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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (1530)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call to order this 59th meeting of the Standing Committee on Finance. We are being televised.

Pursuant to the order of reference of Monday, May 14, 2012, we're studying Bill C-38, an act to implement certain provisions of the budget tabled in Parliament on March 29, 2012, and other measures.

We have a number of officials here today. I want to thank them for being with us.

Colleagues, as you know, we were discussing part 1 of the bill, and I had a speaking order I was following. Actually, Mr. Jean has two minutes left in his round, if he wants. Then I have Mr. Marston next.

Mr. Jean, you have two and a half minutes.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

Actually, I'm looking for my glasses, Mr. Chair. Without them, I seem to be at a bit of a disadvantage, the older I get.

Indeed, we had just finished off relating to the filing of the tax returns, the electronic preparation of those and the savings to taxpayers. I wanted to talk a little bit about something the witness had mentioned relating to charitable donation tax shelters. There was something mentioned in relation to "not-registered". That was one of my questions.

I'm not sure if you can remember what your comment was in relation to that—I can't imagine that you would. I should have taken better notes, and I apologize for that.

One thing also mentioned in relation to item J, under "Eligible Foreign Organizations and the Reporting Requirements of Registered Charities", was "a gift from the Government of Canada". It was referred to two or three times—"a gift from the Government of Canada". When you were speaking about those charities and about a gift from the Government of Canada, were you talking about the tax deductibility or the tax consequences of receiving those gifts, that money?

Mr. Ted Cook (Senior Legislative Chief, Tax Legislation Division, Tax Policy Branch, Department of Finance): We were referring to an actual gift from the Government of Canada, which is separate from the taxability or the ability to get a charitable donation receipt.

Currently, under the Income Tax Act, once a foreign charitable organization has received an actual gift from the Government of Canada—for example, a monetary gift, even if it's a nominal amount—once it has received that gift it is then eligible to be registered with the Canada Revenue Agency. That gift from the Government of Canada acts as a sort of trigger that allows the foreign organization into the system.

The proposed amendment is maintaining the requirement for a gift from the Government of Canada, but it also requires the Minister of National Revenue, in consultation with the Minister of Finance, to register that foreign organization as a qualified donee.

• (1535)

Mr. Brian Jean: Perfect. That makes a lot more sense than what I understood the first time you went through it.

My final question is in relation to the national interest of Canada, specifically to item J as well and the eligible foreign organizations. Is that determined by case law over historic perspective precedents, or is that determined by definition? How would that be considered as part of that change?

Mr. Ted Cook: The term "national interest" is not defined in the Income Tax Act. Certainly CRA, at least in the initial instance, in conjunction with the Department of Finance, will develop administrative guidelines as to what it is—

Mr. Brian Jean: That was my question. Is it a definition that's going to be determined in the future, through...?

Mr. Ted Cook: There is no present intention to put a specific definition of "national interest" in the Income Tax Act.

Mr. Brian Jean: Because that seems to be fairly objective and wide-scoped.

Mr. Ted Cook: It is potentially wide-scoped and—

Mr. Brian Jean: Who, ultimately, will define it? Will it be the Federal Court?

Mr. Ted Cook: Ultimately, yes, it will be defined by the courts.

Our expectation right now is that "national interest" will denote a connection to Canada in some way.

Mr. Brian Jean: Thank you very much.

The Chair: Thank you, Mr. Jean.

Mr. Marston, please.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair.

Welcome, again. It's good to see you all here.

I have a couple of quick questions. Going back a little bit to the mineral exploration tax credit, I'm curious as to why the extension of the tax credit was limited to one year, rather than a longer period.

Mr. Ted Cook: The mineral exploration tax credit that was alluded to yesterday has a long history. It was initially introduced in 2000 as a temporary measure. I think back in 2003 or 2004 it was extended on an annual basis. It lapsed for a short period in 2006 and has been extended annually each year since then.

Mr. Wayne Marston: It kind of gives you the feeling that people can't make up their minds on it.

Going back to the Governor General and the changes happening there, part of what people were looking for yesterday was the full package of what the changes will be. Will they increase his pension, or will it remain at the same dollar figure?

Mr. Sean Keenan (Director, Personal Income Tax Division, Tax Policy Branch, Department of Finance): There was a question, and the responses are being prepared. The Governor General's pension will not be changed. The calculation of the pension—

Mr. Wayne Marston: I understand that the calculation formula hasn't changed, but will that deliver more cash at the end of the day?

Mr. Sean Keenan: The amount of the pension will not be changed at all by—

Mr. Wayne Marston: So it will stay what it is today.

Mr. Sean Keenan: Yes.

Mr. Wayne Marston: That's fine. It's not that we have any particular concerns about the Governor General, but we've been asked that question. Pensions are kind of a hot topic around here these days, as you know.

On the eligibility of foreign organizations and reporting requirements that we were talking about before, the United Way was brought up. I was on the board of the United Way on and off for 27 years as secretary. One of the things that charities and non-profits find to be a problem is the delivery of reports. Will this increase the burden on them as far as the number of reports or the frequency?

Mr. Ted Cook: The measures contained in part 1 of this bill will make no changes to the reporting requirements. That's because the reporting requirements are set by the CRA, in terms of what has to be included in the annual information return.

Perhaps my CRA colleague can make a few comments.

Mr. Brian McCauley (Assistant Commissioner, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency): That's true for foreign organizations wishing to make donations. But it is contemplated that to improve transparency there are some additional reporting requirements related to an organization that may be undertaking political activities. On our intent there, they are going to be very similar to the requirements that were in place four or five years ago and phased out.

• (1540)

Mr. Wayne Marston: So they'll be included in one report.

Mr. Brian McCauley: They'll be in the form they return annually. We're going to integrate them in there, so there will not be an additional form.

Mr. Wayne Marston: I'm sure they'll be glad to be hear that, because it's a chronic complaint.

Mr. Brian McCauley: It makes it easier for us too.

Mr. Wayne Marston: Absolutely.

On the expanded reporting requirements on foreign donations for political activities, how do you see that being of value to the donors and the taxpayers? We're thrilled when we make a donation to the United Way. We get our receipt. They do the reporting, and we claim it. You ask yourself why this particular change is in place. How can that be construed as somehow being to the benefit of the donor, or even the taxpayers? Maybe that's a political question.

Mr. Sean Keenan: Fair enough. One of the purposes of having charities provide information and making it available on CRA's website is so Canadians who are donating to those charities can have information about their activities. How much do they spend on fundraising and certain administrative expenses? How much goes for other purposes? To the extent that they are engaging in political activities that are being funded from outside Canada, that may be information that donors will find informative in making decisions on how to donate.

Mr. Wayne Marston: If there was controversy about who was—

The Chair: Thank you, Mr. Marston.

Mrs. McLeod is next, please.

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

I went to the technical briefing, so I don't have any questions at this time about the section.

Thank you.

The Chair: Thank you.

Ms. Nash, please.

Ms. Peggy Nash (Parkdale—High Park, NDP): Thank you.

The first section talks a great deal about tax credits and changes in taxation. I'm wondering if you have a sense of the cumulative costs of these changes per budget year.

Mr. Ted Cook: Sorry, you're referring to the changes that are set out in part 1 of the budget implementation act. In the actual budget materials at the start of the supplementaries, there's an outline of the cost of the various measures. If you'd like, I can just mention them.

In terms of the measures that are in part 1 of Bill C-38, the measure with respect to RDSP plan holders will be approximately \$1 million. The cost with respect to the mineral exploration tax credit for flow-through share investors would be \$130 million for the year in which there is the expansion.

Really, those are the only major costs that are outlined in the budget materials for the particular budget measures that are included in this budget implementation act.

Ms. Peggy Nash: For other measures that just continue, there's no changes. So, for example, I'm thinking about oil and gas exploration. There's no change to the taxation of that particular area.

Mr. Ted Cook: The budget does have some measures that potentially impact the oil and gas sector; however, they are not included in this budget implementation act.

Ms. Peggy Nash: What would those additional measures be?

Mr. Ted Cook: The budget has one measure with respect to the Atlantic investment tax credit and whether oil and gas and mining activities are eligible for that tax credit. The eligibility for that particular tax credit is proposed in the budget to be phased out.

Ms. Peggy Nash: But otherwise, would the \$1 billion or so tax subsidies continue to the oil and gas sector?

Mr. Ted Cook: I'm not familiar with what particular subsidies or amounts you are referring to.

Ms. Peggy Nash: Okay, I'm just looking at the overall cost. I'm just looking at what the overall impact of tax subsidies and deferrals are on the budget. But under part 1, as the witness has explained, it's about \$130 million. So thank you.

I have another question, moving on to a completely different subject, about the Governor General. I'm wondering why other forms of income, such as investment income, earned by the Governor General are not included in the definition of "taxable income" for income tax purposes.

• (1545)

Mr. Sean Keenan: The Income Tax Act currently only exempts income from the Office of the Governor General. Therefore any of his other income, personal income from pensions or investments, is not exempt from tax. So he already pays tax on whatever other types of income he has.

Ms. Peggy Nash: So investment income, that kind of thing, is taxed not through his office but through other tax measures.

Mr. Sean Keenan: That's the taxes in his hands as an individual.

Ms. Peggy Nash: Lastly, on the increase in salary for the Governor General, I'm just wondering why the increase of \$100,000 for 2013 and subsequent years. What's the rationale for that, when the government is cutting back in many other areas?

Mr. Sean Keenan: The salary for 2013 is set such that his net compensation from the Office of the Governor General remains unchanged. So currently he receives a salary that is not taxed, and then as a result of this bill he would receive a higher salary that would be taxable. And we estimated that because he would pay a certain amount of tax on that income, his salary should be set at the level in the bill, such that his net compensation is unchanged.

Ms. Peggy Nash: So there's no austerity for the Governor General.

Okay, thank you.

The Chair: Thank you.

We'll go to Mr. Adler, please.

Mr. Mark Adler (York Centre, CPC): Thank you, Chair.

I'm going to pass on my time. I read the budget quite thoroughly and went to the technical briefings, so I have no questions at this time.

The Chair: Thank you.

Ms. Glover.

Mrs. Shelly Glover (Saint Boniface, CPC): I'm fine as well.

The Chair: Who is next? I have an NDP slot.

Mr. Mai.

Mr. Hoang Mai (Brossard—La Prairie, NDP): Thank you for more time.

[*Translation*]

Let us speak about charitable organizations. We asked questions about certain donations during the technical briefing. The definition of a charitable organization has changed. Donations to support political activities will be considered political activities. During the technical briefing, we were told that, when a donation is made and the donor says that the money is not for political purposes, then that is sufficient to prove that the donor did not engage in political activities. I would like your response to be on the record. Is that correct?

[*English*]

Mr. Ted Cook: In terms of the way this measure works, just to clarify, this measure is with respect to gifts given by a registered charity or an RCAA to a qualified donee. It doesn't apply in the context of a donation made by an individual or a corporation to a charity in the first instance.

With respect to the purpose, as I believe I indicated to the committee yesterday, it's whether it can reasonably be considered that a purpose of the gift is to support the political activities of the recipient of the gift. So where the charity or RCAA is genuinely making a gift and genuinely providing a direction that it is not to be used for political activities, then that would largely be sufficient.

There is an objective analysis.... The only reason I hesitate is to preclude someone using it as a shield.

• (1550)

Mr. Brian McCauley: I was just going to say that would be very helpful. It would have to be consistent with the facts as well, so the statement would have to be consistent with the facts of what's actually occurring.

[*Translation*]

Mr. Hoang Mai: One thing troubles me about this bill and that is the reasonable test. I spoke about it before. Can you tell me who is going to decide what is reasonable? Who is going to make that decision?

[*English*]

Mr. Ted Cook: I'll let my CRA colleague make some comments.

The consideration of what's reasonable in the circumstances is a test that we often use in the Income Tax Act. Basically, it requires an objective analysis. As I indicated with respect to what is a purpose of the gift itself, the CRA, as administrator of the Income Tax Act, has ultimate responsibility, at least in the first instance, to make a determination based on the facts of the situation as to whether they feel it can reasonably be considered a purpose or not. Where the charitable organization disagrees with that, there is a procedure where ultimately a determination, if it goes that far, could be made by the courts.

[Translation]

Mr. Hoang Mai: If memory serves me correctly, I also heard a public servant say that information on political activities will be sent to charitable organizations. Is that correct?

[English]

Mr. Brian McCauley: Yes, I think that's an excellent point. There is information there, but charities shouldn't have to guess about what's reasonable or not reasonable. In fact, we have meetings even this week with the sector, starting to talk to them about what would be the most helpful way to minimize any confusion or uncertainty. That would include examples, other things they might suggest. So yes, it's for our best interests as well as the interests of charities that we make all reasonable efforts to define what "reasonable" means with the sector.

[Translation]

Mr. Hoang Mai: If I understand correctly, the Minister of National Revenue can decide to revoke an organization's charity number if she feels that the organization has exceeded its political jurisdiction or limits.

[English]

Mr. Brian McCauley: Yes, but as we mentioned at the Senate hearings, the minister does not make those decisions. Those decisions are delegated into the CRA, so those decisions have to be made on the basis of objective criteria and our analysis. We do not go to the minister to request her authorization to revoke charities. We do that within the CRA.

The Chair: Thank you, Monsieur Mai.

We'll go to Mr. Jean, please.

Mr. Brian Jean: Actually, Mr. Chair, I've had an opportunity to go through most of the materials up to part 1, and I don't really have any more questions in relation to it.

The Chair: Thank you.

Mr. Brison.

Hon. Scott Brison (Kings—Hants, Lib.): Thank you, Mr. Chair.

To return to Ms. Nash's question, you went through the costs of two of the tax measures, the mining tax credit and the RRDs, in this part. What about the other measures? Can you take us through all of the tax reductions—all of these measures in part 1—and tell us what the expected annual cost will be to the treasury? You've done that with two of them, but not with the others.

When the impact is, you're saying, too small to provide an estimate.... Could you inform us what that means: too small to provide an estimate? It seems hard to comprehend that any measure

could not be quantified in some way. Is it less than \$100 million a year, or is it \$10 million a year? At least provide us with a range.

And have you calculated the total tax expenditures of these measures in part 1?

• (1555)

Mr. Ted Cook: In the information provided in the budget there's an indication of the cost on a year-by-year basis over five years for each of the tax measures indicated. Where there is no estimate, the indicator we use is less than \$1 million per year, or a measure that is designed to protect the income tax base, as opposed to raise or spend revenue.

Hon. Scott Brison: Just to understand, you say that when an impact is too small to provide an estimate, the threshold is \$1 million per year of revenue lost to the government. Is that the threshold you apply consistently?

Mr. Ted Cook: That is the threshold in terms of the particular estimates that are provided with the supplementary information for the tax measures.

I'm not an expert in revenue forecasting. I believe that's in the context of the fiscal framework. We have a kind of ongoing model with respect to revenues.

Hon. Scott Brison: So what you're saying is that the expected impact of some of these tax measures, the ones for which you have not provided an actual specific or granular estimate, will be less than \$1 million a year.

Mr. Ted Cook: That is correct.

Hon. Scott Brison: That seems like a fairly insignificant tax measure. You have to ask the question—I guess it's more political than bureaucratic—why it would even be.... If its impact is expected to be only \$1 million per year, it seems like a very insignificant measure.

The Chair: Mr. McCauley, do you want to answer that?

Mr. Brian McCauley: I was going to say that there are measures, for example, that provide for penalty provisions, and others that are meant to protect the integrity of the tax system; they're measures that help prevent people from taking advantage of the tax system and that are useful for us but that don't have an active impact on the fiscal framework. They're there to protect the integrity of the system.

There are some measures, for example, that we would administer at no cost, because we build the cost into the system, but they're to protect the framework rather than adjust the fiscal outcomes.

The Chair: You have one minute.

Hon. Scott Brison: With regard to the other measures, you provided the cost of two of the measures, the mining tax credit and the RDSP. Would you provide an itemized list of the costs to us for the other measures, or are they all too insignificant?

Mr. Ted Cook: Sorry, I'm not sure—

Hon. Scott Brison: There are a number of tax reduction measures in part 1. You responded to Ms. Nash's question about two of them, the mining tax credit and the RDSP. What about the other ones?

Mr. Ted Cook: The medical expense tax credit is recorded in the table provided in the supplementary information as being less than \$1 million.

Hon. Scott Brison: Do you expect the medical to be less than \$1 million?

Mr. Ted Cook: The change from adding blood coagulation monitors to the list of eligible expenses is expected to be less than that.

Hon. Scott Brison: That's fine.

The Chair: Thank you, Mr. Brison.

I just want to clarify one point with Mr. McCauley.

We've had this issue before, and CRA has been very explicit about it. I think it's important to note, because there is often a lot of discussion in the media and elsewhere on the government's actions or inactions with respect to the charitable sector and certain charities. I want to emphasize your answers, Mr. McCauley, in terms of there being no political direction given whatsoever. And if there were, CRA officials would frankly disregard it. They themselves would make the decision with respect to any auditing or oversight of charities with respect to the law.

I want you to answer that very clearly, for the committee's sake.

Mr. Brian McCauley: That's the way we've done business since forever, regardless of the government, and that's the way we'll continue to do business. There is no political direction, and that's absolutely essential to the integrity of the system.

• (1600)

The Chair: When there are statements made about the government, political people, or members of Parliament targeting charities, the fact is that CRA is independent. It exercises its own independent oversight, analysis, and judgment with respect to the charitable sector.

Mr. Brian McCauley: We act in a manner that's consistent with the Income Tax Act and the policy direction the Government of Canada provides to us. And those are public, yes.

The Chair: Thank you for that clarification.

I have Monsieur Caron, *s'il vous plaît*.

[Translation]

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): Thank you, Mr. Chair.

I would like some clarification on the first part, which pertains to grains, so that we are sure about the scope of the clause. The idea is to maintain an advance payments program for farmers who, until now, were under the jurisdiction of the Canadian Wheat Board. Is that correct?

[English]

Mr. Ted Cook: With respect to the first clause, it has to do with a change as a result of the ultimate dissolution or commercialization of the Canadian Wheat Board. It takes a current measure that applies in respect of grain producers who produce in western Canada, essentially, and makes it available to all farmers of listed grains in Canada. Essentially what it does is take out a reference to an area designated by the Canada Wheat Board and replaces it with all of

Canada. The measure also, in the first clause of the bill, adds a reference to canola.

[Translation]

Mr. Guy Caron: I would like to know why canola was not included before and why this was overlooked.

[English]

Mr. Ted Cook: My understanding is that it may have been perhaps an oversight in drafting. My understanding of canola is that it's sort of a version of rapeseed. When the measure was first drafted, it was thought that rapeseed would be inclusive. Just to be clear, we've added a reference to canola.

[Translation]

Mr. Guy Caron: I have another series of questions about the registered disability savings plan.

Five changes were announced in budget 2012. I read this bill and it does not seem as though these five changes have been included. Did you include the five changes that were announced in budget 2012?

[English]

Mr. Ted Cook: That is correct. In fact, this morning I was working on the other four. They're in preparation. But this is the only one included in this particular bill.

[Translation]

Mr. Guy Caron: Okay.

So there will be another bill that will include the other four changes. Is that correct?

[English]

Mr. Ted Cook: Well, usually the way we approach the distinction generally between budget implementation measures is that it will depend on how important it is to have a measure come into effect quickly. This is a measure that will come into effect on royal assent, and it was felt that it was important to get this measure in as quickly as possible. It will also depend on the complexity of the drafting for various measures and the desirability of consultation on drafting of measures. Those are the reasons why the first one was included.

[Translation]

Mr. Guy Caron: The Office des personnes handicapées du Québec has expressed concern about the regulation of the temporary measure included in Bill C-38 because it could allow a person other than the beneficiary to have access to and use of the money in a registered disability savings plan. Are stricter regulations planned or does the government not see a need for that since the proposed measure is temporary?

[English]

Mr. Sean Keenan: An RDSP must be established only to be for the benefit of the beneficiary. So RDSP issuers, which are in general the major financial institutions, do what they can to ensure that when withdrawals are made from an RDSP, the payments go only to the beneficiary or in respect of their legal representative.

As a temporary measure allowing certain qualified family members, the scope is limited to parents and spouses or common-law partners, generally on the basis that those individuals would have the best interests of the beneficiary in mind. So a broader scope might have opened up possibility that yes, indeed, a priori, there might be some uncertainty about whether they had the best interests of the beneficiary in mind. But the expectation is that parents and spouses would have the best interests of the beneficiary in mind.

Mr. Guy Caron: May I...?

• (1605)

The Chair: Do you have a little one?

Mr. Guy Caron: Yes, just a little one.

[Translation]

Why was Quebec included in these measures since it already has a registered disability savings plan? Was it because the plan was not consistent with the standards that the federal government wanted to impose?

[English]

Mr. Sean Keenan: As I think the Minister of Finance said yesterday, there are streamlined processes that are available to allow the ease of another individual to become a plan holder for an RDSP and that are less cumbersome than processes that exist in certain provinces. He has asked all the provinces to provide him information on the processes that are in place in certain provinces. He has received a number of responses.

With respect to the Government of Quebec, my understanding is that the issue was that the Minister of Finance had sent it over to the Minister of Justice and they hadn't indicated necessarily that action had been taken. The measure would apply all across Canada, but certainly the intention or the idea is that if there's a problem that exists in Quebec, action would be taken, because it is a provincial jurisdiction.

The Chair: Merci.

I have one more member who has indicated that she has questions. I have Ms. Nash. Hopefully, then I can move to part 2. If not, members, please indicate to me if you wish to ask further questions.

Okay. Ms. McLeod and then Ms. Nash.

Mrs. Cathy McLeod: Mr. McCauley might be in the best position to address this issue.

People have made comments in terms of the ability of the minister to suspend the licences of charities. Currently, I think her only ability is a permanent ability, so the one year that's in here is sort of more interim, which provides more options. Can you just confirm if that's accurate?

Mr. Brian McCauley: The measures provide for intermediate sanctions and for the suspension of licences to charities. We think this would be helpful. Right now there are fewer public tools available to us, and we think it will be helpful in making our interaction with charities more current. It will allow us to deal more quickly with charities where the public is at risk. It will also allow us an intermediate sanction that will have a consequence without putting

a charity permanently out of business. We think it will help on the administrative side.

Mrs. Cathy McLeod: Thank you.

The Chair: Thank you, Mrs. McLeod.

We'll go to Ms. Nash.

Ms. Peggy Nash: I'd like to pick up on a comment that Mr. Rajotte made about the charitable tax credit. I want to thank you for your clarification. The Minister of Natural Resources had talked about environmental and other radical groups, and the Minister of the Environment had talked about charitable organizations engaging in money laundering by using donations for political activities. There has been a great deal of apprehension about the charitable tax credit.

As I understand it, fewer than 2,000 of the 85,000 charities in Canada take foreign donations, the largest being organizations like CARE Canada and World Vision Canada. The only environmental organization in the top ten is Ducks Unlimited.

I'm unclear what the minister is referring to. Have CRA officials clarified to ministers that this is an arm's-length process, and not a process that can be used for targeting opinions they don't like?

• (1610)

Mr. Brian McCauley: Our minister has been pretty clear in the House and has communicated that message. I trust she will continue to do so.

Ms. Peggy Nash: They have toned down their comments somewhat, but you can appreciate the chilling effect that those kinds of comments have on some organizations. They are concerned that if their views are in disagreement with those of the government, they're going to be targeted.

Is there any outreach from CRA or any further clarification for environmental organizations? There is a genuine concern, and it's quite understandable, given the comments that have been made. It would be helpful to reassure them that they will not be targeted because their views happen to differ from those of the government. Unfortunately, not everyone watches question period.

Mr. Brian McCauley: The minister has been clear. We've been clear in our testimony both here and at the Senate. The director general of charities gave a speech to the Canadian Bar Association a week ago, and she was also clear. We're going to be posting that speech in both languages on our website, in the next day or two, so we are doing everything that is reasonable and responsible, given that the bill is still under consideration, to clarify what our role has been and will continue to be in how we approach files like this, and how we intend to operate in the future.

Ms. Peggy Nash: Thank you.

The Chair: Thank you, Ms. Nash.

We'll go to Mrs. Glover.

Mrs. Shelly Glover: I was tempted to do a point of order, but I thought I'd be respectful and do it through you, Mr. Chair.

We are here to allow a full discussion on the bill. The officials have been clear. They are not here to answer political questions. Ms. Nash's questions were completely out of line. They were political in nature. They were misleading to Canadians watching. In fact, they were absolutely atrocious, and I would ask the chair—

The Chair: Is this a point of order, Ms. Glover?

Mrs. Shelly Glover: No, it's my turn.

Ms. Peggy Nash: Point of order.

The Chair: Then I have to go to her point of order.

Ms. Nash.

Ms. Peggy Nash: Frankly, I don't appreciate being lectured by the parliamentary secretary. I'm a member of this committee, and I have as much right as any other member to express my views and to question witnesses. I don't appreciate another member attempting to censor my comments.

The Chair: On this point of order, Mr. Brison.

Hon. Scott Brison: Tax shelter mechanisms are part of this, and there is a relationship potentially; if a tax shelter mechanism is abused, it can be considered money laundering. So in fact Ms. Nash is completely within her right to ask questions on something that is clearly a provision of part 1 of this bill. Tax shelters are part of part 1, and abuse of a tax shelter could be considered money laundering. Of course it's not from the opposition parties that the use of the term "money laundering" to describe Canada's environmental NGOs has emanated. That came from the government.

I just want to clarify and support Ms. Nash's position, respectfully.

The Chair: With respect to the point of order, the reality is that members have a fair amount of leeway in terms of what they can say. If it's a point of order, I mean.... Political debate has a fairly wide ambit in the House of Commons. As members know, the Speaker gives fairly wide ambit to that, and obviously we do so as chairs of committees.

Whether something's appropriate or not, as a point of order I would say that this is not a point of order, Ms. Nash. If a member is attacking another member, then obviously that is a point of order and I would step in.

I would just encourage members, and perhaps I'll use this opportunity, in terms of the budget implementation act, to try to keep our points on policy as much as possible. We can disagree with each other on policy in a very passionate way without making comments about other members of the committee. I would encourage members to use the strength of their arguments against the arguments of the other member, rather than saying something about the other member. I say that to all members at this point. Let's use the strength of arguments against the other arguments. Let's not say something about other members as we make our debates. I would just ask, as your chair, that this is the method we should follow.

We are at hour 48 here, so this is going to get a lot more intense, and I think we should do this as respectfully as possible. I would just ask you as your chair.... You have a fair amount of ambit in terms of what you can do with respect to your rhetoric as members, and I don't want to limit that, but I would just advise you and encourage you to use the strength of your arguments with respect to other

members' arguments, rather than with respect to what you may think of other members.

•(1615)

Mrs. Shelly Glover: I'll use the rest of my time?

The Chair: Yes. None of your time has been taken.

Mrs. Shelly Glover: Thank you very much, Mr. Chair.

I'll continue as I was, through the chair, indicating as a comment that the ministers are not here to respond to any allegations made about them, or to correct the record, as we would say. We have officials who are here to gladly answer questions about the BIA. This side has chosen to try to provide as much time as possible to opposition parties, who continue to say repeatedly that they don't have enough time to study this bill. So I would recommend, Mr. Chair, that perhaps we could focus in on the BIA-1 questions, and leave the political rhetoric to the politicians, as, frankly, the ministers aren't here to defend themselves or to correct the record.

Those would be my comments.

I do want to also thank one of our officials for clearly stating that what was alleged by Ms. Nash was not in fact correct. I believe he will continue to do that if these kinds of suggestions continue. So I would hope that we don't use our time in a way that is not producing the results we are looking for, which is to understand the bill so that we are educated enough to vote on the bill at the end of the day.

Having said that, I'm going to pass my time once again to opposition members to make sure they have every opportunity to learn about the bill, so that they are educated enough to vote on it. I would hope this continues on a better vein.

The Chair: Thank you.

We'll go to Mr. Mai, please.

Mr. Hoang Mai: I would just like to take a few moments to clarify, and to say that Ms. Nash's comments were correct. So just to be on the record, those comments were right.

Regarding the charitable organizations, I think the chair has mentioned that we don't want CRA to be political regarding charities, but what is happening in this bill is that we're giving the right to the minister. Yes, Mr. McCauley, you said that CRA will give advice and then the minister has to follow it. That's not how I read it. What I really hear is that it provides the Minister of National Revenue with the authority to suspend the tax receipt privileges of a registered charity if the charity devotes resources to political activities in excess of the limits set out in the Income Tax Act.

So, yes, the CRA will be monitoring that, and, yes, there's the argument of what is reasonable, and CRA will look at it. At the end of the day, it's the Minister of National Revenue who will make the decision.

Mr. Brian McCauley: I apologize if I was unclear.

The authority is delegated to officials within the agency. For example, revocations—even now, I don't see a number of them—are taken at the director general level. As I mentioned, we keep a very clear line between the minister's office on the political side and the decisions we take that are delegated to us through the tax system. I apologize if I didn't make that clear, but those authorities, decisions to revoke, are made within the agency.

[Translation]

Mr. Hoang Mai: Once again, could you explain to me what this provision means? It states that it “provides the Minister of National Revenue with the authority to suspend the privileges, with respect to issuing tax receipts...” Is this new and what might the impact be?

[English]

Mr. Ted Cook: With respect to the structure of the Income Tax Act, generally the way the Income Tax Act is drafted is that where an administrative action is required—for example, filing a return or even filing an election—the Income Tax Act won't say “file an election with the Canada Revenue Agency”. It will say “file an income tax return, or file an election with the minister”. Almost all administrative actions are undertaken by the minister, and then there's the specific provision in the Income Tax Act, which I believe is section 221, which provides for the delegation to the officials by the minister of those obligations in the Income Tax Act. Those delegations are done.... There's a very specific structure, which is done perhaps annually, I believe, and for various provisions of the act the CRA goes through and the minister approves. Those authorities or obligations are delegated to specific positions within the Canada Revenue Agency.

So Mr. McCauley is saying, with respect to suspensions or even revocations of charities, that there's been a delegation of authority, which is done on a systematic basis to officials within the Canada Revenue Agency, and having been given the delegated authority to do so, that's where the decision will be made.

• (1620)

Mr. Hoang Mai: If it has already been delegated, as it was before, why are we now giving back that power to the minister? I'm not sure I follow it.

Mr. Brian McCauley: I think in this case it's because we're introducing the additional authority to suspend that was referenced a little earlier. We didn't have the authority to suspend before, so the new authority, which is to suspend for a year or more, is being put in place within the existing structure the minister has, and then as soon as the bill passes, assuming it passes, we have delegation instruments that the minister immediately signs that delegates that back to us.

Mr. Hoang Mai: Would it be fair to say that the minister still has the power to revoke? The minister has the right to delegate, or has the right to use that power?

Mr. Brian McCauley: Technically, but given that we never provide any information or access that information to the minister's office, there wouldn't be anything for her to act on, which again is how we try to protect the integrity of the tax system.

The Chair: Thank you.

Do I have a Conservative?

I'll go to Mr. Marston, please.

Mr. Wayne Marston: Thank you, Mr. Chair.

Mr. McCauley, I am satisfied with the integrity that we see from the people before us here today, and I'm not suggesting that the government lacks any faith in your integrity, because I think it's important.

One of the problems we've had that politicizes these hearings is the kind of rhetoric that occurs from time to time in the House, and of course one was quoted earlier today relative to environmentalists and people from outside the country and that kind of thing. Then following that event, when you get into a situation that we now find before us—a change—it's potentially significant, but something we don't believe had been asked for from your department. So with regard to the eligible foreign organizations and the reporting requirements, was that a request from your department? Was that a need you thought should be filled and suggested to the minister?

Mr. Brian McCauley: The normal process is that it is the Department of Finance that brings forward tax policy and other measures. A number of those emanate from the Department of Finance, and from time to time there are some that are suggested by us. This would have been part of that general discussion. I don't know if there is anything more to say than that, really.

Mr. Wayne Marston: Yes. You're not aware of anybody on the official side who made a request for this to be enacted?

Mr. Brian McCauley: I don't believe.... Again, that's part of the general discussion on advice and guidance to ministers. I think I'll leave it at that.

Mr. Wayne Marston: That's fine. I'm not trying to press you too far on this.

The reality of the situation is that whether either side of this room has a concern about it, there has been a certain amount of reaction within the public with regard to this particular issue because of those comments in the House. I think it's fair for us to delve into it in a reasonable fashion to find out where it came from and why, because it's got the taint of a potential situation where somebody in authority might push for something. If that's not the case, we certainly want to rule it out. We certainly also want to understand that in your case, as you've indicated, you have independence. If we happen to be the government or someone else is—God bless us, even if the Liberals come back, and I said God bless us, so I think we're safe—you'll still have the same integrity.

The thing here is, contrary to the view that we shouldn't necessarily dig into this, I think it is very important that we make clear the integrity of our officials and our departments. I want to thank you for being clear on that.

I'll go to a question that's a little simpler. There's a part of the changes to the demands for tax returns that talks about the fact that it now could be done online. Of course many things are happening online these days, so it's understandable. I'm concerned, because in the past would you not have sent a registered demand letter? I've had discussions with the parliamentary secretary about cases in the Hamilton area of people who were very neglectful and hadn't done their tax returns for a long time and how we could address that side of it. I guess the aspect of it is oftentimes people delay that first year and then they're nervous or frightened to get involved with the CRA after that.

If you're sending an e-mail, how do you confirm that the intended person has received it? Would you send a registered letter as well to the person who's the problem?

• (1625)

The Chair: Is this on the budget?

Mr. Wayne Marston: Yes. It's Canada Revenue Agency. It's page 5 of the document we have here. They're making a change to the notification. They're allowing for e-mail, as opposed to just by royal mail.

The Chair: Okay, I'm sorry.

Mr. McCauley.

Mr. Brian McCauley: What we're hoping to do in the measure is to remove the absolute requirement for us to send it by registered mail. It would leave us with some discretion as to whether or not it's online. Maybe in some circumstances it would be in person; maybe in some circumstances it would be registered mail.

What we've looked at is that the current process isn't really as effective as one might think. I think when we were chatting in the Senate, when we looked at trying to create efficiencies, even now with registered mail, there isn't a requirement for the person to actually sign and receive it. What would have been the original concept of registered mail has been weakened over time. We looked at removing the absolute requirement, which we believe is certainly a waste of money at this point in time, and giving us more flexibility to choose the best way to follow up with people.

Mr. Wayne Marston: I'm sure you're trying to get the advantage of the situation. I guess I'm old school, because I believed that if I was sent a registered letter, I had to be the sole signatory for that letter. If that's not the case, then I understand.

I must be getting close to my time.

The Chair: You're close, but you can have a short one if you want.

Mr. Wayne Marston: No, I'll let it go. That's as far as I'm going with this.

The Chair: Okay, thank you.

Mr. Brison is next.

Hon. Scott Brison: Thank you very much, Mr. Chair.

I want to go back to the changes made to the Governor General's compensation.

Reviewing the methodology around this, the government's assuming that he's earning at least \$134,000. Of course he's earning

other income that's not related to his position; that was clarified earlier. You're assuming in terms of the calculations we've made that he will pay the top marginal tax rate on all of his salary as Governor General, instead of a portion of the salary in each of the tax brackets, as Canadians would do.

Why did you calculate it that way? Why wouldn't you assume his taxes would be paid at different percentages based on different strata of income, based on thresholds of income within the tax system?

Mr. Sean Keenan: The way the tax system works is that different sources of income are combined such that your total income is taxed according to the rate schedule. So the Governor General has income that already takes him up to the top marginal rate, such that his existing sources of income are taxed through the rate schedule. Then it's the fact that his salary as Governor General would now become taxable, be included in his taxable income. Then by virtue of the fact that it would be added on to the top of his existing sources of other income, it would all be taxed at top marginal rates. It doesn't get taxed under the entirety of the rate schedule as a different source of income. It becomes all part of his own personal taxable income.

• (1630)

Hon. Scott Brison: But our calculation is that based on the way you're approaching it and the way anyone else would be paying taxes for the same aggregate or macro number, it would be about \$30,000 a year, or a tax advantage in his favour, in this case.

Mr. Sean Keenan: Sorry, I don't know how you've come up with your calculation. I'm assuming that you're suggesting it would be taxed as the first dollars.

Hon. Scott Brison: Yes.

Mr. Sean Keenan: He has that income. He has other sources of income. This is his personal situation, and not that I know all the details, but it's our understanding he has sources of income such that those are already taxed, and therefore this will be added on top of that.

Hon. Scott Brison: I want to make it clear this is not a slight against the Governor General, who's a fine fellow. It's just a question of understanding the methodology.

On a question to CRA related to the issue of shelters for taxation, have you ever informed the government of examples of money laundering within the Canadian environmental community?

Mr. Brian McCauley: Not that I'm aware of....

Hon. Scott Brison: Okay. In terms of political advocacy—and this is where, as legislators, we're trying to understand the issue—it's quite a subjective decision or evaluation to try to determine what is political advocacy and what isn't.

For example, I was just on your CRA website, and there's an organization called the Manning Foundation for Democratic Education. If an organization that had a tax number spent more than 10% of its resources, for instance, on training partisans on various electoral and political strategies and electioneering strategies and on policy development around partisan activities—

The Chair: Thirty seconds.

Hon. Scott Brison: —would that be a violation of CRA rules in terms of the 10%?

Mr. Brian McCauley: Again, not making any specific reference to any specific charity, any kind of partisan activity is unacceptable at any level.

Hon. Scott Brison: Would training of political organizers be considered a political activity?

Mr. Brian McCauley: If the political activity is partisan and the training is to allow for partisan political activity, then I think there would be a connecting factor there.

The Chair: Thank you.

We can come back to you, Mr. Brison, but we're over time.

I have Ms. Nash, please.

Ms. Peggy Nash: Yes, thanks.

I would just like to get a clarification in terms of foreign donees. Can you describe or clarify for me what qualifies as a humanitarian emergency? There are often donation requests based on humanitarian emergencies. What's the definition? Is it a United Nations definition? What qualifies?

Mr. Sean Keenan: Again, as Mr. Kirk mentioned earlier, the CRA would provide guidance on what that means. The situation we are contemplating is the earthquake that happened in Christ Church, New Zealand, where you have agencies on the ground that are involved in humanitarian disaster relief or something to that effect—that kind of entity, essentially, where Canadians felt that they really wanted to give to organizations like that, and that they were involved in that kind of activity.

•(1635)

Ms. Peggy Nash: So there's New Zealand, Haiti, and we can think of Japan; there are examples we can think of.

Is there a normal definition, or how is the decision made to make that determination? Is it media coverage? What would separate one from another? We don't classify what's going on in the DRC as a humanitarian emergency for charitable donations, but I'm not sure what the definition is. What do you go by at CRA?

Mr. Brian McCauley: As Sean was saying, assuming the measure is actually passed, then part of the process is to provide some guidance on exactly what we would consider to be humanitarian. I think it's certainly likely to be very consistent with what Sean was saying.

But there's a distinction between understanding what humanitarian assistance is and the actual charitable registration process. In a number of instances we have found that Canadians give through existing international organizations, such as the Red Cross and others, and often find that this is the most immediate way to provide relief. This is a measure in which there are some particular...

For example, in this case, New Zealand, with the government, wanted to initiate a process to establish some separate identification. That's why we went through that process. A lot of giving takes place through existing international aid organizations, which are often seen to be quicker, with infrastructure in place. That would not change.

Ms. Peggy Nash: That would be consistent with what I said earlier, that CARE Canada and Vision Canada would be two of the biggest recipients of foreign donations.

Am I correct in understanding that this is something for which CRA will be coming up with a definition? Will you be establishing criteria, if these changes are adopted, so that there's a kind of test or set of criteria for considering something to be a humanitarian emergency?

Mr. Brian McCauley: We would traditionally certainly provide some examples and some clarity around what we would see as typical humanitarian situations, and we would look to other sources and definitions to inform...and also develop that, frankly, in consultation with the sector and with the Department of Finance and others.

Ms. Peggy Nash: If I understand you, there are no fixed criteria that you'll be establishing; it sounds as if it's a little more fluid. I'm just curious to know who will make the ultimate decision. Is it the minister, or how does that work?

Mr. Brian McCauley: As the bill suggests, when I was saying “fluid”, it's just that, given that I haven't written them yet, I don't want to say what they are. I'm just saying that we will go through a process to provide as much clarity and definition as is helpful and useful and necessary in order for charities to know what the rules are.

Ms. Peggy Nash: So yes, there will be a definition and some criteria?

Mr. Brian McCauley: Yes. The process of coming to an understanding of whether or not a particular charity meets the definition again would be undertaken within the CRA.

Ms. Peggy Nash: Will defining what constitutes “national interest” take a similar course?

Mr. Brian McCauley: Yes.

Ms. Peggy Nash: So there will be a definition coming out, assuming this bill is passed. You'll take a look at defining national interest.

Mr. Brian McCauley: Yes. I'm hesitating on the word “definition” because of some legal context, but certainly we would want to clarify what we understand is included in that notion.

Ms. Peggy Nash: Okay, thank you.

The Chair: Thank you.

We'll go to Ms. McLeod.

Mrs. Cathy McLeod: Thank you, Mr. Chair.

I want to go back to the piece around charities and political activities and perhaps get it reaffirmed that this is not a new rule, that this is a rule that has been in place. Certainly if a food bank says they're concerned about food issues in their community, that's not deemed political activity. This is something Revenue Canada is used to.

What you will have is some tools and support—predominantly, I think, and most importantly, around education. We talk about.... The opposition is throwing out all sorts of different groups, of course with political overtones to those groups. But it has been very clear that charities, regardless of the charity, perform an incredibly important role.

The CRA is responsible for administering and for continuing what has been done all along. Again, this is not a change in the rules around what charities can do in terms of political advocacy.

Do you have any comments? Have I accurately...?

•(1640)

Mr. Brian McCauley: No, that's correct, there are no changes in the rules. I think what we certainly intend to do.... Given the level of interest out there, we will want to probably supplement the information we already have on our site, after talking with the sector, so that what we believe are relatively clear rules are even more clear, with more examples.

So they haven't changed, but if we could do more to put even more clarity around that, then that's what we would do. There are some resources in this bill that would allow us to do that.

Mrs. Cathy McLeod: Thank you.

The Chair: Thank you.

I just want to follow up on that, Mr. McCauley, with respect to Mr. Brison's question.

The rules, as they are now, apply equally to all charities. And the rules, if they change, if the bill passes, will apply equally to all charities.

Mr. Brian McCauley: Absolutely.

The Chair: Thank you very much. I appreciate that.

[*Translation*]

Mr. Caron, please proceed.

Mr. Guy Caron: I would like to clarify some aspects of the discussion you just had with Mr. Brison. I felt there was some confusion.

Charitable organizations cannot engage in partisan activities. They can engage in political activities, but those activities must be maintained at less than 10% of the organization's resources so as not to be considered partisan. Did I understand correctly?

[*English*]

Mr. Brian McCauley: You can engage, but it has to be directly related to the objects of the charity as well. There are a couple of tests related to political activities, neither of which are changing.

But you're right, partisan is prohibited.... Political purpose, absolutely under all circumstances, and those political activities have to be subordinate to, directly related to, your purpose of a charity.

And yes, they have to be maintained at less than 10%.

[*Translation*]

Mr. Guy Caron: I wanted to ask this question yesterday. I would like to come back to it because we were talking about organizations

that give money to charities. We are talking about foundations that give money to charities generally for specific activities. Is that correct?

[*English*]

Mr. Brian McCauley: There certainly are scenarios like that, yes.

[*Translation*]

Mr. Guy Caron: Such is the case because it would be difficult to control the objectives of the foundation if it were giving money to a charity and that money was not designated for a specific project. It would be difficult to be able to control what the charity would then do with that money.

[*English*]

Mr. Brian McCauley: That's correct, but I think as Sean has explained, the test here is the purpose and intent associated with the gift being provided. That's what we would look to first—the purpose and the intent of the donor organization that was providing the funds.

That certainly would be where we would start. There is an appreciation that once it is provided to the organization, then there is certainly less connection and less ability for the donor organization to monitor what happens.

[*Translation*]

Mr. Guy Caron: This is where I have been going with my series of questions.

I would like to know what the process is now and how the bill will change that process for foreign foundations. Let us take the example of an American foundation that gives funding to what will become a charity in Canada. An American foundation that wants to see a charity open or contribute to the opening of a charity in Canada would give that charity money to get started. However, the foundation would not necessarily be giving money for a specific project. What responsibility will the foundation have for what the charity does with the money? What will happen if the charity violates the 10% rule?

•(1645)

[*English*]

Mr. Brian McCauley: I'll start, maybe with a little bit of help.

If it's an American foundation, then it's outside the authority of the bill, and it would be the recipient organization within Canada that would be asked to provide some basic information about the source of the donation and the intent behind it in terms of the activity to be undertaken. That is my understanding, basically, of what would be happening.

Mr. Ed Holder (London West, CPC): On a point of privilege, my ears are dying, because five times this thing has been just penetrating—

Mr. Wayne Marston: There's an easy answer, Mr. Chair.

Mr. McCauley can turn his microphone to your left, and that will correct the problem.

[*Translation*]

Mr. Ed Holder: Thank you. You are very kind.

[English]

Mr. Wayne Marston: My ears hurt too.

Mr. Brian McCauley: We could just stop questions.

The Chair: Okay, Mr. Cook, do you have anything you want to add to that?

Mr. Ted Cook: Yes, if I might, I would add to it a bit.

The measure we're talking about with respect to political activities applies to a registered charity or a registered Canadian amateur athletic association when it makes a gift to another qualified donee, so in terms of its impact on a foreign donor who makes a gift to a Canadian charity, the rule really has no impact. All it applies to is an existing registered charity or RCAA, when they make a gift to another qualified donee. The provision of funds in the first instance from a foreign donor to a Canadian registered charity is not impacted by this measure.

[Translation]

Mr. Guy Caron: Do we have specific agreements with countries, such as the United States—which is an ideal example—or other countries, that addresses reciprocal conditions offered to charities that make international donations?

[English]

Mr. Ted Cook: We've talked about it here. We do have a specific rule in the Income Tax Act which will allow, in certain circumstances, a foreign charitable organization to become a qualified donee for Canadian tax purposes.

[Translation]

Mr. Guy Caron: That was not exactly my question. I would like to know if there are reciprocal agreements to ensure that countries treat international charities in a similar manner.

[English]

Mr. Brian McCauley: No.

The Chair: That's a clear answer.

Colleagues, we do have votes, so we will be suspending at 5:15 p. m.

We'll go to Mr. Marston, please.

Mr. Wayne Marston: Thank you, Mr. Chair.

I want to thank the officials for answering these questions.

One of the questions I had that you reasonably answered was what could be construed as misuse of a receiving charity. I think you answered that pretty clearly.

For a long time here—let's say in the last three, four, five months—there have been conversations about U.S. groups trying to gain political influence in Canada and funding into charities. I recently read a book—without naming the book, because I don't want to promote anybody here—that talked about a certain religious group from the U.S. that is establishing links to Canada and making donations into organizations here whose view was to train folks to be more in conformity to their belief structure back in the U.S. The purpose was to have these people educated, as Mr. Brison said, in the techniques or organizing or operating campaigns to assist a political party of their choice in this country.

Would there be any violation, in your mind, anywhere in that process? I am trying to be as general as possible, because it could be anybody on any issue, but that is consistent with what I've read.

• (1650)

Mr. Sean Keenan: Mr. McCauley would be able to speak to the application of the rules, but a charitable organization in Canada has to have charitable purposes, its activities have to be charitable, and only 10% of the resources can be used in political activities that are subordinate or related to its charitable purposes.

Mr. Wayne Marston: Who would be monitoring to decide where that 10% is?

Mr. Brian McCauley: First of all, the charity itself is accountable for being aware of the rules and self-assessing, and managing its affairs accordingly. Then that information, if these measures are passed, would be an additional piece in the reporting requirements annually. Then, yes, if there were a reason, we would be taking a look with the charity at the books and records, and having a discussion with them.

Mr. Wayne Marston: You'd have to have some kind of indication before you'd go to that stage, I presume.

Mr. Brian McCauley: We do some random audits.

Mr. Wayne Marston: I referred earlier to being part of the United Way. In the United Way, we would give a donation to a sector here and there and to particular organizations. Every so often, once in a while, the money we gave to an organization that had made the application and requested things went in a different direction. And maybe they just changed strategic direction in the meantime, but it took us some time to catch up to the fact that they had done that. So that's what prompted me to look at it in this fashion.

Most regulation, I believe, that the CRA implements and deals with and follows through with on behalf of the Canadian taxpayer we would call strict. How much leeway do you have in a situation? As this is unfolding, from the standpoint of strictness, it sounds to me like there's not going to be what we would refer to as leeway. You're going to have a black and white regulation, and it's going to be consistently adhered to.

Mr. Brian McCauley: I don't believe there are any new regulations, and the rules haven't changed. We have guidance up now that, again, won't be changed. So we will be looking at political activities the way we've looked at them before and the way we'll look at them going forward. I don't think the rules are any harder or tougher.

Mr. Wayne Marston: Okay, thank you.

The Chair: Thank you.

I have two more members. Can I get an indication of how many more members want to speak? If we can finish part 1 before the vote, then we can move to part 2 after the vote.

I have Mr. Mai and Mr. Brison.

Mr. Hoang Mai: Thank you, Mr. Chair.

[Translation]

I would like to continue in the same vein as Ms. Nash. She began asking questions about the work of foreign charities. You are saying that the Canada Revenue Agency is going to establish criteria. However, the bill states that the Minister of National Revenue has the power to make decisions in that regard, in consultation with the Minister of Finance. Is it not true that, once again, the decision will be coming from the minister?

[English]

Mr. Brian McCauley: Like previously, we would define a process where we would have to be able to publicly show what are the considerations we would take into account in coming to a determination about eligibility for the foreign organization, and then we would be providing that assessment over to finance department officials, and I assume finance department officials will have some sort of a process within the Department of Finance as well for us to consult with the Minister of Finance. For all of that, at the end of the day there will certainly be transparency around it.

[Translation]

Mr. Hoang Mai: The bill grants power to the Minister of National Revenue. How does the process work right now? Is it the Canada Revenue Agency that decides who gets a number? Now, things are going to change and that power is going to be given to the Minister of National Revenue.

[English]

Mr. Brian McCauley: I think you're correct, in that currently it is the CRA that provides the registration. As I understand how it would be administered, it would be a continuation of that; it would be the CRA coming to a conclusion based on the facts and based on the criteria around eligibility. Then there's a little loop over to "the Minister of Finance" to consult, and then that information or that decision would be made public, or if it's a denial it would be provided back to the applicant with a reason.

• (1655)

[Translation]

Mr. Hoang Mai: You can see where I am going with my questions. The bill gives the Minister of National Revenue more and more decision-making powers. I have no problem with regard to the Canada Revenue Agency; I know that it is impartial. The thing that concerns me is the powers given to the minister in the budget implementation bill. In this case, you are telling us that the Canada Revenue Agency will be able to set criteria, but there is nothing to say that the minister has to comply with those criteria.

[English]

Mr. Brian McCauley: There's a principle, certainly under administrative law, that the minister has to act in a way that's consistent with the law and consistent with the expectation of due process and due consideration for items and decisions made within that law and within delegated authorities.

I guess what I'm trying to suggest is that the same structure and approach would have to be put in place for this measure so that it is consistent and acceptable in terms of how we administer other measures under the Income Tax Act or other authorities the minister might have.

Mr. Ted Cook: I would like to make a comment on the authorities given to the Minister of National Revenue with respect to the intermediate sanctions and with respect, in particular, to political activities.

We've taken an existing authority, which is currently in place with respect to the obligation to maintain books and records and have them available for inspection and those kinds of things, and have used it for that particular purpose.

Probably the larger change with respect to authority has to do with the foreign charitable organizations. I guess what I'd point out to the committee is that currently under the Income Tax Act there is no consideration at all by the CRA. It is automatic registration if you meet the conditions.

[Translation]

Mr. Hoang Mai: In the budget, \$8 million has been allocated to the Canada Revenue Agency for increased monitoring of the political activities of charities.

Can you tell us how this amount is going to be spent?

[English]

Mr. Brian McCauley: Yes. It's certainly not all for audits. A good chunk of the money will go toward modifying the system that allows for the information provided annually on a charity's return—the new information required—to be posted publicly. So a chunk of money is for systems renewal. There's also a chunk of money, frankly, for outreach, education, and consultation with the sector and for providing more information. Then, yes, there's another chunk of the money for increased monitoring and review, such as audits, desk audits, and that kind of thing.

As we do with all measures, there will be those kinds of activities undertaken as part of the \$8 million.

The Chair: Thank you.

Go ahead, Mr. Brison.

Hon. Scott Brison: The Department of Finance provided us with some information as part of this section of the budget implementation bill. There's a section on increasing transparency and accountability for charities. There are questions such as "What impact will the changes with respect to political activities have on charities?" There are actually some guidelines as to which activities are prohibited, which are charitable, and which are political. Under "prohibited", it says:

Prohibited political activities are those that are partisan, (i.e., involving direct or indirect support or opposition for a political party or elected official)

If an organization that had a tax number had, for instance, on its website, "Building Canada's Conservative Movement", and if in fact on its website it had a section called "What's Your Type?"—this is not one of those personal types of sites—and it said "Answer fifteen questions and see what type of conservative you are", and if in fact it had a list called "What We Do" and in that list on this website it said "Conservative T-shirts", and if it had a section called "Donate"—

• (1700)

Mrs. Cathy McLeod: Point of order.

Mr. Chair, I know you have indicated that you would give great latitude. I certainly appreciate that. But I think Mr. Brison is getting into a level of detail that is far beyond the scope of this bill, certainly in terms of assessing individual organizations, which is the job of the experts who deal with this every day.

I would perhaps ask if you believe, under my point of order, that he's sort of exceeded that great latitude you have given us with regard to this conversation today.

The Chair: Mr. Brison, do you want to respond before I...?

Hon. Scott Brison: Certainly.

Thank you, Ms. McLeod.

I'm simply seeking clarification, because in the information provided to us from the Department of Finance, it lists activities that are prohibited, those that are charitable and as such are allowed, and those that are political and as such would have to be limited to 10% of a charity's....

I'm asking what kinds of activities would.... It's important, as legislators, that we understand this. This is from the Department of Finance. We were provided with this.

The Chair: The problem here, from my understanding of what Mr. McCauley said, is that he cannot comment on a specific organization that has charitable status. He—

Hon. Scott Brison: I'm not asking about a specific organization. I'm saying "what if".

The Chair: May I finish my point, please, Mr. Brison?

Hon. Scott Brison: May I continue?

The Chair: No. I'm going to finish my point here.

He cannot comment on a specific case, and as he pointed out to you and to me, the rules apply equally to all charities.

Hon. Scott Brison: I'm not asking him to comment on a specific case.

The Chair: Do you mind if I finish my point?

Hon. Scott Brison: Sure.

The Chair: Thank you very much for that.

You can ask a question with respect to the Department of Finance measures. You can say, "If an organization does this, does it contravene...?"

He's already clarified the position on that, so I'm not sure what you're asking that he hasn't already answered.

Hon. Scott Brison: Well, I wouldn't be asking the question if I already had the answer. I'm seeking an indication as to what kinds of activities are deemed "political activities" and as such a charity would have to limit to 10% of its overall operation. What would be considered prohibited?

It says here that any activities involving direct or indirect support for a political party would be considered prohibited.

I'm just saying "what if". I'm not saying that something like this would exist. For God's sake, that would be crazy.

The Chair: Mr. McCauley, can you address those questions?

Hon. Scott Brison: I have one more. I haven't run out of my time yet.

The Chair: No, the point of order did not take from your time. I'd just encourage you to ask your question in light of the comments I've made.

Hon. Scott Brison: Sure. I appreciate that.

If in fact on the organization's website you pressed "donate" and it said "Yes, I want to help strengthen Canada's conservative movement", would that be considered political or prohibited activities? I'm saying "what if".

Mr. Brian McCauley: I was going to ask whether it's a small *c* or a capital *C*.

Hon. Scott Brison: On the T-shirt, you mean.

Mr. Brian McCauley: It certainly would be inappropriate for me to make a judgment in isolation without looking at the entirety of the facts—the circumstances and other things. If there were concrete questions with real scenarios, then we'd get the best experts to look at those, but I'm hesitant in the absence of looking at a full file.

We do run into circumstances where inadvertently there's a small piece that's off-line. Then you talk to a charity and they realize it and make a correction.

We do have lots of examples on our website of what's prohibited, and maybe we'll use some of these as well.

Hon. Scott Brison: Sure. Part of the budget is increasing your resources to go after this type of activity. Will you be using these resources to potentially clamp down on these types of rogue activities?

• (1705)

Hon. Scott Brison: Political activities are defined by the Department of Finance as those that involve an explicit call to political action, encourage the public to take action on a particular issue, or explicitly advocate to the public that a law, policy, or decision should be retained, opposed, or changed.

For instance, if you had an organization advocating for a reduction in the size of government, would you consider that to be a change in policy?

Mr. Brian McCauley: I think one has to remember that the purpose of the organization, in the first place, has to be charitable and that any political activity they might undertake would have to be subordinate or directly related to that. It very much depends upon what the charitable purpose of the organization is, because that, in a way, is critical to making an assessment of whether something would or would not be permitted.

That's why it's difficult. I'm not being evasive; it's difficult to answer the question.

Hon. Scott Brison: There have been some accusations that foreign money has supported groups and organizations in Canada to engage in political activities. Have you investigated...or would you consider, for instance, a donation by a U.S. oil company or individual to a Canadian organization that advocates reducing environmental policy, for instance, or an environmental regulatory framework to be an example of this kind of activity?

Mr. Brian McCauley: Sorry, the specific activity being...?

Hon. Scott Brison: I can't say specifically, but if an American—

The Chair: Okay. Thank you.

Hon. Scott Brison: —oil interest—

The Chair: Thank you, Mr. Brison.

Hon. Scott Brison: —were to invest in or give money to a Canadian charity that was engaging in political advocacy—

The Chair: Okay, Mr. Brison. We'll come back to you if you can formulate a more specific question—

Voices: Oh, oh!

The Chair: —and perhaps one that's a little less leading.

Ms. Nash, please.

Ms. Peggy Nash: Just continuing on the line of charities and political activities, as you may know, this committee, the finance committee, in fact had been studying charities and charitable donations. We've heard from charities—everything from food banks to health organizations—that do advocate for some political change based on the clients they serve and the work they do.

There's a whole range of political activities, of course, that organizations are engaged in, from community organizations to national organizations, including everything from the David Suzuki Foundation engaging in environmental advocacy to the Manning Centre and the Fraser Institute. There are many organizations.

But on this particular change, with the pass-through changes that are being proposed here, do you have any sense of what share of charities or what number of charities could be pushed over their 10% ceiling by making this change? Do you know how many charities could potentially be affected by the change that's in this bill?

Mr. Brian McCauley: No.

Ms. Peggy Nash: Well, let me ask it in a different way. I presume that if there's a change being proposed in the bill, it's in reaction to a problem. It would not just come out of thin air that the government would want to make a change, so has there been concern about this kind of pass-through funding? If so, do you have a sense of how many charities would be charities of interest, based on this change?

• (1710)

Mr. Brian McCauley: From an administrative perspective, if the bill is passed, what we've been asked to do is introduce practices that would improve reporting and provide more information to the public and to both donor and receiving organizations.

I suppose that if at the end of the day, through that process, an organization became more informed that what they were doing was inconsistent with what the current rules were, that would result in a system that has greater integrity. The consequences would be that the system would be improved, because there would be more awareness on the part of Canadians and charities as to what the rules are and how they should be interpreted.

Ms. Peggy Nash: Without naming an individual organization, was there some specific activity that was taking place that drew the attention of the government or of CRA to prompt this change? I'm just wondering where the initiative came from.

Mr. Sean Keenan: I couldn't say if there was any specific activity. I think in the examination of the rules related to the political activities of charities it was identified that the spirit of the law is that a charity is supposed to conduct its own charitable activities, and to the extent that it's involved in political activities, that those be limited to some small portion—10%—of its charitable activities.

Looking at the regime and saying that a charity could be funding the political activities of another qualified donee by giving it a gift is sort of outside of the spirit of the law, which is that they should be engaged in their own charitable activities, not funding the political activities of other charities. So that's sort of where an improvement to the rules that would apply to all charities suggests that if you're violating the spirit of the law, then here's a way it could be done.

Ms. Peggy Nash: I have a couple of seconds left. Were some red flags raised because of certain activities that CRA noticed, without naming any organization?

Mr. Sean Keenan: As the budget states, I think there were concerns about the involvement of charities in political activities. In terms of specific circumstances, I'd have to say no. We look at the policies. We look at the rules that apply and provide advice on those rules.

The Chair: Thank you.

We'll go to Mr. Jean.

Mr. Jean, you have a couple of minutes. Then I'll have to suspend for the vote.

Mr. Brian Jean: Thank you, Mr. Chair.

I'm going back to what Mr. Brison brought up earlier because I am interested in that line of questioning, and I've been able to formulate what I consider to be a fairly good question in relation to it. I went on a website called Canada's Culture. I'm wondering how you judge whether it's 10% or not. For instance, that particular website promotes voting for the Liberal Party of Canada. I'm wondering whether or not that would be included if that's a charity, a non-profit group. How would you quantify whether it would be 10%?

I understand where the 10% and the word “exclusive” come from. Do the laws clearly state it has to be exclusive work toward that charity? The judicial interpretation of that by the courts over the years has been that 90% is considered exclusive, so 10% can be something else. Is that correct?

Mr. Brian McCauley: It can be political activity, but it still has to be related to the purpose of the charitable organization.

Mr. Brian Jean: In this particular case, for instance, legalization would obviously be something that this particular organization would want. And if they advocated for the Liberal Party to be elected or for that member in that area, would that be considered to be contravening the section? That's my first question.

Second, I'm not sure how this would be considered, but if the Green Party endorsed another party before they had a member of Parliament, would they be a charity or a non-profit group? I guess they'd be a political party because they endorsed the Liberal Party for the same purpose, for the same reason, for legalization.

But I'm wondering about the issue with Canada's Culture. Would that be a contravention, and how would you judge whether or not it would be within the 10%?

• (1715)

Mr. Ted Cook: It's a threshold issue in terms of how the legislation is structured. The Income Tax Act requires that the charity operate exclusively for charitable purposes and conduct exclusively charitable activities. A specific provision in the Income Tax Act provides that as long as you're devoting substantially all of your resources to those charitable purposes, you can devote some of your resources to political activities.

That particular rule in the Income Tax Act is where we find the requirements that those political activities have to be...the term is "ancillary and incidental" to the charitable activities of the organization. That's also where we have a specific exclusion that what we've been calling the prohibited political activities do not include the direct or indirect support of or opposition to any political party or candidate for public office. The prohibition with respect to partisan political activities is specifically in the Income Tax Act. So if you cross those hurdles and you devote some portion of your political activities, then the Income Tax Act deems all your resources to be deemed for charitable activities.

The act does use the term "resources". So an assessment has to be done in terms of what constitutes the resources of the charity, because obviously a charity has financial resources but may also have human and physical resources that are used for their purposes. So that's the overarching structure of the act with respect to political activities.

I don't know whether my colleague from the CRA has any specific comments about....

Mr. Brian McCauley: I think that answers the question about whether or not you could directly support a candidate for office.

Mr. Brian Jean: Indeed, and how many resources you put toward it, depending on what resources are available.

Mr. Ted Cook: There's a specific prohibition to.... It doesn't fall within the 10%. You just cannot participate in partisan political activities.

Mr. Brian Jean: Great. Thank you.

The Chair: We'll suspend, and we'll come back after the votes.

I want to thank officials for being here and for their patience. We should be back in about 45 minutes, hopefully.

• _____ (Pause) _____

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• (1835)

The Chair: I call this meeting back to order, the 59th meeting of the Standing Committee on Finance. We are continuing our discussion of Bill C-38, An Act to implement certain provisions of

the budget tabled in Parliament on March 29, 2012 and other measures.

We have with us here witnesses from both CRA and Finance. We want to thank them for staying with us tonight. We're on part 1; I believe we're just finishing it up.

I do have a note from Mr. McKay that he has a question.

Are there any other members at this point who want to be on the question list?

Okay, we'll start with Mr. McKay with part 1, please.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Chair. Thank you for your generosity.

I apologize for not being here earlier, but I'm not a regular member of this committee.

The issue is with respect to political activities and those that are partisan. I can imagine that this leads to some interesting conversations as to what is or is not and whether one breached or did not breach.

Can you explain how this is going to be different from what currently exists?

Mr. Ted Cook: With respect to political activities, the measure in part 1 essentially provides a look-through rule to the Income Tax Act. So as a general matter, what constitutes a political activity for a registered charity or a registered Canadian amateur athletic association? What is a political activity at its base level will not be changing as a result of this bill. What is changing is that we put in a definition of political activities. It's not a definition that defines political activities in the normal sense; it's just a definition that says political activities include the making of a gift where a purpose of the gift can reasonably be considered to support the political activities of a qualified donee who receives the gift.

Essentially it does not change, from an overall perspective, what constitutes a political activity, but rather where funds are given from one registered charity or a registered Canadian amateur athletic association to another qualified donee. Currently, under the act, where these kinds of gifts are made, it's automatically considered to be for charitable purposes for the charity giving the gift. What the provision does is simply provide a look-through rule that says to look at the purpose of the gift, and if a purpose of the gift is to support political activities of the recipient and the qualified donee, then that will be considered a political activity for the registered charity or RCAA.

Hon. John McKay: Your argument is that you're not actually changing what constitutes political or partisan activity. Your argument is that this section says that in the donation from one entity to another you're going to, in effect, lift the corporate veil.

Mr. Ted Cook: That's essentially correct.

Hon. John McKay: Is that a good way of putting it?

Mr. Ted Cook: That's a fair analogy.

Hon. John McKay: Okay.

We're all partisans sitting around this table—well, maybe there are some exceptions, but I don't know who they are. If we go to a church and advocate for a particular activity, whatever the activity might be, and that church, for whatever reason, decides that we're going to donate to what might be considered an entity, where is it that the church gets itself in trouble?

• (1840)

Mr. Ted Cook: It's just in terms of where it applies. It applies to registered charities or RCAAAs. That's where it applies. It doesn't apply to individuals or corporations making gifts in the first instance to a charity.

What the rule does is it provides that you look at a purpose in the making of the gift. As we've talked about with the committee a bit earlier, it's not meant to impose a specific tracking obligation, but rather to look in an objective way at all the circumstances around the gift—

The Chair: You have one minute.

Mr. Ted Cook: —from the charity to the qualified donee.

Hon. John McKay: Thanks very much. I'm done.

The Chair: Thank you.

I'll go to Mrs. McLeod, please.

Mrs. Cathy McLeod: Thank you, Mr. Chairman.

I hope I can round this out and pull it all together. There seems to be incredible interest in who and what, as far as rules that have been around for many years on charities. I think that tells me the measures we put in the budget on increased opportunity for education...and perhaps some day down the road the finance committee might want to look at how the actual technical details work.

Mr. McCauley, how many registered charities are there?

Mr. Brian McCauley: I think there are 85,462, but it varies from day to day.

Mrs. Cathy McLeod: I think it's very reasonable, prudent, and appropriate that the rules be clear and some money is expended, in terms of what we're doing and where we're going.

Having said that, I really hope we can move on to part 2.

The Chair: I don't have any other speakers for part 1, so I will move on to part 2.

Are the same officials staying for part 2?

Mr. Brian McCauley: Just me.

Voices: Oh, oh!

The Chair: Okay.

Mr. Cook and Mr. Keenan, thank you so much for being with us tonight.

We'll bring the officials forward for part 2.

Welcome to the committee. We had an overview of part 1, which I think was helpful. Perhaps one of you can do an overview of part 2. Then we'll have questions from members.

Mr. Pierre Mercille (Senior Legislative Chief, Sales Tax Division, GST Legislation, Tax Policy Branch, Department of Finance): Part 2 of the bill includes an amendment to the Excise Tax Act that deals both with the GST/HST and excise taxation. I'm going to cover the GST/HST measures, and Ms. Di Primio will be covering the excise taxation measure.

First, in respect to the GST/HST, I would like to say as a background that the GST/HST generally applies on all supplies of property or services made in the course of a business of any sort, unless there's a specific exclusion in the legislation for it. This bill adds a few more exceptions in the health care sector.

Part 2 of the bill amends the Excise Tax Act to exempt pharmacists' professional services from the GST/HST. These services, for example, can include ordering and interpreting lab tests, administering medication and vaccination, and changing drug dosage.

In addition, currently in the Excise Tax Act, a prescribed list of diagnostic health care services, such as blood tests, are exempt from the GST/HST when ordered by certain health care professionals. These health care professionals can be doctors, dentists, registered nurses. Part 2 of the bill amends the Excise Tax Act to expand the exemption for those diagnostic services to include those ordered by pharmacists, when the pharmacists are authorized to issue such orders under provincial law.

Part 2 of the bill further amends the Excise Tax Act by expanding the list of GST/HST zero-rated medical and assistive devices that are specially designed to assist individuals in coping with a chronic disease or illness, or a physical disability, including the circumstances in which certain devices can be zero-rated.

For those who are not familiar with that kind of language, zero-rated under the GST legislation essentially means taxable at a rate of zero, fully released from GST/HST.

In terms of circumstances in which a medical device can be zero-rated, the list is expanded to include certain devices supplied on the written order of a registered nurse, an occupational therapist, or a physiotherapist, as part of their professional practice. In the past, those medical devices had to be issued on the order of a medical doctor. The list of zero-rated medical devices is also expanded to include blood coagulation monitoring or metering devices and associated test strips and reagents.

This amendment parallels the amendment that was explained earlier in respect of income tax.

The list of zero-rated medical devices is also expanded to include corrective eyeglasses or contact lenses supplied under the authority of an assessment record produced by a person who is entitled under the law of the province in which a person practises to produce the record authorizing the dispensing of corrective eyewear. Essentially, this follows recent provincial law changes where opticians have been authorized in certain circumstances to conduct vision assessment and to produce records of the assessment that authorizes the dispensing of corrective eyewear. Before, it had to be a prescription on the order of an eye care professional.

Part 2 also amends the Excise Tax Act to add the drug isosorbide-5-mononitrate to the list of GST/HST zero-rated non-prescription drugs that are used to treat life-threatening diseases. In this case this drug is used to treat congestive heart failure.

Part 2 also amends the Excise Tax Act to allow charity and qualifying non-profit literacy organizations prescribed by regulation to claim a rebate of the GST and the federal component of the HST they pay to acquire printed books to be given away for free.

Another amendment in part 2 implements a legislative requirement relating to the Government of British Columbia's decision to exit the HST framework. Essentially, the amendment removes references to British Columbia in the Excise Tax Act.

• (1845)

The last GST amendment is basically an amendment to the Excise Tax Act and related regulation, to change the treatment of rental vehicles temporarily imported by Canadian residents. The effect of the amendment is to fully relieve the GST on those vehicles imported by Canadian residents if the Canadian resident has been outside the country for at least 48 hours. If the Canadian resident has not been outside Canada for at least 48 hours, the GST will be levied on a partial basis. The way this works is that under the legislation there'll be a fixed amount per week associated with a type of vehicle. For example, a car is \$200. So when the Canadian resident, bringing that foreign-based rental vehicle into Canada, says he's going to be in Canada for two weeks, the tax will apply at the applicable rate of two times \$200.

These are the amendments related to GST and HST in part 2.

Lucia will now talk about the excise taxation measures.

Ms. Lucia Di Primio (Chief, Excise Policy, Sales Tax Division, Excise Act, Tax Policy Branch, Department of Finance): In the area of excise taxation, part 2 of the bill also includes proposed amendments relating to the green levy on fuel-inefficient vehicles as well as the excise tax on automobile air conditioners. The first measure is very similar to the proposed GST relief that Mr. Mercille described, relating to foreign-based rental vehicles. Essentially, the green levy as well as the automobile air conditioner excise tax would be fully relieved on foreign-based rental vehicles that are temporarily imported by Canadian residents into Canada for non-commercial purposes and for no more than 30 days.

Part 2 of the bill also includes proposed amendments to ensure that the application of the green levy will not change, even though the Minister of Natural Resources recently announced that vehicle fuel consumption testing requirements will be changing. These proposed amendments ensure that the green levy will continue to be

determined by reference to the current test method that's used to measure fuel efficiency ratings so that there will be no change.

There is one last measure in part 2 of the bill. It's similar to a measure discussed yesterday and earlier in relation to the Income Tax Act. Essentially, the Minister of National Revenue, and by virtue of that the Canada Revenue Agency, is relieved of the requirement to issue demands to file a return by registered or certified mail. Instead the demand can be issued by regular mail. This applies not only to the Income Tax Act, but to ensure consistency across all federal taxation statutes, it applies to the GST legislation, the non-GST portion, and the excise taxes and duties as well.

These are all of the measures in part 2 of the bill.

• (1850)

The Chair: Thank you both for your presentations.

We'll begin members' questions with Ms. Nash, please.

Ms. Peggy Nash: Thank you very much to the witnesses for being here.

I'd like to go back to the beginning with respect to the health measures you described. To understand better the GST/HST exemption for pharmacist drug dispensing, why is the federal government moving to make this change?

Mr. Pierre Mercille: Basically, there have been representations by the Canadian Pharmacists Association in that respect. It's to recognize the increased involvement of pharmacists in the health care sector.

Ms. Peggy Nash: If I understand it correctly, then, this is an exemption on the dispensing fee?

Mr. Pierre Mercille: Yes.

Could I correct what I just said?

Ms. Peggy Nash: Sure.

Mr. Pierre Mercille: For pharmacists, when they dispense a drug that is zero-rated, that service is zero-rated. In this case we're talking about when you have a consultation with the pharmacist, the fee they may charge for that. When you said dispensing services, it's not the fee for dispensing prescription drugs, because that was already non-taxable; it's when you have a consultation with the pharmacist.

Ms. Peggy Nash: Okay. So this is when there's a consultation, almost like a medical consultation with a doctor or a dentist. It's in that sense.

What's the rationale for including other health professionals in the proposed expansion in eligibility for claiming the GST/ HST input tax credit for orders of medical-assisted devices?

Mr. Pierre Mercille: Just to clarify, are you talking about the fact that registered nurses, occupational therapists, and physiotherapists can now issue an order?

Ms. Peggy Nash: Yes.

Mr. Pierre Mercille: It's to recognize the greater involvement of those health care practitioners in ordering those kinds of medical devices. In some cases, if the doctor issued it, you had to see the doctor and take the time at the doctor's to basically get the zero-rated treatment, while it would in the end be the physiotherapist or the registered nurse who would actually recommend what you should have to improve your health.

Ms. Peggy Nash: Is this viewed as an efficiency measure for the health care system, so that you don't need to go to a doctor, for example? For dispensing, you could go to the pharmacist to get that kind of consultation, or you could see another health professional. Is that the rationale behind it, that provinces are moving to the system of making perhaps better use, if I can use that term, of other health professionals?

Mr. Pierre Mercille: Yes. Essentially, we rely on provinces to say what health care professionals can do. It varies from province to province. There are provinces that allow a registered nurse or a physiotherapist to write an order for a medical device, and basically this amendment recognizes that evolution in the health care sector.

•(1855)

Ms. Peggy Nash: I think it's a positive thing to make better use of the services of the diversity of professionals in the health care field.

Do you have a sense of the impact of these changes in health care measures, what the exemption will cost, if I can put it that way? What is the impact on taxes that would not be collected but that otherwise would have been collected?

Mr. Pierre Mercille: Yes. This information is found in the budget document. Let me just find it.

It's on page 381 of the budget document. Essentially, the costing here has been done for all the health care measures that are included in this bill. The cost for 2012-13 would be \$3 million; for 2013-14 it would be \$3 million; for the next three years it would be \$4 million a year, for a total over five years of \$18 million.

Ms. Peggy Nash: So \$18 million would be the total cost of these health measures over five years.

Mr. Pierre Mercille: Yes.

Ms. Peggy Nash: Thank you.

The Chair: Thank you, Ms. Nash.

We'll go to Ms. McLeod, please.

Mrs. Cathy McLeod: Thank you.

I first want to comment that the measures Ms. Nash was just asking about are very positive. We're talking about what it will cost, but being in the health care field, I know that a nurse practitioner could do something but then would have to send the patient to the doctor, so there would be that additional cost.

I suspect we're going to have provincial savings also in terms of better utilization of our physicians. That, of course, isn't my question, but because it's something near and dear to my heart, I was so glad to see it in this budget.

My question is a quick one. It's regarding B.C.'s decision to exit the HST. Just this week, British Columbia, which made this choice, announced their date to exit: April 2013.

Are we going to have any kind of gap in legislation? Will we "exit" them before they have the transition? Can you just briefly talk about how this is connected together?

Mr. Pierre Mercille: The amendment I talked about involving B.C. generally applies after March 2013. April 1, 2013, is the date on which B.C. has decided to reinstate their provincial sales tax.

Mrs. Cathy McLeod: Thank you. That's all I have.

The Chair: Thank you.

Mr. McKay, you have a five-minute round.

Hon. John McKay: Thank you, Chair.

In effect, this exemption for health measures is treating pharmacists in the same manner as doctors are treated for HST purposes. Is that the point?

Mr. Pierre Mercille: It's for the services that pharmacists are entitled to provide under provincial legislation.

Hon. John McKay: Yes. What I don't understand is why the pharmacists would lobby for this, given that a lot of their other inputs are HST-related and that therefore, if they take the service out of it, there's no offset.

Can you explain to me the rationale behind the pharmacists', presumably acting in their own best interests, pursuing this?

Mr. Pierre Mercille: Why do pharmacists lobby the government? Basically you will have to ask the Pharmacists Association that. But as a general benefit, it provides a benefit for the patient because they will not pay tax on the value of their service.

Hon. John McKay: That I understand. I understand that it's a benefit to the patient, but I'm curious about how this becomes a benefit to the pharmacist.

Mr. Pierre Mercille: Just as an economic principle, their services will not be subjected to tax. That's usually an advantage.

Hon. John McKay: Even though a lot of their inputs are...they therefore get no credit. They lose the benefit of credit.

Mr. Pierre Mercille: The inputs related to the supply of those newly exempted services can be viewed mainly as the salary of the pharmacist or the pharmacist's employee.

•(1900)

Hon. John McKay: But there's rental and there's all kinds of other stuff as well.

Mr. Pierre Mercille: Yes.

Hon. John McKay: It just struck me as curious.

The second question has to do with this importing of vehicles. The way I read this is that there is relief from the green levy on fuel-inefficient vehicles. So if somebody brings in a clunker, why are we giving them exemptions?

Ms. Lucia Di Primio: It would have to be a foreign-based rental vehicle and it would have to be temporarily imported. When you say a clunker, I assume you mean a vehicle that would already be subject to the green levy, assuming that the rental establishment in the United States is renting out clunkers.

Hon. John McKay: They're renting out fuel-inefficient vehicles that otherwise would attract a tax. I don't understand the point of giving an imported vehicle an exemption, whereas if you are using the same vehicle in Canada, you don't get the exemption. How does that make sense?

Ms. Lucia Di Primio: In Canada, the green levy excise tax applies at the manufacturers' level or at the time of importation. At the manufacturers' level, it applies when it is delivered to the purchaser, which is usually a dealer. So the underlying policy rationale for the green levy is not only to raise revenues but also to discourage the production of fuel-inefficient vehicles.

Presumably, the rental vehicle from, for example, the United States has already been manufactured outside Canada, so it would not be subject to the green levy. Then, when it's being imported for less than 30 days, it wouldn't be consumed in Canada, so the relief is applied on that basis. It would also probably be administratively more costly to administer at the border than to allow this relief for these very short temporary importations.

Hon. John McKay: That's fine, thanks.

The Chair: Thank you, Mr. McKay.

I'm going to go to Monsieur Caron.

[*Translation*]

Mr. Guy Caron: I would like to come back to a point that I found interesting. How did you decide to consider eliminating the GST on rental vehicles that are being imported temporarily. Who made this request? What was the rationale for this decision?

Mr. Pierre Mercille: It is important to understand that, before the recent change was made to the Motor Vehicle Safety Act, vehicles rented abroad could not enter Canada. In budget no. 2 of last year, we included an amendment to let foreign cars enter the country.

When these vehicles were not allowed to enter Canada, there was no tax relief on the importation of such vehicles. That meant that import taxes were charged on the full value of the vehicle when it arrived at the border. The purpose of the new measure is to promote tourism, because this amendment is part of the tourism strategy. We wanted to make it easier for tourists who rented a vehicle abroad to travel.

I will give you an example. Some people were going on an Alaskan cruise, leaving from Vancouver. They took the boat and arrived in Alaska, where they decided to rent a vehicle to visit more of the state. They figured that, while they were there, they should also take advantage of the opportunity to visit the Yukon. When they arrived in the Yukon, the vehicle could not enter Canada. If this change had not been proposed, the vehicle would be taxed on its full value and people would not come to Canada to visit the Yukon.

Mr. Guy Caron: This is to correct an oversight that occurred when another tax rule was adopted the previous year.

Mr. Pierre Mercille: It was not a tax rule.

Mr. Guy Caron: Was it an amendment?

• (1905)

Mr. Pierre Mercille: Yes, it was an amendment.

Mr. Guy Caron: My second question is on the issue of charging GST on books and abolishing the GST on books that have been loaned out. I am talking about libraries. Many libraries get a bit of money from selling their used books. Would GST be applied in those cases? Generally speaking, the libraries do not sell those books for profit, but to help finance themselves.

Mr. Pierre Mercille: The proposed amendment seeks to resolve a technical problem. Libraries and schools currently get a rebate. The GST is the federal component of the HST. Until now, the rebate did not apply when books were acquired for resale because, technically speaking, a donation was considered a sale under the legislation because there was a transfer of property. In your example, goods are not acquired by the library for resale. They are acquired in order to be loaned out and to allow people to read the books. If, later on, the library happens to decide to sell the books, they will not be affected. They will be entitled to the rebate because the main purpose was to loan the books.

Mr. Guy Caron: I just wanted to make sure that no one was going to go after the libraries that sell books. I am satisfied. That is all for me.

The Chair: Good, thank you.

Mr. Mai, you have the floor.

Mr. Hoang Mai: Thank you, Mr. Chair.

I would like to come back to the green levy. Could you explain it to us? I understand that essentially the same thing would apply to these cars for tourism purposes. Is that why the green levy was eliminated?

[*English*]

Ms. Lucia Di Primio: Perhaps an example would help to address your question. A Canadian resident visits, for example, the United States, whether Alaska or Seattle, as described earlier by my colleague, and wants to then, for tourism purposes, visit a different area of Canada. Without these amendments, if they were visiting with a rental vehicle—a foreign-based rental vehicle that was fuel-inefficient—and drove from Alaska to the Yukon Territory, they would be stopped at the border and asked to pay the green levy.

As a result of these amendments, the green levy would not be applied as long as the importation is for tourism or non-commercial purposes, and they would then be leaving Canada within 30 days or the vehicle would be going back within 30 days.

[*Translation*]

Mr. Hoang Mai: If it is more than 30 days the green levy will apply?

Ms. Lucia Di Primio: Exactly.

Mr. Hoang Mai: I want to know how this is verified. When a person is entering the country they are told what will happen if they are here for more than 30 days.

But how does this work? How do we know whether to apply a tax, whether it is the GST or anything else?

Mr. Pierre Mercille: Through a statement. When a person arrives in Canada, they generally have to declare how many days they will be here. The customs officers use that statement to determine whether to apply a tax or not.

Mr. Hoang Mai: That is good.

Ms. Di Primio, you talked about how the consumption assessments were going to change. You said that measures would be taken later and that the old measures are still being used. Could you explain to us why that is or what the differences are?

[English]

Ms. Lucia Di Primio: Currently, the fuel consumption data under the EnerGuide is based on testing requirements that use two test cycles, a highway test cycle and a city test cycle. The Minister of Natural Resources announced that they'll be moving to testing requirements that use five test cycles. The three additional test cycles would take into account the use of air conditioning, cold temperature operation of the vehicle, and also more aggressive driving. These amendments ensure that the green levy would continue to be determined by reference to the two-test cycle information, and not the new five-test cycle information, to ensure that the green levy continues to apply in the same way.

[Translation]

Mr. Hoang Mai: Why not apply the new driving cycles? I do not understand why we would not want to apply the new testing requirements.

• (1910)

[English]

Ms. Lucia Di Primio: The short answer is there would have been an expansion of the green levy. It would have resulted in an increase in tax. This is consistent with what the United States did with the American version of the green levy, which is referred to as the gas guzzler tax.

When the vehicle consumption testing requirements in the United States moved from a two-cycle test to a five-cycle test, the gas guzzler tax in the United States continued to be determined by reference to the two-cycle test. In this case it is proposed that the green levy continue to be determined by reference to the two-cycle test, so there won't be an expansion; there won't be an increase in tax.

Mr. Hoang Mai: So in general, on the two-cycle test versus the five-cycle test, the five-cycle test would increase the tax on cars that consumed more and were less energy efficient. Is that what you're saying ?

Ms. Lucia Di Primio: If the green levy were determined by reference to the five-cycle test, it would apply to more vehicles, so there would be an increase.

Mr. Hoang Mai: The rationale behind not applying the five-cycle test, even though the Minister of Transport has applied that, is because we don't want to increase the tax on cars that are less fuel efficient.

Mrs. Lucia Di Primio: I can't speak to the decision that was made. But the decision was to not increase the tax.

The Vice-Chair (Ms. Peggy Nash): Thank you very much.

Mr. Caron.

[Translation]

Mr. Guy Caron: I would like to quickly come back to the issue of books.

Neither the GST nor HST applies to books. Is that correct? There was a problem in Quebec, which wanted to continue to tax books even though books were no longer taxed federally. Are we still talking about the harmonized tax in this case?

Mr. Pierre Mercille: The provinces that have harmonized their tax are entitled, under new harmonization agreements, to select exemptions up to 5% of the federal tax base. Currently, the provinces that have harmonized their tax have chosen to exempt books from GST.

Mr. Guy Caron: Okay.

Have there been any problems with regard to harmonizing tax on books? How much do you think this measure will cost as a tax expenditure?

Mr. Pierre Mercille: On page 381 of the English version of the budget, there are no numbers for that. It is less than \$1 million.

Mr. Guy Caron: While you have your document in hand, for the two proposed measures, can you tell me whether the same thing applies to fuel-efficient vehicles with regard to the tax measures affecting GST?

Mr. Pierre Mercille: It is a matter of excise tax on fuel-efficient vehicles.

[English]

Ms. Lucia Di Primio: The relief on temporary importations would also be less than \$1 million.

[Translation]

Mr. Guy Caron: So there are not many cases. These are exceptional cases being used here and the government wanted to address that with this measure.

[English]

The Vice-Chair (Ms. Peggy Nash): Thank you.

[Translation]

Do the Conservative members have any questions? It does not seem like it.

[English]

Now it's the NDP and Mr. Mai.

[Translation]

Mr. Hoang Mai: I want to come back to the green levy. We are talking about the concern over having to tax fuel-efficient cars. If we applied the new calculation instead of the current methods, how much revenue would the government lose?

[English]

Ms. Lucia Di Primio: I should mention that the green levy presently generates about \$30 million a year. Analyses have been done; however, I believe that's a confidence of the Queen's Privy Council that I'm not at liberty to provide.

•(1915)

[Translation]

Mr. Hoang Mai: The \$30 million are tied to the current calculation method. Have you made any calculations or projections on the difference that would result from the new method?

Ms. Lucia Di Primio: Yes, we did, but I cannot—

Mr. Hoang Mai: You cannot talk about it for now.

Okay.

Ms. Lucia Di Primio: Thank you.

Mr. Hoang Mai: Can you tell us what percentage of the vehicle fleet is affected by the green levy?

[English]

Ms. Lucia Di Primio: What I can tell you, in the way of background information, is that there are approximately 830 models of vehicles in the EnerGuide. The green levy currently applies to about 153 models. With the amendments in this bill, that application would continue.

[Translation]

The Vice-Chair (Ms. Peggy Nash): Thank you, Mr. Mai.

[English]

Mr. Brison, over to you.

Hon. Scott Brison: On the rental vehicles issue, would Canadians get tax relief when they bring the car into Canada, or do they pay their taxes and then get a rebate once they have returned the car to the U.S.?

Mr. Pierre Mercille: If the Canadian has been outside Canada for less than 48 hours, when he enters, he would declare how long he has been out of Canada. The number of weeks are multiplied by the assigned value for the vehicle. For a car, it's \$200. It's a self-declaration at the time of entry into Canada, because there is no checkpoint exiting Canada.

Hon. Scott Brison: How is the temporary importation monitored to make sure the vehicles are returned within 30 days? How do you monitor that?

Mr. Pierre Mercille: It's based on a declaration at the time of importation. These are rental vehicles, and rental vehicles are not rented for extended periods of time.

Hon. Scott Brison: Are there going to be more resources to monitor this? It's an increased burden. Are there going to be more resources allocated?

Mr. Pierre Mercille: It's a decision for CBSA. They have to decide on the amount of resources they need to enforce a particular measure.

Hon. Scott Brison: I ask the question because there are reductions in the budget, and this is an actual increase in the demands on the agency.

Mr. Brian McCauley: Let me provide a bit of context. This was a measure that the Tourism Industry Association of Canada brought forward. In unusual circumstances, people were getting taxed at the border when they shouldn't have been. It was discouraging people from visiting Canada and generating tourism. The volume is not considered to be significant, but it was a barrier to tourism. That's

why we were asked to put in this measure. It's not expected to apply in a lot of circumstances. Where it does, it will be important to encourage tourism.

Hon. Scott Brison: That's helpful.

In regard to expanding the GST or HST exemption beyond the pharmacist dispensing drugs, what are the benefits for pharmacists? How does this help them service their clients?

Mr. Pierre Mercille: Their service to their patient will be free of GST and HST.

Hon. Scott Brison: Has it been a significant issue? Has it been something that the organizations representing pharmacists have been pushing for, for some time?

Mr. Pierre Mercille: The Canadian Pharmacists Association has been asking for that change.

Hon. Scott Brison: The drug isosorbide-5-mononitrate is added to the list of zero-rated drugs. Is it a new product, or has there been an assessment that justifies the proposed change?

•(1920)

Mr. Pierre Mercille: The information that that particular drug was not zero-rated actually came to us from CRA. The question as to why that one is not zero-rated is because there is another very similar drug that is called isosorbide dinitrate, and that one was on the list. Basically, there was no logic to have the dinitrate and not the isosorbide-5-mononitrate on the list, because they are both used to treat congestive heart failure.

Hon. Scott Brison: Is one viewed as being more cost-effective?

Mr. Pierre Mercille: I don't think it's a matter of being cost-effective. It is simply that there's basically a list, and I think the other one, the dinitrate, is an older drug and was put on the list at some point. When the new one came in, there was no demand for zero-rating that product immediately. It came about because we have been made aware of that change.

The Chair: Thank you.

Ms. Nash.

Ms. Peggy Nash: My question was just asked by Mr. Brison.

The Chair: Perfect.

Mr. Mai.

Mr. Hoang Mai: A quick question regarding CRA. Now that you can issue demands to file the return online, how will we be sure who receives the demand? There are two questions. There is the question of making sure that the person who receives it is the right person, and the second is regarding requiring personal information in the online demand.

Mr. Brian McCauley: I believe that's in reference to the demand to file the.... We would only be sending something online if already met our existing security requirements for providing information online. In those circumstances, I believe what we do is post it to a "My account", and the person is allowed to view it there. So we have fairly strict protocols within the agency about when we can and can't communicate online, and those would be respected.

In reference to an earlier question, online isn't the only way we are going to be reaching out to people. There will still be regular mail; there will still be some registered mail. It would only be removing the absolute requirement to keep pumping out 250,000 registered letters a year, for which we have certainly determined is not money well spent and we can do as good a job at a lower cost.

Mr. Hoang Mai: In terms of regular mail, what security do we have that the person who receives it is the right person, whereas registered mail has the...?

Mr. Brian McCauley: As you know, most of our mail does go by regular mail—your tax returns and other things—so that security system would still be in place.

The Chair: Thank you.

I have no further members on the list at this point, so I will thank our officials. Thank you so much for being with us to give us an overview of part 2.

We will now bring the next set of officials forward.

Mr. Brian Jean: Mr. Chair, perhaps Mr. Brison wants to say something now and see how many people Tweet him at a particular address or send an e-mail.

You can ask people to send you an e-mail—

The Chair: I guess this is why I should suspend meetings when witnesses are coming forward.

We will suspend for one minute.

- _____ (Pause) _____
-
- (1925)

The Chair: We'll turn to part 3—just kidding. It's to see if you're paying attention.

We will turn to part 4.

Part 4 is a much larger section than parts 1 and 2, so we will deal with them in divisions, and we will start with division 1 of part 4. This is with respect to measures with respect to the Auditor General of Canada.

We have Mr. Boissonneault.

[*Translation*]

Welcome to this committee.

[*English*]

Would you like to give an overview of this section for us?

Mr. Gordon Boissonneault (Senior Advisor, Economic Analysis and Forecasting Division, Demand and Labour Analysis, Economic and Fiscal Policy Branch, Department of Finance): Sure. This division has two groups of clauses. The first section of clauses, from 170 to 192, amends a number of acts to eliminate the requirement for the Auditor General of Canada to undertake annual financial audits of certain entities and to assess the performance reports of two agencies.

The government is making these changes at the request of the Auditor General of Canada. The AG proposed these amendments as

cost-saving measures that will result in a more consistent treatment of all federal entities. They will allow the Office of the Auditor General to reallocate resources to core priorities.

There are 12 legislative amendments in this section. The majority remove the requirement for the AG to undertake annual financial audits of certain federal entities from their enabling legislation. This will result in a treatment of these organizations that is consistent with that of other federal departments. This is because the government had previously decided not to require audited financial statements of individual departments.

Departments and department-like organizations are of course still subject to scrutiny as part of the annual audit of the summary financial statements of the Government of Canada.

As well, these organizations will still be subject to periodic performance audits by the Auditor General, as in the past.

The set of amendments in this part of the bill also removes the requirement for the Auditor General to conduct assessments of performance reports of two agencies, the Canadian Food Inspection Agency and the Canada Revenue Agency. These assessments—and again, they are not performance reports of themselves, they are assessments of performance reports—have been deemed to be unnecessary and inconsistent with the treatment of other similar federal agencies.

Changes to this effect are also going to be made for the Parks Canada agency, but that is not part of this division. It will be addressed in division 9.

The Auditor General will also eliminate financial audits of five other organizations on the basis of his own authority, so they are not addressed in this bill.

All of the affected organizations have been consulted about these changes.

The remaining clauses in this division, clauses 193 to 204, indicate the year in which the audits will end for each case. These changes are going to be phased in over a two-year period.

The Chair: Thank you for that overview.

We will start with Ms. Nash, please.

Ms. Peggy Nash: Thank you very much, and good evening.

You've said that the reason for restricting the Auditor General's oversight in these 12 affected agencies is that there is another oversight that they are subject to. Could you go into a little more detail about that? In the past, when the Auditor General gave reports on these agencies, presumably they would go to the respective committees of Parliament. Would you describe in a little more detail how that process would take place and contrast it to what will happen under this proposed change?

Mr. Gordon Boissonneault: Currently, these organizations receive a financial audit on an annual basis by the Auditor General. They are also captured by the Auditor General's audit of the government as a whole through the summary financial statements. To that extent, there is some duplication happening.

The obligation to conduct a financial audit is required by legislation. This is something that's not done with other similar organizations that do not have that requirement in their legislation, so there's also an inconsistency.

In the Auditor General's view it's unnecessary, and the implication is there's minimal risk because they will continue to have their financial statements audited. Moreover, the performance audits that happen on a regular cycle are unaffected.

• (1930)

Ms. Peggy Nash: What information is captured, or has been captured, in these other audits that would not be captured in the financial audit, or the audit of the government as a whole?

Mr. Gordon Boissonneault: I suppose you have a more detailed set of audits. The level of detail of the financial audits would be probably more in-depth currently. However, when the Auditor General audits the statements of the government as a whole, they look at all organizations and look at the risk parameters of each organization to determine whether or not an in-depth treatment is required. Essentially the same information will be captured.

Ms. Peggy Nash: Or it could be captured if the decision were taken to have the in-depth audit, whereas under the current system, if I understand you correctly, it happens automatically. Is that the case?

Mr. Gordon Boissonneault: That's correct.

Ms. Peggy Nash: Okay.

Can you tell us the reason for making this change? You said the Auditor General has said that it's because of this other oversight that he has agreed to this. Did the Auditor General himself initiate this change? Or where did the proposal come from?

Mr. Gordon Boissonneault: Yes, the Auditor General did initiate this change. He proposed it to the Standing Committee on Public Accounts back in October.

Again, it's consistent with a directive from Treasury Board that department-by-department financial audits are not required. It was deemed that this is an unnecessary exercise given the audit of the government as a whole.

Ms. Peggy Nash: Was this in the spirit that the government is making some changes and some cost-saving measures in a variety of government departments? Did the Auditor General in effect look internally and ask where the areas are where we can make some savings so that we're keeping up with the spirit of these other changes and cuts that are taking place in other departments?

Was that part of the motivation?

Mr. Gordon Boissonneault: That is exactly correct. He did propose these changes in the context of adhering to the spirit of the government review. It constitutes part of a broader set of cost-saving measures that they are putting forward on their own initiative, to be consistent.

The Chair: You have time for a very brief question.

Ms. Peggy Nash: Okay.

These are made in terms of...if there have to be cost savings, the Auditor General kind of looked around and said, okay, let's do it here

as opposed to over there. Is that kind of how these changes took place?

Mr. Gordon Boissonneault: That's correct.

Ms. Peggy Nash: Okay.

Thanks very much.

The Chair: Thank you, Ms. Nash.

Ms. McLeod, please.

Mrs. Cathy McLeod: I have a couple of quick comments.

So you can concur that it was the AG, not the government, that deemed these audits as unnecessary.

Mr. Gordon Boissonneault: Yes.

Mrs. Cathy McLeod: And this practice is actually moving these areas into consistency with what is happening elsewhere within the AG's department.

Mr. Gordon Boissonneault: Yes. These legislative changes will allow them to be consistent.

Mrs. Cathy McLeod: Okay.

Also, in October 2011 there was a letter sent to the chair of the House public accounts committee—of course, as we know, the NDP MP chair is David Christopherson—and at that time the AG announced his intention to seek these amendments.

• (1935)

Mr. Gordon Boissonneault: Yes, he did.

Mrs. Cathy McLeod: Thank you.

That's all.

The Chair: Thank you, Ms. McLeod.

We'll go to Mr. Brison, please.

Hon. Scott Brison: The changes don't include CRA. The AG will continue to perform annual audits on CRA. Why was the requirement for CRA maintained? Is it somehow deemed a higher-risk agency, or what's the...?

Voices: Oh, oh!

Mr. Gordon Boissonneault: Not higher-risk—

Hon. Scott Brison: You have to audit the auditors?

Mr. Gordon Boissonneault: The AG considered including CRA in this, but on further consultation with CRA, they concluded that given the nature of CRA and its centrality to government accounts, it made sense for them to maintain an annual in-depth audit of CRA.

Hon. Scott Brison: So because of the importance of CRA, it was determined.... Well, CFIA is kind of important, too. In terms of some of the organizational changes that are taking place at CFIA, and that will take place in the next few years, and some of the concerns around governance for things like food safety and the performance around that, it just seems like a very strange time to eliminate the AG's audit function on CFIA.

I guess broadly, within the committee, at a time when we're going through an expenditure review process and when the Auditor General's function, in part, is value for money, operational efficacy, and that sort of thing, this is something that I would have thought we'd want more of, not less. I know that's a bit of an editorial, but it just seems like a very strange time to be going in this direction.

On the timing of the decision for the Auditor General to scale back from some of these agencies, was that concurrent with the reality of his budget being reduced, or would that have been...?

Mr. Gordon Boissonneault: No. The Auditor General was not part of the review base.

He was requested to look for efficiencies wherever he could, as were other departments and agencies that were not part of the review base. This is what he concluded.

The motivation also is, to go back to your premise, a feeling that these particular exercises were onerous and taking away from core priorities, which includes performance auditing, which is more central to the role of the AG.

Hon. Scott Brison: I understand.

I used to be part of a past expenditure review committee. What happens is that you ask the departments and agencies to submit those areas where they would potentially reduce, so the Auditor General was asked to provide or to volunteer areas where they could actually reduce their costs.

So this process of the Auditor General reducing his audit function—or their audit function—of all these agencies, except for the CRA, came as a result of a request by the government for him to reduce the costs or the budget of the organization.

The Chair: You have about 30 seconds.

Mr. Gordon Boissonneault: It is possible that they have been looking at this for some time. I know that in the case of the decision to cease the assessment of performance reports, this is something they have been considering for some time, but the opportunity arose at this juncture.

Hon. Scott Brison: “Opportunity” is a euphemistic way to look at this. I mean, the Auditor General was asked to reduce his expenses and find ways to do it. He found a way to do it and did a prioritization, which he had to do.

I just think that as a committee we have to wonder whether it's prudent to reduce the audit function of government during a period of expenditure review. That's something that I think all of the Conservatives would agree with, in that even with a strong, stable, national Conservative majority government—

Some hon. members: Hear, hear!

Hon. Scott Brison: —these things are continually very important.

Thank you.

Mr. Mike Wallace: You finally got the point.

• (1940)

The Chair: Thank you, Mr. Brison.

I have Monsieur Caron next on the list.

[*Translation*]

Mr. Guy Caron: Thank you.

I would like to pick up on what Ms. Nash was saying.

You mentioned that the Auditor General was going to make these recommendations. I would like you to clarify the following, which you presented in the Senate. It is more or less the same issue. I will have to read it in English because it is from the “blues”.

[*English*]

You said:

The Auditor General was not part of the strategic operating review. However, the Minister of Finance had written to the Auditor General last summer to request that they adhere to the spirit and intent of the review. In response, the Auditor General identified these changes as well as a number of...

It goes on.

So basically the Auditor General didn't really volunteer as much as he had been asked to volunteer by the Minister of Finance.

The Chair: Is there a point of order?

Mrs. Cathy McLeod: No. I'm just getting on the speaking list.

The Chair: Mr. Boissonneault.

Mr. Gordon Boissonneault: The AG, as well as a number of other organizations, was not part of the formal review base, but of course it was deemed appropriate by the minister to request a voluntary examination of efficiencies, and the responses to that request varied according to the results of those reviews that were done internally.

It was an internal review that was not mandated but requested.

[*Translation*]

Mr. Guy Caron: As far as these 11 organizations are concerned, are these the only services of the Auditor General that are being cut? Eliminating the financial audit of these organizations by the Auditor General will generate \$60 million in savings. Is that correct?

[*English*]

Mr. Gordon Boissonneault: No, the savings associated with this measure will be \$1.4 million annually, and it's part of their larger set of savings of \$6.7 million, but that \$6.7 million incorporates other administrative efficiencies and backroom office operations.

[*Translation*]

Mr. Guy Caron: Okay.

The fact remains that financial audits are useful and important. Who is going to audit these agencies?

[*English*]

Mr. Gordon Boissonneault: The Auditor General has deemed it sufficient that they are captured within the broader government audit. So it's not necessarily the case that they will have to have additional audit activities.

[*Translation*]

Mr. Guy Caron: What do you mean by broader audit?

[English]

Mr. Gordon Boissonneault: As I mentioned, they are captured within the annual audit of the public accounts, and the Auditor General believes this to be a sufficiently extensive capturing of their financial statements.

[Translation]

Mr. Guy Caron: Will the Office of the Superintendent of Financial Institutions also play a role in some cases?

[English]

Mr. Gordon Boissonneault: No, that would not be part of the mandate of the Office of the Superintendent of Financial Institutions.

[Translation]

Mr. Guy Caron: I am not necessarily going to go over every one of the Auditor General's decisions, but I would like to know whether he thought these audits were unnecessary or whether he thought he could set them aside, given the cuts he was suggested to make. Did the Auditor General think it was important to continue providing these services?

[English]

Mr. Gordon Boissonneault: Again, he was reacting to earlier directives from Treasury Board, from the Government of Canada, that stated that it's not necessary to perform a financial audit of every government agency and crown corporation and department on an annual basis. So this is something that has been an established practice, and the only reason why these particular organizations have continued to have audits is because of the requirement in their enabling legislation.

That was the motivation for him to make these changes.

• (1945)

The Chair: You're just about out of time.

I have Ms. McLeod, please.

Mrs. Cathy McLeod: Thank you.

Given the line of questioning, I thought it might be important to state that we have invited the Auditor General as a witness. We hope he will attend. Mr. Boissonneault is being asked many questions and having to hypothesize about the AG's thinking. He's nodding his head, so I just want to flag this for the comfort of my colleagues on the other side, that we will have an opportunity to delve into that, I hope, with the AG when he's here.

Again, I just wanted to make that comment so that Mr. Boissonneault isn't left in the position of continually having to speculate on what the AG was or was not thinking.

The Chair: Thank you.

Mr. Marston, please.

Mr. Wayne Marston: Thank you, Mr. Chair.

I'm really excited because this is being televised, and I'm about to prove to my grandchildren that their poppa knows how to turn on an iPad. I've made some notes in here.

Mr. Mike Wallace: You might even need their help with it.

Mr. Wayne Marston: I did have to ask them a couple of things. Turning it on, I got.

Sir, when I see this government changing the constitutions of three provinces to increase federal control over the financial affairs of those territories, and that is being done without public consultation, by adding the changes to Bill C-38, it leaves me—and I'm not expecting you to respond to this part—with a sense of something that's trying to be snuck through. We have a 400-page document here.

I find it ironic, when one considers the fact that the stated fourth pillar of the government's northern policy is improving and devolving northern governments.

Do you have any further information as to why this has been enough of a priority for the government to add it to Bill C-38?

Mr. Gordon Boissonneault: As was mentioned earlier, the Auditor General presented this proposal to the Standing Committee on Public Accounts, and at that time he expressed his intention, or his desire, to move forward with these changes. But a mechanism was needed to make the legislative changes happen, and the budget implementation bill was deemed to be the most appropriate place to bring that about.

Mr. Wayne Marston: Yes, it is a bit troubling. Again, this is the political side, not your side, but the territories are on record as requesting the elimination of the limiting provisions on borrowing. One has to wonder why this government doesn't give the territorial legislatures the same respect they seem to give to the provinces, because they don't control the provinces.

What analysis—

The Chair: I'm sorry, Mr. Marston. I thought I made this clear. We are dealing with division 1 first. I think your question is on division 4, the territorial borrowing limits.

Just to be clear, we and Finance thought it would be easier to go division by division.

Mr. Wayne Marston: Okay. Then I'll pass on the rest of the question and come back to it.

The Chair: Okay. You'll be on the list then.

I don't have anyone further on this list—oh, we do.

Mr. Mai, please.

[Translation]

Mr. Hoang Mai: I have some questions about the Canada Revenue Agency.

We all know that it is very important for us to have confidence in this agency and, accordingly, that we trust the audits. If I understand correctly, Canada Revenue Agency will still be audited, but there will be changes in the CRA's performance reports. Can you explain what these reports indicate and what impact eliminating the audits might have on them?

• (1950)

[English]

Mr. Gordon Boissonneault: The Canada Revenue Agency, the Canadian Food Inspection Agency, and the Parks Canada agency all had this particular requirement in their legislation when they were set up to have the AG assess their internal performance reporting. It was felt at the time that as they were new agencies, this would help them establish appropriate practices in that regard.

These agencies have been established for some time now, and the need to assess the nature of performance reporting is no longer necessary. It's not something that is done for any other federal agency. This is why it was decided to discontinue this particular practice.

[Translation]

Mr. Hoang Mai: Was there nonetheless information when the Auditor General did these audits in the past? Indeed, we are talking about

[English]

assess the fairness and reliability of the information of the agency's performance.

[Translation]

What type of reports were there before? Are you saying that these reports were not necessary? There was nothing to improve at Canada Revenue Agency?

[English]

Mr. Gordon Boissonneault: I'm not familiar with what those reports over the past have revealed. That might be a question better suited for the Auditor General himself.

These were process reports on matters such as whether the agencies have been tabling their reports on time and whether the reports were comprehensive. It was more on the process than the actual content.

But I don't know whether in the past they may have indicated any issues or problems. I couldn't say.

[Translation]

Mr. Hoang Mai: We see what is happening with food safety. Does the same thing apply in this case?

[English]

Mr. Gordon Boissonneault: It is.

[Translation]

Mr. Hoang Mai: Is there a chance of less transparency or accountability because the Auditor General is not doing these audits?

[English]

Mr. Gordon Boissonneault: These organizations have requirements to issue these performance reports. Those requirements are not affected by this.

They also will still be examined by the Auditor General as part of the performance reporting exercise that will happen on a regular basis. If they were to, for some reason, slip in their own internal

reporting, that fact would certainly be captured by any future AG performance report.

[Translation]

Mr. Hoang Mai: The government is saying that 12 organizations will not be audited by the Auditor General. You are saying that there are still ways to audit them and you are talking about processes that will be entrusted to either the House or the committees. Do you not think that the Auditor General's work is more thorough? Does he not gather more information and favour what we call transparency and accountability?

[English]

Mr. Gordon Boissonneault: He has deemed the current practice to be duplicative, to a very large extent. His assessment is that there will be no meaningful loss of information or transparency as a result of these changes.

The Chair: We have Ms. Nash next, please.

Ms. Peggy Nash: Thank you.

If I understand your explanation, the finance minister didn't mandate that he wrote to the Auditor General and asked him, in keeping with the spirit of other cuts, whether he would identify some cost-saving measures, and he did so.

In terms of how this came about, we know that the government hired a number of consultants last September to the tune of \$90,000 a day, and they were to advise the government on how to cut \$4 billion at the time, on an annual basis, to federal departments. I don't know whether those consultants were retained for an extra year, but they had the potential to be retained for an extra year.

Did those consultants contact the Auditor General? Do you know whether their analysis in your department was what led to these particular changes in oversight being recommended by the Auditor General?

• (1955)

Mr. Gordon Boissonneault: That was not to my knowledge the case, but I'm unaware of what communication may have occurred.

Ms. Peggy Nash: Thanks. We'll ask that later on as well.

But to the best of your knowledge, if there had not been a request and if there had not been the cutbacks in other areas, these were not changes the Auditor General would have just recommended on his own. He would not have changed the oversight.

Mr. Gordon Boissonneault: I can't say. Clearly organizations such as his do internal reassessments all the time. It's unclear whether these particular reforms would have happened or not.

Ms. Peggy Nash: To reassure Canadians, how will we know now and in the future, if these changes are made, that the financial information of individual federal departments and agencies, especially the ones this change will affect...? With the oversight that is being removed, will these agencies and departments still be fairly audited and the financial information fairly and accurately stated?

You had said there is the opportunity to do this in-depth auditing, but it's not automatic. How will we have the same assurance that the tax dollars of Canadians are being fairly and appropriately spent if we're not getting that in-depth financial information on a routine basis?

Mr. Gordon Boissonneault: Again, this would probably be better answered by the Auditor General himself.

There is a combination of the annual audit of public accounts, which is quite comprehensive, as well as internal reporting that these organizations continue to do, as well as performance audits. I think together there is still a high level of inspection and verification that is occurring.

Ms. Peggy Nash: Thank you.

The Chair: Okay. Thank you.

Is there anything further on this?

Mr. Wayne Marston: Not on part 1.

The Chair: Thank you very much for being with us here tonight. We appreciate your answers.

We will bring forward officials for division 2, life-annuity-like products.

Welcome to the committee. Thank you for being with us here.

If one or more of you would like to give an overview of division 2 for the committee, we would appreciate that, and then we'll have questions.

Ms. Pearse.

Ms. Jane Pearse (Director, Financial Institutions Division, Financial Sector Policy Branch, Department of Finance): Could I just clarify if you would like me to deal with a series of divisions? Or would you like me to deal with individual divisions?

The Chair: My understanding is that you can deal with divisions 2, 10, 11, 16, and 30. But why don't we start with division 2, and do questions on 2, and then we'll move to 10, 11, 16....

• (2000)

Ms. Jane Pearse: Excellent.

The Chair: Ms. Pearse, on division 2, then.

Ms. Jane Pearse: Thank you very much.

Division 2 deals with annuity-like products. As the committee members may know, there is currently a prohibition in the legislation that clarifies that banks are prohibited from engaging in the business of insurance, and this includes the issuance of life annuities. Primarily this is because a life annuity is based on an expectation of death—or an expectation of life, I suppose—and that risk is most appropriately addressed and dealt with by the regulatory regime applying to insurance companies.

In December 2011 the minister announced that the government would propose an amendment to prevent banks from offering annuity-like products, to ensure that the risks associated with these products are appropriately addressed by the insurance regime.

The amendment that you see in division 2 is to clarify the prohibition against banks offering annuity or annuity-like products.

The Chair: Okay, thank you for that presentation.

Members' questions.

We'll start with Ms. Nash.

Ms. Peggy Nash: In our background information from the Library of Parliament, it indicates that in December 2011 the Minister of Finance said there would be a grandfathering of existing life-annuity-like products.

Can you just describe for us why the grandfathering is taking place, and why there wouldn't be a phasing out of that, just to help us understand it a bit better?

Ms. Jane Pearse: The decision was that the current product holder should have discussions. The decision about the current product should be a discussion between the product holders and their financial institutions or the banks. The terms and conditions of their contracts may determine how those products would be wound up or whether those products would continue to survive, so there was a decision that this change would not be retroactive.

Ms. Peggy Nash: Okay.

Maybe just for my benefit, because I don't have any life-annuity-like products, can you describe what they are and what differentiates them from regular annuities?

Ms. Jane Pearse: Just to clarify, you're asking me the difference between an annuity-like product and an annuity?

Ms. Peggy Nash: A life-annuity-like product and an annuity.

Ms. Jane Pearse: Okay. Life annuities have been offered by life insurance companies for many years, and some banks were interested in trying to create a product that would, to some degree, offer the same sort of protection or insurance to a consumer. But understanding that there was the existing prohibition in the Bank Act, the banks attempted to come close, but not to cross the line. The view was that it was not consistent with the spirit of the legislation, so the decision was made to provide this clarification in law.

Ms. Peggy Nash: Okay. If the prohibition was already in place, how do the amendments change that?

Ms. Jane Pearse: You will see that the actual changes are fairly technical. They change merely the wording in the existing sections. From a legal perspective, it captures a slightly broader construct than the original wording. The liability in respect of the annuity is contingent upon the death of a person. That is the concept we were trying to capture. In other words, we wanted to be clear that banks could not offer a product that is contingent upon the death of the consumer.

• (2005)

Ms. Peggy Nash: So they were prohibited, and this is saying they're really prohibited.

Ms. Jane Pearse: Really, really.

Ms. Peggy Nash: Okay, thanks.

In answer to my question, you said that there are some products that will be grandfathered, these life-annuity-like products. Can you give us a sense of how many of these have been issued by financial institutions and how many would be grandfathered under this provision from December 2011?

Ms. Jane Pearce: I don't have a fixed number, but in discussions with financial institutions I understand that the number is quite small.

Ms. Peggy Nash: On my bank's website, whenever I bank online, the bank is trying to sell me insurance. Are you saying that will no longer be permitted?

Ms. Jane Pearce: That was already controlled by the existing wording of the legislation. Banks are allowed to promote and sell certain types of insurance, but for life insurance and health insurance, they are prohibited from selling them through a banking branch, or from promoting and selling them on their websites.

Ms. Peggy Nash: Thank you.

The Chair: Thank you.

We'll go to Mr. Brison, please.

Hon. Scott Brison: For life-annuity-like products, what are some of the examples, not of life annuities, but of life-annuity-like products?

Ms. Jane Pearce: There was only one institution that was offering a product that was in this category.

Hon. Scott Brison: That institution was...?

Ms. Jane Pearce: I'm not sure that I'm at liberty to say.

Hon. Scott Brison: Perhaps you could describe the actual product. Pretend you're selling me what it was trying to sell to other people.

Ms. Jane Pearce: The characteristic of the product is that it is a product that was designed to provide a stream of income.

Hon. Scott Brison: Like a reverse home mortgage?

Ms. Jane Pearce: It was designed to be contingent upon the death of the purchaser. It was a stream of income that had some characteristic that triggered at death.

Hon. Scott Brison: I see.

Are there any implications or impacts of these changes to the treasury in terms of tax revenue or government revenue as a result of these changes? Was there a risk of tax leakage as a result of some of those vehicles?

Ms. Jane Pearce: Not that I'm aware of.

Hon. Scott Brison: There was no issue as a result of them.

Where was the pressure? What interest groups were most interested in making these changes? Where did that come from? There's always some group or organization. Where did this emanate from?

Ms. Jane Pearce: This was more about ensuring there was clarity about the division between banking products and life insurance products.

Hon. Scott Brison: Okay.

What would differentiate a life annuity and a life-annuity-like product?

Ms. Jane Pearce: The banks were interested in offering a product with many of the characteristics of a life insurance product but that didn't cross what was then the legal line. So it was deemed to be

inconsistent with the spirit of the legislation, and this clarifies where the line is in the legislation.

Hon. Scott Brison: In the U.S., from a financial regulatory perspective, what's the treatment of life-annuity-like products?

Ms. Jane Pearce: I can't answer that in detail, but I know that in the United States they don't have the same distinction. They don't have the same prohibition that banks cannot be offering insurance products.

• (2010)

Hon. Scott Brison: Okay. That's helpful in terms of understanding this.

So there would have been pressure, I suspect, from the insurance industry in Canada to make this sort of change?

Ms. Jane Pearce: I can't tell you that I had pressure from the insurance industry.

Hon. Scott Brison: You've got to understand I am kind of a simple country fellow, and I still don't understand the difference between a life-annuity-like product and a life annuity.

Ms. Jane Pearce: The life annuities are very explicitly an insurance product offered by insurance companies. The life-annuity-like products are products that were being offered by banks that were based on the death of the purchaser but didn't carry all of the characteristics of an annuity product, such that they would be captured by the existing legislation. So they skated close to the edge.

Hon. Scott Brison: Did they become commercially... I don't want to say successful, but was there a fair amount of penetration in the market for these products? Was this a fairly significant issue?

Ms. Jane Pearce: No, I don't believe so.

Hon. Scott Brison: For how long did these life-annuity-like products exist in the marketplace?

Ms. Jane Pearce: I believe it was for about a year.

Hon. Scott Brison: For about a year, but they weren't that commercially viable.

So how would it work if I wanted to buy a life-annuity-like product? I think it's important.

Mr. Mike Wallace (Burlington, CPC): Speak to the real issues in the budget instead of this.

The Chair: Order.

Hon. Scott Brison: Some of our legislators take our responsibility seriously.

Mr. Mike Wallace: I wish you would take it seriously.

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

Hon. Scott Brison: Maybe one of my Conservative colleagues could ask a granular question on this specific—

The Chair: Well, I'm going to ask a question.

What this is, essentially, is banks are not allowed to sell life insurance products, and they know that. What they have been doing is creating products that are in the grey area of being a life insurance product. So that's why they're life-annuity-like products. And what we're doing as a government, as Ms. Pearse has said, is making it really clear that it is not appropriate. The letter and the spirit of the law is the division between banks and insurance companies with respect to these products.

Is that correct?

Ms. Jane Pearse: That's very well said.

The Chair: That's correct.

I would really like to move on. Do we have any other questions on this division?

My understanding from the finance department is that the three officials in front of us can also address divisions 10, 11, 16, and 30. I hope we can do that, rather than go to division 3, PPP Canada, just so we can....

Ms. Nash.

Ms. Peggy Nash: Just a clarification. I know we're in part 4. We just completed division 2. So the section on division 3, PPP Canada

The Chair: My recommendation is that we go from division 2 to division 10. We'll deal with financial institutions, because it is the same officials. If we can try to deal with the same officials rather than having all officials come at the same time, I think it would just....

Ms. Peggy Nash: We're just moving ahead to do division 10.

The Chair: We would do divisions 10, 11, 16, and 30, and then we'll come back and do divisions 3, 4, 5, and 6.

Ms. Peggy Nash: Give me that again.

The Chair: We'll do 10, 11, 16, and 30.

Division 10 is financial institutions. Division 11 is CMHC. Division 16 is the Currency Act, and division 30 is the Pension Benefits Standards Act.

• (2015)

Ms. Peggy Nash: In general, if it's the case that there will be panels of officials who will deal with certain areas, it would be helpful to give us a heads-up. You seem to have a list there of who's who. It would be helpful for us in preparing to know which officials are going to be dealing with which sections.

The Chair: Okay. I don't have this in both official languages, but I can seek to have it translated.

Essentially, part 4 is split up into divisions with officials. My understanding, and I can be corrected by officials, is that the officials before us are addressing five sections. These are the only five sections that are sort of combined with these three officials. All other divisions are addressed by distinctly separate officials.

Is that correct, Ms. Pearse?

Ms. Jane Pearse: Yes, that's right.

The Chair: Can we start? We can look at division 10 on financial institutions.

Ms. Jane Pearse: Division 10 permits public sector investment pools, such as public pension funds and sovereign wealth funds, to invest in federally regulated financial institutions. All acquisition of shares in this category of investor are subject to approval by the Minister of Finance. Public sector investment pools will have to satisfy certain criteria designed to capture investors that have commercial objectives.

Permitting investments by these investment pools allows Canadian financial institutions to access new sources of stable long-term investment and to level the playing field with foreign financial institutions when raising capital.

The amendments are provided for the Trust and Loan Companies Act, the Bank Act, and the Insurance Companies Act. They're all in here.

The Chair: Thank you very much.

We'll begin members' questions with Ms. Nash.

Ms. Peggy Nash: Thank you.

Can you explain for us how many federal and provincial government agencies are public sector investment pools?

Ms. Jane Pearse: Public sector investment pool is a description used to describe both foreign and domestic pools of capital that have been created by governments or agents of government. They would include, for example, the Canadian Pension Plan Investment Board. That could be considered a pool of capital. They would also include pools of capital generated by foreign governments and used as investment vehicles in those countries.

Ms. Peggy Nash: Can you tell us the rationale for restricting investments by public sector investment pools in financial institutions?

Ms. Jane Pearse: Do you mean the original intent of the restriction or the limitation provided for in this legislation?

Ms. Peggy Nash: What was the original rationale?

Ms. Jane Pearse: This goes back well into the history of the Bank Act. There was originally an overarching prohibition against both foreign and domestic government involvement as owners of federally regulated financial institutions. That general prohibition has gradually been opened or loosened, or made more flexible, for certain types of investments.

There was a provision added on financial institutions that allowed financial institutions owned by a foreign government to have a wholly owned subsidiary in Canada. For example, the State Bank of India, which is owned by the Indian government, has a subsidiary in Canada. There are other examples of similar kinds of government-owned financial institutions having subsidiaries in Canada.

Likewise, there was an amendment in 2009 that would allow the Government of Canada to inject capital into Canadian federally regulated financial institutions to ensure financial stability, in the national interest of Canada.

• (2020)

Ms. Peggy Nash: Can you explain that a little bit? Was that through CMHC?

Ms. Jane Pearce: No. As part of the budget implementation act in 2009 there was a series of amendments that gave the Minister of Finance the authority to inject capital into Canadian financial institutions in the event of instability in the financial system. He had some criteria that he had to meet, and the injection was conditional on discussions between him and the Governor of the Bank of Canada and the Office of the Superintendent of Financial Institutions.

Ms. Peggy Nash: This was during the economic downturn.

Ms. Jane Pearce: It was during the financial crisis. Other countries were injecting capital into their financial institutions and there was a view that Canada also needed the capacity, the power, the tool to inject capital if it became necessary. Those provisions have never been used, but it allowed for government involvement in financial institutions.

Ms. Peggy Nash: Are public sector investment pools restricted from investing in any other sector of the Canadian economy?

Ms. Jane Pearce: Generally speaking, no, although there are the Investment Canada Act rules. Generally, though, I believe that they have the ability to purchase shares and ownership stakes in other companies.

Ms. Peggy Nash: Thank you.

The Chair: Thank you.

Mr. Brison.

Hon. Scott Brison: I want to understand some of the types of investments or groups that would be affected by this. I assume the China Investment Corporation would be affected, would that be right? So CIC could now invest in Canadian banks?

Ms. Jane Pearce: That's right. These amendments allow primary issuance only. If a Canadian financial institution wished to give CIC or any other public pool of capital an ownership stake, there could be that discussion.

Hon. Scott Brison: It would be subject to the limitations on foreign ownership, though.

Ms. Jane Pearce: It would be subject to approval by the Minister of Finance. For widely held institutions, our largest financial institutions, there are already limits on significant interest. Those limits would have to be respected under this as well.

Hon. Scott Brison: Prior to this the CIC, the Abu Dhabi Investment Authority, or the Russian Direct Investment Fund would not have been able to invest. Are they able to now, subject to ministerial approval?

Ms. Jane Pearce: Yes. As it says in the legislation, to invest in a Canadian financial institution a public pool of capital must be run on the basis of commercial objectives, must meet those objectives, and be subject to the approval by the Minister of Finance.

Hon. Scott Brison: Are you saying that a sovereign wealth fund investing in a Canadian financial institution or bank must be based on commercial objectives, as opposed to strategic ones?

Ms. Jane Pearce: The sovereign wealth fund must have commercial objectives in its mandate.

Hon. Scott Brison: I'm sorry...?

Ms. Jane Pearce: The public pool of capital, or the sovereign wealth fund, must be run on the basis of commercial objectives.

Hon. Scott Brison: So the objective must be to maximize returns over a period of time, as opposed to a strategic objective on behalf of a country. For instance, in Canada we have CPP, OMERS, Teachers, and AIMCo, and this would apply to all of these types of funds that previously would not have been able to do this.

Ms. Jane Pearce: There is currently a provision in the financial sector statutes that allows for investment by domestic pension funds. So some of the entities you mentioned would have been able to invest in federally regulated financial institutions today.

Hon. Scott Brison: CPP was not able to?

Ms. Jane Pearce: For clarity, you should ask the superintendent, because she interprets the statutes.

Hon. Scott Brison: My understanding was that the CPP Investment Board was able to invest in Canadian financial institutions prior to this.

• (2025)

Ms. Jane Pearce: They could do so if they were considered by the superintendent to be a pension fund. There is a provision in the statutes that allows pension funds in Canada to invest in federally regulated financial institutions.

Hon. Scott Brison: But I thought I heard you say earlier that they were not able to, prior to this. You used CPP—

Ms. Jane Pearce: I'm sorry. When I was responding to the previous question about the history, I should have added that there is also a provision that allows flexibility for pension funds, domestic pension funds.

Hon. Scott Brison: Oh, I see. So this does not actually change anything with regard to Canada Pension Plan or CPPIB. This change does not affect them.

Ms. Jane Pearce: I believe they would have the same treatment with the passage of this legislation as they do today.

Hon. Scott Brison: So it doesn't affect them. So the real difference, the delta here in terms of the policy effect, applies more to foreign sovereign wealth funds and pension funds. That's the big change here.

Ms. Jane Pearce: Yes.

Hon. Scott Brison: For instance, even WSIB or the Canada Post pension would already have the capacity to invest in Canadian.... And they do, I believe, invest in Canadian banks and financial institutions.

Ms. Jane Pearce: I can't speak to individual plans, but there is a provision that allows for pension plans.

Hon. Scott Brison: Just to be clear for the committee, this only applies to foreign sovereign wealth funds or pension funds, this change—

Ms. Jane Pearse: Well, just to be clear, it doesn't only apply to them. It is written to generally provide—

Hon. Scott Brison: But the only groups really affected by the change are these groups.

Ms. Jane Pearse: There may be other pools of capital in provincial governments that are not specifically pension funds that could take advantage of this.

Hon. Scott Brison: How do you quantify the difference between strategic and commercial interests or objectives, in terms of a sovereign wealth fund? There may be an argument to be made that there's actually a strategic interest in investing in Canadian banks and investing in the financial service sector, with the prudential strength of our banks as an example. It may be more than just a commercial objective.

How do you quantify that? How do you discern that?

Ms. Jane Pearse: There are several criteria that are currently outlined in the legislation that the Minister of Finance will use when he assesses, as part of the assessment of these sovereign wealth funds. For example, the resources of the pool of capital, its business plan, its experience, its fit and proper.... The minister will use a series of existing tests in the process of proving any particular pool of capital for investment in a Canadian financial institution.

The Chair: Thank you.

We'll go to Ms. McLeod.

Mrs. Cathy McLeod: Thank you.

I understand that many other countries also allow public sector investment pools to invest in financial institutions, whereas we have only provided limited access. Can you speak to that?

Ms. Jane Pearse: Yes. As we saw through the crisis, a number of countries had fairly significant investments in their financial institutions by sovereign wealth funds and other sources of government funding. So most other countries that we have been able to assess allow some level, if not unlimited investment by public pools of capital.

Mrs. Cathy McLeod: Thank you.

Certainly these funds are allowed to invest in other sectors of Canada's economy and there are different checks and balances in place, depending, of course, on where the investment is. Is that accurate, would you say?

Really, the banks have been at a disadvantage in terms of some other areas.

• (2030)

Ms. Jane Pearse: Right. The intent of this change is to level the playing field between Canada and other countries, so that our banks or financial institutions have access to the same types of capital as other global financial institutions.

Mrs. Cathy McLeod: Of course other sectors within Canada already have this latitude for their investments in there, whether it be the natural resource sector or the technology sector.

Ms. Jane Pearse: Yes, I understand that there are limitations in the Investment Canada Act, and I believe in the telecommunication sector there are some limitations, but I think it's right to say that,

broadly speaking, most other sectors allow investments by public pools of capital.

The Chair: Thank you, Ms. McLeod.

Monsieur Caron.

[*Translation*]

Mr. Guy Caron: The briefing notes provided to us by the Library of Parliament indicate that, "eligible agents would be allowed to use the voting rights attached to any share purchased in a financial institution."

I can understand why, in the context of what is being presented to us, that the eligible agents could use their vote within the imposed guidelines on a foreign property by the Banking Act, for example.

My question is the following. Why are there two different rules for the eligible agents and for the other government organizations, which could also invest but not use their right to vote?

Ms. Annie Hardy (Chief, Financial Institutions Division, Structural Issues, Financial Sector Policy Branch, Department of Finance): Indeed, the eligible agents have the right to vote here given that they have the right to hold shares. This privilege comes with a right to vote. Likewise, other agencies that would have the right to hold shares would have exactly the same privilege to hold a right to vote. This is consistent with other principles of the legislation.

Mr. Guy Caron: Okay.

The Chair: Okay.

[*English*]

I have Mr. Mai and Mr. Marston on the list.

Mr. Mai, go ahead.

Mr. Hoang Mai: Thank you, Mr. Chair.

[*Translation*]

It was mentioned that sovereign wealth funds can acquire Canadian banks. There is therefore some openness. Are there limits on the number of shares that can be acquired? Does this mean that a foreign agency could acquire a Canadian bank tomorrow morning?

[*English*]

Ms. Jane Pearse: Not unless the bill passes tonight.

There are existing limits for small, medium, and large financial institutions in Canada. For a small financial institution, any investor or owner can own up to 100% of that institution. Medium-sized institutions, anything over \$2 billion in assets, have to be 35% widely held. In other words, any individual owner can only own a maximum of 65% of that institution. The intent there is to move the institution toward greater disclosure of their financial statements and business plans. Currently, any institution above \$8 billion is required to be widely held. No individual owner can have more than 10%, or 20% with the approval of the Minister of Finance, of voting common shares. That regime does not change with these amendments.

[Translation]

Mr. Hoang Mai: I understand. Thank you.

[English]

The Chair: Mr. Marston, go ahead.

Mr. Wayne Marston: The good news is that Mr. Caron asked one of my questions, so that will cut it down a bit.

In terms of your presentation, and talking about the ministerial tests that they applied, I read here that part of his consideration will be the financial resources and the business record of the purchaser. If I understand this correctly, the purchaser will put up a certain amount of cash value to buy equity in a firm. You would think that there would be something that said what the status of the place is they're buying into, as part of that test, you know, the viability of a given bank, just for an example.

On that side of the equation, is there any ministerial test they would look at? I'm thinking of let's say a privately held pension fund that wants to buy into a bank. Our banks are in good shape—we have a good reputation for that—but it seems to me that they're looking at the purchaser, as opposed to where they're putting the investment. Is there a counter to that anywhere?

● (2035)

Ms. Jane Pearce: All of our federal financial institutions are supervised by the Superintendent of Financial Institutions. From that perspective, they're under review or oversight by the government.

Each investor in a financial institution is responsible for assessing the solvency or the capability of that individual firm to continue with its business plan and assess the ability of that firm to make a return on income or a return on investment that is consistent with that investor's requirements.

The approval by the Minister of Finance is looking more specifically at the criteria or the characteristic of the investor into the financial sector.

Mr. Wayne Marston: I gathered that. I realize that part of the due diligence of the purchaser is to look for themselves. I was curious if there was a ministerial test at all, but that's fine. You've answered the question, and I appreciate that.

The Chair: Thank you.

Mr. Brison.

Hon. Scott Brison: Under the widely held rule, no one can take more than 10% of one of the big banks. ADIA, the Abu Dhabi Investment Authority, manages about \$627 billion. CIC, China Investment Corporation, manages about \$350 billion. The Japanese

government pension fund I think manages \$1.3 trillion or \$1.4 trillion, as an example. These are big players. In Canada, the CPP Investment Board manages about \$160 billion, or something like that, maybe a little less this week. These are very significant players.

Besides the ministerial discretion, if the Abu Dhabi Investment Authority wanted to take 10% of a Canadian bank, and CIC wanted 10%, and the Japanese government pension fund wanted to buy 10%, and there were a couple more of these sovereign wealth funds, is there any legislative or regulatory barrier to one of the big Canadian banks effectively having more than 50% of its shares owned by a consortium of foreign sovereign wealth funds after this change? Is there any specific regulatory barrier?

Ms. Jane Pearce: As I said, the minister will be able to assess using a variety of criteria in the process of looking at an approval.

Hon. Scott Brison: So it's purely ministerial discretion at that point—there is not an equivalent foreign ownership limitation?

Ms. Jane Pearce: Well, there is a national security clause in the Bank Act. There is also the best interests of the financial system in Canada.

Hon. Scott Brison: But the call would be interpreted by the minister.

Ms. Jane Pearce: That would be assessed by the minister as part of the approval process, yes.

There is also another technical component of the financial institution legislation that's related to associates. In the event there were a series of owners that were deemed to be associated or were acting in concert, that would be addressed through the statutes. There's the widely held rule and the other framework related to ownership, 10% of large institutions, up to 20% with approval by the minister. There's a piece that goes on the top, which allows for an interpretation of association and acting in concert.

● (2040)

Hon. Scott Brison: We don't have in Canada the size of sovereign wealth funds that compare to some of the ones I just mentioned. We have big, successful pension funds in Canada, but this is a significant change. I'm not opining on whether it's negative or positive, but it is a very significant change.

Has there been any consideration of some additional regulatory change to address some of the concern I just expressed—the potential for a group, perhaps not even acting in concert, perhaps acting individually and effectively the control of a Canadian bank falling into the hands of foreign ownership? As I said, I'm not expressing whether that is good or bad—that's for another debate—but were there any specific prohibitions considered in terms of a regulatory change to prevent that possibility?

Ms. Jane Pearse: I think the other thing that's critical for this question is that these amendments address primary issuance only. These provisions allow primary issuance only. So the Canadian financial institution would have to deem that it is in their best interest to issue a series of new common shares, for example, to a new investor. In your example, you are diluting the current shareholders by issuing new shares. There would have to be a decision made by the board that it was in the best interests of the company.

The Chair: Thank you, Mr. Brison.

Ms. McLeod, go ahead, please.

Mrs. Cathy McLeod: Can you just make some comments regarding the restrictions on board membership?

Ms. Annie Hardy: Well, we said in the legislation that public pools of capital won't be able to nominate any employees or directors to the board of directors of the financial institution. The reason for this is to limit the influence the public rules of capital will have on the management of a financial institution. We want to keep them as much as possible as passive investors. We also prohibit them from having an active position on a board of directors.

Mrs. Cathy McLeod: Actually, it's unfortunate.... I was feeling that Mr. Brison had some concerns, so I was seeking some more opportunities for him to perhaps understand how the board was going to have some restrictions in terms of that influence he seemed to be expressing concerns about. So thank you for sharing that.

The Chair: Thank you.

I have Monsieur Caron. No? Mr. Marston....

Okay. That's it for that section then, for division 10, financial institutions. We will now move to division 11, Canada Mortgage and Housing Corporation, amendments to acts.

Ms. Jane Pearse: Division 11 sets out legislative amendments to strengthen oversight of the Canada Mortgage and Housing Corporation and to ensure that its commercial activities are managed in a manner that promotes the stability of the financial system. The proposed changes are part of the government's efforts to strengthen the housing finance system. The proposed legislative amendments include additional objectives for CMHC to ensure that its commercial activities promote and contribute to the stability of the system, including the housing market; legislative and regulatory authorities for the Minister of Finance in respect of CMHC's securitization programs and any new commercial programs; authorities for the Superintendent of Financial Institutions to review and monitor the safety and soundness of CMHC's commercial activities and report to the CMHC board of directors and the Ministers of Finance and Human Resources and Skills Development; and the addition of the deputy minister of the responsible department, Human Resources and Skills Development, and the Deputy and Minister of Finance to CMHC's board of directors as ex-officio members.

Division 11 also includes a legislative framework for covered bonds. Covered bonds are debt instruments that are secured by a pool of high-quality assets, such as residential mortgages. Until now, Canadian banks have issued about \$60 billion in covered bonds under contractual, non-legislative framework. The legislative framework was announced in budget 2010 in order that covered bonds

could better support financial stability by making the market for those bonds more robust and helping lenders access new sources of funding.

The framework will be administered by CMHC and will be open to federal and provincially regulated mortgage lenders. The key elements of the legislative framework include allowing covered bonds to be registered by CMHC; providing investors in these registered covered bonds greater certainty about their claim on the covered bond collateral; prohibiting the use of government-backed insured mortgages from being part of the covered bond collateral pool; and requiring that federal financial institutions only issue covered bonds under this legislative framework.

Since the budget announcement of this framework, stakeholders both in Canada and internationally have been supportive of the announcement.

• (2045)

The Chair: Thank you very much for that overview.

We'll begin with Ms. Nash, please.

Ms. Peggy Nash: Thank you.

I think we would all agree that promoting stability in the financial system is important, and certainly in the housing market, where there is, of course, concern about a bubble in the real estate sector, given what we've seen in the U.S. and the U.K. and other parts of the world.

How would the proposed responsibilities through CMHC help provide greater stability and perhaps address reducing the risk of a housing bubble?

Ms. Jane Pearse: The amendments in the bill are intended to strengthen the oversight of CMHC so that there would be better knowledge within the government of the risk profile of CMHC—the types of activities it's engaged in, its activities to mitigate any of those risks, and the capacity of management and the board to respond to risks within the products covered in its commercial programs.

So it provides the ability for the government to establish the terms and conditions of the securitization program and provides for OSFI to be more engaged in the supervision of that entity, as it is currently engaged in the supervision of the private sector entities that provide mortgage insurance in Canada.

It enhances the CMHC board of directors by adding two deputy ministers—one from the responsible department, Human Resources and Skills Development, and the Deputy Minister of Finance—as ex-officio members to the board.

The intent is to have a more cohesive system of oversight on the CMHC.

Ms. Peggy Nash: Can you describe the difference in risk factor between CMHC-insured mortgages and private-insured mortgages?

Ms. Jane Pearse: Risk factors in terms of...?

Ms. Peggy Nash: In terms of default, in terms of instability....

Ms. Ling Wang (Chief, Financial Institutions Division, Housing Finance Review, Financial Sector Policy Branch, Department of Finance): We don't have the specific data, but both CMHC and private mortgage insurers are subject to government-backed insured mortgages. The government has made several changes to the rules over the last several years. These rules apply to both CMHC and private mortgage insurance companies.

Ms. Peggy Nash: If I recall, I think for the private-backed insurance companies, their mortgages are backed by up to \$300 billion. Is that your understanding?

• (2050)

Ms. Ling Wang: It's \$250 billion currently.

Ms. Peggy Nash: I thought it was increased to \$300 billion last year.

Ms. Ling Wang: It was increased in last year's budget implementation act, but that part of it has not been brought into force yet.

Ms. Peggy Nash: Okay. So that piece was on the books but it was never enacted.

Ms. Jane Pearse: Just to clarify on that, there are regulations required under the new act. That was introduced in last year's budget implementation act, and those regulations are being developed. So until those regulations come into force, that piece of the budget implementation act is not yet in force.

Ms. Peggy Nash: Okay. Thanks for that clarification.

In terms of the goal of providing greater stability of the financial system and better oversight by OSFI, is there any difference in risk between the insurance offered through CMHC or the private sector risk, given that both are backed by the government and the same rules apply? You're saying there's no difference in the risk for either in terms of the stability of the housing market. You're saying the risk is the same.

Ms. Jane Pearse: Well—

Ms. Peggy Nash: Or just that the oversight is the same.

Ms. Jane Pearse: —as my colleague said, both CMHC and the private mortgage insurers can issue mortgage insurance that is consistent with government-imposed criteria for government-backed mortgage insurance.

That's not to say that all private insurers, nor the private insurers versus the CMHC, run their business in the same way. As OSFI has oversight and supervisory responsibility for the private mortgage insurers and addresses the risks that are inherent in their business models and how they run their business with each of those companies individually, likewise there is an advantage to having OSFI as oversight on CMHC.

The Chair: I'd like a quick clarification following Ms. Nash's question about the changes in last year's budget implementation act. She mentioned it was increased from \$250 billion to \$300 billion. It has also reminded me there was another change with respect to the percentage the private insurers had to.... Was there another change? What was the other change, Ms. Pearse?

Ms. Jane Pearse: We introduced actually a new act, as part of the budget implementation act, called the Private Mortgage Insurers Housing....

Ms. Ling Wang: It's called the Protection of Residential Mortgage or Hypothecary Insurance Act.

Ms. Jane Pearse: There was a series of amendments made in the budget implementation act, one of which was increasing the limit for mortgage insurance issued by private sector mortgage insurance companies, but there was a series of other amendments that were structured such that we were moving what is currently a contractual arrangement between the government and the private mortgage insurers into a piece of legislation.

I'm not sure I'm answering your specific question.

The Chair: You are, actually. And I'm stretching my own rules on relevance, as well.

Mr. Brison, please.

Hon. Scott Brison: Since 2006, the government's exposure to risk in the housing market through CMHC's government-backed mortgage insurance has doubled, from \$300 billion to \$600 billion. That level of growth is quite extreme. To what factors do you attribute that doubling of government exposure?

Ms. Jane Pearse: I think you're referring to the limit on the allowable mortgage insurance that CMHC can issue. They're not at the limit, but there have been increases in housing prices and increases in mortgages, obviously. In an environment of relatively low interest rates, there is an enthusiasm of Canadians to enter the housing market.

Hon. Scott Brison: How close are we to the limit?

Ms. Ling Wang: Based on CMHC's latest annual report, I believe the number is at \$567 billion.

Hon. Scott Brison: When do you anticipate the government will need to raise the limit?

Ms. Jane Pearse: The government has given no indication of raising that limit.

• (2055)

Hon. Scott Brison: In 2006 the government, in budget 2006, introduced 40-year mortgages with no down payment for the first time in Canadian history. Do you remember that in budget 2006?

Ms. Ling Wang: In 2006 it was not the government that introduced 40-year mortgages. It was introduced by the mortgage insurance companies.

Hon. Scott Brison: Yes, it was their decision, but the government allowed that to happen. There was a regulatory change in budget 2006, is that right?

Ms. Jane Pearse: We introduced the criteria that governed government-backed mortgage insurance in October 2008. Before that time, decisions about amortization were being made by the mortgage insurers themselves.

Hon. Scott Brison: Yes, but the decision to extend 40-year no-down-payment mortgages was made in 2006.

Ms. Jane Pearse: I believe in 2006 there was a decision to increase the competitiveness of the market and allow further mortgage insurers to enter.

Hon. Scott Brison: There was a specific decision by the government in 2006 to introduce 40-year mortgages.

Ms. Jane Pearse: I don't think so.

Hon. Scott Brison: This is a matter of history.

Can you describe the take-up of the 40-year mortgages, which were available until the fall of 2008? What was the take-up of them? Some reports were that half of all new mortgages in the first six months of 2008 were 40-year mortgages.

Ms. Jane Pearse: The data I've seen indicate that the take-up on 40-year mortgages was high. Most new first-time homebuyers use whatever is the longest amortization available. For a period of time, mortgage insurers were offering 40-year amortizations, and most new homebuyers were out at that end. When the government imposed a maximum 35-year amortization, most first-time homebuyers were again at the limit.

What we've also seen, though, is that most mortgage holders accelerate their payments through bi-weekly payments or payments over the course of the mortgage that actually move their actual amortization well off the limit.

Hon. Scott Brison: So the decision in 2006 to extend 40-year mortgages, with no down payment, did lead to a lot of activity. People were exercising that.

The government's limit for government-backed mortgage insurance through private insurance providers has also increased significantly since 2006, from \$100 billion to \$300 billion. How close are we to that limit?

Ms. Ling Wang: That number, unfortunately, is not available to the public, given that not all private mortgage insurance companies are public companies.

Hon. Scott Brison: So can't you provide us with the aggregate number?

Ms. Ling Wang: I can't give the number because some of these numbers are proprietary to privately held mortgage insurance companies.

Hon. Scott Brison: I'm not looking for specific—

Ms. Ling Wang: They are within the limit of \$250 billion.

Hon. Scott Brison: We know what the limit is. I think it's \$300 billion, isn't it? Or is it \$250 billion?

Ms. Ling Wang: The current limit that applies to the private mortgage insurance companies is \$250 billion.

Hon. Scott Brison: But you can say how close we are to that.

Ms. Ling Wang: I understand there's sufficient room for them to continue their business. Unfortunately, I can't give the number because there's a joint limit for all the companies. I can't give the number itself because our numbers are not public numbers.

The Chair: Thank you.

I just want to clarify this point. I want to make sure I understand it correctly.

The Government of Canada in 2006 decided to move to the 40-year mortgages. My understanding, and correct me if I'm wrong, is that it's not the government that makes the decision to move there. The government either allows it or doesn't allow it, but the government doesn't say "Here's a brand-new 40-year mortgage for you." The finance minister of the government doesn't do that. It's what is allowed or not allowed.

Am I correct on that? I think we need to really clarify this point so that our committee members fully understand this.

Ms. Jane Pearse: As I understand it, in October 2008 the government introduced the first set of criteria for government-backed insured mortgages, and that announcement in October 2008 established 35 years as the maximum amortization.

● (2100)

The Chair: So prior to that there was no set of criteria established like that.

Ms. Jane Pearse: That's right.

The Chair: So 40 years was allowed, but in 2008, when they established their criteria, then 35 years was set as the maximum allowable?

Ms. Jane Pearse: Yes.

The Chair: Okay, that's very helpful.

We'll add you to the list later, Mr. Brison. Thank you.

[Translation]

Mr. Caron, you have the floor.

Mr. Guy Caron: Thank you very much, Mr. Chair.

I would like to clarify something. The proposed changes only apply to the issue of securitization of Canada Mortgage and Housing Corporation shares. We are not talking about daily general activities. We are talking about securing the debt and the guarantees it currently has.

[English]

Ms. Ling Wang: Yes, the changes proposed in this division provide authority for the government to set criteria and approvals on CMHC's securitization activities, but there are no specific changes being proposed in the legislation on those activities.

[Translation]

Mr. Guy Caron: Accordingly—

[English]

Ms. Ling Wang: It's only applicable to CMHC.

[Translation]

Mr. Guy Caron: Accordingly, this does not affect other CMHC activities.

[English]

Ms. Ling Wang: I'm sorry, could you repeat that?

[Translation]

Mr. Guy Caron: This does not affect other CMHC activities, just the securitization activities.

[English]

Ms. Ling Wang: The amendment covers all the commercial activities, so it includes mortgage insurance, in part—well, securitization, specifically, but it has a general... For example, the role of the superintendent is with respect to all of the commercial activities. It certainly does not touch the affordable or social housing programs offered by the CMHC.

[Translation]

Mr. Guy Caron: Thank you. That is what I was getting at.

The other issue is the creation of a new institution registry. How much will it cost to create this registry, who will administer it and under what rules will it operate?

[English]

Ms. Jane Pearse: We don't expect there to be significant costs associated with the registration for covered bonds. I believe you have CMHC as a witness, and I think it would be appropriate to ask them what their expectations are.

[Translation]

Mr. Guy Caron: Thank you.

That is it for now.

[English]

The Chair: I have Ms. McLeod, please.

Mrs. Cathy McLeod: Thank you.

I think where we're going is very important. It also seems there might be some relevance to the history in terms of how we got here.

Rather than have everyone try to gather the information from their memories in terms of the history, it would be very helpful if you could submit in writing to the committee a bit of the history from 2006 forward. That would be very helpful, and I'd appreciate it. To have it in writing would be great.

Thank you.

The Chair: I have Monsieur Mai.

Mr. Hoang Mai: Thank you, Mr. Chair.

I understand this division deals with CMHC securitization programs. Can you explain more in terms of what is being dealt with on that issue?

Ms. Jane Pearse: Sorry, are you asking me to explain what a covered bond is, or what the amendments are designed to do?

Mr. Hoang Mai: What the amendments are designed to do.

Ms. Jane Pearse: During the period of the financial crisis there was a restriction on the ability of financial institutions globally to

fund in commercial markets. In particular, commercial securitization markets effectively shut down.

One type of securitization that continued to function was the covered bond market. Part of the reason is that the covered bond has a dedicated pool of assets that stands behind the bond and is collateral in the event that the issuer, the bank, for example, were to fail. The covered bond itself would continue to function because these bonds continue to generate income that would support the payout on the bond.

These amendments are creating a legislated framework in Canadian law to support the structure of that covered bond.

• (2105)

Mr. Hoang Mai: Are private insurers covering those covered bonds—not CMHC, but private insurers that are backed by the government?

Ms. Jane Pearse: The fact that we're using CMHC as the registrar does not have anything to do with its role in mortgage insurance. The assets that are going to stand behind the covered bond are, by legislation, required to be uninsured mortgages.

We're using CMHC because it has an expertise in dealing with the financial institutions that are most likely to issue these types of bonds. They have experience in the securitization market and how the structure of those types of bond programs will work. They're being used as a registrar more than as a source of insured product.

Mr. Hoang Mai: Thank you very much.

The Chair: Ms. Nash, please.

Ms. Peggy Nash: Thank you for that clarification.

If I understand you, there's no increased risk to CMHC from these proposed changes. They're being used as a vehicle to administer the covered bonds but they don't accept any liability for any of these products.

Ms. Jane Pearse: That's right. The covered bond is not a product that has any backing from the Government of Canada.

Ms. Peggy Nash: If I understand this correctly, they cannot operate here. We cannot have the covered bonds here unless there is... Some governments don't allow them to be sold here unless there's a legislative framework. Is that correct?

Ms. Jane Pearse: Yes. There's a slight nuance on that. Currently most of our big banks in Canada issue covered bonds, but not under a legislated framework; they issue them under a contractual framework.

Investors in some countries, mainly in Europe, restrict investments in covered bonds that are not established pursuant to a legislated model. What we're doing is creating a legislated model in order to expand the numbers of investors who may be able to consider purchasing Canadian covered bonds.

Ms. Peggy Nash: We would expect more foreign investment or foreign money in these bonds. Is there any inflationary impact in that? Is there any negative impact from encouraging that investment? Is there any cost to CMHC for the administration of the covered bonds?

Ms. Jane Pearce: To answer the second question first, there are provisions in the amendments to allow CMHC to charge a fee to the covered bond issuers that will replace any costs that CMHC incurs in the office of the registrar.

Ms. Peggy Nash: So no cost to the Canadian public.

Ms. Jane Pearce: No cost to the Canadian taxpayer.

With regard to your first question, we would expect that this funding vehicle will be another option in the suite of funding tools that Canadian financial institutions can consider in terms of funding their operations. We wouldn't necessarily expect their funding would go up dramatically.

Ms. Peggy Nash: Given that part of the concern, in terms of the financial crisis of a couple years ago, was deregulation of financial institutions, and perhaps more globalized investment activities of those institutions, is there anything with respect to this change that in any way undermines the security or the regulatory framework that provides stability for Canadian financial institutions?

• (2110)

Ms. Jane Pearce: I don't believe so. This is moving a model that is currently contractual. As I said, currently approximately \$60 billion of covered bonds have been issued by Canadian financial institutions under the existing model. We're creating a legislative framework, so you could argue more structure and more streamlining of that framework.

Ms. Peggy Nash: Hopefully we're creating more accountability through the legislative framework. Is that part of it?

Ms. Jane Pearce: Yes, and more uniformity across the covered bonds that are issued by Canadian financial institutions.

Ms. Peggy Nash: You're saying right now it's about \$60 billion. Do you expect that to rise significantly? What do you think the impact will be, if any?

Ms. Jane Pearce: It would be difficult to say what it could rise to. I don't think I can comment on that.

Ms. Peggy Nash: Okay, thank you.

The Chair: Thank you.

I wanted to clarify one thing in terms of the covered bond program, Ms. Pearce. Will the covered bond program increase the potential liability of the federal government? My understanding is no, based on what you've said. Am I correct?

Ms. Jane Pearce: Yes.

The Chair: Okay, thank you.

I have Mr. Brison, and I don't have any other members.

Hon. Scott Brison: Thank you.

I've been able to pull up several articles on the genesis of 40-year mortgages in Canada. In one of them, on October 15, 2008, CBC says:

In an effort to stop a U.S.-style mortgage meltdown in Canada, less than a year after introducing the government-guaranteed 40-year mortgage, the Department of Finance is tightening the rules that apply to them.

It goes further, and says:

Just over a year ago, Parliament passed a bill changing mortgage insurance by allowing a 40-year amortization period, thereby making the process of buying a home that much easier.

It also quotes the Canadian Association of Accredited Mortgage Professionals estimating that over that period of the year since the legislation was passed, 37% of all new mortgages taken from that one-year period in the fall of 2007 were for periods longer than the standard 25-year amortization. According to a TD Bank representative at the time, 60% of first-time homebuyers were opting for 40-year mortgages.

I wanted to help edify the committee in general as to the genesis of it: there was a legislative change.

We never had 40-year mortgages in Canada with no downpayment prior to 2007, is that right? It's the first time we've had them?

Ms. Jane Pearce: I believe you're right.

Hon. Scott Brison: Yes, and the decision to reduce that was made during the financial crisis in the fall of 2008, during the U.S. housing meltdown.

Ms. Jane Pearce: I'm sorry. The decision...?

Hon. Scott Brison: During the U.S. housing meltdown, the decision—

Ms. Jane Pearce: Sorry—the decision to reduce the amortization period?

Hon. Scott Brison: That's right.

Ms. Jane Pearce: It was made in October 2008.

Hon. Scott Brison: That's right. So during that period of time between the government's decision to introduce the 40-year no-down-payment mortgages, it continued until there was a crisis. Is that right? I'm trying to establish the timelines here. If it happened in the fall—

Mr. Brian Jean: Mr. Chairman, a point of order.

The Chair: Mr. Jean.

Mr. Brian Jean: I've been listening intently to the member ask hypothetical questions, and right now I can't even pronounce "hypothetical" properly, because he's going on and on with hypotheticals. Can we have some questions about what we have in front of us, which is Bill C-38? Could we talk about that?

The Chair: Well, it—

Mr. Brian Jean: They're hypothetical questions, Mr. Chair.

Hon. Scott Brison: They're hypothetical when you speak about something that might happen. I'm speaking about something that already happened.

The Chair: Yes.

• (2115)

Mr. Brian Jean: That was not your question.

Hon. Scott Brison: Historical might be—

Mr. Brian Jean: That was not the question.

The Chair: Order.

As the chair, I just wish we'd follow Ms. McLeod's advice—because there are some different opinions on this—and get the full story for the committee.

But Mr. Brison is within his rights to question in this manner.

Hon. Scott Brison: Mr. Jean, what I'm simply trying to do is help, because Ms. McLeod was kind enough to seek edification on behalf of the committee, as was Mr. Rajotte. I'm just trying to work on a non-partisan basis—

Voices: Oh, oh!

Hon. Scott Brison: —so we can all get to the bottom of this.

The reason it's pertinent and germane to our current study is that we don't want to repeat these kinds of egregious errors now and in the future, because we've learned something from all of this.

I appreciate very much your insight.

Mr. Brian Jean: Mr. Chair, on that point...?

The Chair: Mr. Jean, point of order?

Mr. Brian Jean: Mr. Chair, on that very point, I'm wondering if the egregious errors include the \$25 billion in social transfers that the Liberals took from the provinces back in the nineties. If he's going to talk about history and historical references, we could talk about that a little bit.

The Chair: That is a point of debate, Mr. Jean.

Mr. Brian Jean: Oh, sorry.

Hon. Scott Brison: We're talking about provisions around the governance and the prudential strength of our regulatory framework around mortgages.

The Chair: Mr. Brison, you have a minute and 45 seconds left to elucidate the history of the mortgage market in Canada.

Hon. Scott Brison: I'm actually quite satisfied that the record has been set straight now, and that we can try to avoid these kinds of errors that almost led us off the cliff, following the rest of the lemmings in the U.S. on this sort of thing. I appreciate very much that clarification.

The Chair: I thought I would perhaps take an extra round. I look forward to the report in response to Ms. McLeod's question.

I just thought members might be interested in a news release that they can find on the Finance Canada website for July 9, 2008, so not the fall of 2008, but July 9, 2008. Perhaps we'll have the staff send this out to all the members: “fixing the maximum amortization period for new government-backed mortgages to 35 years; requiring a minimum down payment of five per cent for new government-backed mortgages; establishing a consistent minimum credit score requirement; and introducing new loan documentation standards”.

I love this website. There's so much fantastic information on it. Everybody really should go to this regularly.

There's more I'd love to read, but really, I think what we should do is follow Ms. McLeod's advice, and we will have a full report on the history of the mortgage market in Canada for the benefit of all members.

Do I have any further...?

I have Ms. McLeod.

Mrs. Cathy McLeod: I just have one hopefully final quick question. With government-insured mortgages, will they be allowed to be included in the covered bonds, and what would the implications for government be?

Ms. Jane Pearse: There is a prohibition on using insured mortgages in the legislated covered bond pool.

Mrs. Cathy McLeod: Thank you.

The Chair: Thank you, Ms. McLeod.

We have about ten minutes left.

Ms. Nash, you wanted to make a point. Go ahead, please.

Ms. Peggy Nash: We're all enthusiastic to hear about the penny.

The Chair: Okay. Let's move to division 16.

Ms. Peggy Nash: It's not here; that's a different section.

The Chair: That's division 16, Ms. Pearse?

Ms. Jane Pearse: Division 16 deals with amendments to the Currency Act. The proposed amendments are necessary to implement the government's decision to eliminate the penny.

They are fairly technical amendments, and they will clarify that the government can redeem coins without “calling them in”. Calling in a coin would have the effect of removing it as legal tender, which is inconsistent with the government's announcement that the penny would retain its value indefinitely and can continue to be used in payments.

The amendments also clarify that the payments for the redemption of the coins, including the associated cost, can be made out of the consolidated revenue fund on the authority of the Minister of Finance.

The Chair: Thank you very much for that.

Do members have any questions?

Ms. Nash.

Ms. Peggy Nash: Yes. When would this change take effect? I know the announcement has already been made and the Mint has stopped producing the penny, but if this legislation is passed, how quickly would this take effect? I'm getting calls from small businesses and they are concerned about what this means for transactions, especially in small stores. Do they have to change their cash registers?

Could you talk a bit about the implementation?

• (2120)

Ms. Jane Pearse: I'll just flag that I am not the expert on the penny, but I will do my best.

The Royal Canadian Mint will cease distributing pennies to financial institutions effective this fall, 2012. Businesses and individuals will then be able to redeem pennies through their financial institutions for melting and recycling of the metal content.

Pennies will retain their value and can be used indefinitely. So the consumers will be able to continue using their pennies for as long as they care to do so.

Ms. Peggy Nash: So given the fact that it's not current but they'll still have value, people could still pay in pennies, even after this change takes effect. Is that correct?

Ms. Jane Pearse: As I understand it, the penny will continue to be legal tender and businesses are encouraged to continue to accept the coin as payment.

I would just say there is a backgrounder that is available on the Department of Finance and the Mint websites that provides information to both consumers and businesses about the expectations going into this period.

Ms. Peggy Nash: Thank you.

The Chair: Thank you.

There are three minutes left.

Mr. Caron.

Mr. Guy Caron: I have a couple of questions. Actually we had to stop Pat Martin from coming, as he wanted to talk about the penny so much.

[*Translation*]

The briefing notes indicate that businesses will adjust their prices. For a difference of one or two cents, the price will be rounded down and for a difference of three or four cents, the price will be rounded up to five cents more. If I am not mistaken, that is how it will be.

There will be no oversight. I imagine we will rely on the good faith and goodwill of the businesses.

[*English*]

Ms. Jane Pearse: The backgrounder is meant to provide guidance or an expectation around the government's intent. It doesn't establish regulations or obligations on either the consumer or the business, as I understand it.

[*Translation*]

Mr. Guy Caron: For example, if an item costs \$1.11, there is nothing to force a business to reduce the price to \$1.10 instead of increasing it to \$1.15. This is just a recommendation.

Ms. Jane Pearse: Exactly.

Mr. Guy Caron: Out of curiosity: what is the Royal Canadian Mint going to do with all the pennies it will receive? Is it going to melt them and resell the copper, or will they be used in some other way?

[*English*]

Ms. Jane Pearse: My speaking notes here say for melting and recycling of the metal content.

The Chair: There is a minute left in the NDP round. No? Okay.

I have Mr. Wilks, please, for five minutes.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you very much, Chair.

It's more of a commentary than anything else, but as a small-business owner since 1999, I have rounded up and down and have

not used the penny. I find it completely redundant. The rule of thumb is one and two down, three and four up.

My question to the witnesses is I wonder if there has been any thought or calculation, to relieve the fears of anyone that a small business could round up more than down, to making a calculation or experimenting on any type of business whereby they could check it for a year to see how much it went down with regard to \$3.11 versus \$3.13 and what the difference would be over a year period, depending on whether you went up or down.

Ms. Jane Pearse: Do you want to know if we have considered monitoring the situation?

Mr. David Wilks: Yes.

Ms. Jane Pearse: The experience of other countries suggests that eliminating low-denomination coins will not affect fair rounding practices. I can come back to the committee about whether my colleagues have actually looked at that issue. What we have made explicit in the backgrounder is the government's intentions regarding rounding and treating consumers in a fair and consistent manner.

• (2125)

Mr. David Wilks: Further to that, it's fairly well known that the penny costs 1.6 cents to make, as opposed to the one cent that it's worth. What are the savings to the government?

Ms. Jane Pearse: I believe the budget announced \$11 million per annum. I don't have it in front of me. I apologize.

Mr. David Wilks: Will pennies be legal tender until such time as there are no more?

Ms. Jane Pearse: Legislatively, they will continue to be legal tender forever.

Mr. David Wilks: Thank you very much.

Mr. Chair, I would like to give my time to anyone else who may wish to ask questions.

The Chair: Okay. Are there any other Conservatives on this issue? No?

Mr. Brison.

Hon. Scott Brison: The Canadian Restaurant and Foodservices Association has expressed concerns. They are the fourth-largest private sector employer in Canada, with more than one million jobs. They're saying that this will have a significant negative impact on their business. Their argument is that although to many it may seem easy to round transactions up or down, there are some challenges for the restaurant industry, which handles 18 million transactions a day, many of them in cash. Garth Whyte, the president of the organization, said, "There may be some short-term penny pain for long-term gain, but we must get the transition right." They're not saying not to do this—only that we have to get the transition right.

Has the department been engaged with the restaurant association to try to ameliorate negative impacts during transition?

Ms. Jane Pearse: I couldn't speak about the individual association, but I understand that there have been conversations with stakeholders generally.

Hon. Scott Brison: Have other retail organizations expressed similar concerns?

Ms. Jane Pearse: I'm sorry, I can't answer that question. I understand that many small and medium-sized businesses see it as a cost to have the penny.

Hon. Scott Brison: Sure, but I think there are questions about the transition period. Technological, equipment, and other changes have to be made that will incur certain levels of cost. I was wondering whether there had been consultations with the restaurant association.

Ms. Jane Pearse: I think the intent of the backgrounder was to reach out to consumers and businesses, with the government's expectation that there could be conversations.

The Chair: Okay, that's it. Thank you.

It's 9:27 and we are going to adjourn for the night. We will see you here tomorrow morning at 9:30.

I want to thank our officials for staying late. We will see you tomorrow morning.

The meeting is adjourned.

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