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Chair

Mr. Leon Benoit

Standing Committee on Natural Resources

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• (1535)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)):
Good afternoon everyone.

We're here today, after votes, to continue our study of Bill C-5, An Act to amend the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and other Acts and to provide for certain other measures.

We have two witnesses here today. The first, from the Canadian Association of Petroleum Producers, is Mr. Paul Barnes, manager for Atlantic Canada. Welcome, Mr. Barnes.

We have, as an individual, the Honourable Robert Wells, former inquiry commissioner of the Offshore Helicopter Safety Inquiry. Welcome to you, Mr. Wells.

We'll go ahead as usual. We'll start with a presentation from each of the witnesses, and then we'll start our questions and comments from members.

We'll go with the order on the agenda, starting with Mr. Barnes, manager for Atlantic Canada for the Canadian Association of Petroleum Producers. Go ahead, please, sir.

Mr. Paul Barnes (Manager, Atlantic Canada, Canadian Association of Petroleum Producers): Thank you.

Good afternoon, Mr. Chairman, and members of the committee.

As you know, my name is Paul Barnes. I am the Atlantic Canada manager for the Canadian Association of Petroleum Producers, or as it's commonly referred to, CAPP. CAPP's head office is located in Calgary, Alberta, but they also have a regional office for Atlantic Canada located in St. John's, Newfoundland, which is where I am based—and I should mention that's where I'm from as well. Given that we have two MPs from St. John's in the room, I figured I'd do a shout out to them.

CAPP represents Canada's upstream oil and gas sector—those companies that are involved in exploration, development, and production of oil and gas. Our members find and develop over 90% of Canada's petroleum resources all across the country. Together they invest over \$50 billion annually, and they employ more than 500,000 Canadians. In Atlantic Canada alone, our industry directly employs over 5,600 people and supports over 800 local supply and service companies. Cumulative investment in the region has been totalling close to \$40 billion since 1996.

The oil and gas industry also accounts for 30% of Newfoundland and Labrador's gross domestic product, GDP, and there remains significant growth potential in New Brunswick, Nova Scotia, and Newfoundland, both onshore and offshore.

We appreciate the opportunity to offer CAPP's perspectives today regarding Bill C-5, Offshore Health and Safety Act, as it's commonly referred to.

While we believe there are areas where greater clarity in the legislation's wording would be beneficial, we are supportive of the intent and spirit of the legislation. We believe it is another positive step in bringing clarity and efficiency to the regulatory regime that governs the offshore petroleum industry in Atlantic Canada. We have met with provincial and federal government representatives since the bill was introduced and have received additional clarity on some of the legislative language. We expect that more clarity will be provided once regulations associated with this act are drafted. Today I will outline CAPP's views on Bill C-5, and to provide some important context to this discussion, I'll also touch on the overall subject of offshore safety.

With respect to CAPP's views on Bill C-5, over the past several years, CAPP and our members who are active in Atlantic Canada offshore participated in the government's consultation process related to amendments to the accord acts to address occupational health and safety. We appreciate the role the offshore petroleum boards also played in this process, for even though their mandate is not to develop legislation, they did provide considerable expertise and advice on the subject to the legislative writers, which has resulted in what we believe is a comprehensive legal framework that achieves the same protection for offshore workers that onshore workers currently enjoy.

We support government's desires to formalize offshore occupational health and safety legislation as described in Bill C-5. It provides industry with clarity on what government agencies are responsible for regulating occupational health and safety. Joint jurisdiction of the federal and provincial governments of Nova Scotia, Newfoundland and Labrador is now recognized. In this process, consideration has been given to an effective and efficient use of regulatory resources, avoiding duplication and overlap between different governments and different government agencies.

This bill also reflects a hierarchy of responsibility in clarifying the role of governments, the role of regulators, the role of employers, and the role of employees. It recognizes that the oil and gas operator is ultimately responsible for ensuring worker safety in the offshore environment.

CAPP also welcomes the establishment of an advisory council that will include representatives from industry, government, and employees to provide advice on matters related to occupational health and safety. We look forward to providing industry representatives with seats on such a committee. We also understand that governments will be consulting industry as they continue to process the drafting of regulations related to these amendments, and CAPP and our members look forward to being consulted as part of that process.

I now wish to provide some context for what is meant by safety in the offshore oil and gas industry.

Safety comes to mind first in the oil and gas industry. In the offshore, where factors like harsh weather, icebergs, and remoteness of work locations provide added challenges, our members are diligent in equipping workers with the skills and tools needed to keep themselves and their co-workers safe. All of our offshore operations are guided by comprehensive health and safety plans that must be developed before any offshore activity is approved.

The Canada-Nova Scotia and the Canada-Newfoundland and Labrador offshore petroleum boards audit these company health and safety plans, and frequently inspect offshore work locations. The boards have the power to shut down operations that are unsafe.

Our industry is committed to continuous improvement. We support research to test and advance new safety equipment and regularly assess the safety equipment and training provided to offshore workers as new research and technology becomes available.

We work to eliminate or control potential hazards and to keep our workplaces and employees safe. We must also ensure that our employees are ready to respond effectively in an emergency situation. Offshore workers receive comprehensive safety training focusing on emergency response and survival, which must be repeated at regular intervals to ensure that they have the skills required to effectively handle an emergency situation.

The industry views training as a critical component of emergency preparedness and response. Working with regulators, drilling companies, offshore worker representatives, and training institutions through the Atlantic Canada training and qualifications committee, our industry regularly assesses our training standards and ensures that processes are in place to ensure that the training available in Atlantic Canada meets the intent of the standard and is of good quality.

We also work to ensure that the safety equipment designed for and provided to offshore workers in Atlantic Canada is the best available for the offshore environment they are working in.

One example is the introduction of the helicopter underwater emergency breathing apparatus, also known as the HUEBA. In 2009 the offshore petroleum industry in Atlantic Canada implemented this device, which is mandatory for travel by helicopter offshore. The

HUEBA gives the user an additional capacity of breathable air so that he or she has more time to escape from a partially or totally submerged helicopter in an emergency situation. The HUEBA is basically a compressed air device, like the small scuba tank used in diving. This is just one example of a tool that has been implemented by the offshore industry to enhance safety.

A more recent example, in fact one that is ongoing right now, relates to the helicopter passenger transportation suits that are worn by offshore workers when travelling by helicopters offshore. In 2012 the Canadian General Standards Board published a revised standard for helicopter passenger transportation suits.

CAPP and our members participated fully in the CGSB review of this standard, which resulted in an improved published standard for future suits, as it requires suits to be tested in more realistic conditions such as colder water, amongst other things. Oil and gas operators in Newfoundland and Labrador and Nova Scotia are at the end of a process now to select a contractor who will develop these helicopter passenger transportation suits for Atlantic Canada offshore, built to this new standard.

CAPP and our members engage the offshore workforce through joint occupational health and safety committees on every offshore installation to ensure that worker feedback is part of the process of revising safety and training standards and introducing new equipment. This process has proven to be an important aspect of how CAPP advances important safety files and ensures that workforce feedback is part of the process.

As an industry, we will continue to advance research and will continue to challenge ourselves to continually improve performance.

To conclude, I want to reiterate CAPP's support for Bill C-5. From industry's perspective, the amendments provide greater clarity related to who's responsible for regulating offshore occupational health and safety. This has now been formalized into legislation.

The proposed legislative amendments will also further strengthen Canada's leadership in offshore safety.

As an industry, we will continue to work to ensure that our workplaces are as safe as possible; will continue to focus on training as an essential component of our safety plans and programs; and will continue to assess the safety equipment and tools we provide to our workforce in order to reduce or eliminate hazards and to ensure they are fully prepared to respond in the event of an emergency.

I'd like to thank you for the opportunity to present to you today. I look forward to any questions you may have afterwards.

• (1540)

The Chair: Thank you very much, Mr. Barnes, for your presentation.

It's good to get a reminder that the oil and gas industry isn't only in the four western provinces. It's also in eastern Canada. Thank you for being here on behalf of the Canadian Association of Petroleum Producers.

We go now to the next witness today, who's here as an individual, the Honourable Robert Wells, a former inquiry commissioner for the offshore helicopter safety inquiry.

Welcome to you, sir. Please go ahead with your presentation. You have up to ten minutes.

Hon. Robert Wells (Former Inquiry Commissioner, Offshore Helicopter Safety Inquiry, As an Individual): Thank you, Mr. Chairman, and members, for inviting me to be here in front of the committee to talk about offshore matters generally.

I've had an opportunity in the last three or four days to examine the bill. The bill is a complex piece of legislation. Somebody has worked hard—more than one person, I suspect—on this bill. I know that it's been under consideration for a number of years. Quite honestly, I think it's a good job and I think it will help to formalize some of the concepts that people knowledgeable about the industry and the regulatory people have thought about for some time. To see it enshrined—I hope to see it enshrined—in legislation is a good thing.

A couple of things impressed me most. One is that the bill talks about and mandates the involvement of workers in the processes of safety. That was something that was important to me during the two years and three or four months that I was the inquiry commissioner. In my report, the theme that workers must be involved emerges constantly. Now, I was concerned with helicopters, not safety on the offshore installations, but in both cases workers must be involved, and the fact that there's legislation going to involve them formally, I think, is a very, very good thing.

Another thing impressed me. I have great confidence in the wisdom of non-experts. We need experts in this complex age very much, but experts should be advisers. There's no better illustration probably than Parliament itself, which has expert advice on many things, but in the end decisions are made by governments and parliaments that are not necessarily expert in particular fields.

The idea of advisory committees, to me, is a very welcome thing to see in this. My own report recommends that advisory committees be established to have expert advice but nonetheless to guide the experts, if you like, or guide the decision makers, more importantly, in the important decisions that they have to take. Maybe I get this from years of dealing with juries as a counsel and as a judge, but I have the greatest respect for the wisdom that ordinary men and women have that comes forth when they're asked to consider things. These two things I mention.

Of course, the other thing this act does is to bring the offshore into the fold of occupational health and safety generally, because the

offshore has been off on its own in the past. This brings them into the broader context of occupational health and safety. That's important in another way also, in that it helps in the development of a safety culture or safety cultures. Safety cultures are one of the most important things. They're hard to define. Some of the writers on safety have described them simply as the way we do things around here—but that's an extremely important component of safety. I think the offshore involvement with other safety cultures will both strengthen other safety cultures and allow them in the offshore to be strengthened by that involvement. That's extremely important, I think, in the safety field.

• (1545)

I won't say more about this in the short time in which I'm making general remarks, but I want to pay tribute to the people in the Canada-Newfoundland and Labrador Offshore Petroleum Board for the progress that has been made in the last four and a half years since the tragic accident in March 2009.

Perhaps the most important in my mind has been the raising of the search and rescue capability provided by the operators to the world-class standard, because at the time of the accident it wasn't at the world-class standard. There was no dedicated helicopter. The regular transport helicopter had to be refitted, seats taken out, and hoists put in to become a search and rescue helicopter. On the day of the accident, that took about 50 minutes, so the search and rescue helicopter didn't get in the air for about 50 to 55 minutes. That's a long time in search and rescue when people are in the North Atlantic, either as a result of a crash or a ditching.

At any rate, that was so important to me as I began to learn in the inquiry process that, as you probably know, I made an interim recommendation that a start on that process should be made immediately. The C-NLOPB responded and the oil operators responded and last spring.... It took a lot longer than I thought, taking about a year. You can't buy one of these helicopters as you can buy a car, for example. Then you need other things. You need an important hangar with all the facilities. You need facilities from bedrooms to cooking facilities to whatever in the hangar because you're going to have people there 24/7 when they're on duty. Then one needs permission to build a new hangar.

All this was expensive, but the oil operators came through and last spring was a very significant day, and for me personally, too, when I went to the opening of that facility, because that marked a transition. It brought the Canada-Newfoundland and Labrador Offshore Petroleum Board to a world-class standard with a 20-minute response time. I think that was a marvellous thing and I congratulate C-NLOPB, the oil operators, and the industry generally for making that happen.

Other things have also happened in the last three or four years. There has been greater worker involvement in committees, particularly in safety forums, which are ongoing. I've been to two of them. I went to one two or three weeks ago. I was invited to go and the discussion was very fruitful and important and worker involvement was there. I'm glad to see in Bill C-5 that workers and their unions and representatives of safety committees are involved. These are good things.

Survival suits, as Mr. Barnes has said, have been improved substantially, and that is a good thing. The other important thing that has been done is that the C-NLOPB has now got top-notch aviation expertise in-house, and also outside the house that it can call on. That is of fundamental importance because up to then, the C-NLOPB had no expertise in aviation. It relied on the operators. It relied on Transport Canada, and that's fine as far as it goes, but in a dangerous offshore environment, which we have in the North Atlantic, you need expert advice and knowledge right at the scene of aviation of what's possible and what should be and on what C-NLOPB, as an institution, has to watch for and be on top of.

•(1550)

These are good things that have happened. There are many more just in the training.

When I took the training it was in a pool with a temperature of probably 20 degrees or something like that, and it was calm. That didn't make it much easier to go into the dunker, which is an experience for anyone. But now, after ExxonMobil—if I'm correct—provided \$3.8 million to bring the training facility up, I visited it after the work was done and it was quite something, with simulated thunder and lightning, waves, storms of rain and wind. It was as realistic as anything could be. If I had been invited on that day to take the training, I might not have done it.

We have made a lot of progress, and this is probably the first time in a formal setting such as this that I, as the former commissioner, have been able to pay tribute to what has been done.

Now, I doubt if you will be asking me all that many questions on the bill itself. If you do, I'll do my best to answer them, if you give me the reference and what to look at, but something that took 10 years to prepare can hardly be digested in three, four, or five days. Anyway, that's that.

I suspect you have other questions for me in other areas, which I'll do my best to address. But thank you very much for this opportunity to make an opening statement.

•(1555)

The Chair: Thank you, Mr. Wells.

Just before we go to questions and comments, there are a couple of other things I want to mention.

I want to mention that the clerk had invited other witnesses who couldn't come on short notice. We did have short notice.

As well, Monsieur Gravelle has indicated that he wants to bring his motion up at the end of this meeting, so we'll have to end the meeting about 15 minutes before the normal ending time.

Mr. Julian.

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

I just want to confirm that Lana Payne, who is one of the witnesses we put forward, is in Ottawa on Monday and she will be available to come to committee.

The Chair: We have arranged the meeting for Monday, and I don't remember who is actually going to be here, but we'll have at least a full slate.

One other thing just quickly is whether we could approve the budget for the study of Bill C-5. That's been passed around.

Let's get on with the business of the meeting. We'll start with Ms. Crockatt for the seven-minute round, followed by Mr. Harris and then Mr. Regan.

Go ahead, please, Ms. Crockatt.

Ms. Joan Crockatt (Calgary Centre, CPC): Thank you very much, Chair.

Thank you both very much for being here today, and for your work, Justice Wells, in the offshore inquiry. We very much appreciate the chance to talk with you further about it today.

You've lived and breathed this for two years and three or four months, as you said. I appreciated you telling us we've made a lot of progress.

I wonder if you can tell us if you believe this bill will improve the health and safety of offshore workers.

Hon. Robert Wells: I think it will, because when things are formalized in legislation, rather than being decisions of boards and people and operators and unions, they become very real and they must be followed and you can't depart from them. You can't depart from legislation that comes from the Parliament of Canada in these matters, so yes, I think it will make a difference.

Ms. Joan Crockatt: In your analysis of the bill—and I appreciate that it is very complex and takes a lot of reading and sifting through and you haven't had it for a long period of time—do you feel that the advice you provided is reflected in it in a robust way?

Hon. Robert Wells: That's a good question. In a way, yes it is. Some of the themes that have come up in this legislation—and I suspect a lot of this was formulated before I became commissioner—are familiar to me because they came through the inquiry process.

Yes, there are some things that dovetail. There were a lot of things, of course, that I wouldn't be involved in because I wasn't involved in offshore installation safety, although I did learn a bit about it during the process, and this deals with all sorts of aspects of offshore safety.

I would make one comment about safety offshore. If you think about it, the oil operators as much as anybody else want to see and have a safe operation, because if it's not safe, and if accidents and tragedies occur, they are very much under the gun. So they want to see it. I think the history worldwide has been that, in recent years particularly, oil operators have ensured safety in their operations. It was described by people in the industry to me in the hearings that in the last say 25 years—let's say since Piper Alpha in the North Sea—safety on the installations has improved hugely.

Where I think danger might lurk is not on the operators' own installations, but when contractors perhaps are engaged to do certain work over which the operators have a lesser degree of control. For instance, there have been two tragedies with helicopters in the Newfoundland and Labrador offshore. One was in 1985 when six people died after a helicopter crashed into the ice and disappeared. Then of course there's the one we're all familiar with when 17 people died and only one person was saved. These were done by contractors.

Now I hasten to say that the cause of the 17 deaths and the tragedy off Newfoundland four years ago didn't emanate from within Canada, in my view, and I can elaborate on that if anybody wants me to. Nevertheless it happened.

● (1600)

Ms. Joan Crockatt: I wanted to ask you this. We have heard testimony that 28½ of your 29 recommendations have been followed through with either having been implemented or are now underway.

Your recommendation 29 had two parts to it, (a) and (b). Part (b) states that if part (a) is not feasible at this time, it's recommended that both governments consider four other actions including creating a separate safety division of C-NLOPB, establishing an advisory board to support the safety division, ensuring that the safety division has the ability to engage expert advisers to assist in the regulatory tasks, and transferring the powers of the chief safety officer to the new safety division.

So even though part (a) was not enacted, are you satisfied with the way part (b) has been agreed upon?

Hon. Robert Wells: I'll need three or four minutes, okay?

Ms. Joan Crockatt: Go ahead.

Hon. Robert Wells: Where did I learn what had happened? It grew out of the Piper Alpha disaster when Lord Cullen made certain recommendations. Out of that came the concept, which was adopted in the U.K., and shortly afterward in Norway, of a separate safety entity, call it an authority, or what you will. Then it went to Australia and they adopted that.

It's interesting. Do you remember the presidential commission following the Deepwater Horizon disaster in the Gulf of Mexico that was headed by Senator Bob Graham and William K. Reilly? I've spoken to both of these men and we've exchanged reports. They also felt and recommended that there should be a separate safety authority rather than the authority that deals with the operators on a day-to-day basis, granting permission to operate, to explore, to bring an operation into being.

These are the things that make me feel that a separate safety authority was a good thing, but I was perceptive enough to realize that not everybody might agree, and I hold no grudge about that. Therefore I put in the second thing. Canada's offshore is Newfoundland and Nova Scotia. It is a small offshore compared with the North Sea or the Gulf of Mexico, or other parts of the world. So I thought at the time that the powers that be—I suppose you are the powers that be, in some sense—may not feel that a separate safety authority was needed or that it was time for one, and therefore I put in the second part (b), that if it's not felt this is the right way to go, then here is a fallback way. I am happy to say that I think that fallback way has been adopted and good has come from it, which pleases me as an individual very much.

● (1605)

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

We will go now to Mr. Harris for up to seven minutes. Go ahead, please.

Mr. Jack Harris (St. John's East, NDP): Thank you, Chair.

Thank you to Mr. Barnes.

I'll call you Justice Wells as a courtesy title although you are retired and are in private practice, which is nice to know.

Thank you, both of you, for your work on the offshore, particularly Justice Wells, for your diligent work with this helicopter safety inquiry.

I will also take advantage of the point made by Mr. Benoit, the chair, that this is a good opportunity to recognize the incredible value and importance of the offshore oil and gas regime in Newfoundland and Labrador and off Nova Scotia, and its contribution to Canada's economy as well as to that of our region.

Safety, of course, is important. One question I have, first of all, is this. The recommendation that you made for a separate, dedicated helicopter was actually made by the Ocean Ranger inquiry after that great disaster.

Hon. Robert Wells: It was.

Mr. Jack Harris: It took a second disaster, and a second recommendation—

Hon. Robert Wells: And 25 years....

Mr. Jack Harris: —and 25 years for that to be implemented. I'm wondering why you think that is. Why don't we actually act fast enough on important recommendations such as the one that you called your most important recommendation, which was recommendation 29?

Hon. Robert Wells: I can't really say why the Ocean Ranger recommendation, which was quite clear, was not adopted. I suspect it was because it was during the exploration stage. Then things changed; exploration ceased and about 15 years ago production started. When the Ocean Ranger happened there was no Canada-Newfoundland and Labrador Offshore Petroleum Board. New people came on the scene and new institutions, new companies, and I suppose the Ocean Ranger recommendation, in that regard, must either have been forgotten or not considered important enough to do.

It's unfortunate, but I can't give any explanation more than that.

Mr. Jack Harris: Obviously one of the explanations would involve the actual costs of doing that, which you alluded to.

I suspect it's also a factor in two of the issues that became very clear during your inquiry: the lack of a 30-minute run dry capability in the helicopters being used offshore; and the concern, which you shared and issued a recommendation on early on, about night flights over very long distances and the increased danger of loss of life if a helicopter goes down then. We still have helicopters without 30-minute dry run capabilities operating in the offshore. We have a very significant push to go back to night flights, and I know Mr. Barnes's organization is heavily involved with that. Both of these are also cost factors. You can get other helicopters that do have the capability and you could avoid night flights by having more helicopters.

I'm wondering, in light of your recommendation 29, if it is possible that an independent regulator would have more leeway and not perhaps be as concerned about what the industry would have to say or about the operation side, and be more able to deal with that.

I'll give you a second example, because I'm not sure what's going to happen to my time.

A recent incident came to light only after the Transportation Safety Board reported. A helicopter lost engine power, was dropping very fast, managed to be saved because it was in daylight and they physically saw the ocean and were able to stop and change direction. That was never reported as such to the C-NLOPB, which is now the regulator. The contractor reported it to the operator as a loss of power, but with no details, and then the operator reported it to the C-NLOPB in a similarly ambiguous way. It wasn't until the Transportation Safety Board...and the C-NLOPB said they didn't know anything about it, but that the Transportation Safety Board is investigating.

That set of circumstances bothers me. You now have the C-NLOPB taking information, not from the person running the helicopters but from the operator, and C-NLOPB is leaving it to somebody else. It seems to me this is a danger—the lack of a separate, independent safety regulator that has one and only one role.

Would you care to comment on both of these issues? One, the cost of doing a good job, and two, the circumstances I just mentioned.

• (1610)

Hon. Robert Wells: I'd like to comment first on the helicopter. It went down backwards toward the ocean and it got to within 38 feet or something before the pilot recovered control.

I didn't know and had not heard that the C-NLOPB had made a statement. When I was contacted by the media, I said we should have known more about this before the Transportation Safety Board reported. C-NLOPB got in touch with me and said they did report the incident but didn't know all the details. It took an organization like the Transportation Safety Board to provide the full details, which we didn't know before, and perhaps the operators didn't know. They knew something went wrong but not exactly what it was. When the Transportation Safety Board reported, everybody knew and with details that hadn't been known before.

Mr. Jack Harris: If I may add, one of the concerns was that during this period—this was a daytime incident—there were negotiations under way with the CAPP, the C-NLOPB, and everybody involved, to resume night flights. But those facts about this situation being saved because the crew could see the ground wasn't known to anybody involved in this. Certainly it wasn't known to the C-NLOPB, it wasn't known to the workers, and it wasn't known to the representatives.

Hon. Robert Wells: It was known, but it wasn't known fully.

With everything in Canada, really, you have to wait, including train disasters, for example. Take the Lac-Mégantic derailment, which the Transportation Safety Board is obviously working on now. We won't know what really happened for maybe another year or two. It's the same with a lot of accidents like that.

Your second question, on the night flights, interests me. When I warned the C-NLOPB about night flights, we didn't have a dedicated search and rescue helicopter. We didn't have a 15- or 20-minute wheels-up time. We didn't have FLIR, or forward looking infrared radar. We didn't have in the aviation industry what pilots call the "goodies" that we now have. Therefore, I was very concerned about night flights.

One of the great helpers to me was DND. Now, I couldn't make any recommendations about DND, but DND took me on night training flights. They took me on day training flights. They even let me go down on the wire. These were good experiences that taught me. When you are over the ocean at night, the ocean is black, and the sky is pretty black too. You have night-vision goggles that help you. We have these things now. But we didn't have them when I was concerned about night flights and, therefore, I gave my warning.

I'm not going to second-guess what C-NLOPB will do. They're going to have to make a decision on this. The situation now is much more amenable, if you like, to night flights. I don't know what they'll do, but it's more amendable, because we have these.

We didn't have auto hover. We now have auto hover, which holds the helicopter in place. The pilots are right there to instantly take over if they have to, but the helicopter is under the control of the flight engineer. Using a toggle switch, he can move it laterally forward or backward, but not up or down.

We have all these things. That means night flights can be viewed in a different manner, whatever the decisions are.

Still, I agree with you that it's more dangerous to rescue at night, and perhaps more difficult. That is true. But at the same time, a risk assessment has to be made, because maybe the risk is acceptable. If you go to the North Sea, they fly at night there. But again, as we know, the search and rescue effort in the North Sea can never really be duplicated in Canada's offshore. They have them coming from Norway, Scotland, the U.K., and Denmark. It's a different thing. The ground has changed since I brought it to the attention of the C-NLOPB.

There's another thing, too. We are going, I believe, into the north. I think oil exploration and extraction are going to go into the north. If they do, there's going to have to be night flying, because there's not much daylight as you go north. They found this in northern Norway; there's hardly any daylight there, and they have to fly at night.

What I think could be a solution or what could help toward a solution is to not schedule night flights. If you schedule night flights, then the flight will go as long as it's fit to fly. A helicopter can fly at night just as easily as it can in the day. It's when search and rescue becomes necessary and important that the night poses difficulties. It not only poses difficulties for passengers who might go down and find themselves in the water, but also poses dangers and difficulties to the very brave people who set forth to rescue them.

•(1615)

The Chair: Thank you.

Hon. Robert Wells: They're at risk too. Lives have been lost in that situation also.

So there are greater dangers, but sometimes, as I put it in my report, night flights are an imperative. When night flights are an imperative, in my view they shouldn't be scheduled. Rather, a committee, or a group of qualified people, such as a pilot, a weather person, and a sea-state person, should make not a generalized decision but the decision of "Is it safe to fly tonight?"

If I myself, for instance, were on an installation on a clear night, with calm seas, no fog around, and moonlit, and somebody said to

me, "Mr. Wells, if you want to get home, there's a seat for you", I would probably say, yes, okay, I'll go.

But if there was fog, or the sea was particularly stormy, the winds were high, and situations were difficult, I would probably say no.

The Chair: Thank you, Justice Wells.

Mr. Regan, you have up to seven minutes.

Hon. Geoff Regan (Halifax West, Lib.): Thank you very much, Mr. Chairman.

Thank you to the witnesses.

First of all, I want to say to Judge Wells that if you watch this committee on other occasions, I think you might be interested to find and to conclude that we show a certain deference in relation to your experience and contribution.

Hon. Robert Wells: You're very kind.

Hon. Geoff Regan: I think we all feel that's appropriate.

Let me go back to recommendation 29 from your report. My colleague Mr. Harris has mentioned the issue of cost in terms of more helicopters, a 30-minute run-dry capability and so forth. One of the things we heard from the government and the C-NLOPB as a reason for not having a separate authority in relation to safety was that the expertise was within the board.

My question is really two-part. First, do you think that's a sufficient reason for not separating and having a separate authority? And two, in relation to this question of cost, what are the kinds of influences that you would see possibly being in conflict within the board and that I presume would have given risen to your recommendation to begin with?

•(1620)

Hon. Robert Wells: The problem was recognized first, or at least formally recognized, by Lord Cullen, arising out of Piper Alpha. The people who make the rules and give the permission to explore and to develop may have a certain mindset, and within the same organization there is a group who has to ignore those things and look purely at safety. There is the distinction and possibly the danger.

I have another concept in my own mind about a safety authority. I see such an authority as not simply being a safety authority for the Canada-Newfoundland and Labrador offshore. I see it as a national safety authority operating first in Canada's only offshore, which is the east coast, but also if we go into the north, where it would also operate. It would operate wherever oil and gas were discovered offshore. In Norway there's an office in Stavanger, and in the U.K., there's an office here, there, or in the Shetlands or wherever. In Canada I would see such an office on the east coast, in Halifax, and a larger office in St. John's. If ever oil is developed in the Gulf of St. Lawrence, there would also be an office there, and the people would be moved around.

One of the things that the head of the U.K. authority said to me personally, and I also heard him say it at a conference in Canada a couple of years ago, was that you have to be careful about regulatory capture. Now to my knowledge, there has been no regulatory capture in Canada in the offshore—none. But if you look into the Gulf of Mexico tragedy, there was regulatory capture. There was a closeness between regulators and operators that shouldn't have been there. That's something to be guarded against. I see it as a national organization that would have branches where necessary and the movement of personnel between the branches so that regulatory capture would be most unlikely to occur.

I honestly believe that our society runs on oil. It's not just what goes in the gas tank. There are the tires, there is the clothing we wear, and there is the plastics industry, all of which are based on oil derivatives. I saw pictures of the first installations offshore and they were rickety wooden structures built off the beach. And yet we've gone now out to the edge of the continental shelf. Will we go down the slope? Quite possibly. So safety is going to be and has to be more rigorous.

I see it as a national agency with branches and people where necessary. That would be my concept. Whether it will happen, of course, I have no idea.

Hon. Geoff Regan: Thank you.

I have a limited time, I have a lot more questions—

The Chair: You have time for a short question and a short answer, Mr. Regan.

Hon. Robert Wells: Mr. Chairman, am I talking too long?

Some hon. members: Oh, oh!

Hon. Robert Wells: Stop me if I am.

The Chair: It's been extremely fascinating. If you could keep your answers a little shorter, we'd much appreciate it.

Hon. Robert Wells: Okay, well, I'll watch you and you stop me if I'm going on too long.

Hon. Geoff Regan: I'll ask Mr. Barnes.

You said that clarity would help in relation to some things in Bill C-5. I don't know if you'll have time in your answer to list much of what you're talking about in terms of the areas where you think clarity would help. Perhaps you could start, and maybe provide us with a list if others don't give you the opportunity to continue.

The Chair: Go ahead and take the time, Mr. Barnes. I think this is important and everyone would agree.

Mr. Paul Barnes: As I mentioned, as we were reading Bill C-5, there were a number of questions we had around certain definitions. There are a number of definitions used regarding such terms as “danger”, for example, and what's meant by danger or how right to refusal can actually be used in practice. Some of the language was confusing to us, but we did actually, as I mentioned in my testimony, have some meetings with representatives from the federal government, the Province of Newfoundland and Labrador, and the Province of Nova Scotia to seek some further information as to the intent of some of the definitions and language in the act.

We took comfort in what we heard from those discussions and are taking additional comfort that regulations will be developed from this act. I think there's a provision in the act that indicated that the regulations have to be developed within the next five years. We feel that some of the concerns we had around definitions or some of the activities and practices will be further elaborated in those regulations. We take comfort in that as well.

•(1625)

The Chair: Your time is up, Mr. Regan.

We will now start the five-minute round, beginning with Mr. Allen, followed by Mr. Trost and then Ms. Duncan.

Go ahead please, Mr. Allen, up to five minutes for questions and answers.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you, Chair.

Thank you, Mr. Wells and Mr. Barnes, for being here today. It's been very insightful to listen to the background of the two-plus years of work that was done on the inquiry and the work, Mr. Barnes, that you're doing with respect to safety.

Mr. Wells, I'd just like to make sure I heard this correctly. I think I did. I think I've learned enough around here during the last eight years that I'm not going to put words in your mouth, because I know you would probably turn them around on me pretty quickly. In your report, you had recommendations 29(a) and 29(b), but I think you also said you used the word foresight to say that potentially 29(a) might take some time to get implemented and to be reviewed. You recognized in recommendation 29(b) that implementing those things would be perfectly satisfactory going forward.

Did I hear that right?

Hon. Robert Wells: You did hear that right. That's why I put it there as a fallback position, because I realized that 29(a) might not fly, at this time at any rate, and perhaps never. Who knows?

Mr. Mike Allen: That's helpful.

You were just at a safety forum a week or so ago and it was one of the key issues. That was your recommendation 25 I believe on the safety forums.

Can you give a background on what some of the key topics and key issues were.

Also, I'd like your input on this part of it, Mr. Barnes. What are these safety forums accomplishing and how does that fit with this bill in creating that safety culture?

Hon. Robert Wells: Mr. Barnes, you were at the safety forum, weren't you?

Mr. Paul Barnes: I certainly was and also I presented at the last safety one. I've attended all of the safety forums the petroleum board has put on since it began holding them.

The topics ranged largely around aviation safety, because that seems to be the topic of interest in offshore Newfoundland these days. At the most recent forum we also talked about survival suits. As I mentioned in my testimony today, new suits are planned to be used in the offshore and they're going to be developed to a new standard. That standard was tested in the cold ocean conditions that we find off Newfoundland and Labrador. There was a discussion of that as well.

I think one of the beauties of these safety forums is the fact that not only can industry and regulators and the general public attend but so can the offshore workforce. They are provided an opportunity to attend those forums and to provide feedback from their perspective. I think that makes for a very worthwhile forum because you get a perspective that you don't often hear.

Mr. Mike Allen: Are your companies that are under CAPP starting to work on the occupational health and safety aspects of the several hundred pages of this bill? How are your companies, the operators, progressing, in getting ready to set up all these occupational health and safety committees and everything else associated with this?

Mr. Paul Barnes: We've been operating under a draft set of regulations for over 10 years now and a lot of the committees and other constructs that the current bill talks about have already been in place. So the real benefit for our industry is that this legislation provides additional clarity as to which government organization or department has a regulatory role and oversight of occupational health and safety.

Mr. Mike Allen: Thank you.

Mr. Wells, I'd like to come back to you. One of the things you talk about in your report is how the offshore oil jurisdictions regulator is different in the amount of safety information it gives to the public. You talked about how exceptions may be required in cases of security and sensitive proprietary information, but that exceptions should be kept to a minimum. When they were in here the other day, Mr. Pinks and Mr. Tessier both talked about how this legislation now gives them the opportunity to be able to publish and make known to the public this information.

In your review of the bill, did you note that? What were your thoughts on it?

● (1630)

Hon. Robert Wells: I think it's a good thing because when Parliament speaks, it speaks and that's that: you have to do it.

Where did the offshore workers come from? They come from the public. It's not just the individual, but the individual's spouse, children, and parents. It's a whole lot of people who are involved. The more they know and are aware of the safety factors as well as the dangers, the better the individual can make a decision as to whether or not to work offshore.

The Chair: Thank you very much, Mr. Allen.

Mr. Trost, you have up to five minutes. Go ahead, please.

Mr. Brad Trost (Saskatoon—Humboldt, CPC): Thank you, Mr. Chair.

Thank you to our witnesses.

One of the things our previous witnesses noted that was mentioned again today is the importance of involving the workers. In fact, if I remember correctly from the other day, it was one of the basic rights that was enshrined in the legislation and in practice.

To both gentlemen, could you comment on that? Why is it important, from your perspective, for the workers to be involved?

Since it's been noted that this bill codifies certain practices, how are the workers currently involved? Also, in your opinion, how will this legislation change, if at all, the day-to-day way this function works in involving the workers as being responsible for their own safety?

I guess I'll start with Mr. Barnes.

Mr. Paul Barnes: What the practice has been is that for each office or installation there's a committee called a joint occupational safety and health committee. They're referred to as the JOSH committees. On those committees, workers are represented. If there are any safety issues or safety concerns that workers or the operators want to bring forward, they get discussed in that committee format.

What industry has also been doing as various industry-recommended practices or standards are developed is seeking offshore workers' feedback, largely through the JOSH process. What I mean by this is that we may begin to draft some type of industry standard, and we would consult with JOSH committees to get worker feedback by having them look at various drafts and provide feedback to those who may be drafting it.

That's largely how it's been working in the past. With this new act, I think that practice will continue, but this act does allow for certainly a lot more worker input into established committees, committees that will be established on a going-forward basis. There's an advisory committee, for example, that will provide advice to ministers and to government about certain safety factors, and workers' participation on that committee will be, you know, enshrined. We view that as a positive thing.

I think I answered the second part of your question, but I'm not quite sure about the first part.

Mr. Brad Trost: That's okay. We're—

Mr. Paul Barnes: We're running out of time? I'll turn it over—

Mr. Brad Trost: We'll pass it off now, because we're two and a half minutes into my time.

Go ahead, Mr. Justice Wells, with comments about involvement of workers, comments on the bill and also general comments, because, again, today we are listening to your expertise based upon your—

Hon. Robert Wells: Okay.

I've talked to a lot of workers in the course of the inquiry and since then. They come up to me in the supermarket or wherever I am and they talk about it. The literature out of the North Sea says this: that the transportation by helicopter is the most dangerous part of an offshore oil worker's work.

What we found when we did surveys of the workforce during the inquiry is not that people were terrified of going on the helicopter, but that a large percentage had a feeling of anxiety. Now, the more you involve workers, the more you explain, and the more they can hear pilots explain and hear briefings, the more they feel part of the process, just like any of us would feel.

When you feel you're part of a process, you're better able to handle things than when you feel you're not part of it, but a pawn in the game, as it were. That's why I think it's so important that workers have all the knowledge they can be given, and be a part of the decision and have influence, if not the actual decider, but at least influencing the decision-making process. I've talked to people who've said, "Look, I've been going offshore for eight or nine years and feel I'm lucky that I've had no incident in the air or on the ocean, and I think I'll choose another career now."

You know, there is a certain anxiety among a given number of people, and it's not a small number of people. That's why I think we need worker involvement and input.

•(1635)

Mr. Brad Trost: As my time runs out, Mr. Chair, I'll say that I used to take the helicopter to work every day in my previous occupation. I don't know, but now I'm beginning to think it wasn't as safe a job as I used to think....

Voices: Oh, oh!

Hon. Robert Wells: Were you over the North Atlantic?

Mr. Brad Trost: No, but I was over the Arctic Ocean.

Hon. Robert Wells: Okay.

The Chair: Thank you, Mr. Trost.

We'll go now to Ms. Duncan.

Before you start, Ms. Duncan, I want to let you know that in fact the clerk did invite both chief safety officers, as you had suggested at the last meeting, and neither of them could come on short notice. So we won't have their expertise directly, but we had some through one of our witnesses last time.

Go ahead with your questions.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Okay, thanks, Mr. Chair, and my thanks to both of the witnesses.

As a lawyer, I want to commend your graciousness, Justice Wells. A number of us here are lawyers, and we've appeared before tribunals and before courts. One asks for a certain remedy, and then you say, in the alternative, "If you're not going to accept that, here's a second and third and fourth choice", in deference to the court or the commissioner.

You have been gracious in not mentioning that the governments of Newfoundland and Labrador, and Nova Scotia endorsed your recommendation for independent authority. As noted in your well-written report, the workers asked for a separate, independent agency. In the wisdom of the federal government, they've decided not to have an independent agency. Australia decided to have an independent agency.

One of the things I would appreciate your comments on, Justice Wells, is this: the issue of accountability and the decision to grant these profound powers in decision-making to what the government always calls a stand-alone, hands-off agency. If, for example, serious issues arise or there are weaknesses in the legislation, we're told to go talk to the board, because they themselves are not accountable. I'm wondering if you could speak to that, because the perception is just as important.

As my colleague just said, maybe I shouldn't have taken those helicopter rides. We have workers taking two-hour helicopter rides over very dangerous seas. They want their families to know that there's not regulatory capture. The best way to not have regulatory capture is have an independent agency.

I'd appreciate your comment on that because, I don't know if you're aware, the Government of Canada has been convicted of four counts of violating federal occupational health and safety legislation. When a boiler blew up on the Hill, it was discovered that there were workers who were contractors and weren't certified. The government did not have in place even a safety plan and they didn't have training and certification of workers. Even when the government is responsible and directly liable, we're having problems getting them to take it seriously.

I am worried about that distancing and accountability. Do you think that there may be an issue about that since the Government of Canada will not be the entity?

And thank you for the comment about the Arctic. That shows great foresight. I have to say I fully endorse your idea of a national safety authority. We don't know what will happen on the west coast, but certainly in the Gulf of St. Lawrence and the Arctic we should be thinking about where to begin the modelling and testing of an independent agency on the east coast. I'm interested in what you might have to say about accountability.

• (1640)

Hon. Robert Wells: The regulators have to be accountable. I don't want to knock the regulators, as they're good people.

Ms. Linda Duncan: Yes.

Hon. Robert Wells: They do what they feel is the best thing. I felt that an independent safety authority was the best choice, but life doesn't give us everything we ask for. The considerations that the federal government has, I don't really know. I'm not privy to their thinking. They're intelligent people also. There may be good reasons why right now they feel it's better to go with what we have, with the refinements of this bill and with the changes that have come about as a result of the inquiry.

I don't feel in any sense chagrined that option B has been adopted rather than option A. There may be good reasons for doing that at this time. It would be unwise of me to say they should have done it. Maybe it will come. It may take time. Maybe it will never come. But at least we have made improvements.

Ms. Linda Duncan: I have one last question, if I have time.

Justice Wells, in the final observation in your report, on page 303, you state:

In a free and democratic society such as Canada, as much information as possible on all safety matters should be made public at all times.

The legislation deals with that, but it simply empowers the boards to release it. It does not require the boards to release it. Do you think that it has gone far enough?

You had said that it should be made public at all times, but that doesn't seem to be what the legislators have done.

Hon. Robert Wells: Unless there is some reason, such as proprietary information or something like that, which would prohibit it from being made public, I think you can't legislate certain.... Well, you can legislate whatever you wish.

However, it's unwise to legislate things that require a discretionary approach. You put the right people in place, like on an offshore petroleum board, and give them that discretion; it's like with judging and minimum sentences.

Ms. Linda Duncan: You are reversing what your observation was then.

The Chair: Sorry, Ms. Duncan. We're actually out of time for your questioning.

We will now go to Mr. Leef, Mr. Cleary, and Mr. Zimmer, for five minutes each, starting with Mr. Leef.

Go ahead, please.

Mr. Ryan Leef (Yukon, CPC): Thank you, Mr. Chair.

Thanks to both our guests.

Mr. Barnes, Justice Wells talked about this a bit, and I'd be interested in your perspective. You indicated that safety has hugely improved, and you talked about the need for a little about more concern, perhaps, where contractors move into a working environment and operators have less control over direct safety. You said that that's where some of the focus needs to be in terms of this improved regulation.

I'm curious about this in a more general sense. I'm from the Yukon Territories, as far away from the Atlantic as you can possibly get. I notice in industry that regulations and laws are sometimes very comprehensive and really drill down to what you absolutely have to do. Other times, they basically identify minimum standards. What I've seen a lot of times, particularly in the last dozen years, is that industry is starting to surpass the minimum standards of regulations that are in place. They're exceeding them. They're actually starting to set the bar, and then regulations and laws catch up to the standards and practices of industry.

Is that your impression as well? Do you have any comments on what I'm observing across the north in the way industry is dealing with occupational health and safety regulations?

Mr. Paul Barnes: Yes, I would tend to agree.

A large part of the problem lies with the fact that the offshore is jointly regulated, certainly on the east coast and then in Canada, in the sense that Newfoundland and Labrador and Nova Scotia, and the federal government, have legislative authority over the offshore. As a result, the regulations and legislation that govern the offshore have to be agreed upon by those three parties and passed in the respective legislatures of those entities. That often takes time. We find ourselves on the east coast with a lot of quite dated regulations, and even outdated regulations in some respects, for our industry.

So what industry has been doing in recent times is producing their own industry standards or industry recommended practice. We go over and above what's in regulations to try to ensure that the operators in industry adhere to our own set of standards such that our performance can be greatly improved. As an example, we recently produced a guideline on safe lifting practices. That is the lifting of equipment off supply vessels on to offshore installations. That's a guide for anyone who's working in the offshore, which they have to follow, or at least we suggest that they follow. It is an industry guide.

What the regulators do, because the regulations are a little outdated, is that they condition any work authorizations granted to the operators to state that the operator actually has to adhere to an industry recommended practice, or in this case an industry guide. That is a little different from what we see in most jurisdictions. The reason for it is because there are no government regulations associated with that activity.

• (1645)

Mr. Ryan Leef: Thank you for that.

Justice Wells, you were mentioning the Arctic, and of course back in Whitehorse this morning the sun rose at 9:47 a.m. and it will be setting at 3:47 p.m. today, so you're quite right that night flights might have to occur in the Arctic.

You mentioned—and this may be more just something to pontificate on versus providing a real fixed answer—that scheduling flights could be a challenge. I put this to you, in the Arctic, in the north, it works both ways. In the daylight hours you have these extended days when you can fly. What we find is that it is easy to exceed a duty day for a pilot and it can come up really quickly, particularly in northern regions where you only have a couple of pilots and a couple of machines operating. Then you wrap that around to the nighttime and that duty day could shrink. It seems to me anyway, with my limited experience with this, that where you run into challenges putting pilots out into the field is where they've come up to their total allowable duty day, which can include non-flying hours like minutes on the clock where they're doing other related duties.

I know you've had some aversion to this for reasons of the weather, but would scheduling flights not stagger that duty day challenge that we face of having either limited flying periods or wide open flying periods where we have limited pilot and limited machine resources? Could you give us your thoughts on that.

The Chair: Thank you, Mr. Leef.

Justice Wells, could you just give a short answer please. His time is up.

Go ahead.

Hon. Robert Wells: I don't know where I am for the moment.

The Chair: Just a short answer please.

Hon. Robert Wells: The point I think is that we know a helicopter can fly as well at night, for instance, as it can in the day, but if something goes wrong and you're down in the sea.... What's sea state six?

Mr. Paul Barnes: Six metre waves.

Hon. Robert Wells: It's six metre waves. That's 20 foot waves. If I were on the deck of an installation and there were 20 foot waves, I would be reluctant to get on a helicopter, especially if I thought something might go wrong, or there was fog, or whatever. That's the danger, I think. Scheduled flights are going unless they shouldn't go, whereas the more appealing concept to me is, "We'll look at the situation and if it's right, let's go."

The Chair: Thank you.

Thank you, Mr. Leef.

We go now to Mr. Cleary for up to five minutes.

Go ahead, please.

Mr. Ryan Cleary (St. John's South—Mount Pearl, NDP): Thank you, Mr. Chair. Thank you to the witnesses.

I echo what Mr. Regan had to say earlier about your testimony before this committee today, Mr. Wells.

In my riding of St. John's South—Mount Pearl, in eastern Newfoundland, we have a hell of a lot of offshore workers based, as well as in Jack's riding of St. John's East. I get calls from offshore workers and their families on a regular basis, meaning every single week. Their number one concern is safety, safety for the men and women who work offshore.

They are concerned about night flights, for example, because, as you said, they are more dangerous than day flights. Also, on our offshore we're talking about a distance each way of several hundred kilometres, which is a lot farther than the distances on the North Sea. There are a lot more rigs on the North Sea than off Newfoundland and Labrador.

The other concern raised by the families and people who work offshore is the need for an independent safety regulator, especially because, as Jack pointed out, it was a recommendation from the *Ocean Ranger* inquiry some 25 years ago that wasn't followed up.

I am getting to my question.

I got an answer back today to a question that I put on the order paper, one of the tools one has as a member of the House of Commons to get information. I had asked whether or not the federal government, the Conservative government, had assessed the cost of an independent safety regulator. The answer to that question was that no, they hadn't, which makes me wonder whether they took your recommendation for an independent safety regulator, the most important recommendation from your inquiry, seriously.

Workers and their families care about safety. I heard what you had to say about your recommendation for a national safety regulator and I also echo what Linda had to say, in that it makes a lot of sense. But again, my concern and perspective comes back to the workers and their families in my riding.

I have to ask you, with all due respect, how can you recommend a national safety regulator as workable for all of Canada, and in the absence of that—which is going to take time—not then say that an independent safety regulator would be the best option for off eastern Newfoundland and Labrador, and off eastern Nova Scotia?

• (1650)

Hon. Robert Wells: What's going through my mind is that the journey of a thousand miles begins with a single step. This would be, as I see it, a starting point. This is Canada's only offshore in the east—Newfoundland and Nova Scotia. There could be a start. As things grow, as the north is developed and possibly the gulf, who knows? The thing will grow. Expertise would be developed. That's how I see it.

But it would obviously be concentrated where the need is right now, and that is off Newfoundland, and to a lesser extent Nova Scotia because it's a smaller operation. That's how I would see it, as something that would grow into a fully national.... It would be national in its inception, but in practical terms, it would be where needed.

Isn't that what the U.K. and Norway do?

Mr. Ryan Cleary: Let me cut to the chase, Mr. Wells. From the perspective of workers and their families off the east coast of Canada, should they be concerned about the fact that the federal government hasn't followed through on an independent safety regulator—again, your most important recommendation? Should they be satisfied with option B, as you put it, with the fallback?

Hon. Robert Wells: That's something I can't answer because I don't know what the reasoning is. This is the first time I have ever discussed this in—would I call this a public forum? I suppose it is. I really don't know what the thinking is or what the reasons are. Nobody's said anything to me, ever. I have not heard any public debate on the subject. I don't know if there has been or not.

Mr. Ryan Cleary: With all due respect, Mr. Wells, that is not much consolation for the workers and their families. All they hear about is an independent safety regulator. They hear your words echoing about the most important recommendation, a recommendation that was made 25 years ago, after the disaster on the *Ocean Ranger*, when that rig went down.

Hon. Robert Wells: The *Ocean Ranger* inquiry didn't recommend a separate safety regulator.

• (1655)

Mr. Ryan Cleary: Wasn't that from the *Ocean Ranger*?

Hon. Robert Wells: No. The *Ocean Ranger* issue was that there should be a dedicated helicopter.

Mr. Ryan Cleary: I'm sorry.

The Chair: Thank you, Mr. Cleary. Your time is up.

We go now to Mr. Zimmer for five minutes.

Mr. Bob Zimmer (Prince George—Peace River, CPC): I'd like to thank you both for your work on this.

I'm from British Columbia where we have oil and gas, but it's on the Prairies, so I don't have any ocean in my riding. But I do have an uncle who worked offshore most of his life. As a directional driller, he went back and forth by helicopter. He considered it a safe mode of transport and never was in an incident. He managed to make a good living and is happily retired today.

I'd like to refer to a statement you made, Mr. Wells, that operators want to be safe. I say this with a bit of qualification; I worked in the oil and gas industry a little bit, as a young guy working on pipelines. Back in the early 1980s, things had changed dramatically from what they were before. I think industry to this day has dramatically embraced safety as a good way to do business and also a good way to treat your employees. I saw a dramatic change in mindset in the oil patch to wanting to be safe, so doing what they have to do to be safe. For me it was dramatic. I've said that word three times already because it really was. It was really a big shift for the industry.

I want to give credit where it's due. I think CAPP does a good job of that and really works hard at it. More can obviously be done always, and that's what you strive toward.

I want you to explain to us—you've done this a little bit. There's a perception, which I think the opposition is trying to play here, that it's somehow unsafe now. I'd like you to explain the safety training regime for offshore workers a little bit, what it looks like today, and if you feel that it's safe.

Ms. Linda Duncan: Point of order.

The Chair: Point of order, Ms. Duncan.

Ms. Linda Duncan: I take offence at the comment that the opposition in this committee is trying to play a game.

The Chair: No, that's not a point of order.

Go ahead, please, Mr. Zimmer.

Ms. Linda Duncan: It's a point of privilege—

Mr. Bob Zimmer: Mr. Barnes, please answer.

Mr. Paul Barnes: Everyone who's working offshore today has to have what's called basic survival training. It's a five-day course, and as I mentioned, every offshore worker has to do it. It involves, obviously, a classroom component, learning about different safety facets of working offshore.

It also contains a component where you are in a helicopter escape underwater trainer. It's a simulator where you simulate being in a helicopter that gets ditched in the water. You're in a unit that looks like a helicopter, it's put upside down in the water, and you're taught how to escape.

You're also brought out into the ocean, where you learn how to manoeuvre your body within a survival suit, which every offshore worker has to have when they go offshore. You're also taught how to board a lifeboat and disembark from a lifeboat. You're taught a number of other safety measures.

As I mentioned, this is a five-day course. You get a certificate, and after three years you have to go back and actually get a refresher. This is not a one-time thing in terms of training. You take a five-day course and after three years you have to do it again.

Mr. Bob Zimmer: In relation to what the current bill is, I guess just to give confidence where it's due, will this bill enhance the ability for you to provide a safe work environment? For me, I know it's safe already, but will it provide a safer environment? Will this bill provide a safer environment for workers?

Mr. Paul Barnes: I think the bill provides, from our perspective, just additional clarity with respect to who has regulatory oversight over occupational health and safety. Another aspect involves a lot more worker input.

Those two aspects alone I think will provide some clarity, provide some indication as to what workers feel about their safety and their work environment, and provide that feedback to those who are in charge.

In that respect, yes, it will likely increase safety, but to be honest, I think only marginally, because there have been a lot of safety improvements that exist offshore and that have existed for a number of years. This bill doesn't really change that.

Mr. Bob Zimmer: I'll just finish with a small statement.

I mentioned my uncle. My cousin works as an directional driller on land. My uncle had just as many options open to him. He could have chosen to work on land, but he chose to work offshore and felt safe.

I think predominantly that's the case. Most of these workers have other options. To give credit where it's due, I think the industry is very safe. Credit is due to your organizations for taking it seriously.

Thanks for presenting today.

• (1700)

The Chair: Thank you, Mr. Zimmer.

We go now to Mr. Julian for up to five minutes. Go ahead, please.

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

I thank Mr. Barnes and Justice Wells for being here today.

Our goal is to make sure that this legislation is as good as possible. We want to make sure that no one dies in offshore work, that no family mourns. We've been endeavouring to ask you questions to ensure that we can get the kind of legislation that reflects really the utmost standards of safety.

Since we've had, and will have, witnesses who have raised the issue around your recommendation, Justice Wells, about the independent safety regulator, it's obvious that it's a key question for us. I wanted to come back to that, because I know my colleagues have been asking you.

It appears to me that when we talk about the most recent incident, the near crash, some might say that 38 feet is still 38 feet. But given the speed that any aircraft travels at, 38 feet is a very, very small margin of safety. It's fortunate that it didn't result in deaths.

The issue that Mr. Harris raised, around how that was then reported through the C-NLOPB, is an important one. We've also raised issues around the run-dry capability that the Transportation Safety Board has made clear recommendations on but which hasn't been enacted yet. The idea of having a 30-minute run-dry capability is something that hasn't been put into effect. We've asked some questions on that, and we haven't received a clear response on why that has not been put into effect.

It seems there are two discussions here, that of course we all support the bill, but at the same time, we have to make sure that we're talking about the utmost level of safety.

I guess I would come back to this issue of the independent safety regulator, since there seems to be some concern about whether the decisions that are being made are actually delivering the top level of safety possible.

Do you not think that your recommendation is still applicable today, that having in place an independent safety regulator allows us to ensure that there aren't other considerations that are being brought to bear when we talk about the safety of the workers in the offshore?

Hon. Robert Wells: Well, if I were writing the report today, I'd write the same thing. I believe that's the way to go. But when you consider something like the run-dry, you have to bear in mind that aircraft are certified by the United States, Canadian, and European regulators. If, say, Bombardier here in Canada produces an aircraft and Canada certifies it, and the U.S. and Europe accepts it.... For instance, the S-92 hasn't got the 30-minute run-dry. Now the S-61.... Do you know what S-61 and S-92 mean?

Mr. Peter Julian: Somewhat.

Hon. Robert Wells: The S stands for Sikorsky, of course, but the S-61 was a real workhorse of the industry. It began development in 1961. It pretty well takes 10 years for one of these modern heavy-lift helicopters to be developed. It had the 30-minute run-dry. For some reason, the S-92 didn't, but Sikorsky and the FAA knew that. But Sikorsky went to the FAA and said, "Look, the possibility of something going wrong and losing oil is so remote that you should certify it," and the FAA considered it all and said, "Okay, yes we will." Now that meant that the aircraft was certified for Canada as well as for Europe, so that an independent safety regulator wouldn't be able to change that. These are agreements that Canada is a part of with the U.S. and Europe for certifying aircraft. If the U.S. certifies aircraft, that's where most of them are manufactured, and that's it.

• (1705)

Mr. Peter Julian: Thank you for that answer. I believe Mr. Cleary had a quick question as well.

Mr. Ryan Cleary: Thank you, Peter. I have just one quick question.

The Canada-Newfoundland and Labrador Offshore Petroleum Board and the Canada-Nova Scotia Offshore Petroleum Board are both responsible for safety. They are responsible for the environmental impact and industry regulation. Now, some people, critics—and I know you've addressed this in your report as well—say that creates a potential or perceived conflict. My question is this. Wouldn't an independent safety regulator address that conflict where Bill C-5, this Offshore Health and Safety Act, would not?

Hon. Robert Wells: It could. I think this occupational health and safety act is a good act and I would like to see it passed; it would benefit everybody. But it doesn't necessarily address the questions that even some of the present regulators may have to address, or an offshore safety regulator. It's not a complete panacea for everything. It deals with occupational health and safety, but not every issue that may come before a regulator. But Mr. Barnes is quite right that regulators, as industry itself, have the option of always exceeding governmental standards. That happens; there's no question about that.

The Chair: Thank you.

Thank you, Mr. Julian and Mr. Cleary.

We'll go now to Mr. Trost, followed by Ms. Crockatt. Assuming that you use all of the time, we will suspend the meeting at that time to go into other business.

Go ahead please, Mr. Trost.

Mr. Brad Trost: Well, Mr. Chair, I probably won't because I basically have one short question for Mr. Barnes and, of course, if Mr. Wells wants to comment, feel free to do so.

One of the things other witnesses have talked about—and I think someone mentioned it here today—was the concern of subcontractors that it was important to get the hierarchy right. Mr. Barnes, how does this legislation give you more tools to deal with subcontractors because, as has been observed here, it's probably not going to be the big boys who are not going to have their procedures and safety regulations, etc., in line. You will deal with a lot of subcontractors out in the field, not all of whom are members of CAPP. So can you provide a bit of comment on how this lets you work with subcontractors, temporary contractors, things of that nature? What's current practice and how will this bill help? Are there any recommendations you have that haven't been covered yet?

Mr. Paul Barnes: I don't think the bill will help in that regard. What industry has been doing lately when it hires contractors is to their contracts the requirement that they have to adhere to certain safety performance metrics and safety programs in general. So we hire contractors and make sure that they follow a certain safety standard. Recently, a lot of the producers have been doing their own independent audits of their contractors to ensure adherence not only to the contract but to the stipulated safety protocols as well.

Mr. Brad Trost: I understood one of the previous witnesses the other day to say that this allows the main contractors, the main companies, to have more legal teeth, and that good industry practice now follows.

Do you feel that you already have sufficient legal teeth through the contracts and the safety audits that you're using with your subcontractors?

Mr. Paul Barnes: Yes.

Mr. Brad Trost: That's it for my questions.

Would Mr. Wells like to comment?

Hon. Robert Wells: No, I think Mr. Barnes is the best person to deal with that.

Mr. Brad Trost: Thank you, Mr. Chair. I'm done.

The Chair: We'll go now to Ms. Crockatt.

Ms. Joan Crockatt: Mr. Barnes, I should have said at the outset that I'm from Calgary, the home of CAPP, so I'm glad to see you here answering questions. I thought I'd ask you a little bit about how this is going to translate on the ground. No one, of course, wants to see an accident—not the government, not industry, not the people who are working there.

Can you tell me, in your estimation, how Bill C-5 will translate on the ground for people who are actually working in the industry?

Mr. Paul Barnes: You have to put what this bill does in context. It just allows some clarity as to who has responsibility for occupational health and safety in the offshore. What was happening before this bill was that some of the offshore regulations were under provincial control and some were under federal control and would be regulated by the Offshore Petroleum Board.

This provides the clarity that the petroleum board is indeed the regulator that regulates occupational health and safety. But they now have a reporting relationship with the provincial labour ministers and federally they are still reporting to the Minister of Natural Resources Canada, who has to consult with the Minister of Labour on issues dealing with offshore.

So on the ground, it just provides a little more clarity as to what regulatory agency has jurisdiction.

• (1710)

Ms. Joan Crockatt: So you believe this is going to provide more clarity.

We were told that in the past there may have been a tendency to say “such and such is not my problem”. Do you agree that this might have been a problem in the past, and do you think this bill goes any way toward resolving that?

Mr. Paul Barnes: I haven't seen that in the past. But I think this bill does provide clarity as to exactly who has regulatory authority over occupational health and safety. So if there are any disagreements now with respect to any incident or any safety-related issue, this bill provides clarity as to who actually has jurisdiction.

Ms. Joan Crockatt: In your view, was it previously the case that no matter who happened to see something that they thought might be a safety infraction, whether supervisor or worker or whoever, they would have had a duty to report?

Mr. Paul Barnes: Yes, that certainly occurred in the past, and the Offshore Petroleum Board was always the principal regulator for the offshore. Occasionally, the provincial departments of labour thought that they also had a role.

Ms. Joan Crockatt: Okay.

Mr. Paul Barnes: Now this provides some additional clarity.

Ms. Joan Crockatt: You said 34% of Newfoundland and Labrador's GDP is related to offshore petroleum?

Mr. Paul Barnes: That's correct, yes.

Ms. Joan Crockatt: And that accounts for about \$40 billion?

Mr. Paul Barnes: No, \$40 billion has been spent since 1996 on investment in the offshore in Newfoundland.

Ms. Joan Crockatt: So this builds on Mr. Zimmer's question. How important do you think this legislation may be in keeping the economy of Atlantic Canada moving forward, given that amount of investment?

Mr. Paul Barnes: Certainly, the investment in the offshore oil and gas in Newfoundland and Nova Scotia will continue to increase in the future, in my view. This bill won't have any impact on investment.

Ms. Joan Crockatt: What about the social licence to operate and the people's comfort level with the regulatory component? Do you feel that it will provide the industry with any assistance in being able to say to the public that they have a very strong regulator who is putting in place guidelines they intend to live up to?

Mr. Paul Barnes: I hope that's the case, but I think the real benefit will come from industry workers having a view that their voice may be greatly heard now with the passage of this bill. They'll have more input into safety-related matters dealing with themselves.

Ms. Joan Crockatt: Do you agree with Justice Wells that there's a psychological component to being involved in the decision-making process if you're dealing with an area like health and safety?

Mr. Paul Barnes: Yes, that's correct, that the workers have a view and that view will be heard.

Ms. Joan Crockatt: Do you believe that your safety training of your members is sufficient?

None of us wants to see a helicopter accident again; the reason for this bill is to make sure that we have had a comprehensive look at it, that the provinces are working together with the federal government, and that we have best practices and that they are being implemented.

Can you speak, in general, to those components?

Mr. Paul Barnes: Yes, well, there's certainly always room for continuous improvement when it comes to safety training. As Justice Wells indicated, new equipment to enhance training is available within the training institute in Newfoundland and in Nova Scotia as well. As technology improves, obviously, new technology will be brought to bear when it comes to training. We've assessed other offshore training programs around the world, in areas where there is offshore, and Canada's training for offshore workers is the best, largely because of the environment we find ourselves working in.

• (1715)

Ms. Joan Crockatt: That's interesting. So Canada's is the best. Who are we are comparing ourselves to?

Mr. Paul Barnes: We certainly look at Norway, the United Kingdom, the Gulf of Mexico, and Australia, which have very similar offshore jurisdictions to those of Newfoundland and Nova Scotia.

Ms. Joan Crockatt: What areas? I find that fascinating. Could you just elaborate on the areas you looked at and what areas we are really exceeding in then?

Mr. Paul Barnes: We looked at the basic survival training for the most part, which is the training that every offshore worker has to go through before they go offshore. So we looked at all components of that—how they're trained to escape a helicopter, how they use their lifesaving equipment, how they get in and out of a life boat, the fit of their survival suits. All aspects of training were compared, and we ranked very highly.

Ms. Joan Crockatt: Is that dramatically different from how it would have been four-and-a-half years ago in March 2009?

Mr. Paul Barnes: I don't think it would be dramatically different. I think we've probably improved since then. I wouldn't say it would be a dramatic improvement.

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

Thank you to both you gentlemen. I think you've provided us with some extremely helpful information. You come from incredible backgrounds, and the committee thanks you for being here today and for helping us with our study of Bill C-5.

I will suspend for just a couple of minutes.

Point of order, Mr. Gravelle.

Mr. Claude Gravelle (Nickel Belt, NDP): Mr. Chair, I believe you don't have to suspend the meeting. We can do this in public.

My motion is one that's of interest to the people of Ontario and also in the interests of the federal government, because, as you well know, the provincial government has been blaming the federal government for everything that's gone wrong with the Ring of Fire, and I think we should discuss this in public.

It's in the best interests of the people of Ontario and the people of Canada that this motion be discussed in public.

The Chair: Mr. Gravelle, first of all, we have to suspend so the witnesses can leave, and then we will go in camera to deal with an area of future business, which we always do.

The Chair: Point of order by Mr. Julian.

Mr. Peter Julian: Mr. Gravelle's motion reads:

That the Natural Resources Committee invite the Government of Ontario on its Ring of Fire initiative with a view to understanding their specific policy concerns and to determine federal policy actions that would help move this multi-billion dollar project forward.

This motion is, of course, in order. It should be discussed in public, and so I think Mr. Gravelle's request, now that it's been moved and is on the floor, is a perfectly legitimate one.

We've all wished the best of luck and thanks to our witnesses, but this is something that has to be discussed in the public domain. There's no doubt about that.

The Chair: Mr. Julian, we, at this committee, have always discussed future business in camera and will continue to do that.

We will suspend this committee for a couple of minutes as we go in camera, and then come back and discuss it in camera.

[Proceedings continue in camera]

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