there decided that, in the case of a bay, the belt of territorial waters must be measured from a line drawn across the body of water at the place where it ceased to have the configuration and characteristics of a bay. Realising that this decision would in practice be insufficient to define the rights of the parties and to prevent future difficulties with regard to the fisheries, the Tribunal, basing itself on various treaties in respect of fisheries to which Great Britain was a party, recommended that in general the base line should be drawn across the bay in the part nearest the entrance or mouth at the first point where the width did not exceed ten miles.

The recommendations of the Tribunal were accepted by both parties to the dispute and have since been enforced in the area to which they apply.

His Majesty's Government in Great Britain believe that it is logical to restrict the application of the special rule as to bays, under which the base line is drawn across the mouth of the bay, to cases where the bay is not more than six miles wide at the mouth, as it is only in these cases that the bay is wholly enclosed by the two belts of territorial waters measured from the opposite shores. It may be argued, however, that no such rule has as yet met with universal acceptance, and, therefore, if a rule similar to the recommendations of the Tribunal in the North Atlantic Fisheries Arbitration and to the rule adopted in some of the fishery treaties to which Great Britain is a party met with the general acceptance, they would be prepared to consider it.

By general acquiescence, certain historic bays have been recognized as forming part of the national territory, even though their width exceeds that indicated in the earlier part of the answer on this point. In the case of such bays, the territorial waters are measured from a base line passing across the bay at the place recognised as forming the limits of the national territory.

In the case of bays whose coasts belong to two or more States, the territorial waters are measured from low water and follow the sinuosities of the coast.

(c) In front of ports, the base line from which the territorial waters are measured passes across the entrance from the outermost point or harbour work on one side to the outermost point or harbour work on the other side.

The word 'port' in this connection is used in its ordinary physical or geographical sense without reference to special definitions of the areas of particular ports which may be laid down in the Customs legislation of a country.

Now, Mr. Chairman, I could go on quoting further other authorities, but I think I have read enough in order to show this committee that this matter of jurisdiction within territorial waters is something that has not been fully defined by the Court of International Law at The Hague, and there is a difference of opinion amongst the nations even yet as to what should be the limit of control. As you know, during the days of prohibition in the United States in what was commonly called "Rum Row", the rum runners anchored their boats off the 3-mile limit and they were secure from interference by or from United States coastal authorities. That situation did not prove to be satisfactory and the United States extended that limit to 12 miles, and that was carried out and there was no protest, that I know of, from any other nation to the United States for doing that. So we have that precedent set by the United States of extending their control during the prohibition era to 12 miles. It would seem to me that in some cases the 3-mile limit is not sufficient to protect the fisheries of Canada, and I think the whole matter should be gone into very, very carefully so that before any rules or regulations are made in connection with agreements already reached with the United States and other countries regarding fishing rights in Newfoundland, that the whole matter should be gone into thoroughly and that nothing will be done that will not be for the benefit of our fisheries. Personally, I am in favour of extending the 3-mile limit, as I think that limit is not enough or sufficient to protect our fishermen. Fishing boats from Newfoundland will go beyond three miles to get the fish, and we think that going beyond the three miles is within our jurisdiction and territory because we have been fishing on those grounds for decades.

I think this bill as a whole is something which is desirable, and if there is any dispute and if we can make any arrangement with Portugal and other

nations who fish in our waters whereby we can in an amicable way get jurisdiction beyond the 3-mile limit, it should be done, and I think it is desirable. I think what applies to Newfoundland applies also to British Columbia, and also to Nova Scotia and New Brunswick and, for that matter, to parts of the coast of Quebec. It is for those reasons and to clarify the situation that I have quoted the authorities I have, and I hope it will receive consideration by the committee.

The CHAIRMAN: Mr. Pearkes, have you something to say?

Mr. PEARKES: All I wanted to say is that I am pleased to hear that this special committee is continuing its investigation. We were informed during the last session of parliament that the committee had been established, and I am sure that everybody will await their report, which will be of interest on the Pacific coast. People on the Pacific coast think the time is particularly opportune to make a declaration regarding the extent of our fishing zones or territorial waters, which many people think should include Hecate Strait and Queen Charlotte Sound. The time is opportune because up to now fishing vessels of no other country, with the exception of the United States, have actually fished those waters. The fishing fleets of countries fishing in the Pacific ocean are increasing and the type of vessel that they are using is getting larger, so that the amity which exists today may not exist many more years, and it is for that reason we feel action should be taken as soon as possible. Now, there may be a difference between declaring a fishing conservation zone and actual territorial waters, and it is more a declaration of a fishery conservation preserve rather than a declaration as to territorial jurisdiction over waters such as the Hecate Strait and the offshore waters of Vancouver Island as territorial waters, for customs and excise services. That is the sort of thing the fishermen on the west coast are particularly interested in.

The CHAIRMAN: No doubt the importance and the urgency of the matter will be considered by the committee and by the government as outlined here by the Hon. Minister of Fisheries this morning.

Are there any other questions members wish to address to the minister?

We wish to thank you, sir, and would be glad if you could still remain here; that is, if you have the time available to do so. In the meantime we would be glad to hear from Mr. Stewart Bates, the Deputy Minister. I understand he is to make a statement.

Mr. STEWART BATES: I do not think there is anything to add to the statement made by the Parliamentary Assistant to the Minister when the Bill came before the house for its second reading.

Mr. APPLEWHAITE: I wonder, just for the record, if the Deputy Minister would put on to the records of this committee a brief statement as to the application of this Act on the Pacific coast, with reference to our reciprocal port treaty; just outline the situation as between ourselves and the Americans, as part of the record of this committee.

Mr. BATES: Mr. Chairman, the bill makes the coverage quite plain in section 3 of the Act, if I may be allowed to read it.

3. (1) No foreign fishing vessel shall enter Canadian territorial waters for any purpose unless authorized by
 - (a) this Act or the regulations,
 - (b) any other law of Canada, or
 - (c) a treaty.

The reciprocal port privilege treaty with the U.S.A. would be covered by that item 3 (c). In short, American halibut vessels now covered by the reciprocal port treaty would still be conceded these rights.

Mr. APPLEWHAITE: Could you just give us a brief summary of what the existing treaty does cover?

Mr. STEWART BATES: The reciprocal port treaty was signed in Ottawa in 1950. It covers only halibut fishing vessels. Articles I and II of that relate to the point raised by the honourable member:

Article I

Fishing vessels of the United States of America engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs, navigation, and fisheries laws of Canada, have the privileges in the ports of entry of Canada:

(1) to land their catches of halibut and sable-fish without the payment of duties and

(a) sell them locally on payment of the applicable customs duty;

(b) trans-ship them in bond under customs supervision to any port of the United States of America; or

(c) sell them in bond for export, and

(2) to obtain supplies, repairs, and equipment.

Article 2 covers Canadian fishing vessels in United States ports and is identical.

Mr. GIBSON: May I ask, Mr. Chairman, if the American fishing conducted in the Hecate Strait and in Queen Charlotte Sound is a matter of treaty or is done merely by historic rights that they fish there?

Mr. BATES: There is no treaty, Mr. Chairman. I presume one might say it is done by historic right, since they have fished there for quite a long period.

Mr. GIBSON: Is it your opinion, Mr. Bates, that the Japanese would not have that same historic right?

Mr. BATES: That is true.

Mr. GIBSON: Is that sufficient protection, to your mind, and does it back up the suggestion that we should make this declaration as soon as possible?

Mr. BATES: I think, Mr. Chairman, as to the question of the Hecate Strait and whether or not it can be declared territorial waters, that it is very much one of the prior considerations of the committee which has been set up. I would not like to say anything, sir, in the light of the present consideration being given to it by the committee.

Mr. GIBSON: Is it your feeling, Mr. Bates, that this committee would be well advised to wait until the matter has been given consideration by that committee? Do you think that that committee would be more competent to judge the matter than we would be? I presume they would have their lawyers and all the background of international law on which to base their decision.

Mr. BATES: Yes, sir. The purport of the minister's statement this morning is to that effect, that questions of territorial waters in either case are presently under very detailed consideration and that when that committee has reported to the government, then both the government and the officers attached thereto will be able to give to this committee much fuller information on the question of territorial waters, and, perhaps at some stage outline government policy. But until it is reported, we prefer to leave matters as they stand now, the status quo.

The CHAIRMAN: I would like to say that on Saturday I communicated with the Minister of External Affairs and he has very kindly arranged for Mr. Erichsen-Brown to be with us this morning, and I think we will be glad to hear from him. Therefore would he kindly take a seat at the head table. I

would like also to indicate that both Mr. Ozere, the Director of Legal Service of the Department of Fisheries, and Mr. Erichsen-Brown would be glad to answer any questions which you would like to ask them.

Mr. KIRK: Mr. Chairman, from time to time we hear the continental shelf referred to. May I ask if it is related in any way to what are described as territorial waters in the country, or to what?

The CHAIRMAN: Perhaps Mr. Ozere would answer your question.

Mr. OZERE: Mr. Chairman, on the question of the continental shelf, there has been a certain amount of confusion. Generally when we speak of the continental shelf and speak of extending our jurisdiction over areas of the continental shelf, we have reference to the sub-soil resources in the continental shelf rather than to the waters over it.

In 1945 President Truman made two declarations on a statement of policy of the United States Government. One of those declarations related to the continental shelf in which the United States claimed sovereignty over the sub-soil resources in the continental shelf and at the same time made it very clear that the character of the waters above it remained unaffected.

So far as fisheries are concerned, his statement referred to the establishment of fisheries conservation zones which is something entirely different. There may be some reference, some factual reference to some connection between fisheries of the continental shelf, in that fish usually breed in the areas of the continental shelf. There have been some advocates in favour of extending territorial jurisdiction over the areas of the continental shelf for the purpose of fisheries conservation. So far I have no knowledge of anyone having asserted any jurisdiction over the areas of the continental shelf for the purposes of fishing, outside of several Latin American countries, and this assertion which has been disputed by the United States and other countries who have an interest in those areas.

Mr. STICK: Is there any dispute, as such, over that statement by President Truman in the light of jurisdiction over the soil in the continental shelf? Was there any protest by any other country?

Mr. OZERE: I have no knowledge of that, sir. I do not think there has been. Actually, the whole problem has been studied by a committee of the United Nations. The government has also been asked for certain comments on this question, and I think the question is being studied by our Department of External Affairs. Perhaps Mr. Erichsen-Brown might say a word as to that.

Mr. STICK: Did not the reason for President Truman's declaration have to do with the rights to oil out there beyond the 3-mile limit?

Mr. OZERE: Yes, I think it did.

Mr. STICK: That was the basis of his statement

Mr. OZERE: I think that was the principal purpose.

Mr. STICK: Thank you.

The CHAIRMAN: Shall clause 1 carry?

Carried.

Clause 2:

Shall clause 2 carry?

Mr. STUART: No, Mr. Chairman. I would like to refer to paragraph (i) in clause 2 where it says:

(i) "Protection Officer" means

(i) a fishery officer within the meaning of the *Fisheries Act*,

(ii) an officer of the Royal Canadian Mounted Police,

(iii) any commissioned officer of the Royal Canadian Navy, or

(iv) any person authorized by the Governor in Council to enforce this Act.

And then in connection with sub-paragraph (iii) I wanted to ask this: It would appear to me that junior officials might be given an enormous amount of authority under that particular section. Could you define for us just exactly what is meant by paragraph (i), and who that would include within the Department of Fisheries? It states the Royal Canadian Mounted Police and so on. But what officers in your employ would have authority to invoke paragraph (iii)? That seems to me pretty broad. I am interested in this because, in the particular section of New Brunswick from which I come, we have hundreds of American boats coming over the border every day. They come in to buy Canadian sardines, lobsters and other Canadian fish; and there might be some minor infraction of these regulations. I should not mention section 3; but in section 3 they would be put to great inconvenience. Therefore, who, in your department, would have authority to make these seizures and the like?

Mr. BATES: As you are aware, we have in the department a large number of so-called fishery officers, and the majority of them are stationed on shore. The only part covered here would be that of the patrol boats which are patrolling the international boundary along the 3-mile limit. In other words, it would be the masters of the patrol vessels who would be most involved.

Mr. STUART:

(i) a fishery officer within the meaning of the Fisheries Act,

Mr. BATES: There might arise a situation in which the master of a vessel may not be a fishery officer. Actually, most of them are. But from time to time we have to take a boat whose master may not be a fishery officer, and in such cases we have to put on board with him someone who has been trained and has authority. But in most cases, the masters would have that authority, or if they did not have it, they could get authority when they became proficient.

Mr. STUART: I take it that none other than your patrol boats would have the authority to make these seizures?

Mr. BATES: Yes, because no one else would be patrolling the territorial waters or the boundaries.

Mr. STUART: Then I read clause 3:

3. (1) No foreign fishing vessel shall enter Canadian territorial waters for any purpose unless authorized by . . .

They could be in a harbour where you have fisheries inspectors and where there would be no patrol boat. Would the fishery inspector in one of those harbours have the same authority?

Mr. BATES: Yes, he would. If that kind of case should arise, he would have that authority, but I do not think there would be many such cases.

Mr. STUART: It is the protection branch of your department?

Mr. BATES: That is right.

Mr. STUART: And any officer in that protection branch would have authority to seize and sell?

Mr. BATES: That is right. Any officer would. But my point was that normally I think it has to be the captain, and if they came within a bay, then these people would have the authority.

Mr. BALCOM: And that would apply to a Royal Canadian Mounted Police officer or to a Royal Canadian Navy officer?

Mr. BATES: That is right.

Mr. BALCOM: But the Royal Canadian Naval officer would have to be specially designated for the job?

Mr. BATES: Yes. Up to this time in Canada we have not used the Canadian Navy generally for purposes of this kind. In other countries the navy is frequently used in patrol work and it may well happen in the future that we shall require to use the navy to assist us. In that case, sir, some officer aboard that boat would have to be qualified with authority in order to carry this through. But this section is wide enough to include any potential type of protection officer.

Mr. STUART: I have one suggestion to make; I might be a little narrow-minded in my view, but we have new appointments to the fisheries Department every year. Do you think it might be better, that before a junior officer made a seizure, that he first got in touch with a senior officer in that area? I am worrying about international goodwill in this matter because it means a great deal to that particular section down there; and it seems to me that you are placing an enormous amount of authority in the hands of junior officers, when they have the authority as I have indicated. There is some clause, but I cannot find it, whereby, without a warrant, he can make a seizure.

Hon. Mr. SINCLAIR: You may not realize how difficult it would be if, every time one of our own Canadian boats, for example, was patrolling, and a seizure was necessary.

Mr. STUART: I did not mean the patrol boats. I think you have men on your patrol boats who are qualified. I do not criticize that. I meant the little harbours such as we have on the Atlantic coast, where American boats are coming in by the dozen every day. There could be some slight violation and there could be a seizure by a junior officer of the department without consultation, or without being advised by someone with much more experience. That is all I am worrying about. I am not worrying about patrol boats or about the Royal Canadian Mounted Police; but in the little harbours some junior officer—you know, some of them take their jobs pretty seriously—might create a situation which would be very embarrassing for us.

Mr. BATES: Actually the fishery officers have had it within their authority now under the old Act, since 1868, and we have had no trouble. And as the Hon. Minister has pointed out, it is to some extent a matter of administrative procedure. We do issue instructions to our officers even in the matter of seizing trucks. But they are not given *carte blanche* on that. They require certain other authority before they can proceed; and the same would apply here as it has in the past.

Mr. KIRK: Clause 6, I think you mean.

Mr. GIBSON: In clause 2 you give a description of "fishing vessel" under paragraph (e). You say:

(e) "fishing vessel" includes any ship or boat or any other description of vessel used in or equipped for fishing or processing fish or transporting fish from fishing grounds and includes any vessel used or equipped for taking, processing or transporting marine plants.

Does that include the canning of fish on board a fishing vessel? I understand we have clashed with provincial legislation in a case of that kind already in British Columbia.

Mr. BATES: Processing here covers any type of processing including canning.

Mr. GIBSON: In British Columbia you are not allowed to have a floating cannery, as you know. Would it clash at all with this section by virtue of that? I am just asking for information. How does the provincial legislature step into our sphere of legislation regarding fishing vessels? Do they do it by means of eminent domain, or what would you call it?

Mr. BATES: Our legal man might answer your question.

Mr. OZERE: On that one there is the Fisheries Act of British Columbia which provides that no processing on floating vessels shall be carried out within the territorial waters of British Columbia. This Act was passed after the case in 1929 when the Privy Council decided that as far as the industrial processing of fish goes, with which this law is concerned, it is a matter of property and civil rights; therefore the province does have the jurisdiction to legislate. But whether the province has the power to legislate with respect to territorial waters is a question which is very much in doubt. However, the legislation is on the British Columbia statute books and it has never been challenged, so it stands. But in this case "fishing vessel" is described for the purpose of keeping out foreign fishing vessels. And the other provisions of British Columbia apply to any vessel, naturally. Foreign fishing vessels are defined as including processing vessels, and they also would not be allowed in the waters; so there is a double protection there, if you like, because the provincial legislation prohibits any floating processing vessel, and this legislation also keeps out foreign processing vessels.

Mr. GIBSON: To be an owner of a fishing vessel, one does not have to be a British subject. The owner of a Canadian fishing vessel can be domiciled or resident in Canada but does not have to be a British subject.

Mr. OZERE: That is correct. You might have a situation where somebody from the United States has come over to live in Canada.

Mr. GIBSON: Or somebody from Japan?

Mr. OZERE: Suppose he is living here and he gets a little fishing vessel. The regulations may require that the license be granted only to a British subject; and, as in the case of the British Columbia regulations, although he would not be allowed to get a license, he would be allowed to use his vessel in our waters for any purpose that is legitimate.

Mr. GIBSON: But have we given consideration to that aspect of the matter?

Mr. OZERE: In so far as British Columbia is concerned, no fishing license is issued to anyone except a British subject. Therefore, he would not be permitted under the regulations to fish.

Mr. GIBSON: But he could own the boat while not fishing it himself?

Mr. OZERE: That is right, but on the east coast we have no such regulations. And therefore, anybody living on the east coast, if he is a *bona fide* resident of Canada and has a permanent home there, would be entitled to fish, because there is no citizenship requirements as in British Columbia.

Mr. STICK: What would be the case with a person who is not a British subject but who takes out Canadian registration for a fishing boat? Would he be permitted to use it in the fisheries?

Mr. OZERE: Under Canadian law only a British subject who owns a British ship can register that ship. That is, you could not register your ship unless you were a British subject. But you do not need to be a British subject resident in Canada.

Mr. MACLEAN: Under what circumstances can a foreign-owned vessel be registered in Canada? Is that possible?

Mr. OZERE: No, I do not think it is possible. It has to be owned by a British subject under the provisions of the Canada Shipping Act.

Mr. GIBSON: Could I have a floating marine processing plant, let us say, in British Columbia, for processing kelp, or would that be precluded?

Mr. OZERE: As far as the Canadian vessel is concerned?

Mr. GIBSON: Yes.

Mr. CLARK (Department of Fisheries): Mr. Chairman, the British Columbia Fisheries Act is quite definite on that point. They will not license or allow to be used any type of processing vessel.

Mr. GIBSON: Do you think it would apply as well to marine plants?

Mr. CLARK: Yes.

Mr. ROBICHAUD: I would like to have clarification of a possible case of a Canadian registered vessel owned by an individual, or by individuals, or by a Canadian corporation and leased and manned by foreign interests?

Mr. OZERE: As long as it is a Canadian vessel we could not keep it from our waters.

Mr. ROBICHAUD: You could have a foreign crew on this vessel and it would still be a Canadian vessel under the provisions of this Act. Would that apply there too?

Mr. OZERE: That would be governed entirely by regulations under the Canada Shipping Act which is administered by the Department of Transport. Crews for Canadian vessels are governed by regulations made under that Act.

Mr. ROBICHAUD: Then your definition of a foreign vessel would not apply to such a possible case?

Mr. OZERE: No.

Mr. STUART: But you could not have a Canadian vessel without a Canadian master?

Mr. OZERE: I do not think so.

Mr. STUART: You could have some of the crew, who were foreign, but you would have to have a Canadian master.

Mr. ROBICHAUD: You could have a crew of foreign sailors on it.

Mr. STUART: Yes; but the master would have to be a British subject.

Hon. Mr. SINCLAIR: Not on the west coast, because everybody on the boat must have a license, and a license is only granted to a British subject; but that is not so on the east coast.

Mr. PEARKE: The Minister of Transport has the right to waive those regulations; and when he does waive the regulations in respect to the master or the officers of the ship having to be Canadian or British subjects, he must table the exceptions as was done only last week in the House, where they tabled the list of cases where he had waived those particular restrictions. Therefore it doesn't mean that for all times the master of a Canadian ship must necessarily be a Canadian subject or a British subject.

Hon. Mr. SINCLAIR: General Pearkes, many of these cases were cases where a ship was sailing and they had to get a captain or a mate immediately. I do not think any of these cases covered anything that was to be of a continuing nature, that is to say, to permit a continuing foreign crew on a Canadian owned or leased ship.

Mr. APPLEWHAITE: Nor were any of these fishing vessels.

Hon. Mr. SINCLAIR: That is another point. The smaller fishing vessels do not come under the Canada Shipping Act.

The CHAIRMAN: Mr. McLure:

Mr. McLURE: Under the interpretation section of this Act, section 2, subsection (d), "fishing" means fishing for or catching or killing fish by any method. What is meant there by "killing fish by any method"?

Mr. BATES: It involves sealing operations where they club the seals, harpooning and so on.

The CHAIRMAN: Or whaling, and so on.

Mr. McLURE: Or in sports fishing where they are using gunpowder?

Mr. APPLEWHAITE: I wouldn't call that very sporting.

The CHAIRMAN: Shall clause 2 carry?

Carried.

Clause 3.

Foreign Fishing Vessels.

3. (1) No foreign fishing vessel shall enter Canadian territorial waters for any purpose unless authorized by

- (a) this Act or the regulations,
- (b) any other law of Canada, or
- (c) a treaty.

(2) No person, being aboard a foreign fishing vessel or being a member of the crew of or attached to or employed on a foreign fishing vessel shall in Canada or in Canadian territorial waters

- (a) fish or prepare to fish,
 - (b) unload, land or tranship any fish, outfit or supplies,
 - (c) ship or discharge any crew member or other person,
 - (d) purchase or obtain bait or any supplies or outfits, or
 - (e) take or prepare to take marine plants
- unless he is authorized to do so by
- (f) this Act or the regulations,
 - (g) any other law of Canada, or
 - (h) a treaty.

(3) No person, being aboard a Canadian fishing vessel, shall bring into Canadian territorial waters fish received outside Canadian territorial waters from a foreign fishing vessel, unless he is authorized to do so by the regulations.

Mr. ROBICHAUD: I would like to have some clarification on subsection (3) of clause 3. This subsection refers to persons being aboard a Canadian vessel doing certain things. Do the provisions of subsection (3) cover any possible offences by the crew of a Canadian fishing vessel or its master? What I would like particularly to know, under the provisions of clause 3, for what possible offences would the Canadian master and his crew of a Canadian fishing vessel be liable under the provisions of this Act?

Mr. OZERE: This refers to receiving fish from a foreign vessel which would be outside territorial waters.

Mr. ROBICHAUD: Would he also be liable to the penalties provided under this Act if a Canadian fisherman or master brought any crew member or any other person from a foreign fishing vessel to a port, for instance, inside the territorial waters, and would he also be liable if he brought in supplies to a foreign vessel outside Canadian territorial waters from the shore?

Mr. OZERE: The only offence so far as Canadian vessels are concerned is in subsection (3). The other offences in clause 3 refer to foreign vessels. Subsection (3) is the only offence created in this Act so far as any Canadian vessel in territorial waters is concerned. There are further clauses which refer to offences, such as, for example, refusing to stop, but this is the only offence under this clause in so far as Canadian vessels are concerned; that is to say, no person, being aboard a Canadian fishing vessel, shall bring into Canadian territorial waters fish received outside Canadian territorial waters from a foreign fishing vessel, unless he is authorized to do so by the regulations.

Mr. ROBICHAUD: Hence it is clear a Canadian vessel may bring bait to a foreign vessel outside of the 3-mile limit.

Mr. OZERE: Could or could not?

Mr. ROBICHAUD: Then clause 3 makes it an offence for a Canadian vessel to do that?

Hon. Mr. SINCLAIR: The second point you made, taking men into Canadian ports from a fishing vessel, bringing supplies in from the foreign vessel, that party would be up against the customs or immigration regulations, but, taking Canadian supplies out, that is export, and unless there is some ban against export, there is no offence, unless it may be a ban against the export of strategic materials.

Mr. ROBICHAUD: My question was prefaced by the words "under this present Bill". Clause 3 make it an offence under this Bill to bring in supplies from outside Canadian territorial waters, and the bringing out of bait is not covered by this Bill at all?

Hon. Mr. SINCLAIR: Bringing bait in would be provided—

Mr. ROBICHAUD: Where is it provided for? To bring bait from a port to a fishing vessel by a Canadian vessel?

Mr. STICK: Bait would be fish.

Mr. ROBICHAUD: What about supplies?

Mr. OZERE: Supplies are not. Supplies are covered by the customs regulations.

Mr. STICK: This is a very important clause so far as Newfoundland is concerned. We have had numerous foreign vessels, such as those from Portugal, France and Spain, fishing off the Grand Banks, which I think are outside territorial waters, and they have been coming into our ports for supplies—bait and general supplies—and that trade has got to be a matter of importance. This question is, as I say, of some concern to us, to the people in Newfoundland, as to what the regulations are going to be in this regard. Could you give us any assurance that the relationship which has existed between the Portugese and ourselves for very many years, and which we enjoy—they are friendly in the sense that we sell them supplies and they purchase large supplies of our salt codfish will not be interfered with. I think it is fair to say that there is uneasiness over this clause of the Bill, that it might interfere with the large amount of trade carried on in Newfoundland supplying those large trawlers. Could you give us any assurance that the matter will be seriously considered and that this happy relationship will not be upset unduly? Can we have that assurance that the matter will be very carefully considered before you bring in regulations that will upset that relationship?

Mr. BALCOM: Is it a suggestion that those purchases be confined to Newfoundland?

The CHAIRMAN: I do not take it that way, Mr. Balcom, but I think possibly that might be a matter for governmental policy. The Minister or the deputy minister might be able to answer Mr. Stick's question?

Mr. BATES: This will be a matter of government policy—the kind of regulations that are deemed right and proper in the future. I think it is fair to say that at the present there will be no change in these regulations, they will be carried out under this Act as they have been under the other. The point is that the government is asking authority here to change the policy and procedures in the future if it so wishes.

Mr. STICK: Will you consult the provinces before you make any move in the matter I have just spoken of?

Mr. BATES: As I say, this will be a matter of government policy, and that policy will include the consideration of fishing rights as well as merchandising rights and all the other interests that go into the question of bilateral trade between the various countries. It is quite a complex set of factors.

Mr. STICK: I thought so, and that is why I am worried.

Mr. BATES: I am pretty sure that changes will be given the most careful government consideration before anything is done.

Mr. STICK: While I am on this subject, could you explain to the committee the exact position as it stands now regarding these foreign ships coming in for supplies?

Hon. Mr. SINCLAIR: The Portugese ships, you mean, Mr. Stick?

Mr. STICK: The Portugese ships, yes; take that as an example.

Mr. OZERE: Under the Terms of Union with Newfoundland, we were requested before applying The Customs & Fisheries Protection Act to amend the Act before applying it to Newfoundland so as to permit the government to allow any foreign fishing vessels to come in and purchase bait and supplies in Newfoundland. This was done in 1949, and following the amendment an order in council was issued, which is renewed on an annual basis, and the present authority is Order in Council P.C. 6767 of December 14, 1951. It gives authority to the Minister: (1) to issue during the calendar year 1952 licences to United States fishing vessels to enter any port on the Atlantic coast of Canada to purchase bait, ice, seines, lines and all other supplies; and (2) to issue licences to any foreign fishing vessels in the calendar year enabling them to enter any port in the province of Newfoundland for the same purposes.

That is, in so far as United States vessels are concerned, they are allowed to enter any port on the Atlantic coast of Canada, including the maritime provinces and Newfoundland.

A similar Order in Council has now been passed for the year 1953. It is on an annual basis. The government could at any time revoke it and could also say as to what vessels it should apply. In other words, it could exclude Spanish vessels and say that only Portugese vessels would have this right, and so on. But that is a matter of government policy, and so far the policy has been continued, as was requested by the Newfoundland delegation.

Mr. STICK: What are the terms you specify there—you said consideration was given to some request. What was the wording you referred to? I just forget.

Mr. OZERE: I will read that. It is not in the document "Terms of Union" itself. It is in a statement of questions raised by the Newfoundland delegation during the negotiations for the union of Newfoundland and Canada. On page 8, section 2 reads:

At present the Customs and Fisheries Protection Act prohibits the selling of bait to foreign fishing vessels in Canadian territorial waters unless exempt by special treaty or convention. An amendment to this Act will be introduced in order to continue the practice now followed by Newfoundland in this matter.

Hon. Mr. SINCLAIR: Mr. Stick there is just one point that should be raised, and this actually strengthens the position of the Newfoundland fishermen. I have just come back from Newfoundland, and one of the points raised was this very question, and it was raised by the fishermen, not by the merchants, as to why we should continue to allow these great foreign fishing fleets to come in to this real base—because, after all, Newfoundland is the real base of the great Atlantic fisheries. These fishing fleets have to come thousands of miles from their home bases to fish there. The fishermen's union just questioned as to how long range a program it was to allow them this continued privilege when every year our sales to their markets drop, and they used Portugal as an example. This year we are selling them 30,000 quintals of fish, whereas some years we sold them 100,000 quintals. The more fish the Portugese catch the less fish the Newfoundland fisherman is going to sell to the Portugese. On the other hand, the sales of outfitting supplies by the merchants in the Newfoundland ports are quite important to the merchants. We want to see a

government policy which will be of maximum benefit to Newfoundland, to the fishermen primarily, and the merchants secondarily. I think this amendment does give much more strength to the Canadian position by us being able to say, this is a very valuable privilege we are giving you—what are you doing about the purchase of salt cod from us? I think that is the position we will take, but as the Deputy Minister has said, there is going to be no abrupt change in policy; but in this we have another weapon that strengthens our—

Mr. STICK: Bargaining power.

Hon. Mr. SINCLAIR: —yes, bargaining power.

Mr. STICK: That point is more or less cleared up and I am very glad to have that statement on the record from the Minister, because I think that statement being on the record here regarding this question is a good thing. I think it will satisfy most people in Newfoundland that it gives us better bargaining power. I have no doubt that the Portugese and other people who come there can be prevailed upon to make an arrangement that will benefit us.

Mr. STUART: If these regulations were made, would it not be for our own protection? There might be undesirables you would not want in your fishing ports, and I was wondering if that is not one reason why that provision is there.

Hon. Mr. SINCLAIR: It is not a matter of using it as an intimidation to upset, for example, the very happy relationship that exists between the Portugese and the Newfoundland people, and which has existed over the centuries, but certainly it is improving our position and anything which would improve our position in trading with European countries should be used.

Mr. ROBICHAUD: Mr. Chairman, can I ask another question in connection with clause 3 of the Bill? As I understand it, the Canadian fishing vessel is prevented from bringing in fish from a foreign vessel. It has been suggested that bait is fish. Hence he could bring bait from a port to a vessel outside territorial waters without falling within the ambit of clause 3. He is prevented from bringing in fish received from outside Canadian territorial waters. What about bringing bait to that ship outside territorial waters? Do I make myself clear?

The CHAIRMAN: Do you mean by that, Mr. Robichaud, that the fishermen might be required to go to the customs and make an export entry for the bait that he is selling to these foreign trawlers?

Mr. ROBICHAUD: That is the point I want clarified. It may happen in my county.

Mr. STICK: That is not the only place it happens.

Mr. OZERE: I think that while it is true that the situation is not covered here, it never was covered by the former Act either. It is a matter that relates to export or import regulations, something that is not regulated under this Act. If we wished to prohibit the export of bait from Canada, we would have to do it under the authority of the proper Act that regulates export and import, the Export and Import Permits Act. We would not be able to regulate it under this one.

Mr. STICK: What would be the position, for instance, in this case, if the Portugese vessel comes within five or six miles of our coast and Canadian fishermen bring supplies out to them? You have a similar position there, have you not?

Mr. ROBICHAUD: That is why I raised the point.

Mr. OZERE: It is a matter for our import and export regulations; it is not a matter of regulating the fishing vessels in our territorial waters.

Mr. STICK: It is not covered in this Act?

Mr. OZERE: No.

Hon. Mr. SINCLAIR: What would happen if some unnamed nation should not be accorded these port privileges of restocking with bait and ice and food, because we are competing with them on foreign markets in the sale of fish? In order to give encouragement for the fishermen, this buying of bait and running it out to circumvent the law, I think they would find it was in the interest of the fishing industry to stop that practice. So far as ships coming in, I thought we would be consistent, and then saying we would like a ban on the export of bait from these ports this season, that would be the only way you could implement that.

Mr. STUART: If you have that as a hard and fast regulation, the time may come when you want to sell bait and then you have a regulation there to damn the whole thing. I think it should be left as it is. It would not be sold unless it was profitable to do so.

Mr. BALCOM: Is that not another business proposition?

Mr. STUART: Yes, it is a business proposition.

Mr. BALCOM: Were the regulations not changed last year regarding foreign vessels coming in to make purchases, to the extent that the Atlantic provinces were included in this reciprocal port privileges convention? I understood last year that the former Minister of Fisheries had written a letter to this effect, that these foreign vessels could come in to North Sydney or Halifax to make their purchases.

Mr. BATES: No. There was a situation in the mainland which was actually illegal under the Customs and Fisheries Protection Act. The vessels, apart from United States vessels, had no right to come in to the maritime ports. They had been doing it for a number of years, Mr. Chairman, when it was drawn to our attention. We did what we considered the right and proper thing to do: that was to start enforcing an Act of the department which had not been enforced previously, and we indicated to the maritime merchants that this would be enforced; in fact—if I may say this off the record, Mr. Chairman—

The CHAIRMAN: Yes, this will be off the record.

Mr. BATES:

One reason for trying to have this Act passed at this session is to give the minister, if he so wishes, authority to allow these vessels into mainland ports as well as Newfoundland ports.

Mr. BALCOM: All of these boats would have to go away back to St. John's, Newfoundland, to get bait?

Mr. STICK: No, not that far; they could go to Port aux Basques.

Mr. BLACK: I would like some further information with respect to the committee which I understand is appointed and operating under the United Nations, affecting coastal waters indirectly, and affecting our fishing interests. Who represents Canada on that committee?

Mr. ERICHSEN-BROWN: Canada is not represented on the committee.

Mr. BLACK: Well, we are awaiting the report of that committee to decide on what action we will take.

Mr. ERICHSEN-BROWN: If I might explain, it is not technically a committee, it is a commission. It is known as the International Law Commission. It is a subsidiary body of the General Assembly of the United Nations, which was appointed when it was first organized to assist the General Assembly in discharging its function of encouraging the progressive development and codification of international law. It is a body comprised of 15 members. Canada is not one of the states which has a representative on the body. This commission makes annual reports, which are considered in the General Assembly.

It has had under study the question of the regime of the high seas and as a special branch of that large topic, they studied this question of the continental shelf. It prepared a certain number of articles which were submitted for general information to the General Assembly at its sixth session; as I recall, that would be 1951. Those articles have not yet been the subject of substantive consideration by the committee. At the present time the General Assembly is waiting for further comments from governments, and I expect at the next session of the assembly the legal committee of the General Assembly will give further consideration to this report in the light of comments from governments.

Mr. BLACK: Does Canada make representations to this committee? If so, what representations have been made to the committee? No nation, I suppose, is more affected, more concerned with a report of this kind than is Canada. Have we made representations to the committee?

Mr. ERICHSEN-BROWN: Mr. Chairman, Canada has not filed any statement as yet with the International Law Commission.

Mr. BLACK: When was that United Nations committee appointed?

Mr. ERICHSEN-BROWN: It was set up in 1947.

Mr. BLACK: And Canada has made no representations to it in those five years?

Mr. ERICHSEN-BROWN: When I spoke of Canada not being on the committee, I was, of course, referring to the membership of the committee itself. You understand that the commission's reports are considered annually by the General Assembly, and they are referred to the legal committee of the General Assembly. Canada, of course, is represented in the General Assembly. Consequently, we have the same opportunity as any other member of the United Nations to express opinions or criticize any report which may emanate from the International Law Commission.

Mr. BLACK: As I understand it, no representations have been made by Canada to this committee?

Mr. ERICHSEN-BROWN: It is not exactly a matter of representation. It is a matter of comment on these draft articles, as they are called, relating to the continental shelf. It is a rather technical thing, this question of commenting upon the possible principles on which these articles were drafted. That, in the last analysis, would be a question of government policy, and Canadian opinion has not yet been formulated.

Mr. BLACK: We are studying it, are we not?

Mr. ERICHSEN-BROWN: Yes sir.

Mr. BLACK: And we expect to make a direct report to the committee?

Mr. ERICHSEN-BROWN: Yes sir; we expect to make some comments—and they will be simply comments—on the legal principles involved as to whether the draft articles are properly drafted or should be changed.

Hon. Mr. SINCLAIR: In my opening remarks—and I do not think you were here at that time, Mr. Black—I spoke of the government inter-departmental committee which is preparing Canada's stand on this. It is headed by Dean Curtis of the Law School of the University of British Columbia. It will concern itself with jurisdiction over territorial waters. The point that is made, as far as reference to a technical commission is concerned, it has to put all representations made to the committee. This commission would report to the general assembly, where we are represented, and then to the legal committee. That is where our Canadian representations on the report are made, or will be made, with more emphasis when we have our own Canadian committee's report not on just fisheries but on marine matters affecting the present territorial boundaries.

Mr. BLACK: Did you say that Dean Curtis is the representative for Canada?

Hon. Mr. SINCLAIR: No. No. Dean Curtis is a member of this inter-departmental committee of the federal government which is concerned with territorial waters. He is the legal advisor to it. The legal expert is Dean Curtis of the University of British Columbia who is an extraordinarily able man. He was a Maritimer originally.

Mr. STUART: Then he is all right!

Hon. Mr. SINCLAIR: But he went out to the west coast and he is now a Canadian authority on international law.

Mr. BLACK: Who is associated with Dean Curtis?

Hon. Mr. SINCLAIR: This departmental committee includes Mr. Ozere from the Department of Fisheries, a representative from the Department of Transport which is equally concerned, and a representative from the Department of External Affairs, and others; that is from the federal departments which are concerned in the problem of territorial waters. Our sole outside legal expert and advisor there is Dean Curtis of the University of British Columbia.

Mr. PEARKES: Has that committee held any meetings this year?

Hon. Mr. SINCLAIR: You will have to direct your question to the Department of External Affairs.

Mr. ERICHSEN-BROWN: Yes sir, that is so.

The CHAIRMAN: Shall clause 3 carry?

Mr. PEARKES: Are there any existing regulations which modify sub-clause 3 in so far as they apply to west coast fisheries?

Mr. OZERE: No, there are no regulations which would modify that clause except the ports privileges treaty for halibut fishing vessels.

The CHAIRMAN: Shall clause 3 carry?

Mr. MACLEAN: This Act, of course, is not designed primarily to apply to sports fishing. How is sports fishing exempted from it, if that is the intention? Or what is the position of sports fishing?

The CHAIRMAN: As I understand it, this is a consolidation of an Act which was introduced in 1867 and was first amended in 1913, and which is now being brought up to date. No doubt it will be up for further amendment in the light of any necessary changes which may be brought about. But I am unable to answer your question.

Hon. Mr. SINCLAIR: Perhaps Mr. Bates or Mr. Ozere would outline for us the jurisdiction over sports and commercial fishing.

Mr. OZERE: The Act applies to sports fishing in this way: You could not come into Canadian territorial waters using a foreign boat, even for sports fishings, but that is as far as this Act would be applicable, I think. Otherwise the regulations with respect to sports fishing as well as commercial fishing are enacted under other federal statutes. The Government of Canada legislates on sports fishing as well as on commercial fishing; and in the case of some provinces, the administration or the enforcement of federal regulations, especially as far as sports fishing is concerned, has been combined with the provincial protection of game, and therefore they are enforced by provincial officers. Nevertheless, the legislation is enacted by the federal government.

Mr. MACLEAN: What I have in mind there is the International Tuna Fishing contest which is usually held off Nova Scotia. Perhaps some of those teams might want to bring their own vessels. Would they be prohibited?

Mr. OZERE: They would, under this Act, but the Governor in Council, under clause 3, could exempt them.

Mr. STUART: In every case with respect to licence for sports fishing, they would be under the jurisdiction of the provincial legislature.

Mr. OZERE: In those provinces where sports fishing is administered by the provincial government.

Mr. STUART: The protection is under the federal government, but the administration, as far as the licence is concerned, is under the provincial jurisdiction.

Mr. OZERE: In some cases it goes further than that; the province actually enforces the federal regulations. But licences are in some cases a means of raising revenue, and in some provinces they are used as a means of taxation.

Mr. STUART: I was thinking of New Brunswick when I spoke. I know that all licences there are under the jurisdiction of the province. Surely the protection of streams is under federal jurisdiction though?

Mr. OZERE: They issue the licence as a means of raising revenue.

Mr. PEARKES: How would that affect American fishing boats coming up to the Campbell River and fishing in our territories?

Hon. Mr. SINCLAIR: I was thinking of that myself.

Mr. OZERE: If it is an American vessel, it would not be permitted to come in without special authorization.

Mr. PEARKES: Americans fishing as tourists would be prevented from coming up to catch fish in the Campbell River?

Hon. Mr. SINCLAIR: I know that in my riding they have caught thousands of them.

Mr. PEARKES: Yes, and all over the west coast you get hundreds coming in every year. Would they be stopped?

Mr. OZERE: We would have to have special authority or regulations made under the Act to exempt this class of vessel from the provisions of the Act; otherwise they would be stopped.

Mr. PEARKES: That is why I asked if there were any regulations now.

Mr. OZERE: I am not aware of there being any regulations.

Mr. GIBSON: They would not be foreign fishing vessels as such.

Mr. PEARKES: You define a fishing vessel as being this:

(e) 'fishing vessel' includes any ship or boat or any other description of vessel used in or equipped for fishing or processing fish or transporting fish from fishing grounds and includes any vessel used or equipped for taking, processing or transporting marine plants.

I would like to suggest that at the next session it may be necessary to publish some regulations regarding that, because a great many vessels come up into the territorial waters on the British Columbia coast and carry out a lot of sport fishing there.

Hon. Mr. SINCLAIR: The point raised is of great concern in British Columbia. I think that all British Columbia members would agree to that. The regulations will simply have to cover that class of boat which is not a commercial fishing vessel in the sense that we usually think of, but which is a very valuable asset for the British Columbia tourist industry. We also issue restrictive permits in at least two areas, Phillips Arm and Rivers Inlet limiting the catch which these American boats can make. Apparently we have no regulations on the American boats; but they certainly would be covered in the regulations here.

Mr. ROBICHAUD: May I suggest that in clause 2 the word "commercial" be added before the words "fishing or processing", to cure the possible trouble which is anticipated now.

The CHAIRMAN: Clause 2 has already been carried by the committee.

Mr. ROBICHAUD: I would like to make my suggestion, even though it has been carried.

Hon. Mr. SINCLAIR: The main objection would be that it would completely exclude them from the regulations. We would like to have control over these American tourist fishermen just as we have control over our commercial fishermen. Within the two limited areas on the British Columbia coast there are complaints of over-fishing; and if we limit our control to commercial fishing, the field would be wide open to those sport fishing.

The CHAIRMAN: By unanimous consent we could revert to clause 2, but perhaps the Minister's answer has satisfied you.

Mr. ROBICHAUD: Yes.

The CHAIRMAN: Now, Mr. Kirk.

Mr. KIRK: I see the answer. I wondered if the British Commonwealth Nations are foreign nations, but I think that is answered in clause 2 perhaps.

Hon. Mr. SINCLAIR: What clause are we on?

The CHAIRMAN: Clause 3. You are satisfied, Mr. Kirk?

Mr. KIRK: Yes. I think that paragraph (f) in clause 2 answers my question.

The CHAIRMAN: Shall clause 3 carry?

Carried.

Clause 4: Shall clause 4 carry?

Carried.

Clause 5?

Mr. APPLEWHAITE: The application of clauses 5 and 6 apply to all fishing vessels whether Canadian or otherwise?

The CHAIRMAN: Yes, that is so.

Mr. STUART: I would like to ask one question, but I won't press it. I read clause 5, and there is a certain section, if I can find it. Oh, it is in clause 6. Clause 5 is all right.

The CHAIRMAN: Shall clause 5 carry?

Carried.

Clause 6?

Mr. MacNAUGHT: Sub-section (2), I think, is what you mean.

Mr. STUART: Clause 6 is what I am worried about, but if the others feel that it is all right then I will not protest it. It does seem to me that here you might have junior employees of the department with too much authority. If you will read it over you will see that it says in paragraph (b):

(b) any goods aboard the fishing vessel, including fish, tackle, rigging, apparel, furniture, stores and tackle or . . ."

I believe that might be going a little too far, but that is just a personal opinion, and if the others are agreeable that it should be that way, I shall not protest it.

Mr. OZERE: This enforcement section only gives power to the protection officer to make an arrest or seizure. No one can be deprived either of his liberty or his property unless it is so determined by the court. In the same way a policeman on the street, if he suspects that an offence has been committed, is given very wide powers. But before you can be deprived of your liberty or your property, it has to be done by a court; and the same thing applies in this case.

The power to arrest without a warrant is considered to be necessary. Suppose the protection officer detects a violation by a fishing vessel within our territorial waters. He has got to bring in the members of the crew, and it would not be possible for him to go out and get a warrant, because if he did so, by the time he got back, both the vessel and the crew might be gone. Also, if some of this foreign crew came into our port and committed other offences such as purchasing any supplies without authority, then before he could arrest them on a warrant, both the men and their vessels might be gone. Therefore I think this power is quite necessary.

Mr. PEARKES: Might I ask whether these regulations apply to the west coast? I presume they would be modified by the Japanese Fishing Treaty, and therefore would not apply in full.

Mr. OZERE: No sir; they would not be modified by the Japanese Treaty because the Japanese Treaty only refers to extra-territorial waters, while this refers entirely to our own territorial waters. Therefore any vessel which comes into our territorial waters is subject to the jurisdiction of our courts, and is covered by this Act.

The CHAIRMAN: Shall clause 6 carry?

Carried.

Mr. CATHERWOOD: Mr. Chairman, we enjoy pretty harmonious relations with the United States on our Great Lakes. I wonder if this clause is similar to the one which was drawn up, so far as the American regulations are concerned?

The CHAIRMAN: What clause?

Mr. CATHERWOOD: I mean clause 6. Are these particular regulations similar to the United States regulations?

Mr. OZERE: Yes. Our fishing vessels are not permitted to enter the territorial waters of the United States. And as far as the Great Lakes are concerned, there is a boundary. Part of the waters are Canadian, while on the other side of the boundary they are American. And the fishing vessels of one country are not permitted to fish in the waters of the other country.

Mr. GIBSON: I was wondering if the answer is not due to this: that it would be necessary with a perishable article such as fish to take it out as soon as possible, because if we are going to return that money, it might be very important to the fisherman.

Mr. OZERE: Well, I think we have to take into consideration the fact that these are foreign fishing vessels, and if you seize a vessel you may have representations made before you have taken any prosecution, and sometimes these matters drag out for a pretty long time. Actually this 3-month period is a limitation. Under the former Act—the Act being revised now—there was no time limit. In this bill we limit it to three months.

Mr. STUART: This may be a customs regulation. You speak of Canadian vessels going into American waters. In the past 20 years there would be two out of three boats, big and small, which go back and forth without any interference at all. Is that a special permit they are given—they take Canadian fish into American ports without any interference.

Mr. BATES: Are you not talking about fishing in Canadian waters? You are referring to Canadian vessels carrying Canadian fish into American ports. That is not affected by this bill.

Mr. STUART: Would that same law apply to American vessels coming into Canadian ports with American fish?

Mr. BATES: They are not permitted.

Mr. STUART: That is why I say it is a delicate question. We have had these privileges and they have had them from time immemorial. There are

lobster smacks, Canadians—as you know—who will load the lobsters in Nova Scotia or New Brunswick or Prince Edward Island. They go into Gloucester, Boston, in competition with American fishermen. There is no opposition there. There is no fishing regulation to stop that? It is a Canadian product in a Canadian boat being delivered into an American port. That goes on every day.

Mr. ROBICHAUD: Referring to subsection 7 of clause 6. Assuming that the seizure has been made by a protection officer who has reasonable grounds for thinking that an offence is being committed and no action is taken, no prosecution is started against the alleged offender. Later, the ship is returned to him. In the case of a Canadian vessel, if it is tied up for three months on reasonable grounds, and no prosecution is taken, are there any provisions for compensation to the fisherman, and if not, why should there not be compensation?

Mr. OZERE: You are in exactly the same position with respect to this as you are with respect to enforcement of any other law. If the government sets in motion any machinery whereby someone is prosecuted or his property is seized, and if it turns out that there was no probable or reasonable cause for doing so, the injured party may bring an action in damages. You are no different here than you are in any other situation of that sort.

Mr. ROBICHAUD: What about sections 25, 26 and 27 of the old Act? Are they being incorporated into the new Act with regard to compensation?

Mr. OZERE: No, this is related to the protection of the officers themselves.

Mr. ROBICHAUD: Yes, I know.

Mr. OZERE: The Department of Justice was of the opinion that this is adequately covered under the common law, that this protection does not go any further than the protection under the common law; and, therefore, they felt that this section was superfluous.

Mr. ROBICHAUD: This is a different type of seizure from the ordinary type of seizure. In this case you are really taking away the means of livelihood of a fisherman in keeping his boat for three months. It is different from seizing my car, for instance.

Mr. APPLEWHAITE: Not if you are a taxi operator.

Mr. STUART: Or seizing my gun if I am poaching.

Mr. OZERE: Of course this relates to foreign fishing vessels.

Mr. ROBICHAUD: Yes, but it is possible under subsection (3) of clause 3 it would affect Canadian vessels.

Mr. OZERE: What I am trying to say is that most of the prosecutions against our fishermen are instituted under other legislation, under our Fisheries Act, for instance, and under that Act we have much wider powers than we have under this one.

Mr. ROBICHAUD: I grant that, but there is a possibility that one of our Canadian fishermen may be taken in under subsection (3) of clause 3, and his vessel seized and kept in custody for three months. It is most unfair if he has no compensation.

Mr. OZERE: When you say he is deprived of his ship for three months, that is an exaggeration in most cases. That is the maximum limit. Prosecution is generally started immediately. Ordinarily when a protection officer seizes a ship he immediately gets in touch with the Minister, who then decides what is to be done, and he does that immediately.

The CHAIRMAN: Under clause 6 there is a provision for redelivery on bond. Shall clause 6 carry?

Carried.

Clause 7.

7. Every person is guilty of an offence who
- (a) being master or in command of a fishing vessel,
 - (i) enters Canadian territorial waters contrary to this Act, or
 - (ii) fails to bring to when required so to do by any Protection Officer or upon signal of a government vessel;
 - (b) being aboard a fishing vessel, refuses to answer any questions on oath put to him by a Protection Officer;
 - (c) after signal by a government vessel to bring to, throws overboard or staves or destroys any part of the vessel's cargo, outfit or equipment; or
 - (d) opposes or obstructs any Protection Officer in the execution of his duty.

Mr. APPLEWHAITE: Mr. Chairman, there is one obvious question there and I think it can be answered without great length. Clause 7 (a) (i)—“Every person is guilty of an offence who being master or in command of a fishing vessel, enters Canadian territorial waters contrary to this Act.” What is the overriding international law which permits anybody to bring their ship into port under stress of weather, danger of loss of life, and so on?

Mr. OZERE: I think that is under The Hague Convention. Perhaps Mr. Erichsen-Brown might know something about that.

Mr. ERICHSEN-BROWN: I would not like to answer that without considering it.

Mr. APPLEWHAITE: The question I really wanted to ask is, has it been definitely established that that provision is a defence without setting it out in any way in this Act which creates the offence?

Mr. OZERE: The courts of our land have always applied any international law that is applicable.

Mr. APPLEWHAITE: Without any necessity of referring to this in this Act?

Mr. OZERE: That is right.

Mr. ROBICHAUD: Referring to clause 7 (a) (ii)—Every person is guilty of an offence who being master or in command of a fishing vessel, fails to bring to when required so to do by any protection officer or upon signal of a government vessel. This provision could apply to a Canadian vessel as well as a foreign vessel under this clause. Is it realized that a sailing schooner, due to current and high winds, simply cannot, sometimes, especially when it is tacking, come to when it is required, and, hence, why should not the word “wilfully” precede this subsection? According to the Criminal Code, in some of those severe sections, punitive sections, it always contains the word “wilfully”, and I would strongly suggest that in this case for failure to bring to, that the word “wilfully” should precede that subsection. I know for a fact, and from practical experience, especially with a sailing vessel, you cannot “bring to” under certain circumstances, and if the word “wilfully” is left out it would be too easy to convict some of our Canadian mariners.

Mr. OZERE: Yes, I see your point, but I think in offences of this nature guilty intent is always a material ingredient. In other words, you have to prove, in addition to everything else, that the mind was a guilty mind, that there was what we call legally *mens rea*, and unless you showed that, I doubt very much that the court would ever convict anybody who accidentally could not avoid the commission of the offence. I think that perhaps in the other subsection the word “wilfully” could be inserted. Was that in your mind?

Mr. ROBICHAUD: Yes, I was coming to that later.

Mr. OZERE: I think some statutes do not use the word "wilfully" and others use the word "wilfully". The Criminal Code has it in this way—"resists or wilfully obstructs", but there are several other statutes that do not have it, and the Department of Justice thought that the word "wilfully" does not add anything to it, that it will be the same situation because you will have to prove guilty intent. We would have no objection to have the same wording in paragraph (d) as appears in the Criminal Code, for the sake of uniformity.

Mr. ROBICHAUD: My learned friend will agree that the word "wilfully" by itself raises the question of intent and places the burden on the Crown. The word "wilfully" places the burden on the Crown or the prosecution to prove *mens rea* and guilty intent, and unless they so do, the accused does not have to take the stand, whereas the absence of the word "wilfully", leaves the door open and the burden is then on the accused to prove certain mitigating circumstances, to establish the lack of intent, and so I am strongly in favour of the word "wilfully" preceding that subsection, for the reasons I have already indicated, namely, the impossibility in most cases of "bring to" a sailing vessel.

Mr. STUART: I think that the term is not going to give us a great deal of worry. I have spent some little time on the water myself and I have never seen the time when I could not "heave to" when necessary. I do not believe that under the conditions outlined there would be any necessity for asking leave, because in that case I think you would have quite a job catching him.

Mr. ROBICHAUD: Let us forget the circumstances of "heaving to", and "wind tacking". I submit that a sub-section of this nature should be prefaced by the word "wilfully" for the reasons which I have already explained.

Mr. STUART: The clause which worries me is the next one. Might I ask a question on that? That is paragraph (b) which reads:

7 (b) being aboard a fishing vessel, refuses to answer any questions on oath put to him by a Protection Officer;

It would appear to me that it puts the onus on the fisherman rather than on the department. I think it should be up to the department to prove him guilty, rather than to use the procedure which is outlined here. Was it the same under the old Act?

Mr. OZERE: Yes, it was the same sort of thing.

Mr. STUART: Would it apply in this way: suppose I am catching small lobsters and suppose a fisheries inspector—one of your inspectors—is very much convinced that I am catching small lobsters. Without any evidence at all he can take me before the court and say: "I am of the opinion that this man has broken the law, and I want him put on his oath", without his producing any evidence at all to show that I have in any way violated the law.

Mr. OZERE: This applies only to foreign fishing vessels.

Mr. STUART: Well, in that case I have no more to say.

Mr. OZERE: You do not always want to search the vessel.

Mr. STUART: I see.

Mr. ROBICHAUD: But it could apply to the master of a Canadian vessel.

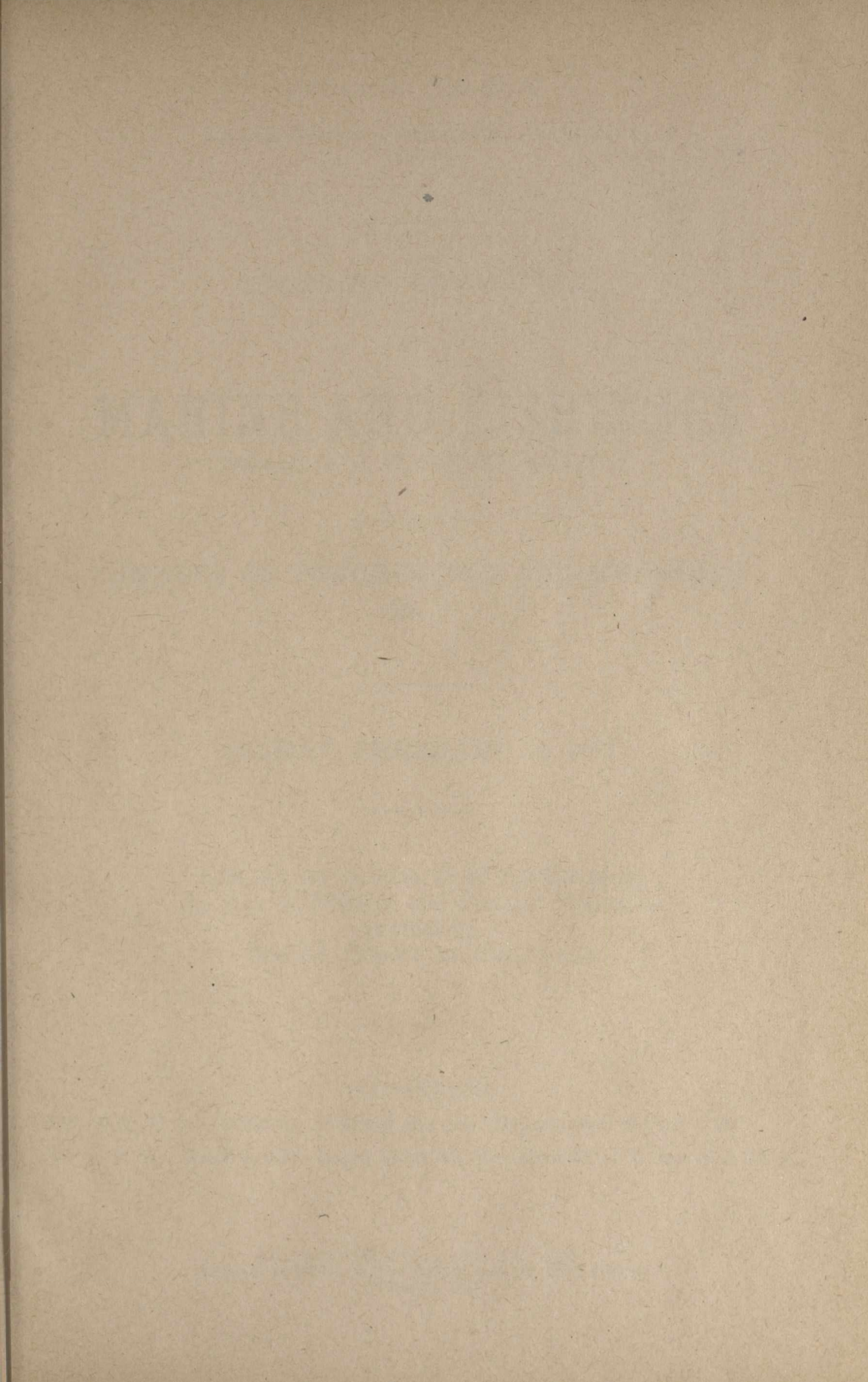
The CHAIRMAN: Does clause 7 carry?

Mr. ROBICHAUD: No, no.

The CHAIRMAN: Well, it is now 1.00 o'clock. Do you wish to adjourn to the call of the chair?

Mr. MacNAUGHT: I suggest that we have the next meeting of the committee on Friday at 11.00 o'clock.

The CHAIRMAN: It has been moved by Mr. MacNaught and seconded by Mr. Pearkes that the committee adjourn until Friday morning at 11.00 o'clock. All those in favour? CARRIED.



HOUSE OF COMMONS

Seventh Session—Twenty-first Parliament
1952-53

STANDING COMMITTEE

ON

MARINE AND FISHERIES

Chairman: T. G. W. ASHBOURNE, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

FRIDAY, FEBRUARY 13, 1953

Bill No. 44 (Letter E of the Senate),
An Act to Protect the Coastal Fisheries
including
Second Report to the House

WITNESSES:

Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries;

Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

STANDING COMMITTEE

ON

MARINE AND FISHERIES

Chairman: T. G. W. Ashbourne, Esq.

Vice-Chairman: A. W. Stuart, Esq.

Messrs:

Applewhaite	Gibson	MacLean (<i>Queens</i>)
Arsenault	Gillis	MacNaught
Balcom	Harrison	Maltais
Bennett	Henderson	McLean (<i>Huron-Perth</i>)
Black (<i>Cumberland</i>)	Higgins	McLure
Blackmore	James	Mott
Breton	Kirk (<i>Antigonish-</i>	Pearkes
Browne (<i>St. John's</i>	<i>Guysborough</i>)	Robichaud
<i>West</i>)	Langlois (<i>Gaspé</i>)	Stick
Cannon	Leger	Thomas
Côté (<i>Matapedia-</i>	Macdonald (<i>Edmonton</i>	Wood
<i>Matane</i>)	<i>East</i>)	
Fulford	MacInnis	

(Quorum—10)

A. SMALL,
Clerk of the Committee.

REPORT TO THE HOUSE

FRIDAY, February 13, 1953.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

SECOND REPORT

Your Committee has considered Bill No. 44 (Letter E of the Senate), intituled: "An Act to Protect the Coastal Fisheries", and has agreed to report it with amendments.

A copy of the Minutes of Proceedings and Evidence of your Committee is appended.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,
Chairman.

MINUTES OF PROCEEDINGS

FRIDAY, February 13, 1953.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

Members present: Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Browne (*St. John's West*), Côté (*Matapedia-Matane*), Fulford, Gibson, Harrison, Macdonald (*Edmonton East*), MacInnis, MacNaught, Pearkes, Robichaud, Stick, Stuart (*Charlotte*), Thomas, and Wood.

In attendance: Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

The Chairman called the meeting to order and announced that Mr. Browne had been substituted for Mr. Catherwood on the Committee.

The Committee resumed its consideration of Bill No. 44 (Letter E of the Senate), an Act to Protect the Coastal Fisheries, and continued the questioning of Messrs. Ozere and Erichsen-Brown thereon.

On Clause 7:

Mr. Robichaud, seconded by Mr. Pearkes, moved:

That subparagraph (ii) of paragraph (a) be amended by inserting, at the beginning of the first line thereof immediately preceding the word *fails*, the words "without lawful excuse, the proof whereof shall lie on him,"

And the question having been put, the said motion was agreed to.

Mr. MacNaught, seconded by Mr. Robichaud, moved:

That paragraph (d) be amended by deleting, in the first line thereof, the first two words *opposes or* and substituting therefor the words "resists or wilfully".

And the question having been put, the said motion was agreed to.

Clause 7, as amended, was adopted.

On Clause 8:

Mr. Browne, seconded by Mr. MacNaught, moved:

That paragraphs (a) and (b) of subclause (1) and paragraphs (a) and (b) of subclause (2) be amended by deleting, in the first and second lines of each of the said paragraphs, the word *of*, and substituting therefor, in each case, the words "not exceeding".

And the question having been put, the said motion was agreed to.

Clause 8, as amended, was adopted.

Clauses 9 and 10 and the Title were severally considered and adopted.

The witnesses retired.

Ordered,—That the Chairman report the Bill to the House with amendments.

At 11.45 a.m., the Committee adjourned to the call of the Chair.

A. SMALL,
Clerk of the Committee.

EVIDENCE

February 13, 1953.

11.00 a.m.

The CHAIRMAN: Order. It is past eleven now and we have a quorum so I think we will start our deliberations this morning. We are pleased to see Mr. Browne with us; he replaces Mr. Catherwood on the committee. When we adjourned on Monday we were considering clause 7. I think the discussion on this clause centered on Mr. Robichaud's suggestion that the word "wilfully" be inserted in the beginning of paragraph (a) subparagraph (ii) of this clause and Mr. Bates' alternative concession to insert the word "wilfully" at the beginning of paragraph (d) of this clause.

Mr. ROBICHAUD: Mr. Chairman, you mentioned paragraph (d). It does not cure what I claim to be a defect in paragraph (a) sub-paragraph (ii). I would suggest that the words "without lawful excuse" be added to subparagraph (ii) of paragraph (a) after the word "fails" for the reasons already fully expressed at the last meeting.

Mr. MACNAUGHT: Mr. Chairman, I think that our legal officers have given it fairly complete consideration since we met last and Mr. Ozere might make a statement.

Mr. OZERE: Mr. Chairman, the way the clause reads now, if you charge this offence, the Crown witnesses simply prove that a signal had been given and the vessel failed to stop. Then, the accused must give an explanation of why he did not do so and if he gives a good explanation he is acquitted. If you put the word "wilfully" or any similar connotations, the Crown would have to prove not only that he failed to stop but that he did so wilfully and that would have to be proven by Crown witnesses. If the Crown failed to prove it by its own witnesses, the accused would not have to give any explanation at all, which means for all practical purposes you might as well throw out this sort of an offence if you are going to put in a limitation of that kind because it would be in most cases impossible to get a conviction.

Mr. ROBICHAUD: I quite agree with the explanation given from a prosecution point of view, but I am looking at it from a defence point of view. As I explained before in the case of a sailing vessel without a motor—and I have several in my constituency—I submit it is impossible to stop in some cases and I do not see the objection to the words "without lawful excuse" and I would move an amendment to that effect.

Mr. OZERE: I think we must remember that this Act will be applied mostly to foreign fishing vessels and I have not heard—this Act has been in force for over 75 years—certainly I have not been able to find a record in our department where a Canadian fishing vessel has been prosecuted under the provisions of this Act.

The CHAIRMAN: I think I should ask if there is a seconder to this amendment moved by Mr. Robichaud?

Mr. PEARKES: I will second it so that it can be discussed.

The CHAIRMAN: The amendment is now before us, gentlemen.

Mr. OZERE: Most of the offences committed by any of our fishermen are under other laws such as the Fisheries Act and the prosecutions would be undertaken under those laws, so while this section has a general application

in actual practice it applies mostly to foreign fishing vessels and we would hesitate to put in a limitation of that kind for the reason that it would make our problems more difficult.

Mr. APPLEWHAITE: Mr. Chairman, a lawful excuse is always a defence whether stated or not. If you have a lawful excuse, and impossibility to comply with an order is a lawful excuse, therefore it does not strengthen the position of the defence to put in the words "without lawful excuse". But it is quite properly impossible for anybody to prove what was in the mind of anybody else. That can only be done by raising a presumption. I would suggest the purpose of this bill, which we as a committee are primarily interested in, is the protection of the coastal fisheries of Canada and while we certainly do not want to take any action which drastically curtails the liberty of the subject, neither do we want to take any step which makes it practically impossible for the officials to apply the Act which would protect our own fishermen. By the insertion of the words "without lawful excuse", every prosecution under this Act would fail unless the Crown could prove what was in the mind of the person who committed the infraction—I have a great deal of sympathy with Mr. Robichaud's expression that we should not curtail the freedom of our Canadian fishermen, but if we are going to protect them, we should have an Act which has got some teeth in it.

Mr. ROBICHAUD: Would it not be possible to change the wording of this clause that there would be enough teeth in it to protect our coastal fisheries from foreign vessels but not make it so harsh in its possible application to Canadian fishing vessels.

Mr. MACNAUGHT: I am somewhat in sympathy with the attitude that Mr. Robichaud takes but since the application of this Act is extremely doubtful to Canadian ships, I think that for the reasons advanced by Mr. Ozere that we should leave the clause as it is.

Mr. BROWNE: Would the Parliamentary Assistant consider the argument advanced by Mr. Applewhaite that if the clause read "every person is guilty of an offence who (a) being master or in command of a fishing vessel," then come down to paragraph (ii) "without lawful excuse fails to bring to when required so to do by any protection officer or upon signal of a government vessel"; that does not throw the onus on the Crown to prove he did not have a lawful excuse. The onus would be on the person concerned and the obligation would be to prove he had a lawful excuse.

Mr. MACNAUGHT: My own opinion is it would not add anything to the clause.

Mr. ROBICHAUD: Why is "without lawful excuse" used so often in the Criminal Code time and time again. It has some meaning, otherwise it would not be embodied in the Code.

Mr. MACNAUGHT: In certain instances, but not in a case such as this.

The CHAIRMAN: It places the onus of the proof upon the Crown. Is not that what you meant, Mr. Robichaud?

Mr. WOOD: Not in those words.

Mr. OZERE: There are places where the words "without lawful excuse" are used, but many where they are not used, and where used it is only in connection with special offences. We have in our Fisheries Act, for example, a section which deals with possession of fish "no one without lawful excuse, the proof whereof shall lie on him"—

Mr. BROWNE: That is just what Mr. Robichaud wants.

Mr. ROBICHAUD: That is what I submitted, Mr. Chairman.

The CHAIRMAN: I think you submitted "without lawful excuse".

Mr. BROWNE: If I may say so, as it stands now I think a person is liable if he fails to bring to whether he has a lawful excuse or not.

Mr. APPLEWHAITE: That cannot be.

The CHAIRMAN: Is there a further amendment to include the additional words?

Mr. ROBICHAUD: Yes.

Mr. MACNAUGHT: We have no objection.

Mr. MACINNIS: Is not the onus of proof always on the accused in the matter of wilful excuse and if anyone put up that excuse consequently then only would he be asked to prove it?

Mr. STUART: The other day I perhaps did not go into detail but I would like to point out some of the difficulties. I just want to show the committee two or three cases where it would be very, very difficult for the fishermen and I want to take three different classes of the fishing and I think the Deputy Minister will agree with what I have to say. There never was a boat load of scallops that came into any fishing port which could not be condemned by a fisheries inspector. I am not being critical, but there never was a boat load of scallops brought into a fishing port that you could not find some undersize scallops in it. There never was a barrel of clams dug from time immemorial with which some fault could not be found. I know of one particular case where shipments of clams were passed by one inspector and condemned by another, and I am not criticizing either one of these inspectors. During the lobster season on the Atlantic coastline men fish two or three hundred lobster traps, where 25 years ago a hundred was the limit. At daybreak these fishermen would be on the fishing grounds and would haul from daybreak until dark, weather permitting, and it would be impossible for them to measure each lobster as they were taken from the traps. Time would not permit them to do so.

During the last fall lobster season, the Fisheries Department, in order to have a record, measured over 80,000 lobsters produced by Grand Manan fishermen. Those which were measured would be very near the legal size limit, and of this number less than 100 were found to be of an illegal size. I would say the officers had used discretion in every way in the world and I do not mean that in a critical sense, but nevertheless an inspector with little experience could create a lot of trouble and ill feeling among these fishermen. These are the things I am afraid of under the regulations.

The CHAIRMAN: Under which regulations?

Mr. STUART: Under the penalties.

The CHAIRMAN: No, Mr. Stuart.

Mr. STUART: That is an infraction of the Fisheries Act.

Mr. MACNAUGHT: Infractions under the Fisheries Act have nothing to do with this Act whatsoever. This Act has to do only with foreign fishing vessels coming into our territorial waters.

Mr. STUART: It was said the other day that it would apply to our own as well as other fishing vessels.

Mr. ROBICHAUD: I will not raise it within the ambit of this Act but I think the infraction mentioned by Mr. Stuart would fall directly under the Fisheries Act.

The CHAIRMAN: There is no doubt on that point.

Mr. STUART: You still have these penalties to contend with, do you not?

The CHAIRMAN: I think the penalties as referred to in this Act, Mr. Stuart, have to stand.

Mr. STUART: We have Canadian boats going into American ports with Canadian goods without any trouble—lobsters and sardines and the things we produce and I think if we were too severe there might be retaliation.

The CHAIRMAN: Are you ready for the amendment gentlemen?

Mr. GIBSON: Has it been accepted Mr. Chairman?

The CHAIRMAN: Yes.

Mr. APPLEWHAITE: Would you read the exact wording?

The CHAIRMAN: "without lawful excuse, the proof whereof shall lie on him,".

Mr. GIBSON: Is it the burden of proof?

The CHAIRMAN: Yes the burden of proof.

Mr. GIBSON: What clause?

The CHAIRMAN: Clause 7 (a) (ii).

Mr. APPLEWHAITE: Let us be sure of this. Is it not the burden of proof whereof without lawful excuse?

The CHAIRMAN: That is the Fisheries Act.

The amendment proposed by Mr. Robichaud and seconded by Mr. Pearkes is to insert the following words after the word "vessel" in clause 7, paragraph (a), subparagraph (ii), "without lawful excuse, the proof whereof shall lie on him,".

The amendment is before you gentlemen. Are you ready for the question?

Hon. MEMBERS: Question.

The CHAIRMAN: Those in favour of the amendment please say "aye"; contrary, "nay".

Hon. MEMBERS: Aye.

The CHAIRMAN: Amendment carried. Shall the clause as amended carry?

Mr. ROBICHAUD: It is understood the word "wilfully" shall be inserted in clause 7 (d) after *opposes*—"wilfully obstructs".

Mr. OZERE: On that one we would not object if the wording was made similar to what it is now in the Fisheries Act or the Criminal Code.

Mr. ROBICHAUD: The Criminal Code has the words "wilfully obstruct".

Mr. OZERE: That is true but you have to change "opposes" to "resists", "resists or wilfully obstructs". That would make it uniform with the Criminal Code.

Mr. ROBICHAUD: That is all right.

The CHAIRMAN: It is moved by Mr. MacNaught and seconded by Mr. Robichaud that clause 7, paragraph (d) be amended to read "resists or wilfully obstructs any Protection Officer in the execution of his duty".

Hon. MEMBERS: Agreed.

The CHAIRMAN: Is the amendment carried?

Hon. MEMBERS: Carried.

The CHAIRMAN: Shall paragraph (d) of clause 7 as amended carry?

Hon. MEMBERS: Carried.

The CHAIRMAN: Shall clause 7 as amended carry?

Carried.

On clause 8:

Mr. ROBICHAUD: In connection with clause 8, I wish to bring to the attention of the committee the enormous increase in the penalty provided under the Act as compared with the old Act. I hold no brief for foreign vessels but it

is possible that in certain cases our own Canadian vessels might be involved and as it is I am at a loss to understand why the penalties should be so increased. Now, in the case of obstruction under the old Act, section 13, when it was an indictable offence, the fine was \$800. Now under the present proposals under indictment the fine can go as high as \$10,000 or imprisonment for one year or both. On summary conviction under the present Act it is \$2,000. There is a tremendous increase there from \$800 to \$10,000. Some of our own fishing vessels might be involved.

Mr. MACNAUGHT: These are all maximum penalties. The reason for the increase is that under the old Act the only penalty was forfeiture. This Act provides other penalties instead of forfeiture and they are in relation to the increase in the value of fishing vessels over the years. When the Act was originally drafted, vessels used in fishing were small and not equipped anything like vessels are today. I think the amount of these maximum penalties is in relation to the increased value of the fishing vessels. I am sure in the case mentioned by Mr. Robichaud the courts would exercise their usual discretion and not impose these maximum penalties if any Canadian vessel was unfortunate enough to come within the ambit of the Act.

Mr. FULFORD: What is wrong with inserting "maximum penalty"?

Mr. MACNAUGHT: It is not necessary.

Mr. FULFORD: It is done in most Acts. I think you will find that the judge has discretion.

Mr. ROBICHAUD: But some magistrates have the idea they must impose that fine, even in cases where there is a minimum.

Mr. OZERE: Under the law whenever there is a provision for a penalty without stating that there is a minimum the judge has the discretion to impose any lesser amount.

Mr. BROWNE: Unfortunately the magistrates do not know that.

Mr. STUART: I think one of the troubles might be—I can just speak on my own county—that the magistrates we have there, in my opinion, are not qualified and if you do not give them some guidance I am a little bit afraid of what might happen. I speak frankly because I have known cases come before them and a magistrate in my own town has no legal experience whatsoever and his attitude is to get anything he can get.

Mr. ROBICHAUD: That is exactly the point I was going to raise. Fortunately in New Brunswick we have some county magistrates who are lawyers but in several counties we have some hick magistrates that do not know their business and these are the fellows I am afraid of.

The CHAIRMAN: I am afraid we cannot enter into a discussion regarding the qualifications of magistrates.

Mr. MACINNIS: But I think that has a bearing on the suggestion made by Mr. Fulford that we give some guidance. Is there any reason why we could not put in the word "maximum"?

Mr. OZERE: The only reason would be that it would be poor legal drafting. If the committee thinks the word should go in, there is absolutely no objection except that one. That is the effect now, and therefore it would be superfluous.

Mr. CÔTÉ: In other words, the members of the committee would be going into the qualifications of certain magistrates.

The CHAIRMAN: Shall clause 8 carry?

Mr. BROWNE: I move that the words "not to exceed" be inserted before each amount and term as mentioned. Thus, line 20 will read, "upon conviction on indictment to a fine not to exceed twenty-five thousand dollars or to imprisonment for a term not to exceed two years", and then in line 23 a similar wording to be added, and also in lines 24, 28, 29, 31 and 32.

Mr. MACNAUGHT: There is no objection to the amendment proposed by Mr. Browne. Again I reiterate it does not add anything to what I understand is the law. The only persons who will be adversely affected by the proposed amendment, I suppose, will be the persons who drafted the Bill, and they probably won't care, so we have no objection.

The CHAIRMAN: Do you second the motion, Mr. MacNaught?

Mr. MACNAUGHT: Yes, I will second it.

The CHAIRMAN: It is moved by Mr. Browne, seconded by Mr. MacNaught that the words "not exceeding" be inserted in lines 20, 23, 24, 28, 29, 31 and 32. Would you prefer to use the words "not to exceed", Mr. Browne?

Mr. BROWNE: Whichever you like.

Mr. MACNAUGHT: "Not exceeding" is the accepted term.

The CHAIRMAN: I am informed that the term "not exceeding" is the correct terminology. So the amendment is that the words "not exceeding" be inserted in lines 20, 23, 24, 28, 29, 31 and 32, in place of the word "of".

Shall the amendment carry?

Carried.

Shall the clause as amended carry?

Carried.

On Clause 9: Shall clause 9 carry?

Carried.

On Clause 10:

10. (1) The *Customs and Fisheries Protection Act*, chapter 43 of the Revised Statutes of Canada, 1927, is repealed.

(2) Upon the coming into force of the Revised Statutes of Canada, 1952,

(a) the *Customs and Fisheries Protection Act*, chapter 59 of the Revised Statutes of Canada, 1952, is repealed, and

(b) section 9 of this Act is repealed and the following substituted therefor:

"9. All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 680 to 692 of the *Canada Shipping Act*, chapter 29 of the Revised Statutes of Canada, 1952, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act*."

Mr. BROWNE: Mr. Chairman, before you pass clause 10, I wonder if the Parliamentary Assistant is in a position to say what is going to be the practice as soon as this Bill becomes law. At the present time the Spanish trawlers and the Portuguese trawlers are coming into Newfoundland ports to get supplies of goods and bait, and so forth. Will there be a gap between the present situation and the application of the new regulations to be issued under the Act?

Mr. STICK: Mr. Chairman, I do not want to answer Mr. Browne, but I think at the last meeting you said that the regulations in connection with this Act, as applicable to foreign fishing vessels coming to Newfoundland, would be applied for another year, that before these regulations shall apply to foreign fishing vessels a year will elapse. Is that correct?

Mr. OZERE: That is correct.

Mr. BROWNE: That is clear, then.

The CHAIRMAN: Yes.

Mr. STICK: That is what was said at the last meeting.

Mr. BROWNE: I was not here.

The CHAIRMAN: I think before we finish with this clause, Mr. Erichsen-Brown has an answer prepared to a question asked by Mr. Applewhaite at the last meeting.

Mr. ERICHSEN-BROWN: Mr. Chairman, on Monday Mr. Applewhaite asked the question; "what is the overriding international law which permits anybody to bring their ship into port under stress of weather, danger of loss of life, and so on." His question used the words "into port", but since that necessarily involves that the vessel would have to go through territorial waters, I am interpreting the question to mean, what are the circumstances under which a foreign vessel is justified in entering Canadian territorial waters under stress of weather, danger of loss of life, and so on.

I was in some doubt whether to give the committee a rather extensive answer on that question or to endeavour to summarize it. I have a statement prepared and I think possibly I might go on, and if it gets a little tiresome perhaps the committee could stop me. I may say at the outset that my purpose is to show the committee that the principles of international law would be applied by our courts. There is a general rule that a rule of international law is something that our courts will pay attention to, and if a statutory provision is not inconsistent with that rule of international law, it will be given effect. That principle was established in a leading case in England which was considered a few years ago by the Supreme Court of Canada in the Legations Reference case, which particularly concerned my department. My department also has a general concern with this question of the relationship between international law and domestic law.

There is in international law a right which is described as a "right of innocent passage", and I think that would be recognized by our courts. It is very closely related to the principle of domestic law to which Mr. Ozere referred the other day, namely, the principle that any person who is accused must have a guilty mind, *mens rea*, as they call it. In the process of determining whether he had a guilty mind under our domestic law, it seems to me the court would, of necessity, have to give effect to this general principle of international law. The rule of international law, as I have described it, is called the "right of innocent passage".

There is, as I have said, a general rule of international law which is generally referred to as "right of innocent passage". It is now generally accepted that a state has complete sovereignty over its territorial waters just as it has over its national waters, however it has been generally accepted by states that they should refrain from imposing the full penalties which might be prescribed as a matter of domestic law for a violation of territorial waters if the entry of the foreign vessel into territorial waters was of an "innocent" nature. The words "innocent passage" are somewhat difficult to define. As frequently happens we must rely on statements of legal authorities and they do not always express the rule in identical language. However, I have turned up a few authorities and there are a few statements which I might read out.

In 1930 there was a conference at the Hague when an effort was made to agree upon a code in which the law relating to territorial waters would be set forth. This conference was unable to agree, consequently the draft convention was never promulgated. However, I found that, when the convention was under consideration, there was a considerable measure of agreement between them on this question.

The draft convention before the conference prescribed that—and I quote—

Sovereignty over this belt is exercised subject to the conditions prescribed by this convention and the other rules of international law.

One of these other rules was the so-called right of innocent passage. It was stated that the coastal state might put no obstacles in the way of vessels navigating the territorial sea subject to the proviso that

No Act must be done prejudicial to the security, the public policy or fiscal interests of the state.

This provision was the subject of comment by Higgins and Colombos in their work entitled "International Law of the Sea". Perhaps I might read the following passage from page 73:

Coastal States can take all necessary steps to secure these rights, and by legislation, in conformity with international usage, a coastal State can provide for (a) the safety of traffic, protection of channels and of buoys; (b) protection against pollution of any kind; (c) protection of the products of the territorial sea; and (d) of the rights of fishing, shooting and analogous rights belonging to the coastal State.

I have some other references which I do not need to read but which I will put on the record, as follows:

From Oppenheim's International Law:

Although the maritime belt is a portion of the territory of the littoral State and therefore under the absolute territorial supremacy of such State, the belt is nevertheless, according to the practice of all the States, open to merchantmen of all nations for inoffensive navigation, cabotage excepted. And it is the common conviction that every State has by customary International Law the right to demand that in time of peace its merchantmen may inoffensively pass through the territorial maritime belt of every other State. Such right is correctly said to be a consequence of the freedom of the open sea, for without this right navigation on the open sea by vessels of all nations would in fact be an impossibility.

From Hackworth's Digest of International Law:

Over its territorial waters along the marginal sea, the control of the territorial sovereign is limited. While it may regulate at will matters pertaining to fisheries, enjoyment of underlying land, coastal trade, police and pilotage, the use of particular channels, as well as maritime ceremonial, it is not permitted to debar foreign merchant vessels from the enjoyment of what is known as the right of "innocent passage" . . .

So long as the conduct of a vessel of any kind is not essentially injurious to the safety and welfare of the littoral state, there would appear to be no reason to exclude it from the use of the marginal sea . . . In a word, the right of so-called innocent passage vanishes whenever the conduct of a ship is harmful to the territorial sovereign . . .

I shall conclude briefly by referring to the leading English case followed by the Supreme Court of Canada which I mentioned. The general principle is this: our courts on any judicial issue seek to ascertain what the relevant rule of international law is, and having found it, they will treat it as incorporated into our domestic law in so far as it is not inconsistent with the rules enacted by statutes, or finally declared by our tribunals.

Clause 7 of this Bill prohibits entry into territorial waters, and it says, at the end of sub-paragraph (a)(i) "contrary to this Act". In other words, this is not a general restriction, as I read it, but is a restriction which only applies to the entry into Canadian territorial water, "contrary to this Act"; and my understanding of the Act is that the whole purpose of the Act is to prevent fishing in territorial waters by foreign vessels. In other words, this Act has that as its specific objective. I feel reasonably sure that I am correct in saying

that our courts would have regard to the words "contrary to this Act", and would pay attention to this general principle of international law which admits the right of innocent passage. And in so far as it might be shown by a foreign vessel, I think it would be given the customary privileges which are generally accepted internationally. Therefore, I think if we were presented with a complaint by a foreign government under this clause of the Act, we would be able to justify the provision as it now reads.

Mr. ROBICHAUD: In respect to the principles which you have read, have you had regard to the old doctrine of "distress", which I think is to be found in international law. And I would refer you to Jessup on "Territorial Waters and Maritime Jurisdiction". There was a case in 1931 which I prosecuted in New Brunswick, the King against Flahaut, a famous case in which distress was considered.

Mr. ERICHSEN-BROWN: I have not referred to that case, but I have a case which was also decided in 1931, involving the steamship *May* out on the Pacific coast. It was interesting because it was brought under a section of the Customs Act which included the words "unless from distress of weather or other unavoidable cause".

The Privy Council upon appeal from the Supreme Court of Canada said that those words merely confirmed international law on the subject. In other words "stress of weather" comes within the more general right of "innocent passage" to which I referred.

Mr. APPLEWHAITE: Let us suppose that a foreign ship gets knocked about by water and has to run to the shore or sink. I have always assumed there was an over-riding international law which would set aside any action which might be brought against that ship for an infraction of customs or fisheries provisions or anything else because of the saving of life. Am I to take it that that is so from what Mr. Erichsen-Brown has told us today?

The CHAIRMAN: Yes, I think that is so.

Mr. BROWNE: Mr. Chairman, may I ask one or two questions relating to matters which have already been considered?

The CHAIRMAN: Your former question has been answered to your satisfaction, I take it?

Mr. BROWNE: Yes, Mr. Chairman. I am interested in those matters which apply with respect to vessels which come to Newfoundland, such as French, Italian, Portugese and so on, and the extension of the regulations? Was there any conclusion reached on the question of Canadian territorial waters and the definition here?

Mr. MACNAUGHT: The Minister made a statement at the first meeting of the committee, and you will find it in the record of our proceedings, to the effect that a committee composed of representatives from the various interested departments was making a thorough study of that matter at the present time. As soon as his report is received it would be studied by the government and if changes are indicated then under a certain section of this Act, such changes can be immediately made.

Mr. BROWNE: Was any consideration given to the question of foreign sailing vessels which come into Newfoundland? The Norwegians come there every year.

The CHAIRMAN: That would be covered, I think, under foreign fishing vessels.

Mr. BROWNE: They take on Newfoundland crews; and they sometimes take on pilots and navigators.

The CHAIRMAN: It would still be a foreign fishing vessel. But does that not refer to those ships which clear from Halifax rather than those which come from Norway? Not to my knowledge or recollection have there been any cases where ships which came out from Norway to operate in the ice fields of Newfoundland, have taken on any Newfoundland crews.

Mr. BROWNE: Has the question of their being brought within Newfoundland territorial waters been considered?

The CHAIRMAN: As I understand it this Act would apply to them.

Mr. BROWNE: For the purpose of taking seals? They would not be entitled to do that, would they?

The CHAIRMAN: A seal is a mammal not a fish and they cannot take them inside our territorial waters unless they get a permit. They can get a permit, maybe? I think there was a case a year or so ago in which a Norwegian ship was seen, from the Newfoundland shore, picking up seals. Whether or not those seals had been killed by her crew outside the three mile limit and had been driven in by the current—for as you know, sometimes these seals are brought in by the ice flows—and if the seals had been caught, killed, and pelted outside the three mile limit, and then they had come inside the three mile limit, would raise a question in my mind whether or not they ever became our property; that is, coming within the Canadian territorial limits, whether or not they could be taken as being Canadian or whether they could still be claimed as having been killed outside.

I mention that case because it really happened. I was informed that some people on shore had seen one of the Norwegian vessels taking some seals. That is, while these people were on shore, they had seen the Norwegian crew taking them on board. So it is a point which I think needs to be looked into and no doubt will be carefully gone into by the department.

Shall clause 10 carry?

Carried.

Shall the Title carry?

Mr. PEARKES: What is the meaning of what appears to be a clause 9 following clause 10 on page 6?

Should not clause 9 on page 6 read clause 11? I do not understand it, or is it a new way of numbering in international law?

Mr. APPLEWHAITE: If you read the whole clause you will understand it.

Mr. PEARKES: If it is a part of clause 10, should it not be a smaller figure 9 or not such a black figure 9?

Mr. APPLEWHAITE: I looked at it for a minute, but I find that it gives clause 10 the words which clause 9 will receive, as at the foot of page 5 of the bill, when the new Revised Statutes of Canada come into effect.

The CHAIRMAN: Yes, that is correct. In paragraph (b) it says:

(b) section 9 of this Act is replaced and the following substituted therefor:

And then it specifies as follows:

9. All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 680 to 692 of the *Canada Shipping Act*, chapter 29 of the Revised Statutes of Canada, 1952, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act*.

Mr. PEARKES: I was bewildered.

The CHAIRMAN: But now you are satisfied?

Mr. PEARKES: I am satisfied if you are, Mr. Chairman.

The CHAIRMAN: Shall the Title carry?

Carried.

Shall the Bill as amended carry?

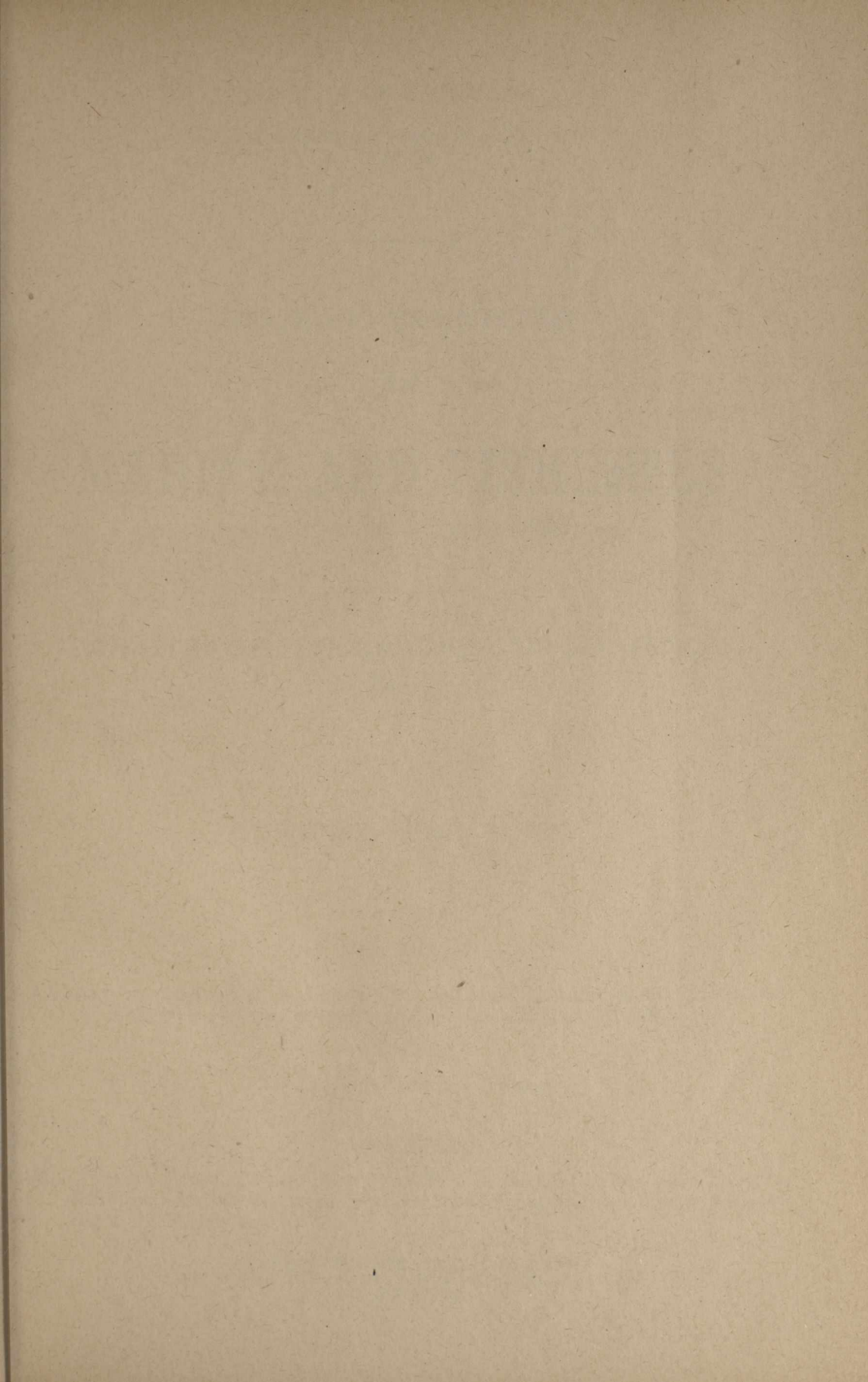
Carried.

Shall I report the Bill as amended?

Agreed.

That completes the matter which has been referred to the committee at this time and I would like to express on my own behalf my thanks to the witnesses and the members of the committee for their co-operation, assistance, and interest in this regard. Now, a motion to adjourn is in order. It has been moved by Mr. Stick and seconded by Mr. MacInnis that we adjourn, to the call of the chair. All those in favour will say "aye", contrary "nay"?

Carried.



HOUSE OF COMMONS

Seventh Session—Twenty-first Parliament
1952-53

STANDING COMMITTEE

ON

MARINE AND FISHERIES

Chairman: T. G. W. ASHBOURNE, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

TUESDAY, APRIL 28, 1953

Bill No. 341

An Act to implement a Convention between Canada and the United States for the preservation of the Halibut Fishery

including

Third Report to the House

WITNESSES:

Mr. Stewart Bates, Deputy Minister; Mr. G. R. Clark, Assistant Deputy Minister; Mr. S. V. Ozere, Director, Legal Service; all of the Department of Fisheries.

STANDING COMMITTEE
ON
MARINE AND FISHERIES

Chairman: T. G. W. Ashbourne, Esq.

Vice-Chairman: A. W. Stuart, Esq.

Messrs:

Applewhaite	Gibson	MacInnis
Arsenault	Gillis	MacLean (<i>Queens</i>)
Balcom	Harrison	MacNaught
Bennett	Henderson	Maltais
Black (<i>Cumberland</i>)	Higgins	McLean (<i>Huron-Perth</i>)
Blackmore	James	McLure
Breton	Kirk (<i>Antigonish-</i>	Mott
Browne (<i>St. John's</i>	<i>Guyborough</i>)	Pearkes
<i>West</i>)	Langlois (<i>Gaspé</i>)	Robichaud
Cannon	Leger	Stick
Côté (<i>Matapedia-</i>	Macdonald (<i>Edmonton</i>	Thomas
<i>Matane</i>)	<i>East</i>)	Wood
Fulford		

(Quorum—10)

A. SMALL,
Clerk of the Committee.

ORDER OF REFERENCE

WEDNESDAY, April 22, 1953.

Ordered,—That the following Bill be referred to the said Committee:

Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery.

Attest.

LEON J. RAYMOND,
Clerk of the House.

REPORT TO THE HOUSE

TUESDAY, April 28, 1953.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

THIRD REPORT

Your Committee has considered Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence of your Committee is appended.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, April 28, 1953.

The Standing Committee on Marine and Fisheries met at 10.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

Members present: Messrs. Ashbourne, Bennett, Browne (*St. John's West*), Fulford, Gibson, Gillis, Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huron-Perth*), McLure, Pearkes, Robichaud, Stick, Stuart, (*Charlotte*), and Wood—16.

In attendance: Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, and Mr. S. V. Ozere, Director, Legal Service, all of the Department of Fisheries.

The Chairman read the Order of Reference of April 22, 1953.

On motion of Mr. Browne (*St. John's West*),

Ordered,—That the quantity to be printed in English of the Committee's Minutes of Proceedings and Evidence be reduced from 750 to 600 copies in respect to Bill No. 341.

Messrs. Bates, Clark and Ozere were called, heard and questioned on the purpose of Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery.

On Clauses 1 to 11 inclusive:

The said clauses were severally considered and adopted.

On the Schedule:

Articles I to V inclusive and the Preamble to the Schedule were severally considered and adopted.

The Title was considered and adopted.

The Bill was adopted.

The witnesses retired.

Ordered,—That the Chairman report the Bill to the House without amendment.

At 10.30 o'clock a.m., the Committee adjourned *sine die*.

A. SMALL,
Clerk of the Committee.

MINUTES OF EVIDENCE

APRIL 28, 1953.
10.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum.

The matter before us this morning for consideration is Bill No. 341. The terms of reference read "*Ordered*,—That the following Bill be referred to the Marine and Fisheries Committee: Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery."

We have with us this morning Mr. Stewart Bates, the Deputy Minister of Fisheries; Mr. G. R. Clark, Assistant Deputy Minister of Fisheries; and Mr. S. V. Ozere, Director, Legal Service.

We would like to hear from Mr. Bates first, but before going on perhaps the committee would like to decide whether or not any change is necessary in its existing powers, particularly with reference to the printing of the evidence. At present we have orders to print 750 copies in English and 200 copies in French. Does the committee wish any change in that.

Mr. BROWNE: Does not that seem too many? This only applies to the Pacific coast. It is not general application. Would not half that number suffice? I move that...

The CHAIRMAN: I have been informed by the Clerk of the Committee that he thinks it would be better to have 600 copies in English, if that is satisfactory to you, Mr. Browne.

Mr. BROWNE: Certainly.

The CHAIRMAN: Is the motion seconded?

Mr. FULFORD: I second the motion.

The CHAIRMAN: Moved and seconded that we print 600 copies in English and 200 copies in French. Are you ready for the question? Those in favour? Opposed?

Carried.

We would be glad at this point to hear from Mr. Bates.

Mr. STEWART BATES (*Deputy Minister of Fisheries*): Mr. Chairman, and gentlemen, the changes recommended in the existing halibut treaty—halibut commission powers—are not complicated. They are four in all. The first is a simple one; a change in the Title. When this Halibut treaty was first passed, it was the only fisheries treaty of its kind and it was called in the original treaty and the subsequent Bill the International Fisheries Commission.

There are quite a number of commissions set up now and it seems proper this one should be distinguished by its proper title that is The Halibut Commission, so there is a suggested change in title for that reason.

The second change is at the request of the United States to increase the number of commissioners on each side from two to three. The Americans in particular wish to have representation from Alaska which they have not been able to achieve with only two commissioners. They already have a federal commissioner and a commissioner from the State of Washington and are anxious to get the number increased to cover representation from Alaska. We have no objection to that. We will have three on the Canadian side to round out our representation, also.

The third point is to give the commission power which it is doubtful it now has. That is, the power to establish more than one open season during the year. At present the United States legal authorities feel that the powers in the existing Act permit the commission to have only one open season. Now, for full utilization of the stocks, it may be necessary to have more than one open season and this third change is to give the commission that power.

The fourth change has to do with the incidental catching of halibut when people are fishing for other species, and the power requested here is that the commission should be able to regulate the incidental catch during the open season as well as the closed season.

Mr. Chairman, we have here with us our Assistant Deputy Minister, Mr. Clark, who is one of the Canadian representatives on the Halibut Commission and he is prepared to answer any questions on the operations of the commission. I thought the committee would be pleased to have him with us.

The CHAIRMAN: Thank you very much indeed, Mr. Bates. Would you like first, Mr. Clark, to make a statement?

Mr. G. R. CLARK (Assistant Deputy Minister of Fisheries): I think Mr. Bates has covered it pretty fully unless there are any questions I can answer on the actual operations of the commission.

The CHAIRMAN: We shall take up the Bill for consideration clause-by-clause.

Shall Clause 1 carry?

Mr. BROWNE: Before you go on with that, may I ask who are the other Canadian commissioners?

Mr. CLARK: The other Canadian commissioner is Mr. George Nickerson of Prince Rupert, B.C.

Mr. BROWNE: Are you going to have a third?

Mr. CLARK: Under this, it is proposed. He has not yet been appointed.

Mr. BROWNE: Is Mr. Nickerson a civil servant?

Mr. CLARK: No. He is the representative representing the industry-at-large on the commission.

Mr. BROWNE: And who would the third commissioner represent?

Mr. CLARK: It all depends on what the government decides to do. It is a matter of policy and we assume it is a matter for the government to decide what representation we have.

Mr. MACNAUGHT: In connection with that, I recall that the Minister when he made his statement in the House on the second reading stage of this Bill pointed out it was hoped it would be possible to get a representative from the fishermen.

Shall Clause 1 carry?

Carried.

Shall Clause 2 carry?

Mr. McLURE: In Clause 2, "halibut". Does this Bill deal with any other fish?

Mr. CLARK: Just with halibut.

Mr. McLURE: It says here it belongs to the species known as *hippoglossus*.

Mr. ROBICHAUD: I might remark if my Greek is right *hippoglossus* means glossy horse.

The CHAIRMAN: Shall Clause 2 carry?

Carried.

Mr. BROWNE: Mr. Chairman, I understand there was a previous Bill. What is the difference between the provisions in this Bill and the previous Bill?

Mr. OZERE: There are a few differences. The old Act is revised to bring it into line with modern practice and if the members are interested I could go over the changes.

The CHAIRMAN: Shall Clause 2 carry?

Carried.

Shall Clause 3 carry?

Carried.

Shall Clause 4 carry?

Carried.

Shall Clause 5 carry?

Mr. FULFORD: In the second part it says "... anywhere in the convention waters except the territorial waters of the United States". Is that the 12-mile limit or three-mile limit?

Mr. OZERE: Three-mile limit.

The CHAIRMAN: Shall Clause 5 carry?

Carried.

Shall Clause 6 carry?

Mr. McLURE: It says there in Clause 6 that they might seize a vessel if it had some other fish in it or if they hay anything they might be suspected of taking out of season. For instance, there might be fur seals. There is a great deal of discussion about that now between Japan and the U.S.S.R. and there is an investigation, I understand, going on with reference to that at the present time. Supposing a vessel is seized up there and they find any of those aboard, what happens?

Mr. OZERE: Mr. Chairman, the enforcement of the sealing convention: "The Provisional Fur Seal Agreement" is carried out under the *Pelagic Sealing Act*. This Bill only relates to halibut.

Mr. STICK: This is between the United States and Canada?

Mr. OZERE: Yes.

Mr. STICK: This does not give us authority to seize a Japanese vessel?

Mr. OZERE: No. This would give no authority except over United States vessels.

The CHAIRMAN: Shall Clause 6 carry?

Carried.

Mr. BROWNE: Will the American Government pass an Act similar to this?

Mr. OZERE: They have a similar Act now.

Mr. BROWNE: And the new Act will be like this one?

Mr. OZERE: That is right.

The CHAIRMAN: Shall Clause 6 carry?

Carried.

Shall Clause 7 carry?

Carried.

Shall Clause 8 carry?

Carried.

Shall Clause 9 carry?

Carried.

The CHAIRMAN: Shall Clause 10 carry—"Jurisdiction of Courts"?

Carried.

Shall Clause 11 carry—"Repeal and Coming into Force"?

Carried.

Now, the Schedule. Shall Article I of the Schedule carry?

Carried.

Shall Article II carry?

Carried.

Shall Article III carry?

Carried.

Shall Article IV carry?

Carried.

Shall Article V carry?

Carried.

Shall the Preamble to the Schedule carry?

Carried.

Shall the Title carry?

With reference to the Title, gentlemen, I notice that it says it is *An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery*, and some members have thought that possibly it might be advisable to put the *United States of America* in there. I have taken up the matter with the Parliamentary Assistant, Mr. MacNaught, and perhaps he will make a statement regarding that.

Mr. MACNAUGHT: The "United States", under the *Interpretation Act*, means the "United States of America".

The CHAIRMAN: So that point is covered in the *Interpretation Act*.

Mr. FULFORD: It would not be the "United States of Brazil"?

Mr. MACNAUGHT: It is covered in the *Interpretation Act*—"United States" means "United States of America".

Mr. ROBICHAUD: In connection with the Title of the Bill, may I suggest that the words "of the Northern Pacific Ocean and Bering Sea" be inserted in order to bring the Bill in to line with the convention itself. This only covers the halibut fishery of the Northern Pacific Ocean.

Mr. MACNAUGHT: If you will look at the Short Title, you will see that that point is covered there. The short title is *Northern Pacific Halibut Fishery Convention Act*.

Mr. ROBICHAUD: Yes, in clause 1, but what I mean is that the Title of the Bill should have those additional words because, after all, that is the name of the Act. It is more or less a suggestion of mine, but I think it is in order.

The CHAIRMAN: Does not Mr. MacNaught's explanation satisfy the point you raise, Mr. Robichaud?

Mr. ROBICHAUD: No. I was aware of the words in clause 1, and in clause 2(6) those words appear, but I still believe it would be clearer if, in the Title of the Act it specified fisheries "of the Northern Pacific Ocean and the Bering Sea" because, after all, this is the object of the Bill.

Mr. STICK: I want to revert back. When you seize a vessel which is caught with halibut out of season and you have some other fish on board, what do you do then? Does this Act give you the power to seize the other fish as well, or just the halibut?

Mr. OZERE: I think this would give us the power to seize all fish.

Mr. STICK: It does not specify that here. That will be settled by the court, I suppose?

Mr. OZERE: I think so.

The CHAIRMAN: On the point brought up by Mr. Robichaud regarding the extension of the Title—what do the other members of the committee think of that?

Mr. STICK: I think this is specific enough. It defines the territorial waters which the convention covers. Mr. Robichaud may have a point there, but it seems to me, on the face of it, that it covers the territory the treaty wishes to cover.

The CHAIRMAN: It is, of course, covered in the Act itself, in the Definition and in the Short Title, and by the *Interpretation Act*.

Shall the Title carry?

Carried.

Shall the Bill carry?

Carried.

Shall I report the bill?

Agreed.

Now, gentlemen, the business of the committee is finished as far as this Bill is concerned, and, unless there is any other business to be brought forward, I would like to say that the committee is adjourned *sine die*. I want to thank you for your attention.

