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Chair

Mr. Rodney Weston

Standing Committee on Fisheries and Oceans

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•(1105)

[English]

The Chair (Mr. Rodney Weston (Saint John, CPC)): I call this meeting to order.

Before we begin our clause by clause, I'm going to give Mr. Weston the floor for a moment to explain a visit by a group of people who may be joining us later.

[Translation]

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thank you, Mr. Chair.

I would like my colleagues to welcome the students from the French high school in Zurich who are visiting us this morning. In the group are more than 20 students who are taking part in an exchange. The Canadian students have already visited Switzerland. So it is now the Swiss students' turn to visit us.

[English]

I hope we will be on our best behaviour, but not too good. We want to at least make it interesting for them.

Thank you.

The Chair: Thank you, Mr. Weston.

As you're all aware, we're here today to consider Bill S-3 clause by clause.

Mr. Cleary.

Mr. Ryan Cleary (St. John's South—Mount Pearl, NDP): Mr. Chair, I would like to make a couple of points before we get into the clause by clause on the bill.

There are two things I want to say. The first is that we had the minister here last week to discuss the budget and this act. I don't think we asked any questions on the act—or we didn't on this side. I felt that was unfortunate because given the number of issues that were in the budget and issues in general with fisheries, be it the oil spill on the west coast or whatever, there was no time to ask questions on this bill.

That leads me to the second point I want to make. I had questions on this bill that haven't been answered, questions like figures on illegally caught fish. We know that illegal fishing inside the 200-mile limit isn't so much of a problem. We know that our Coast Guard and our military keep on top of it, and they are on top of it. But I have concerns about illegal fishing outside the 200-mile limit in the NAFO regulatory area.

This bill is all about illegal, unreported, and unregulated fishing, but when we asked questions about illegal, unreported, and unregulated fishing in our waters or on the continental shelf outside the 200-mile limit, we didn't get any figures whatsoever on the extent of illegal fishing outside the 200-mile limit.

We know that's going on because you do see citations issued to foreign vessels. How much of that illegally caught fish may be coming into Canadian ports? We have no figures on that either.

From my perspective, the information on some of the questions I asked were just left hanging. We don't know the extent of the problem and most of the information we got were global figures. They weren't Canadian figures. I have a concern about that and I wanted to make it known to the committee.

•(1110)

The Chair: Mr. Kamp.

Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC): Thank you, Mr. Chair.

I understand my colleague's points that he's raising, but just to be clear, this bill is about making amendments to the Coastal Fisheries Protection Act. It's to put us in a place where we can ratify the port state measures agreement as a country. It wasn't a broad treatment of illegal fishing or overfishing on the Grand Banks and all of that.

While I understand his concerns, I think most of the questions relating to the act have been answered, and perhaps as we go forward today, there'll be other questions answered as well.

The Chair: Monsieur Lapointe.

[Translation]

Mr. François Lapointe (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, NDP): Thank you, Mr. Chair.

As my colleague Mr. Cleary pointed out, despite all his requests, he has received no statistics about the problem occurring outside 200 nautical miles. I feel that Mr. Cleary is very well aware of the content of the bill we are studying. His comments are quite correct. He has received nothing that defines the problem outside 200 nautical miles. But that is where the crux of the problem most probably lies.

I am also going to take a moment to point out that a lot of things are happening in the way that committees are managed. The time allotted for the official opposition to speak is very hard to take. According to the order that has been set, we start with the party in power and the official opposition has to wait some time before it can ask questions again.

The last time that the minister appeared, we also saw that she tends not to want to be available for the two hours scheduled for the committee meeting, but for one hour only. We saw how far that can go, which, to me is entirely too far. The official opposition had only 10 minutes in which to ask questions. In addition, we were asked to ask questions two days after the budget was tabled, when our mandate is to hold the minister to account. That is what responsible government is about. I feel that the idea still exists in the minds of most Canadians. So, at a standing committee, we had 10 minutes to ask questions about a bill and about decisions in a federal budget.

In my opinion, this is bad taste taken to the extreme and a shining illustration of the way the committee should not be run. I am taking this opportunity because our session is a public one. I definitely want those comments to be noted.

[English]

The Chair: Thank you, Monsieur Lapointe.

Mr. Cleary.

Mr. Ryan Cleary: Thank you, Mr. Chair.

I'm not going to belabour this at all.

An hon. member: [Inaudible—Editor]

Mr. Ryan Cleary: No, I don't look at this as belabouring; I look at this as there being a reason that our commercial stocks haven't returned since the shutdown in 1992.

The reason is because our commercial stocks and migratory stocks migrate from inshore to offshore. They don't notice that 200-mile limit in the ocean. They don't pay any attention to that—stupid old fish. They don't. In a lot of cases with our migratory stocks, the reason they haven't regrown since 1992 is that while fishing stopped completely for the most part inside the 200-mile limit, it didn't stop outside. They continued fishing.

It's only been in recent years where the clampdown has really been put on the illegal fishing. The number of citations has gone down. Part of the reason why the number of citations has gone down is that there are fewer fish to catch. In terms of the numbers, the fish caught outside of the 200-mile limit, I'm not belabouring this because this kind of stat is critical to addressing the problem of foreign overfishing. Foreign overfishing is a big reason why our domestic fisheries for groundfish, species such as cod, have not returned.

When we have a bill such as this, which may do something—not a whole lot, but maybe something towards addressing overfishing—I would feel more comfortable with statistics.

The point I'm getting at now is a question, Mr. Chair.

Will we have an opportunity to ask DFO officials again for some of this data? I had no answers on stats when they were here before.

Are they going to appear before the committee? Can we ask questions? Can we put it to them again?

•(1115)

The Chair: The officials are here today as we go through the clause by clause to answer questions on amendments or points that are raised.

You have the opportunity to ask questions of the officials today, I guess is what we're saying.

Mr. Ryan Cleary: Thank you, sir.

The Chair: Thank you, Mr. Cleary.

All right. We'll move into the clause by clause then.

Clause 1 is postponed pursuant to Standing Order 75(1).

We'll move on to clause 2.

Shall clause 2 carry?

Mr. Ryan Cleary: I'm sorry, what page is that on?

The Chair: It's clause 2 in Bill S-3.

The reason I ask shall clause 2 carry is that—

Mr. Ryan Cleary: Oh yes, I see.

The Chair: —obviously we have no amendments that have been submitted.

Mr. Ryan Cleary: Yes.

The Chair: Shall clause 2 carry?

(Clause 2 agreed to)

(Clause 3 agreed to)

(On clause 4)

The Chair: On clause 4, I have an amendment.

Mr. Kamp.

Mr. Randy Kamp: Yes, I have an amendment to clause 4, Mr. Chair.

After this bill was passed in the Senate and then came to us and some work was done in committee, in the process of developing some regulations with respect to this it became apparent that there were some small gaps, but gaps nonetheless, that could be fixed by amendment. We do have some officials here if we need more technical background on that.

Let me just say by way of overview, if I may, that there is—

The Chair: I'm sorry, Mr. Kamp.

Monsieur Godin.

[Translation]

Mr. Yvon Godin (Acadie—Bathurst, NDP): Mr. Chair, do we have the amendment that refers to this clause?

[English]

Mr. Randy Kamp: Let me move the amendment. That might be more proper to do.

I apologize for that, Mr. Chair.

The Chair: Do you have that, Monsieur Godin?

Mr. Yvon Godin: Yes. Merci.

The Chair: Mr. Kamp, please proceed.

Mr. Randy Kamp: I move that Bill S-3, in clause 4, be amended by adding after line 18 on page 4 the following:

(3) No person shall import any fish or marine plant that is not accompanied by the documentation required by regulation.

The Chair: It has been moved by Mr. Kamp that clause 4 be amended at the end, after line 18. I believe you all have the text in front of you.

On the amendment, Mr. Kamp.

Mr. Randy Kamp: If I can just say this, we're presenting four amendments, and three of them have to do with the regulation-making authority.

In a nutshell, it became clear to officials that while we had already in law the ability to make regulations with respect to regional fishing management organizations like NAFO, to which we belong, it wasn't as clear that we have the ability to make those regulations, for example, if we wanted to adopt measures that were part of an RFMO to which we were not a party. Basically, these three amendments—this one, the one on clause 5, and the one on clause 16—have to do with filling that gap.

The Chair: Thank you, Mr. Kamp.

On the amendment, Mr. MacAulay.

Hon. Lawrence MacAulay (Cardigan, Lib.): Mr. Kamp, could you explain it a bit more? I don't fully understand it. When they were importing previously, would the documentation not need to have been there? What change would it be, really?

• (1120)

Mr. Randy Kamp: Okay. I'll try, and then we may want to draw from the officials as well.

Many other regional organizations that fish on the high seas have their own trade-tracking systems. If we, as a port state, want to say that they have to provide us with some documentation relative to the RFMO to which they are a party, and if Canada is not a party to that RFMO, it wasn't clear in legislation whether...or it appeared clear that we didn't have the authority to make a regulation requiring that individual to provide the kind of documentation that was required by the RFMO. That's a little complicated, I know, and Angela and others might be able to clarify this further.

The second amendment, to clause 5, is the one that gives the regulation-making authority, and this regulation basically says that it's an offence not to do this once that's in place.

The Chair: Does that clarify it, Mr. MacAulay?

Hon. Lawrence MacAulay: That's okay.

The Chair: Thank you.

Mr. MacAulay?

Hon. Lawrence MacAulay: But the rules were not in place previously if this was taking place. Is that correct, Mr. Kamp?

Mr. Randy Kamp: In legislation, there wasn't the authority to make a regulation to require somebody who belongs to another regional fishing management organization to which we're not a party to provide that documentation, even if they come into our ports.

Hon. Lawrence MacAulay: Even if they're coming into our port.

Mr. Randy Kamp: Right. So it's a little technical.

The Chair: Would the officials like to come forward? Can they offer any more?

Mr. Randy Kamp: Are we close?

The Chair: Please identify yourself for the translation and the subsequent committee evidence.

Ms. Angela Bexten (Acting Director, Global Fisheries & Marine Governance Bureau, Strategic Policy, Department of Fisheries and Oceans): Thank you. My name is Angela Bexten and I'm the assistant director in the global and northern affairs bureau for external relations, Fisheries and Oceans Canada.

Perhaps I can explain the answer by way of a specific example. IUU fishing, of course, is a problem and port state measures are one solution, but a specific example is tuna. Tuna species generally, and some more than others, are high-value species, so they can be subject to illegal fishing. Canada is a member of a number of RFMOs, and, as has been explained, we have the regulation-making power in the existing act to make regulations with regard to RFMOs to which we are a party. We are not a party to every RFMO that fishes tuna, but we import that tuna.

For example, the Indian Ocean Tuna Commission is an RFMO to which we are not party, but Canada does import tuna from that area. The amendment would allow us to make regulations with regard to a trade tracking system that the Indian Ocean Tuna Commission could put in place. It would allow us to put in regulation that if that tuna is not accompanied by the catch documentation that's required by the RFMO, then we can put that into our regulations.

The Chair: Mr. MacAulay, does that help?

Hon. Lawrence MacAulay: Thank you very much.

I want to ask you a further question on tuna. Is how the fish is caught in the Indian Ocean have anything to do with the regulation? Some people fish tuna quite differently from how we fish tuna in Canada. Do we have any input into how the fish is caught in the Indian Ocean?

It's a migratory stock: I'm talking about the bluefin tuna. The problem that I hear and I'm not sure about is that sometimes they take a lot more fish than they should. To go back to how we started in this committee, if somebody takes the fish, no matter where it is, if it's a migratory stock the fish are not there. I'd like you to elaborate. Do we have any say, or does it give us more say on how the fish are fished, the means that are used to capture these fish?

• (1125)

Ms. Angela Bexten: With regard to an RFMO to which we are not party, then we are not part of that decision-making process, so the answer, quite succinctly, is no.

Hon. Lawrence MacAulay: How do we become part of that RFMO? Just so I understand, because it's quite important in my area, if they're fished in a manner that we feel is not proper, how do we deal with that, or is there a way to deal with that, or is there a way to become part of it?

Ms. Angela Bexten: This is a broader question than I'm prepared to answer. I would simply say that the issue of whether we become a member or become a party to a treaty that creates an RFMO, relates to a number of different factors, one of which is whether we fish in that particular area. But this issue is about making sure that the harvest of product in other parts of the world follows the rules that are set by those RFMOs in terms of the trade-tracking requirements. It's up to the RFMO members to determine what is allowed as far as fishing gear and fishing approach are concerned, and what is allowed in terms of the total allowable catch.

Hon. Lawrence MacAulay: I appreciate your answer, and what I would like you to find and provide to the committee—and I think it's vitally important—is how we can have a role. If we are not part of the RFMO, how we could become part of it.

If a fisher fished in an illegal or what we would look at as an inappropriate manner in a different area, dealing with a migratory source, then the fish are gone. You know where I'm coming from.

What I want to know, and I'm sure the committee wants to know, is how we deal with this issue. If the fish are not caught in a proper manner as we see it in this country, how do we deal with that issue, dealing with other countries, let's say, in the Indian Ocean or wherever? If you could do that, I would appreciate it very much. I would like to see that.

Ms. Angela Bexten: I guess the approach we can take is the one that is in the bill right now under proposed subsections 5.6(1) and 5.6(2), which are on the import prohibitions.

Hon. Lawrence MacAulay: But, as I'm sure you understand, the problem is not the imports; it's the illegal catching of the fish that concerns me.

I don't want to hold this up for the day, but this is a fairly important matter. I believe my colleague from the NDP, Mr. Weston, in another speech said it's no good if the fish is fished somewhere else illegally. I'm sure the whole committee wants to know if there's a way the government can deal with this, so if you could find that... It's okay to deal with the regulations regarding imports, but we want to know if we agree about how the fish is caught in the first place, and the means that are used, and all that.

If you could get that for the committee, I would appreciate it.

The Chair: Mr. Cleary.

Mr. Ryan Cleary: I understand the points Mr. MacAulay was making. He made a very good point, and if I understand the official's comment correctly, this is all about the tracking of fish and making sure we understand exactly how it goes from water to plate. But the concern then is about the RFMOs from one country to the next and whether or not the fish is caught sustainably or humanely or however you want to put it. I'm thinking about seals now, though.

I want to interject here, Mr. Chair, mainly because I'm thinking that maybe now is a good time to ask the questions I asked at the beginning regarding further numbers for fish caught illegally within Canadian waters or outside the 200-mile limit, and some estimates on the amount of illegal fish brought back into Canada through our ports. Are there any estimates?

Would you be the right person to ask?

• (1130)

Ms. Angela Bexten: We prepared some material on that request. I don't have the material in front of me, so we'd have to follow up.

Mr. Ryan Cleary: Is it in the back of the room or is it in another —

Ms. Angela Bexten: No, it's not with me.

Mr. Ryan Cleary: You prepared some answers for follow-up. Did you expect to present those answers to this committee?

Ms. Angela Bexten: No.

Mr. Ryan Cleary: Well, then, I'm sorry, but I'm just trying to understand why you would prepare those answers.

Ms. Angela Bexten: We looked into the question you had asked or the committee had asked, but I don't have the answers in front of me. It's not my area of expertise, I'm sorry.

Mr. Ryan Cleary: When can this committee get that information? What was in the package that was prepared?

Ms. Angela Bexten: I'm sorry, I don't know where it is in the system.

Mr. Ryan Cleary: Mr. Chair, no disrespect to the witness—thank you very much for that—but these are answers to questions that I asked on this bill a couple of weeks ago, and my concern right from the beginning with this bill has been the fact that we don't have any hard and fast numbers, which I think are relevant to this bill and are the reason we want to bring those in.

How does this work in terms of timeline and getting this information and digesting it as part of this review of the bill?

The Chair: Mr. Cleary, the clerk advises me that there is no timeline attached when a committee makes requests for information of that nature. It's not like in the House where we have a definitive timeline to respond. There is no definitive timeline here.

Mr. Ryan Cleary: So that information will still be presented to the committee?

The Chair: Yes, and I guess we take them at their word that they're compiling the information and they're doing their best to compile that information and to present it to this committee.

Mr. Ryan Cleary: Thank you.

The Chair: Thank you, Mr. Cleary.

Mr. Kamp.

Mr. Randy Kamp: Thank you, Mr. Chair.

With respect to this last issue, the work was done expecting that a question might be asked at the meeting with officials and the minister, but no questions were asked. If there a formal request made to the department to answer these questions, I assume that will be forthcoming. I don't recall it being made formally. If it was just a case of, "I wish we had this information", then I don't think we can expect them to send it to us, but they would be prepared to answer it at that meeting.

With respect to the RFMO and the point Mr. MacAulay raises, I think the general answer is that we participate in RFMOs in which we have an interest. We are a part of number of tuna RFMOs, as Angela has said, the ones that most directly impact us in terms of their migratory patterns and so on. If we don't fish in that area, or if that stock does not migrate into an area where Canadian fishermen fish, then it's less likely that we would be part of that.

To return to the amendments at hand, the authorization or the authority to make a regulation to do what we're asking here is in the second amendment to clause 5. This one in clause 4 basically says that it's an offence not to provide the documentation that's being referred to in clause 5, which is an upcoming amendment. That's a little bit confusing I know, but....

The Chair: Thank you, Mr. Kamp.

Mr. MacAulay.

Hon. Lawrence MacAulay: I thank Mr. Kamp for his words of wisdom. The only thing I would ask the witness is what RFMOs are we not part of on the bluefin tuna path? I want to know this. I don't know if the committee wants to, but I want to know this. I want to know what ones we're not part of and how we can deal as a government with the RFMOs that we're not part of, being concerned about how the bluefin tuna is caught in different areas, how it is caught, and the number that are taken. As you know, there are fairly stringent regulations in this country and as has been said in this committee, "It's no good, but we have to do it. We have to try to take care of the stock". I want to know what's going on with the migratory path of the bluefin tuna.

I appreciate and understand full well that you would not have all that information. I would like you to get it in detail for the committee, particularly how it's fished—not that it follows the regulations of the country. I want to know that we agree as a country and fully know what methods are used to capture the tuna, for example, if there are nets or whatever, which would be totally illegal here.

Okay, thank you very much.

• (1135)

Ms. Angela Bexten: Thank you. We can certainly provide that information.

On the issue of the bluefin tuna, as you probably know, we are a party to and a member of the International Commission for the Conservation of Atlantic Tunas. We do participate in the decision making processes with regard to bluefin tuna. I think that's part of the answer. The other part of the answer in terms of influencing other RFMOs is that Canada participates in a number of global organizations, such as the Food and Agriculture Organization, the United Nations, and various other processes. There are opportunities

there to promote things like sustainable fishing, the precautionary approach, science-based decision-making for fisheries management, and the ecosystem-based approach. There are bilateral and multi-lateral means by which we can use our diplomatic efforts to encourage states around the world to undertake sustainable fishing and sustainable fishing methods.

The Chair: Mr. MacAulay.

Hon. Lawrence MacAulay: I still would like the information if you could find it.

I'm very interested in areas of the world where this fish is fished in different manners than we fish it here. The only reason I want to know....You have to know the information, and then deal with it then.

But I thank you very much.

The Chair: If you could make that information available through the clerk, that would be appreciated.

Hon. Lawrence MacAulay: It's very important for them to deal with.

The Chair: Mr. Leef.

Mr. Ryan Leef (Yukon, CPC): Mr. Chair, much of this has been pie in the sky.

I'm wondering if we've started to get to the point where we're now engaging in a continuation of the study for our own personal interest outside the material or germane issues to this piece of legislation that we're trying to cover.

I do know the questions we asked, and clearly, I am trying to be respectful and not engaging in a point of order on this very piece.

I think the officials who are here are trying to advise us on the implications of any amendment or the specific aspects of this clause by clause. I don't know if we're starting to move toward asking these questions because we're interested in things other than those that actually have a material impact on the bill.

I was going to talk for another seven or eight minutes, but I won't. I'll just quickly turn it over to Mr. Weston to introduce the group he has, if I'm allowed to divert my time quickly.

The Chair: We already did that beforehand. Mr. Weston, I apologize, but we did give you the chance at the beginning to explain to members.

Obviously, it would take unanimous consent to go down that road.

Mr. Cleary.

Mr. Ryan Cleary: Just so I understand the timeline correctly, when I asked a question about the amount of the unreported and unregulated illegally caught fish inside the 200-mile limit or outside Canada's 200-mile limit on the east coast, when exactly can the committee expect the answer? Will that be presented to the committee? Do I have to do that as an official request?

• (1140)

The Chair: I would ask on your behalf, Mr. Cleary, for the committee to be provided with the information that you're seeking here from officials. I think you're aware from the earlier comments that the information has already begun to be compiled.

So, again, back to point, there's no definitive timeline. I guess it would be, I don't want to say at the mercy of the officials, but a matter of when they're able to compile that information and provide it to the clerk, so that it will be distributed to committee members at that point in time.

Mr. Ryan Cleary: So, I don't need to officially ask. It's being done now.

The Chair: I just did.

Mr. Ryan Cleary: Thank you very much.

The Chair: Mr. MacAulay.

Hon. Lawrence MacAulay: Thank you, Mr. Chair.

Mr. Leef is a friend of mine, but I don't appreciate what was said. Am I out of line by wanting to understand exactly what takes place with the migratory tuna? Am I out of line with trying to find out if we feel in the country that there's some activity taking place in the bluefin tuna fishery that we feel is not appropriate?

That's the only thing I want to find out, and I thank the witness very much for it. But there's no personal interest in it for me, except that I am here to represent the people who sent me here, and the bluefin tuna happens to be a very important part of the fishery in Prince Edward Island.

I don't think I'll beg for forgiveness. I think it's very much my right to do it and I will continue to do so.

The Chair: Mr. MacAulay, the request has been made and it will be forwarded when it's compiled.

Monsieur Lapointe.

[*Translation*]

Mr. François Lapointe: We have no option but to react to Mr. Leef's comments. They show an astonishing degree of bad faith. Two members of opposition parties want to be informed about matters that are of fundamental importance for the people they represent, that is whether the overfishing that is going on outside 200 nautical miles directly affects what Canadians want to be able to fish.

Are species that can be fished in Canada also fished in inappropriate or illegal ways in the rest of the world? Is there an effect on the return of those species to Canadian territorial waters, the very resource that Canadians fish? I do not see how that can be made into a desire on the part of the opposition to focus on personal objectives. There is nothing less personal in expressing concern for stocks that will allow our people involved in the fishery to be working in five, 10 or 15 years. I found that comment absolutely out of line.

[*English*]

The Chair: Thank you, Monsieur Lapointe.

Monsieur Godin.

[*Translation*]

Mr. Yvon Godin: Thank you, Mr. Chair.

I must echo what others have said about Mr. Leef's comments.

As you know, I have been a member of Parliament for a number of years. You yourself know, Mr. Chair, just how important issues like fishing are for us in the Atlantic region. We make our living from that resource. I have never heard Mr. MacAulay ask a question because he owns a plant that is losing money at the moment. It was not a personal question; he asked a question on behalf of the people in his riding who elected him.

When a bill is introduced and amendments are made, it is important for Canadians. In our democracy, we have a responsibility to ask questions. That is why we have committees and Parliament. So, I think that accusing someone by saying that the questions are personal is anti-democratic, although others may not feel the same way. Parliament's role is not to allow a single political party to ask questions, take action or even introduce bills. Canada's democracy gives us the right to ask these questions.

[*English*]

We have the right, Mr. Chair, to raise those questions. Every time someone comes in and attacks a question by another member, saying it's personal, it stops the action of democracy. We are here to debate those questions, debate those bills. The officials, when they are here, have a job to do, to clear up those questions that we have, to make sure that Canadians who have those same concerns have the answers too. I mean, we had to live, down home in the Atlantic area, the loss of codfish.

She used the example of tuna. I remember in Acadie—Bathurst that we had that fishery at one point in time. Those were probably some of the biggest fish we had. They're not really fish, tuna; they're like the other ones there, *mammifères*. But we had good fishing down home. I mean, when you're looking at tuna of over 1,200 pounds, that's big. And we lost all of that.

In terms of raising questions here, it's important to take the time. If we don't have time to debate, maybe we should just go home. But we still have democracy in our country, and we still have the right to debate bills and to be able to present them. At the end of the day, the government has the majority and they will make their decision, but Canadians have the right to be able to debate bills.

So on this, I have no choice: Mr. Leef's comments, to me, were not proper. To attack a member and say that it's personal.... It's not personal. It's our job.

I know that maybe the Conservative Party wants to take away our democracy, but they haven't succeeded yet. We're going to argue when it comes time to argue, and raise the right questions when it's time to raise those right questions. We will not take it, and we will not accept it, when people come in and do things as he's done.

I want to state my concern here, because it is important. Every bill we put in is the law in our country after that. We have to discuss it. We have to take everything apart, be able to discuss it together, and come in with a good law. We're here to support our Canadians. We're here to support our fishermen. We are here to support our communities.

A guy like my colleague, who comes from P.E.I., knows about the fishery. Ryan Cleary, a guy who comes from Newfoundland, knows the fishery. Lapointe, coming right from the Saint-Laurent, knows the fishery. Myself, I think I know the fishery too. I've been living it, with good lobster and all that good fish. We want to continue to do that fishing. It's good for our communities.

Thank you.

• (1145)

The Chair: Thank you, Monsieur Godin.

Mr. Kamp.

Mr. Randy Kamp: Thank you, Mr. Chair.

With respect, I think Mr. Cleary was just reminding us all to make our comments germane to the matter at hand, which is Bill S-3 and clause-by-clause consideration.

Yes, Bill S-3 is about fisheries. We have to be careful that we don't just raise every fisheries question that we haven't been able to get an answer to just because we see an official here. These officials are here because they're experts on what we're trying to do in Bill S-3, which is to amend the Coastal Fisheries Protection Act, to put our domestic legislation in line, to be able to ratify the port state measures agreement.

Frankly, with regard to Mr. MacAulay's comments, I understood them and took no offence to them. I understand why he's interested in tuna and why he could raise this question. But as much as possible, we need to make sure that our comments are germane to the clause that's under consideration, or, in this case, the amendment to the clause that's being considered.

I just took it as a reminder on that, and I think it was a helpful reminder.

The Chair: Thank you, Mr. Kamp.

Mr. Leef.

Mr. Ryan Leef: I won't belabour it, Mr. Chair, but I don't disagree with things. Mr. Kamp, I think, summarized my intention quite clearly. Just to speak for myself, it wasn't Mr. Cleary saying that. Of course, by no means are those comments a personal attack on Mr. MacAulay's opinions or questions. It was very much what Mr. Kamp had indicated. In that respect, I think we're able to focus on what we need to do. And you ultimately, Mr. Chair, have the ability to accept any of the comments or invitations by any of our members to do that, and that's the process, and that's democracy working.

The Chair: Thank you, Mr. Leef.

Mr. Cleary.

Mr. Ryan Cleary: Thank you, Mr. Chair.

I do feel frustrated by this process because when we were studying the bill we had officials from the department and I asked these same questions of the officials, and there were no answers. This bill is about illegal fishing, unregulated fishing, unreported fishing. So I asked obvious questions about fish in Canadian waters or just outside Canadian waters on the continental shelf.

My concern is, the point I'm getting at, is that when we're in the study process of this bill we never got any answers, and we're still

not getting any answers. We're going through this bill with a fine-tooth comb now, and we're presumably going to get through it today. Well, no, I think once these main points are out, I think we'll be done here.

Again, what it comes back to is the fisheries off the east coast, the fisheries that affect my province. They have not healed in 22 years, and it's because of illegal, unreported, and unregulated fishing, mostly outside the 200-mile limit. This bill has an impact on that. When we ask our officials for answers to obvious questions, there are no answers. I think this is ridiculous.

Thank you, Mr. Chair.

• (1150)

The Chair: Thank you, Mr. Cleary.

Monsieur Lapointe.

[*Translation*]

Mr. François Lapointe: Bill S-3 deals with the issue of illegal fishing within 200 nautical miles precisely because our objective is to ensure the sustainability of the stocks.

Mr. Kamp mentioned that people should not raise all their fishery questions here. That is absolutely not what is going on. Once again, that comment is the complete opposite of what my colleagues are trying to do. What is at issue here is determining whether we have a chance to ensure the sustainability of the stocks. That is why my colleagues are asking questions about illegal fishing outside the 200 nautical miles and about fishing-related policies for species that we can no longer fish because not enough are returning to Canadian waters. The objective is fundamentally the same.

We need to know whether we are doing our utmost in Canada to establish the sustainability of fish stocks for our fishers in order to ensure that our people will have jobs in the future and that the industry will be doing well in five, 10, 15 or 20 years. In no way are we raising a bunch of questions that have nothing to do with Bill S-3.

Once again, I found that the comment was simply gratuitous given the effort my colleagues have made.

[*English*]

The Chair: Thank you, Monsieur Lapointe.

Mr. MacAulay.

Hon. Lawrence MacAulay: Thank you, Mr. Chair.

I thank the witness, and I sympathize with the witness and a lot of other things. It's more than you certainly expected to get here today, I'm sure. But basically the bottom line of my questioning is, would it possibly be information that would indicate that the tuna fishery would be fished illegally or unregulated, as we would look at it in this country. I think you understand that. It could be our view, it might not be our view, but we just need to know what's taken place as in the Indian Ocean and other places. That's all I want. I've heard complaints all over for years about how the tuna is fished in other areas. I just felt it was the proper place to get it. I harbour no resentment towards anybody, but I just want the information.

Thank you, Mr. Chair.

The Chair: Thank you.

All right, are we ready for the question on amendment G-1 as moved by Mr. Kamp?

(Amendment agreed to)

(Clause 4 as amended agreed to)

(On clause 5)

The Chair: We have amendment G-2, to be moved by Mr. Kamp.

Mr. Kamp.

Mr. Randy Kamp: I move that Bill S-3 in clause 5 be amended by adding after line 45 on page 4 the following:

(2.1) Section 6 of the Act is amended by adding the following after paragraph (d):

(d.1) respecting documentation required for the importation of fish and marine plants;

The Chair: It has been moved by Mr. Kamp that clause 5 be amended as proposed by amendment G-2, which you have in front of you.

Do you have anything to say on the amendment, Mr. Kamp?

Mr. Randy Kamp: I think we've already discussed this. As I mentioned, this is where we're adding an authority to make regulations regarding the trade tracking documentation of RFMOs to which Canada is not a party.

(Amendment agreed to)

(Clause 5 as amended agreed to)

(Clauses 6 to 8 inclusive agreed to)

(On clause 9)

• (1155)

The Chair: We have an proposed amendment to clause 9; it's amendment G-3, as presented by Mr. Kamp.

Do you have anything to say on the amendment, Mr. Kamp?

Mr. Randy Kamp: Thank you, Mr. Chair.

I move that Bill S-3, in clause 9, be amended by replacing line 5 on page 13 with the following:

9. Paragraphs 14(a) to (c) of the Act are replaced

The Chair: Thank you, Mr. Kamp.

Mr. Randy Kamp: It's a long amendment.

The Chair: Oh, sorry.

Mr. Randy Kamp: Would you like me to dispense with reading it?

The Chair: No, or if you want to, you can. You don't have to read it. It's all presented, everybody has a copy of the text in front of them.

Mr. Randy Kamp: I'd be happy to dispense.

The Chair: Certainly.

It's been moved by Mr. Kamp. It's amendment G-3; you have it in front of you.

Do you have anything to say on the amendment, Mr. Kamp?

Mr. Randy Kamp: The current forfeiture provisions in the act cover seized fishing vessels and goods on board vessels, but do not authorize the court to order forfeiture of goods seized in a place other than a fishing vessel. Bill S-3 authorizes the seizure of products in places other than a fishing vessel, a warehouse, for example, or it could be at a border crossing, or that kind of thing. This amendment modifies the forfeiture provision to authorize the court to order forfeiture of such goods, otherwise the crown could end up returning the goods or proceeds of the sale, if they've sold the goods, to a convicted defendant.

I hope that's clear. I know it's a long amendment, and I know Angela understands it better than I do if we have any technical questions.

The Chair: Thank you, Mr. Kamp.

You have a question on the amendment, Mr. Lapointe?

Mr. François Lapointe: It's providing for what, exactly? I'm not sure if I've got the exact advantages.

The Chair: Mr. Kamp?

Mr. Randy Kamp: I'm not sure I caught the question, but the current law allows the crown to seize vessels or goods on a fishing vessel. Bill S-3 allows the seizure of other things that are in places other than a fishing vessel, but it became clear that the legislation wouldn't allow for the individual to forfeit and for the crown to sell if they were seized from a place other than a fishing vessel.

Now under Bill S-3, in order to be in line with the port state measures agreement, the officials will have the ability to look for illegal product in places other than fishing vessels. It also is important to have a clause that allows the illegal things that are seized to be sold and for the money to go to the crown rather than—

It's a technical amendment, but that's all that it's doing here.

The Chair: Are there any further questions?

Mr. Weston.

• (1200)

Mr. John Weston: Before we lose them, I want to acknowledge our guests. We have overseas guests, over 20 of them, with André Montroy, whom I believe is associated with the Glebe and the Ottawa School Board, and people from Zurich, the Lycée Français Marie Curie de Zurich. Thank you for your indulgence, colleagues. I know you'd want to acknowledge them while they're here. Thank you all, students, for being with us.

Some hon. members: Hear, hear!

The Chair: Thank you, Mr. Weston. Are we ready for the question on amendment G-3?

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 9 as amended agreed to)

(Clauses 10 to 15 inclusive agreed to)

(On clause 16)

The Chair: We have an amendment to clause 16, amendment G-4 in your documents.

Mr. Kamp.

Mr. Randy Kamp: Thank you, Mr. Chair.

I move that Bill S-3, in clause 16, be amended by adding after line 33 on page 18 the following:

(3) Every person who contravenes subsection 5.6(3) is guilty of an offence and liable

(a) on conviction on indictment, to a fine of not more than \$500,000; or

(b) on summary conviction, to a fine of not more than \$100,000.

The Chair: On the amendment, Mr. Kamp.

Mr. Randy Kamp: Thank you, Mr. Chair.

Basically, this is the third of the three amendments related to that regulation-making authority. Because that authority now allows the government to require documentation, or the ability to make a regulation requiring documentation, the lawyers require that the fine and punishment section also explicitly relate to that. That's all this is doing. Because we've added a new offence, this refers to the consequences of that new offence.

The Chair: Thank you, Mr. Kamp.

Monsieur Godin.

Mr. Yvon Godin: Out of curiosity, nothing personal, what was it before?

Mr. Randy Kamp: Do you mean in terms of the amounts?

Mr. Yvon Godin: Yes.

Mr. Randy Kamp: Well, these are the amounts that were in Bill S-3 in order to bring it in line with the port state measures agreement. We're not changing the amounts here, but are simply referring to a particular offence that was amended earlier in this meeting. Is that clear to you?

Mr. Yvon Godin: No. What I was looking at was whether there was something before Bill S-3. Or has it just come in Bill S-3 and it's now just to follow Bill S-3?

Mr. Randy Kamp: Maybe we'll ask Angela to answer that one for us, if we can.

Ms. Angela Bexten: Thank you.

Bill S-3 introduces import prohibitions under subsections 5.6(1) and 5.6(2). The penalties related to that are in section 18. That's in Bill S-3. The amendment that's being proposed is in relation to what was discussed earlier, which was to include a new prohibition that's articulated in subsection 5.6(3). It's a penalty that's being added in relation to that particular import prohibition that's been added.

In terms of the amounts, the amounts for the import prohibition in subsections 5.6(1) and 5.6(2) are indicated in Bill S-3, but there is a doubling provision. The reason there is a doubling provision is that the prohibitions require a knowledge component and normally for a knowledge component there's a higher penalty. For the amendment that was made earlier to section 5.6(3), the penalty provision is the same—but there's no doubling provision because it's considered a strict liability offence.

● (1205)

Mr. Yvon Godin: What were the words before in the history? Was there something there? It looked like it's all new starting from Bill S-3.

Mr. Randy Kamp: I think the question for Angela is—and I think it's a good question—were there no import prohibitions before Bill S-3 in the Coastal Fisheries Protection Act?

Mr. Yvon Godin: That's what my question was. Thank you.

Ms. Angela Bexten: Sorry. I provided a more complicated answer than you were asking, but yes.

Mr. Yvon Godin: It wouldn't take much to get me all mixed up there.

The Chair: Thank you.

Mr. Lapointe.

[*Translation*]

Mr. François Lapointe: Thank you for being here, Ms. Bexten.

I want to make sure I have understood correctly. Before Bill S-3 was introduced, someone importing the products of illegal fishing into Canada would probably not have been fined. Not only does Bill S-3 state that this is illegal, but it also sets a maximum fine of \$500,000. I have seen our Conservative colleagues more often opt for minimum sentences. But here we have a maximum sentence.

How can we justify the bill providing for a maximum limit? For a criminal who has done this 20 times in a row in two years and who has created a black market worth millions of dollars, why should the fine be capped at \$500,000? Which expert decided on this \$500,000 limit? Why isn't it \$800,000 or \$1 million? Where did the assessment come from? Why not leave it to the judge, who would be fully competent to decide that, in this or that case, there has been a black market worth several millions of dollars for two years and that the fine will not be \$500,000, but \$1 million. Where does this come from?

[*English*]

Ms. Angela Bexten: For the answer to the question with regard to the level of the fines, I believe that was a question that was asked earlier by the committee. I had indicated that the level of the fines was determined by doing research into what existing penalty regimes we have under other pieces of Canadian federal legislation, such as the Fisheries Act, the Species at Risk Act, and also with WAPPRIITA. The level of fines that are indicated in the bill are in line with those existing pieces of federal legislation.

With regard to your question about multiple offences, there is a provision in the bill for taking into consideration the value of what the catch or the import is worth. There is some flexibility there.

The Chair: Mr. Lapointe.

[Translation]

Mr. François Lapointe: My understanding is that the wording of the bill would be flexible enough to allow judges to decide that a ceiling of \$500,000 is not sufficient in cases where this is done repeatedly, where it is excessive or where it makes no sense. Based on this reasoning, any given organization or individual could be fined, say, \$800,000 instead of \$500,000. If I understood your answer correctly, the wording of the bill would allow for this kind of flexibility.

[English]

Ms. Angela Bexten: Thank you.

I would draw your attention to proposed new section 18.04. That is the financial benefit provision.

• (1210)

The Chair: Thank you.

Mr. Godin.

[Translation]

Mr. Yvon Godin: In a sense, doesn't this provision replace section 18.04? We now have a maximum fine. If the amount had been \$100,000 or more, it would have been open-ended.

We are talking about "an additional fine in an amount equal to the court's estimation of those benefits".

It could have been \$200,000, but we can say that the estimation is \$300,000. This means that the court can impose a fine of over \$100,000 or \$200,000.

Paragraph 18.03(1)(a) reads as follows: "on conviction on indictment, to a fine of not more than \$500,000". I think we are tying our hands completely. This provision will take precedence over the other paragraph, because it sets a maximum fine. There was no such thing before; it just didn't exist.

We are now using the words "of not more than". We are not talking about an additional fine in an amount equal to the court's estimation of those benefits that would be higher than the amount in the provision you are proposing. The fine is now set at a maximum amount. You cannot exceed the maximum amount. An additional fine could go from \$200,000 to \$300,000 or from \$300,000 to \$400,000, but now there is a limit of \$500,000. If I were the defence lawyer, I would say that the judge is not allowed to impose a fine higher than the maximum fine.

To determine the additional fine, the judge could have some fun and impose a fine between \$100,000 and \$500,000, but the maximum fine is \$500,000.

Before we make a decision on that, I suggest that you take a really close look at this to see if what is being said makes sense, because once the amendment is passed, there is no turning back.

My colleague François Lapointe said this earlier. Imagine that a person has been suspected of committing offences for two or three years, but that they have not been caught yet. Finally, they are caught. However, \$500,000 is not a lot for a fisherman. One catch of fish products may be worth more than that. If you are familiar with

fishing, you know that tuna, for instance, can bring in between \$500 and \$600 per fish. For those fishermen, \$500,000 is not a big deal.

In a word, this section concerns me. Do you have a legal opinion saying that \$500,000 does not mean anything? If, in special cases, \$500,000 does not mean anything, section 18.04 should say so and should specify that it takes precedence over the other provision, because this is not the case right now and no reference is made to that.

[English]

The Chair: Thank you, Mr. Godin.

Mr. Lapointe.

[Translation]

Mr. François Lapointe: If I understand the reasoning behind section 18.04 correctly, if a person is convicted of making money from fishing illegally, not of an attempt to do so, they could receive a \$500,000 fine and a judge could decide the following:

If a person is convicted of an offence under this Act and the court is satisfied that, as a result of committing the offence, financial benefits accrued to the person, the court may, despite the maximum amount of any fine that may otherwise be imposed under this Act, order the person to pay an additional fine in an amount equal to the court's estimation of those benefits.

As I understand it, the judge will be limited to a fine of \$500,000 and will not be able to impose an additional fine if it is proven that the offender derived financial benefits from illegal fishing. The judge will then be required to ignore the seriousness of the offence. If a warehouse with \$8 million worth of fish is discovered, and the owners did not have time to sell the fish, it is still a serious offence. The judge will need to have evidence that those folks had time to sell, say, \$3 million worth of fish from the \$8 million so that a fine over \$500,000 is warranted.

We are talking about offenders committing serious crimes and harming our fishery. I find that this situation is really tying judges' hands. A case like that is a serious offence. Even though those people may not have derived financial benefits from the catch, they were smuggling a type of fish that they had no right to catch, fish worth several million dollars. But because they got caught before making the money, the fine would be capped at \$500,000.

Do you follow my reasoning? Something about this is bothering me.

• (1215)

[English]

The Chair: Go ahead.

Ms. Angela Bexten: There is reference made there that despite the maximum amount of any fine, the court might provide for or require an additional fine to be paid. That is a decision that the courts would have to determine.

The concern that I think you're expressing, to my understanding, is what is being addressed by proposed new section 18.04.

[Translation]

Mr. François Lapointe: I think it is Mr. MacAulay's turn to speak.

[English]

Hon. Lawrence MacAulay: I'm not against or for it, but it seems to me to be a strange way to write legislation. I don't know why you would put something.... Unless there's something.... It's hard to understand. The reasoning for it, I think is what we need a legal opinion on, for sure.

The Chair: Monsieur Lapointe.

[Translation]

Mr. François Lapointe: The text you pointed out to us largely answers my questions. Still, it says, in black and white:

If a person is convicted of an offence under this Act and the court is satisfied that, as a result of committing the offence, financial benefits accrued to the person...

What I am reading brings me back to my concern. It could be that an illegal catch worth \$8 million is found in a warehouse but that those responsible are caught—"fortunately" because of Bill S-3, as Mr. Kamp says—before they can get the slightest financial benefit, because they had no time to sell the catch on the black market, for example.

From what I read here, if the judge cannot show that those people used the black market and made a profit of \$2 million, for example, the fine is limited to \$500,000. The judge could declare that the profits are illegal and the wrongdoers will unfortunately not be able to profit from it because they are going to have to give the proceeds back to the Crown.

According to what I see here, the judge will find it difficult to apply that argument, which I think is the right one. Instead, we are talking about people fishing illegally, making a profit of \$2 million, being apprehended and still having \$5 million worth of fish in their warehouse. The judge should not be forced to keep to a fine of \$500,000. He should be able to get back the money that was made.

Something in this text seems to limit the judge, in my opinion.

[English]

The Chair: Thank you, Monsieur Lapointe.

Monsieur Godin.

[Translation]

Mr. Yvon Godin: Given the importance of this bill, would it be possible to set it aside and bring in people who can assure of us that? As soon as we set a maximum, actually... In this case, one thing is really piling on top of another. You might well say that it really is not related and there is no certainty about it.

Once the wording of a bill is set, it is set. When it is voted on, it is voted on. It would be more certain if someone were to come and explain this to us and to tell us that we really are protected. The amendment could have referred back to the other provision and specified that it does not prevent clause 18.04 from being enforced, but that is not the case and it looks like some protection is missing.

[English]

The Chair: Thank you, Monsieur Godin.

Mr. MacAulay.

Hon. Lawrence MacAulay: I agree. I just think that we want to be careful that we don't create a loophole that can make.... I'm not a

lawyer, but if I were, I would certainly refer to that amendment—if it's passed—because it's stating that the maximum is \$500,000. I think we have to find out exactly what effect it has on the legislation, because if it is as we think it might be, then I'm sure the government or nobody else wants this passed.... I would agree that it should be set aside, evaluated, referred to a legal opinion, or changed if necessary.

• (1220)

The Chair: Thank you, Mr. MacAulay.

Mr. Kamp.

Mr. Randy Kamp: I don't think I agree with that. I can assure the committee that this has been carefully considered by the Department of Justice, as well as the experts at DFO.

To clarify a question that was raised earlier, Bill S-3 is about amending the Coastal Fisheries Protection Act, and although it's true, as Angela said, that the act did not have any import prohibitions in it, it did have prohibitions in it. For example, subsection 4(2) of the Coastal Fisheries Protection Act states:

No person, being aboard a foreign fishing vessel or being a member of the crew of or attached to or employed on a foreign fishing vessel, shall fish or prepare to fish for a sedentary species of fish

and it continues. That's just one of the sections.

So there are the prohibitions about fishing in Canadian waters, obviously, and that's what the Coastal Fisheries Protection Act is largely about. There are penalties similar to the ones we see here in Bill S-3 that relate to those offences. They're in section 18 of the Coastal Fisheries Protection Act.

We're introducing new prohibitions about importing undocumented fish and putting in place these penalties that are similar, I think. Maybe Angela can comment more intelligently on that. For example, in that section that I just read to you, the penalties section says:

Every person who contravenes paragraph 4(1)(a), subsection 4(2) or section 5.2 is guilty of an offence and liable

(a) on conviction on indictment, to a fine not exceeding seven hundred and fifty thousand dollars; or

(b) on summary conviction, to a fine not exceeding one hundred and fifty thousand dollars.

Then there are some other penalties that are similar to the \$500,000 that we've seen here. I don't see the problem that's being raised here, but perhaps Angela has some additional comments.

Hon. Lawrence MacAulay: Can I ask one question before she answers?

What is the need for this? I know it's your best intentions, but why do we need that amendment? It looks like it puts a cap on what the judge can do. I'm just asking the question. Perhaps there's a good legal answer for it, but I think we need to have that legal answer before we pass this legislation. I think the government would want to have that. Why is it there?

The Chair: We'll let her answer.

Hon. Lawrence MacAulay: Thank you, Mr. Chair.

The Chair: Thank you, Mr. MacAulay.

Ms. Angela Bexten: Bill S-3 introduces an import prohibition, so we have the introduction here of an amendment to include penalties for those import prohibitions, and the fines are indicated there. Then there is the opportunity, or the potential, for the court to exceed that maximum with the reference to proposed section 18.04.

The amendment that has just been introduced, under proposed section 18.03, is to deal with the new import prohibition that was discussed earlier.

In terms of how this is drafted and the amounts, and in particular proposed section 18.04, that is drafting that we see in other pieces of legislation. It's considered a standard way of expressing the penalties and also the potential for the court to consider the financial benefits and, therefore, to include an additional fine.

What's written there is certainly a standard drafting approach that has been taken in other pieces of legislation.

• (1225)

The Chair: Monsieur Lapointe.

[Translation]

Mr. François Lapointe: I am not a lawyer, but Bill S-3 states quite plainly that there could be a larger fine than the maximum one of \$500,000 if a person or organization has derived financial benefit from having sold the proceeds of illegal fishing. For someone to make a profit, the fish has to be sold.

I would be more comfortable if a legal expert told me if my fears are well-founded. Even if I reread clause 18.04, and today's amendment that includes a ceiling, if I think about all that, I see the following scenario unfolding. In the case of an offender who committed a serious illegal act, things can go quite quickly, as my colleague Mr. Godin said. With certain species, with a few cargo loads of illegal fish you can have stock that is worth millions of dollars.

Fortunately, Bill S-3 would allow us to track the offender right into his warehouse. In that case, because the individual would not have had time to sell two kilos of tuna, for example, and because he would not have derived financial advantage from the sale at that point, the maximum fine the judge could impose would be \$500,000, if I understand correctly. And yet, that individual would have committed quite a major illegal act.

Mr. Kamp referred to other laws. He said that we could perhaps get organized using other legislation to ensure that this does not happen. I think that our responsibility is to ensure that the aspects covered by the current bill leverage the action of the courts in a case like this one. We should not say that somewhere there is an act that could be used to solve this problem. Saying that this will be settled by other legislation is almost an admission. I don't feel comfortable about it.

Consequently, I agree with Mr. MacAulay, who asks that we invite an expert witness to testify. I am receptive to the argument that other acts contain similar provisions. However, the problem remains the same. Could the scenario I have just evoked come to pass? Could we encounter a situation where someone has committed a highly illegal act involving millions of dollars in potential fines, but the fine is

capped at \$500,000 because of the addition of clause 18.04 and today's amendment? This seems like a serious problem to me.

[English]

The Chair: Monsieur Godin.

[Translation]

Mr. Yvon Godin: I will be brief, Mr. Chair. There are two questions that need to be answered.

Angela is a nice first name, Ms. Bexten.

You say that the situation is covered in similar laws.

I will wait for the experts to consult with each other.

[English]

The Chair: Conversing back there.

[Translation]

Mr. Yvon Godin: In my opinion, they know there is a problem.

[English]

The Chair: Take a minute.

[Translation]

Mr. Yvon Godin: That is okay; I will wait. I think it's important.

If similar cases are covered in legislation, has it ever been challenged before the courts? If it has been but was found to be solid and without issues, that is good, but perhaps it never has been. For the time being we do not have an answer.

If the department states that it has been challenged that means that there is case law which would solve certain problems. If it has not been, I do not remember foreign fishers getting caught in Canada. Perhaps if we took a closer look this might not be the case.

Has the law been challenged and did it prove solid? I think that simply to solve the problem we could link this provision to clause 18.04 to ensure that the government has been given the power to go beyond the \$500,000 limit.

Mr. Kamp, you say that this exists elsewhere, but if the law was never challenged before the courts, we cannot know if it is adequate and sufficiently robust. Our study of the bill is almost over. Today is Tuesday and everything could be said and done on Wednesday if experts appear, or if you, as a government, say that you have studied the matter, concluded that this is a good point and that this provision should be amended since that would be highly sensible.

There is nothing clearer than something spelled out in black and white. As my colleague Mr. Lapointe said, we are not lawyers but legislators. Our responsibility is to legislate. Lawyers like nothing better than provisions that are not specifically spelled out, in black and white. The two parties can then put forward their own interpretation and in those cases the lawyers make a lot of money.

I think that sometimes some people want the law not to be clear. We have the opportunity of making sure that these issues are clearly explained, in black and white. I'm happy I'm not a lawyer because in my opinion we have to consider the logical aspect of a situation and the profits that may be made. There is nothing worse than ambiguous cases. We asked questions, but these people cannot answer them. We devoted at least 15 minutes to this. We would like a reply, a clear reply as to whether this law exists, and whether it was challenged before the courts, and that it is solid and there is no problem at this time. However we heard nothing about this until now.

Imagine the situation when a similar case is submitted to a judge and the two lawyers have their own interpretation, and millions or hundreds of millions of dollars are at issue. The proceedings will last two, three, four or five years. The ship has time to rust and start to rot. Today, however, we have the opportunity to do something about this.

Since this is the last clause that is left, I would respectfully ask that we wait till Thursday to meet our experts. They will be able to enlighten us on the matter. I think that is also the wish of the government. I hope we don't have to remind you in four years that we warned you.

• (1230)

[English]

The Chair: Thank you, Monsieur Godin.

Mr. Kamp.

Mr. Randy Kamp: I think Angela was going to respond to this first. Perhaps I'll have a comment after that.

Ms. Angela Bexten: Thank you. I'm not a lawyer or a legal expert either, but I can provide you with what our legal counsel has...what my understanding is of the issue.

I can only, of course, provide you with information based on a similar provision in the Fisheries Act. I can provide you with information on—

Mr. Yvon Godin: The question is, was it checked in court? I need that answer.

The Chair: I understand what you're saying, Mr. Godin, but let her finish.

Mr. Yvon Godin: But that's my question.

The Chair: I understand what your question is, but I do understand that any piece of legislation is vetted by justice officials and they do have a basis for their decisions, or the decision to proceed forward and—

Mr. Yvon Godin: Maybe they never heard this question. Mr. Chair, maybe they never heard this question yet.

The Chair: I'm sure they've heard it—

Mr. Yvon Godin: Oh, no, they make mistakes.

The Chair: I understand mistakes have been made, but what I'm trying to say more than anything else is, let her finish, please.

Mr. Yvon Godin: Okay.

Ms. Angela Bexten: Thank you.

I can speak to the experience that we've had in relation to the Fisheries Act because there is a similar provision in the Fisheries Act. As we've described, the intent is to allow the court to impose an additional penalty where the maximum is deemed as being not a sufficient deterrent. In the approach in the Fisheries Act, which is similar, has been recognized in court decisions and the courts can interpret, and have interpreted, that an over-ride or an additional penalty can be imposed.

The Chair: Mr. Kamp.

Mr. Randy Kamp: That's exactly what I was going to say. I don't know that I see the problem.

I have two comments.

First of all, that's not the point of this particular amendment to Bill S-3. The amendment that's before us is basically because we've now added 5.6(3). Now we need a penalty section that refers to 5.6(3). That's what this amendment is about. Clause 16 does take into account all of 18.

At the very least, we should pass this amendment and deal with the amended clause. I don't see a problem with it. This works just as other legislation, like—as Angela said—the Fisheries Act, where the courts will use the legislation to decide what constraints it's under in terms of what penalties it can enforce.

This gives the courts the ability to impose a fine that's beyond the maximum if they think that the individual has perhaps sold the goods and made \$200 million, \$2 million, or \$100,000 that is already in his pocket.

This is intended to be a deterrent so that people don't just...Some of these IUU fishing fleets know how it works. They're willing to pay the cost of doing business sometimes by paying the fine. This makes it more difficult for them.

It does work that way. While I understand the concern about whether it would stand up, I don't see why it wouldn't. We have some experience with the Fisheries Act and other pieces of legislation in that regard.

• (1235)

The Chair: Monsieur Lapointe

[Translation]

Mr. François Lapointe: Thank you, Mr. Chair.

I'm going to try one last time to seek reassurance about the part of the bill that worries me.

If I understand the law correctly, if someone steals everything I own, which could have a value of \$30,000, he will not be charged according to his success or lack of success in selling what he stole from my home. The offence is serious because the person has stolen goods of a value of \$30,000 from an individual.

Can you assure me that with this new bill, a judge will have the leeway needed to decide that the offender has committed a major offence, if the theft is one of \$8 million?

There was a robbery. The resources of honest fishermen have been stolen. Even if no profit was made and the individuals did not have time to develop a market to liquidate all of the merchandise, will a judge have the necessary leeway to say that the intention was serious enough and the value so high that he will impose a fine of more than \$500,000, which is the current ceiling, because of the gravity of the offence? We are talking about millions of dollars that could potentially be liquidated and the intention of doing so on an illegal market. Will the judge have the necessary leeway not only to impose a \$500,000 fine, but also to impose a higher fine, higher by some hundreds of thousands of dollars, even if there has not been any profit in the short term, because of the seriousness of the crime? Will the judge have the necessary room to manoeuvre to do that?

If you tell me that according to the current wording of the bill, the judge could impose a sentence proportional to the seriousness of the crime, regardless of the fact that the individual has or has not had time to make a profit on the market, I will stop asking the question. I will trust you.

Can you really confirm that the court will have the necessary leeway to conclude that, given the seriousness of the offence, the fine need not be limited to \$500,000 even if no profit was made with the stock that is worth millions of dollars and which was caught illegally?

[English]

Ms. Angela Bexten: My understanding is that that is exactly what proposed section 18.04 allows. It is effectively an override of the maximum penalty, and that would be dependent on, of course, the situation. Every situation is different, but my understanding is that that section does allow that additional fine, that additional penalty.

• (1240)

[Translation]

Mr. François Lapointe: If I were a lawyer, I would do what Mr. Godin said and I would jump on the sentence that says: “on condition that there were no profits”. After all, they did not make a penny with the \$8 million stolen from the fishermen because they did not have time to sell the merchandise. Personally, I would take you to court for three years on the strength of those words. If you tell me that that is not going to happen, well, we will see.

[English]

The Chair: Thank you, Monsieur Lapointe.

Mr. MacAulay.

Hon. Lawrence MacAulay: I think we're in a situation, Mr. Chair, where we want a legal opinion, but we do not have it. I think it would be very safe for the government to make sure that this amendment does not put something in place that would allow something illegal.

Without a doubt we need to know that this is not something that can be used.... We see court cases every day. We see the crown going to court. We see the crown losing.

If I were a lawyer, the first thing I'd head for is that cap. This is the problem I'd see. I just don't understand why it would be there. Again, it could be shoved through, but I think it's awfully inappropriate for

the amount of time it would take to have somebody tell us exactly what this means.

The Chair: Thank you, Mr. MacAulay.

Your request, and I believe the opposition's request, is to stand this clause. That would require a motion from the committee, and that motion would have to pass in order to do that once we start into these proceedings.

Mr. Yvon Godin: I so move.

The Chair: So it's been moved by Monsieur Godin....

Mr. Yvon Godin: I move that the committee go to the next sitting meeting and bring in the official who will not just come in and say “I think”, but will say, “Here it is.”

I think it is very important.

The Chair: Let me paraphrase that.

Mr. Yvon Godin: You do it in a better way than me. I'm a legislator—

The Chair: It's been moved by Monsieur Godin that the committee stand clause 16, the amendment G-4, until the next committee day, in order to bring forward counsel to provide advice to committee.

Does that make sense?

Mr. Yvon Godin: You're good.

The Chair: Thank you.

You've heard the motion.

On the motion, Mr. Kamp?

Mr. Randy Kamp: Well, Mr. Chair, I think I understand the reason for it, but I think the questions have been answered, and I think the clause does what we expect it to do. I think we're inclined not to support this motion.

The Chair: Thank you, Mr. Kamp.

Monsieur Lapointe.

[Translation]

Mr. François Lapointe: The witnesses who are here today answered the questions with some reservations. They are doing their best, but I think that it is basically part of our work on this committee to check certain things before sending a bill for third reading to the House, if we see that there could be shortcomings.

Mr. Kamp said that some people looked at this and concluded that there were no shortcomings. As Mr. MacAulay said, people find gaps in bills; there are tonnes of them. There is tax evasion on the order of several billion dollars a year. There are gaps in legislation despite the best intentions of the experts who provide their services to departments.

I don't understand why Bill S-3 will be referred back to the House tomorrow morning. Why can we not simply wait until the next meeting of the committee to hear an expert who will tell me that because of jurisprudence and other elements, my concerns are not justified? I will be very happy if an expert comes here to explain that to me. We will thus have worked properly for Canadians, the people of the fishing industry, and the judges.

It would take 48 hours to make sure that there is no problem with the equation in clause 18.04 and the maximum sentence. How would the fact of examining this over the course of the next 48 hours prevent the bill from working? I do not see why the government absolutely wants to do this quickly.

In fact, I know why. Generally, when you propose amendments, you are completely allergic to the very idea that they be questioned. It should be the opposite in the meetings of the committee, which should be a little more collegial.

For once, could you not show some good will and accept that we obtain answers to our questions? I may be proven wrong. You may find it fantastic if an expert tells me that my concerns are not well-founded. That would be good for you. I am offering you this. If that is what I am told, it would be good for you and not for me, but at least, we would have done our work till the end.

• (1245)

[English]

The Chair: Thank you, Monsieur Lapointe.

Monsieur Godin.

Mr. Yvon Godin: Can I propose that that we go to article 18 and say “with outstanding article 16”? Then there's a reference to it.

The Chair: We have a motion on the floor at this point in time. You put it on the floor.

Mr. Yvon Godin: My own motion? You're right.

Voices: Oh, oh!

The Chair: We're debating that at this point.

Mr. Yvon Godin: I'm just trying a solution before it's too late. That's all.

The Chair: I know, and I appreciate that.

Is there anything further on the motion put forward by Monsieur Godin?

Mr. Kamp.

Mr. Randy Kamp: I just have one final comment, I think. I'm not a lawyer, but I've dealt with enough lawyers to know that you're probably not going to get a lawyer in this room to say that this may or may not be challenged at some point. That's just what lawyers do.

What we can be assured of is that this has been carefully scrutinized by both the legal counsel at the Department of Fisheries and Oceans and the Department of Justice, so I think we can have some confidence that we can go ahead and pass this clause. I think we're going to vote against this motion.

The Chair: Monsieur Godin.

Mr. Yvon Godin: On that motion, though, I have to agree with Mr. Kamp. That's why we have to be careful, and put it in black and white, because he agrees with us that it could be challenged, that it's what we'll do.... That's why I always say there's nothing better than putting it in black and white, and by going to article 18, which is another thing we do.... But there's a way to fix it. I think you related it, and if we're all a bunch of non-lawyers, it's about time, maybe, that we bring a lawyer into—

Mr. John Weston: I'm trying to be under the radar.

Voices: Oh, oh!

Mr. Yvon Godin: Mr. Weston, you know we're right.

But anyway, I think we've said enough on it. Our concerns have been noted, and I think they're good concerns.

The Chair: Thank you, Monsieur Godin.

Monsieur Lapointe.

[Translation]

Mr. François Lapointe: I would simply like to underscore the absurdity of the situation. Five of the people here, including the department's representative, have said that they were not lawyers.

And I am in fact asking for a legal opinion. This room is filled with people who cannot quite frame the issue, because they are not lawyers. That is why we are asking for a legal expert. It is totally ironic to see the government refuse to let us take the time we need to do that, unless Mr. Weston agrees to draft a small addendum that would say that indeed, in concrete terms, clause 18.04 makes it possible to go beyond the \$500,000 ceiling that is proposed. There might be an easy way for a lawyer to word that in a simple sentence. I don't know if Mr. Weston would be willing to look at a way of allowing the judges to work with maximum leeway in this case.

Mr. John Weston: The problem is that if I start, I will not be able to finish. So I do not have a specific answer.

[English]

Mr. Yvon Godin: Wow, we have a lawyer in the room, but we don't have the answer. Imagine now, if we're not in trouble.... Why don't we bring the legal people in?

Voices: Oh, oh!

The Chair: On the motion put forward by Mr. Godin, those in favour?

(Motion negated)

The Chair: The motion has been defeated. On clause 16 and amendment G-4, are you ready for the question?

(Amendment agreed to)

(Clause 16 as amended agreed to)

(Clauses 17 to 19 inclusive agreed to)

The Chair: Monsieur Godin.

• (1250)

[Translation]

Mr. Yvon Godin: Mr. Chair, I would like to make sure that our opposition to clause 16 has been recorded.

Thank you.

[English]

The Chair: Thank you, Monsieur Godin.

Now we're back to clause 1.

(Clause 1 agreed to)

The Chair: Shall the full title, an act to amend the Coastal Fisheries Protection Act, pass?

Some hon. members: Agreed.

The Chair: Shall Bill S-3 as amended carry?

Some hon. members: Agreed.

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Thank you very much. That concludes our clause by clause.

We just have one housekeeping measure to do. It shouldn't take but a moment here. I believe Georges has a budget he wants to circulate and it's pertaining to our recreational fisheries study. It's to help pay the costs of our witnesses, obviously by video conferences and whatnot. So Georges has a proposed budget that he will be circulating here.

All right. I believe you all have a copy of the proposed budget in front of you. The budget is for \$36,300. Now remember this is for witnesses who could potentially come here, and Georges has allowed for the possibility of 38 video conferences and 10 people to travel here. It doesn't necessarily mean we're going to have that number, but it's up to that amount. If it goes beyond that amount, we'd have to return to this committee to seek approval to go beyond that as well. So that's what he's proposing, a budget to be able to pay the bills as we go forward with our recreational fisheries study.

Monsieur Lapointe, did you have a question?

[Translation]

Mr. François Lapointe: Thank you, Mr. Chair.

This is the second time that I am somewhat surprised by one of the amounts. This is the unit cost for videoconferences, i.e. \$600. In the regions, I have sometimes had to use this type of service and the cost was \$150 for two hours. This \$600 per videoconference seems high to me, especially since we have had a few problems in that regard. In Sept-Îles, if memory serves, we lost contact about seven times in two hours.

How is this \$600 price per videoconference justified? I'm thinking about taxpayers. My friends in the government party will be sensitive to that aspect of the question.

What happens in a case such as the one we saw in Sept-Îles? I do not know who the supplier was, but the service was only passable at best. We only had the audio during part of the meeting, the video image kept freezing, and so on. How does the committee manage these files? Must we really pay \$600 for a simple videoconference

contract which on top of everything does not provide good service in some cases? I'd like to know how this all works.

• (1255)

[English]

The Chair: The \$600 unit price, monsieur Lapointe, is a maximum that would possibly be allowed for a video conference. As you can appreciate, the cost to provide a video conference in your area or my area may be very different from providing it in downtown Vancouver, Mr. Weston's riding. The costs do vary, so we provide that maximum. As I said, the total amount will not always be used, and we leave it to the clerk to work with the House of Commons staff to identify the people in the area, in the location, to provide these video conferences. We give them a budget to work with. If they go beyond that, they have to come back to us with the same thing.

So as far as technical issues, that's unfortunate that would occur in the case you outlined. However, I'm sure that if you're a reputable videographer—I'm not sure what the proper term is—you don't want that to occur. You're going to make sure it doesn't happen again if that happens at one point, otherwise the House of Commons is probably not going to employ your services going forward. So those are the issues we have to deal with, or the way we have to deal with them. But the \$600 per unit is just a maximum per video conference, because as I say in the cases you outlined it may be \$150 per cost, but in some other area it may be more. Hopefully that answers your question, monsieur Lapointe.

[Translation]

Mr. François Lapointe: Mr. Chair, I want to thank you for the clarifications and reiterate all my trust in the clerks. This was a question concerning the funds, but as regards the management, in particular, I trust the team of clerks completely.

[English]

The Chair: Thank you very much.

Mr. Weston.

[Translation]

Mr. John Weston: I agree with Mr. Lapointe. I think that this whole experience will allow us to choose videographers that are the least costly for the taxpayers.

[English]

The Chair: I have every confidence that the House of Commons will secure the most cost-efficient service available to be able to provide us with—

Mr. Yvon Godin: But it has to be efficient.

The Chair: No question, and that's a big part of it, to be reliable and efficient.

Are there any further questions on the budget?

I think you have before you a proposed motion that's been circulated. If someone wants to make that motion, I'd much appreciate that.

Mr. John Weston: I so move.

The Chair: It's been moved by Mr. Weston that the proposed operational budget in the amount of \$36,300 in relation to its study on recreational fishing in Canada be adopted.

(Motion agreed to)

There being no further business, this committee now stands
adjourned.

The Chair: Thank you.

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