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Chair

The Honourable Judy A. Sgro

Standing Committee on Transport, Infrastructure and Communities

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• (1535)

[English]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): I call to order this meeting of the Standing Committee on Transport, Infrastructure and Communities of the 42nd Parliament, pursuant to the order of reference of Tuesday, December 5, 2017, Bill C-64, an act respecting wrecks, abandoned, dilapidated or hazardous vessels, and salvage operations.

From the Department of Fisheries and Oceans, we have Froozan Housany, senior policy analyst; Kathy Nghiem, acting director, preparedness and response; Marc Sanderson, acting director general, national strategies; and Yvette-Marie Kieran, legal counsel, legal services.

From the Department of Justice, we have Jaime Bishop, legal counsel.

From the Department of Transport, we have Marc-Yves Bertin, director general, marine policy; Ellen Burack, director general, environmental policy; Jeffrey Johnson, manager, clean water policy; and Michelle Sanders, director, clean water policy.

You are all here to answer questions from the committee, to comment on the various amendments, and to provide the committee with that information. Thank you all for being here.

We will move right into the bill.

Pursuant to Standing Order 75(1), consideration of clause 1, the short title is postponed.

If I have the support of the committee, when there are no amendments, I would like to group the clauses so that we can move along swiftly. Otherwise, we could be here until eight o'clock, and we do have a vote.

Do I have unanimous consent to group them when there are no amendments?

Some hon. members: Agreed.

The Chair: Thank you.

(Clauses 2 to 4 inclusive agreed to)

(On clause 5)

The Chair: There is a government amendment, G-1, moved by Mr. Fraser.

Mr. Fraser, would you like to speak to it?

Mr. Sean Fraser (Central Nova, Lib.): Very briefly, since I don't want to take up much time, you'll see that a series of government amendments have been put forward. They largely amount to corrections of drafting errors or potential oversights.

It's a fairly complex bill. I think the consequences are straightforward. I'd be happy to let the department officials explain, but when I saw the reasoning, it made eminent sense to adopt these. I don't expect them to be controversial, but I don't want to prejudice the analysis of my colleagues.

The Chair: Would the departmental official like to comment on it, please?

Ms. Ellen Burack (Director General, Environmental Policy, Department of Transport): This amendment is to deal with an oversight in importing the provisions from the Canada Shipping Act, 2001. In that legislation, the government had existing authorities that enable regulations to deal with heritage wrecks. This amendment will allow the retention of those authorities.

The Chair: Are there any further questions or comments?

All those in favour of amendment G-1?

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

(Clause 5 as amended agreed to [See *Minutes of Proceedings*])

The Chair: We can now group clauses 6 to 20.

All those in favour?

(Clauses 6 to 20 inclusive agreed to)

(On clause 21)

The Chair: We will now move on to NDP-1.

Ms. Malcolmson, would you like to speak to it?

Ms. Sheila Malcolmson (Nanaimo—Ladysmith, NDP): Maybe I'll describe it first, and then I will certainly appreciate the government witnesses' advice.

The first one would change it so that the minister “must” take the measure. This was based on testimony from Anna Johnston, from West Coast Environmental Law. Her interpretation was that the legislation was discretionary in nature and called into question whether the decision-makers would actually take the measures necessary. Her recommendation in a number of places was that where it says that the minister “may”, the wording instead be changed to “shall” or “must”.

We pulled out the sections that had a clear environmental impact. That was our criterion for which ones to recommend.

This would give more accountability and more confidence to coastal communities that actions outlined in the legislation would in fact be taken, and if not, that there would have to be some rationale provided.

The Chair: Could we ask a department official to comment, please?

Mr. Marc Sanderson (Acting Director General, National Strategies, Department of Fisheries and Oceans): I'd submit that not all wrecks that are a result of maritime casualty necessarily pose a hazard that warrants federal intervention immediately. What's important is that government officials have the ability to establish priorities based on the degree of hazard or risk, as determined through science or other evidence, in consultation with local communities, indigenous groups, and other jurisdictions in the case of flag states for international vessels. Removing the minister's discretion would require the federal government to intervene in all cases, even those in which the owner is willing and able to act but needs more time to address the wreck, without creating additional risk.

This is contrary to the principle of polluter pays, one of the central objectives of this legislation. This amendment would also impose a significant burden on taxpayers, because it would require action on all wrecks, not just those that pose hazards.

The Chair: Are there any further comments?

Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: What we've been hearing from coastal communities is very much that they want the polluter to pay, that they want the vessel owners to take responsibility for their pollution problem, but without the minister being willing to act and to enforce the regulations and force action upon the vessel owner, we may end up not so far ahead of where we are right now.

The actions described here are not that the minister himself will in every case go out and remove the vessel and pay the bill—that's not it at all—but if there are no teeth to this measure and no accountability, then we're going to continue on as we have on our coasts for decades, with people who will push the limits of the law and not take responsibility for their possessions and pollution. They'll continue to be a problem for our environment.

• (1540)

The Chair: All those in favour of the amendment proposed by Ms. Malcolmson?

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

(Clause 21 agreed to)

(On clause 22)

The Chair: Ms. Malcolmson, would you like to speak to NDP-2?

Ms. Sheila Malcolmson: Again we'll say that for the sake of accountability, transparency, and the government actually taking action to enforce abandonment, and again not intending that the full cost of cleanup always will fall to the taxpayer—not at all—some of the measures that have been proposed by coastal communities need

the government to actually push the owner of the vessel to follow through. That's why, based on the recommendation of the West Coast Environmental Law Association and a great number of witnesses who indicated how long coastal communities have been looking for action on this issue, “must take the measure” is a very important change.

Otherwise, too much ministerial discretion means that this “may”, especially by future governments less committed to a solution than this one, will mean that we will continue to have vessels on our coast.

The Chair: Could the department officials comment?

Mr. Marc Sanderson: Madam Chair, I'd offer that one of the other central tenets of this legislation is vessel owner responsibility. Vessel owners bear the responsibility for their vessels and, where possible and when possible, should be compelled to take immediate action before the federal government intervenes. Most vessel owners are responsible, and changing “may” to “must” removes the possibility of having those vessel owners manage their vessels appropriately.

The amendment could have the effect of the government stepping in to take action in every case, before the vessel owner has had a chance to take the appropriate action. It could also send the wrong message. I'd suggest that when the federal government is obligated to intervene, it signals that the responsibility is on the federal government alone.

As I mentioned, one of the central tenets of this legislation is vessel owner responsibility for the entire life cycle of the vessel.

The Chair: Go ahead, Mr. Badawey.

Mr. Vance Badawey (Niagara Centre, Lib.): That said, would it go without saying that the financial burden may end up on the taxpayers?

I have to say that when I look at NDP-1, NDP-2, NDP-6, NDP-10, and NDP-13, and at the Green Party-1 amendment, it appears that the amendments do steer the financial responsibility, based on the burden that you just outlined, toward the taxpayers. Would that be true?

Mr. Marc Sanderson: Indeed, I would submit that this could be the case, and likely would be the case, if the minister were compelled to act in every instance without first giving vessel owners the responsibility, as polluters, to take the action that they are required to take.

Education around the legislation, if passed, will need to make sure that all vessel owners understand what their responsibilities are. We need to be consistent in that message, I would suggest.

Mr. Vance Badawey: If I may, when we look at the legislation, we see that it puts great emphasis on signalling that people who should be taking responsibility are the ones who, in fact, are expected to take responsibility.

Mr. Marc Sanderson: Yes, indeed, that's the case.

The Chair: Go ahead, Ms. May.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): I think my friend Vance Badawey misspoke when he said Green Party-1 had the effect of moving any responsibility to government. My amendment 1, which I get to speak to in a moment, is about vessel owners taking out insurance. I think that may have been just a casual error.

The Chair: That's fine.

Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: Can I ask the witnesses...? This bill is largely based on the minister ordering that fines and penalties be issued to the vessel owner. My concern is that the legislation makes that a discretionary decision. I don't understand the reluctance to say that the legislation requires the minister to act, or how asking the minister to send a fine or a penalty to someone who's in violation of this legislation puts an increased burden on the taxpayer.

Mr. Marc Sanderson: One of the intentions of the legislation is to create a system whereby the owner understands the responsibility and takes the necessary action in the case of a hazard or a wreck resulting from a maritime casualty. Having discretionary power for either minister, their officials, and other designates and delegates ensures that all information available is taken into consideration in the determination of what must take place. Vessel owners need the opportunity to act if possible. The minister has the discretion. If the minister needs to act, that discretion exists. Discretion not to act by anybody is not necessarily the connotation that I understand from "may" that you're mentioning.

• (1545)

The Chair: Thank you very much.

Shall the amendment carry?

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

Ms. Sheila Malcolmson: Madam Chair, could we have a recorded vote for future votes?

The Chair: Yes. Do you mean for all of the future votes or for the amendments? It's for all of the amendments. Okay.

Shall clause 22 carry?

Would the clerk please do a recorded vote?

Mr. Randy Hoback (Prince Albert, CPC): I have a point of order. I'd like clarification.

Are we going to do a recorded vote on everything from this time forward, or are we just doing the amendments?

The Chair: Ms. Malcolmson has asked for a recorded vote on just the amendments.

Mr. Randy Hoback: It should be amendment by amendment.

I suspect that she should identify that before the amendment vote and not blanket it right across the entire report.

The Chair: She's asked for that on the amendments.

Mr. Randy Hoback: I don't have to agree.

The Chair: You don't have to agree, but it is her right to ask for a recorded vote on the amendments. It's her right to ask for it.

From here on in, it will be only on the amendments, not on the others that are being grouped. It's just on the amendments.

Mr. Randy Hoback: Okay. I just want clarification, though. She has to ask for every amendment. She can't just blanket a recorded vote on every amendment when it's Green, Liberal Party, or our amendment. She has to ask before the vote on that particular amendment at that particular time.

The Chair: Okay.

We are about to vote on clause 22. We have already voted down the amendment. Now we're voting on clause 22.

All those in favour of clause 22, please raise your hand. Okay, it will start after clause 22.

(Clause 22 agreed to)

(Clause 23 agreed to)

(On clause 24)

The Chair: Ms. May, would you like to speak to PV-1?

Ms. Elizabeth May: I do apologize to all of you, but when every single committee passed the same language that was used in the previous government to require me to show up at every committee at clause-by-clause if I had an intention to amend a bill—which is not expanding my rights but actually shrinking them, because otherwise I would have had the right to put these amendments forward at report stage—I made a pledge to myself. I put on the record my objections to the process in which every single committee has passed identical motions that substantially increase my already fairly serious workload.

However, I now am happy to address my amendment. As you all will know, because you passed said motion, my amendments are deemed to have been tabled. Because I'm not a member of the committee, I can't table them. My amendment is deemed to have been tabled, but I won't be able to vote on it. I can speak to it.

I appreciate the work done on this. I'm so grateful to Bernadette Jordan for her motion. I know that Sheila has done a ton of work on derelict vessels. I'm very grateful to Karen, the parliamentary secretary, for her work. This is a good piece of legislation, but it can be better. One of the things we heard from a lot of witnesses was that one way it could be better would be to have the bill apply to more vessels that would have a mandatory requirement to carry insurance. As it stands right now, it's only going to be the really large vessels of 300 gross tonnage and more—which we catch under the Nairobi treaty anyway—that we're going to require to carry insurance.

I looked at what kinds of additional requirements for insurance are found in other countries. As well, my thanks to parliamentary library research, which has been very helpful in looking at what's required around the world. When you look at Denmark, you find that they have taken the requirements of the Nairobi convention and of course have made them tougher. They've gone to 20 metric tons...I mean 20 gross tons, rather—I'm so used to carbon dioxide equivalents—for Danish ships. They must be required, if they're 20 gross tons, to carry insurance requirements. According to Transport Canada's information, if this were applied to Canadian vessels, it would mean a further 10,000 vessels would be required to maintain wreck removal insurance.

I think this would assist the bill in its robustness. I think it would ensure that we wouldn't have cases where the Government of Canada ends up having to fork out. We'd be able to find the vessels more quickly. We'd know who owns them because their insurance would have to be up to date. This is an entirely sensible amendment that is in the spirit of and in keeping with the intent of this legislation.

I hope the committee will seriously consider passing this amendment so as to improve the scope of the bill and the mandatory requirements that vessel owners are responsible and that they take responsibility by maintaining a level of wreck removal insurance on any vessel of 20 gross tons or more.

I think that suffices to explain my amendment. Thank you.

• (1550)

The Chair: Thank you very much, Ms. May

Ms. Jordan.

Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.): I want to thank Ms. May for the amendment and for her thoughtful work on this legislation as well.

I'll be honest. I struggled with this one, Ms. May, because I understand where you're coming from. However, I cannot support the amendment, simply because of the ability of small vessel business owners who operate in my riding and the adverse effect that this could have on fishers and the communities that support them... I'm very concerned that the additional insurance costs would adversely affect the fishers in my community, of which I have very many.

The Chair: Mr. Badawey.

Mr. Vance Badawey: I have two questions for staff. One, do all vessel owners remain liable under the wreck removal convention regardless of the size of the vessel? Two, on the same theme that I was outlining earlier, albeit that there may have been a perceived clarification needed, what would be the impact on the taxpayers if in fact this amendment were passed?

Mr. Marc-Yves Bertin (Director General, Marine Policy, Department of Transport): To answer the first question, it bears repeating that all vessel owners do in fact remain liable under the wreck removal convention, regardless of the size of the vessel.

With respect to the issue of the burden on the taxpayers, I think the honourable member, the leader of the Green Party, spoke appropriately in correcting the facts on that one. This would not in principle affect the taxpayers' bottom line.

That said, this amendment would put Canada out of step with 41 other countries that are signatories to this convention, including Denmark, which has looked at 20, but has not moved on that issue. Further, there is no compulsory insurance requirement of any kind on small vessels under 300 gross tons, and our consultations with insurers suggest that the market may not be available for them to acquire such insurance. Therefore, to the point made by the member previously, this could indeed have implications for small operators, whether they're in the fishing sector or the tourism sector, and therefore would have implications for local economies.

Lastly, I would say that compulsory wreck removal insurance and focusing on it would in fact prioritize wreck removal costs over other types of losses, such as loss of life and other types of damages. That's a consideration to keep in mind.

Mr. Vance Badawey: If I may, Madam Chair, in regard to the question and of course to the clarification, I'll say to the honourable member across that I stand corrected.

The Chair: I have Mr. Hardie and Mr. Fraser with questions.

Mr. Marc-Yves Bertin: I'm sorry, but if I could just add...? In fact, from a certification perspective and the requirements to issue certificates, if we are in fact moving towards a lower threshold and if we were to do that, you're quite right in pointing out that there would be an administrative burden—a sizable administrative burden—on the department to execute on that.

My apologies.

• (1555)

The Chair: Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): I believe that Washington state has instituted something whereby there is an annual levy of some sort, right down to and including recreational boat owners, which creates a fund that can be used to clean up boats that have been otherwise abandoned.

Is there an opportunity in the regulation-setting process that will accompany this legislation to perhaps introduce that notion?

Ms. Ellen Burack: Part of the national strategy on abandoned vessels that was announced as part of the oceans protection plan is precisely to look at owner-financed funds, both for large vessels and for small vessels. The modalities of doing that have yet to be determined, but discussions are under way with the provinces and territories and others about how best to set up those types of funds. It may well be a regulatory approach under this legislation, but that is still to be determined.

The Chair: Mr. Fraser.

Mr. Sean Fraser: I'd like to thank the member from Saanich—Gulf Islands as well, who always makes me think in this place. This is something that I was planning on proposing myself. I had a bit of a back-and-forth with some info from the department that gave me some heartburn, because I didn't realize that there were certain issues wrapped up in it. I actually expected our colleague Mr. Chong to bring this forward, because it was his line of questioning that tipped me off to this idea in the first place.

Of course, the point that my colleague Ms. Jordan put forth about local fishermen in Nova Scotia essentially bearing the brunt of the load is for me a big problem. One of the issues that I want to get a better handle on is the kind of consultation that you undertook as a department to understand, as you mentioned, that there wasn't necessarily a market for the insurance. I would hate to legislate something that is impracticable in the real world that we live in. Could you perhaps comment on the availability of insurance?

Mr. Marc-Yves Bertin: As part of our consultation process, we issued two documents, one in 2010 and one in 2015, in which we looked at the scope and, afterwards, operationalization. We consulted a range of stakeholders, including municipalities, where admittedly there was some support or an interest in the issue; however, more broadly, the considerations that this discussion reflects very much came to the fore. We did speak to representatives from the insurance market to get a better understanding of what existed.

In the end, what they were able to confirm for us was the sense that the 300 level was the lowest level possible in terms of gross tonnage to target, insofar as there was an understanding that the market could bear and support products or insurance solutions for vessel owners in that space. By the same token, they indicated that further analysis would be required, but that from their perspective there was a big question in their minds as to whether or not the market could shift towards this type of insurance.

That said, those owners who do have insurance tend to make that part of their business operations or their home. It's not specific to wreck: when they do apply it, they do so within their operating businesses or their home insurance.

Mr. Sean Fraser: Perhaps as a follow-up I'll ask a courtesy of the officials here. I remain concerned about this, and I'm not necessarily convinced that the reduction to 20 tons is the absolute answer. As the plan develops to establish the kind of group-financing program that Mr. Hardie's questioning led to, could you just as a courtesy update the committee so that we understand what the process is? I have a deep concern about ships being abandoned—both big and small—and the risks they pose. I would ask as a favour to the committee if you could keep us in the loop as things develop on that specific issue.

Mr. Marc-Yves Bertin: We certainly can. I would also note that the issue of the threshold is something that we recognize there's a conversation about. Because of that, the regulatory-making powers in this statute enable us to take a look at that issue down the road if, for various reasons, there's a desire to re-explore and reopen the issue of gross tonnage thresholds.

• (1600)

The Chair: Thank you.

Ms. Malcolmson.

Ms. Sheila Malcolmson: I appreciate the spirit of the proposed amendment, but I do share the concerns about cost impacts. Also, my memory is not that there was a lot of testimony from all the witnesses we heard from that this was the remedy they were seeking. I think there was more encouragement in terms of small vessel and pleasure craft registration and actually capturing these within the system. We also heard testimony—I think it was from Rod Smith of the Ladysmith Maritime Society—that in fact there are some vessels

that are voluntarily insured but are not registered, so we still have some pieces....

Like some of my colleagues, I'm open to looking at this in the future, but I would be concerned that in going ahead to approve this amendment we would be doing it without the information about what our stakeholders are looking for and what the cost may be to them.

The Chair: Would the department like to respond?

Mr. Marc-Yves Bertin: Yes. I can tell you that during the course of consultations with stakeholders they were quite clear in echoing some of the conversations and statements here about, in their terms, the significant financial impacts on vessel owners that this could represent if we were to lower the threshold. Because of that, we are encouraged to take a look at doing a full benefit analysis before moving into this space.

Ms. Elizabeth May: Getting back to the question about Denmark, I found information that says, and I quote, "Denmark has implemented this requirement for all Danish ships of 20 GT...." It comes from a Transport Canada document, so I'm a bit confused as to the status of the Danish 20 gross tons, since I got it from some of the folks who are sitting here today. However, it doesn't sound like my amendment will get a single vote from anyone with voting power around this room.

I just want to say clearly that I certainly have heard this from my constituents. There is a concern. Those who are bringing in... particularly a lot of the recreational vessels, the people who can afford it. One of my favourite lines from Gus Speth about neo-liberalism is that a rising tide lifts all yachts. Well, those are not the folks I'm worried about carrying the insurance. As for fishing, I have the same concern; I have a lot of fisher people and a lot of fishermen in my riding, but given all the other costs they carry to conduct fishing operations, I think carrying wreck insurance would be a very small component overall. There are other ways to deal with that in making sure that those who have the smaller vessels, who don't carry the insurance, aren't therefore swept up with as much of the responsibility that this act creates. Somewhere between 20 gross tons and 300 gross tons, there are a lot of vessels.

Unfortunately, we're only going through this clause-by-clause now. There won't be any other opportunity until this bill comes back to us some years from now to see how it's working. I think we all know that a lot of what will make this bill work will be subsequent regulations. This could be gotten at there, so I would urge that. The other thing, of course, that will make this bill work is the extent to which the budget is there to actually act—when the various ministers under this act with the power to act have the resources to do so.

Thank you, Madam Chair.

The Chair: Thank you, Ms. May.

Yes, Mr. Badawey.

Mr. Vance Badawey: I just want to say that although there's an expectation that we may not vote for all the amendments that come from the opposition or the Green Party, like Mr. Fraser, I struggled with this one as well, but I have to reiterate what I said earlier. Point one is that all the vessel owners, as the staff said and confirmed, remain liable under the wreck removal convention regardless of the size of the vessel. Point two is about the consultations that specifically took place with insurers. There's a reality attached to that. Point three, again, is that although there's mixed messaging, I'm hearing there's still an implication—albeit, not what size that implication is—on taxpayers, a negative implication.

With those said, Madam Chair, I simply can't support this amendment.

The Chair: Thank you.

Shall amendment PV-1 carry?

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

(Clause 24 agreed to)

(Clauses 25 to 31 inclusive agreed to)

(On clause 32)

The Chair: We have amendment NDP-3.

Ms. Malcolmson, would you like to speak to this?

• (1605)

Ms. Sheila Malcolmson: Thank you, Chair.

We had some evidence from witnesses at committee that two years is an unreasonably long period of time for any community or the Coast Guard to monitor a vessel. The Washington state model is a 90-day period within any 365-day period. To be able to deal with the backlog, to be able to take quick action, my proposed amendment is to have action happen when a vessel is unattended for a period of 90 consecutive days, as opposed to the two years that is right now in the legislation.

The Chair: Mr. Fraser.

Mr. Sean Fraser: I expect we may end up in a similar place with our comments here, coming from the same part of the world.

I am curious to hear the magic behind why two years exists. On the flip side of that equation, I know of boats at home that have been sitting around for more than 90 days that would be captured by this. I would suggest that if two years is unreasonably long, 90 days would be unreasonably short given the circumstances I'm dealing with at home. There are people who have boats that are in good shape, that they want to leave there, and that might be caught here.

I am curious as to why two years is the magic number on the flip side of that token.

Ms. Ellen Burack: I guess I'd say a few things. Two years was selected in part because in the Navigation Protection Act, there was a two-year presumption as well. The very important difference in this case is that never before Bill C-64 would there have been an actual prohibition on abandonment. That was more of a process question, to be able to act on the vessel, whereas now there's the prohibition associated with it.

The 90 days was considered to be not long enough given that it's quite normal for vessel owners to leave their vessel unattended but not abandoned for at least a season. The length of a boating season varies across the country, so the choice was made to stick with the two years. Of course, there's the possibility over time to adjust that, if evidence suggests that's too long.

It doesn't change the fact that if there's evidence of abandonment, you don't have to wait two years. When there's evidence that a vessel has been abandoned, that can be dealt with immediately. It's also important to remember that the prohibition on abandonment is only one of the ways in which this legislation enables action. There's also the prohibition on a dilapidated vessel being in the same location for more than 60 days without the approval of the owner or operator of the site, or on a vessel being adrift for more than 48 hours. There are other things that allow you to act quickly in specific circumstances and, more generally, if there's evidence of abandonment, it can happen at any time. The two years was chosen as the starting point for the presumption of abandonment.

The Chair: Ms. Jordan.

Mrs. Bernadette Jordan: My comments are similar to those of my colleague Mr. Fraser. It would not be unusual for someone to come to their cottage or their summer place in my riding, put their boat in the water in April, and then not come back until September. That doesn't mean the vessel is abandoned. My concern with this is that I feel 90 days is just way too short. I appreciate the comments on where the two years came from, because that was also one of my questions.

Ms. Sheila Malcolmson: I'll flag that Washington state's abandoned vessel program uses 90 days. They've had their legislation in place since 2003 and have amended it several times, so they haven't found that this is a barrier. That said, two years does seem like a really long time. Communities have been waiting a long time already. If anybody has any other date suggestions that cut the difference, it would be great if we could get some change on that.

• (1610)

Ms. Elizabeth May: I recognize—and, Madam Chair, you're probably going to have to point this out soon anyway—that if Sheila Malcolmson's amendment NDP-3 is defeated, my Green Party-2 will also be since it is identical.

I drew up this amendment for 90 days from the testimony of the Ladysmith Maritime Society. It may be that down the road we will need to think in terms of regulations that are specific to the coastal situations we face.

I used to live there. I know exactly what our winters are like. There's not a recreational vessel left abandoned on the coast of Nova Scotia that's there in the spring. They're gone. But in the Gulf Islands, those fibreglass vessels just hang around; they build up; and they become dilapidated. They become refuges for the homeless. We have a housing crisis that leads people to live in unsafe, derelict vessels, and they're not only eyesores, they're dangerous.

I know my amendment will go down to defeat, as Sheila's will. There's always a chance hers is going to pass, and we'll be surprised, but if hers goes down, mine won't be votable, so I just wanted to say to please keep in mind as we go through this legislation that maybe we need to distinguish the regimes so that they're site-specific, as Washington state does. It works there. It works for them. Ninety consecutive days out of any 365-day period works for Washington. It might not work for Nova Scotia, so let's keep this in mind as the legislation is road-tested.

The Chair: Thanks very much, all of you.

For the information of the committee, if NDP-3 is adopted, Ms. May's PV-2 cannot be moved. If NDP-3 is defeated, PV-2 is also defeated. We'll ask for a recorded vote on NDP-3.

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

The Chair: It does not carry and, therefore, PV-2, as Ms. May pointed out....

Thank you for joining us, Ms. May.

Shall clause 32 carry?

(Clause 32 agreed to)

(Clauses 33 to 44 inclusive agreed to)

(On clause 45)

The Chair: Next is amendment G-2.

Mr. Fraser.

Mr. Sean Fraser: I'm happy to move government amendment number two.

Perhaps I'll save the officials some time. This is a pretty simple and straightforward one. Every other time, the legislation refers to "a vessel or wreck", but this line simply refers to "a wreck". This one would have this provision being consistent with the rest of the legislation. It was, to my understanding, an oversight.

The Chair: Are there further comments?

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

The Chair: Shall clause 45 carry as amended?

(Clause 45 as amended agreed to)

(Clauses 46 to 56 inclusive agreed to)

(On clause 57)

The Chair: Ms. Malcolmson, would you like to speak to NDP-4?

Ms. Sheila Malcolmson: This one must be easy for everybody to say yes to, because the minister already said yes to it. Whether the witnesses were from the West Coast Environmental Law Association, the Sunshine Coast Regional District board, the Islands Trust council, or Ladysmith Maritime Society, we've heard all of them ask why we cannot have one lead agency that is the filter through which any abandoned vessel complaint or concern goes through, understanding that in many cases there will be different government departments that would internally take responsibility, but there

would be one-stop shopping. As an example, one of our witnesses asked why they can't just phone 1-800-receive-a-wreck.

This was the legislation that my predecessor, Jean Crowder, brought forward in the House. The Liberal government, when they were the third party, unanimously voted in support of it. The Conservatives, unfortunately, defeated it. I brought it into my legislation, Bill C-352, and then the minister said, yes, if you go to the website now, if you look at our new organization tables, in fact you will see that the Coast Guard now is going to be the public interface.

I think that's a win for coastal communities. I'd love to see it reflected in this legislation. Again, it doesn't mean that the Coast Guard is the cleanup crew, but it is the single point of contact: if you think there's a concern with an abandoned vessel, you go through the legislation. That's what we heard from the minister in his testimony before the committee. If we could get this reflected in this bill, that would be an even better win for coastal communities.

• (1615)

The Chair: Ms. Jordan.

Mrs. Bernadette Jordan: My understanding of this legislation—perhaps the officials can correct me if I'm wrong—is that the minister already has the authority to designate any person, including an official within the Canadian Coast Guard, as the "receiver of wreck". Is that correct? Okay.

Would this amendment then not add to the confusion and ambiguity? The general public would wonder who is responsible. Ultimately, the Minister of Transport is responsible, correct? Therefore, we already have a designated person who looks after all of it.

Ms. Ellen Burack: Just to kind of build on that, there may be some confusion about "single point of contact" versus "receiver of wreck". Receiver of wreck is a long-standing concept in maritime law. There's a designated official to look after the interests of an owner of a vessel, of a wreck, when they are unable to be reached or have yet to be contacted or identified.

It's true that we have made great strides in further coordinating the efforts between Transport Canada and the Canadian Coast Guard on this issue, and have agreed to have the Coast Guard serve as that public single window, but that's not to be confused with the concept of receiver of wreck. The Minister of Transport designates receivers of wreck as those individuals who are charged with doing certain things under the legislation.

The Chair: Mr. Hoback.

Mr. Randy Hoback: Is the Coast Guard already the lead in regard to this?

Ms. Ellen Burack: The Coast Guard is the lead on certain elements and Transport Canada is the lead on certain elements. When it comes to the public wanting to ask a question, report a situation, report a vessel, it would be through the Coast Guard's 1-800 service that it would be done.

Mr. Randy Hoback: So it's already there. Okay.

The Chair: Mr. Hardie.

Mr. Ken Hardie: Just to confirm, then, a receiver of wreck won't necessarily be the single point of contact. There are in fact currently two different functions in two different places.

I just heard you say that there is a 1-800 number that people can call for the single point of contact in order to report. Is that right?

Mr. Marc Sanderson: Yes, I can confirm that public reporting for problem vessels will be done through the Canadian Coast Guard's 24-7 regional operations centres. They cover all coasts and all inland waters. That's the system that's currently in place for reporting of other marine incidents, such as pollution incidents.

Mr. Ken Hardie: It would occur, then, that really, if there is confusion, it's simply because we maybe haven't publicized that fact enough to ensure that people know precisely who they can call in order to get something reported.

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: People have been calling the Coast Guard for 10 years, asking for action on abandoned vessels, and they've been given the runaround, told that they need to talk to somebody else. This is a change in the government's direction but it's not enshrined in legislation. My concern is that this is a mechanism that Minister Garneau agreed with when the vote was in the House two and a half years ago. My strong advice to the committee is to still enshrine that in legislation in some way so that it's locked in for future governments and is not just a program offered through this government right now.

I'll ask for a recorded vote when we get there.

Thanks.

• (1620)

The Chair: Are there any further comments?

I will call for a vote on amendment NDP-4.

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

(Clause 57 agreed to)

(On clause 58)

The Chair: On NDP-5, Ms. Malcolmson.

Ms. Sheila Malcolmson: In the same vein, we're looking for the receiver of wrecks to have the responsibility and accountability to determine the owner of the wreck instead of shifting that responsibility to a third party.

I appreciate that the intention of the legislation is for the federal government, based in Ottawa in many cases, to be able to work with coastal communities and get that local knowledge. So the ability to delegate, if that local government or that local environmental organization is willing to receive the delegation of responsibility, is an important flexibility in the legislation and something that we appreciate. It's something we certainly heard from coastal communities, that they want to see their own local knowledge reflected.

On the other end of the spectrum, because of the abandonment, I would argue, of the federal government in not supporting local communities and coastal communities to deal with abandoned vessels, there is also a sensitivity to it not being completely

downloaded, especially where the tax base isn't there. The proposed amendment would make the receiver of wrecks responsible and accountable to determine the owner of the wreck but not to have the responsibility shift from the receiver of wrecks to a person without that body being willing to take that. We think this is consistent with what used to be in the Canada Shipping Act in subsection 155(2).

I urge the committee members to vote yes.

Thank you.

The Chair: Ms. Jordan.

Mrs. Bernadette Jordan: I was just wondering if the officials could comment on this with regard to the cost burden. I'm concerned that, if this amendment is accepted, there will be a higher cost for taxpayers, and I just wondered if you could comment on that.

Ms. Ellen Burack: This amendment removes any discretion on the part of the receiver of wreck to not take action to determine the owner of the found wreck, and the time when that sort of thing might be important is perhaps when there's a wreck that someone else has already reported, and so that's not necessary. It might be a frivolous situation. There might have been an error made.

The amendment, in the way that it's done here, removes all discretion to act appropriately on the part of the receiver of wreck. It also removes the discretion from the receiver of wreck to use some of the other tools in the legislation. For example, if the person who reported the wreck is very close to where the wreck is, it might be useful to ask that person to post a notice in that area, in that physical location. The way this amendment is proposed limits the flexibility of the receiver of wreck to take those sorts of actions as well.

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: The way that this is written, it says that the receiver of wreck must take necessary steps to determine who is the owner of the wreck. If that is done, then that gives the government the opportunity to send the bill to that owner of the vessel. This is what this is all built on, this polluter pays principle, and there's nothing in this proposed amendment that would say the step that the receiver of wreck takes is to ask the person at the next dock or somebody else to post a notice on their behalf. There's something that says that it has to be the receiver of wreck who goes out and does the work, so I'm concerned that the witness' interpretation is unnecessarily narrow. I'll leave it at that.

• (1625)

The Chair: Mr. Hardie.

Mr. Ken Hardie: This change looks redundant. Isn't it kind of a fundamental principle of this whole legislation that the idea is to find out who the owner of the wreck is? That will happen automatically. There would always, you would think, be some effort, even if it's very obvious, to determine who the owner of the vessel is. That will always happen in one form or another, will it not?

Ms. Ellen Burack: Yes.

The Chair: Thank you very much.

Shall NDP-5 carry? Would you like a recorded vote, Ms. Malcolmson?

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

(Clause 58 agreed to)

(Clauses 59 to 66 inclusive agreed to)

(On clause 67)

The Chair: We have NDP-6, Ms. Malcolmson.

Ms. Sheila Malcolmson: In the same vein as the first amendment that we proposed, we want the minister of Fisheries and Oceans to act, so the wording is “must”. Again, this is something that is focused on environmental hazard to the coast. We heard testimony from Anna Johnston from West Coast Environmental Law Association expressing concern that the minister's and receiver of wreck's powers under the act to deal with wrecked, abandoned, and dilapidated vessels are discretionary in nature, calling into question whether or not these decision-makers will take the necessary actions to address the backlog. A change to “must” and “may” removes discretion, increases accountability, and gives coastal communities more confidence that the act as written will be implemented.

The Chair: Mr. Hardie.

Mr. Ken Hardie: This is a question for staff. Would there be any situation in which this wouldn't take place, in which there wouldn't be some kind of safety or security zone around a vessel?

Mr. Marc Sanderson: This amendment would obligate the minister to declare an emergency zone in all cases, without consideration for what's going on in that immediate area. There may be remote areas with no population or in which marine navigation is at risk. This would require the immediate establishment of an emergency zone and the necessary resources—in many cases specialized enforcement—and other requirements to establish and enforce that zone, which would lead to significant costs for taxpayers. The “may” in this, as drafted, gives the minister discretion to make that determination and assess each situation on its merits and risks.

The Chair: Mrs. Jordan.

Mrs. Bernadette Jordan: If this amendment were to pass, could it restrict activities such as navigation and fishing in a specific area? To your point, there may be cases in which there is no threat and that's why the emergency zones are not there. My concern would be the impact it would have on fishers or navigation if this were to pass.

Mr. Marc Sanderson: Thank you for the clarification. Yes, indeed, part of the careful consideration that the minister and his officials would need to take into account is the specifics of the situation and the impacts on navigation, fishers, indigenous rights, and other activities in that area. The obligation to immediately establish an emergency zone would require the deployment of resources and enforcement, and it wouldn't give the minister the discretion to assess on a case-by-case basis what the resolution of the situation needed to be.

• (1630)

The Chair: Mr. Badawey.

Mr. Vance Badawey: I'm just going to dig a bit deeper into this issue, because I do respect the intent of the amendment.

With that, I would ask staff to explain further what an emergency zone actually is. Who establishes, or how do you establish, an emergency zone?

I'm asking these questions because of the implications. I think for the most part, we all recognize that there are vulnerable areas that can be impacted when an emergency zone is declared. The impacts are on navigation and fishing, of course. There can be water intakes in the area, and therefore there's a vulnerability attached to the area based on the water intake going into a community, if it happens to be environmentally sensitive. Lastly, there are the impacts on the rights of the indigenous communities.

With that, can you explain to us a bit deeper what an emergency zone would actually be, and how the minister or appropriate authorities would establish an emergency zone?

Mr. Marc Sanderson: In addition to the considerations the member has outlined, the minister also has a number of tools at his or her disposal, including issuing notices to shipping to alert mariners of a hazard and establishing an emergency zone, as defined, that could extend to directing vessels to leave, not enter, or remain in the zone, and that could extend to establishing speed limits or pilotage requirements. There are a number of things. All of those tools remain at the disposal of the minister in considering and weighing the facts of a particular situation, and they may be used in certain combinations, but not necessarily all at once, to declare an emergency zone as this amendment may obligate. The minister continues to have those tools at his or her disposal, and it's important to remember that the establishment of an emergency zone would likely be undertaken if there were a real impediment to navigation safety and/or if there were an immediate environmental danger.

Mr. Vance Badawey: With that all stated, obviously protocols have to be put in place to not only establish an emergency zone but also to further ensure that the emergency zone is dealt with and that the implications of doing that are dealt with.

Would it be safe to say that other organizations and/or levels of government, especially when it comes to the provinces and their ministries of environment, and others would be brought into the process?

Mr. Marc Sanderson: That's absolutely the case in the situation and in the geography of the incident. Local communities, provincial and territorial governments, indigenous governments, and others may all be consulted in the development of the decision-making around whether to establish emergencies or what other measures are necessary in this case. I mentioned the potential tools that the minister has at his discretion. It's important that this discretion remains, that all factors can be taken into consideration.

Mr. Angelo Iacono (Alfred-Pellan, Lib.): Mr. Chair, my colleague asked the same question I was going to ask.

In your remarks, you didn't say who clears the emergency zone. Would it also be the minister?

Mr. Marc Sanderson: If an emergency zone were established, yes, the minister would establish it in concert with other authorities that may be applicable in the specific circumstance.

The previous member also asked a question about enforcement. That's another matter that would need to be taken into consideration: how that's undertaken, what other organizations may be required to enforce such a zone, all at significant cost.

•(1635)

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: I'm going to encourage the committee members if you're not there already. This is on page 30 of C-64. This is extremely limited to really urgent situations if you read the wording. I'm proposing the Minister of Fisheries and Oceans "must", but all the other wording continues as it is. The vessel or wreck has to pose a grave and imminent hazard. That's one. And that's if the minister has reasonable grounds to believe that it...so great discretion is already built in to the legislation as it is. Then on the declaration of the minister about the emergency zone, he or she gets to make up their own determination about the size that is reasonable with regard to the seriousness of the situation. So there's total discretion in here. And then it indicates a number of remedies, many of which could still include passage of fishing vessels, for example, through that area but just under certain circumstances.

With all of that, all that discretion built in and having this remedy aimed directly at a grave and imminent hazard, I urge my fellow members to recall that we had a government in Ottawa for 10 years that despite legislation and rules available to them, chose not to act and enforce them. Those of us who represent the coast remember that this government with good intentions on abandoned vessels will not always be in power, and if we say that there must be a declaration around an emergency zone, then that gives all of us as potential opposition MPs in the future to hold the minister accountable to uphold this part of the bill.

Mr. Ken Hardie: If the minister assessed that a vessel is creating a grave and imminent hazard, why would he not declare an emergency zone around it?

Mr. Marc Sanderson: I would clarify that emergency zone is not a measure of response, but it's necessary really only when the presence of ships or persons might impede the intervention. There may be a very grave and imminent danger, but it may be in a remote area, a place where non-navigation or other traffic is present, and an emergency zone wouldn't need to be declared automatically to address the situation and intervene.

Mr. Ken Hardie: I am still puzzled though. I still don't understand how you could have a situation where something is grave and imminent and you wouldn't take this measure. Grave and imminent may be, for instance, if there's an oil spill. Okay, there's a particular type of response you do to that. You put booms around and you try to clean it up. This seems to refer more to a navigation hazard. That's the impression I get. If somebody says that's a grave and imminent danger to navigation, they wouldn't say that if the vessel were isolated and there are not other ships around, you wouldn't think. You wouldn't find it grave and imminent. There does seem to be a bit of a disconnect here.

Mr. Marc Sanderson: I would just offer the clarification again that the seriousness of the situation might cause risk to other persons, vessels or traffic, or other dangers to the environment. If that is not the case, then in the case-by-case consideration of which tools to deploy to intervene, an emergency zone may not always be required even if the threat is grave or imminent. Intervention may proceed without the declaration of a zone, in other words.

The Chair: All right. We will now call a vote on amendment NDP-6.

I assume you would like a recorded vote.

Ms. Sheila Malcolmson: Yes.

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

(Clauses 67 to 73 inclusive agreed to)

(On clause 74)

The Chair: On amendment NDP-7, go ahead, Ms. Malcolmson.

•(1640)

Ms. Sheila Malcolmson: Once again I'm hoping that using the word "must" will increase accountability and transparency, and I echo the minister's testimony at this committee on February 5, in which he talked about the bill having teeth. The particular section we're looking at here is subclause 74(4), which would say that if an enforcement officer has reasonable grounds to believe that an offence under this act has been committed, they must direct a vessel that is about to enter or is within Canadian waters or in the exclusive economic zone of Canada to stop, to proceed through the waters in a way that the enforcement officer may specify, to proceed out of the waters, or to remain outside the waters. Again, saying "must" instead of "might" gives it much more teeth.

We heard evidence—for example, the case of the *Farley Mowat* making its way into Shelburne harbour—about how, under the cover of darkness and without permission, vessels will push their way into our waters. Good intentions from this government do not mean that future governments will themselves be held in the same way. I encourage the committee to vote yes to including the word "must" in this direction to the minister.

The Chair: Mr. Fraser.

Mr. Sean Fraser: To my colleague, one thing I'm fairly consistent on, when we're dealing with decisions being made with regard to changing facts on the ground, is to always be cautious to say that there can't be any sort of discretionary remedy or discretion in the decision-making process.

I'm wondering if the department officials have a suggestion as to the kinds of circumstances in which the local Coast Guard official on the ground would not want to order these things. Are there instances in which, perhaps, the violation at issue or offence at issue is so minor that you wouldn't want to give one of these orders? If so, if you could maybe provide an example that would be helpful.

Ms. Ellen Burack: I'll provide a general response, and then maybe see if any colleagues have a specific example to point to.

It's important that, in this subclause, the use of the word "may" connotes an illustrative list, so here's a list of things that the situation may require, and one of these things would be done, whereas the use of the word "must" suggests this is a definitive list, so they would be using this list and not their awareness of the situation and other options that may be out there. My understanding is that this list is intended to be illustrative, not definitive or exhaustive. That's the overarching point.

I don't know if any of my colleagues have an example to point to.

Mr. Marc Sanderson: I think that's exactly the interpretation. That's what's intended, that there are a range of tools, a range of options that the enforcement officer might choose to use. For example, in this case of directing a vessel, it may already be tied to a wharf in Canadian waters; it may already be static. It might not be necessary, in that particular case, to direct the vessel to be moved somewhere else immediately. It's a permissive list, as my colleague has stated.

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: With respect, subsection (b) doesn't say what the witness just described.

In this case, the enforcement officer could direct the vessel to moor, anchor, or remain there for any reasonable period they may specify. The change I'm trying to make here is to say that, if the enforcement officer has reasonable grounds to believe that an offence under this act has been committed, then they must act. They do have a range of pieces, but some of them absolutely could include a vessel that is already tied up to a dock having to remain there and cannot then vamoose and leave the marina owner having to pay the bill, for example.

The discretion is built in there, but the action, if my amendment passed, would not be.

•(1645)

Ms. Ellen Burack: If I can point to subsection (b), there's an "and" in there that's very important. You're right that, if this were just a list, it might have additional discretion, but subsection (b) says that they would be directed to proceed and then to moor and do those other things. It's kind of a string of requirements related to a particular type of scenario. It's from that list we know that more things may be required, but that "and" in subsection (b) is very important.

The Chair: Are there any further comments?

We'll call for a recorded vote on NDP-7.

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

(Clause 74 agreed to)

(Clauses 75 to 94 inclusive agreed to)

The Chair: On G-3. Mr. Fraser.

Mr. Sean Fraser: I have another fairly straightforward explanation. The language as it's currently drafted wouldn't have the administrative monetary penalty regime kick in upon the legislation being passed. Again, I think this was just a drafting oversight that can be corrected by the proposed amendment.

The Chair: Does the department have comments?

Ms. Ellen Burack: I just want to add the reason that this fairly large section was not included. There are two ways to go with the AMP regime: to do it through regulations after the legislation is in place, or to embed it in the legislation. We chose the embedding in the legislation to make this legislation effective more quickly. It was just lost in the process of drafting.

The Chair: Are there any further comments?

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

(Clauses 95 to 106 inclusive agreed to)

(On clause 107)

The Chair: On NDP-8. Ms. Malcolmson.

Ms. Sheila Malcolmson: As written, the minister retains discretion to keep a public record of notices of violation or default for any vessel owner who does violate the terms of this legislation. My proposal is to change the word to "must" so that there is transparency and a record-keeping of the number of violations and the number of fines that are issued. I think that, if we do not do this, the public will never know if this legislation has had any effect.

The Chair: Mr. Fraser.

Mr. Sean Fraser: I'm inclined to support this one.

Perhaps, Sheila, I'll throw something out there. There's one concern I have on this one. Typically, as I've just explained, when facts are changing on the ground, I think discretion can be important. However, when we're dealing with the process, and there's a conclusion made that a violation has been committed, I think transparency is a valuable thing.

There's one minor concern I have, that in certain very minor offences, we might be putting a fairly heavy consequence on someone who may not deserve it. I don't know if that's enough to say that we shouldn't report it. I'm just curious if that serves as an obstacle to you. I think I'm comfortable with the language as you've put it forward, but there's one outstanding issue I wanted to give you a chance to comment on, perhaps.

Ms. Sheila Malcolmson: That's fair. The way the legislation is written—simply saying "a public record"—does not mean there will necessarily be a wall of shame in the town centre. As we know, sometimes government records take some time to dig up. It could be an access to information request. It would be ideal if we had the minister report to Parliament periodically to say there were *x* number of violations. If any member of Parliament or journalist wanted to dig in on that, fair enough, but I just want to have good record-keeping and at least to know this legislation is being well used.

•(1650)

The Clerk of the Committee (Ms. Marie-France Lafleur): It is a recorded vote.

The Chair: Are there any further comments?

Shall amendment NDP-8 carry, on a recorded vote?

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

The Chair: The motion is carried. Congratulations, Ms. Malcolmson. It's been a hard day's work for you.

(Clause 107 as amended agreed to)

(Clauses 108 and 109 agreed to)

(On clause 110)

The Chair: On amendment G-4, Mr. Fraser.

Mr. Sean Fraser: Amendment G-4 is essentially just another drafting error. Section 78 was potentially put in the wrong place and it refers only to a particular offence, that of interfering with an enforcement officer. The intent, I understand, was to make this a more serious offence.

If I have perhaps missed something, if the department wants to comment, or if you think I have captured it, I am happy to put that to a vote.

The Chair: Is there any further comment?

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

The Chair: We have Conservative amendment CPC-1. Mr. Hoback, did you want to speak to this?

You don't have to move it, but you can certainly speak to it if you like.

Mr. Randy Hoback: Chair, we had a discussion with you about this beforehand. If it's the committee's will, we'll withdraw it with the understanding that we'll do a small study on this. We understand the clerk has done some great work on this, and we'd have a chance to analyze that work and maybe bring forward some witnesses. It sounds like the first week after the two-week break—

The Chair: I believe we already have a tentative date of March 19 from our clerk.

Mr. Badawey.

Mr. Vance Badawey: It is great that we're going down this road, because it is separate from what we are dealing with here today. Having said that, would it be appropriate to include Heritage Canada in these discussions?

The Chair: We'll invite them.

Certainly when the issue was raised at committee on the war graves, it caused concern for all of us.

Do we need unanimous consent for Mr. Hoback to withdraw that motion?

Do we have unanimous consent to withdraw amendments CPC-1 and CPC-2? We'll do a report at committee.

Some hon. members: Agreed.

(Amendments withdrawn)

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: Chair, for the benefit of the witnesses we had at committee, who put a lot of time into their testimony, and also for the people watching at home, I wonder if you or one of the Conservative representatives could just give us a couple of sentences about what we heard or why we are going to study this in further detail, rather than include it in this legislation.

The Chair: Mr. Hoback.

Mr. Randy Hoback: In discussion, there seemed to be some confusion on whether or not this topic would fit in with Bill C-64, or if it would actually be better as a stand-alone piece of legislation because of the different areas it actually implicates. That's why we thought if we could do a separate study on it, that might give us a chance to really focus and shine a light on this particular issue in such a way as to give it the appropriate attention it properly deserves. Hopefully it will be tabled in the House, I understand, and from that tabling we will see some legislation come forward, either from the government or through a private member's bill that would take up this cause.

The Chair: Certainly.

Mr. Hardie.

Mr. Ken Hardie: To respond to Ms. Malcolmson's suggestion, the intent of the witnesses was to note the fact that there are sunken warships and sunken merchant marine ships now sunk for many years, and disturbing those wrecks, because they are gravesites, should be dealt with. It should be addressed. That's why, as the chair mentioned, there was general agreement around the table that this needs to be addressed. This isn't necessarily the right place to do it. I'm very happy, in fact, that we're headed in the direction to address that because we do have to honour those people properly.

• (1655)

The Chair: Mr. Iacono.

Mr. Angelo Iacono: We can also draft [*Inaudible—Editor*] that says we don't want to associate these gravesites to wreckages. I think they deserve more than that. It would be best to split the two matters and give it proper and honourable attention.

The Chair: Exactly. Good.

(Clause 110 as amended agreed to)

(Clauses 111 to 118 inclusive agreed to)

(On clause 119)

Mr. Badawey, would you like to speak to G-5?

Mr. Vance Badawey: Once again there was a drafting error, Madam Chair.

The Chair: Does the department want to comment on this? If not, all those in favour of G-5?

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

The Chair: Mr. Hardie.

Mr. Ken Hardie: Madam Chair, I just wanted to go back to amendment CPC-1. I think you asked us to vote on the clause as amended, but in fact we were—

The Chair: It had been amended by G-4. CPC-1 and CPC-2 were withdrawn.

Mr. Ken Hardie: Oh, okay. Thank you.

The Chair: Shall clause 119 as amended carry?

(Clause 119 as amended agreed to)

(Clauses 120 to 128 inclusive agreed to)

(On clause 129)

The Chair: On clause 129, we have amendment G-6.

Mr. Fraser.

Mr. Sean Fraser: Again, it's just a drafting issue. As drafted currently, there's a risk the government could not go after the owner who's responsible for the collateral costs of removing a wreck. Let's say a fence needed to be removed and there's damage done during the removal process. Keeping in line with the polluter pays principle, the legislation would make the person who abandons the vessel responsible for the cleanup.

The Chair: Any comments?

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

(Clause 129 as amended agreed to)

(Clause 130 agreed to)

The Chair: Amendment CPC-2 on clause 131 was withdrawn at the request of Mr. Hoback. It goes back to the same issue of war graves.

(Clause 131 agreed to)

The Chair: We are now looking at amendment NDP-9.

Ms. Sheila Malcolmson: This is a piece imported from my private member's bill, Bill C-352, which was stopped in the House back in the fall. It would require the minister, every five years, to review the operation of this bill, Bill C-64, and report to the House about the efficacy of the act, and the resulting review that had happened.

We had a number of witnesses talk about the serious backlog. Andrew Kendrick, from Vard Marine, for example, talked about "starting from a bad place." We need to address the backlog of abandoned vessels. They are a growing number. Having some transparency and accountability, and reporting to Parliament on how well this legislation worked, would certainly help with future amendments or regulatory changes as we modify.

There's very good precedent for this. The Aeronautics Act has a requirement "within two years after the day on which this subsection comes into force and every five years thereafter, commence a comprehensive review of the provisions and operation of this section". The Canadian Environmental Protection Act has an "every five year" review, and then several acts in this Parliament require periodic re-evaluations. That includes the Employment Equity Act, the Agricultural Marketing Programs Act, the Lobbying Act, the Canada Small Business Financing Act, the Business Development Bank of Canada Act, the Export Development Act, and the Canada Infrastructure Bank Act. Washington state again has a very good legislative model, and we heard directly from.... Their legislation has been in place for 15 years and they use this period review.

I urge my fellow committee members, for the sake of transparency and accountability, to vote yes to requiring a five-year reporting and review.

● (1700)

The Chair: Any questions?

On to department officials.

Ms. Ellen Burack: Elsewhere in Bill C-64 is a requirement for a five-year review by one or more parliamentary committees. That would of course include all political parties in the review. The view is that this would be redundant as a result to have another five-year review, five years after the legislation is in place. Certainly, the act can be reviewed when that's necessary over its lifetime.

The Chair: Not seeing any comments, we'll call the vote on NDP-9.

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

(Clause 132 agreed to)

The Chair: We are now looking at NDP-10.

Ms. Sheila Malcolmson: In this case, we heard quite a bit of testimony. Other states, Washington state in particular, have very successful abandoned vessel programs. They have a system where they put conditions on crown assets that are sold, so that the seller, in this case the Government of Canada, is confident that whether it's a naval vessel or an old Coast Guard vessel, they're going to a dignified end, but also the person receiving them has the means to look after them.

On the British Columbia coast we've got vessels all over the place that still have the government logo, whether it's BC Ferries or Coast Guard. Certainly, on the Atlantic coast we have a great number of people, with maybe good intentions, purchasing surplus navy vessels, but nevertheless they become great liabilities for coastal communities and municipalities. We heard from some of them directly at this committee.

Our recommendation is:

...if the accepted surplus Crown asset is a Canadian vessel, within the meaning of section 2 of the Wrecked, Abandoned or Hazardous Vessels Act, that is capable of being used for safe navigation, the Minister must take the measures that are necessary to ensure the vessel remains in that condition until it is disposed of under this Act.

The Chair: Mr. Fraser.

Mr. Sean Fraser: If I understand the intent of the proposed amendment correctly, it's to prevent a social harm, which is important to me, but I'm not sure it captures it. The problem that I'm thinking of is one where the government doesn't sell a dilapidated vessel, but sells a vessel that's in decent condition, and it subsequently becomes dilapidated, potentially because the new owners didn't disclose the purpose for buying it. Maybe they had great plans, and the bottom fell out of the market they had plans for, I'm not sure.

When I look at the act we have before us, this would apply equally, I understand, to the government and private owners. Perhaps I'll get some clarity on that, because the harm is already protected against as the government couldn't allow its own vessel to become dilapidated. I don't know that this would prevent the harm in the sale of a good vessel, in working condition, that would subsequently become dilapidated. Could you comment as to whether the harm I'm trying to describe, perhaps inarticulately, is captured by the proposed amendment?

• (1705)

Ms. Ellen Burack: My understanding, in fact, is that the conditions-of-sale issue is dealt with in NDP-11. NDP-10 is aimed at retaining vessels that are surplus and intended for sale, and are in good working order. Is that correct?

Ms. Sheila Malcolmson: They're certainly related. In NDP-10 we're particularly trying to get at the vessels in possession of the government. We heard testimony from the towns of Shelburne and Bridgewater that some of these vessels originate from the federal government. The example of the *Farley Mowat* is a famous one, where for a while the vessel was held by the government and they had an opportunity then not to be able to pass it on. NDP-10 and NDP-11 are related issues, but the *Farley Mowat*, for example, was not originally a crown asset, but nevertheless, having confiscated it, it did hold it at a certain point and had the ability to prevent it from going into even worse hands.

Ms. Ellen Burack: The amendment as proposed to the Surplus Crown Assets Act would require the duplication by the Minister of Public Services and Procurement of activities that currently exist elsewhere. If a department, say the RCMP, has a boat of a certain size that they want to surplus, generally they would retain it in situ until the actual sale took place. This amendment suggests that the Minister of Public Services and Procurement take responsibility for maintaining that vessel in good working order from its acceptance as surplus to its disposition. The Minister of Public Services and Procurement deals with all assets across government and cannot have the expertise to maintain all those assets in that way.

The Chair: Mr. Hardie.

Mr. Ken Hardie: The question becomes, would the government then be in a position of having to maintain something in a seaworthy condition even though it's surplus, or is the situation where the government, when it's time to sell, can establish the terms and conditions of sale so their vessel might not be able to be used for certain things because it is no longer seaworthy?

Ms. Ellen Burack: I'm looking to the chair for guidance. The conditions-of-sale issues are in NDP-11. I'm not sure what I'm providing technical support on.

Mr. Ken Hardie: Where I was going for the first part of the question was, would we potentially be looking at significant cost to the government to maintain a surplus vessel in seaworthy condition? If there was no requirement for the government to keep a vessel in seaworthy condition and the government knew it was not seaworthy when it sold it, could it then not, through the terms of sale, ensure that it was not going to be sold as though it were seaworthy? Is that clear?

Ms. Ellen Burack: Certainly the government wouldn't sell an asset suggesting that it was seaworthy when it wasn't.

Mr. Ken Hardie: I think the intention here is to prevent an unseaworthy vessel from going out. If the government knows at the time of sale that a vessel is not seaworthy, can it then apply conditions to the sale that say a vessel is not seaworthy and therefore certain things cannot be done with it?

Ms. Ellen Burack: You asked if there was significant cost. The significant costs associated with this amendment are to duplicate the maintenance and technical expertise associated with maintaining vessels within Public Services and Procurement when they already exist in the departments that own and operate these vessels. It's highly unlikely that an operational government vessel that is desired to be sold will be left to deteriorate so it cannot be sold as an operating vessel. That seems to be the scenario that this amendment is seeking to address.

• (1710)

The Chair: Ms. Jordan.

Mrs. Bernadette Jordan: To that point, I think this legislation covers government vessels, therefore they're not allowed to become derelicts. Is that not boiling it down to the basic...? This legislation says you can't have an abandoned, derelict, or dilapidated vessel, so therefore the government could not have that. Is that not correct?

Ms. Ellen Burack: This legislation does not cover government vessels.

The Chair: Mr. Badawey.

Mr. Vance Badawey: Again, to some extent it's an amendment that may be redundant. Correct me if I'm wrong, but does Treasury Board not already have the ability to prescribe conditions on the sale of assets under the Surplus Crown Assets Act?

Ms. Ellen Burack: Yes, they do. Section 3 of that act gives them the authority to do that. That would be relevant for amendment NDP-11.

Mr. Vance Badawey: All right. Great. Thank you.

The Chair: Okay. We will call for a vote on amendment NDP-10.

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

The Chair: Amendment NDP-11 has already been spoken to a bit, but Ms. Malcolmson, would you like to speak to it?

Ms. Sheila Malcolmson: The previous one was about trying to keep the asset in good shape so that the worst-case scenario doesn't then happen, around disposal of crown assets. I did partly speak to this when I was introducing amendment NDP-10. The intention is that we don't have irresponsible owners take on crown assets that then deteriorate some of our highest-profile abandoned vessels in this country, which were originally government assets.

My question to the witnesses is, given that Treasury Board is already able to put limits on the sale, what's the remedy? How will we, as representatives of this government, not continue to be embarrassed by seeing Coast Guard and navy vessels, or as in the case of the *Farley Mowat*, a vessel that had been in the possession of government that they then sold to a third party that did not take care of it, and it became ruinously expensive for the taxpayer to address? Bill C-64 does not regulate or cover government vessels. How can we prevent this major source of high-profile abandonment?

Ms. Ellen Burack: There are a few different things. It's already been mentioned that Treasury Board has the ability to deal with conditions of sale. I will note that it's very difficult. In talking to our colleagues at Public Services and Procurement, we learned that it's extremely difficult to impose conditions that can't be verified at the time of sale. They do impose conditions, such as that if you're going to tow the vessel, you need to have insurance from a certified insurer, because they're able to verify that at the time of sale. Things that might happen later, beyond the point of sale, are more difficult to address. Often the problem with these vessels tends to be on resale as well, not just on that initial sale.

We heard, when we were here as witnesses to your deliberations in the past, the Coast Guard speaking to the more active approach that they're taking to the management of the end of life of their own vessels. We've been talking to National Defence as well, who are also taking a different approach to their vessels at the end of life than they have in the past. It is fully our intention to be looking at what needs to be done from the perspective of the management of the government fleet. It's very much on the radar and is being actively addressed. It's just not within the scope of this legislation.

• (1715)

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: I'll note two things.

One, Washington state does have provisions intended to prevent this major source of abandoned vessels.

Two, this amendment proposes that then, if the terms of the sale are not upheld, if the third party owner does not honour the conditions that were established by the crown at the time of sale, the crown has the ability to prosecute. That's the intention. I hope committee members will vote yes.

Thank you, Chair.

The Chair: All right.

I will now call for a vote on NDP-11.

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

(Clauses 133 to 150 inclusive agreed to)

The Chair: We'll now go to NDP-12.

Ms. Sheila Malcolmson: This proposal is reflecting on a great number of witnesses who described the vessel registry as being full of errors, not current, and not accurate, and the licensing database as being out of date and of very little use in tracking down owners, in many cases. Everybody is agreeing that polluter pays is a good principle, understanding that the intention of the minister's

legislation here, Bill C-64, is to send fines and penalties to those who abandon their vessels, but without being able to actually find the owner, there's no way to send them a bill.

This amendment is intended to fix that vessel registration, to ask the Canadian registrar of vessels to have a reporting function, which has never been done. We weren't able to find any evidence of it. Although that person is in that position, he's never actually issued a public report. It's not only vessel registration but also pleasure craft licensing. At a minimum, it's to report on the number of vessels that are registered. If we don't get this kind of reporting to Parliament and this kind of transparency, I'm not sure we will really have a good handle on the backlog of abandoned vessels and the current legitimate and responsible owners who are out there doing the right thing with their vessels. Without this, we may not get a sense of whether we're really tackling the problem.

The Chair: Thank you.

Mr. Hardie.

Mr. Ken Hardie: I think based on what we've heard, Madam Chair, there is not a lot of confidence right now in the registration system. Clearly, if we're looking back to especially pleasure craft abandoned on the west coast and other issues that have come up, a more robust registration system will be required if we're to pre-empt this kind of issue in the future.

First, does this legislation lead us toward a more robust registration system? Second, are there already provisions in the legislation that would require the kind of reporting that Ms. Malcolmson is looking for?

Ms. Ellen Burack: As part of the national strategy on abandoned vessels that was introduced under the oceans protection plan, the government is exploring enhancements to both the pleasure craft licensing system and the commercial vessel registry, the large vessel registry, both of which are regulated under the Canada Shipping Act, 2001. The reason they remain under this act is that these systems are not exclusively dedicated to supporting abandoned and wrecked vessels. They have a broader purpose, a marine safety purpose, so it's appropriate that they continue to be regulated within the context of the Canada Shipping Act, 2001.

In terms of reporting, the performance of the Canadian Register of Vessels and the pleasure craft licensing regime is already captured in Transport Canada's departmental performance report, where the compliance of marine safety regulations is assessed annually. As part of reporting on initiatives under the oceans protection plan, reporting on the enhancements that are under way to the licensing and registration systems will also take place.

• (1720)

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: I have two things. We asked the Library of Parliament for reporting on vessel registration. They said they couldn't find any record of it, that there was no reporting. That's from our own in-house research station, so the transparency is not there.

To say that this program exploring enhancements to vessel registration is going to sit on the government website is not giving us comfort about actual implementation. Whether it was the Chamber of Shipping, John Weston, Washington state, or multiple local governments, we've heard from countless witnesses who have said that your program won't work without transparency and improvements to vessel registration, so why would this government not take the opportunity to import into its commitments to the country that it will report on the state of vessel registration?

Of course, the housing of vessel registration may well sit within another act, but you're not going to get at abandoned vessels without nailing the registration program, and there is zero downside to including that in this legislation. I would argue that excluding it is going to leave coastal communities not sure of what commitments this government will keep and what transparency there will be beyond the life of this current government.

The Chair: Mr. Hardie.

Mr. Ken Hardie: I think that certainly by flagging the fact that a report already does exist, that we now know where to look.... I would like the staff to comment on Ms. Malcolmson's point that our Library of Parliament couldn't find this report. Can you confirm that it does exist? Certainly, if it does, then we do know where to look in the future with respect to the performance of the registration system.

Ms. Ellen Burack: I can confirm that compliance with marine safety regulations is in the departmental performance report. If the library was looking for something in particular labelled with respect to the pleasure craft licensing system, perhaps that was not found because there is no report that is called that.

I can say that there is extensive public reporting through the departmental performance report going forward on the oceans protection plan. As I mentioned, key parts of the national strategy on abandoned vessels are improvements in particular to the pleasure craft licensing system, which is generally recognized to have some significant deficiencies. Work is actively under way with the provinces and territories to improve that in a very significant way.

The Chair: Not seeing any further comments or questions, I'll call the vote on NDP-12.

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

(Clauses 151 and 152 agreed to)

The Chair: Ms. Malcolmson, would you like to speak to NDP-13?

• (1725)

Ms. Sheila Malcolmson: This is our final amendment. The west coast local governments, the Union of British Columbia Municipalities, the Association of Vancouver Island and Coastal Communities, the City of Victoria, the Islands Trust Council, and the

Regional District of Nanaimo all had the same elements in their pieces of legislative change, namely, fixing vessel registration, looking at a vessel registration fee that would owner-finance removal of boats, implementing a vessel turn-in program that would include designation of disposal areas for vessels, implementing recycling facilities, supporting local marine salvage to help dispose of wrecks, and putting all this in a report to Parliament. These are the elements of my legislation that was blocked back in December. However, many of these pieces are embedded in the government's commitment we see in its website. We are moving forward behind the scenes, but not within a legislative framework and not with the accountability that reporting to Parliament would entail.

My argument to fellow committee members reflects the advice we've had for about 15 years of pressure. The reason we have this legislation is that coastal communities on both coasts have been pushing hard and quite rightly identifying big holes in jurisdiction in Canada. In the absence of federal leadership, the burden has fallen disproportionately on coastal communities.

Why not enshrine all of these elements in the legislation? This is a perfect opportunity to do so. In reporting back to constituents five years from now, we could say these are all the measures taken by the government, and this was the experimentation. The proposal from Minister Garneau is entirely consistent with the individual commitments made in the abandoned vessel strategy in the oceans protection plan. With only two more years in this government's term, however, I'm concerned that these commitments will not last beyond the government, as long as they sit only on the website and are not embedded in legislation. For the sake of transparency, accountability, and visibility, when this issue dies away a little bit, we will still want to have the government's commitments locked in and to have action implementation. As we see in Washington state, Oregon, and Florida, as well as in Norway and other countries, it is possible within the frame of Parliament to revisit, re-evaluate, and make amendments to regulations and legislation as time goes on. We'll all end up better off if we lock those commitments into the bill.

The Chair: Ms. Jordan.

Mrs. Bernadette Jordan: First, I have a number of concerns with this amendment, specifically the calling for a national strategy on abandoned and wrecked vessels, which already exists. It's already encompassed in the oceans protection plan. It's a \$1.5-billion plan. If we do a national strategy with this amendment, we're being redundant. We already have a national strategy.

Second, with regard to fees, fee structures are difficult and complex issues, but I agree with you that we need to do something with the fees and where they go and whether a vessel turn-in program is the right way to go. I think, however, that this would be better addressed in regulations and not legislation.

Third, I'm concerned about the implementation for a turn-in and recycling program for the end of life of vessels. The provinces and territories have jurisdiction over waste and land management and I don't think it would be appropriate for the federal government to legislate a program for disposal without having good stakeholder consultations with the provinces and territories to make sure we're all on the same page.

The Chair: Mr. Fraser.

Mr. Sean Fraser: I accept the criticisms of the the proposed amendment that my colleague Ms. Jordan just put forward. I wanted to take this opportunity, which is my last time to speak on this motion, to thank a few people: Mr. Weston who testified before us made this an issue; Ms. Malcolmson, the member from Nanaimo-Ladysmith, has been a great advocate for abandoned vessels and brought witnesses who showed us pictures of the impact on the west coast; and of course I would be remiss if I didn't thank my colleague Bernadette Jordan for her tremendous effort on this file. This is not something I campaigned on in the last election, despite its being an important issue for me.

Bernadette, I say in all sincerity, I do not think this would be happening without your effort, and I'd like to thank the minister for piggybacking on the heavy lifting you've done. Thank you for protecting our coastal communities.

• (1730)

The Chair: Ms. Malcolmson.

Ms. Sheila Malcolmson: I'll just say, as a final word, a quote from the minister's mandate letter:

As Minister, you will be held accountable for our commitment to bring a different style of leadership to government. This will include: close collaboration with your colleagues; meaningful engagement with Opposition Members of Parliament, Parliamentary Committees and the public service;

Then on transparency:

We have also committed to set a higher bar for openness and transparency in government. It is time to shine more light on government to ensure it remains focused on the people it serves.

On the national strategy, if the government is going to do it, then why not say in legislation we are going to do it and impose on the government a requirement to report back to the people in coastal communities after the fact? You can't have it both ways. You can't campaign and keep doing press releases and re-update your website, but say no to making that same commitment. It is not duplicative. It's enshrining for transparency and accountability something that will last beyond this term of Parliament and beyond any of our service.

Other governments around the world have done it, and Canada would be stepping up into the modern marine age if you were to vote yes to this final amendment I've proposed.

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

We'll call for a recorded vote on amendment NDP-13.

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

(Clauses 153 and 154 agreed to)

The Chair: All right, shall schedules 1 and 2 carry?

(Schedules 1 and 2 agreed to)

The Chair: Shall clause 1 carry, which is the short title?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

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

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill?

Some hon. members: Agreed.

The Chair: Good. That's fabulous work, folks. With the help of everybody, we've got through a wonderful piece of legislation that affects an awful lot of people.

Mr. Hoback.

Mr. Randy Hoback: With regard to the motion I withdrew, I just want some clarification. We are going to report that to the House.

When would you like a witness list created and given to the clerk? Could I have some logistics around that? If you want to decide that on Wednesday, that's fine.

The Chair: I would think the clerk will put out a notice fairly quickly. We come back on the 19th. It will be probably by the 14th.

Mr. Randy Hoback: Do you need a motion on that?

The Chair: No, you withdrew your amendments on the condition that we were going to do a report on March 19 and invite the appropriate officials to the table, and with the help of the analysts, we'll do a report on that war graves issue as we move forward.

Mr. Randy Hoback: I have a question for the analyst. Will she have the report available for us by Wednesday, or will she need more time?

Ms. Nicole Sweeney (Committee Researcher): We need instructions of the committee to produce a report. We had thought that perhaps it may be in the committee's interest to hear from the witnesses first with a view to putting what they say into the final version of the report, but we have background materials that can be distributed whenever it would be convenient. There would hopefully be a short turnaround time to get the report out afterwards if the committee is happy with what you hear from the witnesses and doesn't pursue it any further.

Mr. Randy Hoback: You don't want to deliver your preliminary report until after the witnesses speak. I'm fine either way. I just wanted to know the process.

• (1735)

The Chair: We have the document that the analysts prepared based on seeing that the committee would be very interested in the war graves issue, so a background document has been prepared. That can be circulated. We just got it in French a short while ago, so it will be circulated to all of the committee members now.

Could we have a witness list in by March 14? We'll have our committee on March 19, and we will go from there. That gets us into the beginning of another opportunity for our process.

Thank you very much to our witnesses for your help.

Thank you to all of the committee members.

The meeting is adjourned.

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