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# Standing Committee on Finance

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Chair: The Honourable Wayne Easter





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• (1005)

[*English*]

**The Chair (Hon. Wayne Easter (Malpeque, Lib.)):** We will call the meeting to order.

Welcome, everyone, to meeting number 59 of the House of Commons Standing Committee on Finance. Pursuant to Standing Order 108(2), the committee is meeting to study the coming into force of Bill C-208, an act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation).

Given the ongoing pandemic situation, and in light of the recommendations from health authorities to remain healthy and safe, all of us attending the meeting—it's the first time all of us have been in a committee room for 16 months—are to maintain the two-metre physical distancing. We must wear a mask when circulating in the room. It's highly recommended that a mask be worn at all times—though I don't think members can be expected to—and we must maintain proper hand hygiene by using the hand sanitizer at the room entrance.

I will try to enforce those measures, but I don't think enforcement will be necessary. I know there's only one staff per party allowed in the room. I thank members for their co-operation.

In our first hour of this session, by video we have with us Mr. Philippe Dufresne, the law clerk and parliamentary counsel, who has been before the committee a number of times, and Michel Bédard, deputy law clerk and parliamentary counsel, from the Office of the Law Clerk and Parliamentary Counsel.

Welcome to both of you. I imagine you have an opening statement. There was considerable controversy. A number of us said that.... I think MPs believe Parliament is supreme. There was a little difference of opinion, I think, between us and the Department of Finance and maybe others.

We'll turn to you for an opening statement. Then we'll go to questions.

[*Translation*]

**Mr. Philippe Dufresne (Law Clerk and Parliamentary Counsel, House of Commons):** Thank you, Mr. Chair, members of the committee, for your invitation to appear today following the Department of Finance Canada's June 30 news release respecting Private Member's Bill C-208, and the clarification issued by the government yesterday which replaced that June 30 news release.

As the Law Clerk and Parliamentary Counsel for the House of Commons, I am pleased to be here today to address any questions

that the committee may have on this matter. My office provides comprehensive legal and legislative services to the Speaker, the Board of Internal Economy, the House and its committees, members of Parliament and the House Administration.

As counsel to the House, its committees and members, we serve the interests of the legislative branch of government, and provide similar types of legal and legislative services to the House as the Department of Justice provides to the government.

I am accompanied by Michel Bédard, Deputy Law Clerk and Parliamentary Counsel, Legal Services, and I hope that our answers will assist the committee.

[*English*]

Before turning to Bill C-208, I want to take a few moments to highlight the rules applicable to the coming into force of legislation. These same rules apply equally to legislation implementing tax measures.

Enacting new laws and amending existing ones is a process that culminates in a legislative text receiving royal assent. However, a distinction must be made between the date on which a legislative measure is enacted by Parliament and the date on which it comes into force. A bill becomes law after it has been passed by both Houses in the same form and has received royal assent, but its provisions will produce their effect and become enforceable only when they are brought into force.

The Interpretation Act, which applies to all federal legislation, contains the provisions governing the coming into force of statutes, including the timing of that coming into force. Generally, a statute will come into force either on the day of assent or on another date as provided by the legislation itself. The other date could be a specific day set out in the act, or the act could leave it to the government to determine the date of the coming into force by an order in council.

If no coming-into-force provision is included in an act, the default rule found in subsection 5(2) of the Interpretation Act applies, and the entire act comes into force on the day on which it receives royal assent.

[*Translation*]

I will now say a few specific words about the implementation of tax measures.

Governments will, from time to time, implement proposed legislative changes respecting taxation, for example for new capital gain inclusion rates or new GST rates, before their formal legislative enactment. The actions of taxpayers will then be influenced by the proposed measures—that are oftentimes already implemented administratively by the Canada Revenue Agency—in anticipation to the subsequent legislative enactment that would have retroactive effect to the date the proposed legislative changes were announced.

*House of Commons Procedure and Practice* summarizes this practice as follows:

It is the long-standing practice of Canadian governments to put tax measures into effect as soon as the notices of the ways and means motions on which they are based are tabled in the House of Commons, with the result that taxes are collected as of the date of this notice, even though it may be months, if not years, before the implementing legislation is actually passed by Parliament.

Implementation of the tax measures often starts when their announcement is made, including by the tabling of a ways and means motion, but is always contingent on the tax measures being ultimately enacted by Parliament.

[English]

Bill C-208, an act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation), received royal assent on June 29, 2021.

The bill does not contain a coming-into-force or a commencement provision, so, in accordance with subsection 5(2) of the Interpretation Act, the date of coming into force is the date of royal assent. This means that the new provisions apply as of that date, in this case, June 29, 2021.

There is nothing unusual about this. On June 30 the government proposed legislation to clarify that the Bill C-208 amendments to the Income Tax Act would apply at the beginning of the next taxation year, starting on January 1, 2022.

Yesterday, the government issued a new statement replacing the June 30 news release and affirming that as Bill C-208 has been passed by Parliament and has received royal assent, it has become a part of the Income Tax Act and that the changes contained in Bill C-208 now apply in law.

The government also clarified that it intends to bring forward amendments to the Income Tax Act that honour the spirit of Bill C-208 while safeguarding against any unintended tax-avoidance loopholes that may have been created by the bill.

• (1010)

Because the bill is now law, making any changes to it would require new legislation. Such new legislation could provide for any amendments to the Income Tax Act to apply retroactively, including applying to events that take place before the day on which the new legislation comes into force.

I would now be pleased to answer any questions you may have.

Thank you.

**The Chair:** Thank you, Mr. Dufresne.

For the first round, we'll start with Mr. Kelly followed by Mr. Fragiskatos, Mr. Ste-Marie and Ms. Mathysen.

Mr. Kelly.

**Mr. Pat Kelly (Calgary Rocky Ridge, CPC):** Thank you so much, Mr. Dufresne, for appearing today and for the clarity you've brought to this issue. Let's just get right to it.

Bill C-208 became law on June 29. Is that correct?

**Mr. Philippe Dufresne:** Yes.

**Mr. Pat Kelly:** All right. Can you imagine any possible explanation for why this government would say otherwise in its June 30 press announcement?

**Mr. Philippe Dufresne:** I can't speculate as to intentions. I've mentioned the two communiqués. There was the one on June 30, which has now been replaced by the communiqué that was issued yesterday.

**Mr. Pat Kelly:** On the eve of a really embarrassing meeting that the department would have to go through, they backpedalled the June 30 announcement. Do you know of any precedent of a government refusing to implement a law upon its receiving royal assent, such as has been the case with this bill?

**Mr. Philippe Dufresne:** This was an unusual situation in the sense of having a statement following coming into force that involved a different coming-into-force date. There have been situations in which the government has announced legislative tax measures and has implemented them pending legislative parliamentary approval, but this current situation [*Technical difficulty—Editor*] was not one we have seen before.

**Mr. Pat Kelly:** No government has ever done this—just put out an announcement to say it is not going to implement a law passed by Parliament.

**Mr. Philippe Dufresne:** As I say, this communiqué was issued. It announced the government's intention to introduce new legislation to change the coming-into-force date. That's not something we have seen before.

**Mr. Pat Kelly:** Right.

Your office has been very busy over this last year and a half or so. We have seen this government defy Parliament and defy orders of committee. You've been present at this committee with regard to this issue. Are you concerned by the pattern of government, of any government, ignoring the will of Parliament?

**Mr. Philippe Dufresne:** What I've stated to this committee is that Parliament is supreme. Parliament has privileges and has fundamental authority. I've taken that position. That's an authority that Parliament has to exercise responsibly, and that continues to be my position.

**Mr. Pat Kelly:** Again, I thank you for your vigorous defence of Parliament. In a parliamentary democracy, Parliament has to have the last word on public policy. We have a government that has ignored Parliament by refusing to implement this bill when it received royal assent and that has been on the heels of actually suing the House of Commons and naming the Speaker of the House in seeking court approval to defy Parliament. This is all within the last few weeks. Can you comment on a pattern emerging with this government? This is also on the heels of the defiance of orders at this committee.

**Mr. Philippe Dufresne:** I provide views and advice to committees on issues as they arise [*Technical difficulty—Editor*] litigation. The Speaker has informed members that he has instructed my office to respond to that litigation, and we are doing so. As indicated, I've appeared before this committee to advise it on the powers of the House and the supremacy of Parliament and parliamentary privilege as a constitutional matter, and I will continue to do so.

• (1015)

**Mr. Pat Kelly:** Responsible government was achieved in Canada before Confederation. Really, since 1858 has any Canadian government besides this one openly and blatantly refused to implement laws passed by Parliament?

**Mr. Philippe Dufresne:** I will comment on the authorities of the House. Those authorities are fundamental and the House has exercised them, and I will support the exercise of those authorities going forward.

**Mr. Pat Kelly:** Yes, and we thank you for that and for your defence of Parliament.

Mr. Chair, do I have any more time?

**The Chair:** You have time for one more question.

**Mr. Pat Kelly:** Despite the backpedal that we saw yesterday, I would suggest there are still questions that remain and still an intention by this government to not implement the bill as passed by Parliament. What further steps do you think the government needs to take to assure Canadians that it will actually follow through and implement this bill and respect the will of Parliament as expressed through its democratically elected members and senators?

**Mr. Philippe Dufresne:** The government issued a statement yesterday. The committee, as I understand, will be hearing from further witnesses and can determine if it's satisfied with the clarification it has received. The government has issued a statement indicating that it recognizes that the bill is in force and that it proposes to introduce amendments down the road.

**The Chair:** Thank you, both.

We'll have Mr. Fragiskatos for six minutes, followed by Mr. Ste-Marie.

**Mr. Peter Fragiskatos (London North Centre, Lib.):** Thank you, Chair.

It's good to be here in Ottawa after a lot of time. It's nice to see colleagues in person once again, and I hope everybody has kept healthy and safe and that everyone's loved ones are okay too.

Many thanks to you, Chair, along the way. I know this is the final set of meetings the finance committee will have with you at the helm, and it's been absolutely great and a wonderful experience working with you, as I've told you over the years.

To the staff behind the scenes, too, here at Parliament, and our own staff, thank you very much. This committee has been very active over the past year and a half, without any stops, and that continues.

Mr. Dufresne, you've answered this, I think, but I want to be crystal clear here. Is the press release that we saw yesterday consistent with the view that Parliament is indeed supreme and that Bill

C-208 is in force? The press release recognizes that, I think, but could you elaborate?

**Mr. Philippe Dufresne:** The July 19 press release does clarify the government's view, certainly, as consistent with the fact that the bill is in force. We see this recognition: The bill is in force as of royal assent in this case. There was nothing unusual with there not being a specified coming-into-force date in the bill. That's now been clarified—that the law applies—and the government is indicating its intention to introduce future legislation to address certain matters. That is something we've seen before in past practices, namely, the announcement of future measures and confirmation that they're conditional on parliamentary approval.

**Mr. Peter Fragiskatos:** Thank you very much.

My friend and colleague Mr. Kelly did not expand on it—I do not think he had time—but put forward a claim that yesterday's press release, in his view, indicates that the government is not looking at or serious about moving forward with C-208.

I'm not sure where that observation comes from. I looked at the press release closely, and it says—and you put this is your testimony, sir—that unintended consequences that could come about with C-208 will be addressed. That is not inconsistent with the recognition that this is law and that Parliament is supreme. Would you say that's accurate?

• (1020)

**Mr. Philippe Dufresne:** That's the government expressing its concerns. I was paraphrasing the government's concerns with the bill as it stands in law, and its intention to introduce future amendments on that point. That is consistent with the practice we have seen. It clarifies perhaps the ambiguity in the June 30 statement, which mentioned the lack of a coming-into-force date and indicated that amendments would deal with a coming-into-force date. That's now been clarified and replaced with the statement from yesterday.

**Mr. Peter Fragiskatos:** I hear you. In other words, the government's saying that it will move forward to ensure that possible unintended consequences of the bill will be addressed does not circumvent the will of Parliament and does not ignore the will of Parliament on the matter. Governments can do that and still be in line with Parliament's view.

**Mr. Philippe Dufresne:** Governments can express their intention to introduce subsequent legislation, and that is subject to parliamentary approval.

**Mr. Peter Fragiskatos:** Okay. I have only about a minute and a half left. I wonder if you could just one more time go through the difference between...or not "difference", per se. You pointed to a distinction between royal assent and the coming into force of a particular bill and what the Interpretation Act says. Please elaborate, but based on the testimony you gave, it sounds like the date of royal assent is usually the default position. Is that an accurate understanding?

**Mr. Philippe Dufresne:** That is accurate. The provision reads, “If no date of commencement is provided for in an Act, the date of commencement of that Act is the date of assent to the Act.” That is the default provision in the sense that if there's no other specified coming into force, then it comes into force on the date of royal assent. There is the possibility to provide a specific date in the act itself, which wasn't done here. There's also the possibility to give the government the ability to set the date by order in council, usually in a situation where the government needs to be satisfied that it has put in place necessary mechanisms to do so.

**Mr. Peter Fragiskatos:** As a final point, Mr. Chair, I voted for Bill C-208. I think it's a necessary measure. A number of Liberals voted for Bill C-208 as well.

Mr. Dufresne, you are Parliament's lawyer, if I can put it that way. Once again, are you satisfied that yesterday's press release makes it clear that Bill C-208 is recognized by the government as a bill that will be put in place?

**Mr. Philippe Dufresne:** I'm satisfied that in the release yesterday, the government has recognized that Bill C-208 is in force and has expressed its intention to introduce future amendments.

**Mr. Peter Fragiskatos:** Thank you very much.

**The Chair:** Thank you, Mr. Fragiskatos.

Next up is Mr. Ste-Marie, followed by Ms. Mathysen.

Gabriel, I pretty near need binoculars to see you down there, but I see you. Go ahead. The floor is yours.

[Translation]

**Mr. Gabriel Ste-Marie (Joliette, BQ):** Good morning, Mr. Chair.

My regards to Mr. Bédard and Mr. Dufresne.

My regards also go to my colleagues and all the members of the team that makes it possible for the committee to run. It's really nice to see them in person, although it's during the first week of the construction holidays.

That said, a committee's gotta do what a committee's gotta do.

Let me start with a brief comment. Yesterday, I was delighted to see the news release from the Department of Finance, which reversed its position and its decision. I think the announcement of the emergency meeting of this committee may have prompted the department to say that the law is the law, as was reported in *The Globe and Mail* this morning. So I take my hat off to all the members of the committee, and in particular to the chair. I think we have succeeded in changing things here.

Mr. Dufresne, we are talking about the rights, powers and authority of the House. In the first news release, how were those not respected? How do you think that was corrected in the second news release?

**Mr. Philippe Dufresne:** The problem with the first news release was that it pointed out that Bill C-208 did not provide for an implementation date. It stated so in the beginning, in the first paragraph. It ended by stating that the government intended to include new legislation to clarify that those amendments would apply at the beginning of the next fiscal year.

That's what was more surprising or potentially confusing, because it gave the impression that the absence of a date in the legislation indicated a failure or an area that needed clarification, when this was not the case. The Interpretation Act makes it very clear that a bill comes into force when it receives royal assent. This could have suggested that the entire bill would not come into force until later, retroactively.

The updated news release replaces the first one and indicates that the legislation is in force and that the legislative amendments being considered by the government will address specific issues, not the coming into force date.

• (1025)

**Mr. Gabriel Ste-Marie:** Thank you. That is very clear.

At the beginning of your opening remarks, you reminded us that you advise Parliament, the House, its committees and elected officials, and you said that this is more or less what the Department of Justice does for the government.

Let me add an editorial comment. I would be very surprised if the Department of Justice officials thought that not including a date in the bill meant that the government could put it into effect whenever it wanted.

I think the government, the Prime Minister and his team, thought that this bill was not quite working for them and that they would try something. I am sure that the Department of Justice would never have misled the government in that way, which is why the emergency meeting of the committee today was so important and why I think an updated news release was issued.

Larry Maguire, who is here with us, can correct me if I am wrong. In a CBC article yesterday, we are reminded that the first reading of Bill C-208 took place on February 19, 2020. It's now 2021. Yesterday, the journalist reminded us that 527 days passed between the first reading of the bill and its implementation following royal assent.

Mr. Dufresne, can you remind the members of the committee and those listening of the normal stages that a bill must go through? Also, at each of these stages and during those 527 days, when could the government officials have suggested amendments or proposals to make the bill consistent with what they wanted to do, as they said they wanted to do through a future bill?

**Mr. Philippe Dufresne:** To be passed, the bill must go through three readings in the House. The first reading, which is the general presentation of the bill, takes place without debate. At second reading, the members debate the principle of the bill. Then it is sent to committee, where there is debate and opportunity for amendment. The bill then returns to the House for a vote at report stage and then goes to third reading, when members debate and vote on it. It then goes to the Senate, where it must go through three readings as well, and it finally receives royal assent.

During the stages in the House, the government and other members of Parliament have the opportunity to propose amendments.

**Mr. Gabriel Ste-Marie:** Thank you, that is very clear.

So there are several stages in the House and in the Senate where the government officials could have said that the bill was not perfect and that they would have preferred to make amendments to it. That was the reason the government gave us in the first news release for choosing not to implement it now.

But there was a 527-day delay, and at each stage, the government could have made amendments. We have a minority government. We can work together, and we saw that was really the case at the Standing Committee on Finance. That is the beauty of a minority government where all members of Parliament work together. But as far as I know, the government officials did not submit any amendments. I would say that they “were asleep at the wheel” because they had 527 days to bring forward the amendments they wanted.

I would also point out that similar legislation exists in Quebec and that safeguards have been put in place with respect to our concerns about the whole issue of tax evasion. The Quebec Minister of Finance actually reminded me that it was working well. The federal government officials have therefore had all the time they need to draw inspiration from it, to propose that such guidelines be put in place, to ask what others think of them, to discuss them and to invite experts and other witnesses to the committee.

As far as I know, the Liberals did not call any witnesses or submit any amendments to the committee. So they were really “asleep at the wheel” and missed an opportunity. I'm very pleased that there was an about-face in the news release yesterday.

That's the end of my questions to Mr. Dufresne and Mr. Bédard. Their answers shed light on the situation. My thanks to them for being here.

• (1030)

[English]

**The Chair:** Thank you, Mr. Ste-Marie.

We'll go to Ms. Mathysen for six minutes, and that will be followed by Mr. Berthold and Mr. Maguire, who will split their time.

Go ahead, Ms. Mathysen.

**Ms. Lindsay Mathysen (London—Fanshawe, NDP):** Thank you, Mr. Chair, and thank you to the members of the committee for allowing me to sub in. I will try to live up to the reputation of Mr. Julian.

I appreciate hearing from you, Mr. Dufresne. You are very precise in your wording, as we've seen often. Given your precision when you give that advice to parliamentarians, one would hope that the government would also respond with that same precision, but unfortunately all of this confusion of course has come forward because they seem to have lacked the precision between the first press release and the clarification of the second.

I wanted to build off what my colleague, Mr. Ste-Marie, was talking about in terms of those different stages of a bill and specifically how they go through. As he mentioned, there were no amendments proposed at the committee stage of the bill. Everything was passed. It was passed through the Senate as well, with no changes.

If the government were to bring forward this legislation, or the amendments that it wishes to see in a different piece of legislation, and if the government stands as it is and Parliament stands as it is, it will go through those same processes. Is that correct?

**Mr. Philippe Dufresne:** Yes.

**Ms. Lindsay Mathysen:** One would assume that, because of the standing of the House of Commons currently, in a minority Parliament, all things remaining the same, we would have the same result and it would be the will of Parliament to pass the same legislation. One would assume that.

**Mr. Philippe Dufresne:** That's more for you to assess than for me.

**Ms. Lindsay Mathysen:** Okay. I know we're sort of getting into the nitty-gritty, but is it common, when the government says it plans to introduce amendments that would honour the spirit of Bill C-208? Is there a precedent explaining that? Is that language that's commonly used by government? Is there something more precise to that, legally?

**Mr. Philippe Dufresne:** The formulation of the spirit versus the letter is one that we hear from time to time. It seems, again, that the government would be better placed than me to explain what it meant in the communiqué, but as I read it, it's a statement recognizing that the bill is now in force and the government intends to bring some amendments to deal with certain aspects of it while keeping within the overall spirit. It's addressing what the government sees as our concerns in terms of the bill as it stands.

**Ms. Lindsay Mathysen:** Again, that's the will of the government versus the will of Parliament; they're almost in conflict in these attempts to change legislation, which the government has the absolute right to do within those amendments and by introducing different parts of legislation. Ultimately, though, that still could potentially be in conflict with the overall will of Parliament, which you have said is supreme.

**Mr. Philippe Dufresne:** In the sense of indicating the government's intention to propose legislation, I would not necessarily see that as a conflict with the will of Parliament, in the sense that Parliament has not expressed its will on that proposed legislation. I think what is being stated is that there's an intention to bring forward a bill, and then that bill would be subject to debate and approval by Parliament.

**Ms. Lindsay Mathysen:** Mr. Ste-Marie talked about the length of time this piece of legislation took to come through. I know all pieces of legislation are different, and schedules are different. Was that sort of an average, that 500-some days? Was that average for a private member's bill to pass through?

• (1035)

**Mr. Philippe Dufresne:** I don't have statistics of that nature. Bills vary in their scope and in their complexity. The parliamentary calendar.... Of course, we've been in the pandemic situation with a virtual Parliament, so it's been unusual times all around.

**Ms. Lindsay Mathysen:** I ask because obviously rumours abound about an upcoming election, and yet within that second press release, that clarification, there was indication that legislation would come forward and be implemented by November 1. If there was an election during this fall session, term, or time period, would it be possible for our government to pass that kind of legislation?

**Mr. Philippe Dufresne:** If there is an election, there is a dissolution of the House, so there's no ability for the House to consider legislation during that time.

**Ms. Lindsay Mathysen:** If they wanted to come back super fast, if there were changes, potentially, to the makeup of the House of Commons, they could now change that will of Parliament by bringing forward amendments as they wished.

**Mr. Philippe Dufresne:** The House will consider legislation according to the composition of its members at any given time. Certainly if the composition of the House changes, then that can have impacts.

**Ms. Lindsay Mathysen:** Okay. Thank you very much.

**The Chair:** We'll have to end it there. We will go to Mr. Berthold for about two and a half minutes, and then Mr. Maguire and then Ms. O'Connell.

Go ahead, Luc.

[*Translation*]

**Mr. Luc Berthold (Mégantic—L'Érable, CPC):** Thank you, Mr. Chair.

Let me proceed very quickly, because I have several short questions for Mr. Dufresne.

Earlier, you mentioned that, the day after a piece of legislation was enacted, you had never seen a department say that it would delay its coming into force because it contains no date.

**Mr. Philippe Dufresne:** That is correct.

**Mr. Luc Berthold:** So this goes against the constitution acts and the primacy of Parliament.

**Mr. Philippe Dufresne:** This is something we had not seen before. As I noted, the lack of a date in a bill does not prevent it from coming into force.

**Mr. Luc Berthold:** Mr. Dufresne, you said earlier that a government can amend tax measures, apply them and implement them before a bill is passed. However, if I am not mistaken, the bill must have been introduced in Parliament beforehand.

**Mr. Philippe Dufresne:** The practice is that the government can announce tax measures that it will introduce later and, in some cases, begin to implement them at that time. However, the measures remain subject to final approval by Parliament, which will confirm that they are valid.

**Mr. Luc Berthold:** In your view, would Parliament be breaking the law if it announced now that it intended to make amendments to Bill C-208 and put the new measures in place immediately?

**Mr. Philippe Dufresne:** Parliament, not the government, can amend the bill. The government can indicate that it intends to introduce legislation later and that it has begun to implement it, to an ex-

tent. However, if it does so, it is still subject to Parliament's approval and decision to pass the legislation.

**Mr. Luc Berthold:** What would happen if the government actually decided not to implement Bill C-208 today and did not get parliamentary approval later?

Who would be held accountable, given that there could be a change of government or an election? What would happen to all the victims, farms and small businesses that could not make the transfer according to the details of Bill C-208?

**Mr. Philippe Dufresne:** It is up to the courts to determine whether state authorities or the public have complied with the legislation as it exists. If a concern to that effect were to be raised before the courts, the courts would have to address that issue.

**Mr. Luc Berthold:** So the current government could announce what it wants, such as making tax changes. Afterwards, aggrieved people would have to go to court.

That possibility creates a lot of uncertainty for all small business owners who want to transfer their business now. The news release creates even more ambiguity because we don't have the details of a possible bill and what the government intends to do.

I have one final question for you.

The news release issued yesterday mentions that the measures are in effect now. But there was another one on June 30. In your opinion, will the people who would have benefited from the good news that Bill C-208 was enacted between those two dates be adversely affected?

• (1040)

**Mr. Philippe Dufresne:** Bill C-208 has been in force since June 29. This does not change and the news releases do not affect it.

The June 30 news release indicated the government's intention to change the date of coming into force by means of a future bill. The July 19 news release confirms that this is not the case and that the legislation is in effect now.

**Mr. Luc Berthold:** It has been in effect since June.

[*English*]

**The Chair:** I'm sorry, Luc. We'll have to go to Mr. Maguire.

[*Translation*]

**Mr. Philippe Dufresne:** Yes, it has been in effect since June 29.

**Mr. Luc Berthold:** Thank you.

[*English*]

**The Chair:** Larry.

**Mr. Larry Maguire (Brandon—Souris, CPC):** Thank you, Mr. Chair. I want to thank you for the calling of this meeting and our witnesses for being here today.

Mr. Dufresne, in the case of June 30, 2021, when Finance announced the suspension of Bill C-208, what legal authority did the department use to announce this tax policy change?



**Mr. Philippe Dufresne:** My view is that the bill was in force. The bill has been in force since June 29. What the communiqué did on June 30 was indicate that the government intended to introduce future legislation to change that coming into force retroactively.

**Mr. Larry Maguire:** Certainly, we have to agree that only Parliament can decide whether to give that legal effect to a proposal by government for tax measures to apply retroactively. That's correct; I think you've already stated that.

**Mr. Philippe Dufresne:** Certainly, once the bill is in force, it applies until it's amended by Parliament.

**Mr. Larry Maguire:** Now that they've recused the statement from June 30 by yesterday's press release, let's say in a hypothetical situation they hadn't gone forward with yesterday's case, and they stuck to their original press release and unfairly delayed the implementation of Bill C-208 until January 1 coming up. What recourse could Parliament take against the department?

I mean, this is contempt of Parliament, similar to what the government has done by suing the Speaker. What if it were to happen again? What are Parliament's options here in regard to taking action against the department? The department put out the press release.

**Mr. Philippe Dufresne:** Parliament has the ability to do as it has done, which is to act as the grand inquest of the nation and inquire into matters by the work of committees such as this committee, ask questions, obtain clarifications and, if need be, obtain course corrections.

**Mr. Larry Maguire:** What happens if the government provisionally collects a tax that ultimately never becomes law due to Parliament amending the bill or the bill never passing?

**Mr. Philippe Dufresne:** These are questions that ultimately can end up before the courts. If there is a dispute with respect to what was done, then the courts will look to the applicable law and precedents and will make their decision.

**The Chair:** We'll go to Ms. O'Connell for five minutes. Then there will be a five-minute split between Mr. Ste-Marie and Ms. Mathysen.

Go ahead, Jennifer.

**Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.):** Thank you, Mr. Chair. It's good to be back here on finance.

I'm going to start with a couple of comments before I turn to you, Mr. Dufresne, but it's nice to see you again in what is probably a less contentious committee than our last one was, at health.

Let me start where Mr. Maguire left off. He spoke in hypotheticals about any future legislation and the possibility of its being retroactive. His pessimism is interesting. He thinks we're heading into a majority government and that the government would have the ability to make whatever decision it wanted, so that's interesting. I share his optimism about our electoral success into the future.

Also, with regard to his comments about any recourse from Parliament, that's interesting, because the opposition can't seem to take yes for an answer. Finance Canada clarified just yesterday. Mr. Fragiskatos confirmed again that the issues of coming into force were clarified. It's interesting that the Conservatives once again can't take yes for an answer.

I'd also like to read into the record to correct some issues.

I'm sorry. I hear a lot of chatter. I seem to be getting under the skin of some of the Conservative members, but I would like to read into the record after Mr. Kelly's comments about his famed outrage at the government. I'm really glad he wasn't here prior to 2015. He could speak to his good friend Mr. Fast.

Let me read into the record about the previous government. Here it says:

The Harper [Conservative] government became the first in Canadian history to be found in contempt of Parliament...

Even though it lost a court case and was ordered to comply, the Harper government nevertheless refused to share 170 times reasons and impacts for cuts with Canada's independent budget watchdog, mocking Parliament's right to control the public purse.

Thank goodness Mr. Kelly was not in government during the Harper days, because I think he would be quite outraged at the actions of his party.

Let's get back to the matter at hand, now that we've seen the Conservatives and the complete hypocrisy throughout this process and the fact that once again they write terrible motions—the government has to try to comply with their incoherent ability to write motions—and then try to feign some sort of wrongdoing by the government. To get back to this issue at hand, when it comes to the coming-into-force date, as I've already stated, the government and Finance Canada have clarified that.

Mr. Dufresne, I will come back to you now that I've kind of clarified the hypocrisy from the Conservatives. On the substance of this, I tend to agree with you. I spent a number of years on finance, and I want to focus on the examples you gave in your opening statement, because I think they are quite right. Whenever I did a budget implementation act, a fall economic statement, a budget, or any tax provisions, the coming-into-force date was always the date those were tabled. That was my experience in terms of the publication of those things, because the government—and rightfully so—didn't want any tax planning measures or anything to happen between the time of the printing of the document—let's say a budget—and the time of coming into force, or whenever the regulations could be developed. Given your opening statement, can you maybe clarify why you feel that this coming-into-force date needed to be at the time it received royal assent, and how that's consistent with other tax policy around the publications etc., and the rationale behind that?

• (1045)

**Mr. Philippe Dufresne:** What I talked about is the practice that oftentimes when the government introduces proposed tax measures, it will start implementing them right away, and they are always subject to parliamentary approval. A government might announce that it will start to put it in place and implement something down the road, and then a bill is adopted with a date going back to the date of the announcement. That certainly can happen.

In this case the bill was adopted with no date, and therefore it comes into force on the date of royal assent as per the Interpretation Act.

**Ms. Jennifer O'Connell:** Thank you.

Given yesterday's announcement, do you see Finance Canada as having corrected any possible confusion, and that the coming-into-force date is June 29, as established by royal assent?

**Mr. Philippe Dufresne:** The communiqué confirmed it yesterday. It does clarify that, certainly.

**Ms. Jennifer O'Connell:** Thank you so much. It was nice to see you again.

**The Chair:** Thank you.

To finish this hour, we'll have two and a half minutes with Mr. Ste-Marie and two and a half minutes with Ms. Mathysen. Mr. Fast, you will get the final five.

Gabriel.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

I will wait until Mr. Gerretsen is listening.

After what I just heard, let me remind you of the basic factors. We are here because something very serious happened. Parliament passed Bill C-208, which is extremely important. When I first ran for office, it was the first issue people talked to me about. Farmers were saying that they had to choose between their retirement and their children, who wanted to take over the farm. The farmers would lose their pensions if they sold it to them, so they were wondering what to do.

Members from every political party brought this bill forward to the House. As I said earlier, after 527 days, it was passed and it came into force. The government issued a news release saying that it would come into force later. The Liberals are therefore saying that they will not honour the will of the House, which is very serious. That is why members from each party have asked for this emergency committee meeting today, to emphasize the seriousness of what is happening.

Much reference is being made to the news release issued yesterday afternoon, just prior to the committee meeting. I am sure that this correction made through the news release is directly related to the fact that the Standing Committee on Finance did its job and announced an emergency meeting. It is very important to remember that what is voted on in Parliament must be respected and that the government cannot act like a tinpot dictator by not implementing what it does not like. We live in a democracy, and that is not how it works.

Let me come back to you, Mr. Dufresne.

Yesterday, in the press release, the government announced its intention to make amendments in keeping with the spirit of the bill. The Liberals gave us their word. As they have said and as you have reiterated, this must be done through a whole new legislative process. In short, Parliament will have to pass a new piece of legislation.

Is that the case?

• (1050)

**Mr. Philippe Dufresne:** That's right.

**Mr. Gabriel Ste-Marie:** Okay.

Could the government introduce a bill in the House to repeal Bill C-208?

**Mr. Philippe Dufresne:** Bill C-208, which was passed by Parliament after three readings in the House and royal assent, is in force. So we are discussing introducing amendments. The news release does not propose to amend the bill in its entirety.

A bill that would essentially undo what has been done and say exactly the opposite would certainly raise a procedural question of whether it is possible to ask the same question in the House when it has already been answered.

However, that is not what is being proposed at all. We are making amendments to uphold the spirit of the legislation to correct what the government perceives as certain shortcomings.

**Mr. Gabriel Ste-Marie:** Actually—

[*English*]

**The Chair:** We'll have to end it there. I'm sorry, Gabriel, but you're out of time.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Okay. Thank you.

[*English*]

**The Chair:** Ms. Mathysen is next, for two and a half minutes.

**Ms. Lindsay Mathysen:** Thank you, Mr. Chair.

Sitting in this committee as a non-regular member, I find it a bit disheartening that my colleagues across the way in the Liberal caucus have made representations, or provided past proof, that ultimately the Conservative Party of Canada has complete disrespect for Parliament. The Conservative Party, on the other side, has shown that Liberals now also have complete disrespect for Parliament.

As a New Democrat who values that power of people, I want to ask you this, Mr. Dufresne. You have said repeatedly that the power of Parliament is supreme and that this power is determined by the people for the people. Can you just clarify once again that this is about people and the power of people, not the power of the political parties and not the power of the Liberals or the Conservatives themselves, and that respect must be shown ultimately to the people and Parliament?

**Mr. Philippe Dufresne:** Parliament has a fundamental constitutional role to play. The three roles that the House plays are recognized by the Supreme Court of Canada: legislating, deliberating and holding the government to account. Those are fundamental roles that the House plays and that Parliament as a whole plays. I'm here to support that in the best way I can.

• (1055)

**Ms. Lindsay Mathysen:** Many thanks.

**The Chair:** Thank you, Ms. Mathysen.

We have Mr. Fast for five minutes, and then we'll have to go to the next panel.

**Hon. Ed Fast (Abbotsford, CPC):** Thank you, Mr. Chair.

I want to echo Mr. Ste-Marie's comments. We're addressing something very serious here. I noticed our Liberal friends were making light of this issue, but this is no laughing matter, Ms. O'Connell. This is about defiance of the will of Parliament.

Mr. Dufresne, I'm not going to ask you to make the assumption I'm making, which is that defiance of the will of Parliament by Mr. Trudeau will occur again under this government. This was not an oversight. My real fear is that if he's re-elected he will move again to defy the will of Parliament, not only on this, but on other legislation.

My question to you is, does the government and do finance department officials have any right to delay or refuse to implement legislation that is properly passed by Parliament?

**Mr. Philippe Dufresne:** Legislation that is properly passed and that is in force—and that was the issue in this case, where there's no date of coming into force that's later—is in force as of the date of royal assent and becomes law. That is binding on the government and on citizens.

**Hon. Ed Fast:** Did any finance officials or the Prime Minister's Office seek your legal opinion before announcing that they did not intend to implement C-208 before amending it?

**Mr. Philippe Dufresne:** No, and nor would they, because I am the counsel to the legislative branch, not the executive branch.

**Hon. Ed Fast:** Are you at all aware of whether they sought legal counsel before proceeding that way?

**Mr. Philippe Dufresne:** I'm not aware. That's not information that I would have.

**Hon. Ed Fast:** All right.

Now, did I hear you say that the Prime Minister could make his proposed November 1 amendments retroactive?

**Mr. Philippe Dufresne:** Legislation can be retroactive if Parliament so decides, but Parliament has to express that very clearly.

**Hon. Ed Fast:** You would agree with me that the government has signalled that it wants to make amendments and that they may be retroactive.

**Mr. Philippe Dufresne:** The government has signalled its intention to bring amendments. It has described what those would be about and it has talked about some application times in the communiqué, being the later of either November 1, 2021, or the date of publication of the final draft legislation. The communiqué speaks for itself on that.

**Hon. Ed Fast:** There's absolutely no guarantee from this government that it won't totally gut Bill C-208 when it gets around to amending it.

**Mr. Philippe Dufresne:** We have the statement and that's what's there. There's no other statement on that at this time.

**Hon. Ed Fast:** My Liberal friends just said there's no guarantee that pigs can't fly. That's the kind of disrespect we have come to expect from our Liberal friends.

I have another question. What remedies do parliamentarians have to redress the government's refusal to implement duly passed legislation that is in force?

**Mr. Philippe Dufresne:** One of the roles of the House, as recognized by the Supreme Court of Canada, is holding the government to account. Doing this, such as the committee is doing now or as the House would do when it is sitting, in question period, is to hold the government to account and to ask questions and to require information and explanations.

**Hon. Ed Fast:** Mr. Dufresne, does Parliament have the right to hold the Prime Minister in contempt if he fails to implement legislation that has been duly passed through the will of Parliament?

**Mr. Philippe Dufresne:** The House has disciplinary power over all its members, and it's up to the House to determine whether any situation would warrant using those powers.

**Hon. Ed Fast:** I've been a member of the House for close to 16 years now, and I've never seen a government defy the will of Parliament before. You have said that you have seen no precedent for this kind of action being taken that we saw reflected in the press release of June 30. Am I correct?

**Mr. Philippe Dufresne:** The June press release was not something we had seen before.

• (1100)

**Hon. Ed Fast:** It had not ever been seen in history.

**Mr. Philippe Dufresne:** Well, we have not seen precedents in recent history, certainly since I've been here.

**Hon. Ed Fast:** That is a very sad comment on our government.

**The Chair:** It's your last question, Ed.

**Hon. Ed Fast:** I'll just leave you with a statement, Mr. Chair. I've been appalled at the willingness of this Prime Minister to defy the will of Parliament and to challenge the supremacy of Parliament. We are going down a very dangerous road.

By the way, this opinion isn't shared by just us Conservatives. It's shared right across the board. I've spoken to Liberals who are appalled that we have a Prime Minister who is prepared to take on the supremacy of Parliament.

That's all I'll say, Mr. Chair.

**The Chair:** All right. We'll have to leave it at that.

Mr. Dufresne and Mr. Bédard, thank you very much for your advice, number one, to parliamentarians and to this committee, which we often call on you to give. Thank you for providing us with your expertise today on where we're at in terms of the supremacy of Parliament. Thank you for that.

We will suspend for a couple of minutes and bring forward our next panel.

Again, thank you very much to you both.

**Mr. Philippe Dufresne:** Thank you.

**The Chair:** The meeting is suspended.

• (1100) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1105)

**The Chair:** Okay, folks, we'll reconvene.

Welcome, panellists.

I'll just quickly go through this. Pursuant to Standing Order 108(2), we're dealing with panel two. The committee is meeting to study the coming into force of Bill C-208, an act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation), and in this panel, the supremacy of Parliament as well.

With us this morning we have, as individuals, the Honourable Peter Milliken, former Speaker of the House of Commons, and the Honourable Don Boudria, a former House leader. From the Canadian Federation of Agriculture we have Mary Robinson, president, and Scott Ross, assistant executive director. From the Fédération de la relève agricole du Québec we have Julie Bissonnette, president, and Véronique Simard Brochu, public affairs coordinator.

We'll ask all of you to keep your opening remarks fairly short so that we get time for questions.

We'll start with Mr. Milliken. Peter, you're on.

• (1110)

**Hon. Peter Milliken (Former Speaker of the House of Commons, As an Individual):** Thank you for inviting me to appear. I haven't done this for a long time. I'm sorry we're not meeting in person on Parliament Hill or in the other building that you now meet in, but I hope all goes well.

I was interested to read in the media about the problems with this bill and to hear that the government was putting in this thing where it would not allow the bill to take action until some time next year—January 1, I think it was. I was somewhat surprised by this. It's interesting that the committee is going to [*Technical difficulty—Editor*]. I understand that the minister has already announced some changes this morning to possibly solve the situation, but we'll see how that goes.

I wish all of you well in your continued good work in parliamentary matters.

**The Chair:** Thank you, Mr. Milliken.

Mr. Boudria, we'll turn to you for your thoughts. You've read lots about Parliament in your time, and did a lot of it. Go ahead.

**Hon. Don Boudria (As an Individual):** Thank you, Mr. Chairman.

Indeed, I was interviewed by The Globe and Mail at some point a few weeks back. The reporter questioned me as to the activities of the finance department in this regard. At first I didn't believe it. I said, "Well, surely you must be misreading what they're doing." Then he gave me the details. Obviously, I came to the conclusion that it was improper.

Contrary to what was said today, this is not the first time the finance department has done this. Both Speaker Milliken and I were members in 1989, when the finance department did the opposite of

what it's doing now. In fact, it had pretended that the GST was the law. It was sending out circulars. If my memory serves me right, it had bought TV time and was advertising a tax that Parliament had not passed. It was severely admonished by then Speaker John Fraser at the time. I recall the incident. I believe I spoke about it. Peter Milliken probably did as well, as we were both very interested in parliamentary procedure. We're probably the last two non-parliamentarians who still are. In any event, this is not something that's unprecedented.

I would gladly answer all questions later.

There is the issue of the Interpretation Act. There is the Royal Assent Act, as well, to take into consideration here. Finally, if and when the government moves ahead with a bill, it must be preceded by a ways and means motion. What the government would be doing, should it change this to revoke the provisions for a certain group that it thinks the bill possibly could be too wide for, this would constitute what is called in parliamentary jargon the "revocation of tax alleviation". Revocation of tax alleviation requires a ways and means motion before a new bill can be presented to the House.

**The Chair:** Okay. Thank you, Mr. Boudria.

We'll turn to Mary Robinson, a Prince Edward Islander, like me. Go ahead, Mary, the floor is yours.

**Ms. Mary Robinson (President, Canadian Federation of Agriculture):** Thank you, Mr. Easter. It's wonderful to be here.

Thank you, Mr. Chair and committee members, for the opportunity to speak to you today. As Wayne said, my name is Mary Robinson. I farm on a sixth-generation family potato, soybean, barley and hay farm in Prince Edward Island. I'm also president of the Canadian Federation of Agriculture, which is Canada's largest general farm organization, representing nearly 200,000 Canadian farm families from coast to coast to coast.

I will start by thanking the committee for convening so quickly and by expressing my appreciation for yesterday's announcement from Minister Freeland, ensuring that the uncertainty around the coming into force of Bill C-208 has, for the time being, been put to rest.

Modern agriculture is capital intensive, with millions of dollars in capital assets involved in the transfer of most farm businesses these days. The passage of Bill C-208 ensures that each family that owns one of the 50,000 incorporated family farms in Canada can finally access the lifetime capital gains and capital gains treatment, avoiding what would potentially cost hundreds of thousands of dollars were this inequity to persist.

While it's commonplace for a farm transfer to involve millions of dollars in capital, nearly all of this is tied up in productive assets that are essential to the maintenance of the farming operation into the next generation. Meanwhile, the retiring farmer needs to fund their retirement from the proceeds of a sale, and the next generation almost assuredly lacks the capital to buy the assets outright. Every dollar matters, and a smooth intergenerational transfer is critical to the financial health of both parties.

For a sector that is almost wholly family owned, the impending transfer of tens of billions of dollars in assets across thousands of family farm transfers has a bearing on the outlook for an entire industry that is key to Canada's short-term economic recovery as well as Canada's long-term growth. Family farming is recognized internationally for sustainable growth, environmental stewardship and a connection to one's community, seen through increased spending in one's local community. It also contributes directly to the vibrancy and social fabric of rural communities across this country.

The long-standing unfairness that Bill C-208 has addressed had been a disincentive to passing these operations on to the next generation and maintaining this way of life for thousands of incorporated family farms across Canada. Those who still wish to do so face undue additional tax liabilities that could very well be in the hundreds of thousands of dollars. Following the bill's royal assent, we were disappointed to hear that farmers and financial advisers were left uncertain as to the status of the bill's implementation, and we were pleased to see yesterday's announcement provide some additional clarity, both for the immediate future and for the government's longer-term plans in this regard.

I would like to take this opportunity to applaud Parliament for passing Bill C-208 and resolving this long-standing inequity facing Canadian farms. I welcome this committee's efforts to ensure there is clarity moving forward. If further measures are needed to address undue tax avoidance, as outlined in yesterday's announcement, we would implore Parliament to ensure that the intent of this bill is maintained, grandfathering family farms' access to capital gains treatment for the transfer of incorporated family farms. Such access can easily be limited if undue administrative burden or significant costs are reintroduced into the system. Given the extensive consultations with farm advisers since 2012, when CFA first called for a resolution of this inequity, we believe the targets for future amendments can be addressed while this access for Canadian farm families is maintained. However, we believe this can be assured only through dialogue with farmers and farm advisers.

The potential for unintended barriers is significant unless there is consultation with those who have direct experience in managing farm succession and financial planning. In 2018, CFA actually convened round tables of farmers and farm advisers across Canada to discuss this subject with Finance Canada officials and to inform their work on this very topic. We would be pleased to facilitate similar engagements again to ensure that any future legislative amendments respect the realities of modern family farm transfers.

- (1115)

In conclusion, we call on the government and Parliament to ensure that the inequity that Bill C-208 resolves is not reintroduced

and that Canadian family farmers are never again disincentivized from selling to the next generation by the Canadian tax system.

I thank the committee for its time, expediency and commitment in seeking to provide clarity around the coming into force of Bill C-208.

Thank you.

**The Chair:** Thank you, Mary.

We turn now to Ms. Bissonnette, president.

Go ahead. The floor is yours.

[*Translation*]

**Ms. Julie Bissonnette (President, Fédération de la relève agricole du Québec):** Thank you, Mr. Chair.

Good morning everyone, members of Parliament and Mr. Chair.

Thank you for inviting us to share our observations with your committee on the issue of business transfers.

My name is Julie Bissonnette, and I'm a dairy farmer in L'Avenir and the president of the Fédération de la relève agricole du Québec, or FRAQ. With me today is our public affairs coordinator, Véronique Simard Brochu.

We already introduced ourselves at our last appearance, but here is a reminder. The FRAQ is an organization that brings together 16- to 39-year-olds who share an interest in farming. We represent more than 1,700 members from across Quebec. We are here today to talk about the implementation of the tax measures contained in Bill C-208.

Let me begin by quoting what I said during our previous appearance before the Standing Committee on Finance, which certainly sets the stage for today's discussion:

The next generation of business owners has been speaking out about the problem for more than 15 years. Hopefully, this time, it will be fixed once and for all.

As we have mentioned before, with the average age of farmers now over 55, there was indeed an urgency for the farming community to act. In fact, 70% of these future transferors would prefer to keep their businesses in the family. It is therefore the preferred method of transfer, especially since it is six times more likely to succeed than an external transfer.

With the bill passing in both Houses and receiving royal assent on June 29, 2021, we were finally able to celebrate this major victory. However, there was a lot of confusion following the Department of Finance's announcement on June 30, suggesting that implementing the legislation would be delayed.

We are very pleased to see that, last night, the department put an end to almost a month of confusion by finally clarifying farmers' questions. As the department states, "the changes contained in this legislation now apply in law." This answers our biggest question, namely whether related farm transfers are now entitled to the same exemption as third-party transfers.

However, we would like the department to make it clear that, if a genuine family transfer occurs between now and the passage of this potential bill, it will include those exemptions and will not be penalized by any measures to come. The government should clarify this issue so that tax experts and accountants can feel free to advise their clients on the transfer of their business without fear of misleading them. Members of Parliament may actually want to ask them this question this afternoon.

It is important to clarify this for the agricultural community. Given the importance of such legislation, the department did the right thing yesterday by providing answers to clear up the confusion that was rife. At the FRAQ, we believe that changing our tax system is a serious job that should not be done with a news release. That is why the right way of going about this is to let the current legislation do its job and then propose changes in a future bill, as was explained yesterday.

In terms of the next steps, it is clear that the government's intention is to facilitate farm transfers while protecting the integrity of the tax system. According to the news release, "forthcoming amendments are intended to make sure that it facilitates genuine intergenerational transfers and is not used for artificial tax planning purposes."

We have no problem with that, as long as it does not interfere with genuine family farm transfers between family members. We therefore encourage the Department of Finance and members of Parliament to follow the example of the Quebec legislation, which has put in place several criteria to ensure the authenticity of family transfers. However, it is essential that the intentions of Bill C-208 be maintained so that no parents are dissuaded from selling the family business to their children because of the tax system.

We must not forget that transferring a business is a very big step. Many factors need to be considered, and it is not simple. At the end of the day, all transfers are different and unique. Therefore, there cannot be a one-size-fits-all definition for farm transfers. This must be kept in mind when setting future conditions. The inequity that has just been addressed should not be replaced by another barrier.

In conclusion, we wish to reiterate that we are grateful for the department's clarifications and look forward to future proposals. In the meantime, after the confusion over the past few weeks, it is good to know that the legislation is actually in force.

Our thanks to the members of the committee for seeking answers and for inviting us to share our first-hand experiences.

Thank you for listening.

• (1120)

[*English*]

**The Chair:** Thank you very much, Ms. Bissonnette and all the panellists.

The first round of questions will go to Mr. Fast, Ms. Bendayan, Mr. Ste-Marie and Ms. Mathysen. We'll start with five-minute rounds to try to pick up a little time.

Mr. Fast.

**Hon. Ed Fast:** Thank you, Mr. Chair.

Thank you to all the witnesses.

My questions will be directed to Messieurs Boudria and Milliken.

Both of you gentlemen have had very many years of understanding of parliamentary process and procedure. I think all of us around this table respect that, but there is a bigger issue here at play. As I said earlier, this is a very serious matter. I think the two of you recognize that.

I'll start with a very big question. Overall, what do these events—in other words, the initial government defiance of a duly passed law of Parliament—say about the state of Canadian democracy and the role that our executive branch plays vis-à-vis the legislative branch? I'd be interested in comments from both of you.

• (1125)

**The Chair:** Mr. Milliken, do you want to start?

**Hon. Peter Milliken:** I'm not sure how this all began. I assume it was not a cabinet decision to suspend the bill's immediate application. I assume it was something that was recommended to them or dealt with by public servants, who said, "We don't want to do this right away. We can delay this for a while." I just don't think they thought about the legal implications of it. I think they thought they had done it before with government bills. Often a bill will have words in it that will allow them to do such a thing.

This was passed and became law. I think it should have been automatic. That's the impression I have, but I haven't followed this closely or anything. I'm delighted they've changed their position and are now going to allow it to go into effect immediately, which is what I think you have to do with an act of Parliament.

**The Chair:** Mr. Boudria.

**Hon. Don Boudria:** First of all, I don't believe there was ever an order in council passed in order to change that effective date. I don't see that it could have been a cabinet decision or anything like that.

**Hon. Peter Milliken:** No. Right.

**Hon. Don Boudria:** What seems to have happened here—and I'm only going to give you my impression—is that inside several government departments there has been a lack of knowledge regarding how Parliament works. Do the people who made that decision know that there's such a thing as the Royal Assent Act? Do they know there is such a thing as the Interpretation Act? Do they even know that bills come into force automatically on royal assent if there is not a proclamation or a coming-into-force clause in the bill? Finally, when the official from Finance Canada was interviewed by the Globe and Mail reporter, they seemed to make a distinction between the commencement date and the implementation date. In their view there was a difference. To me, that's like saying your birthday is different from the day you were born. I mean, this is ridiculous. They're euphemisms, and everyone knows that.

Finally, what was the intention of Parliament? If Parliament had wanted this bill to come into force later, it would have said so in the bill. Similarly, if Parliament had wanted to have a specific date that was not the date of royal assent, that too could have been in the bill. In other words, there were two occasions on which that could have been put in the bill by the drafter of the private member's bill in question. I don't even think we should call it a bill anymore. It's not a bill now. It's an act. It's actually part of the statute law.

Anyway, the law as amended, which is now what it is, reads the way it does because that was the intention of the “Legislator”, capital L. If the legislator had wanted it otherwise, the legislator could have done so, but it did not. If Finance says the legislator made a mistake, well, it's the legislator's entitlement to make such a mistake. If it wants to correct it, it can. As I said, though, because it's revoking tax alleviation, it will first have to present to the House a motion of ways and means. Subsequently, by the way, that motion of ways and means will have to be concurred in by the House. Only then will you be able to introduce the bill, because you'll be revoking tax alleviation that was provided for in this bill. Not implementing it was never in the cards.

**The Chair:** Thank you, Don.

We'll have to go to one more question from Mr. Fast and then move ahead.

Go ahead, Ed.

**Hon. Ed Fast:** I've already said my fear is that this may happen again. Either the Prime Minister's Office, cabinet, or maybe Finance officials on their own.... We don't know who directed whom in this case. My fear is this will happen again.

My question to both of you is, if this happens again, what are the remedies that parliamentarians have to ensure compliance with the rule of law?

**The Chair:** Who wants to start?

Mr. Boudria, we have you on screen, if you can be fairly quick. We're going to rapidly run out of time. We'll hear from Mr. Boudria and then Mr. Milliken.

• (1130)

**Hon. Don Boudria:** Well, very quickly, I think that, notwithstanding what happened yesterday, this should still be raised in the House. By having it raised in the House, the Speaker will be able to

rule on it and assert Parliament's authority. Essentially, that is what is required. Whether the Speaker will choose to do that or not, or whether he'll say that now it's become a hypothetical question because the press release in question was replaced with a different one that seems to respect the authority of Parliament, well, the Speaker will have to make that decision on his own.

**The Chair:** Mr. Milliken, do you have anything to add?

**Hon. Peter Milliken:** I think Don's comments are absolutely correct. The Speaker can make a decision on this matter if it's raised there, but whether it would be raised is another issue. Matters do come that way, occasionally, before the Chair. The Chair can decide whether Parliament's privileges have been breached by this kind of action. I think it probably would have been decided that way—that's my guess, anyway.

**The Chair:** Ms. Bendayan, you have five minutes.

**Ms. Rachel Bendayan (Outremont, Lib.):** Thank you very much, Mr. Chair.

Let me begin by thanking you as well, both as chair and as a member of our government's caucus, for your leadership on all things related to finance, and in that vein, also for calling this meeting of the finance committee at the end of July, when the House isn't sitting, in order to clarify matters in relation to the coming into force of Bill C-208. As others have said, I believe you are a giant in the House of Commons, sir, and a mentor to so many of us. I would like to thank you.

**Some hon. members:** Hear, hear!

**Ms. Rachel Bendayan:** This was mentioned earlier this morning, further to questions from different members. I would really like to unequivocally confirm on behalf of the government that any amendments to safeguard our tax policy or to avoid artificial tax planning in connection with Bill C-208 would not be retroactive. As stated in the press release of yesterday, new proposals would apply as of the later of either November 1, 2021, or the date of publication of the final draft legislation. I hope that clarifies matters for my friends and colleagues.

[*Translation*]

I also want to add my voice to those of the previous speakers and stress the importance of parliamentary supremacy.

So my first question is for the representatives of two organizations that are here to represent our dear farmers.

Thank you very much for joining us today.

As Parliamentary Secretary to the Minister of Small Business, Export Promotion and International Trade, I am particularly interested in the issue of intergenerational transfers.

As we all know, most farms are SMEs. The 2016 census showed that more than half of all farms are sole proprietorships, and nearly a quarter of those report as family businesses.

I feel that our government has demonstrated that we are here to support our SMEs in all sectors, including the agricultural sector, which I believe has 200,000 businesses in this country. If we look at our government's record during the pandemic, we see that it has provided \$1.4 billion to the agricultural sector through our wage subsidy and \$50 million, in the agricultural sector alone, for rent assistance.

There is also \$5 billion in additional funding for Farm Credit Canada, \$125 million for AgriRecovery to help producers with the additional costs of COVID-19, \$50 million for redistribution of unsold products, and more.

My question is about the Act to amend the Income Tax Act (transfer of a small business or family farm or fishing corporation). Now that we have clarified that this act has actually been in effect since June 30, what are the biggest issues you are facing today, from a tax perspective?

Ms. Bissonnette, you have noted that the transfers are quite complex. Could you start?

Do you have any suggestions or concerns from a tax perspective that you want to mention to the government today?

• (1135)

**Ms. Julie Bissonnette:** Thank you for your question.

My statement that the farm transfers were not simple was mostly about the human and economic aspects and included the whole process in general. My statement was more along those lines.

There are a lot of barriers. Also, all farm transfers are different, so there is no magic formula. Each company has to develop its own strategy. That's more what I was talking about. Also, asset values are going up. So, the more the values go up, the more the farms are worth, and a lot of money is being transferred.

On the human side, we work with our families. It's still about bequeathing a lifetime's work, so to speak. We always say that agriculture is a way of life and a passion, so this is a big step. That's also what we were presenting.

We were hoping that at least the government would remove the tax barrier, which they have done in the last month and confirmed yesterday. The tax aspect was the most significant obstacle for us.

**Ms. Rachel Bendayan:** That's great. I heard you loud and clear. Thank you, Ms. Bissonnette.

Perhaps we could go to Ms. Robinson.

[English]

**Ms. Mary Robinson:** I believe the question was what more could be done in regard to tax. What are the more complicated things we face in tax? Is that correct?

**The Chair:** That's correct, Mary.

**Ms. Mary Robinson:** Thank you, Wayne. I'm hearing feedback.

Probably what the government could do at this point in time to help farms would be.... Obviously, our big concern was this unfair intergenerational tax situation we had, which has been addressed. We now have an act. As Don has pointed out, it's no longer a bill.

Moving forward, I think what we would like to see are things like a grocer's code of conduct. We would like to see improved BRM and other measures put in place to help strengthen the family farm, so that if people want to avoid amalgamating to try to capture those economies of scale, we can better ensure the margins that farmers are able to capture.

As we've said, it's a capital-intensive investment, which means that much of our money is tied up in land, equipment and buildings. It means that we have a lot of skin in the game. In the value chain of our food system, we seem to be at the tighter end of the margins scale. If government would take a more favourable look at what it does to ensure that farms are on sure footing financially, that would ensure that the next generation would feel confident in taking on that investment of millions of dollars for most family farms.

**The Chair:** We will have to end this round there and go to Mr. Ste-Marie. I will just mention for the benefit of committee members what Larry and I must know for sure, that BRM means business risk management.

Go ahead, Mr. Ste-Marie, followed by Ms. Mathysen.

[Translation]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

Good morning to all the witnesses.

Thank you for your very interesting presentations.

I will begin with a comment for Ms. Bissonnette.

Thank you for your presentation. You had a question. It could even go to the senior officials this afternoon. I was delighted to hear that we already had the answer from Ms. Bendayan, who was speaking on behalf of the government. She assured the companies that will be doing family transfers that the next bill amending Bill C-208 will not be retroactive.

I commend and thank the government for sharing this commitment with us.

Before I turn to questions, I have a comment in response to the discussions we have heard at this meeting.

Senior officials in the Department of Finance may have had concerns about the implementation of a bill, but I don't think that's at all an excuse. In the previous hour, Mr. Dufresne, the Law Clerk of the House, appeared and told us that. He knows full well, as does everyone here, that, when a bill has no implementation date, it comes into force on the day it receives royal assent.



Mr. Dufresne reminded us that the government, the Minister of Finance, the Prime Minister and everyone else in government, relies on the Department of Justice to advise them on this matter. There is no better resource than the Department of Justice for advice on how legislation works. Everyone in the government knows full well that when royal assent is received, the legislation is in force, that is how it works. Even if the government did not know that, the senior officials have no excuse and cannot say that they did not know either. The minister and the government are responsible. If they didn't know, they are like boy scouts in short pants and that's inexcusable. It is completely unacceptable.

I have one other comment. According to yesterday's Radio-Canada article, between the first reading of Bill C-208 and royal assent, there were 527 days, or a year and a half. At each stage, at first reading, second reading, third reading, report stage, committee and Senate, the government could have proposed amendments. If it had done its job as a government in any serious manner and if it had said that it had concerns about tax evasion, which are perfectly valid, why did it let this go on for 527 days? Then it decides to have a new bill, and we gather that it will likely be after the election. They are creating uncertainty by saying that they are going to propose their amendments. Yet they had 527 days to do so. Once again, it smacks of boy scouts in short pants. It is really sad.

My last comment before my questions is this. Yesterday, we received the news release that corrected the situation and the Parliamentary Secretary, Rachel Bendayan, spoke on behalf of the government. Phew! We saved the bill, it's in effect and it will be implemented. I am very pleased about that.

I want to commend the work of all the members of the committee. I think the fact that the committee called an emergency meeting enabled the government to make this correction. I particularly want to raise my hat off to the chair of the committee.

Thank you for this meeting, Mr. Chair. It has changed everything.

Let me proceed with the questions.

I'll start with Ms. Bissonnette.

Your presentation was excellent. You mentioned that 70% of Quebec farmers want family succession. You have a dairy farm. How much is an average dairy farm worth when you include the fields for grain and everything else? On average, what is it worth in Quebec?

• (1140)

**Ms. Julie Bissonnette:** It could come to millions of dollars.

**Mr. Gabriel Ste-Marie:** Are you saying \$2 million?

**Ms. Julie Bissonnette:** I am saying it could come to millions of dollars.

**Mr. Gabriel Ste-Marie:** You are saying it's millions of dollars.

How much did it cost parents to sell their farms to their children rather than to strangers, before the legislation was passed?

**Ms. Julie Bissonnette:** After June 29, many young people contacted me to tell me that the impact of the legislation was easily

hundreds of thousands of dollars for their business, in which they will be able to reinvest the money.

**Mr. Gabriel Ste-Marie:** So, deciding to sell your farm to your children meant giving up hundreds of thousands of dollars and the passage of the Act to amend the Income Tax Act (transfer of a small business or family farm or fishing corporation) corrects this injustice.

You said that you have been pushing this issue for 15 years. In 2015, when I ran for office, this was the first issue I heard about. Farmers are well mobilized, and so are the small and medium-sized businesses. It's really very important.

Don't stop, keep going. Let's hope that, in the end, we will get there.

[English]

**The Chair:** Thank you both.

We're turning to Ms. Mathysen, who will be followed by Mr. Berthold and Mr. Kelly on a split.

Go ahead.

**Ms. Lindsay Mathysen:** Thank you, Mr. Chair.

Thank you to the witnesses.

We've heard a lot of statistics. I want to ensure there are statistics about the fact that over the last decade 8,000 family farms have disappeared. The average Canadian farmer has seen their debt double since about 2000. The last statistics I could see were from 2019. That debt is about \$106 billion. That's quite significant.

Could both Ms. Bissonnette and Ms. Robinson talk about how that impacts their members specifically and their plans for retirement? Certainly there has been a great deal of stress, during COVID, on those families and those small businesses. What has that additional stress caused?

I want Ms. Bissonnette to go first.

**The Chair:** Go ahead, Ms. Bissonnette.

[Translation]

**Ms. Julie Bissonnette:** Thank you for your question.

As I was saying, transferring a farm is generally quite a stressful time. The uncertainty of the past month has not helped either. That's why I repeat that we are very happy with last night's clarification. In terms of succession, it's mostly that—

• (1145)

[English]

**The Chair:** If I could interrupt, Ms. Bissonnette, for a minute, we're not getting translation, or at least I'm not. Can we check the translation there?

Ms. Bissonnette, could you unplug your mike and plug it in again and see if that works? Just unplug your mike, that special mike that Parliament sent you. Okay, try it now.

[Translation]

**Ms. Julie Bissonnette:** Is it working?

[English]

**The Chair:** Yes, that's working. Go ahead.

[Translation]

**Ms. Julie Bissonnette:** With respect to the concerns, the last month has clearly not been easy and the stress level has increased. The pandemic came on top of the droughts and the weather. Summer is always a bit more stressful for farmers. So the past month hasn't been easy, but we were happy to hear yesterday that it has been resolved. Last month, that was our concern for the next generation of farmers.

I will let Ms. Robinson continue.

[English]

**The Chair:** Could we go to Ms. Robinson on the same question?

Mary.

**Ms. Mary Robinson:** With regard to the stresses that people feel on farms right now, there are so many and they're so varied. The very nature of agriculture in Canada is incredibly diverse, both in the size of farm operations and in the commodities they're producing. Generally speaking, what we want to see and what we advocate for a lot at CFA is improvement to the business risk management programs so that farmers have a financial backstop, so that they don't have this overwhelming stress that when something comes along that's well beyond their control they're going to lose everything.

It's an interesting combination, and I'm sure, Mr. Chair, you could speak to this. The combination of tradition, of multiple generations, of being viewed as a steward of the land and the environment in your community creates a high-stress situation all on its own.

Just in recent years, we've seen geopolitical issues. We've seen transportation issues. We see climate issues. We see carbon tax potential. We see many things that are being downloaded to farmers. Farmers, ultimately, are price takers. We produce commodities. Very rarely do we have an opportunity to influence the price we're being paid.

Our government needs to make sure the foundation of our food system is well shored up and is well positioned so that the next generation of family farms can come along and do an exceptional job.

**The Chair:** It's your last question, Ms. Mathysen.

**Ms. Lindsay Mathysen:** A lot of that farmland we talk about—that protection of sustainable farmland and the environmental consequences, of course—has been lost over the years through urban sprawl. Again, we speak of that debt of a lot of your members. Of course, what this bill could do to protect against foreign interests taking over and redeveloping that land and to ensure that it's protected from that urban sprawl is ultimately one key basis of this bill. Could you talk about what your members are facing in terms of that as well, and about how this bill specifically can protect against having foreign investors take over and redevelop?

**The Chair:** Do you want to start, Ms. Robinson? Then we'll go to Ms. Bissonnette.

**Ms. Mary Robinson:** Thank you, Mr. Chair.

Ultimately there are no farmers I'm aware of who would sell their land if their farm were profitable. One of the best things we can do to prevent the loss and erosion of arable land in this country would be to ensure that farms are profitable and that they have a financial backstop. Farming is a way of life and it's a business. It's an interesting mingling of the two, but ultimately, farmers carve off and sell land because of economic pressures, in my opinion.

**The Chair:** Ms. Bissonnette.

[Translation]

**Ms. Julie Bissonnette:** Thank you for your question.

It's interesting because, for the young farmers, access to land ownership and climate change will be part of their whole life. We're seeing that especially right now. With respect to climate change, as we often say, agriculture is definitely part of the solution. We take care of our land. We need guidance and support.

Ms. Robinson was talking about profitability. It's easy to say that the next generation of farmers must do this or that, but in order to do so, they must be supported. Access to land ownership is a more important issue, because we don't have the solution. If the perfect solution existed, we would have it. We really continue to promote access to farmland for future generations and, most importantly, the conservation of our land. Farmland is our wealth in Canada, because it feeds the people.

It will certainly be an issue in the coming years. In fact, it is already an issue.

• (1150)

[English]

**The Chair:** Thank you all.

We'll turn to Mr. Berthold for about three minutes, with the same for Mr. Kelly, and then Ms. Dzerowicz will wrap it up.

Mr. Berthold.

[Translation]

**Mr. Luc Berthold:** Thank you very much, Mr. Chair.

First, perhaps because I am not a regular member of the committee, I do not share the enthusiasm of my colleague from the Bloc Québécois about the comments of the parliamentary secretary and yesterday's news release.

I would remind you that Bill C-208 was voted on by Parliament, but all members of cabinet voted against it. The Department of Finance issued a news release noting that the bill would not be implemented until January 1, 2022.

As a former chief of staff, I can tell you that a news release of this nature is not issued by the Department of Finance without at least someone in the minister's office having seen and approved it. It's a very important item and a major change in terms of finance. More importantly, it is a major change in terms of the implementation of legislation that has been passed by Parliament. A news release of this nature could not be issued without the approval of the office of the Minister of Finance.

My question is for Ms. Bissonnette, whom I know well because I have met her on several occasions.

Without being afraid, would you be able to recommend, today, that a family proceed with the transfer of its farm, knowing that the government has already announced that there will be amendments to Bill C-208?

**Ms. Julie Bissonnette:** Thank you for your question.

As I said, the last few months have not been easy. There has been added stress, but last night we had confirmation that the situation was resolved.

As for the future, for now, Bill C-208 has come into force and the legislation is being implemented. That's what we've been hearing for the last little while. We assume that the situation is resolved. Of course, every business is different and every transfer is different. It is up to each business to actually validate the farm transfer.

For us, the bill has been in effect since it received royal assent. Clearly, we will be watching with great interest to see what happens next. For now, we are reassured by yesterday's confirmation and this morning's confirmation of the nuance that we were missing. We consider that it is settled.

**Mr. Luc Berthold:** Do you think the government should be clearer and more specific in writing? Should it give you specific information rather than just words in a news release?

Hundreds of thousands of dollars are at stake for the transferors and for those who want to buy the farms. A lack of clarity has created uncertainty and vagueness that may cause some farm families to wait and to have no trust at all.

I remember that the government has often said in the past that it would not touch supply management. We were often told that there would be compensation. But basically, we still don't have a clue about the compensation resulting from the Canada-United States-Mexico Agreement.

Don't you think this adds a layer of uncertainty for all producers that is really not necessary?

**Ms. Julie Bissonnette:** Thank you for your question, Mr. Berthold.

The June 30 news release definitely created some uncertainty, but yesterday's clarified the situation.

However, again, we are relying on royal assent and the legislation coming into force. The rest, including the news release, is more about the future. As I said, since the legislation has been confirmed, we continue to focus on that.

It's certainly not ideal to send out the information in a news release when the legislation is already in effect, but at least we have the certainty that the situation is resolved.

**Mr. Luc Berthold:** Thank you, Ms. Bissonnette.

I'm going to turn my time over to—

[English]

**The Chair:** I'm sorry, Luc. We'll have to move to Mr. Kelly.

Pat, you're up.

**Mr. Pat Kelly:** Thank you. My question is for former speaker Milliken.

Thank you for your service to Canada during your long tenure as Speaker. During your time as Speaker, which spanned two governments and two prime ministers, did the government of the day ever sue the House of Commons and name the Speaker of the House in a lawsuit against the House of Commons?

• (1155)

**Ms. Rachel Bendayan:** On a point of order, Mr. Chair, I'd certainly defer to you on the rules regarding relevance, but I believe that this meeting was called to discuss the coming into force of Bill C-208.

**Mr. Pat Kelly:** To speak to the point of order—

**The Chair:** What's your thought on the point of order? Go ahead.

**Mr. Pat Kelly:** —the topic of the meeting, of this panel of the first meeting today, is the authority of Parliament.

**The Chair:** Okay. I'll let the question go.

**Mr. Pat Kelly:** Thank you.

**Hon. Peter Milliken:** I don't recall any such lawsuit when I was there, no.

**Mr. Pat Kelly:** Does it concern you that the government would sue the elected members of the House over their authority?

**Hon. Peter Milliken:** I can't imagine how they could if they've exercised their authority properly.

**Mr. Pat Kelly:** Yes. They have done so, anyway.

Mr. Chair, if this is indeed the last panel, I will maybe let Mr. Maguire get a question in. I think I have a minute and a half left.

**The Chair:** Okay.

Mr. Maguire, you have a minute and a half.

**Mr. Larry Maguire:** Well, thank you very much. I want to thank Mr. Boudria and Mr. Milliken for their clarity today as well.

I want to ask a question of Ms. Robinson and Ms. Bissonnette. In the Department of Finance press release that was put out yesterday—after 527 days, as my colleague from the Bloc said, of fighting this bill, and 20 days to have said why, if it were such a good bill, they didn't vote for it in the House—the caption reads “clarifies taxation for intergenerational transfers of small businesses”. The Deputy Prime Minister is acknowledging that it's law. Everybody knew that except their own caucus. I think it's nothing new to say that.

However, there's still doubt here. I've already had phone calls on that. They're saying, “Well, we know it's law now”, but the release also has that “forthcoming amendments are intended to make sure that it facilitates genuine intergenerational transfers and is not used for artificial tax planning purposes.” On the word “genuine”, I want to ask my colleagues in the agriculture field, because this applies to all small businesses. The government wanted to remove the other 97%, other than farming and fishing, from the bill in the Senate in that regard. The use of the word “genuine” leads me to believe that the government doesn't believe that a lot of these transfers are genuine, and that it believes there may be some hidden agenda behind them. So does “not used for artificial tax planning purposes”, when the government knows full well that CRA can audit anyone at any time.

The questionable part of this whole thing about introducing amendments and introducing the bill is that it also states that these would apply as of the later of November 1 this fall or the date of publication of the final draft of the legislation. My question to you is, do you think this will ever happen? The later could be another two decades away, or six years or four years. I see this as a very open-ended opportunity for the government to continue what it's done for the last six years, which is nothing in this regard.

I think the four points in this statement it put out yesterday also lead to a great deal of misunderstanding—by the government in this particular case, not the finance department—about how these businesses are the same as any other small businesses, that farming and fishing are the same as any other small business. They're talking about the stripping of wealth in these small businesses, but they're only referring to that if it's a family farm or a family business, not one that's sold to a complete stranger. These things are very concerning to me, as a former farmer and farm leader in western Canada, or in all of Canada, for that matter.

I just wonder if you could comment on those points.

**The Chair:** We're getting into the details of the bill. I would say, Mr. Maguire, if you go back and look at the record on Ms. Boudria's words, I think that was spelled out pretty clearly there from a government perspective. That will be in the record.

Who wants to take a stab at that question?

**Ms. Mary Robinson:** I will, Wayne.

**The Chair:** Go ahead, Mary.

**Ms. Mary Robinson:** I think you're absolutely correct, Mr. Maguire, that it's not black and white. It's still a bit grey. It certainly causes me concern.

Julie was asked earlier if there would be confidence in telling someone to move ahead immediately with a transfer intergenera-

tionally. I personally would be quite nervous of it. I think we heard Mr. Boudria speak to the idea of November 1 or the later publication. I am not a parliamentary expert by any means. I'm a farmer. I rely on my financial advisers. I hope there's great clarity given to accountants as they guide these multi-million-dollar transfers that happen, with the implication of hundreds of thousands of dollars in taxes to be paid.

• (1200)

**The Chair:** Thank you for that.

We'll turn to Ms. Dzerowicz for the last round. Then we'll adjourn until the next panel this afternoon, with Finance. We should be able to get some clarity then.

Ms. Dzerowicz.

**Ms. Julie Dzerowicz (Davenport, Lib.):** Thank you so much, Mr. Chair.

My colleague, Mr. Gerretsen, would like to speak for the last minute of my questions. Could you make sure to cut me off, including the answer?

**The Chair:** All right. I don't mind at all cutting you off at four minutes.

**Ms. Julie Dzerowicz:** Okay. No problem. Then I have a lot of time.

I want to thank you for convening this session today, and I want to thank all my colleagues for making it out today. It's actually nice to see people in person.

It was quite clear from the news release put out yesterday by our government that we're committed to implementing Bill C-208. We're also committed to protecting the integrity of the tax system.

Ms. Robinson and Ms. Bissonnette, as we are intending to bring forward these amendments, what messages would you send to the federal government as our officials work on these amendments? That's the first part.

Second, Ms. Robinson, you made a very clear plea to make sure that officials connect directly with grassroots farmers. Are there any other groups we should make sure to touch base with?

Maybe we could start with Ms. Robinson, follow with Ms. Bissonnette, and then transfer whatever time I have left to Mr. Gerretsen.

**Ms. Mary Robinson:** In regard to grassroots consultation, we represent farmers. I probably shouldn't speak for industries outside of farming. I'm not familiar with them the way I am with agriculture.

I think it's incredibly important for government to speak with farmers and understand, because it is such a capital-intensive investment. It's perhaps not very well understood by people outside of agriculture, and sometimes in particular by people who live in large urban centres, which seems to be most of government and bureaucrats. We would appreciate great consultation with our members on that.

At this point, I would defer to Scott Ross to speak on the other point, if that's okay.

**Mr. Scott Ross (Assistant Executive Director, Canadian Federation of Agriculture):** Thank you, Mary.

To the question, I think one message we would convey is that succession, as I think Ms. Bissonnette said earlier, is not a clear-cut and one-size-fits-all process for Canadian farmers. We highlighted the need for dialogue because it is a very complex process that can take a lot of different forms. It's not really a matter of just answering a couple of questions and ensuring that those are respected. I'd suggest it's having a very engaged dialogue with not only farmers but also the myriad farm advisers who are involved in succession planning. That's everyone from succession planning specialists to accountants and legal counsel as well.

This is a very involved process, with a lot of capital involved, as Mary said. I think it's about getting all the right voices in a room and making sure all those perspectives are informing that discussion.

**The Chair:** Ms. Bissonnette, did you want to add anything?

[*Translation*]

**Ms. Julie Bissonnette:** Yes, thank you.

I certainly agree with Ms. Robinson and Mr. Ross. As I said earlier, criteria have already been put in place in Quebec, and things seem to work. We really have seen no evidence to the contrary. Perhaps we should start by looking at what is being done there. We heard that recommendation often during the consultations on Bill C-208.

In addition, as I mentioned earlier, there is no reason why farm transfers should be affected by the criteria, given that tax evasion is not the purpose of business transfers.

Of course, we hope that the safeguards will not add barriers to future transfers.

[*English*]

**The Chair:** Okay. Thank you.

I should add as well here that we didn't have room for another witness. I know—

**Mr. Mark Gerretsen (Kingston and the Islands, Lib.):** Mr. Chair, do I still get the last minute there?

**The Chair:** Yes, you have the last minute.

I just want to add on this point, because we've heard from the agriculture sector, but I do know Dan Kelly from the small business sector had asked to come before the committee, but we couldn't handle a fifth witness on this panel. I'm sure he and the fishing community as well would be saying that they absolutely have to be

consulted as well on the points outlined in the press release going forward. I don't want that to be lost because we have just agriculture here. That has to be assured as well.

Mr. Gerretsen, you have about a minute and a half.

• (1205)

**Mr. Mark Gerretsen:** Thank you, Mr. Chair.

My question is for you, Mr. Milliken. I'm a big fan of your work. Your work has come up a couple of times in this room today, in particular in discussions around parliamentary privilege and finding Parliament in contempt.

In that vein and following on the questions of Mr. Kelly, I want to go back to a ruling you made. I believe it was back in 2010, and I'm reading from The Canadian Press here, "Milliken ruled Parliament had a right to order...". This is in regard to the breach of parliamentary privilege over the Afghan detainee documents. You ruled that Parliament had "a right to order the government in December to produce uncensored documents to members of a special committee examining allegations that detainees transferred to Afghan custody were tortured." You said that the order was clear and procedurally acceptable, but you acknowledged that it had no provision to protect sensitive information within the material.

Here's where your ruling differed from one that has been referenced recently in this committee, which occurred recently in the House of Commons. You said specifically, during the lengthy ruling, that you called on House leaders, ministers and MPs to find a "workable accommodation" to satisfy all parties "without compromising the security and confidentiality contained". You made it very clear that you respected and the House respected that confidentiality that was a requirement through other statutes and other laws. You saw the need to encourage members to find accommodation.

In fact recently, when a similar situation happened in front of the House of Commons, the House leader, Mr. Rodriguez, stood up and tried to find accommodation, yet there was no willingness from the other parties to see that. I'm curious as to whether you can comment on why you thought it was so necessary to have that accommodation seen and to find that compromise so that the confidentiality could be protected.

**The Chair:** Mr. Milliken, I will allow the question because we've had it from both sides. If you could give a fairly concise answer to that question, then we will adjourn until the next panel.

**Hon. Peter Milliken:** Well, I thought the thing to do was to have these documents reviewed by a panel of members in secrecy so they could choose which ones should not be made public, because making them public would cause a breach of national security. That was the purpose of it. My understanding was that the group met in private and in secret. They were sworn to secrecy and they did some of this work, but I never had the result. Parliament was dissolved before they ever announced anything from their findings, so I never heard a word. I don't know what happened. Parliament was dissolved, so the Speaker's ruling went out the window. When the new Parliament met, that was another issue. It wasn't raised, as far as I'm aware, but then I was gone and retired. It was just one of those things that happened.

Because the members were sworn to secrecy, when I would ask one of them, "What's going on? Are you having meetings on this?", they said, "I can't tell you anything, sir. We're sworn to secrecy." I just don't know what happened. I never did hear it.

**The Chair:** Thank you for that, former speaker Milliken. We're getting into a little parliamentary history here, and that doesn't hurt any of us; that's for sure.

With that, we say thank you, Ms. Bissonnette and Ms. Robinson and the people with both of you, and thank you, Mr. Milliken and Mr. Boudria. Thank you for appearing today and for answering our questions, and for having a bit of a lively discussion at times.

With that, the meeting is adjourned.

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