SENATE SÉNAT

CANADA

REPORT ON THE SUBJECT-MATTER OF BILL C-31, AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON FEBRUARY 11, 2014 AND OTHER MEASURES

Standing Senate Committee on National Finance

TENTH REPORT

Chair
Honourable Joseph A. Day

Deputy Chair
Honourable Larry Smith

MAY 2014

TABLE OF CONTENTS

INTRODUCTION

Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures (short title: Economic Action Plan 2014 Act, No. 1) was introduced and read for the first time in the House of Commons on 28 March 2014.

As its short and long titles show, the purpose of Bill C-31 is to implement the government's overall budget policy introduced in the House of Commons on 11 February 2014. Bill C-31 is the first budget implementation bill of February 2014. According to established legislative practice, a second budget implementation bill should follow in the fall.

Bill C-31 is divided into six parts. Part 1 would implement income tax measures (clauses 2 to 39), Part 2 would implement certain goods and services tax/harmonized sales tax (GST/HST) measures (clauses 40 to 61) and Part 3 would implement excise measures (clauses 62 to 90).

Part 4 would amend the *Customs Tariff* (clauses 91 to 98) and Part 5 would enact the Canada–United States Enhanced Tax Information Exchange Agreement Implementation Act (clauses 99 to 101). Lastly, Part 6 would enact and amend several acts in order to implement various measures, including the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, the *Hazardous Products Act*, the *Customs Act*, the *Judges Act*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, the *Trade-marks Act* and the *Old Age Security Act* (clauses 102 to 486).

On 9 April 2014, the subject-matter of Bill C-31 was referred to the Standing Senate Committee on National Finance for a detailed review. In order to assist the Standing Senate Committee on National Finance in its review, five other Standing Senate Committees were authorized to examine and report their findings on the subject-matter of the following elements contained in Bill C-31:

(a) the Standing Senate Committee on Transport and Communications: those elements contained in Divisions 15, 16 and 28 of Part 6;

(b) the Standing Senate Committee on Social Affairs, Science and Technology: those elements contained in Divisions 11, 17, 20, 27 and 30 of Part 6;

(c) the Standing Senate Committee on National Security and Defence: those elements contained in Divisions 1 and 7 of Part 6;

(d) the Standing Senate Committee on Banking, Trade and Commerce: those elements contained in Parts 2, 3 and 4 and Divisions 2, 3, 4, 8, 13, 14, 19, 22, 24 and 25 of Part 6;

(e) the Standing Senate Committee on Legal and Constitutional Affairs: those elements contained in Division 5 of Part 6.

Therefore, elements contained in Part 1, Part 5 and Divisions 6, 9, 10, 12, 18, 21, 23, 26 and 29 of Part 6 of Bill C-31 will be only reviewed by the Standing Senate Committee on National Finance (the Committee).

As part of its pre-study on Bill C-31, which took place from 29 April 2014 to 14 May 2014, the Committee held a total of 9 meetings. Over the course of these meetings, the Committee heard from 39 witnesses from 5 departments and 3 federal organizations, as well as representatives from 9 organizations outside the federal government and 1 individual.

PART 1 – WOULD IMPLEMENT CERTAIN INCOME TAX MEASURES AND RELATED MEASURES PROPOSED IN THE 2014 BUDGET

1. Amendments relating to the introduction of the *Offshore Tax Informant Program* (clauses 2, 3, 23, 26, 32 and 34)

Part 1 would add to the list of amounts to be included in computing the income of a taxpayer for a taxation year the amounts received by the taxpayer under a contract to provide the Canada Revenue Agency with information relating to offshore tax non-compliance, on the condition that the contract was entered into by the taxpayer under a program administered by the Canada Revenue Agency to obtain information relating to tax non-compliance.

The Committee has been informed that the person providing information to the Canada Revenue Agency under a contract to provide information relating to offshore tax non-compliance could not receive the promised amount until the Canada Revenue Agency had recovered the amount owing to it. In the same way, the amounts to be redistributed to the provinces and territories would be those which have in fact been collected by the Canada Revenue Agency.

These amendments would come into force on the day on which the bill receives Royal Assent.

2. Introduction of the search and rescue volunteer tax credit (clauses 11 to 16, 19 and 20)

Part 1 would amend the *Income Tax Act* to permit an individual to apply for the new non-refundable tax credit for search and rescue volunteers if the individual has performed eligible volunteer search and rescue services in the year and has worked a total of not less than 200 hours:

- of eligible search and rescue volunteer service for an eligible search and rescue organization;
- of eligible volunteer firefighting services for one or more fire departments.

The amount of the credit would be determined by multiplying $3,000 by the appropriate percentage for the taxation year (15% for 2014) for tax savings of up to $450.

Finance Canada officials have confirmed to the Committee that a person could not deduct an amount as a *search and rescue volunteer tax credit* for a given taxation year if that person has deducted an amount as a *firefighting tax credit* for the same year.

The Committee has also learned from Finance Canada representatives that the tax credit would also apply to search and rescue conducted outside the country provided that there is compliance with the other criteria applicable to the *search and rescue volunteer tax credit*.

This amendment would apply to the 2014 and subsequent taxation years.

3. Tax incentives for donations of ecologically sensitive land (clauses 5 and 9)

Part 1 would amend the *Income Tax Act* to extend the carry-forward period for claiming a deduction for charitable donations and the charitable donation tax credit to 10 taxation years after the calendar year when the ecologically sensitive land was donated by a corporation or individual. This amendment would apply to donations made after 10 February 2014. With this change, donors would have a longer period in which to earn income which could be reduced by means of the deduction or the tax credit.

The Committee has learned from Finance Canada officials that this measure is justified by the facts that ecologically sensitive land is very often donated in a single block, and that it may be difficult for a taxpayer to fully benefit from the credit, or in the case of a corporation, from the deduction. For example, this may be the case for a farmer: being able to benefit for a longer period of time from this fiscal assistance might encourage farmers to make donations of ecologically sensitive land.

The proposed change comes in the wake of the recommendations in the report of the House finance committee on incentives for charitable giving.

This amendment would apply to donations of ecologically sensitive land made after 10 February 2014.

4. Adoption expense tax credit (clause 6)

Part 1 would increase the maximum eligible expenses for each child adopted for purposes of the non-refundable adoption expense tax credit. For the 2014 taxation year, the maximum would be $15,000, whereas it is currently $11,669. For subsequent taxation years, this amount would be indexed to inflation.

The amount of the credit would be determined by multiplying $15,000 by the appropriate percentage for the taxation year (15% for 2014) for tax savings of up to $2,250. In total, this would represent an additional tax saving of close to $500 compared with the maximum that is presently in effect.

The Committee has learned that some 2,500 persons apply for this tax credit every year, a number which has been relatively stable for at least three years.

This amendment would apply to the 2014 and subsequent taxation years.

As part of its review of Part 1 of Bill C-31, the Committee heard from various stakeholders, including the testimony of representatives of the Adoption Council of Canada with regard to the tax credit for adoption expenses. In their testimony, the Council stated that in Canada, there are approximately 30,000 children that are legitimately eligible for adoption, but only 2,000 of them are adopted per year. The Council also noted that many legislative obstacles remain, and that a better dialogue between the provinces would be welcome, given that it is almost easier to adopt internationally because of the current provincial regulations. In response to these concerns and others, some members of the Committee were of the view that a comprehensive study on adoption in Canada should be undertaken by the Senate.

5. Addition to the medical expense tax credit (clause 10)

Part 1 would add costs related to the acquisition, care and maintenance of a service dog as part of the medical expense tax credit, if the animal is purchased to assist a person with severe diabetes.

The Committee has learned that a service dog costs approximately $25,000. Representatives of Finance Canada report that three of these dogs have just arrived in Canada, and seven more should be following shortly.

Finance Canada officials report that Veterans Affairs Canada is currently evaluating the effectiveness of service dogs for persons with psychiatric disorders, and Finance Canada is closely monitoring the progress of that initiative.

This amendment would apply to expenses incurred after 2013.

To conclude, to assist Canadians who might benefit from this measure, such as veterans, for example, some Committee members have encouraged Finance Canada representatives to consider adding service dogs for persons with psychiatric disorders, such as post-traumatic stress syndrome, to the list of expenses eligible for the medical expense tax credit.

6. Allowing taxpayers to obtain the GST/HST tax credit without having to apply for it (clause 17)

Part 1 proposes to amend the *Income Tax Act* so that people do not have to apply for the GST/HST credit when they fill out their income tax return. The Canada Revenue Agency would simply perform the necessary calculations to determine eligibility for the tax credit and would grant that credit where appropriate.

The Committee has learned that this change would save money for the Canada Revenue Agency, since every year some two million individuals who are not eligible for the GST/HST tax credit apply for it. This obliges the Canada Revenue Agency to send them a notice of determination to explain that they are ineligible for the credit.

If anyone did not agree with the Canada Revenue Agency’s decision about their eligibility for the credit, they could request a notice of determination, thereby protecting all their rights of appeal.

These amendments would apply to the 2014 and subsequent taxation years.

7. Extension of the mineral exploration tax credit (clause 18)

Part 1 would amend the *Income Tax Act* to maintain the *mineral exploration tax credit* for another year. The proposed measure would allow this credit to be used for eligible exploration expenses paid by a

corporation after March 2014 and before 2016 under a flow-through share agreement[1] made after March 2014 and before April 2015.

Certain members representing the mining industry told the Committee that they appreciate the proposed measure and recommend that the government make the *mineral exploration tax credit* permanent or assign it a minimum term of three years. They claim that this would offer the industry the long-term certainty that it needs to plan critical investment for exploration programs, which by their nature often extend over several years. Certain members of the Committee indicated that they are favourable to these recommendations.

The mineral exploration tax credit was first announced in the economic statement and budget update of 18 October 2000.

This measure would apply to expenses renounced under a flow-through share agreement entered into after March 2014 and before 2016.

8. Allowing the Minister of National Revenue to refuse to register, or revoke the registration of, a charity or Canadian amateur athletic association (clause 21)

Part 1 would permit the Minister of National Revenue to revoke the registration of a registered charity or registered Canadian amateur athletic association that accepts a gift from a state that is set out on the list mentioned in section 6.2 of the *State Immunity Act*. Two states presently appear on that list, namely the Islamic Republic of Iran and the Syrian Arab Republic. According to the representatives of Finance Canada, the Minister of National Revenue would therefore have the authority to refuse to register a charity or Canadian amateur athletic association that has accepted a gift from those states.

This measure would apply in respect of gifts accepted after 10 February 2014.

9. Reduction of the frequency of remittances for source deductions for certain small and medium-sized employers (clauses 33, 37 and 39)

Part 1 would amend the *Income Tax Regulations* so as to raise the thresholds of average monthly withholdings used to establish the frequency of remittances for source deductions, as follows:

- the threshold applicable to persons required to remit up to two times per month would rise from $15,000 to $25,000;
- the threshold applicable to persons required to remit up to four times per month would rise from $50,000 to $100,000.

The Committee learned from representatives of Finance Canada that the remittance thresholds had been introduced in 1988 and 1990, and had not been changed since.

These amendments would apply to amounts deducted or withheld after 2014.

---

[1] With a flow-through share, an investor agrees with a corporation to purchase its shares and the corporation then uses the proceeds of the security disposal to incur eligible exploration and operating expenses. Next the corporation "renounces" these expenses in favour of the investor. In this context, "renunciation" means that the corporation transfers to the investor the right to deduct eligible exploration and operating expenses from his or her income, thereby reducing the amount of income tax the investor has to pay in a given year.

10. Transfer limits relating to underfunded pension plans (clause 36)

Part 1 would amend the *Income Tax Regulations* to expand the criteria governing eligibility for the higher pension transfer limit. More specifically, the criteria would be expanded to apply to individuals leaving an underfunded registered defined-benefit pension plan whose administrator is winding up.

The Committee has learned that this change would permit individuals to transfer a higher lump sum, with tax deferral, from a registered defined-benefit pension plan to a registered defined-contribution pension plan, a registered retirement savings plan or a registered retirement income fund. The representatives of Finance Canada explained to the Committee that the purpose of this very technical clause was to prevent the *Income Tax Act* from penalizing taxpayers by limiting the amount transferable from their pension plan when their retirement benefit had lost value due to various circumstances.

11. Provision of taxpayer information for purposes of feedback from the Canada Revenue Agency to the Financial Transactions and Reports Analysis Centre of Canada and electronic funds transfers (clause 28)

Part 1 would amend the *Income Tax Act* to permit information on taxpayers to be provided to an official of the Financial Transactions and Reports Analysis Centre of Canada. This information would enable the Financial Transactions and Reports Analysis Centre of Canada to evaluate the usefulness of information which had been provided to the Canada Revenue Agency.

This measure would also amend the *Income Tax Act* so that taxpayer information can be provided to an official of the Financial Transactions and Reports Analysis Centre of Canada for the purpose of ensuring compliance with Part 1 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. This information might be provided only if used to determine whether a reporting entity, within the meaning of this clause, has complied with its obligation to produce reports on international electronic funds transfers. The information could not be provided if it revealed the identity of a client.

The representatives of Finance Canada explained to the Committee that the Financial Transactions and Reports Analysis Centre of Canada is presently permitted to provide information to the Canada Revenue Agency, for example, in order to combat tax fraud. However, the Committee has learned that the Canada Revenue Agency has no real capacity to provide feedback on the information it receives, so as to allow the Financial Transactions and Reports Analysis Centre of Canada to fine-tune its own management indicators, thereby improving the quality of the information it provides to the Canada Revenue Agency and acquiring a better understanding of how that information is used.

This measure would come into force on the day on which the bill receives Royal Assent.

12. Tabling in Parliament of outstanding tax measures (clause 31)

Part 1 would require the Minister of Finance to table in Parliament a list of outstanding tax measures for the purpose of amending “listed tax law” if the proposals:

- were publicly announced by the government after the last general election and before April 1 of the fiscal year preceding the particular fiscal year;
- have not been enacted or made before the date the list is tabled in substantially the same form as the proposal, or in a form that reflects consultations and deliberations relating to the proposal.

The “listed tax laws” would be the following:

- the *Income Tax Act* and *Income Tax Regulations*;
- the *Income Tax Conventions Interpretation Act*;
- the *Excise Tax Act* and any regulations made under that Act;
- the *Excise Tax, 2001* and any regulations made under that Act;
- the *Air Travelers Security Charge Act* and any regulations made under that Act;
- the *Excise Act* and any regulations made under that Act;
- the *Customs Tariff* and any regulations made under that Act.

Any specific legislative proposal that has been publicly withdrawn by the government or any announcement of a general intention to develop a specific legislative proposal would be excluded from the list of outstanding tax measures.

The representatives of Finance Canada told the Committee that this measure is designed to create more transparency so that parliamentarians and taxpayers can have more information about changes to tax laws that the government has announced and plans to adopt.

This measure would come into force on the day on which the bill receives Royal Assent.

13. Labour-sponsored venture capital corporations tax credit (clauses 24, 25, and 35)

Part 1 would amend the *Income Tax Act* and *Income Tax Regulations* to establish transitional rules for the phase-out of the labour-sponsored venture capital corporations tax credit. These corporations are a type of investment company that invests in small and medium-sized enterprises.

In response to the Committee’s questions about the reasons why this measure was not included in last year’s budget implementation act which contained a measure on this tax credit, the Finance Canada representatives responded that the department felt it was necessary to clarify the transitional rules. Finance Canada held a consultation for this purpose last fall. Considering that there were few specific observations in the wake of the consultation process, the legislative provisions proposed in this bill are similar to those submitted during the consultation.

The clauses would be deemed to have come into force on 27 November 2013.

14. International electronic funds transfers (clauses 27 and 29)

Part 1 would amend the *Income Tax Act* to require certain financial intermediaries to report to the Canada Revenue Agency international electronic funds transfers of $10,000 or more no later than five working days after the day of the transfer.

The Finance Canada representatives told the Committee that financial institutions already report these transactions to the Financial Transactions and Reports Analysis Centre of Canada and, in certain cases, the Centre can provide this information to the Canada Revenue Agency. The measure is intended to ensure that there is only one process for taxpayers, so that they can report to the Canada Revenue Agency at the same time as to the Centre. According to the Finance Canada representatives, this

measure would permit the Canada Revenue Agency to use this data as the basis for its own analyses for civil compliance purposes.

These amendments would come into force on the day on which the bill receives Royal Assent.

15. Amendments relating to the introduction of the *Tax Informant Program* (clauses 2, 3, 23, 26 and 32)

Part 1 would amend the *Income Tax Act* so as to make amendments relating to the introduction of the Offshore Tax Informant Program of the Canada Revenue Agency. The Finance Canada representatives explained that this measure mainly concerns the tax treatment of amounts paid under a contract entered into between the Canada Revenue Agency and an informant. Amounts received by a taxpayer under the Canada Revenue Agency's *Offshore Tax Informant Program*, or a similar program, would now be included when computing the taxpayer's income. In cases where an amount would have to be reimbursed to the Canada Revenue Agency, the taxpayer could deduct that amount from the calculation of his or her income.

These amendments would come into force on the day on which the bill receives Royal Assent.

16. Disclosure of confidential information to a police organization (clause 28)

Part 1 would amend the *Income Tax Act* to permit an official of the Canada Revenue Agency to provide confidential information to a law enforcement officer of an appropriate police organization, in or outside Canada. The official could provide such information if he or she had reasonable grounds to believe that it would afford evidence of one of the cited offences. The cited offences would be the corruption of public officials within the meaning of the *Corruption of Foreign Public Officials Act* and the *Criminal Code*, and the crimes listed in the *Criminal Code* that are liable to a suspended sentence and which were covered by the *Safe Streets and Communities Act*. At the present time, the *Income Tax Act* authorizes an official of the Canada Revenue Agency to provide information in the course of proceedings launched under a federal statute. With this amendment, the official would be able to provide information to police authorities on his or her own initiative, whether or not criminal action has been taken under a federal statute.

The Finance Canada representatives explained that this amendment would permit an official to provide information on a taxpayer to a law enforcement officer of an appropriate organization if the official has reasonable grounds to believe that the information would afford evidence of an act or omission committed in or outside Canada that is on a specified list of offences. Involved here are serious crimes such as corruption, fraud against the government, corruption of a foreign public official, corruption of a municipal official, secret commissions, criminal harassment, or the production, distribution or possession of child pornography or access to child pornography.

Representatives of the Anti-Rackets Branch of the Ontario Provincial Police have said that this measure would reduce red tape and delays in obtaining financial information about a taxpayer as part of an investigation.

This measure would come into force on the day on which the bill receives Royal Assent.

17. Financial institutions and mark-to-market rules (clause 37)

Part 1 would amend the *Income Tax Regulations* to the effect that the Business Development Bank of Canada (BDC) and BDC Capital Inc., a subsidiary exclusively owned by BDC, are not defined as financial institutions for purposes of the *Income Tax Act*'s mark-to-market rules. The amendment would apply to taxation years that end after 29 November 2013.

Under the mark-to-market rules, at the end of a taxation year, certain securities held by financial institutions have to be assessed at their fair market value, and any accumulated gain or loss must be reported for income tax purposes.

The Committee has learned that this measure is intended to exempt BDC and its subsidiary BDC Capital Inc. from these mark-to-market rules so as not to dissuade investors from participating in the partnerships that will be introduced by BDC under the federal government's venture capital action plan.

This measure would come into force on the day on which the bill receives Royal Assent.

PART 5 – CANADA–UNITED STATES ENHANCED TAX INFORMATION EXCHANGE AGREEMENT IMPLEMENTATION ACT

1. United States' *Foreign Account Tax Compliance Act*

Part 5 would enact the Canada–United States Enhanced Tax Information Exchange Agreement Implementation Act, which would be the implementation of an intergovernmental agreement between Canada and the United States related to the United States' *Foreign Account Tax Compliance Act*. The *Foreign Account Tax Compliance Act* was enacted in the U.S.A in 2010 and is scheduled to take effect in July 2014.

Once applied, the United States legislation would require foreign financial institutions, including Canadian financial institutions, to sign agreements with the United States Internal Revenue Service to undertake due diligence in identifying account holders that are citizens of the United States and then reporting this information to the United States Internal Revenue Service. Foreign financial institutions would be required to withhold 30% on the interest payments to account holders that have been identified as United States citizens, or to close their accounts in the event of non-compliance. Moreover, foreign financial institutions that do not agree to enter into an agreement with the United States Internal Revenue Service would be subject to a 30% withholding tax on payments made to them or to their account holders that have a United States source.

As an indicator of the impact the *Foreign Account Tax Compliance Act* could have on the Canadian economy, the Committee heard that, in 2013, Canadian foreign direct investment in the United States totalled $318 billion, while income from American sources going to Canadians was $42 billion.

Officials from Finance Canada told the Committee that the *Foreign Account Tax Compliance Act* raised a number of concerns in Canada regarding Canadian privacy laws, potential application of the withholding of tax, possible closing of bank accounts, as well as a burdensome reporting regime for financial institutions and their customers. In order to address this situation, the Canadian government and several other governments urged the United States to find an alternative to their *Foreign Account*

Tax Compliance Act. They argued that the exchange of information provisions in tax treaties would be a better model for collecting and exchanging information with the American government.

2. Intergovernmental Agreement between Canada and the United States

The Committee was informed that following negotiations that took place over a period of two years, the Canadian government signed on 5 February 2014 an intergovernmental information exchange agreement with the government of the United States. This agreement is based on the exchange of information provisions stipulated in a Canada-United States tax treaty, the *Convention between Canada and the United States of America with Respect to Taxes on Income and on Capital*.

Finance Canada officials explained that the intergovernmental agreement requires the Canada Revenue Agency to collect information related to the *Foreign Account Tax Compliance Act* and to transfer that information to the Internal Revenue Service under the authority of the Canada-United States tax treaty. Moreover, they expressed the view that the intergovernmental agreement offers a number of benefits when compared to the approach that would have otherwise applied under the *Foreign Account Tax Compliance Act*. For example, the Finance Canada officials mentioned that the information provided by the Canada Revenue Agency to the Internal Revenue Service would be subject to the protection measures and limits on the use of tax information currently in place in the Canada-United States tax treaty.

Finance Canada officials also mentioned that the intergovernmental agreement, which is consistent with recent multilateral commitments the G20 has made, would cancel the 30% withholding tax and the requirement of the *Foreign Account Tax Compliance Act* for foreign financial institutions to close the accounts of their customers in the event of non-compliance. As well, under the intergovernmental agreement, certain small financial institutions would not be required to report information and several registered government accounts such as registered retirement savings plans, registered retirement income funds, tax-free savings accounts and registered education savings plans, would be exempt from reporting requirements.

Similarly, the Canadian government would obtain reciprocal benefits from the intergovernmental agreement including, but not limited to, information on Canadian residents who have accounts with United States financial institutions.

The Committee learned that, to date, the United States has signed 28 intergovernmental agreements and have an additional 27 agreements in principle with other countries.

3. Coming into Force of the Intergovernmental Agreement

In response to a question from a member of the Committee, Finance Canada officials said that the sharing of information from Canadian financial institutions would not be retroactive and would start at the end of June 2014.

4. Canadian Financial Institutions' Reaction

The Committee asked Finance Canada officials how Canadian financial institutions reacted to the proposed intergovernmental agreement. They explained that Canadian financial institutions preferred

this agreement over the *Foreign Account Tax Compliance Act*, since the latter could have put them in direct conflict with Canadian privacy laws or other laws.

A representative from the Canadian Bankers Association explained that his organization, while opposed to the *Foreign Account Tax Compliance Act*, recognizes the effort the Canadian government has made and was supporting the intergovernmental agreement as it would reduce the burden the *Foreign Account Tax Compliance Act* would impose on Canadian financial institutions.

5. Office of the Privacy Commissioner of Canada

In response to a question from a member of the Committee, Finance Canada officials noted that the Office of the Privacy Commissioner of Canada has been kept abreast of all developments regarding this subject. The Interim Privacy Commissioner confirmed that her Office had discussions with Finance Canada officials, which resulted in improvements during the project's development. She would, however, favour the implementation of mechanisms preventing excessive data collection and ensuring the protection of information once it is collected.

During her testimony, the Interim Privacy Commissioner told the Committee that while her Office is aware that some people hold the view that the intergovernmental agreement violates section 15 of the *Canadian Charter of Rights and Freedoms* on the basis that it discriminates against Canadians based on place of birth or citizenship, the issue is beyond the scope of her Office's mandate. The way foreign countries implement their tax collection operations is also beyond her Office's mandate. However, the Interim Privacy Commissioner commented that her Office expects that the Canada Revenue Agency would comply with its obligations under the *Privacy Act* in carrying out its responsibilities established by the intergovernmental agreement. Similarly, the Office expects that financial institutions would comply with the privacy requirements of the *Personal Information Protection and Electronic Documents Act* when they collect and transfer information to the Canada Revenue Agency.

6. Number of People Affected

Finance Canada officials explained that their department has not been able to estimate the number of people that would be affected by the intergovernmental agreement since this number depends on several factors including the following:

- the number of Canadian residents who are citizens of the United States, which has been estimated to be one million people;
- the number of American residents who do business with Canadian financial institutions, although they are already required to report their holdings under Canadian laws;
- the procedures Canadian financial institutions will put in place in order to identify residence and citizenship of their account holders;
- whether or not reporting for depository accounts of less than $50,000 would be exempted.

The Committee was told that the Canada Revenue Agency is seeking to identify the number of people that would be affected by this agreement between Canada and the United States.

7. Taxes Paid to the Canadian and the United States Governments

Finance Canada officials discussed how dual citizens of Canada and the United States, and United States citizens who reside in Canada would be required to pay taxes to both Canada and the United States. These people would first be required to pay taxes to the Canadian government on their worldwide income and then to pay taxes to the United States government. However, the United States would have residual taxation rights on their worldwide income and would have to provide a foreign tax credit for any tax paid to the Canadian government when calculating the taxes owed to the United States.

PART 6 – WOULD IMPLEMENT VARIOUS OTHER MEASURES

1. Division 6: Amendment to the *Members of Parliament Retiring Allowances Act*

Division 6 of Part 6 would amend the *Members of Parliament Retiring Allowance Act* in order to prohibit parliamentarians, members of the Senate or the House of Commons, from making pension contributions and accruing pensionable service[2] during a suspension from Parliament. Treasury Board of Canada Secretariat officials informed the Committee that a suspension from Parliament begins by a majority vote of the Senate or the House of Commons and ends by a majority vote of either house.

Division 6 would also prohibit suspended parliamentarians from making elections to purchase past service, which would increase their total pensionable service, from the date their suspension begins until the date they are allowed to do so as determined by a majority vote of the Senate or the House of Commons. In addition, the Committee learned that, according to the proposed measure, parliamentarians would not be able to make an election to include as pensionable service the period during which they were suspended from Parliament.

1.1 Coming into Force

The Committee was told that this proposed measure would not be retroactive; it would apply on the date the bill receives Royal Assent and therefore comes into force. It would, however, apply to parliamentarians who were suspended prior to the coming into force date. Parliamentarians who are currently suspended would be prohibited from making pension contributions and from accruing pensionable service starting on the coming into force date of the bill. Moreover, they would be prohibited from making elections to purchase past service in relation to the beginning of their suspension up to the coming into force date. However, until the coming into force date, they may make pension contributions, accrue pensionable service and make elections to purchase past service.

1.2 Health, Dental, Life Insurance and Disability Benefits

Treasury Board of Canada Secretariat officials informed the Committee that the proposed measures would not prevent suspended parliamentarians and their eligible dependents from being covered under health, dental, life and disability benefits.

---

[2] "Pensionable service" refers to the amount of time that is counted toward qualifying for a pension, which is at least six years for parliamentarians, and is used to determine the amount of pension payable to parliamentarians.

1.3 Similar Measures

In response to a question asked by a member of the Committee, Treasury Board of Canada Secretariat officials explained that this proposed measure is similar to what currently exists for federal public servants and members of the Canadian Armed Forces. Four Canadian provinces have established similar rules for their public servants.

2. Division 9: Amendments to the *Atlantic Canada Opportunities Agency Act*

The Atlantic Canada Opportunities Agency was created in 1987 in order to increase earned income and employment opportunities for people living in the Atlantic Region. Its mandate is to support businesses in enhancing their competitiveness, innovation, and productivity by working with various communities to develop and diversify local economies. The Agency reports to the Minister of State (Atlantic Canada Opportunities Agency).

Division 9 of Part 6 would dissolve the Atlantic Canada Opportunities Board and eliminate the requirement for the Atlantic Canada Opportunities Agency to submit a comprehensive report every five years to the responsible minister and to both Houses of Parliament detailing all activities of the Agency and their possible effects on regional disparities. The Committee was told that these two proposed initiatives would allow the Agency to achieve efficiencies and to redirect resources towards value-added functions. In particular, the five-year report is considered redundant since the Agency publishes various reports, such as departmental performance reports and annual reports.

2.1 Proposed Dissolution of the Atlantic Canada Opportunities Board

The Committee heard that members of the Atlantic Canada Opportunities Board would not be entitled to claim compensation as a result of the early termination of their appointments. While the Board currently has two active members, it could have up to seven members, including one representative from each Atlantic province. The president of the Atlantic Canada Opportunities Agency is also the chairman of the Board, while other Board members are appointed by the Governor in Council on the recommendation of the responsible minister to hold office for a term not exceeding three years.

The Committee was told that the Atlantic Canada Opportunities Board was established when the Atlantic Canada Opportunities Agency was created. Board meetings allowed members to discuss current topics related to the Agency, as well as future policies and programs the Agency was considering. Since 1987, the Agency has greatly evolved and has developed mechanisms to obtain feedback from the community through forums, round tables and meetings involving the Agency’s officials and the responsible minister.

In response to a question asked by a member of the Committee about the Atlantic Canada Opportunities Board members’ salary, an official from the Atlantic Canada Opportunities Agency mentioned that they were paid between $275 and $350 per day for attending board meetings. The dissolution of the Board would result in savings of about $175,000 annually.

2.2 Five-year Mandatory Report

The Committee was informed that the two following changes explain why the need for a five-year report to Parliament is no longer justified. First, the Atlantic Canada Opportunities Agency has moved to ongoing, annual funding rather than funding limited to a certain period of time. Second, more modern

ways of accounting, as well as more transparent ways to account for the Agency's activities, have been established.

2.3 Atlantic Canada Opportunities Agency's Effectiveness Measurement

In response to a question from a member of the Committee, an official said that the Atlantic Canada Opportunities Agency assesses its effectiveness through a thorough evaluation of all of its programs, which is done on a five-year cycle. The results of these evaluations are available on the Agency's website. The effectiveness assessment is done through ongoing consultations with members of the industries and various communities. The Agency recently completed a review of its innovation program. An example of an initiative developed under this program is the Atlantic shipbuilding strategy, which will focus on supporting small and medium enterprises in order to help them take advantage of the Atlantic shipbuilding procurement opportunity.

3. Division 10: Enterprise Cape Breton Corporation

Division 10 of Part 6 would dissolve the Enterprise Cape Breton Corporation, which is a Crown corporation that was established in 1987 to promote and support the financing and development of Cape Breton Island and the Mulgrave area in Nova Scotia. Enterprise Cape Breton Corporation is, in addition to the delivery of its own programs, responsible for the delivery of the Atlantic Canada Opportunities Agency's programs in the Cape Breton area. It is also responsible for the obligations of the former Cape Breton Development Corporation including employees' pension and benefits.

3.1 Transfer of Assets and Obligations

The Committee learned that the Enterprise Cape Breton Corporation's assets and obligations would be transferred to either the Atlantic Canada Opportunities Agency or to Public Works and Government Services Canada. In particular, the Atlantic Canada Opportunities Agency would be responsible for the Enterprise Cape Breton Corporation's equity portfolio, loan portfolio and economic development programming. The Committee was informed that the Enterprise Cape Breton Corporation's budget would be transferred to the Atlantic Canada Opportunities Agency, but the funds would be allocated to communities located in the Cape Breton area. The Enterprise Cape Breton Corporation's employees, whose functions are associated with the management of assets and obligations transferred to the Atlantic Canada Opportunities Agency, would be deemed appointed under the *Public Service Employment Act* to positions in the Atlantic Canada Opportunities Agency.

Public Works and Government Services Canada would have responsibility for the Enterprise Cape Breton Corporation's real property holdings and for obligations related to the former Cape Breton Development Corporation, such as employees' pension and other benefits. Similarly, the Enterprise Cape Breton Corporation's employees, whose functions are linked to real property or to the Cape Breton Development Corporation obligations, would be deemed appointed under the *Public Service Employment Act* to positions in Public Works and Government Services Canada.

3.2 Dissolution of the Board of Directors

The Committee was told that the Enterprise Cape Breton Corporation's Board of Directors would be dissolved under the proposed measure. Therefore, the mandate of board members, who work part-time, would be terminated as well as the mandate of the Enterprise Cape Breton Corporation's Chief

Executive Officer. Unlike the Chief Executive Officer, board members would not be eligible for compensation due to an early termination of their mandate.

4. Division 12: Amendments to the *Nordion and Theratronics Divestiture Authorization Act*

According to its Website, Nordion, is a Canadian health science company that operates globally and provides products used for the prevention, diagnosis and treatment of disease including nuclear medicine products. Under the *Nordion and Theratronics Divestiture Authorization Act*, non-Canadian residents are currently prevented from directly or indirectly controlling more than 25% of the voting shares of Nordion.

Division 12 of Part 6 would remove certain restrictions on the acquisition of voting shares of Nordion by non-Canadian residents that are imposed by the *Nordion and Theratronics Divestiture Authorization Act*. The Committee heard that the restrictions were included in 1990 to allow for the privatization of Nordion International Inc. by the federal government in 1991. Prior to its privatization, Nordion was formally part of Atomic Energy of Canada. However, Nordion has contractual relationships with Atomic Energy of Canada Limited for the provision of certain isotopes.

The Committee was told that Nordion is publicly traded on the Toronto Stock Exchange and the New York Stock Exchange and that the majority of the company is currently owned by non-Canadians. The 25% restriction is on a single non-Canadian holding and not on a cumulative total holding.

An official from Finance Canada informed the Committee that Nordion recently approached the federal government to request the removal of the non-resident ownership restrictions from the *Nordion and Theratronics Divestiture Authorization Act*.

4.1 *Investment Canada Act*

The official also commented that the restrictions do not serve a policy objective and duplicate Canada's foreign investment review process. Under the *Investment Canada Act*, significant investments in Canada by non-Canadians are reviewed by Canadian authorities in order to determine whether or not they are of net benefit to Canada and pose any concerns in terms of national security. The official confirmed that significant investments in Nordion, including the acquisition of the company by non-Canadians, would still be subject to the *Investment Canada Act*.

4.2 Potential impact of the Proposed Amendment

The Committee heard that the removal of the non-resident ownership restrictions could allow Nordion to access more readily investment capital and to enable the organization to grow and to create employment.

4.3 Sterigenics' Plan to Acquire Nordion

In response to a question asked by a member of the Committee, an official from Finance Canada stated that his department was not aware that Sterigenics, a private equity firm based in the United States, would announce plans to acquire full control of Nordion on the same day that Bill C-31 was tabled. Moreover, the official said that Finance Canada has no evidence to suggest that there is any inside information attached to this acquisition interest.

5. Division 18: Amendments to the *Canadian Food Inspection Agency Act*

Division 18 of Part 6 would amend the *Canadian Food Inspection Agency Act* to exempt from the application of the *User Fees Act* fees for services, products and rights and privileges provided by the Canadian Food Inspection Agency. The Committee was told that this exemption would only apply for the regulations currently being developed under the *Safe Food for Canadians Act*, while other user fees set by the Canadian Food Inspection Agency would still be subject to the *User Fees Act*.

5.1 *Safe Food for Canadians Act*

Officials from the Canadian Food Inspection Agency explained that the exemption is necessary to achieve the timely introduction of Safe Food for Canadians regulations. They also mentioned that related user fees are required to be in place in order to implement the *Safe Food for Canadians Act* and its regulations by 2015. Although the Safe Food for Canadians Act received Royal Assent on 22 November 2012, its coming into force depends upon the introduction of these new food regulations by 2015.

In response to a question asked by a member of the Committee, officials said that regulations would apply to areas such as export services, in which the Canadian Food Inspection Agency would undertake a service in order to facilitate export requirements. User fees could also apply to testing conducted by the Canadian Food Inspection Agency's laboratories or the inspection of licensed facilities.

5.2 Process to Set User Fees under the *Canadian Food Inspection Agency Act*

The Committee learned that the process for revising fees under the *User Fees Act* is very similar to the *Canadian Food Inspection Agency Act*'s requirements. However, officials mentioned that certain obligations under the *User Fees Act*, such as the requirement to convene an independent advisory panel and the tabling of user fee proposals in both the Senate and the House of Commons during a parliamentary recess, could require additional time and could delay the coming into force of the new food regulations.

The Committee was interested in learning how user fees were determined under the *Canadian Food Inspection Agency Act*. Officials mentioned that user fees were initially established in 1997 and that since the moratorium on changing these fees has been lifted, their organization is undertaking a modernization of its entire fee structure. They explained that the first step is to determine the cost for the Canadian Food Inspection Agency of delivering a particular service, as the user fee cannot exceed that cost.

The Canadian Food Inspection Agency is required to undertake an impact assessment to evaluate a number of elements, such as the impact of user fees on Canadian trade partners and other specific circumstances that might impact a particular industry. Officials discussed the various tools at their disposal to modify user fees in the event that the impact assessment demonstrates a need to make changes. For example, user fees could be reduced or progressively implemented over a certain period of time.

The Committee heard that the Minister of Health, the responsible minister for the Canadian Food Inspection Agency, then releases a document related to the proposed user fees for public consultation in order to seek comments and feedback from stakeholders and affected parties. Comments and feedback are taken into consideration to evaluate whether further changes are required to the implementation of user fees.

Finally, the responsible minister sets the user fees, which would then be released for public comment through the Canada gazette process for 30 days. In addition, user fees are deemed permanently referred to the Standing Joint Committee on Scrutiny and Regulations as indicated in section 19 of the *Statutory Instruments Act*.

5.3 Industry's Reaction

Officials responded to a question from a member of the Committee regarding the industry's reaction to the revision of user fees by saying that the industry recognizes that the Canadian Food Inspection Agency has an obligation to recover its costs and that the fees are out of date.

6. Division 21: Remedies for Discrimination-Based Grievances and Transitional Provisions

Division 21 of Part 6 would modify the essential services and recourse provisions under the *Public Service Labour Relations Act*, which was introduced in 2013 through the *Economic Action Plan 2013 Act, No. 2* that came into force on 12 December 2013.

6.1 Essential Services

Officials from Treasury Board of Canada Secretariat explained that changes to the *Public Service Labour Relations Act* were enacted through the *Economic Action Plan 2013 Act, No. 2* in order to provide for two dispute resolution methods, as well as a process to determine which would apply when there was an impasse at collective bargaining. Specifically, it provided that bargaining units having 80% or more positions designated as essential service, which is exclusively determined by the employer, are required to use arbitration, while groups with less than 80% of positions identified as essential are required to use the conciliation or strike route.

Transitional provisions were also included to ensure that groups that were in the collective bargaining process at the time the *Economic Action Plan 2013 Act, No. 2* was enacted and did not have essential service agreements would continue to follow the existing rules to develop essential service agreements until new collective agreements were signed. The Committee learned that these transitional provisions were established to facilitate bargaining and to ensure that employers could concurrently pursue essential service designations in preparation for the following round of collective bargaining.

Officials told the Committee that some ambiguities in the transitional measures were noted. For example, some measures could be interpreted as applying sequentially rather than concurrently.

The proposed amendments are designed to certify the applicable process for bargaining units that are still in bargaining, where a public interest commission or arbitration board has been established prior to 12 December 2013, and where no essential service agreement has been concluded with that bargaining unit.

Officials added that the proposed amendments to the transitional measures would be retroactive and deemed to have come into force at the same time as the original transitional provisions, on 12 December 2013.

Officials responded to a Committee member's question by stating that essential service agreements signed prior to 12 December 2013 continue to apply throughout the course of the negotiation for those

particular collective agreements. As for collective agreements without essential service agreements in place, the new rules apply.

6.2 Definition of the Term "Essential Service"

As defined in the *Public Service Labour Relations Act*, the term "essential service" refers to "a service, facility or activity of the Government of Canada that has been determined under subsection 119(1) to be essential." Subsection 119(1) stipulates that "[t]he employer has the exclusive right to determine whether any service, facility or activity of the Government of Canada is essential because it is or will be necessary for safety or security of the public or a segment of the public."

6.3 Recourse Provisions

The Committee was informed by Treasury Board of Canada Secretariat officials that the amendment to the recourse provisions is intended to clarify and to certify the powers of an adjudicator when he or she has determined that an employer has been engaged in discriminatory practices. Moreover, the proposed amendment would allow the granting of systemic remedies in cases of human rights grievances.

Although the changes made through the *Economic Action Plan 2013 Act, No. 2* enabled adjudicators appointed by the Public Service Labour Relations Board to order remedies with respect to cases for individual employees, there was a lack of clarity as to adjudicators' powers to grant systemic remedies.

7. Division 23: Amendments to the *Budget Implementation Act, 2009*

In 2009, the *Canada Securities Regulation Regime Transition Office Act* established a transition office charged with assisting in the establishment of a Canadian securities regulation regime and a Canadian regulatory authority. Division 23 of Part 6 would amend the *Budget Implementation Act, 2009* such that the total amount of payments to provinces and territories for matters relating to the establishment of a Canadian securities regulation regime, which is presently set at $150 million, could be specified – if necessary – by an appropriation act requiring parliamentary approval.

The Committee was informed that Division 23 proposes to support a cooperative capital markets regulatory system project, which would be self-funded, by facilitating the participation of provinces and territories in the system. Although no payments have been made to date, payments to participating provinces and territories are meant to compensate them for costs related to the transition to a new securities regulatory regime.

In response to a question asked by a member of the Committee, officials from Finance Canada stated that the formula that would be used to determine payments to participating provinces and territories has yet to be established and would be developed through consultations with the provinces and territories.

The Committee learned that there are currently 13 securities regulators in Canada and that moving to a single securities regulator could attract more foreign investors.

7.1 Supreme Court Decision

In 2010, the federal government asked the Supreme Court of Canada to determine whether the "proposed Canadian Securities Act"[3] fell within the legislative authority of Parliament. In December 2011, in the *Reference re Securities Act*,[4] the Court found that the proposed Canadian Securities Act that had been presented by the government was unconstitutional, but the federal government still had a role to play with regard to genuinely national issues, such as managing systemic risks and maintaining the fairness and efficiency of capital markets across the country.

The Committee was told that the Court left open the possibility of a cooperative system whereby the federal government along with participating provinces and territories would decide to pool their respective jurisdiction and to delegate its administration to a single joint body.

7.2 Agreement Reached with some Provinces

In the 2013 federal budget, the government announced that it would be extending the mandate of the Canadian Securities Transition Office to ensure that its resources remain available as work continues to strengthen the regulation of Canada's capital markets, either in collaboration with the provinces, if an agreement can be reached in a timely fashion, or through federal legislation consistent with the decision of the Supreme Court of Canada.[5]

The Committee heard that, in September 2013, the federal government and the governments of British Columbia and Ontario reached an agreement in principle to establish a cooperative capital markets regulatory system. Officials from Finance Canada commented that all other provinces and territories were invited to join this cooperative system. Although no formal commitment has been made from other provincial or territorial governments, some have expressed an interest in joining, including the Government of Saskatchewan.

8. Division 26: Reduction of Governor in Council Appointments

Division 26 of Part 6 would amend the *Trade-marks Act* in order to repeal the power to appoint a registrar of trade-marks and would provide that the registrar of trade-marks is the commissioner of patents. This proposed measure would eliminate one Governor in Council appointment as the same person would be responsible for carrying out the duties of the Registrar of Trade-marks and the Commissioner of Patents, and for administering both the *Trade-marks Act* and the *Patent Act*.

The Committee heard that this initiative comes from the Speech from the Throne 2010, which called for the reduction of unnecessary appointments to commissions and Crown corporations. Due to an administrative issue, it took a number of years to include this measure in legislation.

An official from Industry Canada informed the Committee that for over 50 years, a single person has taken on the responsibilities of the Registrar of Trade-marks and the Commissioner of Patents.

---

3 Department of Finance Canada, *Proposed Canadian Securities Act*.

4 *Reference re Securities Act*, [2011] 3 S.C.R. 837.

5 Department of Finance Canada, *Economic Action Plan 2013 – Jobs, Growth and Long-Term Prosperity*.

According to the official, this proposed measure would have no implications on the organization's operations or costs.

9. Division 29: Creation of the Administrative Tribunals Support Service of Canada

Division 29 of Part 6 would create a new organization, the Administrative Tribunals Support Service of Canada, which would be responsible for providing corporate services, including human resources, finance and registry services, as well as statutory services, such as research, analysis, investigation and mediation services, to the 11 following administrative tribunals:

- Canada Agricultural Review Tribunal (whose legal name is Review Tribunal);
- Canada Industrial Relations Board;
- Canadian Cultural Property Export Review Board;
- Canadian Human Rights Tribunal;
- Canadian International Trade Tribunal;
- Competition Tribunal;
- Public Servants Disclosure Protection Tribunal;
- Specific Claims Tribunal;
- Social Security Tribunal;
- Transportation Appeal Tribunal of Canada; and,
- Public Service Labour Relations and Employment Board.

The Committee was informed that the *Economic Action Plan 2013 Act, No. 2* enabled the establishment of the Public Service Labour Relations and Employment Board. However, this board has not been created as the process of amalgamating the Public Service Labour Relations Board and the Public Service Staffing Tribunal, which would create the Public Service Labour Relations and Employment Board, is not yet completed.

Officials from Justice Canada explained that employees and resources, including regional offices from the 11 tribunals, would be transferred to a single, integrated organization if this measure is adopted. This merger would lead to the integration of some corporate services and other services, as deemed appropriate by the chief administrator, who would be appointed to manage the new organization.

The Committee heard that this measure would result in enhanced support for the tribunals and in improved services for Canadians including increased access to justice. However, representatives from the Canadian Bar Association voiced concerns that the proposed merger of administrative support services would compromise the expertise of the tribunals as the employees of the respective tribunals would all be transferred to a single organization.

In response to a question from a Committee member, Justice Canada officials mentioned that the 11 tribunals together have approximately 450 employees and their budgets are approximately $60 million in total. The 11 tribunals share two characteristics:

- they are relatively small organizations (the largest tribunal has about 100 employees, while the smallest has 4 employees);
- they are located in Ottawa.

The Committee learned that the first objective of this measure is to improve management capacity and to facilitate the modernization of services offered by these tribunals. The second objective is to generate efficiencies, which would be determined and realized once the new organization is in operation as a consolidated service provider. A representative from the Canadian Taxpayers Federation told the Committee that his organization applauds the proposed initiative. However, for several reasons, the Canadian Bar Association recommends that the proposed initiative not be pursued at this time.

9.1 Independence of the Tribunals

Representatives of the Canadian Bar Association expressed concerns with respect to the possibility that bias, or the apprehension of bias, and conflict of interest could result from this proposed initiative. They therefore recommended that Division 29 be removed from Bill C-31 to allow for further consultation with the 11 tribunals, users and stakeholders, or at least that the Canadian International Trade Tribunal, the Public Servants Disclosure Protection Tribunal and the Canadian Industrial Relations Board be removed from the proposed merger.

According to Justice Canada officials, although the proposed Administrative Tribunals Support Service of Canada would be part of Justice Canada's portfolio, each of the 11 tribunals would remain in their current ministerial portfolio. Officials asserted that the Administrative Tribunals Support Service of Canada would operate at arm's length from the Minister of Justice. Although the Minister of Justice would be responsible for the tabling in Parliament of the proposed organization's annual reports and for the signing of funding requests, he would not be involved in the administration of the proposed organization. Moreover, lawyers employed by the proposed organization would not come from Justice Canada.

Justice Canada officials confirmed that the tribunals' independence with respect to making decisions on adjudicative and other matters would be preserved. The chairpersons of the tribunals would continue to have supervision and direction over the work accomplished by the tribunals. The Committee learned that under the new organisation all members of the tribunals including the chairpersons would continue to be appointed by the Governor in Council and the number of members on each tribunal would remain the same.

9.2 International Trade

Representatives from the Canadian Bar Association expressed concerns that Canada's obligations under certain World Trade Organization agreements and free trade agreements would not be met by the proposed Administrative Tribunals Support Service of Canada. Officials from Justice Canada reassured the Committee that the proposed organization would not violate Canada's international trade obligations as commercial agreements do not prescribe which administrative structure should be in place to deal with cases that belong to the Canadian International Trade Tribunal. The only requirement is to ensure a distance between the parties represented in a case.

9.3 Consultation with Tribunals

The Committee was informed that each tribunal was consulted regarding this proposed measure and that Justice Canada was working with all of them to establish the proposed Administrative Tribunals Support Service of Canada. The chairs of all tribunals have collaborated with Justice Canada and they, or their designated person, are part of a working group whose objective is to facilitate the establishment of the proposed Administrative Tribunals Support Service of Canada.

9.4 Consultation with Stakeholders

Representatives from the Canadian Bar Association told the Committee that Division 29 was introduced without any prior consultation with stakeholders or with people who frequently appear and advocate before the affected tribunals.

The Committee was informed that following the tabling of Bill C-31, an information session took place with Justice Canada officials and representatives from the Bench and Bar Committee to explain and discuss the proposed measure.

9.5 *Privacy Act* and *Access to Information Act*

The Committee heard that the proposed Administrative Tribunals Support Service of Canada would be subject to both the *Access to Information Act* and the *Privacy Act*.

However, the Interim Privacy Commissioner expressed concerns about the posting of federal administrative tribunals' decisions on the Internet, which potentially exposes complainants to publicity that was not contemplated decades ago. She therefore recommended that the names of the parties be kept confidential.

In response to a question from a member of the Committee, Officials from Justice Canada indicated that the proposed merger would not pose a threat to confidentiality and that information would be kept confidential when it is required.