House of Commons
CANADA

Standing Committee on Citizenship and Immigration

CIMM • NUMBER 042 • 2nd SESSION • 39th PARLIAMENT

EVIDENCE

Monday, May 12, 2008

Chair

Mr. Norman Doyle

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● (1535)

[*English*]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): I call the meeting to order.

I'm sure the rest of our committee members will be along. Question period was over at three o'clock; I don't know why they shouldn't be here now.

We'll continue with our second meeting today pursuant to Standing Order 108(2), consideration of the subject matter of part 6 of Bill C-50.

We have witnesses today for the first hour. From the Canadian Association of Professional Immigration Consultants we have Philip Mooney, the national president. Welcome again. We welcome as individuals Lorne Waldman, immigration lawyer, and Barbara Jackman, immigration and refugee lawyer. From the Canadian Council for Refugees we have Janet Dench, executive director. Welcome again, Janet. It's good to see you all.

You're all familiar with how we proceed, so if you have any opening statements, you may make them in any order you wish.

I will go to Mr. Waldman.

Mr. Lorne Waldman (Immigration Lawyer, As an Individual): I want to apologize in advance. Before I was invited to this committee, I was invited to another committee at 4:30, so I have to leave here a few minutes early.

The Chair: Okay. That's not a problem.

Mr. Lorne Waldman: The first issue is to deal with some of the claims about what this legislation is and what it will do. This is something I will try to clarify.

We've heard this legislation is about the backlog. I hope that by now it's perfectly clear that this legislation has absolutely nothing to do with the backlog. The legislation expressly provides that it's not retroactive and will not apply to the hundreds of thousands of cases in the backlog.

It's important for the committee to consider that there is a very serious problem with the backlog, but that this problem is not being resolved by the legislation. To understand the problem, the first thing you have to consider is how it is that a backlog of 900,000 cases developed. And one of the important things to clarify is, since when?

In 2002 the legislation was changed. This backlog has developed since 2002, because the backlog that existed prior to that has been cleared over the course of the last six years. This was done by the settlement of the class action dealing with all the people in the previous backlog.

We have a backlog that's been allowed to grow to 900,000. I suggest to you that this has occurred because of inaction on the part of immigration officials who stood by watching the backlog grow. There were mechanisms that would have allowed them to take action to stem the backlog, but they did nothing. So we now have to consider that we have a problem.

One of the major concerns I have with this legislation is that it will give the bureaucracy a great deal of new powers. I would submit that they haven't shown themselves competent to deal with the powers they have under the current legislation.

Secondly, we've heard it said that we need this legislation because a minister needs to have the power to be able to accelerate certain applicants and to make decisions about who gets processed when. An important point needs to be made here—that power already exists. We do not need this legislation to create that power. Take, for example, the existing provincial nominee program. The provincial nominees who are chosen by the provinces get priority over all other economic migrants, and this is done through a political direction made by the minister to the visa officers overseas.

I went to court two years ago on a case called Vaziri et. al v. Canada, in which I challenged the right of the minister to prioritize spousal sponsorships over parental sponsorships. I said that there had to be a regulation. I lost. The Federal Court said that the Minister of Immigration has the power to make political decisions about who gets prioritized and in what order. So this legislation has nothing to do with the need of the minister to prioritize certain types of applications over others.

Third, the minister has said that this legislation has nothing to do with individual applications. Unfortunately, as a lawyer, I can tell you that the wording of the legislation does not bear this out. If you look at the legislation and you understand the basic principles of statutory interpretation, it is clear that the legislation gives the minister the power to make individual decisions about individual applications.

Now, this minister may say that she has no intention of doing this. But we learned the hard way, in the debate over the last Immigration Act, that what a minister says doesn't help us much when we go to the Federal Court years later.

There was a case called Cha v. Canada, in which we said to the Federal Court, “The minister said that this was going to happen.” The Federal Court just looked at us and said, “Well, that's very nice.” The court pointed out that the minister may say whatever she wants at the time. But the court's job years later is to interpret the legislation, and when they do so, it's based on the wording. So the court will consider what the minister says, but they're not going to distort the wording of the legislation in order to interpret it in the way the minister suggested.

There is lots more I could say. I want to talk about what the legislation does and what the concerns are.

The main power of the legislation given to the minister, aside from the power to interfere in individual applications, is the power to change the rules retroactively through the issuance of instructions.

Now, why is that a problem? There are two reasons. First of all, our immigration system, over the course of the last forty years, has been built upon a transparent, non-discriminatory point system. This point system allows individuals to know the criteria at the time they apply. If they meet the criteria, under the current legislation they have a right to get a decision based on that criteria, and, if they qualify, a right to a visa. This is very important, because it means we have clear, transparent rules for which the government of the time is politically accountable.

● (1540)

If the minister has the power to retroactively change the rules, it means the rules no longer have any meaning, because they can be changed years later. There's no political accountability at all, and no transparency, because people who apply will have no way of knowing from the moment they apply until the moment they get the visa whether they're going to qualify.

The last point I want to make, given that I've probably spoken longer than I'm supposed to, is the concern I have about what this bill does in terms of political accountability and the role of Parliament. The concern here is simply this: now, important changes to the regulations are debated here in committee. They're publicized in advance so that people get notification of the changes, and there's an open debate and political accountability at the end of the process. But if this bill goes through, the minister will have the power to make changes without any accountability, except for what occurs after the fact, and there will be no political discussion.

Let's assume the bill is passed, which it likely will be now, sometime before the end of this current session, and becomes law on June 30. On July 2, the minister can issue an instruction. Parliament will not be sitting; Parliament likely won't sit again until October, so fundamental and very significant changes could be made to the immigration system with no debate for four or five months. It completely undermines the role of Parliament in the political process and it's contrary to the spirit in which this government was elected, when the government said they wanted to make Parliament more involved in the political process.

What this bill really does is undermine the role of Parliament and this committee. I think it sets a very dangerous precedent, because if they can pass legislation that allows them to issue instructions in immigration, what's to stop them tomorrow from doing it in environment or in something else? Then we can have government by instruction instead of government by regulation, which is a serious undermining of the role that Parliament plays in the political process.

Those are my opening comments.

The Chair: Thank you, Mr. Waldman. You are right on cue.

Next we can have Ms. Jackman or Ms. Dench or Mr. Mooney.

Ms. Barbara Jackman (Immigration and Refugee Lawyer, As an Individual): I probably won't take the full seven minutes. Lorne and I think alike on a lot of these issues, and I agree with everything Lorne has said.

There are three points I want to add with respect to this proposed legislation.

One is that the proposed changes to section 11 of the Immigration and Refugee Protection Act will allow a visa officer.... Instead of it being mandatory to give the visa, it will now be permissive, which leaves open the door for visa officers to say, “Fine, I don't like you”—for whatever reason—“so even though you may qualify for a visa, I'm not going to give it to you.”

That fits in with the provision for a new section—proposed section 87.3—which allows the minister to give instructions—under proposed paragraph 87.3(3)(d)—to provide “for the disposition of applications and requests”. Disposition of an application for landing is the decision, so the minister can give instructions about the decision.

In my experience, there are individuals who make applications for landing, who qualify, who meet the requirement, and who are not inadmissible, but, for one reason or another, a visa officer doesn't like them because of the job they held. One of my clients had a job for his government. A fairly high-level job doesn't make him inadmissible, on security grounds, doesn't make him inadmissible on criminality, or anything like that, but they don't like him. They're nervous about letting him in.

This gives them the power to refuse that man's landing in Canada for no reason—other than they don't like him because they think they wouldn't have worked for that government. It's a moralistic kind of position.

That's the kind of problem that can be created with it being permissive and with the minister being allowed to have the authority to decide on the disposition of applications, notwithstanding that people apply.

The other problem with the legislation, in terms of the kinds of cases we see, is with the proposed amendments to section 25, which say that if the person's in Canada and they make a humanitarian and compassionate application, it “shall” be considered. If they're outside of Canada, it “may” be considered. So my understanding, from the proposed change to that section, is that the minister intends to say that they will not receive certain humanitarian applications.

Have they come before you and said, “We're inundated with humanitarian applications—we have too many, we can't handle them, and that's why we need this power”? I haven't seen any statistics on an overload of humanitarian applications, but I can tell you what those humanitarian applications are now.

Parliament, in its wisdom, gave the Governor in Council the power to pass regulations about who gets in and who doesn't in the family class, so if you misrepresented about, say, a spouse.... I'll give you the kind of example we see all the time.

Parents are sponsored to Canada, and there are three kids included in the application. The son's in Canada and is the landed sponsor of the parents and the kids. They get their visa five years later. The eldest of the kids, who's still in school, gets married after he gets his visa. He had put off having the marriage—he had to be unmarried in order to come to Canada as a sponsored dependant—and he thought he had to be unmarried until the visa was issued.

So he gets married, flies to Canada the next day, and goes back to sponsor his spouse. He misrepresented. He wasn't allowed to get married after the visa was issued and before he landed in Canada. He didn't know that.

His wife is not a member of the family class. The immigration officer in Canada says to him, “We're not going to take any steps against you, because it was understandable that you didn't understand the law. You didn't do this deliberately.”

So he goes to sponsor his wife and it has to be a humanitarian application. She's not his wife under our regulations. Even though we're not taking any steps against him, his wife cannot come to Canada. As a member of the family class, she can't be sponsored.

And you would not believe how many parents' children are refused landing—6-year-olds, 7-year-olds, 12-year-olds, 15-year-olds—because the parents, in one way or another, misrepresented. Or else their spouses are not allowed to come.

This gives the minister the power to say, “You can't even make the application. We're not going to receive it.” Those are the H and C applications that are outstanding now. To give the minister the power to say “We're not even going to receive those applications” is inhumane.

Now, the minister will say, “Oh, we'll never use it for that purpose”, but you know, we've heard enough times over the years that they won't apply it in one way or another. So for....

● (1545)

I'm not going to go off on side issues, but there are a number of cases where the government said, “We'll never use it that way.” Well, you know, it is used that way, and in the end it hurts people.

Why can't we have transparent laws? Let them act in a transparent fashion, and let them establish to the satisfaction of the Canadian public that we need certain regulations in place at different points in time. They shouldn't have the power to do it all behind closed doors by fiat, and that's what this legislation gives them.

Thank you.

● (1550)

The Chair: Thank you, Ms. Jackman.

Ms. Dench.

[*Translation*]

Ms. Janet Dench (Executive Director, Canadian Council for Refugees): Thank you.

I am here today representing the Canadian Council for Refugees. We thank you for this opportunity to comment on the amendments to the Immigration and Refugee Protection Act in Bill C-50.

As many of you already know, CCR is a coalition of over 170 organizations throughout Canada. We have tabled with the Committee a letter we sent to the Prime Minister on Bill C-50. This letter, or a similar one, was signed by over 40 organizations, including the three major provincial umbrella organizations, TCRI in Quebec, OCASI in Ontario and AMSSA in British Columbia. These organizations represent several hundred other groups.

[*English*]

First, in commenting on the amendments, there is wide agreement that there is a problem in the immigration system leading to backlogs. Having said that, we do not believe the proposed amendments are the best way to address the problem.

There are some concerns about the process. On the lack of consultation, the proposed amendments were introduced without the normal prior consultation with stakeholders. This means the proposal has not had the benefit of the full range of perspectives. Secondly, the amendments do not belong in the budget bill. They should be dealt with through separate legislation debated on its own merits.

On lack of explanatory information, discussion over the amendments has been severely hampered by the lack of adequate information to explain the proposed changes, leading to widespread confusion and uncertainty. For several weeks there has been confusion about whether the proposed new instructions apply to family class. They do. The government has not helped the situation by constantly confusing the powers actually in the bill and the government's intentions with respect to the use of these powers in the short term.

That brings me to my next point: intentions are not law. As parliamentarians considering whether or not to pass a law, you must ask yourself how the law might be used in the future, not just how the current government proposes to use the new powers. Expressions of current intention are no protection against future uses of the powers in very different ways.

Our recent experience with IRPA, section 117, shows the dangers of relying on ministerial promises. When IRPA was debated in Parliament in 2001, the then Minister Elinor Caplan promised that section 117, which criminalizes people smuggling, would never be used against humanitarians helping refugees. Despite those promises, in 2007, a church worker, Janet Hinshaw-Thomas, was arrested and charged with people-smuggling under section 117 for accompanying refugees to the Canadian border. Inevitably we must ask ourselves what would prevent a future minister from ignoring the commitments made by Minister Finley about how the amendments would be used and applying the new powers in very different ways.

Concretely—and briefly—I will list our major concerns with the new powers given by the bill.

[*Translation*]

These amendments gave the minister far too much discretion, allowing her to change the rules at will.

These amendments will allow the minister to issue "instructions" without any parliamentary supervision or mandatory consultations. The fact that the rules for accepting immigrants can be determined and changed by ministerial fiat will create uncertainty, a lack of transparency and make the immigrant selection process vulnerable to inappropriate political pressure.

The amendments eliminate the right to permanent residency for applicants who follow the law.

The amendments eliminate the right to have one's application on humanitarian and compassionate grounds considered if it is made from outside of Canada. The legislation will allow for the return of these applications or for simply discarding them.

[*English*]

So why is the overseas H and C application important? To follow on some of the remarks of Barbara Jackman, I will list two situations where the law does not provide children with the right to family reunification and humanitarian and compassionate applications are the only recourse.

First, separated refugee children in Canada cannot apply for family reunification with their parents and siblings who are outside Canada. The only way for these children to be reunited with their parents and siblings is through H and C.

Secondly, the excluded family member rule, regulation 117(9)(d), keeps many children unfairly separated from their parents and separates spouses. The only way for affected families to overcome the exclusion is through H and C.

We recently published compelling profiles of families, many of them refugees, kept separate as a result of this rule.

The government has suggested that they would continue to examine all family-related H and C applications. However, this is only an expression of intention. If you pass this bill in its present form, a future government could issue instructions leading to family-related H and C applications not being examined.

It is also important to recognize that there are other compelling situations not related to family reunification where an H and C application is the only recourse. They might never be examined if this bill is passed.

In conclusion, the immigration program needs to value immigrants. The proposed amendments come in the context of, and contribute to, a disturbing shift towards the use of immigration primarily to meet Canadian employers' needs, without regard to broader Canadian interests. This includes the problematic increasing reliance on temporary work permits. Canada needs to consider immigrants as full participants in society, not simply as disposable units to fill currently available jobs.

This means recognizing the need for effective and efficient family reunification policies and practices so that immigrants can be with their families. Yet the government is not addressing chronic problems that mean some children spend years separated from their parents.

Finally, our recommendation is that the proposed amendments to the Immigration and Refugee Protection Act be removed from Bill C-50 and dealt with as a separate piece of legislation.

Thank you.

● (1555)

The Chair: Thank you, Ms. Dench.

Mr. Mooney.

Mr. Philip Mooney (National President, Canadian Association of Professional Immigration Consultants): Thank you very much, Mr. Chair, committee members, and distinguished colleagues.

Recently the minister made some very welcome changes to the after-graduation student work permit program by exempting students from having to find an employer and by extending the work permit to three years. These changes move Canada to the front of the pack among immigrant destination countries in terms of our ability to keep students in Canada after graduation. This also demonstrates that the Minister of Citizenship and Immigration is already very capable of changing the system and does not need additional powers.

How did this welcome change come about? It was not because of a clause included in the budget, nor was it because of an instruction issued through the *Canada Gazette*. It came about because the practitioner community, many of whom are here today, was involved in continuing consultations with the department, along with other stakeholders, including those in the education community. We identified the problem, and then, working together, we proposed solutions as part of the normal consultative process.

The first part of the solution was to include certain provisions in IRPA in 2002, giving points for education in Canada and allowing work permits for graduates. An interim measure was announced two years ago for schools and jobs outside the major urban centres to encourage students to settle away from those areas. Finally, as the lengthening processing times were becoming a threat to keeping graduates, this new policy was announced.

In effect, the practitioner community can be considered the canary in the coal mine that brings early warnings of problems ahead, because we deal directly with the users of the system every day, be they applicants, visa officers, or port of entry officials. In some ways, your constituency offices do the same thing.

In addition to the warnings, we are continuously discussing problems and policies with senior CIC officials and are working on solutions to a variety of problems. If the minister wanted solutions faster, I'm sure that all my compatriots here would agree to accelerate those discussions.

We can point to many examples, since the launch of IRPA and even before, of consultation having improved the system. However, when one of the parties acts precipitously, it endangers the process, as it demonstrates a lack of respect for input. The process deserves respect.

We've heard a lot about the issue of faster entry for highly desired skilled workers. As a result of changes to the temporary foreign worker program, any employer can already bring needed workers to Canada within times ranging from a few days to a few months. Very few countries can compete with us in this area. Changes can and are being made to remove bottlenecks as they occur.

In fact, Canada has a huge advantage in attracting skilled workers as permanent residents, based on the criteria required to apply, compared to every other destination country. Other countries, such as Australia and England, have a mandatory English language requirement that works against attracting the best and brightest from certain countries, be they knowledge workers or skilled tradespeople. Canada is almost alone among competing countries in allowing skilled workers to come here as permanent residents without having a job offer. Our biggest competitor in this market in the world, namely the U.S., doesn't allow this.

Speaking of the backlog, we need to separate that issue into two parts. First is the size of the backlog, and second is the length of time people have to wait before their file is processed. We agree that the size of the backlog can only be contained by restricting intake or increasing output or both. The minister has the power to do both already.

IRPA gives the minister the right to exclude certain groups from applying, for a number of reasons. Children or siblings over 21 cannot be sponsored in the family class, nor can nephews, nieces, uncles, or aunts. No skilled workers will be approved if they do not have at least one year's work experience, and so on.

Second, the length of time a person spends in the backlog has little or nothing to do with when they apply. This is because we do not have a first in, first out system. Since the early days of IRPA, more and more groups have been allowed to jump the queue. First, Quebec and Manitoba selected workers. Other provincial nominee programs followed. Then it was persons who already had arranged employment in Canada. Then it was investors, who effectively buy their way into Canada. Soon it will be the new Canadian-experience class.

Finally, if these changes are approved, individuals who are already in the backlog will be allowed to jump the queue, because their skills are urgently needed.

So you see, the minister already has the power to bring those needed here faster by allowing them to jump the queue and has done so repeatedly.

● (1600)

But pity the poor applicants who will not be allowed to jump the queue. Pity the poor applicants in Delhi and Beijing, Damascus and Pretoria, Accra and Ankara, Moscow and Manila. They are now looking at six-year waits; soon it will be ten years or more. This is not what they were told when they applied.

To be perfectly clear, the backlog is not a backlog at all, depending on where you live. If you live in the United States, your application will be processed in one year; anywhere in Latin America or the Caribbean—except Colombia—in one to two years. But if you live in Africa or the Middle East, the best you can hope for is four years, while, in most cases, you must wait at least five years or more. Asia is even worse.

We note the ministry will be sending out 50,000 letters to see how many people are still in the backlog, versus how many have given up. We have been conducting a similar survey among our members to see how many of our clients who are in the backlog have given up. The answer so far is only about 10%. This is about normal, given the fact that some people change their minds or have a drastic change in circumstance.

It seems that people who apply to come to Canada really want to come to Canada, even if it means waiting a long time. What will happen if, as a result of these changes, five years turns to ten is yet to be seen. However, it's obvious that when people do apply, they are very serious about it. This is why we oppose in the strongest possible way the idea that people will be allowed to apply but may not get their applications processed.

I repeat, when people apply, they are serious about wanting to come to Canada. Some plan their lives around qualifying. They get their hopes up. The possibility of acceptance colours all of their planning and all of their actions every day. People are used to the fact that when they're allowed to buy a ticket to a show, and even seat themselves, they expect to be able to see the show. If the show is sold out, they understand that they cannot buy a ticket. But they are not used to being told, after getting seated, that they cannot stay to watch—just when the lights go down.

The minister already has the power to declare a sellout in any category. Why is the power needed to remove the ticket holders?

What can and should be done? First, immigration fees should be set at the appropriate amount necessary to pay for the cost of processing files, and should go directly to the department. This way, greater demand in any category—such as temporary foreign workers—would result in more funds to pay for timely processing. Right now, the fees go into general revenues and, despite all the rhetoric, nothing happens unless the government gives CIC more money.

Second, the minister should declare that anyone who already has employment in Canada, or the guarantee of a job in Canada, does not count against the annual target. After all, people who come here to work immediately do not need settlement assistance. A job is the best settlement program. This would allow fluctuating labour market needs to be met with a balance of the target made up of those who are allowed to apply.

The Chair: Mr. Mooney, I'll interrupt you there because you've gone over your time. We only have an hour and we have to get our next group on. Could you maybe make some of your points during the question and answer period?

Mr. Philip Mooney: Absolutely. Thank you for your time.

The Chair: I'll go to Mr. Bevilacqua.

● (1605)

Hon. Maurizio Bevilacqua (Vaughan, Lib.): Thank you very much, Mr. Chair.

First of all, I want to thank the witnesses for the excellent presentations we have received. I understand you're probably working a double shift because we have two committees looking at the same thing, something that perhaps could have been avoided with proper planning.

Then again, this has been the story of Bill C-50. They introduce amendments that actually don't deal with backlogs. The government, unfortunately, can't really be taken seriously about reforming Canada's immigration system, judging from the amount of investment they're willing to make in this field. This is all occurring at a time when Canada is facing an aging population, demographic shifts, as well as skill shortages.

There are a lot of inconsistencies, and this is the reason why ads have to be taken out in newspapers—even though they're not very clear—about what exactly the issues are. This is the reason why this process was, I guess, ill-conceived, as were the amendments.

I want to get to the bottom of a fundamental issue that is really puzzling to me. Why would a minister or government make such obvious errors in planning, in conceiving a piece of legislation, in not understanding they already have powers to deal with the issues they want to deal with, in thinking that they could somehow bypass Parliament in proper debate? How does this happen, and what essentially do you believe is the motivation behind this? We're all very puzzled by how all these errors could occur in one file. What's your point of view on that?

Mr. Lorne Waldman: I'll go first, if that's okay.

It strikes me that the government must have been aware that there's a big problem. Clearly, we've been saying it, all of us. The practitioners, for years, have been complaining about the ever-increasing backlog. So I believe the government was made aware that there is a problem, and then, I suppose, they asked the officials to provide a solution.

Now, if you take my remarks, I believe that to a very large extent the officials are the ones who were responsible for this. I find it really hard to understand how it could be that in six years they could allow a backlog to go from zero to 900,000. It's unbelievable. But having created this problem, I think they have to propose a solution.

To admit that they already had the powers to correct the problem years ago and didn't take action is politically embarrassing, so they have to suggest that they need new powers—when in fact most of the powers they say they need, they already had. The one new power they are seeking, which is the power to retroactively change everything, in my view eliminates all accountability. What it ultimately does is it means, "Well, if we make mistakes, we can eliminate all the mistakes by wiping out all the applications."

So that's my explanation. I just think this mess has been allowed to grow over years and years. Now it's difficult to admit that we've allowed this mess to grow. We have to try to justify it by saying we have this crisis and we need urgent powers, when in fact they already had the powers. They could have done all of these things years ago but chose not to.

Mr. Philip Mooney: I'd just like to add to that.

I think the reason we got to this stage is because there wasn't a consultation. It's not unusual in the course of problem-solving that you come up with some pretty crazy ideas. We've come up with fairly crazy ideas on how to solve these problems in the past, and so has the ministry. It's by exchanging the dialogue that you get to something that really works, like on a student program. In this case it didn't happen.

As to why it didn't happen, that speaks to the political motivation of how they did this, which I don't think I can speak to. But definitely it happened because there was no consultation. It would have taken an hour of discussion about these, as we normally do, at least an informal process twice a year, an ad hoc process as often as necessary. We would have had the time to say, "Wait a minute, we can't do this."

And it's no different from when we've asked for things and the ministry says, "No, you can't do that because...." It's a give-and-take, and hopefully well-intentioned people sitting around a table trying to solve a problem and coming up with good answers. But that sitting around the table never happened.

Ms. Barbara Jackman: I was just going to say that I think they're power-hungry. It's coming from the bureaucrats. I think if they see an opening where they can move in, use the backlog as an excuse—because this isn't going to cover the backlog, this amendment—then they jump on it. Because there is no doubt this will give the bureaucrats the ability to, by fiat, change immigration policy and classes and whatever.

One of the things that really bother me about all this, about the emphasis on the workers, is that all of those workers have family. They have parents who they're going to want to bring to Canada some day. They have spouses and kids; maybe they're not going to bring them immediately. It's so short-sighted to look at workers as though workers are independent from the social network in the community that they live in and to treat our country as one where all we're going to do is bring in those skilled workers. You can't do that to people. It's got to be human.

● (1610)

Hon. Maurizio Bevilacqua: It's incredible that a person who's ultimately responsible for her own ministry, namely the minister, would not be able to understand all these problems. It's baffling. This is why I'm having such a hard time getting my head around the political motivation of this bill, because it's so self-evident that you can't govern by not consulting. You can't govern by railroading the bill through a budget bill. You just simply can't do that. This is not how democracy works.

It's very puzzling that these flaws are so self-evident. People who come in front of us, the vast number of them, are now saying to just scrap the bill because it doesn't make sense.

So that's why when the minister comes, I need to actually ask her, "What is it really? What is the agenda? What is it that's really motivating these reforms?" Quite frankly, it's certainly not the backlog, because we've determined that already. Everybody agrees it's not about the backlog.

The Chair: Make it a brief response, please.

Ms. Barbara Jackman: Can I say one thing? When the minister comes, ask her if there is a backlog of humanitarian and compassionate applications overseas. If she says there is and it's not family class, ask her if it's the wives and children or the husbands of the people who are doing the sponsoring. They don't call them family class because they're not considered in this class if the person sponsoring misrepresented under regulation 117(9)(d). They won't count them as family class, but they are family members.

So find out if there is a backlog. I don't know where they're coming from, on this humanitarian one, to give themselves power to just cut it all out.

Hon. Maurizio Bevilacqua: Mr. Chair, I want to apologize to Mr. Telegdi. He was going to get a minute or so, but I guess I went a little longer.

The Chair: I don't think we'll have any time at the end. We're all filled up here.

Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Thank you, Mr. Chairman.

Thank you to all for coming today. I would like to start with Ms. Dench.

I know that the CCR is active throughout Canada. You probably know how the immigrant selection system works in Quebec.

When the minister appeared before the Standing Committee on Finance to answer questions on immigration, she assured us that this bill would have no impact on the selection process of Quebec. As you know, this province selects its own immigrants and submits their names to the federal government. Is this your understanding?

However, applications for family reunification and on humanitarian and compassionate grounds are outside the control of the Quebec government. This means that the amendments in the bill would have some impact on immigration to Quebec.

My question is directed to Ms. Dench unless other witnesses wish to answer also.

Ms. Janet Dench: Thank you, Mr. St-Cyr.

Your understanding that applications controlled by the government of Quebec are not directly impacted by the instructions is correct. However, the language of these amendments is far from clear. There is a huge lack of explanatory notes to provide real answers to all these questions.

We must also look beyond the instructions. As my colleagues have said, other provisions in the bill give greater powers to the department that might have an impact on applications, including the power to not issue a visa even if the applicant meets all the criteria. These provisions would also apply to immigrants selected by Quebec, those who apply on humanitarian or compassionate grounds from outside of Canada and those who want to settle in Quebec. One cannot say that these amendments will not have an impact on immigration to Quebec.

● (1615)

Mr. Thierry St-Cyr: I really want to understand what you are saying and Mr. Waldman might want to comment also.

An immigrant selected by the government of Quebec could ultimately be denied under the proposed amendments? Is that what you are saying?

Mr. Lorne Waldman: Excuse me if I speak English, but my French is not very good.

[*English*]

There is no limitation on the instructions. They don't exempt provincial agreements. They don't exempt provincial nominees. There's nothing in the wording of this legislation that would preclude the minister from issuing an instruction to say, at some point in the future, if she got into a dispute with the Quebec immigration minister, not to process Quebec applications. There's nothing in the legislation that precludes this. It might lead to a constitutional problem. It might lead to a challenge in the issuance of the instruction, but the instructions are not restricted in what they can and cannot do in that way. There could be an instruction issued that would say not to process any provincial nominees. There could be an instruction that would say to put provincial nominees at the back of the file because they want people with confirmed job offers. Or an instruction could be given not to process provincial nominees from Quebec or Manitoba, because they're in a dispute over something or other.

My reading, and I don't know if Ms. Jackman agrees, is that there's no restriction. If you're concerned as a Quebecker about the potential impact of this power on the power of Quebec to select immigrants, you have very good reason to be concerned.

I apologize, Mr. Chair, I have to go to another committee meeting.

Mr. Philip Mooney: To elaborate on that point, in a technical briefing the deputy minister indicated how they might use that power. For example, if there were a drastic shortage in any one profession in Canada and one provincial program was taking all of the applicants preferentially, they said the minister would have the right to intervene and stop those individuals from going to that province. That was the example they used to show how this could apply outside of the areas that have been indicated as having the intention to apply.

[*Translation*]

Ms. Janet Dench: In fact, the power the government is giving itself is not so much to refuse visas than to not issue them. Presently, if a person meets all the criteria set out in the act, the visa officer must issue a visa. But under the changes proposed, it only says that the visa may be issued. If the visa officer does not want to issue a visa, he or she does not refuse but simply does nothing. Doing nothing means that no decision is made. Consequently, the right of appeal to the Federal Court, for example, is limited since there is no decision. There is nothing to challenge.

Mr. Thierry St-Cyr: How much time do I have left?

[*English*]

The Chair: You have a minute.

[*Translation*]

Mr. Thierry St-Cyr: Mr. Mooney, you raised the issue of consultation in order to solve problems. Mr. Waldman also mentioned that the power to control is taken away from Parliament. When a bill is introduced in Parliament, there automatically follows a consultation, such as we are having here today in this Committee. As well, we meet with people because MPs are also contacted directly.

Once the power is given to the minister to issue instructions — there is not even a role for the governor in council — no consultation of any sort is required, whereas if the instructions had to be considered at least by our Committee, for example, some pressure could be exerted to inflect the decisions. That is the heart of the problem.

[*English*]

The Chair: Could we have a brief response, please?

Mr. Philip Mooney: I think it's unreasonable to expect all of you and the minister and possibly even those at the deputy minister level to really understand the heart and soul of the immigration act at the level that changes can really be implemented. It's a bit like saying to someone in the medical committee that they might know a lot about medicine, but they're not a doctor and I wouldn't let them operate on me. Sorry if I've used that analogy before.

The point is that it's up to the individuals who understand the system in depth—those who live in it, work in it, including the department, the practitioners, and other interest groups—to say these are the real guts of the changes. These decisions or recommendations should then go to the minister, after consultation, for action. And how the minister chooses to act on those issues is absolutely the prerogative of Parliament.

● (1620)

The Chair: I'll have to stop you there, sir. Sorry.

Mr. Komarnicki, you have seven minutes.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Mr. Chair, I find it highly inappropriate to have one of the witnesses who made a significant number of statements with respect to legalities of Bill C-50 leaving before the round of questioning was finished. He should have been here at least until the end of this round.

The Chair: I agree.

Mr. Ed Komarnicki: I think that certainly when you get into the questioning and you allow the other parties to examine, you should keep the witness until we complete the round.

The Chair: Yes.

Mr. Ed Komarnicki: I find it highly inappropriate for that to happen.

Having said that—

The Chair: Order, please.

Ms. Colleen Beaumier (Brampton West, Lib.): Come on, that's a double standard, Mr. Chair.

The Chair: Order, please.

Mr. Ed Komarnicki: It is a double standard. That's precisely the point.

Ms. Colleen Beaumier: It's a double standard. We can leave without them commenting on it.

The Chair: Order, please.

Ms. Colleen Beaumier: That's very inappropriate.

The Chair: Order, please.

It's generally accepted that the witness will remain until he's questioned by all members. He never had the permission of the committee. He just said he had to leave, and he took off.

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): I have a point of order on that, Mr. Chairman.

He had to go over to the finance committee.

The Chair: Yes, I know that.

Hon. Andrew Telegdi: He's testifying on the same thing.

If they didn't have this crazy system—

Mr. Ed Komarnicki: He should have been finished here.

Hon. Andrew Telegdi: —on Bill C-50 and this crazy process where we condense everything, we would have had him here for a couple of hours.

Mr. Ed Komarnicki: Which the honourable member had a lot to do with in terms of it happening in this fashion.

The Chair: We're eating into Mr. Komarnicki's time here. Is it really necessary that we do that?

Okay.

Mr. Ed Komarnicki: Ms. Jackman, I gather you're a—

The Chair: On a point of order, Mr. Bevilacqua.

Hon. Maurizio Bevilacqua: In fairness to Mr. Waldman, prior to beginning his presentation, he stated to you and to committee members that he would not be able to stay past—I thought it was 4:30—4:20 or something like that. He had a meeting at 4:30. That's what he said. So in fairness, if we had any concerns, we should have stated them to him directly while he was here.

Mr. Ed Komarnicki: We should have regulated the time better than the seven minutes.

The Chair: I'm going to begin your time now, Mr. Komarnicki. You have seven minutes.

Mr. Ed Komarnicki: Ms. Jackman, I gather you're a lawyer and have a legal background and have gone through Bill C-50 itself?

Ms. Barbara Jackman: Yes.

Mr. Ed Komarnicki: Would you confirm for me that Bill C-50 itself does not relate to refugees or protected persons, either in Canada or outside of Canada? Would you confirm that fact?

Ms. Barbara Jackman: No, it doesn't address them specifically, but they will make applications under those provisions that are in Bill C-50.

Mr. Ed Komarnicki: But I heard today from a previous counsel that the relevant provisions of Bill C-50 that relate to prioritizing or categorizing do not apply to refugees and protected persons. Are you saying that Bill C-50 does apply to refugees and protected persons in any fashion?

Ms. Barbara Jackman: Of course it does.

Mr. Ed Komarnicki: Okay, tell me how you say it does.

Ms. Barbara Jackman: If you're a refugee in Canada and wish to bring your spouse or your children to Canada, and they are not members of the family class because you didn't declare them when you came into the country, for example—but we're not going to remove you—you'd have to do a humanitarian and compassionate application. They're covered by it.

Mr. Ed Komarnicki: But I'm talking specifically to the refugee himself or herself. I'm not talking about them making an application for a sponsorship of somebody outside of Canada. I'm talking about them—the refugee who is applying in Canada, or the refugee himself or herself applying out of Canada. Does this specific legislation apply to them...?

I would ask the honourable member to wait until it is his turn to question, if he wishes, because he's interrupting and interfering, and I'd prefer he didn't.

The Chair: Order, please.

Ms. Barbara Jackman: There is nothing in this legislation, in the amendments, that would say that the minister couldn't put refugees to the bottom of the line in terms of prioritizing.

Mr. Ed Komarnicki: And which provision of Bill C-50 says that?

Ms. Barbara Jackman: It's in proposed section 87.3, I think. I'd have to go back and look at the bill, actually. It specifically excludes sponsorship applications and temporary residence permits—

Mr. Ed Komarnicki: I'm not talking about sponsorships or temporary resident permits. I'm talking about the refugee application itself. I understood previous counsel to say that it didn't apply to refugees themselves.

Ms. Barbara Jackman: No, it doesn't, you're right, in the sense that it doesn't apply to establishing categories for refugees; it does with all related refugee stuff.

● (1625)

Mr. Ed Komarnicki: Okay. I'm talking about the refugees. So you'd agree with me on that now, would you?

Ms. Barbara Jackman: Yes.

Mr. Ed Komarnicki: Okay.

Now, you have some concerns about people who have misrepresented the fact that they had children or someone in the family class. Notwithstanding that they misrepresented, you would like them to be able to make a humanitarian and compassionate application outside of Canada.

Ms. Barbara Jackman: Yes.

Mr. Ed Komarnicki: Okay.

And the legislation itself would indicate that they may make the application in their own right, or the minister may grant a humanitarian application through her own right. Would you agree with that?

Ms. Barbara Jackman: Yes, they may, but then the minister may not consider it if the minister doesn't want to.

Mr. Ed Komarnicki: Right. So it's not saying that they won't be granted; it's just that they may or may not be. Some cases may, and some cases may not.

Ms. Barbara Jackman: Well, it's the difference in wording. If you're in Canada and make the humanitarian application, someone has to look at it. It's mandatory. If you're outside Canada, you could have an even closer family relationship, but it's not mandatory. They don't even have to look at your application.

Mr. Ed Komarnicki: But the application may be made and it may be allowed.

Ms. Barbara Jackman: It may be made and it may be allowed, but the problem is that you don't deal with these people in these kinds of applications that we see all the time. Right now they have a right to make the application; they are all refused. We have to go to court on them.

Mr. Ed Komarnicki: Just going over to Mr. Philip Mooney, I heard Mr. Waldman indicate—and you have, to some degree—that the minister presently has the ability or the authority under the present legislation to prioritize certain categories of applicants in the skilled or less skilled categories or the economic category. Is that what you're saying?

Mr. Philip Mooney: In fact, it's been done widely since IRPA.

Mr. Ed Komarnicki: And you're talking about things like the....

Mr. Philip Mooney: Provincial nominees, Quebec nominees—the individuals who have a job offer in Canada for when they become—

Mr. Ed Komarnicki: And the Canada experience class?

Mr. Philip Mooney: All of those are prioritized by directive from the minister.

Mr. Ed Komarnicki: So you're saying this legislation, that gives the authority to the minister to prioritize, is somehow difficult for you to live with now?

Mr. Philip Mooney: No, it's unnecessary in that regard.

Mr. Ed Komarnicki: Are you saying, then, that to the extent this legislation gives the minister the right to prioritize, it's not different from what already exists in the act? Is that what you're saying?

Mr. Philip Mooney: That's what I'm saying, yes, except the issue then says...but the minister is justifying the need to do that and is imposing retroactivity to the decision-making process. That's what we object to. The prioritization has been going on forever.

Mr. Ed Komarnicki: So you have no problems with the prioritization.

Mr. Philip Mooney: Well, I can argue or not argue: they have the power to do it.

Mr. Ed Komarnicki: So nothing new there.

Mr. Philip Mooney: No.

Mr. Ed Komarnicki: And Mr. Waldman said, and I gather you would agree with him, that it doesn't apply to any applications prior to February of....

Mr. Philip Mooney: It impacts those applications, absolutely. Because if you're sitting in that line-up and you're not one of the group that gets prioritized, even out of the backlog, as the minister has announced, your wait times get longer. And the reason people are waiting....

Everyone talks about how long it takes to get to Canada. They're not waiting that long because the line-up is so big; they're waiting that long because people keep getting put in front of them. As a result, the number being processed out of the regular skilled worker process is getting fewer and fewer. So this group, this big nut that's there, just won't get any smaller, and time will drag on and on.

It's gone from one year, to one and a half years, to three years, to five years, to seven years. Now it's going to go more.

Mr. Ed Komarnicki: If you accept the fact that Parliament sets a sort of global number of people who can come in, let's say 245,000 or 265,000—

Mr. Philip Mooney: That's the elephant in the room.

Mr. Ed Komarnicki: That's 245,000 or—

Mr. Philip Mooney: This is for everybody here: that's the elephant in the room.

Mr. Ed Komarnicki: —265,000 per year, and if you simply keep receiving applications as they come in, without any particular limitation, the backlog is going to continue to grow proportionately, as it has now to 900,000.

Mr. Philip Mooney: Absolutely, but the minister doesn't have to receive the applications. The minister can say to any group at the start that the class is sold out and we can't take any more in this category for the next two years. They can say that ahead of time.

Mr. Ed Komarnicki: You're saying that provision or power in legislation currently exists?

Mr. Philip Mooney: Absolutely.

Mr. Ed Komarnicki: What Bill C-50 does is indicate that the minister doesn't have to, or the department doesn't have to, receive every application that comes in.

Mr. Philip Mooney: They completely will not accept your application. In other words, don't send us your application, this category is closed. That's very easy to understand.

Mr. Ed Komarnicki: And you're saying that exists under the current legislation. How does Bill C-50 impinge on that?

Mr. Philip Mooney: Bill C-50 changes that because it says that we're going to take your application. We don't know if we're going to process you, so a year from now, six months, two years, three years, we're going to come back to you and say, "You know what? We don't want you."

Mr. Ed Komarnicki: That's precisely the point. If the person doesn't qualify for the particular category or group, that application—

● (1630)

Mr. Philip Mooney: No, they qualify at the time they send their application in.

Mr. Ed Komarnicki: They wouldn't necessarily, because the instruction would exist prior to the application being sent.

Mr. Philip Mooney: No, the instruction could be issued after they've applied.

Mr. Ed Komarnicki: Let me ask you a couple of further questions, quickly, if you're able to answer them.

The Chair: Five seconds.

Mr. Ed Komarnicki: Five seconds? I would say that's probably too short.

The Chair: Sorry, time is now expired. I have to cut it off there because we have another group waiting to come on at 4:30.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): Chair, there were three minutes that Mr. Komarnicki started by attacking—

The Chair: No, no, we're going by the clock here.

So we have to—

Hon. Jim Karygiannis: Mr. Chair, with all due respect, sir, I'd like to have two minutes.

The Chair: No, you're not having two minutes until the next round.

Hon. Jim Karygiannis: That was Mr. Komarnicki who started the damn thing, and this is why—

The Chair: I'm going by the clock.

Hon. Jim Karygiannis: If it were anybody else on this side, you would have cut into their time. You didn't cut into his time.

The Chair: I'm sorry, I'm going by the clock. Please, order.

If you can get your colleagues to agree, you can go first on the next round. So please restrain yourself, Mr. Karygiannis.

Hon. Jim Karygiannis: On a point of order, Mr. Chair, it's not an issue of my restraining myself. It's been the practice that, if somebody raises a point of order, you eat into their time. That's the practice, sir, that you followed.

The Chair: We gave everyone equal—

Hon. Jim Karygiannis: If you're changing your mind right now, let us know for the future that you will respect that.

The Chair: We gave equal time to everyone. And I very often do that; when points of order are raised, I will begin the member's time when the points of order are over. That's an established practice.

Thank you, gentlemen and ladies, for your submissions today. Please be assured that we will take your submissions into account.

Thank you.

Ms. Olivia Chow (Trinity—Spadina, NDP): Mr. Chair, here is just a point of order while people are waiting. I think it's useful to tell all witnesses in future that the present schedule is that there will be three days of witnesses and by Thursday we'll write the report.

The Chair: Yes, that's a good point.

Ms. Olivia Chow: That way they'll know, because sometimes they ask.

Then it will be at finance committee the Tuesday after next.

The Chair: Very good point. Thank you for that.

● (1630)

(Pause)

● (1630)

The Chair: Order. We're on a fairly tight time schedule. We'll call our witnesses to the table.

We're on a fairly tight time schedule, members of the committee, because we have votes this evening at 6:30. We have to leave here at 6:30 sharp to get to our votes. So please do not jump on the chair if he has to keep everyone to a strict timeline, okay?

Order, please.

I'm pleased to welcome today, for the next hour, 4:30 to 5:30, the Canadian Society of Immigration Consultants; the Perley-Robertson, Hill and McDougall law firm; and....

Is Mr. Cohen here yet?

Ms. Olivia Chow: He's running over now.

The Chair: He's coming? Okay. Mr. Cohen will be appearing as an individual.

We also have John Ryan. Welcome again, Mr. Ryan. It's good to see you.

We will begin our meeting now. I think you're all aware of how it works. You have seven minutes for an opening statement.

Mr. Qayyum, go ahead.

Mr. Imran Qayyum (Vice-Chair, Canadian Society of Immigration Consultants): Thank you, Mr. Chair.

Let me start this afternoon by thanking the standing committee for its invitation to the society to present our views on Bill C-50. My name is Imran Qayyum. I'm the vice-chair of the Canadian Society of Immigration Consultants. I'm here today with my colleague Mr. John Ryan, the chair and acting CEO of the society.

The board of directors at the Canadian Society of Immigration Consultants supports the government's proposed legislation to streamline Canada's economic-stream immigration processing. Our support is based on the CSIC mandate to protect the public interest and the need to protect the interests of applicants seeking to come to Canada. It is our view that individuals and families waiting in immigration-processing backlogs face uncertainties and a lack of timely resolution that undermines the stability of families and brings the overall Canadian immigration program into disrepute. We need to be mindful that each of the 926,000 candidates currently in the immigration application backlog represents a husband, a wife, a mother, a father, sister, brother, and children—all of whom dream of making Canada their home. We need a system that provides Canada with the needed skills in a timely manner, and not in five to seven years from now.

Given the minister's testimony that the backlog, if not addressed, will balloon to an estimated 1.5 million—with a ten-year processing time—by 2012, the status quo is not acceptable. Of most concern to the society is a pattern of abuse we have identified whereby ghost agents accept money from unsuspecting immigration applicants. These agents promise quick processing of their application, only to disappear with the person's money, leaving the applicant in the breach, unrepresented and vulnerable.

The best traditions of Canadian immigration call for transparency and openness in the immigration processing system. The current backlogs and disproportionate immigration-processing times cause a perception that the system is unfair and not transparent. In our opinion, this situation severely harms the legitimate interests of both the Canadian public and the consumer. Further, the existence of backlogs fosters an environment in which unscrupulous ghost agents may prosper by preying upon applicants left increasingly vulnerable by an inefficient system.

CSIC understands that the policies the minister puts in place to implement the proposed new regulations will be crucial to the success of the process. CSIC expects these new economic-stream selection policies to be developed with great care and in keeping with the principles of the Charter of Rights and Freedoms. At the same time, the policies must respect the foundation objectives of Canada's Immigration and Refugee Protection Act, including universality, family reunification, and non-discrimination.

We believe the minister should be applauded for efforts to try to tackle this problem. While the proposed regulatory process may not be perfect, it is an initiative for which we are prepared to give the minister the benefit of the doubt and the flexibility she needs to develop fair and transparent policies to eliminate the backlog.

CSIC will be watching the policy development arising from the new regulations to ensure that the minister delivers on her promises, that the interests of consumers of immigration services will be protected, and that immigration applicants are treated fairly.

Thank you.

● (1635)

The Chair: Thank you, sir.

Welcome, Mr. Creates. I want to welcome Mr. Cohen now as well.

Whoever is next, please go right ahead.

Mr. Warren Creates (Head, Immigration Law Group, Perley-Robertson, Hill and McDougall LLP): Thanks for asking me to participate in this important piece of your parliamentary business.

When this legislation was introduced on March 14, I was on national television that night—it was a Friday—speaking in support of it. With reflection and in the fullness of time, I have considered it more carefully and want to share my thoughts with you.

The minister announced on that day that this legislation would reduce the backlog; would restrict the size and cost of maintaining a large and outdated inventory; would result in faster processing; would result in improved service—or, as she was quoted saying, just-in-time inventory—aimed at reducing the wait time to an average of one year; would make the system more responsive and nimble to immediate regional economic needs by listing and selecting strategic or priority occupations; and really, we couldn't continue to build a warehouse that would occupy these hundreds of thousands of applications, when every year we were selecting only about 250,000 to get visas.

Those were the political comments made at the time in support of the legislation, and I was one who then supported the initiative. Now I'm a very different person as I appear in front of you today. I've gone 180 degrees, because it's clear to me now what effect this legislation is going to have.

First of all, it's going to move some categories of applicants to the front of the line and delay other categories. As the minister continues to move categories to the front of the line, including the Canada experience class that we'll see at the end of this summer, there is no front of the line any more. There are so many priority silos in the business of this government now. I'll list them for you: interdiction, enforcement, refugees, visitors, students, work permits, spouses, children, provincial nominee programs, and soon the expanded Canada experience class. It's not going to be possible, with this legislation and the existing platform of resources, to deliver the promises of this minister. There is no front of the line.

What I find particularly heinous or egregious is proposed subsection 87.3(2), which talks about the opinion of the minister. The legislation says: The processing of applications and requests is to be conducted in a manner that, in the opinion of the Minister, will best support the attainment of the immigration goals

Since when do we live in a country where the minister decides what happens with something as important as the immigration program?

Our immigration officers in Canada and outside Canada should never be accountable to the minister. They should instead be accountable to our Constitution, our charter, the legislation and laws of this country, this House, and this parliamentary process that gets the views of stakeholders. That's what's important.

We're going to see in this legislation the erosion of the sacred rule of law principle that this country is built on. Democracy is shrinking because of Bill C-50. Processing priorities, which we have already decided by a tried, tested, and true established and transparent parliamentary procedure for both legislative and regulatory change, will now be reduced to stakeholder input.

There's a high risk of political influence by certain industry sectors and industry groups that are favoured by and supported by the party in power. Certain industries, employers, unions, and professional bodies will use this political influence to either include or exclude occupations to further their own selfish interests. Democracy and advantage slips from being open, transparent, and controlled by consensus and majority, to being controlled by the privilege of a few.

The proposed changes concentrate far too much arbitrary power and authority in the minister and his or her officials. This is totalitarian and anti-Canadian.

● (1640)

This legislation talks about cabinet approval. That is not sufficient. There's no parliamentary input. There's no political accountability. There are no public stakeholder consultations.

The change to the humanitarian and compassionate category that's found in proposed section 25 in the bill—that we “shall” examine cases if the applicant is in Canada, and that we “may” examine cases outside Canada—is egregious and heinous. What is the distinction between a humanitarian and compassionate case inside Canada compared to one outside Canada?

We know what a humanitarian and compassionate case is. We know it when we see one. In fact, the department has policies to assess such cases. Why should it matter if the desperate case is in Canada or outside Canada? There will not be a flood of outside-Canada applications, which is consistent with what a previous witness had to say.

All right, so what are the alternatives? I've criticized it enough. I handed the clerk my brief last week, and you're going to get a copy of it. There are plenty of alternatives. We can invest in processing resources. Treasury Board can do it tonight. We can add officers to the existing platforms. We can train those officers to be more skilled and more productive. Invest in training, invest in processing resources, and we will all be rewarded.

Most important, we can increase the federal skilled worker pass mark from the current 67, which created this backlog. Lorne Waldman told you this backlog started six years ago, and he's roughly right. You know, these cases take four, five, six years to process. So let's say it was zero six years ago, when IRPA came into force in June 2002. That's when we saw a 67-point pass mark. It had been 76, if you remember, and then it went to 72 and 70, and it's down as low as 67. Well, the reason we have the backlog is because we have 67 points on the pass mark. Just change that, just tweak that. Increase it to 72, and we won't see this flood of applications and the resources required to change it.

Anyway, the rest of my alternatives are in my brief. I have about eight suggestions in there, which taken collectively.... If you pick four of them, we're going to have the better system that's accountable and transparent.

Thank you.

● (1645)

The Chair: Do you have any opening statements, Mr. Cohen?

Mr. David Cohen (Immigration Lawyer, As an Individual): I do have a presentation. My colleague has said a number of the things that I was going to say. I presented a brief, which is going to be given to all the committee members, so I don't mind devoting the time to questions.

The Chair: It's totally in your hands.

Mr. David Cohen: Well, I've just given an entire brief to the finance committee, so I'm perfectly satisfied to take questions.

The Chair: Okay.

Hon. Maurizio Bevilacqua: Mr. Chairman, there's an option to read this document into the record, if you like.

The Chair: Oh yes; he can if he wishes.

Hon. Maurizio Bevilacqua: Not necessarily him; it could be someone else.

Mr. David Cohen: Some of it will be repetitive.

The Chair: We'll take it as read then.

Mr. David Cohen: Excellent.

The Chair: Thank you very much.

Statement by Mr. David Cohen: The government has tabled amendments on March 14, 2008 to the Immigration and Refugee Protection Act (IRPA). The stated goals of the government are to create a more responsive/streamlined immigration system, and to reduce the existing backlog of primarily skilled worker applications. The desired goals can be wholly achieved without gutting IRPA of its fundamental Canadian values of fairness and transparency.

In its present form, IRPA and its accompanying regulations permit the minister to: increase the pass mark, R76(2) to limit the number of fresh applications as a means for managing the backlog; make use of "restricted occupations", R73 and R75(2), to better match the flow of immigrants to the labour market needs in Canada; and facilitate the use of "arranged employment", R82, whereby an offer of employment from a Canadian employer can speed up the processing of the application of the skilled worker the employer would like to hire.

I am appearing before you today because of a story my late grandfather told me when I was young and impressionable. He spoke of how his younger sister fled Poland just ahead of the Nazi occupation and how she managed to secure a residency permit in England, valid for one year. My grandfather did everything he possibly could to convince immigration authorities in Ottawa to allow her to join him in Canada. His plea fell on deaf ears—the door to Canada was shut. In the end, his sister was expelled from England back to Poland. She was never heard from again.

Truth be told, we haven't always had an immigration policy to be proud of. I have been practicing immigration law for more than thirty years, and I state candidly that discriminatory discretion was only wrung completely from our immigration system, at least as it pertains to economic immigrants, in 2002 with the introduction of the Immigration and Refugee Protection Act, or IRPA.

IRPA, in its present form, is an exquisite piece of legislation, whose beauty comes from the fact that the selection of economic immigrants is based purely on objective criteria. At its core is the fundamental principle that everyone who chooses to submit an application to come live in Canada is entitled to fair and equitable consideration.

The government is now proposing to amend IRPA through Bill C-50, which was tabled in the House of Commons on March 14, 2008. Under the proposed changes, the Minister of Immigration would have the authority to issue instructions to immigration officers related to the processing of applications—more specifically, instructions as to which type of applications to process quickly, which applications to hold for processing at a later date, and finally which type of applications to return to sender without any consideration at all.

These amendments would change our immigration selection system from one that provides fair consideration to all applications in the order they are received to a system based upon discretionary selection and outright denial of consideration. This would expose the immigration system to the type of discretion that IRPA eliminated. In practice, the minister will have to delegate the exercise of discretion to individuals within the department to carry out such instructions. This will unavoidably make Canada's selection system vulnerable to human bias, or worse. I would like to place on record a copy of a post from the public forum located on my law firm's website as a practical example of the danger of discretionary selection.

The minister states that these amendments are required to streamline and modernize the immigration system. In particular, the government intends to use the amendments to clear out the current backlog, consisting primarily of 600,000 skilled worker applications. In addition, the government desires the ability to prioritize applicants with occupations that are in high demand in the Canadian labour market.

The backlog exists because the number of new applications received every year is more than the number of visas issued during the year. IRPA regulation 76(2) foresees this eventuality. It empowers the minister to set the minimum number of points required to qualify as a skilled worker, keeping in view the "number of applications" currently being processed versus the target number of immigrant visas to be issued. The minister may, therefore, simply raise the pass mark above the current level of 67 points to curtail the number of fresh applications. People can count, and they won't pay $550 in government processing fees only to be refused on the merits of their application.

The minister may also make use of "restricted occupations" as provided in IRPA regulations 73 and 75(2). After conducting the appropriate consultations with provincial governments and other relevant stakeholders, the minister may designate as restricted certain occupations for which there is little demand in the Canadian labour market. Potential applicants with experience in a restricted occupation would receive zero points for their work experience and therefore would have no incentive to apply. This would ensure that Canada selects a higher number of immigrants that meet the immediate labour market needs within the country.

Finally, the present legislation allows for "arranged employment" in Canada. A genuine job offer from a Canadian employer entitles an applicant to an immediate temporary work permit or accelerated processing of a permanent resident application. This allows the "best and brightest" to be brought to the head of the queue.

The subject of backlogs is more complicated than meets the eye. The government's proposal gives the impression that the backlog is a single line of 600,000 applicants stretching as far as the eye can see. In fact, the reality is very different. Some visa offices have huge backlogs, with a five-year wait to simply be considered for immigration. Other visa offices can process an application to conclusion in a little more than a year. This situation is a direct result of the fact that the minister sets yearly targets for visa issuance at each visa office and assigns the resources necessary to achieve those targets.

Let's compare how this all works out at two specific visa offices. In 2007, the target for economic class visas at the visa office in Buffalo was 24,500 against an inventory of 43,000 applications. The target for similar applications at the visa office in New Delhi was 10,500 visas against an inventory of 135,000 applications. How these targets are set is a whole other issue, but I'm leaving that aside.

The distribution of applications is, as noted above, quite uneven. If one were to turn off the tap for two or three years to clear out the existing backlog, some visa offices would have no applications to process at the end of year one and most visa offices would have very little inventory at the end of year two. Then in year three, the government would only be issuing visas to the remaining applicants, who would overwhelmingly be from India, the Philippines, and the Middle East. This is, of course, an untenable eventuality.

We should, therefore, expect that a new set of instructions will be issued at the end of year two, allowing the government to open the tap again at certain visa offices but not at other visa offices—i.e., New Delhi, Manila, and Damascus. Once you have a society that condones selectively closing its doors to applicants, even temporarily, it's not a big step to becoming a society that is comfortable opening its doors only to some, but not to others. Canadians of Chinese, Jewish, and Italian descent won't be shocked.

IRPA is fair and it can work. Let's not shut our door.

I wish to place on record a recent posting on our law firm website's public forum from an individual who purports to be a Canadian immigration officer. I am satisfied from all the evidence at my disposal that the person posting is, in fact, a Canadian immigration officer. Reference to the particular ethnic group identified in the posted message has been removed.

Posted in forum: Thursday, December 06, 2007, 8:26 a.m.

> Here you will read the RANTing of a Canadian Immigration Officer.
>
> I've HAD IT!!!!
>
> I am so sick and tired of dealing with all the liars, cheats, frauds etc...
>
> This line of work has tainted me to the point that I can't even look at most immigrants anymore without pre-judging them as losers. Especially those from xxxxxxxx.
>
> I don't get the whole xxxxxxxx onslaught we're seeing now. Is xxxxxxxx such a shitty place to live? And why can't xxxxxxxx marry someone in the country where they live, why must they insist on marrying their brothers and sisters and cousins just for immigration purposes... yuck.
>
> I'm tired of finding so goddamn many immigrants who arrive here and jump on the welfare system before they've even been declared "landed". Then they think they're fooling someone when they get off welfare for 2 months to submit a sponsorship application.
>
> I've seen so many phony marriages that I'm approaching the point where I wish they would remove spousal sponsorship as an option. If you can't find someone here worth spending your life with, MOVE. If only a guy/girl who currently lives in xxxxxxxx is worth marrying, then perhaps you should get your ass back to xxxxxxxx since obviously the quality people are all there.
>
> xxxxxxxx Immigrants have destroyed certain communities... xxxxxxxx for example has become xxxxxxxx part 2 (commonly referred to as xxxxxxxx). I feel sorry for any english speaking students in the schools in xxxxxxxx, because they're the true minority now. A recent news story showcased one school that has over 400 new kindergarden students, 93% of whom did not speak english...
>
> Well this felt good to rant a bit and I'll probably do more of this...but for now I have to go deny a few people entry to my country.

The Chair: Mr. Ryan, you don't have any statement.

We'll go to Mr. Karygiannis for seven minutes, please.

Hon. Jim Karygiannis: Mr. Creates, I was very surprised by your comment about doing the 180 degrees, but I guess you've read the legislation and have seen what some of us were seeing also.

My question is on a more general scenario. Any of you can answer it.

The minister is saying we're going to allow doctors to come into Canada faster. I find that a little preposterous. We do have doctors on the inventory list of 900,000 to 925,000 cases. A doctor, to be allowed into Canada...that doctor, when she or he comes into Canada, will not automatically be guaranteed a place to work. They will have to go through the colleges in each province. They will have to qualify in order to work. And some of the provinces are allowing 48 doctors per year; others are allowing 50.

So I am perplexed when the doctor.... I mean, the minister is playing with the senior Canadians and the Canadians who...and some of the people who live in rural Canada certainly do not understand immigration the way that some practitioners like you do, or some of the members of Parliament who are involved in it every day.

The minister says we're going to allow more doctors in, then stops it there and doesn't qualify that, "Yeah, if we do, too bad, so sad; they won't be able to practice."

I'm wondering if in 30 seconds some of you can qualify that.

Mr. Warren Creates: Sure, I'll answer that.

We have an issue with a shortage of doctors, particularly in rural areas in most of Canada. That's widely known by everyone. It's an accreditation issue, as you described, with the provincial licensing bodies, the professional licensing bodies. It's not only true of doctors; it's true of lawyers, teachers—pick one. There has been and will always continue to be an accreditation issue. Self-regulating bodies tend to protect their own, and it's been very difficult to get foreign doctors credentialed in the province of Ontario particularly, but elsewhere too.

Hon. Jim Karygiannis: So you would agree that, if I were to make the statement...that when the minister uses the word "doctors", she's really misleading the Canadian public.

● (1650)

Mr. Warren Creates: I don't want to accuse the minister of misleading the Canadian public, as I appear before you today. I would say there is a disconnect between welcoming doctors and then automatically—

Hon. Jim Karygiannis: No, the question is if *I* am accusing the minister of misleading the Canadian public. Do you disagree with me on that statement?

Mr. Warren Creates: I understand what you're doing, and you've asked me to agree or disagree with you. I'm saying there's more to this story than meets the eye. I think it could have been a political statement she made, because as a practitioner I know it's very difficult to get medical doctors to qualify in the province of Ontario and elsewhere.

Hon. Jim Karygiannis: I crunched some numbers a couple of months ago, and they certainly haven't been challenged by either the parliamentary secretary in the House or the minister herself. Those numbers showed that between 2005 and 2006 there was a 20.67% increase overall in the amount of time it took somebody to come to Canada throughout the system. In 2007 it was 7.69%. In 2005 there were 260,000-plus, and in 2007 there were 235,000 to 240,000—a 10% decrease. The minister is going around saying we'd like to let more people in, and we've got to deal with the backlog, etc. Yet they're taking longer to process and allowing fewer people in.

Couldn't one of the ways to resolve the backlog be to increase the number of people coming into Canada?

Mr. Warren Creates: Obviously, yes, it could. As one panel said, either this one or the previous one, you either reduce the intake into the inventory or increase the output. Either way you're going to control this backlog.

The biggest issue I see coming, with what's going on in Canada now, is a very related point. Immigrants are making less money now than they did five and ten years ago, so the selection system is not what it needs to be. We're selecting immigrants, they're coming in, and they're having trouble settling and getting themselves established. Their incomes, based on their tax returns, are less than those of the Canadian-born control group.

So when I said to increase the pass mark from 67 points to 72 points, I was saying you'd get better quality applicants and fewer of them. We'd have the 250,000 or 265,000—I think there's pretty much a consensus in the country on that—although I know some parties want 300,000. But those are small things to worry about. The biggest issue is selecting immigrants who establish quickly and have good incomes. It's a win-win situation.

We're in a downward trend. Australia increased their pass mark, decreased their processing time, and decreased their backlog and inventory. They're processing in two years. This minister has alleged that we're going to get it down to one year, but that's not going to happen. I've been doing this for 22 years, and it will not happen. We're dealing with such massive numbers that for the minister to say we can process permanent resident applications—skilled workers or otherwise—in a year, I don't accept that as ever being true. Two years is not unacceptable.

Hon. Jim Karygiannis: Picking up on that, sir, would you say that if the minister under the proposed system were to fast-track skilled workers and pick and choose them by country or category, that wouldn't do anything to decrease the backlog? The backlog is going to stay there, and the backlog is 925,000 cases. If right now on average it takes four to six years, it's going to take even longer, because we can't dive in there and get the applicants we need, the skilled workers, to the front of the line.

Mr. Warren Creates: We all know that Bill C-50 and the amendments for IRPA are not going to have any effect on the backlog, other than it will decline in time, as you describe it, which is a good thing. It should never have become what it is, and it must decline. It will decline by attrition either because people die, they migrate to another country, or they give up. That's why we need to find out how many of those 925,000 are still good, intending applicant. That's not very difficult to do. It involves a letter and a licked envelope with a stamp on it, to find out whether 925,000 people are still interested in coming.

Hon. Jim Karygiannis: How many of the clients in your practice are saying they want to get out of the system because it's taking too long? Is it 5%, 10%, 20%? Any one of you may answer.

Mr. David Cohen: I'd like to add a couple of comments to what you had asked before to my colleague Mr. Creates, that it appears from the studies that are coming out now that immigrants who came to Canada more recently are not doing as well economically as immigrants who came to Canada some 30, 40, 50 years ago. It goes back to the 1960s.

I would suggest that the measurement being undertaken is really not the proper one. Immigrants who came to Canada in the 1950s and 1960s were primarily western European. They looked a lot like Canadians looked like in those days and they didn't have a very difficult time finding jobs from Canadian employers. Immigrants who have come to Canada since the 1990s in particular are, for a large part, visible minorities.

So I think the real test ought to be that we measure how newly arriving immigrants who have come in the 1990s are doing against visible minorities born in Canada. We may not get the same result as we're getting.

● (1655)

The Chair: Thank you, Mr. Cohen. I'm sure you'll want to continue your remarks, maybe with Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: Thank you very much, Mr. Chairman.

Thank you to all for coming. I listened to the presentations with great interest, including that of Mr. Creates who called our attention to some fundamental principles that apply to waiting lines.

Before being elected to Parliament, I was a computer engineer. I had the opportunity to study waiting line management and I read quite a few documents on this subject matter. One of the basic premises is that if you only move people around inside a queue, the length of the line will not change. Nothing will change. You summed up the situation very well when you said that there is only way to reduce a waiting line: have an output that is greater than the intake. Otherwise, you do not reduce the backlog.

In your presentation, you mentioned productivity in the processing of applications. How come it takes so long? Is our system too complex? Is it normal for it to be so complex and difficult to know if one is eligible to come to Canada?

[*English*]

Mr. Warren Creates: I'll answer that.

Our immigration program is a good system. We have a lot to be proud of in this country with our immigration program—in Quebec, equally with the other provincial nominee programs, and the federal system itself. There's a lot of fat in it though. There are a lot of unproductive components. If you have some change engineers—I think you all know what I mean by that—to do some consultations on how to overhaul the system without it being totalitarian, which this system will become with C-50 if it's passed, it would be possible to make the forms more simple, to make the officers more productive.

I brought my staff here today. They get requests on files we're involved in. We get letters every day from different embassies and consulates all over the world asking for documents that we've already provided.

Mr. Thierry St-Cyr: In our office also.

Mr. Warren Creates: It's very common. That results in processing resources going into requesting documents we've already given. The criminal record reports expire after six months, the medical examination expires in 12 months, and so on. It is very unproductive to be living in a system, in this modern world that surrounds us, where we get requests for documents we've already provided or where, because of the slowness and passage of time, things have expired.

If you get change engineers in this department it would be a good investment. The $22 million they're talking about—the impact on the budget by C-50 and these changes to the immigration act—and more, should go into the system for change-engineering it, for using the existing platforms, for training the office to be more productive and less redundant, and for just fine-tuning an existing good program, making it transparent and less totalitarian. You didn't have to go to this totalitarian style of legislation to get to the goal that we all around this table want to see happen.

[*Translation*]

Mr. Thierry St-Cyr: Very well.

When the minister appeared before the Standing Committee on Finance, she assured us that the legislation would have no impact on Quebec's immigrant selection process, that the province would be able to continue to select its immigrants and that there was no risk of seeing the province's government's will obstructed.

Witnesses who preceded you told us the opposite. Since the crack is wide open, nothing would prevent the minister from issuing instructions restricting the processing of applications in Quebec. In your opinion, who is right? The question is for anyone of you. If this bill is adopted, could it eventually grant authority to the minister to process Quebec's applications, the way it would deal with those under any provincial nominee program?

● (1700)

[*English*]

Mr. David Cohen: I'll take a stab at that.

The Quebec-Canada accord is not the same as the other provincial nomination programs. In terms of how it deals with the other provinces, the federal government can pretty much impose whatever kind of restrictions or limits it wants within the provincial nomination system. Quebec has an agreement with Canada, and that agreement, as I see it, will not be changed, with Bill C-50 with regard to the speeding up of applications, holding applications for later consideration, or returning applications.

However, when in Bill C-50 there is mention of the fact that only applicants inside Canada have the right to apply for residence on humanitarian and compassionate grounds, that clearly affects people in Quebec. I'll give you an example.

Let's say you have a Canadian permanent resident residing in Quebec, a single mother who works outside of Canada, and she gives birth while outside Canada and wants to sponsor her child and bring that child back to Canada. It's by use of the humanitarian and compassionate application on behalf of the child outside of Canada that this type of situation has been addressed.

As Mr. Creates said, it doesn't come up often. But when it does, when somebody is desperate, and whether that person is in Quebec or in British Columbia, when that person is outside Canada or has a connection with somebody who is from Quebec or British Columbia, clearly we should not be cutting back on and taking away that right. In that sense, people in Quebec are affected just like people in any other province.

Mr. John P. Ryan (Chair, Canadian Society of Immigration Consultants): Mr. St-Cyr, I concur with my colleague, except that I want to mention one thing. The current system provides that the federal government retains the ability to refuse or to issue a visa on statutory grounds. That would continue with Bill C-50; it wouldn't be affected. Irrespective of Quebec's having selected the immigrant, the Government of Canada can still refuse on issues of security, criminality, etc.

A voice: Or medical grounds.

Mr. John P. Ryan: With respect to restrictions on classifications, I have to concur with the earlier panel: I don't see a restriction. However, I would suggest that politically it would be extremely difficult for the minister to enact that.

The Chair: Okay, thank you, Mr. Ryan.

Madam Chow.

Ms. Olivia Chow: On that ground, Mr. Cohen and Mr. Creates, right now in Bill C-50 the minister can retroactively change the law and say, "Well, yes, you've applied, but my instruction is that people from these visa offices would be less favourable, and certain targets, such as skilled labour, I would prefer."

She can do so retroactively, right?

Mr. Warren Creates: Retroactive to February 27 of this year.

Ms. Olivia Chow: Exactly. It has nothing to do with the 925,000 people who are backlogged. That's a completely bogus discussion, because it has nothing to do with the 925,000, even though the line has always been that it's really because of the backlog from the past, when no, it has nothing to do with the 925,000.

But am I correct in assuming that she does have the right to say that if she's getting too many applicants from New Delhi or wherever, or from Beijing, she could choose to return some of the applicants...from that visa office? Can she do that?

Mr. Warren Creates: That's absolutely correct. She can issue instructions that are consistent with her opinion, and they're mandatory. Her officers "shall" comply with the instructions. I'm quoting the legislation when I say this.

Ms. Olivia Chow: Yes, exactly. She will tell you and put it in the gazette after she has implemented it. So if people say, "This is totally unfair, don't do it", she has already implemented it. Isn't that right?

Mr. Warren Creates: That's right.

Ms. Olivia Chow: Am I correct in assuming also that in the legislation she has the right to say, "I want temporary foreign workers from a certain area, so I will fast-track all temporary foreign workers from that certain area"? Does she have the right to do so?

● (1705)

Mr. David Cohen: Well, temporary foreign workers are fast-tracked.

Ms. Olivia Chow: They are already anyway.

Mr. Warren Creates: There are three sacred categories that cannot be touched. Number one, refugees outside Canada are not going to be affected by this legislation. Number two, family class will not be affected by this legislation.

Ms. Olivia Chow: Unless it's humanitarian grounds outside Canada.

Mr. Warren Creates: Yes.

The third category is temporary residence status.

Now, by deductive reasoning, those three categories will be affected if the minister moves other categories to the front. We all have limited processing resources, so if those other categories move to the front, the three categories I just described are going to sit on the vine until they ripen.

Ms. Olivia Chow: Or rot.

Mr. Warren Creates: Or rot, yes.

She can't expressly issue instructions about those three categories, but it will have an effect if she moves other categories to the front of the line, because they just won't get processed.

Ms. Olivia Chow: I heard the minister on CBC Radio saying that some people among the 925,000 are dead, and all she wants to do is to make sure we get rid of the dead applicants.

Correct me if I'm wrong, but the department already can sort out who's dead and who's not, can they not?

Mr. Warren Creates: A letter would do that, with a 60-day reply limitation period. You could send a letter and say, "If I haven't heard from you within 60 days, I'm going to assume you're no longer interested." That's a fairness letter. It puts the person on notice. They have a positive obligation to reply to it. Either they're interested or they're not.

Ms. Olivia Chow: She doesn't have to make these—

Mr. David Cohen: She doesn't need the additional powers, these sweeping powers, in order to effect that.

Mr. Warren Creates: Right.

Ms. Olivia Chow: Having said all that then, perhaps to Mr. Creates and then to Mr. Cohen, why do you think they are doing something that is sweeping, that is anti-democratic, that has nothing to do with the backlog, and that is not going to help families reunite any faster than before; in fact, it might even take longer?

Mr. John P. Ryan: I take issue with the fact that—

Ms. Olivia Chow: I'm sorry, I was asking Mr. Creates the question.

Mr. John P. Ryan: Are you directing the question?

Ms. Olivia Chow: Yes.

Mr. John P. Ryan: I would like to respond to that.

Ms. Olivia Chow: I would like to direct the question, as I'm the questioner.

Mr. Warren Creates: My answer is going to be consistent with Lorne Waldman's answer to a similar question, which is that the backlog grew so big and got so out of control and became so expensive to manage that....

The government has for years been criticized by every opposition party, every practitioner, every intending immigrant or family member who wanted to be reunited—industry sectors and so on. They had to do something. But they've used a very draconian piece of legislation, which we're unaccustomed to in Canada, to centralize a lot of power in the minister and his or her officials to achieve something that's very totalitarian, that concentrates power outside the scope of Parliament and accountability by stakeholders like us.

It's just beyond the pale, really, is what it comes to. Why? Because they think they can get away with it in a budget.

Mr. David Cohen: It's a political decision that's being played out on the backs of immigrants. It's clear.

The government knows that the newly arriving immigrant community has traditionally been a constituency of the Liberal Party, and they're daring the Liberals to vote against it. That's what this is really about. It's shameful, because it's being played out primarily on the backs of people who are outside of Canada and really don't vote on the matter, and on people who are newly arrived in Canada. These are the people who will suffer for what's being played out as a political game, if you will.

The Chair: Mr. Ryan, you had a comment.

Mr. John P. Ryan: Thank you, Mr. Chair.

I think in fairness, this backlog—or fore-log, whatever you want to call it—has been around as long as I have been around. The last government tried to deal with it using pools and streams, which was the effort that essentially brought in many of the measures before you today. Similar things were considered.

The fact of the matter is that from our perspective, the Government of Canada has to have the ability to manage its inventory, manage the number of people coming to Canada. There's a finite number of people who can come into the country. We agree with the minister on that point.

We are very concerned that those individuals.... And I've seen them personally, having worked for nine years in Beijing. Day in and day out, these people came in and out of my office complaining that they couldn't get answers from the embassy, using me as a representative. They couldn't get answers from the embassy. They were being victimized by rogue agents and rogue consultants in China, India, and other places in the world, simply because of the inefficient system we have here.

The Australians and New Zealanders have made changes. The U. K. persons are about to make similar changes to—

● (1710)

Ms. Olivia Chow: But how does this bill actually deal with inefficiencies and making it more productive?

The Chair: The last comment will go to Mr. Ryan.

Mr. John P. Ryan: By creating efficiencies through amending the process, it will allow us to get at that backlog. That's my opinion.

The Chair: Thank you.

Mr. Komarnicki, seven minutes, please.

Mr. Ed Komarnicki: Thank you, Mr. Chair.

I appreciate the comments that have been made.

Mr. Creates, would you agree with me that the legislation, Bill C-50, relating to the immigration portion will have to stand the test of the charter—it will either be charter-compliant or not—but that in order to be effective, it would need to be charter-compliant? Would you agree with that?

Mr. Warren Creates: Is the question to me?

Mr. Ed Komarnicki: Yes.

Mr. Warren Creates: Every piece of legislation passed by this House, as well as provincial legislation, is made subject to the charter.

Mr. Ed Komarnicki: Right, so it's going to pass that test.

The second thing is that this provides....

The Chair: Order, please. Please don't interrupt.

Mr. Ed Komarnicki: I'm asking the questions. Mr. Karygiannis can wait his turn.

This piece of legislation doesn't provide instruction; it provides the authority for instruction to issue. Would you agree?

Mr. Warren Creates: That's correct.

Mr. Ed Komarnicki: Would you agree with me that the instruction itself, once it issues, would need to be charter-compliant to be effective?

Mr. Warren Creates: That I don't know. That I don't know.

Mr. Ed Komarnicki: In other words, as a lawyer—

Mr. Warren Creates: If this House passes this piece of legislation, one section of which says that the minister is granted the power to issue instructions that will fulfill her opinions as minister and support her or his goals to best support the attainment of immigration goals—

Mr. Ed Komarnicki: No, no, it doesn't say his or her goals.

Mr. Warren Creates: No, it doesn't.

Mr. Ed Komarnicki: They are the goals of the government of the day, which is quite different.

Mr. Warren Creates: That's correct. I was just making it gender-neutral in my response.

Mr. Ed Komarnicki: Do you think, as a lawyer, you could bring a challenge under the charter with respect to the instruction, once it's issued, by saying that it's not charter-compliant?

Mr. Warren Creates: I'm not a constitutional expert, I'll say that.

Mr. Ed Komarnicki: Mr. Cohen—

Mr. Warren Creates: But I'll also say—

Mr. Ed Komarnicki: Well, if you're not an expert....

Mr. Warren Creates: —that even if it does comply with the charter, a lot of damage can be done before someone has the resources to challenge an instruction.

Mr. Ed Komarnicki: That's not the question I asked.

Hon. Jim Karygiannis: Yes, well, you got an answer.

Mr. Ed Komarnicki: No, no, the question is fairly narrow.

The Chair: Order, please. Order.

Mr. Ed Komarnicki: Mr. Cohen, would you agree, or would you say that an application could be made by way of a charter challenge with respect to the instruction itself?

Mr. David Cohen: What I would say is that the minister is stating that it will be charter-compliant, and the legislation states that the Immigration and Refugee Protection Act shall be administered in conformity with the charter. But at the end of the day, it will be the courts that have to decide if, in fact, it is charter-complaint.

Mr. Ed Komarnicki: So you, as a lawyer, could make an application to the court with respect to the legislation as it now sits, firstly.

Mr. David Cohen: That's correct.

Mr. Ed Komarnicki: Then you could make an application with respect to the instruction itself, if you chose to, on the basis of whether or not it was, say, charter-compliant. Would you agree?

Mr. David Cohen: One could ask for leave—I agree with that, yes—to make that kind of application.

Mr. Ed Komarnicki: In fact, for anybody within the department who would process in accordance with the charter, the process itself could be challenged with respect to whether it's charter-compliant.

Mr. David Cohen: It can be challenged, yes. I mean, all legislation coming from this House, no matter what, can be challenged. It's the resources that are required in order to challenge it.

Mr. Ed Komarnicki: True, but ultimately one could apply to the court to ask whether the legislation, in all three respects, as I've mentioned, is charter-compliant.

Mr. David Cohen: You know, you're right—but I would have a higher expectation of the legislation that comes out of the House.

Mr. Ed Komarnicki: Fair enough, but you would agree with me that it would need to be charter-compliant.

Mr. David Cohen: I agree with you that, at the end of the day, it probably will be charter-compliant, once it has gone through the legal system. I am not saying that it will come out of the gate charter-compliant.

Mr. Ed Komarnicki: In order to be charter-compliant, it would not be able to discriminate on race, religion, ethnicity, or any of those.

Mr. David Cohen: That's correct, directly or indirectly.

Mr. Ed Komarnicki: Great. So those safeguards are always there, correct?

Mr. David Cohen: Yes, those words are always there, but that doesn't mean that this legislation will in fact be charter-compliant.

Mr. Ed Komarnicki: No, but if it isn't, it will need to be amended to be charter-compliant.

Mr. David Cohen: Right. Correct.

Mr. Ed Komarnicki: It needs to be charter-compliant in order to be effected.

Mr. David Cohen: Right. That's correct.

Mr. Ed Komarnicki: Now, with respect to the backlog—Mr. Creates perhaps can take the question—I reiterate the words of a previous Liberal immigration minister, who said:

> [Y]ou're not doing the system justice by taking applications that aren't going to be processed for years and years and years. It doesn't make any sense to us to be continually taking these names...the reality is, we need to change the system.

Would you agree with me that simply taking applications, when you know that the limitation is 245,000 or 265,000, or whatever Parliament sets, will continue to increase the number in the backlog?

● (1715)

Mr. Warren Creates: That's very likely. I agree.

I have proposed nine suggestions on what could be done to the current system to prevent the problem you're describing, without the totalitarian piece of legislation that this is.

Mr. Ed Komarnicki: One of the suggestions you had was to increase the pass mark—

Mr. Warren Creates: That is one of the suggestions.

Mr. Ed Komarnicki: —to 67%.

Mr. Warren Creates: Not percentage; it's points.

Mr. Ed Komarnicki: Points, yes. We heard from some that the issue of points weighs against the lower-skilled classes who aren't able to meet the points.

Mr. Warren Creates: That's very true. But you could have a provincial nominee program that could deal with the trades issue, as they have in Manitoba, Alberta, and British Columbia. They don't have it in the province of Ontario.

That's very easily solved and will not be solved by this piece of legislation.

Mr. Ed Komarnicki: But you would agree with me that this particular piece of legislation wouldn't require the department to accept every application and process every application.

Mr. Warren Creates: That's right. It says that right in it. They can send it back.

Mr. Ed Komarnicki: Right.

Mr. Warren Creates: They can retain it, return it, or otherwise dispose of it, and in any case it doesn't constitute a decision. Now, what kind of country do we want to live in where people pay money, file applications with reasonable expectations, and the minister, in her own opinion, can retain, return, or dispose of the documents without rendering a decision?

That's not a democracy. That's not the rule of law.

Mr. Ed Komarnicki: So every application that's made, regardless of the limitation you set, needs to be accepted and processed to conclusion, regardless of the increasing backlog. That's your position?

Mr. Warren Creates: That's the current system, which I don't agree with. We have to change it so that we don't have a backlog of 925,000, growing to more than a million.

Mr. Ed Komarnicki: Let me have a look at some of the statements you made initially. You mentioned the CBC statement. You said it was a very clever landmark change—

Mr. Warren Creates: It was CTV actually. It was Paul Hunter on CTV.

Mr. Ed Komarnicki: Was it CTV? You said it was a very clever landmark change in overhauling the immigration program—

The Chair: Order.

Sorry; I only have twelve minutes left, and I have to go four, four, and four now. We'll have to get back to you.

Mr. Telegdi.

Hon. Andrew Telegdi: Thank you very much.

Mr. Ryan, we heard a lot of witnesses, while we were going across the country, who were critical of your organization, and I just want to remind you, as we said at the time, that people giving evidence do so under parliamentary protection, so we do not want any gag law or disciplinary action applied. I just want to make sure that you know that.

I don't want a response. I'm just letting you know what was said when we were on the road.

In terms of something being charter-compliant, the security certificate has not been charter-compliant for 25 years. The parliamentary secretary keeps bringing this up, but the reality is that it took 25 years to get it before the Supreme Court before it was ruled on. So we don't want to have an injustice perpetrated for 25 years without having it addressed.

We have created a real crisis, under this government, in the Immigration and Refugee Board. We had the backlog down to 18,000. Now it's going to go over 60,000 this year, and it's going to go to 70,000 next year. The bureaucracy has really created a crisis, and I expect that at some point they're going to say let's get rid of it and let the bureaucrats handle it.

I'm going to go back to 2002, because I was actually here when we dealt with that immigration act, and I saw what the committee did. We all agreed on the committee when that was put in place that the point system was way too elitist, and people like trades folks would never get in. I think that's where the problem was created.

When I look at the bureaucrats, they attempted to take the new point system at 75 points and apply it to the backlog. It was all about the bureaucracy trying to get rid of the backlog. It didn't work. They didn't listen to the committee. They ignored the parliamentary committee. They ended up going to court and Justice Kelen, under the Dragan decision, made them reverse it. But the bureaucrats created a system that became way too elitist, and it did not respond to what the economy needed. I say to my colleagues on this committee that they should read the Dragan decision, because it outlines how the bureaucrats misled this committee.

The issue I want to bring up is that there was a study commissioned by the government, which was released today, and it was done under the auspices of the now right-wing Institute for Research on Public Policy. I have looked at it. It makes comparisons with the system in Australia, and from what I gather....

I hope you get a chance to read it. It was done by Professor Hawthorne.

● (1720)

Mr. Warren Creates: I have it.

Hon. Andrew Telegdi: Okay, so you just got that today.

Mr. Warren Creates: I got it at lunch today, as did you.

Hon. Andrew Telegdi: I wonder, if you had a chance to read it, if you could comment on it. But it seems to me what we must do is have a point system where—

The Chair: If you're asking Mr. Creates for a comment, there are only 30 seconds left.

Hon. Andrew Telegdi: —everybody is included and work with that, but giving more for jobs and what have you, and make sure that we get people here that the economy actually needs.

The Chair: Okay, 20 seconds, Mr. Creates, or whoever.

Mr. Warren Creates: I regret that none of us in this room have had the opportunity to read this academic study comparing Canada with Australia. What I received when this was released today was an overview of it, and I was very impressed that it was done, and I was also impressed with the similarities between the two systems.

What I learned is that Australia has taken a more proactive role and raised the points, and that's why I made my comment earlier. I went back to my office and made a change to my brief, which I had filed at this committee last week.

If Australia, as a very similar country with a very similar program, raised the point system and they're getting better-qualified immigrants, with more skills, who integrate more quickly and have higher annual incomes than us—we have a reverse trend, actually, with a bigger problem—

The Chair: I have to go to Mr. Carrier.

Mr. Warren Creates: —then let's look at that and see what we can do that's similar.

The Chair: Mr. Carrier, four minutes, please.

[*Translation*]

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you, Mr. Chairman.

I wish to welcome the witnesses.

My first question is for Mr. Qayyum, from the Canadian Society of Immigration Consultants.

I was surprised to hear that you had congratulated the minister for having presented this bill, the aim of which is to reduce the backlog by simply eliminating applications at the minister's whim, rather than increasing the department's efficiency in order for it to process a greater number of applications.

Given that you yourself represent the consultants, it seems to me that this is counter to the very interests of your own members. You seem to be rather in favour of eliminating applications, perhaps because there are too many of them and that it would make things simpler for you.

Would you have a comment to make in this regard? Do you not believe that filling the 50 vacant commissioner positions the department presently has would accelerate the processing of applications and give a broader mandate to your members?

[*English*]

Mr. Imran Qayyum: Thank you for the question.

From what I've read, Bill C-50 is part of a three-pronged approach to dealing with the backlog. One of the prongs of this approach will be to put aside $109 million to immigration. Another aspect is to train officers—bring in new officers—to tackle the backlog, and also to appoint SWAT teams to go after the backlog in high-density consulates. The final part is what's happening in Bill C-50.

Given that, I will restate our position that we are willing to give the minister the benefit of the doubt at this time.

Mr. John P. Ryan: I think it's important to add, Mr. Carrier, if I may—

[*Translation*]

I thank you very much for your question

[*English*]

—that we're here as a regulator. We're talking about consumer protection and the issue of the people who will be in the fore-log and the backlog unless the Government of Canada puts in a management system that is efficient.

We look at what the minister has brought forward as being a reasonable compromise, as a public regulator.

I just want to point out that as a regulator, we treat our members with absolute respect and due process, and aren't engaging in, as your colleague has alluded to, retribution and retaliation. I just want to assure the committee of that.

● (1725)

[*Translation*]

Mr. Robert Carrier: I would like to ask one final question.

Earlier, during our previous round table discussion, we were wondering how it is that the minister came up with such a bill. The witnesses mentioned that it most probably came from bureaucrats, from public servants.

Personally, I fail to see what interest public servants would see in giving the minister instructions in order to eliminate applications. I would like to hear your reaction to this hypothesis.

[*English*]

Mr. Warren Creates: I like your question.

This is my answer. I've been doing this for 22 years. That's as long as the lifers have been in the bureaucracy. The immigration officers are there for their careers, and they move up through the ranks and become directors, directors general, assistant deputy ministers, and so forth. They're there for their entire careers.

The ministers just come and go. They're there for eight months sometimes, ten months, twelve months, fifteen months, two years. Very few last longer than three years—very, very few.

So it's the top brass in the department who develop their ideas on what kind of program, what kind of Canada, they want to have. Let's not forget that.

The Chair: I have to stop you there. We have four minutes left.

Mr. Warren Creates: And they corrupt the ministers into developing the system that they want.

The Chair: Order, please!

Mr. Warren Creates: They're way ahead of the minister on the learning curve.

The Chair: Mr. Creates, when the gavel goes down, you're to stop, please.

Mr. Warren Creates: Sorry.

The Chair: Mr. Komarnicki.

Mr. Ed Komarnicki: I gather, when you talked about a very clever landmark change in overhauling the immigration program—

Hon. Jim Karygiannis: I have a point of order, please, Mr. Chair.

The Chair: Mr. Karygiannis.

Hon. Jim Karygiannis: Can I ask who Mr. Komarnicki is replacing? This is his second round. I didn't hear anybody else saying that they would—

The Chair: He is replacing Ms. Grewal.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): I've already told the chair.

The Chair: We've had this discussion today already.

Mr. Komarnicki.

Mr. Ed Komarnicki: I gather, when you said that this was a very clever landmark change in overhauling the immigration program that concentrates more power in the minister while still making the minister accountable for explaining it, reporting it to Parliament, and therefore to the Canadian public, you hadn't yet read the legislation. Is that what you're saying?

Mr. Warren Creates: I read the legislation, as you did, on the day it was released. In the fullness of time, I've had the advantage, as has every member of this committee, to contemplate what kind of impact it will have and—

Mr. Ed Komarnicki: Okay, so you'd read it, but you hadn't reflected a whole lot on it.

Mr. Warren Creates: It was an urgent thing. The media called me and wanted a statement from me, as they often do. They wanted a sound bite for that night's television broadcast.

Mr. Ed Komarnicki: You also said that the amendments of IRPA do not create unrealistic expectations on the part of skilled workers but also encourage other forms of economic immigrants, merely by accepting their applications, that they're going to get a visa at some point.

Did you make that statement on the same basis? Was it after you had read it, after you had time to reflect on it, or was it at about the same time?

Mr. Warren Creates: I made that statement at the time, yes, the same day it was released.

Mr. Ed Komarnicki: And what did you mean by that, when you said it?

Mr. Warren Creates: We don't have a principle in our legal system called “reasonable expectation”. It's not something that the courts have ever protected. It's been argued many times in court.

Mr. Ed Komarnicki: So what did you mean by that statement?

Mr. Warren Creates: What I meant was that the system we're trying to develop has to have some element of certainty in it. People go on the website, and they do a self-evaluation. They want to know whether they qualify.

If they file an application and it gets received and they pay the fee, this creates some sense of reasonable expectation. It's not one protected by law.

Mr. Ed Komarnicki: That's what you meant by that statement?

Mr. Warren Creates: Exactly. It's not one protected by law. They cannot be guaranteed a visa just because they expect to have one. They have to go through the procedure of having their application processed.

Mr. Ed Komarnicki: You said that the biggest challenge immigration lawyers have is not to be able to give clients a precise indication of how long they will have to wait.

Mr. Warren Creates: Yes.

Mr. Ed Komarnicki: You also said that if the proposed changes could resolve this issue, it would be a big improvement. What did you mean by that?

Mr. Warren Creates: I meant that I want to see the backlog reduced, which this won't do. What I meant more so was that I don't want to see a new backlog climb. I want to see processing times reduced from five years, or four years, or even three, down to two years. The minister was suggesting one year. I think that's unrealistic. We would all be happy with a two-year process time.

Mr. Ed Komarnicki: You were also reported to have said that you believe that changes would make the program wiser and the backlog shorter, while limiting spending. What did you base that statement on, after having read the legislation?

● (1730)

Mr. Warren Creates: Well, I, like you, believe if the inventory continues to grow, it's going to cost us as Canadian taxpayers a fortune to manage. That has to stop. And the sooner it happens, the better for all of us. We oughtn't to let it grow and get out of control like it is now.

I want to see a smaller backlog, the present backlog reduced, and a new one not created. I want to see processing times that approximate two years. This will be cheaper for all of us.

Mr. Ed Komarnicki: Ultimately, when you get down to the nub of the issue, the legislation will need to set policy of some kind. The government of the day will have to be responsible to the electorate for this policy. That's pretty much in line with what your first statement said. Wouldn't you agree with me?

The Chair: This will have to be your final comment.

Mr. Warren Creates: There will be a political price for issuing instructions that are unpopular and possibly illegal.

Mr. Ed Komarnicki: Ultimately—

The Chair: No, no, that was the last question.

Is there anyone with a follow-up comment?

Mr. John P. Ryan: Any choice at this point, given the size of the backlog, the size of the fore-log, and the inefficient system, is going to be unpopular. Whatever the colour of the government in force, it is going to have to make some hard decisions. We have Bill C-50 in front of us. There may be other alternatives.

One of the concerns we have at the society is the government's limitation of the consultations to government partners and stakeholders. We think there are a lot more groups—the professional bodies, the trade unions, the immigrant groups—that need to be consulted. We would recommend to the minister that she change this stance and that she have a more inclusive consultation going forward.

The Chair: Thank you.

Thank you to all of you for appearing today. As Ms. Chow reminded us, we're expected to have a report by Thursday. Stay tuned; we'll see if we can achieve that.

Again, thank you very much.

● (1730)

(Pause)

● (1730)

The Chair: I'm pleased to welcome today, from the Chinese Canadian Community Alliance, Mr. Tom Pang, acting president; Mr. Roberto Jovel, coordinator of policy and research for the Ontario Council of Agencies Serving Immigrants; and Mr. Ping Tan, national executive co-chair of the National Congress of Chinese Canadians.

Welcome, gentlemen. I believe all of you have opening statements you want to make, so I would invite you to begin your opening statements, please.

We'll begin with you, Mr. Pang.

Mr. Tom Pang (Acting President, Chinese Canadian Community Alliance): The Chinese Canadian Community Alliance is a non-profit organization that's based in Toronto. One of our main purposes is to promote better communication between the Chinese community and those outside the Chinese community. As such, we are very much interested in our country's immigration policies.

Recently the federal Conservative government tabled amendments to the Immigration and Refugee Protection Act. Since then, those amendments have been hotly debated within the community, with obvious pros and cons.

After studying the amendments, this organization, the Chinese Canadian Community Alliance, would like to express our support for the amendments.

There are two problems with the status quo.

First, as we all know, the waiting time is too long. More than once, people have mentioned a 920,000-person backlog and people having to wait for four to six years to have their application processed. This is not acceptable, because as somebody has already pointed out, so many things can happen within those four to six years. People can pass away, the kids can grow up, beyond the point of family, or they could wind up in Australia or New Zealand, or maybe they would decide not to come at all. This is one of the major problems: the wait time.

The other problem is that we're not getting the right immigrants in Canada. I have a friend who runs a music school who has lots of chances to talk to parents. I was surprised to learn that so many families, mostly Chinese immigrants, have only one parent in Canada, because after they arrived in Canada they couldn't find the right job. This has been going on for years now, from Hong Kong, from Taiwan, from China, among the kinds of people they associate with. Lots of those families have only one parent with the kids in Canada, because they couldn't find the right job. No matter how qualified or how trained they are, there simply are not the kinds of jobs they want in Canada.

Some of them have gone back to the old country. In Chinese, there's even a term for those kinds of people, meaning a husband working in Hong Kong who comes to Canada maybe four or six times a year to visit the family. They have no friends, they couldn't find jobs in Canada, and now they work in Brazil and Argentina. They, in turn, do the same thing, fly several times a year to Canada.

I'm not a lawyer; I'm just a layman. Any bill that can solve those two problems—to cut down wait times and to find the right immigrants to come to Canada, those who could find the right kinds of jobs—is a bill that would be welcomed by the community and by the people.

Unfortunately, the focus of discussion has been too much on the minister's power. Again, I'm a layman; I don't understand that. But when I look at it, from my point of view there's nothing in the bill in that area.

Any bill that will solve the problems we've mentioned is a good bill. There is nothing about refugees, there's nothing about family reunification, there's nothing about race or place of origin.

We accept this bill and we support this bill.

Should, in future, the minister base her policy on race, on place of origin, or on religion, then the Chinese Canadian Community Alliance will be the first to stand up and work against the government.

Thank you.

● (1735)

The Chair: Are you finished, Mr. Pang?

Mr. Tom Pang: Yes.

The Chair: Thank you.

Mr. Jovel, or Mr. Tan.

Mr. Ping Tan (National Executive Co-Chair, National Congress of Chinese Canadians): Mr. Chairman, members of the committee, my name is Ping Tan. I am the executive co-chair of the National Congress of Chinese Canadians. I very much appreciate the opportunity to appear before the committee this afternoon on these very important amendments to the Immigration and Refugee Protection Act.

The National Congress of Chinese Canadians was established in Vancouver in 1992 following a resolution at the national convention of Chinese Canadians in May 1991 in Toronto to discuss and try to get a fair settlement of the Chinese head tax and the Chinese exclusion act. Over 500 delegates from across the country representing over 200 associations attended that meeting and, as a result, the congress was established to pursue a fair settlement of the head tax and the Chinese exclusion act.

In October 2005, I appeared before a committee of this House regarding a private member's bill, brought by Mr. Inky Mark, a member of Parliament from Manitoba, regarding redress of the head tax and the Chinese exclusion act. The bill received second reading. Unfortunately, an election was called and it did not receive third reading. So it did not pass and become law.

Also in October 2005, I signed an agreement in principle on behalf of the National Congress of Chinese Canadians with the then Minister Raymond Chan, to address the head tax and the Chinese exclusion act. That agreement in principle was signed. However, the current government has yet to honour that agreement.

Today I appear before you again on behalf of the National Congress of Chinese Canadians to study the proposed amendments to part 6 of Bill C-50. I would like to recommend to the committee that it remove these proposed amendments from the budget bill. It is the view of the National Congress of Chinese Canadians that the proposed amendments give too much discretionary power to the minister that is not necessary. Part 6 should be removed from the budget bill.

We share the view of the legal profession, as represented by the Canadian Bar Association, that the proposed amendments are not necessary, because they will remove parliamentary oversight of the exercise of the proposed discretionary power by the minister. The exercise of that discretionary power would not be subject to judicial review. I'm sure you have heard similar views expressed already.

These proposed amendments are inconsistent with Canadian values and the Canadian parliamentary system of government. The proposed amendments, if passed, will fundamentally change the current legislative and regulatory framework for the selection of immigrants. It will erode public confidence in the integrity and fairness of our immigration selection system, because qualified prospective applicants, after waiting years, will be subject to ministerial discretion and not be approved.

We support the government's announced intention to deal with and reduce the immigration application backlog, and the need to bring in the skilled workers that we need in the most speedy way to meet the current labour market demands. We are all supportive of that. However, the current legislation and the regulations already give the minister the needed authority to deal with these issues. More powers, especially discretionary powers, are not justified.

We are particularly concerned that there has been no public consultation about these major changes. In the last 30 years, when the government of the day decided to bring in new immigration laws, there have always been wide public consultations.

● (1740)

Why such a rush this time for such a fundamental change? The Chinese Canadian community is still dealing with the impact of the Chinese head tax and the Chinese exclusion act. We should not make another mistake again.

I have tried to confine myself to seven minutes, Mr. Chairman. You can see that I'm not done yet, but I'd like to take questions.

● (1745)

The Chair: You have a couple of minutes, if you want to keep going, Mr. Tan.

Mr. Ping Tan: I'm a lawyer. I have been practising law for 31 years. I spend a lot of time dealing with immigration files, particularly from Asia—Taiwan, Hong Kong, and mainland China.

Mr. Chairman and members, if these amendments are passed, we are going to lose confidence. Somebody who is highly qualified can wait for years and then be told by an officer, “Sorry, thank you very much for your application; I just got instructions from the minister, and I'm going to return your file. Thank you very much.”

I don't think that is fair. I don't think it is the Canadian way of doing business.

We are highly regarded internationally, and to have this kind of a law adopted, and then for me to present it to my community and prospective immigrants overseas, you can see the negative impact Canada is going to face as a result.

Mr. Chairman, there are already powers for this; you have already heard evidence in the submissions to you that the current law, the act and the regulations, allow the minister to do what she has announced she wants to do. The previous government did that. You can identify certain workers, the IT workers, for instance, and speed up their applications and have a special project to bring them in. But it did not work. Why? Because there was no coordination between the various government departments. There are other departments that are holding you up.

Why don't you use the wide network that the Department of Foreign Affairs and International Trade has worldwide? They know the overseas community well. We could tap into their expertise, their information, their intelligence. Work with them to find the immigrants we want. The minister has the power to do that under current law. Why don't we do that, and go out and actively recruit the skilled workers we need for our labour market? We don't have to fundamentally change the system. In 1976, when there was to be a big change to the system, a green paper was issued and there were wide public consultations. Everybody had input into this process.

So I submit to you, Mr. Chairman, that the proposed law is bad and the process is bad. We don't have to do it this way. It is important that we take this out. Let us have a proper proposal and draft legislation in front of Parliament and, more importantly, the draft instructions the minister is going to issue. Let us take a look at them and have input, and then we will come back with a very good Canadian legal framework for our prospective immigrants.

The Chair: Thank you, Mr. Tan.

Mr. Jovel.

[*Translation*]

Mr. Roberto Jovel (Coordinator, Policy and Research, Ontario Council of Agencies Serving Immigrants): Thank you very much, Mr. Chairman. I too wish to thank the members of the Committee.

I represent the Ontario Council of Agencies Serving Immigrants. It is an umbrella organization, somewhat like the Canadian Council for Refugees. The latter operates at the national level, whereas our Council is the umbrella organization for Ontario. The Council is made up of approximately 200 organizations throughout the province serving immigrants and refugees. From the very beginning, we have been strongly opposed to part 6 of Bill C-50. We did an analysis that we are going to be sharing with you over the next few minutes. We mobilized our members. We asked the various organizations to contact their local MP in order to explain why we have concerns with regard to the process, the content and the possible repercussions.

[*English*]

I'll go very quickly, because many of the issues were already mentioned during the first panels this afternoon—I was able to listen to them—and I don't want to be repetitive. Of course, the first one, the existing backlog of over 900,000 applications, is not going to be resolved by this, contrary to what has been said in the media by government officials. The measures are now going to be in place, but only for those applications that have been filed on February 27 or after. So that huge backlog is not really what these proposals address.

Of course, we are concerned about the arbitrary power that is given to the minister. It's unchecked power. I'm going to go into detail on this in a bit. The applicants are also losing their legal right to have their application dealt with properly. We're concerned with the issue that if your application meets all the requirements of the law, if instructions issued by a minister say that you fall within a category that shouldn't be even treated, then you wouldn't even have a way to have reparation for such a wait to deal with your application.

As well, there has been a lot of discussion as to whether or not this applies to or affects family reunification. In our analysis it does in different ways. I'm going to be looking at that in detail as well. It also impacts on humanitarian and compassionate applications, which are filed overseas. Of course, these proposals shouldn't be within the budget legislation. They have nothing to do in there. They should have gone through a proper proposal submitted to Parliament and to the Canadian public, with proper consultation. So that was one of the things we have been asking directly from Prime Minister Harper and the department, that part 6 be removed from the bill project.

As a response to all the criticism and all the concerns that have been expressed publicly since the bill was announced on March 14, the Department of Citizenship and Immigration issued a news release from the minister on April 8 that was intended to respond to all the criticisms and all the issues. I think it addresses the issues, but it doesn't respond properly, and I'm going to go through it as well very carefully. One of the major problems is that even a news release or a public statement of that kind is not binding enough to prevent any misuses of power that may occur in the future by this minister or any other minister, by this government or any other government. It's just a problem with promises or statements of intent that are not equivalent to the law or that are not equivalent to properly checked and controlled proposals.

One of the concerns is an example that has happened very recently. When the Immigration and Refugee Protection Act was being discussed, the minister back then promised that the regulation on section 117 that deals with people-smuggling would not be applied to humanitarian workers supporting refugees. So those were ministerial promises back then, and everyone agreed, “Okay, your promise is enough. We believe in your good faith.” But what happened only a few months ago was that a humanitarian worker, who was only accompanying refugees within the U.S. to the Canadian border, was detained under this as if this person had been a smuggler. So ministerial promises and public statements of that nature are certainly not enough and we won't take them as seriously as the government would like us to believe in them.

So family reunification concerns.... If you look closely at proposed section 87.3 in the proposed changes to the Immigration and Refugee Protection Act within Bill C-50, you look at the application of ministerial instructions. So the only subsection that is excluded from application of the instruction is subsection 99(2). But then sponsorship applications made by persons referred to in subsection 13(1) will be included for application of instructions. Maybe the minister doesn't have the intention to issue any instructions now, but under the project that is being submitted for a vote, it could happen and it's a reason for concern. The minister could issue categories or groups to be processed in order to be just not dealt with.

● (1750)

Another issue is that there's also a backlog and very long waiting times for family reunification sponsorship applications. This bill is not dealing with that.

We're also concerned that if, through the instructions, the minister would give priority to skilled workers or certain categories of skilled workers' applications, this might mean less in resources and less priority to family reunification. That's also a good reason that a government should go through proper consultation, through Parliament and through the public, to look at these kinds of impacts and not have to just deal later with statements and promises.

There are other misuses of power that should be prevented as well in terms of discrimination. There are many ways in which you could issue instructions that may be neutral or appear to be neutral at first reading but may have a differential impact on people from different countries or from different religions or cultures or races.

If I may have two more minutes like my predecessor—

● (1755)

The Chair: You can have a minute to wrap up.

Mr. Roberto Jovel: Well, you gave him three minutes; let me have two.

The Chair: Okay, we'll give you a couple of minutes.

Mr. Roberto Jovel: There was a case in Canadian history, the continuous journey policy, that was worded in a way that said that no one who didn't come to Canada through a continuous journey would be accepted. It didn't say we don't want people from that country or from that continent, but as a matter of fact, as neutral as the wording may have looked, there were people who were being excluded.

We also have cases like the lobbying by the Fraser Institute, which has been saying that if we look at Statistics Canada results recently of outcomes in terms of employment and income for recent immigrants, people coming from the global south are not doing as well as immigrants used to do a few years ago. The Fraser Institute is saying that it's not necessarily a problem with the host society that doesn't accommodate diversity and doesn't address systemic issues but that perhaps people from those countries are fundamentally incompatible with settling and integrating in Canada.

So we're saying that if you don't have proper checks and balances, it's the moral duty of the organizations that serve immigrants and refugees to raise a banner of alarm and to tell committees like yours to pay close attention to this.

The Chair: I notice that I have six people on the list. If we went five minutes each, everyone would be assured of getting their chance to ask some questions of our witnesses.

We'll start with Mr. Karygiannis—then Mr. St-Cyr, Ms. Chow, Mr. Komarnicki, Mr. Telegdi, Mr. Carrier, and Mr. Komarnicki.

Hon. Jim Karygiannis: Thank you.

To the panellists, thank you very much for coming.

Mr. Tom Pang, sir, you were involved with the redress issue, the head tax issue.

Mr. Tom Pang: Yes.

Hon. Jim Karygiannis: You were also there when Minister Jason Kenney made some remarks.

Mr. Tom Pang: On which occasion was that?

Hon. Jim Karygiannis: Your association—the Chinese Canadian Community Alliance in Toronto—is on the Heritage website. You made some comments supporting the work done by the Conservatives?

Mr. Tom Pang: I don't recall.

Hon. Jim Karygiannis: Mr. Pang, sir, allow me to ask you this question: you're located in Ottawa or in Toronto?

Mr. Tom Pang: Toronto.

Hon. Jim Karygiannis: Downtown Toronto?

Mr. Tom Pang: By “located”, do you mean where do I live?

Hon. Jim Karygiannis: No, no, the association itself, the mailing address of the association.

Mr. Tom Pang: It's on Yonge Street, in North York.

Hon. Jim Karygiannis: North York. Can you tell us, sir, some of the functions that the Chinese Canadian Community Alliance has done in the last year or so to reach out to the new arrivals, the mainland Chinese arrivals, into Canada?

Mr. Tom Pang: No, but within the last three years.... We have a short history; we've been established only about three years. During those three years, we funded and put together a documentary on the Chinese history in Canada.

Hon. Jim Karygiannis: You were funded?

Mr. Tom Pang: No. We raised the money ourselves.

Hon. Jim Karygiannis: Okay.

Mr. Tom Pang: We also have an exhibition, based on the documentary, that goes from place to place.

Hon. Jim Karygiannis: So what work has your organization done, sir, to reach out to the new immigrants and to be involved in the immigration and all that?

Mr. Tom Pang: Not in a direct way, no.

Hon. Jim Karygiannis: Have you received any funding from Citizenship and Immigration Canada or Canadian Heritage?

Mr. Tom Pang: Nothing; we wish we did.

Hon. Jim Karygiannis: Well, they're dishing out all kinds of money. Certainly, after this, you can apply.

Mr. Pang, are you supportive of Bill C-50, sir?

Mr. Tom Pang: Yes. Actually it's our association that's supportive.

Hon. Jim Karygiannis: Okay. Let me give you some facts and figures, sir, and after that I'll let you decide.

After the Conservatives took office, immigration processing times out of Beijing went up by 48% the first year. That means, if it took one year to process a spousal application before 2006, it took a year and a half in 2006. In 2007 it went up by an additional 17%. A spousal application that used to take six to eight months is taking a year and a half to two years right now. This is out of Beijing, sir. This is the community that, mostly, you're representing to come to Canada. This is processing applications out of Beijing. People just sort of said "You know what? It's taking even longer with these guys. We're not going to apply any more." It went down by 41%. So people are just not applying to come to Canada because they know it's taking even longer and longer. If you were to go to the embassy in Beijing, God help you.

You're stating that you won't be supporting them tomorrow should there be a race issue. Well, the minister has the right to say we're not going to be accepting people in from that particular part of the world.

Even the minister is on record today as saying that half the Chinese and half the Indian population can qualify to come to Canada. She said that, sir, in the last couple of days.

I want your views. Do you still support what this minister is doing?

● (1800)

Mr. Tom Pang: Yes, I do. I don't know who I should trust. I have documents here from the ministry that contradict what you're saying.

Again I say, I'm a layman. I didn't really spend that much time looking into the facts. But honestly, I don't know who to believe.

Hon. Jim Karygiannis: The fact is, sir, that I've stated in the House the facts I've told you. The parliamentary secretary was there; he didn't contradict them. The facts are that processing times out of Beijing have gone up. The facts are that for Beijing the rejection rate for visitor visas has gone up. And the fact is that the minister, on TV, on public record, said half of China can qualify to come into Canada.

Mr. Tom Pang: I didn't hear that part, but somewhere in here—I can't find it right now—there's something from the ministry saying that family reunification wait times had decreased by 25%.

Hon. Jim Karygiannis: Not so, not so.

Mr. Tom Pang: It says so in here somewhere—unless you're telling me that the ministry is lying.

Hon. Jim Karygiannis: Not so.

Mr. Tom Pang: As a layman, there's no way I can find out.

Hon. Jim Karygiannis: I will gladly give you the facts and figures that you get on the immigration website, as well as the facts and figures that minister released to me besides that.

She's not saying in this new application that they're going to do.... She's going to say qualified new skilled immigrants, not family reunification.

The Chair: Order.

I have to go to Mr. St-Cyr now.

Mr. St-Cyr, please.

Hon. Jim Karygiannis: Would you allow the witness to answer the question?

The Chair: In the process, we're trying to manage the time—

Mr. Tom Pang: I don't know how I can answer the question. I'm just facing whatever information I have.

This is the first time, Mr. Karygiannis, I hear mention of the situation in Beijing. It will take time for me to really dig into it and find out what the real situation is in Beijing.

Hon. Jim Karygiannis: I'd be more than glad to give it to you in traditional Chinese and in English.

The Chair: Mr. St-Cyr, five minutes.

[*Translation*]

Mr. Thierry St-Cyr: Thank you, Mr. Chairman.

Thank you for your presence here.

I would first of all, on behalf of all Committee members, like to apologize for the noise that you heard earlier, when the meal arrived. Our apologies to you, and especially to Mr. Tan, who must have been extremely focussed in order to be able to pursue his brief presentation despite all of the commotion going on around him. You have our thanks. I would ask for your indulgence and understanding.

Mr. Pang, I would like to make a comment, as I do not have a specific question to ask. It is a good thing that you stated at the outset that you were in favour of the bill. Upon listening to the rest of your presentation, I had some difficulty understanding why you are in favour of the bill. Throughout your statement, you talked about problems with delays, with wait times, and you mentioned several situations. However, in this bill, all that is stated is that there is a waiting line and that the order of the people in the line is going to be changed. If that it what is done, then in the end the lineup will be of exactly the same length. In any event, I would invite you to continue to reflect upon this.

I have a question for Mr. Jovel. I would as a matter of fact like to thank you for having done a good portion of your presentation in French. You gave examples of promises not kept and such that it is difficult to place one's trust in the ministers that succeed each other, no matter what the party. I would like to invite you to give some thought to the Refugee Appeal Division case. It seems to be proof that the situation is worse still. The Act provided that there be a Refugee Appeal Division, and parliamentarians, in good faith, trusted the minister who was to decide when this division would be set up, for bureaucratic reasons. It was adopted. That was the reason that was given, the compromise negotiated with parliamentarians in order to change the number of officers examining the applications. Previously, two officers examined each application; with this change, there would only be one. The excuse we were given at the time, as a matter of fact, was that this would reduce wait times, but we were told that in order to ensure that the system be fair and proper and that applicants be able to appeal a negative decision, a Refugee Appeal Division would be set up, but that was never done.

If the successive ministers from both parties, that are in power in rotation, are not even able to implement a clause of the Act, then how can we, in your view, trust them to take measures that have not even been discussed and that we do not know the nature of?

● (1805)

Mr. Roberto Jovel: Exactly, the Refugee Appeal Division issue has been around for years. I believe that it is an affront to Parliament because Parliament itself adopted the legislation. I am not saying that it is ridiculous, but it is rather shameful that Parliament is now being forced to adopt another bill, Bill C-280, if I am not mistaken.

Mr. Thierry St-Cyr: Yes.

Mr. Roberto Jovel: It is legislation in order to enforce an act that already exists. So how much telescoping — I do not know how else to put this — will have to be done? It is indeed the matter of the limits over the executive power of the government that is at play in Bill C-50. The minister, among other things, met with the Standing Committee on Finance to say that there truly are control measures.

She mentioned the three Cs: the Charter of Rights and Freedoms, the consultations that the government promised to hold, and Cabinet. The Cabinet is in fact the government itself, the executive power itself, and it is really the team that is the closest to the decision makers. This is not really a control mechanism. As for the consultations, this will most closely involve the private sector, with perhaps a few other departments, but it is still the executive branch of government, and workers' organizations have also been included; that was a late addition. In any event, this to our minds is vastly insufficient as far as control measures go. There should be other Cs as well, such as your Chamber, through its Committee, as well as the immigrant communities, which they too have an interest in this issue. Why not consult the communities and the community organizations? This commitment was made by the federal government in 2002, under the Voluntary Sector Initiative. There is an agreement between the federal government and the community sector to develop policies with input from the community sector.

[*English*]

The Chair: Thank you, Mr. Jovel.

Mr. St-Cyr, thank you.

Madam Chow.

Ms. Olivia Chow: Especially to OCASI, I know you represent many, many immigrant-serving agencies. Am I correct in assuming that a lot of the front-line workers that assist immigrants right now may not know or understand the changes that are in front of us? Probably like any ordinary Canadians, they would be semi-confused to see a big, full-paged ad, paid for by the citizens of Canada—I think the total cost was $1.1 million—and yet the ad talks about backlog, flexibility, fast....

Do you think the information going out to the public right now is enough; is it correct; and is there any chance for meaningful dialogue?

● (1810)

Mr. Roberto Jovel: Well, it has been a challenge for us to get our analysis and our information and all of our sensitization materials across to the front-line workers, and to the users of the services, and to the public in general. It's difficult for an organization to have that outreach, and those means, to go as far and as deep as the government is currently intending to do with that $1.1 million, through the advertisements to be introduced mostly in ethnic media or third-language media, as they are sometimes named.

What I have seen so far, in terms of the information that the government is circulating—I've seen it in documentaries at the CBC, for instance, with Minister Diane Finley herself responding to questions—is, I think, incomplete, inaccurate. We keep on hearing that this is a solution to the backlog, which is not true.

The other day I was interviewed by a journalist from a particular community newspaper and she said, “I just spoke to the minister five minutes ago and she says that these changes are not going to affect humanitarian and compassionate applications, and they are only meant to affect skilled workers.” We were on the phone, and I said, “Open the web page with part 6 of Bill C-50 and we're going to read it together.” And we pinpointed the places where it said if you are in your country of origin applying on humanitarian and compassionate grounds, you may or you may not be dealt with properly. If you have, in the case of family reunification, a sponsorship application, you also may be submitted to particular instructions issued by the minister.

The journalist was asking me, “So are you saying that the minister is deliberately misleading the public?” And I was like, “I haven't said that.” So she asked me, “But do you agree with that?” And I said, “Listen, all I have is the messaging that's coming from the government and you and I, both of us, looking at what the proposed legislation says.”

Ms. Olivia Chow: So you're saying that what gets presented is one thing; what's in writing, black and whit, is something completely different. That is probably one of the reasons why the lawyer who was in front of us, Mr. Warren Creates, was initially supportive of it but later, after he read the fine print, said it was terrible and was against it.

Do you think it would be useful for the House of Commons—whether it be the immigration committee or the finance committee, because right now the matter is front of the finance committee—to conduct cross-country hearings so that people from different ethnic organizations, groups from coast to coast to coast, would actually have a chance to hear precisely what's being proposed and what impact it would have on the community? Would that be helpful?

Mr. Roberto Jovel: If it's the only solution available, that would help a lot in clarifying what's at stake. The ideal would be that any changes to the Immigration and Refugee Protection Act are not made to play the role of a pawn in a political kind of exchange, and be made a matter of confidence.

So I would say any changes have to be submitted as a separate legislation project and should go through the regular procedure, which includes consultation. If the only solution at this point is to have the consultations that you are suggesting, let's go for that. It's better than what we've had so far.

Ms. Olivia Chow: Is that perhaps a recommendation that should come out from this committee? Would you support that? Yes?

I'd like to ask Mr. Pang and Mr. Tan a question....

No? I'm out of time?

The Chair: I think I'm going to have to go to—

Ms. Olivia Chow: Oh, I wanted to ask them a question.

Okay, thank you.

The Chair: I'd like to give you more time, but I can't. We are down to the last strokes.

Ms. Olivia Chow: I thought we had seven minutes.

The Chair: No, we've been doing five minutes.

Ms. Olivia Chow: We're back to five?

The Chair: Yes. It's to allow everyone to get on here.

Mr. Komarnicki is next, and then Mr. Telegdi.

Mr. Ed Komarnicki: I'd like to thank the witnesses for putting forward their points of view. There certainly have been differences of opinion throughout the day. I appreciate hearing everyone's point of view, but there are some statements that are not correct or in line with the legislation.

I think in fairness—at least to my mind I've established this—the legislation, Bill C-50, does not apply to refugees or refugee applications and protected people inside or outside of Canada. Notwithstanding that some witnesses thought it might, at least two and perhaps even three legal opinions have been offered that this does not apply to that, and some would make a lot out of it.

The other comment made earlier today, speaking generally, was that there is the race issue. I think the witnesses who were lawyers were very clear—and specific, Mr. Pang, to your appreciation and settlement on this issue—that the legislation itself, as it now stands, has to be subject to the charter and all the rights that are guaranteed in the charter, which would include the fact that it must be non-discriminatory. It cannot be based on race, religion, or ethnicity or it would contravene the charter and would not stand the test. It has to stand that test, and people have gone through it in the legal field to ensure that this is the case.

But not only that; this is legislation that proposes the instruction. The consensus as I saw it was that the instruction itself, when it issues, would need to be charter-compliant—not just the legislation, but the instructions flowing from the legislation. In fact, I think there would be a fair opinion that those who apply the instruction would have to apply it in an objective fashion, and again, it would have to be charter-compliant. You cannot issue or apply an instruction in a fashion that would be contrary to the Canadian Charter of Rights and Freedoms. I think that came up very clearly in our discussions today. Yet some people seem to insist that there is an element of it in the legislation, when I would say there's not.

The other question is how you resolve the issue of the backlog. Even the former minister from the Liberal Party said you can't just keep taking applications and hoping the problem will resolve itself, because what will happen is that the backlog will continue to grow because of the limitation we have on the number of people who can come into the country through the year. Over the last decade, what has happened under the present system is that many people apply, not everybody gets in, and we have a backlog.

The people who apply aren't exactly aligned properly to the economies of the country. What this legislation has said...and some have even said the minister presently has powers to prioritize the applications to ensure that those best suited to the economic needs of the country can be processed in priority. If that's true, then there's no harm in saying it specifically in the legislation. It's trying to get the right people to the right place at the right time to ensure that they can succeed.

But having said that, ultimately Bill C-50 indicates that instructions must support the attainment of the immigration goals established by the government of the day. The government of the day decides what the policy is going to be, and the instruction must be in line with that policy.

When you think about it, ultimately, if legislation is passed or regulations are passed, the government of the day decides what that legislation or regulation might be, or in this case, the instruction. As one witness indicated, ultimately the government is responsible to the electorate of Canada, who can say, if we don't like the policy you're setting or the legislation you're setting or the regulation you're passing, you won't stand the term of office.

One thing we know is that legislation and regulation takes a lot of time. We've had at least a decade since the act was passed, and there have been no amendments, simply a backlog growing and increasing.

So this is an attempt to say that ultimately the government of the day will set the goals, and if the goal is to prioritize the application to ensure that the skilled or lesser skilled newcomers come into the country, that's the policy decision that's made. And ultimately, they'll have to stand on it.

● (1815)

It's included within the budget, because it provides $109 million over five years to deal with that. So it is a matter of confidence and we'll see whether the opposition will support it or not support it. That's the key question. If they're so sure of it, they need to decide where they stand on it.

The Chair: I have about 12 minutes left, so three four-minutes.

Mr. Telegdi, Mr. Carrier, and Ms. Grewal.

Hon. Andrew Telegdi: Thank you very much.

You can tell when the parliamentary secretary quotes a former Liberal minister that he's really in trouble and desperate.

He hasn't named a name, but anyway....

● (1820)

The Chair: This is Mr. Telegdi's time. Give him some time.

Hon. Andrew Telegdi: The government's into some good old immigrant-bashing. As a former refugee, I know what that means and I understand it. I think there are advantages to be had in the province of Quebec, where the ADQ almost came to power, and then the reasonable accommodation debate.... They're trying to plug into that. I think they're having some success, and that's why they're pushing it.

In terms of his saying that it has to be charter-compliant, well, the security certificate was not charter-compliant for 25 years, and it unduly took away people's rights. Today we hear we're going to have some kind of apology for *Komagata Maru*, just like there was for the Chinese head tax.

What bothers me is we don't seem to learn from history very well. We're bringing in temporary foreign workers. We brought the Chinese in during the 1880s to build the railway. They were not allowed to bring their families. These temporary foreign workers aren't allowed to bring their families. I ask myself, what kind of Canada do I want? Do I want a Canada where people come here with their families and help build Canada for the long term? Or do we bring in people who, very much like the Chinese when they were brought in during the 1880s, can be exploited? They could be made to work for less and the families could be barred. It was a horrific part of history. But I see analogies between that.

It seems to me that if you're going to build the country, then we want to employ people as immigrants, bring them here as immigrants, bring them here with their families.

I keep reading about all the problems they're having in Fort McMurray, Alberta, because people are up there without their families. They have drug problems, they have alcohol problems, and all sorts of other problems, and this really bothers me. The point system should allow tradespeople in. It should allow labourers in. If you're good enough to work in this country, then we shouldn't use you and look upon you as redundant and try to get rid of you. These are human beings we're dealing with.

I just wonder, Mr. Tan and Roberto, if you could make a comment on that.

Mr. Ping Tan: Mr. Chairman, before I reply, I want to recognize my fellow director Albert Tang in the audience—he just stepped out. He's with me here today.

You know, it's a cliché now: immigrants built this country. Now we are debating today whether we want them in here or not. I think the prescription is just wrong to deal with the situation we have. It's the wrong prescription for the problems.

The front-line officers already enjoy a lot of discretion. The immigration officer always has to be satisfied with what we provide, and sometimes it's difficult. You have to wait a lot of time and many years to come to the officer. You have to satisfy him. And he still can make it difficult for you.

We have been talking about this human pool of capital. The old immigration law passed in 1976. It took us 25 years to come with a new one in 2002. We thought we had a good immigration law that set out the framework for people to work, but obviously we are debating this problem because it didn't work out that way. I don't think it is the problem with this framework; it's the problem with how it has been implemented and it will be administered.

So giving more powers, discretional powers, to the minister is just the wrong way to do it.

The Chair: Thank you, Mr. Tan. I'm sorry I had to cut you off, but we do have votes coming up at 6:30.

I'm going to divide six minutes between Mr. Carrier and Ms. Grewal.

[*Translation*]

Mr. Robert Carrier: Thank you, Mr. Chairman.

Thank you for appearing before us and enlightening us as much as possible in order for us to be able to table our recommendations at the end of next week. I will begin with Mr. Pang. I was surprised to hear you say that you were in favour of the part of the Bill dealing with immigration, the idea being the improvement of the quality of the immigrants we welcome to Canada.

You stated in conclusion that the points system that is in place and is used to evaluate the quality of immigrants is not a good one, and that everything is going to be entrusted to the will of the present minister or her successors. Is that what you said?

● (1825)

[*English*]

Mr. Tom Pang: The point system may be a good system, but there are several factors to it, age being one. We are looking for younger people. Education is a factor. Every year of education will get a point, and this does not necessarily translate into the kind of immigrants we are looking for. As I often maintain, if Canada needs taxi drivers, there are certain qualifications for taxi drivers. Let's bring in the taxi drivers. Let's not bring in a guy with 21 years of education and a PhD to drive a taxi.

[*Translation*]

Mr. Robert Carrier: Mr. Pang, you outlined priorities that you believe are good, but the Bill establishes that it is the minister who will define the priorities. Are you already aware of the minister's priorities, priorities which in your view are good?

[*English*]

Mr. Tom Pang: If I read it right, the minister said she will make a decision based on recommendations from the provinces, the trade unions, and various other sources.

[*Translation*]

Mr. Robert Carrier: That is not written into the Bill, Mr. Pang. It simply states that it is the minister who will set the priorities.

[*English*]

Mr. Tom Pang: I don't know whether she said it in Parliament or not, but this association will take her word, and we'll make sure she will deliver.

[*Translation*]

Mr. Robert Carrier: It is therefore wishful thinking.

Some members: Ah, ah!

Mr. Robert Carrier: That is all for me.

[*English*]

The Chair: You have ten seconds left.

I'll go to Ms. Grewal for the last two and a half to three minutes.

Mrs. Nina Grewal: Mr. Chair, I'm giving my time to Mr. Komarnicki.

The Chair: Mr. Komarnicki.

Mr. Ed Komarnicki: To finish my—

Hon. Jim Karygiannis: I'd like to challenge that, and I'll tell you why, Mr. Chair.

If you go according to the rules, everybody can go—

The Chair: We've had this discussion today already, with Mr. Bevilacqua and others. We agreed that it is the party and that the party can pass it over.

Hon. Jim Karygiannis: Well, have you asked the other two people if they would want to speak, before you go there?

The Chair: No, we have to manage time.

Hon. Jim Karygiannis: Mr. Blair might want to have his three minutes.

The Chair: If we had more time, I'm sure he would.

Order.

Mr. Komarnicki, you have a couple of minutes.

Mr. Ed Komarnicki: I hadn't finished my comments, but I will just say this: the minister's instructions will be open and transparent, and certainly she will consult with the provincial and territorial governments and stakeholders, as Mr. Pang has said. As a practical kind of thing, instructions will be published in the *Canada Gazette*. They will be reported annually to Parliament and published on CIC's website.

Parliament sets targets and goals every year. Ultimately it goes back to the government.

Really, when you put all the rhetoric aside, the Liberal members who are pretty noisy about this and have a lot of rhetoric...we'll see where they stand when the bill comes before the House. They'll be able to vote it down and support the opposition or not. They have not lined up with their talk. If they're really serious about wanting to defeat this legislation, they should do it.

Hon. Jim Karygiannis: I have a point of order.

The Chair: Yes, Mr. Karygiannis.

Hon. Jim Karygiannis: I think the parliamentary secretary is making a political speech. He's not asking a question to the—

The Chair: That's no point of order, Mr. Karygiannis. You know that's not a point of order.

Mr. Komarnicki.

Order, please!

Mr. Ed Komarnicki: Let me cite something that was said in the *Winnipeg Free Press*:

> What the Conservatives propose is common sense...This is good policy...For the Liberals to exploit this, however, not only ignores the national need for the party's own political advantage, but also ignores the ugly truth that it was the Liberals who created this problem. In the years 1993-2006, the immigration backlog grew from 50,000 to 800,000.

There is a problem. It needs to be addressed, and we're addressing it—not in a long-term way but on an immediate basis.

The Vancouver *Province* editorial said:

> But it makes no sense—and is unfair to applicants—to go on adding names to a waiting list that just grows longer and longer.

There are going to be 1.5 million people. It's unmanageable.

> Under the new legislative proposals, the immigration minister will be able to speed up immigration procedures, both in cases of family reunion and to get needed workers into the country.

● (1830)

Hon. Jim Karygiannis: Mr. Chair, a point of order.

The parliamentary secretary is reading from a document. He either tables it or—

Mrs. Nina Grewal: It's his time. He can utilize it the way he likes.

The Chair: He can table it, and he will table it.

Mr. Ed Komarnicki: So what we have is skilled workers—

Hon. Jim Karygiannis: Table it for us to see.

Mr. Ed Komarnicki: —in here faster, family reunification faster, refugee protection that will not be affected by Bill C-50, and it will be carried on as it is. It's a question of policy, and policy is something that is set by government. The parties will have their opportunity to decide whether they support it or oppose it, and that's the bottom line.

Thank you.

The Chair: Order.

Mr. Karygiannis, please give Mr. Komarnicki the same—

Hon. Jim Karygiannis: We're here to do a report.

The Chair: Please give Mr. Komarnicki the same courtesy—

Hon. Jim Karygiannis: For somebody to grandstand and say about the vote.... We're here, as a committee, to do a report.

The Chair: Order, please.

Hon. Jim Karygiannis: Obviously the parliamentary secretary forgot the word "democracy".

The Chair: Order.

Please give Mr. Komarnicki some courtesy, please.

Are you finished, sir?

I want to thank you, Mr. Jovel, Mr. Tan, and Mr. Pang, for your presence here today. We will be doing a report come Thursday, so we will try to take your recommendations into account as well.

Thank you.

Ms. Colleen Beaumier: [*Inaudible—Editor*]

The Chair: [*Inaudible—Editor*]

Hon. Jim Karygiannis: Are you running this like the Prime Minister is running the show, the *Gong Show*? No wonder...is not coming back in. Gong!

The Chair: The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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