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Chair

The Honourable MaryAnn Mihychuk

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• (0845)

[English]

The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)): Good morning, everyone.

We are at the Standing Committee of Indigenous and Northern Affairs of the Parliament of Canada. We're on the unceded territory of the Algonquin people.

I want to welcome everybody to the clause-by-clause deliberation on Bill C-88. Pursuant to the order of reference of Tuesday, April 9, 2019, we are examining Bill C-88, an act to amend the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act and to make consequential amendments to other acts.

Now we are going to go through the process. We have received one amendment. It is on clause 85.

We have no other amendments. If it's the will of the committee, can we have concurrence on clauses 1 to 84?

(Clauses 1 to 84 inclusive agreed to on division)

(On clause 85)

The Chair: Wayne, welcome to our committee.

Mr. Wayne Stetski (Kootenay—Columbia, NDP): Thank you.

I move the amendment to clause 85. I believe everybody has it in front of them.

Would you like me to read through it?

Mrs. Cathy McLeod: Yes.

Mr. Wayne Stetski: Okay.

The amendment is that subsection 12(1) would read:

The Governor in Council may, by order, prohibit any interest owner or any other person from commencing or continuing any work or activity authorized under the Canada Oil and Gas Operations Act on the frontier lands, or any portion of them, if the Governor in Council considers that it is necessary to do so in any of the following circumstances:

- (a) a disagreement with any government concerning the location of an international boundary,
- (b) an environmental or social problem of a serious nature,
- (c) dangerous or extreme weather conditions affecting the health or safety of people or the safety of equipment, or
- (d) is deemed to be in the national interest.

It would also add the following new subsections:

(1.1) At least six months before an order is made under paragraph (1)(d), the Minister shall publish a notice of the proposed order in the Canada Gazette and in any other publication that the Minister considers appropriate, shall hold public consultations in all communities that may be affected by the order and shall give any other interested persons the opportunity to file with the Minister comments with respect to the proposed order.

(1.2) In the case of a proposed order that would affect an Aboriginal community,

—and this is key—

the order shall not be made unless—in accordance with Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples—the Minister has obtained the consent of the representatives of that community.

The Chair: Thank you very much.

I want to inform the committee that the motion is actually inadmissible as it goes beyond the scope of the bill. The amendment proposes to subject the order made by the minister to an approval process, which is not envisioned in the bill.

Shall clause 85 carry?

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Madam Chair, the amendment is inadmissible, but we have not had a conversation about clause 85.

The Chair: The mover has the right to speak to the motion.

Mrs. Cathy McLeod: Clause 85 is still a clause within the bill.

The Chair: I'm sorry. You're absolutely right.

Go ahead, Ms. McLeod.

Mrs. Cathy McLeod: Madam Chair, with regard to both clauses 85 and 86, if we all recall, the Prime Minister went down to New York and arbitrarily, without consultation with territorial governments, without consultation with first nations, made pronouncements regarding, at that time, the Beaufort moratorium. Certainly that is incredibly inconsistent with what this particular government has promised in terms of the consultation process. It was certainly very disrespectful.

From our understanding of these clauses, this embeds in law their ability to continue to be arbitrary and non-consultatory.

Mr. Wayne Stetski: This is a really important discussion. When you look at national interest, national interest is undefined in the bill. When you look at where Canada has gone with national interest in the past, residential schools were in the national interest. The national policy of 1878 was proclaimed in the national interest. The policy was sold as good for all Canadians and it talked about immigration and railways.

In the early 1980s, Trudeau Liberals introduced the national energy program and it was promoted as being in the national interest. When you look at the consultation that the committee heard, there was concern expressed by the mayor of Tuktoyaktuk. The Canadian Association of Petroleum Producers asked if the national interest was in the interest of “parties that could be collectively effected by suspending the interest owners rights under an exploration licence or significant discovery”. It was concerned with the definition of national interest.

The Inuvialuit Regional Corporation, in its brief, indicated that the requirement to consult with those who held rights in marine areas was not clearly articulated. The Northwest Territories Chamber of Commerce, in its brief, argued that the final decision to prohibit certain works or activities in the national interest “needs to be approved by the Indigenous Nation of the prescribed area who are the stewards of the area but also rely on the land to provide economic independence”.

In my mind, it comes down to either we believe it when we say nice words about UNDRIP and that we should enact it in the legislation that we pass, or we don't. I truly believe we should reflect UNDRIP and support the amendment, which requires consultation with aboriginal communities.

● (0850)

Mrs. Cathy McLeod: I think my colleague from the NDP clearly articulated the witnesses we heard. He clearly articulated how this is incongruent with the position of the government.

I want to note that we also had witnesses who talked about how two very disparate pieces of legislation have been slapped together into one instead of doing what, again, the government promised to do, which is to have stand-alone legislation.

Certainly, this particular section of this bill is a concern to us and the ability for the government to be so arbitrary and lacking in consultation is also a concern.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): With great respect to colleagues across the way, I respect where they're coming from on this issue, but I would like to point out that we also heard from every witness that they very much support this bill and want this bill passed as soon as possible. I would hope that we're able to get this bill passed in as expedient a way as possible and to get it back to the House so that we can fulfill those wishes.

Mr. Wayne Stetski: I truly believe the purpose of the committee is to improve on bills. To say that this is not acceptable because it goes beyond where the current act sits.... I thought that's what we're here to do at committee. We are here to actually make improvements to bills and approving the amendment wouldn't ultimately slow up the approval of the bill.

The Chair: Unfortunately, the amendment before us is inadmissible.

Mr. Arnold Viersen (Peace River—Westlock, CPC): We're not discussing the amendment.

Mr. Mike Bossio: He was.

Mr. Wayne Stetski: I was.

Mr. William Amos (Pontiac, Lib.): Just a couple of separate points. First, it's a bit rich to hear comments from the Conservative

opposition with respect to consultation, considering that the legislation we're amending, particularly around the Mackenzie Valley environmental assessment, was before the courts. An injunction was sought and obtained on the basis of lack of consultation among many other aspects.

Second, with respect to the national interest, it's an important question that Mr. Stetski raises, but it's also worth noting that this is a statutory instrument. All of the constitutional protections that are afforded to indigenous peoples around their consultation rights remain totally unaffected.

● (0855)

To conclude that thought, I think it goes without saying that the constitutional consultation rights prevail in any sense and that in the context of a national interest determination, all the views of indigenous and non-indigenous peoples' communities would be taken into account, so I think there's no diminishment of the indigenous consultation rights.

Mr. Arnold Viersen: I want to push back a little. After extensive consultation there was a complete report about merging these boards, and that was what brought this about in the first place. It was no announcement from New York—that was definitely the case.

The other thing we heard, even from the World Wildlife Fund for perhaps exactly the opposite reasons.... They come from the opposite side but for the same reasons they were very concerned with this piece of the bill as well, saying they didn't like the arbitrariness.

To Mr. Stetski's point, we either mean what we say or we don't. We can vote against this particular piece, pull it out of the bill, and the rest of the bill will continue.

Mr. Wayne Stetski: I'll go back to Mr. Amos's comments.

If UNDRIP is going to apply anyway, I see no harm in putting it into the bill and specifying that.

Mrs. Cathy McLeod: I'd like a recorded vote, please.

(Clause 85 agreed to: yeas 5; nays 4)

(On clause 86)

(Clause 86 agreed to on division)

The Chair: Shall the title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

An hon. member: On division.

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

Some hon. members: Agreed.

The Chair: That concludes Bill C-88.

We've had a request to move in camera to do some committee business.

Thank you, everyone, for joining us. We have to clear the room, so I'll suspend the meeting for a couple of minutes.

[Proceedings continue in camera]

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