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Speaker: The Honourable Peter Milliken

Fisheries Act

Hon. Geoff Regan (Minister of Fisheries and Oceans, Lib.) moved that Bill C-52, an act to amend the *Fisheries Act* (terms and conditions of permissions, leases and licences), be read the second time and referred to a committee.

He said: Mr. Speaker, I will be splitting my time with the hon. member for Scarborough--Rouge River.

I appreciate the opportunity to rise in the House today to speak to Bill C-52, a bill to amend the *Fisheries Act*. The amendment that the bill contains clarifies that it is a requirement of the act to comply with fishing licence terms and conditions. In particular, the amendment is designed to address a very specific issue which has been raised by the Standing Joint Committee for the Scrutiny of Regulations.

I wish to thank the committee for its diligence. I really value its work, and I appreciate its continued interest in the *Fisheries Act*.

On March 15--

The Speaker: I hesitate to interrupt the hon. Minister of Fisheries and Oceans, but I was asleep at the switch, as they say. The hon. minister indicated that he wished to split his time. Since this is the first speech and several of these speeches require this, is there unanimous consent of the House for the hon. minister to split his time in this debate at this point?

Some hon. members: Agreed.

The Speaker: I am sorry to have interrupted the minister, but if he was going to do that we had to get consent. I forgot it myself and I was reminded.

The hon. Minister of Fisheries and Oceans has the floor.

Hon. Geoff Regan: Mr. Speaker, I must admit to having forgotten that provision as well.

On March 15 of this year I received from the standing joint committee a notice of disallowance for a subsection of the Ontario fishery regulations under the *Fisheries Act*. The report on its concerns has now been tabled.

The committee feels that greater clarity and certainty are needed on matters of legislative authority with respect to a subsection in these regulations that requires compliance with commercial fishing licence terms and conditions.

The Government of Canada has continuously maintained that this provision of the regulations is legally sound and within the authority of the *Fisheries Act*. It provides an effective means to conserve and manage Ontario's fisheries.

However we do agree that greater certainty and clarity will be provided with the amendment I am proposing today. This amendment would add a new section to the *Fisheries Act*, a section dealing with compliance with terms and conditions of fishing licences.

We believe the amendment provides the measure of certainty and clarity needed while addressing the committee's legal concerns.

I should also point out that passage of the amendment into law will not change the existing practices on the ground. It basically moves a provision currently in regulation into the act itself.

Clearly, this issue has a number of implications for Ontario's fisheries. The success of Canada's fisheries, including those in Ontario, depends on conservation. Revoking the subsection of the Ontario fishery regulations requiring compliance with licence terms and conditions would create a legal gap in the enforcement regime that is key to the province's ability to conserve the fishery and manage it in a sustainable way.

The Province of Ontario depends on these regulations. Conservation and the orderly management of fisheries are vital components of maintaining a strong, viable fishing industry, an industry that contributes anywhere from \$250 million to \$500 million to the economies of both Ontario and Canada.

This is why Bill C-52 is so important. This bill provides the particulars and the certainty that the committee is asking for. Moreover, it will allow the province of Ontario to keep the tools that it needs to maintain orderly commercial fisheries in a sustainable way.

I should point out that this is an interim measure while we work toward broader *Fisheries Act* reform. I have indicated on many occasions that I am serious about updating the act. This 137 year old piece of legislation needs to be modernized.

Canada's fisheries have changed and evolved over the years, in some cases far beyond the current tools and practices we have in place to manage them. Our legislation should change accordingly.

On May 17, I met with the Standing Committee on Fisheries and Oceans and outlined our approach. I told its members that my department was developing a comprehensive legislative renewal package for the *Fisheries Act* to bring it into line with the realities of this industry in the 21st century.

As the government prepares to bring forward broad reform to the act, I have asked the standing committee to provide me with its advice. In particular, I have indicated that input in the following four areas would be very helpful: allocation, co-management, compliance and sanctions. Sanctions, of course, are points of great interest to the standing joint committee as well.

I look forward to working with Parliament, with men and women who are involved in the fishing industry across the country and with other levels of government to give Canadians the modern effective *Fisheries Act* they need.

In the meantime, the amendment I am tabling today will address the standing joint committee's legal concerns and ensure that the Province of Ontario has the certainty it needs as it manages and conserves its fisheries on behalf of its citizens.

That is why I am asking all members of the House to join me in supporting this important bill addressing the concerns of the Standing Joint Committee on Scrutiny of Regulations.

Mr. John Cummins (Delta—Richmond East, CPC): Mr. Speaker, the premise of the minister's remarks is simply incorrect. The minister suggests that the fishery would be impossible to manage if Bill C-52 were not passed.

That is simply incorrect. If the minister would look at the last couple of pages of the report of the scrutiny of regulations committee, he would find that the committee makes it quite clear that in fact it is possible to manage the fishery without the benefit Bill C-52.

In fact, until the government, the ministry and the department started using this notion of attaching conditions to a licence about 10 years ago, the fishery was quite well managed. Let me rephrase that somewhat. The ability to manage the fishery was certainly there. Whether it was well managed or not is another question when one considers the problem with the North Atlantic cod, not to mention the problems on the Fraser River over the last year.

Why would the minister suggest that it is impossible to manage the fishery when the Scrutiny of Regulations Committee, which is the expert on regulations that are proposed by this House, makes it quite clear that it is possible to manage the fishery?

Second, why does the minister think it is appropriate that fisheries managers, the same bureaucrats who brought us the disaster on the Fraser River this past summer, be given unfettered licence to put in place conditions of licence to manage the fishery without the scrutiny of Parliament? If the minister does think that is appropriate, then he is the only person I know who would support that notion.

Hon. Geoff Regan: Mr. Speaker, first, I have had discussions with some members of the Standing Joint Committee on Scrutiny of Regulations who have indicated to me that they are very satisfied with the bill we have brought forward. They feel that it does solve the problems that they have raised. They are content with what we have done.

In fact, I think the committee has received a copy of the letter from the Ontario minister of natural resources, Mr. Ramsay, who was very concerned about this. He disagrees with my hon. colleague's arguments on this. He feels very strongly that these regulations are essential for the conservation of fish in the lakes and rivers of Ontario. He feels that it is absolutely vital that we act in this way to make sure the notice of disallowance, which has been brought forward by the standing joint committee and its members, not continue. Otherwise, we would have a situation as soon as July 19 of this year where the regulations that say people have to follow the rules of their licence would no longer exist.

I made it very clear that I am interested in finding new ways of managing the fisheries. I have said it time and again to my hon. colleagues on the Standing Committee on Fisheries and Oceans. I have yet to see much interest from that member, for example, in seeing changes to the *Fisheries Act*. I hope I will see that interest and I hope he is interested in changing the *Fisheries Act* and having overall reform.

If we are going to have a modern system, not one from 10 years ago or 137 years ago, but a modern system that responds to the needs of the fishery today, we really need to have an overhaul of the *Fisheries Act*. As I say, I am waiting for interest from that side of the House for that to go ahead.

Mr. John Cummins: Mr. Speaker, the minister mentioned the minister of fisheries from Ontario and suggested that he found fault with this problem and said that he could not manage the fisheries appropriately.

The scrutiny of regulations committee made it very clear that the Ontario minister did not understand section 36(2). In fact, the committee said, “The minister does not reflect a clear understanding of the nature of section 36(2)”.

It is not myself who is mistaken here. It is the minister from Ontario--

The Speaker: I am not sure there was a question.

The hon. Minister of Fisheries and Oceans a very brief response.

Hon. Geoff Regan: Mr. Speaker, I do not expect that all members of any committee will agree with everything the provincial ministers say but I think it is an important point to recognize that the provincial minister who is responsible for administering the fishery in Ontario is very concerned about this. In fact, in a letter dated April 14, he said:

I am extremely concerned about the serious impacts on Ontario's ability to manage and ensure the conservation of fisheries should the Standing Joint Committee for the Scrutiny of Regulations (SJC) table a Report of Disallowance regarding subsection 36(2) of the Ontario Fishery Regulations.

As you know, subsection 36(2) is the offence section under which Ontario enforces terms and conditions on approximately 500 commercial food and 1400 commercial bait fishing licences. Terms and conditions are currently the only mechanisms by which Ontario can establish allowable quota, areas where fishing can occur, designates who can take fish under a licence, reporting for commercial fishing licences. Without this provision, Ontario would literally have its hands tied with respect to enforcement of the commercial fishery.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Speaker, I am very pleased to join in the debate on this legislation.

The reason for the legislation being here was generated by members of the House and the Senate because of a disallowance report put together and tabled by the Standing Joint Committee for Scrutiny of Regulations. The ministry has

responded very quickly to produce legislation which would rectify a difficulty in the existing regulations, as pointed out by the standing joint committee. This is an alleged defect. The committee is pretty sure that it is correct in this, although I am prepared to allow some difference of opinion as this thing goes on.

I have served on that committee for some 15 years. The member for Scarborough Southwest has been there for some 16 years continuously. We are relatively clear on where we are coming from on the committee. The work of the committee over all those years, and prior to when I arrived, has always been non-partisan. The committee has effectively done its work, regrettably ending up in about a half a dozen disallowance reports over the 15 years. That is not too bad. All the other hundreds of disagreements with the government have been resolved by other means.

In this case, the committee felt that it had no choice but to proceed with the disallowance.

The government, having read the report, has done everything it could to comply with the disallowance procedure now in place. In fact, two procedures are going on in tandem right now. One of them is the disallowance procedure, whereby the report, having been introduced into the House and in the Senate, will receive a debate here, probably for the first time in parliamentary history. Sometime next week or this week it is possible we will have a debate in the House under the provisions in the Standing Orders that would allow that.

Normally, these debates do not happen. Usually what happens is the government complies and revokes the impugned regulation.

In this case, the government will in all likelihood revoke the impugned regulation, but the regulation in this context has to be replaced by a statutory provision. If there is no statutory provision, it is questionable whether the enforcement of the federal fishery in the Province of Ontario can continue.

The Ontario minister has flagged his concern at the likely disappearance of the regulation and the need for a statutory provision. The statutory provision, the one line in this bill, effectively creates an analogous provision to what was in the regulation.

Why did we have to make that change? Why was that regulation put under disallowance procedure? The reason is it is arguable that regulation creates an

offence which is punishable in law. The committee, in its traditions going back a quarter century, says that regulations cannot create offences unless the House, through a statute, allows that to happen. Therefore, the bill would put into statutory form the offence creation mechanism that was in the regulations.

The regulatory provision, again, focuses on making conditions in a fishing licence a matter that could give rise to a breach of the *Fisheries Act*.

The member for Delta—Richmond East had mentioned that the committee was of the view that enforcement in the Ontario fishery could continue even without this impugned regulation. That was from an academic perspective. One could say that if there is a breach of a fishing licence condition, the government enforcing the provision has to revoke the licence. That is true

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However, the way the fishery enforcement has evolved over the years has meant that those who enforce the fishery have relied on the existing framework of regulations and licence conditions and may not be in an administrative position to simply begin enforcing conditions by revocation of licence, which may involve either an administrative act or a court application. They are just not sure. Rather than throw the enforcement piece into some disarray arguably, the committee has accepted that this statutory provision would allow the same enforcement framework to continue.

The member for Delta--Richmond East has been assiduously pursuing the modernization and rectification of some of the things in the *Fisheries Act*. He has made some points here today and will probably make some others. I encourage him to accept the big picture which would allow some margin of safety for those doing fisheries enforcement in the Ontario fishery. The member knows we are dealing with a fishery, and it is not a Sunday school environment. There is a certain way of doing things in the fishery. To destabilize enforcement could give rise to safety concerns for fishers and others.

The minister referred to a commitment to modernize the *Fisheries Act*, and that is important. The minister and the department have been in this mode of wanting to do a comprehensive review and modernization for some time now. I can see they have had some difficulty getting there.

One of the challenges of the Canadian fishery is the fact that it is not just one fishery. It is very complex, running through many provinces with fisheries on

different coasts in the north, on the lakes and in the rivers. It is a complex thing. Some aboriginal fisheries have gone on for a long time. There are seasonal fisheries, offshore fisheries and inshore fisheries. I am not sure one size fits all. There are a lot of voices to be heard as the minister and the department move ahead to modernize, revise and provide better infrastructure for management.

I would ask members in the House to assess the bill and accept it as a one line bill intended to rectify a problem raised by colleagues in the House and reflected in the report of the Standing Joint Committee for Scrutiny of Regulations. I would ask members to regard it as a constructive effort to respond virtually immediately to the report of the committee.

Some members will say that the department could have made this change last year, or the year before that or three years ago. It is true that the committee had reported previously without a disallowance motion on a broader package of concerns and a bill was introduced in the House last year. That bill addressed four or five separate concerns of the committee. In this new Parliament, the committee was still concerned about the offence creating mechanism in the regulations. It reported again, and we have the current situation.

I would urge members to allow quick passage of this one line bill to rectify the enforcement concerns that have been expressed. I know all members will approach the comprehensive review and reform in the way they always have. I look forward to those assessments and reviews, working on both sides of the House to try and bring about the changes that we believe are needed.

Mr. John Cummins (Delta—Richmond East, CPC): Madam Speaker, I would like to point out to my friend that in a letter to the Minister of Fisheries and Oceans on April 14 of this year, the committee noted that the proposals in Bill C-52 were essentially the same proposals that were included in Bill C-43 a year ago.

The committee made it clear in that letter, when it said:

To deprive a citizen of his liberty on the ground that the citizen has failed to abide by requirement imposed by a public official in the exercise of an administrative power, such as a term or condition of licence, could be thought undesirable as a matter of legislative policy.

The committee then made it quite clear that penalizing someone and putting someone in jail based on violating a policy that was put forward by a bureaucrat as opposed to Parliament was rather unseemly and unprecedented. The committee unanimously sent that letter to the minister. Now the member seems to think that this is okay.

As well, the minister himself quoted from a letter from the Ontario minister of natural resources. I will not read the quote again, but the response of the committee was:

To the extent this comment suggests that disallowance of section 36(2) would impair the ability to impose terms and conditions of licences, it does not reflect a clear understanding of the nature of section 36(2). Disallowance of that section may change the manner of enforcing compliance with terms and conditions of licences, but would certainly not affect in any way the ability to impose such terms and conditions.

Hon. Geoff Regan: You can't enforce it.

Mr. John Cummins: The member opposite is saying we cannot enforce it, but we can. The *Fisheries Act* has been imposed and enforced for 130 years, as the member suggested, except for the last few years, without the ability of attaching terms and conditions to a licence. It is enforceable.

Why has the member opposite changed his tune, a tune that he sang so well in committee, yet he is not consistent with it today.

Mr. Derek Lee: Madam Speaker, the hon. member must misunderstand something. I have not changed my position at all. The regulation as it stood was, in my view, ultra vires. That is the position the committee took and that is the position contained in the report.

The statute put forward by the government is an attempt to rectify the alleged ultra vires status of the regulation, to replace the regulation with a statute. The House is capable of creating statutes and offences. That is what the bill does. The difficulty with the offence being contained in the regulation was that the House as a body never gave sanction to the regulation. The House did not create the offence. The regulation did and the regulation was put in place by bureaucrats, by government officials, and we do not accept that. I have not changed my position at all.

The second point he has raised has to do with whether it is still possible to do enforcement in the fishery. I suppose one has to have two feet in rubber boots on the ground in the fishery to understand this. The enforcement regime, as it evolved, was based on an offence enforcement regime. When the fisherperson made a mistake and went offside, the sanction was a prosecution, not a licence revocation. There has not been developed in the fishery, at least not in Ontario, a licence revocation regime to enforce the conditions. The regime that is there is a prosecution regime where a person is prosecuted for breaching a condition.

The only problem, as has been pointed out, is that the offence allowing the prosecution was created by and contained in a regulation. I, the member opposite and the House are of a view that we cannot let public servants create offences. Offences are created by the House. Prosecution happens outside of here, but we in the House create the offence.

That is why I agree we need the new statutory provision. Over time if the province creates a licence revocation regime, that is fine, it can do that. However, it is not there now and not having it now could create a big problem in the Ontario part of the federal fishery.

Mr. Loyola Hearn (St. John's South—Mount Pearl, CPC): Madam Speaker, it is a pleasure to take part in this debate. If we look at the bill we see that it is a couple of minuscule clauses and if we were to listen to the governing party we would think that this is very simple, we will ram it through and life will go on.

But life for a lot of people involved in the fishing industry will go on quite differently if this bill passes.

I cannot help but remark, in listening to the people who have taken part in the debate so far, that we have two members from the governing party, the minister and one of the members, both of whom are lawyers. They talk about the legal implications and show that they do not understand what it is all about, but they mentioned that in order to understand it one should have one's feet in a pair of fishing boots.

The other member who has spoken, the member for Delta—Richmond East, is a fisherman, so if we are going to take someone's observations on a bill like

this, with the implications it might have for people involved in the fishery, I ask, who would we rather take advice from? Two lawyers who never caught a fish in their lives, or a person--I am sorry, the Minister of Fisheries and Oceans caught a trout one time, he told me--who is a full time fisherman who knows the ins and outs and the implications of legislation?

It is also very interesting to know who has been contacting members in recent days expressing concerns about this legislation. It was not members of the committee and not lawyers, but people involved directly in the fishery.

I am going to leave a lot of the technical parts of the bill to the other 17 or so speakers we have coming up after I finish. I want to refer to some of the comments made by the minister because he raised some issues or topics in his speech that certainly need to be discussed in this place.

The minister talks about conservation. He says that without passing this piece of legislation we could have problems with conservation. I hate to wake the minister up, but we have already major problems with conservation. We have problems with conservation all across the country. We have major problems in British Columbia. All we have to do is look at any report coming out on what happened on the Fraser River in recent years, particularly this year. A number of pointed reports talk blatantly about conservation practices or the lack thereof.

We can look at the east coast and the groundfish, which was once so abundant that we could catch it in a basket. In recent years, we have seen towns all around the rural areas crumbling in Newfoundland and Labrador and Nova Scotia, places whose very existence was because of the fishery, crumbling simply because that resource is no longer there, because we did not conserve the resource as we should.

Who is responsible for the fishery in this country? I have asked that question of at least two, maybe three and probably all four ministers I have seen since I have been here. Let us remember that it was only last week, on May 30, that I celebrated my fifth anniversary in the House. I have been here only five years and I have already seen four ministers of fisheries and oceans. One wonders about it. I will not let it put any colour at all on the ministers because I consider them friends of mine. I am sure they are very good people and I get along very well with the present minister.

However, one wonders how much any minister can do when he, or maybe eventually she, will have a year or less in a department as broad as the Department of Fisheries and Oceans. Therefore, a lot of what goes on falls into the hands of bureaucrats. This was one of the problems raised by my colleague: the concern that bureaucrats will now control who has a licence, they will control the terms of these licences and they will control who can be sent to jail for up to two years less a day because of any offence in relation to the regulations we are talking about.

Coming back to the conservation aspect, one of the problems we have in conservation is that we have absolutely no enforcement. The department mouths platitudes about conservation, but in order to conserve we need to have firm and fair regulations, which we can argue we may or may not have, but it is the enforcement of the regulations that is so important.

This is what the minister and the member from Ontario talk about: that we need to have control to be able to enforce the regulations. What about all the other regulations we have that we have not enforced? Why are our stocks at rock bottom? Simply because of the cuts that have been made by the department, the poor decisions that have been made and the loopholes that exist. It goes on and on.

If we are going to talk about conservation because we now have a problem at hand and we are panicking about how to solve it--and I assure the minister that there is a problem, as he will find out as the day progresses--why are we not thinking about the big picture of conservation and about the total fishery in this country?

He also talks about enforcement. I mentioned that. How can we expect to protect the resource if we have no enforcement? People turn a blind eye to what goes on in our salmon rivers. On many other rivers, we have seen such a large cut in the number of protection officers that people can do whatever they want. I guess it is human nature that if we can get away with something, we will do it. If it swims, catch it, and if it flies, shoot it: that is the feeling many people have. They do not worry about conserving, but that is what the department is supposed to do.

Then we have the abuses on the offshore off the Atlantic coast, whereby we send out our boats with solid men and women dedicated to the cause, to the department, whether they be members of the Coast Guard or the Department of Fisheries and Oceans patrol boats. They go out there and find, time after time,

foreign boats blatantly abusing our resource by catching fish they are not supposed to catch, using gear they are not supposed to use and fishing where they are not supposed to fish. All our people can do is go aboard, sometimes to be kicked off, and issue citations.

A citation, as I have said over and over, is similar to a warning ticket on the highway, whereby all that can be done is give out a warning ticket, with no fines and no imprisonment. Nothing will happen. The next day the person can speed by the checkpoint again and pick up another warning ticket. Those boats throw their citations overboard, go home, unload and come back to fish again and abuse the resources, and we cannot do a darn thing about it.

Therefore, when we are talking about conservation and protection we had better look very closely at what we are doing when we have powers to do those things. The minister says we need powers in the act to be able to deal with this issue. What about the powers we have that we are not using and have not used over the years?

What about the bill itself? What does it really do? As I say, I will leave the technicalities to my colleagues who will speak after me, but I want to put on the record the section pertaining to the concerns expressed by the Ontario government and the minister from Ontario. What will happen if the regulation is revoked? That was basically the question. Is this fishery in danger? To listen to the minister and the minister from Ontario, if this regulation is revoked, we lose total control of our fishery. Everybody will be out there catching, poaching and whatever, and we will not be able to do a thing to control it. That is the height of nonsense.

The Standing Joint Committee for the Scrutiny of Regulations included in its report a letter from the Minister of Natural Resources from the province of Ontario. It expressed concern about subsection 36(2) of the regulations being revoked and concluded as follows.

In closing, the Committee wishes to briefly address the statement by the Ontario Minister of Natural Resources that:

Terms and conditions [of licences] are currently the only mechanisms by which Ontario can establish allowable quota, areas where fishing can occur, designates who can take fish under a licence, reporting for commercial fishing licences.

To the extent this comment suggests that disallowance of section 36(2) would impair the ability to impose terms and conditions of licences, it does not reflect a clear understanding of the nature of section 36(2).

These are not my words or the words of the member for Delta—Richmond East, who will again elaborate on this. We are not the ones making the regulations and we are not the ones saying this. It has been said by the scrutiny of regulations committee. These are the words of the committee.

The scrutiny of regulations committee is basically saying that the Ontario Minister of Natural Resources does not have a clear understanding of the section and his interpretation is wrong. It states:

Disallowance of that section may change the manner of enforcing compliance with terms and conditions of licences, but would certainly not affect in any way the ability to impose such terms and conditions.

Consequently, the concern about not being able to enforce regulations or protect the resource is not valid. The committee makes that quite clear. The committee goes on to say:

In the same letter, the Minister goes so far as to suggest that the disallowance of section 36(2) would “threaten the sustainability of our fisheries resources”.

The committee states:

Whether or not section 36(2) remains in the Regulations, the authority to issue licences and to impose terms and conditions on the licence would remain unimpaired, as would the ability to enforce observance of these terms and conditions. The imposition of a fine or a jail term for breach of a licence condition, as opposed to suspending or cancelling the same licence, has nothing to do with the sustainability of the fishery resource.

While your Committee understands that the federal and provincial Ministers favour the enforcement of terms and conditions of licences through fines and imprisonment rather than licence suspensions or

cancellations, the Committee would be remiss in its statutory responsibility if it allowed this policy preference to override the principle that the Executive may not create offences punishable by criminal sanctions without clear authority granted by Parliament. It is the responsibility of the Executive to ask the Houses for that authority.

All the committee is saying is that the authority to issue fines or to bring on imprisonment has to be, of course, in the hands of the minister or the minister's bureaucrats, and that in itself is a very dangerous thing.

Really, the justification that is being used by the minister and the members on that side who have spoken so far certainly does not jibe at all with what the scrutiny of regulations committee members are saying, nor with the reality of the legislation.

Again, we have talked about the conditions around licences. Here we are in this House disputing perhaps what the Standing Joint Committee for the Scrutiny of Regulations is saying, backing up what a minister from Ontario was saying even though the committee says he is off base on his interpretation of the regulations, but we are not at all concerned about other conditions of licences.

I say to the minister, we have across the country a fishery where, in order to participate, we have to be a holder of a valid licence. That licence can only be given by the minister and can only be given to an individual who is fishing whatever resource it might be. That licence cannot be given to a friend, a sister or a brother, or even passed on, as it used to be, to members of one's family without the direction and the okay of the minister. I have no argument with that.

The problem is, of course, that many of the people who are fishing today have a licence, are supposed to be the owner off the boat on which they are fishing and supposed to have control of what they are doing, are there in name only because the fishery has been taken over by people who can afford to buy licences. Instead of the fellow down the road, who fished all his life, being able to walk up and pay his \$100 to get a licence, a licence now, depending on what we are fishing, whether it be lobster, shrimp, crab or lucrative resources like that, costs anywhere from \$100,000 to over \$1 million. The average fisherman certainly cannot afford to buy such licences.

We have a whole new, under the table, set of dealings operating which gives control of the fishery to, first, industry in many cases where we have the owners, the processors, buying boats, buying licences and having some fisherman sign his name as if he were the real owner when he has no ownership and no control because of all kinds of trust agreements under the table.

We want to talk about conditions around licences. These are the issues with which the minister should concern himself because we are placing the control of the fishery into the hands of very few people and we are taking people who earned a living for years from the fishery out of the industry entirely.

Years ago, because of a lack of technology and because of the type of gear we used, many of our fishing crews were made up of several individuals, from a cod trap where there were five or six people because of the size and the weight, in order to be able to haul it, to operating some of our larger boats on the west coast, our seiner being is one.

Technology changed that to some degree but what changed it more than anything else was the change in the fishery. Instead of having all of these people now on the east coast fishing cod, most of them are fishing crab. In order to fish crab, one does not need five or six in his small boat any more. The owner needs himself and somebody to steer the boat, which, quite often, is his wife or somebody from the family, so whole crews are being wiped out and displaced.

Even though they fished all their lives side by side with the enterprise owner, question mark, these people are being told they are no longer equal. Only the enterprise owners can have a core licence to operate and they can go look for a job as they always have with them.

Of course, with the change in fishery there are no longer any jobs. In some cases we have had brothers who fished together all their lives in the same boat, using the same gear and sharing the same expenses but somewhere along the line the boat was licensed in the name of one of them rather than the other. The person who now owns the boat is the enterprise owner and he can get a core licence because he has his own boat and he had it registered. The other person is told that he cannot have a core licence because he does not own an enterprise even though he fished all his life in the same boat with his brother.

I do not envy the minister one bit. I am not saying this in a critical sense to the minister because he inherited this mess but it is getting worse and trying to

deal with it is a major chore. However it has to be dealt with because too many people who have lived all their lives depending on the fishery are being pushed aside and the people benefiting from the fishery resource are the ones sitting in a condominium, quite often in Florida, with their feet up on the table, drinking pina coladas and calling back home to see how much crab they caught today and how much money went into their bank account. The crew member goes home with his minuscule cheque wondering if he will get 12 weeks so he can collect unemployment insurance while the owner is enjoying himself.

I am not exaggerating here. I say to the minister, we have a minor problem here, not a major one, that can be dealt with by leaving it alone, but let us deal with the big issues because we have lots of them.

Hon. Dominic LeBlanc (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I listened carefully to my colleague from St. John's South—Mount Pearl who is obviously very knowledgeable about the fishery. I was on the fisheries committee with him for a period of time and he has a sincere interest in the subject matter. He has a great knowledge of the fishery obviously from his own province of Newfoundland and Labrador.

With respect to this issue, I believe the member for St. John's South—Mount Pearl made some comments about receiving some calls or input from stakeholders. Many of my colleagues on this side of the House have also heard from stakeholders in the province of Ontario who are directly affected by this situation. The calls or the interventions we are getting are very much to pass the legislation and to pass it quickly. It is in the interest of a very important fishery in Ontario that this be done forthwith.

I wonder if the member, when he heard from stakeholders or members of the public or the industry, heard something different with respect to this important measure for the province of Ontario.

Mr. Loyola Hearn: Madam Speaker, I thank the member for getting the name of my riding correct. The last time he referred to me in the House he called me the member for St. John's South--Pearl Harbour. I know it can be pretty hot at times in St. John's South—Mount Pearl but I have not had to duck any bombs yet.

The member raises a concern about the input from people in Ontario who have expressed a concern with this regulation. I say that maybe he should call home and ask the fishermen in Prince Edward Island what they think about giving the minister the power and the control and, worse still, giving the parliamentary secretary the power to throw them in jail if they do not comply with licences.

I say to the member that I can understand why there is some concern in Ontario about this regulation. It is simply because the Minister of Fisheries has raised the concern thinking that if this is not corrected he will lose complete control over the fishery and it will be unmanageable.

The minister approached the scrutiny of regulations committee with that concern and it is based on that concern that the minister and the department is acting. However the scrutiny of regulations committee said that this concern was not valid, that this would not happen. The same powers to conserve will still be there.

I say to the member that maybe we should look at this in the big picture. Sometimes in order to solve a problem we come up with a mechanism to deal with that but we are creating a bigger problem by doing so.

I have no intention of trying to obstruct my good friend the minister from doing his work. What we are really trying to do here is to keep the minister from getting into greater trouble by changing regulations that will open up the floodgates and give him an even bigger headache than he has at present.

Mr. Peter Van Loan (York—Simcoe, CPC): Madam Speaker, I listened with great interest to the comments of the member for St. John's South—Mount Pearl. I was intrigued to hear that members of the government are considering that their colleague in the provincial government in Ontario is just not quite up to the job. They do not share his views.

I listened as one from Ontario, from a part where fishing is not a great industry, but I have followed the issue in the national media. I know it was many years ago that another member of the government from Newfoundland was in New York showing the people the boats and the nets that were being used by the foreign fishers who were breaking the rules. He said that the

government would act and solve the problems so that the fishery could be saved.

For people, such as myself, who were observing from afar, we were sort of under the impression that all these problems had been solved but, apparently, that is not the case. There continue to be real problems in the management of the fishery. This is after the government has been saying for 12 years now that it had solved the problems, but they have not been solved.

Perhaps the member could tell us how it is that government policies have not allowed those problems to be solved?

Mr. Loyola Hearn: Madam Speaker, first, this is not a west coast or an Atlantic coast gang up on Ontario. This is just an issue that happens to be raised by the minister for Ontario about regulations that apply to Ontario.

Many of the issues we dealt with in the fisheries committee, such as the invasive species, concerns about aquaculture and certainly the Rouge River problems, we also dealt with many problems specifically relating to Ontario where the members of the committee worked very hard and diligently to draw attention to the valid concerns of the people of Ontario.

In relation to the efforts in the past by a former minister, he mentioned the arrest of the Estai by then minister Brian Tobin, who was known as the "Tobinator" because he went out there and had the intestinal fortitude to arrest the boat and bring it into port.

At the time, however, Mr. Tobin was eyeing the prime ministership and used it to his best advantage by going to New York, hanging up a net, holding up a baby turbot and then saying, "Here is what these terrible people are doing". As a government, we proceeded to give them back their boat and pay all their expenses. I believe we were sued for even bringing them into port but to save face we negotiated to give them extra turbot. However we were the big losers. Publicity-wise, the minister gained some but the country and the people of the country were the big losers.

That is how the Liberals operate. Unfortunately, there is a lot of talk and a lot of hype but very little substance and we are seeing the same thing here today.

Hon. Shawn Murphy (Parliamentary Secretary to the Minister of Fisheries and Oceans, Lib.): Madam Speaker, as the member knows, this is a matter where a regulation has been disallowed. It is very important for the Ontario fishing industry. It is basically the lynchpin of its regulatory authority. It is certainly an item that behooves this House to deal with as expeditiously as possible.

In responding to the question from the member for Beauséjour, and in even the last question that was asked, the member for St. John's South--Mount Pearl talked about fisheries on the east coast and we have had talks about fisheries in the Fraser River, but the matter that is before the House is a specific issue dealing with commercial fisheries here in the province of Ontario.

An hon. member: That is not true.

Hon. Shawn Murphy: That is true.

I want to re-ask the question that was asked of him previously. Instead of talking about the fisheries off the northern coast of Newfoundland and about the fisheries in the Fraser River, has the member, as the official opposition critic for Fisheries and Oceans, contacted the commercial fishing industry in Ontario? I assume he has asked for its input. I would assume that this industry is very concerned about this matter and that it wants to move on this legislation as soon as possible. Would it not be the better course to speak to the fishing industry here in Ontario and listen to it and respond to its requests?

Mr. Loyola Hearn: Madam Speaker, let me say to the member that this regulation does not just apply to the people of Ontario. This regulation applies to everybody across Canada who is directly involved in the fishing industry. It relates to regulations that we are concerned about in Ontario.

Did we speak to them? No, we did not have hearings with the fishermen from Ontario. Why? It was only a couple of days ago this two clause bill was sprung in the House, with no briefing, no background, nothing. We had to persuade the minister to give us a briefing on Thursday to tell us what this was about and he tried to ram it through the House without any consultation whatsoever.

However I would say to the member that in light of the concerns they have in Charlottetown and in P.E.I., especially with herring fish, maybe he should talk to some of his own people so that we could solve some of these problems too.

Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia, BQ): Madam Speaker, the riding's name may not be Pearl Harbor, as my friend from Newfoundland pointed out earlier, but as far as I am concerned today's debate is a total aberration.

I was listening to my colleague from Scarborough—Rouge River, who said that we had no choice but to pass the bill in question, because acting otherwise might jeopardize Ontario's commercial fishery. What is surprising to me in such a statement is that we are not talking about a new problem; it has been around for years. The Department of Fisheries and Oceans had the opportunity to review the legislation but chose not to.

To put all this into context, I will remind the House that eight years ago, in 1997, the Standing Joint Committee for the Scrutiny of Regulations criticized the Department of Fisheries and Oceans for making regulations which it described as *ultra vires*. In other words, the department was making regulations without being expressly permitted to do so by law. The committee, with which some members are very familiar, denounced the Aboriginal Communal Fishing Licences Regulations, among others.

We can go on with the historical overview. Bill C-43 was introduced during the second session of the 37th Parliament. This goes to show that the problem is not new. The bill was to amend the legislation so that the Aboriginal Communal Fishing Licences Regulations could be implemented. Once again, the committee reacted, and gave its opinion: it was opposed. The Standing Joint Committee for the Scrutiny of Regulations did notice that Bill C-43 was fixing the problem, but it denounced its subsection 10(1), which has now made its way into the current Bill C-52.

In my opinion, this is a dispute that has been going on for many years and that cannot be resolved with Bill C-52. We will recall that Bill C-43, the predecessor of Bill C-52, was never passed. Now, Bill C-52 only retains subsection 10(1), precisely the subsection challenged by the Standing Joint Committee for the Scrutiny of Regulations. I cannot conceive how one can put such a bill before the House today and expect the House to adopt it.

What is the aim of Bill C-52? It has only one, which bears mentioning to all the fishers, be they on the west coast, east coast or in Ontario. It aims to expressly provide that a breach of a term or condition of a permission referred to in section 4 of the act, or of a lease or licence issued under the act, particularly for the purposes of stocking or artificial breeding or for scientific purposes, is an offence. As if scientific research were an offence under the legislation or the regulations. This bill contains a very significant incongruity, in our opinion.

Under section 78 of the *Fisheries Act*, only violations of this act or the regulations constitute an offence liable to a fine or imprisonment. This is extremely important. This is why we clearly cannot support this bill. Violations of the legislation or its regulations constitute an offence solely under section 78 of the *Fisheries Act*.

However, the conditions of a permission are not statutory provisions or regulations, and the violation of such a condition does not constitute a violation of the act or its regulations within the meaning of section 78 of the act itself.

So, the breach of the terms and conditions of permissions, leases or licences is governed by section 9 of the act, which provides that the minister may suspend or cancel a licence, lease, etc. That section alone has the effect of penalizing a citizen. This is extremely important, because it concerns all fishers. Indeed, the bill will not only apply to residents of Ontario, as mentioned by my colleagues earlier, but to all fishers from coast to coast.

The only effect of this bill will be to deprive a citizen of his freedom, on the grounds that he may not have complied with a requirement imposed by a public official exercising an administrative power. As our colleagues pointed out earlier, it is extremely important to understand that only the House of Commons has the authority to pass legislation and to impose fines or prison terms. This power cannot be given to a public official from the administrative sector, but this is precisely what Bill C-52 does.

The Bloc Québécois does not agree with the bill before us.

Earlier, the hon. member for Scarborough—Rouge River told us that the department had some problems amending the *Fisheries Act*. For various reasons and motives the department had not yet been able to propose changes to the *Fisheries Act*. I have news for the hon. member. The *Fisheries Act* has

been in existence for 137 years. During that period, the Department of Fisheries and Oceans had ample time to sit down and propose gradual changes to the act, so as to adapt it to today's world.

I do not buy the claim that, over a period of 137 years, the department did not have time to look at the act and see what amendments should be made. To make such a statement is really not being very serious. Moreover, they are coming up with Bill C-52 at the very last minute. Yet, we have known since 1997 about the problem, about the fact that the act would have to be amended and adapted to modern day fishing conditions.

At the present time, of course, the *Fisheries Act* can indeed cause problems. Still, as several of my colleagues have just pointed out, the legislation is not what has ended us up in major disasters, nor what has done away with our resources. Nor is it the act that led us to one moratorium in the east in the early 1990s and a second in the early 2000s. It is not the *Fisheries Act* that has brought the situation to where it is. It is poor resource management that has deprived us of the resource.

Precautionary principles should have been applied to managing the resource. The ability to do so was there and the means were there. If these precautionary principles had been applied, we would still have an abundant resource.

We can talk about what is going on at present. The standing committee has just tabled its umpteenth report on the Fraser River salmon. Once again we realize that Fisheries and Oceans has learned nothing from the past. Hon. members will recall that, back in 1994, there was a similar crisis to last year's. This generated several reports, particularly the one by Mr. Fraser, former Minister of Fisheries and Oceans, and former Speaker of this House. Having stated the problem, he proposed a broad range of recommendations which made it possible to remedy the situation.

It is as if the department has not learned or retained anything of what it was told in the past, everything submitted to it by the various people whom DFO itself commissioned to carry out studies and make the necessary checks. It has not implemented the regulations. The way the resource has been managed has nothing to do with Bill C-52. Management of the resource has been poorly planned and poorly handled by Fisheries and Oceans, and by the Government of Canada in general, ever since Confederation.

In recent years, fishing practices have clearly changed. The issues of fishing have changed and, overall, everything has changed. The pressure on the resource was therefore greater. However, they could manage that pressure and adapt as time went on to new fishing techniques and practices.

As regards the *Fisheries Act*, I read, among other things, a report released in April 2004 by Donald McRae and Peter H. Pearse. It mentioned of course that the *Fisheries Act* was out of date and that it should be amended. However, it is not by amending it piecemeal, in tiny bits, from time to time, that they will resolve the problem. On the contrary, they run the risk of creating a problem bigger than the one they are trying to solve.

Indeed, if tomorrow morning the public service were given almost carte blanche power—almost the power to imprison—Parliament would be deprived of one of its main functions, that of passing legislation making it possible to impose penalties.

I note that, despite what our colleagues in government have told us, the Standing Joint Committee for the Scrutiny of Regulations never agreed to subclause 10(1), which the government is trying to impose today under Bill C-52. Never did the committee agree to the clause moving forward through a bill. There was never any question of that. The committee has always withheld its approval. A notice of disallowance is in fact before the House, which should be examined in the coming days.

Obviously, we are going to oppose Bill C-52 for the reasons I have just cited.

We want a total reform of the *Fisheries Act*. However, an overhaul of the *Fisheries Act* does not mean the government will better manage resources. It would take real political will to protect them. The primary function of the Department of Fisheries and Oceans is, in fact, to protect and safeguard resources for now and for the future, in other words, for those fishing today and for those who would like to fish in the future.

Mr. John Cummins (Delta—Richmond East, CPC): Madam Speaker, I want to thank my hon. friend for his accurate depiction of just what Bill C-52 is all about and also for his clear understanding of the fishery.

Over the past couple of years the member has travelled to British Columbia with the committee. He made a valuable contribution to the discussion on the

fishery on the Fraser River and the government's inadequacies in that regard. The information that he received on that trip is evident in his comments today.

The issue that bothers me and one which I think bothers the member is the whole notion in Bill C-52 of transferring Parliament's authority to make laws, which can be enforced by fine or jail time, to a fisheries department bureaucrat. I find that particularly odious. I find it so because the individual subject to the fines would not have the ability to challenge the particular law in court because a bureaucrat would have the authority to make the law.

If a fisherman was charged under a law flowing out of Bill C-52, the courts would not provide any remedy. The scrutiny of regulations committee would certainly not be able to find any remedy because it would have been pushed aside. Whether or not that regulation would reflect the will of the *Fisheries Act* would not matter and the scrutiny of regulations committee would not be able to act because there would be no room for it in Bill C-52. If fishermen were to come to members of Parliament, there is nothing they could do short of changing the act to remedy their difficulties.

I want to ask the member if the view that I have expressed on Bill C-52 accurately depicts what he fears if the bill goes ahead? The *Fisheries Act*, as old as it is, holds the minister accountable and allows the regulations to pass scrutiny under the joint committee for the scrutiny of regulations. It offers protection to fishermen. During my time in this place, the government has brought forward two bills to renew the *Fisheries Act* and neither one of them afforded that sort of protection to fishermen. I wonder if my friend shares those concerns.

Mr. Jean-Yves Roy: Madam Speaker, I want to respond to my colleague's question. I have the same type of concern. I think he understood my speech very well. He has made similar comments previously.

In my view, we cannot pass Bill C-52 because we would be giving power to public servants that should be reserved for the House of Commons alone. We cannot give public servants the power to send people to prison. Bill C-52 goes that far. If someone commits an offence under Bill C-52 or one of its regulations, it is the public servant who has the authority to assign the penalty, and not the House of Commons.

It is important to specify that any criminal penalty must be passed by the House of Commons. Here, that is not the case. This is a slippery slope, which seems extremely dangerous to me.

If we presented this to the fishers on the west coast—my colleague talked about this and I thank him for it; I enjoyed my time there—or the east coast, or even in Ontario, they would say this makes no sense. The day they understand the meaning of Bill C-52, people will say it is nonsense. They would not be able to defend themselves in court because of the arbitrary power of a public servant. This is extremely dangerous. I think my colleague understood that very well.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Madam Speaker, some of my colleagues from the Conservatives and the Bloc have raised some important issues regarding Bill C-52. We are hearing that there is a need to act expeditiously; however, this bill it seems has had little thought. We have heard that there are some concerns that if this bill is not passed that it is going to seriously jeopardize the management of the fisheries in Ontario.

In fact, some of the literature that has come out of the department talks about the fact that the need for this bill is a key part of proper management and control of the fishery as well as conservation and protection of fish.

It seems to me that if we are that concerned about protection and management of the fisheries, and that if we are prepared to act in such a rapid fashion over an issue that is impacting on Ontario fishers, that surely after years and years of concern that has being raised in other fisheries, that we could be acting as expeditiously as possible.

Part of the challenge is that many of us do not have faith in what the Department of Fisheries and Oceans, more commonly referred to as DFO, is doing with the management and protection of fisheries that many Canadians are asking for.

I come from the west coast constituency of Nanaimo—Cowichan and we have a longstanding history around management of fisheries. This is not the first time that we have raised issues around the health and safety of our fisheries. I need only to go back to the 2004 report of the Commissioner of the Environment and Sustainable Development. I will read a couple of points out

of that report because there have been years of concerns raised and still we do not have policies in place. The report stated:

Overall, we are not satisfied with the progress made by Fisheries and Oceans Canada in responding to the recommendations we made in the three previous audits in 1997, 1999 and 2000. While many stocks are abundant, some Atlantic and Pacific salmon stocks are in trouble. We continue to identify significant gaps in managing risks. - The department has not finalized the Wild Salmon Policy, which would set out clear objectives and guiding principles. The policy would also bring together biological, economic and social factors-for fisheries and resource management, habitat protection and salmon enhancement. - There are shortcomings in information on salmon stocks and habitat and scientific knowledge on the potential environmental effects of salmon aquaculture and aquatic ecosystems. - There are weaknesses in regulatory approvals, enforcement and monitoring of salmon aquacultural operations. This includes approving aquaculture site applications, assessing cumulative effects and monitoring salmon aquaculture operations to prevent harmful destruction of habitats. - There has been inadequate co-ordination between federal and provincial governments in managing fish habitat, undertaking research, approving aquaculture site applications, and sharing information.

The report goes on to talk about the three previous audits regarding the salmon stocks on the Pacific coast indicating that they were under stress. In 1999 they found that Pacific salmon fisheries were in trouble, that the long term sustainability of the fisheries was at risk because of overfishing, habitat loss and other factors.

I only have to point back to previous stories that came from the west coast. It is legend, but the Cowichan elders in my riding talk about the fact that they used to be able to walk across the backs of the salmon to get from one side of the river to the other. They talk about the fact that fish were so plentiful that they would jump into the net. Today we are in serious trouble. Today we are lucky if we can even see a fish on the Cowichan River

Recently under Canada Reads, one of the books was called Rockbound. It is a wonderful story of Newfoundland at the beginning of the last century. The story talks about the very hard life that fishers have, but it also talks about how plentiful fish were at that point.

The minister spoke about the need for the modernization of the *Fisheries Act* and a comprehensive review and reform. Yet we continue to wait for this to happen. We have heard some of my colleagues across the floor say that we have had a *Fisheries Act* in place for 137 years and that act has failed to keep pace with the changes happening in Canada.

I want to talk about the current DFO wild salmon policy. At the time the commissioner for sustainability issued her report, the wild salmon policy was still to come. In December 2004 the wild salmon policy was issued for review. It has been in the public domain for a number of months and in April a new draft was to be available. Apparently it is available. One cannot get it online. One must send an email to get a copy of the current wild salmon policy.

My understanding, although not really clear, is that the next stage is the development of operational guidelines. When I look at the Fisheries and Oceans Canada website and its information sheet from February 15, it talks about what is new in the policy. I thought this was a really interesting statement. It talks about the state of disarray in the ministry. It states:

The Wild Salmon Policy proposes a fundamental transformation in the way Pacific salmon, their habitats, and dependent ecosystems are managed.

Many of us would say that it is about time and ask how many more times we need to hear that. It goes on to state:

The WSP is a commitment to restore and maintain biodiversity in Pacific salmon (including their habitats and related ecosystems). The policy formalizes a gradual evolution in salmon management that has happened over the last 20 years. While management in the past was focused on the major stocks and fisheries, today attention has turned to the protection of biodiversity and a broader array of benefits from Pacific salmon.

That is great. How many salmon have been saved by this gradual evolution? What we have seen with this gradual evolution of policy is a Pacific wild salmon stock that is under ever increasing threat. We do not want a gradual evolution policy. We want a policy that can be implemented immediately and one that is actually going to do something about enhancing the health and vitality of our salmon stocks.

The salmon stocks are absolutely critical, and I am talking wild salmon, to the health of British Columbia fisheries. I am speaking more specifically, because that is where I come from, around the coastal communities.

The Pacific Fisheries Resource Conservation Council talked about the fact that the fishery is not just about economics. It is also about social, cultural and environmental issues. In its May 5 release it stated:

The federal government's capacity to conserve and scientifically manage the Pacific salmon fisheries continues to be eroded, according to the annual report of the Pacific Fisheries Resource Conservation Council (PFRCC).

The report, issued today, notes that Fisheries & Oceans Canada has been focused on dealing with budget cuts when it should be directing its attention towards managing this valuable resource. It questions the government's capacity to do an effective job in areas of enforcement, habitat protection and restoration, salmon enhancement, research and stock assessment, and also calls for the Department to open its management to public scrutiny about the effectiveness of its choices.

I would welcome more public scrutiny of how this department is managing our fisheries. This has been an ongoing saga. When we start looking at the value of the fisheries, we talk about the fact that the fishery stock has actually been contributing substantial amounts of money to the B.C. economy.

In a paper that was prepared in May 2004 by the T. Buck Suzuki Foundation, it talked about the value of the commercial fishery to British Columbia. This was a submission to the public review of the federal moratorium on offshore oil and gas in May 2004. In its executive summary, it stated:

The commercial fishing industry still generates revenues in excess of one-third of a billion dollars (\$358 million in 2002) and contributes \$170 million to BC's Gross Domestic Product. Between 10,000 to 15,000 people earn a living from fishing or working in fish processing plants, a variable number because of a variable fishery."

Much more is at stake, however, if one looks at the magnitude of the entire marine sector in B.C., including marine tourism, the sportsfishing industry and

aquaculture. According to a study by the Canadian Centre for Policy Alternatives, B.C. marine-based industries employ over 20,000 and contribute a total GDP over \$600 million and revenues far in excess of \$2 billion. The importance of the commercial fishery to smaller coastal communities and First Nations is far more significant than the simple economics would suggest, as in many cases, fishing is the major or one of the major job producers in many communities. Generations of First Nations people and non-native fishermen have relied on the fisheries for their livelihoods.

One only needs to look at communities like Sointula to see what is happening to some of our coastal communities. As the fisheries become increasingly threatened, and increasingly concentrated I might add, there has been much talk about the ITQs in terms of how it affects coastal communities, not only the fishers but also suppliers, the marine repair sector, and as this paper points out, tourism and sports fishing. It is very important that we have an integrated, comprehensive strategy that looks at the vitality of our fisheries.

I have spoken in the House in the past around community economic development. One of the underlying principles of community economic development is that we have local control over local resources. I have heard many of the fishers from the east coast say that it is the local fishers, not the big corporate, business fishers, who understand what is happening on the ground. When there is local control over local resources, we end up with communities that have an inherent interest in preserving that resource.

This is a vital part for which many fishers are asking. They are asking for a different look at the way communities are included in the conversations around these fisheries.

In 2002 the Pacific Salmon Foundation did an analysis on where money was going in fisheries. I do not have much hope that the situation has changed. It talked about the fact that \$44.5 million per annum had been cut back from salmon restoration programs by the government. It then goes on to do a detailed analysis.

However, the foundation also talks about the fact, as others have alluded, that fisheries is a very complex field to manage. We not only have a very important federal government role in it, but we also have a provincial government role. It talks about the fact that although the federal government has responsibility for fisheries, salmon and salmon habitat, most of the impact

that affect salmon and salmon habitat are the responsibility of the provincial government. It talks about hydro generation, agriculture, mining, forestry, water and urban development. It talks about how critical it is that both levels of government be involved in coming up with solutions, which leads me back to the current bill.

On the one hand we hear that this is an absolutely essential piece to protect Ontario fishers. On the other hand there are concerns about how this legislation would affect fishing communities from coast to coast to coast. Here we have an example where we have one provincial government at the table with one small piece of a bill, yet we have, as far as I can see, no consideration of how other provincial governments may be impacted by the legislation.

The bill is being touted as a technical piece of housekeeping that is required to clean up some anomalies in the regulations and that it is an important piece for us to look at so we do not impact Ontario fishers. I would encourage the government to move forward on looking at the overall fisheries in Canada. Instead of just talking about the need to modernize the act and to have comprehensive reform, we get on with doing it before the west coast ends up in the same position as the east coast, with a cod moratorium that does not look like it is going to be lifted in any kind of timeframe. We do not want to see the wild salmon stocks in British Columbia end up in that same position.

Those salmon stocks are not only important for the culture of first nations, the economy and environment, they are also an integral part of our entire ecosystem. Many of our other critters depend upon fish, whether they grizzly bears or whatever. It is important that we ensure we are not doing something unintended with legislation. It is important that we step back and take a look at the overall fisheries and get on with ensuring that we have a fishery for our children and our grandchildren.

Mr. John Cummins (Delta—Richmond East, CPC): Madam Speaker, my friend opposite in her remarks said that she would welcome more public scrutiny into the fishery and I do not think anybody on this side of the House would disagree with that comment.

The issue today is whether Bill C-52 would allow more public scrutiny of the *Fisheries Act*. That is the issue before us.

Let me just lay the terms out of what Bill C-52 means to me and then I would like to know if she concurs with my assessment.

Bill C-52 takes away the regulatory authority, the scrutiny that Parliament enjoys over regulations that are put forward by the government, and gives that regulatory making ability to a public servant, a civil servant or a bureaucrat. In doing that, it removes the oversight of the regulatory making procedures from Parliament. Currently under the *Fisheries Act* if a regulation is put in place, that regulation will be examined by the scrutiny or regulations committee, the joint committee of the Senate and House of Commons, to determine if that regulation fulfills the intention that Parliament declared in the act.

If the bureaucrat is attaching conditions to a licence, that oversight ability of the joint committee is removed and there is less public scrutiny, certainly less scrutiny by the House, on that regulation authority making by the bureaucrat. That is my take on it. Is that what the member opposite is saying.

Ms. Jean Crowder: Madam Speaker, what the member highlights is the fact that we have a bill that has been presented to the House without a lot of forethought. It appears there is a great deal of confusion about what the actual impact would be on the ability of the House to continue to have oversight.

As the member pointed out, it is absolutely essential that the House and the committee do not lose their ability to ensure our fishers and our industry are being well served and well protected. In terms of more public scrutiny, we have observed in any number of areas that what we need is more openness and transparency in legislation and in the way departments operate, not less. Anything that will contribute to less oversight by the House and less transparency before the House is not something I would support.

I come back to the need for us to have an integrated strategy. We one-off things with a bill like this, I am very concerned about what the longer term impact would be and what it all means in terms of the health of our fisheries.

Mr. John Cummins: Madam Speaker, the member and I are singing from the same song sheet on this issue. The issue is that under the *Fisheries Act* the government has the ability to put in place a regulation.

If we look at section 184 of Bill C-62, the *Fisheries Act*, introduced in Parliament in 1996, it talks about offences under the act to which section 181 applies and the manner in which those offences may be described in tickets. It talks about classes of offences referred to in paragraph (d) and the amount of the fine for each class.

Basically, section 184 details sections under the act or it gives an overview of the regulations under the act, the government's ability to respond to violations and the manner in which it will respond to violations. As we indicated earlier, the joint committee provides the scrutiny to ensure that those regulations meet with the intentions of Parliament.

Bill C-52 gives that regulation making authority, although it talks about licensed conditions, to bureaucrats. It gives those bureaucrats the unfettered ability to put in place their own form of regulation to govern the fishery, to give access to quotas to friends of the government and to discriminate between groups of fishermen.

The question then becomes what recourse do fishermen have to challenge these conditions that have been attached to their licence? They will not be able to challenge offensive regulations in court because Parliament will have given bureaucrats the authority to make those regulations. The fishermen will not have the ability to come to us as members of Parliament and ask of how we can help them on an issue because Parliament will have given the bureaucrats the authority to act. In order to challenge a bureaucrat, we would have to change the law.

That is the problem with this legislation. It puts the fishermen in a very vulnerable position. It gives the bureaucrats the authority that one might expect the minister to have, but even the minister's authority is held in check by Parliament.

These bureaucrats will have more authority than Parliament even dreamt of giving the fisheries minister. That is why this bill is so offensive.

Ms. Jean Crowder: Madam Speaker, we have touched on this. When we are looking at regulation that comes outside the scope of parliamentary scrutiny, then we are looking at something we do not want to see happen.

Again, many do not have the confidence in DFO because of the past track record in terms of managing the fishery and not fulfilling a mandate in terms of protection and conservation of the species. The more control that ends up in the bureaucracy, the less comfortable people will feel around the fact that the fishery will be protected.

If there is not a way for Parliament to have oversight on this, it will be very much a challenge for us to feel comfortable with that.

Mr. John Cummins (Delta—Richmond East, CPC): Madam Speaker, one would have thought that members on the government side would have been eager to now stand in their allotted time and defend their bill, but apparently that is not the case. To be quite honest, I can certainly understand why the members opposite do not want to stand to defend this particular bill.

Let us look at the bill. Bill C-52 amends the *Fisheries Act* to “provide that a breach of a term or condition of a permission” granted under section 4 of the act, “or of a licence or lease” under the act is an offence. This amendment is meant to make it easier for the Department of Fisheries and Oceans to enforce the act, so the department says.

The issue here is that Bill C-52 was before this House as Bill C-33 in the third session of the 37th Parliament, and as Bill C-43, again in the 37th Parliament. Both of these bills died on the order paper. In a sense, it does not really take a whole of thought to understand why.

At the introduction of Bill C-52, the Minister of Fisheries and Oceans suggested that the bill comes about because the Senate and House of Commons Standing Joint Committee for the Scrutiny of Regulations tabled a disallowance report, and the government failed to respond to that disallowance report with substantive legislation.

There is a problem there. If we look at the backgrounder document that the government distributed to members of the opposition and others, we will see that it states that this bill adds a clause to the *Fisheries Act* requiring licence holders to obey conditions of their licence, effectively moving the regulation in question into the act and thereby obtaining permission from Parliament for such a requirement.

That particular phrase rather clouds the issue, because it does not really tell the story of what this bill would do. The government says it would like to have passed the bill in all its splendour this afternoon and alluded to the fact that it is “hurry up” and that if the bill is not passed the Ontario minister will be unable to manage the fishery.

It should be noted today that the scrutiny of regulations committee first advised the Department of Fisheries and Oceans in 2000 that the governing Ontario fisheries regulations were illegal, which means that five years ago the government was advised that these regulations were illegal.

The regulations governing the *Fisheries Act* and the act itself actually make up quite a good document. It is 137 years old, as some members opposite suggested today, and to be quite honest I think it is still quite a good bill. The bill itself makes very clear what the minister's powers are and it makes very clear what the minister's obligations are when it comes to protecting the resource.

On the offence side, sections 181 through to 184 make clear the procedures that government must follow if it is going to enforce the act, and I think those procedures are laid out in a very clear fashion for everyone to understand. The regulations that flow from that act are scrutinized by the joint committee of the Senate and the House of Commons to ensure that the regulations are in fact consistent with the obligations as set out in this particular act.

Therefore, I do not have a problem with the *Fisheries Act* and neither does the Senate and House of Commons Standing Joint Committee for the Scrutiny of Regulations, which makes it very clear that within the act itself the government has the authority to manage the fisheries.

If Bill C-52 is not passed today, it does not mean the end of the world, as the Ontario Minister of Natural Resources suggests. It simply means that perhaps a little more work is going to have to be done by the bureaucrats to put in place appropriate regulations to ensure that those regulations are in compliance with the *Fisheries Act* and meet the demands of the act. That should not be too difficult for government to do. In fact, that should be the obligation.

I would like to now turn the clock back a little. My friend from Winnipeg will probably remember this issue better than most. I am referring back to March 6, 1986, and a speech in the House by the Hon. Ray Hnatyshyn, who was the President of the Privy Council at that time and the Minister

Responsible for Regulatory Affairs. At that time he introduced in the House the Citizens' Code of Regulatory Fairness. He stated that it was a unique initiative based on the principle that Canadians are entitled to know in as much detail as possible exactly how government regulations are to carry out responsibilities. Citizens have a right to know the rules of the game and know that they will be fair.

That is what the Citizens' Code of Regulatory Fairness was all about. I will quote from the guiding principle of this regulatory policy. Principle No. 6 notes, "Regulation is legislation and, as such, will be brought more fully under the control of elected government representatives and subjected to more effective review by Parliament".

Principle No. 7 of the regulatory policy stated that "the public has an important role to play in the development of regulation and the government will increase public access to and participation in the regulatory process while simplifying procedures and restricting legalities to the minimum".

Is that not interesting? Back in 1986, almost 20 years ago, introduced in the House was a document which in fact I think speaks very clearly about what the government is not doing today and what it should be doing, the document being, of course, this citizens' code of regulatory fairness.

According to the policies and the guiding principles of this piece of legislation from 1986, it required public participation in the regulatory process and input from the public to ensure that the public fully understood the regulatory process that they were to be governed by and guided by, and that they had input. "Anything but" is the case today.

The code's purpose, as Mr. Hnatyshyn stated, was "to provide a high set of standards for ensuring regulatory fair play". He said, "The code also provides an explicit basis for judging the performance of regulators. In this way, the code is intended to regulate the regulators".

There is no regulation of the regulators in this particular bill. In fact, what the bill does is give the departmental bureaucrats, who visited upon the country the cod crisis of 1992 and who visited upon fisheries on the west coast the disaster of 2004, the ability to make regulations on the fly without public input and without the scrutiny of the Standing Joint Committee for the Scrutiny of Regulations. It gives them carte blanche to do what they want and to establish

regulations as they see fit without any scrutiny whatsoever. For me, that goes beyond the pale.

I do not want to give the minister the power to have bureaucrats create regulatory offences without some safeguards; I am not prepared to simply turn over to fisheries bureaucrats the ability to make regulations governing the fishery without the appropriate scrutiny. I think that is wrong and I think that for this place to allow this to go forward is just outrageous. It is beyond the pale that the government would bring in a bill of this sort.

The Citizens' Code of Regulatory Fairness addresses this issue as well in point 6 of the code. It states that “the rules, sanctions, processes and actions of regulatory authorities will be securely founded in law”.

If a bureaucrat can make regulations on the fly, where is the guarantee that those regulations would be securely founded in law? Where is it? Where is the scrutiny to see that in fact the regulations the bureaucrat is putting in place are regulations that were envisioned by this place when the *Fisheries Act* and its amendments were passed? It is not there.

Point 7 of the code states that “the government will ensure that officials responsible for developing, implementing or enforcing regulations are held accountable for their advice and actions”.

Accountable? When have we ever held officials in the Department of Fisheries and Oceans accountable? Can anybody name one official in the Department of Fisheries and Oceans who was held accountable during the cod collapse on the east coast or during what went on last year on the west coast? The crisis last year was about the fourth we have had since 1992 and nobody has ever been held to account.

In fact, let us look at one of the latest newspaper headlines: “Ottawa pays officials \$32-million in bonuses”. There is also a graph showing us that 223 of 237 executives at the fisheries and oceans department received bonuses totalling \$1.7 million. Those bonuses went to officials and executives of the Department of Fisheries and Oceans last year when those boys last year cost the economy of British Columbia probably \$70 or \$80 million, at a modest estimate, and maybe even as much as \$150 million, also a modest estimate, because of lost opportunities in the next cycle of the 2004 fishery. In other words, in 2008 the loss to the economy of British Columbia could total \$150 million, yet those guys received bonuses this year.

Where is the accountability? The Citizens' Code of Regulatory Fairness says that these bureaucrats should be held accountable. I do not see any accountability in the Department of Fisheries and Oceans, none whatsoever. What I do see with Bill C-52 is the transference of this regulation making authority from the minister or from this place to a bureaucrat, without any scrutiny whatsoever, none, zero.

Nobody is standing there saying that this particular licence condition does not meet the demands or the expectations of the act. It simply says that the bureaucrat can put in place a condition and nobody has any right to challenge it.

If the issue is brought to court, the court would simply acknowledge that Parliament put that regulation in place and it gave that bureaucrat the authority to make that particular condition that is attached to the licence and nobody can do anything about it. The court will simply acknowledge that the bureaucrat has the authority and it will do absolutely nothing to protect the fisherman who is hurt.

As I said to my colleague earlier, if a fisherman who is hurt by that particular piece of legislation comes to a member of Parliament, there is essentially nothing that we could do short of trying to obtain some change to the act to rein the authority of the bureaucrat, but nothing else could be done.

Not one member in this place should find any solace in this bill, nor should there be support for it. It is beyond the pale and my wildest imagination why anyone would want to give this authority to the bureaucrats who caused the destruction of the 2004 Fraser River sockeye run or who were directly responsible, in many ways, for failing to serve notice at the very least to government that there was a crisis in the cod fishery on the east coast before it was too late. Why would we want to give these bureaucrats authority to continue to act with licence? I do not know. I just plain do not understand it.

Bill C-52 would make it a criminal offence to break an unpublished secret law written by unaccountable bureaucrats.

Bill C-52 would put no limits on the nature and scope of the terms and conditions that can be imposed on fishermen.

Bill C-52 would put no limits on the penalty, the breach of every secret term or condition that is punishable by imprisonment. The penalty is not tailored to fit the crime.

Bill C-52 would remove the requirements to publish or make public the regulations.

There is no requirement in Bill C-52 that everyone in a fishery should face the same set of conditions. There is no requirement that every fisherman would face the same sets of terms and conditions to fish, so that the fishery then could be tailored and there could be different rules for different people.

Regulations under the *Fisheries Act* make those who write regulations accountable to Parliament as a whole and in particular the scrutiny for regulations committee, as well as the fisheries committee. In Bill C-52 neither the scrutiny for regulations committee nor the fisheries committee would ever see this new form of regulation. This is not a scheme of regulations that was ever intended by the *Fisheries Act*.

The *Fisheries Act* provides for open, public and accountable regulations. Bill C-52 would remove that. These amendments would undermine that scheme of open, public accountability that is built into the *Fisheries Act*. When regulations are created under the *Fisheries Act*, they are published prior to going into effect so that members of the public can comment on them.

That will not happen with these terms and conditions. When regulations are created under the *Fisheries Act*, a publicly available Regulatory Impact Statement is a legal requirement. There is no such requirement for a term or condition as proposed under Bill C-52.

Bill C-52 is simply a way for the Minister and the bureaucrats to regulate the fishery outside the requirements of the Citizen's Code of Regulatory Fairness. It would substitute the regulation of the fishery through public accountable regulations grounded in law and would substitute instead a scheme of regulations by unaccountable bureaucrats, all done behind closed doors.

Mr. Loyola Hearn (St. John's South—Mount Pearl, CPC): Madam Speaker, I hope the minister and his officials were listening when the member just spoke

because they would have received a much clearer understanding of the bill than we have seen from them today.

The bill itself is just a two clause bill, very short clauses in fact. The government would like us to believe that it is a minuscule bill with no problems and a slight change in regulations. We should rubber stamp it and send it on.

Let me ask my colleague, is it not a fact that the changes in these clauses not only affect the people of Ontario but people involved in the fishery right across the country? This is a major change which could have a very negative effect on everyone involved in every fishery in this country. That is my reading and from high authorities I am told that this is correct. That is not at all what we are hearing from the other side.

I would like the member's opinion on that. What effects will the changes in these regulations have on fishermen, for instance, in his area, a long way away from Ontario?

Mr. John Cummins (Delta—Richmond East, CPC): Madam Speaker, my friend is absolutely correct. The bill does not just affect the Ontario regulations. In fact, when we look at the wording in the bill, it talks about everyone acting under the authority of a permission referred to in section 4 or of a lease or licence issued under this act that would comply with its terms and conditions. The bill applies coast to coast to coast. This is not an Ontario bill.

I have spoken with commercial fishermen in Ontario and they are uncomfortable with the bill because it gives the minister some authorities for which there is no accountability. That is the bottom line issue here. As I said, under the current act there is openness and transparency. The government is committed to publish these regulations in an open way. They must be published in the *Canada Gazette*. However, under this bill, there are no limits on the nature or scope of the terms of conditions that can apply or be imposed on fishermen. There are no limits on penalties that can be imposed and the bill would remove the requirement to publish or make public the licence conditions that would apply.

That is simply wrong and I cannot state it enough. I find amazing the audacity of a minority government to bring a bill such as this forward. What do the Liberals think we are? They thought they could rush it through. They brought it in last week thinking they would rush this baby through so fast that

the opposition would not have time to look at it. Well some of us have been around a little while, like my colleagues from the Bloc and across the way from the NDP, and we have seen this stuff before. We know what these guys are up to and we will not tolerate it.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Madam Speaker, I really regret the rhetoric of the member opposite because it is at least in part misleading the House. This bill contains an analogous provision to what was in the regulations.

The government introduced this bill because it was requested by the Standing Joint Committee for the Scrutiny of Regulations and the member opposite knows it. He does not seem to be able to figure out why the bill is here. The bill is here because the committee requested it, even to the point of putting a disallowance motion on the table, which will be dealt with by the House later this week.

The member's assertion that regulations will not be published or scrutinized is nonsense. Regulations will be scrutinized in precisely the same way that this regulation was scrutinized.

I regret that he has taken this so personally. He might have taken an opportunity to advise the House that he himself was charged under the *Fisheries Act*. I believe he was charged and I stand corrected if I am wrong. He has a personal grievance and vendetta, and I regard that as a conflict of interest. I think he should have mentioned this to the House. I hope he will address that when he makes his remarks.

An hon. member Apologize.

Mr. Derek Lee: I will not apologize for anything because it is a fact.

Mr. John Cummins: Madam Speaker, yes, I was charged under the *Fisheries Act* for protesting the heavy-handed and illegal regulations that the government has put forward.

In fact, the Standing Joint Committee for the Scrutiny of Regulations, which the member sits on, found those same regulations to be illegal and advised the government that it lacked the internal fortitude to put a disallowance motion in

the House because the committee at that time was dominated by Liberals who would not call their own government to account. That is the issue.

If the member can take a shot, I will take a shot. He is a lawyer and should know better. Perhaps if he was a good lawyer, he would be practising law rather than sitting here blathering on like he is doing right now.

Let us take a look at what the committee said. The committee said very clearly that the government can continue to operate the fishery without this particular provision. The committee made it very clear in a letter to the minister that its comments did not imply an endorsement of the amendments and said it could conceive that some parliamentarians might object to subjecting such non-compliance to penal sanctions that include imprisonment.

The committee went on to say that to deprive citizens of their liberty on the grounds that they have failed to abide by a requirement imposed by a public official in the exercise of an administrative power, such as a term or condition of licence, could be thought undesirable as a matter of legislative policy. I agree with the committee's statement. It is unfortunate that the member opposite does not.

Mr. Derek Lee: Madam Speaker, the member should be careful about putting words in my mouth. I actually agree with the contents of the letter sent by the committee. In fact, I think the committee was unanimous on this matter.

The committee was also unanimous that if the government introduced a bill such as is before the House now, it was prepared to withdraw, if it could, the disallowance motion currently on the table. The committee acted in a non-partisan way without personal interest in an effort to force the government to achieve the end being sought by this bill.

The member opposite continues to personalize this. It is his prerogative to do so if he wishes. As a member of that committee for a very long time, I can tell the House that the contents of this bill resolve completely the concerns of the committee in relation to the legality of the regulation. If members opposite do not want to see it that way, that is their prerogative.

However, in turning this into a partisan issue, because the committee has never made issues partisan and deals only with legality, he runs the risk of

causing the committee to go off course and fail in its future work in scrutinizing the regulations made by the government on behalf of the House.

Mr. John Cummins: Madam Speaker, just in case the member opposite had not noticed, this is a partisan place. Government's job is to propose legislation. Our job on this side of the House is to find fault with it, if fault is there. We have found a very reasonable and legitimate fault with the bill. In fact the committee itself found this fault with the bill and we concur with the committee's finding. It is as simple as that.

I did not personalize this debate. The member opposite did. My comment back to him was that if he wants to shoot that way, I can shoot back and I do not mind doing that. I would prefer not to, but I will and he ought to know that.

The committee also said, and this is what is particularly disturbing about it:

In the event the Houses agree to revoke this provision--

--and it is talking about 36(2) of the Ontario fisheries regulations--

--your Committee would expect this decision to form a precedent for the removal of similar provisions in other regulations under the *Fisheries Act*.

That is troubling.

Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC): Madam Speaker, there is a lot of shooting going on here, but let me take this opportunity to debate Bill C-52, an act to amend the *Fisheries Act*.

As has already been mentioned, the bill would add the following section after section 9:

Every one acting under the authority of a permission referred to in section 4 or of a lease or licence issued under this Act shall comply with its terms and conditions.

It goes on as well to add the clarification:

For greater certainty, those permissions, leases and licences — including their terms and conditions — are not statutory instruments for the purposes of the *Statutory Instruments Act*.

On the surface this seems to be a benign addition to the *Fisheries Act*. What could be wrong with stating that someone who is issued a licence, for example, is expected to comply with the licence's terms and conditions? It would appear to be the government's position that this is little more than a housekeeping measure. I am well aware of the fact that the government made every effort to try to get this passed at all stages.

In the few minutes that I have I will explain why in my opinion this is not benign, and why Parliament should proceed very carefully. In order to do that let me begin by providing a little important background.

Although it is true that the legislation has been presented with little or no advance notice, its genesis has been actually several years in the making. I will attempt to make a long story short.

The Ontario fishery regulations contain a regulation in section 36(2) that provides the following:

No holder of a commercial fishing licence shall violate any of the terms or conditions of the licence.

Although it is stated negatively, one will notice that it is similar in substance to the bill that is before us today. As has already been pointed out, this regulation has troubled the Standing Joint Committee for the Scrutiny of Regulations for some time. In fact, this provision was dealt with by the committee in its second report in the second session of the 36th Parliament in 2000. It concluded:

The regulation not only lacks legal authority, but trespasses unduly on rights and liberties, and represents an unusual and unexpected use of the enabling authority.

Put simply, it was and is the position of the committee that regulations imposing sanctions or creating offences must be expressly authorized by Parliament. It is important to understand that because it is the same principle in play with the legislation before us today. Without this measure, a term or condition of a licence is not considered a provision of the act, so the violation

of such a term or condition does not constitute a contravention of the act or regulations. However, the regulation in question in Bill C-52 makes it a legal responsibility to abide by the terms and conditions of a licence. It follows then that any contravention of those terms becomes a violation of the act and attracts the offence and punishment section of the *Fisheries Act*, section 78. The sanctions in that section are considerable so let me read them into the record:

an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding one hundred thousand dollars and, for any subsequent offence, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year, or to both; or

an indictable offence and liable, for a first offence, to a fine not exceeding five hundred thousand dollars and, for any subsequent offence, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both.

Those are pretty significant penalties, so we ought to be very careful here.

The Department of Fisheries and Oceans has continued to maintain that the questionable regulation is valid in spite of the continued disagreement of the scrutiny of regulations committee. It has argued in the past, for example, that the regulation merely imposes a standard of conduct or a requirement. The scrutiny of regulations committee concluded that the argument is best characterized as disingenuous.

In spite of the belief that the regulation was valid, the minister twice introduced a bill in the 37th Parliament that was intended to provide a legislative solution. Both died on the order paper.

To finally make a long story short, the scrutiny of regulations committee lost patience with the Minister of Fisheries and Oceans. On May 9 it issued a disallowance report to send a clear message that the offence-creating regulation was not authorized by the act and the process to have it revoked was started. That appeared to catch the attention of the minister and he finally introduced the bill that is before us today.

An obvious question is, does this solve the legal problems highlighted by the scrutiny of regulations committee? In fact, the committee was asked that very question when similar legislation was introduced in the last Parliament. The committee answered unequivocally, "We are pleased to confirm that the

proposed amendments would, if adopted, remove the basis for the joint committee's objections”.

That is the good news. I do not think anyone disagrees that this bill will solve the minister's legal problems. However, and this is the crucial point, that does not mean Bill C-52 is good legislation. In fact, the standing joint committee recognized that other important issues need to be addressed. In that same letter from which I just quoted, the committee went on to add:

Our acknowledgment that amendments included in Bill C-43 --

--the bill number in the last Parliament--

--would resolve the Committee's objections to the legality of the relevant regulatory provisions does not imply an endorsement of those amendments. Particularly as regards the proposed section 10(1), which would impose a legal duty to comply with the terms and conditions of the licence, we can conceive that some parliamentarians might object to subjecting such non-compliance to penal sanctions that include imprisonment. To deprive a citizen of his liberty on the ground that the citizen has failed to abide by a requirement imposed by a public official in the exercise of administrative power, such as a term or condition of a licence, could be thought undesirable as a matter of legislative policy.

In fact, that is the question before us. As parliamentarians, do we object, do we find it undesirable that non-compliance of a requirement imposed by a public employee in the exercise of an administrative power can result in penal sanctions that could include imprisonment? I do not know about you, Madam Speaker, but when I go to jail, I prefer it to be for violating a law that has been passed by a parliament or for contravening a regulation that has been subjected to thorough scrutiny.

I am one of those parliamentarians that objects to putting this kind of arbitrary power in the hands of a public official.

Let me mention as well that I have the duty of being on both the fisheries committee and the scrutiny of regulations committee. Contrary to the way the member for Scarborough—Rouge River has recalled it, yes, we agreed that if

this bill was passed it would address the concern of the committee regarding the legality. I did not hear any agreement to revoking that regulation.

Even in our last meeting we expressed the problems that were addressed in this letter. Yes, this solves the minister's legal problems and we know he knows that he has a problem. We still have a legislative policy issue that we need to resolve.

The government appears to be quite committed to getting this bill passed. The Liberals must believe it is important. In fact, as has been quoted already, the Minister of Fisheries and Oceans sent a letter to the joint chairs of the scrutiny of regulations committee on April 19. In the letter he referred to a letter that he had received from the Ontario minister of natural resources. In that letter the minister sent to the committee he said:

As you will see in Minister Ramsay's letter, revoking subsection 36(2) of the OFR [Ontario Fisheries Regulations] would have severe negative implications on Ontario's commercial fishery and threaten sustainability of Ontario's fisheries resources. In transmitting Minister Ramsay's letter I would like to impress upon the committee that revoking subsection 36(2) of the OFR would have serious negative effects on fisheries conservation and management in Ontario. I would also like to re-emphasize my intention to carry out a broader renewal --

The letter from Minister Ramsay went on to state:

Terms and conditions are currently the only mechanisms by which Ontario can establish allowable quota, areas where fishing can occur, designate who can take fish under a licence, reporting for commercial fishing licences. Without this provision, Ontario would literally have its hands tied with respect to enforcement of the commercial fishery. It is entirely likely that the revocation of subsection 36(2) would result in chaos in this sector and threaten the sustainability of our fisheries resources.

Of course, this is the threat the minister wants to leave before us. He will probably tell us on Wednesday that if we revoke the regulation and defeat the legislation we will be left with chaos in Ontario and, maybe by extension, elsewhere in the country. That, I think, is to misunderstand the situation a little.

The scrutiny of regulations committee responded to that in its most recent report. It states:

In closing, the Committee wishes to briefly address the statement by the Ontario Minister of Natural Resources that:

I just quoted that statement. The report goes on to say:

To the extent this comment suggests that disallowance of section 36(2) would impair the ability to impose terms and conditions of licences, it does not reflect a clear understanding of the nature of section 36(2). Disallowance of that section may change the manner of enforcing compliance with terms and conditions of licences, but would certainly not affect in any way the ability to impose such terms and conditions.

We need to ask and answer what remedies would be left to the government if the legislation is defeated, as I think it should be. As the letter has pointed out, the mechanism of imposing those terms and conditions is still there. It is another question whether the department should have that ability to impose those but it still does under the current *Fisheries Act*.

The government would still have the ability to impose these terms and conditions but what will the mechanisms be to enforce those? Under the act it still has the power to revoke or cancel a licence. I understand that the minister does not like that option but that is an option left open to him.

Another option, which has been mentioned in more detail by my colleague from Delta—Richmond East, is that we could expect the ministry, if it wants to regulate the industry, to put forth its regulations. It should go through the process, those things that are subject to the Statutory Instruments Act and gazette them. It should tell fishermen what they can expect if they sign on to these licences, what the terms and conditions will be and what they can expect if they violate these conditions.

This appears to me to be flawed legislation. The unintended consequences could be enormous. If I were a fisherman, I would be very concerned about this and I know many of them are. On behalf of many fishermen in my riding of Pitt Meadows—Maple Ridge—Mission, I will be voting against this.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Madam Speaker, the remarks by the member opposite have been helpful. We may not agree on all elements but I do want to recall for him, because he said that he could not remember an agreement or understanding at the committee involving what might happen if the government introduced legislation such as this, and read the words of the member of his own party who was in the chair at the time we discussed it. The chairman said:

We have another...meeting on June 2. Until then, we will keep the communication channel open and watch to see if any legislation is on its way or being introduced....In case we have to withdraw that disallowance report in lieu of the assurance that we will get, then probably we can talk with each other and the House leaders to seek unanimous consent to withdraw, if we can.

The issue, therefore, was clearly discussed and a consensus was reached to consider the withdrawal of the disallowance motion if the legislation was introduced. I am very disappointed that his party is not prepared to support the legislation as introduced. In fact, I suggest an implication of this non-support, even from members of the standing joint committee in that party, is to undermine the disallowance process.

If this position persists, I suppose I and perhaps the other Liberals and who knows, other members of the committee, will have to take a different view of the disallowance matter when it comes forward. That can only impair the future work of the standing joint committee and I very much regret the position taken by members opposite.

Mr. Randy Kamp: Madam Speaker, I thank the member for Scarborough--Rouge River for that reminder but if he were to continue on reading the transcripts he would come to the place where the chairman of the fisheries and oceans committee brought to our attention in our very last meeting that the minister was bringing forward this legislation. In the meeting that the member refers to we had no legislation before us to know what it might be or what it might say. We knew it might solve the legality issues but I assumed we would still have to face the policy issues.

He would know that in the very next meeting the chairman of the committee encouraged us to go to our House leaders to see if we could get this run through the House at all stages with little or actually no debate. When that suggestion

was made to us as committee members he will remember that at least one member, myself, raised the concern that there would be policy issues that we in this party might not find acceptable. If other parties did I guess that would be up to them. However It did not sound like good policy to me which is why we are here today.

Mr. John Cummins (Delta—Richmond East, CPC): Madam Speaker, it is a little late in the day on this but we asked the Library of Parliament to see if it could find similar provisions to what the government is proposing in Bill C-52. It found similar provisions in only two other statutes, one regulating nuclear facilities and the other regulating airlines. Both have regulations by public regulatory tribunals, not secret regulation abilities by federal bureaucrats.

This particular bill is away out there when it comes to anything that has ever been passed by the House. The House has never given that sort of authority to anyone.

I know it is late in the day and I am springing it on my good friend but I wonder if he would care to comment on that. As I said, there are only two similar statutes and both of those have public regulatory tribunals governing them.

Mr. Randy Kamp: Madam Speaker, I do not have much to say except to thank my hon. colleague for that information. As I was preparing to speak to this, that was precisely the question I was wondering about.

The government, in its little single page document that it finally distributed at the 11th hour, which I just saw this morning for the very first time, to give us reasons why we should support the bill did not mention anything about that and whether this was a normal approach to doing business.

It occurred to me that it probably was not, otherwise the government would have given us some support for that. I can understand why it is not and I appreciate the hon. member for giving me that information.

Mr. Loyola Hearn (St. John's South—Mount Pearl, CPC): Madam Speaker, having to sit through this all day, I know you are now very familiar with some of the fishery problems throughout the country and, heaven knows,

we might have our first female minister of fisheries very soon. I think I could say that would probably be an improvement.

My colleague, who is quite familiar with some of the fishing problems in his province, knows full well that there are some extremely serious issues facing the country. We have spent all afternoon dealing with a two clause bill. People might ask why we would spend so much time. It is simply because that little two clause bill would have a major effect on every fisherperson in this country. Every species that is fished and the people who fish them would be affected if the legislation came into place, which is why we had to bring this out.

I would like my colleague to comment on the fact that there are other major issues that are never debated in this House. It is amazing. It is only when we have questions, although we never get clear answers from the minister. At times it is frustrating to know that we have problems on the west coast with the salmon fishery and numerous fisheries. We have problems on the east coast and all kinds of problems in between. Yet, except for the standing committee, a tremendous standing committee where a lot of these issues are discussed, seldom do we hear the fishery issue being debated in the House. The only time we see the minister give anybody the opportunity is when some seemingly minuscule bill comes in that they try to ram through. As my colleague from Delta--Richmond East said earlier, this is something that we are aware of, and the Bloc and the NDP have caught on to the fact that this is extremely important legislation.

I just wonder if the member, in the 30 seconds he has left, would tell us whether or not we should be debating other important issues concerning the fisheries.

Mr. Randy Kamp: Madam Speaker, yes, there is a lot of work to be done and certainly we on this side of the House and those of us in British Columbia are well aware of this, and I am sure in Newfoundland as well.

Let me just say that I take my role here pretty seriously and one of the questions I always ask myself when looking at any legislation is whether it is clear that it has been significantly thought through to be confident that there are no unintended consequences.

I have asked myself about this and the answer is no, I am not confident and I need to vote against it.