



House of Commons  
CANADA

# Standing Committee on Citizenship and Immigration

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CIMM • NUMBER 028 • 1st SESSION • 38th PARLIAMENT

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EVIDENCE

**Monday, April 4, 2005**

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**Chair**

**The Honourable Andrew Telegdi**

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## Standing Committee on Citizenship and Immigration

Monday, April 4, 2005

•(0830)

[English]

**The Chair (Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.)):** I would like to call this meeting to order.

This is the first of many meetings we're going to be having across Canada. From here we're going to Regina, to Calgary, and to Edmonton, ending up in Victoria on Friday. On Saturday and Monday we're holding hearings in Vancouver, and on Tuesday we're back in Ottawa for a vote. On Wednesday and Thursday we're in Toronto, and on Friday we're in Waterloo. The following week we're going to be heading out to the east coast.

Let me just say that this certainly shows that things really do start at Winnipeg. Inky can make comments on that.

I'd like to welcome the witnesses. We'll have five-minute presentations from you, after which we'll go to questions from the members. Let's hope that at the end of our journey we can come up with a new Citizenship Act, improve on family reunification—David, I see that you're going to be presenting on that as well—and deal with the whole issue of international credentials.

Mr. Matas.

**Mr. David Matas (Lead Counsel, B'nai Brith Canada):** First of all, thank you for coming to Winnipeg, for hitting the road. I understand that this is your first day on the road and I'm your first witness. I appreciate the position of place.

I had originally put my name down as an individual, but B'nai Brith Canada asked me to put a brief in on their behalf, taking advantage of the time slot I've been given, so that's what I'm going to do. I also note that you indicated there would be five speakers this morning. However, as I understand it, the two beside me are only going to make one presentation, which means that, so far, we're only two. If I may, then, I'll take a little bit longer than the five minutes allotted, and if people show up I'll shorten my remarks.

I'm going to read a bit from something that I've written and that B'nai Brith has approved.

B'nai Brith Canada has many suggestions for improvements in the present citizenship system, which we will be later filing in writing. Today, however, we feel compelled to address you on a far more compelling matter—namely, the need to bring to justice those in Canada against whom there is evidence of direct involvement or complicity in crimes against humanity.

For decades, Canada had as a matter of policy a system of total impunity for war criminals and criminals against humanity in

Canada. That system of impunity was finally put into question when the Government of Canada appointed in 1985 a commission of inquiry on war criminals. The commission made many recommendations to put an end to this impunity, and several of these recommendations have been implemented. But the reality today is that we still do not have an effective system for bringing to justice war criminals and criminals against humanity in Canada.

The prosecution remedy failed completely once the Supreme Court of Canada, in the case of Finta, held that anti-Semitism could be a defence to complicity in the Holocaust, because a person with anti-Semitic beliefs may not have the requisite mental element for guilt. Extradition is a viable remedy only for cases where there are extradition requests, but these have been few and far between.

We are left with citizenship and deportation. That remedy has not been shut down by the courts the way the prosecution remedy has been, but it has not worked. So far, two people from the Nazi era against whom revocation proceedings have been launched have left Canada voluntarily. One person was removed after exhausting some, but not all, legal recourses. Seven people have died after proceedings were begun but not concluded.

There are five people who lost in Federal Court but who nonetheless remain in Canada, for no apparent reason. Of these five, the case of Jacob Fast began in September 1999, almost six years ago. The cases of Odynsky and Baumgartner both began in September 1997, almost eight years ago. The case of Katriuk began in August 1996, almost nine years ago.

The case of Oberlander serves as a poster child for what's wrong with the law. Oberlander was associated with the Einsatzgruppen, the Nazi roving killing unit whose task was the murder of Jews and other innocents. The Oberlander case began in January 1995, an astonishing 10 years ago. The Supreme Court of Canada in September 1997 had occasion to remark that the delays in the Oberlander case were inordinate and arguably inexcusable, and that the dilatoriness of the case defied explanation. But more than seven years after that statement, there's still no closure in this case.

The inordinate delays in citizenship revocation and removal have highlighted the fragmentation of the present system. We recommend a consolidation of all the various steps into one.

There are at least two cases the government lost that it should not have lost, the cases of Vitols and Dueck. In our view, the government likely would have won both cases on appeal; however, there is no appeal under the present system. A second recommendation we make is that there be an appeal with leave to the Federal Court of Appeal. But the call for Citizenship Act reform, the call for appeal consolidation, has spurred the impunity lobby. The need for reform to make the law more effective has become to this lobby an opportunity to urge ending altogether the effort to bring to justice those in Canada against whom there's evidence of direct involvement or complicity in the Nazi war crimes and crimes against humanity.

• (0835)

In the face of this renewed call for impunity, we remind the committee of these 12 basic principles:

(1) Criminals against humanity in Canada should be brought to justice.

(2) Neither age nor effluxion of time nor good behaviour of the perpetrators in Canada is an excuse for denying justice to the victims.

(3) Any remedy for bringing criminals against humanity to justice is better than no remedy.

(4) Given the effluxion of time and the lies people from the Nazi era used to enter Canada, prosecution and conviction today on a standard of proof beyond a reasonable doubt for Nazi war crimes is no longer possible in most cases. The remedy of revocation of citizenship and deportation on proof, on a balance of probabilities, that a person lied on entry may be the only remedy that is available.

(5) We endorse and accept the government program of moving to revocation of citizenship against only those for whom there is evidence of direct involvement or complicity in crimes against humanity. The law allows for the revocation of citizenship if any person has lied their way into Canada. The government as a matter of discretion for Nazi-era immigrants has stayed its hand and not sought the revocation of citizenship of those who lied their way into Canada where the government does not have evidence of direct involvement or complicity in crimes against humanity.

However, this discretionary criterion the government uses when deciding whether or not to proceed to court against some people should not be and cannot be turned into a legal standard enforceable in court; nor does the law allow the discretionary criterion the government uses not to launch cases to be a relevant consideration for cabinet decisions on revocation.

In light of the fact that a member of your committee—I read the previous testimony—has stated on the public record that a court specifically found that Wasyl Odynsky did not commit any war crime, we draw to your attention that no court has made any such finding. Indeed, there have been a number of protestations of innocence that have contradicted the actual court findings, not just in this case, but in other cases as well. What they're drawing a distinction between is actual involvement in shootings and complicity in a war crime.

In the case of Odynsky, he was a perimeter guard in a facility where people were later killed, and he kept them from escaping by

being a guard. It may be the case that he wasn't actually involved in the shooting where the people were killed, but the fact that he prevented people from escaping where they were later killed by others would itself be a war crime and crime against humanity.

(6) The creation of statelessness should not be a reason for withholding revocation of citizenship for false representation, fraud, or knowingly concealing a material circumstance. It contradicts the Convention on the Reduction of Statelessness, which I quote; it contradicts the Commission of Inquiry on War Criminals, which I quote, to give an immunity to people simply because they would otherwise be rendered stateless.

In this regard we note with dismay the statement by the committee in its report on issues to be addressed that any process under Canada's citizenship legislation should not result in a person being rendered stateless. We ask the committee to reverse this recommendation, which should not have been made in advance of hearings and in contradiction of both international law and the report of the Commission of Inquiry on War Criminals.

(7) The transition provisions in a new citizenship act should preserve and maintain the court decisions already made. Revocations launched by the Department of Justice war crimes unit have already taken far too long. It would be unconscionable if we had to start these cases all over again because of a new law.

(8) Revocation of citizenship and deportation are not punishment. Revocation proceedings are civil proceedings, not criminal proceedings. People should not be removed to execution or torture. But if neither execution nor torture is an issue, removal for fraud on entry is purely within Canadian and international legal standards.

(9) The present system for revocation of citizenship should be made to work while still being maintained in place. The fact that there's room for improvement in the system should not be a justification for shutting down its present operation. Though we question the fairness of the present system of revocation of citizenship to the victims, the system has been more than fair to those brought to court. It meets due process standards; it conforms to the fundamental justice guarantee in the Canadian Charter of Rights and Freedoms. The committee should not use the need for reform as an excuse to discourage our present efforts to bring to justice persons who have lied their way into Canada and against whom there's evidence of complicity in crimes against humanity.

Citizenship Act reform should make the system better. But if Citizenship Act reform is going to become an excuse for doing nothing about the present cases or redoing those cases, we would be better off dropping all talk of reform. The better must not become the enemy of the good.

(10) The present system of revocation of citizenship respects the equality guarantee of the Canadian Charter of Rights and Freedoms. The equality guarantee in the charter is meant to ameliorate the situation for disadvantaged minorities. The persons against whom there may be evidence of direct involvement or complicity in crimes against humanity are not a disadvantaged minority. People who may have lied their way into Canada are not a disadvantaged minority. Any suggestion to the contrary is outrageous.

● (0840)

(11) Do not forget the victim. Those involved in revocation proceedings have rights. So too do the victims of crimes against humanity. Right now people from the Nazi era, against whom there is unequivocal evidence they lied on entry, end up staying in Canada, forever litigating cases until they die a natural death. The system has bent so far backwards to accommodate the procedural claims of those who have lied their way into Canada that the rights of victims and the integrity of the system have been forgotten. In substance, because of these delays, the present system has proved unworkable. In effect, Canada continues to provide immunity to those against whom there is substantial evidence of guilt in war crimes and crimes against humanity.

(12) The need for concluding the existing cases is urgent. The biological clocks of both victims and perpetrators are ticking louder than kettle drums. Death has already prevented seven cases from being completed. Right now five cases, which I mentioned, are sitting on the desk of the Minister of Citizenship and Immigration waiting for him to decide whether to present those cases to cabinet. Even before Citizenship Act reform is considered, the first and most important business of this committee should be to urge the minister to get on with the job and to present those cases to cabinet for a decision on revocation.

I should say I have been joined here by Alan Yusim, who is a staff person with B'nai Brith. He's not going to say anything to the committee. He's just here to support me.

Thank you very much.

● (0845)

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

We will now go to Mr. Petryshyn. We will give you extra time as well.

**Mr. John S. Petryshyn (President, Ukrainian Professional and Business Federation of Canada):** Thank you, Mr. Chairman.

It's a pleasure to be here.

We thank you also for coming across Canada. It certainly makes a difference for us to be able to get up in the morning, as opposed to having to catch a flight to Ottawa, and deal with issues before the committee.

I am John Petryshyn, and with me is Lesia Szwaluk. This is a joint presentation of the Ukrainian Canadian Congress, Manitoba Provincial Council, and the Ukrainian Professional and Business Federation of Canada, of which I am president. Ms. Szwaluk is the president of the local provincial council. We were going to divide up the presentation, but Lesia has come down with a sore throat and unfortunately will not be speaking as well, although she may croak

something if you ask her the right question. That's the best she can do right now.

So without further ado, Mr. Chairman, since we're dealing with the original immigration act and there is really nothing before us by way of a new bill or anything of that nature, we are focusing our attention on the current legislation from 1974. I'll refer to that, and I'll read the document we have disseminated in my allotted time. As I indicated, the presentation is a joint one and is in regard to the establishment of potentially a new citizenship act.

We do have concerns about the current legislation. I will refer particularly to sections 18 and 10.

Section 18 reads:

18. (1) The Minister shall not make a report under section 10 unless the Minister has given notice of his intention to do so to the person in respect of whom the report is to be made and

(a) that person does not, within thirty days after the day on which the notice is sent, request that the Minister refer the case to the Court; or

(b) that person does so request and the Court decides that the person has obtained, retained, renounced or resumed citizenship by false representation or fraud or by knowingly concealing material circumstances.

**The Chair:** Do you have copies of your presentation?

**Mr. John S. Petryshyn:** I handed them out to the clerk this morning. We made ten copies.

**The Chair:** I think we need to get them translated.

**Mr. John S. Petryshyn:** We were told to bring ten copies the day of the hearing, so that's what we did.

**The Chair:** Go ahead.

**Mr. John S. Petryshyn:** I'll take a little more time just to make sure I'm not skipping over anything. I thought you all had copies of it.

Under subsection 18(2),

(2) The notice referred to in subsection (1) shall state that the person in respect of whom the report is to be made may, within thirty days after the day on which the notice is sent to him, request that the Minister refer the case to the Court, and such notice is sufficient if it is sent by registered mail to the person at his latest known address.

(3) A decision of the Court made under subsection (1) is final and, notwithstanding any other Act of Parliament, no appeal lies therefrom. .

Our concerns with paragraph 18(b) relate to the manner in which the courts deal with the denaturalization process, and that is under section 18, which in fact starts the process in court. As set out in the recent case of the Minister of Citizenship and Immigration and Odynsky, the Honourable Justice MacKay of the Federal Court stated in part:

While the ultimate issue for determination appears relatively simple, its resolution is complicated by reason of the lack of records maintained by the Minister concerning Mr. Odynsky's admission to Canada and his subsequent obtaining of citizenship. Its resolution is complicated further by the quality of evidence concerning, and the difficulty for witnesses asked to recall, events and processes that occurred or in which they may have been involved more than 50 years ago.

This was not an isolated case when the government initiated denaturalization proceedings against the Canadian almost half a century after granting him citizenship, even though the government's employees had already destroyed the necessary immigration files in accordance with the government's policy for disposal of unnecessary records after a fixed period of time, and relative witnesses had long passed away.

We propose, Mr. Chairman, that after a reasonable period of time naturalized Canadians should not feel their citizenship is indefinitely conditional, or subject to challenge by a minister, or that they must preserve at all times necessary evidence to be able to prove, independently of their age, on a balance of probabilities, the Canadian citizenship acquired with our laws.

Therefore, we recommend a limitation period of five years from the date of acquisition of citizenship for all types of revocation and annulment of citizenship proceedings under the act. So if you obtain your citizenship, and the government does not take action against you within five years, you have become a Canadian citizen. This does not mean that you can't be prosecuted for fraud or any other statute that may apply; however, this is similar to what Australia has: a ten-year period. And Germany has a five-year period.

Further, we refer to the case of The Minister of Citizenship and Bogutin. The Honourable Justice McKeown stated in the requisite standard of proof and revocation of citizenship proceedings that "A high degree of probability is, in my opinion, required in a case of this kind".

What is at stake here is very important: the right to keep Canadian citizenship and the serious consequences that may result if that citizenship ceases. For some, such as those who might become stateless if deprived of their citizenship, it may be valued as highly as liberty. In view of the fact that the revocation and annulment of citizenship proceedings are not regular civil proceedings and may be described as quasi-criminal proceedings, we recommend a higher standard of proof for such proceedings, namely, "beyond a reasonable doubt" instead of "balance of probability". Therefore, it is certain that the person should be deprived of their citizenship, as we say, in this evidentiary standard.

We have further concerns with subsection 18(2), and submit that instead of a person being served by registered mail at the latest known address, he should be served in person with the minister's report. It may seem a minor point, but who knows what records the government has about where the person is located. Even in court proceedings today, service upon the person is very important, not just the fact that he may have received a letter by mail.

We have further concerns as to 18(3), which denies the person the right of appeal. Appellate court should be able to review the facts and law presented at trial, overturn the decision, or send it back to the original court with instructions to re-hear the matter if errors that warrant the case being overturned or re-tried occurred at trial.

It is further submitted that section 10 of the current Citizenship Act should not be the process for stripping any person of their citizenship, as it is made by the Governor in Council on a report to the Minister of Citizenship and Immigration.

● (0850)

Section 10 reads as follows:

10. (1) Subject to section 18 but notwithstanding any other section of this Act, where the Governor in Council, on a report from the Minister, is satisfied that any person has obtained, retained, renounced or resumed citizenship under this Act by false representation or fraud or by knowingly concealing material circumstances,

(a) the person ceases to be a citizen, or

(b) the renunciation of citizenship by the person shall be deemed to have had no effect,

as of such date as may be fixed by order of the Governor in Council with respect thereto.

(2) A person shall be deemed to have obtained citizenship by false representation or fraud or by knowingly concealing material circumstances if the person was lawfully admitted to Canada for permanent residence by false representation or fraud or by knowingly concealing material circumstances and, because of that admission, the person subsequently obtained citizenship.

That's section 10. I read it because, unfortunately, you don't have my report. Our presentation deals with this.

In essence, the minister who prosecuted the person under section 18 presents a report to some of his or her cabinet colleagues, and the prosecutor becomes part of the decision-making process to take away a citizen's right, no matter how long they may have been in Canada and regardless of whether or not they've led an exemplary life while here.

We assert that this section should be deleted in its entirety and replaced by a judicial process in a court of law. Where the minister moves to take away one's citizenship, such person has the right to legal counsel, to be informed of the case against them, to rebut the evidence, and to present cogent evidence on their own behalf before a judge of an appropriate court. This is the due process of law to which every citizen is entitled under the charter of rights, and it should apply where one's citizenship is being challenged.

Those are our brief comments, Mr. Chairman. We make ourselves available for discussion in some detail that may arise from our report.

Again, I apologize for not having the report earlier, but we thought that was the process of dealing with it.

Thank you.

● (0855)

**The Chair:** Once it has been translated, all the members of the committee will then be in possession of it.

I'd like to thank you very much for your presentations.

We're now going to go to our first round of questions and answers. Mr. Mark, you have seven minutes for questions and answers.

**Mr. Inky Mark (Dauphin—Swan River—Marquette, CPC):** Thank you, Mr. Chair.

I thank the witnesses for being here this morning.

Obviously, the topic that was brought up this morning is not easy to resolve.

My first question is to Mr. Matas. In your opinion, what is broken in terms of the system? Is it the judicial system or the political system?

**Mr. David Matas:** Well, I think there are three recommendations I make in the course of talking about what's working and not working now. I would say neither the political system nor the judicial system but the legal system, the fragmentation.... The system of revocation is broken up into a number of different steps that basically allow people to stay here forever. Seven people have died in the process, and we have one person who's been litigating for ten years and is still litigating. For others, of course, it's been less time but they've still been litigating many years.

There's obviously something very wrong with the way this process is working. It's not getting anybody out, except—well, two people left voluntarily and one left without exhausting all recourses. But it looks as if when somebody is willing and able to exhaust all recourse, they can stay here until they die a natural death, and that's not an effective system.

The problem is that you have finding for fraud as one step, the actual revocation by cabinet as the second step, and the immigration proceedings are themselves a number of steps. What we recommend is that one court make one decision on all these various steps, one that would not just find fraud but would revoke citizenship and order removal, so everything is done all at once in one court proceeding, subject to an appeal with leave.

The second problem, as I suggested, is that in terms of the people involved, I read in the testimony and complaints that they feel they're unfairly treated. I don't think they're unfairly treated when they can stay in Canada forever, litigating and in effect never losing, but I think the victims aren't fairly treated.

In my written material I mentioned a couple of cases, Podins and Dueck. Well, the government lost that case on a legal point that has subsequently not been followed on other cases, about whether or not there is legal authority for security screening at the relevant time. The judge, Noël, said no in Dueck but other judges later said yes. The government lost in Podins because the witness had testified in one case about records and then had a stroke and later couldn't remember what he'd said earlier; that's why the government lost in Podins. In my view, if there had been appeals, those cases would have been overturned, so there needs to be an appeal.

Mr. Petryshyn talked about the problem of records. Now, I don't see that as an insoluble problem. First of all, we have witnesses of what happened even if records are destroyed. Secondly, you know some people must have lied to get in. If the law was being applied and they told the truth, they would not have got in, because we did have some prohibited groups, like the Einsatzgruppen. If you had been in the Einsatzgruppen, you couldn't say, well, I told the truth and I got in. That's just not credible.

But there are some cases where it may well be you cannot establish that a person lied on entry but you can establish that they were war criminals. I would suggest that we need to add grounds for revocation so war criminality or criminality against humanity committed before the person entered Canada could be a ground for revocation.

Those are the three things I see as being wrong with the present system.

**Mr. Inky Mark:** One of your points has been about waiting for the minister to take to cabinet the names of people you think should be deported. Should a cabinet minister be forced to deal with matters of that nature, given the amount of time he needs to deal with it? That's one of the problems right now: we are waiting and waiting for a minister of the crown—

• (0900)

**Mr. David Matas:** Should he be forced? Well, that raises the question of whether or not the courts can order the minister to do it, whether there is a legal duty to do it and who could force them, and whether the victims could force them or not, because there are of course victims in Canada, and the people....

For instance, Obodzinsky has since died, but he was in the queue. There were six cases in the queue and now there are five because Obodzinsky died. I was in touch with somebody who while hiding in a barn actually saw his father and other relatives shot by Obodzinsky. He was very anxious to have this case dealt with, but then Obodzinsky died while the case was in the queue.

Could this fellow have gone to court to ask the court to order the minister to take the case to cabinet? Maybe. I don't know; it's never been legally tested. If a minister said they were just going to sit on these cases forever, then maybe some victim would do that. I'm hopeful it won't get to that stage.

With Oberlander it's not simply that the case was sitting on the minister's desk for ten years; there were many other steps. With all of these cases there have been many other steps. The Katriuk case has been sitting on the minister's desk for many years now, and hopefully we won't get to that.

My own view, if you're asking my opinion of the law, is that if it did get to court on the request of the victim, someone could force the minister to act. But obviously, as you're a political group, I would just ask you to ask the minister to act.

**Mr. Inky Mark:** I have one question for Mr. Petryshyn. How many countries actually have in place a limitation upon which, if it passes, the whole issue of revocation ceases? What's the danger of putting in place a limitation?

**Mr. John S. Petryshyn:** Well, first of all, as I quoted, Australia and Germany have limitation periods, and there are several others. I can't give you a list of all of them right now, Mr. Mark, but I can provide it for you. But that's the whole process in terms of countries that accept people who are foreign citizens and come to their countries. Because in essence, what you're doing if you leave it open, if there is in fact not a moratorium, is you create two classes of citizens. You can be a naturalized citizen, as I am, and not have the same rights and privileges under the charter as a Canadian-born citizen.

At a certain point in time, in criminal law, in statute, for murder and the highest crimes we know of, there are limitation periods. In fact, to have something hanging over them.... As Mr. Matas pointed out, these cases go on forever. Why are they going on forever? If in fact there was a limitation period, if in fact the government had to move against a certain individual, where would you draw the line? Can you be sued on a fraudulent cheque fifty years from now? No, you can't. The question simply is that citizenship.... It creates, as a result, if there is no limitation period, a stateless person.

I'm an example. If I should have my citizenship revoked.... I came here as a young man, but I was born in Germany during the war. The Germans brought my parents back from Ukraine to work and there I was born, but I do not have German citizenship and I can never acquire German citizenship under their legislation. I am stateless if I leave Canada.

And let me tell you this. The reason a lot of people had different identities is because of what happened not during the war, but after the war. When the Russians came into Europe, Stalin gave orders: anybody who had gone over to the west, whatever that meant, was an enemy of the state. My parents had to be hidden. My uncle, my grandfather, other people, had to lie about their identities because if they came from a certain part of the former Soviet Union, back they went with the help of Mr. Churchill and with the help of Mr. Roosevelt. That was the Yalta accord. People were lying about their identities simply to save their skins. That's what happened after the war.

For those people today who sit and say this is the judicial process in Canada—"we have no records, we have no witnesses, but you may well have belonged to a certain group"—that's not the issue, because that becomes very inflammatory.

That is why our presentation deals with the Immigration Act, the unfairness of a political decision, the lack of court process to take away a person's citizenship, and the lack of a time limitation period. Those are the issues, Mr. Chair and Mr. Mark, that we think should be addressed by this committee.

• (0905)

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

We're going to go on to Mr. Clavet.

[*Translation*]

**Mr. Roger Clavet (Louis-Hébert, BQ):** As I haven't received the document in French, I'm reading it as we go along. So I'll give up my turn. I may ask Mr. Matas and Mr. Petryshyn a few questions later, but, for the moment, I'll read the document, which wasn't presented in the other official language.

Thank you.

**Mr. David Matas:** I apologize. If you wish, I can answer your questions in French.

**Mr. Roger Clavet:** I'm going to give up my turn, but I'll come back with other questions, Mr. Matas. Thank you very much.

[*English*]

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

Mr. Siksay.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Thank you, Mr. Chair.

Mr. Matas, I wanted to ask you if you could expand a little bit on Judge Deschênes' commentary on statelessness and the removal to statelessness and why he didn't see that as something that would be in contravention of Canada's international obligations. Could you just expand on that for me?

**Mr. David Matas:** Well, in fact it's quite explicit. It's in the Convention on the Reduction of Statelessness, which Canada is a party to. Canada has signed and ratified the convention. It says, and I'll quote: "A contracting state shall not deprive a person of his nationality if such deprivation would render him stateless", which is the general principle. But it then goes on to say that notwithstanding this provision, "a person may be deprived of the nationality of a Contracting State where the nationality has been obtained by misrepresentation or fraud."

So there is an exception for fraud in the Convention on the Reduction of Statelessness. Now, the convention doesn't require you to do it where there's fraud; it allows you to do it. But what Deschênes said is that when somebody is a war criminal or a criminal against humanity and they lied their way into Canada, we should do it. And that's what we've got in the present program. Where there is evidence of complicity in war crimes or crimes against humanity and evidence of fraud, it goes to court. On the fraud issue, the issue of complicity in war crimes and crimes against humanity is decided by the war crimes unit as a trigger for deciding whether or not to launch the court case, and that's basically what Deschênes recommended. Deschênes recommended a whole bunch of different remedies and this was one of them.

But the reality is that because the Supreme Court of Canada shut down the prosecution remedy.... With extradition we've had a request for Rauf and for Seifert and Lu Chen, but that's about all. With the others, all we're left with is this other remedy.

**Mr. Bill Siksay:** I don't purport to be an expert in all of this information. I am hoping to get there at some point, but help me with the issue of someone who has come to Canada, become a Canadian citizen, and later they are alleged to be a war criminal.

What is preventing us, in Canada, from dealing with them as a Canadian citizen, and dealing with them for that particular crime? Why is the idea of revocation of citizenship necessary, additional perhaps to the whole question of dealing with them in some kind of criminal court?

**Mr. David Matas:** The problem is the Finta case. The Finta case was a jury case, and Finta was acquitted, so the issue became the charge to the jury about whether it was legally permissible or not permissible. Doug Christie, who was the lawyer for Finta, said that the.... There was no doubt about the fact that Finta was a guard at a concentration camp in Szeged, Hungary, where people were being shipped off to Auschwitz. So the facts were not an issue. In fact, he didn't even call a defence. He didn't testify and there were no witnesses in the defence. He basically accepted the facts and pleaded on law.



He said that sending Jews off to Auschwitz was justifiable because Jews were the enemy. Why were Jews the enemy? He read an article in a newspaper—a German Nazi newspaper or a Hungarian Nazi newspaper—that Jews were the enemy. So he was doing this in defence, because of this newspaper article, or some newspaper article that stated that Jews were the enemy. The judge said that the defence that he thought Jews were the enemy could be put to the jury if there was an air of reality to the defence, and there was an air of reality because of the newspaper articles he had read.

The issue became whether that ruling by the judge in putting the case to the jury was sustainable. The Ontario Court of Appeal and the Supreme Court of Canada, split four to three—and it was a case I actually intervened in for B'nai Brith—said that it was a sustainable charge. So if somebody, as I said in my written brief, could successfully be acquitted of mass murder of innocents because he believed that group was an enemy, then basically racial prejudice became a defence for killing people on the basis of race. Once you've got that as a defence, it becomes impossible to prosecute anyone. The government had started off by prosecution and not by revocation, but once the Finta case was decided, they realized it was simply impossible to prosecute any more, so they switched to revocation.

What has happened more recently is that the government has repealed the old war crimes provisions in the Criminal Code and replaced them with the Crimes Against Humanity and War Crimes Act, which specifically repeals that particular ruling of Finta and says that racial prejudice cannot be a defence for being charged with war crimes and crimes against humanity.

This is after all these cases have been going on for many years for revocation of citizenship, and I would say it would be both impossible and unwise to simply stop all these cases, some of which have been going on for ten years, and start them all over again in a new proceeding. The reality is that any new law is going to have some legal quirks that are going to have to be worked out through litigation. As bad and as ineffective as this system is in getting finality, my own view is we have to make it work well and to keep going, rather than give it up as a lost cause.

● (0910)

**Mr. Bill Siksay:** Do you have the same concern that Mr. Petryshyn and others have that this sets up two classes of citizenship and that someone who becomes a Canadian citizen, in effect, is subject to conditions that those of us who were born here never have to face and that they can, at any time in their life, face the revocation of their citizenship?

**Mr. David Matas:** What we are talking about is fraud on entry. Obviously, only people who enter can commit fraud on entry, and people who are born here cannot commit fraud on entry. Sure, people who are born in Canada are citizens, and people who are not born in Canada are not citizens. That is a difference, but I don't see it is a violation of the charter. I don't think we should say people born anywhere are citizens of Canada because otherwise you are treating people born outside of Canada and inside of Canada differently. That doesn't make sense.

You have to remember that the equality guarantee in the Canadian Charter of Rights and Freedoms is not targeted at removing all legal

differences among people. That is impossible, unwise, and impractical. It is trying to work to ameliorate the situation of disadvantage. So if you look at the groups that are specifically listed, although it is not just those groups, it's age, it's sex, it's disability, and so on.

So the question is whether the group that is differentiated against is one of these disadvantaged groups, or is disadvantaged in some other way. You cannot say that people who lied their way into Canada or people who committed war crimes are a disadvantaged group. They aren't, obviously. There is a difference in their treatment, but it is not a violation of the Canadian Charter of Rights and Freedoms equality guarantee.

**The Chair:** Thank you very much. We are going to go on, but we'll come back.

Mr. Anderson.

**Hon. David Anderson (Victoria, Lib.):** Thank you, Mr. Chair.

To continue with the question on citizenship and the difference between those born in Canada and those born outside Canada, I think I'm correct in saying that children born of Canadian parents outside Canada, even if the parents were servicemen serving on Canadian bases in Europe, are treated in the same manner, with respect to that overseas birth, as people who are naturalized citizens. Is that a correct statement?

**Mr. David Matas:** Yes. As I suspect you know, the citizenship law is not that simple and it has changed over the years. The relevant law is the law at the time you were born or became a citizen or the law took effect rather than the present law. In order to determine the effect of any particular law, you can't necessarily look at the present law. In order to determine the status of any person, you can't necessarily look to the present law.

I don't even know if this is still true now, but at least at one time, I know that if you were born outside Canada, you had to return after a certain period of time or at a certain age indicated. If you never returned, at some point you had to indicate that you wanted to remain a citizen. If you didn't do that, you might have lost your citizenship.

Basically, what you say is correct.

● (0915)

**Hon. David Anderson:** Okay. We're dealing here with cases where a naturalized Canadian citizen obtained naturalization through some fraud *ab initio*, at the outset, in filing papers. The only parallel that I can think of is if people had citizenship papers that indicated they were Canadian-born, but they had in fact managed to fraudulently obtain such a status. They had not been born in Canada, but they had the papers to show it. Would that be similar to the situation we face with a person who lied on a naturalized immigration case, where a naturalization has taken place and Canadian citizenship has been granted?

**Mr. David Matas:** It would be similar, yes.

**Hon. David Anderson:** Is it possible that we could have people in Canada whose citizenship says they are Canadian-born who would in fact have that citizenship taken away because of fraudulent identity?

**Mr. David Matas:** Yes. The paper is fraudulent, but they weren't in fact born here.

**Hon. David Anderson:** That's right. It's in exactly the same manner as if the person who is coming here had lied on some other aspect of the naturalization part of the original citizenship application.

**Mr. David Matas:** That's right.

**Hon. David Anderson:** We could then say that there are occasions when Canadian-born citizens, citizens who have citizenship by reason of a claim of birth, could have that citizenship taken away. If so, those people could similarly be stateless or could revert to another citizenship of the country of birth.

**Mr. David Matas:** That's absolutely correct.

**Hon. David Anderson:** I think it's important that we realize, it seems to me, that the granting of citizenship is not dissimilar in either case. The fact is if someone has citizenship by reason of birth, it may be fraudulent. It's unlikely because of our records, but it is a possibility. It's under those circumstances that you would find a comparable situation to the naturalized citizen losing citizenship in a case, as we've been discussing.

**Mr. David Matas:** Yes. Indeed you are giving me an additional component to the answer, which I should have given. I thank you for that.

**Hon. David Anderson:** Now, I have one other issue, again, getting the assistance of your legal knowledge. As I understand it, we cannot really face a situation where atrocities committed abroad by a Canadian citizen could occur by reason of enlistment in a foreign army because we have provisions that prohibit Canadian citizens from taking part in foreign military activities through restrictions on foreign enlistment.

**Mr. David Matas:** We do have that. That's true. If somebody who is really born in Canada and not just using false papers commits a crime against humanity abroad, we don't have the option of revocation. We may have an option of extradition if the country where the crime was committed or the country where the victim was a national wants to prosecute, but our only options would be prosecution in Canada, prosecution abroad, or prosecution by an international tribunal. Of course, there is always the possibility of a civil remedy.

**Hon. David Anderson:** Yes, but nevertheless, there are prohibitions in Canada against enlistment in a foreign military service.

**Mr. David Matas:** Sure, so what that tells us is that we're much less likely to get Canadians involved in these foreign military crimes than we are people who, as adults, were non-Canadians and who could have been enlisted in a foreign army.

What you're dealing with is the population pool of immigrants who are.... I guess you could say it's legally possible for them to have committed these crimes even though it's not legally tolerable, whereas for the Canadian population there isn't the same legal possibility.

**Hon. David Anderson:** If I could just ask my final question, take, for example, the breakup of the former Yugoslavia. We had Canadian-born and naturalized Canadian citizens returning to that particular area and fighting on four or five different sides in that conflict. The Canadian-born would have been subject to the same

prohibitions as the naturalized Canadians if they returned to fight in combat and in some way or another were involved in any atrocity at that time. They would have been—

• (0920)

**Mr. David Matas:** That's right.

**Hon. David Anderson:** And they would have been prosecuted in Canada under the restrictions on foreign enlistment.

**Mr. David Matas:** That's right. Once a person is a Canadian citizen, there's no differentiation in the way they're treated if they're complicit in a war crime. If they're prosecuted, they're prosecuted on the same basis. Of course, their citizenship cannot be revoked even now for participation in war crimes if the crimes were committed after they became citizens, even if they're naturalized citizens.

Although it's not the present law, if the committee and Parliament accept the proposal that revocation should be for participation in war crimes as well as for fraud, our proposal is that it only be for participation in war crimes committed before the person became a citizen, not afterwards.

**Hon. David Anderson:** Thank you.

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

Ms. Grewal.

**Mrs. Nina Grewal (Fleetwood—Port Kells, CPC):** Thank you for your presentation and for your time.

My question is very simple. What are we lacking in our system, and how can we make our system more accountable and more efficient and workable for all of us?

**Mr. John S. Petryshyn:** If I can just refer to our brief presentation, what we're looking at is the protection in the charter of all persons. I believe the Supreme Court, in the Singh decision many years ago, said all persons in Canada have the right of protection of the charter. Whether you've set foot here, whether you're a Canadian citizen, a landed immigrant, or simply sojourning through Canada, you have the protection of the charter.

What we're saying is that under sections 7 and 15 in particular, someone who is a Canadian citizen should have due process. That due process is lacking when a minister in cabinet decides whether or not the person should be denaturalized. What we're saying is that if there's a war crime—and I'm not at odds with my friend or anybody else—if the person is a war criminal, then let that matter be dealt with in the court. If I'm going to be denaturalized and have my citizenship taken away from me, I would like to have the opportunity to present evidence in the courts. It should not be that the minister, in the back room or somewhere else, decides whether or not that's going to be done based on what evidence he or she and his or her colleagues may have before them. That's what we're saying.

You've heard of endless delay if and when the minister takes this information. So if I have the opportunity, can you imagine if something like that is hanging over my head for ten years? The minister may or may not act, but I know I have a chance to go to court and say I should not be denaturalized, and that I have the opportunity of presenting evidence under the charter and Canadian law, in a court of law, and calling evidence on my own behalf.

What we're really lacking is transparency and the ability to deal with the issue in a court of law. That's what we're saying. Take that section 10 out, the one where the minister, who is in cabinet and with a few colleagues at the table and who has been prosecuting you for  $x$  number of years, decides whether or not you should be denaturalized. Those other things I can relate to, but that's basically what I'm saying. It's very easily fixed. Just simply let it go into the courts.

**Mr. David Matas:** As I said, what's lacking is the consolidation, the fragmentation, and that's the problem. Obviously the fragmentation makes it less efficient. If we had all of the steps instead of one that would be better.

There could and should be an appeal with leave, and we could add an additional ground of participation in war crimes.

I should say that I don't see anything particularly wrong with the matter going to cabinet right now. Mr. Petryshyn talked about the minister who started the revocation being present in cabinet. Well, I'm not sure that's a problem, but even if it is, cabinet can still function without that minister being present. You could have a cabinet meeting with one minister being absent and it would still be a relevant cabinet meeting.

I've also taken the position, which I circulated among you separately, that really all the cabinet is doing is looking again at the fraud issue. At least, legally all the cabinet is doing is looking again at the fraud issue and maybe looking at more recent information. It's an asymmetrical sort of appeal right now, because if the person loses in court they get a second kick at it through cabinet, but if the person wins in court, the government can't go to cabinet to get the court decision reversed. So the system gives an advantage to the person involved, which it doesn't give to the victims. That's one of the reasons we feel there should be an appeal, so that we'd have a symmetrical system so that either side can get a second recourse in a case where they feel the initial decision was wrong.

So those are the changes I suggest.

• (0925)

**The Chair:** Okay. Mr. Clavet.

[*Translation*]

**Mr. Roger Clavet:** Mr. Matas, thank you very much for this presentation. I also want to say that I worked in Manitoba for five years and that I'm familiar with the work you do with war refugees and immigrants in general. So I congratulate you and I thank you for the brilliant work you're doing.

As regards the proposals to improve the former Bill C-18 on citizenship, there have been some improvements over what there used to be. I understand from what you say that things haven't gone far enough. For example, the delays in revocation proceedings are still far too long.

Since the Federal Court hears those cases and appeal proceedings are nevertheless possible, do you think the bill has been improved and that we're headed in the right direction? Do you believe that an effort at improvement has been made?

**Mr. David Matas:** I would say yes. I've submitted proposals for all the bills, and I can see an improvement. I think the former

Bill C-18 was better than the others. However, I would like to see even more changes. We weren't completely satisfied even with Bill C-18. We submitted a proposal when the House of Commons studied Bill C-18. We'll make another, more detailed written proposal to explain why we think there's a way to improve Bill C-18.

I believe Bill C-18 provided for a possibility of appeal, but that was an appeal in law, not an appeal with [*Editor's Note: Inaudible*]. But that's the kind of appeal we want because, if there's an appeal in law, everyone will file an appeal that will extend the process.

Second, there has been a kind of consolidation, but it's not complete. If a person is recognized as a war criminal, there is a consolidation. However, if it's proven that a person entered the country fraudulently, there's no consolidation. As I said, we want full consolidation.

We'll inform you of all that in writing.

**Mr. Roger Clavet:** Mr. Matas, do you think the revocation delays are still too long?

**Mr. David Matas:** Yes. We don't even know when things will be done because there has been no case here in which anyone has completed all the stages. And yet there are some who have been proceeding for 10 years, and that's still going on, as far as I know. Those cases should be closed, but that hasn't happened to date.

**Mr. Roger Clavet:** My next question concerns the number of Nazi war criminals who are still in Canada. I have an idea of the answer, but I'm asking you the question all the same.

After so many years and after the extensive research done by Judge Deschênes, which cost thousands of dollars and revealed that there are some war criminals here, a number of whom have died, are there still enough suspected war criminals for it to be worth the trouble, today, in 2005, of taking all the steps to revoke their status? Is it important to you that all those steps be taken even if there's only one left?

**Mr. David Matas:** I would say yes, as you already knew. First, there's more than one; there are even many. As time passes, it becomes difficult to prove that, but, as I said, my colleague, who worked in the government's offices said that there were originally 2,000. Now many have died and we can't prove their identity. However, I believe that's beside the point. There is more than one, but even if there were only one, we'd be accomplishing something if we tried that person because that's the best way to say there's no impunity in Canada. That's one way to make our legal system work in memory of the victims and of the story that took place before our eyes. It's one way of serving notice for the future. In our view, it's a way of saying that we're convinced there is justice in Canada. If we say no, even if there's only one person, it's a way of saying that we're opposed to justice. But we must never do that.

• (0930)

**Mr. Roger Clavet:** In closing,

[*English*]

don't you think wording like "Canada remains a haven for the worst criminals the planet has ever seen" is a bit strong? This is a little strong.

**Mr. David Matas:** Well, I suppose one could put it hypothetically, but the reality is nobody's left. Nobody has been convicted. There are lots of good cases—and it's not just old cases. I mean, one of the reasons we need to get at the old cases is that those old cases were the foundation for the contemporary immunity of everybody. It's not just that we have old war criminals from the Nazi era here. We have Rwandan war criminals, Bosnian war criminals, and we can't do anything with them either.

Unless we get this system right—and of course the fact that we weren't able to do anything with the old war criminals became a billboard advertisement that attracted all the contemporary war criminals here—we're going to continue to draw these people from around the world. This is the reality because of the fact that we've been able to do nothing with the old war criminals.

[*Translation*]

**Mr. Roger Clavet:** Thank you very much, Mr. Matas.

[*English*]

**The Chair:** Thank you very much. We've actually run somewhat over our time.

I'd like to ask just a couple of questions.

I would have no problem with the act if we were actually dealing with war criminals. You know, we talk about suspected war criminals, and we talk about people who might be lying to get into the country. I really have difficulties with this.

If we were dealing with the same kind of case as the Air India case.... I mean, we had a situation there where a person was suspected—and I dare say half the country, or all of the country, probably thought he was guilty just reading about it in the newspapers—but the fact of the matter is that the court process prevailed.

So when I look through your brief, you talk about how there is evidence of complicity or how someone might have lied, might have been guilty of war crimes, but that doesn't establish that a person was guilty of whatever.

Now, we talked about due process of citizenship. I think the commonality to the due process of citizenship is when you take the importance of citizenship as outlined by Justice Reilly in his ruling on one of these cases last January, 2004. He said that the revocation of citizenship engages section 7 of the Charter of Rights and Freedoms, which is the legal section. To me, the legal section talks about due process and about actually having a fair process in the courts.

You know, quite frankly, if there was a fair process in the courts I think these cases would have been dealt with. The Federal Court of Appeal last June took one of the cases that has been in the works for ten years and threw it out, reversed the decision of cabinet. It really is difficult to try to solve questions politically that should really be left to the courts to establish guilt and innocence free of political interference.

I guess my biggest concern is that we have six million Canadians who were not born in this country. I happen to be one of them. Half of the members on this committee weren't born in this country. To me, after I became a citizen, my citizenship is not a privilege; it's a

right. If anybody is going to go after my citizenship, it has to be according to the legal section of the Charter of Rights and Freedoms. It should have nothing to do with a committee of cabinet.

If we would have passed that amendment to the citizenship act back in 2000 at report stage that you and I agreed on, I think a lot of these problems we have would not exist. But instead we left in place a political process that doesn't pass muster with the courts. They lost the last two court cases, and we could have referred it to the Supreme Court of Canada. It would have been a great deal more preferable than to have had this long, drawn-out process, which has been very expensive and which, quite frankly, in my view devalues citizenship. If there is a war criminal here, I don't think there's anyone in Canada—with the exception of the war criminals themselves—who wouldn't want such a person out, but it has to be proven.

Could I get a quick comment from both of you on this?

• (0935)

**Mr. David Matas:** Yes.

First of all, one has to distinguish between criminal and civil cases. I do immigration and refugee law in a private practice, so I prepare refugee claims for people who are excluded from refugee protection on the basis that there's serious reason to believe they've participated in war crimes and crimes against humanity. That's just a double standard balance of probability. And that's what the revocation of citizenship is, a double standard balance of probability. It's not proof beyond a reasonable doubt, because people aren't being punished. Revocation of citizenship is not a criminal penalty. They do not go to jail if their citizenship is revoked. And I do not accept that simply because you're dealing with double standards there's something wrong there.

Secondly, the law right now is revocation for fraud. And you say, well what about criminality? First of all, the government says that they will not go to court for fraud unless there's evidence of criminality. Second, if you look at the cases—I mean, the cases aren't deciding of criminality, but they sure make findings that really involve criminality. I mentioned Odynsky, where Odynsky was a guard at a facility where people were later killed. I know enough about war crimes law to know that's a war crime, even though he didn't shoot anybody.

It was the same with Oberlander. Oberlander was an interpreter for a roving killing unit. He wasn't actually present at any executions, but he was interpreting for officials when they would be asking, "Where are the Jews?" He was interpreting in interrogations where the questions were "Where are the Jews?" So all you have to do is read those cases with the law of war crimes in mind and you will see findings of war criminality in the findings of fact, even though the judges, because their job is to find fraud and not war criminality, don't actually make a war criminality finding.

Third, in terms of the cases of Mr. Justice Reilly in the Ontario Superior Court in Oberlander and the Federal Court of Appeal in Oberlander, neither of them found that the system was in violation of the Charter of Rights and Freedoms, either section 15 on equality or section 7 on fundamental justice. All he said was in that particular case, based on the facts of the case, something was wrong and needed to be redone. Reilly said that somebody who was in the cabinet meeting shouldn't have been there. But obviously you can have the cabinet meeting over again with that person not there.

The court of appeal said that something that should have been in the written report from cabinet wasn't there, but you can put in the written report what the court of appeal wanted without changing the system at all. As well, of course, Reilly's case was appealed, and the judge said that there was good reason to doubt the authority of that case, because there was good reason to doubt that he even had jurisdiction. So those cases do not attack the system at all.

What a committee of cabinet does is to allow someone to escape the rigours of the law. They've been found to have entered by fraud, and the cabinet can say that despite that, we're going to let you off, so to speak. But the fact that it goes to cabinet doesn't somehow create a disadvantage for these people; it gives them an advantage, as I say, that the government doesn't have if it loses the case.

If it was strictly in the court—which is the case, for instance, for residency.... If you question whether or not you have the right residence for citizenship, you go to citizenship court; you don't get an appeal, you don't go to cabinet. There are other instances throughout the system where you go to court, you don't get an appeal, and you certainly don't go to cabinet. So here it gives the benefit of a cabinet chance, another chance. But that shouldn't become a reason to question the whole system.

• (0940)

**The Chair:** Thank you.

Go ahead, please, Mr. Petryshyn.

**Mr. John S. Petryshyn:** Yes, thank you.

The question was asked here about prosecuting people for war crimes. If you are going to charge somebody, charge them with that offence. Can you imagine if you were going to be charged with murder, but they really wanted to get you on a traffic offence? Think of it in that analogy.

When the Deschênes commission brought down its report, as was dealt with in the room today, there were procedures under Canadian legislation to present war crimes. In the Finta case that went to the Supreme Court, the Pawlowski case, and others, they didn't find the touchstone, the basis of our ability to convict somebody. For whatever reason, they could not convict them. Parliament then moved to add war crimes to our Criminal Code. If they really are a war criminal, charge them with being a war criminal so that's the case they're going to present.

The government says, "Well, you know, we can't convict you because we don't meet the test of our own legislation. Let's go in the back door. Now we're going to charge you with material representation. That's a balance of probability. We don't have the records. We don't have witnesses. You may have been in this division. You may have been there. You may have lied about who

you were, and we think that's enough to take this matter through the process." In section 18, as we pointed out, once the court makes its decision there is no appeal.

So a citizen is now being told, "We can't prove you are a war criminal under our legislation, although we could have prosecuted you. We know we're going lose, so we're going to go in the side, use a balance of probabilities, inference probabilities, and take that right away from you."

The next step is for it to go to cabinet. Why cabinet or any politician would want to take on this decision is beyond me. It reminds me of the Diefenbaker-Pearson days with commuting the death penalty. No matter what you did, you were wrong. So why not let the court decide through the process of saying, "If you're going to be denaturalized, it's such a major event that it must be proved, that you're going to be denaturalized in a criminal court beyond a reasonable doubt." That's all we're saying in that regard.

It only makes sense to have this kind of legislation put forward that is transparent, where the protection of the charter is there for everyone, as we have enunciated in the Supreme Court of Canada in the Singh case. That says anyone who is not even a citizen or a landed immigrant has the right of protection of the charter, that someone who is going to be deprived of their citizenship has the right to go to court.

I agree that if you're going to charge someone with the offence of being a war criminal, charge them with that. Don't use some other process, some other touchstone of evidence that we feel fails the system, and ultimately make a decision behind closed doors. Whether it is the citizenship minister or some other minister who decides, for whatever reason, they're going to move on this person or not—as my friend pointed out, 15 years later they've done nothing—what's the point of that? Can you imagine having that over your head? You're 80 years old, or you're 20 years old, you don't know what cabinet is going to decide, and you are not even a participant in your own fate. That's our concern.

Thank you.

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

We kind of ran over our time on this. We're going to take it away from you, David, in the afternoon. I'm only kidding.

**Mr. David Matas:** I promise I won't be as long.

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

**Hon. David Anderson:** I have a further supplementary as a result of your question.

**The Chair:** Okay, very quickly.

**Hon. David Anderson:** If we do say there will be no balance of probabilities and there will have to be a conviction, is there any logic in saying, when the application of an individual comes forward for entry into Canada, that we will take into account any involvement and ask any questions about past military activity, unless there had been a conviction? In other words, will we be stopped, because of what we do with respect to revocation, from actually asking those questions in the first instance?

**Mr. David Matas:** As usual, that's a very good question.

I'm involved in both ends of the process. With war criminality and crimes against humanity you don't necessarily know everything all at once, because people lie, because the evidence is destroyed, because people are repressed, because the structures are dispersed. It sometimes take a while to get together the evidence. The more you put it up front, so to speak—and the system is too much up front right now—the harder it is for people to get in.

Right now, there is a lot of sclerosis in the system, partly because of 9/11 but also because of the difficulty Canada has in revoking the citizenship of war criminals, the impossibility of revoking the citizenship of war criminals. It becomes extremely difficult now for people to get in where there is even a hint of an association, and I think it's much too extreme.

If you look at the front end of the system now there are cases where people are being denied who have the most tangential possible hypothetical association with war criminality, which is unfortunate. We talk about people waiting ten years for revocation, but we get people waiting that long for citizenship, waiting that long for permanent residence, waiting that long and then some for admission, because there is some suspicion of criminality.

What we need is a system that can get at these people no matter where they are in the system, so the system works in an even way, rather than creating an escalator so that the higher your status, the harder it is to prove, which is really the system that we have now.

• (0945)

**Mr. John S. Petryshyn:** Just briefly, I don't see estoppel being a prohibition. If you establish the criteria for revoking your citizenship based on what the legislation is, the person applying at that time knows the criteria they have to meet to be denaturalized. I don't know why, if in fact the person has misrepresented or lied, depending on what you are going to utilize as a touchstone of evidence.... It seems the legislation you are going to bring in will speak for itself.

I don't believe estoppel is going to come into effect. If you asked the person about their background and he still misrepresented, you still have the right to deal with the issue, for example, before they become a Canadian citizen as a landed immigrant. If he denies that he has a wife in country Y and then two years later, as a landed immigrant, decides to sponsor the wife from country Y, you still may use that evidence to say that he misrepresented the fact that he was married, a material fact, when he came into Canada.

So I don't think citizenship and the right to deal with issues when you are a landed immigrant as a result of misrepresentation should be an estoppel for this thing to be brought forward in the kind of legislation we are referring to.

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

We are going to resume at 10 o'clock with new witnesses.

• (0947)

(Pause)

• (1009)

**The Chair:** We are reconvening our next session, and this time we are going to be hearing evidence on international credentials, which is something the committee has been spending a fair amount of time at. We clearly recognize that this is an issue of great

importance for the country and for our being an attractive place for immigrants.

Welcome to the panel. I guess we are going to start off with Mr. Silver, from the Jewish Federation of Winnipeg.

**Mr. Bob Silver (Chair, Grow Winnipeg Steering Committee, Jewish Federation of Winnipeg/Combined Jewish Appeal):** Good morning.

A hundred years ago, when immigrants homesteaded in the prairies they were given land, a shovel, and a bag of seed. A generation or two ago, when our parents or grandparents came they were given a break by someone who had come before and who had empathy for their situation, somebody who wouldn't expect Canadian experience, who gave a newcomer a chance to work and get established. But most of us are only one or two generations removed from the immigrant experience. We have to institutionalize, give immigrants the new break, make it acceptable in business and society, and remind our communities and employers where we came from.

We also need to provide them with tools. A century ago it was a bag of seed and a shovel. Today, the tools are English language at the highest level and recognition of education, credentials, and experience. All the remedies require dollars and political will to solve, both in Manitoba and nationally.

Potential remedies are the following:

ESL at the highest level for business and professionals, along with acculturation to Canadian operating practices, is key to swift and successful integration into the job market.

Access to assessment of credentials and education before arrival in Canada in a timely fashion with minimal cost will shorten the time spent in Canada with the family living off savings.

Assessment and recognition processes that account for many years of experience remote from formal training such as university degrees would reduce the time required.

Innovative approaches to observe individuals at work and to assess certain skills and knowledge will reduce the effort expended on assessing paper qualifications that are not apparently comparable.

Employment internships within a wide variety of fields will facilitate assessment through observable skills and requalification.

Employment in their field of expertise during requalification will support the family and reduce the barriers for employers who require and expect candidates to have Canadian experience.

That's the formal notes. I would like to speak a little about the experiences we at the Jewish federation and Grow Winnipeg have had.

We have been active in encouraging and welcoming immigrants into Winnipeg and into Manitoba. One of the biggest boundaries we have seen is the long list of qualifications these immigrants come into Canada and into Manitoba with, from Argentina, from Israel, from Russia, and they are unable to use those qualifications here in this city. The timeframe, the exasperation that comes from that timeframe, and the financial strains on the family while they get reacquainted with the rules of their employment in Canada are horrid. The strain in those families is really something to behold, and their frustration is something we have to deal with. Six months, a year...terrible strains on the families, and we in the community, in the Jewish community, try to support them, but the Canadian government has to do more to help us and to help those immigrants. Indeed, our growth in Canada is going to depend on them.

Another area I'd like to speak personally about is as an employer here in Winnipeg. I am the president of a firm called Western Glove Works, and we make jeans and blue jeans and other apparel. I see applications day in and day out from people whose expertise I cannot use. Imagine the frustration of somebody who is an engineer or in some other qualified line of work and I offer them jobs as caretakers, sewing machine operators, or other manual labour positions. It's quite frustrating for me, and, I can assure you, even more so for them.

Another aspect of my life as the owner of the *Winnipeg Free Press*... We see it day in and day out. To offer these people jobs as carriers when they have the ability and the desire to do other things for this community is incredibly frustrating. We in Canada have to do something about this.

Thank you.

•(1010)

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

Next we'll go to Karen Dunlop, the president of the College of Registered Nurses of Manitoba.

**Ms. Karen Dunlop (President, College of Registered Nurses of Manitoba):** Thank you very much.

The College of Registered Nurses of Manitoba appreciates this opportunity to address the committee. My name is Karen Dunlop. I'm the president of the college, and I'm also a registered nurse.

The college is a regulatory, standard-setting, and licensing body for Manitoba's 11,500 registered nurses. We operate under the auspices of and administer Manitoba's RN act and regulations.

I'm going to speak to four issues in my presentation and corresponding recommendations. The first of the issues is a need to administer the national registered nurse exam internationally; second, the need for a consistent regional prior learning assessment and recognition strategy and mechanism; third, the need to support international applicants for licensing with additional training resources; and finally, the need for a single-wicket approach to up-to-date reliable information on the full range of topics and information that a potential immigrant might want and need.

We're proud as a college that our licensing processes and requirements are open and transparent and accessible to potential applicants worldwide through our website. We believe it's important

that applicants can apply for and receive assurance that they meet the licensing requirements prior to ever emigrating from their location of application. At present, however, we are only able to process an application for registration to the point where the applicant is eligible to write the RN exam. Every person who wishes to become a registered nurse—

•(1015)

**The Chair:** Could you slow down a bit? The interpreters are having trouble keeping up.

**Ms. Karen Dunlop:** Sorry, it's the five-minute thing.

**The Chair:** Do they have a copy of that?

**Ms. Karen Dunlop:** In an effort to get this into the record, I am reading from my notes, if that makes it helpful to them.

**The Chair:** Okay, we'll give you a little bit more.

**Ms. Karen Dunlop:** Thank you.

At present, although we have access to information and applications on our website, we're only able to process those applications to the point where a person becomes eligible to write the national RN exam.

Every person who wishes to become an RN in Canada must write and pass the national exam. Applicants must then travel to Canada to write the exam. Only if they're successful will they become eligible for licensing in Manitoba as an RN. That said, we have a provision to license people as graduate nurses, but that is a temporary registration, and it's only sufficient until such time as they pass the exam.

Our data indicates that there is a relatively substantial difference in the pass rate of internationally educated writers compared with national writers. Canadian writers enjoy a pass rate of 98% on the first write, versus a 56% pass rate for internationally educated nurses. One can only imagine the stress and strain that failure of the exam causes international applicants, and they only get three tries.

They are now away from home in a foreign country with no support system. We recommend that applicants be permitted to write the exam in their home jurisdiction prior to immigrating to Canada. Passing the exam will ensure licensure, which will greatly enhance the applicant's ability to find work as an RN in Manitoba. We think it's clear that supporting writing centres for the exam internationally is a win-win situation. The Canadian Nurses Association, which owns the exam and through which we contract the exam, would need assistance in addressing and overcoming the obstacles that currently exist and prevent this from occurring. There would no doubt be a need for federal funding to assist in the setting up of these writing centres.

The second area we wish to address is the need for a consistent regional approach to competency-based, prior-learning assessment and recognition, or what are now known as PLAR processes, to assist individual jurisdictions in the assessment of international applicants. A regional approach with two or more provincial jurisdictions partnering would benefit from the economies of scale to be had through partnering.

The PLAR mechanism would assess international applicants' education and experience acquired internationally against the entry-level competencies for RNs in Canada to identify gaps and deficiencies prior to their writing the exam. Where gaps are identified, the applicant would be encouraged to take a course of instruction tailored to his or her needs to embark on self-directed study to bridge those gaps. This would greatly enhance their ability to pass the exam.

The PLAR process could also be used to identify gaps that are more accurately described as culturally based. That is, gaps in understanding or knowledge related to the health care system in their own country, as compared with the Canadian system. Given that RNs enjoy a high degree of interprovincial mobility as a result of reciprocity agreements, particularly under the agreement on internal trade, a regional PLAR process makes good sense. Ideally, it would be helpful if federal funding were available to assist in the initial establishment of this mechanism. Ongoing operation of the centre could be funded by the provincial jurisdictions using the resources that exist through the application process.

The third issue I'd like to speak about is the need for additional resources to address gaps in English language skills, cultural familiarity with the Canadian health care system, and familiarity with specialized language and terminology unique to health care that would be different in Canada. Clearly understood accurate communication is vital in health care. It relates directly to patient safety and the prevalence of interdisciplinary team approaches to primary health care delivery.

While we have language benchmarks in place that applicants must meet in order to be licensed, there need to be adequate resources to assist applicants who fall short of those benchmarks. These gaps in fluency can contribute to failures in the exam and impede the successful integration of those RNs into our health care system. The same holds true for helping applicants make the transition to the Canadian health care system by addressing cultural differences in health care delivery.

In addition to language fluency issues, it is fundamental to address the differences between how health care is delivered in Canada and how it is delivered in their home jurisdiction. An example of that would be techniques that a nurse must ask a doctor to perform in her home jurisdiction, versus equivalent techniques that in Canada are performed by an RN.

• (1020)

Culturally based misunderstandings erode the credibility of the nurse-patient relationship and the ability of the nurse to meet patient needs. They also impede the nurse's ability to smoothly and successfully integrate into the Canadian health care setting. We need a resource that provides applicants with an overview of the Canadian system, and that specifically addresses challenges related to culture and the delivery of health care in other parts of the world.

Additionally, this resource could also address issues related to ensuring that applicants possess the familiarity with specialized terminology unique to health care. This resource would ideally be delivered using a web-based approach to enhance accessibility.

The Internet brings me to our final suggestion. Assessing timely, accurate information on topics related to immigration, settlement, licensing, and life in Canada is not easily found in a single location. We advocate for a single-wicket approach by creating, promoting, and maintaining a one-stop immigration web portal. This doorway could link international visitors to sources of information to meet all of their needs. The federal government could provide leadership and work with partners to establish and maintain web links to sites containing the needed information. By providing checklists and other tools, the portal could help guide potential immigrants through all the processes and resources required to enhance their success in immigrating to Canada.

In conclusion, our goal is to facilitate the successful licensing and regulation of registered nursing in Manitoba. We count our success in the number of new applicants we register, not the number we refuse.

I urge you to consider this brief and join us in our work of protecting the public by helping us and registered nurses who wish to practice in Canada achieve successful licensing and registration. On behalf of Manitoba's RNs, I thank you for the opportunity to present to this committee.

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

I'm now going to go to Cathy Woodbeck, of the Thunder Bay Multicultural Association.

**Ms. Cathy Woodbeck (Program Director, Thunder Bay Multicultural Association):** Thank you very much.

Much of what I was going to talk about has been said, so I will move to the points that haven't.

We from Thunder Bay are very thankful to be part of this process. I approach this whole issue from the perspective of a front-line immigrant service provider. We work with immigrants and refugees on a daily basis. We are a one-stop shop of immigrant and refugee settlement-related services—both federal and provincial programs in language assessment; settlement; interpretation and translation; and volunteer, mentoring, and employment search.

As a small centre, though, we are able to provide one-to-one service to newcomers, so we have the opportunity to see individuals go through this process in many different professions, and we know how it is working out in reality. Immigrants may be looking for professional or skilled-labour careers, or they may be just starting out in the labour market.

We also liaise with employers who are interested in hiring newcomers to Canada, but would like to have reassurance on the qualities, skill, and education of these potential employees.

While we appreciate that standards need to be maintained in all professions, we feel some requirements for certification and licensing often put up barriers from professionals working within Canada.



We have found employers are interested in a smooth and reliable process of evaluating and confirming education, ability, and prior experience. The employers have told us they would like to have a credible process they could feel confident in. In fact, they have gone as far as telling us they would like to see a recognized, standardized credential document, so if a newcomer arrives with their credentials, they would also arrive with the standardized document that would confirm those credentials. We do realize this is a huge issue of huge costs.

This leads me to the issue that assessment of credentials and experience needs a real vote of confidence in this country. It must be endorsed as a trustworthy process, we know, by business and industry, as well as being standardized and supported by government.

Some of the factors for effective and useful credential recognition would be visibility and reliability. The services offering credential assessment must be more visible, more standardized, and more advertised. Also, they must be accepted throughout industry and government, and through the process of letting people know this while they are still abroad.

I will go down now to individual cases—not individual cases, but some of the things we have seen happen. Internationally trained professionals have their educational credentials and employment experience assessed in some way, and they have gaps. We would like to see something along the line of a bridging program so these individuals are not required to go back and complete an entire course of study; they would be able to bridge with individual courses from specific programs.

We have seen this happen with architecture. We have seen it happen in some areas in accounting, and various professions have that available. To make that more standardized would be most helpful. Cooperation with colleges, universities, and regulatory bodies is critical and necessary to develop effective bridging programs. Reciprocal and articulation agreements between countries, among institutions and also regulatory bodies, would help. The questions of terminology, requirements, syllabus descriptors, length of study, internship, placement, and residency are all serious issues that have to be discussed.

Much has already been said about the need for clear and realistic information being given to those who are already in Canada, but we also are interested in how those outside of Canada are receiving information. We agree the Internet is a keen source of information for many people, but it has to be standardized, and it has to be correct, reliable information.

I know it's not a topic that is always so positive, but we are concerned with what immigration...people representing others in the immigration process, and those doing it as a business outside of Canada, are giving as information to newcomers before they arrive. If they are doing this as a fee for service, they will give information that is not credible, because they are trying to encourage someone to immigrate to Canada. How do you regulate that? I'm not sure.

•(1025)

In this process of accreditation and assessment, there are the questions of refugees. I know that we have been dealing here mainly

with independent immigrants. You are looking at this from the perspective of someone planning to come to Canada, someone with the resources to come to Canada. We also deal with refugees who don't have a choice, and are not able to bring all of the information with them when they do arrive. They are here as political refugees. They don't have access to the countries they may have worked in. They don't have access to the institutions they have been educated in. But there must be some form of credible assessment of their skills, whether that be a challenge exam and then an internship, or some way to assess what they have learned, and also their experience in the workplace. So how can their credentials, education, experience, and abilities be assessed? We have heard about many cases of this. So please don't assume that those coming as refugees are uneducated. They are not always.

One of the recommendations we would like to put forward here is a consistent and standardized process for credential assessment, but one that is accessible to all, regardless of their economic situation. And that is looking particularly at refugees who arrive without a large sum of money. They don't come with their savings; they come with whatever they can pack into a suitcase and get safely here.

Other recommendations are for a cooperative approach supported or endorsed by government, industry, regulating bodies, educational institutions, and possibly employers; development and recognition of challenge exams, and some sort of a process to evaluate education and experience for those who arrive without their documents; development and implementation of clear and accurate information abroad; and bridging programs for those who have to supplement their education to meet the Canadian standards.

And there is the issue of enhanced language training—English for specific purposes or English that would be available for specific professions. We know that there are high-level English-language classes available, but English-language classes or funding for English for specific purposes would also help in many of the professions. I think that is something she also recommended, that there be a high level.

•(1030)

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

Now we are going to go to Mira Thow.

**Ms. Mira Thow (Member, Board of Directors, Jewish Immigrant Aid Services of Canada):** Thank you very much.

I'm here on behalf of the Jewish Immigrant Aid Society, a national body that has been helping immigrants to settle in Canada since 1922. We have a long history with resettlement and have been able to see the changes over the decades. While the problems with settlement in the forties and fifties may have been due to discrimination, now, as my colleagues have identified, the problem is often skills recognition and credentials.

Your task as a committee is to be cognizant of the public interest in ensuring that professional credentials and professional standards are met, but at the same time recognize that these barriers can often be artificial. There's a role to play by non-governmental organizations and individual immigrants themselves in upgrading. But because of the diversity, the size, and the provincial jurisdictions, there is a role to be played by the federal government. We would urge the federal government to set-up a clearing house or national body that would be able to provide credential recognition and skills assessment to employer groups, labour organizations, and professions and trades, some of which require licensing and others which don't.

An example this committee may want to look at is Australia. It has had such a national body, called the National Office of Overseas Skills Recognition. It's accessible on their website. Before they arrive in Canada, people could have both their academic and skills assessed. That would be just one organization in one country. In the European Union, they also have centres that do this, and to a lesser extent, but still helpful, the United States has a national body.

So despite the regional differences, a national body can have a great effect in providing standards and resources and in assisting employers and academic institutions set up their own evaluation systems.

Then, where there are gaps that are identified, the federal government can obviously have a role in funding and assisting immigrants to be able to take those training courses to meet the gaps. Another role is to encourage employers, through support, to provide on-the-job mentoring programs. Through those initiatives, I think a lot can be done.

I wanted to address how we found ourselves in this situation. As my colleague Bob Silver has eloquently indicated, professionals come to this country as engineers and then aren't able to find work at this level. Since 2002 our immigration act has set a standard and awards points based on a high level of education. It encourages professionals, those with masters degrees and PhDs, to qualify, as opposed to those who are skilled workers. So you get very intelligent and very capable people coming here, but they're not able to adapt as easily as those skilled workers.

If the system were such that bonuses were given to skilled workers, we would be able to attract more individuals who would be able to integrate. A good example would be a Romanian technician who is able to fix photocopiers. Because of our global marketplace, that would be a skill that would be highly useful and transferable to the Canadian context. But that individual wouldn't get the points, based on our point system, because they don't have the bachelor's degree, the master's degree, the PhD. We don't recognize those types of skills adequately in our system, and we've skewed our system to a pass mark that really focuses on a highly educated individual, and that's what's caused the problem we face.

•(1035)

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

Now we're going to go into questions.

In the first round, seven minutes, Mr. Mark.

**Mr. Inky Mark:** Thank you, Mr. Chairman.

I want to thank our witnesses for being here today. I know Manitobans are all proud of the history that immigration has had in this province. It is about immigration. Our whole history reflects immigration. The great city of Winnipeg, I know, has an annual multicultural festival that it's proud of and that's second to none in this country. When you look throughout the province, there are multicultural celebrations from the bottom to the top.

I know immigration is in all Manitobans' minds, and certainly at this level you all do a great job in trying to help out immigrants that come here. Mr. Silver is right. Not too many Manitobans are that far removed, whether they're second- or third-generation immigrants. That includes me. I immigrated here nearly fifty years ago. Unfortunately, back then there weren't any support programs, so thank God the community was the support program that got my younger sister and I assimilated very quickly. We came here with no language skills. We literally didn't know how to say hello. We were basically just off the boat...well, we didn't come by boat, but just off the train.

Here's the question I'd like you to answer, because we don't have a single national evaluation vehicle. There are always advantages and disadvantages to having that vehicle. Right now, we are at a position in which we don't have one. My complaint has always been about a lack of will from the national professional organizations to—if the right word is “will”—get it done. Is that a good thing?

The other question is, should this be internal or external? Should professional credentials be evaluated externally when you're outside of the country, or should that be done when you are already landed? It creates all kinds of problems.

**Ms. Faye Rosenberg-Cohen (Planning Director, Jewish Federation of Winnipeg/Combined Jewish Appeal):** We're not an accreditation body, but you do have one here that has spoken to some of those issues. What Manitoba has done is hold a couple of different forums now on working on credentials recognition and how to improve that process here. At one of them, I sat next to someone who represented a professional organization whose office was staffed by her alone. Instead of producing their newsletter and doing a whole bunch of other activities that she would normally do throughout the year, she had five applications for credentials assessment that consumed her entire work year.

So one of the things we have to recognize is that national professional bodies are not all large organizations where wielding a big stick has any effect whatsoever, because there may be nobody to beat with it. There may not be the sufficient skill level or sufficient knowledge, and there may be requirements for the development of new methods that allow for prior learning assessment and recognition methods, PLAR, as I believe Karen mentioned.

Everybody now has to take a new, innovative approach, rather than saying, “The way we recognize you is when you graduate from a school in our community.” To develop those innovative approaches, they will need assistance. They will need education and resources and people who know how to do that—not just know something about their profession, but know how to do that kind of evaluation. In many cases, they're missing the expertise or the financial resources to develop that expertise and to develop the methods that would let them do that.

You asked if some of it should be done abroad. I can't imagine that all of it can be done abroad, but there are certainly some pilots in that regard, trials that appear to have been quite successful. I've heard of people writing exams in the embassy in Buenos Aires that would allow them to begin the process earlier. That won't necessarily help refugees—those things would also have to be available locally—but it would help people who can think ahead, a year in advance, instead of having them quitting their jobs, moving here, and then beginning the process.

• (1040)

**The Chair:** Ms. Dunlop.

**Ms. Karen Dunlop:** I'd like to address a couple of the components to your questions. One of them is in relation to your question on whether we should have a national organization to assess credentials.

We're not advocating for a national organization to assess credentials because the reality is that professions are regulated provincially in this country. Although we have mutual recognition agreements at core, there are still some provincial and regional differences. While respecting the provincial differences, we focus on maintaining some core similarities to facilitate labour mobility.

Employers are also located provincially, so there is some wisdom in assessing credentials at a provincial level. However, there is also wisdom and some economies to be taken advantage of by creating resources to facilitate credential assessment in the province in which a person intends to locate and work. Those are the components we're speaking to with a regional prior-learning assessment and recognition program where combinations of education and experience acquired outside Canada can be assessed.

Our organization is not a large organization. There are larger regulatory bodies and nursing regulatory bodies and there are smaller regulatory bodies, but some resources exist that organizations can access to help with, as an example, education recognition or credential assessment. One in particular, called the International Qualifications Assessment Service, is located in Alberta.

That's one piece of the regulatory requirement; education is one piece. They currently do not have the resources to assess prior learning acquired through experience. We're looking for a resource to be developed to do that. Many people, as they practise, acquire competencies that they simply didn't have when they left the front doors of educational institutions, but they possess them today. That competency needs to be recognized.

We think that all of the credential assessments can be done in home jurisdictions because they largely occur on paper. Evidence of education and experience can be assessed through paper submissions. Our legislation permits us to recognize education and experience with many different types of evidence, not only formal documents, such as degrees that may or may not exist through schools that may no longer exist. We have the ability to do it, but at the same time, we have to make sure that each person who applies for registration has competency, and that requires some evidence.

There will always be some people who have nothing, no paper at all, who will have to come here. Those people are usually refugees. They're not anxious to go through or able to go through the process

in their home jurisdictions. They need to come here. We have some mechanisms locally to assess their skill levels in hospital programs right now.

I think that I've spoken to your question about a national organization for credential assessment. We don't think that's necessary. However, we think there is a need to have the exam written overseas. We think there is a need to have resources to help people prepare to pass the exam that they would write at home if it was safe to do so, and finally, that there is a resource to assess the prior-learning and experiential competencies that we currently are very restricted in our ability to assess.

Thank you.

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

We're going to Mr. Clavet.

[*Translation*]

**Mr. Roger Clavet:** Thank you, Mr. Chairman.

I'd like to put a question to Ms. Dunlop, of the College of Registered Nurses of Manitoba. First of all, I congratulate her and thank her for the quality of her presentation.

We of the Bloc Québécois also agree that a national secretariat would not be the solution, particularly since it would be under provincial jurisdiction.

I also note that, in her presentation, she put great emphasis on language skills. I'd like to ask a question on French-language skills in Manitoba; there's a need at the Hôpital Saint-Boniface and in other places.

In addition to recognizing and requiring language skills in English, is the College of Registered Nurses of Manitoba also interested in the Francophone question in Manitoba as regards recognition of the language skills of foreign nurses?

• (1045)

[*English*]

**Ms. Karen Dunlop:** The College of Registered Nurses recognizes skill competency in both or either of our national languages; however, if a person identifies English as their dominant language and the language they choose to write the examination in and practise in, then it's English competency we are interested in. We also can recognize French competency; however, with the exception of St. Boniface Hospital and a couple of other small institutions, the reality is that most people will choose to write in English.

**Mr. Roger Clavet:** I have a supplementary, if I may.

[*Translation*]

It concerns a number of certified nurses, 11,500.

Of that number, what percentage of nurses are immigrants or of foreign origin?

[*English*]

**Ms. Karen Dunlop:** I will consult with my statistics.

**Mr. Roger Clavet:** Give me a ballpark figure, just to let me know.

**Ms. Karen Dunlop:** It's very.... Can I get back to you with that, rather than take time?

**Mr. Roger Clavet:** Oh, yes, that's no problem. We just want to know—

**Ms. Karen Dunlop:** The vast majority are Canadian-educated, but the number is increasing, which is why you see me here today. It is becoming an increasing issue for us, and we are taking a more active role because the number is increasing. We feel it's our responsibility to take a more active role ourselves where that number is increasing. Although the number still remains relatively small, it increases every year, so our responsibility increases with that number.

[Translation]

**Mr. Roger Clavet:** I have another question, this time for Ms. Woodbeck, of the Thunder Bay Multicultural Association. It concerns the cooperative approach to which you referred and which would be a potential solution with regard to immigrants and refugees in Thunder Bay. I thank you for travelling from Thunder Bay to Winnipeg. I know that's not just next door, and we appreciate you're being here.

Could the cooperative approach at the Thunder Bay Multicultural Association provide for cooperative efforts with Lakehead University, with industries in Thunder Bay? Is the cooperative approach the one you generally favour even with university institutions such as Lakehead University, which could also be a potential solution for immigrants and refugees?

[English]

**Ms. Cathy Woodbeck:** What we have been working on, what we have been seeing happen, is that newcomers end up having to deal with universities, with regulatory bodies, with government, with settlement agencies. We have been trying to do that, on a smaller scale, in Thunder Bay. On the advisory committee and on the study committees we work on, we have the university and Confederation College involved. We have the professional associations that are within the city involved. We've been working with engineers, accountants, and at this point architects, because we would have a newcomer arriving from within one of those professions.

Our university uses a process of accreditation that is multifaceted, with many steps, and it's a long and very expensive process that we have encountered at this point. We feel that a merging of all of these associations, universities, government—a cooperative approach—would work. Interprovincially I don't know, but within our city it seems to work well. It's a smaller centre, and we have the capacity to do that in a smaller centre in a cooperative way.

We seem to be the association that hooks each other partner up. We are the body that will let the newcomer know what happened. We let the university know what their step in this is. We let the regulatory body know what their step is in this.

Where we see something coming together would be that each of those institutions would know how to do this; there must be some sort of cooperative aspect to it. I would hope it might happen on a national level, but it may not, because as I understand it, the provinces have individual regulations and individual limitations to this. Within each province, I think institutions cooperating with regulatory bodies, cooperating with the settlement agencies, and cooperating with the provincial government would be key.

• (1050)

[Translation]

**Mr. Roger Clavet:** My next question will be my last one. It's for Mr. Silver. I know he feels a lot of frustration when he talks about skilled, qualified engineers who are employed as newspaper delivery men.

[English]

for the *Free Press*. It could have been worse; it could have been another.

I just want to know if you are as frustrated as we all are to see those kinds of skilled people not used in the proper way. What should we do, as parliamentarians, do you think, at this point?

**Mr. Bob Silver:** Well, the frustration is enormous. I've had occasion at my apparel company to have a dentist working in the stockroom. The frustration is not for me, because I get a wonderful worker; the frustration is for them.

In order to try to alleviate some of those concerns, we've had ESL courses for four or five or six or seven years. We've done what we could.

I'm not alone in that frustration. One of the great barriers to economic growth identified by another group I work with, called Destination Winnipeg, and by the premier's economic advisory council is the lack of skilled labour here in Manitoba. On the one hand you have this group of employers who are discussing their lack of skilled labour as an impediment to their growth, and on the other hand we have skilled labour trying to get in and finding it very frustrating. In most cases they do not have the financial wherewithal to withstand the one, two, or three years of the combination of getting into the country, finding the training dollars, and spending all that extra time.

While this dentist was filling orders in my stockroom, he was going to school at night both for English and to get his papers in dentistry. I look at those people not with frustration; I would like my son to be like that.

There's great frustration there.

[Translation]

**Mr. Roger Clavet:** But, as an entrepreneur, do you hire immigrants?

[English]

Do you hire immigrants?

**Mr. Bob Silver:** Absolutely.

I hate to be prejudiced, but if I had to judge the quality of desire between immigrants and non-immigrants, the immigrants would win.

[Translation]

**Mr. Roger Clavet:** Thank you, Mr. Silver.

[English]

**The Chair:** Thank you.

Mr. Siksay.

**Mr. Bill Siksay:** Thank you, Mr. Chair.

I would like to thank everyone for your presentation this morning. You've been very helpful.

I want to come back to this whole idea of building the frustration these folks are having, and at the committee we've heard from other settlement organizations. One thing in particular is that the kind of anger they're now facing with some of their clients has caused them to put in various security measures in their interview rooms, panic buttons and that kind of thing, because people are getting to the point where they are not just frustrated but are getting very angry about the circumstances.

I'm beginning to wonder about the way we've structured our immigration program and whether we are not going after the wrong people again, as Ms. Thow said and others have been saying over the last weeks. In the same context, we heard that people coming through as family class immigrants tend to be happier even if they're working in less well-paying positions because they have the support of family and because they had different expectations on arriving in Canada.

I just wondered if folks could comment on whether there is a great failure in our immigration program now in that we're encouraging people with high levels of education but don't seem to be able to accommodate them. We don't seem to be able to match that expectation once they get here, yet we have this 60-40 split: 60% of our immigrants come from the economic and skilled worker class and 40% from refugees and the family class. Is that ratio out of whack now with the way we'd best integrate and settle people into our society, and should we change it? I just wonder if all of you could comment.

● (1055)

**Ms. Mira Thow:** It was part of a new policy that the Department of Immigration brought in to attract what they call the best and the brightest. And there definitely is a need for very bright people in the technology trade. But as you've identified, we're leaving out the skilled workers because on the federal side they cannot meet the education points assessment that's necessary. So we have to try to balance that.

At the same time, we want to encourage these bright people to come. When I was talking about a national body, I wasn't talking about a body that would actually do the credentials assessments themselves. I think Faye Rosenberg-Cohen hit the nail on the head. There are many professions and trades, whether or not they require licensing, that don't have the resources or the wherewithal or the understanding to set up skills recognition systems. A national body can provide that support service to them and can refer out. There are many organizations. We have private credential assessment organizations that are offshoots of the U.S. and companies primarily that we have in Canada. We can utilize those. But even in our federal-provincial system there's a role for a national body to play.

Getting back to that balance, that 60-40, clearly there was a policy taken to select our own immigrants. It's felt that in family class, it's the family that is self-selecting rather than Canada trying to select who are the best and the brightest. Well, if we want to keep that policy, we have to have in place the assessments in advance, the skills recognition systems to integrate these people so they don't face

these frustrations. There have been many studies about how difficult it is and the frustrations that everybody feels. We've got to put in place these resources, and more than on an ad hoc basis.

The United States and Australia do that. In fact, the U.S. is taking a lot of our highly skilled—especially in the computer field—because they've set up systems that recognize foreign credentials that we're just not familiar with. People come from India with degrees and we don't understand the meaning of that degree; employers don't understand the meaning of that degree. The U.S. has set up a system to educate employers. They're able to tell them what that university means in terms of a Harvard degree, in terms of a Yale degree. Employers therefore feel more confident in hiring someone because they know the skill is transferrable. That's an important aspect if we're going to want to attract the best and the brightest.

**Mr. Bob Silver:** Both the Province of Quebec and the Province of Manitoba have reached agreements with the Government of Canada that are rather enlightened compared to other provinces. The nominee programs are very successful methodologies for getting a match between skills needed and jobs needed or work needed here in the province. I really commend both the provincial governments and Canada for doing so.

Those are areas that can be expanded upon, and they are great ways of working. But we're talking about today. And that province will determine the percentage, enable it to work between the 60-40 percentages that you brought up. In Manitoba, the frustration, even with this enlightened program, is time, and that time becomes money.

I'd like to make one other comment, because one of the questions we anticipated was what would be the costs and challenges of implementing processes, of augmenting services, both here and abroad. And you can't do it in one place without the other; it has to be both. I'd really like to tell you that these aren't costs; these are investments in our future. If we deal with it as a country as cost, we've lost the tone.

This country's not going to grow, it's not going to be the country it should be, unless we look at it as an investment. If you want to look at it as a cost, look at the cost if we don't do this.

I'll tell you a little story. I have an associate who buys a lot of my products from China these days—that's the way of the world. I was driving him around Winnipeg—it was a nice sunny Saturday—and I was showing him where people live and where people eat and everything else. He just turned to me and asked me one thing: "Where is everybody?"

We've got to fill this country full of good people.

● (1100)

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

Mr. Anderson.

**Hon. David Anderson:** I have just one caution. I just returned from Beijing not too long ago. I don't think we want to have the number of vehicles on the roads of Winnipeg that they have in Beijing. But that's an aside.

I think all the witnesses have described very well the need for substantially improved recognition and training within Canada. But I would like to back up to something that was touched on by Karen and others about the role overseas. What are people learning overseas—these people who have skills and are the best and the brightest? What are they being told about Canada?

We have an opportunity to handle some of the information through the government, but most of the skilled people in certain jurisdictions of which I'm somewhat familiar tend to use immigration consultants to speed up the process. They are in societies where they find it difficult to believe you can deal directly with the government just as quickly as you can through a consultant, who greases the skids or somehow makes things work faster. So there's a cultural tendency to use immigration consultants.

To generalize greatly, many of these consultants do not tell the whole truth and nothing but the truth about the opportunities in Canada. This is important because some of the people we're talking about, the best and the brightest, won't be able to find effective and satisfactory jobs in Canada no matter what training we do, and no matter how we recognize their credentials. Those aren't the barriers. The barriers are that they're misled about the opportunities. They come here and are not successful, so they might go to the United States, Silicon Valley, or somewhere else.

To those with experience in the field, such as Cathy and Karen—in fact all of you—do you find with your clients that the problem of misunderstanding is related to the consultant? Do you find it is just a general misunderstanding about Canada that they get from the media? Are there errors about Canada that they learn from previous immigrants? Is it perhaps information that we could correct through better information from the Government of Canada?

**Ms. Cathy Woodbeck:** I would like to take that one, absolutely. It answers your question as well about our frustration at having clients come into our office, newcomers, and telling us they were misled. They have no redress. There is nothing they can do with the immigration consultants they dealt with in their home countries.

It's a money-making business for these immigration consultants. They're not going to tell someone, "Don't go there, don't bother", because they won't make money in that situation. They certainly do mislead newcomers by telling them there are jobs. They use statistics on the numbers of newcomers arriving and getting jobs in their fields. They don't tell them about the ones that don't. They end up being very frustrated, quite upset, in our offices, dealing with settlement workers who don't really have a lot to console them about once they are here. It is a serious problem.

I don't think previous immigrants are giving them false information, because immigrants arriving in Canada who have lived here know what the situation really is. They send back the information of reality. They're honest, and they tell them that things

here aren't as bright, prosperous, and positive as they have heard they are.

I don't think the media has a lot to do with that. We need to get information to newcomers while they're still at home through some portal or website. I know in Ontario the settlement.org website is a fabulous one and does provide information. We see that the hits are international. Newcomers are looking at that before they arrive.

But are immigration consultants a concern? Absolutely.

• (1105)

**The Chair:** Ms. Dunlop.

**Ms. Karen Dunlop:** Rather than focusing on what immigration consultants are or are not doing, we ought to find a reliable way to provide information to potential immigrants in their home country. Information that is currently available about Canada is fairly general. If we had a centralized place, or what we call a central access point, where they could access information not only about licensing or qualifications but also about employment opportunities, potential employers, or settlement issues, it would greatly enhance their ability to make an informed decision.

Sometimes there is a disconnect between having the qualification and finding a job. It may not be that their qualifications aren't recognized so much as that the job market is saturated for that particular skill level, requiring them to go back to university or to go back and acquire different skills. This is very frustrating if their information was accurate and they come with skills and recognized credentials and there is nothing for them to do. Their opportunity is very much provincially based.

So I think that if we provided them with better access to information, perhaps the reliance on immigration consultants, which you are not going to be able to regulate overseas, might diminish.

**Ms. Faye Rosenberg-Cohen:** I don't think we should lay this all at the feet of immigration consultants. We are a community support agency with the Manitoba provincial nominee program. As such, we see visitors who come to our community to look us over before we support their application and before they make the decision to move to Winnipeg and to be part of our community.

We see all kinds of people, some of whom have been outright swindled by consultants. They take their money, then tell them to camp out on our doorstep and everything will be fine. At the other end, we see people who have heard what they wanted to hear because they really need to leave where they are.

So I don't think that we should lay it all at the doorstep of consultants. I agree that good information is really relevant, but you have to consider the other side of the question. Take an engineer who comes here and gets his credentials recognized and then discovers that he can get back to the level he was if he is willing to put in seven years of study while he works at something else and attempts to support his family and send his own kids to university. He can get back to where he was in about ten years. We see people who are doing that, who are in that process. If they could have started that process with a concrete assessment of their case, given before they came, it would go a long way towards dispelling the notion of misinformation. Sometimes it wasn't misinformation. Sometimes it was just no information or a misimpression.

The other thing that happens has to do with the point system. If you look at the point system for a federal application, or if you look at the system the way it existed before May of last year in the province of Manitoba, you would have the impression that the people who are most needed in this country are PhDs and people of professions who will have to get re-licensed. That's the impression that you have. That's the way the points were awarded.

So if you go through the process without a consultant, without anybody giving you bad information, and you read only what we as a country give you to read, what you download off our website, you will come away with a misimpression that the workers we need most in this country are people with master's degrees and PhDs in a variety of fields, except perhaps some of the licensed professions. For these, Manitoba says, "Wait a minute. Don't apply. You can't apply unless we know you can get work." They have an agreement, for instance, with nursing associations.

So the misimpression, the anger, the frustration starts with the notion that we are awarding points only for the highest levels of education. I wouldn't even know how you would begin to assess it, but there is nothing that assesses somebody's motivation to re-establish themselves, which is probably a greater predictor of success than their level of education.

**The Chair:** Thank you.

**Ms. Mira Thow:** I agree with Faye. In addition to being on the board of JIAS, I'm an immigration lawyer who's been practising in Winnipeg since 1988. So I wouldn't put so much emphasis on people coming here because of consultants promising them certain jobs. We have to be realistic. The immigrants who are coming to Canada are not coming here necessarily, number one, because of a promise of a job. There's a push factor. We get people because of a necessity to have to leave their country, either through collapse of the economy or war. Those are the primary pushes that make people want to come to Canada.

Now, where there are situations of consultants who may not be honest, our visa officers are advising immigrants that they won't get jobs, that they might not be licensed. But these individuals have no other choice and they want to come here. We want these individuals because of their skills, so we have to bypass and not worry about the consultants. We have to put in place an institution that will assist them to get their skills recognized and that will be able to integrate them here.

As Faye has also said, our system doesn't attract the skilled worker. Our system attracts the professional, and the professional will have the hardest time integrating without that kind of skills assessment and assistance.

• (1110)

**The Chair:** That was a very good point on the need to differentiate from somebody who might come here as a refugee, or maybe not as a refugee but they want to get away from their country. I have had situations in my office where people have come in and they were engineers and they left good positions in other countries to get here and they really felt that they were misled.

I think what Mr. Siksay is saying is that we had some testimony in Ottawa from one of the immigrant assistance organizations, and I guess they were dealing with a lot of people who came here, as a conscious choice, so that they could practise their profession, and then they ended up being very, very frustrated.

At the same time, by changing the point system, it becomes difficult for us to get the skilled trades who have jobs when they get here. There are jobs going begging for a skilled trade. So somehow we have to deal with the disconnect.

Now we are trying to attract the best and the brightest. We're competing with Australia, which has a much better system than ours. And we as a committee, at some point, will have to get there, because they seem to be the ones we are compared to and they seem to do a lot better job than we do—in this area, anyway. But we're going to lose to their competition, once the word gets out that in Canada it's not all that it seems to be.

Now mind you, in the last budget we announced a \$20 million portal, so hopefully we will get the information out there. But this is a serious competition we're into, and we have to really decide what we want. We can't send mixed messages.

**Mr. Bob Silver:** I've had, as an entrepreneur, absolutely horrid experiences with immigration consultants, and I've been bailed out by some very wonderful immigration lawyers.

I don't think we can dismiss it quite so easily. In the experiences I've had I would paraphrase these individuals as they are in China, as snakeheads. I think we have to be cautious. I don't know you can dismiss it, because if that's the first window the people see of Canada, it's not the proper one. So I think it would be a lot easier to become a consultant in immigration than it would be to become a nurse in Canada from another country. I think we do have to be careful.

**The Chair:** I think they put some licensing in place, but that doesn't necessarily help over in China.

We're going to go on to Ms. Woodbeck.

**Ms. Cathy Woodbeck:** I just want to respond to the portal comment. In a couple of discussions that I've had with NHQ for Citizenship and Immigration Canada on the portal issue, I think that where that's moving is positive, and the funds that were put into it in the last budget. I think there is also the need for that national portal to link with each of the provinces to have provincially specific information, or at least have some link if it was to the province of the Ontario or the province of Manitoba, because it's not going to be able to cover what the individual provinces have as regulations or employment statistics and so on.

•(1115)

**The Chair:** We will go to Mrs. Grewal.

**Mrs. Nina Grewal:** Thank you, Mr. Chair, and thank you all for your time and presentations; certainly we have learned a lot.

When immigrants immigrate here on the point system, their degrees are recognized; however, once they come here, they are not recognized, and they do all sorts of small jobs. Their skills are underutilized. What do you think the barriers are in recognizing these foreign credentials? How can we overcome these barriers? How can we make our system more efficient and workable for our new immigrants?

**Ms. Karen Dunlop:** I will speak to that.

I think a lot of it has to do with recognizing...identifying the requirements for licensing before they ever get here, having the ability to recognize their competencies in a broad way, so it is not just strict credentials assessment of this degree from this university, but rather this educational credential plus this experience for this individual. That was the prior learning assessment and recognition resource I spoke of.

Once somebody has the ability to get licensed—and that means not only becoming eligible, in our case, to write the exam, but also writing it and passing it before they get here—it will contribute greatly to their ability to integrate into the system, because they will already have demonstrated they have the skills, they have the knowledge, they have an understanding of the system, and they have status within our country of having that licence to practice. They likely also will have a job, based on the immigration system as it is currently set up.

So I think that will go a long way. It's when they come here and try to figure it out and flounder around...they get jobs as caregivers—or housekeepers, in the case of nurses—and they are just trying to find their way. They become known—and for themselves—as somebody with a much lower skill set, rather than arriving as a professional.

So I think that ability—to recognize their credentials and get them licensed before they ever get here—will greatly contribute toward resolving that issue.

**Ms. Faye Rosenberg-Cohen:** It's not just the primary applicant whose credentials need to be recognized. In some cases, a couple will arrive, and one of them is quite capable of getting work, but the other will have to start over, and will have to have all their credentials evaluated, and may have to learn English first, because it was their spouse who had more English when they applied.

In some cases that's a gender equality issue, because the man was able to work and the woman, who used to be a physician or who used to be a financial analysis professional in business somewhere, is now at home with the children, because there is no option; there is no choice for her. Sometimes it works in reverse—someone takes this cut in status when they get here, because they have to take the time to requalify.

One of the things we also need to do is educate our own population about the fact that someone who has been out of the job market for four years while they have been retraining is still a

potentially valuable resource. Bob knows what he gets out of the dentist in the storeroom, but not every employer does. One of the things we haven't seen is...when we make calls to people, we always get a positive response. We ask if they will see someone, and they say yes. We very rarely get someone who says not to call them and ask that question.

But generally—in business, in Canada—I think there's still some education to be done, some work to be done, to make it clear there are people with significant levels of motivation and people who made the choice, who said “I know I gave up my profession when I left home, but I still want to work. Don't tell me I can't work because I'm overqualified. Don't tell me I can't work at all because I have a PhD, and therefore the only thing I can do is drive a taxi.”

There are people who need to be able to find their way somewhere in the middle and who need to have their skills valued. After they have put in all the effort of learning English and getting themselves back out in the marketplace and doing some sort of education for themselves, they still need that opportunity. It was easier to get 80 years ago, when everybody sort of had memories of being in the same boat.

•(1120)

**The Vice-Chair (Mr. Inky Mark):** Since I'm in the chair, I will ask a question to Mira: What are the Americans and Australians doing better than we are doing?

**Ms. Mira Thow:** They have this clearing house that I spoke about. In Australia, it's the National Office of Overseas Skills Recognition, and they provide a service to individual employers to those professions that may need it. I mean, we have heard of professions that have already set up very good programs and are able to do it, but there are many others that haven't and don't have the resources.

They provide an assessment of the academic qualifications. They assist universities in setting standards to assist them in evaluating. They have partners they've identified privately that are credential assessment organizations that they refer applicants to. They provide a service. Any employer, an individual employer, can contact them and say “I want to set up a skills assessment. How do I set it up? What are the standards for this occupation?” They will then customize a program for that employer.

That would be something that would be important to investigate.

**The Vice-Chair (Mr. Inky Mark):** What is their role with government?

**Ms. Mira Thow:** It's a government council. I know they utilize private organizations. I don't know exactly their legal structure, but they do have a website. That would definitely be something to look at.

Also, the European Union—though I am not as familiar with them—has national recognition skill centres where people can send in online. So we have the education component that the panel members have spoken of. It's important because it can be done online before the applicant arrives.

**The Vice-Chair (Mr. Inky Mark):** Do you know if they are funded by government?



**Ms. Mira Thow:** Their website has the big Australian government seal, so I'm sure the government funds it, but I don't know to what level.

**The Vice-Chair (Mr. Inky Mark):** Would you know if all applicants must go through that organization in order to have their credentials evaluated?

**Ms. Mira Thow:** It's not mandatory. And in our system, obviously, this would be voluntary, as well, given the provincial jurisdictions. But I think most organizations and employers and labour associations would look forward to that kind of supply of resource and funding.

**The Vice-Chair (Mr. Inky Mark):** I think it's an interesting concept. We have in the past talked about looking into the Australian model.

**Ms. Mira Thow:** There was a report done by Professor Jeffrey Reitz of the U of T. Is this panel familiar with it? That would be another source of information.

**The Vice-Chair (Mr. Inky Mark):** Thank you.

Any further questions from the members of the committee? Mr. Clavet.

**Mr. Roger Clavet:** Yes, I'll have another question.

[*Translation*]

I thought I understood that part of the problem—and that was mentioned by both Mr. Silver and Ms. Dunlop—is attributable to the fact that there are immigration consultants at the outset who provide inaccurate, incorrect and false information.

Are these isolated cases or does it appear, in your respective fields of expertise, that the information originally provided by immigration consultants, be they lawyers or private corporations, is quite frequently the cause of the problem? Am I mistaken? Is that only an impression?

[*English*]

**Mr. Bob Silver:** I'm not sure you can paint them all with the same brush. I have had experiences, as I have said, of dealing with two or three in particular that certainly gave the wrong information and created great hardship because of it. I don't think the accreditation for immigrant consultants is anywhere near as difficult as some of the ones we have talked about today.

All of the experiences I had would have been different, perhaps, if the people had worked with an immigration lawyer rather than an immigration consultant. I can say that for a fact; it wouldn't have happened.

• (1125)

**Ms. Cathy Woodbeck:** My response to that would be that we generally end up dealing with the people who have had the problems. We don't necessarily have the clients coming in to tell us about the great experiences they have had and those that have given them correct information. We are going to hear about the ones where it hasn't worked out quite as well, and that's generally who is coming through our door.

We also find—and someone else has mentioned this—that immigration consultants who know the client is coming to Thunder

Bay will give them our name because we are a settlement agency, and we are federally and provincially funded to provide these programs. So they say, here's a free service; here is someone who's going to assist these people, so let's send them there. So we also get that side of the picture.

**The Chair:** Ms. Rosenberg-Cohen.

**Ms. Faye Rosenberg-Cohen:** Anybody outside of Canada can offer services as an immigration consultant of some sort. A person doesn't have to be registered with our system in order to sell someone services. Now, we may never find out about it until the person who bought those services is here already, in front of us. Then we find out \$10,000 was paid for a whole boatload of false information.

But in the meantime, people are buying services from somebody, probably in good faith, maybe with a little wishful thinking. Now, you can't say that this is endemic everywhere. Certainly there are some countries where it is more prevalent than others, but we've had a wide variety.

Our system in Manitoba discourages the use of any sort of intermediary. When people come to us, we are responsible for interviewing them, talking to them, communicating with them by e-mails for months in advance of their visit. And yet occasionally now we will still get someone who shows up at our door on a visit, and we'll ask if somebody helped with any of the information. We did find out in one instance that someone was given all kinds of help with his information, but was then told not to name the person who gave him the help.

Sitting in front of us, they came to the understanding that it was a whole load of garbage, and told us about it. But there are people who are being swindled. Their money is being taken and they're being given false information. It's not false information from an immigration lawyer who's here or somebody necessarily who is registered as a consultant under our new process for registering consultants. It can be their next-door neighbour who said he'd help them fill out the form because he knew more English—and they know nothing about it.

In some cases it's not even an intentional lie they're telling. They're saying they heard this from someone else, and it's just a rumour. But we've seen people all over that spectrum from the ones who've been swindled outright or who've been swindled and told not to tell—someone who has been swindled and come crying because they've now spent all their resources on this so-called consultant, to people who just got some information from a neighbour and it didn't turn out to be good information.

**Ms. Karen Dunlop:** Our organization has had less experience with consultants than some of the other organizations here, but I would just say that our organization has had some positive experiences with them. We would be reluctant to paint them all with the same brush. Some have been highly facilitative, and the nurses who have come over have been very successful in both passing the exam and integrating into the community. We also see success, as well as some problems.

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

Our session has expired. I want to thank everybody for coming.

I was here a couple of years ago, and many of you were here as well. We will make sure that the committee gets the benefit of the transcripts from the time before.

Thank you very much for being here. I hope we will get some action sooner rather than later. The next time we're here, you'll be able to tell us how the new process is working. Thank you.

The next group is going to be Professor Vedanand and Monika Feist.

• (1129)

(Pause)

• (1135)

**The Chair:** We're going to resume hearing from our witnesses. We'll start with Professor Vedanand for five minutes, and then Monika Feist for five minutes, and then we'll go into questions.

Could you start?

**Dr. Vedanand (Professor, Transcultural Management, University of Manitoba, As an Individual):** Good morning.

I have a sore throat, so I hope you will bear with me. I am thankful to the members of the standing committee to have an opportunity to present my views, primarily on the recognition of international experience and credentials for immigrants.

Some of the important issues related to international experience and credentials have been highlighted, but the purpose has been to emphasize the problem that economic immigrants face when they are unable to work in their official trade. It is very important to see the difference between high-skilled, as compared with low-skilled, trades or professionals. A lot of the immigration programs for education, etc., are focused primarily on those who have been well trained—the engineers, doctors, IT professionals, etc.—and therefore much of the policy that has been developed primarily focuses on the challenge of professionals in certain economic segments: IT professionals, medical professionals, etc.

What is interesting is that if you take a look at foreign professionals who have been trained elsewhere and who are applying for a job or a position or a visa, it takes a long time, and also there are a lot of problems. Let me tell you about a case study of the Indian technology institutes. CBS had a special program primarily looking at this, because they had learned from writers for *Business Week* and other Wall Street journals how to discover the talent.

Wharton School, for example, sent the dean to look for the professionals, and this particular case was highlighted when CBS ran a spot story in India. The person who was interviewed said his son did not qualify to get into the admission stream of the Indian Institute of Technology IT class at Mumbai. What had happened was—he was pretty smart—he did not get into an Indian technology institutes in India, but he landed a good job and arts admission in Cornell University. This kind of very bizarre situation, for people who are looking for a visa as a university student, and which so far is pretty difficult, or whatever... Similarly, in the United States, for example, there has been typically this quota for the H-1B visa, and people come with certain lower levels of IT credentials, where they get a job.

There is a degree, for example, in some areas in South Asia, in India also, called MCA, Master of Computer Applications. Most of those people have been able to get jobs in Germany and England and even in the United States. In Manitoba we will not accept anyone with that kind of degree. When you take a look at some of the equivalencies of certain degrees or education levels, this creates some real problems. When you're looking for highly talented, high-skilled professionals, they are the ones that are worth seeing as the portfolio investment, the human capital or social capital investments.

• (1140)

What they are doing and what they have done is interesting. Some studies have been done in Canada. One was done by the C.D. Howe Institute. They are looking at the number of professionals who have not been able to get jobs. Whatever the problem has been, they're not properly employed or they are unemployed, and now they are delivering pizza. That also means that a huge amount of social capital and human capital has been invested over the years for billions of dollars.

At the level of politics, policy-makers have to take a look at these issues and at how to make the best use of peoples' talents, if they're there, how to make them productive, and how to challenge the situation, so that we don't let them waste their talents.

One of the models is in fact in Israel. As I have mentioned, they have a ministry and the ministry is called immigration and settlement. That is very important. Some assistance is coming from Moscow to make sure that these talents are put to use right away.

How much time do I have? Do I have one minute?

**The Chair:** Okay, quickly. Do you want to get to the questions?

**Dr. Vedanand:** Oh, okay. I'm sorry.

I'll really focus on something I wanted to do. My focus is on international experience for professionals who do not really get to the upper levels of skill. If people have expertise in what is known as the complementary and alternative medicine system, CAM, where do they go? In the United States during Bill Clinton's presidency, they set up a major stream of studies at national centres, the NIH, so that they could immediately go into this area. I think they committed \$200 million.

Much expertise is in the areas of new social movements and new additional medicine systems, Chinese, Indian, yoga, meditation, etc. All those things have become a major force. These people do not really get into our evaluation area. Most of them are trying some things. It's a very challenging area that I'd like to focus on.

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

We have Ms. Feist next.

**Ms. Monika Feist (Director, Success Skills Centre):** Thank you, ladies and gentlemen. I look forward to hearing your deliberations.

Success Skills Centre is an immigrant-serving employment agency that has been in existence for the last twenty years. We work specifically with skilled and professional immigrants.

You could be the most famous doctor in the world. If you come from the United States, you might make it in Canada. If you come from another country in the world, you have to start from scratch. You're going to have to study your basic chemistry again and rewrite your exams, as though you had just come out of med school, even after maybe serving twenty years already at an international level. That's the quality of doctors we get in this country: high-level specialists.

We also have dentists, but when they come here there isn't that studying, although I think that was a misunderstanding on the part of Bob Silver earlier when he said they can study at night to get their credentials. Dentists have to go back to school permanently for two years, full-time, and a very limited number of dentists are allowed to go. As a matter of fact, only six dentists were allowed to attend the dental school in Manitoba this past year, and none of them were dentists who arrived in Manitoba.

Let me just tell you a little bit about what the Conference Board of Canada says in its publication *Performance and Potential 2004–05: How Can Canada Prosper in Tomorrow's World?* It identifies the lack of recognition of international experience and credentials of highly-skilled immigrants as a national failure. The board states, "On average, each immigrant has brought \$30,000 of capital into Canada since 1980". Given that 3.4 million immigrants living in Canada today have arrived since then, this represents a capital infusion of more than \$100 billion—not million, but billion—in current dollars.

The board calls for a new deal for immigrants. It says we should be improving the selection processes to ensure that the best qualified applicants are selected "with all possible speed, with fairness and with full regard for national security"; to recognize the credentials and make use of their skills presently being wasted; and to provide more adequate assistance for settlement and integration.

At present, our experience is that immigrant skills, work experience, professional qualifications, and educational credentials have only been partly recognized and utilized. Governments, post-secondary institutions, and professional, trade, and regulatory bodies all share in the blame for the unreasonable, shameful barriers they erect to keep out the internationally trained. Their artificial gatekeeper barriers impose phenomenal personal and family costs and risks and unnecessary remedial training and education on skilled immigrants seeking recognition. Those skilled immigrants often duplicate their education in Canada while using up valuable dollars that we could be using to train Canadians also.

In spite of the multitude of recommendation studies—tons of them—and ongoing consultations with the immigrant communities and service providers, government ministers and committees at the federal and provincial level still continue to hem and haw at taking decisive and quick action to resolve the problem. In an open letter last spring, 27 cross-Canada immigrant-serving organizations forming the Newcomer Labour Market Partnership wrote to the Prime Minister, urging him to take a public leadership stance on government actions to resolve the following contradiction:

Canada loses over \$4 billion *annually* through the un-/under-employment of internationally trained workers immigrating to Canada. Canadian employers estimate that over 300,000 jobs go unfilled for lack of skilled workers. Canada's ability to compete effectively in the global marketplace is eroding due to our failure to fully employ skilled immigrant workers while our competitors do.

... Canada cannot afford to waste these national assets if we are to remain globally competitive, make advances on establishing a knowledge-based economy and replace skilled workers as they retire.

● (1145)

The partnership's first recommendation is to stake out a mandate for the Government of Canada and its relevant ministries that will create a human resources investment program, with stable and adequate long-term funding for newcomers, as is already established for youth, people with disabilities, and older workers. Make skills upgrading and retraining for the new labour market more universal. Extend other labour market support programs to underemployed workers to facilitate labour market re-entry, and address immigration access issues.

Second, accelerate labour market discussions with the provinces that will lead to a streamlined, efficient, and transparent credential assessment and accreditation process for regulated trades and professions that recognize legitimate newcomer assets. Integrate settlement, language, and employment preparation programs into a systemic response to labour market gaps and skill shortages. Establish immigration-to-work programs that address Canadian employers' risk aversion to workers with no Canadian experience. Encourage newcomer employment further through pan-Canadian marketing strategies and employer subsidy programs.

Third, recognize the expertise of organizations already working with Canada's newest workers by evaluating the integrated service capacity developed by the community-based sector, and directly involving groups in policy development and program design and implementation. Engage newcomers themselves in collaborative efforts with the provinces to reform occupational regulatory bodies. Provide adequate, secure, and equitable service contracts to community organizations that focus on quality standards and outcomes, as opposed to the largely cost-focused partial contribution agreements.

In more detail to the above, the Success Skills Centre, as an immigrant-serving employment service agency, recommends the federal government re-orient and expand the language instruction for newcomers to Canada programs—LINC programs—and provide advanced language training for skilled immigrants entering jobs requiring advanced technical language and communications.

Provide refundable loans to encourage immigrants to fill gaps required by the professional trades and regulatory bodies.

Provide funding for formal, six-month paid internship programs for skilled immigrants at employers' sites, in order for them to gain Canadian workplace practice and exposure.

Open the employment insurance eligibility criteria to allow first-time entrant training of immigrants.

• (1150)

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

Now we'll go to questions.

**Ms. Monika Feist:** Could we just give one—

**The Chair:** Well, I let you go to eight minutes, and we are going to be breaking at twelve so we're not going to be able to have any questions. In our communications to everybody we were very clear that you would have five minutes.

Mr. Mark.

**Mr. Inky Mark:** Thank you, Mr. Chair.

Welcome to the committee. What you've given us this morning is information we are very frustrated about, even in my own riding. Most of our doctors are now coming from South Africa. They have all kinds of credentials, but the problem is that the college here keeps changing the requirements. They come here to practise, and the college changes the requirements and makes them take more courses. Then they get frustrated and want to move out of the province. That's what they do—they move out of the province.

My son was in dental training six years ago. I ran into a couple of foreign dentists who had to do the same thing—go back to school for two years.

So where is the problem? Are the professional organizations protecting their turf? I spoke to the CEO of the Canadian Medical Association. He said, "We're providing more slots for training". But if you look across the country, every profession has its own set of rules, so what does the federal government need to do—use the big club? If the professions across the border are protecting their turf and don't want more foreign-trained professionals involved in their business, how do we get past that?

[Translation]

**Mr. Tayeb Méridji (Labour Market Specialist, Success Skills Centre):** What must be done first to eliminate this obstacle is to enable all professional immigrants to take these examinations in their own training language before coming to Canada.

I have in mind the example of teachers who have prepared before coming. They called me once they had arrived here. They acquired their teaching certification before arriving in Canada because they had directly obtained the information they needed in order to prepare. If the federal government selects immigrants based on their education... If you don't hold a doctorate, a master's degree or a bachelor's degree, you can't come to Canada. Canada doesn't take in poor people; it takes in rich people, who come here with their fortunes, and who lose them after three or four years.

I work with them every day, I share their situation on a daily basis and I help them step by step in starting up, in integrating professionally. First it's necessary to enable them to take their examinations, to see that their university qualifications are

recognized in their own language of training. If that language is French, the examination must be in French. If it's Arabic, the examination must be in Arabic. If it's Hebrew, the examination must be in Hebrew, and so on.

Second—and this is very, very important—when they arrive here, they need training, English and French courses, to enable them to achieve the sophisticated level of the average Canadian. We don't want English courses where they learn things like:

• (1155)

[English]

Do I need to say good morning, tomorrow, or morning? We need professional language skills training—French or English.

[Translation]

Third, I'm a labour market specialist. I work with employers and immigrants. I'm going to tell you something: I directly place approximately 30 persons a year. Through what? Through the internship program. It's a volunteer job, an unpaid job.

I referred to a case that has just occurred. He worked four months without pay producing viruses in a laboratory. He didn't receive a cent, but he acquired the knowledge to get a job. He's starting a job this month.

We need money. The federal government must give us a portfolio, a cheque for \$7,500 per immigrant for every employer who hires an immigrant. I guarantee you that these immigrants are professionals. When they get a job, they go there to work. It is essential that we interest employers with cheques, not with words.

[English]

**The Chair:** Mr. Clavet, you have only a few more minutes left.

**Mr. Roger Clavet:** I'll go with that.

[Translation]

Thank you, Mr. Méridji. Thank you, Madam.

First, I want to congratulate the Success Skills Centre. I know it's been doing an extraordinary job for the past few years here in Winnipeg. I've witnessed the work it's doing. That must continue. However, I share Mr. Méridji's frustration over this possibility we have in Canada of turning our backs on highly qualified people, in spite of our fine words.

I wanted to know the Francophone aspect of immigration to Manitoba. Mr. Méridji, you've been an immigrant of Algerian extraction for 25 years. I don't see any representatives of Francophone organizations here this morning. Do you think there is a problem on the Francophone cultural side, or does the problem you raise only have an Anglophone dimension?

**Mr. Tayeb Méridji:** That's the case for all immigrants. Whether they're Francophone or not, French is not recognized as a language of work in Manitoba. It's an advantage, no more. If you're well educated in French, you can change professions. I'll give you an example.

I sent some chemical engineers to the Collège universitaire, and I suggested that they become mathematics, chemistry and physics teachers. They went back to school for two years to learn how to teach, and they became teachers. That's a professional adaptation, a reorientation. In professional terms, French is non-existent in the general economy. French isn't considered as a language of work.

• (1200)

**Mr. Roger Clavet:** The internship program is really based on volunteer work. Are there only volunteers working in the internship program?

**Mr. Tayeb Méridji:** Absolutely, because, if you don't do any volunteer work in order to get a reference, there's no chance of opening a door to a job, and most immigrants have to do volunteer, unpaid work for four to six months in order to get a job.

**Mr. Roger Clavet:** So you want a cheque from the federal government.

**Mr. Tayeb Méridji:** I'd like a cheque for \$7,500. That used to be the case. This is a program that was offered at Human Resources. The cheque was offered to employers, and immigrants were able to find jobs easily. It was offered until 1997. Since 1997, if immigrants don't volunteer, they can't get a job related to their profession.

In fact, what's the purpose of the Success Skills Centre? What's the government's objective? It's to bring in immigrants and put them to work so they pay taxes, GST, PST and so they have children. If they're not offered this chance of getting a decent job, they can't get a decent job.

**Mr. Roger Clavet:** Thank you.

[English]

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

Our time has almost expired. Does somebody have a short question?

**Mr. Bill Siksay:** Thank you, Mr. Chair.

I don't know if it's a short question, because it's a very complicated issue. I appreciate the frustration that all of our witnesses have expressed about the situation this morning.

Ms. Feist, you mentioned the gatekeeper barriers. Mr. Méridji, you talked about writing exams in one's native language. Maybe that was one of the barriers you were talking about. We've heard from professional associations. They have stressed the need for language skills, and the need to maintain Canadian standards and service standards. How do you see those two meshing? Is not being able to write exams in your native language a gatekeeper barrier, or is it a legitimate requirement?

**Ms. Monika Feist:** Well, I think being able to write the exam, first of all, to demonstrate your knowledge of what Canada wants you to know in your own language would be helpful. That's number one, so that Canada can be assured that, yes, they do have that knowledge, without guessing and making them write exams for which they may not have all the precise language.

I was involved in the assessment for the language level the nurses had to be at, and it's what is called an eight-plus level. You know, many Canadians don't have an eight-plus level, okay, and then you're asking somebody who is coming to this country to be able to speak

it. And yes, they may have...even if they've learned English in their own country and they even speak the language in their home country, they won't test at the eight level to start with, simply because we speak a little bit differently than somebody else does.

So certainly language is a big barrier.

The other thing is attitude. I think there is an arrogance. I think we assume that the institutions that people come from are not qualified institutions. As I started off saying, you can have the most internationally acclaimed individual coming to Canada, and they won't be able to practise—that is, in private—unless the university hires them. And there is a special...what you'd call a clause in the medical legislation, in the medical act, that allows the university to hire them and for them to practise under their supervision. Otherwise, the individual can't practise. They have to start over again in their studies. It doesn't make sense.

Gatekeepers—when you have the registrar of a college of medicine.... Now, this was about 10, 12—now we'll say 13 years ago. Hopefully, things have changed—or maybe he has changed because of his attitude—but the reality of talking to a group of internationally trained doctors and telling them that they had to wonder whether they even knew what certain equipment was, to say that to them, whether it's a stethoscope or whatever.... I mean, give me a break.

You know, competency-based evaluation is something that we should be doing right across the country. The PLAR, prior learning assessment, is a partial process. Again, you're looking at paper evaluation. I prefer the competency to demonstrate the capacity of the individual to do the job. A doctor, or anyone in any practice, in any profession or trade, is not going to remember the basics of all the mathematics or whatever it was they took back 15 or 20 years ago, and neither would you, if you had to go through it. What we are looking for is that progressive experience that they're bringing with them, and that's what we should be testing. Because if we tested our own Canadians in those professions, they wouldn't pass either.

So yes, I think there are gatekeepers. I think there's arrogance. I also do see some willingness. I think the college of nurses, as an example, has been probably one of the more progressive organizations.

The other thing is I would like to see a standardization of how people are evaluated, in the context that for one group it's a national exam, for another group it's the provincial exam and then you go to the national. And then for another you go national, provincial, and back to national. Again, the confusion for immigrants is incredible.

The other thing is we're a small country—31 million people in Canada—and we need to have an individual regulatory body right across the country. What a waste for us, and what a waste for our human resources.

So again, yes, I do think the bodies need to rethink how they are delivering their credential services, and there is a need for a cross-Canada way of doing it.

Thank you.

• (1205)

**The Chair:** Let me go to Mr. Anderson.

**Hon. David Anderson:** Professor Vedanand, you mentioned the various problems of the various professions, but if I heard you correctly this problem exists in the computer area as well as in what are called the traditional, old professions of medicine, law, etc. That astonishes me, because we also hear stories—outside of immigration, of course—of people in the United States who started computer companies in a garage, who have high school degrees and wind up as billionaires. Others, of course, emerge from Harvard or Cal Tech and also wind up as billionaires. But I also understand that of the extremely wealthy of Silicon Valley, a good 10% come from Bangalore, India, alone—just one province, one state in India.

So it strikes me that we're dealing with a brand-new industry, brand-new professions, where qualifications don't mean a damn thing, because it's really a question of inventive power. Yet somehow we're given the impression that industry doesn't recognize qualifications. Well, it doesn't add up to me that you would find such a flexible system there, in terms of what we see—dynamic companies forming, becoming enormously big, collapsing within a year or two or three, and others growing. It doesn't seem that's the type of industry that would have such rigorous, archaic rules of credentialism.

I wonder if you could comment on that.

**Dr. Vedanand:** Thank you. That's a good point you raise.

I have spent quite a few years on the University of Manitoba senate, and they have always been looking at this, all those concerns that you raise. They're very complex issues and they're complex issues in terms of how do you find the Canadian economic balance, the differences between one university or another, and what is more, as you just mentioned, the creative entrepreneurship that comes with these new people coming from India, China, anywhere. They have really created a new growth sector of the economy. In the United States, particularly the western United States, in Silicon Valley, it has become the breeding centre for these kinds of individuals who have started from garages and have become billionaires.

This has really challenged most people. First, why are they more creative and entrepreneurial? Second, do we have the same kind of entrepreneurial spirit when we let them in and create that kind of thing? That is a question mark right now.

Also, perhaps the academic rigidity in the universities may have followed a different pattern. The Chinese entrepreneurs and Indian entrepreneurs—they have been the real pioneers. The development of a growth economy there, just in one state, has been far bigger than in Canada. Maybe they are more open in terms of nurturing these people who may have that type of entrepreneurship, and then let them go. Here, academic rigidity, and later on they find out that the policy-makers may not have been looking at that kind of person. They said we were going to have a small Silicon Valley somewhere in Ottawa, at Carleton University, and they have not done much better at all.

Small companies have burgeoned in this region, but not that much. RIM and those tell me they want to go south of the border. This is also a challenge for other entrepreneurs in the United States. Why is it not happening out there? That is why, perhaps, this has been a very interesting challenge to those who have done research on entrepreneurship. I have done quite a lot of work in Japan, etc.

Take a look at it. In Japan, most of the people who are supposed to be the great leaders... When the Japanese immigrants come and stay in Canada, you don't see a single example of entrepreneurship. Those who were pioneers at one time, such as Mitsubishi and Hitachi and all those big billionaires, cannot get as big elsewhere. But they who have come as immigrants have not made any stamp on the Canadian economy or elsewhere as entrepreneurs. This is a question which has not been answered.

I asked the Honda executive, "How do you go outside of Japan?" And this person said, "Well look, I normally would not answer this question, but I will tell you." He said, "We're always trying to find environments where we can really set up." Where did they go? Belgium. Why not the United States—they're the biggest market. They couldn't have really succeeded. There was no auto industry in Belgium at this time.

• (1210)

**The Chair:** Thank you very much. We have to wrap it up.

We're going to come back at one o'clock. Thank you for your presentation. We look forward to sending you copies of our report.

Thank you.









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

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