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Tuesday, April 17, 2007

—
Chair

Mr. Norman Doyle

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•(1115)

[English]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): Our meeting will come to order. I think we have a quorum, so we can begin.

I should apologize right off the bat. We have confusion here this morning. We don't normally have a vote on Tuesday morning at 11:15 or 11:30, but bells will go some time within the next 15 minutes or so, and we are going to have to move on to our voting and come back and resume.

I want to welcome this morning witnesses Nick Summers, former member of the Immigration and Refugee Board of Canada, and Mr. Peter Harrison, senior associate deputy minister, Indian and Northern Affairs Canada, and deputy head for Indian residential schools. Welcome to both of you.

I think you're familiar with how the committee operates. We'll give it to you to do opening statements, and I believe first we'll go to Mr. Harrison for his opening statement and then to Nick Summers. And we'll go to our committee members then, to interact, ask questions, and what have you.

Mr. Harrison, please.

Mr. Peter Harrison (Senior Associate Deputy Minister, Indian and Northern Affairs Canada, Deputy Head, Indian Residential Schools Resolution Canada, As an Individual): Thank you, Mr. Chairman and honourable members of the committee.

[Translation]

Mr. Chairman, honourable members of the committee,

[English]

I am pleased to appear before you to answer any questions you may have concerning the report entitled "Governor in Council Appointments Process—Immigration and Refugee Board". This report was prepared by the Public Appointments Commission Secretariat for the Minister of Citizenship and Immigration.

[Translation]

I would like to begin my comments by providing committee members with some contextual remarks. The Public Appointments Commission Secretariat was created by order in council on April 21, 2006 and I was appointed Executive Director and Deputy Head of the Secretariat on the same day. Orders in council were also published allowing for the appointment of commissioners.

[English]

At that point in time, Bill C-2, the Federal Accountability Act, made reference to the Public Appointments Commission by proposing a change to the Salaries Act. The draft bill was later amended in committee to include the mandate of the commission. This mandate includes a provision in clause 227 "to perform any other function specified by the Governor in Council."

[Translation]

The Secretariat was asked to undertake a review of the appointment process for members of the Immigration and Refugee Board. Following discussions with the Privy Council Office, the Secretariat prepared terms of reference for this review. These were approved by the minister and made public on November 3, 2006. Please see annex 1 of the report.

[English]

Immigration and Refugee Board members are appointed by the Governor in Council upon the recommendation of the minister. The overall selection process was amended considerably in March 2004, as announced by the then-minister—see annex 4 of the report—and the objective of the review we were asked to do was to assess

How effective is this new approach in meeting the objective of merit-based appointments while respecting the prerogative of the GiC, and what if any are the options for updating it?

[Translation]

The Secretariat worked closely with IRB officials in acquiring and reviewing relevant information. Discussions were also held with members of the IRB, IRB leadership, and with members of the chairperson's advisory panel. Secretariat officials also attended hearings of the IRB in order to understand the complex nature of members' tasks. These are reviewed in the section of the report entitled "The Work Context". A third party, Sussex Circle, was engaged to review the exam which is employed as a selection tool by the IRB and to recommend possible changes which could lead to greater efficiencies.

[English]

The report contains, Mr. Chairman, nine recommendations dealing with the timeliness of recruitment campaigns; the need for targeted advertising; implementation of the exam pass mark; consideration of merging the advisory panel and chairperson's selection board; ministerial involvement in determining membership of selection boards, as was intended in 2004; maintenance of the practice of providing the Governor in Council several names for each vacancy; keeping candidates for appointment and reappointment apprised of their situation; making initial appointments for three years; and making reappointments for five and two years respectively.

The report was submitted to the minister in early 2007. Since January 21, 2007, I have been appointed by the Governor in Council to other duties.

Thank you, Mr. Chairman. I trust this provides you with helpful information, and I will try to answer any questions you may have.

• (1120)

The Chair: Thank you, Mr. Harrison.

We'll have questions after we hear from Mr. Summers.

Mr. Nick Summers (Former member of the Immigration and Refugee Board of Canada Advisory Panel, As an Individual): Thank you very much.

Before I start, I want to make one correction. I don't want to appear under false pretenses. I am not a former member of the Immigration and Refugee Board. I am a former member of the advisory panel to the Immigration and Refugee Board.

The panel was the panel that Mr. Harrison alluded to as part of the selection process. Our committee was the committee that reviewed applications and test results and determined which candidates for membership on the Immigration and Refugee Board went forward for interviews and further processing.

The advisory panel consisted of between five and six members of the community. We were selected by the chair of the Immigration and Refugee Board, Mr. Fleury.

We consisted of a social worker from Vancouver, a law professor from Calgary, a lawyer from Ottawa, a retired public servant from Ottawa who specialized in human resources, and me, a refugee lawyer from St. John's, Newfoundland. At one point, we also had another member who was a lawyer from Toronto and specialized in administrative tribunal matters. Mr. Fleury was also an ex-officio member of the panel.

As I said, our job was to review the applications that people made for consideration for appointment to the Immigration and Refugee Board.

I see a light flashing here. Does it mean you have to leave for your vote?

The Chair: I'm afraid we'll have to leave fairly soon. But I think we can get through your opening statement, and then when we come back, of course, we can go to questions.

Mr. Nick Summers: As part of our process we would examine, read over, all applications and résumés of those who had passed a

certain low threshold, and that would consist, I suppose, over the three years our committee existed, of probably about five hundred to six hundred applications.

We also would examine the test that was written by each of the applicants, which was a test designed and administered by the staff of the Immigration and Refugee Board. We would deliberate over these, and then, based partly on the needs of the Refugee Board, we would decide on how many people to pass forward to the next stage. Approximately 25% of applicants would go on to an interview.

The reason I'm here representing the panel is to a great extent, I assume, because we resigned en masse in February of this year. And I wanted to very quickly go over with you why we resigned.

Our disquiet with the system started back in the summer of 2006. Actually, I guess, it went back even further than that, because we were concerned about the fact that there was a very low level of appointment of people to the IRB by, at that point, the Liberal minister, Mr. Volpe. It was clear that we were not giving him names that he wanted to see and appoint. That was our first disquiet.

When the Conservatives were elected, we were encouraged by comments that there was going to be an open and transparent system of appointments in all panels, and we thought that perhaps we would start to see some appointments, which we new the IRB desperately needed. However, this did not materialize under Minister Solberg, and in fact what we began to see during the summer of 2006 was that not only were there not appointments being made, but people who were being recommended for reappointment were not being appointed. And it would appear that it was simply because they had been appointed during the time the Liberals were in government.

We then learned that all the people we had passed on for approval prior to the 2005 election were not going to be considered for appointment, no matter what their qualifications were. Since we were a non-partisan committee, and people's political affiliation had absolutely nothing to do with our decision to pass them on for interview and appointment, we were quite concerned that politics was coming to play a part in what was happening with our work.

Finally, we began, in the fall of 2006, to hear rumblings that the government was unhappy with the selection process, that they felt that we were a panel made up of people who would get members who would say yes to refugees, which is, I would submit, nonsense. And we heard that there was going to be a review of the selection process done.

We went with Mr. Harrison and his group, and with all due respect, we sort of felt that the fix was in. We knew what was coming down. In fact, long before the report was released and we knew what the report contained, we had predicted exactly what it was going to say. We had already decided that if it indeed said what we thought it was going to say, we would be resigning, because we did not want any part of a system that allowed partisanship to be part of the selection process. We had not made our decision public, because the report had not yet been made public, but our hand was somewhat forced by the fact that Mr. Fleury tendered his resignation in early February 2007.

From what we knew of what was coming in the report, because by that time we had been shown the report, in confidence—we weren't allowed to speak of it publicly, but we knew what was coming—we decided that we would tender our resignation shortly after Mr. Fleury's.

I appreciate the time, and I know you have to go do your vote. I would, once you return—

• (1125)

The Chair: We have a thirty-minute bell. I'm fairly sure that we have a thirty-minute bell here. Continue. I think we'll probably have to leave here at roughly twenty to twelve.

Is that cutting it too fine? It's too fine? How about another five minutes?

Mr. Nick Summers: I could stop here.

I'd just like to set out briefly for you—

The Chair: What we'll do is allow Mr. Summers to finish his statement. We will go probably another three or four minutes. Mr. Summers, go ahead.

Mr. Nick Summers: I want to very briefly set out for you why we felt there was a problem with what the report proposed and the government said it accepted.

First, if it ain't broke don't fix it. The selection process we had in place was working extremely well. We were getting extremely good candidates, and were passing people on for appointment who were very good. The problem wasn't our selection process; the problem was the minister's office not appointing people.

We also could not see any purpose in putting minister's representatives on the selection committee, other than to bring partisanship into the process. Since we came on the committee with the express intent that there would not be partisanship in the selection process, we felt that any attempt to go that way was a contradiction of the terms under which we came on it, and we would not accept that.

We all had some experience with the refugee board and the history of patronage on the refugee board. We did not want to see the board go down that road again, because we knew that it was harmful to refugees and their rights.

I'm going to stop there. I have lots of other things to say. I hope you'll be asking me some questions when you come back.

The Chair: The committee should be back here within half an hour, so hopefully we'll be able to make it back by twelve.

The meeting is suspended until then.

• _____ (Pause) _____

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• (1225)

The Vice-Chair (Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.)): This meeting is called to order for the purpose of hearing evidence. In the absence of the chair, we'll make some use of the time.

We have heard the witnesses.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): On a point of order, Mr. Chair.

• (1230)

The Vice-Chair (Hon. Andrew Telegdi): Yes.

Mr. Ed Komarnicki: I wanted to say there's a vote call right now, and the bells require the members to be in the chamber. We should probably keep the television on so we can tell what's left for time.

A voice: That's right.

Mr. Ed Komarnicki: It would be totally inappropriate in the middle of a bell summoning members to vote in the chamber for the chair to be replaced with 17 minutes left. I think that's inappropriate, and I would move that it's not a situation wherein a vice-chair should convene a meeting in the absence of a chair who was here in the first place.

I don't know what you're up to, Andrew, but there's 16 minutes before a vote is required and we need to be in the House, and all members should be marshalling towards the House during a bell. I would say it's totally inappropriate for you to assume jurisdiction of any kind, as vice-chair, under those circumstances.

The Vice-Chair (Hon. Andrew Telegdi): Actually, I did it at the suggestion of our clerk, who has checked the rules on it, and since all we are doing is asking questions of the member, I thought it might be useful if we got some people to ask some questions.

Mr. Ed Komarnicki: Not during the middle—

The Vice-Chair (Hon. Andrew Telegdi): If we get to redo the meeting, then we will have handled that already.

Mr. Ed Komarnicki: But not during the middle of a bell that's ringing and there's 16 minutes left and we should be making our way to the House. I think it's inappropriate to assume that, and I'm not sure if under any other circumstances the clerks would give that kind of advice. It's inappropriate in the middle of a bell. When the bell rings, it's summoning members to go to the House, and they should be going to the House. Any member who is on his way to the House wouldn't be here. And I would certainly want to hear the clerk on the record about that rule, because I think that during a bell summoning members to the House there shouldn't be any business conducted. Prior to the bell, I think that might be appropriate, but not during a bell.

[Translation]

The Vice-Chair (Hon. Andrew Telegdi): Ms. Faille.

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): Would it be possible to extend the meeting? Usually, our meetings last until 1:00 p.m. Given the comings and goings we are expecting, would it be possible to extend the meeting at least until question period?

[English]

The Vice-Chair (Hon. Andrew Telegdi): Yes.

Mr. Ed Komarnicki: First of all, my point of order is that the vice-chair should not be replacing the chair at this time when the bells are on. I'd like some kind of a ruling from someone to indicate one way or the other, and there may be others who want to speak on it.

The Vice-Chair (Hon. Andrew Telegdi): If we're going to salvage anything from today, then we'd better deal with the concept of maybe coming back after the vote to do our questioning of the witnesses; otherwise we're going to waste one meeting on it.

Yes, Mr. Siksay.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Chair, I think that if we were going to consider reconvening now, I agree with the parliamentary secretary that it's inappropriate, given that the bells are ringing. We should have done it maybe at the beginning of the bells ringing, but I think it's inappropriate now, given that we do have to leave to make the vote. Maybe we should try to come back at one o'clock and see if we can salvage something of the meeting, or immediately following the vote. Unfortunately, our schedule has been taken out of our hands this morning.

I have to leave now to go to the vote, and I will be doing that.

The Vice-Chair (Hon. Andrew Telegdi): Just before you—

Mr. Bill Siksay: I think it's inappropriate to continue.

The Vice-Chair (Hon. Andrew Telegdi): Before you leave, we have to make a decision that we're going to reconvene and we're going to extend the meeting time.

Mr. Bill Siksay: I don't think we can do that, because I think the meeting is improperly convened at this point.

Mr. Ed Komarnicki: We don't recognize the chair at this moment.

The Vice-Chair (Hon. Andrew Telegdi): I guess we're not coming back.

A voice: You can just suspend.

- _____ (Pause) _____
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- (1320)

The Chair: We will resume the meeting. The meeting will now come to order.

I believe we had been in the middle of your statement, Mr. Summers, and I think you were finished, were you not? We can go to questioning directly.

Our first line of questioning will come from the Liberal side. Mr. Alhabra, do you want to open questioning, please?

Mr. Omar Alhabra (Mississauga—Erindale, Lib.): Thank you, Mr. Chair.

Thank you both, gentlemen, for coming here today. I apologize for the confusion. Votes sometimes force us to change our schedule.

I want to take this opportunity to hear further evidence from you today. It's very informative and interesting to hear both sides of the situation.

I'll start with Mr. Harrison. You summarized the nine recommendations that were a product of your report. What was the impact of merging the advisory panel and chairperson selection board? How many members are there now on the newly recommended board, and who selects those members?

Mr. Peter Harrison: First of all, the recommendation in the report was that the merging of those two bodies be considered; we did not recommend that it take place immediately. The reason, as you can see, is that the roles of those two different boards deal with different competencies.

That said, we had a third-party review of the process. There were two different groups of people coming to grips with two complex sets of information, namely the backgrounds for the candidates; it was generally felt that there could well be efficiencies in merging those two. Our recommendation was that it be considered. How that has unfolded in the last three months I'm not in a position to tell, because I do not know, but the aim was to promote efficiency.

Mr. Omar Alhabra: Is there any mechanism for how the individuals on that recommended or suggested new board would be selected?

Mr. Peter Harrison: The recommendation was that the minister and the chair of the IRB be responsible for identifying and appointing an equal number of members of that board. The actual number would be for consideration from an operational point of view by the IRB.

Mr. Omar Alhabra: Your recommendation was that the minister have the ability to appoint half of the new board.

I will tell you why this raises some concerns. I have a quote here to read for you from Mr. Poilievre. He's a Conservative MP who said in committee that the government will never appoint people who don't agree with its agenda. I'm going to quote:

We've always been clear that we will be appointing people who will further the agenda. It's nothing new. In fact, it's worth saying twice. We are going to appoint people who agree with the agenda that we intend to implement—

This new structure that is being suggested undoubtedly has raised a lot of alarms and concerns.

I'm going to move now to Mr. Summers. Is it fair to say that things have been improving in the selection process over the last few years, before these recommendations and before these changes? Can you describe that for me? Have things been worsening?

- (1325)

Mr. Nick Summers: Thank you for the question.

Before I answer, there is one thing I want to say. In my opening statement I indicated that we felt the fix was in when I talked about Mr. Harrison's report. I didn't mean to say that Mr. Harrison was in cahoots with anyone. I regretted it as soon as I said it. He at all times was very honourable and honest with our group when we met with him. My concern was that from what we had heard from the minister's office and other sources, and given the terms of reference of the report, we felt we knew where it was going. It turned out that we were right.

To answer your question, things improved considerably during the time of the advisory panel I was part of. I don't take sole credit for that. Mr. Fleury is due most of the credit for bringing this new system in. We've heard from the staff of the IRB that the people who were selected and appointed to the IRB have proven to be extremely good members. They have required less training than previous appointees. They have required less mentoring once they were finished their training. And they have been found to be ready to handle the responsibilities of a board member much quicker than other appointees. So yes, the system is working. We put forward extremely qualified people and the results have borne that out.

If you bring in patronage again, of course some very good people will come forward, but we can't be sure of that.

Mr. Omar Alghabra: You also said that you felt there is a perception by the current government that the current advisory panel is more sympathetic to refugees.

Mr. Nick Summers: Nobody came out and said that to us directly. We heard rumours that this is what was being said about us. If indeed people were saying that, they obviously knew very little about those of us who were on the panel. We were all very committed to making this non-partisan and to picking the best people.

This type of rumour would have come about because of my background as a former president of the Canadian Council for Refugees and as an advocate for refugees for many years. If somebody thinks I was there to make sure we got board members who would say yes to refugees, then they don't know me very well and they don't know the CCR very well. It has never been my position or the CCR's position that every person who applies for refugee status should get a yes answer. It has always been our position that the system should be fair, and that's all I have ever been promoting.

I can tell you that none of the other members of our committee come from a refugee advocacy background. Peter Carver is a professor from the University of Edmonton. John Scratch, is a retired lawyer with the Department of Justice, who used to represent the Department of Citizenship and Immigration in many matters.

In any event, the answer to your question is that we heard those rumours. They aren't true. It has never been the view of our committee that we should be picking people for any particular purpose other than to be qualified and to be fair.

The Chair: Thank you, Mr. Alghabra.

Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

I want to thank both of you for being here on this funny morning at the House. My apologies for the interruptions.

Mr. Summers, I know you were a last-minute replacement for Beverley Nann, from Vancouver, who was another member of the advisory panel and with whom I have met about these issues. She was hoping to be here and that didn't work out.

I am glad you mentioned your long history with the Canadian Council for Refugees. The Canadian Council for Refugees also had many concerns about the appointment process over the years. I

believe the CCR would have seen the change that brought about the advisory panel and the work you were doing as a positive improvement in the process. Can you tell us how that discussion went over the years, and how you came to be on the advisory panel?

• (1330)

Mr. Nick Summers: You're quite correct that the selection of board members has been a matter of importance for the CCR for quite a long time. We felt, from very personal experience for most of us, that there was an inconsistency in the quality of appointees to the refugee board.

When the new selection process was proposed in 2004, Jean-Guy Fleury approached me and asked if I would be a member of the advisory panel. I said, "Are you asking me as the president of the CCR"—as I then was—"or as myself?" He said he was asking me as myself, as a lawyer from Atlantic Canada, and they wanted regional representation.

I debated it long and hard with the CCR executive. In fact, the first vote was that I would not participate. I felt strongly that since we had been promoting change to the appointment process, we should show our support for any proposed changes by participating. After much debate my executive agreed to allow me to sit on the panel.

When I joined the panel I made a public statement to the chair and the rest of the committee that I considered myself there as a representative of the CCR, not in my personal capacity, and if at any point I felt that the government was not living up to the commitment they had made in bringing forward these proposals, I would be quitting loudly and publicly. Recent events are basically the result of me following through on that promise.

Mr. Bill Siksay: Clearly you had that debate and made the decision to participate because you thought there was some integrity, and initially, in terms of your participation, that was borne out by what was happening at the advisory panel.

Mr. Nick Summers: It was. In fact, up until the last year my reports back to my executive were very positive—that things were working, this was a good system, and we should support it. Over the last year my reports have been getting less and less positive, to the point where in November 2006 I got approval for my executive withdrawal from the committee if I felt it had become untenable.

Mr. Bill Siksay: Was there any question that the appointments to the advisory board were partisan ones, when Mr. Fleury made them?

Mr. Nick Summers: Absolutely not. I don't know the political background of my fellow committee members, and I don't think it's important that I do. I can tell you that in the many meetings we had over three years, not once did any member of our committee make a comment or bring forward a consideration that could be considered in any way partisan. Politics simply had no part in our committee.

Mr. Bill Siksay: Your presentation was kind of truncated by votes and discussions about what we were going to do about that. Before we finish here today, was there anything you wanted to present that you didn't have an opportunity to get to and would like to get on the record?

Mr. Nick Summers: I want to comment on the fact that in Mr. Harrison's report there really isn't justification given for why the minister needs to have a say in naming people to the selection committee. It's put forward that this is the minister's prerogative, and this is what was intended in the announcements in 2004. That doesn't make it a good idea, as far as I'm concerned.

The fact is that what Minister Sgro and Prime Minister Martin did in 2004 is more important than what they put on paper. They gave the chair of the IRB the go-ahead to appoint his own committee. Experience over the last three years has shown that it was the right decision and the best way to proceed. As far as I'm concerned—and I know I speak for the rest of the committee when I say this—following this recommendation would be a major step back towards partisanship.

Mr. Bill Siksay: To your knowledge, has there ever been any suggestion that Mr. Fleury was acting as a political partisan in the way he handled his duties as the head of the IRB?

• (1335)

Mr. Nick Summers: Absolutely not. I have very great admiration for Jean-Guy Fleury and his ability to avoid politics in his job. I don't know how he did it, because it's such a minefield of politics.

I've known him for many years. Before I was on this advisory panel I also sat on a committee called the Consultative Committee on Practices and Procedures of the IRB, which he chairs. I went to it at least two or three times a year for many years. So I've known him for a long time, and I've always admired his professionalism and refusal to get into political debate.

Mr. Bill Siksay: Thank you, Chair.

The Chair: Thank you.

Mr. Komarnicki.

Mr. Ed Komarnicki: Thank you, Mr. Chair, and thank you, gentlemen, for your patience today.

I have a few questions, first with respect to Mr. Summers. Quite frankly, when I looked at what the recommendation was in 2004, when the announcement was made—I'll read it, because it comes from the report. In annex 4 it says:

The advisory panel will be independent and representative of Canadians. Nominated by the IRB Chairperson and the Minister

—it specifically said both—

the panel will, for example, include membership from the legal community, academia, non-governmental organizations and human resources experts.

It was always intended that the advisory panel, which was just one aspect of the process of appointment, would have equal representation from the minister and from the IRB chair.

Was that not your understanding as to the recommendation that was actually made?

Mr. Nick Summers: That is, I understand, the recommendation that was made.

Mr. Ed Komarnicki: Okay.

Mr. Nick Summers: My position, regarding the comment you made about what was originally proposed in 2004, is that whatever was stated in writing at that point—and I don't recall back in 2004 exactly what was said—

Mr. Ed Komarnicki: I'm reading to you from what the report—

Mr. Nick Summers: I'm sure it's correct. The fact of the matter is that this wasn't what happened.

Mr. Ed Komarnicki: So the only ministerial input in the selection process, before the names were referred to the minister, would have been the representation on the advisory panel, which didn't make the decisions itself. It actually referred them on to the selection board.

Mr. Nick Summers: Yes.

Mr. Ed Komarnicki: In fact, the recommendation made in this report is that the advisory board has an equal representation by persons nominated by the chair and persons nominated by the minister, with the chair presiding. Is that not correct?

Mr. Nick Summers: Yes, but you have to remember that half of the panel would be made up of IRB staff, which would be the half that the chair was appointing. So this would leave all of the public positions in the minister's hands.

Mr. Ed Komarnicki: The recommendation is that the two, the advisory panel and the selection board, be combined, and that there would be an appointment of three and three, with the chair still presiding. Is that not correct?

Mr. Nick Summers: Yes.

Mr. Ed Komarnicki: So the only influence that the minister might have is in appointing persons to the advisory panel or to that particular board, which the IRB chair still chaired.

The people who we're talking about as being on the advisory panel would be persons such as those with a human resource background, from academia, or from non-governmental organizations. Those kinds of people could just as easily be picked by the minister as by the IRB chair, could they not?

Mr. Nick Summers: They could, but why does he need to?

Mr. Ed Komarnicki: Then the IRB chair himself was appointed by someone.

Mr. Nick Summers: By the minister.

Mr. Ed Komarnicki: That's correct. So now all that this process does—at least that's the suggestion—is bring this back to where it was intended to be by giving the minister some input somewhere. Wouldn't you agree?

Mr. Nick Summers: No, sorry, because I think you're oversimplifying the situation. The fact is, I don't know what Prime Minister Martin and Judy Sgro intended.

Mr. Ed Komarnicki: Except what they stated in writing, and I just read to you what they had said.

Mr. Nick Summers: But that's not what they did.

Mr. Ed Komarnicki: That may be, but then what was done was to exclude any appointment to the advisory panel whatsoever by the minister, or any say until the names came forward.

Mr. Nick Summers: Yes, and I'm saying that's a good thing.

Mr. Ed Komarnicki: Let's talk about that, because I think what's important is to make sure that every person who comes before the minister for an appointment meets some objective standard that qualifies the person to perform well in the job. Wouldn't you agree?

Mr. Nick Summers: Yes.

Mr. Ed Komarnicki: And part of what this report suggests is that the objective standard for the written examination be set to make sure that people at least meet the minimal requirement. Wouldn't you agree?

● (1340)

Mr. Nick Summers: I do. I think you're getting into a separate topic—

Mr. Ed Komarnicki: I am, but the point of the matter is that you want qualified people to go forward to the minister for potential appointment. What happened was that the people who went to the advisory board didn't have a passing mark, in terms of the qualifications. They needed a minimum of only 36 points to get referred to the advisory panel.

Mr. Nick Summers: Yes, but what you're not stating is that there was never a requirement that people pass that test. It was one of the tools.

Mr. Ed Komarnicki: But I would say that this is the requirement suggested here, that there be an objective test and people pass the test before they even get to the advisory board. Wouldn't you agree with me?

Mr. Nick Summers: I'm agreeing that was recommended.

Mr. Ed Komarnicki: Yes, and what do you see wrong with an objective test that disqualifies those who can't even meet that basic requirement? Is that better?

Mr. Nick Summers: What we had was an objective test that gave us a mark—

Mr. Ed Komarnicki: It wasn't a passing mark.

Mr. Nick Summers: Let me finish, now. Although there were a small percentage of cases in the grey area of having failed by only a small amount, it was never in our mandate to exclude everybody who got a failing mark on the test. It was one of the considerations we had to look at.

I can tell you that in our considerations there were some extremely qualified people on their résumés who did not do well on the test. We felt that in fairness to the applicants, we had an obligation to look at whether or not the test adequately represented their qualifications. So in a small number of cases, after considerable consideration and debate, we decided that some people should get an interview.

Mr. Ed Komarnicki: Let me say this. I'll stop you there, because the report particularly asks what the point of having a test is if you don't have a passing mark. Secondly, it states that of the people who didn't have a passing mark, even at the lower standard, I think 28% eventually were referred on to the minister for appointment.

Mr. Nick Summers: I'm sorry, but 28% of people who failed were not passed along.

Mr. Ed Komarnicki: Let me read it to you:

It is important to note that under present practice a large number of candidates (28% of the current batch of referrals to the Minister) who have failed to meet the agreed minimum competency—emerge as recommended candidates to the Minister.

That's what the report says.

Mr. Nick Summers: Well, it's wrong.

Mr. Ed Komarnicki: It also says the following about the advisory panel and the selection board:

A further weakness of the...system is that, at present, few candidates are screened out after the AP

—the advisory panel, which you sat on—

referral is made to the SB: of 126 candidates referred by the AP to the SB, 114 attended the SB interview and 104 were recommended to the Minister (i.e. 88% make it through the SB phase).

It said that there's no point in having a selection board if everybody you recommend gets through.

Secondly, of the people who did make it through both panels, 28% didn't pass the basic minimum standards. So he's proposing a better system—

The Chair: We need time for comments.

Mr. Ed Komarnicki: —an objective one with tests that are actually marked and then passed.

The Chair: Mr. Summers.

Mr. Nick Summers: You've mixed together three or four different issues there. The fact of the matter is that, yes, some people who were recommended for interview did not pass the test. It was never in the mandate of our committee that they had to pass the test. You can put that in as a qualification, and frankly our committee would not have had a problem with that, but you can't change the rules midstream if you're going to be fair to people.

The Chair: Order, please.

I have one more questioner. It's quarter to two, and we have to be in the House by two o'clock, which means we have to leave here in seven minutes.

Mr. Telegdi.

Hon. Andrew Telegdi: Thank you very much.

Mr. Summers, can you tell me what our shortage is on the Immigration and Refugee Board now?

Mr. Nick Summers: I don't have exact figures, but my understanding is that by the end of this month we will be almost 60 members short.

Hon. Andrew Telegdi: There are 60 members out of one 156. We see the stats. The backlogs are growing, and there's a crisis at the board. It really is unbelievable how the Conservatives have mismanaged this particular file.

Besides the refugee hearings, we also have the matter of the immigration appeal division, whereby people who are permanent residents and are expelled from the country then have a right to a hearing. My understanding is that because of the shortage on the board, people aren't even able to schedule times to have that hearing. Am I correct?

• (1345)

Mr. Nick Summers: You are correct, but it's not just people who are appealing removal from the country. There are family reunification issues for people whose request to bring their families to this country has been rejected. Their appeals are also being put on hold because there aren't members to hear them.

Hon. Andrew Telegdi: The point I want to make is that here we have the Conservative government talking about "let's get tough on crime", "let's make Canada safer", but because of their incompetence, we have people who are staying in the country who maybe should be going out of the country. They're staying in the country because of the incompetence of the Conservatives in terms of handling the appointments to the Immigration and Refugee Board.

I want to commend you, certainly, as well as Mr. Fleury and the rest of the board, for taking a principled stand. We fought and you fought to get an appointment process going that would not have political appointments and political payoffs. We have to be very mindful that when the board was initially created, totally unqualified people were put on the board by the previous Conservative government, which is very well documented by Stevie Cameron in the book *On the Take: Crime, Corruption and Greed in the Mulroney Years*.

We were getting away from that, and now we've come to a position in which security is being threatened because of

Conservative incompetence. I find it incredible that they sing one way when they're in opposition but they act totally contrary to it when they're in government.

My next question is whether you could elaborate on some of the other cases that are being held up by the immigration appeal division because there isn't the manpower or person power to hear cases that have to, according to legislation, go before it.

Mr. Nick Summers: I think you've summed it up pretty well.

As I say, there are quite a number of different cases that go before the immigration appeal board and the refugee board, and all of them are being held up. There simply isn't the manpower to deal with the cases. And I agree with you that there are security issues. Being an advocate for refugees by training and work, my main concern is the suffering it's causing to refugee claimants and their families.

Hon. Andrew Telegdi: I agree with you, and the commentary in total, but it's important to also underline the point that the people who should be out of the country are not out of the country because of the essential incompetence in the way this department is being handled by the government. We look forward to some kind of improvement.

The Chair: Okay.

The time is moving on, so I want to thank you again for coming here today. I know it's a terrible day to be here, but we had no way of knowing that we'd be interrupted so much in the proceedings.

Again, thank you, and I know you'll be watching with interest to see what our recommendations will be in this regard. Thank you.

The meeting is adjourned.

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