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Chair

Mr. David Tilson

Standing Committee on Citizenship and Immigration

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● (1530)

[*English*]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good afternoon.

This is the Standing Committee on Citizenship and Immigration, meeting number 30, on Monday, November 1, 2010. This meeting is televised and is pursuant to the order of reference of Thursday, September 23, 2010, Bill C-35, An Act to amend the Immigration and Refugee Protection Act.

We have three sets witnesses in this panel. The first witness, Stéphane Handfield, appears as an individual.

Good afternoon to you, sir.

We have three representatives from the Canadian Bar Association: Michael Greene, who is a member of the national citizenship and immigration law section; Tamra L. Thomson, who is the director of legislation and law reform; and Chantal Arsenault, who is the chair of the national citizenship and immigration law section.

From the Law Society of Upper Canada, we have: Laurie Pawlitza, who is the treasurer; Malcolm Heins, who is the chief executive officer; and Sheena Weir, who is the manager of government relations.

Good afternoon to all of you.

Each group has up to seven minutes to make a presentation, and then there will be questions from the four caucuses present here today. We'll just take it in order.

Mr. Handfield, you have up to seven minutes to make a presentation.

[*Translation*]

Mr. Stéphane Handfield (Lawyer, As an Individual): Mr. Chair, members of the committee, thank you for inviting me to appear before you regarding Bill C-35.

I have been a lawyer in Montreal for 18 years, and I served as a member of the Immigration and Refugee Board of Canada for 11 years. Immigration law makes up most of my practice. Practising law is a lawyer's domain. Immigration law is a field of law. Therefore, immigration law should be practised solely by lawyers, with the exception of notaries in Quebec.

The scope of activity of immigration counsellors should be limited to functions such as recruiting immigration applicants, gathering documentation and completing forms. Their activities should be overseen by a lawyer or notary, to ensure that the immigration applicant or foreigner receives proper advice. That would better protect people against fraud and other forms of abuse.

In the course of practising law, I have heard a number of disturbing stories involving immigration consultants. For example, an 80-year-old woman hired an immigration consultant to prepare and file her application for permanent residence in Canada on humanitarian grounds. After waiting several years and paying various fees, the woman learned from Citizenship and Immigration Canada that her application had never been filed. The consultant in question was arrested by the RCMP and taken to court on fraud charges.

There was another immigration applicant who, despite meeting the criteria for the skilled worker class, was advised by an immigration consultant to apply as an investor, so that the consultant could collect $50,000 in commission. Stories like that are a dime a dozen.

Situations like these have serious consequences for the people affected: their applications are denied, they are deported, they are separated from their families, they suffer financial losses, their lives are ruined. It is my position that Bill C-35 does not protect people from crooked immigration consultants who could claim that they were not compensated for their services.

Bill C-35 gives the body that would be responsible for immigration consultants numerous regulatory powers. That organization could be considered a professional body. The existing legal and regulatory framework in Quebec with respect to professional bodies can provide assurance of consultant oversight, which the federal framework cannot do. As a result, immigration consultants operating in Quebec should be overseen solely by the Quebec government. That would ensure that provincial jurisdiction is respected.

In short, only lawyers and notaries should be able to practise immigration law. If the government wishes to recognize immigration consultants, it should require them to work under the supervision of a lawyer. Furthermore, the body in charge of consultants should be regulated by Quebec.

In closing, I would point out that, according to *Le Petit Larousse 2010*, a consultant is defined as a specialist who gives detailed professional advice in his or her area of expertise, whereas a lawyer is an officer of the court who advises, assists and represents clients. A lawyer is trained to interpret complex laws and regulations, such as those in immigration law.

Thank you.

● (1535)

[*English*]

The Chair: Thank you very much, sir.

We now have the Canadian Bar Association. I'm not sure who's going to be presenting.

Everybody is pointing your way, Ms. Thomson.

Thank you and welcome.

Ms. Tamra Thomson (Director, Legislation and Law Reform, Canadian Bar Association): Thank you, Mr. Chair and honourable members.

I will start and then give the floor to Maître Arsenault and then Mr. Greene.

The Canadian Bar Association is very pleased to appear before your committee today. The issue of who can represent those applying to immigrate to Canada has been an issue before the Canadian Bar Association as long as it has been before Parliament, before the government, and, indeed, before the courts. We come to this issue with the optic of what is best for the administration of justice within Canada.

I should mention that we will talking in our remarks about lawyers, but given our short time, we will mention not only the lawyers who are regulated by the law societies in each province and territory, but also the Quebec notaries, who are regulated by the Chambre des notaires.

With me today is Chantal Arsenault, who is the chair of our citizenship and immigration law section, and Mr. Greene, who is a past chair of that same section.

I will ask Chantal to continue.

[*Translation*]

Mrs. Chantal Arsenault (Chair, National Citizenship and Immigration Law Section, Canadian Bar Association): The Canadian Bar Association has always been committed to protecting the public interest, as well as the integrity of the immigration system. With that objective in mind, we have kept a very close eye on all developments related to consultants for many years now, releasing numerous briefs on the issue since 1995. We appreciate the opportunity to comment on Bill C-35.

First of all, we stand together with all those who have already hailed the fact that the bill prohibits unregulated persons from representing immigration applicants at all stages of the process, even before the application is filed. Furthermore, the CBA has long been calling attention to that serious flaw in the current system. So we welcome this change.

The issue of who should be regulated and how is much more complex. The CBA has always maintained that only lawyers should be allowed to represent or advise someone in connection with a proceeding or application under the Immigration and Refugee Protection Act. Otherwise, it is our position that adequate representation of consultants is critical.

The whole idea of representation and advice is one of the cornerstones of Bill C-35. Unfortunately, however, contrary to what we have been recommending since 1996, the bill does not set out a clear definition of the immigration services subject to regulation.

● (1540)

[*English*]

In our submission, we provide you with such a definition of acts that should only be performed by lawyers, whether or not we are willing or able to designate a body as per the proposed paragraph 91 (2)(b). Lawyers have received formal education aimed at developing the ability to analyze and address legal complex issues.

Many issues in the immigration context involve not only immigration law, but other areas of law, such as administrative, criminal, constitutional, and human rights. Inadmissibility or validity of a foreign marriage are just two examples of issues that require a sophisticated legal analysis for a representative to be able to competently advise and draft documents for clients, rather than just memorizing manuals.

While we recommend that nobody be designated by proposed paragraph 91(2)(b) of the bill, and that consultants be allowed to act only under the supervision of lawyers, we also suggest in our submission improvements to the bill in the event our recommendation is not followed by this committee or by the government.

My colleague Michael Greene has been involved with this issue for many years now. I will therefore give him the floor to talk about how we hope to improve the bill.

Mr. Michael Greene (Member, National Citizenship and Immigration Law Section, Canadian Bar Association): I was the national chair during the passing of IRPA, so I've appeared in front of this committee a few times for different things over the years. I'm pleased this time to be in a situation where we actually applaud the government for the legislation. We think it has been long in coming. There was a gaping hole left in the previous scheme, where there was nothing to cover the unregulated consultants. We're very happy to see that the minister has acted and is proposing something that would close that hole.

Chantal has already said that what our consistent position has been over the years is that this is essentially giving legal services, and like any other area—criminal law, civil law, or family law—it should be restricted to those who are sufficiently trained in order to protect the public interest and the integrity of the immigration program. It should be restricted to lawyers and members of the Chambre des notaires du Québec.

In any event, it's possible that at this time the committee and the government are not willing to go that far. The government essentially has three choices: limit all immigration activity to lawyers; delineate which services should be done by lawyers and which could be done by consultants; or allow both consultants and lawyers to do the whole works.

If consultants are going to continue to be permitted to provide immigration services for remuneration, it's imperative that they be properly regulated. It is our submission that CSIC has not functioned to properly regulate and that the problems are inherently structural—they're not personality... But there are structural problems with the way it was set up and that needs to be corrected.

The main problem is a lack of accountability. The result is that the public interest is not protected. There isn't adequate enforcement of ethical, professional, and competence standards and something needs to be done about that.

We think there are some good mechanisms in the bill, but it doesn't go far enough.

The organization that is doing it—partly because of the structural problems—has become mired in allegations of financial impropriety, governance issues, and conflict within the organization. It needs oversight. It needs some kind of accountability to correct that.

The minister proposes to have the power to designate the organization, which is more or less what happened before. We're saying that there need to be some companion powers that go with that power to designate an organization in order to create effective accountability and oversight.

Specifically—and this is set out in more detail in our brief—there needs to be an explicit power to revoke that designation. We submit that there should be a regulatory power to create regulations setting out the conditions that should be considered and factored into such a decision to properly exercise that discretion.

We believe that CSIC brought up the concern about that power being used for political reasons, so they didn't want the minister to have that power. But we don't see an alternative to granting the minister not only that power, but more power. We see that it's likely they will end up in litigation, so you want to be very express about the power to revoke and the factors that must be considered, which would likely be the failure to protect the public interest or act in the public interest in their deliberations.

There are two powers given to the minister. One is the power to designate. The other is the power to compel the provision of information. There is no consequence for failing to provide that information, so we think that should be there.

We're also suggesting, as a companion to the power to revoke, that there should be a power to appoint a trustee to create a situation for the interim situation. Because you have quite a comprehensive structure right now. You have grandfathering provisions for transition. If things go awry with the board, you want to be able to send in a trustee to run the place and not necessarily throw out the baby with the bathwater.

You can have the structures remain in place at the same time as a trustee. We recommend who could be on that board and what kind of people could be trustees, as they could be right now for interim purposes.

Again, we applaud the government for this bill, but we think it doesn't go far enough.

● (1545)

The Chair: Thank you, sir.

Ms. Pawlitza.

Ms. Laurie Pawlitza (Treasurer, Law Society of Upper Canada): Thank you. I'm the treasurer of the Law Society of Upper Canada, which is the elected head of the society.

I'd like to begin by saying that we very much welcome the minister's actions in introducing Bill C-35. We're supportive of its aim, which is to protect the public. In particular, we're supportive of the expansion of the range of prohibited activities.

However, we are here to ask you to consider an amendment to the bill to exempt from the membership to CSIC the paralegals in Ontario who are regulated by the Law Society of Upper Canada.

Currently, proposed subsection 91(2) of Bill C-35 exempts from CSIC the members of the provincial bars. Lawyers are exempted, as I understand it, because they are already regulated by law societies.

In Ontario, the Law Society of Upper Canada does not only regulate lawyers; since 2008, it has also had a fully operational regulatory structure for paralegals that mirrors the structure of regulation for lawyers. Currently we regulate 42,000 lawyers and 3,000 independent paralegals.

I should pause here to point out that the law societies are not like the bar associations. The operations of the associations, like the CBA, are quite different. Their membership is voluntary. Bar associations lobby in their members' interests. By contrast, the law society is a statutory body that's obliged to regulate in the public interest. To provide legal services as a paralegal in Ontario, you must be licensed as a paralegal.

Under the amendments to the Law Society Act, paralegals are permitted to provide legal services in a narrow scope of practice, which includes things such as small claims court and federal and provincial tribunals. Included in the legal services that paralegals who are licensed in Ontario can provide are immigration matters.

The difficulty the paralegals in Ontario face is that the Law Society Act requires that for them to provide legal services, they must be a member of the Law Society of Upper Canada. In addition to that, IRPA requires that they be a member of CSIC. In our view, the regulation of paralegals in Ontario by two regulatory bodies is unnecessary.

I'm going to mention a little bit about how we regulate paralegals in Ontario. When the regime was implemented in 2008, applicants who met certain criteria were grandparented, and they weren't required to have a certain college education. That phase has now passed.

Now paralegals providing legal services in Ontario can only be licensed if they have completed an accredited community college program. The law society accredits the programs. We've done extensive research into the competencies required, which we can discuss if questions are asked.

In addition to that, paralegals must satisfy other criteria. As with the lawyers we license, they must all be of good character. They must pass a licensing examination that tests different competencies than the competencies required under the accredited college programs. They are required, under those licensing exams, to focus on the issues of professional responsibility, ethics, and so on.

In addition, paralegals, once licensed, must abide by the paralegal rules of conduct, which are very similar to the lawyers' rules of professional conduct. If they handle and hold client funds, they must maintain a trust account. As with our lawyers, they are subject to spot audits of their books and records. Also, they must cooperate with reviews of their practices.

Beginning in January 2011, they will also be required to take 12 hours per year of continuing professional development education. They will be suspended from providing legal services—suspended from their practice, if you will—if they don't complete that education over the course of that year. They would be reinstated once they have completed it. To maintain a licence, they need to have insurance of $1 million—$2 million in the aggregate.

● (1550)

The law society also operates a compensation fund. If a client has been subject to dishonest action on the part of the paralegal, there is compensation provided by the law society; for example, in the instance of fraud.

The law society of course has an established discipline process. We discipline paralegals as well as lawyers in the event that there are issues with their conduct, competence, or capacity, and we also prosecute unauthorized practice.

In addition to that, with respect to the paralegal regime, we're required to report to the government. We reported in 2009 and have copies of the interim report about the paralegal licensing regime here with us today. We're also required to report again to the government in 2012.

In conclusion, the law society has been regulating the legal profession since 1797. We're Canada's oldest regulatory body. Our regime mirrors the lawyers' regime and, for these reasons, we're asking that Bill C-35 be amended to exempt the paralegals licensed by the Law Society of Upper Canada from the provisions of proposed subsection 91(1) in the same manner as our lawyer licensees are exempted.

We're happy to answer any questions.

Mr. Heins, our CEO, has been with the law society for much longer than I've been an elected treasurer, so Mr. Heins will doubtless be answering any questions you might have of the law society.

The Chair: I want to thank all of you for your presentations.

Mr. Trudeau has some questions for you.

Mr. Justin Trudeau (Papineau, Lib.): Thank you very much, Chair.

Thank you for your testimony.

The first thing I'd like to point out is that there are two separate bodies here at the table: the law society, which is the regulatory body, and the Canadian Bar Association, which is the representative, the lobbying body, almost the union, if you will, of lawyers. You wouldn't use the word union, but you're representing the lawyers.

Within the current CSIC model, we have one body that seems to be taking on both of those roles. Is that something that you see and would care to comment on in terms of the proposed legislation?

Mr. Malcolm Heins (Chief Executive Officer, Law Society of Upper Canada): Generally, that model has fallen into disrepute worldwide. It's pretty clear that you need to wear one or other of the hats and to some extent you heard the difference in approach here today.

Mr. Justin Trudeau: Thank you.

Mr. Michael Greene: I'd just comment specifically in an immigration context. This is the very problem that happened in Australia. Australia was the model for our model; we modelled our system after Australia. Theirs turned out to be a failure. They started theirs in about 1998-99. They had one organization, the MIA, the Migration Institute of Australia, doing both functions.

It proved to be a failure. The resolution in Australia was that the government took over the regulatory function and created their own regulatory body, because there's a conflict between promoting the interest of your members and trying to protect the public interest. It's just one of those inherent structural problems that exist with the current organization.

In our submission of July 2, which should be read as a companion to this submission, we said that this has to be looked at. Whoever is going to take over this role in the future, even if it's CSIC, they can't continue to be the representative body and the regulatory body.

Mr. Justin Trudeau: Thank you very much.

You've all said, with various degrees of certitude, that lawyers should be the only ones providing legal advice around immigration laws.

● (1555)

[*Translation*]

Mr. Handfield, which university did you attend prior to becoming lawyer?

Mr. Stéphane Handfield: The Université du Québec à Montréal.

Mr. Justin Trudeau: How many courses in immigration law did you take there?

Mr. Stéphane Handfield: Unfortunately, in those days, no courses in immigration law were offered.

Mr. Justin Trudeau: I asked you even though I already knew the answer. Nowadays, all the major law schools offer courses in immigration law, but it was a long time before that happened, yes.

How are you going to oversee paralegals or lawyers who practise immigration law specifically, to ensure that they stay on top of their professional development, in other words, that they are up-to-date on all the requirements and complexities related to this field of law?

Mr. Stéphane Handfield: It is indeed true that universities did not used to offer courses in immigration law. But we did have law courses that taught us how to interpret laws and regulations, which were often complex, in the field of immigration law. You can see here, I have the Canadian statutes annotated. The stack is quite hefty and does not even include them all.

It is also important to bear in mind the requirements of the bar. For a year and a half, lawyers in training study the law, learning how to practise and interpret it. They also have to article in a law firm under the supervision of a lawyer.

A lawyer is trained to be able to practise in more than one field of law. Universities do not produce lawyers so much as legal experts. It is only afterwards that you decide whether you want to be involved in politics or, in the case of Quebec, join the Chambre des notaires du Québec or the Barreau du Québec.

As far as a regulatory body for immigration consultants goes, I think it is really important to distinguish between consultants and lawyers, because the distinction is great. They are two totally different worlds.

[*English*]

Mr. Justin Trudeau: Would any of you others like to comment?

Mr. Michael Greene: If I may, I'll add a couple of points.

I've heard the argument before: lawyers only get one course or whatever. The idea is that what happens in law is that you get trained to think like a lawyer. You get trained in how to apply knowledge of the law—that is, statute and the common law, the courts law, the civil law—to factual situations. That takes years of training. You get intensive training and that should be applicable to any area you specialize in. In fact, most lawyers don't specialize until they're long out of law school. It's that training in how to solve problems.

What happens with the consultants is that they get knowledge about what the current rules are. We're saying that most of the activity you're doing when you're giving advice and you're representing people involves applying knowledge of the law to factual situations, and that's an ability that takes years to do.

The other thing in terms of training is that most law societies now are moving to require compulsory training every year; that is, training that lawyers have to.... Right now in some provinces, such as my province of Alberta, it's still voluntary, but you have to file a plan every year; it will become mandatory shortly. In some provinces it's already mandatory that you must have a certain number of credits every year so that you stay on top of the law. Any self-respecting lawyer does stay on top of the law.

Mr. Justin Trudeau: I'm assuming that those credits, if someone who's choosing to be an immigration lawyer or have their own specialty or work in an office that specializes in that, will specifically go after the courses. Will there be courses in specific areas of law in general?

Mr. Michael Greene: Yes. The Canadian Bar Association offers very comprehensive legal training in areas of specialty. I think ours is unsurpassed in what we offer in terms of annual national courses, but also in local provincial courses.

As well, some provinces are like the province of Ontario, where the Law Society of Upper Canada has a specialist designation. You have to show that you have a certain amount of training and that you've worked a certain amount in the field before you can call yourself a specialist in immigration law.

Mr. Justin Trudeau: Would you see, then, a need to insert into a bill like Bill C-35 a recommendation or even an obligation that people who want to practise immigration law should be qualified specialists in immigration law? Or is that setting the bar higher than you feel is needed?

Mr. Michael Greene: Then you might get yourself into a constitutional fight with the provinces.

Mr. Malcolm Heins: I think you also need to remember that as professions we require as part of our code professional competence in the area in which you choose to practise. So we offer specialist programs; we offer 140 programs a year of continuing education to our members, and that includes the paralegals whom we just talked about. There's more than ample opportunity for people to become competent.

● (1600)

The Chair: Thank you, Mr. Trudeau.

Monsieur St-Cyr.

[*Translation*]

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

Thank you all for being here. We are hearing from some very interesting witnesses today, witnesses we should have perhaps heard from in the beginning.

We have indeed spent a lot of time and energy studying the technical side of regulating the profession, without even asking the most basic question of all: should we regulate the profession or simply prohibit it? Of course, I am talking about immigration consultants.

We have heard from many people who share your position. The most common arguments made by those who support immigration consultants revolve around cost and accessibility. Lawyers' services are indeed very expensive. So the services of immigration consultants are more accessible to applicants.

Mr. Handfield, you practise law, so perhaps you could paint us an overall picture of the cost of a lawyer versus that of an immigration consultant. I do not want to know what you charge specifically, but how do your fees compare with those of an immigration consultant? How do they stack up in terms of accessibility and government support for less fortunate clients?

Mr. Stéphane Handfield: I will not tell you today what I charge, but I have seen some immigration consultants charge a lot more than most lawyers.

In terms of legal fees and access to justice, it is important to note that immigration consultants cannot accept legal aid certificates. Only a lawyer can. That is very important because refugee claimants often arrive in Canada with very little; they do not speak the language and have no means or resources. It is unfortunate, but when we send them to immigration consultants, they are often bled dry trying to pay for representation before the Immigration and Refugee Board. A lawyer, however, can accept a legal aid certificate, which means that refugee claimants are not on the hook for the cost of those services. That is an important distinction.

Mr. Thierry St-Cyr: I have another question about something that has already been mentioned: what falls under Quebec's jurisdiction and what falls under federal jurisdiction? Clause 91(1) of the bill reads as follows:

> 91. (1) Subject to this section, no person shall knowingly represent or advise a person for consideration—or offer to do so—in connection with a proceeding or application under this Act.

This act being the Immigration and Refugee Protection Act.

When someone applies for a selection certificate through Immigration Québec, is the application covered by this act, in other words, IRPA, or not because it is covered by provincial legislation?

Mr. Stéphane Handfield: When a client goes through a lawyer and obtains the Quebec Selection Certificate, that does not entitle the client to permanent residence status. It does not give the client any status, nor does it authorize the client to come to Canada. Obviously, the person's file is then transferred to the federal government, which conducts security checks and requires the applicant to undergo a medical examination, further to the permanent residence application process. At the end of the day, it is the federal government that decides whether or not to issue a visa. Clearly, it falls under IRPA. Someone cannot just apply for a Quebec Selection Certificate. It is in connection with a file that eventually makes its way to the federal government and is covered under IRPA.

Mr. Thierry St-Cyr: So whether the client applies to Quebec or the federal government, the application will be subject to IRPA at some point during the process. Is that correct?

Mr. Stéphane Handfield: In the case of immigration law, yes.

Mr. Thierry St-Cyr: There are a number of lawyers here today. I want to know whether they agree with you.

Mrs. Chantal Arsenault: Yes, the first step in Quebec is indeed selection. Under the federal legislation, it is not necessary to repeat that step; Quebec's selection certificate is accepted for what it is. However, the selection certificate or certificate of acceptance is not enough for people who come to Canada on a temporary basis to obtain status. They must then apply for status under the Immigration and Refugee Protection Act, in order to be allowed into Canada.

● (1605)

Mr. Thierry St-Cyr: We talked about this back when we were discussing the creation and relevance of a Canadian Society of Immigration Consultants. Today, we are talking about provisions that would give the government even more power in terms of oversight. It would basically oversee the profession, not just the relationship between the consultant and the federal government. In addition, the whole issue of jurisdictional authority is a consideration. The common argument we hear from those who support a Canadian body is that immigration comes under federal jurisdiction. However, it is also the domain of lawyers. And law societies, the bar, are under the jurisdiction of the government of Quebec and the other provinces.

Mr. Handfield, do you think Quebec's immigration law is so distinct that future immigration consultants should have to meet training and oversight requirements specific to Quebec's system, as compared with the rest of Canada?

Mr. Stéphane Handfield: I do not think they should be regulated differently. To my mind, a single body would be adequate. I think a distinction could be made for those wanting to practise specifically in Quebec.

As I mentioned in my opening statement, this bill will give the body charged with regulating consultants numerous powers. That is not too many steps away from a professional association. In my view, Quebec has everything in place to regulate consultants and, above all, to oversee them.

Just look at what happened with CSIC. If it had behaved as a professional association in Quebec, I am certain that the province would have stepped in to bring CSIC into line and perhaps gone so far as to place the body under provincial control. That would have saved many immigration applicants, foreigners and newcomers a lot of trouble. Goodness knows all the problems those poor people have suffered at the hands of many a consultant.

[*English*]

The Chair: I'm sorry. We're over the time.

Ms. Chow.

Ms. Olivia Chow (Trinity—Spadina, NDP): In the submission of the Canadian Bar Association, you have five recommendations. I'm particularly interested in a few of them. On the factors to grant or revoke a designation, which I believe is in recommendation 4 on page 9 of your submission, what are some of the criteria that you think should be added? Does your wording in recommendation 4 actually cover them?

Mr. Michael Greene: I'm afraid we haven't gone so far as to give specific wording. We do suggest that the public interest has to be the main consideration here, but you would also have other factors that would be relevant to that.

You need only look at the litany of complaints about the current organization to help you depict those factors, but one of them would be a failure to institute and implement an effective disciplinary system and pursue it. Financial mismanagement, the way the funds of the organization are or are not used, I think would be another one. It's one of the main complaints. But again, that goes back to the public interest.

Ms. Olivia Chow: So it would include the public interest and failure to institute sanctions or...?

Mr. Michael Greene: One of the big complaints that this committee heard and commented on in its previous reports in 2008 and 2009 was the fact that the disciplinary system did not get up and running. Now there is another problem in that they lack the powers to effectively discipline; they just weren't given the powers to subpoena, for instance, to compel witnesses, and those kinds of things.

Do you want to answer that, Chantal?

Mrs. Chantal Arsenault: Yes. I just want you to look at page 4 of our submission, where there is an example of what the U.K. is doing. It says they have the power to revoke the privileges of those professional bodies that have "consistently failed to provide effective regulation of its members in their provision of immigration advice or immigration services". So the "consistently failed" terminology provides one example of where that power has been used before.

● (1610)

Mr. Malcolm Heins: If I may add this, you might as well look at section 4.2 of the Law Society Act, which states the principles that would be applied by a regulatory body. You could just adapt those. It's already set out in a statute: section 4.2.

Ms. Olivia Chow: Folks, you know that we are supposed to do clause-by-clause very soon. We have until tomorrow at noon to draft it. I totally agree that we should have some factors as to how to grant and revoke. Those include transparency, for example, right? It should be democratic and transparent, and for financial, the principles make perfect sense, but I'm looking for a system here.

Anyway, thank you.

Mr. Michael Greene: Well, on that, those can be done in the regulations. You just need to make sure that the minister has the power to make those regulations.

Ms. Olivia Chow: Does it now...?

Mr. Michael Greene: We're saying that in proposed subsection 91(5) or around there you should make sure that the minister has the power to make regulations that would govern the minister's exercise of the revocation function.

Ms. Olivia Chow: Does the way it is written right now not give the minister that power? Would recommendation 4 actually give the minister the power to do so?

Mr. Michael Greene: Well, yes, I confess that I don't think it's worded as beautifully as Gary Dubinsky and the Department of Justice would do it, but we've given them an idea, and they can stay up really late tonight coming up with a solution. How's that?

Ms. Olivia Chow: Gee, thanks.

I have several other ones here, Mr. Chair.

The other one makes a lot of sense and you're not the only one who has talked about it. It's the visa application centres. I actually saw one in Beijing. Before I walked into it, I saw that there were these signs for consultants on the ground floor. They operate on the second or third floor, and I didn't realize that they could, if they choose to—they probably don't—offer advice. You're saying you've seen instances where they do offer advice and the advice may or may not be correct.

In your opinion, should they or should they not offer advice? They probably should not, right? Because they're paid.

Mrs. Chantal Arsenault: Exactly. Our opinion is that we should not offer advice on this issue. The VACs should only be there to use as links between the individual and the consulate or the embassy in saying, "Here's my application and I can forward it", but they should not help the individuals complete the application or decide what documents are required on that application, because there are different legal ways to obtain a work permit. We can define a category, for example, and if they say, "this is the category you should apply in", they are providing legal advice, and they're—

Ms. Olivia Chow: But it's hard for them to do. I'm just trying to picture it if someone comes to me.

I've watched them. They actually fill in an application. They're going through all the documents. If they could tell that this person is actually missing these two documents, for them not to say, "Wait, hang on a second, you're spending all this time giving me this documentation to apply for temporary residence permit, a visitor visa, and you've given me all these documents, but I do know that you are missing these two really important ones...". But they don't tell them that. That's hard.

But if they do tell, they're providing advice. Then they are in fact making money and providing advice without the actual—

Mr. Michael Greene: Yes, there's a delineation there. As for telling them that these are the required documents that the visa office says are required for this application, I don't think that's really giving advice if it's totally transparent. The problems we've had are where they're asking for documents that are actually not required but they just think they are because they don't know the rules.

But also, there is the danger of creating the impression that they're there to advise the people, so it's just one of the education things that you need to make really clear. Because they do a service, they make it easier for our visa officers to make decisions because they know they're getting complete applications. That's why the government wants to do it. That's laudable. The problem is to make sure that you're making it really clear in those agreements that the people are not doing anything more than just basic assembling of applications.

Mrs. Chantal Arsenault: In addition, the agreements aren't clear. At this point it's not clear and it's not public what the agreements are. There is no transparency with the agreements, so it is a little worrisome that any agreement can be signed without knowing exactly what it entails. So that's one of our recommendations: to make it more transparent, if it has to stay.

Ms. Olivia Chow: Okay—

The Chair: I'm sorry, Ms. Chow, you'll have to wait for another time.

Dr. Wong.

Mrs. Alice Wong (Richmond, CPC): Thanks, Mr. Chair.

Thank you, ladies and gentlemen, for coming to the hearing today.

My questions are directed to the Canadian Bar Association. Any one of you can answer them. They are in two parts, so I will tell you the questions first, and you can then decide which one to answer first.

First of all, can you explain how law societies discipline their members? In our discussion earlier, a lot of you mentioned the fact that discipline is important to make sure that your members are following the rules. Why is this important? That's question number one. Second, how will improved information-sharing with the Canadian government, as Bill C-35 has suggested, strengthen this law society function?

Thank you very much for answering.

● (1615)

Mr. Malcolm Heins: Let me deal with your first question. It's important, I think, that where a group of individuals or a profession has the authority to provide service there be a public and transparent complaint process. Indeed, that's what all of the regulatory bodies run across the country.

So in Ontario, if a member of the public has a complaint about a service they are receiving from a lawyer or a paralegal, they can contact the law society and we will investigate it. We triage it, depending on what it is. Most of them really are service-related matters, often just to do with some misunderstanding, so we will intercede and make sure that both the client and the lawyer understand each other.

On the more serious matters where we believe there has been wrongdoing, we investigate. That investigation becomes public when it's prosecuted, and there is a public record of the prosecution, the results, and whatever appeals take place. It's important to recognize, too, that in that process there is a right of appeal, both within the law society body and to the courts, potentially.

Again, I noticed something from the record that was pointed out by one of the members here who was questioning where someone would go ultimately with a CSIC complaint if there were a problem with how it was handled. On the information-sharing side of things, as I understand it, that was a problem because CSIC was a private body. I think the experience, and what this act is trying to rectify, is to give the authority to share what otherwise might be private information, i.e., the complaint information, with other public bodies.

We, on the other hand, as a regulatory body, don't have that constraint. So again, I think this is an attempt to rectify a problem created by reason of the fact that CSIC is not a regulatory body—or its predecessor would not be regulatory.

Mrs. Alice Wong: Thank you very much for the very concise and brief answers.

I would like to share my time with Mrs. Grewal, Mr. Chair.

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

My question is for Mr. Handfield.

Mr. Handfield, thank you very much for taking the time to appear before our committee and assist us in our study on Bill C-35.

Do you believe that the disclosure of information relating to the ethical or professional conduct of immigration representatives to bodies responsible for governing or investigating that conduct will improve the effectiveness or the regulation of immigration representatives?

[*Translation*]

Mr. Stéphane Handfield: Before I answer your question, I want to say, if I may, that immigration consultants should not be allowed to exist, in my opinion. But if they are, their activities should be overseen by a lawyer. That is my position.

Now, if the government goes ahead and gives consultants recognition, the body responsible for overseeing them should obviously be held to higher standards of transparency and be required to share information related to ethical conduct, which would be the lesser of two evils, in my view.

I want to follow up, if I may, on the first question regarding the manner in which law societies discipline their members and so forth. I would have liked to respond, but unfortunately, I was not given the opportunity. I can speak to the situation in Quebec.

The Barreau du Québec requires members to take a certain amount of mandatory training, the equivalent of 30 hours every 2 years. The Barreau du Québec has a section that conducts peer reviews. The peer reviewer visits the lawyer's office to ensure that everything is done according to procedure, that the rules are followed, that the act concerning the Barreau du Québec is respected and so forth. The Barreau also has a syndic's office with a complaints unit that receives complaints from triable individuals. When a client complains to the syndic's office of the Barreau du Québec, it can have some rather serious consequences for the lawyer in question. The complaint can result in a temporary termination of membership all the way up to a permanent termination of membership, in some cases.

I hope that answers your question.

● (1620)

[*English*]

Mrs. Nina Grewal: The rest of my time, Mr. Chair, I will pass on to Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): Chair, I know I don't have a lot of time.

Mr. Greene, I really appreciated the context in which you brought in the Australia example. I think it certainly gives us something to think about in terms of division of power, and it's certainly something we need to look at.

One of the things you pointed to specifically was that the authority the minister needs to have actually needs to be stronger within the bill. I see the recommendations you have made in terms of that direction, particularly in proposed section 91, with your feeling that it's not quite strong enough.

One of the interpretations, or at least one of the asides or assists to it, is that we actually want to give clear authority in terms of being able to access information, as Mr. Heins pointed out, and in terms of being able to get what we need in terms of the documentation or information necessary to determine whether the association is doing its job.

Right at the end of your statement, you alluded to strengthening that aspect of it. Maybe you can comment on how we might be able to do that.

Mr. Michael Greene: Now you have a situation—which is a good one, I think—where the minister can request information and it has to be provided. I think that is a good thing. That's a complaint of members of CSIC now: they don't know what's going on. There isn't any built-in accountability.

So that's a good thing. However, there's no consequence built into it for failure to provide the information. So what do you do? Do you pull the designation? That seems to be the only thing: you undesignate. It seems to be the only remedy right now.

I don't know exactly what mechanism you could have. You could put it in a situation of fines or the potential for suspension, but how does it work if you suspend? Then you have to bring in trustees, because somebody has to run the organization. So it is a bit problematic to rely solely on a power of information.

The Chair: Thank you, Mr. Greene.

Mr. Oliphant, for up to five minutes.

Mr. Robert Oliphant (Don Valley West, Lib.): Thank you, Mr. Chair.

Thanks to all of you for being here today.

This is supposedly our last day of hearings and I would have thought that this ball would have gotten clearer in my eyesight, but it's actually still kind of fuzzy.

We haven't yet had one witness—we might get one in the next round—who has defended this body not being a statutory body.

Mr. Rick Dykstra: Not true—

Mr. Robert Oliphant: Well, I don't remember. I mean, maybe the bureaucrats did.

But does either the Canadian Bar Association or the Law Society of Upper Canada think this would be better to be a statutory body that is independent of the minister?

Mr. Michael Greene: The proposal of this committee was in fact to set up a stand-alone statute for the body...that it might be better way to govern it, and it may indeed. The minister's response to that, as I understand from reading the committee notes, is that for cost and time reasons, he wanted to do something fast. We have an ADHD minister who's doing an awful lot of activity and we have to applaud him for getting things done.

The question is whether this is going to work or not. We're not sure. One of the powers that needs to happen is the power to audit, to subpoena, and to actually go in and examine documents in a consultant's place of work. That doesn't exist right now. That's a big hole in the current scheme.

As for whether or not you can do that with just these little changes and the new body that is going to be proposed, we don't know. For us, it's still an experiment. As you read our report...we are skeptical about whether it will work.

Mr. Rick Dykstra: I have a point of order, Mr. Chair.

The Chair: A point of order, Mr. Dykstra.

Mr. Rick Dykstra: I'm sorry, I don't mean to take up your time, Mr. Oliphant, but I just want to clarify something that Mr. Greene said.

Did you say the minister has attention deficit disorder?

Mr. Michael Greene: I say it in a very complimentary way. I'm a big fan of the minister. He gets a lot of things done. He moves things fast and—

Mr. Rick Dykstra: I just wanted to make sure and clarify that you weren't—

Voices: Oh, oh!

The Chair: Thank you.

Mr. Michael Greene: He's wearing out both us and his own people—

The Chair: Thank you. Let's proceed.

Mr. Oliphant, I'm restarting the clock.

Mr. Robert Oliphant: Thank you.

I have a question aimed more at the law society, then. One of the things the law society does is ensure that people who aren't lawyers don't practise law. You have a certain enforcement power, ability, and resources.

Do you see in this legislation the kinds of resources that would be necessary to go out after the unscrupulous consultants who are not registered, versus the incompetent ones? We have unscrupulous and incompetent and they're not exactly the same. Is this a problem in this legislation?

● (1625)

Mr. Malcolm Heins: I think what you've heard in the answer to the earlier question.... I think the reason you've not heard anybody directly support the approach is that the regulatory approach is I think the most appropriate way to go.

When you take that approach, a lot of these questions fall into place within the regulatory scheme; for instance, the ability to not only regulate those who are members of your organization, your licensees, and the ability to prosecute those who are operating outside of those boundaries.... Each of—

Mr. Robert Oliphant: You need resources to do that.

Mr. Malcolm Heins: We gather those resources from those whom we regulate. That's part of the regulatory scheme that we are compelled to put into place under the statute. It's a complete package.

What's happening here is that you're attempting to create something that looks a little like a regulatory organization, but isn't, and as a consequence, you have holes in the approach.

Mr. Robert Oliphant: Thank you.

I'm going to pass it over to Borys.

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

Just out of curiosity, it appears that.... It's quite clear and you've actually said it in your conclusion: “History in Canada and abroad has shown self-regulation for consultants to be a failure”. That's an unequivocal statement.

You gave the example of Australia.

It appears that choice number one was to use lawyers and paralegals that you actually would oversee. Choice number two would have been a statutory body.

This is choice number three. The way it's currently written and presented to us, what would you say its chances are of success?

Mr. Michael Greene: You're looking at me, so my light goes on.

Mr. Borys Wrzesnewskyj: Notwithstanding that you've already told us you're a fan of the minister and you like that he's trying to do something on this file, notwithstanding that qualification, what are the chances of a success of the way this has been written?

Mr. Michael Greene: We thought something needed to be done right away. Something needed to be done about the ghost consultants to shut that gaping hole and something needed to be done to clean up the situation in CSIC.

There are many competent consultants out there. There are some who are well experienced and highly trained, and they're very good at what they do, but there are many others as well. We're hoping that this will be an improvement. We are skeptical, and our membership is very skeptical, which is why we come on pretty strong about saying that we think this is a field for lawyers.

Mr. Borys Wrzesnewskyj: Thank you.

The Chair: Thank you, Mr. Wrzesnewskyj.

Monsieur St-Cyr, you have time for a question.

[*Translation*]

Mr. Thierry St-Cyr: I want to come back to the triangle I talked about earlier. There are three stakeholders in this scenario: the claimant, who applies for refugee status under immigration legislation; that person's advisor, whether it be a consultant or a lawyer; and the government, whether it be the Quebec government or the federal government. So there are three relationships between these parties.

Right now—and this was the case even before CSIC was created—a claimant can always file their application with the federal government directly. As soon as CSIC was created, a level of oversight was introduced into the relationship between the advisor and the federal government. The point of creating that body was to allow the relationship to exist, to make it legal, by requiring the individual to belong to the Canadian Society of Immigration Consultants.

Now the legislation has added a level of oversight to the relationship between the advisor and the claimant. And, in my opinion, that has a lot more to do with protecting the public interest by regulating the profession.

Do all the lawyers here today agree with me, in that the paradigm has shifted and we are now focusing more on protecting the public, not just the integrity of the immigration system, as was the case previously? Does anyone want to jump in?

Mrs. Chantal Arsenault: I will. It is not easy to separate one from the other. In terms of protecting the system's integrity, the truthfulness of the information provided is essential. We need to go beyond the relationship between the representative and the government. We need to look at the relationship between the individual and another person, when it involves ghost consultants, whose existence we were not necessarily aware of. That is the way to maintain the system's integrity and ensure that what is said to have happened really did.

● (1630)

[*English*]

The Chair: Thank you, sir. I'm afraid we've run out of time.

I want to thank you all for your excellent presentations. As Mr. Oliphant said, it's too bad you weren't here at the very beginning, because they were all outstanding. Thank you very much for coming.

The committee will suspend.

● (1630)

_____ (Pause) _____

● (1630)

The Chair: We're going to reconvene.

I notice that some media are taking pictures and interviewing. Could that take place outside, please? Thank you.

We have before us the Minister of Citizenship, Immigration and Multiculturalism, the Honourable Jason Kenney.

Mr. Minister, you have a number of your staff with you. I will let you introduce your staff.

Thank you for coming. You may proceed.

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism): Thank you, Chairman.

I am joined here by members of the public service from Citizenship and Immigration Canada who have assisted with the development of this important bill to crack down on crooked immigration consultants and to protect the people who dream of coming to Canada from exploitation by unscrupulous agents.

Mr. Chairman and colleagues, thank you for the invitation to speak to you about Bill C-35. It would of course amend the Immigration and Refugee Protection Act to strengthen the rules governing representatives who charge a fee for immigration advice and representation.

[*Translation*]

We intend to close loopholes currently exploited by unscrupulous representatives and improve the way in which immigration consultants are regulated.

● (1635)

[*English*]

Taken together, the changes we propose would help protect vulnerable would-be immigrants, help safeguard our immigration system against fraud and abuse, and help ensure an efficient and fair system for those trying to get into Canada through legitimate means.

[*Translation*]

As we all know, Mr. Chair, immigration fraud happens around the world, and Canada is far from being the only country challenged by it. Some examples of fraudulent activity include bogus marriages, lying to an officer on an application form, and the use of fake documents, including fake marriage certificates, death certificates, travel itineraries and banking statements.

[*English*]

The problem we are tackling is large in scale and international in scope. The value of coming to Canada is frankly so great in the minds of so many that they are often willing to pay sometimes their life savings in cash to unscrupulous representatives, be they lawyers or consultants, with the false promise of obtaining visas to visit or move to Canada.

As you know, I spent a couple of weeks in September meeting with our international partners in Europe, India, China, the Philippines, and Australia to discuss ways we can work together to combat fraud, abuse, and wrongdoing in our immigration system.

[*Translation*]

Because large numbers of immigration consultants operate beyond our borders, I underscored the need for combined action to thwart fraud and various forms of exploitation by unscrupulous immigration agents and crooked consultants.

After all, the commission of fraud under Canada's immigration program is a crime that threatens the integrity of our immigration system, raises security concerns, wastes tax dollars, is unfair to those who do follow the rules, and adds to the processing time for legitimate applications.

Bill C-35 would amend IRPA so that only members in good standing of a provincial bar association, the Chambre des notaires du Québec or a body designated by the minister may represent or advise for a fee—or offer to do so—at any stage of a proceeding or the application process.

[*English*]

In short, Mr. Chairman, we propose to extend the prohibition on advice and representation to the pre-application period, or that period before an immigration proceeding begins. In so doing, we have created a new criminal offence, which would further deter those persons known as ghost consultants, who are not members of a recognized body.

As we all know, governing bodies are responsible for taking disciplinary action against their members in cases of misconduct. This includes the revocation of membership. A governing body for immigration consultants can, like other governing bodies, investigate the conduct of its members where there's a concern that a member has breached the terms of such membership. Provincial law societies use a similar process to look into complaints concerning their own members.

Protecting the integrity of immigration programs is principally the federal government's role, but because of their responsibility for consumer protection and the regulation of professions, the provinces and territories also play an important role in regulating the conduct of immigration consultants.

[*Translation*]

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.

Quebec's amendments also demonstrate a willingness to work closely with the federal government in the regulation of immigration consultants.

In addition, provinces raised no objections when we shared the changes to IRPA, proposed under this bill, with them during the course of federal-provincial consultations.

With respect to oversight of the governing body for immigration consultants, there are currently no mechanisms in IRPA that give the minister the authority to oversee the governing body.

[*English*]

The bill would provide the minister with the power, by regulation, to designate a body to govern immigration consultants and to establish measures to enhance the government's oversight of that designated body. Specifically, the designated body would be required to provide the minister with information for the purpose of assisting us and to evaluate whether it governs its members in a manner that is in the public interest so that they provide professional and ethical representation and advice.

Upon further review of the bill, and in response to concerns raised by this committee—and I followed closely the deliberations of the committee and commend and thank you all for your active and very conscientious review—the government is now considering an amendment in this regard. The amendment would provide broader authority to enact regulations requiring the designated governing body to provide information to the government relating to its governance.

The government is also proposing the recognition of paralegals regulated by a law society; I believe that's an issue that's come up in hearings. By recognizing the ability of law societies to govern their membership in the public interest, such recognition could help would-be immigrants.

● (1640)

[*Translation*]

This bill is a comprehensive proposal to provide protection to vulnerable would-be immigrants by imposing criminal sanctions on unscrupulous representatives, enhancing oversight of the governing body for immigration consultants and improving information-sharing tools.

This is being done without the significant costs associated with the establishment of a governing body through stand-alone legislation, as suggested by some. A similar approach is expected to cost Australia approximately $20 million over four years, just as an example.

At the same time that Bill C-35 moves through the legislative process, a public selection process has been undertaken, as you know, under the existing legislation, to identify a governing body for recognition as the regulator of immigration consultants.

[*English*]

This committee's 2008 and 2009 reports on the issue pointed to a clear lack of public confidence in the body currently governing immigration consultants. This lack of public confidence poses a significant and immediate threat to the immigration program.

Public comments on the selection process were solicited in June and were followed by a call for submissions as published in the *Canada Gazette* last August. This open and transparent process is being undertaken to ensure that the body governing immigration consultants can effectively regulate its members, thus ensuring public confidence in the integrity of our overall immigration system.

A selection committee composed of officials from my department, other federal government organizations, and external experts will examine all complete submissions against the criteria listed in our published call for submissions. This selection committee will provide the minister with a recommendation as to which organization(s), if any, has or have demonstrated the necessary competencies. Any and all interested candidates are welcome to apply.

This ongoing public selection process, together with the legislative changes proposed in this bill, ensure, we believe, the most efficient and effective approach to strengthening the regulation of immigration consultants now and in the future.

[*Translation*]

In closing, as I have said before, most immigration representatives working in Canada are legitimate and ethical. But we must act against those who exploit and victimize would-be immigrants by charging them for bad advice, or who help them try to cheat their way into the country, thereby compromising the integrity of Canada's immigration program.

[*English*]

I invite the members of the committee to help us as we work together to crack down on crooked consultants and protect fairness for all applicants for immigration to Canada.

Thank you very much. I look forward to your questions.

The Chair: Thank you, Mr. Minister.

There are questions.

Mr. Trudeau.

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

Thank you, Minister, for being here today. Obviously, we have a few questions.

First of all, you mention in your brief that Australia is going through a more expensive approach in creating stand-alone legislation to create a regulatory body. One of the hints as to why they're going that way is something that we heard in the previous testimony.

According to the Canadian Bar Association, the model of having the regulator also be the professional body has fallen into disrepute. For example, we have the Law Society of Upper Canada in Ontario, and the Canadian Bar Association, which is the professional body and the association for lawyers.

The proposal in Bill C-35 does not separate these different functions into two different entities. I'm worried that down the line we'll have to end up going the route the committee recommended we take the first time, when they came forward with the recommendations a couple of years ago.

● (1645)

Hon. Jason Kenney: Thank you for your very sensible comment and question. I understand that this has been the subject of the testimony and debate here.

I can assure you that when I was first presented with options for better regulation of the sector by the department, we looked at all options, including this model of a so-called statutory body, analogous, for example, to the law societies. We didn't discount anything. We are looking for the most effective and practical form of regulation. I think we're all agreed on that.

There are several reasons why we decided not to proceed with that model. Firstly, it would take a long time to put it in place, and we need a sound regulator in place following the selection process in the very near future. It would be very expensive, and that expense would work down to the public.

I think it's a false analogy to compare it to the law societies. There are thousands, if not tens of thousands, of lawyers. The law societies have existed for a century or longer. They have a well-developed body of expertise in governance. None of those things can be said of the consultant industry.

There are currently 1,600 members of CSIC. They typically don't have the same level of professional education as lawyers. There's not the same body of expertise. Basically, the government, funded by tax dollars, would have to be there for the first several years, setting up such an institution. One could argue that there would be certain advantages, but I think the costs outweigh the advantages.

I believe that the model we are proposing would allow, for example, for investigations under the amendments recently adopted by Parliament under the Not-for-profit Corporations Act. It would allow for complaints from members to be considered. So whatever marginal advantage could be gained by going to a statutory body would be significantly outweighed by the cost and the expense

Frankly, I'm not sure that we're talking about an industry that has the capacity to support an organization of that magnitude. When we look at the other professional bodies created by provincial statute, they have decades of experience, large memberships, and large revenue streams. None of those things can be said about the consultant industry.

Mr. Justin Trudeau: Thank you.

On the process we're in right now, we're busy debating and amending Bill C-35 as we move forward. However, at the same time, we've had the call for submissions going on since the summer. Ideally, Bill C-35 would be complete and we'd have a framework to then turn around and say, “This is what we want you to apply for”.

Can you talk to me a little bit about why we're doing it all at the same time and how that's perhaps interfering with the quality of the process?

Hon. Jason Kenney: That's a fair question.

I don't think it is interfering. First of all, under the current statute, under IRPA, I think the minister can and in fact has a responsibility to designate a regulator of consultants and can de-designate. I'm using the current statutory authority that Parliament has given to the minister to call for proposals on a designated regulator.

This is in response to concerns raised specifically by this committee. Quite frankly, some might ask—I suspect Ms. Chow might—why it is taking us so long. We did a committee report on this in whenever it was, in 2008, and we finally got around to opening up the process because of concerns raised about the current regulatory body.

So we didn't want to wait. We wanted to take action. What we propose in this bill would only enhance the current powers that exist in the statute for ministerial oversight of the activities of the regulatory body. It clarifies the capacity of the minister to de-designate the regulatory body going forward.

We are also now proposing an amendment to expand the requirement of the regulatory body to provide information on its governance to the minister, to ensure that we don't have the same kinds of accountability problems that have existed in the past four years.

Mr. Justin Trudeau: I understand the desire to be efficient with taxpayers' dollars in setting up this process. However, I'm concerned that the stated goal of this bill, which is cracking down on crooked immigration consultants, is not going to be achieved without giving more resources to the Canada Border Services Agency and the RCMP. They are actually the ones—not whatever regulator exists—that are going after the crooked consultants.

I'd like you to comment on that, please.

● (1650)

Hon. Jason Kenney: Thank you.

I agree entirely that enforcement laws are meaningless if we don't have the capacity to enforce them.

I would underscore that since coming to office in 2006 our government has provided an additional 800 agents to the Canada Border Services Agency, and the proportionate operating budget to support that enhanced level of enforcement activity, so they do have additional resources. I have asked the president of the CBSA to prioritize investigations, prosecutions, and enforcement of crimes committed by unregistered or unscrupulous immigration consultants, as well as to prioritize those who facilitate or commit marriage fraud, which is a significant problem.

We've given them a significant boost in resources—I don't have the exact figure, but the additional budget is certainly in the hundreds of millions of dollars—-and 800 additional officers, so we expect them to enforce the law. That's their mandate.

The Chair: Thank you, Mr. Minister.

Monsieur St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: Mr. Minister, in your presentation, as well as in response to my Liberal colleague's questions, you referred to the report prepared by the committee in 2008.

The committee's first recommendation in that report was that the Quebec government should be responsible for regulating and recognizing immigration consultants practising in Quebec. That would not prevent provincial governments in the rest of Canada from choosing the same body as the federal government, which, by the way, is currently the case under Quebec's regulations.

Are you willing to study the amendments needed to implement that recommendation and possibly to support them?

Hon. Jason Kenney: Just to make sure I express myself clearly, I will read my answer, since I was expecting the committee to ask that question.

I do not think such amendments would be necessary to achieve that objective. Even if I intended to designate just one national body, there is nothing in the legislation stipulating that only one body can be designated.

Quebec's recent amendments to its regulations not only refer to the body designated under federal regulations, but also demonstrate a willingness to work closely with the federal government in the regulation of immigration consultants.

Prior to introducing Bill C-35, we shared our proposed legislative changes with Quebec during federal-provincial consultations. I had many discussions with Quebec's Minister James, and I spoke with Minister Weil on Saturday. They did not raise any objections to our approach.

However, if Quebec wishes to regulate immigration consultants, the federal government will, when designating a body, take into consideration any regulator designated by a provincial government to oversee immigration consultants.

So we are open to Quebec designating such a body. We believe the legislation already sets out that power clearly. And, of course, nothing in Bill C-35 prevents the federal minister from recognizing a body designated by Quebec.

Mr. Thierry St-Cyr: So you are saying that, through regulations, the federal government could recognize the body potentially chosen by Quebec because Quebec and the federal government have a cooperative relationship. That may very well be true, but you have to admit that the opposite may be just as true. If the committee decided instead to extend this privilege or right to the Quebec government, nothing would prevent the federal and Quebec governments from agreeing on a body, since, according to you, they work together quite well.

The way I see it, the committee's recommendation is just as applicable and relevant now as it was originally. The only difference is that, at the end of the day, the federal government needs to recognize that Quebec would have the final say, because its immigration system is quite different.

I would like to bring something else to your attention. You mentioned a regulation that the Quebec government made in the spring, one that was more or less related to the federal legislation. I believe it had the support of all sides. It is pretty clear that the bill before us sets out a major change. It is no longer just the relationship between the consultant and the government being overseen, but also the relationship between the consultant and the claimant. This definitely involves protecting the public interest—governing an individual's ability to practise a profession, in other words, to receive compensation for services.

Would it not be better to acknowledge that this is a matter of regulating a profession, an activity that is traditionally the domain of Quebec and the provinces, and to reach a compromise? It does not have to spark a constitutional debate. It would simply mean recognizing under the law that the Quebec government is responsible for designating consultants within its borders, which would not prevent the Quebec and federal governments from working together.

● (1655)

Hon. Jason Kenney: Yes. Obviously, Mr. St-Cyr, we are talking about a cooperative relationship. We have not seen any problems so far.

If Quebec wants to recognize its own body to regulate the relationship between consultants and the province, when it comes to the whole selection process and Quebec's selection certificate, we are open to recognizing that same body. However, you must recognize that the federal government is still in charge of certain stages in the immigration process: the determination of eligibility, health and so forth.

Mr. Thierry St-Cyr: That is also true in the case of lawyers.

Hon. Jason Kenney: Yes, but when I say....

Mr. Thierry St-Cyr: Lawyers who advise clients will, at some point, deal with the federal government, which is responsible for conducting the security and health checks. That does not mean that lawyers are not under the jurisdiction of Quebec and the provinces, the reason being that laws were put in place to regulate lawyers in order to protect the public interest.

Right now, we want to pass a bill that clearly seeks to protect the public interest. Furthermore, your opening statement, not to mention the title of the bill, plainly reflect that intention. So it seems to me that we are talking about something other than what is currently in the bill. We are talking about regulating a profession, an area that traditionally comes under the jurisdiction of Quebec and the provinces. And the best way to deal with that, in my view, would be to recognize it in the bill by adding an amendment that is in line with the committee's recommendation. Since both governments work together so well, this approach will work just as well, whether or not the amendment is adopted. If, at some point, however, that cooperation is not quite so strong, at the end of the day, it is the Quebec government that will have the final say.

Hon. Jason Kenney: Mr. St-Cyr, if you have any amendments to suggest regarding the bill's objectives, we are prepared to consider them. We feel that the power is already there. If you were the immigration minister under a PQ government, I have no doubt that you would work very well with the federal government, would you not?

[*English*]

The Chair: We will stop there and move to Ms. Chow.

You're on, Ms. Chow. Just ignore these two.

Voices: Oh, oh!

Ms. Olivia Chow: I have four questions. Maybe I should just give them all to you. You can pick and choose and emphasize whichever one you like.

These employment recruiters help people find jobs, so technically they're not immigration consultants, but they find jobs for the purpose of coming to Canada. Right now, because they're employment recruiters, they get referred to HRSDC, right? It's not under Immigration. But they wouldn't be recruiting if the person's not immigrating. Is there any chance that we could include them in this bill? That's number one.

Hon. Jason Kenney: Yes—

Ms. Olivia Chow: Okay. Number two—

● (1700)

Hon. Jason Kenney: —but let me clarify.

Ms. Olivia Chow: Oh.

Hon. Jason Kenney: Because—-

Ms. Olivia Chow: This is a big category and there are a lot of crooks out there.

The Chair: You may not have time for all of those questions, so let's take them one at a time.

Ms. Olivia Chow: Really?

The Chair: Yes. Otherwise, I'll cut you off.

Ms. Olivia Chow: I have a bunch—

The Chair: Well, we'll let him answer the first question.

Hon. Jason Kenney: Labour recruiters are captured under the current law in Bill C-35 if they provide advice on immigration matters—

Ms. Olivia Chow: But they don't, because they only find a job. They give it to their cousin agency, for which I'm sure there's some connection. The cousin agency is the one that gives them for immigration purposes—

Hon. Jason Kenney: I understand what you're saying, but we can't—

Ms. Olivia Chow: —and they charge a lot of money.

Hon. Jason Kenney: It would be a different statute to regulate labour recruiters who are not involved in immigration. IRPA is not the right place to locate the regulation of people involved in a different service other than immigration.

We're dealing with immigration. Just like the amendments before Parliament to the Citizenship Act would allow for the regulation of consultants in the citizenship process, it's a separate act—

Ms. Olivia Chow: I understand that, but how do you deal with those who charge $10,000 to find you a job? Then they refer you to a friend of theirs who provides free advice to put in an immigration application in order to come in as a temporary foreign worker, or come in as a visitor, or come in as a certain...whatever. They're still really coming to Canada to get that job—

Hon. Jason Kenney: But if the friend is providing advice and dealing with Immigration Canada or not, they would then be covered by IRPA and Bill C-35.

I understand your point. There absolutely are unscrupulous labour recruiters. That's why I'd like to commend the NDP government of Manitoba and other provinces for having taken the lead in tighter regulation of that sector—

Ms. Olivia Chow: That's provincial.

Hon. Jason Kenney: —and in fact making it illegal for labour recruiters to impose their fee on their clients. That's a measure we have supported through our changes to the live-in caregiver program.

Ms. Olivia Chow: I hear you.

He's going to cut me off, so don't mind me. I'm just going to jump to a few more questions.

I've seen that for those people who have been duped or cheated, because they then face deportation—or they're deported before the crooks can go on trial—the crooks never go on trial; they never get convicted.

Is there something we can do in this bill to stop the deportation and allow them to submit another application if you find they have been cheated, that they got their information in wrong, or the application is done wrongly? Is there something we can do so that they can testify against the crooks and not have their entire dream of being able to stay in Canada or immigrate to Canada completely destroyed?

Hon. Jason Kenney: Well, you'll have to persuade me that that's actually a problem. This is the first time I've ever heard a complaint that our removals process is too fast and efficient.

Some hon. members: Oh, oh!

Hon. Jason Kenney: I am not aware of any case where someone's managed to be removed from the country pending charges in Canada, so I think that might be a non-existent problem you're trying to solve through a statutory amendment, which I think would probably be overkill.

But I'm sure that because it's the CBSA that does the enforcement on IRPA and the CBSA that does the removals, I would hope they're sufficiently sophisticated to not—

Ms. Olivia Chow: You would hope they would not. Okay. If I find you cases, I'll raise this again.

Hon. Jason Kenney: Okay. Please do.

Ms. Olivia Chow: I see where you're going.

In Australia they have a list on their website of all the people who qualify and a list of those who have just been removed. Are we planning to do the same thing?

Also, would there be not a snitch line, but a central line where they can file a complaint? Right now it's really confusing. Do you go to the police? Do you go to CBSA? Do you go to CIC? Do you go to the RCMP? Or do you go to your provincial body?

My gosh, if we can't figure it out, there's no way a poor immigrant could figure this out as to where they complain. Because sometimes it's fraud, sometimes it's whatever....

Hon. Jason Kenney: That's a good question.

Ms. Olivia Chow: Is there any way that we could have a one-stop shop—one phone number, one website, whatever—to stop the fraud or stop the crooks, whatever website it is?

Hon. Jason Kenney: On the first question, I understand that CSIC already does list the members who have been disciplined or de-licensed, so there is a blacklist, if you will, that's available. I would imagine that a future regulatory body would continue or enhance that practice.

With respect to the one-stop shopping to report fraud, I am asked that question almost every day, and yes indeed, there is: you can report immigration fraud by calling the Border Watch tip line at 1-888-502-9060. All information is treated as confidential. You can also report Internet fraud or other scams by contacting PhoneBusters, operated by the Canadian anti-fraud call centre. So yes, we have one-stop shopping.

● (1705)

Ms. Olivia Chow: Is that well known in the community?

Hon. Jason Kenney: Maybe not well enough. And you know what? That's a good suggestion. Let's put that on the front page of the CIC website. Done.

Ms. Olivia Chow: Would there also be something about the consultants on the CIC site? I know it's on the CSIC site, but some people may not go to that site. Would you be able to—

Hon. Jason Kenney: Yes, but part of the problem is that technically we haven't had the power for them to give us that information. I think that is—

Ms. Olivia Chow: You will after Bill C-35.

Hon. Jason Kenney: That is power we get in BillC-35, so unless someone gives me some legal reason why we can't, I think it's makes a lot of sense that we would publish their blacklists, shall I say, on our website as well.

The Chair: Thank you.

Ms. Olivia Chow: Yes, because then the potential immigrant would know who's good and who's not good.

Hon. Jason Kenney: That's a very good idea.

The Chair: Thank you.

Mr. Uppal.

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

Thank you, Mr. Minister, for appearing.

I'd first like you to further explain something you mentioned in your opening address regarding government amendments concerning paralegals and good governance, and why they're necessary. Could you just expand further on those government amendments?

Hon. Jason Kenney: Paralegals fall under the regulatory authority of the provincial law society. Essentially, the law society recognizes a lawyer, and the lawyer is responsible for the conduct of the paralegal under their supervision. So if we're recognizing lawyers for purposes of immigration conduct, we ought also to recognize those who are normally regulated by the law society, who help them with immigration cases.

It's just that simple. I think we would clarify that a lawyer's not going to go offside if he has some of the work on an immigration file done by his properly trained and licensed registered paralegal.

Mr. Tim Uppal: Good. Thank you for clarifying that.

The opposition has raised something a couple of times. They've said that the bill focuses on the integrity of the system and not on consumer protection. Could I get your views on that?

Hon. Jason Kenney: Well, I see the two as being related. I think that might be a false dichotomy. I think part of the integrity of the system is to protect consumers and vice versa.

It's important to understand that these amendments are being made in tandem with amendments to the Canada Not-for-profit Corporations Act, which Parliament has adopted and which will allow for complaints to be registered against not-for-profit corporations and for investigations to happen on the basis of complaints.

That enhances consumer protection generally. But because the designated regulatory body for immigration consultants will be incorporated under the Canada Not-for-profit Corporations Act, we believe that will provide the legal platform for consumer protection.

Mr. Tim Uppal: Some of these immigration consultants—or a lot of them—make pretty good money. A couple of witnesses were concerned that the penalty or fine of $50,000 is not enough, that it won't deter illegal behaviour. What are your thoughts on that?

Hon. Jason Kenney: I've heard that this has been discussed at committee, and if there are suggestions to enhance the penalties, I would have no objection in principle, as long as the changes were made consistently across the board for all offences contemplated in the act or in the bill. We wouldn't want, say, to raise the penalty for one particular offence without a proportionate adjustment for the other offences contemplated in the act. So yes, I think I'm open to that.

I understand that Ms. Chow has suggested extending the limit on prosecutions. The bill currently goes from three to five years and she's proposing no limit. Again, I would have no objection to that if the committee, in its wisdom, were to adopt such an amendment.

Mr. Tim Uppal: Okay. Also in your opening remarks, you mentioned immigration consultants abroad. Some of the concerns and complaints we've heard from witnesses were clearly violations that occurred outside of our borders, with crooked consultants in other countries.

You mentioned visiting other countries and working with counterparts. Can you give us a little more detail on that and also on any updates you may have had in the last few weeks?

● (1710)

Hon. Jason Kenney: The most frustrating part is that even if we have the best laws and enforcement domestically, we are limited in how we can affect the operation of unscrupulous agents abroad, where perhaps most of the exploitation occurs. That is why I've made a very deliberate effort, as part of our broader crackdown on unscrupulous consultants, to use our diplomatic leverage with foreign governments that are major source countries for immigration to Canada, to encourage them to adopt and enforce laws regulating the profession.

As you know, in some of our source countries, such as India and China, there's a large industry of people who will facilitate applicants for visas or immigration to Canada. They often furnish them with counterfeit documents or really bad advice, and often the exploitation is done in a ham-fisted way.

I know of one case where an immigration consultant in Jalandhar, in the Punjab state of India, took at least a quarter of a million dollars from applicants for student visas. He submitted what clearly were ridiculously fraudulent applications on their behalf—like bad photocopies of bank statements—that he knew, presumably, our visa officers would detect. But he didn't care because he'd already taken the cash. So a rejection letter from CIC doesn't seem to hurt his business line. This is a real problem.

That's why I effectively lobbied the Indian government. I'm pleased to say they gave us a commitment that by the end of this year their cabinet will adopt and submit to the Lok Sabha, the Indian parliament, significant improvements to their emigration act for the regulation of consultants, with a specific focus on student recruiters.

I also raised the issue of enforcement. I have to say that some of the state police agencies, such as those in Maharashtra state and in the national capital region around Delhi, have been very helpful in working with our high commission officials in pursuing prosecutions.

I did raise this most forcefully with the first minister of Punjab. He committed to assign a director general of the state, together with the chief of police, to work directly with our consulate in enhancing cooperation on the prosecution of immigration violations.

I raised similar issues with and got similar positive responses from the Government of China.

The Chair: Thank you.

Mr. Minister, I have a brief question.

Most members of Parliament have a story that's come to them where they say that a consultant has charged them *x* dollars—some enormous amount—that they feel isn't justified. With the legal process, when lawyers have charged a fee that the client feels is not justified or appropriate, there's a process for assessing that.

Is there anything in the act or in the proposed regulations, which I suppose are difficult to comment on, that will deal with that situation?

Hon. Jason Kenney: Mr. Chairman, unlike you.... Are you still a member of the law society, by the way?

The Chair: Believe it or not, I am.

Hon. Jason Kenney: So you pay your dues and you're familiar with that. I'm not aware, so perhaps you could help me as to whether or not—

The Chair: Well, no, I was asking you a question.

Hon. Jason Kenney: Well, I don't know whether the law society actually stipulates what fees can be charged, but the immigration consultants regulatory body has indicated what are appropriate levels of fees.

So I think that's the way of dealing with this. They can indicate whether something constitutes an exorbitant fee.

The Chair: I just throw it out here, because you're a member of Parliament and you get the same comments, and as you know, constituents tell us they were ripped off by some consultant. So the question is, how should that be dealt with?

Hon. Jason Kenney: Yes. I think in those cases—

The Chair: And it may be appropriate that, when regulations are being prepared, this be considered. I don't know whether it should be an amendment or should be in the regulations. I'm just telling you that when we have a group of people—lawyers—who suggested that their fees are outrageous, there's a process for dealing with that. That's all I'm saying.

Mr. Wrzesnewskyj.

Hon. Jason Kenney: Well, I think somebody would file a complaint and there would be a disciplinary review and sanctions imposed if necessary in such a case.

● (1715)

The Chair: Thank you, sir.

Mr. Borys Wrzesnewskyj: Thanks, Chair.

Minister, you said you were skeptical that the industry has the capacity to support a statutory body. What is the size of the consultancy business in Canada?

Hon. Jason Kenney: There are about 1,600 registered members of CSIC, and that compares to, I suspect—

Mr. Borys Wrzesnewskyj: What is the dollar value of the industry?

Hon. Jason Kenney: I don't know.

Mr. Borys Wrzesnewskyj: So you've made a decision without having the facts and without knowing. You stated here when you used the example of Australia that $20 million would be the cost and you've said that would be exorbitant because you don't know the size of the industry. During our hearings, we have heard that the industry might in fact be worth close to a quarter of a billion dollars per year. This $20 million you cite in your opening statement is less than one per cent per year of that potential quarter of a billion dollars.

What's interesting is that you came up with this number of $20 million, yet your departmental officials—in fact, the acting director general of immigration, Sandra Harder—said at that time, on October 6, “I am probably not in a position to give you an exact number...”. So you've obviously done your homework on this.

I'd like a different number from you. Your parliamentary secretary during those same hearings said that the way you envision this body, this organization is going to need assistance, that the “actual costs or assistance”—and these are direct quotes from your parliamentary secretary—“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, your official, the associate assistant deputy minister, went on to say that “what's proposed for funding for that interim period, I think we've left it pretty open at this point.”

Ms. Harder then again went on to say, “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”.

Those are direct quotes. They're all saying that under the way you've envisioned this body and from what you've written in this legislation, they have no idea as to how many years it's going to need assistance from the government—two, three, four, five years.

Can you provide us a number now? You've provided us a number from Australia on the statutory body. What kind of interim funding have you budgeted for under the way you've envisioned the legislation? Do you have a number?

Hon. Jason Kenney: No, we don't have a number, because—

Mr. Borys Wrzesnewskyj: So due diligence has not been done.

The Chair: You need to let him finish, Mr. Wrzesnewskyj.

Hon. Jason Kenney: We don't have a number because it's dependent on the applications we receive and ultimately the one we approve. The range of financial assistance requested could be quite significant. It's possible that someone will propose a business model wherein there will be no or minimal federal support required. We can't guess what it might be.

I will give you, however, a useful reference point. In 2003, when the previous Liberal government designated CSIC as a result of amendments, it gave CSIC a $700,000 grant and, as well, a $500,000 repayable contribution, which would be repayable upon the organization's arriving at 3,000 members. It still hasn't, eight years later. That gives you a sense, first, of the financial capacity of the industry, and second, of the quantum we're talking about in general terms for the lengthy upstart of—

Mr. Borys Wrzesnewskyj: Minister, your previous answer was much clearer: you don't know.

Hon. Jason Kenney: That was a different question.

Mr. Borys Wrzesnewskyj: I'd like to go on to something else that was said that was troublesome. In that same meeting, I asked about the financial viability and whether a comparable financial viability study of a regulatory board was done to see what it will cost the taxpayer. The acting director general for immigration answered that no study had been done. It was the same thing when I asked the associate assistant deputy minister whether these numbers had been looked at. Her answer was, “The answer is no”.

We just heard from the Canadian Bar Association. In your statement, you said you tremendously respect their professionalism, their well-developed expertise—your words—and their professional education in this area, yet we heard from their representative that he personally is skeptical and the vast majority of their membership is extremely skeptical.

How do you respond to that?

● (1720)

Hon. Jason Kenney: That the bar association is skeptical about the ability of the consultants regulation...?

Mr. Borys Wrzesnewskyj: About this legislation actually being successful.

Hon. Jason Kenney: The bar association said that?

Mr. Borys Wrzesnewskyj: Correct.

Hon. Jason Kenney: Well, let's be clear. The bar association has taken the legal position that the government should not be allowing people outside the law societies to perform immigration functions, and they lost that at court. They've consistently been in favour of avoiding competition, shall I say, from immigration consultants.

I understand why they've taken that position. I think they generally support what the government has proposed, but in terms of doing a viability study, as you've mentioned, it's difficult for us to do a viability study on something that doesn't exist.

I will say that a small industry of 1,600 members—

The Chair: You are way over, folks.

Hon. Jason Kenney: —I don't think can really be compared to the law society and its critical mass and ability to govern itself.

The Chair: Thank you, Mr. Minister.

Monsieur St-Cyr.

[*Translation*]

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

I have a few technical questions to ask either you, Minister, or one of your representatives.

Bill C-35, now before the committee, states the following: [...] no person shall knowingly represent or advise a person for consideration—or offer to do so—in connection with a proceeding or application under this act.

The act this provision refers to is clearly the IRPA. Will an application to the Government of Quebec for a CSQ, and then for permanent residence, be covered under this provision, or would it be considered as outside the scope of the IRPA?

Hon. Jason Kenney: I apologize, but I don't understand your question.

Mr. Thierry St-Cyr: In the English version of the bill, the following is said about the prohibition to represent or advise a person for consideration:

[*English*]

"in connection with a proceeding or application under this Act".

[*Translation*]

The act referred to is the IRPA.

Will people applying to the Government of Quebec for a CSQ be affected by this provision?

Hon. Jason Kenney: Eventually, yes, since a CSQ alone does not enable an individual to immigrate to Canada. A visa is necessary. We at CIC are the ones who issue visas. So, your question is misleading because...

Mr. Thierry St-Cyr: It is a technical and not a trick question. That's how I interpreted the provision, as well, but I wanted to confirm with you.

Hon. Jason Kenney: The same question could be asked about the Provincial Nominee Program. If an issue concerns activities covered by the Immigration and Refugee Protection Act, it must be handled by a consultant who is recognized by the regulatory body.

Applicants dealing directly with the Government of Quebec to obtain a CSQ will eventually have to go through CIC and, as a result, will have to comply with the Immigration and Refugee Protection Act. As I said, the question is misleading.

Mr. Thierry St-Cyr: I simply asked you to confirm my interpretation. I believe that this is indeed the case, but some may be led to believe that, since the application is submitted to the Government of Quebec, the consultants involved will be unaffected. However, we are in agreement over the fact that all consultants are covered by the legislation, since the matter is referred to the IRPA at some point in the process. Even the CSQ issued by the Government of Quebec is processed because the IRPA provides for this processing.

Hon. Jason Kenney: Perhaps the Assistant Deputy Minister could answer your question more clearly.

[*English*]

The Chair: Mr. Linklater, you can proceed.

[*Translation*]

Mr. Les Linklater (Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration): In the current immigration process, the provisions concerning consultants begin to apply as soon as an official application has been submitted to the minister. Under the proposed amendment to the legislation, our department would begin looking into the communication between applicants and consultants even before an official application is submitted to the federal government. This implies that, at any time during the immigration process, any contact with a consultant would be covered by the bill's provisions.

● (1725)

Mr. Thierry St-Cyr: There we go. So, when people go to a consultant's office and hire the consultant to help them immigrate to Quebec and apply for a CSQ, the legislation applies immediately. Is that right? That is also how I interpret the change.

So, from now on, the government will not only have a say in which consultants are allowed to represent clients in their dealings with the federal government, but it will effectively regulate the actual interaction between the applicant and the consultant. Is that what will happen? This will be done in an effort to, among other things, protect clients from unscrupulous consultants, right?

Hon. Jason Kenney: Yes.

Mr. Thierry St-Cyr: So, the bill's first and foremost objective is to protect the public?

Hon. Jason Kenney: Yes.

Mr. Thierry St-Cyr: Yes. Is...

Hon. Jason Kenney: However, as I said earlier, protecting the public is tied in with the integrity of this system. The two are interrelated.

Mr. Thierry St-Cyr: Do you believe that protecting the public...

[*English*]

The Chair: You'll have to be quick, Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: ...is the responsibility of the federal government or the provincial government?

Hon. Jason Kenney: I would say that the matter is the responsibility of all levels of government. Protecting the public implies being mindful of the broader public interest. Accordingly, all levels of government must protect consumers' interests.

[*English*]

The Chair: *Merci*.

Mr. Dykstra, you appear to have the final word.

Mr. Rick Dykstra: Thank you.

Thank you, Minister.

One of the aspects that's been brought up by the CBA this afternoon, and also obviously by the opposition in terms of the perspective on a statutory body, is the example of what happened in Australia.

I think it needs to be clarified, though, that the mistake the Australian government acknowledges they made—and it's clear in the report that the CBA submitted today—is that the Australian government did not actually maintain control of the regulatory body; they in fact made it independent. It's pretty significant—and it hasn't been brought up here—that upon review of the decision they made, it was obvious that the ministry and the government should have maintained control of the regulatory body.

I'm wondering if you can you describe a little more clearly how that control is going to be maintained by the ministry and by the minister.

Hon. Jason Kenney: Thank you, Mr. Dykstra, for raising that question, because it is probably the most important issue with respect to the notion of creating a so-called statutory body. If we were to create a statutory body and that body were to relive the same kind of problematic issues that CSIC has, there would be no ability for the government to de-recognize that body.

This is a sector that has clearly had some challenges. The previous government, I think in good faith, created the structure in 2003 for the minister to designate a body. Serious concerns have been raised.

The government, upon the advice of this committee, has been able to act on those serious concerns by opening up the process for designation. If it were a statutory body and there were to be problems in terms of accountability either to its members or the general public, guess what? We would be out of luck. The organization would just continue to churn away, run by its executive.

I think that because this is an industry that does not have anything like the capacity of the law society in terms of experience, of funding, it is very important that we ensure in the public interest that if things go off the rails, the government can intervene and de-designate the body. That's what the model we propose in Bill C-35 allows for. It is the emergency escape hatch.

If the organization becomes guilty of self-dealing, of a failure to properly prosecute immigration crimes committed by its members, if it becomes unaccountable and ineffective, we can pull the plug on it under Bill C-35. In fact, in the bill, there are enhanced or clarified powers to do so. That is a fundamental advantage we have in this model as opposed to the so-called statutory body.

● (1730)

Mr. Rick Dykstra: Thank you for that answer. That's extremely helpful.

There's one other issue that I thought was pertinent from the CBA's perspective—and they're not the only ones. A number of organizations and/or folks who have come to witness have shown some concern that we actually haven't implemented enough power or authority for the minister to be able to take action.

Some of that issue relates to the wording in the bill itself, but some of it relates to the information-gathering that the ministry or the minister would want to go through in terms of process, and in fact that the bill doesn't give the minister enough authority to get the statements and/or material that would provide the minister with I guess the knowledge and jurisprudence to be able to take action.

Could you clarify that in your response, aside from the fact that I'm sure you'd like to have some more authority?

Hon. Jason Kenney: Well, look, one of the problems we've had with CSIC, frankly, has been a lack of information on certain aspects of the governance within the organization. We have looked more closely at this issue from a legal point of view since introducing the bill and have realized that we do have the constitutional authority to require that the organization provide more robust information on, among other things, financial and human resource information, the body's constitution, bylaws, and articles of incorporation, and any and all updates to those documents.

So again, that is something we would lose if we went to the statutory body where it's just out there on its own and if it goes bad there's nothing we can do about it. This ensures that there is accountability to the government, through the government to Parliament, and through Parliament to Canadians. I think that model of accountability is preferable.

The Chair: Thank you, Mr. Dykstra.

Mr. Minister, thank you for coming this afternoon with your staff and colleagues and for making your remarks.

Hon. Jason Kenney: Thank you very much, Chairman, to you and to the committee for its serious consideration of this bill.

The Chair: Thank you.

Before I adjourn the meeting, I just want to remind the subcommittee members that we will have an in camera subcommittee meeting immediately following this meeting.

This meeting is—

Yes, Monsieur St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: Mr. Chair, I have spoken to other representatives, and we have agreed to reschedule the subcommittee's meeting to Wednesday. So, if everyone is agreed, that meeting could be held on Wednesday.

[*English*]

The Chair: Wednesday at 5:30: is that agreed to by everybody?

Some hon. members: Agreed.

The Chair: Monsieur St-Cyr has said there's an agreement among the members that the subcommittee meeting would be adjourned until Wednesday at 5:30. So be it.

This meeting is adjourned.

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