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# Standing Committee on Citizenship and Immigration

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EVIDENCE

**Monday, October 18, 2010**

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**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

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• (1530)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** Good afternoon, ladies and gentlemen. This is the Standing Committee on Citizenship and Immigration in meeting number 26, Monday, October 18, 2010.

The orders of the day are twofold. For the first ten minutes there is a motion from Mr. Trudeau, and, pursuant to the order of reference of Thursday, September 23, 2010, Bill C-35, an act to amend the Immigration and Refugee Protection Act.

Mr. Trudeau, you have the floor. I believe you've already made your motion.

**Mr. Justin Trudeau (Papineau, Lib.):** I've already made the motion, Chair. It's just a question of responding to the fact that right now the government has included same-sex marriage protection in the visitors guide and has indicated it will be doing so in the citizenship guide in the next edition that comes out. But I think the committee would be interested in seeing what discussions went on between the minister's office and the department when it was decided that it be excluded from the original section of the immigration guide.

**The Chair:** Debate?

Ms. Chow.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** Mr. Chair, I assume this motion is in order—

**The Chair:** Yes.

**Ms. Olivia Chow:** —given that the guide is going to be changed.

**The Chair:** No, that's not why the motion is in order. I held that it was in order at the last meeting.

**Ms. Olivia Chow:** That's right. This committee will approve questions to get all the information from ministers on  $x$  number of issues. Is that...? It's just that I haven't seen a motion like this in the last three or four years. So requesting information from the minister on a certain subject at this committee, that is okay, I assume, because normally—

**The Chair:** I discussed this with—

**Ms. Olivia Chow:** Because normally, Mr. Chair, we would ask for a position on X, Y, and Z, and it would be through ATI or through asking the ministers through Standing Order 43. But if it is in order, then that's fine. I just want to be sure, because in future there may be other ones if this is the ruling.

**The Chair:** I discussed this privately with Mr. Trudeau at the last meeting: that this type of motion should be discussed at the subcommittee meetings as to when and how it would be disposed of, and I think he agreed with that. So the motion is in order and there doesn't appear to be any further debate.

**Ms. Olivia Chow:** Could I just ask Mr. Trudeau a question?

**The Chair:** Yes, sure.

**Ms. Olivia Chow:** In terms of “all...electronic”, this would be from the beginning of the issue to now, I assume. Would that be the period of time?

**Mr. Justin Trudeau:** No. It says “on the issue of including same sex marriage protection...in the most recent edition”, so it would be during the time of the preparation of the renewed citizenship guide up to the actual publication of the citizenship guide.

• (1535)

**Ms. Olivia Chow:** The one we have now?

**Mr. Justin Trudeau:** It's the one that's been around for about a year now. Yes.

**Ms. Olivia Chow:** It's not the upcoming one, right? Because the upcoming one—

**Mr. Justin Trudeau:** We're talking about the most recent edition. The upcoming one isn't an existing edition yet. It's indicated, but this really is about looking back at that blank space in the original guide that you did so much work in highlighting as well.

**Ms. Olivia Chow:** So if it's okay, this is the original edition, because the recent edition is the one that is just coming out. Your interpretation of “recent” is really the one we have now.

**Mr. Justin Trudeau:** No. This is not the citizenship guide.

**Ms. Olivia Chow:** No. That's the newcomers' guide.

**Mr. Justin Trudeau:** Exactly. For the citizenship guide, the recent edition of the citizenship guide is one that is not out yet. They've indicated that there will be a new edition coming out in probably six months or so, but this is going to the one that exists now, that was published—

**Ms. Olivia Chow:** It's coming out in a few weeks, I think.

**Mr. Justin Trudeau:** Whenever it comes out...

**Ms. Olivia Chow:** Yes. So the one you're looking for, that you're interested in, is the current one.

**Mr. Justin Trudeau:** That exists as of the date of this motion, October 1, 2010.

**Ms. Olivia Chow:** And the reason why you want to do that is that you want to ascertain what occurred, because there was a CP story as to whether it was originally in or whether it wasn't, whether it was pulled or was just an oversight?

**Mr. Justin Trudeau:** Indeed.

**The Chair:** Thank you.

Mr. Dykstra.

**Mr. Rick Dykstra (St. Catharines, CPC):** Based on the answer Mr. Trudeau just gave to Ms. Chow, that the purpose is to find out whether there was an oversight as to why it was left out, there's been an ATIP on this issue. The minister spoke about this issue on a number of occasions, and I'm sure he'd be happy to speak to it when he comes here with respect to this bill later in November.

It's unnecessary. We've already indicated there are going to be updates to the guide on a regular basis. This is an area where there will indeed be an update. There's no need to retrace steps here and try to dig up dirt where there isn't any and try to bring forward an issue that is going to be addressed in the next issue. This isn't one that we need to readdress. It's been addressed and will be addressed.

**The Chair:** Mr. Oliphant.

**Mr. Robert Oliphant (Don Valley West, Lib.):** My concern.... I have no desire to dig up dirt. I'll support this motion because I come from a community that felt left out of the guide. That community may not have been fully addressed. It is still asking questions. Whether the minister has given some answers is not the issue. It's helpful for the committee to know the process that went into such a guide, and what was said when, because some misrepresentation happened during some of those discussions. I've read all those news articles as well, and I would like to know. I very truly don't understand what happened, and as a member of Parliament I have the right to know what happened.

**The Chair:** Ms. Chow.

**Ms. Olivia Chow:** Mr. Chair, you know that quite a few months ago we had this issue in front of us when I moved a motion asking for the restoration of gay rights and gay history in the citizenship guide at the next printing. I want to thank the committee for supporting the recommendations.

It then went to Parliament. We had a three-hour debate in the House of Commons on this. I was assured at that time that if I truly wanted to see this restoration in the next printing and if we wanted unanimous consent, which is what we had.... If you note the vote, it went on division, that we would leave the matter of what occurred in the past, whether it was an oversight or whether it was the minister or his staff who instructed people to pull this out.

At this point I'm more interested in seeing the wording restored. At that time I said I would support going forward. If that was the case it would not create division in the House of Commons. I was assured gay rights and gay history would be in the new edition. I'm going to honour that agreement, because we had a debate and at that time I was pushing my Conservative colleagues to say if we are continually divided on this matter it doesn't set a good example. What are new citizens supposed to do with a divided House of Commons? I was pleased that the vote was on division and it passed and that the new edition will have gay rights in there.

Through ATI requests from various journalists, I don't think it was an oversight. EGALE interpreted it as an oversight within the gay and lesbian community. Others said that it was a deliberate attempt to delete part of the history. Whichever way it is, it seems to me the ATI request from CP, I believe, shows there was some kind of intervention from the political staff. I'm not sure that we need to push this issue further, because if the minister ends up not giving us the information in ten days this will probably end up in the House of Commons, where we're going to have another debate on it, which I'm not sure is helpful.

• (1540)

**The Chair:** Thank you, Ms. Chow.

There are two more people who wish to speak. I'm not going to let them speak. We're either going to vote now or it will be put over to another day. Which shall it be?

**Some hon. members:** Vote.

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

**An hon. member:** No.

**Mr. Justin Trudeau:** Well....

**The Chair:** I'm not going to allow you to debate. If you wish to debate, it will have to come on another day.

**Mr. Justin Trudeau:** Then we'll make it on another day.

**The Chair:** All right, this matter will be put over to another day.

We will now proceed to item number 2, the study of Bill C-35.

We have two guests with us today.

**Mr. Robert Oliphant:** On a point of order on the adoption of the agenda today, my concern is that we have a number of the most critical witnesses for this study being packed into a very short time today. So I'm looking for some assurance.

As it is laid out, we will not get full rounds of questioning of the Canadian Society of Immigration Consultants, a key player in this. We will not get a full round with respect to the professional association either. So I am very concerned that we have the key witnesses packed into one day in which we will not have adequate time to ask questions. I'm concerned about the agenda for today.

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

[*Translation*]

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** I think that we often have two panellists in one hour, but I suggest that we add 15 minutes to our meeting in order to have two one-hour panels. I assume that my colleagues will agree with this.

[*English*]

**The Chair:** Is that agreed?

**Some hon. members:** Agreed.

**The Chair:** Agreed. We'll have an extra 15 minutes. Thank you.

Mr. Wrzesnewskyj.

**Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.):** On a point of order, Chair, in regard to the same point—

**The Chair:** You know what? It wasn't a point of order, but I'll let you raise it.

**Mr. Borys Wrzesnewskyj:** On a point of order, sir, in regard to the sequencing of witnesses who have been selected to appear before this committee, could it be explained how that sequencing was arrived at?

**The Chair:** The names of the witnesses came from the members of the caucuses, as of this past Wednesday, I believe. Those names came to the clerk. The clerk and I reviewed the names. We tried to divide up the witnesses pursuant to the groups. In other words, if the Liberals recommended some, the Bloc recommended some, and the NDP and the government did, we tried to be fair as to the numbers with respect to each caucus. That is done in a discussion between me and the clerk.

• (1545)

**Mr. Borys Wrzesnewskyj:** If I may suggest, Chair, and I'm sure you did the best you could in deciding which witnesses would be heard, I do believe we should think of scheduling a meeting of the steering committee to go through to see—

**The Chair:** Well, this is the process that was approved by the steering committee and approved by this committee, so you're out of order.

If we have another subcommittee meeting, we can discuss these things, but it's inappropriate to discuss them at this time.

So we have two groups before us. First, we have the Canadian Society of Immigration Consultants. The chair of the board of directors is Mr. Nigel Thomson, and Patrice Brunet is a member of the board. Good afternoon to the two of you.

Finally, we have Mr. Imran Qayyum, who is with the Canadian Migration Institute.

I believe Mr. Thomson is going to represent the Canadian Society of Immigration Consultants. You have up to seven minutes, sir. Thank you for coming.

**Mr. Nigel Thomson (Chair, Board of Directors, Canadian Society of Immigration Consultants):** Thank you very much. Thank you, Mr. Chair.

Bonjour. Good afternoon. It's a great pleasure to be here, given the challenges we had in getting here.

The Canadian Society of Immigration Consultants welcomes this opportunity to appear before this committee on Bill C-35.

CSIC appreciates the action the Minister of Citizenship and Immigration is taking to shore up Canada's immigration system. We are particularly pleased that the government is taking action on ghost agents, the most important attribute of Bill C-35 and the key failing of the existing legislation. CSIC has actively advocated with government for several years to close the loophole that has allowed ghost agents to operate.

Under the immigration and refugee protection regulations, CSIC is designated as the body that regulates immigration consultants,

who, for a fee, represent, advise, or consult with a person who is the subject of a proceeding or application before the minister, an officer, or the Immigration and Refugee Board of Canada.

CSIC welcomes the introduction of this bill, but there are a few shortcomings that need to be addressed.

First and foremost, the duty of any regulatory body is the protection of consumers. CSIC's primary focus continues to be the protection of vulnerable immigrants coming to Canada, those who will eventually become productive citizens. Before CSIC, there was no one to protect consumers of immigration consulting services.

Since 2004, CSIC has shut out 800 agents because they could not meet CSIC's rigorous standards. We have disciplined 225 consultants for misconduct. We currently have 400 open investigations of complaints and 13 matters before CSIC's independent hearings panel. Further, we regularly conduct multilingual national consumer awareness campaigns. CSIC has been doing its job to protect future Canadians and has been successfully carrying out our mandate of educating, accrediting, and regulating our members.

With this in mind, Bill C-35 is a good start, but more needs to be done.

The proposed provisions look to close the loophole that currently permits ghost agents to prey upon uninformed consumers. We fully support this provision. CSIC has always advocated penalties for those who illegitimately hold themselves out as being qualified to offer immigration services.

The Canada Border Services Agency and the Royal Canadian Mounted Police have the mandate to investigate, prosecute, and ultimately bring to justice those individuals who look to thwart the immigration system. We are concerned that they will not have the resources to do so.

No funding provisions have been made to carry out the enforcement mandate, nor has any funding been earmarked for the prosecution of ghost agents. Without the proper funding and other resources, the hands of CBSA will be tied and ghost agents will continue to plague the immigration system.

Finally, CSIC embraces the provision in the bill that calls for the regulator to be more accountable to government.

CSIC has concerns about the powers that Bill C-35 gives to the Minister of Citizenship and Immigration. For the first time, under the new section 91, the minister alone will have the power to choose who will regulate immigration consultants. The proposed legislation will give her or him the power at any given time in history to change the regulator with a simple notice in the *Canada Gazette*. This creates the potential to unduly politicize the regulator, contrary to the public interest when the regulator must be seen as neutral.

The regulator's independence from the minister is of paramount importance. CSIC is concerned that under the proposed legislation, the minister will have too much power over the regulator and over those who are representing vulnerable immigrants. Our members must be free to provide the best advice to their clients without fear of ministerial influence threatening their ability to act independently as authorized representatives. Furthermore, CSIC objects to the fact that the Minister of Citizenship and Immigration will have more control over immigration consultants than the minister does over other authorized representatives, including lawyers.

•(1550)

CSIC supports the provision to allow the Governor in Council to specify what information the regulatory body should provide to government, but this information needs to be provided to a department other than Citizenship and Immigration. CSIC recommends that the information be provided to the Minister of Justice. This would ensure the independence of the regulator while remaining accountable to the government in the interests of consumer protection.

Canada's immigration system, its consultant regulator, and consumers of immigration consulting services deserve more stability than this bill currently offers.

I want to assure the honourable members of the committee and all Canadians that CSIC will continue to fulfill its mandate to protect consumers through accreditation, education, and discipline of our more than 1,800 members. CSIC is doing its job. Let's build upon experience and expertise.

Thank you very much.

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

Mr. Qayyum, welcome back to the committee. You have up to seven minutes.

**Mr. Imran Qayyum (Chair, Canadian Migration Institute):** Thank you, Mr. Chairman.

Good afternoon. The Canadian Migration Institute is honoured to be here today to share our views on Bill C-35.

CMI is the voice of the immigration consulting profession. Since our inception in 2007, we have grown to more than 1,800 fellows, who can be found across Canada and overseas. With representatives from the immigration consulting, legal, and notary professions, CMI is larger than any other similar organization in North America.

Our mandate is to educate, accredit, and advocate on immigration law and policy. We have several chapters throughout Canada that provide regional support through accredited educational programs as well as advocacy on provincial issues.

CMI strongly supports Bill C-35's provisions, which will close legal loopholes that have enabled ghost agents to thrive. For too long, these unlicensed, disreputable individuals have exploited these loopholes to take advantage of prospective Canadians.

However, we do have serious concerns. While the new penalties in the bill give law enforcement agencies such as the CBSA and the RCMP the legal tools to put ghost agents out of business, there is no additional funding provided in the bill to enable these agencies to do

this, meaning that consumers will still not get the protection they deserve.

Further, we remain unconvinced that this regulatory review to select a designated body is really necessary. Members of the Canadian Society of Immigration Consultants, most of whom are also fellows of CMI, have invested over \$37 million since 2004 to build CSIC's sophisticated regulatory functions. These include rigorous membership standards, a thorough complaints and discipline process, and an intricate IT infrastructure. It would be foolhardy to throw away this investment, especially because we know for a fact that our fellows are satisfied with CSIC as it is today.

Just two months ago we commissioned a survey to determine how our CSIC member fellows feel about their regulator. The results clearly indicated that fellows think CSIC is an effective regulator.

These fellows are on the ground, dealing with CSIC on a day-to-day basis and closely following its activities. That puts them in a unique position to evaluate its suitability as regulator. They realize that CSIC is well governed, a fact that has been confirmed by independent reviews done by recognized leaders in governance. They realize that CSIC has been working diligently to combat ghost agents within the constraints of its limited authority. They see that CSIC does so by reaching out to warn consumers and engages in the tracking of ghost agent activity, and they appreciate that CSIC has held its members accountable through its rigorous complaints and discipline process.

While there is no denying that some CSIC members are dissatisfied, this extremely vocal minority does not speak for our fellows. In fact, this regulatory review has cast a wide shadow over the immigration consulting profession. It is endangering the livelihood of fellows who work hard to provide high-quality service to prospective Canadians. By questioning the competence of their regulator, the government cannot avoid endangering the public's confidence in immigration consulting professionals and the overall immigration system.

I urge the government to carefully consider these points. It has taken many years to build CSIC into what it is today, and consumers should not have to wait while the process of building a regulator begins anew. Further, without concrete funding for enforcement, the effectiveness of the government's crackdown on ghost agents cannot be guaranteed.

*Merci beaucoup.*

•(1555)

**The Chair:** Thank you, sir.

We now have a seven-minute round with each caucus. Mr. Trudeau goes first.

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

My first question is for Mr. Qayyum.

In your brief you spent a significant amount of energy defending CSIC. I'm curious to establish what the relationship is between CMI and CSIC.

**Mr. Imran Qayyum:** CMI is a subsidiary of the Canadian Society of Immigration Consultants.

**Mr. Justin Trudeau:** Okay. It's designated as a for-profit subsidiary.

**Mr. Imran Qayyum:** Yes.

**Mr. Justin Trudeau:** Am I correct that CMI is the body that provides most of the training and educational professional development?

**Mr. Imran Qayyum:** Yes, Mr. Trudeau. That's an excellent question. The CMI-CSIC relationship is not too dissimilar from what the law society has just set up with Legal Education Ontario, so that the law society can concentrate on governing lawyers, whereas Legal Education Ontario does the education for it.

**Mr. Justin Trudeau:** On aspects of the for-profit approach of CMI.... Actually, before that, does CSIC recognize any other educational accreditation as being acceptable for immigration consultants?

**Mr. Imran Qayyum:** Absolutely, Mr. Trudeau.

To back up a bit so that we're clear, CMI provides voluntary education for immigration consultants, and actually to lawyers as well, who take our courses. Because of the changes in immigration law and policy, just because you become a CSIC member today doesn't mean you're competent to continue representing clients, so CMI provides, as one of our mandates, voluntary education in the form of courses and seminars that immigration consultants and lawyers can take to better themselves, become more competent, and ensure they're up to date with changes. In fact, not only do we do immigration courses, but we're recently partnered with Canada Revenue Agency to do a course that specifically deals with the HST and immigration practitioners.

**Mr. Justin Trudeau:** So these are voluntary courses?

**Mr. Imran Qayyum:** Yes, Mr. Trudeau.

**Mr. Nigel Thomson:** May I add to that, Mr. Chair?

Basically, CSIC requires both compulsory and voluntary continuing professional development from its members in a two-year cycle. CMI is one of the providers of voluntary CPD. CSIC itself provides the compulsory CPD requirements. I would note that in terms of educational criteria for entry to the profession, CSIC has a number of educational partners, including Bow Valley College, the University of British Columbia, Seneca, and other educational institutions, that have been educational partners in providing basic education for entry to the profession. There are educational providers other than CMI that are recognized for voluntary CPD, including the law society

courses and courses offered by some of those educational institutions.

•(1600)

**Mr. Justin Trudeau:** Looking at some of the complaints of some members that I know you're glad to respond to, one of the concerns that has been expressed here has been that the fees are too high and that the focus is much more on penalizing and drawing fines from people than perhaps allowing more people to become immigration consultants. Financial accountability becomes a question. I know you've had a number of audits, but what sort of accountability do you have on board expenditures, on strategic decisions, on partnering with organizations like CMI? What level of accountability is there, or is there accountability? Is that one of the criticisms that you're willing to make around Bill C-35?

**Mr. Nigel Thomson:** Indeed, there have been criticisms. I don't think those criticisms are justified. CSIC has accountability to its board of directors. All six consultant members of the board of directors are now elected. There's one appointed at the present time, but that position will come up for election this year. We have three public interest members who were appointed to the board. Mr. Brunet is one of those public interest directors.

The board, through its committee processes and through constant review of strategic plans and financial reporting from management, has the ultimate responsibility for all expenditures that are made by CSIC in carrying out its mandate. I believe we have been audited by auditors and also, as Mr. Qayyum referred to, by outside governance experts.

**Mr. Justin Trudeau:** The....

**Mr. Nigel Thomson:** Would you like me to perhaps address the issue of fees, Mr. Trudeau?

**Mr. Justin Trudeau:** Yes, sure.

**Mr. Nigel Thomson:** I think that's a point that's been made in several complaints brought by individuals to this committee. CSIC is a regulator. We're not a member advocate organization. Our interests are in pursuing the public mandate through maintaining our programs and maintaining the regulation and control of our membership. CSIC's fees are sufficient to meet the needs of CSIC in carrying out its mandate—no more, no less. When everything is taken into consideration, including errors and omissions insurance, our fees are lower for immigration practice than the fees of some law societies in Canada, notably the Law Society of Upper Canada. This allows immigration consultants to derive exactly the same kind of income that a lawyer can derive in immigration practice.

**Mr. Justin Trudeau:** What are the fees a year, roughly, for CSIC?

**Mr. Nigel Thomson:** At the present time it's about \$2,700, plus errors and omissions insurance.

**Mr. Justin Trudeau:** Errors and omissions insurance is about how much?

**Mr. Nigel Thomson:** It's about \$220.

**Mr. Justin Trudeau:** It's \$200?

**Mr. Nigel Thomson:** Yes.

So our fees come in, in total.... As you may be aware, the current Law Society of Upper Canada errors and omissions insurance will run in the neighbourhood of \$3,500 for a lawyer to practise in Ontario. So we believe that our fees are competitive, given the size of CSIC. Obviously it's been raised by this committee that the size of the membership of CSIC does obviously impact on fees. A regulator has to meet a minimum requirement in terms of education, complaints and discipline, discipline panels, registration, and ongoing operations, but it's hoped of course that with Bill C-35 our membership will grow in the future.

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

Monsieur St-Cyr.

[*Translation*]

**Mr. Thierry St-Cyr:** I will keep my questions in the same vein. Regarding membership, in your report, you state that, in 2009, your organization had 1,700 members.

What would the actual figure be if all the consultants that are currently ghost agents were members of your organization?

**Mr. Patrice Brunet (Member, Board of Directors, Canadian Society of Immigration Consultants):** Thank you for the question, Mr. St-Cyr.

At this time, no one can determine how many ghost agents there are, be it in Canada or abroad.

**Mr. Thierry St-Cyr:** Are we talking about double or triple the current member count? Or maybe 30% more?

**Mr. Patrice Brunet:** We don't have any statistics on this. However, as you know, under the contribution agreement the federal government concluded with CSIC in 2003, once membership in the organization totals 3,000, CSIC will pay off a \$700,000 loan to the federal government.

**Mr. Thierry St-Cyr:** When do you think you will reach that number?

[*English*]

**Mr. Nigel Thomson:** That's an excellent question, Monsieur St-Cyr.

As one example, we had 130 individuals write the examination for membership in September. More than 100 passed, so the rate of growth has been exceeding our expectations.

To go back to your original question, CSIC has been tracking about 1,600 to 1,700 ghost agents. Our intelligence department has been tracking them and reporting to enforcement agencies.

•(1605)

[*Translation*]

**Mr. Thierry St-Cyr:** What percentage of the 1,700 current members are in Quebec?

**Mr. Patrice Brunet:** According to the latest figures available to us, we have just over 1,800 members. As our chair said earlier, we

have several hundred students who are currently training to become immigration consultants...

**Mr. Thierry St-Cyr:** I just want to know what percentage of your members are in Quebec.

**Mr. Patrice Brunet:** Currently, we have 178 Quebec members.

**Mr. Thierry St-Cyr:** So, less than 10% of the total.

**Mr. Patrice Brunet:** Yes.

**Mr. Thierry St-Cyr:** How do you explain this?

**Mr. Patrice Brunet:** I'm glad you asked that.

As you know, Quebec is the only province in Canada to have its own immigration legislation.

Until recently, the Government of Quebec had not enacted immigration laws to appoint authorized representatives, as the federal government had done in 2004.

However, as you no doubt know, a few weeks ago, the provincial government announced that it would appoint CSIC members as representatives.

Once this information is made public—something that should happen in the next few days—we expect a significant increase in the percentage of members from Quebec.

**Mr. Thierry St-Cyr:** In that announcement, it can be noted that the Government of Quebec has also added new criteria to its regulations. Among those criteria are a French test, a test on features specific to the Quebec immigration system and a bi-annual exam.

Why were you not able to provide those services to the Government of Quebec? Why does it have to handle matters itself?

**Mr. Patrice Brunet:** I don't think that we were unable to provide those services to the Quebec government. I don't really understand your question.

**Mr. Thierry St-Cyr:** Once consultants practising in the rest of Canada have become members of CSIC, they are considered to be qualified, and their competencies are assumed to have been tested. Obviously, the Government of Quebec finds that being a member of the CSIC is not enough for practising in Quebec, since it also requires individuals to pass a Quebec-specific exam and to be tested on the proficiency of their French.

Why did the Quebec government not ask you to carry out the testing? Have you held discussions with the Government of Quebec?

[*English*]

**Mr. Nigel Thomson:** If I might say, Monsieur St-Cyr, the Government of Quebec is the regulator of immigration consultants in Quebec. CSIC is taking on the role, if you like, of an administrative arm on behalf of the Government of Quebec in terms of registration, testing, and imposition of language standards. Quebec has accepted CSIC's French-language standard and will use it. We are simply the administrative or the registration arm, if you like. Quebec still retains the control.



[Translation]

**Mr. Thierry St-Cyr:** So, you have not held any discussions with the Government of Quebec about taking on the additional requirements set out by that government? You have not discussed this?

**Mr. Patrice Brunet:** I can't say that I have participated in all the discussions with the Government of Quebec. I would be glad to get back to this issue later on, if you like.

**Mr. Thierry St-Cyr:** Yes, I would appreciate that.

Complaints were voiced in the past by some consultants who claimed that it was difficult to get services in French when dealing with the Canadian Society of Immigration Consultants. Among others, tests and their frequency seemed to be problematic.

Have you taken any measures to remedy this?

**Mr. Patrice Brunet:** As a member of the French community sitting on the board of directors, I have always taken language-related issues to heart, especially when the society was first established. Whenever documents were translated, I made a point of ensuring that they were not just translated, but translated with the user in mind. The society has come a long way, and I would consider myself satisfied at this point—at least when it comes to most of what's being done. Most of the staff in Toronto are bilingual and can express themselves well in both languages.

The complaints you brought up are probably older, as I have not heard of any recently.

• (1610)

**Mr. Thierry St-Cyr:** That's what I want to know. As things stand today, if someone wants to write a test in French in Montreal, will they be able to do so within the same timeframe as someone writing a test in English in Toronto?

**Mr. Patrice Brunet:** Certainly. I have not heard any recent complaints regarding this.

**Mr. Thierry St-Cyr:** As for the organization's mandate, before the break, when the hearings began, we held a discussion about whether CSIC's primary mandate was the protection of the public or the protection of the system's integrity. Competence is an issue here. What's your current take on this?

What mandate will be set out for the organization under Bill C-35?

[English]

**Mr. Nigel Thomson:** That's an excellent question.

Part of the mandate given by government to CSIC at its creation was the protection of the consumer, the protection of the public, not the protection of the integrity of the immigration system, which is the responsibility of the department.

Our mandate and our focus is the protection of the public through the accreditation, education, and regulation of our members. That has been our sole mandate and remains our sole mandate and focus.

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

Ms. Chow.

**Ms. Olivia Chow:** I notice from your annual report that salaries increased by 56% in one year. Is there any specific reason they went from \$1.1 million to \$1.7 million? Have you hired more people, or were there salary increases for your staff? The \$1.7 million is fairly substantial.

**Mr. Nigel Thomson:** Ms. Chow, thank you.

Yes, indeed, we have increased our staff, because we have added significant new functions within CSIC. We've added a compliance function, which is providing audits of members, allowing us to review, before there is a complaint or disciplinary action against a member, the practices of members to ensure they're in keeping with the code of professional conduct and the bylaws of the society.

**Ms. Olivia Chow:** Thank you for that, but could I just ask the following, as we don't have a lot of time?

The transfer to the Canadian Migration Institute also jumped dramatically, from \$335,000 to \$1 million. Is there a specific reason for such a dramatic jump from one year to the next?

**Mr. Nigel Thomson:** There certainly is. Obviously, CMI provides services to its fellows.

If I may, I am going to defer to Mr. Qayyum to answer in regard to those services and the activities that CMI was carrying out. A considerable portion of the funds expended by CMI is for direct services to members.

**Ms. Olivia Chow:** Is there a breakdown? Is there an annual report by CMI also?

**Mr. Imran Qayyum:** Yes, there is a report to our shareholders. Absolutely.

**Ms. Olivia Chow:** Is that also public?

**Mr. Imran Qayyum:** That was part of the last financial statement. It was under "Equity".

**Ms. Olivia Chow:** Yes, I can see that, but it doesn't have a lot of details.

Anyway, go ahead.

**Mr. Imran Qayyum:** Up until recently, CSIC has been investing in CMI. We have provided, without any additional cost to any of our fellows, services that include access to some of the most useful or powerful tools immigration consultants and practitioners can use today, including LexisNexis, Quicklaw, and QuickImmigrant. We have provided our fellows with access to a service called Lexbase, presented by a lawyer in B.C., Richard Kurland, who provides monthly publications and updates on trends in overseas and in-land visa posts.

In fact, when I appeared before the committee previously regarding those levels, I had used some of the information from Lexbase, and you and I had an interesting exchange on the final disposition and FD targets. In addition to that, we provide all of our CSIC member fellows a copy of the annotated Immigration and Refugee Protection Act.

All of this requires considerable investment, which CSIC has made in getting it to where it is now.

As of this year, we are breaking away from CSIC. We are becoming self-sufficient and CSIC will no longer be investing anything in CMI. We are currently undergoing a renewal cycle whereby we will be charging our fellows fees come November 1.

**Ms. Olivia Chow:** You said there were details on this spending on CMI. I am looking at page 34 of the report. I don't see any details as to how the Canadian Migration Institute spent its \$1 million. Am I missing the page? Is it somewhere else? I also went into your document, and there are no financial reports in there.

• (1615)

**Mr. Imran Qayyum:** The document is just today's presentation as well as the survey we did.

As far as financial information is concerned, I'm not sure which report you are looking at. Are you looking at the most recent one?

**Ms. Olivia Chow:** Yes, whatever was provided to us in the CSIC annual report. I also have your presentation from the Canadian Migration Institute. Then of course there is the chart, but there is no financial record as to how the \$1 million is spent.

Would you be able to provide that for us in the future?

**Mr. Imran Qayyum:** Absolutely.

**Ms. Olivia Chow:** I note that in 2004 the federal government provided a repayable contribution of \$500,000. Have you returned that to the federal government yet?

**Mr. Nigel Thomson:** Allow me to respond.

As was indicated in the response to Mr. St-Cyr, the contribution loan amount of \$500,000—there was a grant and a loan—was dependent on CSIC reaching a minimum membership number of 3,000 members, at which point the \$500,000 became repayable under the contribution agreement. The contribution agreement, as you know, was an agreement signed with the Government of Canada for the establishment of CSIC, including a large number of provisions, such as setting up our bylaws, complaints and discipline, compensation funds, and so on.

So that amount is still outstanding to the government, because we have not yet reached the membership levels. Not to make this a circuitous point, but we have not reached the membership levels, obviously, because a number of ghost agents have chosen to operate without becoming members of the society and because the provisions of the law allowed that to happen.

**Ms. Olivia Chow:** Would you prefer, then, that your body be similar to non-share corporations such as the Canadian Bar Association? Is that the route you want our committee to go? Really, there are two choices. One is that ultimately the government is in charge, and the minister is in charge. The other is that the members form a non-share corporation, which is like the Canadian Bar Association. It is either/or. You can't do both.

Your submission says you don't want the minister to have the power, so then do you want us to go towards the non-share corporation? That is, by the way, the recommendation of the committee.

**Mr. Nigel Thomson:** Let me be clear. With regard to the minister's power, our concern is only that this bill gives the minister the power to change the regulator without referring to anyone.

**Ms. Olivia Chow:** So you want a non-share corporation?

**The Chair:** I'm sorry, I think.... Finish what you're saying.

**Mr. Nigel Thomson:** We're quite happy with the proposed structure—that we be a Canada part II corporation—and particularly with the amendments to the Canada part II legislation, which will now allow further rights to members. We think this will be very workable. We are already working on new bylaws for the part II corporations, which would come into effect in 2011, as we all know, and we hope they will effectively increase members' ability to participate in the society.

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

Mr. Young is next.

**Mr. Terence Young (Oakville, CPC):** Thank you, Chair.

Thank you, gentlemen, for coming here today. We really appreciate you taking the time.

My first question is for Mr. Qayyum. In your report, you say you support the provisions of Bill C-35 to “close legal loopholes that have enabled ghost agents to thrive”, that for too long, these disreputable individuals have exploited these loopholes to take advantage of people. In fact, we know that ghost agents have caused a lot of human misery. Lord knows if they pay their fair share of income tax or what else they do. Then you expressed concern a little bit later that the regulatory review has cast a shadow over the profession, endangering the livelihood of fellows who work hard to provide service.

But my conclusion, based on my past experience, is that an improved system will give the public more confidence in consultants, and that it will enhance their chances of making a living. For example, if you look at organized real estate in Ontario, people used to make jokes about real estate agents and so on, but it's really a dynamic organization, and it has grown as the credibility of the agents has grown.

I just wanted to share that thought with you. I don't know if you have any comments on that. Please go ahead.

• (1620)

**Mr. Imran Qayyum:** I do, Mr. Young. Thank you for that question.

When we talk about the regulatory review, we're talking about the review of designating a regulator for immigration consultants. The issue we've seen is that ghost consultants, as we know, thrive on misinformation. Unfortunately, the reports we're getting from our fellows overseas in some of the most vulnerable markets, such as China and India, are that ghost consultants are using the minister's various public statements against CSIC, or they're twisting them to be against CSIC, and they're saying to their clients, "CSIC is about to be closed. CSIC is done, so you don't need a CSIC member. Have your immigration done by me. I can get you the forged documents. I can get you the fake marriage licence, whatever, whatever."

**Mr. Terence Young:** Would it be safe to say that's a temporary concern?

**Mr. Imran Qayyum:** Well, hopefully it will be, until this is all sorted out and CSIC is redesignated.

**Mr. Terence Young:** Thank you.

Mr. Thomson, you support the changes that address the issue of the ghost agents. Could you just give me a summary, so when I go out of here I'm very clear on what you do support about the bill?

**Mr. Nigel Thomson:** We definitely support the idea, the minister's proposal, to strengthen the legislation to shut out ghost agents from representing clients in any part of the immigration system. That is absolutely crucial. It's something we've advocated for with government for a number of years and have made a number of submissions on. We're also very supportive of the idea that the regulator should and can be more responsible and responsive and accountable to government. That is certainly something that we in CSIC would be prepared to see happen. We're certainly prepared to see the minister bring forward changes requiring a reporting provision to government. We think that is actually a very positive thing.

One of the problems, to be honest, Mr. Young, is that though I believe this committee and others have heard testimony from a number of individuals, there really has been no program review, no performance audit of CSIC, which would reveal whether or not we are an effective organization.

**Mr. Terence Young:** Thank you. I interrupt only because my time is a little limited.

**Mr. Nigel Thomson:** I understand. I'm sorry. I tend to go on.

**Mr. Terence Young:** Do you think the membership in the governing body for immigration consultants will increase, and hence the financial viability of your organization?

**Mr. Nigel Thomson:** We're certainly very hopeful. As I mentioned, we're tracking more than 1,600 to 1,700 ghost agents in our intelligence system. We're certainly hopeful that a very significant number of those individuals can be reformed and they will join the regulator. If the legislation is such that they have no other option but to conform, we would certainly hope, as Monsieur St-Cyr has indicated, that we would be in a position to perhaps double our membership.

**Mr. Patrice Brunet:** I would add that we also see an increasing number of young students getting interested in the profession and actually following the *cursus*. So we're not just talking about the ghost consultants joining the fray but also individuals in their

twenties actually making it a profession, following the *cursus* and then being accredited.

**Mr. Terence Young:** My understanding is that the government will be addressing funding in a general way, or perhaps in a little bit more of a specific way. Have you ever seen a bill, a regulatory bill, introduced under similar circumstances—where the funding was included in the bill?

**Mr. Nigel Thomson:** No. That is an extremely fair comment, Mr. Young, and I would agree with you.

Our concern about enforcement, to be honest, stems from years of advocating with government to increase the enforcement efforts, to look at the resources devoted to enforcement, and to change the law. We appreciate, however, that it is not part of a normal bill to bring forward funding provisions. That's something that's done in the budgetary process within the envelopes. We understand that would have to be brought forward by CBSA and Immigration.

We did think it was important, given our concerns over the years, to express our ongoing concern about this issue of enforcement.

**Mr. Terence Young:** Thank you.

Mr. Qayyum, can you tell us just a little bit about the training that you offer the consultants to raise the standards and public confidence?

**Mr. Imran Qayyum:** Absolutely. Thank you, Mr. Young, for that question.

We offer various types of courses based on CSIC. CSIC, as the regulator, sets the educational standards. Our courses have to meet those standards at a bare minimum.

The different courses we offer include information on, for example, the Quebec immigration system, and how to file various applications. Under the Canada-Quebec accord, as you know, Quebec gets to choose its own immigrants. It has complete sovereignty on who immigrates there. We offer courses that enhance an immigration practitioner's ability to better serve their clients. We have courses on the Immigration and Refugee Board, the immigration appeals division, the immigration division—

• (1625)

**Mr. Terence Young:** What specific training do you have on ethics?

**Mr. Imran Qayyum:** Ethics is done through CSIC because that's mandatory.

**Mr. Terence Young:** Can I ask you, what is your greatest challenge in helping to train consultants?

**Mr. Nigel Thomson:** If I might answer that, I would refer back to two issues that I think are ongoing. In terms of our educational programs that are offered with educational partners for original accreditation and membership, probably the biggest issues we have are cross-cultural communications and learning differences.

The educational institutions that are offering the educational standards and curriculum approved by CSIC are being challenged with the membership of the classes coming in. The students coming forward often come from very different backgrounds from the normal student loads they see. Educational institutions have had to adapt their teaching techniques, their approaches to involving students, their approaches to language requirements.

In terms of our own standards—

**The Chair:** Thank you.

That concludes the seven-minute rounds. We're now into five-minute rounds.

Mr. Oliphant, you have up to five minutes.

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

Thank you for coming today. I have two sets of questions, first on the legislative side, then on governance, because you're here for both reasons.

On the legislative side, I'm growing more confused about this. I had thought this legislation was about consumer protection. Officials from the department came and at our last meeting said this legislation is not about consumer protection; it's about integrity of the immigration system. So I'm confused. All my thinking on this bill has been about how this protects consumers. That's what your presentation is on, but senior officials from the department said to us two weeks ago that this is not about consumer protection. What is your thought on this?

**Mr. Nigel Thomson:** I have an opinion. I believe it comes down to departmental and governmental issues with the constitutionality of the regulation of a profession, such as immigration consultants, on a national basis, given Canada's constitution and normal practice on the governance of professions.

Perhaps Mr. Brunet has some comments to add.

**Mr. Patrice Brunet:** I don't think the two concepts are opposite, one to the other. As members of the bar, as lawyers, we have a duty to preserve the integrity of the regulatory system and the legislation.

**Mr. Robert Oliphant:** Officers of the court.

**Mr. Patrice Brunet:** It's a professional duty. We are officers of the court. So our members of the Canadian Society of Immigration Consultants, in their own code of conduct, have a similar duty to preserve the integrity of the immigration system through the policy, the regulations, and the legislation.

So I don't think the two concepts are at opposite ends. They're actually complementary.

**Mr. Robert Oliphant:** So it's just semantics?

**Mr. Patrice Brunet:** I heard the recordings of the previous session, and your word is well qualified. I think it would be semantics rather than anything else.

**Mr. Robert Oliphant:** I'm still concerned, because consumer protection for me is about accountability of a professional—discipline, education, qualifications, and penalties—and actually supervising the profession.

The Law Society of Upper Canada, for instance, is responsible for someone who hangs up a shingle and is not a lawyer. It's actually the Law Society that can prosecute. CSIC cannot prosecute someone who hangs up a shingle and acts outside the law. That has to be done by someone else. So consumer protection is actually not embedded in CSIC. Only part of it is, and that's the professional accountability part, not the penalties.

Is that a bother to you?

**Mr. Patrice Brunet:** It has always been an irritant to us, and I think it's systemic rather than a lack of opportunity that any of the bodies have taken.

The Canadian Society of Immigration Consultants was a new body in a very new environment aiming to regulate consultants, not just based in Canada, but outside of Canada as well. As you can very well imagine, we can only regulate our own members. If you're drawing a parallel with provincial law societies, I have to remind you that there is provincial legislation allowing the law societies to prosecute those hanging out shingles without being authorized to do it.

So the legislative authority does not exist right now for us to do it.

• (1630)

**Mr. Robert Oliphant:** If it's a balance—and I don't really see consumer protection in here enough—if it's integrity of the system, you need resources and independence.

I'm hearing in the presentation from CSIC that resources are lacking and independence is compromised for two reasons. First, the minister can get rid of the regulator by *Canada Gazette* notice. Second, the minister is also implicated in the strange way that the discipline process doesn't go to justice; it goes to that minister. So it's a problem.

So consumer protection seems to be weak in this legislation. Integrity of the system requires resources—if not to you, to CBSA and the RCMP—and independence. So it seems to me this bill is also flawed in those two areas. Do you agree?

**Mr. Nigel Thomson:** We certainly agree that on the independence issue there is an issue with the minister having absolute control of who is the regulator and, at the same time, members of the regulator having to present cases to the minister's officers for decisions, so that actions by the members might influence the minister's view of the regulator. That's an issue of independence and neutrality.

**Mr. Robert Oliphant:** Oh, I'm—

**The Chair:** Thank you, sir.

Monsieur St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** The exchanges we just had, including Mr. Oliphant's comments and the question I asked earlier, reflect our confusion over the difference between the protection of the system, which is a legitimate concern of the federal government, and the protection of the consumer, which is something everyone recognizes as a necessary measure, but which, constitutionally speaking, comes under the jurisdiction of Quebec and the other provinces. I think this adds to the confusion. Here we have a bill whose first clause clearly forbids the practice of a profession in order to protect the consumer, but that consideration happens to fall completely under Quebec's and provincial jurisdiction. That is why the government and its representatives do not want to clearly state that this is the bill's objective.

I would like to get back to the figures you provided regarding members. You said that you have some 1,700 or 1,800 members. In your presentation, you say that, since 2004, you have shut out 800 members—unless I am mistaken—that you have disciplined 225 members and that there are 400 open investigations. Clearly, I am not familiar with all the professional orders—I am a member of the Ordre des ingénieurs du Québec—but it seems to me that your exclusion and investigation numbers are extremely high.

Doesn't the fact that you had to shut out 400 of your 1,600 members point to a problem in the selection process? You have shut out a quarter of your members since 2004.

[English]

**Mr. Nigel Thomson:** That's an excellent point.

In fact, this year we have received a total of 502 complaints. Those complaints generally break down to be some complaints against members of CSIC, but a great number of the complaints we receive, because essentially CSIC is a lightning rod for complaints, are against ghost agents.

[Translation]

**Mr. Thierry St-Cyr:** The 800 agents you have shut out are CSIC members, right?

**Mr. Nigel Thomson:** Exactly.

**Mr. Patrice Brunet:** Yes, they were CSIC members. However, the society's transition period should be taken into account. In 2004, when CSIC was recognized by the federal government, it—

**Mr. Thierry St-Cyr:** You were more generous and accepted pretty much everyone.

**Mr. Patrice Brunet:** We were more generous. We did not have a grandfather clause. Our eligibility criteria were fairly open and flexible, but they were conditional on successful completion of a written exam about 24 months after admission. Once the exam results were known, we had to shut out almost 800 members, since they had simply not passed the exam or even the language proficiency test for that matter, whether in French or in English.

**Mr. Thierry St-Cyr:** I have already discussed my concerns about the fields of jurisdiction in terms of federal regulations. This committee has already adopted a recommendation that Quebec should have jurisdiction over legislation concerned with overseeing consultants in that province.

If the committee were to go with that recommendation and you were the organization appointed by the federal government, would you be open to discussing with the Government of Quebec what needs to be done so that you can also be appointed the regulatory body in Quebec, but under the provisions negotiated with that government?

• (1635)

**Mr. Patrice Brunet:** We are constantly holding discussions, not only with the Government of Quebec, but also with the governments of various other provinces that do not even have immigration legislation, but that do have rather specific problems, such as the recruitment of foreign workers and employment agency issues.

CSIC has always pursued a dialogue and has even looked beyond the obvious problems to ensure that the public is protected.

**Mr. Thierry St-Cyr:** So you recognize that someone could be very qualified to practice in Ontario, but at the same time would not be qualified to practice in Quebec.

**Mr. Patrice Brunet:** That was the very basis for our discussions with the Government of Quebec, as we recognize the distinctiveness of the Quebec legislation.

**Mr. Thierry St-Cyr:** Is that distinctiveness taken into account in your exams and your quality control, or do you use the same standard exam that's used on a federal level?

[English]

**Mr. Nigel Thomson:** Two different examples.

[Translation]

**Mr. Patrice Brunet:** Following our discussions with the Government of Quebec, an enhanced exam was developed specifically to take into account the distinctiveness of the Quebec legislation. In addition, over the last few years, we have been including the study of Quebec legislation in our regular curriculum, since many of our members were practising under that legislation.

**Mr. Thierry St-Cyr:** A little earlier, we talked about the organization's operating costs. I had a bit of a chuckle when I saw the logo on your presentation's cover page. Many people have stated that a lot of money was invested. I'm not sure how that logo helps in protecting the public. Your offices in downtown Toronto—I don't remember the name of the street anymore—were also mentioned.

[English]

**The Chair:** Very quickly, Monsieur. You're over your time.

[Translation]

**Mr. Thierry St-Cyr:** What's your reaction to these allegations?

**Mr. Patrice Brunet:** It's hard to react to allegations that are so broad. Our society needs offices to do its work. Those offices have to be adequate and suitable.

This is the first time I've heard the logo being attacked this way. It's just a logo. I can't tell you...

[English]

**The Chair:** We're off to Mr. Uppal.

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

And thank you guys for coming.

I'm sure, as MPs, that we've all heard of complaints, sad stories—horror stories—of people who have lost thousands of dollars to these disreputable consultants. Worse yet, people's files have been rejected because of poor representation.

From your experience, what kind of misconduct is undertaken by some of these disreputable consultants? I'm going to get to the ghost ones, so we'll do that as a separate section.

**Mr. Nigel Thomson:** In terms of our members of CSIC or the ghost agents?

**Mr. Tim Uppal:** The members of CSIC.

**Mr. Nigel Thomson:** What are our complaints largely focused upon? I think that's a very good question.

The largest number of complaints that CSIC receives with regard to its members are fee disputes, number one; secondly, protection of client property, which is return of original documents; and the third level of complaints we receive is with regard to competency of service, where the client feels that perhaps they have not been properly represented. Obviously some of those may be justified, and some may simply be situations where the client didn't get the result they wanted and feel that the representation wasn't sufficiently rigorous or within the law.

Those are the three main areas of complaints that we receive.

**Mr. Tim Uppal:** With those complaints about CSIC members, how do you handle these incidents of misconduct or complaint? I'm talking about the ones where you've determined there has been some misconduct. How do you handle that, and how big a problem is this?

**Mr. Nigel Thomson:** Well, CSIC has an independent complaints and discipline department, with a manager who is a senior member of staff. We have six individuals within the complaints and discipline department who investigate and make reports on incidents, and who investigate and do analysis.

Once a complaint is deemed to be significant, an investigation is put in place, and a report is then generated for the complaints and discipline manager, who has several different mechanisms for rectifying the complaint. It can simply be a letter to the members, essentially chastising them for the action and requiring them to take corrective measures.

If it is a more serious matter, it can be referred to the discipline hearings panel for a full hearing. Those are the 13 hearings I referred to in my presentation that are currently going forward. These are more serious matters. The manager has determined that a letter or simple fine against the member to obtain corrective action is insufficient, and the referral to the hearings panel must be made to look at whether the member should lose the privilege to be a member of the society and an authorized representative.

We have a whole graduated scheme of enforcement of the code of professional conduct and the bylaws of the society. The complaints and discipline manager has the ability to utilize whatever mechanism she has at her disposal to address the problem the member has created. That could be everything from deciding that the complaint has no merit, all the way, as I said, to a reference to the hearings panel, which could result in the member being deprived of membership in the society.

● (1640)

**Mr. Patrice Brunet:** If I may add to that—because as a lawyer it appeals to me that natural justice questions have been asked by members of this committee—beyond the discipline council's decision, there is an appeals level that is completely independent from the first one; different decision-makers will take a fresh look at the first decision.

I was one of the designers of that, and being an international arbitrator, it was very important to me that natural justice be respected. There is always oversight from the common courts for the decision-making process, but it was very important for us in the design of the system to make sure that if it got to the oversight level they would recognize natural justice was respected throughout all the processes.

**Mr. Tim Uppal:** Now just to get on to ghost consultants, you were saying you guys receive many of the complaints against ghost consultants. They're not members of CSIC, but what types of complaints were you getting about them? And within the same question, what do you do when you get a complaint, or what can you do?

**Mr. Nigel Thomson:** We're obviously somewhat hamstrung, as Mr. Oliphant mentioned. Clearly CSIC can't take action against non-members, but we have an intelligence department that over the last two years has been actively compiling information in a very sophisticated database on the activities of ghost consultants, and we've been reporting that information to enforcement, to CBSA and the RCMP.

**Mr. Tim Uppal:** How do you see this changing with this new legislation?

**Mr. Nigel Thomson:** With the new legislation, obviously there is now going to be greater impetus to that function and I think a great deal more urgency on the part of CBSA and RCMP to take action where they can. Now, obviously a lot of the complaints we receive are from outside of Canada, and that raises the issue of how you deal with things internationally. The minister is focused very positively on building relationships in countries where there are significant problems.

You asked about the problems we're seeing with regard to the ghost agents. They tend to be much more egregious: fraudulent documentation; blatant fraud, cases in which individuals have been told they can qualify when there is in fact no likelihood of the individual ever meeting Canadian immigration standards; blatant abuse of fees, fee levels that are just extraordinary being demanded for services that are unobtainable in the Canadian system; rash promises, guarantees. We're seeing all of these things from the ghost consultants.

**Mr. Imran Qayyum:** Mr. Uppal, in fact this harkens back to our presentation about this bill closing those legal loopholes. The penalty provisions are very simple. In 2008, when this committee considered the immigration consultants, CBSA appeared before this committee and told the committee that they tried to go after ghost consultants and the justice department told them that it was a civil matter. That's in your minutes. You can refer to them.

We believe that bringing in specific penalty provisions gives these enforcement agencies the legal tools they need to go after these people. We may not be able to get the people overseas, but we can certainly get the people in our own backyard, in Canada. We're doing a lot of this.

The other thing that CSIC has done is to spend a considerable amount to educate the consumer. CSIC took out a shark ad. You may have seen it. It showed a great white shark with a seal in its mouth. It was called the "prey campaign". CSIC has also launched a toll-free help line for individuals who may be in detention or may require the assistance of an immigration practitioner.

CSIC is trying to educate the consumer so that the consumer will be able to make the proper decision not to go with the ghost or an unqualified individual but to go with someone who is qualified, who is authorized and who is, very importantly, accountable.

• (1645)

**Mr. Tim Uppal:** Do you see these provisions and these penalties significantly cutting into ghost consultants' operations here?

**Mr. Imran Qayyum:** We certainly hope so.

I can speak on behalf of CMI. As an immigration practitioner and someone who competes, who is out there, who has gone through the standards, who meets the standards, who renews his membership every two years, and who holds himself out to be competent, I absolutely do. The biggest frustration—I come from a Pakistani community—is that we see the ads in our local newspapers. They're not in English, they're in Urdu, but we see them. And there's not much we can do about that, because the teeth are not there. So now with Bill C-35 and the penalty provision specifically, the teeth are going to be there.

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

We have two different clocks here, and I'm going to let Mr. Wrzesnewskyj ask a brief question.

**Mr. Borys Wrzesnewskyj:** Mr. Qayyum, could you forward to the committee—because we don't have time for an answer—the numbers of your members overseas, for both CMI and CSIC? You referenced them. What are the numbers, and how do they correspond to the ten most important source countries for immigrants to Canada?

**Mr. Imran Qayyum:** Absolutely.

**Mr. Borys Wrzesnewskyj:** Could you forward those through the chair? Thank you.

**The Chair:** You can send that to the clerk's office.

I would like to thank the three of you for coming this afternoon. It's been a great help. Thank you.

We will suspend for a few minutes before the next panel.

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

**The Chair:** Order, please.

I'm going to introduce the next two groups.

We have Mr. Warren Creates, an immigration lawyer. You're a group of one. We then have the three of you from the Canadian

Association of Professional Immigration Consultants: Philip Moon-ey, past president; Timothy Morson, policy director; and Tarek Allam, the chapter president of Quebec. Welcome to all of you.

Mr. Creates, you have up to seven minutes, sir.

• (1650)

**Mr. Warren Creates (Immigration Lawyer, As an Individual):** Thank you very much.

Good afternoon, everyone.

I'm a specialist certified by the Law Society of Upper Canada here in Ontario. I'm a specialist in immigration, citizenship, and refugee law. I was previously in-house counsel to the federal tribunal, the Immigration and Refugee Board, which is the largest tribunal in Canada and has the exclusive jurisdiction to adjudicate refugee immigration appeals, detention reviews, and admissibility hearings.

I have a number of recommendations. I prepared a brief. Hopefully it has been distributed to you.

**The Chair:** It hasn't. Unfortunately it's just in English. We will have it translated, and all members of the committee will get it at a later date.

**Mr. Warren Creates:** Good. I can send it electronically if you want.

**The Chair:** They cannot look at it now.

**Mr. Warren Creates:** I'm sorry I didn't bring a translation.

**The Chair:** It's quite all right.

**Mr. Warren Creates:** I only got notice of this on Thursday, so I did what I could to get prepared for the time we have together this afternoon.

Obviously it's clear to all of us that we need robust laws, we need.... Unfortunately, we've come to a point in our history in this country where we need to criminalize the provision of immigration advice by those who are unauthorized to do so.

Twenty-five years ago I didn't think I'd be saying that, but it's obvious and clear to me now—and perhaps to everyone at this table and outside this room—that it's now required. Without it.... Obviously a second part of that is we need a very robust organization to be the watchdog for those immigration consultants who do become authorized.

I have a list of eight recommendations in my brief and I just want to touch on them in the limited time that I have, very quickly.

First of all, I take issue with the name of the legislation. This is not just a question of cracking down on crooked immigration consultants. If it were only that, we would be dealing with a far more robust piece of legislation. What we're dealing with in Bill C-35 are those who are unauthorized, and criminalizing their conduct.

So I recommend a name change, and I think this committee should look very carefully at that. Although there are headlines in the proposed name, I don't think it really accurately describes what this piece of legislation is doing.

Second, putting a five-year limitation period on the investigation, charge, and prosecution of offences that are chosen by election to be summary conviction offences I think is wrong. If we want robust legislation that's going to deter those who would be inclined to practise unauthorized practice in immigration law, it should be open-ended. Why put a five-year limitation clause on it? I just don't see the public policy behind it. If the objective of this legislation is to deter criminal conduct, then it should be forever over the heads of those who engage in it.

Third, I obviously—like all—want to see a new watchdog. It must be robust, independent, arm's length from the government. It must be professional. It must be fully staffed and resourced. The panel before us and others have commented before this committee on the ineffective nature of that watchdog organization, and a lot needs to be done to approve one that's going to be better resourced.

Fourth, I like the authority given to the cabinet to make regulations requiring the watchdog to give the minister information. That's of particular interest because it has the power beyond the minister, and that's often important to have. It was lacking in the last piece of legislation. It was lacking in the last watchdog, and privacy was I think given as the shadow, the reason why things couldn't be shared with the minister. So I like that.

I have some other comments, though, about what needs to be done to resource this properly. It's not in the legislation, it probably can't be, but our overseas and Canadian-based officers need tools to detect and monitor fraud. It's not enough just to criminalize it; there has to be an enforcement opportunity. Training is needed, sophisticated tracking, and audit software. There needs to be an investment by the Canadian government in those tools.

Sixth, I think the bill should contain a provision that requires everyone seeking status or renewed status in Canada to disclose the use of a representative. That was the recommendation—I think it's number five—in the June 2008 standing committee's review of the problems of the past, and I believe that should be in this bill now. So I think everyone seeking some kind of status in Canada who files an application must be required to disclose that they use a representative.

Seventh, there has to be an investment in public awareness. A media campaign and government website updates must be undertaken to warn the public of the risks and of the criminality of both using unregistered consultants and committing immigration fraud.

Finally, number eight, there needs to be encouragement and even in appropriate cases immunity from prosecution for those who've been duped, for those who have themselves committed fraud, and for employees of unscrupulous consultants to come forward with their evidence against bogus consultants.

Thank you very much. It's been a privilege and an honour to be invited to share my thoughts with you.

•(1655)

**The Chair:** We've enjoyed your presentation, Mr. Creates.

Mr. Mooney, you have up to seven minutes, sir. Thank you.

**Mr. Philip Mooney (Past President, Canadian Association of Professional Immigration Consultants):** Thank you very much.

It's a pleasure to be here again before the committee and to welcome more new faces than at any other time I've had the pleasure to present. Welcome to everyone.

We also prepared a detailed brief and submitted it, but I believe it's in the process of being translated.

I'd like to make some general comments on the legislation. Then I'll turn it over to my associate to make some specific recommendations on one of the particular items in the legislation, and certainly allow as many questions as possible.

Just for the record, I'll say to everybody, "That's a great question, thank you for your question", so we don't have to repeat that. We all went to the Bill Clinton school of political answers.

The Canadian Association of Professional Immigration Consultants has worked for and supported the concept of the regulation of immigration consultants for 25 years. That is why CAPIC supports the intent and the main thrust of this bill. It is not only in the interest of consumers and the public to regulate immigration consultants, but in the interest of immigration consultants themselves.

Like many professionals, we hold ourselves to very high standards. We want to see these standards officially sanctioned and subjected to strong and enforceable regulation. Bill C-35 grapples with the very complex issue of ghost agents. The exploitation of vulnerable migrants by unscrupulous agents and unqualified intermediaries is a major global problem, part of a criminal industry worth billions of dollars. It causes incalculable harm to victims and their families. CAPIC has a number of recommendations concerning the enforcement, control, and prosecution of ghost agents.

Bill C-35 also addresses the major shortcomings identified by the standing committee in two separate reports in 2008 and 2009 on the way the Canadian Society of Immigration Consultants was constituted in the first place. They recognized that the absence of any statute governing CSIC simply makes it impossible for the society to enforce its rules on non-members, and impossible for the minister and CIC to hold the society accountable or influence the society's internal functioning. They also acknowledged the many legitimate complaints of CSIC members about CSIC's governance.

You recommended that a statutory body be established to replace CSIC. While CAPIC appreciates the degree of progress represented by Bill C-35 in making certain activities a violation of the Immigration Act—and we credit the department's ingenuity in bringing it forward in that manner—we recommend that the option of a statutory body be kept open for the future.



CAPIC has led the fight to resolve the issues of bad consultants and a poorly functioning regulator, and has continued to make recommendations for positive changes. Currently we are leading a group of concerned practitioners in preparing a bid to set up a new body, which we are calling “The Better Regulator.”

We have learned from the mistakes made in the past and from six years of imperfect regulation. We are doing this in an open and transparent manner, as volunteers, and we will ensure that our proposal is very clear on accountability and effectiveness.

Our detailed report makes several recommendations that we hope you will consider seriously, including specific recommendations that deal with third-party service providers. My colleague will explain those recommendations shortly, but I want to bring one more issue to the table first, and that is the issue of respect.

Hard-working, ethical consultants who ably assist tens of thousands of newcomers to come to Canada deserve the respect of the department and the government, as well as the respect of the general public. They choose every day to follow the rules, to serve the interests of their clients, and to forgo the fast buck and easy money that lures the unscrupulous. They do not need special recognition, but they do deserve the same respect accorded to all hard-working Canadians, be they auto workers, teachers, politicians, or millions of others.

Tackling the problem of ghost agents requires a better working relationship between all stakeholders. To be coherent, the policies that will flow from Bill C-35 must also recognize the role that authorized representatives play in support of legal immigration. It is self-defeating to deplore the ghost agent phenomenon on the one hand, while discouraging the use of authorized representatives on the other, as CIC does with its website messages. The role of authorized representatives must be validated, not denigrated; otherwise, what's the point of it all?

• (1700)

Finally, as an additional sign of respect, and in agreement with my colleague who spoke earlier—thank you for stealing my thunder—we ask that you consider changing the title of this act. For hard-working, ethical consultants, it will be very difficult to accept the fact that for years to come they will be regulated by an act that specifically refers to everything they are not. The alliteration is appreciated, but the perceived disrespect is not.

Thank you.

I'd like to turn this over to my colleague, Mr. Morson.

**Mr. Timothy Morson (Policy Director, Canadian Association of Professional Immigration Consultants):** Mr. Chairman, I'd like to briefly address the issue of designated entities under the proposed subsection 91(4), and the need for a definition of what constitutes immigration advice.

CAPIC recognizes that the growing number of arrangements between visa offices and visa application centres allows for a measure of efficiency and cost savings. VACs, as they are called, are private agencies officially appointed to assist clients in filing their applications with visa offices, for a fee.

The services offered by VACs are actively promoted on visa office websites. Officially, VACs may only assist with form filling and filing of the application. The VAC agreement between VFS Global in India and the Canadian High Commission in New Delhi states that “The Service Provider...will advise the client as to any apparent shortcomings in the application”. This agreement explicitly acknowledges VFS's role in providing advice, and it explicitly recognizes that clients may need help with the process. Our question is where exactly a line is drawn between immigration form completion and advice.

The VACs are not qualified, in any way, to offer immigration advice. If a VAC completes or checks a form, does that constitute advice? Is it possible to complete a form without offering advice?

These questions are important because, besides VACs, there are many specialized sectors that are peripherally involved in the immigration business: travel agencies, education agents, human resources recruiting firms, all offer incidental immigration services. A badly completed form can unleash a whole chain of consequences that could be detrimental to an applicant, including the outright refusal of the application.

If completing an application form does not constitute advice, then by what measure can any third party be prevented from charging a fee for completing a form?

It is not clear how Bill C-35 addresses this issue. If it does not address the issue, then one can be reasonably assured that ghost agents will exploit it.

CAPIC recommends, at a minimum, that Bill C-35 be amended to include a definition for advice, and that it require VACs to publish clear disclaimers to the effect that they are not authorized to provide immigration advice, with links to those regulatory bodies whose members are so authorized, as is the case in the U.K.

Thank you very much.

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

We now have seven-minute rounds. Mr. Wrzesnewskyj is first.

**Mr. Borys Wrzesnewskyj:** Thank you, Chair.

Thank you, gentlemen.

Mr. Mooney, you made a comment, which I think is quite a serious allegation, that on CSIC websites the role of authorized agents is denigrated. Could you provide clear examples of that, and if you can't do it at this time, could you provide this committee—

**Mr. Philip Mooney:** You're talking about CIC's website?

**Mr. Borys Wrzesnewskyj:** That's how I understood it.

**Mr. Philip Mooney:** Yes. On almost every single form, certainly even on the front page, there's a clear indication to individuals who are inquiring about immigration services that they do not need or require the services of an immigration consultant. It then goes on to explain a bit about who's regulated.

On certain websites around the world, in different visa posts, the disclaimer is even stronger.

The general attitude that this pervades is that this isn't your first choice or option when the decision should be—

• (1705)

**Mr. Borys Wrzesnewskyj:** Well, the language you used was quite strong. You said “denigrated”. That's a word you used; that's your terminology. So if you could provide actual clear examples of that—

**Mr. Philip Mooney:** I'd be happy to.

**Mr. Borys Wrzesnewskyj:** —to the committee, I'm sure it would then be circulated.

**The Chair:** To the clerk, Mr. Mooney.

**Mr. Borys Wrzesnewskyj:** With regard to the other question I have, you heard the presentation from the panel that preceded you. They were quite forthcoming in saying that CMI is actually a for-profit subsidiary of a not-for-profit structure. I understand, looking through their materials, that there's a board of nine directors.

Are you familiar with their selection process? Is there advertising across the country in the industry?

**Mr. Philip Mooney:** Are you talking about appointment of CMI directors?

**Mr. Borys Wrzesnewskyj:** Correct.

**Mr. Philip Mooney:** Those appointments were done internally by the Canadian Society of Immigration Consultants. All of the directors of CMI are either current or former directors of the Canadian Society of Immigration Consultants—one hundred percent. We've publicly questioned that in terms of conflict of interest, and double-dipping, if you will, in terms of the director fees.

**Mr. Borys Wrzesnewskyj:** Well, you've just answered my subsequent questions. Thank you.

I had some concern about that process, and obviously it sounds as though it's not transparent.

**Mr. Philip Mooney:** Just to add to the transparency issue, Ms. Chow asked several questions about the information in the CSIC financial report about CMI. There is quite simply one line, which says there was a transfer, this year, of \$1 million to CMI. There is no other detail. We have asked repeatedly for such detail: it is not forthcoming.

**Mr. Borys Wrzesnewskyj:** You've made several allegations about individuals being on both boards or double-dipping. Could you perhaps provide us with a chart that would outline that?

**Mr. Philip Mooney:** Certainly. Just as an example, the individual who was sitting in this chair, Mr. Imran Qayyum, who's the chair of CMI, is also a director of CSIC, as were the other two. They are both on the board of CMI. We could provide the names of the other

directors. They're on their website as well. We could help you in terms of where they came from.

**Mr. Borys Wrzesnewskyj:** Thank you.

The other concern I have with this particular legislation—and perhaps you have some suggestions in this field—is that it deals with so-called crooked consultants here in Canada. But my understanding is that many people have overseas operations in some of the busiest centres. They travel there regularly, set up offices and subsidiaries, and perhaps some of those illegal activities take place overseas, and there's no extraterritoriality built into this legislation. Would you like to provide any comments on that?

Perhaps I'll start with Mr. Creates.

**Mr. Warren Creates:** Well, I'm not an expert on conflict of laws, but obviously the extraterritoriality implications are challenging. I don't think it would be possible to have Parliament pass laws here in Canada that would have focus and scope in terms of the criminal nature of the sentence, let's say, or the prosecution, unless people set foot in Canada.

That's why I was commenting earlier that it's not enough to have this piece of legislation. It's a great start. It's going in the right direction, and unfortunately we need it, but there has to be a greater investment in detection, monitoring, and even blacklisting. I know it's done to some extent now by both CIC and CBSA. For example, if the same address and the same shareholder in the same company keep showing up on application forms of residents and there are thousands of them, there has to be audit software that's going to capture this stuff. If I used my Mastercard—

**Mr. Borys Wrzesnewskyj:** Just because of the limitation of time.... We got it.

In fact, I believe there are precedents. Canada has legislation that a number of years ago set a precedent, and I believe there's other legislation that deals with the issue of extraterritoriality. It's done with sex tourism—

**Mr. Warren Creates:** Yes, it is.

**Mr. Borys Wrzesnewskyj:** Because what I worry about in this legislation is that the intent is good—a lot of it is good—but all you're going to do is shift it abroad.

**Mr. Philip Mooney:** I think one of the key things—

**Mr. Warren Creates:** Yes, that's a good concern. I think you're right about that.

**Mr. Borys Wrzesnewskyj:** Mr. Mooney.

**Mr. Philip Mooney:** I think the legislation does one thing, which is to give Canada the moral imperative and the moral authority to go and talk to other countries about their bad consultants, who cheat not only Canadian immigrants but also British immigrants and New Zealanders. To do effectively what the minister's been doing is to go around and say to his counterparts that we think they should enact similar legislation.

In the past and until Bill C-35 passes, individuals could come back to their own governments and say they were not doing anything wrong: they could fill in forms; they could provide advice, and there's nothing illegal about that under Canadian legislation. Now we will have the opportunity to do that.

It also gives agencies such as ours the opportunity to take our members, who advertise in many of the same places these ghost agents advertise, and talk to the editors of those newspapers and ask them if they realize what they're doing, if they realize they can prevent these individuals from putting out their false ads.

The last thing I'll say is that we hear the sensational stories. We do. We hear about all the gross, egregious things individuals do, but those things aren't the bulk of the problem. The bulk of the problem is that individuals do a few things every once in a while, and we have to let those individuals know that the cost of doing that is prohibitive and that they can't get away with it.

• (1710)

**The Chair:** Thank you, sir.

Monsieur St-Cyr.

[Translation]

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

I'd like to begin by saying that I share your concern over the title of the bill for the same reasons you brought up, but also because, in my opinion, the title of a bill should not be used for political marketing purposes.

Unfortunately, if my understanding is correct, the rules of the House do not allow us to change the bill's short title, but we can at least strike it. I hope that the committee members will agree with me on removing the title.

How many members does your organization have, Mr. Mooney?  
[English]

**Mr. Philip Mooney:** I apologize, Monsieur St-Cyr, I didn't get the translation. You're coming across in French only.

**The Chair:** We must have a problem.

I'm trying to stop this clock. How do we do that?

**Mr. Thierry St-Cyr:** You should reset it.

**Mr. Philip Mooney:** The channel is coming through now. Thank you.

[Translation]

**Mr. Thierry St-Cyr:** Should I start over, Mr. Chair?

[English]

**The Chair:** Yes.

**Mr. Thierry St-Cyr:** And you'll reset the timer also?

**The Chair:** No.

**Voices:** Oh, oh!

[Translation]

**Mr. Thierry St-Cyr:** How many members does your organization have?

[English]

**Mr. Philip Mooney:** We have approximately 450 members.

[Translation]

**Mr. Thierry St-Cyr:** How many of them are in Quebec?

**Mr. Philip Mooney:** Mr. Allam?

**Mr. Tarek Allam (President, Quebec Chapter, Canadian Association of Professional Immigration Consultants):** Sixty.

**Mr. Thierry St-Cyr:** In your presentation, you said that you would possibly participate in the competitive bidding process that would take place under Bill C-35 to fashion a new regulatory body. I think you also said that you have partnerships with other organizations.

Could you explain to us quickly what that's about?

[English]

**Mr. Philip Mooney:** We have a dedicated group of volunteers, ranging in number from 30 to 50 right now, who are working on all of the provisions that are necessary to build a better regulator. Combined, the individuals have hundreds of years' experience in the business. Many of them are long-time former employees of the department.

We are in the process right now of sharing with our members all of our discussions to date. Then we will be formulating our bid, with assistance from some professional resources that we have added on to do that. We will be looking for endorsements from other stakeholders in the process.

I'm happy to share as much as I can with you about this process, given the understanding that some of the information is—

[Translation]

**Mr. Thierry St-Cyr:** Unless I've misunderstood, your organization oversees the discussions of a number of participants. They discuss, as individuals, what the new organization should be like.

**Mr. Timothy Morson:** That's exactly right. CAPIC has no intention of appointing itself the new regulator.

**Mr. Thierry St-Cyr:** As part of those discussions, you have probably read the first recommendation of the committee's report on immigration consultants, which calls for the Quebec Government to regulate consultants practising in Quebec.

If the committee were to go with that recommendation and to introduce amendments in response to the bill, the Government of Quebec would have the opportunity to create a professional order, to appoint or create an organization of its choice, or to negotiate an agreement with the organization selected by the federal government.

I understand that my question is hypothetical, but let's assume that an organization based on and inspired by your work is designated by the federal government. Do you think it would be reasonable to believe that that organization could agree with the Government of Quebec on regulating Quebec consultants, taking into consideration the distinctive Quebec regulations, especially those pertaining to Quebec immigration legislation and knowledge of French, which is a requirement in that province?

•(1715)

[English]

**Mr. Philip Mooney:** I believe that is not only a desirable outcome but also a very workable solution. The difference between now and two years ago is that the Province of Quebec has already enacted rules that all of us—including me, if I want to practise in Quebec, and my compatriots—must follow. We look forward to complying with these rules.

Rest assured that if we're involved in the structure of any better regulator, they will be heavily involved directly in the province of Quebec to facilitate that process.

[Translation]

**Mr. Thierry St-Cyr:** As things currently stand, Quebec consultants shoulder a double burden. They have to be members of the current regulatory body, CSIC, in addition to having to pass Quebec exams, French tests and so on.

Do you not think it would be better if those consultants came directly under the authority of a single organization that would have negotiated an agreement in advance with Quebec to ensure that consultants meet federal and provincial requirements?

[English]

**Mr. Philip Mooney:** Yes, I believe that would be a desirable outcome.

[Translation]

**Mr. Thierry St-Cyr:** If memory serves me right, Mr. Morson, you talked about the issue of defining the prohibition we are currently discussing, that is, amending section 91 as suggested in clause 2 of the bill. Holding the title of immigration consultant is not explicitly prohibited, unlike the prohibition in the case of professional orders. I am a member of the Ordre des ingénieurs du Québec, and those who aren't members of that order cannot call themselves engineers and put that title on a business card.

It seems to me that no provision in this legislation precludes someone who is not a member of one of the recognized organizations from handing out business cards with the title of "immigration consultant" on them. Is this how you interpret this provision as well? Does this concern you? Do you think that we must protect not only the practice of a profession, but also the title itself?

**Mr. Timothy Morson:** Yes, I agree with you. We should probably have a provision protecting the title. However, there is also the extraterritorial issue. It was brought up earlier, but I don't know how we could apply the regulations abroad. That is why we are wondering what the expression "*conseiller quelqu'un en matière d'immigration*" means. The English version uses "advise," which is a very vague term. Let's consider third parties, legitimate organiza-

tions, such as travel agencies, which, in good faith, complete basic visa forms for travellers who want to visit Canada. Would a travel agency, for instance, be breaking the law by doing this? I think that situations like these force us to pay more attention to detail when it comes to wording.

**Mr. Thierry St-Cyr:** Very well.

Let's talk about extraterritoriality. The Government of Quebec has adopted new measures requiring applicants to state whether they paid someone for immigration advice. This measure was adopted in order to try to keep track of consultants from around the world and to possibly exclude some of them.

Do you think that the federal government should also add this measure to its legislation?

[English]

**Mr. Philip Mooney:** Absolutely. We think that's essential to closing the loop in making sure that individuals who are paid for immigration consulting services are either attorneys or immigration consultants. If there's no onus on the individual who's paying for the service to report that, basically we have a broken system. Individuals could very easily cooperate with ghost consultants to get their applications done, without ever disclosing that they had done so. So we support the rules that Quebec has implemented, and we encourage, in the detail that comes out on Bill C-35, that this also be included.

**The Chair:** Thank you.

Ms. Chow.

**Ms. Olivia Chow:** CSIC has a fund that is supposed to compensate people. It's IMMIFUND. Do you plan to have something like this that would give an added layer of protection against the fraudulent activities of immigration consultants? So if you've been cheated, you would get your money back. Is that something that a regulator should do, or is it an area that is a bit grey?

•(1720)

**Mr. Philip Mooney:** That was a requirement in the original contribution agreement with the federal government. They said we had to establish a fund. We have errors and omissions insurance. It costs about \$220, and I think \$75 of it is an administration fee. So the cost of our errors and omissions insurance is very low, because the number of complaints and the monetary rewards to individuals for errors and omissions have been very low in the past five years.

However, there are times when an individual will commit an actual criminal offence against an individual in terms of fraud. That isn't covered under errors and omissions insurance. So the federal government asked that a fund be set up designed to assist individuals in claiming for damages because of criminal acts of members of the society.

In the first two years, we have never heard of a case where a claim has been made. We have all contributed substantially to the fund, to the tune of \$800 to \$900 per member. The fund sits at over \$1 million, I believe. The only thing we know about the fund is that there are administrative costs—it has a board of directors and staff—but there have never been any claims. We have asked repeatedly for more information on that, and it has not been forthcoming.

**Ms. Olivia Chow:** Do you think this kind of fund is necessary with the new group? Is it a good idea to have a fund like this?

**Mr. Philip Mooney:** This was considered to be a really important step in the early days, but if in two years there hasn't been a claim processed under the fund, or very few complaints, either the rules are too tight—and the rules are fairly restrictive—or there is really no need for such a large fund and as much administration.

**Ms. Olivia Chow:** Bill C-35 is mute as to whether this should or should not exist. So is it an area that we should probably look at, whether the rules are too tight or whether it's important to have such a fund?

Maybe our lawyer friend can enlighten us. Is there such a fund for lawyers? If there's a criminal offence, then I could apply for some kind of support.

**Mr. Warren Creates:** The law societies operate based on errors and omissions insurance. The rates are rather high, and it's not because there are claims against immigration lawyers that result in monetary damages that are paid out to victims of that. It's mostly, realistically, fraud.

It's an insurance policy. It's expensive to operate and administer, but it's necessary because there are going to be persons who are victimized and they need to be compensated in some way.

How do you compensate someone based on a failed or negligently prepared refugee or immigration claim? It's very, very difficult in our current system to quantify that. I don't think it's ever been tried, but it may have.

With regard to returning fees, many of the complaints we heard earlier about disputes involving clients and their consultants have to do with fees. There's a legitimate case, at times, perhaps, to be made that fees should be returned, so that they're put back in the place they were before people hired the consultant who ripped them off.

I like your question. I think there's merit to it. Obviously, it's not in this piece of legislation. If this is the opportunity for the country to regulate in this area, this is the chance to do it. Rather than doing it on a piecemeal basis, it should be done comprehensively.

**Ms. Olivia Chow:** Those people who end up being ripped off, for some of them, in fact, it's their entire life savings. They're in debt for years to come. Even the kids might be in debt because they pay somebody a huge amount of money they can barely afford. They borrow it. Then their chance of coming to Canada, probably...if it's done wrong, they end up being stuck.

So it does make sense to have some kind of return. Maybe the rules need to be looked at so that they are fair. You don't want a loophole there, but there should be some kind of cushion.

• (1725)

**Mr. Warren Creates:** Well, law societies throughout the country do this every day. You're not reinventing the wheel. It's there. It operates. It's on a cost-recovery basis, based on insurance. Our annual premiums go to that.

**Ms. Olivia Chow:** In terms of moving toward a stand-alone body, which is what this committee recommended earlier, that takes a long time to set up. Should we recommend that.... Of course there

shouldn't be any limit. Maybe eventually it will go toward that direction.

Would there be some signpost to say if we're at that stage, then we're ready to have a non-share corporation, the one we're all talking about? What are some of the signposts that say okay, if the industry is at this stage or that stage, then we should take that further step to make it into a professional body?

**Mr. Philip Mooney:** Without giving away any specific details of what our bid proposal will be,—

**Ms. Olivia Chow:** Don't do that.

**Mr. Philip Mooney:** —it's really incumbent on the process that there be no uncertainty in the market or in the marketplace. It's also clear that if the decision is made to appoint a different body as a regulator, there has to be a transition period. The bid process itself asks for a clear description of a bid process, a transition process, with all of those signposts.

I've been involved in several of those discussions, and I think we've come up with some very palatable signposts. Is that the right way to put it? It's doable.

**Ms. Olivia Chow:** Yes, I get what you mean. It's practical.

**The Chair:** Thank you.

Before we get to Mr. Dykstra, I have a brief question to you, Mr. Creates.

All of us as members of Parliament get constituents who come in and say "I gave \$10,000 to some guy and he messed up my file". I'm picking that figure out of the air. It may not be that amount; it may be less, whatever.

Are you suggesting some form of insurance in the same way the law society has?

**Mr. Warren Creates:** I can only speak to the law societies, because I'm not familiar with how the consultants are regulated. If there's a complaint, such as what you've said, a law society will investigate negligence but won't issue an order or a judgment of any kind in regard to compensation. That has to be separately....

**The Chair:** I understand. They have to go through the courts.

**Mr. Warren Creates:** They have to go through the civil procedure of the courts, yes.

**The Chair:** Mr. Dykstra, it's your turn.

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

Thanks. This has actually been an interesting contrast in terms of presentations. It was good to have you guys sort of back to back to each other.

Mr. Mooney, I wanted to very quickly get your thoughts on the issue Ms. Chow brought up. This process we're undertaking now to choose a new regulator, or at least to go through the process to choose a new regulator.... One of the confusing parts of our last meeting, when we had the ministry staff here, was that we had almost pre-started or predated Bill C-35 through this process. But you didn't, and you aren't, considering in your application and process potentially becoming a regulator under the new legislation. You did so under the current legislation.

**Mr. Philip Mooney:** Yes, that is correct.

**Mr. Rick Dykstra:** Okay, thank you. I think that's an important clarification to make.

**Mr. Philip Mooney:** Absolutely.

**Mr. Rick Dykstra:** One of the comments your organization made, in terms of supporting the bill, is that it covers everything in connection with an application or proceeding under IRPA, whereas the former act only included work done after the application was filed.

Could you enlighten us a little bit in terms of why that support is so necessary and why the bill is so correct in addressing this issue?

**Mr. Philip Mooney:** Sure.

I think if everyone had a picture in mind of a bad consultant or someone who is out to cheat people, it would be a guy meeting someone in a dark corner of some restaurant in downtown Toronto or Vancouver or Delhi. He would have an individual who had been referred to him by someone else—a brother, a friend, a colleague—and would say, “I can help you come to Canada. I can get you there in six months. I'll fill in all your forms. The right way to do it is to do this, this, and this. You give me these documents. I'll do it all for you. Just give me \$5,000.” The applicant then gives the money to that individual, goes away, doesn't hear anything for months and months and months, maybe hears that the application's been filed, gets no feedback as to where that application is, and is told over and over again for a year or two years that the lineups are long and that things are backed up. Eventually it comes out after a few years that the application was never filed. By then the applicant can't find the individual.

Well, unfortunately, everything that individual did under the current legislation was perfectly okay. It wasn't moral, it wasn't ethical, but it was legal, because the Immigration and Refugee Protection Act said who could represent, and the department, in its wisdom, when it put out its bulletin, said that representation starts after an application is filed with the government. So effectively, it did little or nothing.

I'll be honest with you. We were all so busy getting regulated and taking tests and taking our English-language tests—I'm not sure what I would have done if I had failed the test, I would have to have been a sign-language consultant—that we didn't realize until we all became regulated that the discipline, the regulation, all that stuff, only applied to us. We really thought it applied to everybody. Of course it's like reading the fine print on your contract and saying, “oh, damn”. That's when we started to work towards changing that. We were given lots of reasons why it couldn't be changed and then lots of promises that it would be.

We absolutely applaud everyone, and I say this sincerely: the committee who recommended those things and the government that acted on them.

• (1730)

**Mr. Rick Dykstra:** I wanted to refer to that, because the report the committee did in 2008 talks about all the issues CSIC faced: the membership fees were too high, the exam was prepared and marked in a questionable way, CSIC failed to develop an industry plan, the board of directors was not accountable to anyone, there was no

possibility for CSIC members to call a special meeting of the society, and so on. These were the things the committee heard across the country.

In the report presented by the Canadian Migration Institute, one of the things Imran commented on was that just two months ago they commissioned a survey to determine how CSIC fellows feel about the regulations. The results clearly indicated that the fellows think CSIC is an effective regulator.

You're a member of CSIC. You also have membership. So I guess I'm asking a two-part question. What does your membership think of the current setup?

**Mr. Philip Mooney:** Sure. I'm also a member of CMI. It would be silly not to be, because they give us a lot of things for free, or they were free.

In regard to that survey, we participated in a listserv of several hundred professionals who share ideas and solve problems. Unanimously, the individuals came out, and one of the first questions they asked on that survey was whether their identity would be disclosed to the regulator, in terms of the answers to these questions, and the answer was yes.

I personally objected to some of the questions and gave very strenuous answers in opposition to the leading nature of the questions, and I was told at the end that I would be put down as non-responding. Frankly, I wouldn't say this was quite up to Gallup standards. In fact, when they disclosed the results, they inadvertently disclosed the data behind it, and I would leave that with you to say that you would not accept that as a standard in terms of accountability. Frankly, just think about it: we're all members of CMI, we get a lot of things for free, which of course we pay for in our CSIC fees. If you're not a member of CMI you don't get any of it; you have to pay for it yourself. That's why they're almost unanimous in terms of their support.

Then, all of a sudden this year we were told, by the way, it's not free any more. Surprise, surprise. After the million dollars, it's not free, and clearly, we've each paid something like \$700 or \$800 a year for those services. When they first came out they gave us all these free things. That was in August, September, October 2008, and then remarkably, at the end of October, about two weeks before our annual renewal, we were told that several of those things were now mandatory, that we must have them to continue to practise and to keep our licence. Of course they were all free from CMI, but we had to have them. So your choice was to join CMI or risk losing your membership or pay something like \$1,000 to \$1,500 in additional fees to buy the resources. And that has continued for the last few years. That's one of the reasons that our association, which was providing some of those things, simply couldn't compete.

•(1735)

**Mr. Rick Dykstra:** One of the other questions I had, and this came up in our last meeting as well, is the issue around statutory body and whether or not this would work as a regulatory body. One of the issues, obviously, is the speed upon which we'd like to ensure that we can move forward. We do have other organizations across the country that are in fact run under this type of process that we're suggesting in the bill. Do you feel it's something that at least gives us a good start over the next two to three to four years?

**Mr. Philip Mooney:** As I said in the presentation, we believe this is a huge step forward. The question we're asked all the time is what if you change the regulator? How do we know we won't be here in five years, ten years, or twenty years? Well, they don't ask that question about law societies, which are statutory bodies. So that's probably something time will give us the answer to.

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

Mr. Oliphant, please.

**Mr. Robert Oliphant:** Thanks, and I may not take my whole time, actually.

I'm still sorting this out as a new member of the committee. I wasn't in the committee when it did its last report and its report before, and all the way back to 2004, when discussions started on this topic. But as I'm looking at this, I see a life cycle in here.

I just want to get where you see the points of the problem are. You have education, certification, licensing, continuing education, compliance, including policing, governance of the body that's doing all of that, public education, complaints, discipline, and then relations with society, government, and others. So there are all of these factors in here, and I'm seeing certain little holes in various parts of it. If you had to name where you're seeing a weakness in this legislation, where is it along that line?

**Mr. Philip Mooney:** Well, the legislation isn't designed to solve all of the problems. It goes a major step along the way toward what individuals are allowed to do if they're in Canada in terms of immigration procedures and practices.

With regard to the regulation, you can have a perfectly designed system; it's how it's implemented. In the first seven or eight things you indicated, about education, accreditation, exams and standards, CSIC has done many of those. I would simply say that the difference in what we feel, as members, is that they've been done in a way not to maximize the effectiveness or the efficiency of the organization, but to maximize the revenues. So it costs us a lot of money to belong and to stay, and that has an impact on the number of members CSIC has removed. Of those members—you heard about the numbers removed—the vast majority were removed because they couldn't afford to pay the fees.

A lot of the individuals who graduate from schools are there to set up their own businesses. Immigration practitioners, on the whole, operate alone. They all come out and they're all operating on somebody else's dime, mostly. Perhaps they have a little capital saved up, and they start their businesses and find out it's not easy.

I was in the corporate world for 40 years, so getting business is the hardest thing you have to do. But when you end up in a situation where your business is developing slowly, and then you get hit with

fees and more fees, ultimately you say "Maybe I'm in the wrong business, but I really like this." We believe a whole lot of them have decided they can actually stay in this business without paying the fees.

**Mr. Robert Oliphant:** This is one of my dilemmas. First of all, I called the Law Society of Upper Canada last week to find out about fees. What I was told was \$5,150; \$1,800 for their fee and \$3,350 for insurance compensation. What I understand is the total fees for CSIC are \$2,790.

**Mr. Philip Mooney:** We have to be careful to see how much we add up. The total amount of fees that we're actually paying, if you include now the levy for CMI, for the materials we must have, are closer to \$3,600. And if you subtract from that the errors and omissions insurance of about \$200, we're sitting at \$3,400.

We did a survey of all of the law societies across the country. On average, a CSIC member pays 34% more than the average that a lawyer pays—

**Mr. Robert Oliphant:** So Ontario is—

**Mr. Philip Mooney:**—without errors and omissions insurance, so subtract errors and omissions insurance. As Warren said, that's driven by real estate and other high-cost transactions, whereas we're only talking about the practice of immigration; the fees to do that are much higher per person.

•(1740)

**Mr. Robert Oliphant:** I'll try to get our legislative researcher to do some work on fees, because it's not adding up. I keep getting different stories.

**Mr. Philip Mooney:** We'd be happy to send you the survey that we did.

**Mr. Robert Oliphant:** It must be easy to find out.

The other thing is the relationship between the association and the regulatory body. Other professions do have a regulatory body and an association. When I've met with immigration consultants they kind of confuse those two. They think of the regulator as a club and their association as something different. I'm trying to sort out your relationship as an association of professionals with a regulatory body that is, by nature, going to be more difficult for them.

**Mr. Philip Mooney:** The definition should be very simple because of the models that were used to set up the Canadian Society of Immigration Consultants. Effectively, they're the law society, and we're the bar association. The bar association is voluntary.

**The Chair:** Thank you.

Monsieur St-Cyr.

[Translation]

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

I want to make sure that I have understood properly.

Statutory and regulatory organizations were discussed. My understanding is that a statutory organization is an organization created pursuant to the act, while a regulatory organization is set up pursuant to the regulations.

In addition, unless I am mistaken, you say that Bill C-35 provisions are a good starting point, but the ideal institution in the medium term would be an organization created pursuant to the act.

Did I understand that part properly?

[English]

**Mr. Philip Mooney:** Logically speaking, yes. What I think I said was maybe in three or four years, if the better regulator is working perfectly, we'll say maybe it wasn't necessary, but it's a very good first step.

Theoretically—and I'm not speaking only for myself, but for many of our members—we think, perhaps because we believe we are influenced by the model of the law societies, that may be necessary in the long run.

[Translation]

**Mr. Thierry St-Cyr:** However, I feel that the advantage of including the provisions in the act has to do with independence. The organization would exist and would be shielded from political pressures of any kind, since its existence would be sanctioned by the act. For the organization's structure to be modified, Parliament would have to get involved. In terms of regulations, the minister can act directly. However, the minister would have the flexibility to make changes quickly if a problem arises.

How would you solve this dilemma? My understanding is that you feel that we should do a test run with an organization set up under the regulations, and later, if it goes well, to designate that organization formally pursuant to the act. Is that what you're saying?

[English]

**Mr. Philip Mooney:** I believe that in the interim it's just like the issue of dealing with ghost agents by making it an offence in the immigration act and making CBSA and the RCMP the enforcers.

This issue of the minister and the department having control over the regulator of immigration consultants is a direct reflection of the fact that they didn't have control in the past and don't like where it ended up.

[Translation]

**Mr. Thierry St-Cyr:** Earlier, we talked about the advice issue and the fact that it was not necessary to refer, on certain websites you found too harsh, to immigration consultants.

That aside, do you believe that it is generally necessary for someone immigrating to Canada or wishing to get a visa for Canada to deal with an immigration consultant, or even a lawyer? Can individuals go through the process on their own?

[English]

**Mr. Philip Mooney:** Well, clearly, we all make a living, because other people agree. In general, if I could tell you from a practical standpoint, the reasons people come to us are either that they hate forms and are fearful of making a mistake, or they have no time. So

they look to the advice of a professional, just as we all do for many different things in many different areas.

The other thing we found was that the further we get away from IRPA—which was a simpler piece of legislation with simpler rules when it came out—the more complex it becomes. So we have to thank you for adding complexity to the law, because it helps our business.

[Translation]

**Mr. Thierry St-Cyr:** I understand your argument very well. There are many valid reasons for someone to go to an immigration consultant. However, you do say that it is not necessary. People whose case is fairly simple and who have the time could go through the process on their own.

**Mr. Tarek Allam:** I will answer in French.

The three of us are members of a group called CICII. It was maybe not at the last meeting, but rather at the one before, here in Ottawa, that we were quoted some statistics. If I'm not mistaken, about 30% to 40% of applications are returned because the information is incomplete or the answers are inadequate.

• (1745)

**Mr. Thierry St-Cyr:** Are those applications completed by applicants themselves?

**Mr. Tarek Allam:** Yes, in most cases.

**Mr. Thierry St-Cyr:** So, applications completed by consultants are usually not returned because they are correct.

**Mr. Tarek Allam:** Usually, as far as the educational component goes, during our seminars and other meetings, we are in direct contact with Citizenship and Immigration Canada, Immigration-Québec, Human Resources and Skills Development Canada and its Quebec counterpart, and Service Canada. We try to pinpoint the mistakes people make most often in order to correct them and let our members know. We have a website and a discussion board. We are always trying to make improvements, and we send our members information about how to correct the way the forms are filled out and delivered.

Therefore, I feel that we are working on improving the departmental system, which is overly complicated.

**Mr. Timothy Morson:** I would like to add that Citizenship and Immigration Canada recognizes that some applicants have to get professional help. For that reason, some embassies have made arrangements with large organizations, like the DFS in India. On the embassy's or the high commission's website, those who want to get a visitor visa or a study permit are even encouraged to use the services offered by the DFS.

**Mr. Thierry St-Cyr:** How much does that cost, on average?

[English]

**The Chair:** Thank you.

We've come to the end.

Mr. Allam, Mr. Morson, Mr. Mooney, and Mr. Creates, thank you for your contribution to the committee. We appreciate your time. Thank you very much.



This meeting is adjourned.

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