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Chair

Mr. James Rajotte

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● (0850)

[*English*]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order.

This is the 110th meeting of the Standing Committee on Finance. Our orders of the day, pursuant to the order of reference of Friday, March 8, 2013, are to study Bill C-48, An Act to amend the Income Tax Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the First Nations Goods and Services Tax Act and related legislation.

I want to thank all of our witnesses for being here. I think because of the weather some colleagues are still making their way to the committee.

We have with us six organizations, six individuals, who are here to present to the committee.

[*Translation*]

Our first guest, speaking as an individual, is Ms. Brigitte Alepin, who is a chartered accountant.

[*English*]

We have Mr. Kim Moody, with Moodys LLP tax advisers.

[*Translation*]

We also have with us Mr. Stéphane Laforest, president of the Coalition des travailleuses et des travailleurs autonomes du Québec.

[*English*]

From Ernst & Young, we welcome Mr. Greg Boehmer, partner.

From KPMG, we have Lorne Shillinger, also a partner.

By video conference

[*Translation*]

From Montreal, we have Mr. Gérald Tremblay of the Federation of Law Societies of Canada. Welcome to you all.

[*English*]

Each of you will have five minutes for an opening statement.

[*Translation*]

We will begin with Ms. Alepin.

Ms. Brigitte Alepin (Chartered Accountant, Tax Expert, Tax Policy Specialist, Author, As an Individual): Ladies and gentlemen, good morning. Thank you for the invitation.

In light of the length of Bill C-48 and of the short notice for its analysis, I was allowed to focus my opinion on a specific section of the bill.

I chose the upstream loans rules, because according to Department of Finance officials who appeared before this committee at a previous meeting, they are one of the main elements of the bill you are studying.

In order to understand these rules, we need to know that the Canadian multinational companies that do business in tax havens are taxed according to the following basic principles, which I will present in a very summary way. If the multinationals earn income, Canadian income tax is levied as soon as that income is made. If the multinationals earn business income, it is during the year wherein that income is brought back to Canada that Canadian income tax becomes applicable.

In order to get around this repatriation income, multinationals and their affiliates set up in tax havens used to put strategies in place involving loans, that is to say that rather than paying taxable dividends to bring the income back into Canada, the sums were simply lent to Canadian multinationals.

The purpose of the rules on upstream loans initially proposed in 2011 was to put a brake on these strategies by considering such loans as dividends, as explained several times before this committee during the previous weeks. On their own, these rules are very sensible, to such an extent that one wonders why tax authorities waited so long to propose them. However, when they are analyzed in light of the Income Tax Act as a whole and recent amendments made to it, these rules lose all relevancy, and even though they may appear to have teeth, their effect on public finances may well turn out to be quite minimal.

In fact, while these rules on upstream loans were being introduced in order to catch Canadian multinationals who attempt to bypass repatriation income tax, amendments to subsection 5907(11) of the Income Tax Regulations were implemented. May I remind you that it is by virtue of these amendments that Canadian multinationals no longer have to pay income tax on the business income they make through affiliates they have set up in countries with whom Canada has signed an agreement to exchange tax information, that is to say Anguilla, Aruba, the Netherlands Antilles, the Bahamas, Bermuda, Costa Rica, Dominica, the Isle of Man, the Cayman Islands, the Turks and Caicos Islands, Jersey Island, Saint Kitts and Nevis, Saint Martin, St. Vincent and the Grenadines, and Saint Lucia. The list may get even longer since negotiations are currently underway with other tax havens including Antigua and Barbuda, Bahrain, Belize, Brunei, Gibraltar, Grenada, the Cook Islands, the British Virgin Islands, Liberia, Liechtenstein, Panama, Uruguay, etc.

This total tax exemption on income earned by Canadian multinationals in these tax havens, which represent most of those with whom Canadian businesses do business, calls into question the purpose of putting in place tax regulations for the purpose of ensuring that taxes on repatriated income will be complied with, since that income tax is in the process of disappearing. In fact, since January 1, 2013, that form of taxation no longer exists on Canadian income exported to several tax havens.

To conclude, despite the limited practical scope of the rules on upstream loans, and despite the dangerous complexity of Bill C-48 as a whole, I recommend, in these circumstances, that the bill be adopted because the time has come, frankly, in this time of economic crisis or pre-crisis, for our public servants to do something different. They have to rethink tax laws and adapt them to the realities of the 21st century. In order to be able to do so, we have to avoid mobilizing them around this technical bill whose adoption or non-adoption will do little to arrest the force of the global movement toward legal tax exemptions on vast corporate and personal fortunes.

Thank you. I will be happy to reply to your questions.

● (0855)

The Chair: Thank you very much for your presentation.

[*English*]

Next we'll have Mr. Moody's presentation, please.

Mr. Kim Moody (Moodys LLP Tax Advisors, As an Individual): Good morning, Mr. Chairman, honourable members. Thank you for the invitation to appear before your committee to speak to you about Bill C-48.

My name is Kim Moody. I'm a tax practitioner from Calgary, Alberta, and a partner in a unique tax advisory practice comprised of approximately 20 Canadian chartered accountants, U.S. certified professional accountants, Canadian lawyers, and U.S. lawyers.

We focus strictly on tax advisory matters for the private client, for the benefit of the two professions that dominate the practice of tax in Canada: accountants and lawyers. Most of our clients have direct or indirect interests with our southern neighbours, the U.S., and therefore we practise in U.S. tax law as well.

I've had the pleasure in my 20-plus years of practice in tax to serve for some of the distinguished organizations representing our profession. For example, I'm the immediate past chair of the board of the Canadian Tax Foundation. I'm also the immediate past chair of the Society of Trust and Estate Practitioners, STEP, and I've volunteered extensively for the Canadian Institute of Chartered Accountants in various tax capacities. I'm a current member of the CBA /CICA Joint Committee on Taxation.

However, my remarks today are not at all to be associated with these prestigious organizations. Instead, my remarks to you today represent the views of myself and our firm. At the outset, our firm supports the passage of Bill C-48. While some of its contents are not perfect, as I'll comment later, it is important to get it passed.

More than 200 years ago, Adam Smith, in his landmark book, *The Wealth of Nations* , laid out the basic principles of a good taxation system. Overly simplified, those principles are fairness, certainty, convenient to pay, and administratively simple. While we could debate those four principles for a long time, it is the certainty principle that would be compromised by not quickly passing Bill C-48. We believe that certainty in tax matters has been severely compromised by the inability to pass the collection of technical amendments that comprises Bill C-48. We expressed this view to the Auditor General when we were interviewed by her office prior to the release of her fall 2009 report.

As a private practitioner, do we advise clients to adhere to existing law or proposed law? Not an easy question to answer, given the recent history of how long it takes to get technical amendments passed. As you know, Mr. Chairman, some of the content of Bill C-48 originates from 1999.

As mentioned, Bill C-48 contains technical amendments that are by no means perfect. For example, there is proposed subsection 56.4, the restrictive covenant proposals, about which I wrote a paper for the Canadian Tax Foundation in 2008. They're very wide-sweeping and can have significant unintended consequences. If you're interested in good bedtime reading, I'd be glad to give you a copy of my 60-plus-page paper.

Second, there are the non-resident trust proposals in proposed section 94. Such proposals are extremely broad and nearly incomprehensible.

There are compelling arguments—which our firm agrees with and are consistent with Adam Smith's principles—that wide-sweeping, imperfect, and incomprehensible draft legislation should not be passed. In a perfect world, such draft legislation would be more targeted, have fewer unintended consequences, and be understandable. However, Bill C-48 contains measures that reflect good tax policy—reasons for its inclusion. To not pass such imperfect legislation would compromise Adam Smith's fairness principle, which at this point is critically important to consider. We only hope that such imperfections can be later fixed.

Our firm is sympathetic to some of the factors that have led us to where we are today. We commend the Department of Finance for the hard work they obviously do to ensure, to the best extent possible, that Canada's tax legislation is fair.

We would encourage the government to explore better ways to pass important tax proposals into law in a more timely, accurate, and comprehensible manner. For example, it would be ideal for the Department of Finance to engage the private and academic tax community on tax policy matters on a regular basis. Our firm's clients are usually successful private clients. Such businesses and individuals contribute greatly to the economic success of this country and deserve a certain tax system.

Thank you for your time. I'd be pleased to respond to your questions.

● (0900)

The Chair: Thank you for your opening presentation.

[*Translation*]

Mr. Laforest, you have the floor.

Mr. Stéphane Laforest (President, Coalition des travailleuses et des travailleurs autonomes du Québec): Good morning to all of the members of the committee.

First of all, on behalf of the Coalition des travailleuses et des travailleurs autonomes du Québec, I want to thank the committee for having us. To my knowledge, this is the first time representatives from our organization have appeared before you. Generally speaking, we are very rarely consulted, even though many legislative provisions, in particular tax provisions, concern us, and even though associations representing management and labour are called upon for opinions.

I would first like to make a comment regarding the situation of self-employed workers. In Canada, self-employed workers represent a shade more than 10% of the workforce. The number of self-employed workers increases yearly, that is to say at least two and a half times more quickly than the number of salaried workers.

The distinction between a self-employed worker and a salaried one hinges on a single factor. The employee has an employer, which means the employee is subordinate. For his part, the self-employed worker is someone who has created his own business. He did not wait for a job to be offered to him. He took some financial risks and made commitments to those who provide him with work, who are for him not bosses, but clients. The relationship he has there is the relationship between an entrepreneur and a client.

For the Canadian economy, the surge in the number of self-employed workers is primarily due to the advent of new communication technologies, but also to the need Canadian businesses have to have access to specialized workers on an ad hoc or sporadic basis, and thus have a certain flexibility in the management of their human resource requirements.

The result of that is that being able to call on self-employed workers is very beneficial for the business, but this type of lifestyle is also advantageous for the self-employed worker. It is a lifestyle he or she has chosen. He has chosen to be an entrepreneur and we want him to be treated as such. That is why the Coalition des travailleuses et des travailleurs autonomes du Québec has always objected to any type of measure which would give certain self-employed workers benefits of the same type as the benefits salaried workers have, such as those conferred by their seniority, which would skew and alter the relationship self-employed workers have with their clients.

Regarding Bill C-48, I have heard the people who are before you today, but I would in any case have some comments to make. However, what I have to say is perhaps not as weighty.

The Quebec Parental Insurance Plan provides income support to Quebec workers following the birth or adoption of a child, both self-employed workers and salaried workers.

We commended this measure when it was put in place, because for a self-employed worker to be able to benefit from this type of additional income during a certain period of time allowed his or her business to survive. Premiums paid into this system by self-employed workers are 78% higher than those paid by salaried workers. You have the exact rates in the brief. Self-employed workers pay approximately 178% more in premiums than do employees. However, they do not pay them as employees, but as entrepreneurs. The amount is not divided up. It is the amount that they would have contributed had they been salaried workers, in addition to an additional premium because they are self-employed workers. The amount is taken as a whole and is presented as such in the accounting in government reports.

In clauses 196 and 253, Bill C-48 amends the Income Tax Act in a way that will create an artificial division of this amount. In fact, the yearly premium that would have been paid by a self-employed worker will be divided up. First they will assess what he could have deducted had he been a salaried worker. Afterwards, any surplus will be subject to a distinct tax treatment. For this part, the person will be considered an entrepreneur. He will be allowed to deduct that expense from his income, which is consistent with business income tax rules under the Canadian tax system.

The Coalition des travailleuses et des travailleurs autonomes du Québec is asking that this artificial division—which is totally fictitious and adds needless complexity to the task of the self-employed worker who is going to have more paperwork to do when filing his income tax return—be grouped in a single measure which would be, in this case, the new subsection 60(g) of the Income Tax Act. This allows for a simple deduction, just like for any other expenditure incurred in the course of operating the business using business income. We are asking that the self-employed worker be allowed to deduct all of the amounts he or she will have paid and not only the part that is considered surplus. We are also asking that the self-employed worker be taxed in a manner comparable to salaried workers, which has never been the case.

● (0905)

And so we believe that this amendment is consistent with one of the primary objectives of Bill C-48, which is to ensure a certain consistency and harmony in the Canadian tax system as it applies to these deductions. We also propose that the process whereby taxpayers prepare tax returns be simplified and that it not be needlessly complicated.

I thank the committee.

The Chair: Thank you for your presentation.

[*English*]

Next, Mr. Boehmer, please.

Mr. Greg Boehmer (Partner, Canadian Tax Practice, Ernst & Young): Thank you, and good morning.

My name is Greg Boehmer. I'm a tax partner with Ernst & Young, and on behalf of the firm, I'd like to thank you for the opportunity to appear before this committee in connection with Bill C-48.

It's important in our role as tax advisers with clients that we be able to provide our advice to our clients based on legislation that is both clear and certain. Clarity and certainty are critical elements in supporting the integrity of the Canadian tax system. Taxpayers must comply with the laws in Canada and the Canada Revenue Agency must administer them. We would observe that this process is made all the more difficult for both taxpayers and tax administrators when there are long delays between the initial introduction of a tax proposal and its ultimate passage into law.

Bill C-48, as you know, contains a number of years' worth of proposals, some of which were introduced in previous tax bills that have never been passed into law. That has left many taxpayers with a great deal of uncertainty in managing their tax affairs. Clearly, the passage of this legislation will restore a substantial amount of that certainty and clear a big part of the backlog.

As noted by Minister Flaherty, the last comprehensive package of technical income tax amendments was passed in 2001, clearly a very long time ago. So, Mr. Chairman, it is fair to say that we greet Bill C-48 with a sense of relief and hope to see its speedy passage.

As the committee is aware, many of the technical amendments included in the bill have been in a state of flux for many years, including changes intended to enhance the integrity of the system and to preclude certain types of planning that the government considers inappropriate. Mr. Moody has commented on some of those, including the NRT rules, and there are other rules, such as the upstream loan rules, the surplus manipulation rules, etc. Clearly, these are a set of complicated rules, but we nevertheless agree with their implementation and passage.

Taxpayers have an obligation to abide by current tax laws, but they must also plan their financial and commercial affairs based on proposed taxation measures, including any legislation introduced by the government. Often proposed tax changes are effective as of the date of their initial introduction. Also, sometimes they're effective on a retroactive basis. These outstanding proposed tax changes, of course, result in a compliance conundrum for taxpayers.

Taxpayers and their advisers also place a significant reliance on comfort letters, which tend to deal with technical anomalies in a complex statute. With such a preponderance of outstanding legislative changes and the prolonged period of time that many of these changes have been outstanding, there will clearly be relief felt by those who regularly deal with the Income Tax Act and have the job of interpreting the statute.

As I've implied, we support Bill C-48 and, for that matter, the timely enactment of tax legislation in general. We recognize that a goal of achieving more timely enactment needs to be balanced with providing an adequate amount of time to study the relevant measures and to seek input from interested parties. In this regard, we commend the Department of Finance for its ongoing efforts to constructively consult with taxpayers and other professional and business organizations regarding these matters.

In the time left to me, I'd like to provide three examples of the types of problems that arise where proposed legislation is outstanding for an extended length of time.

First, in our experience, taxpayers may be reluctant to complete particular commercial transactions where the tax legislation on which the taxpayer must rely has not been enacted. This may be because of possible changes to draft legislation, particularly where the legislation has remained in draft form for an extended period of time.

Second, where draft proposals or legislation are outstanding over a prolonged period, this may have adverse cash implications on a taxpayer, either because refunds have been held pending confirmation of enactment of proposed new tax rules or because taxpayers are effectively prohibited from objecting to adverse assessments.

Finally, there are important financial statement implications relating to outstanding tax legislation, as, generally speaking, the accounting rules prohibit accounting for income tax proposals until they are either enacted or substantially enacted. The accounting rules are based on certainty of knowing what is as compared to what may be.

In conclusion, we see the ongoing need to address the issue of tax certainty and the timely introduction and passage of tax legislation, including regular technical amendments.

Thank you, and I'll be pleased to respond to your questions.

● (0910)

The Chair: Thank you, Mr. Boehmer.

We'll now go to Mr. Shillinger, please, for your presentation.

Mr. Lorne Shillinger (Chartered Accountant, Partner, KPMG): Thank you.

Good morning. My name is Lorne Shillinger. I am a partner and national leader of the KPMG Canada Real Estate Tax Practice. I greatly appreciate the opportunity to speak with the committee this morning on the importance of the technical tax amendments act and its significance to the real estate industry.

Bill C-48 represents a Herculean effort by the Department of Finance to catch up on a decade of outstanding tax measures. Long limbo periods are difficult. Taxpayers and their advisers need certainty of tax policy and legislation to prepare and file tax returns. Accordingly, the enactment of this legislation will be a welcome relief to the tax community. For the real estate industry, the key amendments in Bill C-48 are the changes to the tax rules governing real estate investment trusts, or REITs.

A REIT is an entity that uses the pooled capital of many investors to invest in and manage real estate rental properties. Unlike direct ownership of real estate, an investment in a publicly traded REIT is highly liquid and available to investors with limited investment capital. REITs are managed and structured to pay out regular, tax-efficient distributions to their investors. For these reasons, investments in REITs have been favoured for retirement savings. These legislative changes represent the successful culmination of six years of back-and-forth discussions.

A brief review is in order. On October 31, 2006, new rules, the SIFT rules, were announced to shut down the public income trust sector. After a reasonable transitional period, a publicly traded SIFT would be subject to tax at rates similar to corporate tax rates. REITs, however, would be exempt from the SIFT tax. This was the first time the definition of a REIT was introduced into Canadian tax legislation. Each subsequent iteration of the legislation was an improvement.

In early 2007, amendments clarified a REIT's rental revenue and property and allowed internal property management subsidiaries. In late 2007, amendments accommodated existing ownership structures and allowed foreign property ownership. In late 2010, amendments further clarified a REIT's qualifying revenue and provided a welcome, safe harbour for a limited amount of non-qualifying revenues and properties to be held by a REIT. The changes in Bill C-48 represent the fourth set of revisions to the REIT rules and complete the cycle. These further changes finally create a workable system for REITs to invest in, develop, and manage real property and to expand globally. Actually, the real estate industry would like a fifth series of amendments, especially to accommodate seniors housing and hotels to qualify as REITs.

In conclusion, we greatly appreciate this legislative process. The Department of Finance did listen. The amendments in Bill C-48 provide the necessary legislative framework for Canadian REITs to invest in and operate in Canada and abroad. Both the industry and government objectives are met. REITs can function in a commercially reasonable manner but must do so within the limitations imposed by policy. For all constituents of the REIT community, we greatly look forward to the enactment of this legislation.

Thank you.

The Chair: Thank you, Mr. Shillinger.

● (0915)

[*Translation*]

Mr. Tremblay, you may now begin your presentation.

[*English*]

Mr. Gérald Tremblay (President, Federation of Law Societies of Canada): Merci. I wish first to thank you for allowing me to do this from a distance. You can see that the weather would not allow me to be physically present, although I would love to be there.

I would also like to say that I'm assuming that our formal brief of February 21, 2013, forms part of your record. My notes are in addition to that brief.

[*Translation*]

The federation is a national organization which coordinates professional bodies of jurists from the provinces and territories of Canada. It regulates 100,000 of the country's lawyers, and 4,000 notaries in Quebec.

I want to say this very clearly: the federation supports the basic objectives of the bill, but it is concerned by the proposed bill as it relates to the legal profession.

[*English*]

The requirement that lawyers and Quebec notaries report to the government on the affairs of their clients and on tax transactions on which the legal counsel has provided advice is antithetical to the independence of the legal profession. That is a core principle of Canada's legal system. It is also contrary to the duty of loyalty all legal counsel owe to their clients.

[*Translation*]

These principles are essential to the effective functioning of our legal system. The Supreme Court of Canada has pointed out in several of its decisions that clients must absolutely be able to speak freely and openly to their legal counsel without fear that he or she will divulge the content of these discussions to the state. This free and open relationship is only possible if the clients can depend on the unconditional loyalty of their legal counsel.

[*English*]

I'm going to quote a very short passage of a judgment by the Supreme Court in Canada v. Law Society of British Columbia 1982. At page 335, it states:

> The independence of the Bar from the State in all its pervasive manifestations is one of the hallmarks of a free society.

Later on, it states:

> The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the Bar and through those members, legal advice and services generally.

[*Translation*]

If we were to require that the lawyers and notaries of Quebec use the confidential information they have on their clients' affairs to help the government detect tax operations that could be abusive, these lawyers and notaries would become agents of the state.

[*English*]

These very issues are currently before the courts in British Columbia in a case involving the regulations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. The B.C. Superior Court found the government's attempt to extend those regulations, which includes reporting requirements similar to those contained in the bill before you, unconstitutional. This case is now before the British Columbia Court of Appeal awaiting decision. The case has been pleaded.

[*Translation*]

There is a simple and direct way of settling the concerns of these organizations which regulate the legal profession, with regard to the bill: amend the bill so as to expressly exempt lawyers and notaries of Quebec from the reporting requirements that apply to them in their capacity as legal counsellors, contained in subsection 237(3) of the Income Tax Act . That is very easy to do. You simply have to amend the definition of the word “counsellor”.

The Chair: Mr. Tremblay—

Mr. Gérald Tremblay: In this regard, we are going to send the committee a draft amendment for this subsection which would exclude lawyers and notaries specifically from the definition of the word “counsellor” with regard to the reporting requirement.

Thank you.

The Chair: Thank you.

● (0920)

[*English*]

We will begin members' questions with Ms. Nash, please. They are rounds of five minutes each.

[*Translation*]

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

I thank all of the witnesses for being here and for sharing their expertise with us.

I will begin with Ms. Alepin.

You stated that a tax regime had to respect three principles: it has to be fair, effective and simple. In light of that, I would like to clarify something I may not have understood very well. I am going to put my question to you in English.

[*English*]

Did you say the changes we are making to tighten up our laws for upstream loans by companies—in other words, loans they make, in essence, to limit their tax liabilities...? When we negotiate trade agreements with some of these countries that have a reputation for being low-tax jurisdictions, potentially tax havens, they could be exempt from the laws we are tightening here in Canada. Could you explain that? Perhaps I've not understood correctly.

[*Translation*]

You may reply in French.

Ms. Brigitte Alepin: That was a good summary, but that's not quite it. I will explain things again.

Since the recent amendments made to section 5907 of the Income Tax Regulations, we know that if Canada signs an agreement to exchange tax information with a tax haven, this will affect the Canadian multinationals that earn business income in that specific tax haven. Indeed, the act was amended in such a way that business income earned in that tax haven could be repatriated to Canada tax free. That was the effect of the recent changes to section 5907 of the Income Tax Regulations. Thus, if a Canadian multinational makes profits that are considered business income in any of the tax havens I referred to in my presentation, that business income will not be taxed in any way, neither in Canada, nor in the tax haven if that country does not collect any income tax.

The rules on the upstream loans intend to catch the multinationals that are attempting to avoid the repatriation income tax. However, at the same time, the legislator is adopting other regulations that allow for the legal cancellation of the repatriation income tax. One can be forgiven for wondering: why bother introducing rules on upstream loans, since there will no longer be any repatriation income tax on the income earned in most tax havens? Clearly, the multinationals are not going to try to put in place strategies to avoid this income tax which no longer exists.

Was that clearer?

Ms. Peggy Nash: I think that I understood things better. I may have other questions for you later.

[*English*]

I want to ask a question to all of the witnesses in my very little time left. We appreciate that you've come here to express the need to get this bill passed. I think all of us agree with that. We're also searching for mechanisms to avoid having another 10-year gap like this, where technical amendments are not brought forward.

In the brief time I have left, would any of you like to comment on a specific recommendation, what you think we should do so that we don't have this lag? Is there any kind of legislative change you would recommend?

The Chair: We have about 30 seconds.

Ms. Peggy Nash: Oh dear.

The Chair: Is there someone who wishes to take that on?

Mr. Boehmer, please.

Mr. Greg Boehmer: I would just say try to get on with it and push the process through Parliament. It seems that most of the bills have died on the order paper and could have been pushed through. We wouldn't be sitting here today with quite so much. This is quite a bit.

● (0925)

The Chair: Thank you.

Thank you, Ms. Nash.

Ms. McLeod, please.

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

And thank you to all the witnesses again in terms of bringing your expertise in this very complex bill to the table.

I'm going to start by picking up on Ms. Nash's point. We've had some debate. I'd really be curious to get a few of your perspectives. Some people are saying a sunset clause would be a good thing. Others are saying that would actually increase havoc for their clients, that we really just need to ensure regular updates. I would be pleased if perhaps Mr. Shillinger, Mr. Boehmer, Mr. Moody, and Ms. Alepin could speak to whether that would actually create some havoc—if for some reason we had minority governments and issues with legislation where you were heading forward in one way with comfort letters. Could you comment, please?

Mr. Lorne Shillinger: Personally I think it creates havoc, just because taxpayers are encouraged by the tax authorities to actually file on the basis of proposed legislation. If you don't have the law actually introduced in the ordinary course and it dies, there's a concern that taxpayers have already filed their returns and planned their affairs based on the proposals and they need to rely upon them.

Mrs. Cathy McLeod: Mr. Boehmer.

Mr. Greg Boehmer: I think that taxpayers do very much rely on both draft legislation and comfort letters. Most of the changes that we're talking about here are very technical in nature. They don't seem to typically deal with policy. We've lived with the system. Some of the amendments in this bill go back to as far as 1996, and taxpayers, while they regret having to follow so many versions of draft legislation, do try to do that. But it would be a lot simpler if the technical amendments could be passed, let's say, on a regular basis—yearly, once every two years at most.

Mrs. Cathy McLeod: Thank you.

Mr. Moody, do you have any comments?

Mr. Kim Moody: I would agree. I've read some of the transcripts and discussion about sunset clauses and I don't agree at all; there are very good reasons for not having them.

A quick example is the restrictive covenant proposals. They were specifically introduced as technical amendments to counteract a decision of the Federal Court of Appeal called Manrell, wherein ultimately restrictive covenant receipts were found not to be taxable—a decision that was very surprising to a person like me. There are very good tax policy reasons for introducing such legislation.

This draft legislation goes back to 2004. If we had a sunset clause, you would have a whole bunch of people continuing to plan to make restrictive covenant proposals tax free, which in my view is ridiculous and ultimately introduces complications that would be further unintended.

So I don't agree with that idea whatsoever.

Mrs. Cathy McLeod: Thank you.

Ms. Alepin.

[*Translation*]

Ms. Brigitte Alepin: I support the comments made up till now and during previous meetings with regard to the complexity of the taxation system for Canadian taxpayers. The fact is that taxpayers have trouble understanding the substance of the tax legislation. I would add also that as Mr. Moody just said, there are tax rules that go back to 1999, 2000 and 2004.

Currently, in 2013, we feel that they must be adopted since we have in practice being living with those rules for almost 15 years. In reality, several government rules should be rethought, in light of the fiscal crisis of 2008, which not only affected Canada, but many other countries as well.

We are in fact lagging behind where certain tax laws are concerned, which apply in practice. Not only is this system very complex for taxpayers, but also for parliamentarians who are trying to put in place effective rules in 2013 and are grappling with a history they are almost obliged to implement now.

[*English*]

The Chair: Thank you, Ms. McLeod.

Mr. McCallum, please.

Hon. John McCallum (Markham—Unionville, Lib.): Thank you, Mr. Chair.

Mr. Moody, you seem to be damning this bill with faint praise. After invoking Adam Smith and his principle of clarity, you say that the provisions in this bill are incomprehensible. If they're incomprehensible to you, an expert, they must be truly incomprehensible to the rest of us.

● (0930)

We support this bill for reasons that others have given. But how can you support a bill that is incomprehensible? How can such a bill actually be enacted if nobody can understand what it is?

Mr. Kim Moody: That's a great question.

Voices: Oh, oh!

Mr. Kim Moody: I would suggest that it's much more than faint praise. As I said in my opening remarks, I commend the Department of Finance for getting this legislation on the table; however, with such a huge piece of draft legislation, it's not unusual that there will be some technical deficiencies.

In particular, there is some draft legislation contained in this bill that is clearly incomprehensible—I mean the non-resident trust rules in section 94. I don't know about any of my fellow panel members, but I could probably count on my left hand how many people there are in Canada who know this stuff inside and out.

Hon. John McCallum: But if it's truly incomprehensible, shouldn't it be amended?

Mr. Kim Moody: Ideally, it would be, as I said in my notes.

If I had to place Adam Smith's principles, certainty and fairness are above, in my view; they are the more important. As I mention in my notes, how do we give proper advice to clients if we don't know what we're dealing with?

Hon. John McCallum: I still don't understand how certainty can be consistent with incomprehensibility.

I'll go to another issue. In an earlier blog, I think, you said:

> Revisions to the personal services business rules...will have a dramatically negative impact for persons who carry on a personal services business through a corporation.

Can you describe what this dramatically negative impact is and give an example or two of such an impact?

Mr. Kim Moody: I'm impressed you read my blogs.

Hon. John McCallum: We're informed in the Liberal Party.

Voices: Oh, oh!

Mr. Kim Moody: The impact is going to be significant, in the sense that we now have an increased 13% lift on the tax rate, whereas it used to be somewhat neutral to carry on through a personal services business corporation, and to a certain extent advantageous. The hammer prior to the reduction in tax rates was not as dramatic as it is today.

Hon. John McCallum: But again, this is sort of damning with faint praise. It's a dramatically negative impact, but you still support the bill.

Mr. Kim Moody: Absolutely. Do I support personal services business corporations? Not at all. The point in what I was writing was that if you're going to carry on this dangerous game of carrying on your business through a personal services business corporation, then you'd better beware. I, by no means, support carrying on personal services business corporations.

Hon. John McCallum: Okay.

The last question is to you. This is another thing you wrote—

Mr. Kim Moody: I love it.

Hon. John McCallum: —and I quote:

> While many of the [other] proposed amendments are controversial, it will be welcome to obtain certainty on the passing of the proposed amendments so that we can give sound tax advice....

Which of these measures do you regard as particularly controversial?

Mr. Kim Moody: The non-resident trust rules are quite controversial—they're the ones I mentioned—and the restrictive covenants. I support the restrictive covenant proposals. I think it's offensive that people should be receiving such amounts tax free. But the legislation itself is so broad—it's the same thing with the non-resident trust rules: they're so broad—that there are, I believe, significant unintended catches.

Hon. John McCallum: Okay, thank you.

Do I have time for one more question?

The Chair: Thirty seconds.

[*Translation*]

Hon. John McCallum: My question is for Mr. Tremblay.

Could you give us an example of a case where under this bill, the principle of solicitor-client privilege will not be respected?

Mr. Gérald Tremblay: It is quite difficult to give you a specific example. Indeed, I would have to invent a scenario because this type of provision is new.

However, when a client comes to consult us, generally speaking, we tell him that if he wants to have good service, he must tell us the whole truth. Now, we would have to tell clients that they need to know that we may be forced to report what they tell us and that consequently, they should be careful regarding what they tell their lawyer. That is extremely difficult for a jurist to accept.

● (0935)

The Chair: Thank you.

[*English*]

Thank you, Mr. McCallum.

Mr. Jean, please.

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

And thank you for your testimony today.

Mr. Moody, do you accredit most of your vast intelligence to the raising of yourself in Fort McMurray in the seventies?

Voices: Oh, oh!

Mr. Brian Jean: I'm just kidding.

Mr. Kim Moody: I was born in Prince Albert, actually.

Mr. Brian Jean: Seriously, Mr. Moody, yours is very impressive testimony so far.

I'm curious about a couple of things.

First of all, the amendments to the tax statute in particular are pretty much of two types: one is relieving and the other remedial, as far as their purpose is concerned. Both of them, obviously, affect tax revenue somewhat. They fix overtaxation or they close tax loopholes. Would that be fair to say for the majority of these tax amendments?

Mr. Kim Moody: Do you want me to answer in Fort McMurray-speak?

Mr. Brian Jean: Yes, please, that would be best.

The Chair: We only have two official translations here, sir.

Voices: Oh, oh!

Mr. Kim Moody: For the benefit of the rest, I grew up in Fort McMurray, so the honourable member knows my stomping ground.

But overly simplified, yes, I would agree.

Mr. Brian Jean: So really what we're here today talking about, what we have been hearing testimony about over the past period of time, and what we have been trying to pass through the House, is to fix overtaxation or to close tax loopholes. Would that be fair to say?

Mr. Kim Moody: Generally.

Mr. Brian Jean: The source of these are decisions from courts, comfort letters that have been sent out—I understand there's about 30 a year—and some other minor changes that are suggested by either the taxation department or some of your experts who are here today?

Mr. Kim Moody: That's correct, yes.

Mr. Brian Jean: Okay.

How do other countries communicate proposed legislative changes like these?

Mr. Kim Moody: That's an interesting question. The most obvious is the United States. I'm watching the lead of some of my colleagues. We have eight U.S. tax lawyers in our practice, so we're watching how they analyze U.S. tax legislative changes. It's quite different from Canada. By no means am I expert in that process, but I would suggest that our process is, number one, very different, but probably, fundamentally, not all that different, in terms of the sources of change.

Mr. Brian Jean: I just noticed, for instance, that in part 1 of Bill C-48 it's the eighth time the Department of Finance has tried to change NRT and FIU rules—the eighth time.

Does anybody understand why that is? Why is it the eighth time and we're sitting here studying it again, and the opposition, although they say they're in favour, actually make moves that say they're not?

Does anybody understand why that's taking place? Really, we're talking about fixing overtaxation and closing tax loopholes, which are obviously very important to government revenues and also important for certainty and Adam Smith's mandate.

Mr. Kim Moody: I would suggest, with respect to the non-resident trust rules, given the fact that they were very controversial at the time they were first proposed, and the numerous studies and consultations and presentations that were done by interested parties —and then, of course, with the minority governments we had and the inability to get it passed—hopefully we never see something like this happen again.

Mr. Brian Jean: But to all of you gentlemen and lady here today, you must wonder what you're doing here again.

We're spending the same amount of time, and more time, in fact, studying a bill that no one is opposed to.

Mr. Kim Moody: If what you're suggesting is that we're frustrated that it's taken this long to get through, then I would agree.

Mr. Brian Jean: Okay.

Is there anybody else?

Mr. Shillinger, would you like to add anything to that?

Mr. Lorne Shillinger: I have the same comment. It's preserving the integrity of the tax system and it's time to get this bill passed.

Mr. Brian Jean: Have any of you experts here at the table heard of anyone speaking against passing Bill C-48? Is there any legitimate opposition to it?

Mr. Kim Moody: Not really, just small little nits here and there.

Mr. Brian Jean: All right. Thank you very much.

Those are all my questions.

The Chair: Thank you, Mr. Jean.

[*Translation*]

Mr. Côté, you have the floor.

Mr. Raymond Côté (Beauport—Limoilou, NDP): Thank you very much, Mr. Chair.

When I listen to my colleague Brian speak, it reminds me of when I was on the Standing Committee on International Trade. We would object to free trade agreements because they contained measures we did not agree with, not because we were opposed to free trade.

Coming back to you, Ms. Alepin, I found your presentation very enlightening. I was especially interested in what you said about the blatant contradiction as regards the provisions that will come into effect under Bill C-48 . They make a lot of sense, as you pointed out at the beginning of your presentation, but they conflict with the double taxation avoidance agreements between two countries. All of that is very interesting.

Right now, we are studying tax havens. At the end of the day, however, the real problem probably isn't the fact that people are trying to evade taxes but, rather, that the state is giving them the mechanisms to do so, or taking contradictory approaches.

Under this study, we have examined the issue of transfer prices because that is another serious problem. As you told my colleague Ms. Nash, the real problem, when all is said and done, is that the government is working against itself by signing these non-taxation agreements.

● (0940)

Ms. Brigitte Alepin: When I read Bill C-48 as it relates to all the measures the Canadian government is putting forward to address the taxation of Canadian multinationals, one thing is clear. On the one hand, the government really seems to want to end a form of tax fraud involving tax havens. It is targeting taxpayers, ordinary citizens who are not respecting the tax system by putting their money in tax havens. My sense is that the Canadian government wants to crack down on that practice.

On the other hand, however, when it comes to tremendous corporate and personal wealth, the government seems to want to create a legal way to exempt the super wealthy from paying taxes. There seems to be a two-tiered system to deal with the whole matter of tax havens, international transactions and so forth. If you're not a multinational or you aren't super wealthy, the government is watching you, given that a multitude of rules can be applied to stop your aggressive tax planning tactics. But if you're in the opposite position, the government seems to want to make it easier for you not to pay taxes. The upstream loan rules set out in Bill C-48 are an example of the government contradicting itself.

Mr. Raymond Côté: I have to say that your work has been very helpful as part of our tax haven study. Thank you very much.

I would now like to move on to Mr. Laforest. I found your presentation quite informative. I, too, did a short stint as a self-employed worker before I was elected. It's not an experience I remember fondly, tax-wise. I have to say it was unbelievably complicated.

When you talked about how the tax system treated self-employed workers in terms of their Quebec parental insurance premiums, you likened it to a hybrid formula based on the treatment of salaried workers. What you said about the deduction of the amounts paid under section 60(*g*) struck me.

The Chair: Thirty seconds left.

Mr. Raymond Côté: I have barely 30 seconds left. I talk a lot, Mr. Chair. Thank you for telling me how much time I have left.

How open do you think the Canada Revenue Agency is in this respect? Do you think it should make the correction to bring Quebec in line or should it be the opposite?

Mr. Stéphane Laforest: The tax treatment of those contributions must be adapted to what was done in Quebec, but contributions to the Quebec Parental Insurance Plan began on January 1, 2006. Taking into account the comments made by those who are also here, I can say that the bill follows a process that is complex and very slow, but that needs to be done correctly. When you look at the measures specific to the tax treatment of Quebec Parental Insurance Plan premiums, you see that, had they been treated in a separate bill, this issue would have been resolved long ago.

Section 118.7, as it appears in the brief, covers tax credits that are strictly applicable to salaried workers, and not entrepreneurs, as far as premiums paid go, including employment insurance premiums. That is the section in which a portion of the Quebec Parental Insurance Plan deduction is being incorporated. That goes against not only the purpose of the section, but also against the very nature of business income.

● (0945)

The Chair: Thank you very much.

[*English*]

We'll go to Mr. Adler, please.

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

I'm delighted to see all of you here this morning.

I would like to begin by commending Mr. Moody on mentioning Adam Smith, and I would highly recommend *The Wealth of Nations* to my friends in the NDP. It's not only far more enjoyable reading, but far more practical reading than the Marx and Engels reader. I would encourage you to head to your nearest bookstore and pick up a copy.

Conceptually speaking, this bill is about tax fairness, as you have indicated, Mr. Shillinger. Since 2006 our government has closed about 50 tax loopholes, and as a result we have been able to bring in about $2.5 billion more annually.

I put this to Mr. Boehmer first. Could you comment on this bill more as a bill trying to achieve tax fairness and tax consistency and stability in the marketplace, as opposed to just a run-of-the-mill tax bill?

Mr. Greg Boehmer: That's a very difficult question, in a sense. I think it is fair to say that businesses and corporations, and individuals for that matter, plan their affairs based on actual tax legislation. It's very clear that this legislation is aimed at fairness, that it does close a number of loopholes, and that it does broaden the base in certain circumstances. On the other hand, from a taxpayer's perspective, it has a number of relieving measures that really do help the taxpayer get through with a particular transaction. So it's a very welcome sight from that perspective.

The main issue, as I see it—and I'm sure some of the others here today would see it this way as well—is that when you have a change that's introduced and then it's changed and changed again, through various iterations, and it's reintroduced several times, it makes coming to a decision and an interpretation of a particular provision of the act very difficult.

I think enacting this, with all the potential shortcomings, is nevertheless a very good thing for the government to do.

Looking forward, I think additional amendments are obviously required, but perhaps at some point look at the statute and try to figure out if some sort of reform is necessary.

Mr. Mark Adler: So passing this bill as expeditiously as possible would not only benefit taxpayers, both from the business community and individuals, but it would also help tax practitioners do their job.

Mr. Greg Boehmer: Absolutely, and it's not just our job; it's getting on with business for our clients.

Mr. Mark Adler: Creating additional jobs, growth, and long-term prosperity in our country....

Mr. Shillinger, could you comment on the consultative process and how your clients view that entire process? We're known for being very consultative and reaching out before we come up with legislation that's introduced in the House—consulting almost to a fault. Could you comment on the degree of satisfaction among your clients, in terms of our consultative process and reaching out and getting their opinion?

Mr. Lorne Shillinger: It's an excellent question. Actually, it's been very much top of mind for us as well.

The initial announcement on Halloween in 2006 wasn't consultative. It would have been a shock to the system. Again, shutting down a sector is a policy choice.

The REIT community as a whole was greatly relieved that they were spared, and there's global precedent to keeping real estate investment and flowthrough structures—preserving that. The REIT community responded with relief that they were spared. Dealing with the technical material that followed months later...it was drafted quickly, and there were flaws in the draft legislation that made it difficult for the REIT community to actually follow the rules.

But the process continued. All of the professionals serving large REITs—the joint committee on taxation, the lawyers and accountants—made submissions to Finance. I know I was one of three people who flew up to the Department of Finance in the fall of 2006 to start our series of meetings with them. Those meetings were productive.

No one said no to us. It was a very healthy debate around taxpayers who just wanted to follow the rules, and making presentations to make those rules work with a modern REIT structure. A landlord who builds, develops, and rents to tenants, and who forms structure throughout the years, just wants to make the rules work.

The process was very good and healthy. We went back as different versions of the bill came out. There were flaws brought to their attention and they were addressed and fixed.

● (0950)

The Chair: Thank you.

Thank you, Mr. Adler.

We'll go to Mr. Rankin, please.

Mr. Murray Rankin (Victoria, NDP): Thank you.

First of all to Mr. Adler, through you, Mr. Chair, I'd like to quote Adam Smith, who I read regularly:

> ...to feel much for others and little for ourselves, to restrain our selfish, and to indulge our benevolent affections, constitutes the perfection of human nature.

That's Adam Smith.

I'd like to ask a question of Maître Tremblay, if I could. You mentioned, sir, the reporting requirements that the B.C. Supreme Court found unconstitutional in respect of parallel legislation, and you indicated that the B.C. Court of Appeal is soon going to pronounce on that appeal. You said, I think, that there's a section of Bill C-48 that has the same effect. What I think you're saying is that if that Court of Appeal decision stands and is applicable across the country, we'll immediately have an unconstitutional section of Bill C-48. Is that what you're saying?

Mr. Gérald Tremblay: There's nothing absolute in law. I'm saying we're all in favour of speedy passage of this legislation. If we could avoid further litigation, a very minor amendment to proposed subsection 237.3(17) would close that possibility and I think would respect the integrity of the relationship between the client and his lawyer.

Mr. Murray Rankin: When you speak of lawyers, I recognize, of course, sir, that you're accountable to the lawyers and notaries of Quebec. What about tax advisers who are accountants? What about those advisers? Don't they have similar concerns? Wouldn't you expect there should be some similarity? I realize solicitor-client privilege is not applicable to other professions, although in Quebec there may be something in their profession's code that would be applicable.

Isn't this a little unfair?

Mr. Gérald Tremblay: The issue here is really professional privilege. I would say that in all “civilized countries”, the lawyer has always had a very special status because of what it is; the solicitor-client relationship is extremely important. I realize that it could be very embarrassing, too, for accountants. It may require some adjustments for them, too. But I speak for the legal profession. The legal profession has always been described as a foundation of our system.

Mr. Murray Rankin: Okay.

I'd like to ask Mr. Moody a question and demonstrate that it's not only my colleague Mr. McCallum who reads your blog. In *The Bottom Line*, I think you said:

> One reason for the changes, and the complexity, is a feeling within government that there is a lack of compliance in certain tax areas.... There is a general feeling that there’s a whole bunch of abuse out there. The Department of Finance wants to capture that abuse as broadly as possible. As a result, rules are created that are often incomprehensible.

—to use the words you've used again this morning.

Are you speaking more of multinationals and large corporations, or are you thinking of individuals, or both?

Mr. Kim Moody: I'm thinking of everything. I think if mischief is perceived to be going on, one way of fixing that problem with respect to drafting legislation is to take a shotgun approach and try to kill everything that's perceived to be the abuse now and into the future.

Mr. Murray Rankin: Were you thinking about the lack of resources for the Canada Revenue Agency or perhaps a difficulty in retaining personnel, etc.? Is it possible that might be contributing to that lack of compliance you refer to?

● (0955)

Mr. Kim Moody: I can't recall the blog you're referring to exactly, but in general I would suggest that, yes, there are probably significant under-resources.... Let's try that again. You just can't staff everything to catch all the abuse.

I don't know if I answered your question.

Mr. Murray Rankin: I think in another blog, you referred to, or Moody's Tax Advisors talked about, a deduction against Canadian tax for the vast amount of professional fees paid to the IRS offshore voluntary disclosure program, and you argued that there ought to be this deductibility. Can you speak to whether Bill C-48 addresses your concerns?

Mr. Kim Moody: No. Bill C-48 doesn't address that whatsoever, and I wouldn't expect it to.

Can I just address one question you had? Proposed subsection 237.3(17), which is what Mr. Tremblay is talking about, does carve out solicitor-client privilege. I'm a little puzzled as to where the issue is. Having said that, I'll just throw that out to you.

The Chair: Thank you.

You've got about 10 seconds, Mr. Tremblay, if you want to respond.

Mr. Gérald Tremblay: I have just one response. In proposed subsection (17), the privilege belongs to the client. Subsection (17) forces the lawyer to make an assessment as to whether or not one portion of his consultation is covered and the other portion is not covered, and all of that without his client knowing about it. That is an impossible situation for a lawyer.

The Chair: Okay, thank you.

We'll go to Mr. Van Kesteren, please.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you all for being here.

Sometimes we tend to think that a bill like this is pretty dry. I think as we've mined into it we've started to see how fundamentally important it is that we pass this thing.

I'm interested. Mr. Moody, you talked about a business transaction and how that slowed down commerce. We had a witness here last week, I believe it was, who gave an example of an American entrepreneur who had come into this country, had done very well, and then wanted to sell his business and move. Of course, when that type of transaction is made, the money starts to flow and things start happening.

I'm wondering if you have examples of that happening, where commerce has stopped because of laws that aren't clear, so clients stop in their tracks.

Mr. Kim Moody: Yes, and I'll give you a live example from about five years ago that comes to the top of my mind. I'll pick my favourite topic again, the restricted covenant proposals.

We had a transaction whereby a client was selling his business to an American company for I think it was in the $100 million range. It was a private business, and some non-compete agreements had to be granted by the individual who owned the company. In this particular case, and these were the early days of the draft legislation, a bunch of elections had to be filed if you respected the draft legislation. The U. S. counsel involved, who represented the purchaser, didn't understand what this meant to them. We insisted that if you're going to respect the draft legislation, you've got to sign it. Anyhow, to make a long story short, the deal died simply because of that.

Mr. Dave Van Kesteren: I've argued this as well. I understand. I think we've talked at length about the fact that there's a necessity to create legislation because people are going to cheat. But for the most part, I would argue—and I want to get your opinion on this—that most corporations and most individuals want to pay their taxes, not necessarily because they want to pay their taxes, but because they want to get it done. They don't want to be told—and I've had this happen personally—later on, a year or two later, that the government has made a little bit of a different ruling here. It's kind of like having the sword of Damocles hanging over you.

Is this the sort of thing that this legislation is going to correct, so that companies and individuals know that, yes, they've paid their taxes, they can go on, they can reinvest, and they can start to do the things that business people do? Is that a correct assessment?

I would just give it to you, Mr. Moody, and maybe Mr. Boehmer will want to add to that.

● (1000)

Mr. Kim Moody: I think it's a contributing factor. As my panel members have already agreed, it's important to get certainty. This goes a long way to getting that certainty and to keeping business moving.

Mr. Greg Boehmer: We're certainly aware. I have one particular example on the go in which if a taxpayer transfers a particular asset on which there is an advanced income tax ruling based on an outstanding comfort letter and included in Bill C-48, the accounting treatment is very odd. It would give rise to recording all of the tax in the financial statements. When Bill C-48 is passed, that liability that arises in the financial statement will be reversed based on what the law actually will be. It's a very anomalous result, and it has stopped the taxpayer from going ahead and completing the transaction.

Mr. Dave Van Kesteren: Finally, Mr. McCallum was talking about tax simplicity and simplifying the code. Is that a realistic objective, or is the answer that we just continuously do these sorts of things maybe on a timely basis? Can we have tax simplicity? Is that something we can achieve?

I leave that open to whoever wants to jump on that one.

Mr. Kim Moody: I'll jump in.

Obviously simplification is an admirable goal, and it's good media. Let's simplify the tax...the media often says “code”, but it's really the “act”. I think it comes at a price, though, and it comes at a price of fairness and equity. Is there room for simplicity? I would suggest there probably is, but do I think it's realistic? Nope, I don't, not in today's current environment. Commerce and the way we conduct business are way different from what they were when the Income Tax Act first came in, in 1917.

The Chair: You're out of time, Mr. Van Kesteren. Did you want someone else to comment briefly?

Mr. Dave Van Kesteren: Madame Alepin.

[*Translation*]

The Chair: Ms. Alepin, I would ask that you please keep it brief.

Ms. Brigitte Alepin: First off, I agree with Mr. Moody. We don't know whether the coming years will bring fiscal crises, but taxpayers are going to have to take a closer look at the Income Tax Act to determine whether it treats them in a fair, reasonable and equitable manner. The current Income Tax Act would make that impossible. It's even a bit tough to do that under Bill C-48.

In the short term, I don't think it's possible to simplify the act. We don't know what will happen in the medium or long term, since we don't know what the future holds or how tax laws will affect taxpayers.

[*English*]

The Chair: Thank you.

Thank you, Mr. Van Kesteren.

[*Translation*]

Mr. Caron, you have the floor.

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

[*English*]

First, just to answer Mr. Adler, I've read *The Wealth of Nations* twice, not once. It's a very interesting book, but it makes more sense when it's read in conjunction with *The Theory of Moral Sentiments*, which Adam Smith also wrote. I suggest this reading as well to Mr. Adler.

[*Translation*]

I agree with Mr. Van Kesteren in that it's quite an interesting study. For parliamentarians, the topic is highly complex and occasionally incomprehensible. The bill is nearly a thousand pages long.

I want to pick up on something Mr. Adler asked Mr. Boehmer. Perhaps Mr. Moody and Mr. Shilinger can comment as well.

The government, which wants to pass this bill as quickly as possible, has asked a number of questions, including whether the bill should be passed immediately, without further delay. Would you recommend that Parliament or the committee not study these issues in detail, be it the content or the process used, in order to fast-track the bill? For the purposes of studying the bill before us, do you think the process matters, as regards both the content and the process followed?

Mr. Boehmer, we'll start with you.

[*English*]

Mr. Greg Boehmer: It's a very big bill and I think it's been studied a lot by a lot of people. As Mr. Shillinger mentioned previously, the Department of Finance has been open to consultation on a number of the provisions in the bill.

At this time it does make sense to get on and pass the bill, and if there are further technical amendments required, they should be made after the fact, at a later date.

● (1005)

[*Translation*]

Mr. Guy Caron: The question I asked had to do with parliamentarians, the committee and Parliament. Although the bill has been studied by knowledgeable public servants, specialists and tax experts, even Mr. Moody acknowledges that it still contains elements that are largely incomprehensible.

Should we simply skip over the parliamentary process to pass the bill, as Canada Revenue Agency and Department of Finance staff see fit?

We understand this is important to your members and the Canadian public, but despite the time frame imposed on us, the members of this committee have a duty and a responsibility not just to study the content of the bill, but also to respect the process behind creating bills. I wanted more detailed information in that respect.

All of the witnesses we have heard from, those of you here today and those who have appeared before you, were extremely informative. In fact, we feel we should get more input to gain a better understanding of this highly complex process, the tax system.

Mr. Shilinger, would you like to start?

[*English*]

Mr. Lorne Shillinger: I would not change the parliamentary process of reviewing legislation at all. Whatever the process is of getting this bill enacted, stick to it, full speed ahead. Do not slow down the review process; that's critical to it.

I will echo comments made by the panel. I don't know if I would use the word “incomprehensible”. I will tell you that there are many parts of it, areas that I don't practise in, and we have specialists who spend their whole lives on that. I would say that the bill is highly technical and beyond the layperson. You're talking about complex areas of law that require people who have dedicated their lives to narrow provisions. The community has said, on all the various subject matters in this technical bill, that the fixes that are in it, the policy changes that are important to the government, are critical to be put through now.

[*Translation*]

Mr. Guy Caron: Thank you.

Ms. Alepin, we talked about simplifying the system and coming back to elements of the legislation that already exist. We touched on the topic—and we won't have much time to discuss it further—but I would like to know how you think we, as parliamentarians, can study legislation that is over 3,000 pages long.

Ms. Brigitte Alepin: At this point, the government's limited resources, the highly technical nature of the bill, the fact that it applies to many, but not all, taxpayers, and so forth are all important considerations. Therefore, I tend to think it would be better to remove elements that clearly make no sense in order to pass the bill swiftly and move on to something else. At the same time, it would be advisable to make sure these situations don't happen again.

Outside these walls, some taxpayers are growing weary of watching us talk about a bill that everyone says they don't understand. So it's important to be watchful and keep that in mind as far as further analysis goes.

The Chair: Thank you.

Thank you, Mr. Caron.

[*English*]

Mr. Hoback, please.

Mr. Randy Hoback (Prince Albert, CPC): Thank you, Chair.

Chair, the first thing I want to do is thank the witnesses for being here this morning and for giving their presentations. It's interesting, though. There's nothing in your presentations that I haven't heard in three other meetings previously, or probably in the meetings that have been held in the last six or eight years, or however many years you want to go back, since the last set of changes.

Chair, out of respect for these witnesses—and I hope the opposition party will start showing respect to the witnesses, too—and their time and the money we spend to bring people in for this, and in listening to their request that we just get on with it and get this piece of legislation passed and move forward, I'm going to let my time go. I really don't have any more questions that I haven't heard or that haven't been asked at previous meetings. I see no reason to use up their time ineffectively, so I will give my time away to the next person. If the NDP needs a little more time, feel free. I think we should just get on with it and pass this.

The Chair: Thank you.

Ms. Glover, you have the next round, so I can give you an extended round. Is that okay?

Mrs. Shelly Glover (Saint Boniface, CPC): Thanks. I'm going to try to make this brief as well.

I want to thank the witnesses for being here again. We've met many times before, some of us.

I have to say, Mr. Moody, that although you may have Alberta blood, you make a lot of sense to us Manitobans. In that vein, I want to ask you a specific question, but it has much to do with what you've already addressed, the question of solicitor-client privilege.

Just for the record—because we've heard the one side by Mr. Tremblay, for those watching—the B.C. case is not at all a tax issue, first and foremost. It's not at all a tax issue. When the proceeds of crime legislation was first enacted in 2001, lawyers and Quebec notaries were required to report suspicious transactions of their clients. That's what the case in B.C. is about; it's not a tax case at all.

For example, if a client paid a $10,000 bill in cash to a lawyer, the lawyer was required to report those kinds of suspicious transactions. That's why the law societies have challenged this, and have been challenging it for more than a decade that it has been before the courts.

So this is a different act and a different tax issue completely.

Mr. Moody, you hit the nail on the head, because you said that Bill C-48—in fact, page 836 of Bill C-48—actually specifies and clarifies that a lawyer who acts as a legal adviser to a client is not required under the regime to report information about tax avoidance transactions that is covered by solicitor-client privilege. I understand that this clarification was made after consultation with the Canadian Bar Association and the federation in 2010.

Let's move to Mr. Tremblay's concern. The federation is now saying that all lawyers and Quebec notaries should be exempt from the reporting rules. Well, I think the concern here is that if we do a broad exclusion like that, it would significantly undermine this law's effectiveness. The obligation on advisers under Bill C-48 to report exists only in situations in which their fees are contingent on a client obtaining a tax benefit from an avoidance transaction or in which the tax benefit is otherwise guaranteed to the client.

So when the lawyer puts his own skin in the game—when he has money dependent on what comes back—that's when he's required to report. In these circumstances—of course, advisers and promoters already have a personal interest, as I just described, in the success of the reportable transaction—if a lawyer does this, he or she has compromised his or her independence and duty of loyalty to the client and ought to report. I think this is a good compromise.

I want you, Mr. Moody, to comment on the fairness of this. Frankly, if tax advisors have to report and lawyers start to do the same job you're doing under a cloak of secrecy for their own benefit, it will put you out of business, will it not?

Do you think this is a compromise that is fair?

● (1010)

Mr. Kim Moody: Wow!

I think I understand Mr. Tremblay's concern, but without trying to put words in his mouth, I'll try to at least summarize it from what I understand.

The concern is about what advice is solicitor-client privilege, and thus gets the statutory exemption from the reporting rules, and what is not. Unlike what many lawyers think....

I'm a student of privilege. I'm not a lawyer, but I have studied privilege for the last 20 years, roughly. Without trying to brag, I probably know more about privilege than the average lawyer. Having said that, it's a very difficult area, to determine what is privileged and what is not.

I'm guessing that my colleague is suggesting that we don't want to be put in a position like this, in which we have to decide what's privileged and what's not. I can sympathize with that. I understand that.

Mrs. Shelly Glover: Well, Bill C-48 actually clarifies it, and I think it's pretty clear: when the lawyer is going to obtain some kind of fee because there's a tax benefit from the tax avoidance measure—so when he has skin in the game—that's when it's reportable.

Mr. Kim Moody: I'm not sure what to say. I love the legal profession; I certainly respect privilege. Frankly, the Supreme Court has said it's a constitutional right. So I get it.

However, do I think that lawyers should be able to simply wave their white flags, or...white flag is the wrong word, but just wave a blanket exemption and say, no, we're not going to be subject to these rules because it's privileged? No, I don't think so, because, to your point about whether it compromises non-lawyers, yes, it does.

Does that situation raise policy reasons for having people, such as a lot of the people around our table here, possess statutory privilege? Perhaps it does. But that's a question for another day.

● (1015)

The Chair: Ms. Glover, Mr. Tremblay wants to respond to your question as well. He's waving.

Mr. Gérald Tremblay: I've been seriously attacked and I want to answer.

Mrs. Shelly Glover: Oh, no, I didn't attack you, Mr. Tremblay.

Mr. Gérald Tremblay: That's okay; I'm just joking. Don't worry.

First of all, the problem is not.... If you compare the money laundering legislation and this legislation, it's true that they're on two separate topics, but the reporting requirements for a lawyer, in whatever area we are talking about, raise a very serious privilege issue, in whatever domain you are.

On the second point, about the benefit, I don't buy the argument at all, because you have lots of cases in which you have contingent fees, as for instance in class actions or in medical malpractice. A poor lady does not have any money and she has been the victim of a bad operation. She doesn't have the cash to put forward to bring an action. The lawyer will say, “I'll take 30% of whatever I get for you.”

Do you think that type of arrangement would affect the solicitor-client privilege? To link the method of fee arrangement to the privilege is I think a very dangerous, slippery slope, and I would strongly recommend that you not get into it at all.

For lawyers, with money laundering the basic deal that was struck with the government—but it was not enough, so that's why we went to court anyway—was that if the law societies do whatever is required to discipline bad lawyers....

I have a good quotation here: “When men are pure, laws are useless; when men are corrupt, laws are broken.” Disraeli said that.

If the law societies have what it takes, by way of their own regulations and the staff to enforce them, to discipline the bad lawyers, that is enough. The independence of the bar is very important for the general public.

The Chair: Ms. Glover, you have one minute.

Mrs. Shelly Glover: In response to that, Mr. Tremblay, I absolutely respect the solicitor-client privilege. I spent a lot of time in law enforcement, and it's absolutely crucial to the fairness of the justice system. So I commend you for the work that you do. I don't mean to attack you, but the position that you put forward is what I take issue with.

To be very frank, the suggestion that a malpractice suit is somehow similar to tax avoidance—to advice given to a Canadian to avoid paying taxes to the government, taxes that help us pay for the medical system, etc.—is far-fetched. I'm sorry; I'll disagree with you there.

The easiest way to stay out of this is not to make your fees contingent on a tax benefit from tax avoidance, plain and simple, and then continue your work as a lawyer. Let the tax advisers do the work that they do, and let them report it and be transparent to the government, in the best interest of Canadians.

Thank you.

The Chair: Okay, we're going to—

Mr. Gérald Tremblay: If you do it and you should not do it, you don't lose privilege.

The Chair: We'll have to let this be a matter of debate.

Colleagues, we are at the end of our rounds. I'm advised that at least two of the members wish to move their motions today, so I'm suggesting that we thank our witnesses at this point and move to motions.

I thank our witnesses very much for their presentations today. We've talked about some interesting blogs. I know members will want to be reading up on those as well.

If there is anything further that you wish the committee to study, please send it to the clerk. We will ensure that all members get it.

So I will thank our witnesses and excuse them. But colleagues, I want you to stay at the table. We will start on our motions right away.

Thank you very much for being here today.

Mr. Gérald Tremblay: Thank you very much.

The Chair: Colleagues, let me offer a reminder that amendments for this bill should be sent to the clerk by Thursday, March 21, before 5 p.m. I think everybody is aware of that, but I want to put it on the record. Amendments should be sent by 5 p.m. Thursday.

We have four motions, but I'm advised that Mr. Hoback and Ms. Glover want to move their motions.

We'll start with Mr. Hoback.

Everybody has a copy of the motion, but, Mr. Hoback, perhaps you could read the motion and then explain why the committee should adopt it.

● (1020)

Mr. Randy Hoback: Thank you, Mr. Chair.

I'll read the motion first:

> That the Standing Committee on Finance undertake a study on emerging digital payments systems (such as “mobile wallets” and “near field communications”) in Canada, including but not limited to (i) an overview of new digital payment technologies, including the challenges and opportunities they present (ii) an overview of the evolving role of Government oversight of these systems (iii) how best to ensure small businesses and consumers benefit from these new systems; and that the Committee report its findings to the House.

The reason behind it is that as we look forward to these new technologies with smart phones and near field communications, there are some issues with consumers' awareness and consumers' eyes on protection, privacy, and what happens with the information. There are also some concerns about the type of data and the information that's being presented. This is going to replace a wallet some day. As a committee, it's important for us to understand how this system is working and the impact it will have, not just on the business community but on consumers and constituents.

We should take a few meetings to go through this new technology and get some opinions from people in this field on where it's going and have an understanding of any types of regulations, if any, that are going to be required. We should make sure to be positioned properly as this new technology emerges. That's why the proposal is there.

The Chair: Thank you, Mr. Hoback.

Mr. Caron will speak to the motion.

[*Translation*]

Mr. Guy Caron: Before coming to the Standing Committee on Finance, I was on the Standing Committee on Industry, Science and Technology. I'm not sure whether Mr. Hoback is aware, but that committee conducted an almost identical study to this one in the past year. It studied e-commerce, including the various electronic payment methods such as mobile payments. The report came out no more than six months ago. It is quite extensive, with over 80 pages.

Consequently, I suggest that we review the report to determine whether it would be appropriate for the Standing Committee on Finance to study the subject. Furthermore, if Mr. Hoback was interested in a more focused study, addressing, for instance, the very specific payment methods he mentioned, I think the industry committee would be better equipped than the finance committee to handle that.

The committee has limited time and the budget and budget implementation bills are imminent. So I don't necessarily think redoing a study that has already been done by another committee is the best way to use our time.

[*English*]

The Chair: Merci.

I have Ms. Glover and then Mr. Jean.

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

I want to commend Mr. Hoback for the proposal. I want to add that the finance department is actually responsible for much of the oversight for measures that affect consumers, like this new digital payment. Unfortunately, the industry committee hasn't looked at what the responsibilities in that area would be. That's why the finance ministry would take some good best practices from a study like this. Of course, we've heard numerous times the NDP ask questions about protecting consumers in the House of Commons. As a government, we have developed the code of conduct,and we continue to look for ways to ensure consumers are protected.

Again, the industry committee did not look at the oversight mechanisms. They did not look at how the Office of the Superintendent of Financial Institutions would play a role in that. Because of that lapse, this is a tremendously important proposal put forward by Mr. Hoback. I intend to support it. I intend to continue to protect consumers as well as we possibly can. This is just one more piece towards making sure we continue that.

The Chair: Thank you.

Mr. Jean, please.

Mr. Brian Jean: You took the words out of my mouth.

My understanding of the industry committee report was that it was more technical in nature, in relation to the specifics of it. My understanding is that we could actually utilize more of the financial implications...what this new technology means, and use the industry report to do that. From my perspective, it was more industry-specific on the industry committee, dealing with the technology, whereas this would be more of the financial implications.

Mr. Caron, I have not reviewed the industry report, but I will be supporting Mr. Hoback's recommendation as well.

The Chair: Okay. Thank you.

I have Mr. McCallum, Ms. Nash, and Mr. Caron.

● (1025)

Hon. John McCallum: Perhaps this is implicit in the motion, but one of the issues in such a study should consider the transaction fees, because in certain instances in Canada those are said to be high. In terms of consumer protection, I think that should be a part of the study.

The Chair: Thank you.

Ms. Nash, please.

Ms. Peggy Nash: I'm recalling how limited our time is on the finance committee. We had quite a large discussion in the subcommittee, trying to squeeze in more time for the motion from Mr. Brison on inequality, and we know we have—

The Chair: I will just remind you that this is a public meeting, so subcommittee discussions should be—

Ms. Peggy Nash: I'm sorry, I didn't realize.

The Chair: Yes, this is public.

Ms. Peggy Nash: Sorry. I thought it was in camera.

We are limited in terms of our time, and there are so many competing recommendations for studies. While I respect the intention of Mr. Hoback, I have not had a chance to read the industry report. In fact, I didn't know the industry committee had done a report on exactly the same subject recently. Has everyone read the industry report? Do we know for sure that the questions being raised have not being studied? I have not had the chance to do that.

With the limited time we have at the finance committee and how strictly the chair has been interpreting the domain of the finance committee with regard to what we can and cannot study, and what is and what isn't in order for study in the finance committee, it would be a shame to replicate work that has already been done by another committee.

The Chair: Okay, thank you.

We'll have Mr. Caron, then Mr. Rankin and Mr. Hoback.

[*Translation*]

Mr. Guy Caron: I agree with Ms. Nash. The committee's report does not focus exclusively on technical matters, although they are addressed at length. Transaction fees, for example, were thoroughly examined. The committee did address the privacy aspect in its study and its report.

This motion seeks “an overview of new digital payment technologies, including the challenges and opportunities they present....” That subject was covered in the report. The motion also calls for “an overview of the evolving role of government oversight of these systems, (iii) how best to ensure small businesses and consumers benefit from these new systems....” That, too, was addressed by the committee. The motion refers to elements that were considered by the industry committee and that appear in its report, which came out just six months ago.

I am genuinely interested in protecting consumers, but that isn't the case here. Knowing the work has already been done, we have to decide whether that is how we want to use the valuable time we have in the finance committee, at least until the end of June. That is all the more relevant given that the budget is coming and we'll soon be studying budget implementation bills. To my mind, that wouldn't be the best use of the committee's time at this point.

[*English*]

The Chair: Mr. Rankin, please.

Mr. Murray Rankin: Thanks, Chair.

I'm feeling a little conflicted. I listened to Mr. Hoback's motion, and I thing what he is proposing is really important and interesting. I have not had an opportunity to read the report. I listened to Mr. Caron and Ms. Nash and I'm finding myself in agreement with their points.

My question is a procedural one. Would it be acceptable to ask our analyst to look at the report that is already done and advise us on whether or not it addresses these things that are in your motion? Therefore, I would ask Mr. Hoback if he would be willing to defer. I'd have an opportunity to read the report before having to vote on something on which I am really conflicted.

The Chair: As the motion has been introduced, the motion is now the property of the committee as a whole, so the committee as a whole would have to choose to defer or choose to vote or not vote today on this motion.

Thank you.

Mr. Hoback, please.

Mr. Randy Hoback: Chair, I find it really interesting. I've had groups come to me saying there is a lot of confusion in this area and there is a lot of work that needs to be done on it. If the industry report was such an effective report, why are they still coming to my office and requesting information and clarification about what's going forward?

With regard to committee time, Chair, as I've said before in a previous meeting, we have been bringing witnesses over and over again, in the last two or three meetings, who are repeating the same answers, one after the other after the other. If the NDP really wants to respect the time of the committee, quit doing that. When it's common motions, when it's something that's consistent, that we all agree on, let's push it through, move it through, and get onto some business that's actually very relevant.

This is very relevant. This is structural change in how we do commerce. We as a committee should understand how this is all going to work. We should have an understanding about who is going to be impacted, an understanding of what type of regulation should be required to make sure consumers are protected properly. We should hear out both sides, both the banking sector and the Consumers' Association, and get their concerns on the record with the finance committee, and then go forward with what we think are recommendations. That's why I brought this forward.

● (1030)

The Chair: Thank you.

I have no further speakers; therefore, I'm going to....

Mr. McCallum?

Hon. John McCallum: I don't know if this is in order, Mr. Chair, but I'd like to propose a very small and hopefully friendly amendment. Is that allowed?

The Chair: Amendments are amendments. I don't know why we keep calling them friendly or unfriendly.

Some hon. members: Oh, oh!

Hon. John McCallum: Well, one way to find out if it's friendly—

The Chair: You're a friendly person—

Hon. John McCallum: —is to say what it is and see what people say.

My suggestion is that where it says “including the challenges and opportunities they present”, we just say “including transaction fees and the challenges and opportunities they present”. It just adds the words “transaction fees”, which reflects my earlier point.

The Chair: This would be in point (i): “an overview of new digital payment technologies, including the transaction fees and challenges”—

Hon. John McCallum: Or it could say “including transaction fees and the challenges...”.

The Chair: Okay. That amendment is in order, so we'll now have discussion on the amendment.

I have Monsieur Caron.

[*Translation*]

Mr. Guy Caron: Mr. Rankin made an excellent point. I don't think many people have actually read the industry committee's report. In the event that Mr. Hoback's motion seeks information that is similar to the content of the report, it would be advisable to, at least, read the committee's report.

If it does not specifically address certain elements that Mr. Hoback wishes to examine, he could refine his motion to focus solely on elements that the industry committee did not consider during the six or eight meetings it spent on the study. It's a matter of not having the finance committee duplicate the same work, and possibly even hear from the same witnesses.

The issue is whether we want to use the committee's time as effectively as possible. If so, I would encourage Mr. Hoback and the committee to hold off on dealing with this motion. We should make sure that the finance committee focuses solely on elements that the industry committee did not already address as part of its lengthy study.

This suggestion is intended to move the debate forward and ensure we make the best possible use of the little time we have.

The Chair: Thank you, Mr. Caron.

Ms. Glover, please.

[*English*]

Mrs. Shelly Glover: Thank you.

I like the amendment by the friendly Mr. McCallum. I think it's a good amendment.

Now, with regard to what Monsieur Caron just said, I'm quite surprised, frankly, that the NDP members didn't do their due diligence. We had a break—actually 10 days—and this motion has been on the table for almost two weeks.

The Chair: Well, we all work very hard on our breaks.

Mrs. Shelly Glover: Yes, we all worked very hard during that break serving our constituents; nevertheless, I'm a bit surprised.

The industry report does not address what consumers are now faced with, such as, can you do a tap and go with two credit cards on the same device? What are the rules for the financial institutions to allow this? It does not cover that. They can read the report all they want after the fact. It does not address that.

With all due respect, we must give best practices so that we are addressing consumers' interests in this, and of course financial institutions' interests.

Again, I think this is great timing, before consumers end up being more confused than they already are.

I do support the amendment put forward by Mr. McCallum.

The Chair: Okay. I have two more speakers. I'd really like to go to votes on the amendment and the motion after that.

We have Mr. Hoback and Monsieur Caron.

Mr. Randy Hoback: I, too, Mr. McCallum.... That actually was the spirit of what I had proposed. If it makes you more comfortable by amending it that way, I have no problem with that.

The Chair: Thank you, Mr. Hoback.

Monsieur Caron.

[*Translation*]

Mr. Guy Caron: I understand what Ms. Glover is saying. There are more specific and more technical matters that we could potentially study, but that's not what the motion says. It involves the whole issue of e-commerce.

[*English*]

by and large.

[*Translation*]

The motion actually gives the committee a very broad mandate, similar to the one given to the industry committee. I read the report. Not only did I read it, but I also had a hand in writing it, in preparing the recommendations. So I'm quite familiar with the report.

We could certainly examine more specific considerations. But the motion would have to say that, so we don't waste the finance committee's time, don't hear the same input from the same witnesses and don't examine related issues that have already been dealt with. If a motion is going to be moved, it has to be more specific and clearly identify the exact objectives.

I have no objection to considering matters that the industry committee did not focus on, but that isn't what the motion says as it currently stands.

● (1035)

[*English*]

The Chair: I'm going to call the question on the amendment as proposed by Mr. McCallum.

(Amendment agreed to)

The Chair: On the motion as proposed by Mr. Hoback as amended, all those in favour?

Hon. John McCallum: Can we have a recorded vote for that?

(Motion as amended agreed to: yeas 10; nays 1)

The Chair: The motion is carried.

Colleagues, we have one more motion for today. Ms. Glover—

An hon. member: Was that on the amendment?

The Chair: No, the amendment carried. It was a vote on the motion as amended. I thought I was pretty clear on that.

An hon. member: He asked for a recorded vote. I thought it was on the amendment.

Mr. Murray Rankin: It was whether we wanted the transaction costs....

The Chair: Ladies and gentlemen, I don't move all that fast. I've never been accused of being a quick guy. I heard the NDP abstain on the amendment.

Mr. Guy Caron: It doesn't matter.

The Chair: Anyway, it carried.

The notice of motion from Ms. Glover, please.

Colleagues, we have less than 10 minutes, so I'm hoping for a quick debate and vote on this motion.

Mrs. Shelly Glover: I'll move it quickly. I'll just read it:

> That the Finance Department provide an annual update to the Finance Committee on the status of all outstanding technical tax changes in an effort to ensure regular and timely legislation as already committed by the Conservative government.

The Chair: Thank you.

Discussion?

Ms. Nash.

Ms. Peggy Nash: I intend to support this motion. However, I want to point out the problem with it. The mechanism for requiring this annual reporting, which is a motion of the finance committee, would not survive this Parliament. It would not survive in fact a prorogation. It is a time limited mechanism for making such reports required.

However, it does move in the direction that we support, which is getting this government, after 10 years, to have more regular technical amendments for our tax laws; it is one step closer. We will support it, but I would like to raise for my colleagues that there is a concern on our part that this is a change that is not going to be a permanent requirement for the finance committee. In that sense, we believe it is a weakness in this measure, but we will support it nevertheless.

The Chair: Thank you.

Can I go to the vote on this then?

Mr. McCallum.

Hon. John McCallum: The issue I think I heard was that there should be a deadline and there is no deadline in this motion. It could be anytime. Should there not be a deadline specified?

● (1040)

The Chair: Thank you.

Ms. Glover.

Mrs. Shelly Glover: Just to clarify, I don't think the issue for Ms. Nash is a deadline. It's whether or not this would survive prorogation and then continue to be required annually in the finance committee. As we all know, nothing that we do in the finance committee, or any other committee for that matter, continues after prorogation without the unanimous consent of the committee. Of course, we bring it back, just like we do with everything else, and continue as always.

I think we can all leave it to the clerk and the chair to ensure that it's scheduled yearly, and through the subcommittee we can ensure it's scheduled yearly in the calendar.

The Chair: Thank you.

All those in favour of the motion?

(Motion agreed to)

The Chair: I see there is unanimous support for this motion.

Colleagues, there is one other quick item.

The proposed budget was e-mailed yesterday. If there are questions, we can deal with this on Thursday morning, but I don't know if members have had time to review this. It was passed yesterday afternoon. Are there any questions or concerns about the proposed budget?

On this, Ms. Glover, please.

Mrs. Shelly Glover: I know that as a committee we had agreed we were going to use video conferencing as much as possible. I'm very pleased to see video conferencing listed here. This is the maximum, but I would again hope that the clerk would attempt to offer all witnesses an opportunity to do video conferencing, as opposed to coming here to Ottawa at taxpayers' expense.

Otherwise, it looks good, and I really do like seeing the video conferencing listed as an expense.

The Chair: That's a fair point, and in fact we do offer the option of video conferencing to every single person.

Thank you.

Monsieur Côté.

[*Translation*]

Mr. Raymond Côté: Mr. Chair, I'm a bit surprised to see the difference in cost of a trip from Montreal to Ottawa versus one from Toronto to Ottawa. I hadn't noticed that in the other budgets.

Is the reason that witnesses travelling from Toronto systematically fly, as opposed to those coming from Montreal?

[*English*]

The Chair: Yes, witnesses typically fly out of Toronto. With respect to Montreal, the option is very much there in terms of.... Many witnesses do take the train service from Montreal. The unit prices are the best estimates for most people and logistics in terms of past practice.

A motion, Mr. Hoback, for the budget.

Mr. Randy Hoback: I so move.

(Motion agreed to)

The Chair: That's unanimous again.

Thank you very much, colleagues. We will see you Thursday morning at 8:45 a.m.