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Chair

Mr. Rob Merrifield

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• (1530)

[English]

The Chair (Mr. Rob Merrifield (Yellowhead, CPC)): We have the witnesses here and we have the committee members, so with that we'd like to call the meeting to order.

We'd ask that the cameras leave the room.

Today we have two panels—one taking us from 3:30 to 4:30, and the other one from 4:30 to 5:30.

We're dealing with Bill C-50, and on our first panel it's our privilege to have with us the Canadian Arab Federation. I will introduce you and then yield you the floor at the appropriate time.

I will start by introducing Mr. Boudjenane. I believe you have with you Ms. Sherazee. It's good to have you both here.

The floor is yours. You have seven minutes.

Mr. Mohamed Boudjenane (Executive Director, Canadian Arab Federation): Thank you very much.

My name is Mohamed Boudjenane. As you said, I'm the executive director for the Canadian Arab Federation. With me is our legal counsellor, Amina Sherazee.

I'd like to thank you for the invitation.

Briefly, just to give you a little bit of information about our organization, the Canadian Arab Federation is a national non-profit, membership-based organization representing Canadians of Arab descent on public policy issues. Since its founding in 1967, CAF has sought to create a non-partisan relationship with the media and government officials in order to highlight issues of importance to the Arab community, including those concerning immigration and refugee protection rights.

The Arabs in Canada have been here for a while. The first wave of Arab immigrants came here in 1880, from the Syrian and Lebanese communities. But of course we receive newcomers on a regular basis, and according to Statistics Canada, the Arab immigrants now are one of the fastest-growing immigrant populations in Canada. According to Stats Canada, we have between 350,000 and 500,000 Arab immigrants or Canadians of Arab descent. Recently, in Quebec, for example, this immigrant population increased 45% since 2000, especially in the Montreal region. Those people, of course, come from north Africa—mainly Morocco, Nigeria, and Tunisia.

[Translation]

Arabic is the second most frequently used language in francophone schools in the Montreal region. It is a rapidly growing community, and it has very serious concerns. For the past three years we have, unfortunately, been witnessing a particular phenomenon: a sharp drop in the number of Arab immigrants, and more particularly, refugees. The waiting lists are longer for these communities. One has the impression that the Arab and Muslim world is being subjected to a system that is different than the one that is used for other immigrant communities, because of the so-called anti-terrorism measures that were instituted after September 11, 2001.

We are not here—with all due respect to the democratic process and the invitation that was extended to us—to validate or endorse today's exercise. We feel that this bill, or at least the section of the bill dealing with immigration, should be debated separately. Part 6 of Bill C-50 should become a separate bill, since, in our opinion, the proposed changes should not be taken lightly in view of their wide-ranging effects on Canada's immigration system.

Therefore, we are not here today to validate the work of this parliamentary committee. However, we do have serious concerns and we would like to share them with you. We feel that the powers being sought by the government—and particularly by the Minister of Citizenship and Immigration—are arbitrary and completely unprecedented. Unfortunately, we do have some concerns relating to the Arab and Muslim community. We feel that these measures could eventually lead to racial profiling. As I have already said, there are clear and rather distinct trends to indicate that immigrants from the Arab and Muslim world are being processed differently from those originating from other communities.

Also, we feel that an emphasis on what is being called an economic type of immigration challenges the fundamental values of Canada's immigration system. Economic considerations have never been the sole determining factor in Canada's immigration policy. Through immigration, Canada has always sought first and foremost to build and create this multicultural, diversified and multi-denominational country. We believe that an emphasis solely on business immigrants will eventually affect other immigrants, particularly those who are in the family reunification category.

The minister has stated that this type of immigration should be stimulated in order to maintain Canada's dynamic economy. We share the same view, and feel that the first step should be to tackle problems related to discrimination and the barriers that prevent immigrants here from accessing employment. I can give you a list of 250 doctors who have settled in the Montreal area, who are of Arab origin, and who have passed all of the tests that are required for them to practice here, yet they cannot work because no hospital wants to take them on as interns.

I can also give you a list of 1,000 foreign-trained doctors living in Toronto who have not yet found employment. If the government is really serious about employment access for foreign-trained immigrants, then it should take this situation seriously.

We are not against bringing in experts from the oil and gas sector, perhaps to help Alberta's economy or whatever, but there should be an objective approach when dealing with business immigration.

Moreover, we feel that this bill does nothing to help with the backlog in the system and the long waiting lists that the government claims to want to deal with. As you know, changes to the Immigration and Refugee Protection Act will only affect people who apply after February 2008. Therefore, the argument in this case does not hold water.

Finally, I would simply like to tell you that we have not come here only to criticize, but to make a constructive contribution to the debate on immigration. We feel that if the government truly wishes to be inclusive and democratic, it will split this bill, make part 6 a separate bill, and consult with communities such as ours.

I will now ask our legal advisor to discuss the clauses that are of particular concern to us and the fundamental changes to the Immigration and Refugee Protection Act.

• (1535)

[English]

The Chair: Thank you very much.

We'll now move on to Mr. David Cohen, as an individual. He is an immigration lawyer....

I'm sorry, Ms. Amina Sherazee, you have a little more time. Go ahead.

Ms. Amina Sherazee (Legal Counsellor, Canadian Arab Federation): I too want to hear my colleague David Cohen. I understand he has some very interesting comments to make to this committee.

I have set out the basis for our organization's concerns with respect to this bill in our policy paper. I would commend the entire paper to you and would ask you to read it closely. I don't have the time to go through it, but there are very important points that need to be made, which will expand upon our reasons for taking the position we have with respect to Bill C-50, and in particular part 6.

There are ten parts to this bill, and nine out of the ten deal with fiscal matters, money matters. Then we have part 6. The rest of the bill deals with money matters, and we seriously question why it is that this government has disingenuously—and, in our submission,

deceitfully—snuck in IRPA amendments to this bill that otherwise concerns money matters.

This leads us to our submission that, if you examine the provisions, if you examine the actual proposals, they neither give power that the minister doesn't already have with respect to....

I would respectfully request committee members to allow me to make my submission. I only have seven minutes.

The Chair: Actually, it's seven minutes per organization. You're with the Canadian Arab Federation, so there are seven minutes for the two of you.

Mr. Mohamed Boudjenane: We were told that we had seven minutes per person.

The Chair: No, it's per organization.

Ms. Amina Sherazee: Then I can save my comments for questions.

I would commend the report to you and would welcome your comments.

The Chair: That's fine. We'll have more time for questioning, so we'll be able to get it in that way. Maybe that would be the fairest way to continue.

Now we'll move on to Mr. David Cohen.

Mr. Cohen, the floor is yours.

Mr. David Cohen (Immigration Lawyer, As an Individual): Mr. Chair, members of the committee, I asked to appear before you today because of a story that 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, however, 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 practising immigration law for the better part of 30 years, and I state candidly to you that it was only in 2002, with the introduction of the Immigration and Refugee Protection Act, or IRPA as it's known, that decisions based on discretion were removed from the immigration selection system, at least as it pertains to economic immigrants.

IRPA, in its present form, is a fine piece of legislation in which the selection of economic immigrants is based purely on objective criteria. It is based on the fundamental principle that everyone who chooses to submit an application to come and live in Canada is entitled to fair and equitable consideration.

The government is now proposing to amend IRPA. As part of 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, there are instructions as to which type of applications to process quickly, which applications to hold for processing at a later date and, most importantly, which type of applications to return to sender without any consideration whatsoever.

These amendments, if passed, 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 finally eliminated.

Please understand that the issuance of instructions by the minister will not magically change anything. In practice, the minister will have to delegate the exercise of discretion to immigration officers who will pick and choose the applications to be processed. This will unavoidably make Canada's selection system vulnerable to human bias, or worse.

Don't get me wrong, I have a great deal of respect for Canadian immigration officers who, as a group, are professional and fair-minded. That said, I would like to place into the record a copy of the message posted on the public forum located on my law firm's website as a practical example of the danger of discretionary selection. I'm going to quote from the beginning of the posting on our forum:

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.

The person purporting to be an officer—and I'm satisfied that the person is an immigration officer—continues on to denigrate a particular ethnic group, and then concludes by stating, Well this felt good to rant a bit and I'll probably do more of this...but for now I have to go and deny a few people entry to my country.

This is the danger when discretion is allowed back into the immigration selection system. It's real, and it will affect people.

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 contends that the amendments are necessary in order to bring applicants whose skill sets are in high demand in Canada to the front of the immigration line.

In fact, these proposed amendments are not required to achieve the desired goals. IRPA, in its present form, contains the mechanisms to control the flow of economic immigrants and to bring applicants desired by Canadian employers to the front of the immigration line. IRPA does it objectively and transparently.

Please allow me to explain. Simply put, the backlog exists because the number of new applications received every year is more than the number of visas issued during the year. We can all understand that. One of the IRPA regulations foresees this eventuality. It empowers the minister to set the minimum number of points required to qualify as a skilled worker, keeping in mind the number of applications currently being processed versus the target number of immigrant visas to be issued.

● (1540)

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. They won't pay \$550 in government processing fees only to be refused on the merits of their application—but the merits of their application will be considered.

The minister may also make use of restricted occupations, as provided for in another IRPA regulation. 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 restricted occupations would receive no points for their work experience, which would prevent them from qualifying under the skilled worker category. They would therefore have no incentive to apply. This would ensure that Canada selects a higher number of immigrants who meet the immediate labour market needs.

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 the permanent resident application. This allows the best and brightest to be brought to the head of the immigration queue.

To summarize, IRPA currently provides the mechanisms that permit the government to achieve all of its goals—namely, cutting through the existing backlog of skilled worker applications and prioritizing the processing of applicants whose work experience is in high demand. IRPA is fair, and it could work.

I don't know if I have any time left, Mr. Chair. I have a couple of notes about the backlog in general, and it would only take another minute.

The Chair: Okay, very, very quickly. I'll allow it.

Mr. David Cohen: Very quickly, the subject of backlogs is complicated, and it's more complicated than meets the eye. The government gives us the impression that the backlog is a single line of 600,000 skilled worker applicants stretching as far as the eye can see. In fact the reality is very different. Some visa offices, like the one in New Delhi, have huge backlogs, with a five-year wait just to be considered. Other visa offices, like the one in Buffalo, can process an application to conclusion in under two years.

The 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. Therefore, the total number of pending applications is not the only aspect of the equation to consider. The allocation of resources is also an integral part of the problem. Perhaps the situation requires a redistribution of resources to the visa offices with the longest processing times instead of completely shutting the door.

Thank you.

• (1545)

The Chair: And thank you very much.

We'll now move on to our last presenter, the Canadian Urban Transit Association. We have Michael Roschlau, and Louise Poirier is with him.

I don't know how you're going to split it up, but the floor is yours for seven minutes.

Mr. Michael Roschlau (President and Chief Executive Officer, Canadian Urban Transit Association): Thank you very much, Mr. Chair, and thank you so much for the invitation.

It's my privilege to serve as the president and CEO of the Canadian Urban Transit Association, the organization that many of you may have come to know as CUTA.

With me is a member of our executive committee, Louise Poirier, who is our vice-chair, municipal councils.

I say it's my "privilege" to serve as CEO of the association because I feel passionately that serving CUTA's mandate of establishing public transit as the primary solution to urban mobility in Canada is at the cutting edge of public policy in this country, and touches so many of the important issues of the day.

As MPs, if you think about climate change or clean air, transit is front and centre as a solution. If you think about increasing our economic competitiveness based on efficient travel and commuting, you have to think of transit. If you think of healthy living and quality of life for the majority of Canadians, again, transit is there. Picture this: one city bus carries as many people as 50 cars, and one commuter train can replace 15 lanes of traffic.

I'm sure many committee members have also heard from constituents about the increasing cost of gasoline. Again, transit is the solution.

I'd also like to underscore that our transit systems have never been more optimistic about the future of public transit in this country. I can tell you from travelling across Canada that our members are engaged with the public, and there is a new spirit of cooperation about building and achieving greater things for Canada based on improved public transit.

Louise.

[*Translation*]

Mrs. Louise Poirier (Vice President, Municipal Councils, Canadian Urban Transit Association): Now it is my turn to speak.

You know that the public is realizing that using urban transit improves the quality of life for everyone. Moreover, people who

work in urban transit regularly tell me that the public is now in favour of more investment in mass transit. The fact that the government has shown more leadership in urban transit serves to strengthen the public resolve. I can say without any hesitation and quite impartially that in recent years, all federal parties have played a great role in championing urban transit. They have been true leaders when it comes to funding, tax measures and other public interest policies related to urban transit.

For example, we would never have been invited to this committee 10 years ago to discuss urban transit, and the federal government would not have considered it to be part of its jurisdiction. Fortunately, times have changed, and all of the party leaders with whom we have met on numerous occasions have demonstrated that they support federal involvement in mass transit. We would therefore like to thank all of the parties for the leadership that they have shown on this issue.

We have already accomplished a great deal together, but there is still much work to be done.

[*English*]

Mr. Michael Roschlau: This brings us to the essential element of the bill before you today: the establishment of the public transit capital trust and the investment of \$500 million. This is an extraordinarily important investment and is part of what leads to the optimism about public transit that we referred to earlier.

The public supports investment in transit. This funding will make a real difference to allowing transit systems across Canada to meet the growing demand and growing expectations. The investment is good for the environment, the economy, and healthy living.

That said, many pundits, politicians, and the media have raised the issue as to whether or not this is enough to meet the needs of Canadians and the needs of public transit. This is an important question, but in a sense it's less important than the question of how can we move forward to build world-class transit infrastructure and service in Canada? How can we do better?

Clearly cash injections are positive, but they have severe limitations. They're unplanned, and in an industry that requires long-term planning for capital projects, that poses problems. Regional considerations are also much more difficult to manage with a one-time spending process. So while the investments made in this bill provide real value, there's a better way for future spending.

Canada remains the only G-8 country without a national policy of long-term, predictable, dedicated trends in investment. This prevents Canadian transit systems from achieving their full potential. Together with the Federation of Canadian Municipalities, CUTA is urging the implementation of a national transit strategy.

The proposed strategy has five elements: dedicated federal investment to maintain, renew, and expand transit services across the country; federal tax incentives for individuals who choose transit, such as an income tax exemption for employer-provided transit benefits; support for research to enable innovation and make transit operations more effective and more efficient; a requirement for recipient communities to approve integrated land use and transportation plans that make transit the primary means of serving future growth and travel demand; and finally, intergovernmental cooperation to ensure that accountability measures are in place.

• (1550)

[Translation]

Mrs. Louise Poirier: In closing, Mr. Chairman, since I am a member of the executive committee of the Canadian Federation of Municipalities as well as that of the Canadian Urban Transit Association, I can tell you how important it is—and we all feel the same way—for Canada to have a national urban transit strategy.

Moreover, the increase in ridership levels demonstrates that the public is ever more willing to use mass transit. In Canada, in the past five years, the number of riders has increased by 10%. As chair of the Société de transport de l'Outaouais, which is just across the river, I can tell you that our ridership has increased by 60% over the past 10 years. We are experiencing a crisis, since we must manage a growth that is beyond our financial capacity.

I will close by saying that Canada's urban transit network requires stronger leadership from the federal government, in partnership with provincial and municipal governments, in order to achieve an effective long-term plan for urban transit.

[English]

The Chair: Thank you very much for your presentations. We'll now move on to the question-and-answer part.

We'll start with Mr. Turner. You have seven minutes.

Hon. Garth Turner (Halton, Lib.): Thank you.

Thank you very much to our guests for coming here today. We appreciate the effort.

My first question is for our witnesses from the Canadian Arab Federation. You've come here today and been given seven minutes, on a panel of three groups, to discuss an issue that deals with the immigration policy of our country.

Do you feel this process is giving legitimacy to what you have to say? Are you satisfied by what you're part of right now?

Ms. Amina Sherazee: No. Actually, one of the concerns we have is with respect to the process itself. The reason is that we are appearing before the finance committee; with all due respect, you do not necessarily have the expertise or the history in this area.

Second, we have not been given adequate time and we have not been given adequate ability to make presentations. Radical changes are being made. In fact, these are some of the most important changes that are being proposed by this government, and it's being done in a very quick manner. As I mentioned earlier, they're being snuck into a fiscal policy, which is a really big concern. I think it has raised a lot of eyebrows.

You don't have to be a conspiracy theorist; this is what we're hearing in our community. Why are they doing it in this manner? Why are they railroading these changes in this manner?

The Chair: I want to let the committee know—this won't cut into your time—that Mr. Cohen has to leave for the immigration committee, because they're studying this, and we're looking for information coming back from the immigration committee. So if you have any questions for him, please be aware that he'll be leaving at 4:20.

Go ahead, Mr. Turner.

• (1555)

Hon. Garth Turner: I think your first recommendation to our group was that this bill should not be presented in the form that it is being presented. You believe it should be split into two bills, with a separate immigration bill. Is that correct?

Mr. Mohamed Boudjenane: Yes, that's right.

Hon. Garth Turner: Do you have an opinion, coming here today, as to why my colleagues across the way refused to do that? Have you had any feedback from the government as to why they will not—

Mr. Mohamed Boudjenane: We're not here to comment on political decisions. This is up to the government to decide, but I think the most concerning element in what we're hearing from the government side is the fact that even if we're going through this exercise, even if the immigration committee apparently had a motion to look at it, at the end of the day they're not going to change one iota from this piece of legislation.

So it's confusing not just for our communities, in terms of being invited here and presenting, but also for the parliamentary system as a whole. Why are we debating it if the government, at the end of the day, is not willing to change anything?

Hon. Garth Turner: Right, but...you've had no feedback. Is this the first time you've objected to the bill? Is this your first opportunity to speak against this particular bill as it's presented?

Mr. Mohamed Boudjenane: In front of a parliamentary body, yes, this is the first time.

Hon. Garth Turner: Are you going to the immigration committee as well?

Mr. Mohamed Boudjenane: Not yet.

Hon. Garth Turner: Have you applied to do so?

Mr. Mohamed Boudjenane: Yes, we will; yes.

Hon. Garth Turner: I hope you're successful.

Mr. Cohen, you said this is a very regrettable departure from what you saw brought in with IRPA in 2002. Would you describe the attitude we're seeing in this legislation as "anti-immigrant"? Is that too harsh? What's the justification for the changes, based on your 30 years of experience? How would you categorize that if someone said, "Mr. Cohen, why are they doing this?"

Mr. David Cohen: This is the question that I ask myself, particularly because in my opinion everything the government desires to accomplish can be accomplished under the existing regulations. There really is no need to bring in this legislation to do what the government wants to do, so that leads me to believe there must be other motives. My own personal opinion on this is that they're political in nature.

Hon. Garth Turner: Can you elaborate, please?

Mr. David Cohen: Well, I don't think it would surprise anyone in this room if I were to say that, historically, newly arriving immigrants have been a constituency that the Liberals count on. And at the end of the day, the Liberals are going to have to stand up and vote with the government and, I believe, against the best interests of a constituency that they've been very close to for many years.

Hon. Garth Turner: I'm shocked, Mr. Cohen: you're saying that government members are actually playing politics with this legislation?

Mr. David Cohen: Yes. I'm as shocked as you are.

Hon. Garth Turner: It's hard to believe.

Let's go quickly to the issue of transit here. What's an adequate level of funding?

Mr. Michael Roschlau: We've just completed a five-year survey of the infrastructure needs for the entire public transit industry across the country. That's come out at \$40 billion over a five-year period from 2008 to 2012. That's what's been determined based on that next five-year period. That's the \$40 billion that's needed, both for infrastructure replacement and renewal of existing, and for expansion to accommodate new ridership.

Hon. Garth Turner: Let me ask you another question.

The Conservatives brought in a transit credit in the first budget, I believe, in 2006. So the transit credit came in 2006. What's been the result of that? Are you seeing transit usage go up as a result of that credit? Have you measured any impact at all of that on your ridership?

Mr. Michael Roschlau: It's a very interesting and a very good question.

It's hard for us to separate the cause and effect when it comes to ridership. There are so many different factors out there in terms of the growth of population, in terms of the fiscal incentives, in terms of the environment, and the cost of fuel and operating cars. We've seen a steady increase in ridership over the last 10 years across the country of somewhere between 3% and 4% a year.

Hon. Garth Turner: Has there been a change?

Mr. Michael Roschlau: That has not changed measurably since 2006.

Hon. Garth Turner: So there's been no impact of this transit credit that you can put your finger on?

Mr. Michael Roschlau: What we have seen—and this is anecdotal—is that there's been a shift in the fare media, where people are more likely to buy monthly passes and less likely to pay cash or use tickets.

•(1600)

The Chair: Thank you very much.

We'll now move to Monsieur Crête.

[*Translation*]

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Thank you, Mr. Chairman.

It is interesting to hear from groups with diverging objectives, namely urban transit associations. That is a hallmark of the bill that we are studying. Work has already been done on the urban transit file, and money is now being allocated. It is perfectly normal to find this type of thing in a budget bill.

With immigration, however, that type of examination has not taken place. If we had met with urban transit representatives 10 years ago to amend the act without taking into account what people wanted, then things might have turned out quite differently.

I would also like to point out that this committee adopted a motion asking the Standing Committee on Citizenship and Immigration to study part 6 of this bill because we felt that we did not have the necessary expertise to delve into that part of the bill. We hope to have their report in time. I think that we share the same feelings about the need to withdraw that matter from the bill.

Mr. Boudjenane, Mr. Cohen and Ms. Sherazee, Quebec has a special agreement on immigration. Will this bill affect Quebec in any way or has the province been sheltered from the negative consequences that were expressed so well in your presentations?

Mr. Mohamed Boudjenane: I said earlier, in my introduction, that from 2000 to 2008, immigration from North Africa had increased by 45%. As you know, most of these immigrants go to Quebec, since they are French-speaking. If today we are witnessing decisions that are motivated by political interest, and if the government were to decide that a certain minority, certain ethnic groups or people from certain religions might represent a security risk for Canada, that will have a direct impact on those populations and an indirect impact on immigration to Quebec, since immigrants to that province are mainly francophone.

Mr. Paul Crête: You said that immigrants tended to settle mostly in Montreal. I live in La Pocatière, and I can cite the example of a family that has just moved there, the mother being a professor in agrofood processing. They are making a positive contribution to our community. We hope the trend will continue, since an extra francophone contribution is always welcome.

As for urban transit, you mentioned, Mr. Roschlau, that extra funding would be necessary over the next five years. Did I hear you say \$40 billion over five years? The fund for this year is \$500 million. Does that mean that you are expecting a much larger amount over the coming years?

Mr. Michael Roschlau: Of course, we need a permanent program to guarantee a certain level of investment for networks throughout the country, so that we can engage in planning. Projects such as the construction of a subway or a light-rail system take years to complete. Short-term, ad hoc funding is welcome, but that approach makes planning very difficult.

Mr. Paul Crête: In that case, we should perhaps try to kill two birds with one stone, and provide for the needs of large cities and commuter transportation while giving the economy a good boost.

I would like you to explain how investing in urban transit helps to create jobs. In times of economic slowdown, is this not a major tool that the government could use?

Instead of using 100% of the surplus to pay down the debt, we should consider the possibility of using some of the surplus to improve the quality of our infrastructures.

Mr. Michael Roschlau: Precisely. There are two things. First, we have the manufacturing industry in Canada. Whether it is a railway car or a bus, three of the largest bus manufacturers in North America are located in Canada, and 80% of their products are exported to the United States. We have to support that industry.

• (1605)

Mr. Paul Crête: If we want them to use new technologies, we have to provide them with the markets. We can act as a laboratory for development.

Mr. Michael Roschlau: That's true, all the more so since now that the Canadian dollar is at par with the American dollar, there is a move to export jobs to the United States in order to be more competitive with that country.

There is also the operational part of the equation. In order to provide urban transit to our cities, we have to hire drivers and mechanics locally. Urban transit always provides local spinoffs.

Mrs. Louise Poirier: Let me give you a brief example. The City of Gatineau has invested \$200 million in a project called Rapibus. This will have a direct impact on local job creation while providing transportation for suburban residents. That is also an important factor. A city with a good urban transit system will also attract companies and industries. That is also something that must be taken into account.

Mr. Paul Crête: I have a little time left, Mr. Cohen, and I would like you to know that I am hoping that our immigration laws will put an end to situations such as the one you described in relation to your grandfather. We should always remember that type of example, even if it only applies to one individual, in order to ensure that the same mistakes will not be repeated. We must always strive to improve.

Does that mean that the current bill is regressive and could lead us back to rather intolerable situations?

[English]

Mr. David Cohen: Very quickly, I will just say that the more discretion that is allowed into the immigration system, the more likely there are to be examples of the ones I gave in my introductory remarks. The more we can limit the discretion and put a structure in place that is wholly objective and transparent, the less likely we are to see the kind of examples I brought out.

The Chair: Thank you very much.

Mr. Del Mastro, seven minutes.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you.

Mr. Cohen, in your opinion, somebody who participates in an Internet forum—are they looking for anonymity?

Mr. David Cohen: No, sir.

Mr. Dean Del Mastro: So why are you protecting the individual, whom you claim is an immigration officer, who's posted these abhorrent comments you've made here, alleging they are from an immigration officer? Why are you protecting the identity of that person? Because I'll tell you, if they do work for Immigration Canada, I will demand that person be fired today. A person who makes comments like that has no place in my immigration system.

Why won't you identify who that person is?

Mr. David Cohen: It's the policy of our immigration website that we do not give the identity of anybody who posts on a public forum. But I will tell you this: I am wholly satisfied that the person in fact is an immigration officer, because not only did the individual place that posting but 41 other postings were made. And from those postings, it's evident that the person is an immigration officer.

More than that, I would ask you this question. If somebody is making a public posting like that and works in a facility that has more than 100 other employees, as this immigration officer states, wouldn't you think that this immigration officer's colleagues and supervisors might know how the immigration officer feels?

Mr. Dean Del Mastro: I would propose to you, sir, that if you know who this person is, you identify who the person is so that the person can be dealt with. Otherwise, I'm going to disregard the comments you've made as being the conjecture of an individual who would like to cast a negative light on our immigration officers, people whom, as you started your comments saying, you have respect for.

I have no respect for someone in our immigration system who harbours that kind of sentiment towards people from other nations. I'll tell you that straight up. And if there is an individual working in our immigration system who harbours that kind of ill will towards other communities, they should be dealt with accordingly. Our immigration system has been and will continue to be governed by the Charter of Rights and Freedoms, and it does not allow for that kind of discrimination or those types of statements to be made against anybody. We protect people in this country and we fight against sentiment like that. If there's a person in the employment of the Government of Canada who feels that way, they should be outed and dealt with accordingly, I'll tell you that right now.

Secondly, you said—

Mr. David Cohen: Can I just respond to that for a moment?

Mr. Dean Del Mastro: Please do.

Mr. David Cohen: It really isn't about this particular individual.

Mr. Dean Del Mastro: Yes, it is.

Mr. David Cohen: The difference between this individual and other individuals is that this person is showing you what's in his or her heart. Most people won't do that. That's why you need an immigration selection system that removes as much discretion as possible and relies upon objective criteria.

•(1610)

Mr. Dean Del Mastro: Sir, we have a broken immigration system, with 920,000 people on the waiting list. It's broken. That's why changes are needed. But you would really have to convince me that there is something wrong with our officers when Canada is the multicultural model of the world. Toronto has representatives of some 150 nations or more living in the city of Toronto. You're almost indicating that you feel somehow it's endemic within Immigration Canada that people harbour these kinds of sentiments about cultural communities, and we're therefore discriminating against cultural communities. I would argue that in Canada there is no evidence of that. If there is an individual who does harbour this kind of feeling within them, then they should be ousted.

Mr. David Cohen: Listen, individuals have biases. You really can't deny that. If you have a system that is purely objective, it really makes very little difference whether or not the person has biases.

Mr. Dean Del Mastro: My next comment is that an immigration systems with.... To everyone who's here on immigration, if you feel that the people on this committee don't know enough about immigration to be looking at it, I'll tell you that we have full-time staff in my office in Peterborough, and I deal with immigration files regularly. There's probably no file that any person at this table deals with more intimately than immigration. We deal with it all the time, and it's because the system is broken.

That said, I would argue that a system with 925,000 people on the waiting list is automatically discriminating against people. In your case, sir, it's discriminating against people who can't afford to hire an attorney to assist them with the immigration system. Isn't that right?

Mr. David Cohen: No, that's not right at all. It really has nothing to do with the hiring of an attorney. Frankly—

Mr. Dean Del Mastro: Do you work for everyone, or do you work for the people who can afford to pay you?

Mr. David Cohen: Sorry, can you repeat that, please?

Mr. Dean Del Mastro: Obviously some people can afford to pay an attorney and some people cannot. That is a discriminatory system. We have to fix it.

Mr. David Cohen: People don't have to pay to hire an attorney if they want to come to Canada. That really isn't what the issue here is at all. The issue is one of giving more discretion to immigration officers to carry out the instructions of the minister.

You talk about 925,000 people waiting in line. Then I suggest that the government use the mechanisms in the current legislation to bring people here quicker, and if they want, to curtail the influx of new applications. It's there; it ought to be used.

Mr. Dean Del Mastro: First of all, Mr. Roschlau, I liked the comments that you made with respect to the income tax benefits for employer-purchased transit tickets. It's a good idea. I've had it mentioned to me by a number of people. I think it's a system that would actually pay real dividends in the transit system.

I thought my colleague across the way might be interested in finding out that GO Transit ridership, year over year, March over March, is up some 7.5%. That speaks to what you're speaking about, which is the increased demand for commuter rail and for commuter transit.

I had just a quick question on the \$500 million transit trust. You indicated that was a great idea. I know that's been handed to the provinces to put to various priorities. What do you think the split should be? How should that work? What type of public transit do you think this country really needs? I know we need an integrated system, but what are we really missing out on in this country?

Mr. Michael Roschlau: I think the needs vary a lot from place to place, depending on the size of the community. I think what's important with investments like this is that they be equitable across the country so that there is the right amount of money available for big metropolitan areas like Montreal and Toronto but also the right amount for a small community like Whitehorse, which needs another bus.

I think distributing it to each province and territory by population makes a lot of sense. Then, I think, within each province and territory there has to be a mechanism there that makes sense as well. In the past we've had experience with using ridership or using a combination of population and ridership as a way of making that allocation, but I think the equity there within each province is also very important.

Mr. Dean Del Mastro: Thank you.

The Chair: Thank you very much.

Now we'll move on to Mr. Mulcair...

Actually, Ms. Chow wants to ask questions as a substitute. We can do this, but at the consent of the committee. If there's no problem, we can have Ms. Chow ask questions.

Some hon. members: Agreed.

The Chair: Okay, fair enough.

Ms. Chow, go ahead.

•(1615)

Ms. Olivia Chow (Trinity—Spadina, NDP): Obviously in complex immigration changes we want to have the time to study this. The immigration committee only has three days of hearings. On Thursday of this week there will be a report done. So within four days, that's it. If your name—the Canadian Arab Federation, for example—is not on the list by now, it's too late. You probably will not have a chance to come in front of the immigration committee.

Having said that, the NDP has a motion in front of both this committee and the immigration committee asking for cross-country consultation.

What is your opinion of that? Should we take more time to study these complex immigration changes?

Mr. Mohamed Boudjenane: Obviously the member of Parliament clearly knows that the majority of people who've expressed their views about this particular piece of legislation have been against it. The Canadian Bar Association, the Quebec Bar Association, expert immigrant community organizations, settlement services groups—all of those people are against it. Obviously there is an issue.

So if the government is really concerned with transparency and democracy, it needs to consult. It needs to have a wider consultation process to be more inclusive. Definitely, yes, we need more consultation on this issue. If we were happy with it, if we understood the impact of the changes on our communities, we would not be here. But it's not the case.

Ms. Olivia Chow: This is a question to the Arab Federation. Mr. Cohen laid out very clearly that it's really not about the backlog, because when you have a backlog, all you have to do is hire more people and set higher targets; that the minister has the power to do so now; and that these immigration changes will have nothing to do with the 925,000 people in the backlog anyway, because the implementation date, if this bill passes, is February 27, after the bill is introduced. So it has nothing to do with the 925,000 people in the backlog.

On top of that, Mr. Cohen said that the best and the brightest already have the capacity right now—if the minister chooses, or under the regulations under IRPA—to in fact come to Canada in an expedited manner.

So it's not about the backlog. It's not about getting skilled labour to come to Canada as quickly as possible. Why, then, do you think the Conservative government introduced these sweeping changes?

That's to whoever wants to tackle the question.

Ms. Amina Sherazee: I think we'd be stating the obvious to say that it's about a confidence vote. It's not fair to Canadians to be implementing legislation this way. It's part of a move toward legislative changes that will authorize instructions to be made in all sorts of areas, which will reduce political accountability.

I think it has serious implications for our constitutional democracy. It certainly has implications for the rule of law, particularly when people are going to be making applications under a particular set of laws, and then arbitrarily those criteria will be changed and their applications will be refused without notice to them. After their fee has been collected, after they've waited their turn, their application could be, as the Canadian Council for Refugees said, shredded.

It has really huge implications also for our international obligations—this is something I've set out in our written submissions—when we talk about humanitarian and compassionate applications not being required to be assessed outside of the country.

So these are all very major changes that impact on really fundamental aspects of our democracy. This railroading in passing the legislation, the high-stakes manner in which it's being done, is highly objectionable. It really calls into question the government's commitment to fair, open government.

The Chair: Mr. Mulcair.

[Translation]

Mr. Thomas Mulcair (Outremont, NDP): Mr. Boudjenane, I would like you to come back to something you said earlier about the fact that since September 11, 2001, refugee applications are subjected to more scrutiny. Can you tell me more about that, please?

Mr. Mohamed Boudjenane: Yes. Recently, as you know, the United Nations High Commission for Refugees singled out the

Canadian government which was not doing enough to take in Iraqi refugees. The minister reacted, but in increasing the number of Iraqi refugees, she reduced the number of refugees from other countries, which seems rather contradictory. That is one point, but I can assure you that there are very clear indications in terms of number, of percentage, over the past three years. The number of immigrants from Arab and Muslim countries has dropped by 30%. Most of the immigrants from those countries wait three times longer than others to have their applications processed.

To also address a comment made by the Conservative member, I would add that the current system includes systemic barriers for certain groups of immigrants. Take, for example, the African continent, which is huge: we only have four missions to grant visas to immigrants from that continent. There are two in Asia; that includes China, Pakistan and India. Moreover, there are more than 50 in Europe and in the United States, there are 10 times the number of these...

Why is there such an emphasis on immigration that no longer comes to Canada, namely, European immigration, when most of today's immigrants come from Southeast Asia, the Middle East, Africa and Latin America? If we really want to reduce the waiting lists, then why not invest in services that will speed up the processing?

• (1620)

Mr. Thomas Mulcair: Speaking of investment, you also said that there are 250 Arab doctors waiting for their licence to be granted by the Collège des médecins du Québec. Since no hospital wants to take them on as interns, they can't practise medicine. The minister appeared before the committee and told us that these changes are necessary in order to allow more doctors to immigrate to Canada.

Am I mistaken, or is there nothing in this bill that will help to bring in more doctors?

Mr. Mohamed Boudjenane: There is nothing in this bill that will help to bring in more doctors. In fact, the process will be more complicated. The only government initiative is to set up a type of office where people will go to register, but that is all. It is useless.

Mr. Thomas Mulcair: It will not add one single position in any hospital, nothing at all?

Mr. Mohamed Boudjenane: It adds nothing... If the government were serious in wanting to solve the doctor shortage... It is a problem that affects all Canadians. I have no family doctor myself, so I am concerned. How can it be that there are doctors—

[English]

The Chair: Thank you. Your time has gone.

Mr. Malhi, the floor is yours.

Hon. Gurbax Malhi (Bramalea—Gore—Malton, Lib.): Thank you.

My question is to David Cohen. According to your opinion, this bill, Bill C-50, is going to affect the family class sponsorship. When they come to this country, how will the new skilled immigrants get jobs, when at present there are so many professionals, engineers and doctors, driving taxis and delivering pizza? Some of them are unemployed too.

Mr. David Cohen: Let me address the first part of your question, where you asked about how this legislation will affect the family class or the sponsorship of applications. The truth is we don't know at this point in time. The minister will be able to, by category of immigration, send instructions to process applications quickly, to hold some back for later, or to not consider some applications at all. This could apply to any class of immigration, economic class as well as family class.

So we really don't know how it will, in the future, affect the sponsorship of spouses, the sponsorship of children, and the sponsorship of parents and grandparents. It's really impossible to tell at this point in time. We do know there will be the power for the minister to issue these kinds of instructions that will delay cases or speed up certain cases.

The Chair: Mr. Malhi, it is a little unusual to interject at this time, but Mr. Cohen has to leave. I'm just going to try this in the spirit of non-partisanship. Mr. Wallace has asked for one quick question for Mr. Cohen before he has to leave. If you will accept that, and I tack that time onto yours, would that be fine?

Hon. Gurbax Malhi: But I need the answer from Mr. Cohen, not from somebody else.

The Chair: No, no, I know, but...

You have more questions for Mr. Cohen? Then go ahead. His time is very tight. He has to leave for the immigration committee. Go ahead, then, Mr. Malhi.

Hon. Gurbax Malhi: Mr. Cohen, had you finished your answer?

Mr. David Cohen: I'll answer you with respect to the skilled workers, professionals, and skilled tradespeople who come here to Canada and find it difficult to find their jobs in Canada.

It's true, and I think we have to make a greater effort to put more pressure on professional organizations and skilled trade unions. For example, we know there are openings in Quebec and Ontario for doctors, yet they can't practise, even though they've qualified outside Canada and inside Canada. There's resistance there, and that's where the pressure has to be put.

• (1625)

Hon. Gurbax Malhi: What is your opinion about the minister being so sympathetic to the immigrants that she wants to clear out the backlog? On the other side, when I personally asked the minister to issue a ministerial permit because somebody had died in the family, she had no intention of giving one permit, but she can clear the 900,000 backlog. Why is she so sympathetic? What's your opinion on that?

Mr. David Cohen: One way to clear out the backlog would be to send out instructions to not take in any skilled worker applications for a period of time—be it one, two, or three years. At the end of that period there would be no more backlog. I don't know if that's what the minister intends to do, because at this point she has not given any indication as to what those instructions will be. But the minister will have the power to clear out the backlog.

The measures, however, will be drastic if they are taken, and we ought to be concerned about the discretion given to officers in the long run.

The Chair: Thank you.

Mr. Wallace.

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chairman.

Thank you, Mr. Cohen, for sticking around. You indicated that the legislation now allows the minister to set targets for different visa offices around the world, and you gave the example of Buffalo. In your view, part of the backlog is because the number is smaller in some places, and more people apply than are actually allowed in.

So if the minister has the ability to set number targets, why shouldn't she have the authority to set occupational targets if whatever skill sets they are looking for are available? To me it's the same process; one involves numbers, and one involves skills. If she has the authority to do one, why shouldn't she have the authority to do both?

Mr. David Cohen: That's a very good question. With respect to occupations, the minister now has the power to restrict certain occupations. She can say that for the time being, we don't need more accountants in Canada. Then anyone who's an accountant won't apply.

Mr. Mike Wallace: That's on the negative side. But on the positive side, let's use plumbers as an example. We want to attract plumbers, so if someone sends in a plumbing application, they move a little closer to the front of the line.

Mr. David Cohen: But we do allow that. If an employer is willing to hire that plumber from abroad, that plumber comes in immediately on a work permit.

Mr. Mike Wallace: That's if you've already made arrangements.

Mr. David Cohen: You asked what's the difference, so here is the difference. Let's say an application is processed in Buffalo in under two years, but it takes five years at the immigration office in India for an application with the same qualifications. At least we're saying to that individual who has to wait five years, "It's not your fault that you have to wait five years, but at least we will assess your qualifications the same way we assess those of the person who applied at the same time you did in Buffalo. We will assess the qualifications in the same way."

Let me explain. If today I submit an application in Buffalo and somebody else submits an application at the Canadian visa office in New Delhi, the one in Buffalo will be heard first. But the person who has to wait longer in India, through no fault of his own, at least will be assessed according to the same standards as the person who was assessed in Buffalo.

Mr. Mike Wallace: Maybe the plumber from the U.S. would get the same sort of approach. A plumber from the U.S. and a plumber from India would be able to move up the list under the same circumstances.

Mr. David Cohen: That's if they have a job. I'm saying that under the current system, both of these plumbers are at least being assessed according to the same objective criteria.

Mr. Mike Wallace: But the minister, in this legislation, is using a package of identifiers of skilled labour that's needed. It's not that company B has to say they need a plumber. The plumber has the opportunity to come here and find a job. In this case our minister is using a package of criteria or indicators of the types of occupations that are required. So it doesn't require a company to ask Mr. Smith from India—sorry, I guess I shouldn't use Smith—to come here because he has the specific skills they want. It allows anybody with a certain occupational skill that's generally needed in this country to come here, based on those criteria or that analysis, from a variety of approaches.

Your argument doesn't hold water with me, sir.

• (1630)

The Chair: You made your point, Mr. Wallace. I'll allow just a very quick answer and then we'll move on.

Mr. David Cohen: Unfortunately, it's not something that can be answered in one sentence, but I would like to try to say that, if it could be done fairly and objectively, you would have a good point. But in fact, it's going to require the picking and choosing of applications somewhere in the queue and that's where it breaks down.

I'm sorry, I really do have to leave, Chair. Thank you.

The Chair: Thank you very much, and thank you to our panellists for coming forward and testifying.

Thank you for the questions. We'll now pause as we bring forward our second panel.

• (1630)

(Pause)

• (1635)

The Chair: We'll ask the cameras to leave.

We'll start our second round. We have our witnesses here and we have the members at their seats.

We will start. We have four presenters and we will start with the C. D. Howe Institute. We have Mr. Poschmann.

You're first up and we'll give you the floor. You have seven minutes.

Mr. Finn Poschmann (Director of Research, C.D. Howe Institute): Good afternoon to you, Mr. Chairman, and to all. I thank the committee for inviting me. It is always a delight to appear before this committee.

Clearly I am here to discuss this budget bill, and there's a lot in that bill, so I'm going to restrict my opening comments to TFSAs and Bank of Canada powers, parts 1 and 10 of the bill.

Let me begin by repeating that there is a lot in the bill, and this point deserves emphasis. Members of the committee are keenly aware of the importance of the parliamentary process and may know that I believe MPs should have an opportunity to scrutinize legislation with the diligence it deserves. I will not second-guess the government's wisdom in bring forward omnibus legislation like this bill, but I point out that doing so and packing multiple issues together in one bill does make it difficult for any of us to give each aspect the scrutiny it deserves.

That said, there is much to like in this bill, and I do. I've made no secret of my support for tax-free savings accounts, and I'm absolutely delighted to see the idea appear in legislation. When Jon Kesselman and I first wrote about the concept in the Canadian context back in 2001, our focus was on expanding the range of options available for Canadian savers. We were concerned that, on the one hand, people planning their retirements did not have enough tax-recognized contribution in total. After all, the contribution limits on RRSPs were much lower then, and at the time had not moved much over many years.

We had two reasons for prescribing something other than just bigger contribution limits. We made the general point that people are better off when they have more options for how they can save. Sometimes, in anyone's life, it can make more sense to save out of pre-tax earnings, as with RRSPs, and others might be better off saving out of after-tax earnings, as with TFSAs.

I should add that we labelled them "tax-prepaid" savings plans, because we wanted to emphasize that the tax had already been paid on the earnings underpinning those savings. That reminder explicit in the tax-prepaid label was really aimed at future governments, because we were concerned that the plans would become very popular and large over time and that future governments would see the accumulated savings as a target for taxing.

That brings us to the second aspect of why I think the option of saving in TFSAs is good for Canadians. That is because RRSPs are not right for everyone. Consider an older worker, someone who perhaps immigrated to Canada late in life who doesn't have much savings or a workplace pension. This worker will almost certainly rely on the guaranteed income supplement when he or she retires and may be eligible for federal or provincial supplementary benefits. But what happens if she saves in an RRSP? When she retires and begins to draw down her RRSP savings, the withdrawals count to taxable income, but she must also count those withdrawals in establishing her GIS eligibility and will lose entitlements at the rate of 50¢ or 75¢ on the dollar for each dollar of private income, including from her savings. If she loses entirely her GIS ability, she'll lose access to other benefits such as provincial top-ups or subsidies that are made available to the people who qualify for the GIS. So some workers are no better off saving in RRSPs than if they don't save at all. In fact, they may be worse off if they do.

Some folks argue that low-income families don't save. In fact, they do. A few years back, GIS recipients had retirement savings totalling \$37 billion, averaging about \$25,000 each, but even if we thought saving was rare, policy shouldn't punish people for doing it. That's where TFSAs come in. I see them as beneficial for Canadian savers of all sorts.

For us to take advantage of them, however, we do have to see the legislation adopted and supportive regulations developed and published, because 2009 is not very far off, and if financial institutions are to roll out the new savings accounts, they need staff and promotional materials, they need to deal with their legal issues, and perhaps most important of all, they have to update their information systems. So all that has to be ready.

That implies two things. The first is swift action from the government in passing legislation and regulation if we are to see TFSAs as swiftly in place as I would hope. The second is that as we run through the regulations in particular, but the legislation too, we should see that, wherever possible, TFSAs be given provisions identical to those applying to RRSPs. This is a good example of where policy can usefully be guided by practice.

At this point, I would like to shift gears entirely while returning to the general issue of legislative scrutiny. Part 10 of the bill proposes broader powers for the Bank of Canada. Indeed, the C.D. Howe Institute published a brief last year stating that an updated Bank of Canada Act was due because the types of securities the bank was permitted to buy and sell no longer reflected the modern financial marketplace. That's a problem, because if the governor had to invoke emergency powers to respond to ordinary needs for short-term liquidity in support of otherwise solvent financial institutions, the announcement of an emergency would risk further aggravating the problems it sought to solve.

• (1640)

Bill C-50 would broadly expand the governor's powers, subject to the requirement that the governor establish a clear policy and publish it seven days in advance in the *Canada Gazette* laying out how those powers could be implemented. That's good for accountability.

What concerns me, however, is whether the bank, with liberalized powers to buy and sell assets as well as lend, is sufficiently protected from pressure to prop up failing institutions, exposing Canadians at large to risks and costs that should stay parked with those institutions themselves.

The Bank of Canada is very well managed and recognized around the world for its independence and reliability, but it is dangerous to assume that this will always be the case, and risky to lower the institutional barriers that protect that independence. After all, when faced with political pressure to act in a particular way, it is useful for an agency head to be able to say that the institution's governing legislation does not permit what the political leadership says it wants.

Again, I think the bank will handle these powers well, but I find the recent U.S. experience of grave concern. There, after all, the Federal Reserve has come under intense pressure to support financial institutions, and to do so in some novel ways. For good or ill, the Fed has provided such support, so I see there some evident justification for my concern.

What to do about it? One modification would be to look for a longer lead time—longer than seven days—with respect to policy changes in what the bank may do in the course of its market activities, and to clarify that changes will take the form of regulations requiring order in council approval. Another would be for the legislation to be more prescriptive and less open-ended with respect to bank powers. Those are some options.

With that, I think my time is up, Mr. Chairman. I thank you very much for your time.

The Chair: We thank you very much for your presentation.

We'll now move on to Mr. Cunningham, from the Canadian Cancer Society.

I see you brought your lunch with you. I don't know whether you're going to have time to eat it, but we are certainly looking forward to your presentation.

[*Translation*]

Mr. Rob Cunningham (Senior Policy Analyst, Canadian Cancer Society): Thank you Mr. Chairman and members of the committee. My name is Rob Cunningham. I am a lawyer and a senior policy analyst for the Canadian Cancer Society.

[*English*]

On behalf of the Canadian Cancer Society, thank you for the opportunity to testify today.

Our single most important strategy to reduce tobacco consumption is higher taxes. The very high levels of contraband that we find in Canada today are undermining the success of that strategy. Teenagers are particularly price-sensitive. The high levels of contraband are a problem for not only public health but also public revenue; there's easily more than \$1 billion lost by federal and provincial governments. It's also a problem of public security, given the nature of the problem.

My comments will refer specifically to clauses 50 to 69 of the bill, which we support and urge all members of the committee to endorse. We would like to endorse what was in the 2008 budget, in terms of contraband prevention measures, first, to prohibit the importation or possession of tobacco manufacturing equipment, except for those with a valid tobacco manufacture licence. In the absence of this provision, there is inadequate control of the ability to make cigarettes.

Second, we endorse making explicit the authority of the Minister of National Revenue to deny or revoke a tobacco manufacturer's licence where inspectors' access to the premises is impeded. We know this is currently a problem.

And we also support changing the way roll-your-own tobacco is taxed, to facilitate implementation of the government's forthcoming sophisticated tax stamping system. It is a positive measure that we support.

Another measure in the bill and the budget is to close a loophole for a product category called "tobacco sticks", which are taxed at a much lower rate than cigarettes. Nine out of ten provinces have closed this loophole and the market share has fallen to less than 1%. It's a positive measure to prevent problems in the future.

I'd like to take the occasion to acknowledge and support the announcement of Public Safety Minister Stockwell Day last week with respect to moving forward on enforcement as it relates to tobacco contraband. There's a very serious recognition by the government of the magnitude of the problem. There's a political commitment to move forward. Minister Day recognized this is one step in the process and that more measures in the future will be considered, and we agree there are other measures that would contribute to having an impact as part of a comprehensive strategy.

If I could invite members of the committee to turn to the handout, on the final page is a graph comparing provincial tobacco tax rates in Canada. We see that Ontario and Quebec have the lowest tobacco tax rates, yet they have the highest contraband levels by far. This helps to illustrate that the problem of contraband today in Canada is not one of higher taxes or of demand, but of supply. The key to success is eliminating the sources of supply. We know where those are. The RCMP was very specific about that in the report it released last week on illegal operations on the U.S. side of Akwesasne in New York State near Cornwall, Kahnawake near Montreal, Tyendinaga near Belleville, and Six Nations near Brantford. And there are illicit distribution channels off reserve in various places, particularly in Ontario and Quebec.

What additional measures could assist here? First, to persuade the U.S. government of the importance of shutting down the illegal operations on the U.S. side of Akwesasne. It is a national security threat to both countries. The Canadian government is losing revenue. By far it is the most important source of contraband entering Canada, and we would expect that the U.S. government would ask Canada to act if the reverse were occurring and the U.S. market were being flooded with illegal cigarettes from Canada.

Second, prohibit the supply of raw materials to unlicensed manufacturers, not only leaf tobacco but also cigarette papers, filters, and packaging. We need to choke off illegal production even before we get to the factory.

Third, establish a minimum bond of \$5 million to have a tobacco manufacturers licence. Right now, believe it or not, it's possible to get a federal manufacturing licence for as little as \$5,000—which is a problem. If we had a meaningful bond, we could have the financial leverage to encourage compliance, and if there's a failure to comply, that bond could be forfeited in whole or in part.

Fourth, have a tracking and tracing system to build on the new tax stamping system that's coming to monitor shipments and identify the point of illegal diversion.

• (1645)

Fifth, and finally, have better promotion of the first nations tobacco tax opportunity that currently exists because of the 2006 budget. There is a very low level of awareness of this, but if we could promote it more, first nations could implement a tobacco tax equal to provincial tobacco taxes. They must have an agreement, an arrangement, with the province in which they're located, but this would assist them.

Contraband is a population-wide public health problem for aboriginal and non-aboriginal kids, and aboriginal and non-aboriginal populations. There's a very high smoking rate among the aboriginal population. It's caused in part by long-standing access to cheap cigarettes, including very cheap contraband cigarettes.

Thank you for your time. I look forward to any questions you may have.

The Chair: Thank you very much.

We'll now move on to the Canadian Institute of Actuaries.

Monsieur Bédard, the floor is yours.

[*Translation*]

Mr. Michel Bédard (Member, Task Force on Financing of Employment Insurance, Canadian Institute of Actuaries): Thank you Mr. Chairman.

My name is Michel Bédard and I would like to thank you for inviting the Canadian Institute of Actuaries to appear before your committee to discuss the creation of the Canada Employment Insurance Financing Board, as provided for in Bill C-50.

Our profession puts public interest before its own needs and those of its members. It is with that in mind that in December 2007, we published our report on the funding of employment insurance and that is we are appearing before your committee today.

We support the creation of the Canada Employment Insurance Financing Board, an independent board to supervise the funding of the plan; however, there are major aspects of this bill that could lead to problems for workers and employers as well as for the government itself.

The merit in this new system, of course, lies in the fact that after 2008, all costs and premiums will be balanced. However, forcing the financing board to maintain that balance on an annual basis, one year at a time, represents a serious handicap and will lead to fluctuations in the premium rates, and, more particularly, will trigger a procyclical rate increase at the first sign of a recession.

[*English*]

To illustrate, let's look at the following scenario. A recession hits Canada. Unemployment levels rise to 8%, which is 2% higher than now, increasing payments to out-of-work Canadians by about \$3 billion. What happens? The board's \$2 billion reserve is totally depleted. The EI account is forced to borrow another \$1 billion from the government, even though, by the way, the EI account shows a surplus at this date of \$56 billion. Unemployment levels might rise further. The government fiscal balance falls into deficit.

When the premium rate is set for the following year, several things will need to happen. First, the \$1 billion that was borrowed by the EI account will have to be repaid, and so premiums will have to rise to cover that. The \$2 billion so-called reserve has to be repaid within a single year. Then, of course, an increasing number of Canadians are out of work, and premiums have to increase to cover those extra costs.

Well, consideration of raising the premiums above the legislated limit of 0.15%, which is in the current legislation, will then fall to ministers. This will not be an easy decision in a weakened economy and weakened fiscal position.

We can look at the many times that the government substituted its health to the EI commission in the past to see that this is a real risk and a real possibility. Of course the impact on Canadian businesses, which pay for nearly 60% of the EI program costs, will be significant at those times when their cashflow and profits are severely reduced. And workers, who foot the bill for 40% of the EI contributions, will also be deeply impacted.

We believe having a five- to seven-year time horizon, closer to the normal course of a business cycle, would eliminate the necessity of raising premiums at the precise moment when they need to be stable, not increasing. Our calculations also indicate that an actuarial reserve of \$10 billion to \$15 billion would be needed to stabilize premium rates over such a timeframe. The rest of the existing surplus, which now stands at \$56 billion as I pointed out, is not needed for the proper financial management of the EI program.

Even during an economic downturn that's not as deep as the one I described... Even deeper recessions might also be possible, but during a smaller economic downturn, the one-year look-forward system would necessitate raising premiums on each occasion, pro-cyclically. Canada's actuaries believe this mechanism needs to be abandoned.

In fact, the proposed system is likely to produce premium rates that vary erratically from year to year, even in normal times, to recover normal forecasting errors. The so-called reserve of \$2 billion does nothing to prevent this, as it must be rebuilt each and every year. In this sense, it is not a real reserve under that proposed system. It will not help stabilize premium rates at all. In fact, there is no fiscal cost for the government in any of this, of course, as the new board's operations will be entirely consolidated with those of the government.

Bill C-50 also has a number of restriction override provisions that, in our opinion, minimize or undermine the promise of independence put forward by the Minister of Finance in the February 26 budget. Under proposed sections 66.1 and 66.2—it's paragraph 2(b) in each—ministers are authorized to regulate what is binding on the board in addition to the rules they have to follow in terms of setting premium rates for a year.

Proposed subsection 66(8) allows ministers to override the 0.15% limit.

Proposed section 66.3 allows ministers to override the board without even any limit, at any time.

And proposed subsection 80(2) allows the Minister of Finance to dictate these loans and the pace at which they will be repaid.

We conclude with three recommendations. First, as I pointed out, the Canadian Institute of Actuaries recommends that premium rates be set taking into account a five- to seven-year period, with an actuarial reserve of \$10 billion to \$15 billion drawn from the existing surplus of \$56 billion—maybe not all at once, maybe spread out over time, but ideally, given through a truly independent body.

• (1650)

Second, the institute recommends that Bill C-50 be amended to allow the chief actuary and the board considerably more latitude in the assumptions and projections needed to develop the premium rates, taking into account a five- to seven-year time horizon.

Third, the institute must, as a point of principle, reiterate our position of principle that the existing surplus belongs to the EI system and to its contributors, and should be addressed clearly instead of being swept under the rug once again. And in that domain, I must point out, of course, that the Supreme Court will be hearing this very situation tomorrow morning.

Thank you.

• (1655)

The Chair: Thank you very much.

Now we'll move on to our last presenter. We have Lorne Waldman, an immigration lawyer. He's here as an individual.

The floors is yours for seven minutes, please.

Mr. Lorne Waldman (Immigration Lawyer, As an Individual): Thank you.

Having listened to my predecessors, I am convinced once again that it's extremely unfortunate that the government has chosen to put so many diverse issues into one bill. I found the presentation by the actuaries association extremely interesting, and I think it would be extremely important to take heed of what he said. I would say the same of the presentation by the Cancer Society and by my friend from the C.D. Howe Institute as well.

In any event, having said that, I will address the issue that I know about. I don't know about actuarial issues but I do know about immigration law. I've practised it for 30 years.

I'd like to deal with the claim of the government that this has to do with the backlog. I hope by now it's abundantly clear that this legislation has nothing to do with the immigration backlog. It excludes the backlog from its application. If that's the case, the question arises: what are we going to do with this massive backlog?

I would suggest to you that first we have to understand how it came to be. It's only a backlog that was created in the last six years—900,000 in six years—because the law changed six years ago. How did we get to this massive backlog in six years? We got to it because, notwithstanding the fact that this government and the previous government had the tools in place to ensure that the backlog didn't grow—because they could have changed at any time the criteria—they stood by and allowed this massive backlog to exist. We now have a backlog, and this legislation won't do anything about it, so we have to ask ourselves why we are talking about the changes to the selection criteria if, in fact, we have 900,000 people waiting whose applications are going to have to be processed, which is equivalent to about six years' worth of applications in the backlog.

There has to be a strategy to deal with this backlog, and this legislation has nothing to do with that strategy. The minister has suggested that we need this legislation because we need to have more flexibility in order to determine who we select to come into Canada. As the speaker from the previous panel said, we already have that flexibility in place. The minister has the power to make political directions. One example is the provincial nominee program. There's nothing in the legislation that allows provincial nominee applicants to get priority processing over other applicants, but they get it because the minister directed her officials to process provincial nominee applications more quickly.

The minister can make any types of direction she likes, even dealing with occupations. I went to court two years ago and challenged the minister's authority to do this in the case of Vaziri. I lost. It was a case about processing sponsored applications, and I argued that the legislation said that parents and spouses had to be processed at the same time, and the only way the minister could give priority over spouses was through a regulation. The Federal Court said the minister had political power to direct processing of applications as she liked. That would apply to occupations, and it would apply to provincial nominees.

So the minister doesn't need that power through this legislation.

The minister has said that this legislation does not authorize her to interfere in individual applications. That may be her intent, but as immigration lawyers, we've learned many times that professions of intent are meaningless when you go to the Federal Court and the court looks at the wording. The wording, as it stands now, clearly allows the minister to interfere with individual applications. If the government is serious, they should introduce an amendment that expressly says she cannot do that.

I was at the citizenship and immigration committee before, and someone from the Bloc asked me if it would allow the minister to interfere with the power of Quebec to select immigrants. The answer is yes. The instructions that the minister can issue are unrestricted. Indeed, the minister could issue an instruction saying that all provincial applications are going to be given lower priority than others, or no priority, or whatever.

So that's extremely important for the people from all of the provinces to understand. And this gets to the question that was asked: what's the problem with this? If we have the power now, why do we need this legislation? Well, this legislation gives the minister the power to override any of the rules and regulations or even the agreements that exist between the provinces. It gives the minister extremely broad, unfettered discretion with respect to who gets into Canada, where there is absolutely no political accountability, and that, in my view, is a very serious problem.

The Conservatives came to power saying they believed there should be more participation by Parliament. What this legislation does, if it's passed, is basically undermine any participation by members of Parliament in any aspect of the immigration process, because anything that's debated can be undermined by instructions issued by the minister when Parliament isn't sitting, which wouldn't be subject to any debate. If this bill goes through before the end of this session and becomes law on June 30, on July 2 the minister could issue an instruction that could totally change all the rules under

which applications are being processed, and Parliament wouldn't have an opportunity to discuss it until October.

• (1700)

This is extremely undemocratic, and undermines the role of Parliament in debating and discussing immigration policy. In my view, it's not correct that the minister will be politically accountable as a result of publication. She may ultimately be politically accountable, but by the time any debate occurs, months will have passed. So I would urge the committee to really defer a determination of this legislation because I think it's really ill-conceived, undemocratic.

My final point is that it sets a very negative precedent. If this legislation is allowed to pass, what is to prevent the Minister of Finance from being given powers to issue instructions about important matters? What is to prevent the Minister of the Environment from being given the same power, to override the regulations through some kind of administrative fiat? Ultimately we can give all the different ministers the powers to issue instructions, and then we don't need to have a Parliament, we just have ministers who issue instructions. It's an extremely dangerous precedent that is a further centralization of the power of government, and I think it's something that should be carefully considered before it's passed into law.

Thank you very much.

The Chair: Okay, thank you.

We'll move to questions. Mr. McKay will start, for seven minutes.

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

Thank you, witnesses.

I agree completely with you, Mr. Waldman. We have four important issues, four important presentations—and I can't possibly do justice to your presentation so I'm going to ignore you; I apologize.

Voices: Oh, oh!

Hon. John McKay: I also want to publicly thank Mr. Cunningham for his group's assistance in passing my private member's bill on fire-safe cigarettes. It's an important and groundbreaking piece of legislation, and I understand it's pretty well gone around the world. So I think you need to be able to pat yourself on the back on that.

But I'm going to ignore your issue too, because we have a very limited amount of time and we have a bill that has a lot of extremely important issues to it.

I want to start with you, Mr. Poschmann, on this increase in powers. On a theoretical basis, we sort of agree that the legislative authorities of the Bank of Canada need to be updated. But there is a perverse consequence to this. It appears, in effect, to reward bad behaviour.

If bank X is in difficulty because it bought a whole pile of junk, and bank Y didn't buy junk on the marketplace, now bank X can go to the Bank of Canada and say, "Mr. Governor, I have this pile of paper here and I really need some money for it. Would you mind giving me some money?"

Under these authorities, particularly if there's any hint that maybe the bank has any difficulties with liquidity, the governor will be under an enormous amount of pressure to respond to that request on the part of the bank that behaved poorly in the marketplace.

I'd be interested in your comments on that.

Mr. Finn Poschmann: Thank you, Mr. Chairman, and Mr. McKay.

I agree that this is exactly the risk ultimately that presents itself to the Bank of Canada when powers are expanded quite liberally and open-endedly the way they are.

I confess to some hesitance about saying so, because it is very important that an institution like the bank, like a monetary authority, should have the discretion it needs to respond to suddenly changing or quickly changing market conditions, but it is a power that must be used with extreme timidity. We should be very nervous about the prospect of a central bank bailing out institutions. We should be nervous about reducing the power or reducing the ability of legislation to construct a barrier between those pressures and the minister.

So that is why, in looking for a middle ground in the act, I suggested something along the lines of slowing down the process so that the bank isn't pushed hurriedly into doing things it might not otherwise like to do.

Hon. John McKay: I take your point on the longer lead time, and more prescriptive and less open-ended. I wish that this particular expansion of the powers of the governor were not in this bill. I think you've offered some very thoughtful insights, and I would like to hear from other people who think in this particular...

You made one comment—about subject to "political pressure"—that I didn't quite understand. How would this make the governor more vulnerable to political pressure?

• (1705)

Mr. Finn Poschmann: First of all, Mr. Chairman, Mr. McKay, the potential pressure from financial institutions or from the political leadership on the Bank of Canada is always there anyway. In other words, the bank governors can read newspapers too, and understand what sort of pressure is out there in the marketplace, economically and politically.

The political pressure can take the face of something we recently saw in the United States, where the U.S. Fed exploited some little-used powers and broadly expanded its activities by way of, for instance, bailing out Bear Stearns. The next thing we found was that Congress had many more things it would like the Fed to do. Perhaps embarrassingly from my perspective, the U.S. Fed immediately turned around and underwrote a portfolio of student loans. That's something I would never have expected to see.

One of the things that legislation can do is construct a wall around the governor that says, "Well, that's very interesting, Mr. Minister or

Mr. MP, that you would like me to extend liquidity in this way, but the legislation says I can't." That can be an important defence.

Hon. John McKay: Thank you. You make very valid points. Unfortunately, I'm running out of time.

I want to direct one question to you, Mr. Bédard. The proposal in Bill C-50 seems to me to be a half-pregnant solution. There is an argument to be made that we could set up a separate EI commission, but when you underfund it at \$2 billion instead of \$15 billion, and talk about the cyclical... I don't know why you people say pro-cyclical, when I think it's converse-cyclical, but that's just actuary talk.

I think your basic point is quite correct. Have you actually worked out numbers in which, if you projected a certain level of unemployment in a particular scenario, in fact it would have a drag on the economy and make it more difficult for the economy to actually recover?

Mr. Michel Bédard: We are not economists, so no, we have not analyzed what the drag might be. We can determine, though, that an order of magnitude of \$10 billion to \$15 billion would be needed to carry us through recessions similar to the ones that have occurred in the past, analyzing the variability in unemployment rates.

The \$2 billion, as it stands now, does nothing to stabilize premium rates, because it must be rebuilt each year. You could have a zero in there and you'd have the same net effect. It doesn't really matter.

Hon. John McKay: Effectively what you have to do if you're having a down economic cycle, or you're in the down part of the economic cycle, is run around and find \$2 billion, and you have to find it out of the people who could least afford to pay for it, mainly the people who are still working, while many of their colleagues might well be unemployed.

Mr. Michel Bédard: Well, of course, yes, you have to raise premiums from those who are still working, but we say that, mainly, you have to stretch out the period. You cannot take one year at a time. You have to look at it over a longer period.

Hon. John McKay: It drives the need for premium revenue. It gets driven right on to the need to replace the \$2 billion, or the \$1 billion—the \$2 billion plus \$1 billion that you replaced—instead of being spread on the general revenues of the federal government.

Mr. Michel Bédard: Indeed, instead of being spread, in our opinion, over...on the \$10 billion to \$15 billion, on a longer time period, using the reserve—

The Chair: Thank you very much. I think the point was made.

Monsieur Crête, the floor is yours.

[Translation]

Mr. Paul Crête: Thank you, Mr. Chairman.

Mr. Bédard, were you not a chief actuary for the employment insurance plan a few years ago?

Mr. Michel Bédard: That is right. I was the chief actuary from 1990 to 2003.

Mr. Paul Crête: The position that you have adopted in your capacity as an actuary is probably based on your personal experience. In your opinion, what effect will the \$2-billion limit have on the setting of future premium rates by the government? I believe you said that there could be very definite highs and lows. Could that not cause the current benefits to level out over a number of years, since there is very little room to manoeuvre?

Mr. Michel Bédard: The decisions related to benefits are different from the funding decisions. What we are saying is that the \$2 billion, in its current form, will do nothing to stabilize the plan. There could be a ripple effect on benefits; that has occurred in the past.

• (1710)

Mr. Paul Crête: With \$10 to \$15 billion, there would be greater stability. If, as some have predicted, a relatively strong economic downturn were to occur, how would that affect the plan?

Mr. Michel Bédard: As is the case with any economic downturn, the system provided for in Bill C-50 would increase the premium rates. The system provides for a variation limit of about 0.15%, but that could be increased by the ministers at any time.

Mr. Paul Crête: Employers will be terribly worried about short-term increases in premiums during an economic downturn. That will lead to increased political pressure to avoid an increase in benefit rates. There will probably be a tendency to want to leave them alone. The six projects for seasonal workers could remain pilot projects for quite some time.

Mr. Michel Bédard: I can't comment on pilot projects. There will certainly be pressure on premiums and benefits.

Mr. Paul Crête: In your opinion, why did the government choose this option rather than providing for an entire economic cycle, as was the case in the previous act? The \$54-million surplus, that the Supreme Court will deal with tomorrow, was part of that framework. The problem was that the money could be used for other purposes, which the government was very quick to do.

Why did the government decide on a \$2-billion threshold rather than \$15 billion? It was supposed to have taken into account all of the advice that you have shared with us today before making that choice.

Mr. Michel Bédard: The government based its decision on all of the options that it had at its disposal. Of course, as a former public servant, that is something that I can acknowledge. As I have already said, the amount of \$2 billion, in its current form, will not have any stabilizing effect whatsoever. There would have to be from \$10 billion to \$15 billion and a five- to seven-year outlook in order to stabilize the premium rates.

Mr. Paul Crête: Therefore, the rule that is put forward in the bill will not achieve the desired results. Even if it is a lot of money, we can say that the \$2 billion will achieve absolutely nothing. The premium rates could increase from year to year, which will lead to a great deal of insecurity for the industry and for the contributors, both employers and employees.

Mr. Michel Bédard: The positive side of this bill is that in the future, costs and premiums will be balanced, with the exception of the interest on the accumulated surplus. Had this system been in place beginning in 1996, we would not have the current surplus.

However, the premium rates would have been erratic, going up and down.

Mr. Paul Crête: You say that the best solution would be to balance the two, in other words, establish a reserve of \$10 billion to \$15 billion, which would avoid the erratic effect on premium rates, maintain the benefit rate, and see to it that the money only be used for the employment insurance plan.

Mr. Michel Bédard: Precisely.

Mr. Paul Crête: Mr. Waldman, do you have any comment to make on that?

[English]

Mr. Lorne Waldman: I'd love to, but I'm not an expert. I just find it very interesting. Again, it highlights my concern that there are so many complex issues being put into one bill.

[Translation]

Mr. Paul Crête: I agree with you: immigration should not have been part of this bill.

Mr. Cunningham, next weekend, when the Canada-U.S. Inter-parliamentary Group meets, we will discuss the entire situation, more particularly issues related to the border. I will certainly raise your concerns related to the Americans when we discuss the issue.

Could you give us more details on that? What would be the consequences if Canada were to take strong action to eliminate the production of illegal cigarettes on the American side?

Mr. Rob Cunningham: I would say that 90% of all contraband cigarettes in Canada come from plants on the American side of Akwesasne. These plants, with the exception of one, do not have an American federal permit. The fact remains that the products of these plants end up on the Canadian market. It is thus up to the United States federal government to fight this problem. It is in its interest to do so, but we must persevere. I am very pleased to learn that this question will be raised next week.

The Americans must realize that this is a matter of public safety. When they return to the United States, the smugglers transport drugs, firearms, and sometimes even people. Of all places along the Canada-U.S. border, it is the most vulnerable. On the Canadian side, the Mohawk Council of Akwesasne has given its political support to the enforcement of the laws and is working with the RCMP. It is different from several other aboriginal territories in this regard. So on the Canadian side, things are working fairly well.

• (1715)

[English]

The Chair: Thank you very much.

I would like to let Monsieur Crête know that we have already put that on the agenda for next week in Santa Fe, so it will be dealt with. Thank you very much.

We will now move on to Mr. Menzies.

Mr. Ted Menzies (MacLeod, CPC): Thank you, Mr. Chair. I appreciate that we're short of time, so I'll share my questioning time with Mr. Dykstra.

Thank you to our witnesses.

Mr. Cunningham, I realize the cause; I'm completely supportive of your association. You do some great work.

As my first question, how easy was it for you to acquire those exhibits that you brought here? I'm assuming they're not samples for us.

Mr. Rob Cunningham: You're right. They're examples of cigarettes I've personally purchased on various territories: Tyendinaga, near Belleville; Kahnawake, near Montreal; or on the American side of Akwesasne.

The products sold in Canada do not have the picture-based health warnings required by law in Canada. They do not comply with the ignition propensity standard for fire safety and flammability, pursuant to Mr. McKay's bill, and they are very cheap, perhaps \$6 for a carton of 200 cigarettes, compared with the legal price of \$50 to \$70. It's a massive problem.

They're extremely easy to acquire. Non-natives are abusing the exemption by going on reserve, and the products intended for the reserve are being diverted off reserve. It's very easy; people can have them delivered to their workplace or to their home.

Mr. Ted Menzies: It's very troubling, and I appreciate your bringing that to us—not the products but that awareness.

A colleague of mine from Calgary was sharing with me just last night on the plane how much of this is getting through into Alberta. Our tax regime in Alberta, as you know, is far higher than anywhere else, so there are more profits to be reaped in Alberta. They seem to be making it all the way out the Trans-Canada Highway into Alberta and, I would assume, all the way to British Columbia.

How do we stop this? We've put some actions in this budget implementation bill. What more do we do?

Mr. Rob Cunningham: In Alberta and British Columbia there is some contraband, but it's comparatively minimal when we look at Ontario and Quebec.

One of the reasons for this is that there has not been a history of acceptance of illegal sales to non-natives on reserves. In British Columbia, for example, an on-reserve retailer started to sell contraband of this nature and was shut down by the RCMP with the support of the first nations government. So we don't have the same problems in the west, in Alberta and B.C.

What more can we do? We need a comprehensive strategy. There is a role for provincial governments as well, which I have not touched on, but there is a series of recommendations in my introductory remarks of measures that are not yet implemented, including available measures that do not require on-reserve enforcement.

The measures that have been announced are positive, but there are significant additional measures that are also available for implementation.

Mr. Ted Menzies: Okay.

I'll turn it over to Mr. Dykstra. Thank you.

Mr. Rick Dykstra (St. Catharines, CPC): Thanks.

Lorne, I just have one question. It pertains to the word "deceit"—a word used by the person who was sitting in the chair before you—in terms of moving this forward. I didn't hear you use that word, so I would like to at least take a little bit of direction from you.

You made a comment about the minister potentially making a decision on July 2 that couldn't be pursued, or at least asked about, until Parliament resumed the following September or October. While ministers are questioned on decisions from time to time in the House of Commons, I do pause and reflect upon that, because it suggests to me that...

I actually asked the ADM who came in to respond to a number of these questions, after the minister had been here, about the type of latitude you're suggesting. It borders upon the minister actually doing something illegal.

When I asked the ministry about this, they gave a pretty detailed response. First of all, there's the annual level exercise, which the Government of Canada goes through each and every year. It's then published. Any decision has to be consistent with the objectives in the Immigration and Refugee Protection Act. It also has to be consistent with the Canadian Charter of Rights and Freedoms—everything we do basically has to be consistent with that charter—and it explicitly prohibits any form of discrimination.

So I want to be clear that what you're suggesting isn't that the minister is actually going to do something that goes against the act or in fact against the charter. That is what you're suggesting, in a way, because you're saying she has these sweeping new powers. That actually isn't the case when you go through the act, because the minister has some latitude as we speak now.

I want to be clear that you're not suggesting she would actually do anything untoward or illegal, because she wouldn't be allowed to do that in the first place, regardless of whether or not she had the power to do so.

• (1720)

Mr. Lorne Waldman: Let's separate this out. I'll answer by sections.

First of all, let's be clear: unless you put an amendment into the act, which you could easily do—you could put something in saying nothing in this provision allows the minister to issue an instruction with respect to an individual applicant—the wording of the legislation does allow the minister to make a decision with respect to an individual applicant. There's no doubt.

As I've said, there was a case in the Federal Court called Cha, where one of my colleagues relied upon something that a minister had said when the current IRPA was enacted in 2002. The Federal Court said, "We always consider what the minister says, but at the end of the day we look at what the legislation says, and that's what we interpret."

Mr. Rick Dykstra: But my question specifically is were you suggesting...and I'm not trying to corner you or anything; I just want to get a straight answer from you. What I took from your comment was that the minister would, in fact, make a decision that goes against the Charter of Rights and Freedoms.

Mr. Lorne Waldman: With respect to individuals, she could make a decision, and as long as it didn't result in sending someone back to torture it wouldn't be inconsistent with the charter, but it would allow her to make a decision with respect to an individual applicant.

With respect to classes or categories of applicant, it's interesting that you invoke the charter, because a lot of these applicants are outside of Canada. Indeed, the Federal Court has said that with respect to immigration matters, the charter doesn't apply to applicants outside of Canada. So the charter wouldn't necessarily be a remedy for someone if the minister issued an instruction outside of Canada.

Mr. Rick Dykstra: The refugee may not be under the charter, but certainly the minister is.

Mr. Lorne Waldman: Well, the minister, when she issues an instruction—

Mr. Rick Dykstra: Sir, the minister is a Canadian, so the minister would be bound by the charter in terms of her decision-making process.

Mr. Lorne Waldman: Well, if the minister issues an instruction with respect to applications outside of Canada, the applicants outside of Canada can't invoke the charter to challenge the minister with respect to those applications. That's the point.

The long and the short of it is, if you talk about the objectives of the act... Of course, we all know that there are very many different objectives of the act. The minister could issue an instruction instructing the visa officers to not process applications from Quebec, but to process applications from British Columbia, because there's an economic downturn or there's an acute labour shortage there. It would be consistent with the act, but it wouldn't be—

Mr. Rick Dykstra: Mr. Waldman, all I'm suggesting is that it wouldn't hurt the credibility of your argument if you actually gave some credibility to the individual, rather than suggest that they're going to move in a negative direction rather than directly according to the legislation.

Mr. Lorne Waldman: Well, the problem with—

The Chair: Sorry, Mr. Waldman, we'll leave it at that. We're cutting into our last questioner's time, and I don't think he'd appreciate that.

Mr. Mulcair, the floor is yours.

[*Translation*]

Mr. Thomas Mulcair: Mr. Chairman, it would only be polite to allow Mr. Waldman to complete his testimony.

[*English*]

Mr. Lorne Waldman: The only point I want to make is that the concern we all have here is about giving the minister such broad, unfettered discretion. In our view it's not acceptable. The minister should be accountable to Parliament. There should be pre-

publication, pre-debate, be it an instruction or a regulation. That's the point here—nothing more, nothing less. When you give the ministers unfettered discretion in immigration, we've seen in the past that it's been abused in many different circumstances. Obviously we have a concern about that.

[*Translation*]

Mr. Thomas Mulcair: Mr. Chairman, I would first like to thank Mr. Waldman for the answer that he was ultimately able to finish.

Second, I would like to tell him how much we agree with his interpretation. In fact, since the beginning of this saga concerning the portion of the bill that deals with the immigration budget, we have always clamoured that the main problem is the discretionary power that it would give to the minister. There is an excellent and very simple way of illustrating this. We are in the process of changing the word “shall” to the word “can”, whereas before, provided the objective criteria were respected, people had the right to obtain citizenship. Now, everything hinges on discretion. It is this increase in discretionary power that he is denouncing, and rightfully so.

I would also like to ask the witness to give us more details on one aspect of his testimony, because I and some of my colleagues wanted to ensure that we understood correctly. He is not saying that Bill C-50 changes the current agreement that governs immigration matters in relations between the federal government and Quebec. If I understood correctly, he is saying that given that there is no limit on the directives that the minister could issue, then she could issue directives that would change these relations, even with Quebec.

Did I understand correctly?

• (1725)

[*English*]

Mr. Lorne Waldman: As I said, as long as there's no...

[*Translation*]

I regret that I don't speak French.

[*English*]

If I did, I would embarrass you, so I'll speak English.

As long as the legislation does not put clear limits, the discretion of the minister, as it now stands, is not fettered, and it would allow the minister to make changes that could affect the agreement with Quebec. Now, Quebec could then challenge that constitutionally, but that would be a lengthy process, which may or may not be successful.

If the minister is saying they have no intention of doing these things, then it should be clearly set out in the act what powers the minister wants and doesn't want. The minister could agree to an amendment that states that nothing in the legislation allows the minister to issue instructions that would have an impact on provincial nominee programs or the Quebec-Canada immigration accord, and nothing in the legislation would allow the minister to make instructions with respect to individual applications.

This is what the ministers have been saying, but it's not what the legislation states.

Mr. Thomas Mulcair: We agree with you on that one, as well. That's precisely the type of amendment you'll see being proposed. But as you can see, there is an attempt to railroad this thing and take advantage of the extreme weakness of the Liberal Party.

[*Translation*]

I wanted to ask Mr. Cunningham a question. You gave two examples of the increased danger of the products derived from illicit transportation, manufacturing, etc. You said, for example, that there are no longer any warnings on the packaging. I think you'll agree with me that someone who buys 200 cigarettes for \$6 does not really care whether there is a warning label on the packaging or not. On the contrary, it reassures him.

You also referred to safety a little bit more explicitly as concerns the fire hazard, but has anyone checked what this product contains? Canada, for example, makes it mandatory for manufacturers to explain what they put into their cigarettes. Clearly, no one has provided a detailed list of what is added to these products. Has anyone measured or checked what these products contain? I am convinced that people will not be overly altruistic in their decision as to whether or not to buy a contraband product. Perhaps if we can convince them that it is harmful to them, in certain cases, their personal interests may come into play.

Mr. Rob Cunningham: There is a Health Canada regulation that obliges manufacturers to report all the ingredients contained in their cigarettes. Naturally, smugglers and illegal operations do not respect this obligation. There are not many tests done, but in general, cigarettes, whether they are legal or not, taxed or not, kill. They cause tobacco-related diseases, but it cannot really be said that they

are more dangerous than cigarettes that are taxed. There is a common perception that, because it is aboriginal, it's more natural, and thus less harmful, but that is not true.

Mr. Thomas Mulcair: So no one has taken the time to check, and unlike duly licensed manufacturers who are obliged to provide the information, the others have no obligation.

If I still have a bit of time, Mr. Chairman, I would like to ask Mr. Bédard a question. I would like to come back to the question of funding EI. When people talk about sustainable development, often it is from an environmental viewpoint, but here, literally, you are warning us that we are perhaps handing the problem on down to future generations. If we do not do something quickly, they are the ones who will pay for our mistakes. As soon as there is an unavoidable fluctuation in the economy, it is our young people who will have to pay.

Is that a valid interpretation?

● (1730)

Mr. Michel Bédard: There is not much I can add: you have understood the situation clearly. The rates will fluctuate erratically and increase at the worst possible time, when there is a recession.

Mr. Thomas Mulcair: Unfortunately, I don't have enough time for the C.D. Howe Institute.

[*English*]

The Chair: Thank you very much.

We appreciate the testimony and we appreciate the questions. Thanks again.

The meeting is adjourned.

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