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Publication TELEGRAPH JOURNAL SAINT JOHN N.B.

Publication Date *APR 16 89*Page No. *19**10M*

*The following is the text of a letter to Eileen Rossiter, chair of the Standing Senate Committee on Fisheries, following the release of a report on the Atlantic groundfish industry earlier this year:*

By **W. A. ROWAT**

*Department of Fisheries*

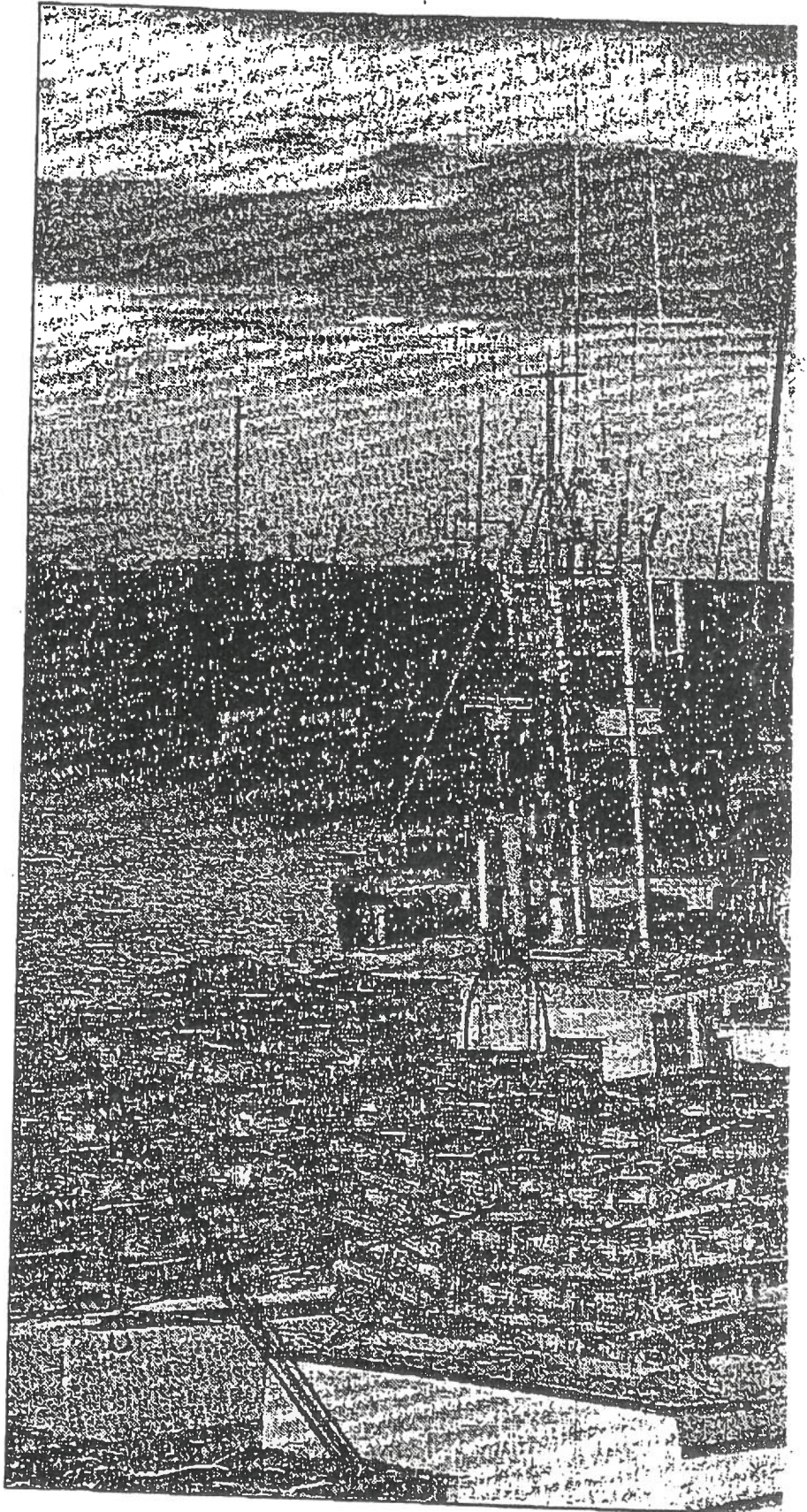
**I** WOULD LIKE to offer some further views on the nine recommendations of the Atlantic Groundfish Fishery: Its Future.

1. The committee recommends that conservation of the marine environment and its resources always have priority over all other considerations. Policies concerning allocation and licencing, enforcement, harvesting practices, etc. should, without exception, always be proven to be environmentally sustainable. This principle should apply at all times, even when fish stocks are abundant. In the future, fishing gear and fishing techniques should be thoroughly evaluated before being introduced on a commercial scale.

In a speech to the St. John's Board of Trade on Oct. 11, 1995, [then-fisheries minister Brian] Tobin made it very clear that in the fishery of the future conservation must come first. That priority has guided our resource management decisions on both coasts. It has also been the thrust of all major initiatives recently announced by this department. In the press package announcing the tabling of the Fisheries Act amendments on Dec. 11, 1995, Mr. Tobin emphasized that conservation must come first. He also stated that amendments to the Fisheries Act are an important step forward in the move toward a fishery that must be based on an ecologically viable fisheries sector.

In recent years, the department has been more mindful in the development of any new policies of the need to ensure that they are environmentally sustainable. Conservation and sustainability of the ocean's resources are of paramount concern to the department and will continue to be. However, the department is moving away from being the sole manager of the resources and, through partnerships with industry, we expect that fishermen themselves will need to ensure that their priority concerns must also be conservation and sustainability.

I agree with the report that any new gear or fishing techniques should be evaluated before being introduced on a commercial scale.



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2. The committee recommends that the department issue a clear vision statement and an explicit statement of fundamental and guiding principles for managing the Atlantic fisheries, including clearly expressed objectives with respect to employment in coastal communities.

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One of the major thrusts of the department is to define its core activity. This is an ongoing process, but it is clear that conservation of the resource is our fundamental responsibility. Employment for fishermen and plant workers in coastal communities is an important goal. However, successive studies have recognized that we have too many fishermen and that there are, in general, too many fish plants in Atlantic Canada to function economically in a more viable fishery of the future.

On Dec. 20, 1995, Mr. Tobin announced a new licencing policy for Atlantic Canada and a program of licence retirements. In order for the fishery to be environmentally sustainable and economically viable in the future the government, together with industry, must address three fundamental problems that have characterized the Atlantic fishery: excessive capacity, over-dependence on the fishery and over-regulation.

This new policy will be an essential building block of the foundation for a renewed Atlantic fishery. It will enable us, working with the provinces and fishing associations, to build a fishery that is sustainable, prosperous, and will meet the needs of our fishermen and coastal communities for generations.

3. The committee recommends that inshore fisheries have priority access to the resources upon which they have traditionally relied. The rules for reopening fishing grounds should clearly stipulate that in the case of groundfish usually harvested by both the inshore and offshore sectors, no offshore harvesting take place until the inshore has fully recovered. Offshore fisheries for groundfish should be permitted to resume only after a thorough consultation with inshore fishermen.

There has long been a debate between the offshore and inshore groundfish sectors over access to the resource. Canadian inshore, midshore and offshore fishermen all have traditional access to groundfish stocks in Atlantic Canada. In its November 1995 report, the Fisheries Resource Conservation Council made a number of recommendations regarding the preparations for reopening those fisheries currently under moratoria. The department will be working with industry during 1996 to further develop the necessary criteria for re-opening fisheries.

Your recommendation that the inshore sector have priority access to reopened groundfish stocks is contrary to our existing policy and one that we are not prepared to accept other than for the 2J3KL cod stock. Since the Corner Brook Northern Cod Seminar in August of 1979 it has been the department's position, and in general terms the industry's as well, that the inshore sector should have priority of access to this cod stock. Aside from that one anomaly, the new policy will not affect the historic allocation of the fish resources

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# The fishery and the future

## A co-operative approach

between fleet sectors and will continue to respect principles such as adjacency and historical dependency. As well, the fleet separation policy, which prohibits fish processing companies from holding inshore licences, is being maintained.

While conservation must be the cornerstone for the future, equitable access to the resource must also be recognized. In groundfish we have a number of different gear sectors using both mobile and fixed gears. We see no reason to give one sector priority over another. Under the new partnership concept, not only will fishermen have to accept more responsibility for the management of the resource but they will also have to develop better co-ordination between groups. It is our hope that by working together the different interests can gain better understandings of the positions of others and develop the necessary working relationships that will lead to more effective utilization of the resource.

4. The committee recommends that the fishery of the future be premised on participants' diversification of their fishing activities. The licensing system (e.g. licence transfer policies) should promote multi-species, rather than single-species, operations.

The primary focus of the new licensing policy, as announced on Dec. 20, 1995, is that the inshore fishery will be made up of a professional core group of a limited number of enterprises. Each enterprise will be headed by a professional fisherman and will be encouraged to hold multiple licences.

5. The committee recommends that the department review and assess the effectiveness

of its regulations for restricting the ownership or control of individual Transferable Quotas to certain maximum limits.

Most quota programs in Canada include anti-concentration rules of various sorts. The most direct control is a limit on the maximum amount of quota that can be owned. More general policies such as owner-operated (to ensure licence holders cannot hire someone to fish for them) and fleet separation (to keep processors from securing supply through acquisition of fishing licences) also serve this end. Other policies restrict the permanent transfers between provinces and fleet sectors. These policies have been reviewed.

The long-term experience with many of these restrictions is that they become increasingly ineffective as industry adjusts (either legally and/or by bending the rules) to financial realities. In reality, these rules and policies have come from fishermen themselves and are supported by coastal communities to protect local employment. These types of rules are rarely applied in other industries and hinder the evolution of an efficient self-supporting industry.

6. The committee recommends that federal and provincial governments move to develop a joint and co-ordinated strategy to address the issue of excess processing capacity: the number of fish processing plants in the region should be reduced and the number of processing weeks for plants remaining in operation should be increased. The strategy could be based on the principle that reduced capacity in fish processing would not reduce historic provincial catch shares. In future, fish plants will need to become better equipped in producing value-added products.

The federal government, when it

introduced the five-year \$1.9-billion Atlantic Groundfish Strategy (TAGS) in April 1993, started a process of consultation with the Atlantic provinces and Quebec with the objective of establishing a joint federal-provincial strategy to deal with capacity reduction in both the harvesting and the processing sector of the Atlantic groundfish industry. This was consistent with the recommendations of the Task Force on Income and Adjustment in the Atlantic Fishery (the Cashin Task Force) which had recommended the establishment of Industry Renewal Boards (IRBs) for the implementation of a co-ordinated federal-provincial strategy for capacity reduction in harvesting and processing capacity.

After consultations with the provinces no agreement was reached on the establishment of a co-ordinated approach to address the problem of overcapacity in both harvesting and processing capacity. The federal government therefore proceeded with the establishment of regional Harvesting Adjustment Boards (HABs) to implement a program of capacity reduction in the harvesting sector which falls under federal jurisdiction. The main elements of the federal harvesting capacity reduction strategy are the Groundfish Licence Retirement Program administered by the HABs, the Atlantic Fishers Early Retirement Program, and the recently announced reforms of Atlantic Fisheries Licensing Policy and Fishers UL.

In the case of Newfoundland the federal and provincial governments have recently agreed to expand the mandate of the Newfoundland Harvesting Adjustment Board to include advice on the rationalization of the Newfoundland fish processing sector. The board, whose

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membership has been increased by the addition of a representative of the processing sector designated by the Newfoundland government, is currently developing approaches to a capacity adjustment and is consulting closely with the fish processing sector on their implementation.

7. *The committee recommends that the department further promote the participation of fishermen in fish stock assessment and in carrying out various fisheries research activities. In future, the department should recognize the value of the anecdotal knowledge of coastal fishermen.*

In recent years departmental scientists have increasingly involved fishermen in their work to a much greater extent than in the past. Scientists recognize that fishermen have a role to play in stock assessments and that their knowledge, although at times not strictly quantifiable, is nevertheless valuable. Two recent programs, index fishermen and sentinel fisheries, are a direct result of our desire to get fishermen more involved in the scientific aspects of stock management. Both these programs are proving useful and the fishermen have been very receptive to these types of programs.

Departmental scientists also share research and practical experience with fishermen in meetings prior to the completion of stock assessments. In many instances, if space permits, fishermen are invited to participate in research cruises to assist in carrying out some aspects of data collections.

It is, of course, not possible to involve every individual fisherman in every scientific issue. However, the department has come a long way in improving interactions between fishermen and scientists and we will continue to improve upon this relationship at every opportunity.

8. *The committee recommends that fishermen play a greater role in decision-making through a genuine and effective system of co-management and partnership with government. Access to the fishing profession should be limited to bona fide participants. The fishery should be delegated more power to regulate itself (e.g. in regard to professionalization, the admission of fishermen to the profession).*

The department, in consultation with industry, is exploring a new approach for the management of Canada's fisheries based on a partnership with industry. New powers in the Fisheries Act are proposed to allow the Minister of Fisheries and Oceans to share the decision-making with groups within the fishery through long-term partnership agreements. For fishermen the partnership will mean a more formalized role in the decision-making process for the

management of their fishery. Partnership will also provide the basis for sharing of the financial responsibility for the management of the resource and will provide greater security of tenure for licence holders.

Under this approach the responsibilities and legal authorities for conservation and protection of the resource will remain with the Minister of Fisheries and Oceans.

When organizations representing fishermen assume responsibility for activities, such as data gathering, the Department will establish standards and monitor industry activities to ensure standards are met.

Departmental staff in all regions will be actively involved in communicating the department's partnering initiative and its linkages to other departmental initiatives. Our goal in 1996 will be to explore co-management agreements which will be the precursor to more formalized long-term agreements.

9. *The Committee recommends that the Department of Fisheries and Oceans develop ways to communicate policy and new policy initiatives more effectively to fishermen and their organizations. Coastal communities affected by federal government decisions should be thoroughly consulted. The federal government should also move to counter the perception, widely held by the Canadian public, that the Atlantic fishery is a burden on the national economy.*

The Department is always looking for new and better ways of communicating with industry and the Canadian public at large. However, as you can appreciate it is impossible to contact every individual fisherman on every issue.

Over the years we have developed a very extensive consultative process with industry at all levels. There are few, if any, decisions taken that have not been subject to some consultation with industry. Representatives of various fishermen's groups are not only consulted regularly, but are also advised of new policies, regulations, etc. on an ongoing basis. But, as you can appreciate, it is not possible to satisfy the wishes of everyone all the time. With so many competing interests for fish resources it is inevitable that there will be some negative reactions to almost all policy decisions. However, Department officials have always been willing to meet with fishermen's groups to seek their input and to fully explain policies.

The Committee recommends that the Department consult thoroughly with coastal communities before government decisions are made. As Canadians, we are all concerned with the well-being and economic viability of all communities in Canada.

The fishing industry will continue to be consulted extensively throughout each year and while it is just not possible to consult with individual communities on every issue, regional officials will continue to meet with elected officials from the local and provincial level whenever necessary to explain policies and programs and to listen to any concerns that they may have. ●

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TOP STORY

## Court confirms Ottawa's control of native fishery

By JIM BRONSKILL

*Southam News*

OTTAWA - The Supreme Court of Canada says the government can require natives to have food-fishing licences, but must be careful about attaching conditions to them.

The court, in a pair of decisions yesterday involving British Columbia bands, also made it clear that natives do not necessarily control the fisheries in waters running through their reserves.

The judgments confirm the broad federal power to regulate fisheries and help stake out the limits to that authority.

In a 7-2 decision, the high court allowed the appeal of Jerry Nikal, a Wet'suwet'en Indian convicted of catching salmon without a licence in 1986 from the part of the Bulkley River slicing through Northern B.C.'s Moricetown reserve.

The simple federal requirement of a licence did not infringe Mr. Nikal's constitutional right to fish for food or ceremonial purposes, Justice Peter Cory wrote for the court.

"If the salmon fishery is to survive, there must be some control exercised by a central authority," Judge Cory said.

"The licence is the essential first step in the preservation and management of this fragile resource."

Judge Cory said, however, the government had not justified attaching numerous conditions to the required licence. They would have prevented Mr. Nikal from fishing during the summer months and limited his catch to salmon for the sole purpose of feeding his family.

"The conditions are unconstitutional," said Judge Cory. "As a result of the conditions, the licence is invalid."

Reform party fisheries critic Mike Scott said he was worried the judgment could tie federal hands in the effort to manage stocks. "There is some concern there."

Crown lawyer David Frankel noted, however, that a landmark

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## FISH

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1990 Supreme Court ruling has already established that the government must justify any violation of the aboriginal right to fish.

The high court's latest decision is merely an extension of that ruling, Mr. Frankel said.

The court, though quashing Mr. Nikal's conviction, rejected his argument the Moricetown band had the right, under the Indian Act, to regulate the Bulkley River fishery.

The court said the Act delegates such control to bands when they are granted an exclusive right to fish a waterway. But historical documents show the Crown never intended to give the band that

right, Judge Cory concluded.

The court cited the same principle in rejecting the appeal of three Squamish Indians convicted of fishing in waters near the Cheakamus reserve on different occasions in the mid-1980s.

Justice Frank Jacobucci found there was no evidence the band was granted an exclusive fishery at the Squamish River site.

Harry Slade, who represented the Squamish members, said the point is significant, but noted there are instances where the Crown has endowed bands with fishery rights.

"That circumstance may vary from province to province, particularly where reserves are established pursuant to treaties, which is generally not the case in British Columbia." ●

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