



House of Commons  
CANADA

# **Standing Committee on Citizenship and Immigration**

---

CIMM • NUMBER 025 • 3rd SESSION • 40th PARLIAMENT

---

**EVIDENCE**

**Wednesday, October 6, 2010**

**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

Wednesday, October 6, 2010

• (1540)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** Order.

Mr. Trudeau is seeking the floor and it's probably out of order, but, as you can see, it depends on my mood. We'll see what he has to say.

**Mr. Justin Trudeau (Papineau, Lib.):** Thank you, Mr. Chair. I appreciate the opportunity. Indeed, we're just getting into a rhythm. Each committee has different patterns.

It's a simple motion for a request of information. It was highlighted to me that I probably didn't even need to bring forward a motion, but simply ask the government to produce this information. I figured it would be more formal to ask the committee to adopt a motion around the production of all copies of correspondence, both written and electronic, within the minister's department on the issue of including same-sex marriage protection and same-sex marriage rights in the most recent edition of the citizenship guide, and that this information be provided to the committee within ten days.

Just following up, and if I can even perhaps—

**The Chair:** No, I'm not going to let you debate it. I let you make the motion. We have set a schedule for Bill C-35 that is before us. We have witnesses before us.

With due respect to you, we probably should have debated this when we were dealing with the subcommittee report. Accordingly, I think the committee has really decided that Bill C-35 will be debated and we will hear witnesses until November 3 and at that time the subcommittee will meet again. It will again be decided what our next plan of action will be.

My suggestion to you is to privately discuss that perhaps with the parliamentary secretary. You never know, he might be prepared to give you all that information. But at this point I believe we should be proceeding with these witnesses who are before us today.

**Mr. Justin Trudeau:** Is it then my understanding that members are not allowed to bring forward motions in this committee, perhaps not to be debated but at least be voted upon at any time?

**The Chair:** Oh, of course, you can bring motions. We're getting into an area, and we'll make it clear. I think I've expressed my view privately to Mr. Wrzesnewskyj. The practice of this committee, since I've been chair, at least, which is about two years, is that we normally hear government bills first, and Bill C-35 is before us. We are now proceeding with that.

Ms. Chow has a couple of motions, quite frankly, that I think have been on the books since March. It is possible, if we find there's a break in proceedings for whatever reason—that witnesses aren't available or if something unusual happens—that the matter could be disposed of at that time.

Otherwise, members could bring motions continually, and essentially the committee could be hijacked. I'm not suggesting you're trying to hijack the meeting; I didn't mean it like that, but that could be the gist of it.

My suggestion is that you speak to Mr. Wrzesnewskyj. I would suggest that if your motion or any other motions wish to be debated—Ms. Chow, for example—we will have an opportunity, after we have concluded our deliberations on Bill C-35, to dispose of your motion and any other motions, or whatever else we want to talk about.

We have a private member's bill that's before us. It's up to the committee when we're going to deal with that. We have a study on wait times that we're right in the middle of somewhere. I have no idea when the committee wants to deal with that. We have Ms. Chow's motions. If the practice of the committee is normally followed, you follow all that. But anything's possible.

**Mr. Robert Oliphant (Don Valley West, Lib.):** My concern on this—

**Mr. Rick Dykstra (St. Catharines, CPC):** Are you asking for clarification, or are we getting into a debate? The chair has made a ruling and now we're getting into questions.

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

Point of order, Mr. Oliphant.

**Mr. Robert Oliphant:** I have a point of order as well. I'm just trying to understand the order of business, and it's very much a point of privilege to say that this committee could be hijacked by motions. I find that somewhat offensive—

**The Chair:** You know what, sir, it was improper for me to say that, and I apologize for that. I'm simply saying this is the practice that's been followed. I certainly meant no offence to you or anyone else as to someone hijacking the meeting. I didn't mean it like that.

I meant that we have a process we've been following, at least since I've been chair. Monsieur St-Cyr and Ms. Chow have been around longer than I have. They may be able to go even further back than that, but that's been the practice of this committee. If we wish to change it, we can have a debate some time, but at this point we have three witnesses.

• (1545)

**Mr. Robert Oliphant:** We can't have a debate, because we're not allowed to make a motion to have a debate. You have just ruled that there are no motions available, so if I wanted to move a motion that we have a debate on the rules, that would be out of order, according to what you just said, which is unparliamentary.

**The Chair:** We've concluded all this. We've concluded this discussion, and I'm now going to welcome....

Yes, Mr. Trudeau.

**Mr. Justin Trudeau:** Mr. Chair, I have a point of order.

I would like to call a vote on my motion.

**The Chair:** I'm going to rule that in order. I will comment that this will mean that this debate on Bill C-35 will be delayed. But we will proceed with your motion. It appears to be in order.

Yes, Ms. Chow.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** Are we still on item number one? Because the committee business was approved in camera.

**The Chair:** It was approved.

**Ms. Olivia Chow:** Do we need another motion to affirm that committee business?

**The Chair:** No.

**Ms. Olivia Chow:** The committee business adopted a certain order, and now we want....

**The Chair:** Mr. Trudeau wants to change that.

**Ms. Olivia Chow:** Right, but in camera we just approved it.

**The Chair:** Yes. I agree with you. I pointed out to Mr. Trudeau that he had an opportunity to change that when we were in camera. He chose not to, and he has every right to do that, and I have held that his motion is in order.

**Ms. Olivia Chow:** It would still be under committee business, right?

**The Chair:** No, he has a motion that he has essentially read to the committee.

Monsieur St-Cyr, do you have a point of order?

[Translation]

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** I would like to talk about the point of order, Mr. Chair.

In the past, there was consensus about referring a certain number of motions to the Subcommittee on Agenda and Procedure. However, I would like to remind you that those motions concerned the committee's work. We figured that it was pointless to adopt a slew of motions calling for the committee to examine a given subject as long as the motions never made their way onto our agenda. There was no point to it.

I feel that this particular motion is nothing like that. This is a substantive motion that is not about the committee's work. I agree with you in saying that any MP can request that the motion be put to a vote. However, though I support the motion, I'm not sure that this is the best time to debate it. We could perhaps set aside the last

10 minutes of this meeting or the first 10 minutes of the next one for that debate, instead of making our witnesses wait unnecessarily.

[English]

**The Chair:** Go ahead, Mr. Trudeau.

**Mr. Justin Trudeau:** I'd be open to moving this to the beginning of our next committee meeting upon our return.

**The Chair:** You're asking that this matter be tabled.

**Mr. Justin Trudeau:** It would be on the understanding that we return to it in the first ten minutes of our meeting on the Monday we return. My objective wasn't to disrupt. My objective was simply to ask the government to produce some documents. That's all. It wasn't about engaging in a large debate on this at all, and I did not want to disrupt the functioning of the committee.

**The Chair:** Okay.

Mr. Dykstra.

**Mr. Rick Dykstra:** I appreciate Mr. Trudeau's comments about not wanting to interrupt the momentum of the committee. Perhaps I can suggest that you attend our next steering committee meeting. I think it would be extremely helpful.

This was on the agenda. It was discussed. I won't get into the details, because it's an in camera meeting, but part of your responsibility is to ensure that the issues of the day that you wish to have on the agenda are presented. Those issues, in fact, were presented, and decisions were made, and the outcome wasn't one that you necessarily wanted today. But the fact is, it was completed, and there was agreement around the table here.

This is a reasonably decent committee in terms of working together. I hope you understand that it's important to me. It's important to the folks in this room. We come from different parties and different perspectives, but trying to work this committee in a smooth and efficient way isn't always the easiest, and to jump in abruptly and throw this on the table today isn't necessarily a good start. I just ask you to keep that in mind. It would be much appreciated.

• (1550)

**The Chair:** We have a technical problem, Mr. Trudeau. The technical problem is that the motion is now on the floor. To get it off the floor, we require unanimous consent.

Is there more discussion on this before I say something else that might upset people?

Mr. Trudeau has asked that this matter be tabled until the next meeting, which is the first Monday after the break. He has limited discussion to the first ten minutes of the meeting, and that will require unanimous consent. Is there unanimous consent for Mr. Trudeau's request?

**Some hon. members:** Agreed.

**The Chair:** I don't hear any nays, so it's done.

**Mr. Justin Trudeau:** I apologize, Chair, for making it complicated. We're simply learning the ropes here.

**The Chair:** No, no, it keeps me alert.

I'd like to call this part of the meeting to order. This is the Standing Committee on Citizenship and Immigration, meeting number 25, Wednesday, October 6, 2010. Our orders of the day, pursuant to the order of reference of Thursday, September 23, 2010, are Bill C-35, an act to amend the Immigration and Refugee Protection Act.

I probably should have done that earlier, but here we are.

We have three witnesses before us who are all from the Department of Citizenship and Immigration. I hope I pronounce all your names correctly. I'll take them in order. We have Catrina Tapley, associate assistant deputy minister, strategic and program policy; Sandra Harder, acting director general, immigration branch; and Brenna MacNeil, director, social policy and programs, immigration branch.

I would like to welcome all three of you today. You have done this before, so perhaps you could make some introductory comments from your perspective as to Bill C-35. Then, as you know, the different caucuses will probably have questions for you.

You may proceed, Ms. Tapley.

[Translation]

**Ms. Catrina Tapley (Associate Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration):** Thank you, Mr. Chair.

We are pleased to have the opportunity to address Bill C-35, the Cracking Down on Crooked Consultants Act, which would protect potential immigrants by strengthening the rules governing those who charge a fee for immigration advice.

[English]

The bill would amend the Immigration and Refugee Protection Act—IRPA—so that only lawyers, notaries in Quebec, and consultants who are members in good standing of a governing body designated by the minister could provide advice or representation for a fee at any stage of a proceeding or application. This includes the period before any application is submitted or a proceeding begins, thereby closing a loophole in the current framework that regulates consultants.

Under current legislation, the involvement of consultants in the pre-application or pre-submission period is not regulated. By casting a wider net, unauthorized individuals who provide paid advice or representation at any stage would be subject to a fine of not more than \$50,000, or to imprisonment for a term of not more than two years, or both. This would include undeclared ghost consultants, those who conceal their involvement in an application or proceeding.

The Royal Canadian Mounted Police, the Canada Border Services Agency, and other enforcement authorities take immigration fraud seriously. By closing the current legislative loophole, we add another legislative tool for taking action against ghost consultants. The tools provided by the introduction of this legislation will support ongoing compliance, enforcement, and prosecution activities crucial to immigration program integrity.

In addition, Bill C-35 would give the Minister of Citizenship, Immigration and Multiculturalism the authority by regulation to designate a body to govern immigration consultants and to establish

measures to enhance the government's oversight of the designated body. This body would also be required to provide information that would assist the minister in evaluating whether it is governing its members in the public interest. The information would also help ensure that members are providing representation and advice in a professional and ethical manner.

● (1555)

[Translation]

Currently, CIC is limited in its ability to disclose information about individuals who provide unethical or unprofessional representation or advice.

The bill would allow CIC to disclose such information to those responsible for governing or investigating that conduct. An investigation could be undertaken more readily and, where appropriate, disciplinary action pursued.

I would add, Mr. Chair, that unpaid third parties, such as family members and friends, would still be allowed to act on behalf of an applicant. Furthermore, under the new rules, there would be exceptions for certain groups, such as visa application centres and other service providers, when acting in accordance with an agreement or arrangement with the Government of Canada.

[English]

It is primarily the federal government's role to protect the integrity of the immigration program. The Government of Canada recognizes, however, that the provinces and territories play an important role in regulating the conduct of immigration consultants, as they have responsibility for consumer protection and the regulation of professions. In this regard, Quebec's own recent amendments to its regulations recognize as an immigration consultant any member in good standing of the body designated under federal regulations. In addition, during the course of federal-provincial-territorial consultations, we also shared our proposed legislative amendments with senior provincial public servants, who raised no objections.

Canada's immigration system can be accessed at any number of missions in other countries or at CIC offices in Canada. Overseas or in-Canada applicants seek assistance from immigration consultants for a variety of reasons. Given the fact that Canada cannot directly investigate matters in other countries, the investigation and prosecution of third parties residing abroad is challenging. While much of the problem lies overseas and beyond our reach, it is anticipated that enforcement in Canada of proposed new offences could disrupt overseas networks by removing their Canada-based links. The Government of Canada will also continue to make use of bilateral and multilateral opportunities to address the fraudulent activities of unscrupulous immigration representatives abroad.

The international component was initiated during the minister's trip to India in January 2009, and further developed in his recent international meetings in Europe and Asia. During those meetings, the minister underscored the need for combined action to combat fraud, abuse, and wrongdoing in Canada's immigration system. Indeed, as the minister recently said, the Government of Canada will soon send a dossier on some of the worst fraudsters in the Punjab to that Indian state's government, which would follow up with appropriate enforcement action. Meanwhile, efforts to raise awareness of the risks of engaging crooked consultants will continue, including updating of websites in Canada and at visa offices abroad, to carry warning messages for potential immigrants.

[Translation]

Service improvements, including web-based tools and video tutorials, are also being developed by CIC and will make it easier for applicants to independently apply to immigrate to Canada.

One such web-based tool is the Visa Wizard, an interactive tool that, based on an individual's specific circumstances, provides specific instructions and forms that best fit their situation. It will be launched shortly.

CIC has also recently launched a process under existing authorities to identify a governing body for immigration consultants, as part of the broader strategy to better regulate immigration consultants.

●(1600)

[English]

A call for submissions from candidates interested in becoming a regulator of immigration consultants was published in the *Canada Gazette* on August 28, 2010, and interested parties are given until December 29, 2010, to deliver their submissions.

This selection process follows a notice of intent published on June 12, 2010, in the *Canada Gazette* announcing CIC's intention to launch a public process to identify a governing body to regulate immigration consultants.

Candidates must demonstrate that their organization has or will have the capacity to effectively regulate immigration consulting activities in the public interest. This enhances public confidence in the immigration process and preserves the integrity of the immigration system.

In regard to the investigative powers of the regulator of immigration consultants, governing bodies continue to be responsible for taking disciplinary action against their members, including the revocation of membership. Like other governing bodies, the governing body for immigration consultants can investigate the conduct of members where there is a concern that a member has breached a term of membership. This is similar to the process used by provincial law societies to look into complaints concerning their own members.

Most immigration consultants working in Canada are legitimate and ethical, but as the minister has said, it is clear that immigration fraud remains a widespread threat to the reputation and integrity of Canada's immigration system. Bill C-35 would strengthen the rules governing those who charge a fee for immigration advice, close

loopholes in the immigration system currently exploited by crooked consultants, and improve the way by which immigration consultants are regulated.

[Translation]

Thank you, Mr. Chair. We are now ready to answer any questions the committee may have.

[English]

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

Mr. Trudeau, you are first, and you have up to seven minutes to ask questions and get answers.

**Mr. Justin Trudeau:** Thank you very much, Chair.

First of all, I want to say how pleased we are to see this bill come forward. This has been a concern for many of my own constituents in particular, being affected by ghost consultants, but I am a little concerned about some of the aspects of this bill, in that the challenges that have been faced over the past years with CSIC have not entirely, to my mind, been avoided by this bill.

One of the concerns people have had around the CSIC is they have been unable to gather the resources from their members, in terms of membership fees, to be able to adequately police their members and overview their members, and that has led to issues around overly expensive learning materials and just higher fees than the members feel are warranted. How is that going to be dealt with by the new regulator, given the fact that there is a small pool of immigration consultants who are not lawyers out there? There are around 1,800 now, maybe up to 6,000 if all the ghosts become members. How is this new regulatory body going to be able to function with the limited financial intake that they will necessarily have from such a small pool?

**Ms. Catrina Tapley:** Thank you for the question.

I think I would like to start by coming back to the factors that we have published for selection of a body, and then I'll ask my colleagues, Ms. Harder or Ms. MacNeil, to provide some more specific information around this.

I think I'd just like to note that what we've looked at is competence. So among other factors candidates must demonstrate that the employer will employ individuals with demonstrated knowledge and experience, and that would include practice and ethical conduct, official language status. But I think also when we get into accountability and integrity, which are two of the other competencies that we talked about in our factors, those become as important as well in addressing some of the concerns the member has raised.

Integrity: the development of a code of conduct, the code of ethics, the conflict of interest for immigration consultants has to be clear. Accountability: that they are accountable to their membership, including the democratic election of directors, annual public meetings, external audits, and regular reporting, which I think will help to get at some of the issues you have identified.

The other two factors we are looking at are good governance, which I think once again speaks to some of the issues you have raised, as well as viability. So these plans include ensuring a membership base that will provide for sustainability of the body, and to promote membership candidate entities must be incorporated or capable of incorporating, and what they need to provide to us is demonstrated expertise in financial management and reporting to ensure the same on an ongoing basis.

• (1605)

**Mr. Justin Trudeau:** I thank you for that. I recognize that those are very high criteria, and my concern is that what we've seen with CSIC is an inability to draw sufficient funds from its membership to be able to deliver the high quality of service we are now asking of them.

Is Bill C-35 allowing for any extra moneys to be offered to the regulator to help offset the low number of members they're going to have, as compared to a professional bar association or a provincial bar association or larger regulating bodies?

**Ms. Sandra Harder (Acting Director General, Immigration Branch, Department of Citizenship and Immigration):** In the notice of intent and the document that was published in the *Canada Gazette* in August, there is an indication of a possibility of money for start-up funds. No specific amount is indicated, but there is certainly that possibility for people...to give an idea of what may be required in order to become a viable organization.

**Mr. Justin Trudeau:** But that's the start-up funds only. There is no money for the ongoing operation of a body, which is of concern to me. Many of the problems the CSIC has run into in the past few years have been traceable to the fact that it simply does not have a large enough pool of registered immigration consultants to be able to draw the fees from that would allow it to be a healthy regulator. I think that's a problem we probably haven't been able to get to yet.

I wonder if you could respond to that.

**Ms. Brenna MacNeil (Director, Social Policy and Programs, Immigration Branch, Department of Citizenship and Immigration):** In addition to the financial assistance that may be made available—

**Mr. Justin Trudeau:** For start-up.

**Ms. Brenna MacNeil:** —for the start-up, the way the approach has been structured is that the organization, whether that's CSIC or any other body, should be demonstrating to us how they plan to move forward and how they plan to remain a viable organization.

You have also pointed out that the membership should increase by virtue of this bill, because we're getting at these ghost consultants, because we're requiring anyone providing any advice or representation.... So that will assist the governing body moving forward.

**Mr. Justin Trudeau:** But as a comparison, moving from 2,000 to 4,000 members isn't the tens of thousands that many provincial law bodies have, and that comparison keeps coming back in terms of what we're intending. I'm really worried we're going to fall into the same trap that the CSIC has struggled with of not having the resources to be able to police their own consultants. I'm concerned that we're not actually going to make much improvement on that, and I'm worried because a lot of people are touched by that.

The other side of things is the ghost consultants, who will not be part of the responsibility of whatever regulating body. How much in the way of extra funds is going to be allocated to the policing of those ghost consultants? How much is the Canada Border Services Agency, for example, going to receive to be able to take on this new mandate of going after people who are giving advice before—

**The Chair:** Your time is up, Mr. Trudeau; you'd better have a quick answer.

Go ahead.

**Mr. Justin Trudeau:** It's a how-much question, so—

**Ms. Catrina Tapley:** There are no additional funds provided for CBSA. We can speak more fully about enforcement and why we think this is a very valuable legislative tool, but there are no additional funds provided to CBSA.

**The Chair:** Thank you, Ms. Tapley and Mr. Trudeau.

Monsieur St-Cyr, you are next.

[Translation]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chair.

Thank you for being here.

I listened to your presentation carefully. I have been following this issue for a long time. Like all my colleagues, I was very worried about what was happening within the Canadian Society of Immigration Consultants and its serious governance problems. Like everyone else, I feel that improvements are necessary.

I wanted to make sure that I understand properly the paradigm shift this bill will bring about. As current legislation stands, the government regulates and determines whom it conducts business with, whom it will authorize to represent citizens in its own process. The Government of Quebec has also come up with its own procedure and criteria for conducting business with consultants. However, I feel that this bill takes matters much further. We are literally talking about overseeing the process and regulating who has the right to practice the profession in its broader sense, be it well before a procedure conducted by the federal government begins or even after it is completed.

Is my understanding of the proposed legislation correct?

• (1610)

[English]

**Ms. Sandra Harder:** Yes, you have understood this correctly.

The new approach that's outlined in the legislation is basically focused on expanding the reach of the government's powers, so it does expand the coverage from pre-application stage right through any kind of advice that's given in the process of the application period.

[Translation]

**Mr. Thierry St-Cyr:** So we are talking about more than a change in organization, more than a structural change. We're talking about a fundamental change to the regulatory and legal framework with respect to immigration consultants.

Questions have been asked about the constitutional sharing of responsibilities. Since the matter is on the agenda, you will not be surprised to hear me say that one of our priorities will once again be the overseeing of immigration consultants. If I remember correctly, the courts have even spoken out on this matter already. In short, they held that the government has constitutional authority over immigration consultants who conduct business with the government on their clients' behalf. Therefore, the government has the authority to decide who can or cannot represent immigrants.

If we go as far as regulating a profession, deciding which individuals have the right to practice a profession, to establish civil contracts and to charge a fee for representation, we are getting deeply involved in a professional order. I assume that you have analyzed the constitutionality of the matter.

Based on your analyses, on what constitutional basis would the federal government be allowed to get so involved in a professional order?

[English]

**Ms. Brenna MacNeil:** I'll just start by saying that we completely recognize that consumer protection and the regulation of professions are provincial jurisdictions. What is under federal jurisdiction is the protection of the integrity of the immigration program as a whole. The recognition and the designation of a body is with that purpose in mind: protecting the integrity of the immigration program as a whole.

We see this as complementary with respect to jurisdictional issues, and that's the role the federal government is playing. The minister will designate, for immigration purposes, protection of the immigration program.

I'd also like to point out that the body is currently the Canadian Society of Immigration Consultants, and under our proposed approach moving forward that body would be recognized or be authorized under the Canada Corporations Act. It would be a federal body under the Canada Corporations Act. That's the current approach and the approach moving forward.

[Translation]

**Mr. Thierry St-Cyr:** Unless I am mistaken, you are saying that, even though the regulating of a profession and consumer protection do not come under federal jurisdiction, we have the right to establish an organization whose purpose is to monitor a profession, not for the sake of consumer protection, but for the sake of protecting the government and the integrity of the system. That is what the department is saying, right?

• (1615)

[English]

**Ms. Sandra Harder:** I would say that what we are trying to accomplish with this approach is both a continuing commitment to self-regulation of the industry and a broader and more expansive federal government oversight of the organization.

[Translation]

**Mr. Thierry St-Cyr:** Okay, but I asked the question only to ensure that I understand Ms. MacNeil's presentation properly.

Constitutionally speaking, you are basing this bill on the protection of the government itself, the immigration system, and not on consumer protection, the protection of those requiring a consultant's services.

**Ms. Catrina Tapley:** Yes, absolutely. From the federal government's point of view, we are talking about protecting the immigration system. I think that the federal government's mission should include consumer protection, but that falls under provincial jurisdiction. Regardless of that fact, it is a very important issue for the federal government.

[English]

**The Chair:** Thank you.

I'm sorry, Monsieur St-Cyr, your time has expired.

Ms. Chow.

**Ms. Olivia Chow:** This committee quite a few months ago said we preferred at that time, when we finished the study, that it be an arm's-length corporation, like the Canadian Bar Association and engineers' society. The bill recommended something else, and I'm not necessarily opposed to it at all. The body you've recommended is basically still under the federal government. It's under the department minister, and you would have ultimately the power to oversee how this body would function. There are two different options. Well, the third option is of course government regulations. That's not being considered.

Can you go into some detail as to why you chose this route and not the route we were looking at? Is it primarily because you think this industry is not quite ready to completely, 100%, do the self-regulation, that there is a process in order for the industry to get to a stage it could regulate itself? Can you explain a bit about the philosophy?

**Ms. Catrina Tapley:** Sure. Mr. Chairman, I'll start, and my colleagues can chime in to offer some additional detail.

In order to address the concerns of public confidence in the body currently governing immigration consultants, I think as the report from this committee had pointed out, the government wanted to move quickly. It was determined that the establishment of a governing body through stand-alone legislation would have been a lengthy, and I might also add a costly, process.

So the approach we've arrived at in Bill C-35 is really what we feel is the most practical and efficient, in terms of cost and time, to the regulation of immigration consultants. And I'd just point out as well—and then I'll ask Ms. Harder and Ms. MacNeil to comment—that governing bodies, whether it's stand-alone legislation or not, do have a responsibility for taking disciplinary action against their members, including the revocation of membership, which we see as a significant tool.

Like other governing bodies, the governing body for immigration consultants can provide for measures concerning the discipline of its members, similar to the process used by law societies in looking into complaints concerning their own members.

Madame.



**Ms. Sandra Harder:** I might add as well that in this approach there is a new criminal offence that has been created. Those penalties are in place to protect the public interest and to protect the integrity of the immigration scheme and system.

So I guess I would say in summary that we looked at a number of different approaches and did take into consideration, in thinking some of this through, the concerns of the committee to have a responsive and timely intervention.

● (1620)

**Ms. Olivia Chow:** In terms of what this committee recommended, how would it be costly and how long would it have taken to set up something like that? And what are some of the shortcomings of that model, other than time and financial reasons?

**Ms. Sandra Harder:** In the deliberations on this, a decision was taken about an approach. Certainly time is one of the factors. We would be essentially starting from scratch if we were creating a statutory body.

**Ms. Olivia Chow:** How long would that take? A few years? Two or three years?

**Ms. Sandra Harder:** I would assume at least that.

And in terms of cost, I don't think I would be able to give you an estimate. But certainly it would be substantially greater than what we're looking at right now.

**Ms. Olivia Chow:** What other shortcomings would there be with that model, other than the length of time, the couple of years it would take to establish that?

**Ms. Brenna MacNeil:** The oversight capacity of this approach as well is important, because this committee recommended some government involvement in the organization at this stage, so that oversight capacity does speak to that somewhat. The minister has that designation authority and has the authority to require documents or information from the body to inform ongoing designation decisions. The oversight capacity of the government responds to what this committee spoke to and is an important element as well.

**Ms. Olivia Chow:** I'm sorry, I didn't quite get that. What are the shortcomings for the model that was recommended by this committee, other than time and cost?

**Ms. Catrina Tapley:** The principal shortcomings were time and cost and a little bit of oversight from the government. I don't think there was a lot more than that.

What the bill tried to do was respect the committee's excellent report and do it in a way that we felt was efficient from both a time and money perspective. I don't believe there were....

**Ms. Olivia Chow:** In terms of oversight, there is no difference between this model and the model the committee recommended. They both would have the power to have the kind of regulatory control to make sure the consultants are accountable.

**Ms. Catrina Tapley:** In terms of oversight of its members, what you have described is indeed the case. They are very similar powers, a very similar direction in what's proposed.

**The Chair:** Thank you.

Mr. Dykstra.

**Mr. Rick Dykstra:** I want to follow up a little bit on this aspect of the bill. There were nine recommendations in the report that subsequently have helped immensely in terms of the crafting and drafting and writing of this piece of legislation.

I want to follow up a little further on Ms. Chow's questions, because they are extremely relevant. Recommendation number 3 states "that the Government of Canada assist in re-establishing the new regulator and remain involved in its affairs until it is fully functioning." I would just ask that you expand on that a little bit. It is pretty important to understand that this is not an organization that's going to be left unto its own devices for a couple of months and then expected to be able to deliver on a pretty significant mandate.

Subsequent to that, it's the first time we have taken this broad an approach, so obviously they are going to need help. One of the things that gets described in a little bit more detail in terms of the response to the recommendations is that it could be two, three, or perhaps even more years that we would work with the organization that was successful. Perhaps you could just outline for the committee how you anticipate that partnership or that relationship would work.

● (1625)

**Ms. Sandra Harder:** At this point even saying that it may only be two or three years may be a shorter timeframe than we might be thinking of. The oversight function of the federal government in the context of the bill, if adopted, provides authority for the minister to actually seek information from the body itself on how it's operating. It does give the minister that authority to request certain information about the governance of the body, how it's operating, how it's functioning, how responsive it is to complaints that are under investigation inside the body. It does give the minister that greater oversight, and until such time as the legislation would be changed or amended, that oversight would continue.

**Mr. Rick Dykstra:** Thanks.

I agree with one aspect of Mr. Trudeau's comments, which is—and I want to pursue this a little bit further, as well—that this organization is going to need assistance. To paint a picture in which the new regulatory body is going to be set up and is then going to be able to act independently is simply unfair to the organization because of the immensity of the responsibilities and because currently this is really not yet in place.

I wonder if you could comment a little further on the importance of the relationship and, from a financial perspective, on the actual costs or assistance that will be provided through the young life of the organization, certainly in the first two, three, four, or whatever number of years will be necessary to get it up and fully functioning and running.

**Ms. Catrina Tapley:** Mr. Chairman, I guess we would say succinctly that we agree that indeed this is what is envisaged. If I could speak a little more fully to this, I think we saw that this enhanced oversight would continue probably past the point where the regulator became fully functioning so that the minister and the department—and through the minister, Parliament—had some confidence in the system and confidence in the body that is proposed in the bill.

We dealt a little bit earlier with the question of ongoing costs, but as for what's proposed for funding for that interim period, I think we've left it pretty open at this point. Details on the amount and types of expenses, along with the time period for such financial support, would be included. That is something we have deliberately left a bit open. I think we'll continue to evolve as we look at the applications that come in against what we've indicated in that first call for proposals.

I don't know if Ms. MacNeil would like to comment further on that.

**Ms. Brenna MacNeil:** No, I think the call for proposals leaves it open to the organization to demonstrate what its needs will be. That's what will be examined—what the organization itself identifies as its needs.

**Mr. Rick Dykstra:** I don't know how much time I have left, Mr. Chair, but I do note that we have officially begun the process of working through the call for proposals and how it would work. Perhaps you could update the committee as to where we are in terms of the process on that side of things, with things having been gazetted and being somewhat official already. Perhaps you could bring the committee up to speed on how far we've come already.

**Ms. Sandra Harder:** On June 12 we published in the *Canada Gazette* the notice of intent to proceed with this process, and we solicited public comments on the considerations that were outlined in the first notice of intent. Having had some time and having looked at the input we received through that process, we then developed the factors—that's what we're calling them—and those became the basis for the subsequent August 28 publication in the *Canada Gazette*, which dealt with a call for proposals—for lack of a better term—from persons, bodies, and representatives who would feel themselves capable of taking on this role. As my colleague Brenna has said, one of the things we wanted to avoid was a kind of checklist approach, so we wanted bodies and organizations that might come forward to be able to demonstrate how they would meet those five factors and to be able to talk to us about their experience and their own viability to provide the kind of regulatory body that we would anticipate would be required.

• (1630)

**The Chair:** Thank you, Ms. Harder and Mr. Dykstra.

That concludes the seven-minute rounds. We're now into five-minute rounds.

Mr. Wrzesnewskyj.

**Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.):** Thank you, Chair.

Did the department do a financial viability study for this regulatory board?

**Ms. Sandra Harder:** Do you mean an actual viability study of a possible new organization?

**Mr. Borys Wrzesnewskyj:** Yes.

**Ms. Sandra Harder:** No.

**Mr. Borys Wrzesnewskyj:** Why not?

**Ms. Sandra Harder:** As I said, in the process of putting forward the actual factors we're looking for in assessing a possible new

organization or existing body, we wanted to lay out the factors we thought were important. Viability is certainly one of those factors.

**Mr. Borys Wrzesnewskyj:** If there isn't financial viability, it means that this whole process may be wasted. It seems to be a key component, especially with the commentary.

We heard about the parliamentary secretary's discomfort. He stated that it appears this sort of board might require two, three, four years—who knows how long—of subsidization by the government. So it seems that a proper study and comparison weren't done.

The committee recommended a statutory board. What would be the cost of a statutory board of the type recommended by the committee for the purposes intended? Do we have a number or approximate range?

**Ms. Sandra Harder:** I am probably not in a position to give you an exact number, but I know there have been estimates that would take us into the millions of dollars. Certainly that would be not only a costly process—

**Mr. Borys Wrzesnewskyj:** So we don't have actual numbers you can provide us with.

**Ms. Sandra Harder:** I do not.

**Mr. Borys Wrzesnewskyj:** So we don't have numbers for the variant that's been proceeded with, and we don't have numbers on what would have been the proposal from the committee. It almost sounds like a decision was kind of made on the fly, without actually having hard evidence.

**Ms. Catrina Tapley:** I think I'd like to come back to the beginning of your question and talk about where the onus was placed. We placed the onus on those who wanted to submit an application—

**Mr. Borys Wrzesnewskyj:** I didn't ask about onus. I asked whether a financial viability study had been done, and the answer was no.

**Ms. Catrina Tapley:** The answer is no.

**Mr. Borys Wrzesnewskyj:** Let me proceed further. We didn't do a financial comparison of the options available. The government proceeded and published in the *Canada Gazette* in June. In fact they went ahead on August 28, without even tabling the legislation, under the assumption I guess that this committee or the House of Commons would have no changes to the legislation. They just went ahead under the assumption that they were going to get their way, exactly the way the legislation would be presented, irrespective of what the committee had suggested.

We've had a bit of time go by. Have there been any submissions from interested parties?

• (1635)

**Ms. Brenna MacNeil:** There have not been any to date, but the deadline is December 29.

**Mr. Borys Wrzesnewskyj:** I understand that, but there's been quite a bit of time.

How many requests for additional information have there been from different bodies?

**Ms. Brenna MacNeil:** I don't believe there have been any.

Just to address your first point, I think it's a good opportunity to clarify the two processes. We went forward with a public selection process under existing authorities. Under the current regulations there's recognition of the Canadian Society of Immigration Consultants, so there's power to recognize the governing body for immigration consultants. That's the process we're following on that public selection process. It's under current authorities. It doesn't require the bill.

**Mr. Borys Wrzesnewskyj:** What will happen if this legislation gets passed and nobody actually submits? Do we then realize we've passed legislation that in reality is not viable legislation? Will we have to go back to the drawing board and perhaps look at the recommendations made by the committee that we have a regulatory body set up the way the committee had recommended?

**Ms. Catrina Tapley:** If we find ourselves in a position where no applicants come forward through the process, we will still have a body. Until regulations are changed, that body will continue to exist.

**Mr. Borys Wrzesnewskyj:** Okay, so we're not further ahead. Thank you.

**The Chair:** Thank you.

Mr. St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** Thank you.

In our previous exchange, you confirmed that Bill C-35 was not aimed at protecting the general public, but at protecting the integrity of the immigration system. However, when the minister tabled the bill in the House and spoke about it in the media, he did in fact say that the bill's purpose was to ensure the protection of the public and of those involved in the immigration process. That's how it appeared in the news release and in the bill's title, which seems to indicate as much.

I understand that you cannot give your opinion on political issues—that's not your role—and I will not ask you to do that. However, can you confirm to the committee that, from a strictly technical point of view, the minister is erroneously claiming that Bill C-35 is aimed at ensuring the protection of the general public?

[English]

**The Chair:** Mr. St-Cyr, is that fair to ask—

**Mr. Thierry St-Cyr:** It's a technical question.

**The Chair:** I don't know. Is it fair to ask the members of the staff whether the minister erred? I don't think so.

[Translation]

**Mr. Thierry St-Cyr:** I will rephrase my question, Mr. Chair.

Could you tell the committee whether it is technically correct to say that this bill aims to ensure the protection of the public?

[English]

**Ms. Catrina Tapley:** Mr. Chairman, we would argue that it's both, that by protecting the integrity of the immigration system we are also offering protection to consumers, that this helps consumers as well, that the overriding federal responsibility is the protection and the integrity of the immigration system.

[Translation]

**Mr. Thierry St-Cyr:** Why does the same logic not apply to Quebec lawyers or notaries? Why is there no Canadian organization for immigration lawyers?

[English]

**Ms. Catrina Tapley:** Mr. Chairman, I'm not sure I understand the question.

[Translation]

**Mr. Thierry St-Cyr:** I will rephrase my question. Bill C-35 proposes a strengthening of the rules governing immigration consultants to ensure the integrity of the system.

Why did the department not consider proposing similar action at the federal level—in order to maintain the integrity of the system—for practising lawyers who also provide immigration advice for a fee?

[English]

**The Chair:** I think they've already answered that, haven't they? Didn't they say that the lawyers, the students, and family are excluded?

I'm giving testimony, I apologize.

[Translation]

**Mr. Thierry St-Cyr:** I know that they are excluded. I know the answer, Mr. Chair, but I want to hear what the officials have to say about this.

Why did the federal government not think it appropriate to include in Bill C-35 provisions concerning lawyers and notaries?

• (1640)

**Ms. Elaine Ménard (Counsel, Department of Citizenship and Immigration):** I could maybe try to answer. My name is Elaine Ménard. I am a lawyer and I work for CIC Legal Services. I'll try to answer your question, sir.

As far as constitutionality goes, two sections are relevant. The first is section 91.25 of the Constitution Act, 1867, which concerns naturalization and aliens.

**Mr. Thierry St-Cyr:** I have to stop you there. My question is really simple. Why is Bill C-35 aimed at overseeing consultants, but not lawyers? Why did you make that decision? I'm not saying that I think lawyers should have been included. I'm just asking why.

[English]

**Mrs. Elaine Ménard:** Lawyers *et les notaires* are already covered under provincial legislation. The Law Society acts, as you are aware—

[Translation]

**Mr. Thierry St-Cyr:** Thank you. So, consultants should be overseen because you feel that there is a legislative gap, as provinces do not fulfil their duty when it comes to monitoring them. As a result, the federal government must do the monitoring, but it does not need to get involved when it comes to lawyers, since they are already overseen by the provinces. That is the basis of Bill C-35.

[English]

**Mrs. Elaine Ménard:** I would just like to ensure there's clarity as to the constitutional question you posed beforehand. Then I'll let my colleagues answer to the policy question as to why there was a need for the consultants.

[Translation]

**Mr. Thierry St-Cyr:** I have to stop you there, since I have other questions to ask. I just want to understand properly. There are already lawyers who fall under provincial regulations, and there's no need to establish a federal structure for them. So, the reason for establishing such a structure for consultants is simply to bridge the gap.

[English]

**The Chair:** Monsieur St-Cyr, I know that you're getting to the meat of your question, but we're well over, so you'll have to wait for the next round, sir.

**Mr. Thierry St-Cyr:** I already have my answer.

**The Chair:** That includes the time I interrupted you for.

Ms. Grewal is next.

**Mrs. Nina Grewal (Fleetwood—Port Kells, CPC):** Thank you, Chair.

I would like to thank you for taking your time to come. Thank you so much for the presentations.

I think this is really a very good piece of legislation, especially for people who have been cheated by these crooked consultants. They will certainly appreciate it. All of us see these victims who come to our offices and sit down and cry. I think this will really be very good.

The minister has made reference to a broader strategy to better regulate immigration consultants. Could you please inform us of the other components of this strategy?

**Ms. Brenna MacNeil:** Just to reiterate and to be clear, there are two main parts of the broad strategy on regulating immigration representatives. Certainly Bill C-35 is the key element of that and is the subject of discussion here today. Just to reiterate, the public selection process is a complementary process and is part of the broader strategy. It's undertaken under current authorities. It's a separate process, but it is certainly a complementary process. As we've said, it's really to identify a governing body for immigration consultants. That is under existing authorities now, whether the bill goes forward or not.

I think I'd also like to mention that in addition to efforts to better regulate immigration consultants, we've certainly made additional efforts with respect to public awareness to warn people about fraud and the dangers of using unauthorized representatives. Service improvements have also been made to address the broader issue of whether people feel they need to use immigration representatives at all. Some of those service improvements Ms. Tapley spoke to in her opening remarks. They include movement towards e-applications and something called Visa Wizard, which will help applicants navigate the process, determine the best route for them to come, and respond to specific elements of the immigration process.

**Mrs. Nina Grewal:** Please, could you also tell us something regarding the public selection process? What selection factors you

are using to identify a body to govern immigration consultants and the way they are chosen.

**Ms. Brenna MacNeil:** I'll speak to that, as well.

The objective is really to identify the governing body that would act as the regulator of immigration consultants. That body would effectively regulate in the public interest, thereby enhancing public confidence in the immigration system as a whole and improving the integrity of the immigration system.

As has been mentioned, the first stage of the public selection process was to publish a notice of intent. Part of that was a request for public comment. We've received a significant amount of comment with respect to what the body should look like and what the selection factors should be. Those were factored into what were outlined as the selection factors that would work towards the elements of good governance, viability, competence, integrity, and accountability, which are the main factors highlighted as necessary in the body, moving forward.

● (1645)

**Mrs. Nina Grewal:** Mr. Chair, do I have more time?

**The Chair:** You do.

**Mrs. Nina Grewal:** I will pass my time to Ms. Wong.

**Mrs. Alice Wong (Richmond, CPC):** Thank you, Mr. Chair.

Thank you for coming and giving us details about the bill itself.

We have spent quite a bit of time on the regulation and the regulatory body. I have a question I'd like you to address. Would you be able to clarify the role of the federal government in protecting immigration applicants, who are consumers, at the federal level? I've been to quite a few round tables and town halls where the minister and I actually have had witnesses tell us their horror stories of how they've been cheated. Our committee has also heard many stories about that, and that's why the whole bill is here. Could you comment further on the consumer side?

**Ms. Brenna MacNeil:** Yes, I can certainly speak to the examples the department has seen of some of the elements of fraud or misconduct that have come forward.

Certainly the activities really cover a range, anything from overcharging clients to actually failing to provide the immigration services that were agreed to. They can get into manufacturing of false documentation, and then into even more serious offences, such as counselling misrepresentation—that is, counselling a client to basically lie to the government about their situation or story. The activities can even go as far as involvement in smuggling activities, or any way of finding a way into Canada for people, whether it's lawful or truthful or not.

So it's really a range of activities that this is really working to combat.

**Ms. Catrina Tapley:** If I could add, Mr. Chairman, I think a number of the improvements that we've made to our website, including the advisory in many different languages about unscrupulous consultants, is also helpful in protecting consumers or potential immigrants to Canada.

**Mrs. Alice Wong:** Do I have more time?

**The Chair:** Yes, you have four more minutes.

**Mrs. Alice Wong:** Oh, okay.

Again, on the same theme, sometimes we have clients coming to us who say they are afraid to report because they are afraid it will have consequences. So how do we protect those who come forth to us, saying they have been cheated and therefore that these crooked consultants should be sued?

**Ms. Brenna MacNeil:** Well, they certainly should be going forward to the governing body. If the consultant or other representative is a member of a governing body, the individual should be going forward primarily to that governing body to make a complaint, and that complaint would be dealt with directly by the governing body.

With respect to activities that are contrary to the provisions of IRPA, certainly we are not seeking to go after those individuals. There would be no instance when we would be going after those individuals, unless they had contravened the act. For example, I mentioned that sometimes they are counselled to misrepresent themselves. So if they have in fact misrepresented themselves, there may be some consequences. If they've done something, that's when there may be consequences; but otherwise there would not be consequences for the individual.

**Mrs. Alice Wong:** Well, we all understand some of the stories told about the fact that the process of application to the crooked consultants actually starts much earlier, in the person's own home country. So to what extent does the problem lie overseas, and what can we do domestically to address the problem?

• (1650)

**Ms. Sandra Harder:** It's true that given there are multiple points of access to the immigration system spread around the globe, it is challenging to address that international context. One of the expectations of this bill is that in closing the loophole around people who provide advice or offer to provide advice throughout the entire process, we'll be able, certainly, to extend the reach of the act.

I think the other important thing in terms of the international aspect is that while we obviously can't govern or police activities that take place internationally, there is an expectation that cutting off or severing some of those ties between the activities internationally and their domestic links will disrupt those networks and make their operations more difficult. As Ms. Tapley said in her opening remarks, the work at the level of the minister in terms of international alliances will be another important part of this.

**Mrs. Alice Wong:** I'll share the rest of my time with Mr. Dykstra.

**The Chair:** You have 30 seconds.

**Mr. Rick Dykstra:** Very quickly, it's been mentioned here, and I would just ask you to clarify, that while the recommendation in the standing committee report was for a statutory body, the recommendation that's actually coming out of the report is to move in the

direction that our piece of legislation, Bill C-35, is actually suggesting. Could I just get confirmation of that?

**Ms. Catrina Tapley:** It's certainly our belief that this legislation moves in the direction and the spirit of the committee's report.

**The Chair:** Mr. Oliphant.

**Mr. Robert Oliphant:** Thank you, Mr. Chair, and thank you, officials, for being here.

Taking us into the future, this exists. Does the legislation assume that an establishment that does this work is licensed, or is it only the practitioners who work for the establishment?

**Ms. Catrina Tapley:** The body itself is created, and I'll ask Ms. MacNeil or Ms. Ménard to chime in here, but the body itself is founded or based in regulation, that the members—

**Mr. Robert Oliphant:** No, I understand that. I'm an immigration consultant, but I work for a company called XYZ Immigration Consultants. Is that company regulated, or are only the employees of the company?

**Ms. Brenna MacNeil:** It's the members who are regulated.

**Mr. Robert Oliphant:** I ask that because I was on a regulatory body that was similar, about consumer protection. I am still hopeful this might have a grain of consumer protection in it. I am getting more doubtful.

When we regulated funeral directors in Ontario, we licensed funeral establishments and funeral directors, because we recognized that there was a huge loophole if you only establish licensing for the practitioner because that's the way people get around this. Was it considered?

**Mrs. Elaine Ménard:** The present corporation, CSIC, as well as this new corporation...the present one is currently a federally incorporated body under the Canada Corporations Act, and the new one—it could be either CSIC or a new governing body—also incorporated in the not-for-profit corporations—

**Mr. Robert Oliphant:** That's not what I'm talking about at all. I'm talking about the objects, not the subject. The object of your activity is individuals, not establishments. Okay, that's all.

Secondly, in Ontario, as in other provinces, a regulated body has a complaints process and then a discipline process, usually two. I'm assuming you have officials who understand this, because you've just prepared legislation. I'm a consumer. I bring a complaint. That's an arbitrated process. Then there's a disciplinary process. Those are two separate processes within the body. If the disciplinary process is successful from the point of view of the prosecutor, unsuccessful from the point of view of the professional, what is the appeal procedure in this legislation?

In Ontario it's the LAT, which is the Licence Appeal Tribunal. What is the appeal procedure?

**Ms. Brenna MacNeil:** What you're referring to, if I'm understanding the question correctly, is the complaints and disciplinary procedure within the governing body.

• (1655)

**Mr. Robert Oliphant:** The body, yes. I'm going to be disciplined because I was a bad person. I'm found guilty. I'm thrown out of the profession. To whom do I appeal?

**Ms. Brenna MacNeil:** That would be the process within the structure of the governing body itself.

**Mr. Robert Oliphant:** So there's no external appeal. Then I'll ask the lawyer. What is the process of natural justice with respect to always having appeal in anything we do in Canada and Quebec?

**Mrs. Elaine Ménard:** I think the process would be the same as it is with regard to other entities where you have, similar to a law society, the complaint process, the disciplinary process, and the like. So there must be guarantees within the process of the governing body itself, but it isn't—

**Mr. Robert Oliphant:** Is it the superior court of Canada? Is it the superior court of the province or territory? Is it the appeal court?

**Mrs. Elaine Ménard:** It would not be the Federal Court. It would be the provincial court system.

**Mr. Robert Oliphant:** Okay. I'm going to ask the chair if I could get that in writing, because I don't understand. I don't see anything about appeal in the legislation, which is a natural justice.

You mentioned that you're going to—

**The Chair:** Could I just interrupt for a moment? I think Mr. Oliphant has raised an excellent question, and perhaps Ms. Tapley or someone could provide the clerk with an answer to that comment, which in turn could be distributed by the clerk to the committee members.

Thank you.

**Ms. Catrina Tapley:** Mr. Chairman, we'd be only too happy to do that, and we'll get that to the clerk to be distributed.

**Mr. Robert Oliphant:** It says here that the government will make use of bilateral and multilateral opportunities to address fraudulent activities. Are there structures? Are there bodies? Or is that a phone call? Because three paragraphs down you say that you're going to send a dossier on some of the worst fraudsters in the Punjab. Is that alleged fraudsters? Who has determined these are criminals? Has there been a process, a hearing, or is it because we read a newspaper article in the *Toronto Star*?

These are your remarks, Madam Tapley, so I'm interested. You wrote the remarks. Are these alleged fraudsters or fraudsters? Has the minister decided or the *Toronto Star*?

**Ms. Catrina Tapley:** Mr. Chairman, I'll go back to the first part of the remarks. The department works within a number of bilateral and multilateral fora with a number of different countries that have faced similar challenges to ours. We would like to continue to work with them and also to support the minister's efforts wherever he has raised this interest internationally.

We talked about working with the Government of India and the government in Punjab. The dossier that the minister talks about handing over and that we have talked about involves, we feel, very solid cases of wrongdoing. We stand behind it.

**The Chair:** You're way over, Mr. Oliphant; I'm sorry. They're good questions, but we'll have to continue in another round.

**Mr. Robert Oliphant:** I have 17 more for the next witness.

**The Chair:** I'm sure they're groaning, in that case.

Mr. Uppal, you have five minutes, sir.

**Mr. Tim Uppal (Edmonton—Sherwood Park, CPC):** Very good. Thank you, Mr. Chair.

Thank you again for coming here to speak to us about this.

I want to speak to you a little bit about federal-provincial responsibilities under this bill. You mentioned the federal responsibility of ensuring that the integrity of the immigration program is protected. To me, that protects Canadians; it protects consumers as well. I know you said that, and I agree with you.

Would you explain what the role of the provinces and territories is on this issue? Can you explain how our approach complements and respects that role rather than infringes upon the ability of provinces such as Quebec to regulate who they deal with?

**Ms. Catrina Tapley:** Mr. Chairman, thank you for that question.

As my colleagues have already indicated, we respect the provinces' jurisdiction with respect to consumer protection and the role they play in it in regulating professions.

What we feel is that the establishment of this body complements that role by establishing this body under regulation. In our consultations with provinces and territories as we were preparing the bill, and in the first part of this, there were no objections raised to this approach. They were comfortable with it and felt that it complemented well what they've done.

As other members of the committee have commented, Mr. Chairman, provinces play an important role in the regulation of provincial law societies and of notaries in the province of Quebec. That too is complementary to this legislation and the approach the federal government has taken on it.

Concerning the second part of your question, I wonder if I could ask Ms. Harder and Ms. MacNeil to provide some additional details as well.

● (1700)

**Ms. Sandra Harder:** We know that several provinces right now that have already moved to address some of these issues. B.C., Alberta, Manitoba, and Ontario have developed initiatives within their own jurisdictions that deal with improved regulation of third-party intermediaries, recruiters, and sometimes those who are looking to recruit under the temporary foreign worker program. Also, several provinces require that third-party representatives, either as education recruiters or as temporary foreign worker recruiters, also be members of the provincial bar or members of the existing governing body.

**Ms. Brenna MacNeil:** To add specifically with respect to Quebec, they have recently put forward amendments to their own regulations, which will come into effect, I believe, in November, that make reference to recognizing the governing body for immigration consultants that is recognized in IRPA. They've also moved to create additional measures for consultants operating in Quebec—additional requirements around French language capability, as well as knowledge of Quebec laws. So the province has moved to act in this regard.

**Mr. Tim Uppal:** Thank you.

Ms. Tapley, you said that people use consultants for various reasons. One of those reasons, from my experience in talking to people who have used consultants, is that they feel that the forms are complex and difficult to fill out.

What is the department doing to simplify the forms, the process, so that applicants don't have to resort to using immigration consultants? I know you touched on it, but if you can, expand on that.

**Ms. Catrina Tapley:** Mr. Chairman, this is an important point for the department. I want to come back and start my response to this question by saying that people use immigration consultants for very legitimate reasons, and in terms of legitimate consultants with a lot to offer, this is not the point of the bill.

To come back to your point, which is the immigration process itself and being able to have a streamlined application process, some individuals feel they can make this application process on their own. I think we've taken some first steps on this. We've talked about some online tools, some online video to look at, walking you through the immigration application process and the various steps, the wizard, which helps you do that as well. But also it is incumbent on us—and this is a process of continuous improvement in the department, I hope—to look at the application process itself and see where the stumbling blocks are. The evidence, as provided through our missions, is very helpful in that regard. What people say is the most difficult part of this application, or where they stumble around different parts. It is something I think we want to continue to improve and develop.

Although we have some online tools to help people through the process, such as I have spoken about, as we continue to examine we want to come back and look at the process itself.

**The Chair:** Thank you.

Dr. Wong.

**Ms. Alice Wong:** Thank you very much, Mr. Chair.

I want to comment on the fact that in B.C., for example, the provincial government successfully sued a crooked consultant for fraud and also for cheating the client out of money, so that has already happened. I definitely acknowledge the fact that provincial governments are taking action as well.

My other question is how can this bill actually build up people's trust in the system itself? You mentioned that the whole thing is to protect the integrity of the program, so can you further highlight some of those things?

**Ms. Catrina Tapley:** We're going to play this in parts again. I will start and then I'll ask my colleagues to add their own opinions to this as well, or their own experience.

First, the legislation expands the period under which you can look at what consultants are doing, so we take it to the pre-application process as well. That step is crucial in terms of the integrity in the system. That, coupled with our advice and warnings, lets people understand that if this person is helping you for a fee, or you've engaged this person for a fee, that even throughout the process there is no loophole or hiding behind a certain part of the legislation. That, in itself, is an important step in terms of adding that integrity.

I wonder if Ms. Harder or Ms. MacNeil might want to add more on other elements of this bill.

• (1705)

**Ms. Sandra Harder:** Sure. I might add that the fact that we are actually creating a new offence speaks very strongly to protecting and taking seriously the activities of unscrupulous immigration consultants, and that is a new tool for the federal government.

Also, the work will be complemented by the public education component of this, as well as the work we have been doing around removing some of the need, perhaps, for people to seek out immigration consultants by making access to the system a little bit less onerous and by providing online tools and electronic applications as well as the visa application centres, etc.

**Ms. Alice Wong:** I will share the rest of my time with Mr. Rick Dykstra, please.

**Mr. Rick Dykstra:** You have alluded to the issue regarding the new offence to address whatever penalties may be applied. Could you actually speak to what those penalties are?

**Ms. Sandra Harder:** The new offence actually allows for a conviction of two years and a fine of up to \$50,000 for those who are found to be in contravention. Does that answer your—

**Mr. Rick Dykstra:** That's what I was looking for. Thank you.

Another aspect, which hadn't been touched on, and it sounded like we were going in this direction, is just clarifying how the actual selection of the committee will take place and who would potentially sit on the board.

**Ms. Catrina Tapley:** Again, others should please feel free to expand on this.

The application closes at the end of December this year, in 2010. The board or the people who will be assessing the application—those factors have been listed clearly—will include officials from Citizenship and Immigration Canada as well as other departments, as well as external members to that committee to look at assessing those applications. They, in turn, will make a recommendation to the minister for his consideration.

**Mr. Rick Dykstra:** Okay, thank you.

**The Chair:** Thank you.

Mr. Trudeau.

**Mr. Justin Trudeau:** Thank you very much, Chair.

I have to say I had high hopes for the idea of this legislation. I had some concerns about it, but now having heard the questions and the answers, I'm really concerned about what we're trying to do here.

We have indicated that we all agree there's a terrible problem with vulnerable people being taken advantage of by unscrupulous, crooked consultants—it's even in the name of the bill—but we have heard there are not going to be any extra resources or money to this new body to address some of the flaws in the existing system. There is no more money for enforcement. The CBSA, the Canada Border Services Agency, is responsible for going out and finding those people who will end up with these \$50,000 fines or two-years-in-jail punishments, but there are no extra resources for them to go after these people.

I'm really worried that the proposal that has been put out, which was published in the *Canada Gazette* on August 28, is not going to get anyone who wants to take up the challenge on this legislation that has been thrown together without any proper due diligence on what the requirements of such a body would be. Obviously, the answer is they have until the end of December of this year, another three months away, to apply, but how many different parties have indicated their interest? Surely, up to this point, any serious party that would want to take on such an important role as a regulator would have consulted, at least semi-casually, with officials at CIC about making sure they achieve this.

So I'm curious to see how many different parties have approached...about possibly being their regulator.

• (1710)

**Ms. Catrina Tapley:** I'll let Ms. MacNeil talk a little more about specifics, but I want to come back to the period of notice of intent. In the notice of intent the department had a fair bit of interest in terms of individuals wanting to have input into what those criteria looked like. We take that as an optimistic sign that there was a great deal of interest out there.

I'm hoping that Ms. MacNeil might be able to contradict me a bit on this. I can't comment that we have had individuals phone or organizations phone and say, "I'm telling you now that I'm submitting my application". But given the interest we had in that notice-of-intent period, I'm optimistic that over the next few months we will indeed have some proposals to assess when it comes to the end of December.

I think people are considering this thoughtfully. The statement and the number of factors there were easy, so I think considerable thought needs to go into this application and into what's being provided.

**Mr. Justin Trudeau:** I'll let Ms. MacNeil respond if there have been parties that have indicated their serious interest.

**Ms. Brenna MacNeil:** There have been no parties that have come forward to us. Some organizations have made public statements about their potential interest or to play a role in that process, but none have come forward to us directly.

**Mr. Justin Trudeau:** Unfortunately, Ms. Tapley, it actually worries me that you say that in the period between June 12 and August 28 there was a lot of interest and a lot of people came forward with suggestions, and then since the moment that the actual parameters were published and the selection process was published on the 28th, nobody has been coming forward with you. I wonder if that's because there was no indication in the June 12 notice that there wasn't going to be any extra funding for a body to be able to do the process right, and then on the 28th they discovered that was the case.

**Ms. Catrina Tapley:** It would be difficult for me to speculate on that, Mr. Chair, but again, it has been five or six weeks since that August 28 notice went out, and given some public statements that Ms. MacNeil indicated, we remain optimistic that we will have applications to assess.

**Ms. Sandra Harder:** I would just say that we didn't really have an expectation that we would get early signals, necessarily, from anyone in this process. There's an opening date and a closing date.

So I think it might be premature to assume that there wouldn't be viable candidates.

**Mr. Justin Trudeau:** I certainly hope so.

**The Chair:** Thank you.

Mr. St-Cyr, you are next.

[Translation]

**Mr. Thierry St-Cyr:** I will begin with a short technical question.

I feel it's pretty clear that the legislation is proposing to regulate the practice of the profession, and so to prevent certain people from performing immigration consulting tasks. However, I didn't see anything in the bill about regulating people calling themselves immigration consultants or using that title. For instance, under provincial law, someone cannot pretend to be an engineer or a doctor.

Does the bill contain a provision prohibiting those who are not members of the organization from claiming to be immigration consultants?

[English]

**Ms. Sandra Harder:** I would just underscore that there is in the legislation not only the notion of providing advice, but the offer of it.

[Translation]

**Mr. Thierry St-Cyr:** So it's about the offer. Do you feel that someone putting up a sign in his front yard reading "Roger Duquette, Immigration Consultant" is in fact offering his services? Do you feel that, under the bill, that person would be breaking the law? Is that how you interpret the bill?

[English]

**Ms. Sandra Harder:** If they actually then proceed to undertake "business", then yes.

• (1715)

[Translation]

**Mr. Thierry St-Cyr:** If someone's business card says "Immigration Consultant," strictly speaking, it does not constitute a violation like it would if the card read "doctor."

[English]

**Ms. Brenna MacNeil:** Well, it's certainly evidence towards proving the offence. What has to be proven is that they are offering to do that for a fee.

So there are different elements that have to be proven, but certainly that is—

[Translation]

**Mr. Thierry St-Cyr:** Unless I am mistaken, as the bill currently stands, it is truly just the practice of the profession that is exclusive to the organization members, and not the mere fact of using the title.

Earlier, you mentioned that the committee's report was rather well answered, overall, and its core recommendations are included in the bill. However, at that time, the first recommendation the committee adopted was to have Quebec's immigration consultants covered by Quebec legislation rather than by federal legislation. That recommendation was stated emphatically.



What made the department reject the committee's first recommendation?

[English]

**Ms. Catrina Tapley:** Mr. Chairman, it's really for the committee to decide how well we have answered the committee's report. I think what the honourable member has posed, in terms of his questions, is on immigration consultants in Quebec.

First, just let me say that those who are members of the Barreau or those who are notaries in Quebec clearly are covered by provincial legislation. In terms of this, what I would note is that Quebec has recently passed regulations—and I think, as Ms. Harder has indicated, they should be coming into force at the end of November—that make reference to federal regulations with respect to this body. I would just offer that as part of the response.

[Translation]

**Mr. Thierry St-Cyr:** I didn't ask why Quebec adopted these regulations; that's quite clear to me. However, you know that the current federal organization has nothing to do with the one that would be created if the bill is adopted. It is not just a matter of overseeing the relationship between a consultant and the federal government, it is a matter of overseeing the profession. We'll see how Quebec responds.

Perhaps you were right to do so, but I would just like to know why you set aside the committee's first recommendation when drafting the bill.

[English]

**Ms. Catrina Tapley:** One of the things we were striving for when we prepared this legislation and when we worked on this was a bit of national cohesion around some of the elements of this. So I think in that light what we were looking at was a system where we had a body that was there, recognizing the provincial bars and the notaries, but also seeking to have a system in which we would have some national scope around the body we were looking to regulate, the body for immigration consultants.

**The Chair:** Thank you. Your time has expired, sir.

Ms. Chow.

**Ms. Olivia Chow:** In your preparation of this, have the two organizations that primarily are interested, the Canadian Association of Professional Immigration Consultants and CSIC, the Canadian Society of Immigrant Consultants, talked to you about details of the bill and some of the details of what this would mean? Have they sought out information from the department?

**Ms. Sandra Harder:** In terms of the selection process?

**Ms. Olivia Chow:** Or the entire bill, since it's been presented, since June, right?

**Ms. Sandra Harder:** Right.

I'll speak first to the selection process. We have operated in the process of the selection of a body in an open and transparent fashion, so we have not been fielding calls from potential bodies that would want to be part of.... We want the process to unfold as the process needs to unfold. So just in terms of the selection process—

**Ms. Olivia Chow:** No, that wasn't my question. I'm not talking about a selection process; I'm talking about the bill itself.

Have you heard from some of the organizations whether they like the bill or dislike the bill? Have they expressed any opinion to the department as to whether this is a good direction to go or not? I'm talking about the bill itself; I'm not talking about a selection process.

• (1720)

**Ms. Sandra Harder:** Understood.

Just in terms of media coverage, there's certainly been some support and certainly interest expressed by the Canadian Society of Immigration Consultants in terms of recognizing the intent of the bill and the importance of the approach. But in terms of concrete calls to us on the legislation, no, not significant.

**Ms. Olivia Chow:** Have you worked with the RCMP and CBSA and CSIS on whether there would be a team that would do the enforcement? Because at the time the committee's recommendation said that it would be very useful within a very short period of time that there be a SWAT team, a team that coordinates all of these agencies together, to do the enforcement. Has that been set up by your colleagues? There's no stopping whether Bill C-35 gets passed in the House of Commons or not. Even today this team can go and see whether there are existing consultants who are really ripping people off.

**Ms. Catrina Tapley:** Far be it for me to put words in the mouths of my colleagues at CBSA or the RCMP, and perhaps these are questions the committee would like to address to them, but I would say based on our conversations with enforcement agencies around this, with the RCMP, CBSA, and CSIS, that they certainly are seized with issues and they do work closely together on this problem.

**Ms. Olivia Chow:** Do you take leadership on that? Do you bring them together into a team to say the experience in the visa office, for the Department of Foreign Affairs, this is a hot spot, this is another hot spot...? Wouldn't it make sense for the department to take a leadership role in that?

**Ms. Catrina Tapley:** CBSA takes the leadership role in enforcement activities, but we certainly share that information with CBSA and provide what we're hearing as a constant means. In our missions abroad—and again, Ms. Harder or Ms. MacNeil, please jump in here—the integrity officer in the mission is almost always from CBSA, and that interface between what we do and what they do is a pretty smooth process in most cases.

**Ms. Olivia Chow:** Are there any training—

**The Chair:** This will be very quick, Ms. Chow.

**Ms. Olivia Chow:** Is there any planned training for visa officers overseas so that they could identify that these applications are in fact signed by some consultants who are not licensed? Are there going to be upcoming training sessions?

**Ms. Catrina Tapley:** I can be very quick. This is part of our existing training. And indeed, having just visited a couple of our busiest missions, I can say that the walls of fraudulent documents and the ever-expanding world of where issues are constitute something that's constant and evergreen in our missions and something we take very seriously. It is part of the training.

**The Chair:** Thank you, Ms. Chow and Ms. Tapley.

Mr. Uppal, you are next.

**Mr. Tim Uppal:** Thank you, Mr. Chair.

Today we heard a couple of times about public education—education of the public—on behalf of the department. I would like you, if you could, to expand on that. I'm assuming it's about the immigration process and also avoiding crooked consultants in one way or another. Is it planned for just within Canada, or is it planned for overseas as well?

Also, are there plans to work with other governments? I had the opportunity to be with the minister in India. The minister for overseas there was saying that they had legislation coming forward on consultants and also had a plan of public education on behalf of their federal government. Could you expand on that?

• (1725)

**Ms. Sandra Harder:** There is definitely a strong public awareness component that has been part of the efforts of the department for some time, and efforts to make sure that information is visible and public in our overseas mission offices. There are pamphlets that are handed out to applicants so that they're aware of what some of the dangers are around immigration fraud. There is certainly, as we've said, translation of the public awareness information, right now into 17 different languages. That aspect has been an important preventative feature of the department's work.

**Mr. Tim Uppal:** You mentioned that this has been going on for some time. Is there any way of indicating results or how it is going? Is there a way to judge that?

**Ms. Sandra Harder:** Do you mean judge the impact of the public education? I think it might be difficult to measure in a quantitative fashion, but certainly I think it's an ongoing activity of the department and is ingrained in overseas missions and their work and even in offices in Canada.

**Mr. Tim Uppal:** I will share my time with Mr. Dykstra.

**Mr. Rick Dykstra:** Ms. MacNeil, one thing you have mentioned a couple of times is the Canada Corporations Act. I wonder if you could expand a little bit on how the governing body will work under that act.

**Mrs. Elaine Ménard:** Mr. Chair, I'll attempt to answer the question.

The Canada Corporations Act is an act in existence presently; it has been in existence for a number of years. There are two parts to it. It's the second part that deals with the not-for-profit corporations act. However, the new Canada Not-for-profit Corporations Act will come into force in the spring of next year, 2011. I think that is the act to turn to.

That act will have a system similar to the Canada Business Corporations Act, with the idea of members being like shareholders. Members will have the ability to be very involved in the corporation itself. I don't know what else to say, but it really is a federally incorporated body that will be incorporated under the Canada Not-for-profit Corporations Act with all the rights and responsibilities under that act.

**Mr. Rick Dykstra:** One thing is, and it comes back to timing a little bit and why things have started so early in the process—and maybe you could talk a little bit about this—that the body would actually come into force sometime in the spring of 2011. Maybe you could join the two: the preliminary work that's being done now with the completion of that work in the spring of 2011.

**Ms. Sandra Harder:** I would just say that the end of the period for submission of applications is the end of December. Then, as we've said, there would be a committee struck to examine those proposals. Our expectation is that then a recommendation would go forward to the minister. That would be the start of the actual designation process. Spring 2011 is the kind of timeframe we're operating with, but it may be subject to change.

**The Chair:** I don't hear any bells yet, but the clocks say 5:30, which concludes this meeting.

I want to thank the four of you for coming and making your presentation and answering our questions. Thank you very much.

This meeting is adjourned.

---







**MAIL  POSTE**

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

**Lettermail**

**Poste-lettre**

**1782711  
Ottawa**

*If undelivered, return COVER ONLY to:*  
Publishing and Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,  
retourner cette COUVERTURE SEULEMENT à :*  
Les Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5

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

### **SPEAKER'S PERMISSION**

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and  
Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5  
Telephone: 613-941-5995 or 1-800-635-7943  
Fax: 613-954-5779 or 1-800-565-7757  
[publications@tpsgc-pwgsc.gc.ca](mailto:publications@tpsgc-pwgsc.gc.ca)  
<http://publications.gc.ca>

Also available on the Parliament of Canada Web Site at the  
following address: <http://www.parl.gc.ca>

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

### **PERMISSION DU PRÉSIDENT**

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les  
Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5  
Téléphone : 613-941-5995 ou 1-800-635-7943  
Télécopieur : 613-954-5779 ou 1-800-565-7757  
[publications@tpsgc-pwgsc.gc.ca](mailto:publications@tpsgc-pwgsc.gc.ca)  
<http://publications.gc.ca>

Aussi disponible sur le site Web du Parlement du Canada à  
l'adresse suivante : <http://www.parl.gc.ca>