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Chair

The Honourable Wayne Easter

Standing Committee on Finance

Tuesday, November 20, 2018

● (0850)

[*English*]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): We'll come to order.

We'll be dealing with the clause-by-clause on Bill C-86. I understand Mr. Kmiec has a motion he wants to deal with first, and Mr. Julian has a proposal that will require unanimous consent.

We'll go to Mr. Kmiec.

Mr. Tom Kmiec (Calgary Shepard, CPC): Thank you, Mr. Chair.

I tabled a series of motions last week, and I wish to move a motion today, as follows. I move:

> That, considering the statement in the Ministers' mandate letters from the Prime Minister that Ministers be held accountable to parliamentary committees, the Committee request that the Minister of Finance appear before the Committee on a date no later than December 11, 2018, for a briefing on the government's 2018 Fall Economic Update; and that this meeting be televised.

The reason I'm moving it today is that I would really much prefer that the Minister of Finance appear before the committee. I know his fall economic statement is tomorrow. I think he's going to be providing an update on the state of the budget and whether it has balanced itself yet. I would like him to appear before the committee as per his mandate letter. In his mandate letter, directing him in the work that he does, it says, “This will include: close collaboration with your colleagues; meaningful engagement with Opposition Members of Parliament, Parliamentary Committees”. It goes on and on to list a series of other organizations and stakeholders that the Minister of Finance is supposed to interact with.

I believe the work of parliamentary committees is critical to the role of Parliament and to holding accountable ministers for the management of their departments, as well as the management of the economy in the case of the Minister of Finance. In his mandate letter as well, given to him by the Prime Minister, it says, “We have committed to an open, honest government that is accountable to Canadians”. I think that nothing could be more accountable than appearing before a committee of the House of Commons, duly constituted, and to have his fall economic statement and his ideas and proposals that he's going to put forward tomorrow deliberated upon for an hour before the committee—or more, if he wants to be here longer. I think it would be great to have him.

With that, Mr. Chair, I'm going to see if anybody else wants to continue debate on this.

The Chair: The motion is in order, so it is moved and I take it you are in favour.

Go ahead, Mr. Poilievre. Is there anybody else? It's open for debate.

We have Mr. Poilievre, and Mr. Julian.

Hon. Pierre Poilievre (Carleton, CPC): In 41 days we are expecting a balanced budget. That's the Liberal election promise. It was in the Liberal election platform. It is still on the Liberal Party website, and the Liberals are in government.

The Chair: Mr. Poilievre, the debate is on the motion.

Hon. Pierre Poilievre: Actually, the debate is on what members say it's on, Mr. Chair.

This could be a very long day for you.

The Chair: Order. It could be a very long day—

Hon. Pierre Poilievre: It could be a very long day for you—

The Chair: Order. Shut the mike off. We're not going to start this way today.

Hon. Pierre Poilievre: It's back on.

The Chair: The—

Hon. Pierre Poilievre: Excuse me, Mr. Chair, I have the floor.

The Chair: You don't have the floor. I ruled you out of order for a minute.

Hon. Pierre Poilievre: It appears I do have the floor, so you're rather mistaken—

The Chair: We're going to debate on the motion, Mr. Poilievre. That's what the motion is going to to be on—

Hon. Pierre Poilievre: That's precisely what I was doing. Listen, just because I'm saying things that you're not happy to hear as a Liberal chair does not mean you can slam the gavel and silence your critics.

The Chair: Mr. Poilievre, I am not happy or unhappy—

Hon. Pierre Poilievre: That is not how democracy....

The Chair: —to hear your remarks. You're going to stay on the motion.

Hon. Pierre Poilievre: That is not how democracy works, and that is not how it will function here.

I go back to my point. The government is supposed to balance the budget within the next 41 days. It has so far refused to tell us whether it will do that. This week the government will present its fall economic update, and that update is supposed to indicate when the budget is balanced. We asked in the House of Commons 11 times yesterday when the budget will be balanced, and the minister refused to answer, given multiple chances.

We think that therefore it is necessary for the minister to come before the committee in order to answer that question. I know that he does not enjoy coming before committee because we ask direct, difficult questions, but it is not the obligation of opposition MPs to make life easy for the government. Our job is to hold him accountable for the promises that he and the Prime Minister made. As a result, we would like the committee to keep with the normal practice, which is to invite ministers to come and answer questions before the committee after they introduce major financial measures, which a fall economic update typically constitutes.

Thank you very much.

● (0855)

The Chair: I take it you're in favour of the motion.

Mr. Julian.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you, Mr. Chair.

I support the motion as well. I think the minister has come before committee a number of times, and I don't doubt that it would be useful for the public and for the committee as well to have him come before us again. I think, on the fall economic statement, it's an important statement that's being made tomorrow. I'll have some questions, of course, about things like housing and pharmacare, but I have no doubt that the minister would probably enjoy coming before committee and defending what he announces tomorrow.

I support Mr. Kmiec's motion for him to do so.

The Chair: If there is no further discussion on the motion, I will call the vote.

Hon. Pierre Poilievre: A recorded vote....

The Chair: Okay, we'll have a recorded vote.

(Motion negatived: nays 5; yeas 4)

The Chair: Mr. Julian, I don't know if you have a motion, but I know what you want to do. You want to start with the pay equity section, and we need unanimous agreement to do that.

Mr. Peter Julian: Thank you, Mr. Chair.

This committee has functioned in a very collegial way for almost all of our deliberations.

We have Ms. Malcolmson here, who within caucus is our expert on pay equity legislation. We have a number of amendments that touch pay equity.

Because Ms. Malcolmson is available for this morning only, I'd like to request of the committee that we start with the pay equity sections. That would be starting with division 14 and the subsequent amendments.

I've spoken with the clerk and that's very doable. It is a deviation from our normal practice. However, as a courtesy to Ms. Malcolmson, I'm hoping the committee will agree to start with the pay equity sections, division 14, and then go back to the normal practice, which is moving section by section.

The Chair: Is there agreement to do that?

Some hon. members: Agreed.

The Chair: We have one bit of a problem. I understand that the folks from the government department dealing with this section are not here as yet. If somebody could put the word out to them to get them here in case we have questions to them as witnesses, we will start. If we have questions for officials, we can pull them up to the table, but that's just to say they're not here as yet.

We've agreed to start at division 14, which is clause 416.

Go ahead.

Mr. Peter Julian: Thank you very much to all members of the committee.

I also have a motion that I would like to bring forward at this time, Mr. Chair.

The Chair: Okay.

Mr. Peter Julian: I move:

> That not withstanding the motion passed by the Standing Committee on Finance on October 30, 2018, the Committee, recognizing the extensive size and complexity of Bill C-86, acknowledge the need for a minimal discussion of proposed amendments and clauses irrespective of whether they fall before or after 9 p.m. on November 20, 2018—

That's today.

> —and that the Committee, through its Chair, adjust its meeting schedule to provide the time required to facilitate such discussion.

I'm moving this motion, Mr. Chair. I provided adequate notice of 48 hours for this motion.

This is the most extensive omnibus piece of legislation we've ever seen in the House of Commons. The Speaker recognized that a few days ago, when he ruled that for the purposes of votes in Parliament this bill needed to be divided. It contains half a dozen pieces of stand-alone legislation. It has some good ideas, and it has some major flaws, as we saw identified by the witnesses who came before this committee. The witnesses said that, particularly when we look at the pay equity provisions, the bill as currently formulated and written will force women back to court if they want to achieve their pay equity rights. These are major difficulties, major flaws that need to be considered.

I understand that the committee passed a motion that basically requires all amendments to be deemed as considered by 9 p.m. this evening. For people who might be watching on television, what that means is that, regardless of where we are in the bill, there is no further parliamentary scrutiny, no further committee scrutiny. Basically everything falls down as of 9 p.m. tonight.

Mr. Chair, as you well know, we are going to have a number of procedural votes today in the House of Commons. This committee will have to interrupt its work numerous times, starting perhaps as early as one hour from now.

We have this timeline, this massive piece of legislation, major flaws that need to be addressed, and yet we have currently a requirement that at 9 p.m. tonight the bill passes as is, regardless of what discussions have occurred and what work remains to be done.

As I mentioned earlier, generally we're a collegial body. I think we would all agree as members of Parliament that we do have a responsibility to scrutinize this legislation, to improve it where it needs to be improved. It's impossible to do that with the current constraints that we have as a committee.

Here is what I would suggest. I'm certainly willing, I know Ms. Malcolmson is willing, and a number of members around this table would be willing to work as hard as we can this week, go through amendments tomorrow and Thursday as well, do whatever it takes to properly scrutinize this legislation to make sure we're getting the appropriate feedback and responses to our questions from ministerial officials, and do it right, so that when we finally send this legislation back to Parliament at report stage, the public can have some confidence that we have properly scrutinized this legislation, eliminated the flaws and improved the bill. We can't do that under the current constraints that force all of this bill to be considered and deemed adopted by 9 p.m. this evening.

● (0900)

The Chair: Thank you.

The motion is in order.

Mr. Kmiec, I believe you wanted to speak on it.

Mr. Tom Kmiec: Just in support of Mr. Julian's point, I agree with the contents of the motion. This is the second time I've done clause-by-clause consideration at the committee, and there are a lot of amendments that have been proposed specifically by the New Democrats, who proposed a lot of very technical amendments.

One of the highlights of clause-by-clause is having all the officials here before the committee so that we can duly consider every single component of the bill and ask whether our amendments attain the goals that we have in mind when we propose them. We don't have the advantage of being in a government caucus necessarily, so we can't lean on officials in government departments outside of committee time, typically.

I know last year when we did this clause-by-clause consideration, that was when we figured out whether subamendments were necessary and whether fine-tuning of certain amendments was necessary. A programming motion, the way it's always dropped down on this committee for the consideration of the BIA.... Typically, I would think we'd want to give ourselves enough time to be able to propose amendments that are reasonable and that attain some public interest goal, public good goal. It's not always possible.

We had a constituency week last week and, because of time needed for translation work from English to French and from French to English, it doesn't give a lot of time for stakeholder groups to come to us with fine-tuning amendments to the bill itself. When you have governments basically guillotining the committee's work at a certain hour of a day on a certain specific time, it doesn't really allow us parliamentarians to fulfill our work on behalf of our constituents, assuring them that we have done the work.

The most basic function of Parliament is to approve spending and things related to spending. I'm probably one of the few members who likes the estimates process, who looks forward to it and who reads the departmental plans for the finance department, and the BIA is integral to that process. Without the BIA compared to the budget document, as Mr. Julian said....

The Speaker has now for the second time ruled that the BIA went beyond the contents of what the budget said was permissible. This motion is completely reasonable, and what we should be doing is providing good, transparent government and holding them to account, which includes holding officials to account on the contents of the BIA.

I will be supporting the motion. It makes perfect sense to devote extra time for clause-by-clause consideration of different amendments and different parts of the BIA.

● (0905)

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus (Hull—Aylmer, Lib.): Thank you, Mr. Chair.

Personally, I am going to vote against this motion. I know I cannot refer to a debate that we held in camera, but I can say that it was included in the minutes. We actually passed the motion, the agenda and the schedule for studying this bill. We passed it only three weeks ago. The committee approved it without debate. It was even discussed at the Standing Committee on Finance's steering committee. If this motion is passed, it would be a bit like we were starting from scratch, which would be a little strange. We have a lot of work in front of us.

So I am going to vote against the motion in order to ensure that we can start the clause-by-clause consideration.

[*English*]

The Chair: We'll have Mr. Julian, and then we'll go to a vote, if we could.

Go ahead, Peter.

[*Translation*]

Mr. Peter Julian: Thank you very much, Mr. Chair.

I would like to react to Mr. Fergus' comment. I do not share his interpretation of the facts at all. Actually, the decision to limit the length of the debates in committee was made before we heard witness after witness tell us that the bill presents huge problems. We should therefore adjust and solve those problems, because our committee is responsible for doing so and for taking the time needed.

Mr. Chair, we also did not know at the time that we would have all those votes that interrupted our work on many occasions during the day and that will interrupt us again today.

We have before us the most mammoth bill in our history and it is causing us problems. We also have amendments and we are going to have to consider them. So, I beg you, do not tell us that the bill is going to be passed as is by 9 o'clock this evening. That, I feel, would be showing a lack of respect for Canadians who demand meticulous work from us, work that guarantees that the bill will go through all the usual stages and achieve the objectives that have been set. Canadians would be disappointed to learn that we are not even going to be studying all the provisions of the bill.

Let me invite you to consider something else, Mr. Chair. In the past, we had a government that did the same thing, the Harper government. Each time the Conservatives tried to rush bills through committee, the courts sent them back to do their homework.

[*English*]

That's my final point. Under the Harper government, we saw these bills consecutively rejected by the courts because the parliamentary scrutiny was not done effectively. You have half a dozen pieces of legislation that are rammed through Parliament, and then the courts say, “Hold on, the parliamentary work was not done; this bill does not stand.”

We risk doing the same thing with this bill. We have had testimony that indicated women will have to return to court to obtain their rights if this bill is not improved, if these flaws are not addressed. Ultimately, if what we end up doing is forcing the courts to come back and say the finance committee did not do its work adequately, I think it would be an embarrassment, and I think it would be something that the finance committee itself would regret.

We have an opportunity to work 24-7, and I'm certainly willing to do that and I think many of my colleagues are as well, so as not to have this current structure that means at 9 p.m. tonight everything in the bill is adopted, regardless of whether it has been properly scrutinized, whether the amendments have been considered, or whether the flaws have been addressed.

● (0910)

The Chair: Do you want a recorded vote on this too?

We'll have a recorded vote, Mr. Clerk.

(Motion negatived: nays 5; yeas 4)

The Chair: Just before we turn to Bill C-86, I have a suggestion for members to think about on the pre-budget consultations. We need to have that report tabled before we adjourn for Christmas. It looks like the library may have the report to us in draft form on November 23, which is a Friday, or at the latest November 26, which is a Monday. We won't deal with this in a motion, at the moment, but I would suggest to members that they think about having their recommendations in to the clerk by noon on November 29. It would give us the weekend to go through all of the recommendations.

That's just a suggestion for now. We'll deal with it later. I don't want to take that time. People can think about that in the background, because usually a lot of recommendations come forward from all members on the pre-budget consultations.

In order to start on Bill C-86 and the agreement we made earlier by motion, pursuant to Standing Order 75(1), consideration of clause 1, the short title, is postponed.

(On clause 416)

The Chair: This clause starts the pay equity section.

To deal with pay equity, can officials come to the table in case there are questions from members? The officials, once they're all here, will be from ESDC, Treasury Board Secretariat and PSPC.

On clause 416, we'll start with amendment NDP-13. I would note that if NDP-13 is adopted, NDP-14 and NDP-15 cannot be moved due to a conflict of lines.

Ms. Sheila Malcolmson (Nanaimo—Ladysmith, NDP): Chair, could you clarify that? Are you recommending that we do NDP-13 first?

The Chair: Yes. We will do NDP-13 first. If it's adopted, NDP-14 and NDP-15 cannot be moved due to a conflict of lines.

Ms. Sheila Malcolmson: Could I suggest that we move to NDP-14 directly? That's our preferred amendment.

The Chair: Okay. Then you're withdrawing NDP-13 and going to NDP-14?

● (0915)

Ms. Sheila Malcolmson: Yes, please.

The Chair: Okay. That's fine. NDP-13 is withdrawn.

Go ahead on NDP-14.

Ms. Sheila Malcolmson: Thank you, Chair.

I want to preface my comments on this particular amendment by saying, on behalf of the committee, a tremendous thank you to our labour partners and particularly to the pay equity coalition, which has been pushing hard on this really since 2004. They testified before committee and provided significant detailed amendments. The NDP is not going to move anything that has not gone through that filter. We've done our best to try to take their advice to committee and turn it into our amendments.

Our NDP-14 has captured two significant errors that were identified by the coalition.

The first is the purpose clause of the pay equity act. They said very clearly that the current purpose clause is not acceptable as a human rights and as a pay equity statute. That is particularly because clause 2 contains the qualifying phrase “while taking into account the diverse needs of employers”. The first part of our amendment deletes that.

The witnesses said very clearly there's no reference to the diverse needs of employers in the Canadian Human Rights Act, and the current draft of the purpose clause is unforeseen in Canadian human rights legislation. It does not recognize Canada's commitments to human rights and its international obligations. It's a fundamental human right for all genders to be paid equally for work of equal value. For it to be screened through the needs of employers is unprecedented, and it significantly limits fundamental human rights to have such a qualification.

The witnesses said to the committee that anyone who felt comforted.... If the intention of the language of that qualification was to acknowledge that there are diverse types of employers with different realities and structures in the federal jurisdiction, the witnesses said that objective is accomplished in the operational sections of the act. There are different provisions for different sizes and different types of employers, processes for unionized and non-unionized workplaces, and other types of flexibility built into the regulation. The strong advice from the witnesses was to do part (a) of this amendment and remove that qualification.

The second piece, as captured in part (b) of our amendment, is to include in the purpose clause the requirement for pay equity to be clearly and directly spelled out in the body of the act, to ensure that the obligations and responsibilities are known to the parties. They said this was consistent with the recommendations of the 2004 task force, recommendation 8.2, which set out that the new federal legislation “provide that the employer is responsible for ensuring that pay equity implementation and maintenance are free of gender discrimination.” Ontario's Pay Equity Act sets out those same obligations.

I'm hoping the committee will take the advice of all of the labour parties that testified to committee, and most particularly the advice of the two human rights lawyers who appeared before you.

Thank you, Chair.

The Chair: Is there anyone else in this discussion? I remind people that officials from ESDC are here if there are any questions to officials on any of these points.

Mr. Sorbara.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair.

Good morning, everyone, and welcome to all the officials here today.

Yes, the BIA legislation does set out pay equity guidelines and brings forth pay equity, which is one of the things we can be very proud that we as a government and as a committee get the chance to examine. It has been talked about for a long time. Even as I stated yesterday in the House, equal pay for equal work, or correctly equal pay for the same duties, whether a man or woman, is something we fundamentally believe in.

With regard to the amendment brought forward, Member Malcolmson, I did hear as well the concerns regarding the four or five words of the diverse needs of employers. I did hear those comments during finance committee testimony.

I will say I disagree with the amendment. I disagree in terms of the interpretation of the diverse needs of employers. That does not in any way weaken the legislation in terms of what the legislation purports to do in bringing forth pay equity legislation.

I will just read my notes. The mention of “diverse needs of employers” in the act appropriately recognizes that the act establishes different obligations on employers based on size and union presence, and that the substantive rights that flow from the actual provisions of the statute are still valid, so the reference to the diverse needs of employers does not create in any sense or any form, or any shape, a loophole for employers.

I will be voting against the amendment brought forward by the honourable member from British Columbia, and I wanted to lay out my reasons why I will be doing so.

Thank you, Chair.

● (0920)

The Chair: Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

With respect to my Liberal colleague's comments, he is rebutting head-on the advice we got from the Canadian Labour Congress, the pay equity coalition, the Teamsters and CUPE. These are organizations which, since well before 2004, have been working with pay equity legislation. For example, in Ontario, which has legislated this since the eighties, they have extensive experience. In terms of Jan Borowy and Fay Faraday, you won't find human rights lawyers who have worked harder. They have argued the case law that has gotten us to this place.

The fact that postal workers fought the courts for 30 years because of the absence of federal pay equity legislation means we have significant case law. This is what the commitment was of the first Prime Minister Trudeau 42 years ago: to legislate pay equity. The fact that this has not been proactive means that it has been fought in the courts again and again. This is why it is a good initiative of this government to finally legislate proactive pay equity legislation.

To have the member say that he's going to vote down these amendments, which are arguably the most important in this whole finance committee's deliberation.... If you want this legislation to work for women and not have it revert back to the courts again and again, why on earth would you qualify the right of women to receive equal pay for work of equal value?

We have had every one of these labour witnesses say that you need to make this change. The witnesses said that this language “undermines” the intentions of the act, which is to address systemic gender wage discrimination. It undermines the human right of equal pay for equal work of equal value. This was their testimony. They said the task force on pay equity in 2004 recommended that the government “enact new stand-alone, proactive pay equity legislation in order that Canada can more effectively meet its international obligations and domestic commitments, and that such legislation be characterized as human rights legislation”.

If you believe in that recommendation, you cannot qualify the human rights of women to receive equal pay by referring to "the diverse needs of employers", when the diverse needs of employers are addressed in another section of the legislation that does not undermine the human rights of women.

The Chair: Mr. Sorbara.

Mr. Francesco Sorbara: Thank you again, Ms. Malcolmson, for that insight.

This amendment deals with the purpose clause. The purpose clause only sets out the objectives of the legislation and does not create the legally binding rights or obligations set forth within the legislation. The actual substantive rights flow from the actual provisions of the statute. Thus, as I said in my earlier comments, the reference to the diverse needs of employers does not create a loophole for employers.

I just want to make sure that I explain myself clearly, because this is important legislation. I completely agree with you. I have two daughters at home. My wife is a full-time mother but is also full-time in the labour force. Actually, I think she's more than a full-time mother, because I find myself here all the time.

With that, this legislation is very important for me and for our government. Obviously, it's the first time it's been introduced, although it was talked about for many decades. We need to be proud of it. As I said, the purpose clause only sets out the objectives of the legislation and does not create legally binding rights or obligations. These flow from the actual provisions of the statute. Thus, those four words—"diverse needs of employers"—do not create any sort of loophole for employers.

Thank you.

● (0925)

The Chair: Okay, Ms. Malcolmson. Again, we have another couple of witnesses from PSPC coming in, I believe, so keep that in mind. Departmental officials are here as well, if members have questions for them.

Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Mr. Chair.

If the Liberal committee members' intention is to undermine the human rights of women, then you will vote "no" to my amendment, but, if you agree with your labour partners, who you repeatedly say you are here to stand with, and if you take the advice of the activists who have gotten this issue on this agenda, then you will vote "yes". You will not qualify the human rights of women against the rights of employers.

Of course the diverse needs of employers will be accommodated, and they are, and you had expert testimony that said that it will. There's nothing that the member is saying that in any way addresses the extensive testimony you had from CUPE, the Canadian Labour Congress, the Teamsters and the pay equity coalition. They said in their testimony that as part of the purpose section of the act, the requirement for pay equity must clearly and directly be spelled out in the body of the act to ensure the obligations and responsibilities are known to the parties.

The responsibility in this legislation is to pay women equal pay for work of equal value and to pay everybody equal pay for work of equal value. It is not to qualify that.

This is unprecedented. You have very strong testimony against this. Nothing the member has offered rebuts the expert testimony this committee received. It would be a serious betrayal of your labour and your feminist partners if you vote no.

The Chair: All right. Are we ready for the question?

Do you want a recorded vote?

Ms. Sheila Malcolmson: Yes, please.

(Amendment negatived: nays 8; yeas 1 [*See Minutes of Proceedings*])

The Chair: We are on NDP-15.

Ms. Malcolmson.

Ms. Sheila Malcolmson: I believe, Mr. Chair, that NDP-15 would not be addressed, since NDP-14 was lost. They have some duplication.

The Chair: You can move it if you want. It's not automatically lost. If NDP-14 were adopted, you couldn't move number NDP-15, but we're the opposite way.

Go ahead.

Ms. Sheila Malcolmson: Thank you very much, Mr. Chair. I appreciate it.

NDP-15 is again based on the advice from every labour partner and from the pay equity coalition. This is more narrow. This is just half of the argument I made in NDP-14.

The purpose clause, again, contains a qualifying phrase:

> while taking into account the diverse needs of employers

The amendment, if you agree with this, would delete that qualification. There was testimony from every labour partner that said that there's no reference to the diverse needs of employers in the Canadian Human Rights Act, and that qualification of that, undermining it, is unforeseen.

The purpose clause, as drafted, does not recognize Canada's commitment to human rights and its international obligations. The current language derogates from human rights so that the fundamental human right of equal pay for work of equal value is screened through the needs of employers, and that language significantly limits fundamental human rights, as all obligations and rights will have to go through the needs of employers.

Finally, if the intention of the language was to recognize and acknowledge that there are diverse types of employers with different realities and structures in federal jurisdiction, that is accommodated, specifically, deeper into the legislation in the operational sections of the act.

Thank you, Mr. Chair.

● (0930)

The Chair: Is there any further discussion?

Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Again, thank you, Ms. Malcolmson, for your comments in moving this amendment.

I'll just quickly refer to my earlier comments on the prior NDP amendment, and those will stand for this amendment.

Thank you, Chair.

The Chair: Okay, are there any others in this discussion?

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

The Chair: We're on amendment NDP-16.

Ms. Sheila Malcolmson: Thank you, Chair.

This is a recommendation that came from testimony from the Teamsters union. They consider this to be one of the most important amendments to division 14 of this bill. This is again talking about the diverse needs of employers. They recommend that this section be added, so it would read, “No employer, employee organization, trade union or member of a pay equity committee may” in the exercise of their rights or duties under the act “act in bad faith or in an arbitrary or discriminatory manner or [exhibit] gross negligence” with regard to employees.

I think the recommendation stands. All committee members heard the Teamsters' testimony. Again, these are people who have been working with the legislation in other provinces. They're bringing their best experience to bear and hoping to have the experience of the provincial legislation influence what will be very important federal pay equity legislation.

The Chair: Mr. Sorbara.

Mr. Francesco Sorbara: Thank you again, Mr. Chair.

Thank you, Ms. Malcolmson, for raising this amendment. I would like to add that I will not be supporting the amendment, but—and it's a big “but”—that's because what's contained in the amendment, these provisions, already exists elsewhere in the proposed legislation.

Employees, bargaining agents and employers already have access to recourse under the act for alleged acts of bad faith or arbitrary or discriminatory behaviour on the part of a bargaining agent or employer, under proposed subsections 149(2), 150(3) and 151(2).

The Chair: Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: I'll reiterate that the strong recommendation of the labour partners who came to this testimony was that they wanted to see that responsibility set right up front in the purpose clause. It is the strong recommendation of the 2004 pay equity task force that the responsibilities of everybody come right up front so that there's no question about interpretation when inevitably this does end up back in court.

An echoing of some of the responsibilities laid out in the detailed parts of the legislation is important, but the request was that this come right up in the purpose clause. That's always the interpretation through which any future judge would view the legislation, whether it had been adhered to or not.

The Chair: Are we ready for the question? I remind members again that there are folks from the departments here if you want any clarification on their understanding of the various clauses.

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

The Chair: We're on amendment LIB-5. Who's moving that?

[*Translation*]

Mr. Greg Fergus: Mr. Chair, I made this amendment in order to clarify that the provisions of the bill are going to apply to crown corporations. That was not clear in the original wording.

I hope that this will get the approval of all my colleagues around this table.

● (0935)

[*English*]

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

Mr. Kmiec.

Mr. Tom Kmiec: Can I have the officials explain exactly who this would impact?

The Chair: Who wants to go?

Go ahead, Ms. Straznicky.

Ms. Lori Straznicky (Executive Director, Pay Equity Task Team, Strategic Policy, Analysis and Workplace Information, Labour Program, Department of Employment and Social Development): In terms of the Crown corporations that it would impact, it would be any of those who would be within the jurisdiction of the federally regulated private sector.

The Chair: Can you give us a couple of examples of those?

Ms. Lori Straznicky: For example, it would include the Canada Post Corporation and the Canadian Broadcasting Corporation.

Mr. Tom Kmiec: How many employees in total would this be? Do you have rough estimates? How many people are being excluded from the provisions?

Ms. Lori Straznicky: I'm not following your question on how many people are being excluded from....

Mr. Tom Kmiec: All these Crown corporations will be excluded, so it removes individuals employed by corporations listed in schedule IV or V of the Financial Administration Act as being employees in the definition of the pay equity legislation.

How many people is that in total? I'm just wondering on the balance of things, departments versus Crown corporations, how many employees are we talking about in a rough estimate.

Ms. Lori Straznicky: With the amendment as drafted, everybody would be covered.

The Chair: Do you have a question, Ms. Malcolmson, or are you voting?

Ms. Sheila Malcolmson: Astonishingly, I am voting with the Liberals this time.

The Chair: That's great. You're fast. The other hands are not going up.

[*Translation*]

Mr. Greg Fergus: I ask for a recorded vote.

[*English*]

The Chair: All right, we'll have a recorded vote, Mr. Clerk.

(Amendment agreed to: yeas 9; nays 0 [*See Minutes of Proceedings*])

The Chair: On NDP-17, we have Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

The requirement to file a pay equity plan was discussed in detail by the partners of the coalition. Their argument was that to ensure pay equity is fully tracked and enforced in the federal jurisdiction, the current legislation requires an amendment that the employers file their pay equity plan with the commissioner. Without the pay equity plan being filed with the commissioner, there is no meaningful baseline from which to monitor or audit an employer, and the lack of the obligation to file a plan with the commission they called a serious gap in the legislation.

Posting a draft pay equity plan is a good thing, but posting in the workplace is not a substitute for filing a plan with the key enforcement agency. They described one of the acknowledged weaknesses of both the Quebec and the Ontario pay equity acts is that they do not require employers to file pay equity plans with the pay equity commissions, and as a result, there is no systemic way to identify the organizations that did not comply with the act.

Particularly in the private sectors, widespread non-compliance was acknowledged, which once again depends on individual employees or unions filing complaints to activate compliance. The Ontario and Quebec acts did not enable periodic audits. As the 2004 task force stated, the very existence of such provisions would have been an effective incentive for organizations to comply with the act.

That is the rationale. This is again an opportunity. The only upside for the federal government having waited so long—42 years—to legislate pay equity is that we have the opportunity to learn from the experience of provinces that legislated this decades ago.

Both of these amendments are supported by the labour witnesses, and particularly by the detailed testimony of the coalition that I've just described. I urge the members to vote yes.

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you, Mr. Chair.

Good morning, everyone.

Forty-two years indeed, it's an honour to work on historic legislation such as this.

I would rebut only by following the track that Mr. Sorbara set out when speaking about the previous amendment raised by the NDP. First, the motion ought to be rejected because the pay equity commissioner already has the power to order an employer or group of employers to produce its pay equity plan and can indeed issue administrative monetary penalties for non-compliance with such an order.

Furthermore, the act establishes a broad suite of monitoring and compliance tools, including requiring employers to submit an annual statement to the pay equity commissioner, and other measures to ensure that the pay equity commissioner can adequately target compliance activities.

● (0940)

The Chair: Is there any further discussion?

Ms. Malcolmson.

Ms. Sheila Malcolmson: I'll flag again for the government members that this is not what the witnesses said—all of them. They said the requirement to file an annual report will not provide the necessary pay transparency to rigorously enforce pay equity. The lack of the obligation to file a plan with the commission is a serious gap in the legislation.

The Chair: Is there any further discussion on NDP-17?

Ms. Sheila Malcolmson: I would like a recorded vote, please, Chair.

(Amendment negatived: nays 8; yeas 1 [*See Minutes of Proceedings*])

The Chair: I turn to NDP-18.

Ms. Sheila Malcolmson: Thank you, Chair.

This is an amendment that was proposed by CUPE, again, a union with extensive experience in litigating failures of pay equity in the absence of federal pay equity legislation.

The fact that we have not had proactive federal pay equity legislation means that it has had to be fought by one employee at a time, by one union at a time, until the Conservatives legislated against the ability for unions to bring pay equity complaints on their own, putting an even further burden on the individual worker. No wonder we have such a pay gap in Canada still.

This was the testimony that the committee received from CUPE. They said proactive pay equity legislation needs to include an overall standard of non-discrimination for all of the elements of a pay equity plan and its application. There should be an obligation on the employer to ensure that no element of a pay equity plan is discriminatory on the basis of gender and that all elements are applied on a gender-neutral basis.

They recommended that proposed section 12, which sets out a general obligation on the employer to establish a pay equity plan in accordance with the act, should be amended to provide for an overall standard of non-discrimination for pay equity plans. This is the remedy that was recommended, that there be a subsection and that the subsection should read:

> Every employer must ensure that the pay equity plan does not discriminate on the basis of gender and that it is applied in a gender neutral way.

Thank you, Chair.

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos: Thank you, Mr. Chair.

I have respect for the member, I have respect for the work that she's done on these issues, but on this amendment I have to disagree, namely because it creates a problem of duplication. Indeed the legislation already requires employers to act in a gender-neutral and non-discriminatory manner when fulfilling their pay equity obligations.

For instance, proposed section 43 requires that whatever method an employer uses to determine the value of work of a job class, it must not discriminate on the basis of gender.

The Chair: Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

I'll suggest again that the testimony that this committee heard, from the lawyers and the women and men who have been adjudicating this all this time, says no. I promise there's a great deal of good faith on the part of pay equity activists. They're glad to see legislation tabled. They are glad that this government of all governments has brought it forward. I'm very pleased to have been at the front of the NDP's opposition day—three years ago now, almost—that got this on the table, that got the government to amend its approach and to add this into its mandate for this term. We're very glad to have had that happen.

I promise you, we're not making amendments trying to throw a spanner in the works here. These are recommendations that came from your partners, and they are asking you to get this legislation right now. So far, every single amendment.... These are not NDP amendments, even though they have our party name on them. They're coming from your labour partners. They're the people who have been working on this for decades. That you would say your opinion overrides the testimony that you heard from all these labour organizations is, I think, extremely discouraging. I can only imagine the conversations that will happen among the people who are watching you vote all of these amendments down.

We want this to be effective. We want to get it right. I promise you, all of these amendments are made in good faith as they were proposed by your labour partners.

● (0945)

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos: Respectfully, I believe we have it right. The rebuttal that I offered previously does not come from thin air. As legislators, we have an obligation to review legislation before commenting at committee. I've done that. I know my colleagues here have done that. I'll allow this comment to apply to every single amendment that I'll be rebutting today.

The Chair: All those in favour of NDP-18?

(Amendment negatived)

The Chair: We're now on NDP-19, and I might say on this one that if NDP-19 is adopted, NDP-20 cannot be moved due to the conflict of lines. If you want to take a minute and think about that, which one you want to go with, go ahead.

Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you for identifying that, Chair. My preference would be to withdraw NDP-19 and to go with NDP-20 in that case.

The Chair: We'll go to NDP-20. The floor is yours.

Ms. Sheila Malcolmson: Thank you, Chair.

This is an amendment that arises from the coalition again. This is all in relation to pay equity committees. I'll talk first about part (a) and (c) of the amendment on page 31 of this amendment package.

As described to the committee in testimony, the section to develop a pay equity committee they said is very weak. It's a very weak and limited obligation to create a committee. The current language does not deliver on a significant obligation to ensure that employees' voices are heard.

The act requiring the employer to establish a pay equity committee is what we want, but the language that says, “make all reasonable efforts to establish a pay equity” is not what we want. That is the effect of this amendment. The pay equity committee is a fundamental cornerstone to establishing a pay equity plan in the work. There are numerous sections with the very weak language of “reasonable efforts” and that raises—the witnesses said—the question of why the committees are not mandatory.

That's one big piece, and the effect of that first section would be simply to strike the words “make all reasonable efforts to”. Just say, you are to establish a pay equity committee, because it's such a fundamental part of the working of the legislation and to achieve the results that we hope and that collaboration between the employers and the employees.

The second chunk of effect of this is captured in parts (b), (d), (e), (f), (g) and (h) of our amendment. That references the witnesses' concern at the lack of access to a pay equity committee. They described it as most egregious for non-unionized employees. The requirement for a pay equity committee is voluntary in a workplace. Sorry, I didn't say that well.

This is the question of whether to establish a committee. The voluntary standard as written in the legislation right now, they said, significantly disenfranchises non-union employees.

Those are probably the two summaries. One is to remove the “reasonable efforts” and the other is to not have the pay equity committee be voluntary and particularly to recognize that having a voluntary standard would disenfranchise non-union employees.

Thank you, Chair.

● (0950)

The Chair: Okay.

Mr. Fragiskatos.

Mr. Peter Fragiskatos: Thank you, Mr. Chair.

I represent the constituency of London North Centre, and I meet regularly with entrepreneurs in the riding and women entrepreneurs. I know all MPs do this or ought to. The motion ought to be rejected because it would remove flexibilities provided to small businesses and the possibility to obtain variances in extenuating circumstances.

Indeed, the act from a small business perspective is quite important and helpful because it takes into consideration the needs of small businesses by providing a streamlined process for developing pay equity plans in workplaces with 10 to 99 employees and with no unionized employees. Requiring them to develop a pay equity plan through a pay equity committee would indeed I believe add burden to these employers.

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

I'll flag again that this is federal legislation affecting federally regulated employers. Some of the small business impacts are just not a reality at that very small scale. For non-union employees, the potential for protection within this legislation is significant. That is a major part of the female workforce.

The status of women committee just did an almost year-long study on economic justice for women. What have been the barriers in the workplace that have meant that so many women over their lifetimes do not get access to pay equity and do not get access to the benefits of full-time or unionized employment? Particularly precarious workers tend to have lower earnings their whole lives and tend to retire in poverty.

The disenfranchisement of non-union employees and the not having committees mandatory, both led to strong recommendations from the labour partners—all of them. I urge the government members to take the advice of their labour partners and vote yes to this amendment.

The Chair: Is there any further discussion? I again remind members that officials are in the room if there needs to be clarification from their point of view.

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

The Chair: We'll turn to amendment NDP-21.

Ms. Sheila Malcolmson: Thank you, Chair.

This is another amendment proposed by the equal pay coalition. They described proposed section 21, regarding voting in the pay equity committees, this way, that the votes must be unanimous or else they forfeit the right to vote, and then the employer's decision prevails. They described this as a very “concerning and peculiar” requirement, particularly given the complexities of some enterprises and the number of bargaining units or groups of employees involved. They said that this section fails to fulfill the 2004 task force recommendations on employee participation.

The task force recommended “that the new federal pay equity legislation provide that all employees, whether unionized or not, have the right to participate in pay equity implementation and maintenance”. As they said in their testimony to you, the task force also recommended “that where employer and employee representatives on the pay equity committee disagree, the dispute is submitted to the proposed Canadian Pay Equity Commission...to assist the parties to resolve the dispute”. Failing that, the commission would make a decision.

In the Quebec legislation, there's no requirement for unanimity. A majority agreement is required. They recommended that there should be an amendment to bring this in line with Quebec's approach.

● (0955)

The Chair: Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Chair.

Ms. Malcolmson, thank you for this amendment.

Could I ask the officials for clarification on this section, please, and what the amendment attempts to do?

Ms. Lori Straznicky: The provision right now requires that employee representatives on a committee have to decide amongst themselves unanimously before they can put forward a vote. The purpose of the section would be to ensure that smaller bargaining agents who would represent employees within that workplace where there are multiple bargaining agents, or representatives of non-unionized employees in a workplace who are on that committee, would have an equal voice on the committee where, if the requirement was to have a majority vote, that voice might not be heard.

Additionally, the Bilson task force noted that providing a majority decision amongst employees may lead to a situation where the interest of those smaller units of employees is ignored. The objective of unanimity would encourage collaboration amongst those employee representatives on the committee.

Finally, to the dispute resolution, if there is a disagreement between the employee representatives and the employer representatives when it comes to the vote, there is recourse to the pay equity commissioner for resolution of those disputes.

Mr. Francesco Sorbara: Just to follow up on the dispute resolution, thank you for those points and clarification.

Because legislation applies to federally regulated industries or workplaces, would that apply to both union and non-union folks, or would there have to be a bargaining agent in place already?

Ms. Lori Straznicky: The dispute resolution process would apply within the pay equity committee structure. The employee and the employer representatives on the committee would have dispute resolution available between them.

Mr. Francesco Sorbara: Is that obviously set forth within the legislation?

Ms. Lori Straznicky: Yes, it is.

Mr. Francesco Sorbara: Thank you.

With that explanation from the officials, I'll be voting against the NDP amendment put forward by Ms. Malcolmson.

The Chair: Is there any further discussion on NDP-21?

Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

I'll also ask the pay equity experts if they agree with the interpretation of the coalition that proposed subsection 20(1) means that the decisions of the groups who represent employees must be unanimous, and if they are not unanimous, they forfeit the right to vote and the employer's decision prevails?

Ms. Lori Straznicky: Is the question on how I interpret proposed subsection 20(1)?

Ms. Sheila Malcolmson: On proposed subsection 20(1), the interpretation of the pay equity coalition witnesses was that a decision of the groups that represent employees must be unanimous. If it's not unanimous, then the employees forfeit the right to vote and the employer's decision prevails.

Ms. Lori Straznicky: That's what the legislation says at proposed subsection 20(1).

Ms. Sheila Malcolmson: That is what this amendment is intended to repair.

The Chair: Are we ready for the question?

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

The Chair: We turn, then, to NDP-22.

Ms. Malcolmson.

Ms. Sheila Malcolmson: This is a recommendation from CUPE, who appeared before the committee. It's on pay transparency.

This is another hole that the labour partners in good faith are trying to repair. CUPE's submission to the committee outlined how crucial transparency is to pay equity processes. They said in their experience, transparency and clear communication with employees is necessary for pay equity processes to function effectively. Given the importance of pay transparency and the government's commitment to this concept in the 2018 federal budget, CUPE submitted that proposed subsections 23(1) and 24(1) be amended.

Proposed subsection 23(1) fails to ensure that the employer will be obligated to provide the committee with sufficient and meaningful information to eliminate pay discrimination. CUPE submitted that the requirement to provide only that "information in the employer's possession that the committee considers necessary for the establishment of the pay equity plan" is unnecessarily broad, and that the phrase "in the employer's possession" would appear to insulate the employer from requesting or compiling information from other sources. They submitted that this clause conflicts with the requirement in proposed subsection 23(2) on employee and bargaining agents to provide "any information within their knowledge and control".

They also were concerned that proposed subsection 24(1) requires that the committee keep all information confidential, which fails to ensure transparency in the establishment of a pay equity plan and hinders trust in the process.

The two amendments that we propose, as written by CUPE, are to amend proposed subsection 23(1) so that it would read, "An employer must provide the pay equity committee with any information in the employer's knowledge and control that the committee considers necessary for the establishment of the pay equity plan."

Secondly, they recommend removing proposed section 24 from the act entirely.

Thank you, Chair.

● (1000)

The Chair: Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Thank you, Ms. Malcolmson, for bringing forward the amendment.

I'd like to go back to the departmental experts on this. Can you clarify for me the difference between "control" and "possession", and also the importance of confidentiality in terms of how the pay equity committees would function?

Ms. Lori Straznicky: Yes. In terms of the difference between possession and control, the way that possession is used here, employers must provide information in their possession. This creates an objective standard that allows for employers to assess what material they would be required to provide to the pay equity committee. It would cover, for example, compensation information, benefit information and employee numbers, which they themselves would possess.

Adding the concept of control to the concept of possession would be unnecessary, as there's an argument that the term "possession" includes the concept of control.

As for keeping all materials confidential by the operation of proposed section 24, that section provides important safeguards for employees' personal information as well as employers' business information that is identified by members of the committee. It could include, for example, information about individual performance, bonuses and commission payments.

The confidentiality of that information is really essential to establishing an effective pay equity process so that employers, employees and bargaining agents all feel that they can confidently share information, and that it will not be disclosed or used for other purposes beyond the pay equity exercise.

Mr. Francesco Sorbara: Thank you for that.

With regard to the amendment that was put forward on clause 416, in part (a), where it says, "any information in the employer's possession or control", is the word "any" in the existing legislation?

Ms. Lori Straznicky: Yes.

Mr. Francesco Sorbara: So all information will be available to a pay equity committee.

Ms. Lori Straznicky: Yes.

Mr. Francesco Sorbara: The legislation actually sets forth what a pay equity committee would require in order to do its job.

Ms. Lori Straznicky: Yes.

Mr. Francesco Sorbara: Okay, thank you.

With that, Mr. Chair, I will be voting against Ms. Malcolmson's amendment.

The Chair: Is there any further discussion on NDP-22?

Ms. Malcolmson.

Ms. Sheila Malcolmson: I'll just correct my colleague. He is in fact voting against CUPE's amendment.

The Chair: All those in favour of NDP-22?

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

The Chair: We move to NDP-23.

● (1005)

Ms. Sheila Malcolmson: Thank you, Chair.

This is another amendment proposed by the coalition. Their submission to the committee was that proposed subsection 41(2) improperly allows an employer or a pay equity committee to determine that the value of work has already been determined. That gives an employer, particularly in a non-unionized workplace, unilateral power to shelter what it has done to date, without the requirement to properly evaluate women's work.

Their submission was that employers will want to rely on existing pay equity or job evaluation plans. However, one of the significant issues identified in the 2004 task force was the exemption in the Quebec pay equity legislation for pay relativity plans, which enabled employers to file prior internal pay reviews, or plans in the process of development, with the commission for deemed approval.

In that case, unions had little or no involvement with the assessment of the filed plans, and subsequently, the pay equity, pay relativity provision of the Quebec act was found to be unconstitutional. The task force in 2004 recommended that where the Canadian Human Rights Tribunal, the Federal Court or the Supreme Court of Canada had rendered a decision or a disposition of an issue, the disposition be final and binding.

The submission of the coalition was that no employer may rely on an existing or alleged pay equity plan without full pay transparency on whether the plan is compliant with this new federal legislation.

Proposed subsection 41(2) raises significant concerns in light of the issue of the employer's unilateral control of the pay equity processes identified above. That is their explanation. Removing the clause would not recreate the error identified in the Quebec legislation that had been found to be unconstitutional.

Thank you, Chair.

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you very much, Mr. Chair.

I have listened to the arguments that Ms. Malcolmson used to defend her amendment which, as I understand it, is intended to delete lines 19 to 26 on page 360 of the bill. My question is for the officials.

Ms. Straznicky, if those lines are deleted from the bill, am I right in thinking that it will force employers who have already established a gender-neutral evaluation plan for their work to start that exercise over again in order to design a universal classification system as a gold standard?

[*English*]

Ms. Lori Straznicky: I would say that, if in those public sector workplaces where there has been a universal classification system like this provision contemplates, so long as it has met two requirements, that it's assessing the skills, effort, responsibility and working conditions and that it's been done in a gender-neutral way, then yes, removing this provision would have those employers duplicate their efforts.

[*Translation*]

Mr. Greg Fergus: Okay, thank you for that answer.

For those reasons, I am going to vote against Ms. Malcolmson's amendment.

● (1010)

[*English*]

The Chair: Ms. Malcolmson, go ahead.

Ms. Sheila Malcolmson: Thank you.

The submission of the lawyers who have been adjudicating these disputes in the absence of federal legislation for decades indicates that their strong advice, based on challenges to the Quebec act, was that, for the purpose of transparency, you just cannot transfer automatically a pay equity plan that had already been in place. For transparency reasons, it would need to be re-evaluated and found to be meeting the same standard.

It's not that it would require the employer to go back and redo the work that had been done before, but that it would not be an automatic rubber stamp. It could not be simply transferred without the review and the due process that would be ideal. Again, they think that making this amendment will save court costs and will give both employers and employees confidence to be able to move forward without having to re-adjudicate these things, as has happened in the provinces.

It doesn't have to redo the work, but the review and the transparency of it before it is accepted from an old standard into this new standard is the remedy that they strongly recommended.

The Chair: Is there any further discussion?

[*Translation*]

Mr. Greg Fergus: Once again, I would like to hear the opinion of the officials on what Ms. Malcolmson has just said.

Is it your opinion that questions on this provision would result in more recourse to the courts, or is this amendment to the legislation in fact appropriate?

[*English*]

Ms. Lori Straznicky: I won't comment on whether it would bring forth more complaints to the courts. What I would say is that it is not transferring an entire plan or taking away an employer's obligation to conduct certain steps in the exercise. It is confined to certain criteria related to a system that is already in place for determining the value of work.

[*Translation*]

Mr. Greg Fergus: Thank you.

[*English*]

The Chair: With that, we will call the question.

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

The Chair: We'll turn to NDP-24.

Ms. Sheila Malcolmson: Thank you, Chair.

This is a recommendation from CUPE and from the coalition. They want the compensation exemptions for precarious workers removed. As written, this paragraph allows for the exclusion of

> the non-receipt of compensation—in the form of benefits that have monetary value—due to the temporary, casual or seasonal nature of a position;

They say that this new provision in this legislation would violate the determination of compensation within the current Canadian Human Rights Act in section 11 on equal wage guidelines.

The submission that the coalition made to this committee was that subsection 11(7) of the Canadian Human Rights Act defines that "wages means any form of remuneration payable for work performed" and there's no limit based upon an employee's job status.

Further, the 2004 task force recommended that all employees be included in the federal jurisdiction, including "part-time, casual, seasonal and temporary workers".

The Supreme Court, in recent pay equity decisions, held that the government cannot pursue law reform strategies that lower the bar on pay equity in order to encourage employer compliance.

These groups ask, why does the new federal pay equity legislation reduce the entitlements that women employed in precarious jobs currently access under the Canadian Human Rights Act? They say that, given the changes to part III of the Canadian Labour Code regarding equal pay, the proposed pay equity act language is inconsistent. Their remedy is, as proposed here, to remove the exemption for precarious workers from the pay equity act.

The Chair: Mr. Fergus, I believe you're up.

[*Translation*]

Mr. Greg Fergus: Thank you very much, Mr. Chair.

I feel that Ms. Malcolmson and I share the same objectives, but unfortunately, our interpretations differ.

As a Quebec MP, I am very sensitive to these matters because Quebec has been a pioneer in this area by passing its pay equity legislation.

Ms. Malcolmson, I feel that your reading of the provisions of this bill on precarious work is only a partial one. In fact, equal treatment is dealt with in clause 452 of the bill. This provision introduces amendments to the Canada Labour Code prohibiting differences in salary on the basis of employment situations, which responds directly to the concerns that you have just raised.

We all want this bill to apply to all employees, whether seasonal, casual, temporary, part-time or full-time. In a word, we want it to apply to everyone. As your concerns are dealt with later, in clause 452 of the bill, I do not think it is necessary to adopt the provisions that you are proposing.

● (1015)

[*English*]

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: With thanks to my colleague, that's not the interpretation of the lawyers who have been adjudicating these matters more than anybody.

It's not the interpretation of CUPE, which has done significant interventions on behalf of their members. They say that the other changes to part III of the labour code regarding equal pay are inconsistent with this provision and that if you want to align them you would vote "yes" to this amendment, that is, by deleting lines 31 to 33 entirely to remove the compensation exemption for precarious workers in this pay equity act in order to align it with the Canadian Labour Code amendments.

I'll just say again that this is based on decades of work. This is not my work. I have the honour of being the voice for these organizations at the committee. The committee has been given this gift of their attempt, at very short notice—a 900-page bill with extremely limited debate in the House, extremely limited time at committee and very limited time for the labour groups—to do these detailed amendments, which they really did hope in good faith would perfect the legislation.

I promise you that there are no politics in this. This is a straight transmission from the people on the ground and their interpretation of the legislation. It's given as a gift to all of us, and I think it's a great disappointment to not have that advice taken up. They want this to work and the NDP wants this to work. That is the context in which these amendments are offered.

The Chair: The question's been called.

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

The Chair: We'll move to NDP-25.

Ms. Sheila Malcolmson: Thank you, Chair.

Moving again to a set of amendments proposed by CUPE. They describe in their submission and their testimony to committee that the compensation comparison method described in this legislation will likely be inapplicable in most cases and should be replaced with a method called for in the 2004 task force report, also referred to as the Bilson report. They say that proposed section 50, providing an equal line method that requires that the.... This is really mechanical about regression lines. I'm going to trust that the committee members have read the submission. This is on page 4 of CUPE's written submission.

The big picture is that the legislation as written in this form is not consistent with the robust transparency needed for effective pay equity committees and plans. The Bilson report, the 2004 task force report, clearly recommended the job-to-curve comparison method and provided a well-reasoned rationale. They think this was a drafting error. Given that the task force recommended this methodology and two years ago a pay equity special committee reaffirmed this section of the task force recommendations, they think it was an oversight that the job-to-curve comparison method was not accommodated.

Again, this is the remedy proposed by CUPE, that the regression line method is specified instead. Thank you.

● (1020)

The Chair: Do the officials want to add anything on any drafting errors?

No, okay.

Ms. Rudd.

Ms. Kim Rudd (Northumberland—Peterborough South, Lib.): Thank you, Mr. Chair.

Thank you to my colleague for bringing this forward.

As I read the significant number of points within this amendment a couple of things came out, and I'm going to call on the officials to clarify or to help put some context to this.

As I understand it there were two new methods—the equal average and the equal line—both to measure pay equity gaps and create what we'll call systemic equality in wages. I wonder if you can explain a little about those two methods, why they're here, and let's just leave it at that.

Ms. Lori Straznicky: Mr. Chair, I may invite a colleague from the Treasury Board Secretariat to take that question.

The Chair: Mr. Stuart, go ahead.

Mr. Richard Stuart (Executive Director, Expenditure Analysis and Compensation Planning, Expenditure Management Sector, Treasury Board Secretariat): The rationale, as you explained, of the amendments proposed, I believe is mostly pertaining to the equal line method. They want to modify the way it applies. Particularly, it is focused on the notion of crossed regression lines.

By applying the amendment, it would undermine the ability to address those situations. Those situations can occur for an employer, for instance, if there are some classes of female-predominant jobs, where a portion of the regression line is paid above the average of men in a section. It could happen, for instance, in more professional categories. Let's suppose that an employer has lawyers who are female-predominant. It could make the line stand above that of men.

We couldn't apply the principle of equalizing lines in those situations perfectly. It's a special situation that's going to need to be addressed through regulations, because the only way to adjust the lines would require reducing compensation in female-predominant jobs for the portion where they stand above that of men.

It's a special situation. The principle of the legislation will need to be respected, but will need special provisions.

Ms. Kim Rudd: Thank you.

I think the member would agree—I think we would all agree—that we certainly don't want to see the number coming under the line, or being reduced from above the line to under the line. I take your point in terms of special considerations.

I thank you for your comments. Based on that, I'll be voting no to this amendment.

The Chair: Is there any further discussion?

Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

I would also ask the witness a question.

Proposed section 50 provides for an equal line method that requires the compensation associated with a predominantly female job class to be increased only if the lines of regression do not cross.

However, CUPE said that in their experience with pay equity, at least at the provincial level, the regression lines do cross most of the time. They were concerned that although proposed section 52 provides for rules for the comparison of compensation prescribed by regulation in the case of crossed regression lines, because those rules are not available at this time for their analysis, it would result in a lack of transparency needed for effective pay equity committees and plans.

What's your sense of that?

● (1025)

Mr. Richard Stuart: Most definitely the intention is not to be transparent. The reason why this was not addressed at this stage is that it can be technically complicated.

Crossed lines is a situation that can occur in various environments, as you pointed out. It's probably not that common at the start of a process, but it might become more prevalent in situations of maintenance, because very slight changes might make the lines cross.

The regulations will adhere to the principles of the legislation and make sure that all of those female-predominant jobs in the portion of the lines where the female-predominant line is below the amount of a male-predominant line will be addressed appropriately.

Ms. Sheila Malcolmson: Is there any downside to now replacing the curve-to-curve comparison method with the job-to-curve comparison method that was recommended by our labour partners?

Mr. Richard Stuart: It's not in the spirit of the legislation. It's not a job-to-line or job-to-curve....

The spirit of the legislation is to align averages. You have an equal average or equal line, so on average it is equal.

Ms. Sheila Malcolmson: Thank you, Chair.

The Chair: All those in favour of NDP-25?

(Amendment negatived on division [*See Minutes of Proceedings*])

The Chair: We move to NDP-26.

Ms. Sheila Malcolmson: This is back to the recommendation of the coalition. This is an amendment that it recommended, so that the timeline for the employer's review of the pay equity plan be extended to 90 days, to enable employees full access and opportunity to review the plan once completed. It speaks for itself, more employee access, more transparency, and 90 days instead of 60.

The Chair: Ms. Rudd.

Ms. Kim Rudd: First of all, the 60 days is deemed to be adequate for this process because during that time the committee must take into account the recommendations and comments that come from employees. Ninety days is just extending the process. Sixty days is quite ample. I would vote no.

Ms. Sheila Malcolmson: That's not what our labour partners and experts believed.

The Chair: The point has been made.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: I would like to emphasize that, in Quebec, the period is 60 days too. We should certainly use the best practices currently in existence, which would be to do as Quebec is doing.

[*English*]

The Chair: Ready for the question on NDP-26?

(Amendment negatived on division [*See Minutes of Proceedings*])

The Chair: Now we go to NDP-27.

Ms. Malcolmson.

● (1030)

Ms. Sheila Malcolmson: This is a proposal from the coalition to improve the pay equity compliance and adjustment timelines. In 2004, almost 15 years ago, the task force recommended proactive pay equity legal obligations. It is interpreted that as the new pay equity act stands, women will wait over 10 years to receive a pay equity remedy: one year for regulation development, three years for pay equity plan development, and eight years for compensation and remedies to be paid out in the case of workplaces with less than 99 employees. The submission was that such lengthy timelines do not demonstrate reasonable diligence on the part of the government to introduce proactive pay equity.

We've been waiting a long time, and this feels like women are being asked to wait, once again, for their human rights to be fulfilled. A 2018 Supreme Court decision was referenced, in which Justice Abella stated that a six-year legislatively delayed act as to pay equity, with a two-year grace period, was close to the line for unreasonable delay, and these timelines are interpreted as significantly longer.

In terms of the introduction of federal legislation, this is not a situation in which further considerable research and analysis is required. We've been talking about this, as a country, for 42 years. There is extensive policy experience to draw on elsewhere for inspiration, and section 11 of the Canadian Human Right Act, obligating equal pay for work of equal value, has existed since 1976.

The submission was that the lengthy proposed timelines are unnecessary. We heard this from labour partners as well. The recommendation is that there be a two-year amendment, and that is what is reflected in our amendment NDP-27.

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: No one wants women to unjustly wait too long to receive pay equity, but we have to recognize that we are currently in a transition.

My sincere thanks to Ms. Malcolmson for emphasizing that she supports the pay equity bill. All national unions have also come out in favour of this bill. It is a leap in the right direction, not a step, a leap.

Let me repeat that the best practices in this area are the ones that Québec uses. The transition period was four years in the province and the bill proposes a period of three years. We are accelerating the process in a reasonable way. That also corresponds to the recommendation from the Bilson task force after they discussed it with everyone involved in the private sector. I feel that it is a reasonable transition period. It is even shorter than the one we had in Quebec. For that reason, it would be reasonable to keep the transition period at three years.

[*English*]

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: With respect to my colleague, labour has indicated clearly that they are glad to see this legislation tabled. The special committee asked that it be tabled a year and a half ago. We're certainly not ahead of the game so far as the timing of this government and its legislative priorities are concerned, but I feel confident saying that none of these labour organizations or pay equity advocates would have spent the extremely detailed time they did in proposing amendments and getting them on the record if they didn't want to see those amendments taken up.

The Canadian Labour Congress, for example, has said, yes, it's good that we finally have this legislation in front of us. They said amendments are required if this act is to fulfill the objective of closing the gender pay gap and redressing discrimination in compensation for women. You can find lines like that in every submission that you received. Please, as a government, do not take the overall goodwill and congratulations for finally bringing this forward to say that it is 100% good as is.

Labour continues to be on the front line of all kinds of social justice, environmental and sexual violence issues. They would not have spent their time on these submissions, given all the other work that's in front of them, if they did not want to see them taken up.

Here is, again, another example of “let's make this happen faster”. This is one way, given how late the federal government is to the game, that we can surely shorten this timeline. This is a recommendation I am bringing forward on behalf of the Equal Pay Coalition.

(Amendment negatived on division [*See Minutes of Proceedings*])

● (1035)

The Chair: We move to amendment NDP-28.

Ms. Sheila Malcolmson: This is a remedy proposed by CUPE. Their overall advice is that women could be waiting until 2027 for a full remedy if the timelines remain as they are. They say their members have been waiting for decades for proactive federal pay equity legislation, but they urge the government to speed up this process and ensure that women's equality rights are no longer denied.

Their remedy in this amendment is to amend proposed section 61 to reduce the implementation phase to 18 months, and to limit the phase-in of increases to cases where the overall adjustments represent more than 2% of the employer's payroll. Then they have in their submission a number of remedies within that, but that is the overall objective: do not make women wait again. As the Canadian Labour Congress says in its very effective campaign, women are done waiting.

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Once again, Mr. Chair, we all agree on the objectives. The difference is in the adaptation period. The legislation gives employers three years to establish a pay equity plan. At the end of those three years, all employers have to make adjustment payments. They must be at least 1% of the payroll. Quebec is certainly ahead of Ontario by far. This is a step in the right direction.

The adaptation period is the only point on which we do not agree. It is better than the current situation. It is even better than the provinces have already established. Quebec was certainly a pioneer in this area. In my opinion, what we are proposing is reasonable.

I stand with women. I believe that we must not let them wait any longer. They have already been waiting for decades. However, we must proceed in a reasonable way and consider the current situation. In that sense, I think we have found the proper compromise, which will change the current situation for women enormously.

[*English*]

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

I would submit, again, as CUPE has, that waiting until 2027 for a full remedy does not constitute a compromise in the view of the women's movement or the labour movement. This feels like more delay, and the amendment as proposed, I think, would actually represent the compromise between the needs of women who have been waiting a long time and employers.

The Chair: The question is on NDP-28.

(Amendment negatived on division [*See Minutes of Proceedings*])

The Chair: We move on to NDP-29.

Ms. Sheila Malcolmson: I'm speeding this up a little bit, because I haven't won a single vote yet, or the labour submissions haven't won a single vote yet. These amendments are proposed by the Canadian Labour Congress. I'll just leave them as they stand.

● (1040)

The Chair: Does anybody over here have a comment?

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: My comments will be similar to those I made on the last amendments. I am comfortable with those proposals, because they are similar to those suggested by Quebec.

[*English*]

The Chair: The question is on NDP-29.

(Amendment negatived on division [*See Minutes of Proceedings*])

The Chair: Now we go to NDP-30.

Ms. Malcolmson, go ahead.

Ms. Sheila Malcolmson: Thank you, Chair.

Again, just for the sake of expedience, these are recommendations that are proposed by the Canadian Labour Congress to accelerate the timeline. The committee heard their testimony, and I commend the amendment to committee members.

The Chair: Ms. Rudd.

Ms. Kim Rudd: For clarification on this, I actually think this amendment would make this unworkable, because the increase identified in the proposed subsection is correctly linked to the updated pay equity plan, so it cannot be paid before the plan is updated. I think this amendment is actually erroneous, so I'll be voting no.

The Chair: Is there any further discussion?

(Amendment negatived on division [*See Minutes of Proceedings*])

The Chair: Next is NDP-31.

Ms. Sheila Malcolmson: This is another submission from the pay equity coalition. They are urging that the plans be filed with the commission. If the committee agrees, then this would require a filing of a copy of the pay equity plan with the Canadian pay equity commission no later than 15 days after its completion. So far the requirement to file a plan with the commission is what they described as a serious gap in the legislation. For reasons of transparency, tracking and enforcement, filing the copy of the plan with the commission is recommended by the experts in the field.

The Chair: Ms. Rudd.

Ms. Kim Rudd: Thank you, Mr. Chair.

The member opposite said a number of times not to make women wait, and I think this amendment does that because it increases the administrative burden on the commissioner. The commissioner has the power to inspect and to access pay equity plans, so if a complaint is made they have the ability to do that. Suggesting that they have to look at each plan I think would create a backlog. I don't think we'd be looking at 2027, but beyond, so I'll be voting no on this.

Thank you.

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: Given that the government, despite its avowed commitment to feminism and pay equity, failed to fund anything in this year's 2018 spring budget for establishment of the pay equity commission, any of the workings that would have started to get us ready for this, I certainly have concerns about capacity as well. This is a government that's willing to spend and talks a good talk on feminism but doesn't implement in a way that is equivalent to its language and its attestations.

This is simply a requirement to file the plan. It doesn't ask the pay equity commissioner to do anything, but it certainly fits in with what I believed were our collective commitments to transparency. To say we're only going to go back and inspect if needed is built on a need to have filed the plan with the commissioner in the first place. Filing surely should be the least of the things that the commissioner is both tasked with but also funded to be able to do.

The Chair: Okay, we'll call the vote on NDP-31.

(Amendment negatived on division [*See Minutes of Proceedings*])

The Chair: On Liberal-6, we have Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Mr. Chair, this amendment is much the same as my previous one. It is not clear in the current version that these provisions will apply to crown corporations. I am therefore proposing an amendment that those organizations be subject to this legislation.

● (1045)

[*English*]

The Chair: Is there further discussion?

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

The Chair: Now we go to NDP-32.

Ms. Sheila Malcolmson: Thank you, Chair.

This is an amendment proposed by CUPE in relation to dispute resolution. In their testimony to committee, they found that the dispute resolution mechanism in part 8 inexplicably and unfairly distinguishes between employees and bargaining units. Those are their words. They say that the provisions are of concern to CUPE because they appear to limit the ability of bargaining agents to pursue remedies on behalf of their members.

Without a rationale, the exclusion from the complaint process seems arbitrary and unnecessarily limits the duty of bargaining agents to exercise all the rights of their members on their behalf. The proposed legislation recognizes that employees who complain are vulnerable to reprisals by providing a complaint process for such situations, but at the same time, the existing rule limits the capacity of unions to exercise the rights of their members on their behalf.

Their recommendation is to amend these two proposed sections, 149 and 150. This is on page 6 of their submission. They were on the record.

Thank you.

The Chair: The bells are ringing. Are we okay to go until 15 minutes before the vote?

An hon. member: No.

The Chair: Okay, then we will have to adjourn until after the bells.

The meeting is suspended until after we vote.

● (1045)

(Pause)

● (1130)

The Chair: We'll come to order.

We will go to amendment NDP-32.

The floor is yours, Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

This is another amendment to the pay equity legislation that's proposed by CUPE.

CUPE represents 23,000 who work in federally regulated industries, mainly in the private sector, such as airlines, telecommunications, ground transportation and ports. They also represent employees at the RCMP. They have four decades of experience in the development of pay equity plans and overseeing their implementation under provincial pay equity regulatory regimes.

They said to the committee that they've been an integral partner in closing the gender wage gap in numerous employment sectors and workplaces across Canada and in helping Canada meet its obligations to ensure the human right to equal pay for work of equal value. They have successfully challenged the constitutionality of certain provisions of pay equity legislation.

Their submission to the committee was that they believe the federal government should be setting a high standard for the provinces to emulate and should ensure the legislation already deemed unconstitutional by the courts is not replicated in this federal pay equity legislation. I'll just flag, for anybody watching on television, that every CUPE amendment proposed so far, which the NDP has advanced, has been voted down by the government members and sometimes by the Conservatives too.

I hope that with the final three amendments I propose, we can maybe change the tone. There are decades of litigation and collective bargaining. Women who work inside unions and are protected by collective agreements do have much more significant pay equity protection. That's where our experience comes from, but we haven't had federal legislation and we should be building on the experience of these people who have been in the trenches. I promise you, they would not have spent their time at the committee or proposing these very detailed amendments if they did not think that they were necessary.

Here is an amendment proposed—this is NDP-32—by CUPE. They flag that in the enforcement section of this act it contemplates an extraordinary degree of responsibility for the pay equity commissioner, providing technical assistance to employers and committees undertaking dispute resolution, making decisions on the interpretation and application of the act, and providing monitoring and oversight functions. The commissioner and the Canadian Human Rights Commission must have all the resources necessary to fulfill these new roles. That is a big ask of them. Make sure that this is a function that is funded effectively.

They also urge that the dispute resolution mechanisms found in part 8 be amended. They said that the mechanisms inexplicably and unfairly distinguish between employees and bargaining agents. The provisions as written are of concern to CUPE because they appear to limit the ability of bargaining agents to pursue remedies on behalf of their members, particularly if the employer has managed to utilize any of the mechanisms that permit the unilateral establishment of a pay equity plan.

They urge that without a rationale the exclusion from the complaint process seems arbitrary and unnecessarily limits the duty of bargaining agents to exercise all of the rights of their members on their behalf. The legislation as written recognizes that employees who complain are vulnerable to reprisals by providing a complaint process for such situations, but at the same time, the capacity is limited for unions to exercise the rights of their members on their behalf.

They proposed two detailed amendments and these are captured in NDP amendment 32.

The affect of these two amendments would be that proposed subsection 149(2) would read, “Any employee or any bargaining agent that represents unionized employees”—that's the inclusion of the word—“to whom a pay equity plan relates that has reasonable grounds to believe that the employer has attempted to influence or interfere with the selection by its non-unionized employees of members to represent them on a pay equity committee, or that the employer or a bargaining agent has acted in bad faith or in an arbitrary or discriminatory manner while exercising their powers or performing their duties and functions under this Act, and who is affected or is likely to be affected by the alleged behaviour may, within 60 days after the day on which they had become aware of the alleged behaviour, file a complaint with the Pay Equity Commissioner that sets out the particulars of the complaint.”

That's the first amendment.

The second one is adding to 150(1), “Any employee”. Those are the new words. It would read, “Any employee or bargaining agent that represents unionized employees to whom a pay equity plan relates that has reasonable grounds to believe that there has been a contravention” and so on.

● (1135)

Then there's a proposal to delete these words:

> other than sections 32 to 51, 78 and 79 and any regulations made under any of paragraphs 181(1)(b) to (h)

The rest of the wording stands.

Again, this you heard in testimony. You had the opportunity to ask the witnesses when they came to committee. You have our amendment. This is the NDP advancing the advice of labour. We hope the government members will use their majority to take up this amendment. We want to get this legislation right, and that's the spirit in which the amendment is offered.

The Chair: Thank you very much, Ms. Malcolmson.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you, Mr. Chair.

I find it a little regrettable that we are using the presence of the cameras to huff and puff and give the false impression that the government is not listening to our union friends. National unions have worked very hard for workers' rights, and more specifically for women's rights in terms of pay equity.

Mr. Chair, let us recall all the testimony this committee heard. Everyone applauded the work that the government has done to introduce this bill, which is finally going to guarantee that pay equity.

Ms. Malcolmson seems to want to give the impression that my colleagues and I on this side of the table are not listening to people, but she seems to be forgetting a number of facts. It was only possible for this bill to be drafted because of the consultations that our officials and our government had with union leaders and with those covered by the provisions of the bill before us.

We are now in the process of considering some of the provisions in the bill to see whether we should amend the provisions and thereby improve the bill. People of good will can disagree, you know. That's the situation we find ourselves in here.

I now go back to the task at hand and to the two proposals made by the NDP, more specifically amendment NDP-32, which I am going to vote against. The only reason why the proposal in this amendment is not part of the provisions of the bill is in order to allow good-faith negotiations without imposing too formal a process. The intent is to encourage parties to work together to resolve any disagreements coming from a pay equity committee. If no solution can be found, the next stage is to file a notice of dispute to the pay equity commissioner so that the problem can be solved. Personally, I believe that it is always better to encourage discussions rather than to impose too rigid a system.

I would also like to reassure my NDP colleague about her second amendment. Although the bill deals separately with employees' complaints and bargaining agents' complaints, nothing prevents a bargaining agent from supporting employees in their complaint process. It is perfectly possible. I don't think that my colleague's reasoning holds water. But, as I said, people of good will can disagree.

Thank you, Mr. Chair.

● (1140)

[*English*]

The Chair: Thank you, Mr. Fergus.

Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

With great respect to the member opposite, it's impossible to get a big piece of legislation like this right. I know the government inside has been negotiating it for years and working with labour, but I was certainly getting calls all summer from labour partners and from members of the coalition asking what was happening, as they weren't hearing anything back and didn't know what was proposed. I had hoped that the reason this had been delayed three years was that inside work was happening. In fact, there was some confusion. Maybe it was not as close work with the people who have the expertise, the labour activists who have been doing this work all this time.

That aside, it's impossible to bring such a big and complicated piece of legislation forward—not least because it's buried within a 900-page bill—in a very short time and get it right. I know this from 12 years in local government. We count on the input of our constituents and our partners to steer us off the rocks and to give us another perspective. This government has made this commitment and has such a strong mandate to work in a different way—to work collaboratively—and so I promise you....

I'm honestly discouraged and surprised that the government members so far in this debate this morning haven't found a single piece of NGO or labour advice or amendments worthy of taking up.

I'm one member here. You have tremendous resources. You have a lot of good minds there. It isn't possible for you to have dug in and found some pieces that you wanted to move yourself, as members, let alone leaving it to me. I do say this in the spirit of wanting to get this right. You have great advice and you would not have had labour submissions with the detail that is here—hundreds of pages of testimony and evidence—if they didn't think it was worth trying to get these changes noted on the record.

I'll just leave it there. The advice stands. This is based on the work of the people who have been in the trenches. I am surprised and discouraged that none of the advice so far has been found worthy of being taken forward. It would have improved the act.

The Chair: I'll call the vote on NDP-32.

Ms. Sheila Malcolmson: Chair, can I ask please for a recorded vote?

(Amendment negatived: nays 7; yeas 1 [*See Minutes of Proceedings*])

The Chair: We are turning now to NDP-33.

● (1145)

Ms. Sheila Malcolmson: Thank you, Chair.

This is an amendment proposed by the Equal Pay Coalition. It represents 44 different associations, businesses, professional women, unionized women, non-union women and community groups across the province of Ontario.

Ontario has had pay equity legislation for a long time. My late aunt Kim Malcolmson was an early worker in the Ontario Pay Equity Commission. Honestly, when I was in high school, she was my feminist aunt. I found her a bit radical at the time. I was so honoured that she was with me when I was sworn in as a member of Parliament. I gave her shout-outs throughout a lot of our pay equity debates. She was so proud that I was the voice that the NDP chose to advance our first opposition day motion. We were so glad to have had the government's support on that.

She died just about three months ago, just a couple of days after Patrick Brown stepped down. Actually, as a long-time CCF supporter and New Democrat, she left on a high note.

That said, the Ontario experience is very important in this work. I know that you heard from Fay Faraday and Jan Borowy who have extensive experience. They flagged that there were some fundamental pieces that needed to change in this legislation. They said in their testimony—and we've already lost this vote, but I'll say it again—that making fundamental human rights subject to the diverse needs of employers is non-negotiable. However, it remains because I lost the vote on that amendment.

Here is another one of their pieces of advice. This is in paragraph 103 of their submission. Their proposal is that deleting lines 2 to 5 on page 431 of Bill C-86 is the remedy. The rationale is that, in their own words, “Women should not be blocked from taking broad claims of systemic gender discrimination, inclusive of equal value claims, to the CHRA”, the Canadian Human Rights Act. They want this clause of the bill to be deleted. They say that women should be able to rely on section 7 and section 10 of the Canadian Human Rights Act instead when making equal pay for equal value claims.

I'll take you back to their opening testimony to committee. They said:

> ...there are a number of provisions you've included in the legislation that have already been found to be unconstitutional.
>
> ...the legislation actually gives less protection in some areas than the Canadian Human Rights Act currently does. For example, it has less protection in the compensation for part-time and temporary workers than currently exists....
>
> Also the pay equity act does not close all the different gaps in compensation that are discriminatory.

They also said:

> You've also included provisions that are unconstitutional and that the Supreme Court just struck down in May of this year, dealing with blocking retroactive pay for gaps that have been identified.

Mr. Chair, I propose our amendment, NDP-33, which is that Bill C-86, in clause 416, be amended by deleting lines 2 to 5 on page 431. This is the advice of the Equal Pay Coalition.

The Chair: Thank you.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you very much, Mr. Chair.

I would like to ask our officials a question about this motion.

As I understand it, if an employer is already subject to federal and provincial legislation, the Governor in Council can allow that employer to give priority to provincial provisions.

Have I understood the objective of these provisions correctly?

● (1150)

[*English*]

Ms. Lori Straznicky: Yes, when it comes to the proposed section 181 regulation-making authority, which the amendment speaks to, if the regulations were to be made and that authority were to be exercised through a process that would involve meaningful consultation with all stakeholders, it would allow the flexibility for employers such as in the example you gave, who would have coverage in federal and provincial jurisdiction, to receive an exemption from the federal act and perhaps a dispensation to comply with the provincial one.

[*Translation*]

Mr. Greg Fergus: Why is that flexibility important? What is the dispensation for? Why is the dispensation important?

[*English*]

Ms. Lori Straznicky: In the federal jurisdiction, there are some employers who would have a certain portion of their workforce who would be under federal jurisdiction and another portion could be under provincial jurisdiction. It would give the Governor in Council the flexibility to allow for one regime to cover that entire workforce.

[*Translation*]

Mr. Greg Fergus: So it simplifies things by avoiding a situation in which some of their employees would be subject to federal legislation and others would be subject to provincial legislation.

[*English*]

Ms. Lori Straznicky: That would make sense, yes.

[*Translation*]

Mr. Greg Fergus: Okay, thank you.

I just have one more question. If the province has no pay equity legislation, will the exception still stand?

[*English*]

Ms. Lori Straznicky: Again, going back to how the regulations would be made, they would be made in a way that would have extensive and meaningful consultation on how it would be used. Certainly any regulations that would be brought in would ensure that employees were covered under a provincial legislation, if such a thing existed, or would remain covered under this act or the Canadian Human Rights Act.

[*Translation*]

Mr. Greg Fergus: Thank you.

[*English*]

The Chair: Mr. Kmiec.

Mr. Tom Kmiec: Thank you, Mr. Chair.

On this particular amendment, I don't have any faith in the cabinet to perform its duties as related to the pay equity act, or anything really. We saw this morning that obviously many members don't feel that the Minister of Finance could come here and defend his fall economic statement either.

I'm generally a small, limited-government type of guy. It seems to me kind of pointless to write entire pay equity act provisions into the BIA and then provide the ability for the cabinet to provide exemptions to employers they so choose. It happens time and time again across other pieces of legislation being proposed by the government, to almost provide them with a "get out of jail" card. In case something happens, the cabinet will decide. That's as opposed to writing the legislation in such a way that either provincial legislation takes charge or federal legislation is paramount, and picking and choosing and writing the legislation in that manner.

It happens not too often, but there were some of the pay equity proposals by the NDP that we have supported. This one is one that I'm going to support.

Cabinet doesn't need more power. It has plenty of power as it is already. It doesn't know how to use it, and it abuses it sometimes. It makes bad decisions. I don't see why we should give them more power to provide exemptions to whomever they chose.

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

In the coalition submission, in fact I read the wrong section of their submission. Their concern in this section is that it allows the Governor in Council to make regulations, exempting with or without conditions any employer, any class and so on. They say it's a complete escape clause and a source of major concern and should be deleted.

My apologies for introducing another one of their arguments which I had already lost in earlier votes. It's certainly strong advice from the Ontario Equal Pay Coalition.

The Chair: Thank you for that clarification.

Is there any further discussion on this amendment?

● (1155)

Ms. Sheila Malcolmson: May I have a recorded vote, please?

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

(Clause 416 as amended agreed to on division)

The Chair: There are no amendments to clauses 417 to 424.

Do we have unanimous consent to group clauses 417 to 424 and vote on them as one rather than voting individually?

An hon. member: Agreed.

The Chair: There are no amendments on any of those sections, Peter, but we'll wait until you determine what you want to do.

We can do them individually, if you like.

Mr. Francesco Sorbara: Chair, can you repeat the numbers on the clauses?

The Chair: It's clauses 417 to 424. There are no amendments proposed, but if anybody has any questions or anything for the officials, we can do them one by one.

Ms. Sheila Malcolmson: Chair, can I clarify? On amendment NDP-34, are we still going to deal with that one?

The Chair: Yes. That's in clause 425.

Ms. Sheila Malcolmson: It's coming up. Thank you.

The Chair: We have agreement to vote clauses 417 to 424 as one.

(Clauses 417 to 424 inclusive agreed to on division)

(On clause 425)

The Chair: We have amendment NDP-34.

Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

This is the final NDP amendment advancing the recommendations of both labour and the Equal Pay Coalition.

This is the submission of the Equal Pay Coalition, which the committee heard in verbal testimony and had an opportunity to ask them about. They are concerned that women could be losing out on other human rights protections if the legislation goes ahead as is.

Proposed subsection 425(1) amends the Canadian Human Rights Act so that women are not able to make a comprehensive claim relying on all the key elements of the Canadian Human Rights Act. Based on the language in the legislation now, women are restricted from using the Canadian Human Rights Tribunal to combine a broad claim of systemic discrimination in compensation. This provision replicates a significant weakness in both the Ontario and Quebec human rights forums.

This is again an example of the only good thing about the government federally delaying for 42 years, in that it has the opportunity and the benefit of not replicating the mistakes made by the early adopters of pay equity legislation. This was identified by several of the witnesses.

It means that if this goes forward as is, women are required to go to two venues to fully redress systemic discrimination in compensation: one for pay equity and the other for human rights.

The submission of the Equal Pay Coalition is that the act should be amended so as not to restrict human rights claims. This is hearkening back to the speech that I made on the previous amendment in error. I was just ahead of the game. The recommendation of the coalition is that the new law must require a complete analysis of the overall pay structure between male and female job classes, elements should be compared and, most specifically, women should not be blocked from taking broad claims of systemic gender discrimination, inclusive of equal value claims, to the Canadian Human Rights Tribunal.

They want this section of the act deleted and they want women to continue to be able to rely on sections 7 and 10 of the Canadian Human Rights Act instead, when making equal pay for equal value claims.

● (1200)

The Chair: Thank you.

Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Thank you, Ms. Malcolmson, for bringing this amendment forward.

On this amendment, in thinking about it, in the legislation itself, currently in those jurisdictions that would be covered by the legislation—the federally regulated industries that would be covered and those employees who would be covered by this act—they would be able to go to a pay equity commissioner who has the power to administer and enforce the act, to also assist those persons in ensuring that they understand their rights and obligations under the act and, most importantly I would say, to facilitate the resolution of such disputes. I think that is what is important under the provision here in the pay equity legislation that's contained in Bill C-86.

I understand your amendment, but the reason that I would disagree with the intent of the amendment is that with the legislation we get the umbrella of pay equity being implemented, and under the pay equity umbrella you have certain mechanisms at work that employees can bring about if there's a dispute, with the establishment of a pay equity commissioner, which is established under the legislation.

With that, I will not be supporting the amendment. The Canadian Human Rights Act is obviously very important. The Canadian Human Rights Commission is important as such, but at the same time, we have a pay equity act, we have the mechanisms under the pay equity act contained therein, and those mechanisms will allow employees to bring disputes to that and facilitate a resolution to those disputes.

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: I'll say again, because this is my final opportunity to comment on this legislation and this process, that we have had four decades of fighting this in court. We have lawyers and labour activists who have been on the front line. They have been working hands-on and had great hopes that, as a rationale for delaying this legislation three years in this government and 42 years since it was first proposed by another Trudeau prime minister, we would get it right.

We received this testimony maybe only two weeks ago. The timeline has been so short. This is another amendment that the human rights lawyers who are working daily with human rights cases and pay equity have made. That the member finds it to be inadequate or unnecessary just doesn't fit with the spirit of wanting to perfect the legislation, to make this work and to make it challenge-proof and easier for women.

I hope that the member has had the opportunity to talk to the witnesses directly or ask them some more detailed questions on their submissions. They found repeatedly, in multiple places, that this legislation could be improved. The government hasn't taken up a single one of them. Their concerns were serious: no intersectional analysis, no provisions currently for women in female-dominated workplaces that don't have access to a male comparator, no specialized stand-alone pay equity commission and pay equity hearings tribunal, no provisions as recommended for non-union women, no pay transparency. On this one about Canadian human rights, if the government members can't find it in them to vote in favour of this, then I don't know what happened to the party of the charter, honestly.

I'm very grateful to the organizations that participated in this very truncated process in good will, and I am personally disappointed that my arguments have not been sufficient to actually change a single element of this legislation. I wonder if, as we had hoped, this bill had been stand-alone and sent to the status of women committee or the labour committee, it might have had a better run than it did simply running through the filter of finance.

I say that with the greatest respect, but also with thanks to our labour and pay equity partners and with disappointment that I haven't been able to affect any of the language in this legislation.

● (1205)

The Chair: Okay.

We're ready for the question.

Ms. Sheila Malcolmson: I would like a recorded vote, please.

(Amendment negatived: nays 7; yeas 1 [*See Minutes of Proceedings*])

(Clause 425 agreed to on division)

The Chair: There are no amendments to clauses 426 to 440, but if you have questions for officials or anything on them, you're welcome to it.

(Clauses 426 to 440 inclusive agreed to on division)

The Chair: Thank you, Ms. Malcolmson, for coming and explaining your amendments very thoroughly.

Thank you, officials. Thank you for coming and answering any questions there were.

Coming back to part 1, amendments to the Income Tax Act and to other legislation, there are no amendments on clauses 2 to 16.

(Clauses 2 to 16 inclusive agreed to on division)

(On clause 17)

The Chair: Then we have, on clause 17, amendment CPC-1.

Who is doing that?

Mr. Poilievre?

Hon. Pierre Poilievre: Yes.

I think the amendment speaks for itself. I'm supporting it.

The Chair: Is there any further discussion?

Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

I would actually appreciate some discussion and explanation of the amendment. I'm just reading it:

(a) by deleting lines 27 to 31 on pages 21.

(b) by deleting lines 39 to line 3 on page 22.

(c) by deleting line 21 on page 22 to line 7 on page 23.

(d) by replacing line 22 on page 23 with the following:

"(12) subsections (1), (7) and (10) are deemed"

(e) by replacing line 30 on page 23 with the following:

"(13) Subsections (3), (6) and (11) are"

(f) by deleting lines 1 to 6 on page 24.

That does not speak for itself, I don't think. I would like to get an explanation either from Mr. Poilievre or from the ministerial officials as to exactly what the approach is on this humongous bill. I think we have to narrow in and be very specific on what the impacts are.

The Chair: Who do we have for officials? We have Mr. McGowan and others, just in case there is further clarification required.

Mr. Poilievre, I thought his response was very....

Hon. Pierre Poilievre: I thought my explanation was also very self-explanatory, but I welcome the officials to offer technical explanation in addition for members.

The reason we object to this entire section of the budget is that it effectively provides massive tax breaks for lobbyists. It turns the charitable tax credit into a benefit for lobbyists who call themselves charities and have almost no charitable function whatsoever. We don't think that was the original purpose of the charitable tax credit. Therefore, we're proposing amendments to oppose the overall section. We'll vote for the amendment and against the clauses in the budget related to this section.

● (1210)

The Chair: Okay.

I have Mr. Fergus and then Mr. Julian had a question for the officials.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: What a pity that Mr. Poilievre provided that explanation, because I was about to say that these proposals speak for themselves, which is why I am going to vote against them. But now you have stolen my joke.

Mr. Chair, throughout its mandate, the government has been committed to make sure that charitable organizations will no longer be subject to political harassment because they are faithful to their commitment as they conduct their charitable activities.

A lot of discussions were held. I personally participated in a number of discussions with charitable organizations, especially in Quebec, environmental organizations and organizations fighting poverty. They were all quaking when the previous government was in power. That is why we conducted a study on the subject.

The Minister of National Revenue formed a special committee to look at those issues. All the members of that committee came to the conclusion that amendments had to be introduced to repeal the unfortunate provisions in the legislation passed by the previous government.

That is why I will be voting against the amendments proposed by my honourable colleague.

[*English*]

The Chair: Thank you for that.

I should have mentioned in the beginning as well, just as a matter of clarification, that if CPC-1 is adopted, NDP-1 cannot be moved due to a conflict of lines.

I guess that's important to your point of view, Mr. Julian.

We'll have Mr. Poilievre and then we'll go to the officials, if they would like to add to something to Mr. Julian's question.

Mr. Poilievre.

[*Translation*]

Hon. Pierre Poilievre: Mr. Fergus made a number of false statements in his remarks. He said that the legislation was enforced by the previous government. Partisan governments do not enforce legislation, governmental organizations and public servants do. The Canada Revenue Agency has been enforcing the legislation. The principle in question is intended to grant tax credits to charitable or not-for-profit groups for activities designed to help the less fortunate or for any other charitable cause. But the goal was not to give money to lobbyists. However, the bill as currently proposed deals with a tax credit that the Liberals want to provide to lobbyists.

When they mention environmental groups, they are talking about groups opposed to pipelines and to jobs for workers and for indigenous communities with resources. Not only do they receive foreign money for anti-Canadian political activities, but the government is also going to give a tax credit to help fund those activities. I find it very unfortunate that the government is supporting interest groups opposed to indigenous peoples and workers in the natural resources sector and other lobbyists working to destroy our industries and the possibilities for our workers.

That is why I am opposed to this. A huge majority agrees with us that we must avoid giving excess tax credits to charitable groups in order to fund lobbyists, whatever their ideology. That is why we submitted this proposal. It's very unfortunate that the government is in the process of helping lobbyists to take unfair advantage of our system.

Thank you.

● (1215)

[*English*]

The Chair: Mr. McGowan, or officials, do you have anything you want to add on Mr. Julian's earlier point?

Go ahead, Peter.

Mr. Peter Julian: Thank you, Mr. Chair.

I'd like you to explain the practical application of this.

If this amendment is passed, what would that mean for the charitable sector?

Mr. Blaine Langdon (Director, Charities, Personal Income Tax Division, Tax Policy Branch, Department of Finance): The effect of the amendment would be to reverse the changes proposed by the government. The default would be that charities would be able to carry on political activities with up to 10% of their resources. They would still be prohibited from carrying on directly or indirectly partisan activities. We would revert to the existing system.

Mr. Peter Julian: Therein lies the problem. Thank you very much for that explanation. We saw it with the previous government's witch hunt on charitable organizations that were trying to get their point of view across. We have charitable organizations that work very hard on behalf of Canadians. Some are in the environmental sector, as Mr. Poilievre just mentioned, others are in the social sector.

I just came from a press conference with the Elizabeth Fry Society. It is actively working to put into place an administrative structure that doesn't penalize Canadian children who are in irregular situations, whether their parents are homeless or their parents are incarcerated. Currently, the Canada child benefit and the housing first strategy don't apply to those children, and these are the children who are the most disadvantaged.

The work that they're doing in the community to help those children necessarily has a political, though non-partisan, aspect to it. What they're doing is trying to promote the idea that we should be treating every child equally in our country. That's a value that is subscribed to by the vast majority of Canadians. The vast majority of Canadians subscribe to the idea that an environmental organization should actually be able to push on behalf of the environment to ensure, for example, that the government decisions that are made don't have a profoundly negative impact on the environment.

It seems to me that what we have had is a handcuffing of those organizations that are working in the best interests of society. The government introduced some amendments that have been welcomed by the charitable sector, but as you know, Mr. Chair, we've also had major concerns raised by the charitable sector about the vagueness of some of the language, and we'll be coming to that later on under the NDP amendments. I find it a bit perplexing to simply say that we are going to continue to allow Revenue Canada to crack down on organizations that are speaking out on behalf of the social, economic or environmental betterment of Canada.

Mr. Poilievre said his amendments didn't need any explanation, and I disagreed because they are very complex, these particular Conservative amendments. Now that he's explained it, I'm going to vote against it.

What started under the previous government, the Conservative government, was an attempt to muzzle organizations for speaking out for the best interests of Canadians. I don't want to see a country where that happens. I decried it and my party decried it when it happened under the former Conservative government.

The Liberal government has brought forward some amendments, but the vagueness of the language is leaving a big question mark in many people's minds. This amendment would take us back to the starting point, allowing Revenue Canada to crack down on whatever organization it doesn't like, or whatever organization the government of the day doesn't like, which would be a major step backwards.

● (1220)

The Chair: Mr. Poilievre.

Hon. Pierre Poilievre: The amendment does not do that. It is clear now that it did require some explanation.

The amendment does not allow the CRA to crack down on any organization it does not like. It allows CRA to ensure that the charitable tax credit is used for charitable purposes. That is the reason the charitable tax credit exists. It has never been the case that Revenue Canada identifies a political organization and says, you can't speak. Rather, it says to charitable organizations that use the charitable tax credit to pay their bills that the resulting revenues they bring in should be used for charity. That is what the charitable tax credit is for. If you want to bring in a lobbying tax credit—anybody who wants to engage in lobbying activities gets a tax credit—then just say so, but don't lie to the Canadian people and tell them it's about charity. It's not about charity. It's about lobbyists and advocates using taxpayers' money in order to advance their political agendas. That's what the government is trying to transform this tax credit into.

Frankly, if organizations that are charitable but have political objectives want to advance those objectives, there's no reason why they can't simply set up a separate bank account, and say, in bank account number one, we have the dollars we've raised using the charitable tax credit so we're going to use that for charity. In bank account number two, we raise money for political advocacy and lobbying, and as a result it's not eligible for a charitable tax credit because it's not for charitable works, so we will use that bank account for lobbying and advocacy. There would be no problem with any organization doing this.

Mr. Julian likes the idea of giving tax credits to lobbyists, because he happens to like the lobbyists who use it, but I'm curious. When inevitably other organizations that he doesn't agree with start to do exactly the same thing, you can bet that the NDP will have a very different view.

As for the government claiming that they're suddenly in favour of freedom of expression and want to defend people's right to speak out, this is the same government that said that soup kitchens and recreational camps for poor people and food banks should lose their summer students if they don't subscribe to the Prime Minister's personal values test. They're prepared to crack down on organizations that don't meet the right ideological and political test—no problem with that—but at the same time they want to give a tax credit for lobbying activities, which thus far have been almost entirely related to organizations that are trying to shut down whole industries in this country and put vulnerable, low-income people, indigenous people and other working Canadians out of jobs.

If that's what they want to run on—the idea of giving a tax break to those kinds of groups—they will have to take responsibility for how that money is used.

The Chair: Thank you, Mr. Poilievre.

Mr. Julian, I believe you're next on the list.

Mr. Peter Julian: Thank you very much, Mr. Chair.

I just want to read into the record an article from the Toronto Star. The headline is “Why haven't Any Harper-friendly charities been scrutinized”. It's by Edward Keenan. It was published on January 23, 2015. I'll read the following:

> It turns out charities in Canada—at least the ones the government doesn’t like—are forbidden from “exercising moral pressure.” As if that isn’t the entire point of charitable enterprises. The absence of the profit motive and of self-interest in those involved in such an organization virtually defines a charity. Without those two things, what’s left is the pressure of morality compelling people to do the right thing.
>
> But that’s illegal for a charity, it turns out.
>
> This news comes to us courtesy of the Canada Revenue Agency, acting on a $13-million mandate from Stephen Harper’s Conservative government to take a close look at charities the government thinks are engaged in “excessive political advocacy.” This crackdown on politicized goodwill most recently busted the do-gooders at Dying with Dignity, who have been wielding contraband moral pressure in the service of their mission to provide information about patient rights, planning for end-of-life-care and the case for physician-assisted suicide. The auditors determined that its sins included “swaying public opinion, promoting an attitude of mind, creating a climate of public opinion” in addition to the already mentioned moral pressure tactics.
>
> Now, to be clear, these charitable advocacy activities are only verboten if they might drive or prevent legislative change. The logic seems to be that tax breaks shouldn’t be used for any activities that might influence legislation. Except, of course, the tens of millions of dollars in tax exemptions and direct subsidies we give to political parties whose direct and immediate goal is to drive or prevent legislative change. Harper has actually been an innovator in this arena, inasmuch as, through “Canada’s Economic Action Plan,” he has abandoned mere tax breaks and the hassles of soliciting donations to spend millions of government dollars directly on advocacy to sway public opinion and drive legislative change.
>
> The difference might be that in the latter cases, it is Stephen Harper himself creating a climate of public opinion and exerting moral pressure to achieve his own electoral and legislative goals. And in the case of charities, it is people who disagree with Harper doing it.
>
> Is that an uncharitable assumption? Well, who has been caught up in the taxman dragnet? Environmental groups, free-expression advocates and the anti-poverty group Oxfam, which was informed that “preventing poverty” was not an allowable goal for a charity group.
>
> Who has not been subject to an audit, at least not yet, that we know of? Well, conservative think tanks like the C.D. Howe Institute and the Fraser Institute, which regularly write policy papers directly advocating legislative change.

> Or there's Focus on the Family....
>
> Of course, believing that to be so doesn't just put me on the wrong side of Canada Revenue Agency's interpretation of the charity laws, it puts me on the wrong side of this government's entire approach to leadership. Harper's government has hunted down and exiled information and arguments that might feed good public discussion and lead to intelligent legislation at every turn—from disembowelling the census through shutting down hundreds of research facilities to a justice minister saying bluntly, "We don't govern on the basis of statistics, we govern on the basis of what we hear from the public...".
>
> Harper and his ministers clearly want to hear from a public that is untroubled by research, untainted by statistics and, now, sheltered from the advocacy of pesky charities. The better to shape, it seems, a government that is free from evidence, reason and the pressures of morality.

I think that is the strongest contradiction to what Mr. Poilievre has just put forward, namely, that somehow Revenue Canada would not be penalizing or targeting particular charities and thus we do not need to make the changes that are inadequately and vaguely put into Bill C-86.

I cannot support his amendment.

● (1225)

The Chair: On your quote, Mr. Julian, I'm sure the Hansard folks would want to get a copy of that article, so that they get it right.

Mr. Poilievre.

Hon. Pierre Poilievre: Again my colleague fails to make the distinction between words and deeds. The role of charity is to do good deeds. This is the fundamental confusion that exists with far-left politicians and groups. They think their political advocacy is an end in and of itself and, therefore, the taxpayers should be forced to subsidize it.

We, on the other hand, believe in delivering good work. That's why during the Harper era, of which you spoke at such great length, we had the biggest drop and the lowest levels of poverty in Canadian history. We actually brought in expanded tax breaks for charities, allowing for example charities to accept the gift of shares and private shares without paying capital gains tax on it, so that we could have more hospital wings and more soup kitchens, more food banks and more youth programs funded by the transfer of wealth from people who are very fortunate to others who are not—a tax break, by the way, I would note that the government took away from charities.

We believe in actually delivering front-line services. You on the far left believe merely having a large bureaucracy of lobbyists and activists is in itself an achievement that should be subsidized by taxpayers. That's why so often the causes for which the far left in both these parties advocate are not about giving money directly to people in need; they're about giving money to a bunch of lobbyists and insiders who themselves are actually quite affluent, wealthy and very sophisticated at getting their hands on other people's money but do very little to actually deliver an end benefit to the people who most deserve it and who are most in need. That is the fundamental distinction we have.

We believe charitable dollars should go towards charitable works rather than towards lobbying. If any organization, person, entity, business, union or charity wants to do political activism, that's great. They don't need a tax credit to do it. What the two far-left parties are doing is creating exactly that tax credit, an advantage for lobbying rather than an advantage for the people most in need. I would go further and say that this change will probably lead to the diversion of funds away from the people in need, because lobbyists will use the tax credit for political activism and lobbying rather than to help those who are most in need, which is exactly what the charitable tax credit was meant to do in the first place.

● (1230)

The Chair: Thank you.

Are we ready for the question? We've had a pretty good debate and discussion.

Do you want a recorded vote on this?

Hon. Pierre Poilievre: Yes, we definitely want a recorded vote.

(Amendment negatived: nays 6; yeas 3)

The Chair: Now we'll turn to NDP-1.

Mr. Julian.

Mr. Peter Julian: Thanks very much, Mr. Chair.

I'm just following up on Mr. Poilievre's comments on his amendment. The charitable sectors that came forward, and the charitable sectors that have been involved in the discussions around making these changes, are some of the most reputable organizations in the country. I find it a bit perplexing that Mr. Poilievre is denouncing them all as far left. I certainly would have to disagree with him on that. Those organizations would disagree with him as well.

As far as what needs to happen in the legislation though.... We've come through a somewhat sad discussion this morning, where pay equity amendments that were offered in good faith by a wide variety of our witnesses, including the Canadian Labour Congress, CUPE and the coalition for pay equity, were all refused. There were major flaws in the pay equity legislation, as Ms. Malcolmson said earlier. Ultimately, it means that women are going to have to go back to court to achieve their ends. These were major flaws, and they were not addressed.

We now have flaws in terms of the overall structure of the legislation. It basically bans direct or indirect support or opposition to any political party. As members may recall, we had a number of witnesses that were concerned about the term "indirect", which remains to be defined. The term "indirect" is something that Revenue Canada has not yet defined as well.

Mr. Poilievre and I disagree on many things. We would agree on the idea that any direct support or opposition for any political party should not be part of a charitable tax credit. There's no doubt about that. The fact that the definition of indirect is vague and leads to confusion is something that has to be addressed at this committee.

That's why I'm proposing in NDP-1 that we would put that aside and focus the legislation on direct support for any political party or candidate, leaving the ambiguity around indirect support aside.

The Chair: Keep in mind the officials are here if people want further explanations.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you, Mr. Chair.

Thank you for making this proposal, Mr. Julian.

I understand your objectives and your desire to clarify things, but removing the words "or indirect" would create some vagueness that unfortunately would benefit the Conservatives.

It is important to keep the proposed wording, the goal of which is to prevent charitable organizations from using or focusing their activities to support a political party indirectly. That would open the door to too much abuse. That is why I am going to vote against these amendments.

● (1235)

[*English*]

The Chair: We'll have Mr. Fragiskatos, and then Mr. Julian.

Mr. Peter Fragiskatos: The government committed to allow charities to do their work on behalf of Canadians free from political harassment, including by clarifying the rules governing their political activities. That's precisely what the bill has achieved.

However, it does crucially leave in place a long-standing rule prohibiting charities from using their resources to support directly or indirectly any political party or candidate for public office. The amendments in NDP-1, and indeed in NDP-2.... My concern that I'm expressing here speaks to this amendment and NDP-2, so I will stay quiet when NDP-2 comes up.

Indeed, it undermines the effectiveness of this rule, which I emphasize is long standing, by allowing charities to use their resources to provide indirect support or opposition to any political party or candidate. Therefore, I can't support it.

The Chair: Mr. Julian.

[*Translation*]

Mr. Peter Julian: Thank you very much, Mr. Chair.

I just wanted to respond to the concern Mr. Fergus raised when he said that the vagueness could give rise to an ambiguity that a government could exploit. He mentioned the Conservative Party, but it applies to any political party. In reality, the ambiguity already exists in the bill as worded and therefore allows a government of whatever party to exploit it with actions similar to those that the Harper government engaged in.

I have just read several of the articles published on the issue. In my opinion, the best way to eliminate the ambiguity would be to remove the unclear language. Despite our questions, the idea of an activity providing indirect support is still not clear.

The Elizabeth Fry Society has said that the government should eliminate the administrative obstacles that are currently depriving Canadian children with a homeless or incarcerated parent of some of the benefits and programs to which they have a right. This is about the poorest of children. As an example, is that call from the Elizabeth Fry Society indirect support? We do not know, and therein lies the problem.

That kind of ambiguity, as recognized by our witnesses and by people in the field, should not be kept. Even some of the people who sat at the consultation table proposed that the government eliminate the indirect activity clause. Their argument, which some of the witnesses repeated, was that we have to avoid vague or ambiguous wording that allows any government to attack charitable organizations as the previous government did. That I why I am introducing this amendment.

● (1240)

[*English*]

The Chair: I see no further debate on NDP-1.

Peter, do you want a recorded vote here?

Mr. Peter Julian: Yes.

(Amendment negatived: nays 8; yeas 1 [*See Minutes of Proceedings*])

(Clauses 17 agreed to on division)

(Clauses 18 and 19 agreed to on division)

(On clause 20)

The Chair: On clause 20, the only amendment is NDP-2.

Mr. Julian.

Mr. Peter Julian: Given the defeat of NDP-1, I'd just ask the officials whether NDP-2 would still be in order.

The Chair: According to the legislative clerk, yes, it is.

Mr. Peter Julian: I gave reasons earlier as to why I feel it's important to heed the call of the witnesses who came forward in the committee. The ambiguity around the current phrasing is something that can be fixed. We have the right as a committee to do so. Therefore, I would move this amendment.

The Chair: Is there any further discussion?

Mr. Fragiskatos, you had mentioned this one before. You're basically going with the same comments? Okay.

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

(Clause 20 agreed to on division)

The Chair: There are no amendments on clauses 21 to 40. Are we okay to see those as one?

Some hon. members: Agreed.

(Clauses 21 to 40 inclusive agreed to on division)

The Chair: We'll now start on part 2, amendments to the Excise Tax Act.

I don't know if we have to change officials at the other end.... Thank you, gentlemen.

Part 2 relates to amendments to the Excise Tax Act—the GST/HST measures—and related legislation. There are no amendments on clauses 41 to 60, which are all of part 2.

If anybody has any questions for officials, Mr. Mercille and Mr. Achadinha will come forward. Are there any questions for officials on any of these proposed sections on the excise tax? I see none.

(Clauses 41 to 60 inclusive agreed to on division)

The Chair: We'll turn now to part 3, amendments to the Excise Tax Act with regard to excise measures, the Air Travellers Security Charge Act, and the Excise Act, 2001.

There are no amendments on clauses 61 and 62. There will be officials here, I expect, for this one as well.

(Clauses 61 and 62 agreed to on division)

(On clause 63)

The Chair: We'll hear from Mr. Julian on NDP-3.

Mr. Peter Julian: Thank you, Mr. Chair.

It's important that I preface my remarks by telling the public that we are racing through this massive budget bill. For those who are aware of the flaws in the bill, certainly with pay equity this morning we saw that flaws in the bill were not addressed.

As we adopt these whole clauses, opposition members are striving to make improvements and fix the flaws in the bill, but there is by no means a clear idea of how many errors and omissions exist in the bill, given how this is being rammed through Parliament.

This amendment, NDP-3, is seeking to fix a problem that happened with the last massive budget implementation bill that the Liberals put forward, which had a series of errors in it as well. You'll recall that we raised the point at that time that medical cannabis inadvertently, all of a sudden, became taxed. The prescription medication became taxed and hundreds of thousands of Canadians were impacted because the BIA was rammed through the House without sufficient consideration given to the errors and omissions.

This is indicative of absolutely the wrong way to govern. Canadians pay us to scrutinize legislation, to make sure that it is done effectively and that the flaws are fixed.

With pay equity this morning, this committee has decided to throw on the floor of the House of Commons—which will be surely subject to immediate closure—part of the BIA that will now be subject to court challenge. In this case, with the amendment NDP-3, we're trying to now fix the problems that were caused by the last BIA that was thrown into the House, rammed through with closure and rammed through committee without due consideration.

It is not the way to govern. It's certainly not the way the Prime Minister said he would govern when he came before the public in 2015.

In the last budget implementation act, witnesses were saying that it was a problem that we were now taxing prescription medication. It would increase the cost. It would mean that Canadians would have less access to the cannabis that they have been prescribed for pain or for other symptoms of profound health problems. Despite the fact that hundreds of thousands of Canadians were impacted, this was rammed through the House.

Now we have a second chance to fix the problems from last spring. I have no doubt that we're going to be looking in the spring at fixing the problems of what is being rammed through today. Everything has to be considered by nine o'clock, so we are trying to rush through these clauses.

I've done the best I can with my team to find and indicate the flaws. The NDP has offered far more amendments than the other parties, but I can't say with any assurance at all that we're not going to have other massive problems because of the speed with which this is being bulldozed through Parliament.

Today, if we're not willing to fix this bill in any way—if we're ramming through provisions that will surely be the subject of court action later on by pay equity advocates—at least we can fix the problems that happened the last time this government rammed a bill through Parliament. That is to take off the excise tax on prescription cannabis for the 250,000 Canadians who are prescribed cannabis, who have found the cost of that prescription skyrocket because of the actions of the government in bulldozing through legislation. At least we can fix this. At least let's fix the problems that happened the last time the government rammed this through.

At the end of the day, the government seems intent on ramming this through, despite the problems. We already know this entire bill will be subject to court action because of the government's refusal to consider amendments, but at least let's fix the problems with the last bill that came through.

NDP-3 endeavours to do that. What we would insert in this bill is an amendment that states:

> (c) if the cannabis product is a prescription cannabis drug, the consideration is deemed to be zero.

● (1245)

It eliminates the excise tax on medical cannabis that has so detrimentally impacted hundreds of thousands of Canadians. I hope the government will at least see fit to fix its last errors, even if it doesn't see fit to fix the current errors.

The Chair: With that, from the government side, I believe, Ms. Rudd had her hand up.

Ms. Rudd.

Ms. Kim Rudd: Thank you.

I'm actually thanking the member opposite for bringing this amendment up, because I think clarification is important, and it appears that Mr. Julian doesn't necessarily understand the difference in what prescribed cannabis is.

First of all, there's prescribed cannabis. There's prescribed cannabis with a DIN or a regulation, or approved by Health Canada. The drug identification number that's attached to cannabis in fact does not have an excise tax attached to it. I think that's an important clarification. There are prescriptions that will be obtained from doctors, which people will take to their local pharmacy for cannabis that has a drug identification number approved by Health Canada. That does not have an excise tax. I think we need to be very clear about that.

I did a little bit more research on this, and one of the other things I think we need to be very clear about is the fact that pharmaceutical products derived from cannabis will also be exempt, providing that the cannabis product has a drug identification number and can only be acquired through a prescription.

Because of this, because it is addressed here.... Let's remember the harmonization of this excise duty was part of the recommendation from the 2016 task force. As a government, we believe we've hit all of the right points in terms of ensuring that cannabis is kept out of the hands of children and the profits are out of the hands of organized crime. For those reasons we believe this amendment is not necessary.

● (1250)

The Chair: Mr. Kmiec.

Keep in mind we have officials here. It would be really unusual for Mr. Mercille to come before committee and not get a question.

Mr. Tom Kmiec: I was exactly going there.

The Chair: Great minds think alike.

Mr. Tom Kmiec: Yes, great minds think alike. I don't know what that says about me.

Welcome back to committee. I know you were here many times before.

On this particular amendment and this particular clause, can you just explain the impact this amendment will have?

Correct me if I'm wrong, but for prescription drugs, any sort that have a DIN, as Madam Rudd brought up, I thought the GST still applied to them right now, but they're just zero-rated. Am I correct or am I wrong on that?

Mr. Pierre Mercille (Director General, Sales Tax Division, Tax Policy Branch, Department of Finance): To the GST aspect, if it's a prescription drug, with the prescription, with the DIN number, that is basically a prescription. It's an order given by a medical doctor, for example, to a pharmacist to basically fill the prescription. In that situation, the drug would be zero-rated.

Mr. Tom Kmiec: The tax still applies, but it's just zero-rated to zero. Is that the way it works?

Mr. Pierre Mercille: It's taxed at zero. It's one of the means to provide a relief under the GST.

Mr. Tom Kmiec: Okay, and what's the impact of this amendment, then?

Mr. Pierre Mercille: This amendment has no impact. Essentially, it provides that a consideration for the product that is not subject to tax is zero. That's why the amendment is unnecessary.

Essentially the motion, the way it's worded, uses the expression “prescription cannabis drug”. This is already defined under the Excise Act, 2001. Under one provision of the Excise Act, 2001, it says that duty is not payable on a cannabis product that is a prescription cannabis drug. A prescription cannabis drug is like what was explained before. It needs to have a drug identification number and it has to be supplied through a prescription.

Mr. Tom Kmiec: Just so I understand, this amendment won't change anything or hurt anything. It might just provide more clarity or duplicate with a different part of the act.

Mr. Pierre Mercille: It would add words to the legislation that would have no effect. Usually Parliament doesn't speak to say nothing.

The Chair: Mr. Julian.

Mr. Peter Julian: You're saying that the legislative drafter got it wrong, but you are aware, of course, that prescription cannabis is subject to excise tax if it doesn't have a DIN. That was the conclusion of our last round of discussions around the BIA. At the same time, we had witnesses on this round of the BIA, including Canadians for Fair Access to Medical Marijuana, who raised that issue as well.

If you're saying that the legislative drafter got it wrong, I'm inclined to then ask how you would word this so that the 250,000 people who take medical marijuana and who don't take the products that are the minority—those that are actually covered by the drug identification number—can actually have their excise tax removed. How would you word that?

● (1255)

The Chair: I don't expect Mr. Mercille to be able to answer that question. He's not a legislative drafter.

Mr. Peter Julian: You need to help us with this one. We know that the problem is there. We know that 250,000 people are now paying an excise tax on medical marijuana. We know that it was inadvertent. The government was unaware. You will recall that we had these discussions. At first, we were told that it doesn't have an impact, and then we found out that it does.

If you're saying that the current wording by the legislative drafter of “prescription cannabis drug” as opposed to a drug that is identified by a drug identification number is wrong, you do need to provide us with wording that allows us to achieve what we need to achieve.

Mr. Peter Fragiskatos: I have a point of order, Mr. Chair.

Our officials are not here to be berated. This is not a courtroom, and as far as I know, Mr. Julian is not a prosecutor, but he's turning it into a courtroom, unfortunately.

I think you've spoken to it already, but I feel compelled to raise the point of order. The officials are good enough to come to speak to points as experts in the civil service, and I think we ought to respect that.

The Chair: Your point is noted.

Mr. Kmiec.

Mr. Tom Kmiec: I think Mr. Julian was being fair. I think I've been harder on Mr. Mercille and Mr. Coulombe in the past. They did an exemplary job of correcting me when I was wrong, so I'm sure they can handle Mr. Julian's gentle touch in questioning.

I'll just correct Mr. Fragiskatos. We actually are like a court. We have the power to subpoena information or the power to compel testimony. We are constituted in the way a court would be.

The Chair: We'll not debate that issue, but I do think that Mr. Mercille can only speak about it in the general sense.

If, Mr. Julian, you want to bring up to the fix-it-up committee another amendment at another time, you can do that.

Go ahead, Mr. Julian.

Mr. Peter Julian: Mr. Chair, we know there's a problem. I don't want to beat around the bush on this. I have enormous respect for our officials. However, when I'm told that this current wording is not the wording that we should get.... I understand that the legislative drafters were working 24-7 to try to get all of these amendments in. This is a problem with the government ramming through legislation. It addresses exactly the point I raised earlier.

We had a piece of legislation that was badly flawed that wasn't fixed last spring. We had legislative drafters working 24-7 to endeavour to fix the hole that was created by bad government action, and I'm being told that the wording is not exact. As a committee, I think we have a responsibility to find the wording, then, that allows us to fix the hole. We all know that 250,000 Canadians are paying an excise tax on medical marijuana that was never the government's intention. We have this problem. We can't skirt around it.

The legislative counsels looked into it and saw “prescription cannabis drug” as the resolution of that to eliminate that excise tax on non-DIN medical marijuana.

The Chair: I think Ms. Rudd spoke to this. Her view was that this resolution doesn't deal with it in the way you thought it would. Mr. Mercille said basically the same thing.

Ms. Rudd.

Ms. Kim Rudd: Thank you.

When I did my investigative research, as it were.... Health Canada, as you may know, is undertaking some work right now to evaluate the drug review and approval process so that Canadians who need a wider variety of medications—or medical options, shall we say.... As part of this work, the government will be examining options for establishing a rebate program to retroactively reimburse Canadians an amount in recognition of the federal portion of the proposed excise duty that was imposed on equivalent products prior to their being given a drug identification number.

Health Canada is looking into—this is from them, not from me, if I might finish—the array of options, as we know, in terms of medical cannabis. A lot of things have changed in the last 10 or 15 years. It's looking at what products should have a drug identification number. If these products indeed do have a drug identification number through this process that's put in place, then Health Canada will look at what supports it can provide to those who were taking that drug prior to the identification.

Health Canada is looking into it. Maybe that's the place it should stay.

● (1300)

The Chair: Mr. Julian, if we could have your last comments on this.... We are well over our five minutes, but we're flexible.

Mr. Peter Julian: Thank you, Mr. Chair.

I welcome the intervention of Ms. Rudd, which just contradicts everything the Liberals have been saying up until now. They have been saying there's no problem. Now they're saying that there's a problem, but they'll give them a rebate eventually. People who consume medical cannabis aren't necessarily wealthy. They can't go into debt to wait for eventually getting some relief from the government.

If what we are hearing is that this amendment needs to be tweaked so that it removes the excise tax now, so that the 250,000 users of medical marijuana who depend on that medication, particularly for pain relief, can actually access it without paying this massive penalty —which is the excise tax on top of it—we should endeavour to remove it. If what I hear is the cannabis product with the words “prescription cannabis drug”.... I think by taking out the word “prescription” and adding “prescribed by a physician”, we would address the concerns that Mr. Mercille raised.

We obviously have a problem. I'm not one to stare at my shoes when there's a problem. Obviously there's a problem if Health Canada is now looking into a rebate system to try to compensate users of medical marijuana who are now finding themselves deeply in debt or having to pass on their medication for pain relief. It's a serious problem, so we need to deal with it.

I would suggest that if we change it to a medical product as a cannabis drug “prescribed by a physician”, we get around the error by the legislative drafter that put the words “prescription cannabis drug” in there. According to Mr. Mercille, and I don't doubt his word, that particular wording doesn't address the issue of the excise tax that has been imposed on all medical cannabis.

It was done accidentally, as you'll recall, Mr. Chair. When I first asked questions about this last spring, there was a denial that there was any problem. Then we found out there was a problem and now Health Canada is looking into a rebate program for the problem. Why don't we just fix the problem? Instead of ramming the legislation through, let's just get together as members of Parliament paid for by taxpayers to fix problems and fix this problem now.

The Chair: Are we ready for the vote on NDP-3?

Mr. Peter Julian: I'll ask for a recorded vote.

(Amendment negatived: nays 5; yeas 3)

(Clause 63 agreed to on division)

(Clauses 64 to 68 inclusive agreed to on division)

The Chair: Thank you, gentlemen.

We're now turning to part 4, division 1, on the customs tariff simplification. There are no amendments for clauses 69 to 126.

(Clauses 69 to 126 inclusive agreed to on division)

The Chair: We're now turning to division 2, on the Canada Pension Plan, and clauses 127 to 129.

I'll give members a moment to think about that, in case there are questions for the officials.

(Clauses 127 to 129 inclusive agreed to on division)

The Chair: Next is division 3, on financial sector renewal. There are no amendments on clauses 130 to 173.

(Clauses 130 to 173 inclusive agreed to on division)

The Chair: On division 4, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, in clauses 174 and 175, there are no amendments.

(Clauses 174 and 175 agreed to on division)

The Chair: On division 5, greenhouse gas emissions pricing and other topics related to the offshore area, in clauses 176 to 181, there are no amendments proposed.

(Clauses 176 to 181 inclusive agreed to on division)

(On clause 182)

The Chair: Next, we have division 6, Canada Business Corporations Act. On clause 182, we have amendment LIB-1 and then several NDP amendments on this division.

On amendment LIB-1, we have Mr. Sorbara.

● (1305)

Mr. Francesco Sorbara: Thank you, Mr. Chair.

This is simply a drafting clean-up on the bill.

The Chair: Is this the fixer-upper that Peter was talking about earlier?

A voice: Yes.

The Chair: It's been moved. Is there any discussion on Liberal-1?

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

(Clause 182 as amended agreed to)

(On clause 183)

The Chair: Mr. Julian, on NDP-4, I'll give you some time to get your paperwork together.

Mr. Peter Julian: Mr. Chair, you'll recall the very extensive discussions we had around beneficial ownership and ensuring that we have identification around that for the Canada Business Corporations Act. We're looking for more detail around the information that's provided in the amendments to clause 183. Those amendments are offered for the consideration of the committee.

● (1310)

The Chair: Ms. Rudd.

Ms. Kim Rudd: Thank you, Mr. Chair.

A couple of things in the amendment I think need to be put on the table, if you will.

One changes a modest penalty for what could be a corporate record-keeping administrative error, increasing the fine from not exceeding $5,000 to not exceeding $500,000. We don't want to be overly burdensome when people make a small clerical error. I think that is one of the key elements that certainly, from our perspective, can't be supported.

I think the other thing is the penalties and the outcomes of the discussion with the federal, provincial and territorial tables—

The Chair: Are you on NDP-4 or NDP-5?

Ms. Kim Rudd: This will go to both NDP-4 and NDP-5.

The nature of the obligations, the amount of the penalties, are all outcomes of an ongoing federal-provincial-territorial discussion, and work on the beneficial ownership transparency shouldn't be changed, certainly without discussions with them. As government, we can certainly add regulation at a later date, if indeed it's appropriate.

Again, going back to the penalties for what we'll call “minor infractions”, we want them not to be unduly harsh. I think it would be inconsistent with the intention of the act's framework. The importance of continuing to have those conversations and respect for those conversations with the federal, provincial and territorial governments is a key element of why NDP-4 and NDP-5 will not be supported.

The Chair: We have Ms. Hemmings and Mr. Schaan here as well, if there are any questions or clarifications for the officials.

Mr. Julian, do you want to add anything further?

Mr. Peter Julian: Not on NDP-4....

The Chair: Mr. Kmiec.

Mr. Tom Kmiec: Mr. Julian is proposing to add a clause that requires an affidavit asserting the truthfulness of what's being filed. Does the United Kingdom do that in their register?

Mr. Mark Schaan (Director General, Marketplace Framework Policy Branch, Strategy and Innovation Policy Sector, Department of Industry): To the best of my knowledge, no. Their verification processes are subject to the individuals themselves. No affidavit is required.

Mr. Tom Kmiec: Would this amendment be cumbersome to administer?

Mr. Mark Schaan: The number of corporations that may choose to have a beneficial owner in place would require each of them to seek an affidavit from all those individuals. In our view, this provision was deemed administratively burdensome.

The Chair: The question is being called on amendment NDP-4.

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

The Chair: We'll move to NDP-5, Mr. Julian.

Mr. Peter Julian: On NDP-5, Ms. Rudd spoke to it already. I would just suggest that I disagree with her.

The administrative penalties right now are too small. I think the reality is that having a range of penalties that allows for what could be an egregious contravention of the law is something that should be an option. When it is just a tap on the wrist, for particularly larger or wealthier corporations, effectively what it does is it provides an incentive for non-compliance. But if the administrative penalties are of such a range that, yes, indeed, if there is a small transgression, it's treated as a small transgression, but a larger, more systematic violation of the law is treated with more importance, that compels compliance with the law. The reality is that, I think if you ask most Canadians, they would want to see, for larger, more significant transgressions, more of an ability for fines that match the size and scope of the transgression.

Expanding in this section the ability to fine up to $500,000 doesn't in any way force large fines for minor transgressions, but it does give more options for more significant ones. That's why I move this amendment.

● (1315)

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos: It was spoken to by Ms. Rudd, but I will add a couple of points here.

The government is able to add certain further requirements by regulation at a later date if appropriate. More to the point that was just raised by Mr. Julian, penalties for minor infractions should not be unduly harsh. The reason is that it would be inconsistent with the act's framework, and certain deliberate infractions by directors and shareholders are in fact subject to more significant monetary penalties of up to $200,000.

There are other issues, but I think they've been spoken to. I can't support it.

The Chair: Is there any further discussion?

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

The Chair: We have Mr. Julian and NDP-6 in the same clause.

Mr. Peter Julian: NDP-6 amends the bill by replacing line 8 on page 137 with the following:

> their personal representatives and any prescribed person or entity, on sending to the corpora-

It expands the scope of that particular proposed section. I so move.

The Chair: Ms. Rudd.

Ms. Kim Rudd: The amendment provides for potentially greater access to the registry by prescribed persons or entities with the required affidavit. The scope of the register is consistent with the statute's current framework.

I'm going back to my previous comments about this being part of the outcome of the federal, provincial and territorial work and shouldn't be changed, certainly, again, without consultation with them. Any duly authorized investigative authority will be able to gain access to the records as necessary within this current framework.

I also will say that the government is also pursuing further consultations on access to ISC information by investigative authorities and others, and plans to engage on these issues again as part of the ongoing FPT work.

I think I'm going to come back to my comments earlier and reiterate that the federal, provincial and territorial conversations must be respected, and this amendment does not do that. For that reason I will not be supporting this.

The Chair: All right. Is there any further discussion on this one?

(Amendment negatived on division)

The Chair: We have NDP-7.

Mr. Peter Julian: Thank you, Mr. Chair.

This establishes an amendment on page 138, adding after line 27 the following:

> The Governor in Council may make regulations establishing a system of administrative monetary penalties applicable to contraventions of specified provisions of this Act or regulations and setting the amounts of those penalties.

It allows the Governor in Council, essentially, to provide for more appropriate administrative penalties for transgressions. My comments earlier apply to this particular clause in this amendment.

The Chair: Ms. Rudd, I believe you're up.

Ms. Kim Rudd: Thank you, Chair.

Similar to my prior comments, this amendment would add new and potentially expansive elements to the act. It would address an outcome not yet addressed through the ongoing federal-provincial-territorial discussions on the beneficial ownership transparency.

It is therefore out the scope of the current amendments and I won't be supporting it.

Thank you.

● (1320)

The Chair: If there is no further discussion on NDP-7 from anyone around the table, I will call the vote.

(Amendment negatived on division)

(Clause 183 agreed to on division)

(Clauses 184 to 186 inclusive agreed to on division)

The Chair: Thank you, folks.

On the intellectual property strategy, division 7, there are witnesses here at the table on that section. There are no amendments on clauses 187 to 246. There are amendments from the Liberals and the Conservatives on clause 247.

(Clauses 187 to 246 inclusive agreed to on division)

(On clause 247)

The Chair: On clause 247, we have Liberal-2.

Who's up?

Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

We have the departmental officials here.

The LIB-2 and LIB-3 both deal directly with clause 247.

My understanding on this—and I'm just referring to my notes—is that the amendment will replace the term “committee” with the term “steering committee” in proposed paragraphs 14(d) and 17(e) of the college of patent agents and trademark agents act. These sections set up eligibility requirements for positions as a director on the board of the college of patent agents and trademark agents.

I would like to refer to the department officials in terms of what the amendments would do to the existing legislation in the way it's written, please.

Mr. Mark Schaan: Thank you for the question.

In the original wording, there would have been a proposed cooling-off period for individuals who had served within the professional body or association of the profession whose primary goal was advocacy.

In discussions with stakeholders and others, the feeling was that the current structure of the professional associations related to this are quite broad. Their use of the term “committee” is quite a diffuse one, with hundreds of people of their very small membership engaged in committee activity.

Further precision, by making this clear that it's a steering committee—that is, a leadership decision-making body—will ensure that there is still appropriate distance and objectivity for those who serve as directors, but not such that we preclude the college from finding sufficient potential candidates to fulfill the role of directors of the college.

Mr. Francesco Sorbara: That's great, because the stakeholder did voice concerns about not allowing individuals who have subject matter expertise on the steering committee.

This amendment would clarify that. Is that correct?

Mr. Mark Schaan: Correct.

Mr. Francesco Sorbara: I'm all right, Mr. Chair.

The Chair: Is there any further discussion?

Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

A steering committee is defined differently than a committee. Do you have copies of the definition in law, so that I can understand the distinction?

I understand what the amendment is going for, but I don't understand the distinction in law between a steering committee and a committee.

Mr. Mark Schaan: A committee potentially could be construed by the college as constituting any body that the professional association deems to be organizing, which could be the social committee, whereas the steering committee is generally understood to be a decision-making body empowered by the leadership of the organization to make decisions.

● (1325)

Mr. Peter Julian: Is a steering committee defined in law as the equivalent of an executive or a board of directors?

Mr. Mark Schaan: The term “steering committee” is not necessarily a precise legal one. This is going to be adjudicated by the college to ensure they are in line with the legislative framework, so we wanted to provide the college with some precision as to how they will enact this as they follow through with the set-up of the college.

The Chair: Go ahead, Peter. The floor is yours.

Mr. Peter Julian: I believe I'm going to be supporting this amendment.

To my Liberal colleagues, it's not that difficult to support an amendment coming from the other side. We've gone through a lot in this bill today. A lot of the flaws have not been fixed. This appears to be a flaw that should be fixed as well.

Why would you fix this flaw and not all the other flaws in the legislation that have been identified by witnesses? I'm saddened by this, Mr. Chair. We have a bill that has many flaws, and so far today virtually none of them have been fixed. Ultimately, it will result in court challenges.

Here is a flaw that can be fixed easily, but it requires all parties working together. Sadly, that hasn't been the case today.

The Chair: Mr. Fergus.

Mr. Greg Fergus: For Mr. Julian's edification, in the last BIA, part 1, a number of opposition modifications were adopted. Whether individual members feel they should adopt them is a matter of good faith. There you go.

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

The Chair: Who's up on LIB-3?

Mr. Sorbara.

Mr. Francesco Sorbara: My comments on LIB-2 are exactly the same for LIB-3. This is again in reference to clause 247 and ensuring that individuals with subject matter expertise are not precluded from sitting on committees. Can I get any clarification from department officials on that?

The Chair: Mr. Schaan.

Mr. Mark Schaan: This is just an amendment to ensure consistency between proposed section 14 and proposed section 17.

Mr. Francesco Sorbara: Thank you.

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

The Chair: On CPC-2, we have Mr. Kmiec.

Mr. Tom Kmiec: It's a bit wordier than I would like it to be. If somebody has a better wording for this, the goal is that the CEO not be the registrar and the registrar not be the CEO.

This is very common in many provincial associations. They separate the person responsible for the day-to-day financial administration and financial well-being of the organization from the person who determines whether individuals applying to become certified members with a designation can meet the threshold. When you have it in the same person—and you do in some of the smaller associations—you create an incentive to get in as many new members as possible, because that ensures the financial well-being of the college.

Back in Alberta there's APEGA for engineers. ASET for engineering technologists does this too. They separate the two roles, and they sometimes make it very explicit in the law. The accounting profession is in this manner. Also, some of the smaller associations do it through their bylaws.

I'm thinking we can get to that here. If there's a nicer way of wording it, I'm all ears. This is the wording provided by the drafters.

The Chair: Mr. McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Mr. Chairman.

These amendments would prevent a registrar and the CEO of the college from holding any other job or working for any other organization. Given the small size of this profession and the size of the college, a full-time registrar or CEO may not be needed.

Also, further to that, preventing the registrar or CEO from holding any other employment may reduce the number of applicants who are interested in a position or raise the costs to the college by requiring it to pay two full-time salaries for what may be part-time positions. Both these positions, the registrar and the CEO, are administrative, and the roles and responsibilities of these positions should not require the holders of the positions to exercise authority that could place them in conflict of interest.

I can't support this amendment.

● (1330)

The Chair: Is there any further discussion?

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

(Clause 247 as amended agreed to on division)

(Clauses 248 to 286 inclusive agreed to on division)

(On clause 287)

The Chair: Who's up for LIB-4?

Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Thank you to the officials for being here with us.

The amendment here is with regard to proposed subsection 38.1 (4.1) with reference to the Copyright Act. The amendment's rationale is in reference to certain collective societies that may seek statutory damages pursuant to proposed subsection 38.1(4.1) of the Copyright Act.

Department officials, can you comment on proposed subsection 38.1(4.1) of the Copyright Act, please?

Mr. Mark Schaan: Yes.

Section 38.1 of the Copyright Act relates to the statutory damages that are available to certain collective societies. The intent of the government was to ensure that statutory damage provisions, as they currently exist, were held in place.

Given the sensitive nature of statutory damages, there is a referral to both the Standing Committee on Canadian Heritage and the Standing Committee on Industry, Science and Technology to look at the statutory damage provisions.

In discussions with stakeholders, there was a view that the changes that needed to be made to harmonize the provisions actually did make a change to the statutory damages as they're understood by parties in the marketplace. This just simply ensures that the statutory damage system, as it currently is applied and understood by stakeholders, maintains itself.

Mr. Francesco Sorbara: My understanding is that the proposed amendment is a technical correction to this provision, one that is needed to fulfill the government's policy in these reforms.

Mr. Mark Schaan: That's exactly right.

The Chair: Are there any other thoughts on LIB-4? No.

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

(Clause 287 as amended agreed to on division)

(Clauses 288 to 302 inclusive agreed to on division)

The Chair: Thank you, gentlemen.

We're on to division 8, parental benefits and related leave. Are there officials here in case there are some questions?

Thank you, folks, for coming, and thank you for appearing before when we went through it in more detail.

There are no amendments on clauses 303 to 313, which cover division 8. Are there any questions to the officials?

(Clauses 303 to 313 inclusive agreed to on division)

The Chair: Thank you, folks. It isn't always that easy.

Division 9, the Canadian gender budgeting act, relates to one clause.

Unless there is a question here for the officials, shall clause 314 carry?

(Clause 314 agreed to on division)

(On clause 315)

The Chair: We'll turn now to division 10, the financial consumer protection framework. It starts with clause 315. There's an amendment there.

We'll hear Mr. Julian on NDP-8.

● (1335)

Mr. Peter Julian: Thank you, Mr. Chair.

We've heard testimony in front of this committee that raises concerns about having an external complaints body that is optional. Banks can basically choose their own external complaints body. The Canadian Association for Retired Persons and a number of other organizations all testified to the fact that this ambiguity is not helpful toward actually getting consumer complaints properly heard.

NDP-8 and NDP-9 are both endeavouring to designate, under the Canada Not-for-profit Corporations Act, only one external complaints body. It would be up to the minister which organization might be so designated. It doesn't prescribe one organization to the minister, but it does respond to the concerns we've heard from witnesses about making sure that the banks are effectively forced to go through an external complaints body that has some teeth. I think the complaints we're hearing from the public, because of the various organizations, some for-profit, that have been put into place, are about something that allows....

The opportunity of Bill C-86 is to work to designate, but to properly designate, a not-for-profit external complaints body. That would be, of course, for any person who has not had their complaint addressed through their member institution.

The Chair: Are there any other comments on this point?

Mr. Fragiskatos.

Mr. Peter Fragiskatos: Thank you, Chair.

The existing legislation does indeed provide the minister the flexibility to designate a single not-for-profit external complaints body that all banks must use. Legislative changes to the complaints-handling process in banking should be examined in consultation with all stakeholders following an examination of the bank's internal complaints-handling process and the efficiency of external complaints-handling bodies. Finally, Bill C-86 would improve complaints handling in banking through new requirements for banks in the the way they record and report on complaints, and higher standards for external complaints-handling bodies.

I think these points speak to the amendment and why it's not a good way forward. Beyond that, these same comments also apply to NDP-9.

The Chair: Mr. Kmiec.

Mr. Tom Kmiec: I'm not convinced that these amendments fix the situation. There's so little to go on in this omnibus budget bill that it's probably not unusual. There's so little to amend here.

I have a constituent who went through her bank's regular complaint process. Then the bank gets to pick their external complaints body. Could I hear from officials on NDP-8? That particular amendment changes the definition of who is “designated” only and not “approved”. What would be the impact of that particular change on how a complainant's complaint makes it from the bank to the external complaints body? Who controls that process? Does that change anything? Does it clarify it?

The Chair: Mr. Saeedi.

Mr. Khusro Saeedi (Economist, Consumer Affairs, Financial Institutions Division, Financial Sector Policy Branch, Department of Finance): This particular amendment would define “external complaints body” as a body corporate designated under a particular subsection. Therefore, with the related amendments that follow, that amendment would indicate that the minister shall designate a body corporate incorporated under the Canada Not-for-profit Corporations Act to be the only external complaints body to deal with complaints that have not been resolved by their member institutions.

It would work in concert with another amendment that has been proposed.

● (1340)

Mr. Tom Kmiec: I prefer a process where the complainant—who's gone through the regular internal complaints process of the chartered bank—then picks an external one, as opposed to the process that exists today where the chartered bank has already pre-selected someone that they do business with, so it goes there. It seems awkward to me that when you've gotten to the level of a customer being really unhappy with the service they've received from their service provider—in this case the chartered bank—you're then told the chartered bank has already pre-selected someone who will hear the complaint. If I could make the comparison, it's like when you're bargaining with your employer and the employer has already pre-selected the mediator ahead of time. Maybe there are lots of rules in place on how the mediator is supposed to do their work, but.... It's not bad faith; it just seems like a wrong process.

I have this constituent. I spoke to her on the phone last week because I knew this section was going to come up on the BIA. You haven't given me much to go on that this would actually improve the process. There's so little to amend here inside these sections of the BIA to improve that situation.

It's something that the government should really think about. The complainant should control where it goes, not the banks. That would be much fairer to the individual who feels aggrieved and is dissatisfied with the service they've received from their chartered bank, so they can find some type of redress. At that point, maybe it's impossible. Maybe you just have people who go through the process and nothing will satisfy them anymore, but they should be the ones in control of their complaint. I don't think there's an opportunity here to really fix it because again there's so little in this BIA. You could have added a couple more pages to the BIA, and maybe given us an opportunity to fix it a little more here.

Make it bigger. Mr. Chair, that's a great idea. Maybe I can recommend to the minister, if and when he ever appears here again, that this would be a particular section where complainants could have their justice by not having the banks pick their external reviewer.

The Chair: Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

I would disagree with Mr. Kmiec on expanding the BIA, but I think I would agree with him in terms of separating this legislation out. That's really what we needed. I think that's the direction he's heading in. All of these stand-alone pieces of legislation that have been dumped into this monster bill could have been improved if we'd actually had a legitimate legislative process rather than this legislative bulldozer that is giving us a deeply flawed bill that will be subject to court challenge at the end of the day.

In a sense, each one of us is also racing against time, because in a few hours' time the clock stops by this bulldozing arrangement that the Liberal government's brought in. When that clock stops, everything's adopted automatically—everything. No amendment is permitted.

We're kind of racing against time, for folks who might be tuning in. They see us approving clauses because we have to get at least to the amendments and we try to identify the most important amendments and the most egregious flaws in the legislation.

Here is a case where the legislation is not expansive enough. The amendment is endeavouring to fix something that should have been offered as a separate standing piece of legislation.

I'm not suggesting that this particular part of legislation is any more flawed than other parts of legislation. I think it can be improved by saying very clearly that there's only one external complaints body. That certainly responds to what we heard, as you remember, Mr. Chair, during the pre-budget hearings, as well. There were a number of witnesses who came forward and told all of us that we needed to stop the process that Mr. Kmiec has just referred to, where the bank chooses who is going to decide on the consumer complaint. That's not consumer protection. That's forcing the consumers to accept whatever it is the bank's going to give them. That's unfair to Canadians.

I get a lot of complaints in my riding about bank practices. To allow the banks to get off the hook and have their own complaint process where they choose in advance the body that is going to adjudicate on their behalf is simply unfair to consumers.

Allowing these two amendments—because really we need to speak to them together—that provide for a minister to designate one single, external complaints body makes a whole lot of sense. First, that will allow the public to see that the legislation reflects their interests, at least this part of it. Secondly, we could then have the minister actually move to designate and set up a complaints process that's really in the consumers' interest.

● (1345)

The Chair: Is there no further discussion on this one?

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

(Clause 315 agreed to on division)

(Clauses 316 to 328 inclusive agreed to on division)

(On clause 329)

The Chair: On clause 329, NDP-9 was partially talked about already, but go ahead, Mr. Julian.

Mr. Peter Julian: I have partially talked about it. I think I fully expressed the concerns that the public has raised before this committee and in the pre-budget hearings. I don't think I have anything further to add. Every member of Parliament around this table heard the complaints and concerns about the process.

This is an issue that we should be fixing.

The Chair: Any further discussion?

Ms. Rudd.

Ms. Kim Rudd: I'll just reiterate that my colleague's comments still stand and also that the current legislation does provide the minister flexibility to create or to designate a single not-for-profit organization. The ability for the minister to do that is already in the bill. I will leave the rest of the comments to stand.

The Chair: Is there any further discussion?

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

The Chair: Amendment NDP-10 on clause 329 is next.

Mr. Peter Julian: Mr. Chair, I'll speak for a few moments and then I'll be withdrawing NDP-10 and NDP-11.

I'm going to withdraw them because we have other amendments we need to get to, and we rise for question period in 11 minutes. Subsequent to that, we have votes in the House of Commons. There may be some procedural votes as well.

I do want to say, because it bears repeating, that this is a deplorable process in terms of trying to ram through legislation. Aside from some minor changes, we haven't fixed any of the flaws in the legislation. We've subjected it to the certainty of court challenges, and I think this is just deplorable, when we are paid by the taxpayers of Canada to come and make sure we're getting the best possible legislation.

It might mean that we disagree from time to time on the overall intent or thrust of legislation, but we should at least get it right when the intent is there. It's a sad spectacle to witness our deeply flawed pay equity legislation being rammed through, despite repeated comments from witnesses that we need legislation in place that makes sense. It's profoundly sad to me.

We also have a lot of other amendments to consider. We've made our way through less than half of the bill in 10 minutes, even though we started at 8:45 this morning. We will be adjourning for what could be a couple of hours. On that basis, I will withdraw NDP-10 and NDP-11, but I do it with a heavy heart. I'm just profoundly saddened by this spectacle.

● (1350)

The Chair: NDP-10 and NDP-11 are withdrawn.

(Clause 329 agreed to on division)

(Clauses 330 to 336 inclusive agreed to on division)

(On clause 337)

The Chair: We'll go to clause 337 and BQ-1.

Mr. Sainte-Marie, the floor is yours.

[*Translation*]

Mr. Gabriel Ste-Marie (Joliette, BQ): Thank you, Mr. Chair.

Good afternoon, hon. colleagues.

I would like to specify right off the bat that my intervention will contain a question for the officials. Another question was for the government representative, but I believe she'll be leaving. If no parliamentary secretary is here, a Liberal elected official could perhaps answer them.

First of all, I'd like to provide a little context to members from outside Quebec. Thanks to visionaries like the late Lise Payette, who was a minister when René Lévesque was premier, Quebec has the best consumer protection framework in North America. The legislation is more specific than elsewhere. Because of our civil law tradition, we are used to prescribing and codifying everything. Above all, remedies are simple and free of charge for consumers. When important cases have to be dealt with by the courts, the Office de la protection du consommateur takes care of them on behalf of the aggrieved consumers.

The banks have never liked this Quebec difference. They argued for federal exclusivity to assert that they were above our laws. They argued for federal paramountcy in order to sweep away Quebec law. However, after losing their case before the Supreme Court in 2014, they came here to complain. This resulted in the Bill C-29, two years ago. The government affirmed the federal paramountcy of consumer protection for banks, but did not impose any real obligations on them. There was a huge outcry in Quebec. The government has backed down, which brings us today to Bill C-86, which is much more comprehensive than the bill introduced two years ago.

In contrast to Bill C-29 two years ago, Bill C-86 does not affirm federal paramountcy. The government's intention is clearly not to ignore the Civil Code of Quebec. Later, I would like to ask a question, both to the officials and to the parliamentary secretary, about the intent of the legislation and what is written in it. The intention is not to ignore the Civil Code of Quebec, the Consumer Protection Act, which follows from it, or the Office de la protection du consommateur, which applies the law and defends ordinary people.

Bill C-86 is indeed better designed than Bill C-29. While it imposes real obligations on banks, it has a major gap in terms of remedies. The only free recourse, the bank ombudsman, is neither really neutral nor decision-making. If the bank does not follow the recommendations of its ombudsman, what other recourse do consumers have? They may apply to the Federal Court, alone and at their own expense. If the case goes to the Supreme Court, it can cost up to $1 million. No one will go this far, alone in front of the bank's army of lawyers, to contest $50 in hidden fees. Expensive remedies like these are very ill-suited to an area such as consumer protection, where they are often small sums.

If the legislation specifies that Quebec law continues to apply, as the amendment suggests, consumers won't lose anything. If necessary, they may continue to file complaints with the agency if the bank does not comply with our legislation. The office may take the case at its own expense if it has to be brought before the courts.

In this regard, Bill C-86 creates uncertainty. As we know, the banks will continue to argue that they are above Quebec's laws. That's what they've always done. Since the new Bank Act will now contain a whole section on consumer protection, the Supreme Court may well agree with them. Quebeckers would then lose the free remedy they enjoy today and would have to rely on the very costly remedy provided by Bill C-86. It's a step back. I am sure that is not the government's intention. I would therefore like to ask the government's representative what the government's intention is in this bill.

The likely effect of Bill C-86 as drafted is problematic. Officials timidly confirmed a point at the technical briefing three weeks ago. I would like to ask them if Bill C-86 will set aside the Consumer Protection Act, as it relates to banks, or if it will create a vagueness that will lead to a lawsuit that would be settled before the Supreme Court?

That's why we're submitting our amendment. It states that the creation of these new federal obligations does not set aside provincial laws or prohibit enforcement actions, but rather assures us that Quebeckers will not lose out. I would really like to know if, in the case of federal banks, Bill C-86 sets aside the Consumer Protection Act.

Thank you, Mr. Chair.

● (1355)

[*English*]

The Chair: We have a question to officials, and then we go to Mr. Fergus.

Officials, do you have anything you want to add?

Mr. Khusro Saeedi: The proposed amendments do not include an assertion of exclusive federal jurisdiction over bank consumers.

There is presently a comprehensive set of federal rules applying to banks when they deal with their customers, and these rules co-exist with the provincial rules. The proposed amendments represent an enhancement to the existing federal regime and are intended to be complementary to the provinces' rules.

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you, Mr. Chair.

First, I would like to acknowledge my hon. Bloc Québécois colleague, who is also a fellow citizen of Hull—Aylmer. He made a good choice in his place of residence while he is here in the federal National Capital Region.

I'd like to follow up on Mr. Saeedi's comments. He said that there is a complementarity and that nothing will prevent the Quebec Consumer Protection Act from applying. As he said, and as all Quebeckers know quite well, it's really a flagship law in terms of protecting consumers. That's my first objection to Mr. Ste-Marie's amendment.

My second objective is more philosophical in nature. If this amendment were adopted, every time the government introduces a bill, it would have to state that it does not infringe on provincial jurisdictions. Frankly, that's not necessary. I would even say that it isn't in good faith either.

With all due respect to my colleague, and I do have a lot, I must vote against his proposal for the two reasons I've just stated.

Mr. Gabriel Ste-Marie: Thank you, Mr. Chair.

I understood, both from the officials and the Liberal Party member, that the intent of this bill isn't to exempt the banking sector from the application of Quebec's Consumer Protection Act. This reassures me greatly.

[*English*]

The Chair: Are you withdrawing the motion or leaving it on?

[*Translation*]

Mr. Gabriel Ste-Marie: I still maintain it.

[*English*]

The Chair: We will go to the vote on BQ-1.

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

(Clause 337 agreed to on division)

The Chair: Before we stop, can we go to clause 350? No, we have more amendments. I was just trying to get it so we wouldn't have to hold these officials here. We'll have to hold them.

We will adjourn until after QP. Is there a vote right after QP?

Mr. Peter Julian: Yes, there are votes.

The Chair: We'll be back as soon as possible, but it will be 3:20 or so.

The meeting is suspended until we get back.

● (1355)

(Pause)

● (1525)

The Chair: We'll reconvene.

Thank you to the officials for waiting for us to come back.

We ended at clause 337 and we carried that clause. There are no amendments on clauses 338 to 350, unless there are questions to officials.

(Clauses 338 to 350 inclusive agreed to on division)

(On clause 351)

The Chair: Next is NDP-12.

Mr. Julian.

● (1530)

Mr. Peter Julian: Mr. Chair, we're back now in the sixth hour of examining this massive budget bill that the Speaker said was omnibus legislation and improper. It certainly flies in the face of what the Prime Minister committed to in 2015. He promised, as a solemn commitment from the Liberal Party, that we wouldn't see any more massive bricks like this. We now have this before us.

It has been rammed through, section by section. No amendments of the opposition have been accepted, which means that the problems with the bill, including a very heavily flawed pay equity section will remain. It will now require women to return to court, tragically, to obtain the rights they should have received through this legislation.

Subsequent to that, we have seen other sections as well where major flaws have not been addressed at all. We haven't even addressed flaws in previous omnibus legislation from this government, even though we were given the opportunity.

The fact is that this legislation has been bulldozed through second reading in Parliament, given only a few days to put together amendments, and the legislative drafters did the best they absolutely could. Given the intent of this government to bulldoze things through, we now arrive at a day when we have only scant time left before everything that is remaining in this bill is adopted, regardless of whether we've debated it or discussed it, even for a microsecond or not. That is the bulldozing legislation that this government has chosen to do, and it repudiates every commitment made back in 2015.

To my mind, and I think to the minds of most people in the public, this government is betraying the commitments it made back in 2015 by not allowing members of Parliament to do their work.

We still have a lot of amendments to go through, so I am going to withdraw NDP-12 because I know there are many amendments still to be considered, and the reality is that given these timelines, we'll be lucky to get microseconds of discussion around some of the amendments to come.

The Chair: NDP-12 is withdrawn.

(Clause 351 agreed to on division)

(On clause 352)

The Chair: Next we have CPC-3.

Mrs. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Mr. Chair.

I do want to acknowledge what my colleague, Mr. Julian, said. There are three separate pieces of indigenous legislation in this 802-page bill. This bill did not go to the indigenous affairs committee. It was not allowed to be sent to that committee.

We would like to delete these lines. As you know, Romeo Saganash's bill is in the Senate, but there has not been any parliamentary motion in terms of moving forward with the language contained in the UN declaration. Therefore, until that goes through the proper legislative process, its inclusion in an omnibus budget bill is inappropriate.

I move the deletion of those particular lines.

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos: As we know, in May 2016 the Government of Canada adopted UNDRIP without qualification and committed to its full and effective implementation, in accordance with the Canadian Constitution. Additionally, Canada publicly committed to work to fully implement the UNDRIP in federal legislation and law. Amendments to the First Nations Land Management Act propose to include a statement that acknowledges Canada's pre-existing commitments in this regard.

These amendments, for all intents and purposes, mirror language from the Framework Agreement on First Nations Land Management, a nation-to-nation agreement that gets ratified through the First Nations Land Management Act and is supported by a unanimous resolution from agreement signatories.

The reference to UNDRIP is important in this context, as the language was proposed by first nations in the goal of self-determination. The existing legislation already transfers responsibility and control over first nation reserve land and natural resources to those first nations who choose to opt out of one-third of the Indian Act.

● (1535)

The Chair: Are you opposing the amendments?

Mr. Peter Fragiskatos: Yes, I'm opposing CPC-3.

The Chair: Mr. Julian.

Mr. Peter Julian: Do we have officials?

The Chair: Sorry. There are officials here from one of the departments.

Mr. Julian, obviously you have some questions for the officials. Go ahead.

Mr. Peter Julian: Thank you, Mr. Chair.

What is the impact of amendment CPC-3 in that part of the legislation? I'd like more of an explanation. Give yourselves time to settle in and go through this massive brick, which is the largest omnibus legislation in Canadian history and very correctly ruled as such by the Speaker. If you have a moment to answer that question once you've settled in, that would be wonderful.

The Chair: I believe you have the CPC-3 amendment. Who wants to start?

Mr. Grant, go ahead.

Mr. Eric Grant (Director, Community Lands Development, Lands and Environmental Management, Lands and Economic Development, Department of Indian Affairs and Northern Development): When the first nations approached us to put this wording into the bill, we considered it. We felt that there would be no impact, because it's a statement of a pre-existing public commitment. That was why we supported it.

Mr. Peter Julian: Do you have copies of the amendment CPC-3?

The Chair: CPC-3 is amending or deleting those lines that relate to the United Nations.

What's the impact of the deletion?

Mr. Eric Grant: I'm sorry. I misunderstood the question, Mr. Chair.

The impact of the deletion is that it would be quite harmful to the relationship that we've built with first nations under first nations land management. They see this as a hugely symbolic expression of their self-determination. They approached us in good faith to do this, and we've been able to put the wording into the Framework Agreement on First Nations Land Management. We would hope that the act largely mirrors that language.

The Chair: Mr. Julian.

Mr. Peter Julian: Just so I understand.... What I have, and maybe there is a corrected version, is that Bill C-86, in clause 352, be amended by deleting lines 27 to 31on page 310.

The Chair: That's the amendment we're dealing with.

Mr. Peter Julian: I understand the legislative drafters were absolutely swamped. Is that indeed the correct amendment?

● (1540)

The Chair: Yes, that's the correct amendment—page 310, lines 27 to 31. The legislative clerk will point it out, Peter.

Mr. Eric Grant: Would you like me to read the language out?

Mr. Peter Julian: Yes, please.

Mr. Eric Grant: It says:

> And whereas the Government of Canada is committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples;

It's part of their preambular statement.

Mr. Peter Julian: Thank you very much.

The Chair: Do you have any further questions, Peter?

We'll go to Ms. McLeod.

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

This is not meant in any way to diminish the importance of moving forward. It's to acknowledge that even within the moving forward of Bill C-262, there is a lot of uncertainty in terms of what the implications will be in taking what was meant to be a declaration....

As you know, UN conventions are meant to be transposed into Canadian law. Declarations are to be guiding principles. As we move towards putting guiding principles in preambles, I understand from legislative drafters and others that we start to have significant implications that we, quite frankly, do not understand as of yet.

The Chair: Is there any further discussion by any other members?

Mr. Fragiskatos.

Mr. Peter Fragiskatos: I think the officials were quite clear on the impact the deletion would have, the consequences. For that reason I can't support it.

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

(Clause 352 agreed to on division)

The Chair: There are no amendments from clauses 353 to 384, which is just before we get into the First Nations Fiscal Management Act. Are there any questions on those clauses for officials?

(Clauses 353 to 384 inclusive agreed to on division)

The Chair: We are starting division 12, the First Nations Fiscal Management Act. There are no amendments from clauses 385 to 414, which concludes that division 12. Are there any questions to officials on any of those clauses?

(Clauses 385 to 414 inclusive agreed to on division)

The Chair: Now we have division 13.

Thank you, officials. That concludes it for you. You are here for divisions 11 and 12.

Mr. Christopher Duschenes (Director General, Economic Policy Development, Lands and Environmental Management, Department of Indian Affairs and Northern Development): We're also here for division 19.

The Chair: We'll have to come back to that because we have to go through them in order.

We are at division 13, the Export and Import Permits Act.

(Clause 415 agreed to on division)

(Clauses 441 to 443 inclusive agreed to on division)

(On clause 444)

The Chair: On clause 444, we have CPC-4. Who's bringing that forward, Tom or Blake?

● (1545)

Mr. Tom Kmiec: On CPC-4, CPC-5, CPC-6, CPC-7 and CPC-8, we are going to withdraw all of those.

The Chair: You're withdrawing all of them? Okay.

(Clauses 444 to 469 agreed to on division)

(On clause 470)

The Chair: On clause 470, we have CPC-9.

Mr. Richards.

Mr. Blake Richards (Banff—Airdrie, CPC): Thanks, Mr. Chair.

This one obviously is an interesting opportunity timing-wise. The human resources committee has actually been studying this particular subject matter after a unanimous motion passed in the House of Commons to look at this issue. It's about bereavement leave and the particular situation of parents who have lost a child. We have heard from a large number of witnesses at that committee, and there has been a very clear call for exactly this—the idea of a 12-week leave for parents after the passing of a child.

That's what this amendment would seek to do, to answer the calls of parents from all across this country who have experienced this tragic situation, and from those who are advocating for people experiencing that tragic situation. It's something that I think all members of Parliament—many of us—have been touched by in some way or know someone who has. We feel that pain and share that grief with them. There is an easy opportunity here for us to be able to help ease some of that burden, to ease some of that pain, and to lessen some of the extra suffering that government currently puts upon these families.

That's the idea behind the amendment here, and I certainly hope it will have the support of all members of the committee.

The Chair: Okay. It's open for discussion.

Mr. Fragiskatos.

Mr. Peter Fragiskatos: Thank you, Mr. Chair.

I certainly sympathize a great deal with the spirit of the amendment, and I know the honourable member has worked on it for some time. I do have to say, though, that the proposed amendments would create duplication with the existing leave related to the death of a child as a result of a probable crime, which provides up to 104 weeks of unpaid leave after the day on which the death occurs. Moreover, an employee who experiences a perinatal death may be eligible for up to 17 weeks of medical leave if they are unable to work due to health reasons, including psychological trauma or stress resulting from the death.

The Chair: Mr. Julian.

Mr. Peter Julian: I appreciate the explanation from my Conservative colleagues and I listened very carefully to the response from the government. What they've just acknowledged is that there isn't currently this leave provision in place. Medical leave is not leave in the event of a child passing away, and the current provisions around leave for a child victim of violence does not take into consideration the various other circumstances that parents could live under.

I'm going to be supporting the amendment because it does create a new possibility of leave for any parent who has lost a child. All of us as parents can understand the profound impacts that provokes. It shouldn't be left to having to take medical leave for somebody to try to access that leave.

● (1550)

The Chair: We'll have Mr. Richards, and then Mr. Kmiec, or whichever way you want to go.

Mr. Richards.

Mr. Blake Richards: I want to respond as well to the comments made, Mr. Fragiskatos' comments. It's likely just a misunderstanding on his part, I hope, because certainly the two provisions he mentioned actually don't cover what we're talking about here. First of all, for the one he referenced about families that are victims of crime, we're talking about two different things here.

In this case, we're talking about a bereavement leave. This is for families that have lost a child. It could be, in many cases, sudden infant death syndrome or those types of things. We're not talking about crime in this instance, and that's very specific, obviously, to that.

The other thing he referenced was sickness benefits that are available to folks. Although there have been instances in which bereaved families, parents, have been able to access sickness benefits for that, we've heard from numerous families through the study that's going on, and I know through the work that I've been doing across the country to speak with these advocates and these families, numerous stories of individuals who aren't able to access those benefits for bereavement.

In fact, I can remember very clearly the heart-wrenching story of one advocate from Nova Scotia, named Paula Harmon, who had to tell her story to a number of officials and ultimately was sent to get a note for sickness leave. When she came back with it, and the reason the doctor had put on it was bereavement of daughter, she was told that she was ineligible as a result. She was kind of “nudge, nudge, wink, wink” told by the Service Canada official that if she could just maybe get the doctor to put some other type of reason, she might qualify.

That's one example of many, so it's very clear that it certainly isn't sufficient and isn't adequate to cover this necessity. The parents have told us, over and over again, about the trauma and the grief put on them by having to tell their story, in some cases up to 10 or 15 times to different officials in order to qualify.

On top of that, obviously it's a lot of extra grief to have to apply this way, even if they are able to get it, and in many cases, they're not. Clearly there's a need for a specific benefit tied very specifically to bereavement. We've heard that very clearly over and over again.

I really hope that maybe those misunderstandings have been cleared up and the government members will choose to support the amendment.

The Chair: Okay. We do have officials in the room for anybody with clarifications, as well.

Mr. Kmiec.

Mr. Tom Kmiec: Mr. Chair, I look at this and I feel that 12 weeks for parents who have lost a child is pretty darn reasonable, having gone through it myself in August. This has nothing to do with a crime being committed. This actually specifically mentions "including in cases of perinatal death." There are a lot of things that can happen in an operating room or a delivery room where a child could be stillborn.

I had parents in my constituency office just last week, speaking to Blake's motion 110 and asking what they could do to advocate on behalf of parents who are asking for bereavement leave, specifically so they can bury their child and have time with their family.

I know it took me the better part of two months before I could return to work. You have to bury your child. You have memorial services. You have to talk to your family members. You may have other siblings of the child that you have to take care of. This is broader, too. This also includes other family members who you want to talk to, and you want to settle everything to do with their schooling, everything to do with, let's say, a memorial service and with the costs associated with it.

I think 12 weeks is the minimum we could offer parents who are burying a child. I know that, in my case, we don't have fixed leave for parliamentarians, and I didn't complain. I got back to work. I was answering emails when I could, and I did so. I don't think 12 weeks is too much to ask for when a death occurs. It's a huge thing to happen to a family, to lose a child, especially when there are siblings involved, so I don't think it's a lot to ask for this to be included.

There are other parliamentarians who have been working on issues associated with this. Laws are supposed to adjust for society, and in society today there are plenty of parents who are having to bury their children for different reasons, whether it's because of a stillbirth, a very late miscarriage or, in certain cases, medical mistakes or a medical cause for their passing.

Every single parent you talk to.... I've talked to a great deal of them over the past three or four months, people who have reached out to me, some in person, like Ashley in my riding whose three-year-old son Noah drowned in Florida last year. She's still bereaved. This is a year after the fact and she's still crushed by what happened. You can't blame her for that. Expecting her to return to work and apply for medical absences.... This is not a medical absence. This is bereavement leave, something entirely different.

I would look for us to be compassionate, to extend these 12 weeks to parents, to do it on their behalf. The laws are supposed to adjust to people and not force people to adjust to them. We're here for our constituents. We're here for people. We're here for parents. It should work the other way around. We should adjust the law so that it suits them.

Those are the points that I want to put on the record.

● (1555)

The Chair: Is there any further discussion or any questions for the officials on this point, on this amendment?

Do the officials have anything to add? What are the implications of this on the bill?

Ms. Barbara Moran (Director General, Strategic Policy, Analysis and Workplace, Labour Program, Department of Employment and Social Development): There's one thing that I would offer. Currently under the code there are 17 weeks of maternity leave. That has been interpreted as being available to women who experience a perinatal death, so I would just offer that this is available. Adding a new leave of 12 weeks that specifically refers to cases of perinatal death.... I would just caution you about what that could mean for the current interpretation of maternity leave, which is for 17 weeks and currently covers perinatal death.

That's the only thing I would offer.

The Chair: Okay. We'll have Mr. Kmiec and then Mr. Julian.

Mr. Tom Kmiec: The official piqued my interest here.

With regard to those 17 weeks, does the perinatal part apply to fathers?

Ms. Barbara Moran: No, it's part of the maternity, so it would apply to the maternity benefits.

Mr. Tom Kmiec: A grieving father would not get any leave.

Ms. Barbara Moran: Correct. Maternity leave would only be available for the mother.

Mr. Tom Kmiec: What about those who are past their 17 weeks of maternity leave? Would they be covered? If someone is past 17 weeks and the child passes away on the 17th week plus a day would that person get an extra 17 weeks?

Ms. Barbara Moran: If they've taken their maternity leave.... They're entitled to the 17 weeks and that's it.

Mr. Tom Kmiec: If the child passes away afterwards, the mother would get no extra leave.

Ms. Barbara Moran: I would add bereavement leave. They would be able to access bereavement leave, if the child passes away after the 17-week point. They would be eligible for bereavement leave and that would be eligibility for both parents as well, if they are both employees.

Mr. Tom Kmiec: Can you just explain to me where this bereavement leave is found?

Mr. Sébastien St-Arnaud (Senior Policy Strategist, Strategic Policy and Legislative Reform, Labour Program, Department of Employment and Social Development): In section 210 of the Canada Labour Code, there is bereavement leave. Employees are entitled to three days, and if they have three months of continuous employment, they are eligible for paid days.

● (1600)

Mr. Tom Kmiec: Forgive me, did you say three days?

Mr. Sébastien St-Arnaud: Yes, three days, and in the BIA 2017, no. 2, we added two unpaid days, so once it comes into force—next year probably—an employee would be eligible for at least five days.

Mr. Tom Kmiec: A child passes away and you have five days, with three paid and two unpaid days. You have time for a memorial service, a burial, to maybe take care of your other kids, and then that's it. We're talking about 12 weeks here in comparison. Five days is what there is right now.

Ms. Barbara Moran: That is the period for bereavement leave, yes.

The Chair: Go ahead, Mr. Julian.

Mr. Peter Julian: Thank you.

I think the more we're getting into this, the more we're realizing the importance of getting this amendment through.

How soon do the maternity leave provisions end, after the death or the birth of a child?

Mr. Sébastien St-Arnaud: Can you repeat your question? The maternity leave ends when...?

Mr. Peter Julian: How many weeks are there until the maternity leave ends, after either the birth or the death of the child?

Mr. Sébastien St-Arnaud: Once a woman gives birth to the child, for instance, she can have up to 17 weeks. Whether or not the child passes away after one or two weeks, she would be entitled to the full 17 weeks.

Mr. Peter Julian: Okay.

Therefore, for any child who passed away after 18 or 19 weeks, the only paid bereavement leave that would apply is the three days.

Mr. Sébastien St-Arnaud: Yes. Unless she qualified for sick leave, then she would be entitled to the sick leave as well.

Mr. Peter Julian: Yes. Thank you.

I think what we're seeing is that there really isn't bereavement leave for the death of a child that is available. There is a patchwork of some things that may apply sometimes, but it certainly doesn't apply, if the child is four and a half months or older. It doesn't apply at all. It doesn't apply at all, in the case of a father or a non-birth mother, and even the bereavement leave that applies is limited to three days paid leave.

It seems very clear to me that this is an amendment that the government should be approving.

The Chair: Do I hear any other discussion...?

Go ahead, Tom.

Mr. Tom Kmiec: I'd just like to return to the 17 weeks. That doesn't apply to fathers because, again, I happen to be a father who experienced this. Was there a gender-based analysis ever done on this?

This seems patently unfair to a dad who has lost their child in that 17-week period. The mom would get it, but the dad would not and there are no changes being done inside the BIA to that particular section. It's a bit off the direct wording of the motion because the amendment being proposed gives it to parents, so both mom and dad would get 12 weeks.

In the current system, the dad doesn't get anything, except for three paid days and two unpaid. That just seems really unfair and I am saying that as a dad who went through it.

The Chair: Go ahead, Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Mr. Chair, could we take a five-minute break to discuss this amendment?

[*English*]

The Chair: Are members okay with suspending for five minutes, so they can rethink this?

Some hon. members: Agreed.

The Chair: Okay. We'll suspend for five minutes.

● (1600)

(Pause)

● (1605)

The Chair: We'll reconvene.

Where are we at? Did I hear somebody suggest that they want to stand this clause until the end? Do we have agreement to do that while other discussions take place?

Is this proposal being studied at HUMA? Can anybody tell me that?

● (1610)

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): It's in the process.

Mr. Blake Richards: Yes, there is currently a study at HUMA, which is near completion. It's based on the motion that I brought forward in the House of Commons, which was passed unanimously in the House. We've heard from the parents. I think there's one meeting left where we'll hear from officials, and it has been very clear where the recommendations would be headed if we were to follow witness testimony. It has been very clear that this is exactly what they've all called for, the 12-week bereavement leave.

I would hope that maybe we can get it done, because the problem, of course, with the committee is that by the time it would do recommendations in the new year, there wouldn't be time for action. This is an opportunity for the government to actually act on that, rather than just talk about it, so we're certainly hopeful that we'll see that through this process.

The Chair: Okay, but if it was recommended at HUMA, it could be put in a future budget implementation act. Is that correct?

Mr. Blake Richards: I suppose that's a possibility.

The Chair: The government can do whatever it likes.

Mr. Blake Richards: Yes, that's right. For the government to be able to act, this would be the best opportunity, rather than to wait until after an election.

The Chair: Thank you.

Are we agreed, then, to stand this clause 470 and the proposed CPC-9 amendment to just before routine motions right after clause 747?

Mr. Tom Kmiec: I think we had agreed on eight o'clock or before.

Mr. Greg Fergus: Yes, eight o'clock or at the end, depending on what time....

The Chair: Okay, so it will be whichever comes earlier.

(Clause 470 allowed to stand)

The Chair: There are no amendments on clauses 471 to 477. Are there any discussions for officials on any of those points?

Seeing none, I will call the vote.

(Clauses 471 to 477 inclusive agreed to on division)

The Chair: There is a new clause, clause 477.1, proposed by amendment CPC-10. Who is bringing that forward?

Mr. Richards.

Mr. Blake Richards: On this one, what the amendment is seeking to do is to take a situation that I think was discussed briefly in the previous conversation we had here, the idea that with this five-day bereavement leave that's being contemplated, there is a requirement that a woman have three months' continuous employment to be able to qualify for that.

Obviously you can understand the difficulty with that. For someone who maybe hasn't had three months' continuous employment but yet is in that situation, I would hope that we would want to give them the opportunity to have a few days at minimum. We have the discussion for later about whether we're going to do something that's proper bereavement leave, but in this instance, all it's doing is simply saying, look, let's remove this requirement of the three months' continuous employment so that someone can still have those few days to essentially bury their child.

The Chair: I just wonder whether we have to deal with CPC-9 before we can deal with this. Should we stand this one, too, or can we deal with it now?

Mr. Blake Richards: I don't think we would have to, because we're talking about two separate things.

● (1615)

The Chair: All right, we'll go to Ms. Rudd on this one.

Go ahead.

Ms. Kim Rudd: Thank you.

I think one of the things we have to remember is that this minimum requirement of three consecutive months of attachment to a workplace is for all the leaves under the act. It's maternity leave. It's bereavement leave. It's all of the leaves, so it would make it inconsistent within the legislation.

The other thing I think we have to acknowledge is that if someone's only been on the job two or three days and, unfortunately, needs bereavement leave, that's paid by the employer. I think it's reasonable to suggest that employers have an employee with an attachment to their place of employment prior to receiving that benefit.

The third thing is that without doing an in-depth analysis, as we're talking about with the other CPC-9 and the motion at HUMA right now, I don't think it would be responsible, frankly, to put something like this into legislation.

For those reasons, I won't support it.

The Chair: Okay.

Is there any further discussion on CPC-10?

Mr. Kmiec.

Mr. Tom Kmiec: Can I just get officials to tell me what the other leaves are that match with this particular section—the five-day leaves? Can you just enumerate them for me?

Ms. Barbara Moran: Sorry, are you looking for the other five-day leaves?

Mr. Tom Kmiec: I'm asking about any other leaves that have a similar five-day provision, where you have three months of work and afterwards you can....

Mr. Charles Philippe Rochon (Senior Policy Analyst, Labour Standards and Wage Earner Protection Program, Workplace Directorate, Department of Employment and Social Development): Do you mean in terms of paid leave?

Mr. Tom Kmiec: Yes.

Ms. Barbara Moran: Maybe what I'll just start with is to say that essentially this eligibility period is for the paid leave. The code has eligibility periods for paid leaves. In general, there isn't an eligibility period for the unpaid leave. In fact, what this bill proposes is to remove the eligibility period for a number of the leaves. It's just for the paid leave component.

Mr. Tom Kmiec: That wasn't my question.

I was actually asking specifically what the other leaves are.

Mr. Charles Philippe Rochon: For the other leaves, including some that are being added as part of this bill, we're looking at bereavement leave, which is the one mentioned here, leave for victims of family violence and the new personal leave. Those would be three examples.

Mr. Tom Kmiec: Can you just repeat the last one?

Mr. Charles Philippe Rochon: The last one was personal leave.

Mr. Tom Kmiec: What other ones are not being added in the BIA?

Mr. Charles Philippe Rochon: If you look at paid leaves, these are the examples under the code that would still have a minimum length-of-service requirement.

Mr. Tom Kmiec: It just seems to me that some of them are pretty serious. Obviously, leave for victims of family violence is pretty serious, but nobody can really plan for the death of their child.

I understand that if you start a new job, and you're only in it about two months, you should have some type of.... The terminology used was “attachment to the employer”, and then after three months, you qualify for a bunch of other benefits.

The only suggestion I would make is that what this amendment is seeking to address is something totally unplanned. The death of your child is not something you plan for, typically, I would hope. It's a life event during which you may find yourself in difficult circumstances that you didn't plan for. Whether or not you've recently changed your work and find yourself in what could almost be called precarious employment, you'll want leave for at least a few days.

You could always take unpaid leave, but a child dying is not a cheap affair. Having gone through this, again, personally, it's not cheap by any stretch of the imagination. Having to lose just a few days of pay would be quite a big deal. I just think that removing the three-month requirement for employment in order to be eligible for those five days of paid bereavement leave, for such a huge life-changing event that will probably follow the employee for the term of their employment, is very little to ask.

This is not weeks. This is five days. It's pretty small. It's pretty simple, I would think, at least as a change. CPC-11 is the same concept. When I look at these other types of leave and other leaves available in the labour code, there are some for very important life events and some that I would say are for lesser but still very important events.

A child's death should not be something you use vacation days for. A child's death is not something you should use some sort of personal leave for. There should be dedicated leave for it. If you find yourself with a new employer, you're trying to prove yourself to them. I understand that. Again, it's not something you planned for. It's not something you can adjust your schedule around when you're seeking new employment to better yourself and to get a better job. I just think the compassionate thing to do in this case, for bereavement leave, is to do away with the three-month requirement and give them the five paid days.

● (1620)

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

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

(Clause 478 agreed to on division)

(Clauses 479 to 513 inclusive agreed to on division)

(On clause 514)

The Chair: On clause 514, we have CPC-11.

Who's speaking about this one?

Mr. Blake Richards: Really we're talking about the same arguments here.

The Chair: Then there needs to be no further debate.

Mr. Blake Richards: No, I don't think there needs to be any further debate.

The Chair: We are voting on CPC-11.

Mr. Blake Richards: I'd like a recorded vote, please.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

(Clause 514 agreed to on division)

The Chair: There are no amendments from clause 515 to clause 653. We had better go to clause 625, I think, as that will carry us through to the end of division 15.

Is there discussion on any of those points with the officials?

(Clauses 515 to 625 inclusive agreed to on division)

The Chair: Thank you.

From clause 626 to clause 653 there are no amendments. Have you any discussion or questions for the officials on division 16, Wage Earner Protection Program Act?

(Clauses 626 to 653 inclusive agreed to on division)

The Chair: With regard to division 17, international financial assistance, we have officials here from Global Affairs Canada and Finance Canada.

There are no amendments on clauses 654, 655 and 656.

(Clauses 654 to 656 inclusive agreed to on division)

(On clause 657)

The Chair: We have an amendment proposed by the Liberals, LIB-7.

Who's up?

● (1625)

Mr. Greg Fergus: Thank you, Chair.

In this amendment, by replacing line 20 on page 570 with the following, we are going to add:

> "development assistance", in which case, the Governor in Council must take into account, among other things, the most recent definition of "official development assistance" formulated by the Development Assistance Committee of the Organisation for Economic Co-operation and Development.

This is a bit of housecleaning. For that reason we have proposed this amendment.

The Chair: Mr. Julian.

Mr. Peter Julian: I'll ask our officials, what is the current definition of "official development assistance"? That's my first question.

The second question is, do you foresee any changes to that definition of "official development assistance" in the next year or two?

The Chair: Who wants to go?

Ms. Kent.

Ms. Deirdre Kent (Director General, International Assistance Policy, Department of Foreign Affairs, Trade and Development): Thank you, Mr. Chair.

With respect to the current definition of "official development assistance", it is the definition set out and agreed to by the OECD DAC. It has changed recently, and that is the reason to call for the regulation approach to changing the definition.

The definition is quite long. We shared it with the committee previously when there were discussions of this. I can read it out. It is quite detailed.

Mr. Peter Julian: If it's less than one page....

Ms. Deirdre Kent: Yes. I'm happy to.

It has three segments. It says:

> The ODA grant equivalent is a measure of donor effort. Grants, loans and other flows entering the calculation of the ODA grant equivalent measure are referred to as ODA flows.
>
> Official development assistance flows are defined as those flows to countries and territories on the DAC List of ODA Recipients and to multilateral development institutions which are:
>
> (i) provided by official agencies, including state and local governments, or by their executive agencies; and
>
> (ii) each transaction of which:
>
> (a) is administered with the promotion of the economic development and welfare of developing countries as its main objective; and
>
> (b) is concessional in character. In DAC statistics, this implies a grant element of at least
>
> 45 per cent in the case of bilateral loans to the official sector of LDCs and other [low-income countries]...
>
> 15 per cent in the case of bilateral loans to the official sector of LMICs...
>
> 10 per cent in the case of bilateral loans to the official sector of UMICs....
>
> 10 per cent in the case of loans to multilateral institutions.....
>
> Loans whose terms are not consistent with the IMF Debt Limits Policy and/or the World Bank's Non-Concessional Borrowing Policy are not reportable as ODA.

Thank you for your patience.

In terms of whether we foresee any other changes, there are current ongoing discussions in the context of the OECD DAC on how to modernize and best report private sector instruments, those instruments that would support development and poverty alleviation in collaboration with the private sector. That is still evolving and is expected to be, we hope, resolved in the coming months, but it is not yet resolved.

The current definition stands.

● (1630)

Mr. Peter Julian: The current definition would be subject to regulation, but if there are any changes, we would be able to make that shift through regulation to keep up to date with the definition of development assistance.

Ms. Deirdre Kent: Yes, that is correct.

Mr. Peter Julian: How is the bill currently worded that would not permit that?

Ms. Deirdre Kent: In the current bill, the ODAAA, the definition of official development assistance is right in the legislation. It states that:

> official development assistance means international assistance
>
> (a) that is administered with the principal objective of promoting the economic development and welfare of developing countries, that is concessional in character, that conveys a grant element of at least 25%, and that meets the requirements set out in section 4; or
>
> (b) that is provided for the purpose of alleviating the effects of a natural or artificial disaster or other emergency occurring outside Canada.

That is the current definition. That is currently out of date, based on the discussions in the OECD DAC. In particular, it references a grant element of at least 25%, whereas what I read out from the DAC has a tiered approach with different levels of concessionality, in order to incentivize loans to lower-income countries.

Mr. Peter Julian: Yes, and so the threshold, as I understand it from your reading of the new OECD development assistance definition, is basically a spectrum starting at 10% and running to 45%. Is that correct?

Ms. Deirdre Kent: That's correct.

Mr. Peter Julian: Okay.

I gather that in the initial drafting of the bill, Mr. Chair, this was a flaw—an error that was created and that we're endeavouring to fix. That is a good thing.

I would make the point that, for example, with pay equity, similar flaws—even greater flaws—were not addressed at all, so I'm happy that Mr. Fergus has offered this amendment. It just sheds light on all of the other amendments that have been rejected by the government over the course of the last few hours. Those flaws could have been addressed, but the government chose not to. What we come out of this process with is deeply flawed legislation.

We've improved some components, but we're coming out with deeply flawed legislation that will be subject to court challenge. For the life of me, I cannot understand why the government has been so obstinate in not accepting improvements that needed to be done on the bill. In this particular case, with Mr. Fergus, I think it's offered in good faith and, again, I think the opposition members reach across to the government and say, yes, we want to improve this bill.

I certainly will be supporting this amendment, but we should have spent the whole day reaching across the aisle and adopting a whole range of amendments that would have improved the bill.

The Chair: Okay. I take it we're ready to vote on this Liberal-7 amendment.

(Amendment agreed to)

(Clause 657 as amended agreed to on division)

(On clause 658)

The Chair: On NDP-35, we'll hear from Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

We have two amendments left of the dozens of amendments that we put forward and I want to say, prior to our discussion of NDP-36, which is the final amendment, that the process today has been very difficult, as I referenced just a few minutes ago.

I'm really surprised at what we're refusing to bring back to the House of Commons. As the time ticks down, everything that we haven't considered gets thrown to the House of Commons whether or not it's been amended, and whether or not there's been any discussion on the clauses. This is absolutely not the way to do legislation. We still have a number of amendments to consider, so I will be withdrawing NDP-35.

● (1635)

The Chair: NDP-35 is withdrawn.

Ms. Kim Rudd: Can I just get a point of clarification?

Mr. Julian keeps talking about having so many things, and he's pulling back amendments because of time. As I look at the clock, I think we still have four and a half hours to go and only half a dozen amendments, so unless Mr. Julian's proposing more omnibus amendments that we don't know about, I think we have lots of time.

If he'd like to put those amendments back on the table, I'd be happy to deal with them.

The Chair: This may open up a discussion that's going to take time.

Mr. Julian.

Mr. Peter Julian: It sure does, absolutely.

First off, since Ms. Rudd opened that Pandora's box, let me speak to that. We have had a process that forced legislative drafters to draft night and day to try to meet the artificial requirements that were put in place around this bill. We have closure on this day. We have votes coming up. It's simply incorrect to say that there are many hours left.

We have votes, as you know, coming up within about an hour, and those votes will continue on for some time. We also have consideration of elements that have been set aside that we need to come back to. Therefore, for any member of this committee to say we have plenty of time, they would simply be wrong.

The biggest problem is that we are trying to get some consideration of these amendments. The reality is that we don't have plenty of time, because at that drop-dead time, everything is passed on to committee, so opposition members have been doing the best we can to try to move things along so there is at least some consideration of things such as the parental leave considerations that we have just talked about and set aside.

If I hadn't chosen to withdraw the amendments that had less importance, we would not have gotten to the discussion on parental leave. We wouldn't have gotten to the discussion that we had from a guest member of Parliament who came forward and offered an amendment. Most disturbingly, on pay equity, a period of time where we should have taken the three or four hours to work through and improve the provisions of the pay equity act so that the legislation actually reflected what it was purported to do, we saw from the government side absolutely no offerings of amendments to improve very flawed legislation and nothing to improve the bill. For any government member to say that we have ample time simply flies in the face of reality.

We have been seeing the bulldozer pushing this bill along. It is deeply flawed. It will be subject to court challenge, there is no doubt. We have witnesses saying that unless the flaws in the bill are addressed, we're tragically going to see women back in court, just on the pay equity provisions alone, so we have been endeavouring to bring forward the best improvements we can for the legislation.

The NDP offered dozens of amendments. The government has refused to adopt any of them. The Conservative Party put forward many amendments. The government is now considering one. That's it. The government offered scant improvement, even in areas that witnesses had already explained were problematic in the bill.

I simply disagree with Ms. Rudd that somehow this process has been good, that somehow we should all say “Kumbaya” and be proud of this work. There were some nuggets of very important things in this legislation that I support, and I find it tragic that we end up with such deeply flawed legislation that will not be able to do what the government said it wanted to do in the first place.

I've been a member of Parliament for 15 years. I lived under the Stephen Harper years. I have not seen bulldozing to this extent ever before, and I just find the whole thing tragic.

The Chair: Okay, then you have withdrawn amendment NDP-35.

Shall clause 658 be agreed to...?

An hon. member: No.

The Chair: Do you want to debate the clause?

● (1640)

Mr. Tom Kmiec: Yes.

The Chair: All right, amendment NDP-35 is withdrawn, and on clause 658, Mr. Kmiec, the floor is yours.

Mr. Tom Kmiec: I am chagrined that Mr. Julian chose to withdraw the amendment. We were going to vote for it.

I actually have questions about the sections here, because it's repealing paragraph 5(1)(d) and subsections 5(3) and 5(4) of the act, and it is substituting proposed paragraph 5(1)(c).

What is it deleting? What are the sections that are being deleted, and what do those sections do?

The Chair: We're not on the amendment. It's withdrawn.

Hon. Pierre Poilievre: We're on the clause.

Mr. Tom Kmiec: Right.

The Chair: Could you explain the questions related to the clause that is in the bill?

Ms. Deirdre Kent: Thank you for the question, Mr. Chair.

The clauses are being removed since they fall within the scope of existing reporting requirements under the Bretton Woods and Related Agreements Act. There are several clauses within the existing ODAAA that duplicate what is in the Bretton Woods reporting requirements, but the ODAAA, with the amendments, would still continue to require summary reporting on Bretton Woods.

With the amendments, all of this reporting would be occurring at the same time. I hope that addresses the question.

Mr. Tom Kmiec: You've just explained to me why they're being removed, but not so much what these sections were specifically that are being removed. That's my question.

Ms. Deirdre Kent: Are you asking which ones are being removed?

Mr. Tom Kmiec: Yes. Paragraph 5(1)(d) of the act is repealed and then subsections 5(3) and (4) of the act are repealed. I'm just wondering what they were and what they were doing.

Ms. Deirdre Kent: Paragraph 5(1)(d) calls for:

> a summary of any representation made by Canadian representatives with respect to priorities and policies of the Bretton Woods Institutions.

Paragraphs 5(3)(a) and (b) ask that the Minister of Finance prepare a report under section 13 of the Bretton Woods agreements act on positions taken by Canada that are adopted by the board of governors of Bretton Woods institutions, and a summary of Canada's activities under the Bretton Woods and Related Agreements Act. That reporting actually takes place under the Bretton Woods reporting act and there will still, under the ODAAA, be a summary of those activities.

Mr. Tom Kmiec: Will it be in the same amount of detail? Those seem like really detailed sections requiring the Government of Canada to provide the representation the government is making and to whom. That seems like the type of information that I as a parliamentarian would want to see. Will that detail still be there in these new reports? Is this a requirement under the law in the new reporting or is it just "Canada's activities", like it says here, in broad strokes?

The Chair: Ms. Pang, I believe you want in.

Ms. Louisa Pang (Director, International Finance and Development Division, Department of Finance): I can refer to the Bretton Woods and Related Agreements Act. It's helpful. Currently in terms of annual reports, section 13 says that the Minister of Finance will table in Parliament:

> a report containing a general summary of operations under this Act and details of all those operations that directly affect Canada, including the resources and lending of the World Bank Group, the funds subscribed or contributed by Canada, borrowings in Canada and procurement of Canadian goods and services.

Mr. Tom Kmiec: That doesn't quite sound like the exact same thing that was being asked for before in terms of the representation being made by the Government of Canada at the Bretton Woods institutions. This sounds a little different. The Minister of Finance will be reporting similar information, but not exactly the same thing as before, so why the change?

Ms. Louisa Pang: The overall purpose is not to reduce the reporting to Canadians but to provide more clarity and transparency. The single report that will be coming forward is to be defined, and we'll be consulting with stakeholders to make sure the report does fulfill our obligations under the acts and to make sure the information that is necessary will be presented.

● (1645)

Mr. Tom Kmiec: You're saying "clarity and transparency", but the BIA is suppressing one section and two subsections and making a pretty significant amendment to another one, which is just kind of smudging over exactly what would be reported. To me, it looks like the old version was more specific regarding the information that was required.

With this new reporting, will I as a parliamentarian be able to compare previous reports given to Parliament and draw a link with any clarity? Will it be the same type of information from the previous reports? It doesn't sound like it. It sounds like it will be completely different.

Ms. Louisa Pang: I think one of the changes that was done is in terms of the fact that right now there are multiple reports, and one of the concerns is that it is hard for stakeholders to understand the type of international assistance that's provided through institutions. Going forward, the intent is not to duplicate exactly all three different reports that we have currently. That would not be the objective, but taking the point, it is the priority to make sure that what is reported meets the expectations and the needs as required.

Mr. Tom Kmiec: Okay. I agree with that. It's required by law because reports to Parliament have requirements built into them. The Minister of Immigration, for instance, has in the IRCC act a substantial amount of reporting requirements on specific programming streams that he or she must report on.

There are a lot of reports to Parliament, and usually they're very broad in what a minister and a department can provide in them, but it's the details.... In some reports to Parliament, Parliament has required very substantive and specific information. It seems to me that in this section we're going backwards, where we're going to be giving more latitude to the minister to determine what to report on in terms of activities, whereas before we required very specific information on meetings and positions held by the government at the Bretton Woods institutions.

Is that a correct assessment?

Ms. Deirdre Kent: If I could just underline, perhaps, in Bill C-86, under clause 658, it does explicitly state that "a summary of Canada's activities under the Bretton Woods and Related Agreements Act that have contributed to carrying out of the purpose of this Act" would be reported.

As Ms. Pang said, the intent is to retain and increase the transparency of Canada's reporting on international assistance and have greater clarity. I don't think you would be losing the detail, but it will be subject to consultations on what this new report would look like, building on what we have currently.

Mr. Tom Kmiec: I think you'll agree that for "Canada's activities", activities could be defined as meetings that are held or teleconference calls. It could be almost anything. There's a lack of clarity. I'd say we're going backwards.

The previous enumeration you gave me was actually very specific in what was being asked for in the report, which is why, like I said, I'm chagrined that Mr. Julian removed that motion. I thought we were going in the right direction, which was to keep it as it is and keep the reporting requirement pretty specific.

Are there other countries that do it in the same manner that is being proposed here? Are there other member countries of Bretton Woods institutions who are also making such changes, whereby their reports through their legislative branch will also be just about activities and there will be no specific information requested?

Ms. Deirdre Kent: I'm not sure, to be honest. I can tell you that Canada's rating in terms of the transparency of our reporting on international assistance is considered very good in our recent peer review by the OECD DAC and also by the international aid transparency initiative. I think we're building on a strong foundation, but we do want to strengthen what's available online and make it more accessible and understandable, including through the consolidated report.

Mr. Tom Kmiec: You said that you weren't aware of potentially what other countries have done, so in the review of this section and the proposals being outlined here, you're not aware of any other country doing such amendments or such changes. Does the department hold or review reports from other countries on this Bretton Woods institutions reporting?

I'm thinking of the United Kingdom, which is the most comparable country to ours. Do you have an example of it? Does the department look at the report tabled in the U.K. Parliament by the government there and the type of information being provided? If I check the U.K. report tabled in their Parliament, will I find activities or will I find the enumeration you gave me before?

● (1650)

Ms. Deirdre Kent: I wouldn't be able to say with authority.

The Chair: Go ahead, Tom, but I was just going to ask, with the new reporting approach, will it provide the equivalent information in all aspects, as is provided now?

Ms. Deirdre Kent: I'd say it's very much the intent that we would be able to provide the same information as is available now in terms of the qualitative and quantitative information that's available on the Bretton Woods reporting as well as ODA overall.

The Chair: Okay.

Mr. Kmiec.

Mr. Tom Kmiec: I wish we could legislate just with intent, because if that were it, government would succeed at everything it intended to do.

In terms of the reporting done by other states, the department didn't do a review of other countries and their reporting requirements imposed on them by their parliaments or their legislative bodies. It's okay if you don't have an answer. Maybe you can just get back to the committee on whether a review has ever been done by the department in the last few years on these proposed amendments.

It's just looking to me like we're reducing transparency and clarity in the name of transparency and clarity and are not achieving that goal. Other countries may be providing more detailed information to their legislators and parliamentarians.

Ms. Deirdre Kent: We'll return to the committee with that additional information. I will say that we did just have a peer review by the OECD DAC that gave a very positive review of our transparency on our international assistance.

The Chair: Return that information to the committee, if you could. It will be going to the House from here, if we approve it, so it would be good to have it by then.

(Clause 658 agreed to on division)

(On clause 659)

The Chair: Mr. Julian, you have an amendment in terms of NDP-36.

Mr. Peter Julian: Yes. This amendment would offer greater certainty around the issue of sovereign loans.

I move to amend the bill by adding, after line 16 on page 572, the following:

> For greater certainty, only sovereign loans that meet the requirements of official development assistance, as defined in section 3 of the Official Development Assistance Accountability Act, are to be used in calculating Canada's official development assistance contribution under that Act.

The Chair: Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Thank you, Mr. Julian, for bringing this amendment forward. In actual fact, the purpose of this amendment is already captured as one of the reporting requirements in the Official Development Assistance Accountability Act. It is already captured on that front, and therefore, the amendment is redundant to existing requirements. We already have it.

Second, if the amendment hypothetically went through, it could not be implemented, as it refers to a definition in section 3 of the Official Development Assistance Accountability Act that clause 656 of BIA 2018 repeals.

With that, I will be voting against the amendment.

I don't know if the officials wish to clarify anything.

● (1655)

The Chair: Is everybody okay? Are we ready for the vote on NDP-36?

Mr. Kmiec.

Mr. Tom Kmiec: Just on that, greater clarity clauses are never a waste of time. They're never repetitious. They're there for judges to see what Parliament intended and not to read an intention into that particular section.

I'll be supporting Mr. Julian in this, because I like greater clarity clauses. We should use them more often. It's a direction to the courts and to the judges who may be considering it. They're not redundant.

The Chair: Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair, and thanks, Mr. Kmiec.

Today we had a government representative saying that the issue around medical cannabis had been resolved, and then we found out later on that it hadn't been, that now we're looking at getting a rebate. We found a number of other issues that apparently were resolved or covered, and when we actually went through the parental leave provisions, for example, they were not covered off. It's not just the element of adding greater certainty. Quite frankly, given the track record of the statements....

I understand that the members opposite are reading what's prepared for them, but we saw a number of times that assertions they made turned out not to be true. There is no doubt that this would be an added benefit, and I would hope that the government members would see fit to allow an opposition amendment.

The Chair: All right. NDP-36 on clause 659 is on the floor for a vote.

(Amendment negatived)

The Chair: We now have Liberal-8 on the same clause.

[*Translation*]

Mr. Greg Fergus: Basically, we're cleaning up the English version. The French version remains as is.

[*English*]

The Chair: Is there any further explanation needed?

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

(Clause 659 as amended agreed to on division)

(Clause 660 agreed to on division)

The Chair: We will now start division 18, the department for women and gender equality act.

There are no amendments from clauses 661 to 674, unless there are questions to the officials.

(Clauses 661 to 674 inclusive agreed to on division)

(On clauses 675 to 685)

The Chair: Thank you.

That was a short stay, Ms. Bélanger, a short stay at the table and a long stay in the room.

Division 19 is on the addition of lands to reserves and reserve creation act. There are no amendments on this one, unless there are questions. We'll let the officials take their seats.

I believe we have a question from Ms. McLeod.

● (1700)

Mrs. Cathy McLeod: This change was not signalled in budget 2018. Was it not part of budget 2018?

Ms. Joyce Patel (Acting Director, Lands Directorate, Lands and Environmental Management Branch, Lands and Economic Development, Department of Indian Affairs and Northern Development): No, it was not part of the announcements that were made in budget 2018.

Mrs. Cathy McLeod: Thank you.

Mr. Chair, certainly from our perspective, the additions to reserve change does need some fine tuning. I think there are ways in which it could be made more effective.

What we have here is something that was not signalled in the budget. The committee was not designated to even have consideration of any component of this. Certainly, from a technical briefing, there seems to be some merit to where they were going to go with it, but I just will bring to mind Bill S-3, which this government brought forward. It was not until we heard expert witnesses that we realized it was a complete disaster.

I would like to say that we cannot support this, because it really should have been brought forward as a stand-alone piece of legislation. It's not that the INAN committee is so overworked with legislation that they couldn't have had done their due and proper diligence with this, where we would have actually brought in people from the municipalities and first nations groups and others to just ensure that it's been done properly.

Again, I think this is unsupportable. It's important to look at what we're doing and how we're doing it, but to be doing it in an 800-page budget bill when it was not signalled in the budget, and when there is the capacity of the committee, is actually quite shameful.

The Chair: I'm not sure, so somebody can correct me if I'm wrong, but I believe this question was raised with the minister when he was before the committee. Did he say it was referred to in budget 2017? I'm not sure. We'd have to look at the minutes. At any rate, your point is noted.

Are there any further questions?

(Clauses 675 to 685 inclusive agreed to on division)

The Chair: Thank you to the officials on division 19.

Next is division 20, dealing with the Criminal Code. There's only one clause here and I don't see any amendments.

(Clause 686 agreed to on division)

The Chair: Division 21 is entitled “Poverty Reduction Measures, Phase 1”. There's only one clause here. No amendments are proposed.

(Clause 687 agreed to on division)

The Chair: Division 22 deals with the Canada Shipping Act, 2001. There are no amendments on clauses 688 and 689.

(Clauses 688 and 689 agreed to on division)

(On clause 690)

The Chair: We have CPC-12.

Mr. Kmiec.

Mr. Tom Kmiec: I'll be referring to testimony given at the transportation committee, because it's impacting on this. Our amendment proposes to limit the permissible time of interim orders from two years to one year. It limits the ability of ministers—I love limiting the ability of ministers to do anything—to make specifically interim orders only when “significant” threats are posed to marine safety.

Now, the Shipping Federation of Canada, in its testimony before the transportation committee, had concerns about clause 690. They said:

> These orders could remain in effect for up to three years without any of the basic safeguards provided in the normal regulatory process, such as consultation with affected stakeholders or regulatory impact statements that we do when we have regulations.
>
> In our opinion, the proposed framework for interim orders in the marine mode is much broader than what we have found in other Canadian legislation. We have more detail in our brief, but just to make a summary of the common features we have seen in other Canadian legislation, usually ministerial interim orders are for a type of risk that meets a threshold, and that threshold is...“significant risk” or “immediate threat”.

Furthermore, they say, the lifetime duration of an interim order under the legislation that they've seen is more tightly constructed. What happens there is that those ministerial orders can stand alone, on their own, for 14 days. Thereafter, the Governor in Council must come to approve such interim orders and then extend the power by one year, as in most of the legislation, or two years, as they have also found.

That's basically the crux of what we're proposing to do here. It's to constrain some more of what the minister can do. As the chair knows, I love constraining ministers in what they can and cannot do. This limits their ability to make these interim orders to only when there is a "significant" threat, which matches with other legislation that this Parliament and other parliaments have passed. That's the crux of our amendment.

● (1705)

The Chair: Is there any discussion?

Ms. Rudd.

Ms. Kim Rudd: Thank you, Mr. Chair.

One of the challenges of this proposed amendment is that it could limit the ability to urgently address marine safety or environmental risk. Also, the current interim order authority sought in the legislation provides flexibility to address a range of risks and situations that can't always be anticipated. Indeed, limiting the use of an interim order to either "significant" or "intermediate" doesn't allow for a precautionary basis. I think that's something that wasn't contemplated in the amendment that's just been put forward, because the ability to deal with precautionary situations prevents risks from escalating to the point where they are immediate and high-risk situations.

I think the other point is that the motion proposes a time frame of 14 days, and that would not necessarily be sufficient. Risks can sometimes occur over a number of months. Putting that limitation on it doesn't provide the flexibility to address the range of situations that could come about, the other piece being that Transport Canada does have a long and storied history and a successful track record of dealing with these types of incidents, as well as with the marine industry and stakeholders.

The other piece is that this is continuing work with partners, such as industry, marine safety and stakeholders. It's something that as we move forward we'll continue to do, but this amendment actually limits their ability to do their job. For that reason, I'll be voting against it.

Thank you.

The Chair: Is there any further discussion?

Mr. Kmiec.

Mr. Tom Kmiec: Just on some of the points you've raised—not you, Mr. Chair, but Madam Rudd—there are other pieces of legislation that provide for interim orders to be issued and then for that to go to cabinet so that there can be a broader decision by a bigger group of people. That timeline—and in scenarios where it's a multi-month significant threat—is why I think cabinet can make a more permanent order as needed.

What the Chamber of Shipping, the Chamber of Marine Commerce and the Shipping Federation of Canada have all said is that the way the rules are constructed now—and they're not complaining about there being rules, they're saying they comply with them already—it gives the minister too much latitude in determining what the conditions are for introducing an interim order, what the conditions are and how long the order will last.

I want to refer to testimony given at the transportation committee by the Chamber of Shipping on this clause. They said that "there needs to be a requirement for compelling evidence and/or science that ensures that such regulations or interim orders are sensible, and that such action will not have adverse consequences to marine safety or marine protection". That's actually not already part of it here.

What they're saying is that they're fine with the introduction of these rules, but constrain the minister and provide some type of evidence mechanisms that he or she is supposed to meet in order to introduce the interim order. Then, if you want to make it more permanent, they're fine with the rules, but what they're also saying—and this was a point that the Shipping Federation of Canada raised—is that one year is the typical Canadian legislative timeline for these types of orders. What's being proposed here is two years. They're saying that a yearly review is something that they could live with.

Again, they go on in their testimony before that committee to say that they already comply with the rules, they keep track of them and they're actively trying to do this. They're saying that this simply gives the minister too much power to decide things, potentially on a whim.

● (1710)

The Chair: Is there any discussion or are there questions to officials? Do officials have anything they want to add?

On amendment CPC-12, do you want a recorded vote?

Mr. Tom Kmiec: No, it's fine.

The Chair: I'm easy. It's up to you to ask.

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

(Clause 690 agreed to on division)

(Clause 691 agreed to on division)

(On clause 692)

The Chair: We have CPC-3.... I'm sorry. We have CPC-13 on clause 692. My eyesight's going. I'm not seeing clearly.

Mr. Tom Kmiec: I could restart with CPC-3 and we could go forward again.

Some hon. members: Oh, oh!

The Chair: I don't think so.

Mr. Tom Kmiec: This is a simple amendment. Before ministers of transport amend shipping regulations, they have to consult with appropriate stakeholders. I've been reading from testimony given at the transportation committee by different stakeholders who are impacted by this. This amendment is simply making it a requirement that the minister consult with stakeholders.

That's pretty reasonable. That's something most ministers already do, but sometimes we see them acting without consulting any stakeholders. I'm starting to be concerned that these Bretton Woods institutions modifications in a previous clause were maybe done without any real consultation or without checking what other governments and other parliaments are doing. In this particular case, I think it's completely reasonable to say that the minister should consult with stakeholders, and to legislate so that Parliament can direct the ministers to do their work in a certain way. I think it's perfectly reasonable and well within our power.

The Chair: Okay. It's on the floor.

We'll have Ms. Rudd and then Mr. Julian.

Ms. Kim Rudd: Thank you, Mr. Chair.

There were a couple of things that jumped out on this. One is the ability to be dynamic and nimble with the regulations, and that they allow for that response. There was one specific example. If regulated vessel speed restrictions are in place for a specific period of time but whale pods enter the area earlier than expected, the minister may vary the starting point through an order to ensure that environmental safeguards are in place at the appropriate moment. Conversely, if a whale pod leaves the area earlier than expected, restrictions could be adjusted via a ministerial order to ensure that there are no undue burdens on the shipping industry and do so in a timely manner.

To your point about consultation with organizations and stakeholders, I think we would all agree that this is what the minister does and, in fact, what departments and committees do all the time. I think that's addressed, so from my perspective, there's reason to not support the amendment on that basis.

It's been a long day.

Thank you.

The Chair: I'm having the same problem, so you're not alone.

Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

I think we are all a little weary. It would have been much better to do this over a number of days. I think I mentioned that at the beginning, early this morning, when we talked about my motion, which would have allowed us to consider doing this mass of amendments over a number of days and give proper consideration to them. I guess I'm saying I told you so, a little bit, to members of the government. If we had done a different process, one that was more respectful of the public, we would have ended up with a much better result.

That being said, what CPC-13 does is it provides an obligation for the Minister of Transport to consult, but the Minister of Transport defines what that appropriate consultation is. I wouldn't suggest it is handcuffing the minister in any way, but it does provide an obligation for the Minister of Transport to do that consultation. Even in the case of killer whales, it obliges the Minister of Transport to do a rapid consultation. It means reaching out to people. I believe that is the way government should work. The minister should talk with the people who are primarily concerned by it and can then make an order based on the information that he or she receives. That's the way governments should work, so I'm supporting this amendment.

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

(Clause 692 agreed to on division)

(Clauses 693 to 712 inclusive agreed to on division)

● (1715)

The Chair: Thank you, folks. That finishes division 22.

Division 23 deals with the Marine Liability Act. There are no amendments to this division, but if there are any questions, officials are here.

I will give people a moment to consider whether they have questions. Seeing none, I will call the question.

(Clauses 713 to 747 inclusive agreed to on division)

(On clause 470)

The Chair: We will come back now to amendment CPC-9 on the one clause we had stayed. We will have that debate before we go to the regular motions.

Does anybody else have anything they want to add to the discussion we already had on CPC-9?

The floor is yours, Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Speaking to this amendment, it's obviously a subject that hopefully no family experiences, but unfortunately some do. With regard to the amendment itself, currently mothers do have access to 17 weeks of leave. That's under current legislation. The impact of this amendment would be, yes, to bring in the fact that both parents, however defined, would receive or be eligible for 12 weeks of leave. We talk about the unintended consequences of legislation. The unintended consequence of this legislation could potentially be that the 17 weeks mothers currently receive could then be actually limited to, or brought down to, 12 weeks because of the amendment. We would not want that to happen in any way if in the circumstances a family faced that situation.

The second issue is that the content of the motion that has been brought forth, which is a very worthy thing to study and consider judiciously, is currently in front of the HUMA committee. They are studying it. Frankly, although each committee is the master of their own domain, we should let the committee continue to do that work and obviously consider where they come out when the report is finally completed. We should let the committee continue to do its work judiciously, much like any other committee would.

Those are my two cents, Mr. Chair.

● (1720)

The Chair: I take it, then, you're opposing the motion at this time.

Mr. Francesco Sorbara: I would be opposing the motion at this time.

The Chair: All right.

Is there any further discussion?

Mr. Richards.

Mr. Blake Richards: Mr. Chair, I will say that I am incredibly disappointed and incredibly frustrated at this Liberal government right now, and I'll tell you why. Let me start with a bit of a push-back on the comments that were just made. They were much like the ones made earlier. I don't believe they're ill-intended comments, but they're ill-informed comments. I'll push back on those quickly before I get to the main point of what I'd like to say.

The 17 weeks that were referred to as maternity benefits are intended as maternity benefits. Yes, the officials did indicate that if a mother happened to be on maternity benefits and lost the baby during that time, she would still be able to get maternity benefits because they are intended not as parental benefits but as maternity or pregnancy benefits. I don't really see how there's an argument that this jeopardizes a mother's ability to access those. If there's a concern that we don't want them stacked, then let's deal with that, but that's a separate issue. To try to pretend somehow that as a result of putting in a bereavement leave someone would be losing the benefits they currently have is completely inaccurate and disingenuous.

In terms of the other idea that there are these sickness benefits, I've already laid out very clearly the argument as to why that is not the case and they are not intended to be. Numerous cases in which they do not apply have been brought to our attention, so there's clearly a need for this. There's no doubt about that.

Let me get to the key point here, which is why I'm so incredibly frustrated with this government. For whatever reason, which I cannot fathom, Liberals seem to not want to proceed with some kind of a benefit for these families, but they clearly do not want to be seen to do that, so they try to find every excuse and reason they can come up with not to proceed.

I'll remind members that when this motion was first brought forward in the House of Commons, the Liberal government had a parliamentary secretary stand up in the House of Commons and oppose this. This changed only because parents across this country spoke out in great numbers very vociferously and not only informed the parliamentary secretary who had been directed to stand up and oppose this how cold-hearted what she said was but also reached out to Liberal MPs in various parts of the country where they happen to live. There was a lot of push-back. I can say that many members of the government did come to me and were privately expressing their support. I believe that, whatever happened within caucus, something changed and therefore the motion was supported.

However, what I've seen since that time is every effort to continue to make excuses and to make it appear as though the government is supportive of these families when clearly it has no intention to take action.

This very morning I was at the human resources committee. We realized that the timeline the human resources committee had proposed was in contravention of the motion the House of Commons had passed, and we sought to rectify that situation and give the government the opportunity to make sure it kept its word and make sure a report was brought forward prior to the end of the session we're currently in. When that was proposed at committee, a Liberal member immediately moved adjournment of that debate, and all of the Liberal MPs voted to adjourn debate while all of the other members, NDP and Conservative, voted not to.

It's very clear that this was intended to make sure the report would not be produced before Christmas, as it was supposed to be. It would mean that the government wouldn't have to respond within a time frame that would be sufficient to enable this to be done before the next federal election. Again, it's designed to try to prevent the government from having to do anything while being able to give us some nice words and make these people feel a little better that someone is listening to them, although they're not going to do anything.

I've always said that actions speak louder than words, and the actions have very clearly spoken. We're seeing it again here.

● (1725)

On one hand, the HUMA committee is saying that we can't get this done in the time frame that was promised to these families, and then we have members on the finance committee saying, well, let's let them do their work, however long it might take. That isn't going to get the job done, and I'm incredibly disappointed to hear what I've just heard. I really wish that Liberal members would back up their words with actions. I hope that it's just one member on that side—not all—and that we will get support for this motion and see this done, or maybe the other committee will decide to actually keep their word and do as they promised.

Some way or other, I certainly hope that it'll get through to this government that it's important, and that you can't just show symbolism and you can't just have words for these things. You actually have to to take action and accomplish something for these families.

I certainly hope that message will finally sink in.

The Chair: Did I see your hand up, Mr. Kmiec?

Mr. Julian was next, and then you, Tom.

Mr. Peter Julian: Mr. Kmiec can go before me.

The Chair: Okay. It's whoever wants to go first.

Mr. Tom Kmiec: Thanks, Peter.

Obviously you had time to consider this, because that's why you asked to suspend the meeting and then consider it some. I can only assume that the department gave advice on what it thought was reasonable and then you checked in with your colleagues at some point. What you're saying now is that you should have just voted against it when the issue came up when there were more officials here earlier in the day. That's basically what I heard.

Mr. Sorbara, you said that committees are masters of their own domain. We're the masters of our own domain and we can amend the BIA right now. If you'd like to offer a subamendment or another member would like to, if there is concern over this difference between 17 weeks and 12 weeks, we can literally do that right now. If we got a commitment from you that you'd then say yes to the 17 weeks, we could raise it higher just to make sure there's no difference between the two.

I'd like the officials to explain that to us. Would there actually be a difference between the two? You could get a legal opinion from the Department of Justice so that we could then consider it, but to do that at this committee, then, we would have to unanimously approve a delay, like Mr. Julian had asked for earlier today, for the further consideration of clause 470—specific to this one clause—to give ourselves another day so that Department of Justice officials could give us an opinion on whether the 12 weeks would actually interfere with the 17 weeks.

The 17-week maternity benefit, as I talked about with the officials, doesn't apply to fathers. In a situation like mine, I would have gotten no leave, and that just seems patently unfair. For parents who lose a child, the father is just as affected as the mother, but in this scenario what we have before us is that the mother will be covered for 17 weeks, and if the child passes away a day after those 17 weeks, she will not be eligible for any other leave except for the five days—three paid and two unpaid.

What we're proposing to add is 12 weeks. Now, again, if there's a problem with the 12 weeks, we can change it to 17 weeks, or you can go and pass a unanimous motion to delay consideration of clause 470 until tomorrow or another day this week to give the Department of Justice officials time to write up an opinion on whether this would conflict with the labour code and moms would then lose their benefit access to the 17 weeks in such scenarios.

I actually think that's not true. That is very likely untrue. I cannot see a judge ruling like that. I cannot see anybody seeing the facts before them and saying, “No, you should lose access to it” in a particular case. I think it's a disingenuous argument to have delayed it until now and to now say, “this is the problem we have” and to quibble over the 12 weeks.

If that is the issue, then offer a subamendment. Show some goodwill here. We've offered an amendment. Amend it to 17 weeks and we can both agree that we've passed at least one opposition motion today, which hopefully will never benefit anyone in this room—heaven forbid. No one in this room should benefit from it. Hopefully, it will benefit somebody else out there like the people I met last week, the moms and dads who have lost children, and like the ones that Mr. Richards is trying to help with motion 110 at HUMA. That committee can do its work separately from what we're doing.

We can amend the BIA today and report it back to the House of Commons with an amendment that will help fathers and will help parents. That's all it's about.

● (1730)

The Chair: We'll have Mr. Julian, and then Mr. Fragiskatos.

There are officials in the room if people want to call them forward.

Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

I'm pretty disappointed, too. We tried to accommodate the government to come back to this issue. Obviously, they were struck by the compelling reasons why this amendment should be adopted, which are in the scope of the BIA, so completely in order. Instead, we get to the end and we're told, “No, we're not going to be considering the amendment.” This is after dozens and dozens of opposition amendments have been turned down by this government. This is after the bill was flagged as being deeply flawed, yet the government just bulldozed through the amendments, refusing any amendment, and bulldozed through each clause.

We end up with a badly flawed bill, badly flawed, one that would be subject to legal challenge, because the government mechanism from the Prime Minister's office on down didn't allow for members to consider appropriate amendments, amendments that would have improved the legislation.

Now we have before us an amendment that is in the scope and that would definitely help people. This committee has the ability to adopt it and, in a very real way, provide some support for parents of a child who has died. There is nothing more tragic than a parent having to deal with the loss of a child. I know friends who have had to deal with it, and it is the most profound sadness and tragedy. We have an ability to provide some supports because of the huge gaping holes in the current legislation, which doesn't allow for bereavement leave when a child dies.

Yes, there are a few cases in which you could get three days of paid leave—as if, in any way, that compensates for the loss of a child or allows a parent to go through the intense grieving, the intense arrangements that have to be made. They're dealing with so many things at once, and the government says that three days is enough. They say that in some cases, with maternity leave benefits, it will apply. Yes, in some cases it will, but in most cases it won't. If it's a woman who has come through maternity leave and her child dies, after four and a half months it does not apply. After five and a half months, six and a half months, one year, two years, three years, four years—there is absolutely no application. For a father, for a non-birth mother, there is no application at all. One might say that if your reaction is profound enough, if you suffer severe depression and you have to take medical leave, it applies, but that's not what we're considering today.

We're not considering the “some exceptions”. We're considering the fact that this is a gaping hole in the legislation, and we have the power now around this table to fix it. We have the power, the ability. We have an amendment that is already here, obviously seriously considered by the government members, because they asked us for a break and they asked us to come back to consider it at the end. I don't think any member of the opposition thought that the consideration at the end would lead to the same casting aside of the amendment that we've seen with all the other opposition amendments. It's a question of how we approach governance. It's a question of how we deal with helping people. Right now this committee has the opportunity to fix that flaw in the legislation and provide for parental leave in the most tragic of circumstances, when a parent loses a child.

I hope government members will vote for this amendment, because it means helping parents at a time that is most tragic and most critical for them. Talking points simply won't address this situation. Saying that, yes, there are a certain number of cases in which maybe somebody can access this type of benefit or that type of benefit does not provide support in most cases. We've heard testimony to that effect. Let's get on with it, and let's adopt this amendment.

● (1735)

It's not as if the opposition has been asking too much. We've put forward dozens of amendments. This is the only amendment that the government would have said yes to—the only one. It's not as if the opposition has weighed in and tried to usurp government power. In fact, it's quite the contrary. I think the opposition amendments, the dozens we've offered, have tried to fix the evident and obvious flaws in this bill that we heard from repeated testimony in front of this committee.

At this point, after ramming through this legislation, after this bulldozer impact, the government has an ability to do one good thing. I think that's all we are asking for: that government members do one good thing today.

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos: I have never lived through what Mr. Kmiec has lived through. I can only imagine the pain and suffering he and other parents have gone through. I say that in the most sincere way I possibly can. I have family members and friends who have dealt with the loss of a child.

All of us on this side, and obviously across the way, agree with the substance of this amendment. I can understand the concern that has prompted it, but I don't think it's unreasonable to also suggest that we ought to let our colleagues on the HUMA committee carry out their work. It's very difficult for us to make a decision when we don't have the facts in front of us.

To make a decision along these lines would not be a wise course forward. Obviously, this would make for a substantive policy change. We ought to have all the facts in front of us before we move in that direction. That's why I go back to the point that Mr. Sorbara started with. Let's allow the HUMA committee to carry out its work on this and then make recommendations. Then we can see the direction forward.

I remain very open to the amendment in principle.

The Chair: We'll have Mr. Kmiec and Mr. Richards, and then we'll go to a vote, if we can, depending.

Mr. Tom Kmiec: I received a lot of really heartfelt cards and emails from both the minister and you, Peter, and others. I appreciate all that, but this is not just about me, because that's already happened to me. It's about all the parents to whom it will happen in the future.

If you look at the contents of the BIA, to say that we do not have the expertise or all the information is an argument against the BIA itself, because it covers so much territory. In the BIA, we, this committee, are going to create a leave of 104 weeks for every employee who will be entitled to it "if the employee is the parent of a child who has died and it is probable, considering the circumstances, that the child died as the result of a crime." We are creating a leave of 52 weeks. Every employee is entitled to this, it goes on, if they are "a parent of a child who has disappeared and it is probable, considering the circumstances, that the child disappeared as the result of a crime."

This is a situation of a crime, which is a justice issue. We on this committee—on division, probably—have agreed to a great many sections that we cannot say we have in-depth information and witness testimony available to us on, which is why I think this amendment is infinitely reasonable. We spent just as much time, I think, on those types of sections as we have on this 12-week leave. It's nothing comparable to what's being suggested in these two sections for parents who are suffering a type of bereavement connected to a crime.

Again, I think we're well within the balance of what the committee can consider, because it's been put into the BIA by the government. Because the government put it into the BIA, it is fully within the rights of this committee to amend the BIA as we see fit after having heard testimony and considering subject matter that we deem necessary and valid to our interpretation of what should go into this and what should be excluded from it.

All the amendments proposed by the opposition have been turned down, some of them for good reasons, and some of them for bad reasons, and I accept those results, on division, of course. But in here, we're creating leave for other situations. I don't think it's a good argument to say that we should let another committee do the work or that this should be studied somewhere else because they have more fulsome information or a more complete set of witnesses for them to consider a 12-week leave when we are creating a 104-week leave in one situation, a 52-week leave in another, 17 weeks here and 37 weeks there. We are creating leaves already, as it is. Concerning the full impact of a 12-week leave, if we need more time to consider it, take the time. We can pass a unanimous motion. We can delay consideration of returning the BIA to the House for a day or two, and we could still have it there by Thursday and let your Department of Justice study this further or we could study this some more tomorrow and have officials return for another two hours.

The committee is master of its own domain, to use an old Seinfeld line. We could totally consider this some more. Take another day. I don't see us having to vote on this immediately, and having you all vote against it and us vote for it. As a solution, we could help parents here, parents going through bereavement, having lost a child, not because of crime but just because life happens. I really think we're doing a disservice to those people who will find themselves in this situation. You mention that you know some of the people who have gone through things like this. This will be beneficial to them.

● (1740)

The Chair: Mr. Richards.

Mr. Blake Richards: Before we vote, I just want to implore the members on the other side, government members, Liberal members, to show some compassion here. You have the ability to right a wrong. You all know it's wrong. I've heard it expressed. I've seen it on your faces. You know it's wrong. You have the ability to right this.

I just ask you to think about those families. Think about the grief that they experience, and just stand up, be counted and do what's right. You have the ability to do this. Words aren't enough. Take action, please, I implore you. Show some compassion for these people who have already suffered enough.

I ask for a recorded vote, Mr. Chair.

The Chair: We'll hear Mr. Julian first, and then we'll go to a recorded vote.

Mr. Peter Julian: Thank you, Mr. Chair.

Do we still have officials from this section here?

The Chair: Yes, we do.

Welcome back, officials.

Peter, the floor is yours.

Mr. Peter Julian: Thank you very much, Mr. Chair.

I wanted to get a sense of the bereavement leave for parents whose child is a victim of crime or a victim of violence. How was that 104 weeks arrived at? Were they taking into consideration psychological impacts? Are there comparative bereavement leaves for child crime victims in other jurisdictions? I'm looking for the genesis of that 104-weeks figure in the BIA, and what the considerations were before that figure was arrived at.

Mr. Charles Philippe Rochon: To clarify, the BIA does not institute new leaves—the 104 weeks and 52 weeks. These were put in place in 2012. What the BIA does is eliminate the length-of-service requirements, in order for an employee to qualify for these leaves. The code currently states that employees need six months of continuous employment. This will be removed as part of the BIA, and that's what the BIA does.

Mr. Peter Julian: Thank you, but the question still stands. How is the figure of 104 arrived at? Do we know comparatively what other jurisdictions have, in terms of bereavement leave for parents whose child was a victim of crime?

● (1745)

Mr. Charles Philippe Rochon: I can only give a partial answer, because this decision was made under a previous government. What is clear is that there was already a model in Quebec, with Quebec's legislation providing, under its act respecting labour standards, for leave in cases of murdered and missing children. My understanding is that, at the time these provisions were put in, they were largely modelled on provisions in Quebec.

Mr. Peter Julian: Would it be possible to provide further information to this committee if we gave you some time to do that work?

Ms. Barbara Moran: Sure. Maybe what I would offer again is my understanding, which predates my involvement, that the 104 weeks was arrived at to match to a grant made available for these parents of children who are victims of crime. We would need to check in with our colleagues within ESDC to find out—and I would take Charles Philippe's word that it was in 2012—why 104 was arrived at. We don't know off the tops of our heads.

Mr. Peter Julian: Thank you very much. I believe the committee needs more information. I'm glad that you'd be able to provide it to us if we had more time.

I'm looking to you, Mr. Chair, and also the clerk of the committee. What is the best way for the committee to provide that time? Mr. Kmiec mentioned earlier perhaps our reconvening tomorrow night. Is that a motion we could then move so that we can meet tomorrow night to get the information back from the officials before we make a decision that I think a number of us have indicated is very important?

The Chair: What we have to deal with is the original motion. You're well aware of this clause of it:

> If the Committee has not completed the clause-by-clause consideration of the Bill by 9:00 p.m. on Tuesday November 20, 2018, all remaining amendments submitted to the Committee shall be deemed moved, the Chair shall put the question, forthwith and successively, without further debate on all remaining clauses and proposed amendments, as well as each and every question necessary to dispose of clause-by-clause consideration of the Bill, as well as all questions necessary to report the Bill to the House and to order the Chair to report the Bill to the House as soon as possible.

That is our direction from the committee, passed by the committee. We have to complete that task by tonight at 9 o'clock.

Mr. Peter Julian: That is unless we reconsider that, Mr. Chair. I'm asking for guidance on how best to reconsider that time frame.

The Chair: I'll ask the clerk to intervene, but we had a motion earlier that was defeated, so I would think that any similar motion would have to be ruled out of order.

Mr. Peter Julian: That's unless we have unanimous consent.

The Chair: Yes, unless we have unanimous consent....

Mr. Peter Julian: Okay. I will leave that for a moment, Mr. Chair. You could test, after we've had a bit more discussion on this, for unanimous consent for us to provide that 24-hour window, which would allow officials to come back with the information we're seeking before we make that decision.

I would argue in favour of members of the committee providing unanimous consent. This is a matter that deeply impacts people who are going through the most devastating family tragedy imaginable. I would hope that government members would allow the unanimous consent so that we could come back tomorrow night and complete our work. It is a 24-hour pause, but it allows us, I think, to complete the work and to get the right information before we make a decision that is so important.

The Chair: Mr. Clerk, you explained to me how we would have to deal with this. I'll let you give that explanation.

The Clerk of the Committee (Mr. David Gagnon): Usually we deal with one substantive motion at a time. I believe that you're dealing with one such motion right now, and I think the motion you're referring to would be another substantive motion. Usually, it's just one at a time.

● (1750)

The Chair: Under the rules, could you ask for unanimous consent or not?

The Clerk: Yes. If you had unanimous consent....

Mr. Peter Julian: If we tabled this amendment—

The Chair: If you had unanimous consent to table the amendment and moved on to unanimous consent to grant another day, you could go that way, if you could get that consent.

Mr. Blake Richards: I want some clarification, then. Would tabling a motion on what we're currently discussing have the effect of tabling it until someone brings it forward again? How would that be brought forward again? I guess that's the question, right?

The Chair: I'll let the clerk deal with that technical question.

The Clerk: I don't want to speak for the committee, but sometimes when members deal with one substantive motion and they want to deal with something else, they adjourn debate. That's one thing, but usually it's one substantive motion at a time.

Mr. Blake Richards: I guess that's not really the question I was asking. The question I'm asking is, if there's a tabling motion on what we're currently discussing, to move to that, what enables it to be brought forward for discussion again? How is that triggered?

The Clerk: I'm not so sure that I understand the question.

The Chair: Can you rephrase that question? I don't understand it either, Blake.

Mr. Blake Richards: I'll try.

The Chair: Just hold on one second. We'll let the experts confer here.

Are there any implications for one committee dealing with an issue that's before another committee?

Blake was going to ask that question, but I'm wondering, for you guys in procedure, if there's—

Mr. Blake Richards: Mr. Chair, before you move to get a ruling on that from your clerk, I'll say that this isn't actually what's under discussion at the committee.

The Chair: Okay. You're right.

Mr. Blake Richards: They are simply having a study of loss, right? This is not actually directly what they're....

The Chair: Okay. It's part of the discussion but not the total.

Mr. Blake Richards: Yes, it's part of the discussion, but it's not the same question.

The Chair: Okay. That's fine.

Rephrase your question and we'll see if we can answer it, Blake.

Mr. Blake Richards: The suggestion that's being made is that we would table the discussion on the amendment, which would then allow Mr. Julian to bring forward his motion. If there were unanimous consent for that to happen, what would be required in order to bring the discussion on the amendment forward again?

The Chair: Basically, you would need unanimous consent to stay the motion for the time being. Then you would need unanimous consent to go to the motion that Mr. Julian would want to make to move to a different deadline for that motion we passed earlier, a few weeks ago, to take effect.

Mr. Blake Richards: The third element to that then, regardless of the outcome of seeking that unanimous consent by Mr. Julian, is how the amendment would be brought back. That's what I'm trying to get at here. Would I need unanimous consent to do that as well?

The Chair: The clerk can correct me if I'm wrong. If you were to ask for unanimous consent to stay that motion for the time being and didn't get it, then we would have to go to a vote on the motion.

Mr. Blake Richards: You're saying that should the unanimous consent not be granted at that point, we would go back to the amendment that we're currently discussing and that wouldn't require unanimous consent or....

● (1755)

The Chair: Yes.

Mr. McLeod.

Mr. Michael McLeod: Thank you, Mr. Chair.

I think we should stick to the motion. We're not intending to give unanimous consent. We're having a lot of discussion on that. Either we vote on the unanimous consent, or we vote on the motion.

The Chair: Are we ready for the question?

On CPC-9, I suspect you want a recorded vote?

Mr. Blake Richards: Yes. I do want a recorded vote, but I have a point of order after that.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

Mr. Blake Richards: I have a point of order.

Given that we have now had the motion defeated, much of the rationale that was provided by the government members for opposing it was that HUMA was currently undertaking a study of the topic at hand. As I had indicated earlier, HUMA is refusing to follow the timeline that it was supposed to follow, which would not allow for this to be brought back to the House and considered by the government in time for anything to be done before the next election. As I said, it's not about words. It's about action.

What I want to understand and get a ruling on is whether this committee can request that another committee do something. In other words, can there be a motion of this committee requesting that HUMA complete its report on this, given it has finished its witness testimony as of Thursday, and bring a report before the House rises for the winter recess? Is that something that's within our power to request?

The Chair: It's simple, I guess. This committee can't order another committee to do something, but we could ask another committee, as I believe we have asked three committees to take sections of this bill, and report back to us. We can ask them.

Mr. Blake Richards: Given that, Mr. Chair, could I move a motion that we request the committee on human resources, skills and social development to complete its report and present it to the House prior to the Christmas recess?

The Chair: That motion is in order. Give me the wording again, because it has to be an ask, not an order.

Mr. Blake Richards: Yes, that's understood. It would be something in the order of that our committee ask the standing committee on human resources, skills and social development—and I'll let you fill in the rest of the name—to complete their report, and that it be tabled by the chair in the House by December 13, prior to the Christmas recess.

The Chair: I don't want to take away from the debate here, but, as was suggested by the legislative clerk, there is another approach you could take. You could resubmit the amendment at report stage, arguing “exceptional circumstances” with the Speaker. You can consider that.

Mr. Blake Richards: You're talking about the amendment that was just defeated?

The Chair: Yes, once it's defeated, you can't resubmit it at the House, but you could argue "exceptional circumstances" in the discussion we had here.

Mr. Blake Richards: Thank you, Mr. Chair. I appreciate that advice.

The Chair: There's no guarantee it will happen. It's the Speaker's ruling.

Could we have the clerk read the motion? Then we will go from there. The motion is in order.

● (1800)

The Clerk: The motion is that the committee ask the HUMA committee to complete their report by December 13...in a sense, I think.

Mr. Blake Richards: It's to complete their report and present it to the House of Commons by December 13.

The Clerk: Yes, and present it to the House.

Mr. Blake Richards: I know we have a time situation. I'll speak very briefly to it.

This was raised at HUMA. There was—

The Chair: I don't want to interrupt you, Blake, but do we have unanimous consent to carry on this discussion? We might be able to get through it before votes.

Mr. Blake Richards: I'll keep it very brief, I promise.

Some hon. members: Agreed.

The Chair: The bells are ringing.

Blake.

Mr. Blake Richards: I want to keep it brief, because there's not a need to go on and on at this point.

I do believe that there seems to be some support on the other side for wanting to see them complete their work, but I hope there's an understanding of why the urgency is there.

I will make it clear that the timeline being proposed, although there has been some push-back on it, certainly is within the time we have. I've seen it happen in a number of committees. In fact, that committee brought forward a report in the exact same amount of time that it's suggested they do this one. That would be a much longer report than this one.

It's certainly something that's within our ability to do. I ask, in a genuine sense, that members on the other side understand the importance of this issue. I'm certainly hopeful that we can at least ask the committee to do this, so that it could be addressed in a timely fashion and not just used as an excuse.

The Chair: It is the understanding that it's not an order to committee; it's an ask. They will decide, in their own wisdom, what to do.

The motion is before us.

Mr. Fergus.

Mr. Greg Fergus: Could I seek clarification?

I thought the House had directed HUMA to take a look at this.

The Chair: Mr. Richards, can you...?

Mr. Blake Richards: Correct. That is what's happened.

The motion indicated that the committee should complete its work and have recommendations by December 8. With the timeline they're currently on, that will not happen. They've refused to consider a new timeline to enable that. There's really no reason they can't do that. It was made clear that it was possible.

All I'm asking is that we, as a committee.... I think there seems to be a fairly unanimous belief that this is something that should be looked at and dealt with. All I'm asking is that we write a letter to that committee asking them to do this. We can't order them to do it, but we can ask them, if we all believe that it's something that should be done and should be done in a timely fashion. The witnesses have been heard. We're simply asking that they complete that work prior to Christmas. It's something that's within their ability to do. This is just something that I think we as a committee could do to further the issue.

The Chair: We're not out of order here by dealing with this motion prior to dealing with the rest of the BIA, are we?

A voice: No.

The Chair: We haven't voted on clause 470 yet.

As long as we're not out of order in doing that, we'll deal with this motion and then come back to complete our work on the BIA.

Mr. Kmiec.

Mr. Tom Kmiec: What I heard during the debate on this clause was that there was agreement, I think, from some members on the substance, on the idea. Mr. Richards' motion before HUMA, duly passed by the House of Commons, deals with bereavement in a more general sense. This would be, I think, a specific letter on clause 470, more generally on leave in cases where parents have lost a child—not criminal-related, not kidnappings, none of those. It's not a disappearance. It would be a very specific thing to ask.

I have motions that I have tabled before this committee, asking for the committee to approve the chair's sending to another committee a letter asking for a study to be done. It's gentle nudging, the way I see it. It's just expressing our will on a substance or on an idea to just say, "Move faster. Consider the issue." We're not telling them what to do, because we can't, but we can nudge them along. These are our colleagues, after all.

The Chair: Mr. Fergus.

Mr. Greg Fergus: Mr. Chair, I would like to finish the business of the BIA before we consider this, and then break and perhaps adjourn so that we can go and vote, please.

The Chair: We might be able to finish it all, but I'm just wondering on procedure, because the motion was already moved. If it's tabled, can it be brought back today? We really should technically finish this first and then deal with the motion. I want to ensure that Blake's motion gets dealt with today, so what happens if we table it?

Can he lift it from the table today?

On the advice of the clerk, we will deal with the motion first, and then we'll—

● (1805)

Mr. Blake Richards: Mr. Chair, I sense that there is probably some desire to try to get a little time to consider this, or whatever. Because we do have bells, I would certainly allow us to have the vote first thing when we come back. We could suspend for the vote and then have the vote as soon as we get back. I still want the motion dealt with first, but I could do that if that would help government members.

The Chair: Can we deal with it this way then? Can we table this motion to after the vote and deal with the BIA now? There are only five votes left on this and then we're done. Then we would come back and deal with your motion.

Mr. Blake Richards: What I'm saying, Mr. Chair, is that I don't want to table the motion. I want the vote to be the next thing that occurs. If we wanted to suspend for the votes, that would give the members, if that's what they're seeking, some time to consider it. Then we could come back after the vote and deal with it immediately and then move on.

Mr. Greg Fergus: I wanted it the other way. I wanted to make sure we get the business dealt with before the votes.

The Chair: We have a bit of a procedural problem.

Mr. Blake Richards: Okay. If that's not the case, I do want the motion to—

Hon. Pierre Poilievre: We probably could have had the motion done by now.

Mr. Blake Richards: I misunderstood what the intention was, I guess.

The Chair: Mr. Julian.

Mr. Peter Julian: Because the vote is in 10 minutes, I don't think we'll be able to complete everything. It makes more sense, perhaps, to suspend now and come back after the votes, because we have two substantive things to do. I just don't think we're going to get through all of them. Let's take a break for the vote. We'll be back at seven, and we can continue then.

We have three votes.

Mr. Greg Fergus: Just for your information, we have 17 minutes left.

The Chair: We have 17 minutes left. Are people prepared to deal with the motion now?

Mr. Greg Fergus: I would prefer to deal with both.

Some hon. members: Agreed.

The Chair: All right.

Are there any more arguments on the motion?

Mr. Blake Richards: We want a recorded vote.

The Chair: This is on the motion to draft a letter to suggest that the other committee deal with the report.

(Motion negatived: nays 5; yeas 4)

The Chair: Shall clause 470 carry?

(Clause 470 agreed to on division)

(Schedules 1 and 2 agreed to on division)

The Chair: Shall the short title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Madam McLeod.

Mrs. Cathy McLeod: Mr. Chair, I do want to make one statement before we move to the final votes.

There are no longer hard copies provided. With 802 pages I guess they wanted to save us all from back injuries.

My concern is that there were three sections that related to my portfolio. There were no linkable links, so in order to actually get to the part of the BIA, in 802 pages, you actually had to scroll with a very slow-loading document. I think that if this ever happens again, it is a point of privilege for parliamentarians to do the work they need to do. Division 11, division 12 and division 19 were completely inaccessible for me to look at. I think it's unacceptable for a government to present an 802-page budget document in a form so that members of Parliament cannot actually look at the divisions they need to look at in an appropriate way.

The Chair: So recorded.

Shall the title carry?

Some hon. members: Agreed.

An hon. member: On division.

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

● (1810)

Mr. Peter Julian: I'd like a recorded vote on the reporting back, Mr. Chair, because this was the most appalling process.

It's no reflection on you, Mr. Chair. You're governed by what the committee members tell you to do.

Unfortunately, I find that we were not given the ability to properly analyze, amend and fix the flaws in the bill. Reporting back to the House preferably would include that these types of omnibus bills that are rammed through are not the appropriate way to go.

The Chair: Okay, we'll have a recorded vote.

(Motion agreed to: yeas 5; nays 4)

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: That completes the bill and the business of the committee for today.

There will be no meeting on Thursday. I think people have a fair bit of work to do on pre-budget consultations on their own. The Library of Parliament has informed us that they believe we'll have the draft report this Friday of the pre-budget consultations.

Can we get agreement that the recommendations should be to the clerk by noon on the 29th, so that they have the weekend? That gives us six days. I know people are already working on the recommendations anyway. If they could get their recommendations to the clerk by noon on the 29th, which is a week from this Thursday.... Can we agree on that?

Go ahead, Peter.

Mr. Peter Julian: Chair, I'd prefer another weekend for the pre-budget recommendations.

I mean, the intensity of what the government with all its resources is asking opposition members with scant resources to do is pretty incredible. I believe we have a relatively collegial committee, but we can't go from all out on your budget implementation act to all out on the recommendations.

Even to have, rather than Thursday, the following Monday, would allow us to get more work done and to provide the right type of support to get the recommendations in.

The Chair: I think the problem with the Monday is that for us to have our pre-budget consultation recommendations seriously considered, we have to table them before we adjourn. If we had the recommendations come in on the Monday, they have to be translated and have to be integrated into the report by the Library, and I think it gives them an impossible task.

Recommendations are different from legislation. When we get into committee, it's not as technical, if I could put it that way.

Mr. Peter Julian: I understand it's not as technical.

We got a lot of recommendations back in the hearings across the country, and to properly include them all requires a lot of work. One way to do it might be to say—

The Chair: What about 5 p.m. on Thursday?

Mr. Peter Julian: Would it be possible to say 5 p.m. on Thursday untranslated, but Monday morning, noon, if it is translated?

● (1815)

The Chair: Can we go to midnight on the Thursday?

Mr. Peter Julian: Is that B.C. time or eastern time?

The Chair: It's Ottawa time.

Mr. Peter Julian: Make it midnight B.C. time because that's when I get off the plane, and that will be fine.

The Chair: All right that's fine. It's midnight Thursday. It's agreed the recommendations will be in on B.C. time. The Library would be able to have them on Friday.

With that I want to thank everyone for their endurance today, especially the officials here.

The meeting is adjourned.