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# **Standing Committee on Citizenship and Immigration**

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**EVIDENCE**

**Monday, November 15, 2010**

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**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

Monday, November 15, 2010

• (1535)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** Good afternoon. This is meeting number 32 of the Standing Committee on Citizenship and Immigration on Monday, November 15, 2010.

The orders of the day are pursuant to the order of reference of Thursday, September 23, 2010, Bill C-35, An Act to amend the Immigration and Refugee Protection Act. In other words, we are into clause-by-clause consideration of this bill, having heard witnesses for some time.

I'd like to again introduce the two members of the Department of Citizenship and Immigration who are with us. If need be, they are available for, I suppose, technical questions. The policy questions, of course, can be asked of Mr. Dykstra. We have with us Brenna MacNeil, who is the director of social policy and programs, and Elaine Ménard, legal counsel, legal services.

Welcome to the committee again, both of you.

We will commence with the clause-by-clause debate on Bill C-35. As you know, the first clause will be postponed because of Standing Order 75(1). That will be dealt with at the end. I will therefore proceed to calling clause 2.

(On clause 2)

**The Chair:** Ms. Chow, you have an amendment. I assume you're going to proceed with that. Before you do, I will advise the committee that if your amendment, Ms. Chow, is amended—and that is seeking to amend line 12 on page 1 in the French text, I believe—the committee will have taken the decision on the wording of that line, and the government amendment, G-1, then cannot be moved. I just draw that to everyone's attention.

You may proceed and move your proposal, Ms. Chow.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** Thank you, Mr. Chair.

The proposal in front of you has a slight flaw, so I am going to move a very similar motion. I will read it. It amends line 10 on page 1 as follows: “Subject to this section, no person shall knowingly represent or advise”—and here I'm inserting three words “directly or indirectly”—“a person for consideration”, etc. Those three words would be sufficient in the clause in this amendment. It's really amending line 10 by adding three words after the word “advise”.

Here is the reason I'm doing this. If you look at my original motion, you'll see that it reads as follows: “shall knowingly represent or advise a person, or engage in any other activity, for direct or indirect”. The intention is the same. It's been pointed out to me that if I say “engage in any other activity”, it could mean anything under the sun, which is not what I intended to do.

Mr. Chair, as you may recall, some of the witnesses said that people who provide recruitment to potential immigrants.... They do a lot of it through looking for jobs for immigrants or looking for schools. These are occasionally the people who are unscrupulous and they end up charging a huge fee. So by tightening this wording, it wouldn't be as broad as “engage in any other activity”.

• (1540)

**The Chair:** I don't want to interrupt the debate...but I just have.

I have a question. It's just to make sure I understand what the amendment is. You understand that you are therefore putting after the word “advise” the words “directly or indirectly”. Would the words “or engage in any other activity”...?

**Ms. Olivia Chow:** No. They're deleted—all of that.

**The Chair:** They would be deleted.

**Ms. Olivia Chow:** Yes. That's too broad, because it—

**The Chair:** Okay.... I'm not clear. You can continue if you have anything else.

**Ms. Olivia Chow:** That's all. It's just because “engage in any other activity” could mean—

**The Chair:** I understand.

**Ms. Olivia Chow:** —buying a house for you, for example.

**The Chair:** Monsieur St-Cyr.

[Translation]

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** Mr. Chairman, I agree with this proposal. I do think additional clarification is in order, even though, as I see it, you cannot usually do something indirectly that you are able to do directly.

That said, I would like to comment on what you said a little earlier about this amendment. This amends line 10 of the English version and line 13 of the French version. My understanding is that this would not allow the Committee to reopen the wording of this passage. I'm wondering if we can agree that, even if we deal with part of line 10, we could potentially amend another part of the wording on the same line. Otherwise, it just won't work.

[English]

**The Chair:** I did say that. As I understand it, if there is unanimous consent, we can do anything, and I did say.... I think I said G-1. I meant G-1.1. Everything depends....

So in answer to your question, that would be the end of it, unless there is unanimous consent.

[Translation]

**Mr. Thierry St-Cyr:** I'm asking for unanimous consent.

[English]

**Mr. Rick Dykstra (St. Catharines, CPC):** To clarify that, basically what we're saying is that this would allow the Bloc amendment, the NDP amendment, and the government amendment to clause 2 not to be closed, based on either one of the first two passing or a third...?

**Mr. Thierry St-Cyr:** That's it.

**The Chair:** Do we agree?

**Some hon. members:** Yes.

**The Chair:** Thank you.

Monsieur St-Cyr, you still have the floor. You're finished?

Mr. Dykstra.

**Mr. Rick Dykstra:** I need to get some clarification here. It's a question first to the mover of the amendment to respond to and then for clarification from ministry staff, because what person knowingly represents or advises indirectly? I think the two are against each other; they're contrary. Someone cannot knowingly make representation indirectly. If you're making representation, you're making it directly. You're not making it indirectly.

**Ms. Olivia Chow:** May I...?

**The Chair:** Ms. Chow.

**Ms. Olivia Chow:** That's not necessarily so. Let's say that I'm an employment recruiter. I can indirectly represent you. I don't really represent you on the immigration side, so how would I...? That's not covered here. In terms of "knowingly", I know, but I can say that I know that I'm representing you, but it's not a proceeding. It's not an application under this act. I am representing you, but it has nothing to do with the act. It's not on immigration. It's really on human resources, right?

• (1545)

**Mr. Rick Dykstra:** It says "Subject to this section", not to any broad section. It says, "Subject to this section, no person shall knowingly represent or advise a person for consideration", so it's according to this section of the act, not any other part of the act, not any other part of some other act, or not any other part of some representation that has nothing to do with this act. This is subject to this section of this specific act. Someone cannot knowingly and indirectly speak to this subject, this portion of the act, to a client. They'd be doing it directly.

**The Chair:** Mr. St-Cyr, can you clear all this up? You seem to be antsy there.

[Translation]

**Mr. Thierry St-Cyr:** I would like to give my rationale for supporting this. This clarification is certainly not necessary, but I think it would be helpful. In my opinion, this prohibition has two parts to it. First of all, you have to give advice, and, second, you have to do it for consideration.

What happens if the person receiving the consideration is not the one providing the advice? Imagine a case where someone deals with a recruiter and pays that person. The recruiter could then go and hire a consultant. That would mean that the consultant would not necessarily be paid by the person receiving the advice. He would be, but only indirectly. He would be providing advice to a client for consideration, but that consideration would come from a third party.

Would a court of law consider that to be covered under the Act? Possibly, but I think it would be wise to state that going through a third person to provide indirect consideration is not what the framers of the legislation had in mind.

[English]

**The Chair:** You still have the floor, Mr. Dykstra.

**Mr. Rick Dykstra:** Thank you, Mr. Chair.

I understand the notion, but now there's a burden of proof. Let's say this piece ends up in court and there's a challenge on some apparent or alleged indirect advice. You're allowing into legislation the acceptance of something that isn't clear, because it indirectly has to be proven in a court of law. We're allowing it to indirectly exist, so there's some sort of cloud. Instead of saying "clearly and directly", we're saying well, there's the potential.... That's a mistake in legislation, certainly in a clause like this. It allows for so many open-ended accusations to be levelled against almost anyone for anything that could be attributed to a mistake or a piece of advice.

It's like saying, "I told Thierry, who told Olivia, who told Robert that they could do this." How are you supposed to prove something like that in a court of law? It's almost virtually impossible to do.

I would like to hear from our legal staff.

**The Chair:** Ms. Ménard is next, and then Mr. Trudeau.

**Ms. Elaine Ménard (Legal Counsel, Legal Services, Department of Citizenship and Immigration):** Thank you, Mr. Chair.

I would like to point out that this is a *mens rea* offence. With the word "knowingly" it is a criminal offence, so the points raised are very valid indeed.

I would also like to point out wording that we find in the act currently, and I hope it may be helpful.

Section 127 is the provision dealing with misrepresentation. It states:

No person shall knowingly

(a) directly or indirectly misrepresent or withhold material facts

There may be a way to make it, "No person shall knowingly, directly or indirectly, represent". But the concerns raised about evidence remain.

I wish to point out that it continues on. The evidence would have to still be in connection with a proceeding or application under the act.

**Mr. Rick Dykstra:** If Ms. Chow is comfortable including that wording—it speaks specifically to an individual providing advice, directly or indirectly, specifically to a client—I think we'd be prepared to support that.

**The Chair:** Are you putting a subamendment?

**Mr. Rick Dykstra:** Yes. I am asking Ms. Chow if she'll accept that.

**The Chair:** I need to know what wording you're suggesting.

**Mr. Rick Dykstra:** It's the wording put by Ms. Ménard. It comes from the old piece of the act.

**The Chair:** Perhaps you can help us. I'd like to hear what you have to say. Go ahead.

• (1550)

**Ms. Elaine Ménard:** It would say, “No person shall knowingly, directly or indirectly, represent or advise a person”, and it would continue, “with the proceeding or application under this Act”.

**The Chair:** Mr. Trudeau is next, and then Mr. Wrzesnewskyj.

**Mr. Justin Trudeau (Papineau, Lib.):** Whether we put the “directly or indirectly” after “advise a person” or before “represent or advise a person”, it doesn't change much. If the government is happier with that, I'm certainly open to it, if that's okay with Ms. Chow.

**Ms. Olivia Chow:** Yes.

**The Chair:** Ms. Ménard, Mr. Wrzesnewskyj has a question.

**Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.):** In legal terminology and the understanding of this law, could you explain what difference the addition of “directly” and “indirectly” will make as compared to the existing wording? What circumstances would that capture that otherwise would not be captured, if any?

**Ms. Elaine Ménard:** Of course there's always the caveat that it's for the court to interpret the wording. But I think the intention seems to be that it would be when someone indirectly...as was mentioned, A says to B, “advise potential immigrant C of the following”, without the first person, A, being the immigration consultant.

**Mr. Borys Wrzesnewskyj:** So if I were to advise, not directly to the person but through another party, as it's written currently, the legislation would not have the capacity to have me charged. Is that correct?

**Ms. Elaine Ménard:** Whether or not the legislation has the capacity to have you charged would be based upon the facts of the case, as to whether you “knowingly” advised. It is difficult to say that if you did it by some means of communication whether or not there would be enough evidence to substantiate that.

**Mr. Borys Wrzesnewskyj:** This is where I'd like some clarity. In the way the legislation is currently written, if I were to say “I'm not going to advise you, but this good fellow over here is going to provide the advice”, would that then preclude me from being charged?

**Ms. Elaine Ménard:** I'm sorry, could you repeat the question?

**Mr. Borys Wrzesnewskyj:** I'm trying to get at the clarity.

I know what it means in terms of intent and speaking at committee. But in terms of the legal significance of inserting these new words, does this do something that the act would not have the capacity to do with the current wording? In legal terminology, if it doesn't specifically say “directly” and “indirectly”, does that mean I could commit a crime by having someone else provide that advice, as opposed to me directly giving the advice to the client?

**Ms. Elaine Ménard:** Thank you.

Mr. Chair, I think with the inclusion of the words “directly” or “indirectly” the court would interpret the provision more broadly.

If you do not have the word “indirectly”—and I think you asked whether it would be a crime—it may in fact not be a crime; I think the words “directly” and “indirectly” would broaden the provision.

**Mr. Borys Wrzesnewskyj:** It would tighten the net.

**The Chair:** Is there any further debate?

**Ms. Olivia Chow:** To clarify, then, this would amend section 127 using the words “no person shall knowingly, directly or indirectly”. We're using the wording you suggested.

**Ms. Elaine Ménard:** Sorry, Mr. Chair, it would not be amending section 127.

**Ms. Olivia Chow:** It's amending 91.

**Ms. Elaine Ménard:** Yes. I only turned to that wording for guidance.

**Ms. Olivia Chow:** Okay, fine.

Mr. Chair, I think there is a consensus, and I'm fine with that.

**The Chair:** You agree with the amendment suggested?

**Ms. Olivia Chow:** Absolutely.

**The Chair:** So we don't have a subamendment; we have an amendment.

(Amendment agreed to)

**The Chair:** Mr. Dykstra, you have a choice: G-1 or G-1.1.

• (1555)

**Mr. Rick Dykstra:** Actually, I would like to do these on an individual basis, if I could.

**The Chair:** Okay.

**Mr. Rick Dykstra:** If you look at the way it's listed, it has:

That Bill C-35, in Clause 2, be amended by

(a) replacing, in the French version, lines 12 and 13 on page 1 with the following:

And then it goes to (b) and then (c) and then (d).

I would ask that each of those be separated out individually as amendments, and we vote on 1, 2, 3 and 4.

**The Chair:** I'm going to have a go at this. I'll try my best.

As I understand it, we can do (a) in amendment G-1. But we have to deal with the Bloc before we can deal with (b).

**Mr. Rick Dykstra:** Okay....

**The Chair:** I believe once we get by these early ones, folks, we'll be home free. But you're going to have to bear with me, and I'll bear with you.

**Mr. Rick Dykstra:** In the spirit of compromise here, I will move my amendment number one and then back off to deal with the Bloc amendment.

**The Chair:** So you're going to do (a)?

**Mr. Rick Dykstra:** Yes. Well, it actually becomes number one. It remains (a), but it's number one in terms of an amendment.

**The Chair:** Amendment G-1.

**Mr. Rick Dykstra:** Yes, G-1.

These become G-1 through -4, but we're going to deal with G-1 right now, deal with the Bloc amendment, and then come back to deal with the other three amendments.

**The Chair:** One moment, please.

As I understand it, then, (a) is G-1.

**Mr. Rick Dykstra:** Yes.

**The Chair:** Is there debate...?

Sorry, did you have any comments?

**Mr. Rick Dykstra:** No.

**The Chair:** Is there any debate?

All those in favour?

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** Mr. Dykstra.

**Mr. Rick Dykstra:** Well, Chair, as I understand it, you had asked me to stand down—

**The Chair:** I had.

Monsieur St-Cyr.

[*Translation*]

**Mr. Thierry St-Cyr:** Mr. Chairman, I don't know whether a new amendment has been distributed, but I did provide it to the clerk. There is no surprise here; this is simply an amendment that combines the ones tabled previously—amendment BQ-1 and amendment G-2.

These two amendments deal with the same parts of the bill, so that it would have been difficult to deal with them separately. By voting for one of the amendments first, the other would automatically not have worked, and vice versa.

Therefore, I suggest that we examine this blended amendment that I have just tabled. If it were to pass, logically, the other two would have to be withdrawn.

Would that be an appropriate way to proceed?

[*English*]

**The Chair:** Give me a moment. This is kind of....

I think Mr. Dykstra thinks that by his amendment....

BQ-1 and G-2 are quite conflicting.

[*Translation*]

**Mr. Thierry St-Cyr:** Yes, Mr. Chairman, that's the reason why we have distributed an amendment that blends the two proposals.

Even though there may be a conflict in terms of the wording, there is no such conflict with respect to the philosophy underlying those two amendments. It is exclusive. One part is from the Bloc Québécois, to ensure that Quebec immigration consultants are subject to the Quebec statute. The other part of the amendment is intended to allow paralegals in Ontario to be authorized to practice.

I suggest that we deal first with this amendment. If it passes, the other ones will no longer be needed.

• (1600)

[*English*]

**The Chair:** We probably have to have a debate as to whether the committee agrees that BQ-1 and G-2 have been amalgamated.

You made that statement, and the question is whether the committee agrees with you.

**Mr. Rick Dykstra:** I'd just like some clarification.

Although I'm vehemently opposed to amendment BQ-1 and will not be supporting it, I do understand what Mr. St-Cyr is trying to do in terms of combining these two. It makes it a little more convenient if his amendment carries.

But I would like some clarification, because he has actually incorporated my amendments into his amendment. Although I've never seen how this could actually work before, is it technically allowable for someone to take someone else's amendment and move it into their own amendment...without me approving my amendments moving into someone else's amendment?

**The Chair:** It beats the heck out of me.

**An hon. member:** It's kidnapping.

**The Chair:** Just give me a moment, please.

You know what? I don't think anybody up here has heard of that not being done, so we're going to allow it. There doesn't seem to be any rule.

Sorry, did you challenge that?

**Mr. Rick Dykstra:** For the record, I actually have the floor, I think. Don't I, sir?

**The Chair:** You do have the floor. I guess someone asked for a ruling as to whether there was anything....

**Mr. Rick Dykstra:** I'm responding to that ruling by saying that I'm actually going to challenge the chair on that one.

**The Chair:** Okay. We haven't had one of those for a long time.

Is there debate?

**Mr. Justin Trudeau:** I don't even understand the ruling that's going on right now.

If I might, please, Chair, I think there are two different amendments here: BQ-1, which talks about something related to Quebec consultants, and G-2, which talks about paralegals. Now, they're very separate issues, and for technical, written-out reasons, they've been combined for ease. But I think that's something we do anyway in this committee.

I think it might be worthwhile for us to discuss BQ-1 and G-2 separately and to then see if we can merge them afterwards rather than doing them first. That way we can keep discussing one thing, not spend all our time talking about technicalities, and actually talk about the issue.

**The Chair:** His motion is already on the floor. You know, procedurally, I think it's in order. But then the question is whether it is appropriate to carry. That's up to the committee to decide. I mean, is it conflicting? Is it not conflicting? That's something you all need to think about.

Do you still have the floor, Mr. Dykstra?

**Mr. Rick Dykstra:** I did challenge your ruling, and I'm asking....

**The Chair:** You challenged the ruling, so there's no debate.

The ruling has been challenged.

(Ruling of the chair sustained [See *Minutes of Proceedings*])

**The Chair:** That's an interesting development.

Mr. Trudeau.

**Mr. Justin Trudeau:** Could we possibly go back to the heart of the matter, which is whether we can discuss the substance of the amendments in question separately and then vote on them together, as we've upheld the ruling of the chair that they are combined? Or can we at least discuss the amendments, please?

• (1605)

**The Chair:** We have a motion on the floor, which is under debate.

We'll go to Monsieur St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** In the absence of a point of order, I would like to talk about the part of the amendment that concerns me in particular. Then the parliamentary secretary will probably want to give his rationale for the part that concerns him. In any case, he will make his comments at that point.

There is no surprise here. At meetings of this Committee, I have spoken at length about the issue of immigration consultants in Quebec. I raised a number of concerns with respect to jurisdiction. There was a great deal of discussion about this issue but, in any case, it seems to me that, whatever decision we arrive at, there are a number of very practical points that should convince us of the need to support this. In my opinion, if members do not support this amendment, there will be two categories of immigration consultants in Quebec. Perhaps I could explain.

The federal legislation forces people to be members of the organization that will be designated to handle any applications made under the procedures laid out in the Immigration and Refugee Protection Act. In Quebec, however, regulations governing immigration consultants are already in effect. They require that these individuals be monitored and regulated by the Government of Quebec under the Act respecting immigration to Quebec. The net result is that any actions undertaken within the Quebec framework end up falling within federal jurisdiction, but not the opposite.

Exactly what will happen if this amendment is not passed? Well, this would mean that there could be immigration consultants—and

there surely are—who are members of the Canadian Society of Immigration Consultants, or whatever body succeeds it, who will therefore be entitled to act for someone under federal legislation. Here we are talking about applications for refugee status, family reunification, federal immigrant investors, and so on.

What happens if these people do not meet the additional criteria in effect in Quebec? In its legislation, Quebec states that these individuals must be members of the Canadian Society of Immigration Consultants. Furthermore, the Government of Quebec has additional rules in place—the first being knowledge of the Quebec immigration system, which is the very least that could be expected. There is also an immigration agreement between Canada and Quebec which provides for a certain asymmetry, Quebec being a special case. Therefore, Quebec consultants have to be aware of that reality. There is also an examen. And an additional requirement in Quebec is proficiency in French, obviously. When you're representing a client, you must be able to properly perform the work and deal with the Quebec government, which works in French. There are other rules as well and minimum fees to be paid to register, including no violations of Quebec laws, and so on.

Consumer protection is a major focus of this bill. It is possible that a client would approach a consultant in Quebec and that this particular consultant might be authorized to provide advice on everything relating to federal legislation, but not on the Quebec statute. A concern is that such a consultant might tend to unduly encourage his or her client to follow the federal process—for example, with respect to refugee status, rather than the Quebec process—for instance, the Quebec Selection Certificate. If that consultant were to follow only the Quebec process, he would be losing business and would not be allowed to give advice.

• (1610)

I think this is in the interests of anyone who may be dealing with immigration consultants. I also know that the Quebec Minister took a position on this last Friday. I have the transcript somewhere.

[English]

**The Chair:** Ah, the Liberals have everything.

[Translation]

**Mr. Thierry St-Cyr:** I have the English version. Anyone interested in hearing the French will have to rely on interpretation. This will be an opportunity for you to hear my excellent English. This is a quote from Minister Kathleen Weil.

[English]

She says obviously it's important that Quebec maintain control, that the individual in question be a member in good standing of an association, and that full control over both quality and consultant membership criteria genuinely be the responsibility of the Quebec government. Punitive measures, so to speak, monitoring and protecting the public, must also truly fall under Quebec's jurisdiction.

[Translation]

That was what the Minister said at the National Assembly last Friday. For all those reasons, and because this was a Committee recommendation as early as 2008, I encourage you to support this amendment.

[English]

**The Chair:** Mr. Dykstra, and then Mr. Trudeau.

**Mr. Rick Dykstra:** Thank you, Chair.

The one thing I agree with Mr. St-Cyr on and appreciate is that this is something he brought to the attention of the committee, and certainly to my attention, when we began to deal with Bill C-35. The difficulty, and where we disagree, is that his amendment actually significantly deflates the ability of the federal government to control its own federal legislation. It would actually pass on some federal responsibilities to the provincial government, which is not acceptable when taking on accountability and responsibility for legislation.

I have further comments to make, but I would like Ms. Ménard to lay out, from a legal perspective, the difficulties we would face if in fact this amendment were carried.

**The Chair:** Ms. Ménard, if you're able.

I see you have a big book there.

**Ms. Elaine Ménard:** I have a big book, Mr. Chair.

I will refer the committee to a Supreme Court of Canada case by the name of *Mangat*. It was a 2001 case that dealt with immigration consultants and whether or not they fell within the provincial jurisdiction. The court held that with regard to immigration consultants, while it did recognize that the regulation of professions is a provincial matter, when it comes to immigration consultants, that can and does fall within the federal jurisdiction. Be that as it may, if you have provincial legislation and federal legislation, the Supreme Court held that the doctrine of paramouncy would apply and the federal legislation would prevail.

**The Chair:** Okay.

**Mr. Rick Dykstra:** I have a few more points to make.

The amendment, at least the way it's drafted, would also remove the minister's authority to designate a body. We would actually have to move an amendment to this to allow the minister the ability to revoke a designation.

I do have an alternative approach to this. I understand where Mr. St-Cyr is coming from. He may not be satisfied with the alternative approach, but I think it is one that is reasonable and that certainly gets to the intent of his amendment. It also has stronger support from the Government of Quebec. They have informed us that they do not see the need for such an amendment, that it's actually not necessary.

The minister mentioned at his appearance here a couple of weeks ago that the intention of Bill C-35 was to designate one body. Nothing in the bill limits designation to only one governing body, so it does allow for that provision.

I can't stress strongly enough that it's the federal government—and Ms. Ménard laid out a Supreme Court decision on this—that maintains responsibility for its legislation. If we were to pass this amendment we would be relinquishing that responsibility.

We have worked extremely well together on bills like Bill C-11 and we want to try to find a way to compromise and meet the objectives of the bill while still having a bill that meets federal

requirements. This amendment simply shoots a hole in that strategy, and in fact it is the one amendment that would obviously have to go back to cabinet for approval. This is one area around where there is a huge question mark as to whether it would survive that.

So, Mr. St-Cyr, if it is the intention of the Bloc to pass this amendment and if it is the will of the committee, we're going to need the support of somebody on the other side of the table, as we only have five votes on this side. I can tell you that it is not going to meet with the approval of the government.

I'm asking the committee to consider an alternative amendment that would get at what Mr. St-Cyr is presenting but do so in a way that actually allows us, as the federal government and legislators, to maintain our federal responsibility for legislation.

Thank you.

● (1615)

**The Chair:** Mr. Trudeau.

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

The government member made two clear objections: indeed, the Supreme Court ruling showing that federal legislation should and must prevail in matters of immigration consultants, and a concern that we are removing authority from the minister around designation or revocation of authority by giving that power to Quebec with this amendment.

I have spoken with the minister's office in Quebec City. I have heard from the federal minister himself with some concerns that Mr. Dykstra has indicated around it. I'm just not entirely sure that this amendment as proposed by the Bloc has the negative consequences the government is attributing to it.

On the face of it, the Bloc amendment asks simply that any immigration consultant who operates in Quebec be recognized under the Quebec act respecting immigration to Quebec, which could raise some eyebrows, except that if you take the actual legislation of the act respecting immigration to Quebec in chapter I-0.2, they basically have three criteria.

The first one is that for someone to be recognized as an immigration consultant by the Government of Quebec, they have to be a member in good standing of whatever body the federal government designates as being the regulator for immigration consultants—so CSIC in this case. They don't mention CSIC by name, but if there is another body eventually, that is the body that Quebec will demand that an immigration consultant operating in Quebec would be a member of. So that is not at all subverting the power of the federal government to control immigration consultants. However, what it does go on to say is that it adds two criteria to immigration consultants in Quebec.

The first is that someone operating as an immigration consultant in Quebec and member of CSIC, or whatever governing body, would need to have a working knowledge of French. This is simply because any interactions with the Quebec government must happen in French. If someone is going to represent a client on immigration in Quebec, they're going to need to have a working knowledge of French to be able to deal with the Quebec government.



The other one is that they have to pass an exam put forward by the ministry of immigration in Quebec regarding and demonstrating knowledge of the particulars of our immigration system in Quebec and the different stream that the Quebec-Canada accords on immigration represent.

So these are not taking away from the federal power to regulate immigration consultants; it's just adding details to the requirements in Quebec.

Now, there is a concern that I have with this; that is, someone who would choose to operate in downtown Montreal, let's suppose, in English, as an immigration consultant and member of CSIC, and not give any recommendations around Quebec, would not be allowed to operate as an immigration consultant in Quebec if this amendment passes. But for me, if one is to operate as an immigration consultant in Quebec and not be able to advise on or even offer the Quebec immigration stream as an option to one's client, I don't think the client is being well served.

I understand the concerns that the ministry of immigration in Quebec shared with me when I spoke with them. They said, "We don't want to have to set up our own regulatory body by any amendments pushing us to do that." I think that's perfectly reasonable. We're talking about approximately 200 to 250 immigration consultants in Quebec, and having a regulatory body for them just wouldn't make any sense. As we've seen, 1,800 with CSIC is pretty difficult as it is.

• (1620)

So the concern is that to be an immigration consultant in Quebec you end up having to pay \$500 more a year to the ministry to be registered on the Quebec lists and pass the Quebec knowledge exams. But this in no way, to my mind, either removes authority from the federal Minister of Immigration or interferes with the federal government's authority to establish a regulatory body.

That is my reading of it. I'm open to having legal explain to me where my logic is weak or my understanding isn't as strong as it could be. But for now, if the only concern is that someone can set up as a member of CSIC but not speak French and not deliver recommendations around Quebec, I don't think that's a strong enough recommendation to vote against this Bloc amendment.

Thank you, Chair.

**The Chair:** Ms. Chow is next, and then Mr. Dykstra.

**Mr. Justin Trudeau:** I had a reference to legal.

**The Chair:** Are you okay? Perfect.

**Ms. Elaine Ménard:** Thank you, Mr. Chair.

Going back to my previous statement about the doctrine of paramountcy, the amendments that are currently proposed would have the federal legislation prevail over the provincial legislation. So I would think that when you have an anglophone in Montreal who is not able to comply with the Quebec legislation, he or she would still be able to comply with the federal legislation.

However, the amendment being proposed by the Bloc would be such that the federal government would willingly cede its jurisdiction, if I can put it that way, because you would have it

saying quite specifically that subsection (1) does not apply in Quebec. In that sense, the doctrine of paramountcy is no longer an issue, because the federal government is saying that in their own legislation they are recognizing that in Quebec, the Quebec government would determine the regulation of immigration consultants with regard to an act respecting immigration in Quebec, and by the fact that in Quebec, subsection (1) would not apply to a member of the bar—would not be a *chambre des notaires*.

**Mr. Justin Trudeau:** Allow me to ask for clarification. The concern is that if we pass this amendment as is and tomorrow Quebec modifies their law, removes the fact that one has to be a member of the federal regulatory body and says something entirely different, we will effectively remove federal jurisdiction from immigration consultants in Quebec.

Is that your reading on it?

• (1625)

**Ms. Elaine Ménard:** Yes, that is my reading of it.

**The Chair:** Thank you.

Ms. Chow.

**Ms. Olivia Chow:** We debated this issue fairly extensively when the immigration committee was dealing with the study. That was about two or two and a half years ago. We said at the time that Quebec had a special agreement with the federal government on immigration. It has the power to determine its immigration policy, unlike all the other provinces and territories. Also, unlike all the other provinces and territories, there's already a pattern set that there is a direct transfer of funding for immigration and adaptation programs, and that transfer goes into the general revenues of the Quebec government. It is not set aside specifically for immigration adaptation programs or for counselling programs of any sort. And Quebec is not required to submit reports or explain how it spends its money or does not spend its money. There are already many examples in the area of immigration where Quebec has been exempt on both the funding side and the policy application side.

In the 2008 report of the Standing Committee on Citizenship and Immigration, "Regulating Immigration Consultants", the first recommendation was very clear. What we recommended was that Quebec would be exempt on this. There was extensive discussion, and, from this committee anyway, there was clear direction, and that's what I followed. I recall that debate, which was fairly substantial.

I'm just being consistent, and that's why I'm supporting what is in front of me.

**The Chair:** Good for you.

Do you recall whether you had any legal comments at that time?

**Ms. Olivia Chow:** There was quite a lot of discussion. The wording was drafted....

**The Chair:** I'm sure there was a lot of discussion.

We've had a legal opinion provided here to the committee, which sort of contradicts what you're saying.

**Ms. Olivia Chow:** I don't recall that there was.

**The Chair:** No. The answer is no.

Are you finished, Ms. Chow?

We'll have Mr. Dykstra.

I'm sorry, I probably shouldn't have interjected there, but I did.

**Ms. Olivia Chow:** It was a good question.

**Mr. Rick Dykstra:** Ms. Ménard, I wanted to give you the opportunity to follow up on a comment you wanted to make, and I have some questions.

**Ms. Elaine Ménard:** Thank you, Mr. Chair.

I have just a few more comments. I'm not sure if I'll be addressing Ms. Chow's comments.

I will just point out that under the Constitution Act, 1867, there are two provisions that deal with immigration. One is section 91.25. "Naturalization and Aliens", which is the federal power, but there's also section 95, which recognizes a joint federal-provincial responsibility with regard to agriculture and immigration. So in that sense, it is a bit confusing as to which constitutional provision may apply.

I just wanted to make a few comments regarding the Quebec-Canada accord. Unfortunately, I don't have it with me. The *certificat de sélection du Québec* refers to economic immigrants, people who are selected by Quebec to come to Quebec, to move to Quebec. They are skilled workers, people who fall within the definition of the economic class.

However, with regard to family class, that's a different matter. There's an undertaking Quebec is involved in to make sure that the sponsor signs an undertaking should the member of the family class go onto social assistance. But that's different.

I also wish to point out that with regard to inadmissibility, that remains within federal jurisdiction.

[Translation]

**The Chair:** Mr. St-Cyr.

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

• (1630)

[English]

**Mr. Rick Dykstra:** I have more questions. Sorry, I was getting some advice.

**The Chair:** You're not....

**Mr. Rick Dykstra:** Go ahead.

**The Chair:** We're going to let Mr. St-Cyr go.

You're on the floor, sir.

[Translation]

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

I understand what Ms. Ménard is saying. Unlike the Chair, I see no contradiction between what Ms. Ménard just said and the amendment that is before us. Ms. Ménard is saying that, in accordance with the Supreme Court's decision, the government can impose its policy across the country.

Even if that is so, there is nothing preventing the federal government from doing things intelligently. In Quebec, there are

supplementary requirements that apply in addition to those in place at the federal level, which require that a person be a member of an association recognized by the federal government. There are two additional requirements in Quebec. It would be inconsistent and injurious to the clients of immigration consultants in Quebec to be able to deal with a consultant who does not have the right to provide advice on immigration policy as a whole.

The Canada-Quebec Immigration Agreement recognizes that, under the Constitution, immigration is, first and foremost, a federal responsibility, but that there are special characteristics in Quebec which must be taken into account. It seems perfectly logical to do the same with respect to consultants. There is no contradiction here; it is simply the right thing to do.

For weeks now, we have been working to ensure that people do not deal with consultants who are incapable of providing appropriate advice. That is what we have been doing in this Committee for weeks—indeed, for years, as Ms. Chow pointed out. We conducted a study on this in 2008. Now we are going to allow consultants in Quebec to operate even though they can only give half of the appropriate advice to their clients, since they're only entitled to provide such advice at the federal level, and not at the provincial level. That makes absolutely no sense.

The government is very concerned about the inordinately high number of illegitimate asylum seekers. But what is going to happen if consultants in Montreal have the right to tell someone to apply as a refugee, to advise that person, fill out all the forms and support him throughout the process, when that person may in fact be eligible for a Quebec Selection Certificate? That would be harmful to the system.

It's simply a question of consistency. When this was drafted, everything was done to ensure that the Government of Quebec would not be required to establish a new structure. Everything is already in the regulations; there are no amendments to be made in Quebec. The Quebec Minister clearly stated in the National Assembly that, in her opinion, Quebec should have control over immigration consultants. It seems to me that is the logical conclusion of our Committee work and that, in the interests of people who will be dealing with immigration consultants, we should ensure that there is only one category of consultants in Quebec. Consultants have to meet all the requirements, both the federal requirements and the ones in place in Quebec.

[English]

**The Chair:** I have Mr. Oliphant, Mr. Dykstra, and then Mr. Trudeau.

**Mr. Robert Oliphant (Don Valley West, Lib.):** My question is for our legislative lawyer, as opposed to the departmental lawyer. It is on Mr. Dykstra's comment that this amendment would take away the minister's authority to appoint a regulatory body. That says to me that the amendment is outside the scope of the act and would have been disallowed as an amendment, because the act is principally about the minister establishing a regulatory body. We're not doing it through legislation; we're giving that minister powers, so I just wanted to check. If the government side is right, the minister then loses.... It does relate to the other comments, but I'm confused.

If the minister doesn't have the power, it should not be allowed. If it is allowed, that means the minister still has the power; therefore it makes it a more interesting discussion.

You may want time to think about that, but you've obviously ruled that it's admissible, so that would then nullify the government's argument on this.

• (1635)

**The Chair:** I've listened to Ms. Ménard. You're almost raising the issue again that you actually supported the chair on.

I have ruled that the motion was in order. I'm not going to rule on it again. The majority of the committee has upheld that ruling. Ms. Ménard has talked about the paramountcy principle and other such things.

I don't think I'm going to allow another question here, but if Ms. Ménard has any comments on that, you might need to ask your question again.

Do you have a position on this, Ms. Ménard?

**Mr. Robert Oliphant:** I think I need to clarify my question. It wasn't about your ruling, which was on the conflation of the two amendments. The support I gave was on your ruling that those two could be amended—

**The Chair:** Yes.

**Mr. Robert Oliphant:** —and that we could fold the government's into this.

My question doesn't at all imply that I don't support the ruling. I do support that ruling. It's really about the ruling on the original amendment, which has now been conflated legally into this one.

But I just want it to be clarified that the legislative clerk has indeed examined this issue. If he hasn't, he may want to take the time to do that, because it's been raised here, and I know that things fly through very quickly. I want to make sure he has really examined the amendment to ensure that the government's concern is not valid, because if the government's concern is valid, it's my concern too. That is my concern, because it would mean that we have amended the bill beyond the scope of the legislation. But quite possibly they're wrong. It's happened once before, I'm sure.

**Ms. Olivia Chow:** It is in order. Why are we debating it?

**Mr. Robert Oliphant:** The conflation is in order.

**Ms. Olivia Chow:** No, no, the motion is in order. Why else are we debating it?

**The Chair:** Hold it. I'm going to suspend for a couple of seconds here. Could we have some order?

I'm going to let the administrative clerk comment on your observation, Mr. Oliphant.

**Mr. Wayne Cole (Procedural Clerk):** My view was that the BQ amendment was simply an attempt to clarify the content of clause 2, or proposed subsection 91(2). It's a question of clarification, not a question of expansion.

**Mr. Robert Oliphant:** Thank you.

**The Chair:** I have Mr. Dykstra, and then Mr. Trudeau.

**Mr. Rick Dykstra:** I just want to pursue that a little further and get the legal counsel's perspective, because I know it is a significant concern from a ministry perspective that the amendment as currently drafted would remove the minister's authority to actually designate the body.

**A voice:** [*Inaudible—Editor*]

**The Chair:** Yes, and I have a question for you after that.

**Mr. Rick Dykstra:** And I have a couple.

**Ms. Elaine Ménard:** Could I have a moment to think about this?

**The Chair:** Of course you can. We'll suspend for a minute.

**Ms. Elaine Ménard:** Thank you.

It's just the wording. I know what the intention is, but I just want to have a moment to look at the wording.

**The Chair:** We're going to suspend so you can discuss it with your colleagues or create your own thoughts.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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**The Chair:** We're back.

• (1640)

**Mr. Rick Dykstra:** I'm going to ask—

**The Chair:** I seem to recall you just asked a question of Ms. Ménard, and we suspended so she could think about it.

**Mr. Rick Dykstra:** We're actually making some progress.

**The Chair:** If you want to agree, we can suspend again.

**Ms. Olivia Chow:** Let's hear the answer first. I don't want to propose anything until I hear this.

**The Chair:** Ms. Ménard.

**Ms. Elaine Ménard:** Thank you, Mr. Chair.

I just wanted to look at the wording. I believe I understand what the Bloc member is attempting to do or hopes to do. I just wanted to look at it again because you have different wording. You have proposed subsection 91(1) that says:

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.

But then it goes back to, under the proposed amendment, in (2.1), “In Quebec, subsection (1) does not apply to a person”, etc. But you have the reference to “Subject to this section” at the beginning of proposed subsection 91(1), so it may be problematic.

Be that as it may, the intention seems to be to remove the scope of this legislation from immigration consultants who are practising in Quebec. So it would be removing the national scope.

**The Chair:** Mr. Dykstra, you still have the floor.

**Mr. Rick Dykstra:** Thank you.

That gets at the root of the problem here, and while we were suspended, we started to move into a good discussion. What needs to remain within the scope of this legislation is that at the end of the day it's the federal ministry that makes the determination, not the provincial—and under a federally regulated body.

Maybe I can get some clarification from Ms. Ménard on this. This amendment actually gives responsibility to the Quebec government for the designation. As you can see within what our amendment would look like, we are prepared that the federal government would consider designating a body that's been approved by the Quebec government. That is the process upon which our Constitution works; that's the process that the model of government in this country falls under. Under federal legislation, the federal government has to maintain the highest order of standing.

While we did have a break over the last week, our pursuit was to determine, number one, how we could accommodate the recommendation that was made by this committee in 2008—albeit subject to some different membership—and to remain consistent with that recommendation. Even though we did write a minority report on it that didn't necessarily agree, we did want to remain consistent.

Our amendment does indeed remain consistent. At the end of the day, we cannot have a process that devolves authority to a provincial government for them to determine how the federal government is going to work in that particular province. That province can approve and do whatever they want in terms of what they subject immigration consultants to from a provincial perspective, but they cannot designate it federally. They have to submit that organization, that consultant, that individual, that company, for federal approval. The federal government has the final approval, or not, and that's the way it has to remain.

This amendment—and, please, Ms. Ménard, correct me if I'm wrong—does the reverse of what we're trying to accomplish in terms of federal designation.

• (1645)

**The Chair:** I think that's a legal question.

Maybe you don't want to answer it. Do you want to think about that one, too?

Mr. Dykstra probably has some more questions. Do you want to just sit on that for a minute, Ms. Ménard?

This is an important issue, and if you—

**Ms. Elaine Ménard:** This is a terribly important issue, and I'm very aware of solicitor-client privilege and who my client is.

**The Chair:** Indeed.

**Ms. Elaine Ménard:** If we could take a little break, that would be very much appreciated.

**The Chair:** Ms. Chow.

**Ms. Olivia Chow:** Mr. Chair, there are other motions that probably are not controversial. Do you want to do those?

**The Chair:** No, I'm going to take a little break.

**Ms. Olivia Chow:** All right.

**The Chair:** Mr. Trudeau.

**Mr. Justin Trudeau:** Before you do, Chair, could we try to get at the substance of what we're trying to do and what we agree on? If we can agree that an immigration consultant in Quebec should be able to have knowledge of the Quebec immigration system and speak French, I think there might be a way to craft an acceptable compromise.

**The Chair:** I think it would be fruitful to have a small suspension—

**Mr. Justin Trudeau:** That was the point I wanted to make.

**The Chair:** Perhaps you can discuss that with other colleagues.

I'm going to suspend. Is five minutes enough, Ms. Ménard? We have lots of time.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1705)

**The Chair:** We're back on the floor.

Mr. Dykstra, you still have the floor.

**Mr. Rick Dykstra:** Thank you, Mr. Chair. Thank you very much, actually, for allowing us to suspend for a period of time to have some discussion.

What I think has happened—and I certainly look to my colleagues across the table here for concurrence—is that we have outlined what the difficulties are and why it is problematic to move forward with the legislation without coming up with some form of an adjustment that satisfies both the government and the opposition. We think we have a beginning sentence or two that may in fact do that.

What I'm asking you, sir, respectfully, is whether we could suspend our meeting until Wednesday. That would allow each of the parties to take back their perspectives on the potential resolution to this issue to ensure that they have the support of their parties and leadership on this matter, and we can attempt, over the next 48 hours, to come back to the table with something that would potentially work.

**The Chair:** Great. I'm here to serve.

The meeting is suspended until Wednesday.

*[Proceedings suspended on November 15, 2010, at 17:08]*

*[Proceedings resumed on November 17, 2010, at 15:58]*

**The Chair:** Good afternoon.

This is the resumption of meeting number 32. We're a little late starting, and I hope the discussions were fruitful—I'm sure they were.

In proceeding with our clause-by-clause discussions, I'll remind members of the committee that we still have with us, somewhere, Brenna MacNeil, who is the director of social policy and programs, and Elaine Ménard, legal counsel, legal services, who will be sitting at the table if questions are required of them.

I'm not sure who has the floor. We are on Bloc-1.1.

Monsieur St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** Mr. Chairman, at the last meeting, we adjourned our work in order to hold discussions, in particular on a proposal from an official representative of the government. According to that person, the amendment could be worded differently to meet the same objective in the legislation, but without this being specifically removed from federal jurisdiction. Something would simply have to be added.

That's why I agreed to suspend our work. I said that I was open to the idea of working on specific wording. I told both my Liberal and Conservative colleagues that I was ready and available. I followed up with them a few times in the last 48 hours to make them aware of my desire to work towards a solution. Yet I was unable to determine what progress had been accomplished. As a result, I am unable to propose new wording.

Before we continue our work, I would like to know what colleagues agreed to, without my participation. I would like to hear what they have to suggest.

[English]

**The Chair:** Mr. Dykstra.

**Mr. Rick Dykstra:** Thank you, Mr. Chair.

I do agree there was consensus at the end of our last meeting in an attempt to try to work toward a compromise that would satisfy all parties sitting at the table here. Certainly over the last 48 hours there was a strong attempt to do that—in fact a number of attempts to do that. I think we have come a significant way with regard to finding a compromise regarding this amendment, albeit of the three parties that were discussing a potential compromise, the result is that only two of the parties in those discussions were able to come to a compromise.

I certainly want to thank Mr. St-Cyr for his thoughtfulness on this in terms of trying to find a way to come to a conclusion that would see us in the same position as Bill C-11. Unfortunately, we haven't been able to move that far. The government does have to draw the line on how far it can go, at least with respect to this amendment.

I think we have come to a very reasonable approach and compromise on this, and if this amendment is defeated, I will be introducing a government amendment. In addition, I'll be reading into the record a letter that the minister will be sending to the chair of the regulatory board in terms of direction with respect to the issue we have discussed in amendment G-2.

**The Chair:** Mr. Trudeau.

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

The concern of the Liberal Party around this issue of consultants in Quebec centres around the fact that for a consultant to operate in the province of Quebec, and be effective and a quality consultant, they should be able to recommend to clients all the options, including the options touching on the provincial stream of immigration. The concern is that there may be an infringement of people's rights to practise certain types of immigration consultancy that don't require any provincial input, such as the refugee stream, which wouldn't need to conform to the Quebec code.

Now, this is a small issue, but it is one that I think represents a rare enough case that in this situation, as with much of what we're doing on Bill C-35, we're going to have to have faith that the eventual regulator will be strong enough to ensure the quality of advice and representation that is given to all its clients. Therefore, the amendment that the government is putting forward seems reasonable to us, as long as the government also commits—as it has indicated it will—to instruct the future regulator to ensure that anyone applying to a Quebec immigration consultant who is not conforming to the rules of the Quebec system must advise any client that there are Quebec options that they cannot sell them on and that they therefore should seek advice from a different consultant who is qualified in Quebec.

This is a middling compromise that satisfies none of the parties around the table, to be entirely honest—not entirely. It requires us to have faith that an eventual regulator will be able to ensure that the immigration consultants operating in Quebec and across the country are of top quality. Because of this, we are not going to be supportive of the BQ-1.1 amendment and will be supporting the government amendment.

**The Chair:** Monsieur St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** I am aware of the fact that the Bloc amendment is currently on the table. However, before we vote, it seems to me we should have an opportunity to hear the official amendment being proposed by the government, as well as the letter that has been referred to but which has yet to be tabled.

Furthermore, Mr. Trudeau stated that there could be a rule requiring that consultants practising in Quebec, but not accredited by the Quebec government, make their clients aware of the fact that they are not fully qualified to provide advice on Quebec options. Is that only an intention expressed in a letter or does the government amendment provide for such an obligation under the Act?

[English]

**The Chair:** Excuse me, aren't we debating amendment BQ-1.1?

[Translation]

**Mr. Thierry St-Cyr:** Yes, but before—

[English]

**The Chair:** Monsieur St-Cyr, aren't we starting to debate something that hasn't happened yet?

[Translation]

**Mr. Thierry St-Cyr:** Under the circumstances, Mr. Chairman, out of concern for procedure, we may want to form a committee of the whole. It seems to me we can hardly vote in favour or against an amendment if we don't know what other amendment is on the table.

In a number of places, we will be required to choose between one amendment or the other. We know what those amendments are. So, we can make that choice. Now we're being told that there is an agreement—

[English]

**The Chair:** Monsieur St-Cyr, I only hear amendment BQ-1.1. I don't hear any other amendments. In fact, I haven't even seen any other amendments.

[Translation]

**Mr. Thierry St-Cyr:** A member of the Official Opposition has just said he will be voting against the Bloc amendment because he prefers the government amendment. However, if Committee members want to properly exercise their right to vote, they should officially be made aware of content of that other amendment. I understand that an agreement has been reached behind closed doors, but the proper approach would be to tell us what that agreement involves.

Indeed, Mr. Chairman, I believe the majority of Committee members would agree that the amendment be tabled, so that we can look at it before voting on the Bloc amendment.

[English]

**Mr. Rick Dykstra:** Withdraw the amendment and then I'll introduce mine.

**An hon. member:** No.

**The Chair:** I have a speaking order—

**An hon. member:** [Inaudible—Editor]

**The Chair:** I have a speaking order, and we're still debating BQ-1.1.

Are you finished, sir?

Ms. Chow, and then Mr. Trudeau.

**Ms. Olivia Chow:** Mr. Chairman, I move to table the Bloc motion until we see the motion that Mr. Trudeau was talking about. He certainly referred to some motion that I have not seen. He referred to a letter I've not read.

So I'm moving to table BQ-1 so that we can allow the committee to see Mr. Dykstra's motion. He promised that he has one.

I think it just makes it a lot easier for all of us to work together, so we know what we're talking about. There are two parties, two members of Parliament, who have seen this; the rest of us have not seen this. I don't know what motion he's talking about. I haven't seen the letter, and I have to be able to, in order to make a decision.

**The Chair:** Okay.

Is there unanimous consent that we table this to hear another amendment?

**Some hon. members:** Agreed.

**The Chair:** Unanimous? It's done. There you go.

It's tabled, so you're on the floor, Mr. Dykstra.

**Mr. Rick Dykstra:** Thank you, Mr. Chair.

Currently, on what's being provided to all members for their review, a number of the members of this committee have seen this amendment.

I'll read it, if you'd like me to, Mr. Chair.

**The Chair:** Yes.

**Mr. Rick Dykstra:** It is moved by me that Bill C-35 in clause 2 be amended by adding after line 3 on page 3 the following:

(7.1) For greater certainty, *An Act respecting immigration to Québec*, R.S.Q., c. I-0.2 applies to, among other persons, every person who, in Québec, represents or advises a person for consideration—or offers to do so—in connection with a proceeding or application under this Act and

(a) is authorized to do so under regulations made under paragraph (7)(b); or

(b) is a member of a body designated under subsection (5).

**The Chair:** I have bad news for you, Mr. Dykstra.

**A voice:** He's read it.

**The Chair:** He's read it.

Your amendment.... It's not really that bad; everything's cool.

We are at amendment BQ-1.1.

**A voice:** He's tabled it.

**The Chair:** He has indeed.

Your amendment is, under the order, G-3.1, which is way down the list. I'm sorry to be picky, but I'm told we need unanimous consent.

**Some hon. members:** Agreed.

**The Chair:** Everybody agrees? There you go.

Carry on, Mr. Dykstra. You have the floor.

**Mr. Rick Dykstra:** Thank you.

That is the amendment.

In addition, there is going to be a letter that is going to be here in very short order that is addressed to you, Mr. Chairman. The letter reads as follows, and this comes from the minister:

I am writing to provide a statement of intent to you with respect to the direction that will be provided to any potential governing body for immigration consultants designated by the Minister.

No body will be designated as a governing body for immigration consultants unless they agree to the following.

**Mr. Justin Trudeau:** Slow down.

**Mr. Rick Dykstra:** I'm sorry. It reads:

With respect to members of a designated body practicing in the province of Quebec, where that member is to have any immigration dealings with the Government of Quebec, adherence to *An Act respecting immigration to Québec* shall be adhered to, including French language requirements and knowledge of Quebec law. The governing body of immigration consultants shall ensure that any violation of the Quebec immigration laws constitutes a violation of the governing body's code of conduct.

Paragraph 2 reads as follows:

Where a member of a designated body operates in federal proceedings only, professional rules of conduct should include that...such members should appropriately direct clients to seek advice and/or representation from another member or authorized practitioner that can meet the requirements of the Quebec... legislation. In particular, members not qualified in Quebec must advise clients to seek advice with respect to Quebec programs from those qualified to give advice under relevant Quebec immigration regulations. While the immigration consultant would be otherwise authorized to represent or advise for federal immigration purposes...no applicant should be adversely affected by the fact that the immigration consultant in Quebec does not meet the requirements of the Quebec legislation.

That's the end of the letter. It will be signed by the Minister of Citizenship and Immigration.

It will go to you, Mr. Chair, and then obviously will be redrafted and sent directly to the potential new governing body that is identified under this piece of legislation.

**The Chair:** Okay.

We are debating G-3.1. Is there debate?

I see none. We will...

Monsieur St-Cyr, I'm sorry. I thought maybe you'd have a few words to say.

[Translation]

**Mr. Thierry St-Cyr:** Mr. Chairman, as I'm sure you can understand, we have just received this wording, and a letter has just been read that we have yet to see. Could you give us five minutes to have a look at it?

[English]

**The Chair:** Done.

We're suspended for five minutes.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
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**The Chair:** All right. We're in the process of debating G-3.1.

I believe, Monsieur St-Cyr, we'll give the floor to you.

[Translation]

**Mr. Thierry St-Cyr:** Is amendment G-3.1 the amendment that has just been tabled?

**The Chair:** Yes, sir.

**Mr. Thierry St-Cyr:** We'll see how the votes go. I would have preferred, and I still prefer, that we continue along the lines of the recommendation passed by the Committee in 2008—in other words, a formal transfer of this responsibility to the Quebec government, so that we can ensure that all the requirements with respect to Quebec consultants are met.

That said, I understand that the intent behind this amendment, combined with the Minister's amendment, is to ensure harmony. But I don't think that is enough. The intention is certainly completely legitimate, but I think this could have been more clearly expressed in the legislation, particularly with respect to the obligation to inform people that you are not accredited by the Quebec government. That could have been specifically stated in the legislation, rather than leaving it to the Minister.

I am very much aware of the fact that I probably do not have majority support around this table, so I see no point in unduly prolonging the debate.

[English]

**The Chair:** Ms. Chow.

**Ms. Olivia Chow:** Thank you, Mr. Chair.

I will speak on both motions. I know BQ-1 is not on the floor at this point, but rather than making two speeches, I thought I would just make one. It's about the same subject anyway.

**The Chair:** One is better than two.

**Ms. Olivia Chow:** I think so.

I appreciate the attempt to accommodate the consultants who operate in Quebec. If you look at it from the consumers' point of view, if I'm a temporary foreign worker, I would likely be coming in under the federal law and then I would have a consultant working with me. But this consultant probably is not familiar with the Quebec law, and therefore I will then have to migrate to the provincial Quebec consultant. It is confusing. I'd much rather have one consultant who is familiar with the Quebec law and regulations, because in Quebec they have their own immigration rules, their language is different, and the law is different. I would not say that to any other province with the exception of Quebec, which is why I've supported BQ-1 right from the start. I believe from the consumers' point of view, it's much simpler if there's one type of consultant who is familiar with both laws and can speak and write fluent French and be able to serve the people and be regulated.

I'd much prefer to go the route of BQ-1, rather than what the government is proposing. However, I appreciate the attempt.

**The Chair:** Yes, we are debating G-3.1. We are going to vote on G-3.1.

**Mr. Thierry St-Cyr:** On division.

(Amendment agreed to on division [See *Minutes of Proceedings*])

**The Chair:** Okay. Do we have unanimous consent to move to BQ-1.1.

**Some hon. members:** Agreed.

**The Chair:** Monsieur St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** In my opinion, we are voting on the principle. The Committee has already expressed its opinion. I believe that this amendment is necessary to ensure consistency with Quebec's policy.

I would like to give you a concrete example of the consequences of not passing this amendment. Both at the federal level and in Quebec, there is an immigrant investor program. Even though there is generally extensive cooperation between the two levels of government, the fact is that these two programs compete with each other. The federal government and the Quebec government try to encourage immigrant investors to take part in their program, because it brings in money. In Quebec, the immigrant investors program brings in up to \$50 million a year, which is distributed in the form of grants to Quebec companies.

If the amendment currently under consideration is not passed, that will mean that some immigration consultants in Quebec will be authorized to recommend the federal program, but will not be authorized to recommend the Quebec program.

Of course, the government is saying, through the letter and spirit of its proposal, that people will be required to state that they are not authorized under the Quebec program. My respectful submission is that this will simply create confusion. The evidence needed to monitor the veracity of such claims will be extremely difficult to collect, and a great many immigration consultants in Quebec will recommend to investors that they go through the federal program, not necessarily because it is advantageous for them, but simply because it is the only program they are able to recommend.

That confusion could result in a loss of investors for the Quebec Business Immigrant Investor Program and, as a result, a loss of funding for our Quebec SMEs, as well as lost job opportunities or even jobs.

In spite of the government's good intentions, which are completely inadequate, this amendment is needed and continues to be needed in the interests, not only of Quebec, but of all consumers.

I think it's important to point out to Committee members that this is something we have been examining for more than two years. We began by looking at bogus consultants. We were told that it was very complicated and difficult to ensure that people deal with accredited consultants who are able to provide advice.

We should be advertising on our website and on government websites. Bill C-35 will be implemented, and yet we will leave a gaping hole and create even more confusion because, in Quebec, when people go and see an immigration consultant, they will have to know in advance whether that person is able to apply at a single level, as opposed to both levels.

Outside of any considerations with respect to the separation of powers between the different levels of government, on which we do not agree, it is clear that this is in the interests of consumers and that the Committee's work thus far supports passing this amendment. I encourage you to do that.

[English]

**The Chair:** Monsieur Trudeau.

[Translation]

**Mr. Justin Trudeau:** Thank you, Mr. Chairman.

I certainly understand the example cited by my Bloc colleague. At our last meeting, the government drew our attention to the fact that the Supreme Court has resolved this issue and has clearly stated that the regulation of immigrant consultants is a federal responsibility. Because the Bloc amendment eliminates the federal government's supremacy in that area, it is my view that the amendment is not acceptable.

However, I know that many of the things we are trying to do here depend on the ability of the immigration consultant regulator chosen by this government to do a thorough and appropriate job. In light of the assurances given in this letter and the motion that has just passed, it has an opportunity to ensure that all consultants who provide advice on immigration matters in Quebec have the right to do so, by proving that they have the necessary qualifications to practise their profession in Quebec. That is why the Liberal Party has made this choice.

[English]

**The Chair:** Is there further debate?

We're going to vote on amendment BQ-1.1

(Amendment negated)

**The Chair:** We're moving right along. We're now on amendment G-2.

Go ahead, Mr. Dykstra.

**Mr. Rick Dykstra:** We still have three parts of amendment G-1 to complete.

**Mr. Wayne Cole:** We haven't come to those parts of the bill yet.

**The Chair:** The clerk just took the words right out of my mouth.

**Mr. Rick Dykstra:** Okay, understood. We will come back to them when he deems it appropriate.

**The Chair:** Yes, we will come back.

**Mr. Rick Dykstra:** Then I move amendment G-2.

**The Chair:** Is there debate?

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** We will move on to amendment G-2.1.

Go ahead, Mr. Dykstra.

Where is it? It's gone.

**Mr. Wayne Cole:** This would be paragraph (b) of amendment G-1.

**Mr. Rick Dykstra:** I so move.

**The Chair:** How are we doing? I have lots of paper up here.

**Mr. Rick Dykstra:** It's in the French version. It's line 4 on page 2.

**The Chair:** Is everybody okay?

**Mr. Wayne Cole:** Would you like me to read the amendment so that everyone is clear on what they're voting on?

**The Chair:** No, they know.

Monsieur St-Cyr, would you like it read to you?

[Translation]

**Mr. Thierry St-Cyr:** No, but as I understand it, we are on item (b) of amendment G-1. Is that correct?

**Mr. Wayne Cole:** Yes.

[English]

**The Chair:** Yes.

[Translation]

**Mr. Thierry St-Cyr:** Okay.

[English]

**The Chair:** I don't see anyone who wants to talk about it.

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** Now we come to paragraph (c), Mr. Dykstra.

**Mr. Rick Dykstra:** I so move. It is replacing, in the French version, line 9 on page 2.



**The Chair:** Does everybody understand? Okay.

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** Ms. Chow, you have the floor. You have to move that.

**Ms. Olivia Chow:** Yes, I have a....

**The Chair:** You don't have to read the whole thing. You can just say that you move NDP-2.

**Ms. Olivia Chow:** Okay. Just hang on a second. I have a minor—

**The Chair:** They all have it in front of them.

**Ms. Olivia Chow:** No, I have a minor change. Just a second.

I'm just going to move a slight wording change.

I'm going to read the entire thing:

Every entity that is authorized to offer or provide services to assist persons with applications in accordance with subsection (4) is prohibited from providing substantive immigration advice or referring persons

etc.

I'm adding one extra word, “substantive”.

In Beijing, New Delhi, and Mexico City, an Indian company operates a service on behalf of CIC. They process visitor visas or temporary residence visas. The intention here is to make sure they do not give substantive advice. They assist in putting in the application, so it would put them in a conflict situation. We also want to make sure they do not refer people to a certain immigration consultant, because that is a direct conflict.

This is the recommendation in there. I know they don't have the intention to do so, but they could. This point was raised by a few of the witnesses, and they're worried about it. This would clarify it and make sure.... Advice is fine, but not substantive advice, as you're getting into IRPA.

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

**Mr. Rick Dykstra:** Thank you, Mr. Chair.

This is one of the issues we've spoken to Ms. Chow about from a government perspective. I assured her, through a letter to her from the minister, that under regulation we were going to address this issue, but I would like Ms. Ménard and Ms. MacNeil to have the opportunity to speak to it from a ministry perspective.

**The Chair:** Ms. MacNeil.

**Ms. Brenna MacNeil (Director, Social Policy and Programs, Department of Citizenship and Immigration):** Thank you.

I'll just start by saying that we see this as being more of an administrative matter, because in practice it deals with our visa application centres. So moving forward, we will be dealing with this as an administrative matter. Any new agreements or renewed agreements with the visa application centres will contain an express provision to this effect. Where it has real significance, if this amendment were to pass, is with a few older contracts that still exist with the visa application centres. Since these existing contracts do not contain this limitation, it could become a contractual matter between the Government of Canada and the visa application centres under those existing contracts.

**The Chair:** Are you finished, Mr. Dykstra?

**Mr. Rick Dykstra:** Yes.

**The Chair:** Ms. Chow.

**Ms. Olivia Chow:** That was what worried me, because I've actually seen those contracts. Some of those contracts lock us in for a long period of time and there are some contracts that are brand new—with Mexico, for example. This means that between now and the time we sign a new contract, and that could be many years, the visa application centre staff could, and they may be doing it already, provide substantive immigration advice. On top of that, they may be referring people to specific consultants or lawyers for immigration advice.

**The Chair:** [Inaudible—Editor]

**Ms. Olivia Chow:** I don't know about that.

When I was in Beijing, I saw that the visa application centre was upstairs, and downstairs there were all types of advertisements. That's not against the law, but sometimes it can get murky as to who is referring to whom. I want to be clear that they shouldn't be doing it, and if it requires opening a contract or adding a few words to a contract, I think we should do it now. If not, there's a loophole, and it could be easily exploited for many years.

**The Chair:** Monsieur St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** In the NDP amendment, it refers to subsection (4). Am I to understand, based on Ms. Ménard's answer, that subsection (4) applies retroactively to agreements that have already been reached, and not only to agreements reached following Royal Assent? What changes could potentially be made to the NDP amendment to ensure that this prohibition applies only to new agreements?

[English]

**The Chair:** Do you need some time?

**Ms. Brenna MacNeil:** I think we'll need some time to answer the second part of the question.

The answer to the first part of the question is that it applies to agreements that are in place at the time of coming into force of the bill. So it's not that it applies retroactively; it's that it applies when the bill comes into force. Any agreements that are in effect....

[Translation]

**Mr. Thierry St-Cyr:** Yes, you're right.

[English]

**Ms. Brenna MacNeil:** The second part of your question—

[Translation]

**Mr. Thierry St-Cyr:** Regarding the second part, that is what I was thinking as well. This reflects what Ms. Ménard was saying. Do you have something to suggest so that we can ensure that the new subsection (4.1) applies only to new agreements reached in future?

[English]

**Ms. Elaine Ménard:** *Merci.*

I don't have the wording available, but if the committee members wish to suggest any wording, I think the intention would be clear if you wish to have it apply just in the future to all future agreements or contracts with the VACs.

**The Chair:** I'm sitting here waiting for something to happen.

Monsieur St-Cyr still has the floor, Ms. Chow.

[Translation]

**Mr. Thierry St-Cyr:** Since she is the one that tabled the amendment, I'm encouraging her to suggest a subamendment that would set aside such cases.

[English]

**The Chair:** What do you think?

**Ms. Olivia Chow:** Mr. Chair, our lawyer friend probably can provide better comment. If we say in all future contracts that every entity that is authorized to offer...so at the beginning of the paragraph you explicitly say, "all future contracts with every entity that will provide coverage for us". We're not talking about those contracts that have already been signed.

**The Chair:** All right.

**Ms. Olivia Chow:** I'm wondering whether—

**The Chair:** I'm going to suspend. You guys write it out.

• \_\_\_\_\_ (Pause) \_\_\_\_\_  
•

**The Chair:** Ms. Chow, are you making a further amendment to your subamendment?

**Ms. Olivia Chow:** Yes. I am adding one word before the word "substantive", so the motion is now going to read that Bill C-35, in clause 2, be amended by adding after line 15 on page 2 the following:

(4.1) Every entity that is authorized to offer or provide services to assist persons with applications in accordance with subsection (4) is prohibited from providing heretofore substantive immigration advice or referring persons to specific consultants or lawyers for immigration advice. Every such entity shall ensure that every person it assists with an application is aware of that prohibition.

That is in all future...so apparently that would deal with—

**The Chair:** I don't want to debate. Have you finished with your amendment? Are you doing anything else? Let's finish that off before you—

**Ms. Olivia Chow:** Yes. So that will accomplish the intention.

**The Chair:** Is that your amendment?

**Ms. Olivia Chow:** That is the amendment, Mr. Chair.

**The Chair:** Now you can debate it.

**Ms. Olivia Chow:** Thank you.

**The Chair:** On a point of order, Mr. St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** Mr. Chairman, I have a point of order.

I do not normally use interpretation. But, I think I heard the word

[English]

"heretofore".

[Translation]

I have no idea what that means in French. I would like our interpreters to tell me what it means.

[English]

**The Chair:** It's not for me to tell you the meanings of words. I'm just here to keep order.

I don't think that's a point of order.

Do you have a point of order?

**An honourable member:** No, I don't have a point of order.

**The Chair:** That may be fair for debate, but it's not a point of order.

Ms. Chow, you still have the floor.

**Ms. Olivia Chow:** Thank you.

I'm done. The intention is very clear. I appreciate that the minister has given me a letter that will express prohibition, but that could be many years from now; some of those contracts are already signed. We don't want to damage the contract and we don't want to get into legal trouble. By inserting that word, it means that all new contracts.... By putting this into the act, it actually sends a signal to those with existing contracts that maybe they shouldn't do things that we'd rather they not do, even though it's not in the contract right now.

I think this is an elegant way of dealing with the future, but it is also sending a signal to those who are practising now.

**The Chair:** Well, we're going to find out.

Mr. St-Cyr, Mr. Dykstra, and then Mr. Trudeau.

[Translation]

**Mr. Thierry St-Cyr:** I think that's absolutely fine.

[English]

**The Chair:** Mr. Dykstra.

**Mr. Rick Dykstra:** Based on the amendment as it was read, I'd like to get some clarification from both Ms. Ménard and Ms. MacNeil on how this stands and whether or not this is acceptable from a ministry perspective.

**Ms. Brenna MacNeil:** I'll let Ms. Ménard speak to the proposal on the table, but I do want to raise a couple of issues. I do want to flag that this is a very broad provision, in that it's agreements with the government writ large. I started my comments by saying that in practice this is visa application centres, and that's currently the case. Anything we do here, as proposed in the amendment, would really tie the hands of any future arrangement that the government may need to enter into with another organization.

I should flag that this may capture some work that the UNHCR also does for the department. I understand they may do some pre-screening for us, and in doing so they may provide some advice with respect to immigration matters. So this may, again, capture that activity. This may capture a broader range of activity than just the visa application centres.

I'll defer to Ms. Ménard on some other matters.

**Ms. Elaine Ménard:** Thank you, Mr. Chair.

I agree with the assessment of Ms. MacNeil. I just wish to say that I don't think the use of that word, even though we're trying to have it apply in the future, would deal with all of the other problems that we see with regard to this proposed amendment. In particular, you have "every entity". We still continue to have contracts with the existing VACs, and some of the older contracts do not have the limitations that we have been inserting in the newer contracts.

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

**Mr. Rick Dykstra:** Based on advice from our staff and on the fact that we understand the intention and feel that we can drive that intention through ministry implementation and regulation versus having to incorporate such a broad amendment into the legislation, the government will not be supporting putting an amendment like this into the legislation. The government certainly understands the intent, and in fact supports the intent, but the amendment is too broad and this is not the place for it.

**The Chair:** Do you mean the amendment or the word she's added?

**Mr. Rick Dykstra:** I mean the amendment.

**The Chair:** It's the whole amendment. Okay. Thank you, sir.

Is there anything else?

**Mr. Rick Dykstra:** I'm done.

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

**Mr. Justin Trudeau:** I'm asking for a clarification from Ms. Chow.

I'm not sure that adding the word "heretofore" beside "substantive" actually gets to what you're trying to do.

I believe it should be "with subsection (4) is prohibited heretofore from providing substantive immigration advice". If it's "prohibited heretofore", it means "prohibited from this moment forward" from providing substantive advice, which I believe should be the logical grammatical reading of the intent.

**Mr. Thierry St-Cyr:** It could be "heretofore prohibited".

**Mr. Justin Trudeau:** It's the same thing, whether it's "prohibited heretofore" or "heretofore prohibited".

**Ms. Olivia Chow:** It's the same thing.

**The Chair:** Direct your remarks through the chair, please.

**Ms. Olivia Chow:** Mr. Chair—

**Mr. Justin Trudeau:** Ms. Chow, could you read the amendment again?

**Ms. Olivia Chow:** Is the suggestion from Mr. Trudeau that "heretofore" be moved so that it reads "prohibited heretofore"?

**Mr. Justin Trudeau:** Thank you, Mr. St-Cyr. It would be "heretofore prohibited".

**Mr. Thierry St-Cyr:** I know my English.

**Voices:** Oh, oh!

**Mr. Justin Trudeau:** It would say, "is heretofore prohibited from providing substantive immigration advice".

**Ms. Olivia Chow:** That's fine too. It means the same thing.

**The Chair:** You're going to change it then, are you?

**Ms. Olivia Chow:** Fine. It's whatever works. My English grammar is not—

**The Chair:** Ask Mr. St-Cyr; he'll straighten it out.

Is there anything else, Mr. Trudeau?

**Mr. Justin Trudeau:** That's fine.

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

**Mr. Borys Wrzesnewskyj:** I'd like a little further clarification of some of the potential difficulties that this presents.

You referred to agencies such as the UNHCR. Could you expand on that? What sort of advice are they engaged in providing through their offices? What sorts of understandings does the federal government have with UN agencies when it comes to providing this sort of advice?

**Ms. Brenna MacNeil:** Could I take a minute to converse with my colleagues, who might have more information?

**The Chair:** Absolutely. We'll suspend.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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**The Chair:** Okay, we'll resume.

Ms. MacNeil, are you prepared to make any comment?

**Ms. Brenna MacNeil:** Yes.

I hope I can provide a little bit more clarity with respect to the work of the UNHCR. I will preface it by saying that I am not a refugee expert, but I am aware that in the process of their work overseas they do make recommendations with respect to the determination of cases. They interview potential refugee claimants, and in that process of making a recommendation to the government with respect to the case, it may be interpreted or it may happen that they may provide some advice, or it may be interpreted as representation with respect to whether or not the refugee stream is an appropriate stream for the individual. This, then, may capture that activity. It also limits any future scenario with respect to greater involvement with respect to the UNHCR and greater activities on their part.

I'll also turn to Ms. Ménard to speak to another matter.

**Ms. Elaine Ménard:** Thank you, Mr. Chair.

I wish to speak to the matter regarding the situation in Afghanistan, actually, and my concern with regard to the broad term “entity”. This is because the Minister of Citizenship and Immigration created a public policy a while ago to enable Afghan interpreters and other Afghans—who are risking their lives over there to assist Canadian Forces—to come to Canada. They're not coming necessarily as refugees as a public policy under section 25 of the act. Because of the danger over there, we do not have visa officers processing applications, and we've entered into a contract with the IOM, the International Organization of Migration. So they're the entity that will advise and assist the Afghan nationals in Afghanistan who are assisting our forces. I'm concerned that we would not have the flexibility to enter into arrangements with organizations such as this in tenuous or difficult war-like situations, or other situations, should this proposal or amendment be passed.

**Ms. Olivia Chow:** Mr. Chair, pull it. Thank you.

**The Chair:** You're withdrawing it?

**Ms. Olivia Chow:** Yes.

Show me these things earlier.

(Amendment withdrawn)

**The Chair:** Well, we're moving right along.

We're now at NDP-3. NDP-2 is withdrawn.

I draw to the attention of members that if NDP-3 is adopted, because there would be a line conflict, G-2.3 cannot be moved.

**Mr. Rick Dykstra:** It's G-1(b).

**The Chair:** Yes, which is what Mr. Dykstra has been dying to proceed with.

You have a point of order?

[Translation]

**Mr. Thierry St-Cyr:** I have two questions, Mr. Chairman.

It seems to me that the Committee had unanimously consented, at the beginning of this process, to the idea of members being able to express their views twice on the same lines, if the subjects were different—simply to facilitate our work. In my opinion, that consensus is still in place.

Furthermore, this amendment is similar to amendment LIB-1, which is based on the same philosophy, even though it's a little different. I would like to know whether this amendment will be dealt with later, or whether we should deal with them together.

[English]

**The Chair:** No. We will not be dealing with that a little bit later, and I don't agree that it's similar. I will acknowledge that we did unanimously agree to one issue. But, you know what, this whole thing is getting so complicated, I'm going to agree with you that there's unanimous consent that we can deal with this at the same time.

[Translation]

**Mr. Thierry St-Cyr:** That's fine.

[English]

**The Chair:** Ms. Chow.

**Ms. Olivia Chow:** We are dealing with motion 6, which is NDP-3, right?

**The Chair:** Yes.

**Ms. Olivia Chow:** And we are also dealing with motion 9, which is Liberal-1, because it is also dealing with the same thing—

**Mr. Thierry St-Cyr:** We should start with motion 9.

**Ms. Olivia Chow:** —so could we start with motion 9? I'll table mine to pull out number 9, which is Liberal-1. It deals with line 32 on page 2.

**The Chair:** I'll tell you what I'm going to do, Ms. Chow, to make things more complicated, or it might make things more interesting. It hasn't been moved, but I actually have told the Liberal caucus in the past that Liberal-1 is inadmissible because it is beyond the scope of the bill, and I am so ruling.

So we're back to you.

• (1710)

**Ms. Olivia Chow:** Oh, okay.

**The Chair:** Amendment L-1 is gone.

**Ms. Olivia Chow:** Okay. I will then move the motion, minus paragraph (c)—

**The Chair:** Go ahead, Madam.

**Ms. Olivia Chow:** This basically allowed the minister, by regulation, to “revoke a designation of a body”. I will delete paragraph (c). Now the amendment will be replacing lines 16 to 20 on page 2 with the following....

Are we on the same page?

**The Chair:** Just give me a second.

You're moving the first two paragraphs?

**Ms. Olivia Chow:** That's right.

**The Chair:** You're not moving the next one.

**Ms. Olivia Chow:** No, because “public interest” could mean any number of things.

**The Chair:** So that's out.

**Ms. Olivia Chow:** Yes.

**The Chair:** So you're moving paragraphs (a) and (b).

**Ms. Olivia Chow:** That's right.

**Mr. Justin Trudeau:** We're dropping the “or”, I'm assuming, as well?

**The Chair:** Yes, we're dropping the “or”. Thank you, Mr. Trudeau.

Now I think I'm okay. I understand what you've done.

Go ahead. Is there debate?

**Ms. Olivia Chow:** Do people need me to go into the details?

**The Chair:** No.

**Ms. Olivia Chow:** I think people understand.

**The Chair:** No, they're all clear.

I'm sorry, if you wish to—

**Ms. Olivia Chow:** No.

**The Chair:** Mr. Dykstra has some comments. We'll see what he has to say.

**Mr. Rick Dykstra:** We would be prepared to support this amendment if Ms. Chow would agree to the subamendments that follow. The motion would actually read as follows:

(5) The Minister may, by regulation, designate a body whose members in good standing may represent or advise a person for consideration—or offer to do so—in connection with a proceeding or application under this Act.

And then:

(5.1) For greater certainty, subsection (5) authorizes the Minister to revoke, by regulation, a designation made under that subsection.

I think that more clearly gets at the intent of Ms. Chow's amendment.

**The Chair:** I'm advised that we have copies, which we will distribute.

**Mr. Rick Dykstra:** I'm sorry. I thought you had them already.

**The Chair:** No, they don't, so we'll just pause for a second.

**Mr. Rick Dykstra:** If I can continue, Chair—

**The Chair:** Absolutely—well, do they need the...?

**Mr. Rick Dykstra:** I can speak to the intention of why.

**The Chair:** Yes, you can, sir. You proceed.

**Mr. Rick Dykstra:** Ostensibly what we're trying to accomplish here is.... We're not in disagreement. The concern is that Ms. Chow's amendment, even with her changes, is too broad. The way we've put this subamendment forward allows for more certainty and more of a definition around what her intentions are. We don't disagree with them.

If that's satisfactory, then....

**Ms. Olivia Chow:** It's friendly, Mr. Chair, and the wording is more elegant.

**The Chair:** It's friendly.

**Ms. Olivia Chow:** I like the words “for greater certainty”.

**The Chair:** This is a subamendment—

**Ms. Olivia Chow:** Life is never certain.

**The Chair:** This is a subamendment to NDP-3. We are voting on amendment NDP-3 as amended.

Is there further debate?

(Amendment agreed to)

• (1715)

**Mr. Rick Dykstra:** Now I get to introduce the—

**The Chair:** You can, sir.

**Mr. Rick Dykstra:** Thank you. I've been waiting a long time. It's been 48 hours.

**The Chair:** I know. I'm told that when we suspend, music is played.

**Mr. Rick Dykstra:** In the spirit of collaboration, I hope that the next time we suspend for that long we'll be able to agree as a committee on the music that should be played.

**Ms. Olivia Chow:** The Beatles.

**The Chair:** Mr. Dykstra.

**Mr. Rick Dykstra:** I'd move that Bill C-35 in clause 2 be amended by replacing in the French version lines 19 and 20 on page 2 with the following. There should be a copy for everyone there.

**The Chair:** Does everybody understand?

**Some hon. members:** Yes.

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** Welcome to the committee, Mr. Bellavance. It's good to have you here to keep us on our toes.

We're now on to NDP-4.

Ms. Chow.

**Ms. Olivia Chow:** I'm withdrawing that one because the last time the minister was here he said he was going to do that soon.

**The Chair:** We're on G-2.4.

**Ms. Olivia Chow:** Oh, I'm sorry, not 2.3.

**The Chair:** I'm sorry, Ms. Chow. You wanted to put something on the record. You go ahead.

**Ms. Olivia Chow:** Are we doing G-2.3, or are we at NDP-4?

**The Chair:** No, we're at NDP-4.

**Ms. Olivia Chow:** Okay.

**The Chair:** You're withdrawing that.

**Ms. Olivia Chow:** Yes, because the minister said—I submitted this before he came to the committee—that anybody who wants to become independent and apply under the statute could do so anyway. So the intent is to eventually have a body that would be at arm's length, the way the bar association is operating. But until we get there, we have this recollection that the minister will be designating a certain body. So this is not necessary.

**The Chair:** It's withdrawn.

You're not proceeding with those two, are you, Mr. Dykstra?

We're moving to G-3 then.

**Mr. Rick Dykstra:** So moved.

**The Chair:** Debate?

**Ms. Olivia Chow:** Could you explain what that is?

**The Chair:** Mr. Dykstra, perhaps you should clarify what you're up to.

**Mr. Rick Dykstra:** Basically, the amendment provides broader authority to provide internal governance of finance, HR bylaws, constitutional issues, etc. This is something, actually, that was questioned by the opposition—and I think, rightfully so, by government members as well—that when we're working with the designated body, there should be an allowance or a broadening of the scope of what could be requested to ensure that the information required to do research or to question whether or not a particular organization or agency is deemed to be doing appropriate or inappropriate work...that there is allowance for further materials to be able to get that information or to be able to make a recommendation or to be able to determine whether they should have their licence revoked.

It was somewhat narrower in the original piece, and now we think with this amendment it will actually broaden and strengthen the ability to get information required.

**The Chair:** Mr. Trudeau.

**Mr. Justin Trudeau:** I absolutely approve, and I like the addition of “relating to its governance”. But I notice that in the modification we've also removed the last phrase around “and for any other purpose related to preserving the integrity and policies”, etc. I just wanted to know what the impact of removing that particular sentence was, and why. Perhaps asking legal that....

**Ms. Elaine Ménard:** Mr. Chair, that was simply removed because it was found by the drafters to be...not necessarily redundant but not adding anything to the provision.

• (1720)

**The Chair:** Okay.

Ms. Chow.

**Ms. Olivia Chow:** Public interest, in our definition, would include professional and ethical representation advice. That would serve the public interest. Therefore, you don't need to put those words in there? Is that why?

**Ms. Elaine Ménard:** I think that's correct.

I'm just actually trying to find the amendment here.

Mr. Chair, the wording currently is, “that is in the public interest so that they provide professional and ethical representation and advice”. I believe something that followed was removed because it was thought to be basically the same.

**Ms. Olivia Chow:** It said, “and for any other purpose related to preserving the integrity of policies and programs for which the Minister is responsible under this Act”.

**Ms. Elaine Ménard:** Yes. It's just that the idea of preserving the integrity of programs was found to be rather vague compared to “public interest” and “professional and ethical representation and advice”.

**The Chair:** Okay.

**Ms. Elaine Ménard:** It's intended to provide the same sort of guarantee.

**The Chair:** Is there further debate on amendment G-3? All those in favour?

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** Okay.

I am ruling amendment Liberal-2 inadmissible because it is beyond the scope of the bill.

**Mr. Justin Trudeau:** I understand, Chair. We understand. We're attempting to make sure that we don't fall into some of the same problems we've had with the current regulator in the next one, and we had wished to frame a little more rigour around governance, but we understand that's not what Bill C-35 is all about.

It sort of pulls into question the issue on the fact that we're doing the legislation that's governing the body at the same time as the bodies are applying to be the governor, the eventual regulator, and there's a little bit of a parallel track that causes some confusion. But we accept the decision of the chair on that and we'll move on.

**The Chair:** I am ruling amendment Liberal-3 as inadmissible for the same reason.

You're okay? Well, you're not okay, I'm sure, but that's life.

Mr. Dykstra, we are on amendment G-4.

**Mr. Rick Dykstra:** So moved, Mr. Chair, and just very quickly, this basically is a housekeeping amendment. We want to ensure, for greater clarity, that the term “proceeding” does not refer to matters before superior courts, including federal courts. Obviously there is a place for representation for immigration consultants, but not necessarily does that extend to superior courts—certainly in the bill. We don't want it to appear to give that, so this gives it further clarity.

**The Chair:** Debate?

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** We're back to you, Ms. Chow, on amendment NDP-5.

**Ms. Olivia Chow:** It's on the Internet site. The minister was here and he said he's going to do that anyway, so I do not need to do this amendment.

**The Chair:** Then we're going to move on to amendment NDP-6.

**Ms. Olivia Chow:** It's the same thing. He answered my question by saying—and also in the letter—that he's also going to do it.

**The Chair:** All right. We're going to move on to amendment NDP-7, Ms. Chow.

I will say that if NDP-7 is adopted, Liberal-5.1 cannot be moved.

**Mr. Justin Trudeau:** It's just that we've had the unanimous consent that we can—

**The Chair:** Oh, you're right.

**Ms. Olivia Chow:** Can we do page 18.01...?

**The Chair:** All right.

You have the floor.

**Ms. Olivia Chow:** Mr. Chair, can I table that, go to page 18.01, and allow Mr. Trudeau's amendment to come forward?

**The Chair:** That's amendment 5.1.

**Mr. Justin Trudeau:** Yes.

**The Chair:** Mr. Trudeau, we seem to be yielding the floor to you.

**Mr. Justin Trudeau:** Indeed. Our modification in Liberal-5.1 was simply to help indicate the severity of the crimes of being a crooked immigration consultant or a ghost consultant. When we heard from witnesses of the substantive amounts of money to be made in the immigration consulting business, we simply proposed that we double the fines that are in the statutes: on indictment, from \$50,000 to \$100,000, and on summary conviction, from \$10,000 to \$20,000.

We chose not to affect the length of sentences, because that gets more complicated in terms of the administration of the law, but I think we wanted to have a clear indication of both the severity and the amount of potential profits to be made off crooked immigration consulting.

• (1725)

**The Chair:** Mr. Dykstra.

**Mr. Rick Dykstra:** Mr. Chair, this is just a question of clarification. We certainly don't have any objection to the amendment. We'll support it.

I just want to make sure that if we're dealing with this, have you withdrawn your...?

**A voice:** Yes.

**Mr. Rick Dykstra:** Okay.

**Ms. Olivia Chow:** So rather than \$1 million, I think \$100,000 would be fine, because it's already doubling the amount...because it's summary fines anyway.

**Mr. Rick Dykstra:** Okay. Thank you. Just for clarification, it means that NDP-7 has been withdrawn and we're now—

**Mr. Justin Trudeau:** It will be withdrawn once this is passed. It's tabled for now.

**Mr. Rick Dykstra:** Okay. We're prepared to support it.

**The Chair:** On amendment Liberal-5.1, all those in favour?

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** So we return to amendment NDP-7.

**Mr. Justin Trudeau:** Actually, she asked to withdraw it.

**The Chair:** She's withdrawing that.

So we're on to amendment NDP-8.

**Ms. Olivia Chow:** I've withdrawn number 15, which is amendment NDP-7.

**The Chair:** We're on amendment NDP-8.

Ms. Chow.

**Ms. Olivia Chow:** Mr. Chair, just as a point of order, it's close to 5:30. Are we going to finish—

**The Chair:** We're going to go right to 5:30.

**Ms. Olivia Chow:** And then are we going to stop?

**The Chair:** Yes, we are.

**Mr. Rick Dykstra:** Well, I want to seek an extension. I mean, we're very close to being completed here.

**Ms. Olivia Chow:** The reason I—

**The Chair:** Well, I'd like to finish clause 2. That would be nice, after I don't know how many meetings we've had.

**Mr. Rick Dykstra:** We're literally—

**Ms. Olivia Chow:** The reason I ask that is there's a private member's bill. It's not mine, but I'm supposed to speak at 5:30, or close to 6, so I need to go soon. So I would have difficulty continuing.

I could do this one, but I think there may be some concerns. Before I launch in, given that there's only a few minutes, I just wanted to know whether or not we're extending. I'd rather we didn't, because I would have difficulty.

**The Chair:** Well, you know what? I understand. We have a lot of work here yet. We're going to have to come back again. So unless someone strongly objects, we're going to end in a couple of minutes.

**Mr. Justin Trudeau:** We'd be willing to push on for at least another 15 or 20 minutes.

**The Chair:** I know you would, but Ms. Chow wouldn't.

[*Translation*]

**Mr. Thierry St-Cyr:** Mr. Chairman, like a number of my colleagues, I have an appointment immediately following our meeting. Continuing a few more minutes, if we're not able to finish the job, is not helpful. I would prefer that we come back and finish our work at another time. After all, we are talking about passing a bill; this is not a report or something like that. We have to do this properly. I have a meeting, my colleague has a meeting, Ms. Chow has a meeting, and it is possible that other people at the table also have a meeting. I think we should adjourn now and agree to come back. I'm sure we can complete this next Monday.

[*English*]

**The Chair:** I'm going to adjourn the meeting.

The meeting is adjourned.







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