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# Standing Committee on Citizenship and Immigration

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EVIDENCE

**Thursday, May 10, 2007**

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**Chair**

**Mr. Norman Doyle**

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## Standing Committee on Citizenship and Immigration

Thursday, May 10, 2007

• (1145)

[English]

**The Chair (Mr. Norman Doyle (St. John's East, CPC)):** Order.

We will now move to consideration of motions. The first motion we have before us today is one that we had a couple of days ago, and I think it was withdrawn at that time by Mr. Alhabra. So I'll go directly to you, Mr. Alhabra, to hear your motion.

A point of order, Mr. Komarnicki.

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

At the last meeting, when we were discussing this motion and also portions of our in committee potential report, Mr. Karygiannis raised the point that there may be some confidentiality issues. In light of what he said, I wonder if we wouldn't be wise to discuss this motion in camera.

**Mr. Omar Alhabra (Mississauga—Erindale, Lib.):** Why?

**Mr. Ed Komarnicki:** Because in referring to this motion we're also referring to some of the discussions that took place in camera. We were discussing the confidential report. I think that was the issue he raised, and he may have a valid point, because most of us talked about it and would be inadvertently or directly impinging on the confidence of the previous committee hearing on the report. So go in camera and discuss this without breaching confidences.

**The Chair:** Mr. Alhabra, do you have a comment on that?

**Mr. Omar Alhabra:** This is a motion that stands on its own. We might be repeating in the discussion something that we discussed when we were in camera, but it doesn't conclude or tell us what's in the report, Chair, or say this is what's in the report. It doesn't say anything about the report.

**Mr. Ed Komarnicki:** I'd like to be able to address what you're saying here in your motion based on what was said in camera in the committee.

**The Chair:** It's totally up to the committee if it wants to discuss motions in camera or if it wants to go public. I can make no judgment call on that.

From the chair's point of view, I would simply ask the committee: do you want to discuss Mr. Alhabra's motion in public? Does the committee feel comfortable in doing that? I think I have a consensus, looking at the nodding going on around the table, so—

**Ms. Meili Faille (Vaudreuil-Soulanges, BQ):** What is the rule? Do we have to make sure not to mention the report or—?

**The Chair:** No. This has nothing, in the committee's view, to do with the report.

**Ms. Meili Faille:** Okay.

**The Chair:** The committee wants to go public on this, so I'm going to Mr. Alhabra to put his motion. Then we will have discussion on the motion and hopefully a vote in an expeditious manner.

**Mr. Omar Alhabra:** Thank you, Mr. Chair.

Again, I'm moving this motion that's in front of us right now. This motion is a product or an outcome of the hearings we've had over the last few weeks on the IRB appointment process and the new recommendation that was outlined in the so-called Harrison report.

After hearing from Mr. Harrison and various other witnesses and stakeholders, and knowing that the minister now is in the process of deciding whether to accept or reject the recommendation in the Harrison report, I felt it wise and probably helpful to the minister to hear from the committee, based on the evidence we've heard, what we feel, and what the committee's recommendations are, based on those recommendations that were in the report. So I'm hoping that the committee makes a statement.

**The Chair:** Mr. Devolin and Mr. Telegdi.

**Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC):** A question. A minute ago, Omar, you said this is a stand-alone piece not related to the committee hearings.

**Mr. Omar Alhabra:** No, not related to the report.

**Mr. Barry Devolin:** But you're saying it's based on the evidence we heard in the hearings.

**Mr. Omar Alhabra:** Right, which were public.

**The Chair:** We've already dealt with that.

I have to go to Mr. Telegdi and Mr. Siksay.

**Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.):** I wonder if the mover would agree to a friendly amendment, and that's to the second-last "whereas", where it says "the government has created a crisis by its failure to appoint sufficient numbers of IRB—".

**The Chair:** Would you repeat that, Mr. Telegdi?

**Hon. Andrew Telegdi:** Yes. "AND WHEREAS the government has created a crisis by its failure to appoint sufficient numbers of IRB —", so "has created a crisis by its failure to appoint"—that's one. And in the main motion itself, we call on "—to immediately fill the remaining board vacancies", and at the third and fourth line, "by reappointments and new appointments from a pool of qualified applicants".

• (1150)

**Mr. Omar Alghabra:** How about “through appointments and reappointments?”

**Hon. Andrew Telegdi:** Okay, but we might want to say “qualified applicants”. Is that acceptable?

**Mr. Omar Alghabra:** Yes.

**Hon. Andrew Telegdi:** Then I would move that amendment.

**The Chair:** Are there two amendments or one?

**Hon. Andrew Telegdi:** There is one amendment covering two points.

**The Chair:** Would you repeat the second point for the clerk, please?

**Hon. Andrew Telegdi:** Okay: “and to immediately fill remaining board vacancies by reappointments and new appointments from the pool of qualified applicants”.

**The Chair:** That is new appointments and reappointments.

Are you ready for the question on the amendment?

**Mr. Ed Komarnicki:** Could we have a look at that amendment before we call the question on it? I'd like to speak to it too.

**The Chair:** We'll be able to read it to you. The second “whereas” is changed and acceptable to the mover.

**The Clerk of the Committee (Mr. Samy Agha):** Insert the words “has created a crisis by its failure to appoint a sufficient number of adjudicators”—to insert those words in between “government” and “failure”, and to add at the end of the motion, “and to immediately fill remaining board vacancies from the pool of available and qualified applicants”.

**Hon. Andrew Telegdi:** No, by reappointment.

**Mr. Samy Agha:** It is “by reappointments and—”

**The Chair:** Is there any further discussion on the amendment?

I call the question on the amendment.

**Mr. Ed Komarnicki:** First of all, we haven't seen it, and I thought he was going to draft it so we could see it. Then we want to have a discussion on it, don't we? Can we see it?

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** We don't need to see it, Chair. We've already read it a number of times. It's very clear.

**The Chair:** Let's allow a couple of minutes.

In the meantime, is there any further discussion on the main motion?

Mr. Siksay.

**Mr. Bill Siksay:** I think the amendment and the motion are great, Chair, and I will be strongly supporting them. It is very important that we do this now, given the crisis that has been created at the IRB, given the crisis in hearing refugee claims, given the crisis in hearing immigration appeals. We know that this affects people directly in that it puts lives on hold. It increases anxiety and frustration for many people waiting for these decisions—for many Canadian citizens waiting for these decisions, for many refugee claimants waiting for these decisions.

I think it's unconscionable the position the government has taken to delay these reappointments and appointments and to throw the IRB back into crisis again. It's totally the government's doing. That is why we need to pass this motion now and get a report to the House as quickly as possible on this particular issue.

**The Chair:** Thank you.

Madam Faillie and Mr. Komarnicki.

[*Translation*]

**Ms. Meili Faillie:** Mr. Chairman, my remarks will be very brief.

In fact, I wanted to reiterate that the situation is urgent. The Quebec representatives have talked a lot about this. We should support this important motion on their behalf. We owe it to the future citizens of Canada and Quebec. There's currently a crisis: cases and hearings are delayed. An enormous amount of stress is being imposed on the immigrant population.

[*English*]

**The Chair:** Mr. Komarnicki.

**Mr. Ed Komarnicki:** The fact of the matter is, this particular committee heard evidence quite a long while ago and is in the process of completing a report based on hearing that evidence, which will be concluded, I understand, on Tuesday of next week, and this committee will be making a report to the House, as a whole, dealing with issues specifically raised in this motion.

This motion was done for one reason and one reason only—to play some political games and for some political points, when in fact the report will be forthcoming on Tuesday of next week. I think it is inappropriate to have a report going to the House without the specific evidence being referred to, when we have a report in the making that will be presented to the House very close to Tuesday of next week. I don't see why we would do two reports, a pre-pre-report and a report. The committee has extensively discussed this issue in the main and is in the process of almost completion. I think it is inappropriate for this motion to go forward, because it has no reasonable basis for it to proceed when we know a report is forthcoming as early as next week.

• (1155)

**The Chair:** Well, we've already dealt with the appropriateness of calling the motion. The committee has agreed that the motion should be dealt with at the committee, and we all voted on that.

It's pointless to pursue that particular point. If you're going to pursue that particular point, Mr. Telegdi...because we've already dealt with all of this.

**Hon. Andrew Telegdi:** Actually the points I'm going to make, and there are a number of them—When we sat in government there was one party, the Reform Party, the Alliance Party, and the Conservative Party, that rightfully lambasted the previous government for not putting in place adequate measures to reform the IRB and on the backlog.

I think we achieved in the House of Commons a joint victory when the previous Liberal government, maybe not as quickly as possible, fixed the system. The backlogs had been drastically reduced from a high of 52,000 down to 20,000, which was the low-water mark.

We left office. There was a vacancy rate of five members out of 156 members on the Immigration and Refugee Board. Well, now the vacancy is up around 60. If the parliamentary secretary has the correct figures, we'd appreciate it if he would share them with the committee.

The issue is that we're dealing with a system that makes life and death decisions. I think that's very, very important. I'll tell you the one thing that I really find passing strange, particularly coming from the Conservatives. By not having sufficient members on the board, we cannot have immigration appeals heard. One of the things that immigration appeals deal with is people who the government believes should be removed from the country for criminal activity, organized crime, or whatever. These folks—and I state the worst end of the case—are able to hide behind the fact that they cannot be removed until they get a hearing.

Now maybe the parliamentary secretary could inform the committee as to the numbers of people we're talking about. The reality is that by having an IRB that's in crisis, we are not able to remove undesirable folks from this country. I find that passing strange.

Given the previous rhetoric I heard in my thirteen and a half years in Parliament, that's the hardest one I have to reconcile, as to why the government wouldn't be moving to restore the efficiency and the non-partisan nature and protection of the IRB.

**The Chair:** Let's get along to the amendment and the motion. The parliamentary secretary is under no obligation to answer any questions in committee on this motion. From that point of view, I don't think we can deal with that.

Okay, I see no more questioners. I think it's necessary now to call the vote on the amendment.

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

**The Chair:** On the main motion, Mr. Siksay.

• (1200)

**Mr. Bill Siksay:** Mr. Chair, I would like to propose another amendment, that we add further, "Be it resolved that the Chair of the Standing Committee on Citizenship and Immigration issue a press release and call a press conference on behalf of the committee to outline the committee's concerns on this issue."

**The Chair:** Could you repeat that slowly?

**Mr. Bill Siksay:** "Be it further resolved that the Standing Committee on Citizenship and Immigration request the Chair to issue a press release and call a press conference on behalf of the committee"—

**Mr. Ed Komarnicki:** Mr. Chair, I have a point of order.

**The Chair:** Just wait until he finishes his amendment.

**Mr. Ed Komarnicki:** That's the point of order.

**Mr. Bill Siksay:** —"to outline the committee's concerns on this issue."

**The Chair:** Mr. Komarnicki and Mr. Eyking.

**Mr. Ed Komarnicki:** The point of order is this. Mr. Siksay is moving into another substantive matter on an issue that's not in the form of an amendment to the motion that just passed. If he wants to put a notice of motion to the effect that he's talking about, let him give appropriate notice. But it's certainly not an appropriate amendment to the main motion to cause the chair to issue a press release as part of the motion. I don't think that's appropriate.

**The Chair:** Mr. Eyking.

**Hon. Mark Eyking (Sydney—Victoria, Lib.):** I think a press conference is a little over the top here.

**The Chair:** I think so, too.

**Hon. Mark Eyking:** A press release is not too bad, but a press conference makes it a little more—I think we have to deal with our own homework here.

**The Chair:** Please have some concern for the chair.

**Mr. Bill Siksay:** I'll withdraw the press conference reference if that gains the support of the majority of the committee.

**The Chair:** Mr. Komarnicki.

**Mr. Ed Komarnicki:** I'd like to get a ruling on that. Is it appropriate to make an amendment to a motion like that?

**The Chair:** Yes, the clerk informs me it is.

**Mr. Ed Komarnicki:** It's interesting how that is. What's the basis to say it's an appropriate amendment when it deals with—

**The Chair:** I guess the clerk is basing it on the fact that there's nothing in the Standing Orders that would prevent it, so he's more or less looking for you to tell us what it is about it that is not in order.

**Mr. Ed Komarnicki:** I thought we had a ruling previously that if it doesn't clarify or deal with the essence of the motion, if it's not part of that, then it's a separate motion on its own feet and it can't be an amendment. I think I was one of the people who proposed an amendment and it was ruled out of order because of that very fact.

**The Clerk:** I'd like to repeat the amendment, if possible.

**The Chair:** Okay.

**The Clerk:** Just so we're talking about the same thing:

Be it further resolved that the Standing Committee on Citizenship and Immigration request that the Chair issue a press release on behalf of the committee to outline the committee's concern on this issue.

The press release is about this issue, so it's not a separate item.

**The Chair:** Mr. Telegdi.

**Hon. Andrew Telegdi:** I might point out to you, Mr. Chair, that I used to do that on a regular basis when we used to do reports. We'd call a press conference and drive it home that we needed a change.

**The Chair:** But you're more of an extrovert than I am.

**Some hon. members:** Oh, oh!

**The Chair:** I'm an introvert.

So the subamendment is in order, according to the clerk. It's further clarification of the existing motion.

(Amendment agreed to)

**The Chair:** Have we finished discussion on the main motion?

(Motion as amended agreed to [See *Minutes of Proceedings*])

**The Chair:** We move on to the notice of motion by Mr. Siksay.

**Mr. Ed Komarnicki:** Mr. Chair, with respect to this notice of motion, of course, it's asking for a report to be forwarded to the House, and I think it's totally appropriate that provision be made for a dissent to the report, because obviously there is a dissension to it, and I think that any press release would be inappropriate without first having a dissent and some reference made—

• (1205)

**The Chair:** Are you on Mr. Siksay's—?

**Mr. Ed Komarnicki:** Mr. Omar's. I think we went back—

**The Chair:** We're finished with Mr. Omar's. We didn't go back.

**Mr. Ed Komarnicki:** No, no.

**The Chair:** We just voted on it.

**Mr. Ed Komarnicki:** That's for the report. I want to now request a dissenting report to be sent to the House.

**The Chair:** That's a bit of a separate issue, so let's deal with that.

**Mr. Ed Komarnicki:** Just a minute. Let's get a ruling from the clerk. He wants to say something in the report, if it's the report we're talking about, not the motion.

**A voice:** That the following report—

**The Chair:** Yes, the following report. So there is an opportunity for a dissenting report, if it's a report. Yes, there's absolutely no problem with that.

**Mr. Ed Komarnicki:** Okay. I would like to make a dissenting report that would be part of this report to the House.

**The Chair:** Yes, it's perfectly in order to do so.

Supplementary and dissenting opinions?

**Hon. Andrew Telegdi:** [*Inaudible—Editor*]...and then we get a certain timeline on how long it's going to be.

**The Chair:** Yes, that's what I'm doing right now.

The committee should decide, first of all, the length to be allowed, how many pages or paragraphs, and possibly style and what have you, how it is to be submitted to the clerk, and the deadline for the submissions.

Okay, the recommendations.

Mr. Siksay.

**Mr. Bill Siksay:** I'll make a recommendation that the minority report be received within 48 hours and that it be no longer than the total word count of the original report.

**The Chair:** So that's the recommendation. And it's within 48 hours. Is that satisfactory?

**Mr. Ed Komarnicki:** I think so. I think that's reasonable, given the nature of the report.

**The Chair:** And it's to be submitted in both official languages and in the same style and font.

Okay, that's done. All in favour?

**Some hon. members:** Agreed.

**The Chair:** That's not a motion, is it?

**Mr. Ed Komarnicki:** Where are we in the scheme of things in terms of the press release you're to issue on this matter? You obviously carried, but with a dissenting report you would think you'd have to have the benefit of the full report before you could issue a press release. Wouldn't that be so?

**Mr. Omar Alhabra:** The press release can refer to the fact that there's a dissenting report.

**Mr. Ed Komarnicki:** But the dissenting report is part of the report.

**Mr. Bill Siksay:** Technically, it's not.

**Hon. Andrew Telegdi:** It's a matter of courtesy.

**Mr. Ed Komarnicki:** It seems a press release before the dissenting report is issued is premature.

**The Chair:** The press release would have to be written, and then of course it has to come back for the committee's approval.

We are moving along to Mr. Siksay's notice of motion.

Mr. Siksay, can we deal with this?

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

I want to speak to the motion, and I think everyone has a copy of it in front of them. The basic requests of the motion are:

That the government should immediately implement an in-Canada program to allow conscientious objectors and their immediate family members, in particular those from the United States of America, who have refused or left military service related to the war in Iraq, to apply to remain and work in Canada and, after a period of two years, be eligible for permanent resident status.

The second point is:

That the government should immediately cease any removal or deportation actions that may have already commenced against such individuals.

Mr. Chair, I think this is a very important resolution. The occasion for tabling it here at the committee or bringing it up at the committee is the fact that, in the very recent past, in the last couple of weeks, there's been a negative decision at the Federal Court of Appeal on the refugee claim cases of Jeremy Hinzman and Brendan Hughey, two of the original American war resisters in Canada. They are now in the process of applying for leave to appeal at the Supreme Court of Canada. However, the decisions leave them without status in Canada, unless the Supreme Court agrees to hear their appeal. There are many other cases following Mr. Hinzman's and Mr. Hughey's cases that are subject to the decisions in this case, and others that are before the Federal Court and other refugee claims that are in process.

I think this is a really important issue, because American war resisters in Canada are people who have refused service in the American armed forces, in the war in Iraq. They are young men and women of conscience who have taken a very difficult and important stand on what they believe to be an issue of personal conscience. Some, like Joshua Key, who has written a book called *The Deserter's Tale: The Story of an Ordinary Soldier Who Walked Away from the War in Iraq*, paint a very graphic picture of the situation in Iraq and of the problems they faced as individuals serving in the American armed forces. I think Mr. Key's descriptions of some of the incidents that he witnessed, and indeed participated in, can only be described as atrocities.

Canada has a strong history of welcoming those who have taken a passivist stance, those who have been conscientious objectors to war, or those who have taken a stance against militarism. There's the example of the Dukabors who settled in British Columbia, the Mennonites, and there's the incredible example of the Vietnam War resisters who came during the period of the Vietnam War. Some say almost 100,000, but certainly over 50,000 have remained in Canada. These draft-age Americans came to Canada refusing to participate in what they saw was an immoral war.

The Prime Minister of the day, Pierre Trudeau, said that:

Those who make the conscientious judgment that they must not participate in this war—have my complete sympathy, and indeed our political approach has been to give them access to Canada. Canada should be a refuge from militarism.

Mr. Chair, I believe that the same situation exists today. Like the war in Vietnam, Canada has refused to participate in the war in Iraq, and that's a decision that Canadians strongly supported and continue to strongly support. We see increasingly in the United States that most Americans do not support the war in Iraq. Many of us and many legal experts also believe that this is an illegal war. Unfortunately, the government intervened to argue that information on the legality of the war was not relevant to the refugee claims made by the American war resisters, and sadly, it was a point they won at the IRB. I believe this is a key issue, especially given that the Nuremberg Tribunal established international law that made it clear that soldiers have a moral duty, not a choice, to refuse to carry out illegal orders. So the legality of the war, I believe, is a fundamental issue in these cases.

Some war resisters have been denied conscientious objector status in the United States, or are told that they shouldn't make an application because it has no chance of proceeding. I also think there's an issue of the kind of questionable recruitment practices that happen by the American armed forces, and many people have ended up calling what is in fact happening in the United States now a poverty draft because it targets people from low-income families and communities.

I think there are also serious issues about the contract they entered into and the promises of the numbers of tours of duty in Iraq, which are far exceeding what was explained to many of the people who did enlist.

• (1210)

Chair, I'm almost done.

I believe the war resisters face serious sanctions should they return to the United States. The charge they face in a court martial is

desertion, and there are significant penalties associated with desertion. There's confinement for up to five years. In a time of war, there may be death or other punishment, as a court martial may direct. I think it's very significant in this case that the punishments they face should they return, having left service in the armed forces, are very severe.

Chair, we've also seen police harassment of war resisters in Canada. It's something I've been very concerned about. I have written to the Minister of Public Safety and the Minister of Citizenship and Immigration, in conjunction with my colleagues, Brian Masse and Alex Atamanenko.

Chair, I believe Canada must continue to be a haven for those who have conscientious objections to service in the war in Iraq. I believe Canadians support offering these men and women of conscience a welcome and a place here in Canada.

There has certainly been a strong response to petition campaigns on this issue. I have tabled petitions of over 7,000 names in this Parliament and over 15,000 names in the previous Parliament. On the website for the campaign to support war resisters, there is an online petition of over 14,000 names of people from Canada and around the world.

Chair, given all of this, I think it would be entirely appropriate for the government to introduce a special program that would allow war resisters to obtain permanent residence in Canada, along the lines of the motion I proposed.

Thank you, Chair.

• (1215)

**The Chair:** Thank you for that lengthy dissertation. It was a very good one at that.

Mr. Eyking, please, and then Mr. Devolin.

**Hon. Mark Eyking:** Thank you, Mr. Chairman.

I'm not going to be long. I'm not really a full-time member of this committee, but I have a real problem with this resolution.

A billion people in this world are downtrodden and in extreme poverty. Yes, we should open our doors to them. But to get into this, it's kind of a little over the top. Where do we go next week? What if you're an Australian and you refuse to fight in Afghanistan? Should we let them have a quicker green light to come to this country?

It's my opinion, whatever it's worth. It's a little beyond the scope of what this committee should be doing.

**The Chair:** Thank you, Mr. Eyking.

Mr. Devolin.

**Mr. Barry Devolin:** I want to also add that I will not be supporting the motion, for a variety of reasons.

I think there's an important distinction between the current situation in the United States and the Vietnam period. In the Vietnam period, it was Americans who were being drafted and who resisted being drafted or conscripted into the army, as opposed to now, where people have made a decision to join the armed forces.

**The Chair:** Thank you, Mr. Devolin.

Mr. Telegdi.

**Hon. Andrew Telegdi:** Mr. Chair, I think you and I are probably reliving our youth a bit, going back to the Vietnam War.

When Canada accepted people who skipped out from doing service in Vietnam, I think we did a major service to our neighbours to the south, and in the long term that has been recognized.

There are a couple of differentials between this and Afghanistan. Afghanistan is under NATO; it's a multilateral force. Iraq was the coalition of the willing. We, the Liberal Party, the Liberal government, resisted going into Iraq even though we had a fair amount of pressure.

The thing that really bothers me to no end is that we have heard of war crimes going on in Iraq. There's no denying that they've been there. This has been disturbing to many people, and what has even been more disturbing are the very heavy civilian casualties. I don't know if we'll ever know the figures.

The war in Iraq is a misadventure that I hope the Americans manage to avoid in the future. You would have thought that they would have learned that lesson from Vietnam.

There was the draft during the Vietnam War, but people who wanted to avoid it, and those serving in Vietnam, found various

occasions to do so. The current President of the United States did not serve in Vietnam, and the President before him, Bill Clinton, did not serve in Vietnam.

I agree with Bill when he says this is mostly poverty driven, because many people who enlist in the services on an auxiliary basis look at it as another job, and then all of a sudden they're plucked out from believing that they were going to protect their country and are sent over to Iraq.

I learned my lesson from Vietnam, and how we did the right thing then, how we were right to refuse to go to the war in Iraq, and how if we're going to be engaged in this kind of activity of peace-building, peacemaking, we have to do it as part of our recognized multilateral force. So I will be supporting this motion, and I pay tribute to the contributions of the many Vietnam draft dodgers who came here.

● (1220)

**The Chair:** Thank you, Mr. Telegdi.

Is there any further discussion on the motion?

(Motion negated)

**The Chair:** The motions are done.

The steering committee meeting will resume in a few minutes.

This meeting is adjourned.

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