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Chair

Mr. Scott Simms

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• (0850)

[English]

The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)): I call this meeting to order.

Good morning, everyone. Before we get to our large grouping of guests this morning, I want to welcome some of our colleagues who are not normally with us but are here this morning to join us for Bill C-55 and our first clause-by-clause, a first for our lovely little committee on fisheries and oceans.

I first want to welcome Ms. Elizabeth May, MP for Saanich—Gulf Islands and also leader of the Green Party.

Thank you for joining us this morning.

Also, from Nunavut, Hunter Tootoo is with us. He is a former fisheries minister.

We have—I don't even have to look at this list to tell you his riding name—all the way from Malpeque, Mr. Wayne Easter.

How are you doing, Wayne?

Hon. Wayne Easter (Malpeque, Lib.): I'm doing dandy.

The Chair: Right. So are we.

Voices: Oh, oh!

The Chair: Also, from the Northwest Territories, we have Michael McLeod.

Thank you, sir, for joining us this morning as MP for the Northwest Territories.

I think those are all of our visitors. Otherwise, we have the normal crew, as we say.

Also joining us from the department for reference for this clause-by-clause, we have Darren Goetze.

We thank you very much for joining us this morning. Did I pronounce that correctly?

Mr. Darren Goetze (Director General, Conservation and Protection, Department of Fisheries and Oceans): It's close enough.

The Chair: Close enough. I get that a lot.

He is the director general of conservation and protection.

Also here is Jeff MacDonald, who is no stranger to us, of course, and he is the director general of oceans management.

From the Department of Natural Resources, we have Terence Hubbard, director general, petroleum resources branch, energy sector. He is joined by Candace Newman, senior policy adviser, who is also from NRCan.

Thank you for joining us.

This morning we have clause-by-clause for Bill C-55. What I'm going to do, folks, is briefly walk through this in terms of how this happens, because a lot of us are kind of new, except for Wayne. Wayne is somewhat seasoned. Notice how I couch that?

Hon. Wayne Easter: Like Larry.

The Chair: If this comes off the rails a bit, Wayne, perhaps you could help us out, nevertheless.

Each clause will be called separately. Each clause is subject to debate and vote. If there's an amendment to the clause, I will recognize the member proposing it, who will explain the amendment. The amendment will then be open to debate.

Amendments will be considered in the order in which they appear. You all have that package. Also, consequential amendments are voted on together. Amendments must be procedurally admissible. They must not be outside the scope of the bill.

As you would know, this bill already went through second reading. That's why it is here. At second reading, we as the House of Commons accepted the bill in principle, and therefore we cannot venture outside the principle or scope of the bill.

We must not offend the financial prerogative of the crown. I wrote that here verbatim, "must not offend the financial prerogative of the crown", because I like the way it was expressed. My goodness, we could say that about many things; nevertheless, we have to say it here.

Clauses can be revisited later as the debate may dictate. They then will be deemed as stood, for now. If we get bogged down on something, we can move to something else. We can move to the next one and deal with that one at a later time.

Amendments have a number at the top right corner, as you can see. For instance, right now, I'm looking at CPC-1, from the Conservative Party. Please note that "PV" is Parti vert, or Green Party.

No seconder is required for any of these amendments. Once an amendment is moved, unanimous consent is required to withdraw an amendment.

During debate on amendments, subamendments are permitted. The mover's permission is not required in this particular procedure. Only one subamendment is permitted at a time, and subamendments cannot be amended themselves. Also, subamendments are voted on first, and then another subamendment may be moved. Otherwise, you could then vote on the main amendment. That follows the course we've taken for other things that we've done on motions.

Once all clauses have been voted on, we vote on the title of the bill and then the bill itself in order to reprint it. If amendments are adopted, we will adopt a proper copy of the bill to be presented back to the House, of course, for report stage prior to third reading. The report we send back to the House will contain only the text of any adopted amendments, as well as an indication of any deleted amendments.

Are there any questions?

All right. As we say, we're off to the races.

There's one other thing, by the way. If there are no amendments being proposed to any of the clauses, I will group clauses together. You'll see what I mean as we get there. I need unanimous consent to do that.

Could I ask for your permission, I say this humbly, to group clauses together if there are no amendments being proposed?

Mr. Miller.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): I just have a suggestion.

If you wish, Mr. Chair, rather than group them together, which I don't have a problem with, if you say, "clause 7" for example, and give a reasonable amount of time—probably 10 seconds—and don't hear anything, then just ask for "agreed". If everybody agrees, you move on to the next one.

That's a quick way to do it, too. It's just a suggestion. The decision is up to you. I don't have a problem with grouping them, but it doesn't take any longer to do it the other way.

The Chair: Can I assume I didn't get unanimous consent?

Mr. Larry Miller: No. You got it from me. I'm fine. I'm just suggesting another way that will also be expedient.

The Chair: All right. Is everybody okay with that? I'll just do that.

An hon. member: Agreed.

The Chair: Okay, we'll do it that way.

I got unanimous consent, but I didn't. That's good. I like that.

Is everybody ready? Does everybody have their notes?

(Clause 1 agreed to)

(On clause 2)

Mr. Todd Doherty (Cariboo—Prince George, CPC): For clause 2, we would like to suggest, on page 2, adding the word "marine" to line 6.

A voice: That's clause 4.

Mr. Todd Doherty: Oh, is that clause 4? I'm sorry.

● (0855)

The Chair: Shall clause 2 carry?

(Clause 2 agreed to)

(Clause 3 agreed to)

(On clause 4)

Ms. May, you have the floor.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Thank you.

Members of the committee will recall passing the motion that requires Mr. Tootoo and myself to be here if we want to have any substantive impact on the bill. That's why we're here at your invitation. It's not a process I like, by the way, but let's move on because I need all your help today.

I have proposed, in your package, PV-4, which would have occurred in clause 5, to inject the notion of ecological integrity into the bill. I'm proposing to withdraw PV-4 and to replace it with the amendment that is now being passed to you. This one takes a slightly different tack to accomplish close to the same goal.

Clause 4 relates to subsection 35(1) of the existing Oceans Act. In that subsection, there's a list of criteria that ends at criteria letter (e).

If you had the original Oceans Act in front of you, you would see that marine protected areas could be designated for one or more of the following reasons: the conservation and protection of fisheries; the conservation and protection of threatened species; the conservation and protection of unique habitats; the conservation and protection of marine areas with high biodiversity; and so on.

I would inject a new paragraph (f), which would be "the conservation and protection of marine areas for the purpose of maintaining ecological integrity." Then, I would add a further subclause to define ecological integrity.

Just to give you some background on this, I consulted a lot with West Coast Environmental Law. I don't know if this will help me with my friends on the Conservative side, but the lawyer I worked with is Linda Nowlan. Her father, Pat Nowlan, was a long-time Progressive Conservative member of Parliament from the Annapolis Valley. I just want to mention that.

Linda Nowlan, lawyer at West Coast Environmental Law, recommended that we look at the language found in the 1999 final report of B.C.'s park legacy project.

I like very much Mr. Donnelly's ecological integrity amendment proposal, but this one, I believe, would work in terms of ecological integrity being a condition in which the structure, composition, and function of ecosystems are undisturbed by human activity, natural ecological processes are intact and self-sustaining, ecosystems evolve naturally, and an ecosystem's capacity for self-renewal and its biodiversity are maintained. This now becomes not a directive—as I was originally hoping in the amendment that I'm now prepared to withdraw—but a part of the reasons and criteria examined, and it injects into the Oceans Act a workable definition of ecological integrity.

I'm hoping for the forbearance of the committee to allow this amendment to replace the one that's in your package. Then, Mr. Chair, at your pleasure, we can debate it and vote on it.

The Chair: Before I seek that said forbearance, I want to point out to everyone that what she is speaking of is page 20 in your package. That's PV-4. She wants to withdraw it and replace it with PV-01. As she points out, we need unanimous consent.

Do we have unanimous consent?

Mr. Hardie, go ahead.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): What you are seeking is to withdraw PV-4.

The Chair: That's correct, and to substitute PV-01, of which you now have a copy.

Mr. Ken Hardie: Which we will then vote on.

The Chair: That's correct.

Mr. Doherty, go ahead.

Mr. Todd Doherty: If I understand our colleague correctly, the original amendment is on page 20, number 9275744. Is that correct?

The Chair: Yes. That's page 20, with “PV-4” in the right-hand corner.

● (0900)

Mr. Todd Doherty: This amendment would enshrine ecological integrity as a “first priority of designations made through this process. The concept of ecological integrity and the need for amendments to recognize it as a top priority was put forward by West Coast Environmental Law. Essentially, ecological integrity would maintain that the areas must be “undisturbed by any human activity” and that ecosystems regenerate naturally and in a “self-sustaining” way.

Our concern, obviously, is whether that recognizes the activities that were going on previously.

The Chair: Ms. May, go ahead.

Ms. Elizabeth May: If we are getting into the substance of the debate—

Mr. Todd Doherty: I'm sorry, Mr. Chair. I just want to fully understand—

The Chair: Yes, I understand.

Are you asking Ms. May a question? Do you want to do that?

Mr. Todd Doherty: Through you, Mr. Chair, I would like to ask our honourable colleague a question.

We've all submitted our amendments and recommendations. We've all had time, and the legislative assistants as well, to work through and fully understand the intent of each amendment and how it pertains to this act. I appreciate our honourable colleague's asking us for unanimous consent, but I just want to fully understand if there is anything different from what she has suggested in 9275744. Could she perhaps go into a little more detail as to what she intends?

The Chair: You are asking the question, and you don't need time; you're okay with just—

Mr. Todd Doherty: Yes.

The Chair: Ms. May, please proceed.

Ms. Elizabeth May: Thank you.

This process is a little awkward for everyone because of Mr. Tootoo and I having the position of not being members of the committee, but being instructed to be here to present amendments, as we don't get to do them at report stage. I am here based on what the committee has determined, but it means that I can't move my own motions, which is why we have this extra level of process.

The first version I had would make it mandatory for the Governor in Council and the minister to.... I regret to have to say this, but I am weakening my own amendment to take it from being a mandatory responsibility of the government to exercise powers in this direction.

To your point whether my original amendment would affect existing activities to the extent that any of the structure, composition, and function of the ecosystem has existing human activities, that's not a problem. The question is how much of the structure, composition, and function of the ecosystems is essentially undisturbed by human activity.

This would actually take that from being a mandatory duty to being a consideration. The language is the same around defining “ecological integrity”, but the impact is quite different, because my first amendment would have made it the minister's top priority in exercising control and management of a marine protected area. I am substantially reducing that mandatory duty by saying that when you are creating a marine protected area, this is a consideration.

I am hoping that it improves the act. What I am doing voluntarily today, in the hope of getting ecological integrity accepted in the act, is to reduce the mandatory responsibility of the minister and create a criterion that when you are creating a marine protected area, this is a consideration.

If anything, I think it reassures you as to what that language would mean. It no longer has the impact of saying that the minister shall do it; it's a consideration when you create a park, a marine protected area.

The Chair: Mr. Easter, go ahead.

Hon. Wayne Easter: I am wondering whether the witnesses, who I assume have this amendment before them, have any comments. What are the implications of this amendment versus the procedure that's in the act now?

The Chair: Go ahead, Mr. MacDonald.

Mr. Jeff MacDonald (Director General, Oceans Management, Department of Fisheries and Oceans): Are we talking about the amendment that's proposed or this subamendment?

Hon. Wayne Easter: I'm talking about Ms. May saying that the amendment she's proposing—I don't know if she has unanimous consent for it yet or not—weakens her original amendment a little. I'm asking the officials what the implications are of this new amendment in a marine protected area. Where is the department on it?

Mr. Jeff MacDonald: Subsection 35(1) is the subsection of the Oceans Act that we use when we bring regulations forward to designate a marine protected area. We have to refer to one of those subsection 35(1) paragraphs (a) to (e) in the current Oceans Act when we propose a regulatory package to the Governor in Council. This subamendment would add new proposed paragraph 35(1)(f), which would mean that an MPA could be proposed under new proposed paragraph 35(1)(f) for the purposes of maintaining ecological integrity. That would become one of six reasons that the minister could create a marine protected area.

● (0905)

The Chair: Normally we go directly to unanimous consent. If that's your concern, however, given the fact that there seems to be a fair bit of confusion here over what's going on, I'm going to let this go for now so that unanimous consent can be done with more knowledge to this.

Mr. Easter, and then Mr. Doherty.

Hon. Wayne Easter: I guess my interpretation of what you said then with the amendment is that it would actually enhance the ability to get ecological integrity. I think that would be my summary of what you're suggesting.

Mr. Jeff MacDonald: It would allow the minister to propose to the Governor in Council a marine protected area based on ecological integrity as a criteria among other reasons.

Hon. Wayne Easter: Okay.

The Chair: Mr. Doherty, go ahead.

Mr. Todd Doherty: Can Mr. MacDonald give an example of where that might be applied?

Mr. Jeff MacDonald: We did examine the concept of ecological integrity when we saw the original amendment, and it is a concept that's used obviously more in a terrestrial context, but our understanding in the marine context is that this would allow for the establishment, for example, of what would be considered a marine reserve in other countries. It's one where the primary reason for creating that protected area would be to preserve the ecological integrity of the whole area for particular species, etc. It's a concept that is also linked to marine protected area networks in the sense that you are trying to link ecologically different sites, but it is a policy practice in the oceans program, especially in network development, to seek ecological integrity.

Mr. Todd Doherty: I have a further question, and I apologize to our colleagues. Again, we want to give this legislation its full due when we're considering this. It is an important piece of legislation as we move forward. So to fully understand this, if we have fishing such as bottom trawling or exploration that has been ongoing, or could be deemed as taken place in the year previously, that could be prohibited due to the threat to the ecological integrity. Am I understanding this with this amendment?

Mr. Jeff MacDonald: I think with regard to the subamendment we're talking about the regulatory-making powers of the minister. So, when the minister proposes to the Governor in Council a marine protected area, the package must refer to one of the reasons under subsection 35(1). With regard to the question on fishing activity, that's in the context of the other part. That's part of Bill C-55, which is the “freezing the footprint” concept that is related to a ministerial order. The ministerial order is not intended to be the final MPA. It's the Governor in Council MPA. By this subamendment being one of the reasons, it would be part of the reasoning for a package submitted to the Governor in Council.

The Chair: Just to remind everybody, Ms. May is asking for withdrawal of PV-4, which is page 20, to be replaced by PV-01. What I am doing now is seeking unanimous consent to do just that. Is there unanimous consent?

Some hon. members: Agreed.

(Amendment withdrawn)

The Chair: We have two similarities here based on “ecological integrity”, and I think Ms. May may have touched on it earlier. We now have PV-01 as well as NDP-4, which is on page 22, both dealing with “ecological integrity”.

We are trying to clarify the similarities between the two.

Ms. May, go ahead.

● (0910)

Ms. Elizabeth May: For what it's worth, Mr. Chair, when I said we're through with PV-4, it was because I am not a member of the committee, and I don't think I can put forward amendments that are that similar. I think Mr. Donnelly's amendment NDP-4 and this first one, which I now understand is PV-01, are not conflicts that would require that his not be considered if mine passes.

The Chair: They are not conflicts.

Ms. Elizabeth May: They are not conflicts.

The Chair: That's right, so his will be considered when we get there. There's no doubt about that.

Now, we're off to the races once again.

That being said, on PV-01, Ms. May.

Ms. Elizabeth May: I think I got to submit it, and I think we got to debate it before unanimous consent, so I'm just going to sit here with my fingers crossed.

Some hon. members: Oh, oh!

The Chair: You are a treasure this morning. Thank you very much.

Mr. Hardie, go ahead.

Mr. Ken Hardie: On this amendment, again, drawing attention to the fact that this bill would allow the minister to designate interim protected areas, as an interim protected area, the intention is, for the most part, to allow pre-existing activities to continue.

If I look at PV-01, and if we apply the conditions that you have in new proposed paragraphs 35(1.1)(a), (b), (c), and (d), the only way I could see this being used as criteria for the minister to designate an interim protected area is if it's a portion of the ocean where nothing is happening.

The Chair: Mr. Hardie, I hate to get all game show *Jeopardy!* on you. Is this in the form of a question?

Mr. Ken Hardie: Yes, it is.

The Chair: For whom?

Mr. Ken Hardie: I was going to ask Mr. MacDonald to comment on that. Is this a plausible rationale for indicating an interim protected area? Are there situations where the minister would want to protect an area where currently nothing is happening?

Mr. Jeff MacDonald: Mr. Chair, certainly there would be circumstances where the minister may want to do that, especially if we're talking, for example, about areas of the ocean that we may have discovered have important ecological features where there has not yet been any human activity.

One of the examples that I think we spoke about when we were presenting the bill was when the minister was here, he was explaining the Hecate Strait marine protected area. It was discovered to be a significant ecological treasure for quite some time. There were no human activities affecting the corals, so an interim protection order could protect that area as an interim measure while the final Governor in Council regulations were being established.

There are perhaps other areas of Canada's oceans that have not yet been explored. Some of them are covered in ice. That would be an example where you could use ecological integrity as a reason for creating an interim protected area.

My understanding, though, in terms of the interim protection MPA, is that Bill C-55 gives the minister the authority to freeze the footprint. However, ongoing activities would continue to be allowed, so it would only be in the context where, as you say, there are no ongoing activities currently.

●(0915)

The Chair: Thank you, Mr. MacDonald.

Mr. Hardie.

Mr. Ken Hardie: To just finish off the question, the application of ecological integrity is an option but it's not mandatory.

Mr. Jeff MacDonald: That's correct.

When we propose a regulatory package, either through a ministry order—because that's a regulatory instrument—or through a Governor in Council regulation, the package has to refer to subsection 35(1) of the Oceans Act and say that we are creating this regulation for this reason. So proposed new paragraph 35(1)(f), in this case, would become one of the reasons that the minister could use.

The Chair: Thank you, gentlemen.

Mr. Arnold.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): Mr. Chair, I would request that either Ms. May or one of the expert witnesses here define “ecological integrity”. For example, I don't

think there's anywhere in the world that hasn't been touched by human activity in some way, so what would be the definition of “ecological integrity”?

The Chair: Are you asking Ms. May, or...?

Mr. Mel Arnold: I'm asking either-or, or both.

The Chair: Ms. May, go ahead.

Ms. Elizabeth May: I'll direct your attention to proposed new subsection 35(1.1) in my amendment. It essentially sets out a definition, although it doesn't say it is a definition. It says, “ecological integrity means a condition in which”, and then there are four paragraphs.

As I mentioned, this came from this particular language. In looking for language that would be appropriate for ecological integrity in a marine context, for instance, I looked at the definition of “ecological integrity” found in the Canada National Parks Act. However, it was quite terrestrially bound. This language comes from a 1999 work of the British Columbia government on the park legacy panel and, as I mentioned, was suggested to me in working on this with the West Coast Environmental Law team. It means a condition in which:

- (a) the structure, composition and function of ecosystems are undisturbed by any human activity;
- (b) natural ecological processes are intact and self-sustaining;
- (c) ecosystems evolve naturally; and
- (d) an ecosystem's capacity for self-renewal and its biodiversity are maintained.

Bear in mind, again, that this becomes one of the paragraphs (a) to (f) reasons for creating a marine protected area. It doesn't mean that every marine protected area must meet these conditions. It just means that this gives the minister an additional criterion with which to establish a marine protected area.

I hope that helps.

The Chair: Mr. Doherty.

Mr. Todd Doherty: I really appreciate the conversation we're having on this, wrapping our heads around what this could mean in terms of let's talk not just to our fishers but our shippers as well.

Through you, Mr. Chair, to our honourable colleague, we talked about the structure, composition, and the function of the ecosystem. When we're talking about ecological integrity I think in the conversation we had earlier on this topic, we talked about bottom trawling and how our fishers and some activities, whether it's exploration or something else, could damage some of those areas. But our ecosystem is always flowing, it's ever moving. We heard testimony from a number of witnesses that ecosystems flow, and whether we designate it with some invisible lines and boundaries or not, that ecosystem is always moving. This is, as you mentioned, about a network of marine protected areas. It could be applied more to a network of marine protected areas.

To the comment of my honourable colleague, Mr. Arnold, on whether it's shipping, whether it is other human activity, whether it's on top of the surface, whether it is below the surface, or whether it is impacting the solid structures of the marine base, this language could have an impact on that.

Again, we just announced an Arctic moratorium, because whether there has been commercial fishing or fishing in those areas, most of it is beneath the ice surface. Again, we have significant areas along our longest coastline that have a lot of trade that goes through, and we have international agreements with other countries in terms of shipping and trade.

To my honourable colleague, how would this impact that? Again, I appreciate the conversation and I'm glad you're here so that we can have this discussion, because now we're looking at ecological integrity at a few different levels. We're not looking at it just as the structure base; we're looking at it as a flowing system, whether it is, as I said, the surface or below the surface or the marine base, the land below it.

● (0920)

The Chair: Ms. May.

Ms. Elizabeth May: Again, to go back, section 35(1) sets out the conditions that prompt the minister to want the designation, so not every marine protected area would be created for the purpose of protecting its ecological integrity.

The definition of “ecological integrity” encompasses what you're saying in terms of it is an evolving condition so that the natural processes are understood to be evolving. To go back to the example of the Hecate Strait, as you say, there is nothing untouched by human activity, and if we start talking about ocean acidification, all bets are off on marine protected areas, but I'm going to stay away from ocean acidification for the moment and use the example of the Hecate Strait.

You have shipping. It's not disturbing the structures of the corals.

Mr. Todd Doherty: Sorry, Mr. Chair, may I...?

The Chair: Go ahead, Mr. Doherty.

Mr. Todd Doherty: But it could be deemed as having an impact on the ecological integrity, though, by your definition of this. Is that correct?

Ms. Elizabeth May: No, because the structure, composition, and function—

Mr. Todd Doherty: Function.

Ms. Elizabeth May: —are undisturbed by human activity.

So if you're looking at the structure.... Human activity can take place.

Mr. Todd Doherty: But shipping could, though. Is that correct?

Ms. Elizabeth May: It wouldn't interfere with the structure, composition, and function of the ecosystem at all.

The answer is going to be that if this is the reason you're creating a marine protected area, for its ecological integrity, that's when you create it. Then your management systems are a whole set of additional decisions, regulation-making, and so on.

I have additional amendments further on in this package that I can tell you're not going to like, that would say that we shouldn't allow bottom trawling in marine protected areas. But that's not the decision that's made at the creation. The creation of a marine protected area now has criteria (a) to (e). With this amendment accepted, it would have criteria (a) to (f) and that criterion (f) might never be used by a

minister, but if it were used, then the purpose of creating the marine protected area would be to protect its ecological integrity and that would apply to specific ecological treasures that we find in our marine zones.

The Chair: Mr. Doherty, did you...?

Mr. Todd Doherty: Really quickly, I will give the example of a tanker moratorium.

The Chair: Ms. May.

Ms. Elizabeth May: I don't think that is an apt.... It's a non sequitur because what we're talking about is when you create a marine protected area, what is it about that natural zone in the ocean that you want to make it a marine protected area.

Around the world marine protected areas have, for instance, caused a tremendous improvement in fishing results for local fishermen, because a zone has been created where the fish populations can replenish themselves, and it actually improves fishing activity.

A tanker moratorium is quite distinct from anything to do with a marine protected area.

Mr. Todd Doherty: I'm just using that as an example.

Ms. Elizabeth May: I just don't think it really works. I'm sorry. I'm really trying to answer the question in terms of a legal statutory interpretation. I don't think it's in the same basket of considerations that applies to what you're doing under proposed subsection 35(1).

The Chair: Mr. Arnold.

Mr. Mel Arnold: Mr. Chair, I would like to ask Ms. May or perhaps our expert witnesses.

The Chair: Which one?

Mr. Mel Arnold: I'm not sure which one may be better to answer this.

Should an interim MPA be designated under this section for the purpose of maintaining ecological activity, would that prevent any management measures within that MPA, say, for predator control or fisheries management?

● (0925)

The Chair: Ms. May.

Ms. Elizabeth May: Again, under the Oceans Act we're looking, first, at the question of how you designate a marine protected area. All subsequent questions of how you manage marine protected areas are undertaken by Governor in Council, and they wouldn't necessarily.... You might, and you might not. Nothing's dictated by this that's different from other marine protected areas. You're creating the designation for the purpose of protecting ecological integrity, and decisions that are taken on a case-by-case basis are based on science.

Mr. Mel Arnold: Thanks for that response, but proposed paragraph 35(1.1)(a) states:

the structure, composition and function of ecosystems are undisturbed by any human activity;

To me, that would preclude any human intervention once the MPA was established under this criteria.

Ms. Elizabeth May: The interpretation you're taking is that the reason you're creating a marine protected area is that you can't have any human activity. We're already saying that the "structure, composition and function of ecosystems are undisturbed by any human activity". It doesn't mean that the zone has no human activity. It means the structure, composition, and function of the ecosystems.

For instance, when you look at our national parks system, which has a definition of "ecological integrity" that applies, you see that national parks on land are to maintain ecological integrity. That's a fundamental goal, but we know there's a lot of human activity in national parks. We don't want the activity on our terrestrial parks to overwhelm the ecosystems such that the structure, composition, and function of the ecosystems are disturbed by human activity. It doesn't mean there is no human activity occurring. It means that the level of human activity does not compromise natural ecological processes that you want to have continue and be self-sustaining, which includes, of course, the natural restoration of marine animal populations.

The health of the marine ecosystem is defined by criteria in proposed paragraph 35(1)(f) to say you are creating a marine protected area for this purpose. It won't be every marine protected area, but it does not preclude human activity even when you designate it because of its ecological integrity goal. That does not mean you can't have human activity in the area. It just means the human activity you have is consistent with maintaining ecological integrity.

The Chair: Thank you, Ms. May.

Mr. Arnold.

Mr. Mel Arnold: Perhaps then I could ask if any of our expert witnesses could respond to my concern that "undisturbed by any human activity" would preclude any fisheries or wildlife management within that.

The Chair: Mr. MacDonald, I'm only singling you out because—

Mr. Jeff MacDonald: I can answer Mr. Arnold's question.

The Chair: Okay.

Mr. Jeff MacDonald: He was originally asking in the context of interim protection MPAs with regard to the minister's order. Bill C-55 currently says that when the minister makes an order—he has the option not to—he shall list the classes of activities that are ongoing activities. If there is an ongoing activity, the ministerial order can't restrict that, with the exception of paragraph (c) where, as he is also the minister responsible for fisheries, he may curtail fishing activities under his purview as the minister responsible for fisheries management.

Any other activity would have to be listed as an ongoing activity in the context of the interim protection MPA. The restrictions over and above that would need to come through a Governor in Council regulation after the interim protection MPA order is within the five years as outlined in Bill C-55.

The Chair: Thank you, Mr. MacDonald.

The other Mr. McDonald is next.

Mr. Ken McDonald (Avalon, Lib.): I would simply encourage this subamendment to at least move to a vote. We have other

amendments on this clause. I don't know how everybody else feels about it.

The Chair: This is an amendment.

Mr. Ken McDonald: Amendment or subamendment.

The Chair: Are we ready for the vote?

Some hon. members: Agreed.

The Chair: That being said, this is now amendment PV-01, which replaced PV-4.

Shall the amendment carry?

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

The Chair: We now go to CPC-1 from Mr. Doherty.

Mr. Doherty.

● (0930)

Mr. Todd Doherty: It's simply adding the word "marine" to line 6. Our amendment would be on line 6, page 2. It reads:

"national network of marine protected areas on behalf of the Gov—"

The Chair: Mr. McDonald.

Mr. Ken McDonald: We'd agree with the modification; however, the French text should read:

[*Translation*]

"dans le réseau national d'aires protégées au nom du gouvernement du Canada".

[*English*]

The Chair: First of all, I'm dazzled by your good French, sir.

Mr. Ken McDonald: I appreciate that, sir, from one Newfoundlander to another.

The Chair: From one Newfoundlander to another, that was quite exceptional and pleasing to the ear. Not only that, but now I have to ask you to repeat it, and I expect the same eloquence.

[*Translation*]

Mr. Ken McDonald: It should read: "dans le réseau national d'aires protégées au nom du gouvernement du Canada".

[*English*]

The Chair: Please don't take this the wrong way, but do you have that in writing?

[*Translation*]

Mr. Ken McDonald: Yes.

The Chair: Give me a moment, please.

[*English*]

We're going to hold on for just a second until we get the right wording.

This comes in the way of a subamendment. I'm assuming you're finished with the discussion, unless you want to continue to wax on so eloquently as you did before. I'm not making fun of you, by the way, I thought that was good.

We will vote on the subamendment, and then on the main amendment CPC-1. We're fixing the French for the correct translation.

Mr. Miller.

Mr. Larry Miller: We shouldn't need a subamendment just to make sure the text is in the proper French. I'm going to trust the analyst to make sure that it is. I fail to understand why we need a subamendment. We're correcting it, and that's what we want. We want it to have the same meaning in both languages.

The Chair: I understand what you're saying, but given the amount of time it would take, we have to do this anyway. Why don't we just do the subamendment to make sure. As you pointed out earlier, it doesn't take a long time, right?

Mr. Larry Miller: Or, they can work on it afterward, and we can move on to the next one.

The Chair: I kind of need their attention as well. We're new here. I apologize that it's taking time, but let's get this right. After all, this is legislation, right?

We're going to need about two or three minutes, so we'll suspend.

• (0930) _____ (Pause) _____

• (0940)

The Chair: That may have been the longest two minutes of our lives.

Nevertheless, it was suggested earlier about doing these fixes at the end, but quite frankly, folks, I want to let you know that wording is very important here. You have to vote on the exact wording as eloquently put forward by Mr. McDonald.

Is he ready to repeat it to vote on the subamendment?

Mr. Ken McDonald: Again?

The Chair: In its correct form. We did manage to hammer something out here. Could I get you to read it out?

Ms. Elizabeth May: Saint-Pierre and Miquelon has a big French influence, so he's naturally good in French.

Mr. Ken McDonald: Placentia, which in French is "Plaisance", has a very French connection as well. It's in my riding.

The Chair: Mr. McDonald, we have a question from the table for you.

Mr. Philippe Méla (Legislative Clerk): Just to make sure I understand what the French would look like, it would be:

[*Translation*]

"d'un réseau national d'aires marines protégées"?

Mr. Ken McDonald: Yes.

Mr. Jeff MacDonald: Excuse me, Mr. Chair, but the wording in French is "une zone de protection marine".

[*English*]

That's the term used in French. That's referring to a marine protected area under the Oceans Act, whereas the context in which the amendment is made is in networks of marine protected areas, which include other forms of marine protection besides those under

the Oceans Act. It's a term that we bandy about in English. We say MPAs and in this case, we're talking about a network of MPAs.

[*Translation*]

It's clearer in French. It can say "zone" in the Oceans Act, and "un réseau d'aires marines protégées" for a network.

The Chair: Thank you, Mr. MacDonald.

Go ahead, Mr. Méla.

[*English*]

Mr. Philippe Méla: I have a question for Mr. Doherty, if I may.

Since you want to change "protected areas" to "marine protected areas", there's a heading just above that in the bill that says "Network of Protected Areas", would you like to change that as well at the same time? It would be "Network of Marine Protected Areas".

Mr. Todd Doherty: That's correct.

Mr. Philippe Méla: Then in French, again if I may, it would be

[*Translation*]

"réseau national d'aires marines protégées".

[*English*]

Mr. Todd Doherty: Yes, agreed.

Thank you.

Mr. Philippe Méla: Thank you.

• (0945)

The Chair: We're going to combine those two changes into one subamendment.

Does everybody understand what Mr. Méla just read out?

Shall the subamendment carry?

(Subamendment agreed to)

The Chair: Shall amendment CPC-1 as amended carry?

(Amendment as amended agreed to)

The Chair: I think someone said politics is like sausage making.

Mr. Miller.

Mr. Larry Miller: Mr. Chair, could I suggest that if any of the committee members have any more clauses where French interpretation is a problem that we give it to the legislative clerks now so they can work on it so we're not spending a huge amount of time on this?

The Chair: The problem with that, Mr. Miller, is that I need their undivided attention, but rumour has it that's the only one.

PV-1 is where we travel to next.

Ms. Elizabeth May: Mr. Chair, based on the change we just made, I may want to amend my own amendment. I was working off of the chapeau paragraph for mine, which was subsection (2), where we omitted the word "marine". My amendments that work from there do the same thing.

Let me explain the purpose of the amendment, and then if it's acceptable to the committee to insert the word "marine" before "protected areas" in both instances in this amendment, that would be great, although someone other than me may need to move it.

This amendment comes from evidence and testimony you've heard from groups like Ecology Action Centre, West Coast Environmental Law, Conservation Council of New Brunswick, and so on. What we're looking at here is the network of protected areas and what the minister shall do to lead and coordinate its development. I'm adding a subclause to that, an additional subclause, (2.1), as follows:

(2.1) In performing his or her duties and functions under subsection (2), the Minister shall ensure that

(a) clearly identified objectives are set with regard to each protected area; and

(b) the network of protected areas covers diverse habitat types, biogeographic regions and environmental conditions.

This way, the network, like a network of terrestrial protected areas, talks about having representative ecosystems. A network suggests something different from an individual area. It's a question of putting together clear objectives for an individual protected area that we have within a network of several protected areas, diverse habitat types, biogeographic regions, and environmental conditions. In other words, a network is more than the same thing over and over again. You're looking for some diversity.

That's what amendment PV-1 would accomplish if you're so kind as to consider it.

The Chair: Something's been pointed out here, namely, the similarities between PV-1 and what follows with NDP-1. They are not similar enough such that they would be coupled together and there would be only one vote. However, this is where the wrench comes in. Adopting one means it's difficult to adopt the other. We're going to have a vote on each one, but the committee has to decide which one it goes with.

That being said, we just heard PV-1, and now, to try to make things more simple, I'm going to go to Mr. Donnelly to discuss NDP-1. That way, if we have to make a choice, the choice will be in front of us and both members will have had their say.

With the committee's permission, before I go to Mr. Doherty, can I go to Mr. Donnelly to discuss NDP-1?

Is any more explanation required? They are different enough that they require two different votes, but you cannot have one with the other. Therefore, this committee has to come to terms with which one it wants.

I'm now going to Mr. Donnelly to discuss his amendment.

● (0950)

Mr. Fin Donnelly (Port Moody—Coquitlam, NDP): Mr. Chair, I thank the committee for considering this.

NDP-1 would require the minister to prioritize ecological objectives when creating networks of MPAs. Canada's Oceans Act sets the ground rules for MPA network planning and marine spatial planning. This amendment would require the minister to create more comprehensive, meaningful networks of MPAs. It instructs the minister to use his or her power to establish marine protected area

designations over a broad area or a suite of sites that comprise an MPA network for enhanced protection following the completion of comprehensive ecosystem-based management plans.

England and Scotland have demonstrated that this regional approach can lead to rapid designations of multiple sites in a short time frame.

This amendment is based on the briefs provided and committee testimony of the leading environmental organizations in Canada working on MPAs—West Coast Environmental Law, East Coast Environmental Law, Ecology Action Centre, CPAWS, WWF-Canada, David Suzuki Foundation, and the Conservation Council of New Brunswick.

The Chair: Thank you, Mr. Donnelly.

It's not because I'm trying to do this, folks, but we have one other complication that we have to deal with right away.

If you recall, on CPC-1, the term "marine" was put into the heading. If you turn to the bill itself, the current title is "Network of protected areas". We changed it to "Network of marine protected areas". Since we are still under that part, we now have to amend both amendments, even though we're only going with one. We still have to amend both PV-1 and NDP-1 to include the word "marine" in both.

Now, NDP-1 we'll get to, but in the meantime, someone has to propose a subamendment to PV-1 to include the word "marine".

Mr. Ken Hardie: So moved to amend PV-1, in proposed paragraphs (2.1)(a) and (b) to insert the word "marine" just before protected areas.

Ms. Elizabeth May: Exactly.

The Chair: Thank you for that, Mr. Hardie. I appreciate it.

Mr. Miller.

Mr. Larry Miller: Could I ask Mr. Hardie, through you Mr. Chair, for a friendly amendment that his amendment, which I support, be slightly amended so that it would include all future references to where "marine" should go. I think it's unnecessary to have to vote on this every time we come to it. That's all.

The Chair: True, but we cannot do that, sir. This is called clause-by-clause consideration for a reason: we have to go clause by clause.

Mr. Larry Miller: I understand that, Mr. Chair, but...

The Chair: Each one has to be done.

I understand that you want expediency, sir, but we have to—

Mr. Larry Miller: I know it's been done in the past, Mr. Chair, with no problems.

The Chair: Oh. Which wasn't done correctly—sorry.

Right now, we only have the one heading. Just to put your mind at ease a little bit, we only have to do it within these few amendments. Once we get past this heading in the legislation, "Network of protected areas", which is now "Network of marine protected areas", we'll be done with that.

Okay, we have a subamendment on the floor put forward by Mr. Hardie.

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

The Chair: Now, back to the main amendment, PV-1, as amended.

We have PV-1. We've also had NDP-1.

If there are no more comments on that, you now have to make a choice as to which one you want.

I still have to go through the process of calling for a vote on PV-1 and NDP-1, one of which you'll accept. Is that understood?

Shall amendment PV-1 as amended carry?

• (0955)

Mr. Todd Doherty: That's ours, or is that the NDP's?

The Chair: It's the Green Party's amendment, PV-1, Parti vert.

Mr. Todd Doherty: Okay.

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

The Chair: Now we go to NDP-1.

We already had comments from Mr. Donnelly.

Shall amendment NDP-1 carry?

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

The Chair: Thank you, folks, for your patience. That's one of the longer clauses in history now, isn't it?

Shall clause 4 as amended carry?

(Clause 4 as amended agreed to [See *Minutes of Proceedings*])

(On clause 5)

The Chair: We have amendment CPC-2.

Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, we are suggesting to delete the definition of "ongoing activities" in the bill and change it to "eligible activities". Essentially, the amendment gets rid of the one year prior and allows eligible activities to continue regardless of an arbitrary timeline.

We've heard testimony from a number of witnesses that one year was not enough. They would like to see up to five years. What we are suggesting is, if everybody's following along that clause 5 be amended by replacing line 26 on page 2 to line 3 on page 3 with the following:

eligible means, with respect to an activity in the area of the sea that is designated by an order made under subsection (2) as a marine protected area, that the activity has not been identified in the order as a prohibited activity.

The Chair: Before we go to any more comments, I'd like to point out that there are a couple of things that are going to happen as a consequence if this passes.

This is CPC-2. Have a look at that. It's consequential to CPC-5, which means the vote on CPC-2 would be applied to CPC-5 if it is passed, because of their similarities, or it's negated, CPC-5 would be negated as well. I've been wanting to use that word all day, negated.

Mr. Todd Doherty: Would you like us to talk about CPC-5?

The Chair: Since they're consequential, you can add further comment regarding CPC-5, if you wish, but before you do that, there's another consequence. If CPC-2 is adopted, CPC-3 cannot be moved due to a line conflict.

Mr. Todd Doherty: CPC-3.

The Chair: Right. If you adopt CPC-2....

At this point, Mr. Doherty, you can add to your comments on CPC-2 to discuss CPC-5, which is consequential.

Mr. Todd Doherty: Stand by, Mr. Chair.

The Chair: How much time should I stand by for?

Mr. Todd Doherty: Can we have just a second, Mr. Chair?

The Chair: Sure.

Mr. Arnold, do you have a comment?

Mr. Mel Arnold: Could you clarify? You mentioned that CPC-2 and CPC-3 would be conflicting.

The Chair: Correct. If we adopt CPC-2, then CPC-3 is dropped.

Mr. Larry Miller: Can you explain why, Mr. Chair?

The Chair: Go ahead.

Mr. Philippe Méla: CPC-2 would essentially delete the definition of "ongoing", from lines 24 on page 2 to line 3 on page 3, but CPC-3 would amend lines that are in that definition. If we delete the definition of "ongoing", and insert a new definition, then CPC-3 doesn't have anything it would amend anymore because those lines would be gone. There's a line conflict.

• (1000)

The Chair: Okay. We're ready to roll.

Do you still need to suspend?

Mr. Todd Doherty: Yes.

The Chair: Folks, we have a two-minute suspension. Let's hope this two minutes is quicker than the last one.

Okay, let's pick up where we left off on CPC-2. I explained the consequences, which everybody understands.

Mr. Doherty.

Mr. Todd Doherty: We were going to explain CPC-2 and CPC-3. Is that correct?

The Chair: It's CPC-2 and CPC-5.

Mr. Todd Doherty: CPC-2 and CPC-5, sorry.

The Chair: Do you want to add further comment to CPC-5?

Mr. Todd Doherty: To CPC-3.

The Chair: Because they're consequential.

Mr. Todd Doherty: Right, CPC-2 and CPC-3, because they're both the same, correct? That's what we were saying.

The Chair: No, CPC-3 will be dropped as a consequence of accepting CPC-2.

Mr. Todd Doherty: Right. We will withdraw CPC-5.

Actually, let's talk about CPC-2 first.

The Chair: On CPC-2, go ahead.

Mr. Todd Doherty: Mr. Chair, again we'll go back to the comments we made earlier. Time and again we had testimony from witnesses, that perhaps there were seasonal activities that may not fall within one year but could fall within three or five years in fisheries, for quotas and what have you. Witnesses said that if it's a year prior, what if they weren't fishing the year prior but had been fishing two years previously?

We would like to ensure that by amending lines 29 and 34, or putting in the word "eligible" instead of "ongoing", that would help us with some of the testimony we heard from witnesses.

The Chair: You're talking about CPC-2, right?

Mr. Todd Doherty: That's correct, inserting—

The Chair: You just explained that you're not asking for a subamendment, obviously.

Let's vote on CPC-2. Shall amendment CPC-2 carry?

All those in favour, please raise your hand. All those opposed.

The amendment is negated, so CPC-5 is negated as well.

Mr. Mel Arnold: Chair.

The Chair: One moment, Mr. Arnold, until I get this straight. Now we're on CPC-3. Take amendments CPC-2 and CPC-5 from your package. They're dispensed with.

Mr. Arnold.

Mr. Mel Arnold: I believe you said that if CPC-2 passed, it would negate CPC-5. CPC-2 did not pass, so CPC-5 should still be eligible.

The Chair: Sorry, I may have misspoke. They're consequential, meaning that the result of the vote applies to both.

Mr. Mel Arnold: No, that's not what I understood.

Mr. Todd Doherty: If you misspoke, you could have influenced the vote.

The Chair: Your understanding was that only if it passed, because consequential means I link the two.

Mr. Todd Doherty: That's right.

Mr. Mel Arnold: That's right, only if it passed.

The Chair: Okay, so you're saying you didn't get that understanding.

Mr. Todd Doherty: I think we're seeing—

•(1005)

The Chair: All right. My sincere apologies. Whether I can put this machine in reverse, I'm not really sure, but I'll just check.

To avoid any confusion on that, I am seeking unanimous consent to back up a bit so I can clarify what I said.

Some hon. members: Agreed.

The Chair: There's unanimous consent. Nobody's opposed. Thank you very much, folks. My apologies.

In the meantime we're seeking some clarification on amendments CPC-2 and CPC-5.

Philippe, can I get you to speak?

Mr. Philippe Méla: Is that for Mr. Doherty?

The Chair: Mr. Doherty, yes.

Mr. Philippe Méla: My understanding is the two amendments are working together since, in CPC-2, you are defining what "eligible" means—

Mr. Todd Doherty: That's correct.

Mr. Philippe Méla: —and then in CPC-5 you indicated "(a) shall list the classes of activities that are eligible".

Mr. Todd Doherty: Right.

Mr. Philippe Méla: Our understanding was they work together because you're using the term that's defined. In essence, since the definition was negated, CPC-5 would follow the definition because they go together. Unless you see differently, and you don't agree with me and say that "eligible" doesn't need to be defined, but then it may leave a void. In explaining that you have a term "eligible", we wouldn't know what that means, I suppose, but that's up to the official to explain.

The Chair: That's the explanation for what is consequential, correct?

Mr. Philippe Méla: Correct.

Mr. Todd Doherty: The concern we have—and again, we heard it in terms of CPC-2—is the term "eligible". Using "eligible" rather than "ongoing", as we heard mentioned earlier, with respect to the testimony.... It even goes to some of the earlier testimony, other amendments, goals and objectives. We want further clarification. We believe that, at this point, we should have clear information or dialogue content that outlines eligible activities.

We also heard "ongoing". What does ongoing mean? We heard testimony that one year.... As I mentioned earlier, they may not have fished the previous year, correct? We are trying to change the word to be more representative of the intent of this bill in terms of what is eligible and what isn't eligible. That is the intent of that.

Changing the word in CPC-2 from "ongoing" to "eligible".... You're right, it could be seen as duplication. Moreover, we're trying to put into this some clear delineation as to what is eligible, because there was confusion even with the testimony that we had from witnesses.

The Chair: Mr. Hardie.

Mr. Ken Hardie: Perhaps this is something that staff can help us out with. I had the same concerns. A year doesn't necessarily capture what may have been going on in a two- or three-year cycle.

I've been led to believe that the term "ongoing" will actually cover things that have been permitted, even if they have only occurred cyclically. But if they have been permitted in the past, then the term "ongoing" would cover them.

Could one of the officials who's in the best position to speak to this clarify that?

•(1010)

The Chair: Mr. MacDonald.

Mr. Jeff MacDonald: Certainly, Mr. Chairman.

If you recall when I was here with Mr. Stringer and Mr. Morel, this issue did come up in terms of the question. I pointed out the way we go about recommending marine protected areas and the application of the Oceans Act.

All activities are prohibited until they are determined to be compatible with the conservation objectives of the marine protected area. We start with the concept that nothing is permitted until it's determined to be compatible. That's the approach we take when we establish marine protected areas. We don't create a list of eligible activities. We determine it based on an activity-by-activity basis for the particular area that's being proposed.

The legislation as it relates to "ongoing" has three definitions. I think I lost my page 2 to the clerk when I was doing the French explanation. Essentially, it is either activities that have occurred in the past year and require a permit, activities that have occurred in the past year that do not require a permit, or activities that may not have occurred in the past year but that have an authorization already.

An example that was raised was related to fishing. In some cases, you have fisheries that are not necessarily occurring every year, but they may occur on a cyclical basis. In that case, the management plan already articulates when the fishery will occur, and the licence itself is the instrument authorizing the activity. So criteria (c) would apply, where the activity may not have occurred in the past year, but it is something that has already been authorized by the minister through the licence under the Fisheries Act.

The Chair: Thank you.

Mr. Doherty.

Mr. Todd Doherty: Mr. MacDonald, right at the very beginning of your statement, you mentioned that eligible activities would not be determined until further study of that area has taken place. Is that correct?

Mr. Jeff MacDonald: What I said was when we determine what activities could be permitted in an MPA once the conservation objectives have been established.

Mr. Todd Doherty: Is it your comment right now that that area would be 100% frozen, with the exception of eligible activities?

Mr. Jeff MacDonald: No, all I'm saying is that with the way we proceed in creating a marine protected area, the first thing we do is look at the ecological features of the area and say that it is an area that's worth protecting. Then we look at activities that could affect that area and determine whether or not they would affect the conservation objectives. If they would not affect the conservation objectives, then they would be allowed.

The way we proceed with Oceans Act MPAs, we don't list activities that are by nature eligible to take place in a marine protected area. We first set the conservation objectives, and then we determine what activities are compatible with the conservation objectives.

The Chair: Mr. Arnold.

Mr. Mel Arnold: Just for clarity, Mr. MacDonald, you're saying that once an interim MPA was designated, all activities would be excluded until proven sustainable or not in....

Mr. Jeff MacDonald: No, what I'm saying, Mr. Chair, is that when we initially identify an area for protection, the first thing we do is to try to establish the conservation objectives. By the time we get to the stage of proposing an area for designation, we would have already taken into account socio-economic impacts, cultural impacts, etc., so we would alter either the area or the activities that we permit in that area insofar as they're not incompatible with the conservation objectives.

When we get to the point of designation, which I believe was the question, those factors have all been taken into account. What is ultimately proposed is an area, determined through the GIC process, including which management measures may or may not occur in that area.

The point about eligible activities is that it is not our practice to identify activities that by their very nature can take place regardless of what the conservation objectives are. We do so on a site-by-site basis, based initially on the ecological criteria, and then we factor in human activities. Once all of that is done through the open process, we proceed to designation through the regulatory process.

• (1015)

The Chair: Mr. Doherty.

Mr. Todd Doherty: That's why we wanted clarification with this clause. We heard some testimony that conflicts with what Mr. MacDonald is saying today. I understand our colleague's testimony, previously....

The worry with stakeholders is that Bill C-55 gives the minister the right to immediately designate an interim marine protected area, using the precautionary principle with the absence of scientific data at that point to not delay this. The concern of our stakeholders is that this would impact the coastal communities, the fishers, and you would freeze that interim protected area completely.

The intent of this section is to ensure that we have some clear language that gives stakeholders some assurances that they can continue fishing, supporting their families and communities.

That's the concern, Mr. MacDonald.

Am I misunderstanding what your comments are, right now? I think that is different from what we've heard previously.

The Chair: Before I go to you, Mr. MacDonald, I keep referring to you, but if you want to share this amongst your colleagues, feel free to do so and to point them out so people will know who's talking. Thank you.

Go ahead, proceed.

Mr. Jeff MacDonald: My only comment with regard to the question was related to the definition of "ongoing" with regard to paragraph 35.1(1)(c). It captures circumstances in which an activity may not have taken place in the last year but has been authorized nonetheless.

My concern was that in certain fisheries, the fishery may not be prosecuted every year. Therefore, what is the provision in the legislation that would consider it an ongoing activity? That would be under definition (c) which talks about an activity that:

was not carried out before the day on which the order comes into force, but was authorized and continues to be authorized, including by a permit or licence, under any applicable federal laws.

In this case, it would be under the Fisheries Act, and it would be a licence that would have the conditions that would say the fishery occurs in an irregular way.

The Chair: Go ahead, Ms. Jordan.

Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.): Chair, I'm just concerned that we're on clause-by-clause, but it seems to be moving into testimony and refuting testimony that we've heard in the past. That's not why we're here. We're here to deal with the bill clause by clause, and I suggest that we move on with what we're actually supposed to be doing, rather than listening to more testimony, which is what we're getting right now.

The Chair: That is noted.

Yes, Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, again, I appreciate the concern that our colleague across the way, Ms. Jordan, has. We have had amendments that have been brought to the table today that we have not seen previously. We are trying to understand this piece of legislation. This is an important piece of legislation that will impact stakeholders right across our country. Regardless of the timelines that others are putting on us, it is important that we do this appropriately, so asking questions when we are going through the bill clause by clause is only doing our due diligence.

We have the department here. We have our legislative clerks here. I'm not a lawyer. It allows us to have a better understanding. It's not being facetious. It's not trying to delay this or belabour it any longer. Believe me, I'd like to get on to something else, but it's allowing us to get a better understanding of how we move this forward and it is with the best intentions.

With that, I'll allow us to move forward.

The Chair: Just as a reminder, we are voting on amendment CPC-2.

A voice: [*Inaudible—Editor*]

The Chair: Yes, I got unanimous consent to back up.

(Amendment negated)

The Chair: Therefore, CPC-5 will suffer the same fate, if you'll pardon the terminology.

● (1020)

Mr. Todd Doherty: That's with so much glee, too.

The Chair: No, I shouldn't have said it that way. Actually, I'm totally agnostic.

We're on CPC-3.

Go ahead, Mr. Doherty.

Mr. Todd Doherty: Again, Mr. Chair, this is just to insert the words “lawfully and sustainably”. We suggest that clause 5 be amended:

(a) by replacing line 29 on page 2 with the following:

“(a) was lawfully and sustainably carried out in the five years immediately”

(b) by replacing line 34 on page 2 with the following:

“(b) was lawfully and sustainably carried out in the five years immediately”

I believe it gives further definition and clarity to the minister and the department, as well as the stakeholders. Again, it's listening to the stakeholders who brought forth their concerns.

The current language says “was lawfully carried out in the year immediately”. We are suggesting “was lawfully and sustainably carried out in the five years immediately”.

The Chair: Shall amendment CPC-3 carry?

An hon. member: Could we have a recorded vote, please.

The Chair: Sure. This is a recorded vote on CPC-3, as moved by Mr. Doherty.

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

The Chair: Negated, it's my word of the day.

Next is CPC-4.

Yes, Mr. Doherty.

Mr. Todd Doherty: Did we record the vote for Mr. McLeod?

The Chair: Yes, we did. He voted in the negative.

Mr. Todd Doherty: I am curious why we allowed him to vote. He's not a member of this committee, is he?

The Chair: He's a substitute.

Mr. Todd Doherty: Okay, thank you.

The Chair: We're now on CPC-4.

Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, this goes back to the earlier conversation we had in terms of the immediate designation of an interim marine protected area. Under the new act, the minister can, without any consultation with stakeholders, implement an interim protection area. This amendment requires that the minister provide a 60-day consultation period before using his or her powers under the act. The witnesses expressed concern that the consultation process for this bill was less than stellar—I think we all heard that—and was more of a briefing or information session, really a one-way dialogue rather than two-way with our stakeholders.

We propose to amend clause 5 in Bill C-55 by replacing line 4 on page 3 with the following:

(2) The Minister may, following a 60-day consultation period, by order, designate a marine pro-

The Chair: Shall amendment CPC-4 carry?

(Amendment negated)

The Chair: That's CPC-4, folks. We now go to IND-1.

Mr. Tootoo, you have the floor, sir.

● (1025)

Hon. Hunter Tootoo (Nunavut, Ind.): Mr. Chairman, I hope this is not a case where you use your word of the day.

Some hon. members: Oh, oh!

Hon. Hunter Tootoo: Thank you, Mr. Chairman and committee members, for the hard work you guys are doing, especially on this very important piece of legislation. I'm here just briefly, as I committed to you yesterday, Mr. Chairman, to speak to the amendment I've proposed for Bill C-55.

The ultimate goal of this amendment is to reduce and directly address any procedural ambiguity regarding the ministerial decision-making process of the marine protected areas in areas where there are established land claims agreements. I'm putting this in the context of the Nunavut Land Claims Agreement, but there are also other land claim agreements across the north, including Labrador, northern Quebec, and the Northwest Territories. It's understood in those agreements, and accepted as part of the agreements, that nothing should happen to our lands or to our waters without the input and involvement of Inuit. I think this applies to all facets of decision-making, any activities, as well as the management of those areas.

I feel that the proposed amendment makes this distinction very clear in the particular case of marine protected area designation. I spoke to Inuit back home, and to representatives from Nunavut Tunngavik Incorporated, and the belief is that the proposed amendment would help ensure that the federal government is living up to its obligations under ratified and approved land claims agreements, especially the Nunavut Land Claims Agreement. I believe the acceptance of this amendment would not only substantiate the Inuit-to-crown partnership, but it would also further highlight the government's commitment to honouring the appropriate consultation process with the indigenous people of this country.

I know that this is something we heard in the House from all parties, so I'm looking forward to support for this. I think it also shows that this government is serious and is committed to honouring its obligations under land claims agreements.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Tootoo.

Mr. McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Mr. Chair, first of all, I want to say thank you to Mr. Tootoo for bringing this forward.

I did some research on this amendment, and I considered submitting the same documents. However, the Constitution Act covers fairly well this whole area of land claims. I have been discussing Bill C-55 and the proposed amendments to the Oceans Act with two Inuit organizations, the one in Mr. Tootoo's riding and the Inuvialuit Regional Corporation in my riding. They have serious concerns. They have informed me that they have submitted their comments to this committee and would feel reassured.... If this amendment was brought forward, it would give them some comfort, and it would show that there is a working relationship between the federal government and the land claims organizations. They want the ability to work in a co-management fashion.

I am very happy with Mr. Tootoo's amendment, and I would certainly support it.

The Chair: Mr. Doherty, go ahead.

Mr. Todd Doherty: Mr. Chair, I really appreciate our honourable colleague's bringing this forward.

The question I would put to those around the table who might have a better understanding of how this could impact.... As Mr. McLeod mentioned, it is already entrenched in the Constitution, but there are other pieces of legislation that are currently being dealt with in terms of our indigenous peoples and our federal government.

I wonder if this might conflict with any of those pieces of legislation. That's the question I would pose.

•(1030)

The Chair: Okay, seeing no further comments, shall amendment —

Mr. Todd Doherty: I'm sorry, Mr. Chair. I asked a question.

I was wondering if the legislative clerks or perhaps our department might have some—

The Chair: Mr. Doherty, my apologies, I didn't hear the question part.

Mr. MacDonald, would you care to weigh in?

Mr. Jeff MacDonald: I am not aware of other legislation being contemplated right now on that matter either in Parliament or in the government.

The Chair: Mr. Doherty, do you want a further...?

Mr. Todd Doherty: I'm fine.

The Chair: Okay. There are no further comments.

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

The Chair: We now move to CPC-6.

As you know, CPC-5 was dropped because of its consequential feature with CPC-2.

Mr. Doherty, go ahead.

Mr. Todd Doherty: Let me get to CPC-6.

The Chair: Mr. Doherty, while you are trying to get to that, I will just bring something to the attention of the committee.

I am looking at the clock. I don't need unanimous consent, but I hope I get some sort of agreement that we can extend the meeting until 11:15. That would give us 30 minutes to play with.

Some hon. members: Agreed.

The Chair: Thank you, everybody.

Carry on, Mr. Doherty.

Mr. Todd Doherty: The amendment adds a line to clause 5 that would have the minister specifically state the purpose of the designation. It's straightforward. We are asking that Bill C-55, in clause 5, be amended by adding after line 9 on page 3 the following:

"(a.1) shall state the purpose of the designation;"

The Chair: Shall amendment CPC-6 carry?

[*Translation*]

What is the French translation of the word "negated"?

An hon. member: It's "défait".

[English]

The Chair: It's "defeated". Okay.

(Amendment negatived)

The Chair: We are now on CPC-7.

Mr. Doherty, go ahead.

Mr. Todd Doherty: Mr. Chair, I think it was mentioned earlier by Ms. Green—

The Chair: I think you mean Ms. May.

Mr. Todd Doherty: Yes. I'm sorry.

I looked at her and I saw "Green". I don't know why.

Ms. Elizabeth May: I knew who you meant. It's okay, Todd.

The Chair: I'm sure that title has been afforded to her on many occasions. However—

Mr. Todd Doherty: I'm sorry, Mr. Chair. Mr. McDonald spoke French and rattled me for the whole day.

The Chair: Yes, as most of us all.

Mr. Doherty.

Mr. Todd Doherty: We know that there are significant or unique geological and archeological features that perhaps might be found in our marine areas. What we are suggesting is that clause 5 be amended by replacing line 13 on page 3 with the following:

removes from that marine protected area

Also, I have a subamendment on this, if I can. The original amendment currently reads:

any significant geological or archeological features or any living

It would then continue:

marine organism or any part of its habitat or is likely to do so;

In the subamendment, if I might, we would like to substitute the word "unique" for the word "significant". The subamendment would read at line 13, on page 3:

removes from marine protected area any unique geological or archeological features or any living

If you'd like me to read the entire paragraph, I can, so that those around the table can understand it.

• (1035)

The Chair: Does everybody understand what the change is and that we're voting on an amendment to amendment CPC-7?

(Subamendment agreed to)

The Chair: Now we'll go to amendment CPC-7 as amended. Is there any more discussion?

(Amendment as amended agreed to)

The Chair: On amendment CPC-8, Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, this amendment is so we can be certain. If I may, I will read the whole section. On page 3, proposed paragraph 35.1(2)(d) currently reads:

may exempt from the prohibition in paragraph (b) or (c), subject to any conditions that the Minister considers appropriate, any activity referred to in those paragraphs in the marine protected area by a foreign national, an entity incorporated or formed by or under the laws of a country other than Canada, a foreign ship or a foreign state.

We are suggesting as an amendment that we replace line 28, on page 3, with the following:

or a foreign state, or any Canadian individual, indigenous group or organization.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, I'm opposed to the suggestion.

If used broadly, I think the new exemption provision could undermine the ecological goals of MPAs. There are better ways to protect indigenous rights and title than this legislation, and for that reason, I'm going to oppose.

The Chair: Mr. Doherty.

Mr. Todd Doherty: I would differ from my colleague. The intent of this amendment is to ensure that the minister provide the same exemptions for Canadian individuals, indigenous groups, and/or organizations. As it currently reads, it is solely dealing with foreign entities.

The Chair: Mr. Miller.

Mr. Larry Miller: I respect the right of my colleague to vote against this, and I hate to use the word "hypocritical", but it seems to me that a few minutes ago, we supported a motion that, in my mind, really was irrelevant because aboriginal rights are already protected in the Constitution, the charter, and what have you.

Aboriginal communities made it very clear, and I'll go back to what Mr. McLeod who was here as a witness a few weeks ago, said. He said that there was no consultation with their groups whatsoever.

All of a sudden, you have something in here that actually does give aboriginal communities some say in it, which they should have because they're affected, and my colleague is going to vote against it. It just makes no sense to me.

The Chair: Mr. Doherty.

Mr. Todd Doherty: If I might, for our honourable colleague Mr. Donnelly, the intent of this paragraph and this section is that the minister... If I may, Mr. Chair, I will read proposed paragraph 35.1 (2), which is on page 3:

The Minister may, by order, designate a marine protected area in any area of the sea that is not designated as a marine protected area under paragraph 35(3)(a) and, in that order, the Minister

Then it goes through "shall list the classes of activities", "shall prohibit", and "may prohibit".

The paragraph we're talking about is (d), "may exempt from the prohibition in paragraph (b) or (c)". It deals with foreign entities. It does not speak to Canadian or indigenous communities. Our intent on this was solely to make sure Canadian stakeholders, indigenous groups, and organizations are given the same consideration that foreign entities would be.

• (1040)

The Chair: Seeing no further discussion, shall amendment CPC-8 carry?

(Amendment negatived)

The Chair: On CPC-9, Mr. Doherty.

Mr. Todd Doherty: This part of the bill outlines the exceptions to the ministerial order, that is, activities that would not be prohibited. Currently Bill C-55 states that these activities would include activities carried out in response to an emergency as well as marine scientific research. We are asking to include “sustainable aquaculture” in this list.

It is page 3, paragraph (3), “Exceptions”. It currently reads, “The prohibitions set out in an order made under subsection (2) do not apply to the following activities”. Then paragraph (a) lists activities, and (b) currently refers to “marine scientific research activities”. What we are suggesting is “sustainable aquaculture and marine scientific research activities”.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, I can't support this one as well. The concern I have right now, given DFO's current assessment of the environmental impacts of what would even be considered “sustainable aquaculture”, is that it would allow open-net finfish aquaculture, which at this point could then be allowed in MPAs, and I can't support that.

The Chair: Seeing no discussion, shall CPC-9 carry?

Mr. Todd Doherty: I'll ask for a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: Before we proceed with PV-2, I just want to point out something. The Standing Orders now dictate, as in recent years, that we allow more independence of people from the unrecognized parties to have a say in committee business. Part of that is that, as you witnessed earlier, they can participate in the debates. As well, when they submit amendments to the committee, they are deemed moved. It's automatic.

That is why we're going to vote on this. If you want to discuss it, by all means do. However, I see—and I'm not allowed to say this, but I will—that Ms. May is not here. Therefore, it's deemed moved. The only thing they cannot do is vote. This is just so everyone is clear.

On PV-2, Mr. Donnelly.

Mr. Fin Donnelly: I'm not sure which official to direct this to, but in the proposed paragraph 35.11(e), could I get a comment on “the passage of Canadian and foreign ships” and the implications of allowing that in this amendment? Just to let everyone else know, I'm quite fine with (a), (b), (c), (d), and (f), but I am concerned about (e).

Mr. Todd Doherty: Which page?

The Chair: Ms. May, we'll get to you in just a quick moment, but we beg your forbearance now to allow the officials to answer the question.

In the legislation itself, it's page 3.

Mr. MacDonald.

•(1045)

Mr. Jeff MacDonald: I may also defer to my colleagues, if they have some knowledge of this. I'm not an expert in the law of the sea, but given that the regulatory-making authority applies not only to

Canada's territorial waters, but also to the exclusive economic zone, I'm not sure if this would create a conflict with the rights of innocent passage.

The Chair: Mr. Donnelly, go ahead, please.

Mr. Fin Donnelly: We're just hearing our officials aren't clear. Is there anyone from the department who could answer this question?

The Chair: By a show of hands, Mr. MacDonald, you seem to be eager. Go ahead.

Mr. Jeff MacDonald: Our department might not be able to answer that question. I think it would be more appropriate to ask Transport, Justice, or Global Affairs.

The Chair: Okay.

Ms. May.

Ms. Elizabeth May: Mr. Chair, I'm sure committee members recall that I mentioned earlier the motion that every committee passed with identical wording that says I have an opportunity—which isn't really an opportunity; it's the coercion that makes me show up at clause-by-clause instead of having rights. But for the motion you passed, I could be moving these motions at report stage, which is why I had to run out of the room to get to Bill C-57, where I'm also going through a clause-by-clause.

I don't know if my amendment was defeated. I ran back before finding out, but I at least was able to present on Bill C-57. So I apologize for being out of breath and late for PV-2, which is now the third one I've been able to present, for which I thank you.

I've heard the discussion, so I guess we're well into discussing this. There already are provisions, of course, that the minister may prohibit any activity that is not part of a class of activities set out in the permitted areas of activities. My amendment attempts to create greater precision. There are things the minister may choose to prohibit pursuing these regulations, and may prohibit, and then the items are listed (a) through (f): hydrocarbon and mineral exploration; renewable energy infrastructure; marine finfish aquaculture; bottom trawling fishing gear; the passage of Canadian and foreign ships—and I gather you were just discussing that—disposal of or causing to be permitted the disposal of a substance.

These recommendations come from a lot of the testimony that you heard before this committee. We know that polling by the World Wildlife Fund says that 80% of Canadians believe that marine protected areas should not allow oil and gas activity; 87% believe marine protected areas should not allow bottom trawling. We did see quite a public outcry when right after the announcement of the proposed Laurentian Channel MPA, there was what many Canadians regarded as incompatible news that oil and gas activities were still permitted.

This is not a mandatory responsibility of the minister. Again, I want to stress that to make regulations to prohibit these kinds of activities, and I would imagine, of course, with regard to the question for which no one here has an answer about how this would affect rights of innocent passage, the minister would be mindful of all such concerns on a case-by-case basis and would not put forward a regulation that was not enforceable within Canada.

I'm quite confident that this is within all four corners of Canadian law, and again, I'd urge you to consider it as one that meets a lot of public concern, even though it's merely an option for a minister and it's purely discretionary.

The Chair: Thank you, Ms. May.

Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, I'm assuming we're going to look at NDP-3 as well, because we've done that just recently. These are almost identical, with the exception of the one that I just asked about, which is paragraph (e), the passage of Canadian and foreign ships. Essentially, NDP-3 is the same as PV-2, with the exception of that paragraph (e).

Mr. Chair, I'm asking you if I should speak to this, if we're going to discuss this at the same time, because I think the format you chose for the previous one should apply here.

The Chair: They're not consequential. We don't have them linked officially.

Staff are saying that there's obviously a stark difference and enough of a difference to have debates on both.

• (1050)

Mr. Fin Donnelly: Okay.

If this one is approved, what are the consequences for NDP-3?

The Chair: That depends until we get there.

Mr. Fin Donnelly: I hear that, but essentially everything in there will be passed except for the one paragraph that will be added. I'm assuming we won't need to vote on it, because it will all be passed.

The Chair: We will have to vote on it, yes. It's scheduled to be voted on.

Mr. Fin Donnelly: Okay, so my question stands. How do you vote on something—

The Chair: Sorry, I didn't mean to interrupt, Mr. Donnelly, but I'm going to ask William. Do you want to finish your statement and then he can explain why.

Mr. Fin Donnelly: That was my statement, to get that explanation.

Thanks.

The Chair: I'm going to ask Mr. Méla to go to the microphone, please.

Thank you.

Mr. Philippe Méla: I can try.

My understanding of the difference between Ms. May's and Mr. Donnelly's amendments is that Ms. May is proposing to have a regulation that prohibits a number of activities and Mr. Donnelly

would like to entrench that in the act. So at the end of the day the result is the same. One is done by regulation and the other is done by the act, except for paragraph (e), which is not included in yours.

It's a question of which the committee prefers, without (e) or with (e), basically, or regulations versus the act.

The Chair: Thank you, Mr. Méla.

Mr. Hardie.

Mr. Ken Hardie: I think the intent of both PV-2 and NDP-3 are good. They're great, although I would argue whether they should go into the act, hard-wire it in, versus being in regulation, which gives you a bit more flexibility.

In regard to the flexibility that putting it in the regulations allows, there's going to be a national advisory panel on MPA standards, and they'll actually, we would presume, drill down deeper into what should be in the regulations and what shouldn't be in the regulations. If we didn't have that process under way, we could support PV-2 and discuss whether it'd be PV-2 or NDP-3. But with that process under way, I think we'd be better just to stand back, let that process take place, and then see what emerges in the regulations.

The Chair: We are voting on PV-2, as moved by Ms. May.

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

[*Translation*]

The Chair: We're at GP-3. Ms. May, you have the floor.

[*English*]

Ms. Elizabeth May: Mr. Chair, this is, again, to allow the minister to have more capacity to prohibit extractive activities. It's permissive, not mandatory.

“Extractive activity” is defined as activity that removes or extracts any resource from an area, and includes fishing. Extractive activity would be oil, gas, mineral, or fishing, but again it is a permissive regulatory capacity being created for the minister, and there's nothing mandatory here.

I certainly think that this would conform, as I mentioned earlier, to the evidence from many witnesses as well as where we know the Canadian public thinks a marine protected area should be. I hope you'll consider this one.

Thank you.

• (1055)

The Chair: Mr. Hardie.

Mr. Ken Hardie: This is an area where the distinction between an interim order and a fully declared marine protected area becomes important, because the amendment is beyond the minister's scope of power under ministerial order. In order to make this stick, he would have to declare a full marine protected area. In this bill, he's only talking about an interim order, so basically, he wouldn't be allowed to do this.

The Chair: Do you have any further discussion, Ms. May?

Ms. Elizabeth May: I don't know if I'm allowed to do this, but I just wanted to ask officials if that's actually the case, that he couldn't provide on an interim basis action to ensure that extractive activity wasn't occurring under an interim protected area's status for the area in question.

The Chair: Mr. MacDonald.

Mr. Jeff MacDonald: I'll have to go back to the section on the interim protection order. In the interim protection order in Bill C-55, as it reads right now, the minister has to list ongoing activities. If an ongoing activity is an extractive activity, he would have to list it as an ongoing activity.

The Chair: Thank you.

We're voting on PV-3.

(Amendment negated)

The Chair: Now we go to NDP-2.

Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, this relates to proposed section 35.11. It would require that new MPAs include a no-take zone covering, at minimum, 70% of the entire MPA.

We're saying that Bill C-55, in clause 5, should be amended by adding after line 40 on page 3 the following:

35.11 (1) A regulation made under section 35 after the day on which this section comes into force that designates a marine protected area or an order made under section 35.1 must provide that extractive activities are prohibited in at least 70% of the area of the sea that is designated by the regulation or order.

(2) For the purposes of subsection (1), extractive activity means an activity that removes or extracts any resource from the area and includes fishing.

I just want to add that scientific evidence clearly demonstrates that no-take fishing areas are a key component of effective MPAs. Recent research shows MPAs that permit "varying levels of...fishing and other activities, are less effective at achieving biodiversity than fully protected areas". I refer to Dr. Fuller from Ecology Action Centre, who testified that MPAs' core no-take zones should encompass around 70% of a given MPA.

Canada is nowhere close to reaching that high bar. Right now, the minister has the discretion to determine what activities are allowed in an MPA and how restrictive each zone is or can be in an MPA. So far, Canada's fisheries minister has implemented a no-take zone in only five MPAs to date. Those areas are tiny in comparison to the overall MPA. Canada should follow international examples and make no-take zones the rule rather than the exception in MPAs.

This amendment is based on the brief provided and committee testimony from leading environmental organizations in Canada who are working on MPAs. I'll just mention those—I've mentioned them before—West Coast Environmental Law, East Coast Environmental Law, Ecology Action Centre, CPAWS, WWF-Canada, David Suzuki Foundation, and the Conservation Council of New Brunswick.

Thank you, Mr. Chair.

The Chair: Mr. Hardie.

Mr. Ken Hardie: I think the same comment applies to NDP-2 as it did to the previous PV-3. It goes beyond the scope of the minister's authority to designate an interim MPA. If he was designating a full-

fledged MPA, then this obviously could apply, but not in the case of an interim MPA.

● (1100)

The Chair: Seeing no further discussion, shall NDP-2 carry?

(Amendment negated)

The Chair: Now we go to NDP-3. This one was linked, wasn't it?

A voice: It's similar.

The Chair: It's similar, yes, as we discussed before, but we still have to go through the procedure of voting on NDP-3.

Mr. Donnelly.

Mr. Fin Donnelly: Thank you, Mr. Chair.

I won't read out all of proposed section 35.11(a)(b)(c)(d) and (e). You can see it's in front of you. I'm going to assume, given what Mr. Hardie mentioned previously, that it will apply to this one in terms of the committee that's going to be struck to look at this, in looking at the national committee to look at minimum protection standards. However, we're obviously anxious to see that happen now. I think we've had years where we've only been at 1% protection. The government is saying we're now at 5%. We'd like to know what minimum protection includes and the activities allowed. We would argue to include those subsections in 35.11 now. This amends the act to include a set of minimum protection standards for all proposed future MPAs and those prohibitions are oil and gas and mineral exploration and development, wind farms and tidal power, open net aquaculture, bottom trawling, and ocean dumping.

We've heard earlier that polling from WWF-Canada shows that 80% of Canadians believe that MPAs should not allow oil and gas activities, and that 87% believe MPAs should not allow bottom trawling. The recent public outcry over a proposal to allow oil and gas in the proposed Laurentian Channel MPA shows the depth of public support for oil-free MPAs. We're certainly arguing to listen to what the public is saying and include it now in Bill C-55

The Chair: Shall amendment NDP-3 carry?

(Amendment negated)

The Chair: We now go to CPC-10.

Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, this amendment would put a reporting clause into Bill C-55, a responsibility for the minister to report back to Parliament within a year of an interim marine protected area. We are suggesting.... Again, I'll take it back a bit. Time and again, whether it's this study that we've done, the Fisheries Act review, the northern cod study, or the Atlantic salmon study, what we've heard previously is that initiatives have been launched or the department has come before the committee and—no offence to those who are here—has promised to do better and be better. But as we've seen from testimony and have gone through for years and years, we're not seeing some of the results that we perhaps would have anticipated or desired in any of the processes that have been put in place.

This is merely a management tool. It is an opportunity for the minister to come back and say what has been working well and what hasn't been working, perhaps. It includes stakeholder feedback as well, and it really gives Parliament and this committee an opportunity to then be able to go back to Canadians again, as we talked about throughout the testimony in this and other studies. If it's working out, it is an opportunity for the government to say what is an overwhelming success and, if it isn't, to say, "Here are the challenges and here's how we're going to adapt it."

Mr. Chair, what we are recommending is that, on page 3, clause 5 be amended by adding after line 40 the following:

(4) The Minister shall, within a year after the coming into force of this section and as soon as feasible after the end of each fiscal year after that, prepare and cause to be laid before both Houses of Parliament a report that

(a) focusses on the operation of this section;

(b) lists the marine protected areas designated during the relevant reporting period;

(c) sets out the extent to which the conservation objectives stated for each marine protected area designated under subsection (2) have been achieved; and

(d) sets out any recommendations for further steps to be taken in order to achieve the stated conservation objectives in relation to each marine protected area designated under subsection (2).

Mr. Chair, I'll leave the committee with this final comment. We have heard from a number of witnesses who appeared before the committee and said that things seem to happen in a void or a vacuum. This would provide the government an opportunity to report back. As I said, trumpet it if it is wildly successful, but also be open and transparent with the Canadian public in terms of how there are perhaps some challenges and how maybe we need to rethink some of the things we're moving forward with.

Thank you.

• (1105)

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, I'm going to be supporting this amendment. I think it would provide some accountability. It would be informative for Canadians to keep government accountable. I appreciate the amendment put forward by my colleague, and I'll support it.

The Chair: Ms. Jordan.

Mrs. Bernadette Jordan: Mr. Chair, although I agree with the intent of the amendment, my concern is about reporting to Parliament after a year and the ability to collect the evidence and

data that we need in order to do that. I think it might be more appropriate if we consult throughout the whole process rather than to put in legislation that they have to report within a year, simply because we heard from witnesses that it will take longer than a year to determine the effectiveness of an MPA. Because it doesn't give us the time or the ability to collect the data that is needed to see if something is working, I won't be supporting this.

The Chair: Mr. Doherty.

Mr. Todd Doherty: [*Technical difficulty—Editor*] with our honourable colleague's comments saying that while she believes the intent of this is good.... Perhaps, then, she would propose an amendment to this, with an appropriate time frame. Two years? Again, it's—

Mrs. Bernadette Jordan: I'm not willing to do that at this point.

The Chair: Okay, I'm just going to leave it at that.

Mr. Hardie.

Mr. Ken Hardie: I agree that, in respect of monitoring and measuring, bringing something to the House may not provide as good a platform as bringing it to the standing committee. The standing committee should be the one that does the study, that does the assessment of the effectiveness of the interim protections or permanent protections, the permanent MPAs. This would be a more complete study out of which a report would go to Parliament providing the details we'd want to coax out of this process.

The Chair: Mr. Doherty.

Mr. Todd Doherty: I think it is the responsibility of the department or the minister to come before committee. If it is this committee, then I would suggest an amendment be put forth by those across the way, with an appropriate time frame.

I don't believe we should be studying this in two years' time. We're working towards a piece of legislation that is going to have effects that we won't know. I agree that we need to have a time frame, but there has to be accountability within the department for reporting back. The biggest issue we have had and heard, whether it is this study or others, is that legislation gets passed, and then we don't hear whether it is working or not until it's too late. I believe it is incumbent on this committee, and outside this committee, on all of us as members of Parliament representing Canadians.... As Mr. Donnelly mentioned, it is truly about putting accountability on this. This is a program that will have far-reaching impacts.

I am in a landlocked area. Most of our colleagues across the way are in coastal communities. It will be their electors and stakeholders asking about the impact on how this is moving forward. They will be asking for answers. This is merely providing a tool for the minister to come before Parliament to say what is working and what isn't working. If it is a glowing report, then the opposition will not have much to say. What are you going to say when someone is saying that it's an overwhelming success? However, Canadians need to know. If we are moving down a path of some major challenges, I believe the government needs to be accountable.

• (1110)

The Chair: Thank you, Mr. Doherty.

Shall amendment CPC-10 carry?

Mr. Larry Miller: I'd like a recorded vote.

(Amendment negated: nays 5; yeas 4)

The Chair: Folks, we are closing in on the closing time. However, we can extend for another 30 minutes, if I see a favourable response to my suggestion, which I see. However, I think we should have a health break. Is that what it's called?

A voice: How about a bio break?

The Chair: Oh, my goodness, that's a little too descriptive for my ears. Nevertheless, we'll have a health break if you can do it fairly quickly.

We'll suspend for a few minutes.

• (1110) _____ (Pause) _____

• (1115)

The Chair: Okay, folks, welcome back. We are now going to pick up where we left off. We'll extend this to 11:45, or later if so desired. We'll see how this goes.

Nevertheless, that now brings us to amendment CPC-11.

Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, as it reads currently, Bill C-55 states that the minister may “not use the lack of scientific certainty”—the precautionary principle is what we're talking about—“regarding the risks posed by any activity that may be carried out” in the ocean “as a reason to postpone or refrain” from designating an MPA. This amendment would delete the section that states this. Therefore, it puts the onus on the minister to demonstrate that there is scientific evidence, and follows the government's own narrative of using evidence-based policy in its decision-making.

Mr. Chair, on page 3, we are suggesting that Bill C-55, in clause 5, be amended by deleting line 41 on page 3 to line 4 on page 4. The line in question is:

The Governor in Council and the Minister shall not use lack of scientific certainty regarding the risks posed

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, I can't support this amendment. It would remove the precautionary principle language from the bill, so I am not supporting this.

The Chair: Shall amendment CPC-11 carry?

(Amendment negated)

The Chair: That brings us to amendment PV-4. However, as you will recall, it was unanimously withdrawn.

We will go on to amendment PV-5.

Ms. May.

Ms. Elizabeth May: Mr. Chair, of any amendments we've seen today, this amendment is closest in intent to that of Mr. Tootoo's which the committee passed, but it's different. It deals with indigenous issues. It attempts to have the Oceans Act proactively reflect the federal government's commitment to implementing the

United Nations Declaration on the Rights of Indigenous Peoples, and to work in a real nation-to-nation relationship.

We already have reflections of that in the Oceans Act, in the ability of the minister to establish regional ocean co-management bodies. What this amendment does—I really think it is an exciting one—and I don't know how familiar members of this committee are.... I know the environment committee has studied the tremendous potential of co-management of protected areas in terrestrial zones with indigenous people. One of our best examples probably is Gwaii Haanas and the Haida Gwaii watchmen program, but there have been other watchmen programs established in our northern parks.

Let me just run through the amendment. It is a longer amendment. I'm not going to read it to you, but it does require that the minister:

shall recognize the jurisdiction of aboriginal peoples over areas of the sea in respect of which they have aboriginal rights or title, having particular regard to protected and conserved areas, and provide for the participation of aboriginal organizations or persons in the management of those areas.

Specifically, the next section sets up the concept of guardians, and the guardian, in subsection (3):

has all the powers and may perform all the duties and functions of an enforcement officer

These provisions would allow coastal indigenous peoples to be full participants in management, enforcement, protection, and engagement in the MPAs as they go forward. As I said, there are a lot of terrestrial precedents, and this would, I think, be a really exciting way that Bill C-55 would be consistent with the recent announcement of our Minister of Justice that the government is going to support Romeo Saganash's private member's bill to bring the United Nations Declaration on the Rights of Indigenous Peoples into all of our legislation. You'd be ahead of the curve here in the fisheries and oceans committee to accept this amendment.

• (1120)

The Chair: Mr. Hardie.

Mr. Ken Hardie: Again, the spirit of this is something that was brought up numerous times in our discussions with indigenous communities, about having them as eyes and ears on the water. The glitch is that under the Fisheries Act, the term “guardian” is actually a subset of enforcement, and it doesn't actually have the same enforcement power; whereas under the Oceans Act, it can be designated with the full enforcement power. It exists and it's there. It's just a matter of invoking it at the appropriate time.

The Chair: Ms. May.

Ms. Elizabeth May: To my friend Mr. Hardie, I don't think my amendment is in any way inconsistent with what you just described. It's just giving the minister some more proactive considerations with respect to the rights of indigenous peoples in their jurisdiction, in the coastal areas, as we go forward with the regulatory regime for how marine protected areas are managed, and to engage indigenous peoples, as you say, as eyes and ears on the water, but also as enforcement.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, I support this amendment. I have a very similar one in NDP-5, but I am in favour of this.

The Chair: Seeing no further discussion, I want to point out to the committee that PV-5 is consequential and linked to NDP-5 in your package. They are consequential to the point that they are identical, actually.

I want people to know that if PV-5 is adopted, NDP-5 cannot be moved, since we would have already voted on PV-5 and they're the same. In addition, if PV-5 is defeated, NDP-5 is also defeated. Consequential means they both suffer the same fate, or rejoice in the same glorious moment if passed.

Ms. May.

Ms. Elizabeth May: We've had a lot of collaborative, non-partisan activity around this table. With the committee's permission, I'd like to withdraw PV-5, so that the amendment that's considered is NDP-5. If it's accepted, my friend Fin will have some of the wonderful experience I've had today of having an amendment accepted.

•(1125)

The Chair: Before we get to comments, do I have unanimous consent to withdraw PV-5?

Some hon. members: Agreed.

(Amendment withdrawn)

The Chair: We're on NDP-4.

Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, NDP-4 talks about establishing the restoration of ecological integrity as the top priority of MPAs. We had a long discussion earlier in the committee. That amendment passed. Essentially, the difference on this particular amendment would be to just put it at the top of the list, so that the minister has that as a top priority. That is essentially no different from the earlier discussion we had. The committee agreed to include it. This would be putting it at the top of the minister's radar.

The amendment is that Bill C-55, in clause 5, be amended by adding after line 4 on page 4 the following:

(2) Maintenance or restoration of ecological integrity, through the protection of natural resources and natural processes, shall be the first priority of the Governor in Council and the Minister when exercising their powers or performing their duties and functions under section 35 or 35.1

Then we define ecological integrity.

The Chair: Mr. Hardie.

Mr. Ken Hardie: Again, there's a hitch on this one. If ecological integrity is required here, it will also require a baseline that assesses the condition before an interim order is put in place. The purpose of an interim order is to move quickly using the precautionary principle where not all is necessarily known. An unintended consequence of this could actually delay putting an interim order into effect.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, we already adopted, in PV-01, ecological integrity. I just wanted to clarify that, to make sure I'm on the right track.

I'm not sure if Mr. Hardie realizes that, or...

The Chair: Okay.

Seeing no further discussion—

Mr. Fin Donnelly: Couldn't he just have an answer to that, Mr. Chair?

The Chair: Well, he doesn't have to speak if he doesn't want to, so I don't see—

Mr. Fin Donnelly: No, I'm recognizing that, but does he not want to speak?

The Chair: Apparently it's no.

Mr. Ken Hardie: I'm just trying to find PV-1.

The Chair: No, it's PV-01.

Mr. Doherty.

Mr. Todd Doherty: We talked about ecological integrity earlier, with Ms. May's motion. It's interesting that in the Oceans Act, in Canada's federal marine protected areas strategy, ecological integrity is not mentioned. Instead, it says that an MPA include the “conservation and protection of marine areas of high biodiversity or biological productivity”. Perhaps it's just a coincidence, but we do see that we've had a couple of very similar, if not identical, amendments put forth.

To our honourable colleague across the way, to Mr. Hardie's comment, again, Bill C-55 is about interim protection areas, not necessarily the long-standing or...

I just think this is going beyond the scope of Bill C-55.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, I was assuming that we could read the definition. I think I should read it into the record for clarification, because I know that in the previous discussion the question came up about what “ecological integrity” means. This is what would be added:

(3) For the purposes of subsection (2), ecological integrity means, with respect to an area of the sea that forms part of the internal waters of Canada, the territorial sea of Canada or the exclusive economic zone of Canada, a condition that is determined to be characteristic of its natural region and likely to persist, including abiotic components and the composition and abundance of native species and biological communities, rates of change and supporting processes.

I think Ms. May talked earlier about what ecological integrity means. We had a good discussion about activities that impact or that could change the form and function of ecological integrity. I think providing this in terms of definition, and putting that priority slightly higher than what we had already agreed should be included, is the only difference here in this amendment.

•(1130)

The Chair: Mr. Hardie.

Mr. Ken Hardie: I think in the discussion we had on PV-01, Ms. May's first amendment, we concluded after some discussion that ecological integrity could be an optional criteria for use in designating an interim protected area.

NDP-4 suggests that it be the first priority—if you like, a primary consideration—and there are some significant differences. Obviously, if enough evidence is known, to use it in the optional sense, as was concluded in PV-01, that's one thing, but to have it as the primary criteria, as suggested in NDP-4, would require a baseline to be established, and to go through the rigorous process to establish that before moving to interim protection. The idea of interim protection is to move quickly, using the precautionary principle where not all is known.

The Chair: Okay.

I see no further discussion.

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

The Chair: We now go to NDP-5.

Mr. Donnelly, go ahead.

Mr. Fin Donnelly: Do I feel lucky, Mr. Chair?

Some hon. members: Oh, oh!

Mr. Fin Donnelly: I think the answer is no.

I appreciate my colleague, Ms. May, for withdrawing her amendment. It is exactly the same as mine, I think. Earlier we did approve Mr. Tootoo's amendment, which I definitely support.

This also provides appropriate recognition of indigenous-governed areas and provides stronger support for co-governance. The Oceans Act should reflect the federal government's commitments to implementing the United Nations Declaration on the Rights of Indigenous Peoples and working in true government-to-government relationships with Canada's indigenous people, consistent with the Canadian Constitution.

We've had that discussion. I appreciate, again, my colleague for withdrawing her motion. I think the motion stands. It's there. I'm not sure everyone wants me to read it; in fact, I'm sure they don't.

I do want to point out the importance of the role the guardians play in there and impress on the government members to consider this, and I'll see if I am lucky or not shortly.

The Chair: Mr. Donnelly has put out the beacon for some luck. Therefore, shall NDP-5 carry?

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

The Chair: There goes your trip to Vegas, sir.

That was quite a long clause, now, wasn't it?

That concludes clause 5.

Shall clause 5 as amended carry?

(Clause 5 as amended agreed to)

(On clause 6)

The Chair: On CPC-12, Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, this would, again, go to the testimony we heard time and again that the consultation process has been less than stellar. I guess it could be argued that—and I heard it earlier today—at what amount do we say there has been enough

consultation. I think the problem was can we please everybody? I'm not quite sure we can, but we need to make sure we're doing our due diligence in every facet of review.

What we are suggesting here is that consensus is required for an MPA to be accepted by as many stakeholders as possible, and therefore sustainable. As the federal strategy states:

The concept of consultation and collaboration is essential to the development and implementation of the federal marine protected areas network and its individual components – its success depends on how well various interests are able to work together.

What we are suggesting, Mr. Chair, is that clause 6 be amended by adding, after line 22 on page 4, the following:

(4.1) The Minister, before making a recommendation under subsection (1), shall

(a) consult with other ministers, boards and agencies of the Government of Canada, as well as with any provincial governments, persons or bodies that the Minister considers to be interested in the matter;

(b) ensure that any scientific or socio-economic review of the area has been conducted; and

(c) publish, on the departmental website for a period of at least one year before the recommendation is given, the proposed designation, including the boundaries and any activities, prohibitions and exemptions proposed to be set under section 35.1.

This, Mr. Chair, is all in the spirit of consultation and accountability.

Thank you.

•(1135)

The Chair: Shall CPC-12 carry?

Mr. Todd Doherty: Can we get a recorded vote?

The Chair: A recorded vote is called on CPC-12.

(Amendment negated: nays 6; yeas 3)

(Clause 6 agreed to)

(Clauses 7 to 9 inclusive agreed to)

(On clause 10)

We now go to amendment CPC-13.

Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, our amendment is solely to ensure that it seeks to strike the words “or preventing non-compliance”.

The act will read currently as it sits on page 5 under the title “Inspections 39.11 for the purpose related to verifying compliance”, and as it currently reads “or preventing non-compliance”. We are suggesting to amend that, and strike the words “or preventing non-compliance”.

The concern we have is, at what level and what steps does that entail in terms of preventing non-compliance with respect to marine protected areas or interim protected areas?

The Chair: Shall the amendment carry?

(Amendment negated)

The Chair: Next is CPC-14.

Mr. Doherty.

•(1140)

Mr. Todd Doherty: Mr. Chair, this amendment is solely to ensure that if DFO requires copies of documents, log books, or electronic data, the owner of such data, meaning the fishers or the organizations, shall be reimbursed for any costs incurred in trying to prove that they have not committed any offence under this act.

All we're asking is that Bill C-55 in clause 10 be amended by replacing line 38 on page 5 with the following:

record, electronic data or other document, and the owner of the copying equipment shall be reimbursed for the copying costs.

We heard through testimony that during investigations, DFO may enter an organization or a business, and proceed with using that organization's equipment to fulfill their own investigation, and in some cases, the owners, the organizations, incurred costs. We wish to protect stakeholders. If they are being investigated, and DFO enters their premises, any costs incurred shall be borne by DFO, not by the stakeholders.

The Chair: Thank you, Mr. Doherty.

On analysis of this, the amendment, as you point out, causes owners of copying equipment to be reimbursed for copying costs in certain instances. If you turn to the book *House of Commons Procedure and Practice*, or O'Brien and Bosc, as we commonly call it, it states on page 767:

Since an amendment may not infringe upon the financial initiative of the Crown, it is inadmissible if it imposes a charge on the public treasury, or if it extends the objects or purposes or relaxes the conditions and qualifications specified in the royal recommendation.

It is the opinion of the chair that the reimbursement of copying costs would impose a new charge on the public treasury. Therefore, I have to rule this amendment inadmissible.

Mr. Doherty.

Mr. Todd Doherty: Just to be clear, Mr. Chair, is it your opinion that any costs of that investigation shall be borne by the organization or the stakeholder?

The Chair: My opinion is pertaining to the Standing Orders, which dictate that we as a committee cannot infringe upon the public treasury to spend more money. That is why it is inadmissible. I do not mean to say that someone should be or should not be bearing the cost of that. It's just a question of inadmissibility according to the Standing Orders.

Mr. Miller.

Mr. Larry Miller: Mr. Chair, I don't disagree with your interpretation of the way it reads. However, I would ask for clarification from the officials. If DFO staff, in the example that Mr. Doherty suggested, walk into any business that they're investigating and unilaterally use their equipment, if they do have that right, I would suggest that it's terribly wrong. Could I get a response to that?

The Chair: No, that's allowable.

Go ahead, Mr. MacDonald or Mr. Goetze.

Mr. Fin Donnelly: Mr. Chair, on a point of order, we're out of time.

The Chair: Officially, we have this room until 12:45.

Do you want me to tell you how many votes we have left?

A voice: It's five.

The Chair: Yes, it's something like that.

Go ahead, Mr. Donnelly.

•(1145)

Mr. Fin Donnelly: Mr. Chair, we've extended the meeting twice. We've had two 30-minute extensions. You're proposing a third 30-minute extension. I was hoping we would get this done within the two.

I've cut into an hour of tabling at the AFN. Could I recommend that we do another 15 minutes? That way I could still have some time to connect with the Assembly of First Nations.

The Chair: Let's see how this goes. We'll extend for 15 minutes and then see where we are. How's that?

Mr. Fin Donnelly: Thank you.

The Chair: All right.

Mr. Goetze.

Mr. Darren Goetze: Mr. Chair, first of all, let me say that the language tabled here is exactly the same as the language used in the Fisheries Act.

Enforcement officers can, in fact, cause records to be copied at the expense of the premises where the copying takes place. From a practical perspective, the copying of materials often prevents the seizure of materials. This allows for business continuity in the case of fishing logs or other records required to continue business operations.

From a practical standpoint, it's often preferable for a business owner, a fisher, to provide the documents in a copy format rather than in the original format.

The Chair: Thank you, Mr. Goetze.

Mr. Doherty.

Mr. Todd Doherty: I appreciate Mr. Goetze's comment, and that is exactly the testimony we heard from the stakeholders, that this has allowed them to continue their operations; however, there is a cost incurred by the organization.

The Chair: It's inadmissible, so let's move on. That was CPC-14.

Now, we have CPC-15.

Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, we'll try to move this forward as quickly as possible.

This amendment is linked to section 39.1(1) which allows an officer who is verifying compliance to examine the thing and take samples free of charge. The proposed addition of "without creating undue hardship to the entity of inspection" seeks to provide some certainty that samples taken free of charge are not of significant monetary or sentimental value. For example, an officer could not take three tonnes of lobster, which were seized recently, or fishing gear.

The amendment would be that Bill C-55, in clause 10, be amended by replacing line 3 on page 6 with the following:

ficer considers appropriate, without creating undue hardship to the entity involved in the inspection.

So the entire (1.1) on page 6, under the heading "Disposition of samples", would read with our amendment, if carried, "An enforcement officer may dispose of a sample taken under paragraph (1)(b) in a manner that the officer considers appropriate, without creating undue hardship to the entity involved in the inspection."

The Chair: Shall the amendment carry?

(Amendment negated)

The Chair: On CPC-16, Mr. Doherty.

Mr. Todd Doherty: This amendment proposes the addition of language reflecting that information must be requested and ordered before it is provided.

The amendment is that Bill C-55, in clause 10, be amended by replacing line 19 on page 6 with the following:

(b) on request or order of the enforcement officer, provide the officer with informa-

Under the title "Assistance", on page 6, paragraph (1.3) says that the "owner or the person in charge of the place, and every person found in the place shall", and paragraph (b) reads:

(b) provide the enforcement officer with any information or any book, record, electronic data or other document, and access to any data, that are reasonably required for that purpose.

We are suggesting that on request or order of the enforcement officer, provide the officer with any information or any book, record, electronic data, or other document. That's all.

• (1150)

The Chair: Shall the amendment carry?

(Amendment negated)

(Clause 10 agreed to)

(Clause 11 agreed to)

(On clause 12)

The Chair: On CPC-17, Mr. Doherty.

Mr. Todd Doherty: This goes to examples of seizures of fish that perhaps go to waste. This amendment targets release of seized fish, and seeks to ensure that the fish or other perishables are not allowed to spoil or go to waste unnecessarily.

Clause 12 would be amended by replacing line 14 on page 12. It currently reads:

(3.1) The enforcement officer who seizes any fish as defined in subsection 2(1) of the Fisheries Act may, at the time of the seizure, return to the water any fish that they believe to be alive.

We are suggesting that Bill C-55, in clause 12, be amended by replacing line 14 on page 12 with the following:

"believe to be alive and shall take reasonable measures to avoid unnecessary loss or waste of fish or any other perishable things seized.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Mr. Chair, this is a reasonable request and a good addition. I'll support the amendment.

The Chair: Shall amendment CPC-17 carry?

(Amendment negated)

(Clause 12 agreed to)

(On clause 13)

The Chair: On amendment CPC-18, Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, again, going back to the testimony that we've heard time and again, with conflicting testimony with respect to potential closures and the testimony we heard that fishermen can just move to other areas, this amendment recognizes a need to respect interests held by licensed commercial fishermen when the waters they fish are included in an MPA. As such, if and when the creation of an MPA displaces fishermen holding licences to fish waters of the MPA, those fishermen ought to be entitled to compensation through a predefined process, with a limited period for the fishermen and the minister to negotiate the terms of compensation.

We are suggesting that Bill C-55, in clause 13, be amended by adding after line 24 on page 12 the following:

39.51(1) The Minister may enter into negotiations with any licensed commercial fisherman, in respect of any designated marine protected area, for a determination of any compensation that may be granted to the licensed commercial fisherman for the loss of all or part of their livelihood to the extent that the loss can be established to have been incurred as a result of the designation of the marine protected area and all such loss is recoverable with costs in proceedings brought or taken with respect to that loss in any court of competent jurisdiction.

(2) For the purposes of subsection (1), the Minister shall send a notice to the licensed commercial fisherman informing them of the Minister's intent to enter into negotiations with them within the period specified in the notice.

(3) The Minister may, by order, cancel the negotiations if the licensed commercial fisherman does not enter into negotiations with the Minister within the period specified in the notice or if, in the opinion of the Minister, the compensation to be granted to the licensed commercial fisherman for the loss incurred has not been determined within a reasonable time during the negotiations.

(4) The Minister shall, in the order, specify the amount of the compensation to be granted to the licensed commercial fisherman in respect of the loss incurred.

We believe this is a fair and reasonable request and amendment to Bill C-55, given that we have heard testimony from all sides that there are concerns and that there could be some displacement in terms of livelihoods and fisheries.

With respect to this amendment, we believe that we've also covered the department and the minister on this, because the onus will also be on the fishermen and the stakeholders to provide and to enter in good faith into negotiations with the ministry and the department.

Thank you.

• (1155)

The Chair: Thank you, Mr. Doherty.

Upon reflection on this particular amendment, there are two elements here. You're proposing to establish a negotiation procedure for the compensation of fishermen. On that, there are two things. I'll refer first to page 767, which talks about.... You're asking the crown to spend money. I'm not going to quote from that; I just did that. However, compensation of fishermen would impose a new charge on the public treasury. In addition to that, I refer to page 766, which states, "An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill."

It is my opinion that the negotiation procedure does go beyond the scope of the bill. Therefore, for both those reasons, I have to deem this amendment inadmissible.

(Clause 13 agreed to)

(Clauses 14 to 17 inclusive agreed to)

The Chair: On CPC-19, Mr. Doherty.

Mr. Todd Doherty: This is a new clause, Mr. Chair.

The Chair: It's clause 17.1, yes.

Go ahead, sir.

Mr. Todd Doherty: Mr. Chair, we propose having annual reports in which the minister will report to Parliament specific details of the MPA designations in respect of the designation, reasons, and possible additional measures required to make sure conservation reasons are respected. With respect to this amendment, Mr. Chair, we are requesting That Bill C-55 be amended by adding after line 21 on page 21 the following new clause:

17.1 Section 52 of the Act is replaced by the following:

52(1) The Minister shall, as soon as feasible after the end of each fiscal year, prepare and cause to be laid before both Houses of Parliament a report on the administration and enforcement of the provisions of this Act for that year.

(2) The annual report shall include the following:

- (a) the marine protected areas designated during the relevant reporting period;
- (b) the extent to which, in the opinion of the Minister, the conservation reasons stated for each designated marine protected area have been respected; and
- (c) any further measures which, in the opinion of the Minister, are required to be taken in relation to each designated marine protected area in order to ensure that the conservation reasons stated for it are respected.

Mr. Chair, I offer to the committee and to those who are listening that this is again in the spirit of transparency and accountability to ensure that, from this process we are entering into, we are achieving the results that are desired and that if there are any other measures that are required, that the department and the minister report before the House to provide those details.

• (1200)

The Chair: Thank you, Mr. Doherty.

Shall amendment CPC-19, which would create new clause 17.1, carry?

(Amendment negatived)

(Clauses 18 to 20 inclusive agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

Some hon. members: On division.

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

Some hon. members: Agreed.

An hon. member: On division.

The Chair: It is so ordered.

Ladies and gentleman, we have completed Bill C-55.

I know you have to go; however, I beg the committee's forgiveness on this. We need to go in camera to accept a subcommittee report, so I'm going to suspend for a couple of minutes to accept the report.

Mr. Fin Donnelly: Do you want to extend? It's already over.

The Chair: No, but I extended to 12:15 actually, if you recall.

We will suspend for literally just two minutes.

[*Proceedings continue in camera*]

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