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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (1640)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order. This is, again, the 69th meeting of the Standing Committee on Finance. Our orders of the day, pursuant to the order of reference of Monday, May 14, 2012, are on the discussion of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures. We are in clause-by-clause consideration.

Colleagues, I'll just outline how we are proceeding here. I'm going to take my time doing so to make sure everybody understands it.

As is tradition, we postpone clause 1 till the end. We start with clause 2. I will go, obviously, in numerical order.

I'll just highlight for the members a couple of things from the motion that this committee adopted on May 15:

B. the Committee shall proceed to clause-by-clause consideration of Bill C-38 no later than Monday, June 4, 2012, provided that the Chair limit debate on each clause to a maximum of five (5) minutes per party per clause before the clause is brought to a vote;

That means each of the three parties will have five minutes for each clause, should they choose. They can, obviously, speak for less if they decide so.

The second thing I want to highlight for committee members is:

E. if the Committee has not completed the clause-by-clause consideration of Bill C-38 by 11:59 p.m. on Tuesday, June 5, 2012, the Chair shall put, forthwith and successively, each and every question necessary to dispose of the Committee stage of the Bill and to report the Bill to the House, without further debate or amendment, and that the Chair be ordered to report the Bill back to the House on or before Thursday, June 7, 2012.

These are two items that I want all members to keep in mind.

I've done these a number of times. It helps if members, because of the number of clauses, prioritize the clauses they wish to speak more to rather than less. Obviously, if all three parties take five minutes for each clause, we're going to run up against the time deadline of 11:59 p.m. tomorrow night.

Given that, I believe we have, just for your information, 58 amendments before us. We have 51 from the NDP and seven from the Liberals—I hope those numbers are correct. I will start, obviously, with clause 2.

If members wish to group clauses or if they wish to move at a quicker or slower pace, please indicate to the chair.

Starting with clause-by-clause consideration, pursuant to Standing Order 75(1), consideration of clause 1 is postponed. The chair therefore calls clause 2.

(On clause 2)

The Chair: I'll just highlight for members that I do not have an amendment until clause 16. I have NDP-1, which is on clause 16. Perhaps what I'll do is ask if there is any member who wishes to debate clauses 2 to 15.

Monsieur Mai, which clause?

Mr. Hoang Mai (Brossard—La Prairie, NDP): Clause 4.

(Clauses 2 and 3 agreed to)

(On clause 4)

The Chair: On clause 4, I have Monsieur Mai, *s'il vous plaît*.

Mr. Hoang Mai: Thank you, Mr. Chair.

Clause 4 allows for a portion of a dividend to be designated as an eligible dividend and a late designation of an eligible dividend.

One of the issues we have is in terms of revenues when you have an austerity budget that actually cuts. In this case, we are allowing income from dividends to be taxed at a lower rate than other income. In terms of strategy, we're talking about revenues.

We don't think the provision is right. We are against it.

The Chair: Thank you, Mr. Mai.

Ms. Nash, on this clause.

Ms. Peggy Nash (Parkdale—High Park, NDP): There is a procedural issue for clauses 2 and 3. We want it indicated that we're voting for those as opposed to on division.

The Chair: I apologize. I will consider them passed.

If it's on division, just please indicate to me if members want it on division. If they don't indicate to me, I will consider that it's unanimously in favour.

So clauses 2 and 3, then, I said were passed on division—I didn't hear on division. I apologize for that. Clauses 2 and 3 were unanimous.

Thank you, Mr. Mai.

Is there any further discussion on clause 4?

(Clause 4 agreed to on division)

The Chair: On clauses 5 to 15, are there any clauses members wish to speak to?

Monsieur Mai.

• (1645)

Mr. Hoang Mai: Clause 7.

(Clauses 5 and 6 agreed to)

(On clause 7)

The Chair: On clause 7, Mr. Mai.

[*Translation*]

Mr. Hoang Mai: Once again, this is about the decision-making power that is being given to the revenue minister. Things are getting political. It says...

[*English*]

“qualified donee”

[*Translation*]

...when talking about the definition of political activity. We have said on a number of occasions that we are concerned that this government is giving the minister more and more discretionary power. That means that the process, in terms of political activity or charitable organizations, is becoming more and more politicized. So we are going to oppose clause 7.

[*English*]

The Chair: Thank you.

Is there further discussion on clause 7?

Ms. McLeod, on clause 7.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Mr. Chair, I just want to comment that this is routine delegated authority and it's not an uncommon piece of legislation.

The Chair: Thank you, Ms. McLeod.

Is there further discussion?

Mr. Brison.

Hon. Scott Brison (Kings—Hants, Lib.): Just on clause 9.

The Chair: Okay, let's finish with clause 7.

Is there further discussion on clause 7?

(Clause 7 agreed to on division)

(Clause 8 agreed to)

(On clause 9)

The Chair: On clause 9, Mr. Brison, please.

Hon. Scott Brison: I think we're going to revisit clause 9 if we pass this bill, probably in the next budget cycle, because we're being told by tax preparers that this is going to create a lot of difficulties. It requires that tax preparers file returns electronically, but it doesn't allow tax preparers to effectively prepare someone's taxes and then the client can submit the return. It could create a problem where ultimately the final submission to Revenue Canada is not made by the client. There's a certain accountability that some individual

taxpayers want to submit their tax return personally, as opposed to having their accountant do it. I think this is going to create some unintended consequences, and I'll express those now.

The Chair: Thank you, Mr. Brison.

Ms. McLeod, please.

Mrs. Cathy McLeod: Mr. Chair, this applies to the ones that are submitted by the tax preparer, but certainly people can have their taxes prepared by a tax preparer and submit them personally.

The Chair: Thank you.

Is there further discussion on that?

Mr. Brison.

Hon. Scott Brison: It is my understanding that is in fact not the case. Maybe this is one where we ought to have public servants here to answer that question.

The Chair: Thank you.

Mrs. Glover.

Mrs. Shelly Glover (Saint Boniface, CPC): I recall very clearly that public servants have already answered that question. It's unfortunate that Mr. Brison may not have heard them. They were clear. Nothing precludes Canadians from submitting their own tax documents to the CRA in any form that they desire.

It's been answered, and we will be supporting this clause.

The Chair: Thank you.

(Clause 9 agreed to on division)

The Chair: I'll just remind members that if they want a recorded vote, they can ask for it, but they have to indicate that to the chair.

I have clauses 10 to 15. Are there any members wishing to speak to any clauses between clauses 10 and 15?

Monsieur Mai.

Mr. Hoang Mai: Clause 13.

• (1650)

The Chair: Okay. Let me deal with clauses 10 to 12.

Shall clauses 10 to 12 carry?

An hon. member: [*Inaudible—Editor*]

The Chair: On clause 11. Okay.

(Clause 10 agreed to)

(Clause 11 agreed to on division)

(Clause 12 agreed to)

(On clause 13)

The Chair: Monsieur Mai.

Mr. Hoang Mai: Again, in clause 13 we have close to an attack on charities. We have heard that charities play a very important role in our society. The government is attacking charities right now. We've seen it with the environmental organizations. In this case, we have the government attacking charities, and that is why we're going to vote against clause 13. There's too much power being given to the minister in this case. It is politicizing the issue, giving more power to the minister, and attacking charities, as they've been doing, and that's why we're going to vote against clause 13.

The Chair: Thank you.

I have Ms. Glover and then Ms. McLeod.

Mrs. Shelly Glover: Thank you, Mr. Chair.

It is this government that actually put forward a number of measures to assist charities. We believe very strongly that charities are an important aspect of helping some of our most vulnerable. We'll continue to do things such as put measures forward to help charities.

For that reason, this is a very important measure in this bill and we will be supporting it.

The Chair: Go ahead, Ms. McLeod, please.

Mrs. Cathy McLeod: My colleague articulated very clearly that we will be supporting this clause.

I think it is important that predominantly the rules are not changing. We are providing the opportunity to really educate the charities and move forward. I think there are some tools that are a normal, delegated process. Again, it is allowing charities to really understand the 10% rule and what's appropriate and what's not appropriate.

Again, we will support this clause.

The Chair: Thank you.

We'll go to Ms. Nash, please.

Ms. Peggy Nash: Just to reinforce what my colleague on this side has said, we are very concerned, based on comments the ministers have made, that there is a chill being created among progressive charities and environmental charities. Because there is so much discretion in the hands of the minister, and it places increased power in the hands of the minister, our concern is that this change will have the impact of shutting down dissent and politicizing a process that is a normal advocacy role for many charities.

As my colleague said, we will be voting against this clause.

The Chair: Thank you.

(Clause 13 agreed to on division)

(Clauses 14 and 15 agreed to)

(On clause 16)

The Chair: We have our first amendment, which is NDP-1.

I will ask Ms. Nash to speak to clause 16 and move her motion.

Ms. Peggy Nash: Yes, Mr. Chair, I'd like to move that clause 16 be amended by replacing line 5 on page 14 with the following:

On January 1, 2013, a net salary of \$137,000.

Our amendment is intended to give the Governor General the same net salary he now receives. Canadians are increasingly vulnerable in these economic times. Far too many people have lost their jobs. People are facing all-time-high personal debt levels. And there are several austerity measures in this budget that will in fact reduce the wages of the average Canadian. So while in no way disrespecting the work of the Governor General—we appreciate the work he does—we do not agree that he should enjoy a salary increase at a time when so many tens of thousands of public sector workers are losing their jobs. We don't think that's an appropriate use of our tax dollars.

• (1655)

The Chair: Thank you.

Mrs. Glover, and then Mr. Brison.

Mrs. Shelly Glover: Mr. Chair, the proposed amendment would provide the Governor General with a net salary of \$137,000, effective January 1, 2013, but actually would not change the proposal to make the Governor General's salary taxable.

There are a number of problems with the proposed amendment. First, it's not clear what "net salary" means. Is the proposal meant to provide that the salary is to be net of related expenses, but then be subject to income tax? If so, this change would have a material negative impact on the Governor General by significantly reducing the effective remuneration for holding that office. Even if we accept that this amendment is meant to refer to what the Governor General receives after applicable income taxes, it is contrary to the intention and the measure in this bill, which is to make the salary of the Governor General subject to the same exact rules as salaries received by other Canadians.

Other Canadians do not receive a certain salary after tax. They receive a salary and are taxed on it. That is what this measure does, and that is what we deem as being fair.

As a practical matter, an individual's tax liability is ultimately determined at the end of each year on the basis of income from all sources. Collecting the information necessary to be able to pay the Governor General the proper salary would be incredibly intrusive into the personal affairs of each and every Governor General. Every year the Governor General would have to disclose every aspect of his or her personal income tax situation, not to Canada Revenue Agency for tax purposes, but just to set the Governor General's salary in the first place.

These are the problems we see with the amendment.

Once again, I have to rebut what my colleague said about any suggestion that there is an increase in salary for the Governor General. This measure simply makes the salary of the Governor General taxable. There is absolutely no increase. It is just making it fair with what every other Canadian has, and that is a taxable income.

The Chair: Thank you, Mrs. Glover.

Mr. Brison, please.

Hon. Scott Brison: I find myself oddly concurrent with Mrs. Glover on this point.

The reality is that the legislation unamended does not increase the post-tax earnings of the Governor General. This amendment would impose, not just a small pay cut, but a significant and punitive pay cut, which I don't think would be the intention of the legislation in the first case. It's important to reiterate that the increase is simply to reflect the fact that this legislation makes the Governor General's salary taxable.

I don't support the amendment, but I do support making his salary and the salaries of future governors general taxable in the interest of transparency.

The Chair: Thank you, Mr. Brison.

Mr. Mai, please.

[*Translation*]

Mr. Hoang Mai: I do not agree with Ms. Glover that the Governor General's salary would not be changed. On the contrary, if it goes from \$137,500 to \$270,600, it practically doubles. If you do the calculations according to CRA rules, you see that the after-tax amount is about \$175,474.47. That is an increase of about \$40,000.

You have to be open and honest with Canadians when doing the calculations. When we asked the officials what the Governor General's salary would be after taxes, they told us that it was impossible to calculate at that stage because it depended on his other income. Be that as it may, the Governor General's after-tax salary is \$175,474.47. So there is an increase already. It is more that he gets at the moment, before or after taxes, given that there were no taxes beforehand. So the proposed amendment is justified.

• (1700)

[*English*]

The Chair: Thank you, Mr. Mai.

The Conservatives have about three minutes left.

Mrs. Glover.

Mrs. Shelly Glover: Thank you, Mr. Chair.

To further explain, for the benefit of Mr. Mai, the calculations were done taking into consideration the Governor General's outside income and whatnot. This allows us to set what the rate would be, which then shows very clearly that there is no increase in his salary. This puts him wholly with other Canadians, and Mr. Mai, we hope we can see you support us on this wonderful clause.

Thanks.

The Chair: Okay. I had Mr. Brison.

Is there anyone else who wants to...?

Mr. Brison.

Hon. Scott Brison: On this point, this legislation is not designed to apply to this Governor General. It's to apply to the role of the Governor General from now into the future. As such, based on the progressive tax system we have in Canada, I don't think we can determine the effect on this Governor General or future governors general.

We can do our best, and I think the legislation does that as it is. It's conceivable that various governors general in the future will have various levels of external income. The win in this, from a legislative and public policy perspective, is that we do have the Governor General's salary being taxed.

That is right, and it's no different from members of Parliament. When the changes were made 10 years ago, there was an allowance of I think \$30,000. When I was first elected, the base pay was \$60-some thousand. There was a \$20-some thousand tax free allowance. It was changed, and the entire amount was made... Some members of Parliament have external sources of income. We don't determine that based on trying to figure out what members of Parliament or governors general's external supports are, whether they receive dividend income or capital gains income or whatever else. That's not our job.

Our job on this is to do something that I think is a step forward in terms of achieving the transparency and accountability of taxing the Governor General's salary in a way that is as close to revenue neutral as we can design. I think that's...

The Chair: Thank you, Mr. Brison. I have Mr. Marston and Mrs. Glover.

Please make brief points, and then I would like to call the vote.

Mr. Marston.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): I'm concerned. I think in essence what we're doing here is grossing up the salary of the Governor General, to a point where his gross salary is increased so that his net salary works out to be the same as it is today. I see some nods on the other side. That means, in essence, that you increase his salary so that it's taxable, and Canadians will now pay that tax on his behalf because he's still winding up with the same net. It's grossed up.

The Chair: Okay, thank you.

Mrs. Glover.

Mrs. Shelly Glover: I disagree with what Mr. Marston has said, but more importantly—because I know I only have a short period of time left, in response to Mr. Brison, the changes will take effect in 2013 and subsequent taxation years. I just want to make it very clear that that's what will happen.

Again, this legislation is intended to make the Governor General whole, with absolutely no salary increase, but to have a taxable salary. I think it's the appropriate way to go to serve the purpose, and that's the intention of the legislation.

The Chair: Thank you. I will call the question on amendment NDP-1.

(Amendment negated)

(Clauses 16 and 17 agreed to on division)

(Clause 18 agreed to)

• (1705)

The Chair: I will move, then, to part 2 of the bill. Part 2 deals with clauses 19 to 51.

I have no amendments for part 2. Can members indicate which clause they wish to speak to? Can I group some of them together, or do members wish to...?

I'll give you a minute or two to look at that.

(Clauses 19 to 24 inclusive agreed to)

(On clause 25)

The Chair: I'll go to Ms. Nash.

Ms. Peggy Nash: Our concern here is that this is something we did not hear testimony on. We would like to understand better the implications of this. Again, it's one of the many items buried in this omnibus budget bill and should properly be before the environment committee, or perhaps the industry committee, or some other committee. In any case, we would like to understand it better, and until we do, we're not prepared to support it.

The Chair: Thank you, Ms. Nash.

I have Ms. Glover.

Mrs. Shelly Glover: The government side believes this is an important measure. There have been ample opportunities for all parties to ask questions at a briefing that was held for four hours for members. It's unfortunate the critic wasn't there. But following that, in committee, we also had officials, and questions were permitted at that point.

Our homework has come to where we're now doing clause-by-clause. It's an important measure that Canadians will see the benefits from, and I believe it's important that we vote on it today to make sure it comes into force.

Thank you.

The Chair: Thank you, Ms. Glover.

I go to Mr. Jean now, please.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Actually, it's all right, Mr. Chair. For the sake of moving forward, I'd rather just not make any comment.

The Chair: Okay. Thank you.

(Clauses 25 and 26 agreed to on division)

(Clauses 27 to 51 inclusive agreed to)

The Chair: We are now moving to part 3 of the bill.

I have Ms. Nash, please.

Ms. Peggy Nash: Mr. Chair, because we're moving to a part of the bill that was in the subcommittee, which we did not hear the testimony for, can we take five minutes just to prepare ourselves for this part of the clause-by-clause?

The Chair: I will suspend for five minutes so we can have a health break.

•(1710) _____ (Pause) _____

•(1725)

The Chair: I call this meeting back to order.

Colleagues, we are on part 3 of Bill C-38, clauses 52 to 169.

I want to welcome our officials, who have joined us in case members have any questions.

I will just indicate to members that for clause 52, which is the first one we're dealing with, there are a lot of amendments—about 36. It's problematic when we have the five-minute timeline, because for us to deal with all of these amendments within five minutes is very challenging. What I'm going to suggest is that I be a little flexible in terms of time.

What I would point out—it's been pointed out to me—is that 21 of the amendments by the NDP deal with a very similar issue. If I could ask that an argument be made with respect to those 21 amendments, perhaps it would be a good way to group them together. I would ask for members' agreement that we be flexible in terms of time. But given that we are being flexible and deviating from the motion somewhat, I'm going to ask members to make points and not be repetitious. When I see the debate points have been made, I will then call the question and move on.

Is that acceptable to members of the committee?

Ms. Glover, do you want to speak to that?

Mrs. Shelly Glover: Just very briefly. We have great confidence in your abilities to do that and hold people to account for limiting repetition, etc.

I do make this other comment, though, Mr. Chair. With regard to territorial borrowing limits, there's another area where six potential amendments are similar. Perhaps we can look at lumping those together as well. I mention them just so the other parties can consider them when we get there.

It would be NDP-40, NDP-41, and NDP-42, and LIB-3, LIB-4, and LIB-5, for consideration of lumping together.

The Chair: Okay. That's a good point. That's in part 4. We can look at that as well.

We have clause 52. Members all have the amendments before them. I have been asked by members if they don't have to read them into the record, in the interest of time. I certainly will accept that. We will consider them read into the record.

I will start, then, with NDP-2, in the name of Ms. Nash.

[On clause 52—*Enactment*]

Ms. Peggy Nash: I will defer to my colleague.

The Chair: We'll go to Mr. Chisholm, please.

Mr. Robert Chisholm (Dartmouth—Cole Harbour, NDP): Thank you, Mr. Chairman.

On behalf of NDP committee members, I will be moving these amendments, and I want to speak to them briefly. These amendments are extremely important amendments in terms of dealing with some of the issues I raised earlier that have to do with the lack of opportunity we've had to focus on the details of these bills.

The Canadian Environmental Assessment Act, for example, has been completely repealed and replaced with a new act.

That's just one piece we're dealing with. There are also major changes to the Fisheries Act, which we heard representations about again and again during our 14 hours of discussion on all these matters. People pleaded with us to, at the very least, split the Fisheries Act out of it.

In the Canadian Environmental Assessment Act, for example, there's a statutory review every seven years. But these changes, the repealing and the new wording to replace what was repealed, have gone through without anybody seeing these changes, without amendments, and without there being a full discussion and deliberation by experts. There was nothing. We had a few last-minute representations here at committee last week. We had very few hours to deal with something that is so critical. And the fact that we're going through it in this manner is going to result in delays. I'm convinced of that, as were many of the presenters who came and spoke to us. It gives overriding power to ministers. It gives overriding power to cabinet to override panels.

There's a lack of clarity in terms of the offshore petroleum. I was asking the environment commissioner, who was here at some point last week—I can't remember when—about what's going to happen, for example, with the development of the Old Harry site in the gulf, in terms of the responsibility of the Canada-Newfoundland Offshore Petroleum Board. He said he didn't know, because it wasn't clear. It wasn't clear whether there was going to be a requirement that the panel be able to ensure that there is a full environmental assessment.

It is so troubling, Mr. Chairman, that I'm almost at a loss for words, and this doesn't happen very often. I will recover—honestly.

The designated projects list, for example, is another area where it was suggested to us that for questions of responsibility and responsible governance, and because of the impact it will have, we should not proceed with the passing of these changes through to the House until those regulations and what is contained in the designated projects list are clarified. It may be, as was suggested by the environment commissioner and a few others, that the designated projects list will clarify who's on it and who isn't on it, to the point where we have some confidence. But to leave that up in the air is irresponsible, Mr. Chairman, in the extreme.

The fact that we're going forward and making these environmental assessment changes and these wholesale changes to the Fisheries Act, which are just two pieces of legislation, without any consultation with first nations people and without providing clarification on how and where they will be consulted, is irresponsible.

● (1730)

The fact that we're proposing in the legislation provided for in this bill that the federal government can designate the provincial rules to cover a project or an assessment may well be unconstitutional, it has been suggested, because of where the jurisdiction already rests, not the least of which is that this is very clearly ignoring the role that has increasingly been defined by the Supreme Court on first nations communities that are affected by any development, Mr. Chairman.

We talked about it in our subcommittee and during the presentations and said that we're trying to find balance, we're trying to get rid of duplication, and we're trying to clarify, but in the haste

and the overwhelming imbalances created by these changes in these various acts, Mr. Chairman, we're creating a huge imbalance that exists out there.

There are different opinions. There are going to be differing opinions in the Commons, and if, as the government says, we're committed to their four pillars for the sustainable development of natural resources, then we have to ensure that all of those opinions are brought to the table, that we're able to ensure that there's a full debate and discussion, and that we're able to achieve some compromise.

But what these changes do, Mr. Chairman.... And I honestly believe that if members of this committee had the opportunity and weren't so jammed up by these time constraints, these absolutely irresponsible time constraints.... You are here for a reason as members of Parliament: to represent your constituents, to make a stronger country, and to make your community stronger. I believe that.

But if you had paid attention to the representations we've had in this committee, in our subcommittee, and to the concerns that were raised and the uncertainty that this is going to create.... My point was the power imbalance that is going to be created whenever these projects come forward. This is not Canada. This is not the Canada I know. We can have a civil discussion and debate, an exchange of ideas, and come to a conclusion without there being such unreasonable power in the Commons that a group that has more access and more money is always going to be the victor.

● (1735)

The Chair: Mr. Chisholm, I just want to clarify, because you are speaking to NDP-2 to NDP-36. So you are formally going to move the...?

Mr. Robert Chisholm: We're moving the amendments that we've tabled. We have absolutely insufficient time to discuss them, to discuss the merits of them, the detail, and the reason why they're important to have here, Mr. Chairman.

The Chair: I'm just reminding—

Mr. Robert Chisholm: So I just wanted to make sure, on behalf of this committee, that it's understood by all members that this is wrong, that some detail and scrutiny need to be given to this, and that this is an absolute abuse of power.

Mr. Chairman, at the beginning of my intervention I said I was moving the NDP amendments.

The Chair: Okay. I just wanted to clarify.

I think what we'll do, if it's agreeable to members...we can have a general debate. Then I'll ask you to move each one and we'll have a vote on each one. I assume you want to have a vote. We will group the ones I mentioned, the 20 that deal with the same topic, but we will ask you to move the rest of them.

I'll just clarify with respect to one of them, NDP-2, that if the last paragraph is left in there, it's inadmissible. That's the paragraph that says, "Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows". I'm assuming you'd want to take out that paragraph. That then makes the amendment admissible.

Mr. Robert Chisholm: You're referring to the assessment by a review panel?

• (1740)

The Chair: No, this is just the final paragraph in NDP-2.

Do you have NDP-2 in front of you?

What I'll do, Mr. Chisholm, is continue with a general discussion.

Again, I'll just encourage members to speak to as many specific topics as they can. I have Ms. McLeod on the list, so I'll go to Ms. McLeod. If others wish to speak, please let me know.

As I mentioned, I'm being flexible on the motion in terms of time, in order to have a good discussion, and then we'll go to the specific amendments. We'll just have them moved and then we'll have a vote on each one.

I will go to Ms. McLeod.

Any further members, just indicate to me, please.

Mrs. Cathy McLeod: Thank you, Mr. Chair.

I think most importantly.... For many, many years I was involved in municipal-level government, and then there was provincial, and the thing I heard about over and over and over again was the unnecessary duplication, the incredible frustration. I think in British Columbia, they just had a project finally approved after 15 years in an environmental assessment process.

We believe we need to move forward and hit that balance—that balance between giving yeses or noes to those people who are moving through the process, between having a very rigorous environmental assessment process that protects the environment while allowing important projects to move forward.

With respect to the comments by the chair, I'll speak specifically to the first amendment, which is the proposed amendment NDP-2.

I think it's important to say that this preamble is not necessary for the operation of our Environmental Assessment Act, and it actually doesn't line up well with the body of the legislation. We've taken the approach of four pillars of responsible resource development. Those pillars include more predictable and timely reviews, as it shouldn't take someone 15 years for a ski resort to be approved; reduced duplication, as we shouldn't have the same answers going to the province and then to the federal government eight to ten years apart, which is just an incredible waste of time and resources, when it is the same question; strengthened environmental protection; and enhanced consultation with aboriginal groups, absolutely recognizing the important partnership and consultation that needs to happen.

You know, if the NDP looked at it in the whole, they'd certainly recognize and see that on pages 35 to 37 we have a much stronger statement about the context of the act, and that therefore the proposed preamble is actually unnecessary.

Again, I think what we need to do is look at the important things we're trying to accomplish, the important pillars, and really to move forward in a strong and positive way for both our responsible resource development and protecting our environment.

Thank you.

The Chair: Thank you, Ms. McLeod.

I have Ms. Nash, and then Mr. Brison.

Ms. Peggy Nash: I know there is very little time that rests with us. The rules are that we have five minutes per clause. We appreciate that we are getting a few extra minutes, but generally, this process is one that I think not only disappoints us, but it frustrates Canadians.

We're disappointed that the government hasn't pursued these environmental changes through more democratic channels, such as the relevant standing committees, which would be the normal process, where members could have met with the experts, scientists, stakeholders, and others about all these proposed changes. The subcommittee had barely 12 hours on four consecutive days to review and assess major changes affecting 69 statutes, including a repeal of key legislation.

The entire Canadian Environmental Assessment Act was repealed and a new act has been introduced in a single clause, clause 52, which we are debating now, which runs 63 pages. In fact, page 152 of the bill is devoted to dismantling and rewriting key environmental laws in Canada. It has not undergone proper scrutiny. It's not going to have the benefit of public consultations. It's impossible to know how Canadians, the environment, and our economy are going to be affected by these changes, because we will not have had the benefit of due process in order to scrutinize these proposals.

My colleague was talking about fish habitat, which is vital to so many of our communities. We talk about strengthening the economy. If we undermine fish habitat, it undermines the economy of so many of our communities, not to mention the environment that we all rely on. It's only through thorough and proper environmental assessment and strong regulations and strong enforcement that we ensure we do not create environmental and financial burdens for future generations.

I just want to get on the record once again how undemocratic it is to include all of these environmental changes in the bill. One-third of this omnibus budget bill is coming through the finance committee, when these changes should more appropriately be before other committees.

While we are making a number of proposed amendments to specific clauses, it is the fundamental process that we object to. I wanted to get that on the record.

• (1745)

The Chair: Thank you, Ms. Nash.

Mr. Brison.

Hon. Scott Brison: Mr. Chair, we have great concerns about the approach being taken. After 16 hours of studying what the environment commissioner has said is the most significant policy reform in environmental regulatory policy in 40 years in Canada, we're left with questions.

For example, what proportion of current assessments will no longer receive federal oversight given the repeal of the CEAA? What are the projected costs of the changes for each province and territory? What assessment of the adequacy of the environmental assessment process in each province and territory has been conducted? How will a federal project define whether or not a provincial process is equivalent to the federal process? These questions have not been answered.

National Chief Atleo said specifically that:

To date, first nations have not been engaged or consulted on any of the changes to the environmental and resource development regime proposed within Bill C-38.

There is a constitutional reality of self-government and treaty rights and a moral responsibility of any government to engage aboriginal and first nations on the changes to the fisheries.

We heard from a very respected former minister of fisheries—who happened to be a Progressive Conservative minister of fisheries—who said that these changes

...are totally watering down and emasculating the Fisheries Act... They [will] really tak[e] the guts out of the Fisheries Act and it's in devious little ways if you read all the fine print [that] they are making...Swiss cheese out of [it].

The real scary part of this is that the one minister in Canada who has the constitutional duty to protect the fishery, which includes habitat, is the Fisheries Minister and these amendments essentially parcel out and water down his fiduciary responsibility, to the point that...he can delegate his responsibility to private-sector interests and individuals.

Again, Mr. Chair and members of the committee, I know that in the main body of the report the government members of the committee have expunged much of this testimony, but it's on the record. We've been given scant time as parliamentarians to do our jobs on this. The reality is that we are railroading these changes through Parliament without adequate consideration of the consequences, including many of the unintended consequences that will result from these changes.

I think it's very frustrating to Canadians. It's very frustrating to Canadians who are concerned about the environment. It is worrisome to Canadians who believe strongly in engagement with aboriginal and first nations people. It is something that could have devastating effects on our fisheries. I think overall it is also extremely disillusioning for Canadians who want to have a strong Parliament and a functional democracy.

I reiterate that for a political party whose genesis in part was the Reform Party, which came to Ottawa partly on the basis of accountability and respect for citizens and engagement...earlier today, I almost said Preston Manning would be rolling in his grave, but I realized he's not dead. I would say many of the principles he stood for when first elected are in the Conservative movement today. It is very disillusioning, I think, for Canadians who want to see Parliament work. I think it is one reason that we're seeing only about 20% of first-time eligible voters actually voting, because they don't think Parliament matters, and the Conservatives are ensuring that it doesn't matter.

• (1750)

The Chair: Thank you, Mr. Brison.

I do have two more speakers on the list, and then I'll move to the amendments and the votes.

I have Ms. Leslie, briefly, and then Ms. Glover, please.

Ms. Megan Leslie (Halifax, NDP): Thanks very much, Mr. Chair. And thank you to the finance committee. It's wonderful to be here.

I normally sit on the environment committee. We studied this at the finance subcommittee on the environment, but we also studied changes to the Environmental Assessment Act at the environment committee. We heard from a number of witnesses, all of whom had excellent recommendations. We didn't agree with all of them, but there was a suite of recommendations there.

What's happening with this budget bill does not reflect the testimony we heard at our committee. For example, industry representatives said one way to actually streamline and make sure these assessments are done efficiently is to properly fund the agency. You don't see that kind of recommendation here. You don't see that in the budget bill.

The NDP has brought forward amendments to try to make this bill better when it comes to environmental assessments. We heard from witnesses who said we will see lawsuits as a result of this. There will be lawsuits. We heard witnesses who said there's only one chance to get this right when it comes to environmental assessment. The environment commissioner talked about things like the Sydney Tar Ponds, where there wasn't an environmental assessment, and now we're on the hook for it, for \$1 billion. About half of that is federal money.

We need a robust environmental assessment system.

The environment commissioner also talked about the fact that currently we do 4,000 to 6,000 environmental assessments a year. That's going to go down to about 20 to 30 a year—not 20,000 to 30,000, but 20 to 30 assessments per year. This is not the way to make changes to the Environmental Assessment Act. The NDP believe strongly that the act needs to be modernized. We are 100% behind making amendments to the act, but this is not the way to do it. I would suggest that this finance committee heed the NDP's dissenting report when we did study the Environmental Assessment Act, because there are some very good recommendations in there.

Thank you, Mr. Chair.

The Chair: Thank you, Ms. Leslie.

We'll go to Ms. Glover, and then I'll move to the amendments.

Mrs. Shelly Glover: Thank you, Mr. Chair.

I do want to thank my colleagues across the way for their interest in the bill. I can't agree with the statements that have been made by the members of the NDP or the Liberals. In fact, I would say that this bill has received a huge amount of time to study. Not only that, throughout pre-budget consultations by the finance committee, which took place over almost 10 months of the previous year, we heard from a number of people who also had commentary in favour of the four pillars that we've put forward.

I know that Ms. McLeod already talked about the four pillars, which talk about predictability and timing of reviews, about aboriginal consultation, which is very important. And it's important that all parties actually do their homework when it comes time to looking at these bills. Delay for delay's sake, frankly, is just obstruction.

This government is committed to moving forward to protect Canadians' interests. This bill does that. This bill is supported by a number of agencies, a number of organizations, a number of aboriginal people, including Chief Clarence (Manny) Jules, who was very clear with the subcommittee about the benefits of this bill. Aboriginal people are protected under the Constitution. Contrary to what was said earlier, their rights to consultation are protected under the Constitution. We will continue to observe those rights, as we have done all the way along.

But let's not forget there were experts who did come to both committees, the subcommittee and this committee, such as Mr. Ray Orb, from the Saskatchewan Association of Rural Municipalities, like so many others.

We believe, as a government, that this is important to not only the economy of Canada, but to the future generations who follow us—to our children, to our grandchildren, and to those who come after us. We believe in environmental protections so that we sustain our environment for generations to come. This bill does that. It enhances environmental protections in many ways. I would hope that in the future opposition members, rather than just delaying for the sake of delaying, actually look at the measures in the bill.

An extraordinary amount of time has been given to this bill, more than in 20 years, when you compare it to other bills of previous parliaments. We've been very generous and flexible. Unfortunately, many times critics didn't show up. NDP and Liberal members didn't even show up for the briefing, but I can't prevent that. The briefing is not—

• (1755)

The Chair: Let's stay away from members' being somewhere or not. Let's honour the tradition in the House, which is to not refer to absences.

Mrs. Shelly Glover: Well, the briefing is different.

The Chair: Okay, but I would just suggest we stay away from that. Briefings were made available and members availed themselves.

Mrs. Shelly Glover: I spent four hours at a briefing, Chair, four hours with officials, and would have appreciated some attendance by the other members. I know members on this side were there.

Nevertheless, we're going to proceed and do what we believe is right for Canadians; we're going to do what we believe is right for our children and our grandchildren. This is what we believe to be right and fair and just, and we hope the opposition will reconsider and vote in favour so that we can do exactly what is our intention to do.

Thank you.

The Chair: Mr. Brison, I have you for under five minutes. You do have some time, but if we could make this the final comment and then move on, I'd really like to move to the amendments.

Mr. Brison, briefly.

Hon. Scott Brison: Mr. Chair, despite what Ms. Glover has said, opposition members have in fact done their jobs. It's government members who have not done their jobs. If government members had been paying attention, they would have listened to Chief Atleo, who said:

In its current form, part 3 of C-38 clearly represents a derogation of established and asserted first nations rights.

If enacted, it will increase the time, costs and effort for all parties and governments, as first nations will take every opportunity to challenge these provisions.

That's what opposition members, I believe in both the NDP and the Liberal parties, took note of in doing our jobs.

Despite what Ms. Glover is saying, it is the opposition members who are fulfilling their fiduciary responsibilities as members of Parliament to the public, by listening to witnesses and trying to embrace their testimony to ensure their voices are being heard.

Shawn Atleo, as the national chief, is a very important part of Canada's governance, and he's being ignored by the government members. It's opposition members who are giving people an opportunity to comment...people like Shawn Atleo, and the first nations and aboriginal people he represents, and experts like the former Progressive Conservative Minister of Fisheries Tom Siddon, who said these changes are taking the guts out of the Fisheries Act—watering it down and making Swiss cheese out of it. These are not uninformed Canadians.

Ms. Glover, it was Tom Siddon who said it is not becoming of a Conservative government. I don't believe that Ms. Glover's comments are becoming of parliamentarians, to say we're not doing our jobs, when in fact we are.

These are Canadians with important views, who are being railroaded and ignored. We will continue to do our jobs. That's the responsibility we have, and, frankly, Conservative members have the same responsibility. Notwithstanding ministers' offices talking points, they have an opportunity to actually engage their own brains and hearts on some of these things.

• (1800)

The Chair: I think we're getting away from the actual subject of the bill itself. Thank you.

Colleagues, if you want to follow along, in terms of the order of the day you have today, we have clause 52. You can see the amendments under there.

I believe Ms. Nash will be moving the NDP ones, and I'll ask her to start with NDP-2.

Ms. Peggy Nash: I move NDP-2, except for the last paragraph, that Bill C-38, in clause 52, be amended by adding after line 8 on page 31 the following:

Whereas Canada recognizes the need for strong environmental laws to protect the air, water and land that current and future generations rely on to ensure our country's continued prosperity;

Whereas the key purpose of environmental assessment is to carefully consider the long term environmental consequences of development proposals before deciding how to proceed;

Whereas other federal legislation is often not invoked until damage to the environment has occurred;

Whereas the current liability borne by taxpayers for contaminated sites in Canada has demonstrated that lack of proper environmental assessment and stringent regulation results in immense financial burdens that could have been avoided;

And whereas public participation in decision making is a keystone for the sustainable and responsible development of Canada's natural resources;

(Amendment negated)

The Chair: Ms. Nash, NDP-3, please.

Ms. Peggy Nash: I'll move NDP-3, that Bill C-38, in clause 52, be amended by replacing lines 17 and 18 on page 31 with the following:

environmental assessment of a designated project that is conducted by a review panel and that includes a consideration of the following factors:

- (a) the purpose of the project;
- (b) alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means;
- (c) the need for, and the requirements of, any follow-up program in respect of the project;
- (d) the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future;
- (e) the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
- (f) the significance of the effects referred to in paragraph (e);
- (g) comments from the public that are received in accordance with this Act and the regulations;
- (h) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project; and
- (i) any other matter relevant to the assessment by a review panel, such as the need for the project and alternatives to the project, that the responsible authority may require to be considered.

(Amendment negated)

The Chair: On NDP-4.

Ms. Peggy Nash: I move NDP-4, that Bill C-38, in clause 52, be amended by replacing line 30 on page 31 with the following: "or".

(Amendment negated)

The Chair: NDP-5.

Ms. Peggy Nash: I move NDP-5, that Bill C-38, in clause 52, be amended (a) by replacing, in the English version, lines 18 and 19 on page 33 with the following: "(i) the internal waters of Canada"; (b) by replacing, in the English version, lines 20 and 21 on page 33 with the following: "(ii) the territorial sea of Canada"; (c) by replacing, in the French version, lines 6 to 8 on page 35 with the following: "*Canada, ainsi que la zone économique*".

(Amendment negated)

The Chair: NDP-6.

Ms. Peggy Nash: I move NDP-6, that Bill C-38, in clause 52, be amended by replacing line 28 on page 33 with the following:

Act, any other lands in respect of which aboriginal title has been asserted and all waters on and airspace above

(Amendment negated)

The Chair: NDP-7.

Ms. Peggy Nash: I move NDP-7, that Bill C-38, in clause 52, be amended by replacing lines 37 and 38 on page 33 with the following:

project, means any person or body having an interest in the outcome of the environmental assessment of that project for a purpose that is neither frivolous nor vexatious,

(Amendment negated)

The Chair: NDP-8.

Ms. Peggy Nash: I move NDP-8, that Bill C-38, in clause 52, be amended by deleting lines 24 to 37 on page 35.

(Amendment negated)

The Chair: NDP-9.

Ms. Peggy Nash: I move NDP-9, that Bill C-38, in clause 52, be amended by replacing lines 1 to 3 on page 36 with the following:

- (a) to protect the environment from significant adverse envi-

(Amendment negated)

The Chair: NDP-10.

Ms. Peggy Nash: I move NDP-10, that Bill C-38, in clause 52, be amended by replacing lines 22 and 23 on page 36 with the following:

for timely and meaningful public participation throughout an environmental assessment process;

(Amendment negated)

The Chair: NDP-11.

Ms. Peggy Nash: I move NDP-11, that Bill C-38, in clause 52, be amended by replacing lines 27 to 30 on page 36 with the following:

section 66, are con-

(Amendment negated)

The Chair: We'll now move Liberal-1.

Mr. Brison.

Hon. Scott Brison: I move amendment Liberal-1, that Bill C-38, in clause 52, be amended by adding after line 6 on page 37 the following:

- (3) For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of these rights in section 35 of the *Constitution Act, 1982*.

(Amendment negated)

The Chair: On NDP-12.

Ms. Peggy Nash: I move NDP-12, that Bill C-38, in clause 52, be amended by replacing lines 8 to 42 on page 37 with the following:

environmental effects—within or outside Canada—that are to be taken into account in relation to an act or thing, a physical activity, a designated project or a project are

- (a) any change that the project or activity may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2 (1) of the *Species at Risk Act*;

- (b) any effect of any change referred to in paragraph (a) on

- (i) health and socio-economic conditions,
 - (ii) physical and cultural heritage,
 - (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or
 - (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; or
- (c) any change to the project that may be caused by the environment.

(Amendment negated)

The Chair: The vote on NDP-13 will apply to amendments NDP-14, NDP-15, NDP-17, NDP-18, NDP-19, NDP-20, NDP-22, NDP-23, NDP-24, NDP-25, NDP-26, NDP-27, NDP-28, NDP-29, NDP-30, NDP-31, NDP-32, NDP-33, NDP-34, and NDP-36.

On NDP-13.

Ms. Peggy Nash: I move NDP-13, that Bill C-38, in clause 52, be amended by replacing line 3 on page 39 with the following:

assessment of the designated project is required, posts that decision on the Internet site and provides notice to the affected First Nations, Inuit and Metis communities; or

(Amendment negated)

The Chair: NDP-13 and those other amendments are defeated.

We'll go to NDP-16.

Ms. Peggy Nash: I move NDP-16, that Bill C-38, in clause 52, be amended by replacing line on page 40 with the following:

the designated project within 60 days after the

(Amendment negated)

The Chair: NDP-21 is next.

Ms. Peggy Nash: I move NDP-21, that Bill C-38, in clause 52, be amended by replacing line 32 on page 44 with the following:

designated project must take into account

(Amendment negated)

The Chair: We'll go to NDP-35.

Ms. Peggy Nash: I move NDP-35, that Bill C-38, in clause 52, be amended by deleting lines 28 to 45 on page 68.

(Amendment negated)

(Clause 52 agreed to on division)

(On clause 53)

The Chair: Colleagues, may I group some of these clauses? In part 3, we go right to clause 169.

Could members indicate to me which clause they wish to speak to next? May I group clauses 53 to 60?

● (1805)

Ms. Megan Leslie: Could you repeat that question? I'm still catching up, being new to this committee.

The Chair: In part 3 we have clauses 52 to 169. Clause 52 is carried. I'm just wondering if I can group some of the clauses, or if members wish to speak to each one. Members have been indicating to me, for instance, if they wish to speak to clause 57, and then I will group clauses 53 to 56, and then we take a vote on that.

Mrs. Shelly Glover: Mr. Chair, on a point of order, I believe we missed a couple of NDP amendments earlier that we didn't finish. There were three that were not bulked into....

The Chair: We did those.

Mrs. Shelly Glover: Very good. Thank you.

The Chair: Yes, they were amendments NDP-16, NDP-21, and NDP-35.

Ms. Leslie, just indicate which clause you'd like to speak to.

Ms. Megan Leslie: I would like to speak to clause 133 and clause 135.

The Chair: At this point, may I group clauses 53 to 132?

Some hon. members: Agreed.

(Clauses 53 to 132 inclusive agreed to on division)

The Chair: We will go to clause 133, and we'll start with Ms. Leslie.

(On clause 133)

Ms. Megan Leslie: Thank you, Mr. Chair.

I move that Bill C-38, in clause 133, be amended by replacing line 5 on page 151 with the following:

to fish is the death of or adverse health effects on fish, including reproductive or developmental effects, or any adverse

We think this amendment is incredibly important to the budget bill. It is basically the result of a lot of testimony we heard at committee as well as a lot of what we've been hearing, quite frankly, in communities, in the news, and from our constituents.

The problem with the budget bill, the way the changes to the Fisheries Act are written, is that it actually removes the obligation to protect fish habitat. This is extremely serious, because the result is that the act won't say it protects fish. What it says is that fish can't be killed, essentially, but it doesn't say that fish can't be maimed or that their growth can't be stunted or that their ability to reproduce can't be affected or impacted. It also doesn't say that their habitat or the fish they rely on to eat or the other kinds of food they eat have to be protected.

I think this is very serious. This is exactly the issue we heard the former fisheries ministers come out against. And we've heard from a number of people who share that concern.

The Fisheries Act is one of the strongest environmental protections we actually have in Canada. We heard some incredible testimony, some quite moving testimony, I'd say, from Will Amos, at Ecojustice. He talked about the Fisheries Act, this part of the Fisheries Act, being part of the fabric of who we are as Canadians. It came about because of the sawmills on the Ottawa River. People living along the river realized that the sawdust from these sawmills was ending up in the river and was killing the fish habitat in the river. That was actually the genesis of this. He talked in such a moving way about how it's not just a piece of legislation; it is about who we are. It is about standing up for our environment and protecting our backyards—essentially this whole country is our backyard—and it is a very strong piece of environmental protection.

The other problem with the changes to the Fisheries Act we heard about was that the impact, as long as it's temporary, is fine, but we don't know what "temporary" means. What does "serious harm" mean? What do all of these things mean? It's very hard for us to figure out the definition of many of these terms in the new budget bill.

Would it be temporary to, say, in Halifax, give a licence to a developer to infill the Bedford Basin and build a condominium on the infill? As long as it's in the clause with a 99-year lease, and as long as the clause says "and the condo developer shall then return it to its original state", is that temporary? Arguably, it is. Arguably, maybe that's not considered permanent.

When it comes to serious harm, we need to broaden the definition of serious harm to include the health effects on fish generally, non-permanent harm, and the destruction of fish habitat. What we're trying to do is encapsulate all of that in one amendment by broadening the definition of serious harm so that we take permanence into account. We take into account destroying the habitat, destroying the place where fish reproduce, and destroying the food they rely on to stay alive.

I'll wrap up with a little piece of testimony from David Schindler, who spoke at the finance subcommittee. He talked about the experimental lakes he was working on. They were actually doing testing on acid rain. He said they had an experimental lake set up where they tested the effect of acid rain on fish. They found that the acid rain didn't kill the fish, but it killed their entire food source, and the fish starved to death.

The way this budget bill is written, that can happen. If we're not going to protect fish habitat, we may see fish starving to death. We may see the next generation of fish being destroyed.

I'm hopeful that with the amount of attention this provision has received publicly, at committee, and in the media, government members will vote with us to broaden the definition of "serious harm", because I think it's the right thing to do.

● (1810)

The Chair: Is there any further discussion on this amendment?

I have Mr. Hoback, please.

Mr. Randy Hoback (Prince Albert, CPC): Thank you, Chair.

I guess I'll just go back to the experience I have in my province of Saskatchewan, in my riding of Prince Albert, and the impact of what is happening at present.

We heard testimony in the subcommittee from Mr. Orb. He talked about the rigmarole and the process they had to go through to put a culvert into a dry ditch.

There's nobody in Saskatchewan who wants to see any type of reduction in fish habitat. In fact, if you take in my riding, the town of Nipawin has some of the best fishing festivals, with different events, all summer long. They take that very seriously. But what was happening was that we were seeing people going to the nth degree to stop projects that would end up going on anyway. They were adding a considerable amount of cost to a project when there was no reason

or rhyme for doing that. That, to me, just explains why some of these changes need to be done.

I wouldn't get too excited about this, thinking that we're going to lose all the fish next year and that we're not going to have anything to fish, because in reality, that's not true. I think the reality is that we're just balancing the act to reflect what it needs to reflect. I think that's what we're seeing here, Chair.

The Chair: Thank you, Mr. Hoback.

I will move to the vote on NDP-37.

(Amendment negatived)

(Clauses 133 and 134 agreed to on division)

(On clause 135)

The Chair: I have LIB-2, so I will ask Mr. Brison to speak to that.

Hon. Scott Brison: I move amendment LIB-2, Mr. Chair, that Bill C-38, in clause 135, be amended by adding after line 22 on page 154 the following:

6.2 For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of these rights in section 35 of the *Constitution Act, 1982*.

The Chair: Thank you, Mr. Brison.

Ms. Leslie, I believe you wanted to speak to this as well.

Ms. Megan Leslie: I was happy to see this amendment in here. I think it's a great attempt to fix one of the biggest problems of this piece of legislation. A non-derogation clause is pretty standard form to ensure that when you're writing a piece of legislation it doesn't accidentally trample aboriginal rights.

It is a really succinct, clean way of doing things. There are so many pieces in this bill where we're not sure what the implications of the language will be. I think a bold statement in the budget bill saying that you can't read into this as trampling on aboriginal rights is the right thing to do.

I'm not an expert in non-derogation clauses, but reading it on its face, it seems like pretty standard writing, so I think it is the appropriate language that we need for this bill just to make sure we don't do anything accidentally, because I certainly know the government wouldn't want to do that.

Thank you.

The Chair: Thank you, Ms. Leslie.

I have Mr. Brison again, and then Mr. Adler.

Hon. Scott Brison: In response to Ms. Leslie, and I appreciate her support and her party's support for this amendment, I must say I disagree with her on one point, when she says that she is certain the government would not want to do this, because National Chief Shawn Atleo said, when he was before committee, that in its current form, part 3 of Bill C-38 clearly represents a derogation of established and asserted first nations rights. That is in part a response to that, and I appreciate Ms. Leslie and her party's support for this understanding of the importance of making it clear.

• (1815)

The Chair: Thank you, Mr. Brison.

Mr. Adler, please.

Mr. Mark Adler (York Centre, CPC): Thank you, Mr. Chairman. I welcome the opportunity to speak on LIB-2.

Section 35 of the Constitution Act of 1982 recognizes and affirms the existing treaty rights of the aboriginal peoples of Canada. As a matter of law, references to section 35 do not need to be included in the act. There are different views of the intent and purpose of non-derogation clauses, and these different views tend to create confusion and uncertainty. For that reason, non-derogation clauses should be avoided.

The Fisheries Act is a law of general application, the key objectives of which are to conserve and protect fish and fish habitat and properly manage and control fisheries for present and future generations. This involves the balancing of many competing interests, and guidance provided by the courts allows for this balancing. The inclusion of a non-derogation clause could seriously compromise the ability to balance competing interests and conserve the resource; therefore, we do not want to risk this by putting in this clause.

The Chair: Thank you, Mr. Adler.

We will then move to a vote on LIB-2.

(Amendment negated)

(Clause 135 agreed to on division)

(Clauses 136 to 141 inclusive agreed to on division)

(On clause 142)

The Chair: We have NDP-38 in the name of Ms. Nash.

Ms. Nash, do you want to move that?

Ms. Peggy Nash: Yes, I move NDP-38, that Bill C-38, in clause 142, be amended by deleting line 31 on page 158 to line 8 on page 159.

I would like a recorded vote, Mr. Chair.

(Amendment negated: nays 6; yeas 5)

(Clause 142 agreed to on division)

(Clauses 143 to 162 inclusive agreed to division)

(On clause 163)

The Chair: We have amendment NDP-39.

Ms. Leslie has indicated that she wants to speak to it.

Ms. Nash, do you want to move it?

Ms. Peggy Nash: I'll move NDP-39, that Bill C-38, in clause 163, be amended by deleting line 31 on page 181 to line 8 on page 182.

The Chair: Discussion, Ms. Leslie?

Ms. Megan Leslie: Thank you, Mr. Chair.

The proposed amendment deals with the Species at Risk Act. As I'm sure all of you know, the Species at Risk Act is an important piece of legislation to protect our species at risk. Currently the way this amendment is written....

I'm sorry. I'm getting my amendments mixed up, I guess. The way the government amendment is written, it would allow the minister to have as many times as he or she wanted to allow a reapplication for a permit that would actually disrupt species at risk.

Just saying that makes me realize why we so badly need the NDP amendment. If we have a herd of caribou in northern Canada where a development project, a mining project, or any kind of project is going to disrupt this herd, which we know are a species at risk, this makes no sense. Why in the world would we give authority to the minister—a political appointment, not a scientist—to issue permits to allow that herd to be disrupted for an infinite amount of time, for as long as she or he wants?

It makes absolutely no sense. These are species that are at risk. By their very definition, we shouldn't be allowing for any kind of impact that makes it less likely that they will survive and less likely that they will flourish or perhaps even come back as a robust species.

This NDP amendment would actually get rid of that power, because, quite frankly, it's too much power for the minister. If scientists have decided that this is a species at risk, we shouldn't allow the minister to just willy-nilly allow these permits that will disrupt those species.

Thank you, Mr. Chair.

• (1820)

The Chair: Thank you, Ms. Leslie.

Is there further discussion on this amendment?

Mr. Van Kesteren.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): The NDP member is suggesting that we delete line 31, which would make authorization, again, for five years of permits and five years of agreements. The government feels that, with longer durations, authorizations can be issued for a period better suited to the activity in question. Longer-term authorizations will also allow the federal government to work with project proponents and other partners in achieving long-term meaningful conservation actions for species at risk in Canada.

This is important in a context where protection and recovery actions, such as restoring habitat or increasing the number of species, often must be undertaken over a longer period than the existing duration of permits—like three or five years. Longer-term authorizations with enforceable conditions will therefore provide for improved compliance, certainly for stakeholders, and will set the right context for more effective longer-term conservation acts as the permit conditions.

On the other part, has the member spoken to line 35 on page 181 and line 8 on page 182? I would like to speak to that as well.

The Chair: It is my understanding that she spoke to the entire amendment. I would do so at this time, Mr. Van Kesteren.

Mr. Dave Van Kesteren: Then I would add that legally binding timelines to be set in regulation will ensure a consistent approach across federal statutes when it comes to timelines for issuing and renewing permits. Environment Canada will continue to re-evaluate the SAR authorization requests rigorously to determine what risk the proposed activity poses to the protected species and if the activity can be authorized without jeopardizing the survival or recovery of species at risk.

The Chair: We'll go to a vote on NDP-39.

Ms. Peggy Nash: A recorded vote on this, please.

(Amendment negated [See *Minutes of Proceedings*])

(Clause 163 agreed to on division)

The Chair: Colleagues, can I group clauses 164 to 169?

Some hon. members: Agreed.

The Chair: This essentially takes us to the end of part 3.

(Clauses 164 to 169 inclusive agreed to on division)

• (1825)

The Chair: Colleagues, we are at the end of part 3.

It's about 6:25 p.m. We have 15-minute bells at 6:30 p.m., so we have a short time to get to the House.

We also have 23 votes tonight, which was not expected when we established our timetable. We were supposed to sit until 9:30 p.m. I suspect we'll be voting for at least a few hours—unless something changes in the House, but obviously we don't have control of that.

I'm going to recommend to the committee that we start again with part 4 tomorrow at 3:30 p.m. I just think that would be best. Frankly, to ask officials and interpreters and others to stick around for three hours, when we may come back for only half an hour tonight, I just don't think is reasonable.

Ms. Nash.

Ms. Peggy Nash: Mr. Chair, I understand what you're saying, that we don't know how long we'll be tonight. Most of the votes are not from the NDP, so I'm not sure how long they'll take.

I just want to express a concern that we have enough time tomorrow to be able to go through all of part 4, where there's a vast array of many, many substantive changes.

We're able to go up until midnight, I assume?

The Chair: Yes. The motion says that at midnight, if, say, we haven't finished debating all the clauses and voting on all the clauses, then I, as your chair, according to the motion, have to put the vote on each successive clause. So the vote would be on each clause, but if members wanted to debate a clause that I had not yet gotten to, then they could obviously not speak to that clause. Obviously, I'm assuming that members have certain clauses they really wish to speak to, and I'm assuming that all members of the committee would want to get to all the clauses by 11:59 p.m.

I mean, we could come back tonight. The problem...and you're absolutely right, it's not the three parties sitting here who are forcing 23 standing votes, but unfortunately the rules of the House are such that we could have 23 standing votes. That's the situation we find ourselves in.

Mr. Marston.

Mr. Wayne Marston: I'm just curious; we have half-hour bells, do we not?

The Chair: No, we have 15-minute bells.

Mr. Wayne Marston: Oh, well.

The Chair: Okay? So I'll adjourn, and we'll come back tomorrow at 3:30 p.m.?

Okay. Thank you.

The meeting is adjourned.

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