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—
Chair

Mr. Robert Oliphant

Standing Committee on Citizenship and Immigration

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• (0900)

[English]

The Vice-Chair (Hon. Michelle Rempel (Calgary Nose Hill, CPC)): We are getting down to business, colleagues. I'm calling the 157th meeting of the Standing Committee on Citizenship and Immigration to order.

We will begin with Monsieur Gagnon, for seven minutes.

[Translation]

Mr. Louis-René Gagnon (As an Individual): Good morning, Madam Chair, members of Parliament.

My name is Louis-René Gagnon.

First of all, thank you for the opportunity to appear before this committee as an individual.

Let me briefly tell you about my own experience that is directly related to the bill before you today.

I held positions related to policy development, with operational responsibilities at Quebec's immigration department for more than 20 years, including as secretary of the Conseil des relations interculturelles and as director of the Quebec immigration office for the Middle East in Damascus, Syria, from 2007 to 2009. That was during a more pleasant period. I also carried out many missions to select immigrants abroad.

From September 2011 to May 2016, after my retirement from the provincial public service, I taught immigration law at the CEGEP de Saint-Laurent to those wanting to become immigration consultants. Since May 2013, I have held the position that is perhaps most relevant in this case. I am actually a member of the Discipline Committee of the Immigration Consultants of Canada Regulatory Council as a representative of the public. Let me clarify that I am not a consultant. As part of the committee, I have served on more than 250 complaints committees as well as on numerous disciplinary and appeal committees, either as a member or as chair.

I should tell you that I fully support the principle of the bill regarding the College of Immigration and Citizenship Consultants because I believe that the disciplinary system to which consultants must adhere must be based on a solid legal foundation under an act of the Parliament of Canada specifically designed for them.

In addition, I am pleased that subsection 6(2) of the Act respecting the College of Immigration and Citizenship Consultants proposed in Bill C-97 gives the college extraterritorial capacity. In my

experience, the most serious abuses are in fact predominantly committed abroad. I also welcome section 78, which will allow the college to apply for an injunction to counter the blight of illegally practising the immigration consulting profession.

However, I would like to insist that the various disciplinary panels that will be created under the regulations—which will be approved by the minister—always be composed of two licence holders and a member of the public. A member of the public who is not a consultant is an important guarantee of impartiality. This prevents the image of a professional group whose members would only protect each other or absolve each other of their faults.

I am also pleased that section 9 stipulates that the Official Languages Act applies to the college, since the ICCRC has not always been exactly exemplary in that regard. However, the college will need to be provided with the financial resources required to comply with the legislation.

I consider the governance structure proposed by the bill, which combines both elected and minister-appointed members on the board, to be satisfactory.

I would like to add that, in my opinion, the role of the member of the public is broader than simply defending the consultants' clients. I recently recalled a case where the sentence to be imposed on a consultant who had been convicted of criminal acts was being considered on appeal. To mitigate his sentence, his lawyer said that, in this case, his clients had pushed him to commit those acts, that they too had committed criminal acts and that the public was not involved. However, I remember writing in that decision that the public was actually involved. The public is not limited the clients. A representative of the public must keep in mind the integrity of the Canadian immigration system and look at it in the broadest sense.

• (0905)

Thank you.

I am ready to answer any questions you may have, in French or English.

The Vice-Chair (Hon. Michelle Rempel): Thank you, Mr. Gagnon.

[English]

We move to the Canadian Association of Professional Immigration Consultants for seven minutes, and I believe you're splitting the time.

Mr. Dory Jade (Chief Executive Officer, Canadian Association of Professional Immigration Consultants): Thank you, Madam Chair.

Members of the committee, good morning. I have accompanying me today, Mr. Gerd Damitz, who is the past president and co-founder of CAPIC.

On behalf of the Canadian Association of Professional Immigration Consultants, I want to thank the committee for their unanimous bipartisan proposal of federal statute regulation through the Parliament, and acceptance of this proposal. I also want to personally thank you for inviting me and giving me the opportunity to present on such an important matter that belongs to the industry of immigration consultancy.

The proposed college of immigration and citizenship consultants act is a much-needed antidote for a problem that has long plagued the reputation of a respected profession, both at home and abroad. Specifically, its provision of extraterritorial powers against unauthorized practitioners will significantly bolster consumer protection and restore faith in the immigration consulting profession for prospective consumers. For these reasons and many more, CAPIC strongly supports the proposed act.

Before exploring all the points that I want to bring before you, let me reintroduce you to CAPIC. For those members of this committee who were not present before, CAPIC is the sole voice of immigration consultants. Its mission is to act and defend, protect and develop the profession in the best interests of its members.

Over the last five years, we have worked diligently with the Government of Canada to strengthen professional regulation and have advocated for greater disciplinary powers for the regulator. Although satisfied with much of the proposed act, we still have a few points that we would like to bring to your attention. We would ask you kindly to have some amendments on those.

I also want to point out that last Wednesday, the Immigration Consultants of Canada Regulatory Council, from which you had representatives yesterday, has named Queen's University and l'Université de Sherbrooke in Quebec for their graduate diploma program in immigration and citizenship law. This is a milestone in what this committee has recommended in order to increase the education level of entry into the profession.

Let me go to the point pertaining to the solicitor-client privilege, which is consultant-client privilege. The consultant-client privilege is assumed by the Supreme Court for notaries, lawyers and paralegals. In the last seven years, it has become a constitutional right protected under the Charter of Rights and Freedoms. Crucially, such a privilege is not exclusive to lawyers, as both patent agents and paralegals are entitled to it. With consumer protection in mind, the distinction that the privilege applies to the client and not the solicitor renders its omission from the act all the more confounding.

There are three preconditions to establishing solicitor-client privilege: one, communication between the solicitor and the client; two, the seeking or giving of legal advice; and three, the intention of confidentiality. All those have been also brought forward through a legal letter by Professor Peter Hogg, which we would be happy to circulate if need be.

● (0910)

The memo brought by Professor Hogg concludes that the privilege should apply especially and equally to immigration and citizenship consultants and anchor any professional legislation. Indeed, consumers seeking advice should be equally protected when they seek advice from authorized representatives, who most of you would know are of different categories and different regulators.

Proposed section 80 deals with bylaws and regulations, but details are sorely lacking. The issue is the college can and will start doing bylaws. However, under proposed section 80 it only mentions in the act that the college needs to do bylaws or to prepare bylaws. We understand that they will be brought before the Minister of Justice at the end for final ratification or seal. However, there is no guideline. If the guideline is in the regulation, then this point is moot. There is also a concern that the regulator could draft bylaws without respecting the regulation.

In the interests of consumer protection, the reform that has touched on RISIAs, which is the tier regulation or the tier licensing that is in the act, has given RISIAs more powers, which is representation with express entry. RISIAs are only meant to be for representatives on study permits. We would like to recommend under—

The Vice-Chair (Hon. Michelle Rempel): I will give you about 10 seconds to wrap your comments up.

Mr. Dory Jade: Will do. Under proposed subsection 85(7), it mentions that it can represent an EOI, which is an expression of interest.

Thank you for the time and it's a pleasure to answer your questions.

● (0915)

The Vice-Chair (Hon. Michelle Rempel): Thank you.

The first round of questions go to Monsieur Ayoub.

[*Translation*]

Mr. Ramez Ayoub (Thérèse-De Blainville, Lib.): Thank you, Madam Chair.

Gentlemen, thank you for joining us this morning.

I will get straight to the issue. The purpose of the proposed legislation is to regulate consultants and protect the public. It also seeks to reassure Canadian citizens about immigration and people applying for Canadian citizenship. The process must be straightforward, honest and principled for persons who are in need or who are applying for family reunification. We know all that.

There are already consultants who provide quality services to those clients. That's the right term, since those people end up being clients. We are talking about creating an ombudsman position or a complaint mechanism on service quality, as in other colleges. However, people in vulnerable situations and in need are afraid to apply and assert their rights.

Can you give me some examples of cases where consultants have helped these people and given them access to all the services to which they were entitled? Some consultants even tell their clients that, if they are not satisfied with the services they receive, they can file a complaint. It's part of the profession.

Mr. Jade or Mr. Gagnon, you can take turns answering.

Mr. Louis-René Gagnon: Right now, each consultant is required to have their client sign a service agreement or a professional contract. The failure to do so is already, in itself, professional misconduct that can be the subject of a complaint. This still happens a lot. It is happening less and less, but I saw many of those cases at the outset.

In the contract, the consultants have the obligation to inform their clients that they are members of the regulatory body and that, in the event of a complaint, the client may contact that regulator. Clearly, the client must read the contract and be able to understand it. The contract must be in English or French, and also in a language that the client understands. It's already a foot in the door. A lot of awareness needs to be raised, but it is at least a key to doing so—

Mr. Ramez Ayoub: You are saying that it already exists.

How will the current regulations improve access to a certain level of security?

Having the process is one thing, but making the process work is another. We don't really want complaints, but we want the process to handle them to be easier.

Mr. Louis-René Gagnon: It's like any other regulated field. Regulations are absolutely necessary to provide the framework, but if there is no way to enforce them, to ensure they are upheld, to implement them, they have no effect. It takes both. It takes a highway code and police officers to monitor it.

Mr. Ramez Ayoub: Mr. Jade, you have the floor.

Mr. Dory Jade: Actually, to add to what Mr. Gagnon just said, the complaints are confidential. In other words, clients are protected until they arrive in court, if necessary. Clients therefore have a guarantee of professional protection reinforced by the fact that there will be new federal legislation.

Previously, clients were protected “only” by the bylaws or what is also called the internal rules; bylaws is easier.

From now on, this will be enshrined in the legislation. We will certainly look at the regulations and make suggestions.

Complaints must be completely confidential, which will encourage people to file a complaint.

Mr. Ramez Ayoub: Okay. Thank you for your answer.

Mr. Gagnon, in your presentation, you mentioned that the problems are particularly common outside Canada. Future migrants who want to obtain Canadian status have problems outside Canada.

In your experience, how will this bill, or this college of immigration and citizenship consultants, improve the situation on your side for people who are not yet in Canada?

●(0920)

Mr. Louis-René Gagnon: The problem is mainly with those who are not members.

Until now, one of the main limitations of the regulator has been that it could only regulate its members. Some people falsely advertise themselves as consultants in the language of the country, which people do not understand; others imitate websites of recognized consultants—there is often identity theft.

It was beyond the organization's ability to prosecute those people because they were not members. The fact that the organization will be able to take legal action against anyone who illegally practises as an immigration consultant is already a step forward. In addition, the bill contains the concept of extraterritoriality that will allow them to act within the limits they might have abroad, giving them at least a foot in the door to start fighting fake consultants and try to make their lives much more difficult. Yesterday, you received some interesting suggestions from Mr. Kurland on that.

Clearly, in some countries, we will never be able to prevent—
[English]

The Vice-Chair (Hon. Michelle Rempel): You have about 30 seconds, Mr. Ayoub.

[Translation]

Mr. Ramez Ayoub: Are you suggesting that there be improved agreements with the various countries that have specific entries into Canada?

Mr. Louis-René Gagnon: Yes, to the extent that it will be possible to co-operate with the authorities who also want to protect their citizens, to a certain extent.

Mr. Ramez Ayoub: Thank you.

[English]

The Vice-Chair (Hon. Michelle Rempel): We now go to Mr. Tilson, for seven minutes.

Mr. David Tilson (Dufferin—Caledon, CPC): Before my time starts, Madam Chair, I'd like to speak on a point of order. It's a question for the clerk.

This committee does not have a chair—although you're doing an admirable job as the interim chair, you are a vice-chair. I believe it's the clerk's responsibility to hold an election for a chair. There doesn't seem to be any sign of a new chair coming. My question is—if it's an appropriate question, through you, Madam Chair— can the clerk advise us on when she will be holding an election for a new chair?

The Vice-Chair (Hon. Michelle Rempel): Yes, this is certainly an odd situation. We are chairless.

Mr. David Tilson: We can't go the rest of the session without a chair.

The Vice-Chair (Hon. Michelle Rempel): I have confidence that my colleagues from the Liberal Party will advise members soon on when this will happen. I can't believe I'm putting this on the record, but I'm extending my trust to members of the governing party that they will address this situation in a very timely manner, Mr. Tilson.

Technically, as per the advice of the clerk, we actually do have a chair.

Mr. David Tilson: Who?

The Vice-Chair (Hon. Michelle Rempel): It's Mr. Oliphant. He's just not here.

Mr. David Tilson: No, Mr. Oliphant is gone.

The Vice-Chair (Hon. Michelle Rempel): He's—

Mr. David Tilson: He's gone with the wind.

The Vice-Chair (Hon. Michelle Rempel): With much respect to Mr. Oliphant, he is technically still a member of the committee until the PROC committee change in membership.

To clarify, yes, he is still our chair, and I—

Mr. David Tilson: Well, I look forward to seeing him again.

The Vice-Chair (Hon. Michelle Rempel): Godspeed to him.

Mr. David Tilson: We know he's not going to come. That's my point. Either you or Ms. Kwan will actually be the acting chair, and quite frankly, Mr. Maguire and I miss you over here.

The Vice-Chair (Hon. Michelle Rempel): I know, and with that, I would strongly advise my colleague to get on with business.

Thank you.

Mr. David Tilson: All right.

My question is to all of the witnesses.

The existing regulator has a choice. It can either disband, in which case the government would form a new regulator, or it can transition into the new regulator. The problem I see is that, around this table, the existing regulator hasn't been held in the highest esteem, for different reasons. That's why we've had a number of hearings at this committee.

Should we have confidence that this new body will succeed where the current regulator has failed with essentially the same people at the top?

• (0925)

Mr. Gerd Damitz (Member, Canadian Association of Professional Immigration Consultants): Absolutely.

I appreciate the question because a lot of the bad reputation that came up has been based on wrong statistics that have been disseminated by other groups, which are actually quite easy to verify but that didn't happen. I would like to take this opportunity to ask, if you consent, to clarify that later.

The problem was that there were deficiencies in the effectiveness of the complaints and discipline process. We have to realize that the regulator from two years ago is not the same regulator as today, so when somebody says, "Oh, you should just change the regulator," it's actually not true.

What you are doing, which I think is a very wise business decision, is to keep the hard shell, and now we have the argument about the soft factors, which is management, and so on. We have to realize that there is a new CEO. We have a new manager of complaints and discipline, and an entirely new, restructured complaints and discipline department. We have a new manager of education, and just a few days ago there was an announcement and the new one-year diploma program was introduced.

When you look at that and you see the recommendations of the committee from two years ago, most of them have actually been fulfilled. Therefore, from our side, I can say with confidence that there is no problem in doing that. In fact, it's a very wise decision.

Mr. Dory Jade: If you look at the bill, number one, there's a change in governance. Therefore, the people on the board won't be the same. The balance of the board is different. The approval of the code of ethics is different, and the approval of the bylaws is completely different. In addition, there are regulations that will be drafted probably after the bill gets royal assent to become an act.

Together, all these changes are fundamental. It's not about the people at the top; it's more about how the governance process works. We know that people change. In fact, I can confirm that, in large majority, most of the people who were there during the committee hearings in 2017 are not there anymore.

Mr. David Tilson: On the point you've just been raising, essentially before this item in the budget came through, it was a self-regulatory group. However, it's not self-regulatory anymore. It's a complete arm of the government. The government can appoint who's on it. The government can set the bylaws. It can set the rules and regulations. It can tell this group exactly what to do.

The question is, should a government be in that position? I'm asking this question to consultants really when they know they have no say anymore. The say is with the government of the day, whoever that is.

Mr. Dory Jade: I want to answer that question, if I may.

I'm sorry, but I beg to differ, because the say of the members is still there. When we look at the act, I would say that it is an act that would support the majority of the profession. Right now, for example, members can vote for members. In the future, the act is done in a way where it is not always supposed to have a majority of government-appointed directors. That would give either a balance or more on the—

Mr. David Tilson: I'm just referring to the section in the bill that simply says that the minister of the day, by an order in council, can make bylaws, withdraw them or do whatever he likes. Is that a good thing for the good health of the consultant profession? I guess that's the question.

Mr. Gerd Damitz: If I may, I'd like to say something on that.

Basically, that's our position too. The recommendations of the committee, including this anonymous vote, actually have been implemented. You're absolutely right. However, there's one small thing. The minister built in the control valve, so you can put in self-regulation up or down. We still have something that we call self-regulatory elements, so we do have some of the directors elected by

• (0930)

Mr. David Tilson: You don't say, sir. The government can tell you what to do.

Mr. Gerd Damitz: You're absolutely right, and that's what I'm saying. Basically, I think all parties should agree on this bill, because it's following the recommendations of CIMM.

Mr. David Tilson: This—

The Vice-Chair (Hon. Michelle Rempel): You have 30 seconds left.

Mr. David Tilson: I have 30 seconds?

Have a nice day.

Voices: Oh, oh!

The Vice-Chair (Hon. Michelle Rempel): Wow. There's such cheerfulness from my colleagues. It's wonderful to see.

Welcome to the committee, Mr. MacGregor. You have seven minutes.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Thank you, Madam Chair, and thank you to our witnesses. I'm here on behalf of my colleague, Ms. Jenny Kwan. She has asked me to look into a few questions for her.

You are of course all aware of the study in regard to immigration consultants that was completed in 2017. We also heard yesterday that a lot of people who are victimized are those who are amongst the most vulnerable of what would be newcomer groups.

As individuals arriving here, they are coming here in the more precarious or temporary streams of immigration, especially the stream for migrant workers. We have a very complex immigration system, especially for someone who is not used to the laws of our country and the kind of culture we have here. They find it extremely difficult to navigate it by themselves, especially if they don't have fluency in both of our official languages. They need help and advice. That is where you fall in: to provide that.

In many cases, of course, the cost of immigration lawyers is above their ability to pay, but we have heard in many of those cases that once they have signed up with a consultant, they really don't have a choice, even if they feel that something isn't right. They have to swallow those concerns they might have and just see it through.

They've ended up spending a lot of money. They believe they've already arranged employment in Canada. They've done everything the right way. Also, a significant amount of time has passed while they processed through the various stages. I think some of them have noted that there's a fear of... They don't want to complain or report bad behaviour, because they feel they have everything to lose. I'm talking about the person who is applying. Also, there have been cases where people have tried to speak out, and consultants may have used their position of power to intimidate them and so on.

With respect to the provisions in Bill C-97 in clauses 291 to 300, specifically with regard to applicants, I know you had an exchange with Mr. Ayoub about it being a confidential complaints process, but is there anything else that any of you can add about Bill C-97 and provisions that will provide protection to applicants who do speak out?

Mr. Dory Jade: I will take this, but I can't speak on behalf of the government, you will all agree.

This is twofold. The first one is that the government in the bill has funding in order to create more awareness. I'm sure you have seen that in the bill. However, on another side, we worked with the government in the last five years to facilitate and allow those who come forward.

This is a tricky thing, because the law is made in such a way—and I recommend that the Parliament looks at this section of IRPA—that if you do not disclose properly, then your application may be refused. I understand. I heard Mrs. Kwan speaking about this several times.

We worked with the government in the last five years saying when there are some of those vulnerable people who come forward and mention that—because we didn't have access to unauthorized practitioners—a regulated immigration consultant is involved in something like that, CIC will take this privately. And they have a channel with ICCRC at the time in order to start processing this kind of application or, I would say, complaint or coming from ICCRC internally with both bodies and allowing that individual to continue the process without being affected by the wrongdoing of the regulated immigration consultant.

What I trust may or will happen is because of the statute given to this group or to the new college, they can do the same with unauthorized practitioners. I think this would be a very good step in terms of better protecting the public.

● (0935)

Mr. Alistair MacGregor: Is there anything you want to add, Mr. Gagnon?

Mr. Louis-René Gagnon: Yes. I understand very well the concern of you and Ms. Kwan about the vulnerability of people. But in real life, we must also see that sometimes the client is the accomplice. It's the person who, because they see that the rules are against them, try to go around the rules. When they're caught, then they will point to the consultant and say, it's the consultant who told me to lie or to invent something. It's very difficult.

We see cases like that, he-said-she-said. Sometimes the consultant is the victim of a client who didn't disclose the real story and then when he's caught by the authority will use the consultant as a scapegoat. Then it goes to credibility in terms of who to believe.

I want to tell you that the authority and the consultant must develop skills to be able to identify when he has a truthful client. It's mainly I think the responsibility of the state to decide when someone has been so exploited. The minister has this authority and he uses it from time to time to allow the person to be accepted even if he doesn't really fit all the rules because of his situation. It's called the H and C, the humanitarian and compassionate factor, and it can be used.

A good consultant and a good lawyer can make a good case that this person has been the victim of either a bad consultant or sometimes also a bad lawyer and that for compassionate reasons he should still be granted his status.

Mr. Alistair MacGregor: Thank you.

The Vice-Chair (Hon. Michelle Rempel): Mr. Tabbara.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you, Madam Chair, and thank you for the witnesses for being here today.

Again, our number one priority in this committee is to ensure that for individuals who are sponsoring their family members overseas, there's not misleading information and no one is being taken advantage of and that the processes are followed thoroughly.

I want to ask the panel about something. We recommended in this committee to combat misleading information. We mentioned that we wanted to develop education campaigns in foreign markets, have local and ethnic media to educate clients on registered immigration consultants and on the dangers from those who are not registered.

The government heard from us, and they looked at this recommendation and they've agreed with this recommendation.

Is this, first of all, a good step and how is this different from maybe 20 years ago when you mentioned overseas?

I believe, Mr. Gagnon, you mentioned that most of the abuses are happening abroad. If you can comment on those, I'll start with Mr. Gagnon.

Mr. Louis-René Gagnon: Yes, of course. I remember well the forms we used to make a first application when I was an immigration officer. We called it QPI, *questionnaire préliminaire d'immigration*. Some people would photocopy it and sell it in some village for \$50, when it was a free form. That's a simple example. You would be surprised at how people will invent ways of separating people from their money. I remember people waiting on the sidewalk near the office and proposing that people give them money so it would be faster, which was totally false. There are always some little, big and very big sharks trying to bite people.

The best remedy for that is information, information, information, but that costs time and money. At least it's now in the commercial interest of consultants to help the authorities fight those things. Now they will be able to do that for other professions, such as trying to practise illegal medicine in Canada. The medical association will come on to them very strongly for ethical and economic reasons.

If we look at it in a realistic way, of course, a registered, well-qualified consultant will try to help, because it's in the authorities' interest to fight this but it will be a never-ending fight, that's for sure.

● (0940)

Mr. Marwan Tabbara: Mr. Jade.

Mr. Dory Jade: As I mentioned in my speech, being anchored in the federal law gives an extraterritorial power, and I believe in the upcoming two to three years, the college should be getting exemplary cases where they can, and they would, I assume, stop and bring to justice some of what we used to name "out of jurisdiction". Now with the extraterritorial power, I believe for any Canadian living overseas, any person related to a Canadian individual and/or company and any other non-Canadians willing to come to Canada with a visa or whatever, that power given by Parliament can be used through the courts. I would wish to see some exemplary cases that would put the bar high and make others believe that if they do this, they're going to get a very severe verdict.

Mr. Marwan Tabbara: Okay, so what I'm hearing is to combat misleading information we have to invest time and money to ensure these officers are getting on the ground and mentioning to potential clients that this is the proper route, the proper information here.

We're using information in their native language so we can combat these people who are trying to take advantage of these clients.

Before, a lot of clients feared mentioning if there was a complaint, if they didn't like the consultant they were using. They feared not being able to bring their families over, as their application would be refused if they came forward with a complaint. Now we have recommended putting a process in place whereby those who feel they've been misled or taken advantage of can come forward with a complaint and that won't jeopardize their process. Do you think this is a good step?

Mr. Dory Jade: It is.

Mr. Damitz, would you like to answer that?

Mr. Gerd Damitz: Yes. We have to divide this. One part is making the complaint to the regulator, and that's not different from before except now you can make the complaints against unauthorized practitioners and somebody can look after it. Then the second thing, which is on the government side as my colleague said before, is the fear that there are consequences to complaining about the application. The regulator has nothing to do with the application. That's IRCC. If there is some thought about a kind of whistle-blower policy or something, if somebody is not punished when coming forward, I believe that would be a good thing.

● (0945)

The Vice-Chair (Hon. Michelle Rempel): Mr. Maguire, we'll move on to our second round. You have five minutes.

Mr. Larry Maguire (Brandon—Souris, CPC): Thanks, Madam Chair, and thanks to our witnesses today, as well.

Mr. Jade, and Mr. Damitz, how many clients would your association have now?

Mr. Dory Jade: You probably wanted to say members, because we do not represent clients. We are the advocacy body.

Mr. Larry Maguire: Yes, I meant members.

Mr. Dory Jade: We have 2,500 members.

Mr. Larry Maguire: How many other people now access the services of your members because they can't get hold of a live agent on the IRCC call centre helpline?

Mr. Gerd Damitz: Well, this is a problem. I would say quite a few. Even for us, it's difficult to get hold of someone. Sometimes, we have to ask for the status of a case. In my opinion, there should be some thought put into how to improve this, more money and more trained staff. It's sometimes a little frustrating.

Mr. Larry Maguire: What percentage of people call your members because they can't get hold of a live agent at IRCC?

Mr. Gerd Damitz: Well, we would have to circulate a questionnaire and ask people that question.

It happens all the time. I don't want to say it's just coincidence, but they call potential practitioners, which includes lawyers. They just want information. It's not that easy to find it.

Mr. Larry Maguire: My office isn't one of your members, but I certainly end up dealing with an awful lot of the calls. I think it's a situation that needs to be addressed. I'm wondering why you're so adamant that the present... Don't get me wrong, I believe we need the new college, but I find it a little hard to believe that you want to see so much power in the minister's office. This is just an arm of the government—an arm of the minister's office, particularly.

Mr. Gerd Damitz: For 20 years, many of us have been lobbying for self-regulation. Two of us, with other colleagues, were lobbying over the last three or four years for a federal statute for self-regulation, because we believe it's an opportunity to significantly raise the standards for consumer protection in the industry. This is a solution, something I think we call the best of two worlds. As I talk to your colleagues—

Mr. Larry Maguire: Okay, if I could just interrupt, because of time here. Self-regulation is obviously something you were looking for—

Mr. Gerd Damitz: We have self-regulatory elements.

Mr. Larry Maguire: You're not self-regulated. The minister's office is doing this.

Mr. Gerd Damitz: No. Except the minister—I mean, it's going two ways.

Mr. Larry Maguire: Yes.

Mr. Gerd Damitz: The minister can decide when the industry's mature enough. Let's make the majority of directives. It can be decided, but that's in the future.

Mr. Larry Maguire: I have another question. The legislation currently lists three titles that uncertified individuals may not use to describe themselves as immigration professionals. Over time, new titles may arise from these individuals. They're using these names to advertise themselves. As the legislation stands, will the board or college have the power to add to the list of titles and names that may not be used by those not recognized by the college as qualified immigration professionals now?

Mr. Dory Jade: Yes, that is correct. In the section you mentioned, it lists those titles, and says, "or equivalent other titles".

Mr. Larry Maguire: They will be allowed to have them.

Mr. Dory Jade: They will be going further. I don't want to give them more examples, if they're listening to me, but if they start using "adviser", "immigration adviser", "immigration agent" or whatever, these can be added to that list, as per the current section you mentioned under the bill.

Mr. Larry Maguire: Does this make it more difficult to regulate?

Mr. Dory Jade: No. French is my first language, and in French, "consultant" is relative to *conseiller*, but even in Quebec law, they use the word "consultant". Why? This word has been anchored in Canadian history of immigration for at least 50 years, I would say, if

not more. Everywhere in the world, it is "consultant". It is not easy to tell the public right now that it will become "immigration adviser".

• (0950)

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mr. Whalen.

Mr. Nick Whalen (St. John's East, Lib.): Thank you very much, Madam Chair.

A lot of the discussion is focused on the international nature of the complaints. Mr. Jade, I'm wondering if you could describe what the situation is for the regulation of immigration consultants in other countries, both in the developed world and the developing world, so we can get a sense of who is regulated and how.

You just said the word has been used internationally for the last 50 years. In what countries are there consultants and how are they regulated?

Mr. Dory Jade: Good question. Thank you.

Let me bring two things forward.

Canada has a self-regulatory framework across the board. This is based on the Constitution and the way most of the provincial governments have decided to regulate their professions. Almost everywhere you will find self-regulation. This is a Canadian pride kind of thing.

In the case of other countries, most of them in the regulation industry are government regulated.

In other professions, self-regulation is not common everywhere outside of Canada. I'm not sure if that answers really the question.

Mr. Nick Whalen: Maybe you could give some examples. Maybe you can tell us about France, the U.K., China, the U.S. and India.

Mr. Dory Jade: I would prefer staying in the developed countries because they look more like us. New Zealand, Australia and the U.K. have mostly government regulated groups.

Mr. Nick Whalen: What about the United States?

Mr. Dory Jade: In the United States, it is the law society that regulates the lawyers.

Mr. Nick Whalen: What about in India or China?

Mr. Dory Jade: In India, it is more complex. India and China, in particular, are a little bit nuanced. However, they are very close in terms of regulating their own to work with immigration with outside.... Those are countries that send their people outside. Philippines is another example. It means that the inside individuals who want to work for or with external countries like Australia, New Zealand, Canada or the U.S. have to be regulated. They are regulated by the government.

As individuals—for example, Canadians being regulated in Canada—if they tried to go and do business in those countries, they cannot. They need to make a deal with a regulated internal citizen of that country or organization.

Mr. Nick Whalen: By establishing the college, would their be a possibility then for the college to have charter members in China or in India, so that there would be some property right in those country, so that their own internal sub-consultants or associate consultants would be able to protect against unlawful use within their own countries? This is like patent agents and associate agents.

Mr. Dory Jade: I would address that issue a little bit differently, if you don't mind.

I would think there should be something that is more under the international law. Because the college is anchored under Canadian statute and federal statute in particular, the college should, in my humble opinion, be able to have MOUs with either the same level of college, or even government to government, or college to government. As well, they could have agreements to say if one of your regulated members works with one of ours, then this kind of framework can apply.

Mr. Nick Whalen: Maybe we're getting ahead of ourselves.

One thing we noticed yesterday, and maybe a little bit today, is that many of the complaints that people have with the act as it stands are because they want us to be at phase three already. I would say that phase one might have been the establishment of the not-for-profit by the Conservative government. It got us so far. We ran into some roadblocks. We're now at phase two. We're going to empower the organization in some limited fashion.

My first question then is to Mr. Gagnon.

[Translation]

Are we confident enough in the current organization to give it the authority to enforce the regulations? Are we at that stage now?

[English]

The Vice-Chair (Hon. Michelle Rempel): Please give a brief answer, Mr. Gagnon.

[Translation]

Mr. Louis-René Gagnon: Yes, we have to start somewhere, build on what we have done and make progress. Before 2011, there was almost nothing to keep. I often tell my former colleagues, who were immigration officers and who had a negative view because of their experience, that the best way to improve things is to provide more training and information, and instill ethics everywhere. That takes time and develops over time, but you must be prepared to devote the necessary time and resources. In my opinion, the situation has improved a great deal.

• (0955)

[English]

The Vice-Chair (Hon. Michelle Rempel): Thank you, Monsieur Gagnon.

Mr. Maguire.

Mr. Larry Maguire: Thank you, Madam Chair. I may split some time with my colleague.

Mr. Damitz and Mr. Jade, I just wanted to go back to the IRCC call centre helpline. You have a lot of members. A huge number of the clients that those members have are coming to you because the present system is broken, basically, and the helpline doesn't answer their needs. It doesn't even answer yours when you're calling, by the sounds of it.

How do you see this new system making a change that's going to help improve that?

Mr. Gerd Damitz: I don't see a correlation between the call centre at IRCC and its regulation for the college.

Mr. Larry Maguire: I guess the point is that the new law that's coming forward is going to have a regulatory body, and it's going to be the same one that we had before, by the sounds of it. Your group is part of that, as are others, independents as well, as Mr. Gagnon has pointed out. Maybe he could comment on this as well.

How do you see the system really improving? I'm worried about the bottom line and getting clients dealt with.

Mr. Gerd Damitz: We're talking about improvement of the college bill, right?

Mr. Larry Maguire: Yes.

Mr. Gerd Damitz: When we look at that, there was a mistake in the set-up right from the beginning, a system-inherent mistake. There was a corporation created under the CNCA. No powers were given for inside and outside Canada to do something against unauthorized practitioners—something law societies have.

Problems were created, and my belief is that at that time, it may have been because of time. Everybody was looking for a fast solution to have improvements to the previous regulator and forgot to make it a comprehensive solution. Now we have it, and these are the powers inside and outside UFPs. As many asked for, we have government control. They raised the standards—

Mr. Larry Maguire: Thanks.

Mr. Gagnon, do you have a comment? Then, I'll turn it over to my colleague.

Mr. Louis-René Gagnon: I have a very quick one. I will speak from my experience as a teacher. When I taught, I said to my students that immigration is a bit like income tax. We all wish that it were very simple. In some cases it is, but very often it's baffling for people who are not.... Just the fact that we're a federation, for many people who are not from the federation, is totally confusing.

Of course, it's the government that makes it complex. It creates a demand for advice and support. If it were very simple, there would be no need for consultants or lawyers.

Mr. Larry Maguire: Thank you. I'll turn it over to my colleague.

The Vice-Chair (Hon. Michelle Rempel): You have a minute and a half, Mr. Tilson.

Mr. David Tilson: Mr. Jade, you raised the issue of consultant privilege. You're going to get the legal and judicial professions all excited because this issue has come up in the past for church members. Priests and ministers—should they be privileged? Should doctors be privileged? The answer is no.

I suppose if you happen to be a consulting lawyer, you have a privilege—and I'm speaking personally—but there's no way in a million years that I believe consultants should have the same privilege as lawyers.

I don't know why they would. They're not as qualified as lawyers to handle very complicated matters. There's a whole slew of reasons. I'd like you to clarify that because, quite frankly, I think that's just a pie-in-the-sky dream.

• (1000)

Mr. Dory Jade: Thank you for the question and bringing up this issue. I really want to discuss this.

First of all, it's not a matter of what you know; it's a matter of how you protect the public. The client owns the privilege, and we have a very extensive letter by one of Canada's prominent constitutional lawyers and professors, Peter Hogg—

Mr. David Tilson: I'll bet you he's one of a kind. I know the issue with respect to priests and doctors.

Mr. Dory Jade: I would appreciate if you would let me continue.

The Vice-Chair (Hon. Michelle Rempel): With that, we are well out of time for this meeting. I'm going to briefly suspend so we can set up the next panel.

Thank you.

• (1000)

(Pause)

• (1005)

The Vice-Chair (Hon. Michelle Rempel): We will resume the meeting with comments from Mr. Roman by video conference for seven minutes.

Mr. Roman.

Mr. Andrew Roman (Retired Lawyer, As an Individual): Thank you very much for inviting me.

ICCRC, as a new professional regulator with a small budget, did an excellent job in the four years that I was its legal counsel, or one of its legal counsellors, which was 2014 through 2017. I've had no connection with the organization since I retired from practising law at the end of 2017.

ICCRC hasn't had any statutory authority, which meant that it was always open to legal challenges. A lot of those challenges caused delay, which permitted the bad actors to continue to be bad actors during the delay and to profit from unprofessional conduct.

I had been recommending that ICCRC obtain an authorizing statute since I started working with it. I have to say that the proposed law is well drafted, and I would commend everyone involved in drafting it. I don't say this too often, but this is a really good law.

I must caution you still about expecting too much too soon. There are still problems of education and administration that even the best law can't fix immediately. There will still be a backlog of cases that have to be resolved.

It's important to think about ICCRC's budget and size, because it had many critics, but I think those have been based in large part on looking at things like law societies and comparing them to ICCRC. The membership at the present time is about 5,000, according to the ICCRC 2018 annual report, but the Law Society of Ontario, of which I used to be a member, in only one Canadian province, has approximately 50,000 members. The average ICCRC member, contrary to what you may read in the papers, will earn typically about \$60,000 a year after expenses and will have a hard time paying the membership fee of approximately \$1,800. Meanwhile, the Ontario law society has a budget of \$125 million, which is more than 10 times the size of the ICCRC's budget. This has been until recently a reason for understaffing and a serious limit on the ability to deal with the bad guys.

The proposed law is really good. I've attached to my paper a list of things that I prepared back in 2016 as to what should be in such a law and, as I checked off the boxes while reading the law, I think almost everything has been covered.

There could be one improvement I would suggest, which is to give the explicit power for ICCRC to seize property in Canada and perhaps also abroad, with the co-operation of other governments, so they can enforce monetary penalties. There's no point imposing a penalty and then having people say, "Well, I'm just not going to pay it, too bad for you." The same thing would be true about giving them the authority to order an award of costs to recover investigation costs and legal fees spent in prosecutions. I would suggest, although this is not usual, that the power should be retroactive to cover existing cases.

I want to talk briefly about how members can abuse the discipline process, because, in the course of my work, I've read hundreds of these files of complaints and seen how it works in practice. It's still too easy for members who are being disciplined to abuse the system in a variety of ways: concealment of evidence, increased delay in costs and avoidance of the payment of penalties.

The new law fixes two of the three of those, because the investigators can now enter premises and seize documents, which they haven't been able to do until now. They can also avoid the delay and the adjournments because they have the power to deal with things more expeditiously.

In most professional discipline cases, the parties resolve the issues through negotiation, which usually results in a guilty plea and an agreement to a negotiated penalty.

•(1010)

Typically, 70% to 80% of cases are decided that way, but that has not been the case at ICCRC. That's because after long delays and weak investigative evidence, ICCRC either has to go to a costly hearing or agree to a trivial slap on the wrist with no monetary penalty. Without a law, if a member is finally found guilty of professional misconduct, the member can just refuse to pay the penalty and say "I have no money, goodbye". Meanwhile ICCRC will have spent a lot of money and time on legal fees and will get nothing back for the victims and nothing back for itself.

The bad actors know that they can get away with paying nothing. They have no incentive to negotiate a settlement and to pay the agreed penalty. The law could be toughened up a little bit to make sure they have the power to do those things.

I would also mention that there are a few members who have sought electoral power at ICCRC by making unsubstantiated allegations of corruption and other such claims. They have repeatedly sued ICCRC and then withdrawn their legal actions before a hearing or before losing in order to avoid paying adverse costs.

The Vice-Chair (Hon. Michelle Rempel): Mr. Roman, you have about 30 seconds left. I just want to give you a heads-up.

Mr. Andrew Roman: I'm just about finished.

The new law doesn't fix these abuses, and I'm going to suggest that it should. In part, the minister's ability to appoint public interest directors will help with that.

I would be pleased to answer your questions.

The Vice-Chair (Hon. Michelle Rempel): Thank you very much, Mr. Roman.

We will proceed to Mr. Amlani, for seven minutes.

Mr. Alli Amlani (President, Inter-Connections Canada Inc., As an Individual): Madam Chair, and esteemed members of the committee, thank you for having invited me here today.

My name is Alli Amlani, and I participated in meeting number 55 in 2017, so I'm very familiar with the subject.

I've been an immigration consultant since the beginning of 1988. I've served on various boards of immigration consulting associations since 1992, including almost eight years in total as an elected director at both the regulatory bodies, CSIC, and thereafter, ICCRC — as the vice-chair of CSIC and a chair for two years at ICCRC.

I was also the co-founder of the immigration education program, which is the prototype immigration practitioners certificate program that remains the entry requirement for the profession today.

Having built the profession from almost the very start on principles of ethical practice and provisions of professional services to the needy, who are the real people, I repeat from what I said the last time that it's a serious undertaking when people put their full trust in another with their and their family's aspirations and dreams that could be shattered due to the smallest of oversights or a perpetrated plan.

I have, in the past 31 years, become very conversant and intimately familiar with schemes some people adopt to defraud others and to undermine the integrity of our immigration policy. They exploit people around the world. They are overseas and in Canada and include, but are not limited to, travel agents, student advisers, articulate business people, unauthorized representatives and, unfortunately, authorized representatives as well. I'm very familiar with their practices.

Coming back to the point of today's meeting, looking at clauses 291 to 300, first of all, I'd like to congratulate and compliment the standing committee for having made the 21 recommendations, each one of them well-thought-out and detailed. Some of them were already in practice, but not under statutes. I continue to have concerns about some of the recommendations. A few would need a phenomenal amount of funding—I use the word "extravagant"—or probably appear impractical, and those are the questions that I've heard in the little while that I've been here.

I salute the unprecedented and herculean effort of IRCC to have accepted the key recommendations and brought them to fruition through the budget implementation act and clauses 291 to 300 that we are going to address today. I say "unprecedented" because, as I stated in my last appearance, attempts to implement federal statute regulations as recommended by three previous standing committee reports had not been successful.

I will get down to what my exact concerns are about the present proposal. While we await regulations and bylaws, a few proposed changes need to be further examined or discussed, and if consensus is reached, tweaked. I have already provided a 45-page version that is highlighted and synchronized with my speaking notes, which carry the clause numbers. It'll make it easier if that's how you want to refer to it.

We discussed the compensation fund this morning, and I'm going to address it further. This was part of the contribution agreement with the first regulator body in 2004 that was provided \$700,000 in funding and \$500,000 as a conditional loan, which was eventually written off. Experience has shown that a target collection of \$1 million and maintaining that balance was mostly spent on administration, even while there were no claims made during that period. The funds in CSIC's compensation fund disappeared with the demise of that body, which was replaced in 2011.

In 2011, when the new regulatory body came in, they again started with the requirement of the compensation fund. The contribution agreement mentioned that as part of the condition, but after long, in-depth deliberations by all committees, the ICCRC board and IRCC found it did not serve a useful purpose, and it was subsequently deleted from the contribution agreement in 2015.

•(1015)

Having seen the abuse of professional insurance that all the consultants are covered by—and I don't want to go too deep into what kinds of abuses are there—I feel that it creates an exposure for the college to introduce the compensation fund at the additional costs. Besides the exposure, there are additional costs in terms of administration, human resources, and an undue financial burden on the members in terms of fees.

We must remember that this was one of the reasons that the past regulator was replaced. After 15 years of self-regulation, no claim for compensation has ever been made. In 15 years, no claims. A compensation fund could always be established. My recommendation is that it's too premature to do it right now; it can always be done later if needed.

With regard to board meetings on one of the recommendations, it suggests only one board meeting. I suggest four meetings for accountability. One meeting is an overseeing board, which, by the way, just looks at it. Accountability requires four meetings.

On committees—and this is your last panel of questions—where is the involvement of members? They should be on the committees. My suggestion is that the committees be populated by licensees—

• (1020)

The Vice-Chair (Hon. Michelle Rempel): You have about 30 seconds left, Mr. Amlani.

Mr. Ali Amlani: —so that they could be chaired by a director.

The powers of the registrar are too strong, and they need to be curtailed or examined, or have an appeal mechanism.

I don't know who is being exempted from insurance. Everybody should be insured, so that needs looking into.

On deemed interest, the government and the minister can appoint one person to take over the whole body.

The Vice-Chair (Hon. Michelle Rempel): Thank you. I'm sure people will want to follow up with you during questions.

Mr. LeBlanc, for seven minutes.

Mr. David LeBlanc (Managing Director, Senior Immigration Consultant, Ferreira-Wells Immigrations Services Inc., As an Individual): Thank you, Madam Chair and honourable members.

It is a privilege and honour to have been invited here today, and I am very grateful for this opportunity to talk to you today.

For the past 17 years, I have had the opportunity to help thousands of immigrants come to Canada to study, to work, to immigrate and to bring partners and spouses from overseas. I watched as our very young profession grew and overcame challenges, starting with Mangat in the Federal Court, which allowed us to practise in immigration and citizenship, to where we find ourselves today with your committee.

The work that your committee does is vital. Critical issues were raised and needed the right solution. Time will show that the most worthwhile outcomes will have been realized as a result of your questions and concerns focused in this room. As public protection is centre in your hearts, the recommendations from the Honourable Minister Ahmed Hussen, the department and the course proposed in Bill C-97 are solid, important, timely and the right path to follow.

For practitioners like me, listening to others refer to us RCICs in the same breath as unauthorized agents, recruiters and those who prey upon good, simple folk overseas was quite hurtful. We found ourselves easy, unwitting targets for those who spin, editorialize and promote their own agendas at our expense. Many in this room have

said that this is the third kick at the can for the self-regulation of our profession.

Let's examine the facts.

The first regulator, CSIC, appeared on the scene with little due process. They registered as a private corporation for some reason, and when they left, the key perpetrators absconded with a compensation fund of approximately \$1.5 million as their parting gift to themselves. The resignation letters of the first directors who jumped ship were the canary in the coal mine, hinting at what the members were in for next. No sane person could ever lay claim to the fact that this was a legitimate regulatory body that had been struck, because our own members were persecuted, oppressed, extorted and denied any due democratic process.

Too many years later, with a lot of abuse in between, Jason Kenney was our ghostbuster, for which I personally am still very grateful. ICCRC was chosen as the successful bid for the new regulator. If you had the chance to attend the first meeting, every single announcement made by Merv Hillier was met with standing applause. It was like the whole group of us had been taken out of a dark coal mine, and we were taking our first breath of fresh air and seeing the sun for the first time in a decade.

Many years on, the flaws of the current model itself are beginning to show: a regulator that had limited resources and no mandate or authority to be able to curtail the tide of unscrupulous practitioners overseas.

Internally, the complaints and disciplines process has become strained and backlogged. The public and our critics began to heap blame on the underfunded fledgling regulator for things they had no control over, responsibility for or sufficient resources to fix. It was impossible to win in the court of public opinion with this structure. Those with their own agendas added spin to discredit good, honest practitioners and the regulator.

With the proposed changes before you now to the regulatory structure, authority, and finally coming under federal statute, ICCRC transitioning into the new college will be able to fulfill the mandate of public protection.

It is unfair to compare a regulator founded in 2011 to the Law Society of Ontario, which was founded in July 1797. A lot can be said for having a 222-year head start. Even the CBA was founded in 1896 and currently has over 37,000 members. That rich history creates a lot of strength in organizational and educational integrity, resources and deep pockets to be able to police those unauthorized to practise, resources that were simply never available to ICCRC. If the historical roles were reversed, I can only imagine that lawyers today would be no further ahead in stemming the tide of overseas sharks than we are today.

•(1025)

I have been blessed with great teachers over the last two decades, including Lorne Waldman, Barbara Jackman, Stephen Green and Chantal Desloges, who was supposed to be here this morning, in their many CBA and law society CPD events and teachings at Seneca. Phil Mooney, Gerd Damitz, Lynn Gaudet, Alli Amlani, who is beside me today, Camilla Jones, Bruce Perreault and numerous other regulated consultants who are skilled, ethical and compassionate practitioners were extremely generous in their sharing of knowledge and best practices and stand as equals alongside our colleagues at the immigration bar.

Whether lawyer or consultant, our most precious gift is our reputation. Those with impeccable character are celebrated far and wide. As for those who undertake sharp practice, their reputation precedes them, as Buddha said, like the shadow of the wheel of an ox cart.

There is an elephant in the room: the sheer vast expanse of unauthorized, unscrupulous agents and recruiters overseas and internationally. It is important to be fair in examining what would truly put an end to this dark shadow and the blight on the immigration profession. Scapegoating our regulator for decades-old overseas issues is like having expectations of emptying the entire Pacific Ocean with a teaspoon.

There is also a boy who cries wolf, who has already presented to you at this committee and will be presenting again. Their earnest attempts to huff and puff and blow our house down are as transparent as they are. They now believe their own stories, their own grievances, the grievances that are held tightly, like a lump of coal burning in their own hands—

The Vice-Chair (Hon. Michelle Rempel): You have about 30 seconds, Mr. LeBlanc.

Mr. David LeBlanc:—hoping the other person suffers pain. I have faith that you will not be fooled.

Honourable members, Madam Chair, I thank you for allowing Honourable Minister Hussen's recommendations in Bill C-97 for the formation of the college to come to fruition.

In 222 years from now, all of those whom you helped protect today will join me in thanking you as well.

Thank you.

The Vice-Chair (Hon. Michelle Rempel): Thank you very much.

We will begin the first round, with seven minutes going to Mr. Sarai.

Mr. Randeep Sarai (Surrey Centre, Lib.): Thanks to all of you for giving us your insights and to many of you for coming back.

My first question is for Mr. Roman. You said that the one lack in this new legislation would be that it doesn't give the power to seize property in Canada, and therefore if you impose and enforce property.... Can you explain that if somebody gets fined? You're saying that if a registered consultant or someone else acting as one has a severe penalty imposed and gets fined, say, \$100,000, this body will not have the power to collect via seizing property. They can only impose a fine.

Mr. Andrew Roman: Well, they may go to court to try to collect it, but it's always easier and better if you have a clear statutory mandate to do so, because the person being challenged will say, "Show me where you can do that." If you can point to a place, the litigation takes 30 seconds instead of two years.

•(1030)

Mr. Randeep Sarai: Do other bodies, such as the board of physicians and surgeons, or your previous law society, have that power in theirs?

Mr. Andrew Roman: I believe so. I haven't read the Law Society Act lately, but I would be surprised if there weren't such a power. The other part of that is the power to collect costs in hearings. If somebody needlessly goes to a hearing and says, "nyah-nyah, prove it", and you do prove it, and you've spent \$100,000 on legal fees to prove it, they should be required to pay a portion of that. You can't enforce that if you don't have the statutory power.

Mr. Randeep Sarai: Thank you.

Mr. Amlani, you stated that compensation should not be a part of this, because none was paid in the previous whatever number of years. However, would it not be the case that if you have no claims against you, your compensation, usually on the law society model, is that you pay a basic amount of insurance? If you have no claims, you pay the basic amount, and if you've had claims, you get a surcharge. Therefore, people who are acting in good faith and have no claims would not have to worry about paying too much insurance.

Mr. Alli Amlani: Thank you, Mr. Sarai. I'm glad you brought it up, because nobody else did, and my arguments were falling on deaf ears.

That's what the law society's has adopted: a minimum insurance to insure that particular liability. On the compensation fund suggested here, and what we've been running for the last 15 years without claims is an accumulation of \$1 million by levy, all used up in administration of the \$1 million—no claims. The insurance is the way to go, not this compensation fund.

Mr. Randeep Sarai: A compensation fund could not be used for general expenses of the college. It would be a separate pool of funds or they would never be able to pool it out.

Mr. Alli Amlani: It should be but unfortunately there's collection; levies have to be collected and there are administrative costs. What happened, as we saw in financial statements, was that the fund was depleted, and every year the previous regulator went back to the members, levied them again and topped it up again. It kind of went out of control. I'm saying, do away with it right now, insurance is a good—

Mr. Randeep Sarai: It would be a self-insured fund. It wouldn't be a privately insured fund. Members would pay into it.

Mr. Alli Amlani: Yes. It's generally referred to as a criminal compensation fund so it's only in cases of criminal activities. Members already have an errors and omissions insurance, which covers that line.

Mr. Randeep Sarai: Mr. LeBlanc, you said there has been no claims against licensed.... You made it sound like the only unscrupulous activity has been by unlicensed consultants abroad. In this committee, almost all the complaints we heard—whether in camera or not—were of scrupulous activity by registered consultants here in Canada. Our evidence at that time and anything else that we've seen since has shown that very little or no action has been taken against any of them. As of yesterday, I understand that six have been stripped of their licences. Other than that, we haven't heard about much happening against unscrupulous activities here in Canada.

Mr. David LeBlanc: I hear you loud and clear.

My comments were to focus on what was realistic. My comment about overseas activities was to focus on the fact that there shouldn't be unrealistic expectations about the reach of the regulator. I am aware of the fact that there are legitimate complaints, and there are some that have famously hit *The Globe and Mail* recently. There's a lovely photo of somebody in B.C. driving around in a Testarossa, smiling. That's despicable and why that person hasn't lost their licence already is also something that everybody worth their salt in our industry is embarrassed about.

Mr. Randeep Sarai: Mr. Amlani, you wanted to add something.

Mr. Alli Amlani: I just wanted to add to what David said.

Two years ago—time actually makes you forget right there—I had provided documents that I was asked for to tell you that of the examples we looked at at the last standing committee, 12 were unauthorized consultants. Two of them were definitely members. That was the end part of the 2017 findings.

Thank you.

•(1035)

Mr. Randeep Sarai: You're the lawyer for the society, Mr. Roman, so I'll ask you.

ICCRC and the Canadian Association of Professional Immigration Consultants were witnesses during the committee's study of consultants in 2017. In your opinion, does the establishment of the college respond to their preoccupations and concerns?

The Vice-Chair (Hon. Michelle Rempel): You have about 20 seconds left.

Mr. Andrew Roman: I think it does that very well.

Mr. Randeep Sarai: Thank you.

I'll be quick.

Do you think this third iteration of a regulatory body is different and better? Will it solve the problems that the previous two incarnations did not have?

Mr. Andrew Roman: This is the first one really, because now there's a law that gives them authority. Before that, there wasn't.

Mr. Randeep Sarai: Thank you.

The Vice-Chair (Hon. Michelle Rempel): We'll hear from Mr. Tilson for seven minutes.

Mr. David Tilson: Yes, I think all the members of Parliament in this room have had constituents come to them on immigration issues and talked about incompetent lawyers and incompetent consultants, and the lawyers and the consultants have charged outrageous fees.

Mr. Roman gave a presentation on bad apples—to use his words—and Mr. LeBlanc touched on that as well. As I understand it, in the legal profession there can be complaints by the clients, the opposing counsel, the judge or the hearing officer to the law society: conduct unbecoming a lawyer, incompetence, negligence, all kinds of things, and the law society then deals with that. They contact the lawyer who has been complained about. They see whether there's a fair argument because some clients just call because they didn't like the result and they blame the lawyer. That's the way it is, and the same thing with consultants, I'm sure.

If it gets beyond that, they have a hearing and those hearings—I've never attended one but I've sure read about them—are dreadful. You're raked over the coals. You can be suspended, disbarred, fined. They can have their pound of flesh if they wish.

Mr. Roman, you got into this. There doesn't seem to be a similar process—and I realize, Mr. LeBlanc, you talked about the history of consultants and lawyers. I understand that, but there doesn't seem to be a similar process before or now with respect to how we deal with consultants the way the legal profession deals with lawyers.

I'd like Mr. Roman to start, followed by Mr. LeBlanc followed by Mr. Amlani.

Mr. Andrew Roman: There is such a process, and I've sat through several such hearings where members have been raked over the coals. The complaints can come from anybody. There's no limit to who may complain and if the complaint appears to be serious, the regulator has to deal with it, and when there is a hearing, an investigation report will allege what the complaints are just as there would be with the law society. The disciplinary process is quite similar.

Mr. David LeBlanc: I was leading a tribunal downtown when there was a consultant in the room, prior to my refugee hearing—it was an overlap in occupying the room—and he was being given a dressing-down by the IRB member, who then informed him that he was going to be reported to ICCRC.

So I am aware of the fact that there is a process to do that. The one thing that isn't in place yet—and I think we're probably going to be copying this in the future—is the mandate that is used at the IRB where you can make an argument, a presentation, about inadequate representation of former counsel, and of course, the law society has a whole process in place for that where you inform the other lawyer first and allow them to respond to you. Then you may register the complaint with their law society so you can use that as relief for going forward, for reconsideration of a badly represented client.

• (1040)

Mr. Alli Amlani: To add to what David said earlier, there has been a disciplinary process for the past six years; we're a new profession. They've been spending a whole bunch of time developing the processes. As they see the first example, as they see the person defend themselves, they've been tweaking the program, and that's where Andrew got gray hair. He designed, redesigned and finalized the process so that in 2017 we had an alternative dispute resolution and a lot of other tools, and that's the reason cases moved.

But it is true that the regulatory bodies spent so much time designing and redesigning the program that a backlog occurred, which is now gradually being attended to.

Mr. David Tilson: Right.

I'd like to talk about education. To become a lawyer, you must be a graduate of a recognized law school. You must do these LSAT exams and you must pass the bar admission course. Then you can become a lawyer. I'd like all three of you to talk about what you should have in order to become an immigration consultant.

Mr. Roman.

Mr. Andrew Roman: I don't think I'm qualified to address what an immigration consultant needs to know. I would leave that to people who are preparing and designing the education program.

Mr. David Tilson: Well, Mr. Roman, there have been great criticisms about the consultant profession, that they're not...

I'm not speaking generally; I'm just saying individuals. They've come to this committee and have talked about their competency, so I can only conclude that one of the issues is this: How do you become an immigration consultant? Maybe you're right; what is an immigration consultant? Certainly, what are your qualifications? You're advising people on very serious issues and going through the process. There should be an education process.

Mr. LeBlanc.

Mr. David LeBlanc: Would it be fair to share how I got there?

Mr. David Tilson: Yes, that would be good.

Mr. David LeBlanc: I joined a firm that was 25 years old. It was founded by a former immigration officer with the government, someone who had been in the department for 18 years. When I sat in on my first client meetings, I knew nothing. I was answering the phone. I couldn't answer any questions. A year later, when I was still not advising clients, I went to Seneca and studied in the one-year program that existed at that time.

The Vice-Chair (Hon. Michelle Rempel): Mr. LeBlanc, could you wrap up your answer very quickly? We're over time.

Mr. David LeBlanc: Okay.

I do 50 hours of CPD every year and I attend every immigration law conference going.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Ms. Kwan.

Ms. Jenny Kwan (Vancouver East, NDP): Thank you very much, Madam Chair.

Thank you to the witnesses. One of the key reasons this college is being established is so that the end-users, the applicants, will have protection in that process. We heard at our previous committee meetings, in our study on this issue, that there were a lot of situations where the applicants were taken advantage of and cheated in this process.

With that in mind, with Bill C-97 before you and with the establishment of this college, do you think there are sufficient provisions for protecting the end-user, the client? There's a compensation fund being established. Do you think that's sufficient in addressing the concerns that are paramount among the applicants who have had the unfortunate circumstance of having had a bad immigration consultant handle their case?

Perhaps I can start with Andrew.

• (1045)

Mr. Andrew Roman: The discipline process can only be as good as the people administering it. You will need people who are tough enough to say "You're out" to somebody, whom I'd call a bad apple, if they need to revoke a licence or impose a penalty. So far, from what I've seen, the people who have been running it are willing to do that. They're willing to be tough but they keep getting taken to court because they have no legal authority.

I think you're going to see for the first time that the end-user can be much more effectively protected, because there is the legal authority in the act. Let's say I'm a lawyer representing the ICCRC and I get dragged into Federal Court. If the judge asks me for my authority to do that, I can point to the act and say, "It's right here." Until now, they have not been able to do that.

So I think they can shut down the appeals, they can shut down the delays and they have, for the first time, the legal authority to actually discipline people with finality and clarity. That's important.

Ms. Jenny Kwan: Thank you.

Mr. Amlani.

Mr. Alli Amlani: Andrew is absolutely right. Previously, if you operated or gave immigration advice—as Madam Chair said yesterday, we have to address the definition of "legal advice"—it was an immigration infraction. Now it would be against the law to do that.

Ms. Jenny Kwan: Okay.

Maybe I can also ask this more specific question, in terms of protection for the end-user. Cases have surfaced in which individuals have embarked on their application process, and realized partway through that they've received very bad advice from their lawyer or immigration consultant. Some of them have even lost their status in this process. They've lost their jobs, and are faced with deportation. Now, they have no way of going back to try to fix this, because they've been led down the garden path, so to speak.

In those circumstances, what is the recourse for those individuals, aside from perhaps filing a complaint? Under this bill, there may be an outcome for the immigration consultant in this process, but what about individuals who have lost their status—whose paths for permanent residence may well have been lost forever, and who may be faced with deportation? Should they be given, for example, an open work permit, or an opportunity to resubmit their applications? I would like your thoughts on that.

Mr. David LeBlanc: We have made submissions on behalf of clients who have suffered under former counsels' misdirection. By the way, that includes both lawyers and consultants. We have asked the department to review and reconsider. We try to make the submission as soon as the client retains us, making it early so there's no gap between the time they filed an out of status and the request for reconsideration. I would say that about 70% of the time, if you're eloquent in your storytelling, and present the right issues around section 25, under humanitarian grounds, the department actually does step forward. There are real people reviewing those submissions, and there is relief in the act for that.

I also want to point out that when we have people coming in who have been cheated, lied to or told to misrepresent, and have filed an out of status as a result, most of them are extremely reluctant to approach the regulator for either ICCRC or the law society to complain. We've encouraged them to do so, but we don't want to take up the baton and say that we'll register that complaint for them. The applicants themselves have to take that initiative.

Ms. Jenny Kwan: I think that is the big problem, because people are afraid.

Mr. David LeBlanc: Yes.

Ms. Jenny Kwan: They fear that all would be lost, and they would have no recourse. To try to get through the barrier for people coming forward to seek additional help, some of whom may not have the resources to do so—your clients obviously did, but a lot of people may not have access to that recourse—how can IRCC assure individuals that they can in fact come forward with their complaints, and that there will be some protection for them? Hopefully, they could then find someone, whether that is a lawyer or an immigration consultant, to help them with their application, without the applicant being penalized for the previous situation. That is at the crux of it. It is what we need to address to allow this process to unfold as we all hope it should.

• (1050)

Mr. David LeBlanc: I would agree with you. A lot of that mandate falls on the shoulders of the department itself.

The Vice-Chair (Hon. Michelle Rempel): We are moving on to Mr. Whalen.

Mr. Nick Whalen: Thank you very much, Madam Chair.

One of the issues we have heard about in our hearings is that there are certain aspects of the law that people think don't go far enough. I want to get the sense from you of whether this is the right iterative step to take now, whether you have confidence that the group is able to take these steps being proposed and that it's the right organization to do it.

As well, if there are things on the wish list for the future, do you think it's good to be living with the organization as proposed in the act now, or should things be added now, in terms of extraterritorial enforcement, and some of the other things we have heard about, such as solicitor-client privilege protections in the act, and things like that?

Mr. Alli Amlani: Sure, absolutely. The act goes miles ahead of where we expected it to go, but we very clearly do not have an alternative. It's very simply put in the act that if the current regulator does not adopt it, it will be reinvented, which means it will be set up anyway. Therefore, there's not much of a choice.

However, I think most members will welcome this, because it's a move in the right direction. It's a move to bring in the unscrupulous, and gives you the authority, as Andrew said, to take people to court. We can make international agreements with like-minded countries, where those people who operate with impunity could be taken to task.

We can't eradicate the existence of those people who promote misrepresentation and fraud, but we can at least put a dent in their activities, by making an example of a few.

Mr. Nick Whalen: Mr. LeBlanc.

Mr. David LeBlanc: I think that Andrew's point earlier was that this is the first time that the existing regulator is going to be given the authority and the teeth to be able to fulfill the proper mandate.

What this committee has done is actually created a structure—you've allowed a structure to go forward—that, for the first time, will have true remedies and will have things built in.

To answer your question about what should be added, I think all of us secretly have a wish list. My wish list includes international student recruiters who bring people to private career colleges where they have no hope in hell of getting a post-grad work permit. They're doing it with absolute impunity because they're outside the country. Those are huge problems.

I meet with people all the time who say they sat in entrance exams for this college—and they show me the name of the college that's above the Canadian Tire store on Yonge Street—and they say they passed the entrance exams and gave them \$9,000 for their first two semesters. I say congratulations, but when you graduate your certificate should get you a discount on the tires in the shop below, but that's all it's worth.

Mr. Nick Whalen: Thank you, Mr. LeBlanc.

Mr. Roman, are we at the right point? You mentioned your organization itself being able to seek costs and also expropriate property or seize property in order to enforce awards.

Are you satisfied that the act, as proposed, gets us where we need to go in order to clear backlogs and have some real justice against consultants who are unscrupulous or incompetent, and also that the regulator that's proposed to evolve into this organization has the necessary capacity and tools to step into this role?

Mr. Andrew Roman: I think they will have the necessary capacity and tools, as you say. They already have very competent people managing it, who you saw yesterday. They have increased their staff size. They used to be very understaffed and a lot of the cases against the bad actors failed because they couldn't investigate properly. The complaints committee would send things back to the investigators who tried their best, but had no authority to seize documents. Now, the investigations and the hearings can be properly done for the very first time.

I am happy to see what has been happening. I think that this is a very big step forward.

Mr. Nick Whalen: Mr. Roman, you had mentioned that 5,000 people is a small association for self-regulation. But I come from Newfoundland and Labrador where my number on the rolls is 1,444, and my father's was in the low 300s and he's retired. We have fewer than 1,500 currently active lawyers in Newfoundland and Labrador but the self-regulatory regime works fine.

In terms of the \$50 million to help establish—and the \$10 million ongoing—and to fund these initiatives, do you think that is sufficient in the context? You made a comparison with the Law Society of Upper Canada.

• (1055)

Mr. Andrew Roman: I think the lawyers in Newfoundland must be more honest than the lawyers in Ontario, because we've had a lot of cases in Ontario.

The cost per case should go down under the new law—the cost of dealing with it—because people won't be able to drag them out forever and just out-wait you, and the investigation costs should go down because you should be able to get what you need the first time. You won't have to keep going back, trying to get more information and failing at it. That means the lead time between when someone's fraud is detected and when it's terminated should be greatly reduced and that will help protect the public.

Mr. Nick Whalen: Mr. LeBlanc, in terms of the quantum that's proposed in the budget to allow us to achieve these measures, are you satisfied that it's going to put the organization in good stead, or the new regulator in good stead?

Mr. David LeBlanc: Yes, I do.

Mr. Nick Whalen: Thank you, Madam Chair.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

We just have have a few minutes left before the end of this panel, and it's on to the Conservative round, so I am going to ask some questions from the chair.

This morning, the Auditor General released a report and there were some very interesting statistics with regard to service standards in the call centre.

As compared to other agencies, IRCC had no target for timeliness, whereas other departments had timeliness standards of 80% of calls

answered within 10 minutes. The average wait time in other organizations within the government was about five minutes, but IRCC's was 32 minutes. The other statistics cited were that for people calling into the agency, 70% of calls were prevented from reaching an agent—70%—only 22% were answered at all and 8% were hung up on.

The budget has \$51 million to govern immigration consultants. I'm just wondering how much business is driven to immigration consultants because IRCC isn't picking up the phone.

Mr. David LeBlanc: Actually, I want to make a comment about something that's beyond statistics. One thing we have always heard from clients who did get hold of the call centre is, when they tell us what they were told, they were given patently wrong advice. That's a bigger issue than whether the calls get answered.

I would rather they didn't answer the call than give them wrong advice.

The Vice-Chair (Hon. Michelle Rempel): That is something else.

Mr. Alli Amlani: I can add numbers to that.

About 12 years ago when we did the last survey, approximately 27% of the people who applied with immigration were represented. A study done last year, after the CIMM 2017 report, says we have now 68% of people being represented by lawyers and consultants, authorized representatives. That tells us that the demand has increased. As David said, it's better not to give advice than to give the wrong advice, because those are the people that Ms. Kwan was talking about. They could be protected somehow, but not totally.

The Vice-Chair (Hon. Michelle Rempel): Even as a member of Parliament who deals with casework all the time, as we all do, I don't get a live agent.

Mr. Alli Amlani: If you do, you might get the wrong advice, so watch out. Nine out of 10 times, it's guaranteed.

Mr. David LeBlanc: I'd like to make a follow-up comment.

What drives business to us is every time IRCC tries to simplify the process, simply the form, simplify the website and they say, "You don't need to hire representatives; it's all here and it's in plain English."

That's like saying, "If you have appendicitis, go to the Library of Congress with a scalpel and pick up *Gray's Anatomy* and just do it yourself." Nobody does that.

Every time they try to simplify, it drives business to us, because in a way, they've failed in their effort to make it simpler and people get more baffled and then call us. Therefore, I, for one, champion every time the department simplifies processes.

• (1100)

The Vice-Chair (Hon. Michelle Rempel): Yesterday I asked the department if there was any analysis done in terms of the opportunity cost of putting \$51 million towards another regulatory body for your profession, as opposed to looking at ways to simplify, because it seems to me that there are a lot of people who are accessing immigration consultants for basic things such as translation services, understanding where forms are located, and so on.

Do you have any comment on that? The answer that I received was somewhat diffuse, as one would expect.

What I'm trying to say in closing, in the minute that I have left, is perhaps are we missing something here? We're looking at regulating the profession, which is important, but isn't there also something more important in terms of the government actually trying to do what it's supposed to do, rather than driving business to you?

Mr. David LeBlanc: Yes. In terms of how the department goes to market, you have to appreciate that with the increase in application fees, especially citizenship fees now being at \$630, I can almost guarantee that if you pulled apart the numbers, you would discover that the department is a profit centre for the government.

How they re-resource that money is beyond my purview.

Mr. Alli Amlani: I'd like to add that the \$51 million—

The Vice-Chair (Hon. Michelle Rempel): We are out of time and I do have to police myself, which is difficult.

Mr. Alli Amlani: No problem. It's just that the minister told us—

• (1105)

The Vice-Chair (Hon. Michelle Rempel): We will suspend.

Thank you.

• (1105)

(Pause)

• (1105)

The Vice-Chair (Hon. Michelle Rempel): All right. We will go on to the next panel of witnesses.

We will start with Mr. Dean, for seven minutes.

Mr. Ryan Dean (As an Individual): Madam Chair and members of the committee, thank you for inviting me back to be a witness at CIMM.

As you know, I'd like to focus my discussion on division 15, the application for continuance in proposed subsection 84(1) and proposed paragraph 85(7)(g), with respect to ICCRC.

ICCRC has been run since its inception by a group of insiders drawn from the CAPIC lobbying group. They previously ran CSIC and are positioning themselves to attempt to run the new college via the application in continuance.

At the last CIMM meeting, in 2017, we heard that immigration consultants were afraid to report anything to ICCRC for fear of putting their Canadian status in jeopardy. I submit that the majority of immigration consultants, immigrants themselves, feel the same way about standing up to this regulator, putting their licences in jeopardy. There is fear in the membership. Voting rates corroborate this and have plummeted more than 50% in the last three years as members take cover.

Members have watched ICCRC insiders and the CAPIC lobbying group work together as one, with systematic undemocratic actions, abuse of powers and fundamental violations of the act.

For instance, the Canada Not-for-profit Corporations Act, in its subsection 128(8), and ICCRC's own articles of continuance state in part that "the total number of directors so appointed may not exceed one third of the number of directors elected at the previous annual

meeting of members." The membership votes on six directors each year. At most, two may be appointed without violating the act.

So how did ICCRC do? In 2016-17, ICCRC appointed nine. With those unlawful appointments, there was still no quorum for the entire year. In 2017-18, they appointed six directors, largely a double violation. In 2018-19, ICCRC has appointed three directors so far and incredibly held this out to the membership as one of them "winning" his election, despite the fact that he was not even on the ballot.

The underlying notion of these directors' appointments originally took root when the idea that the second-place finisher in an election should win was eagerly adopted by the board of directors. Of course, since all of their incumbent friends lost in the 2016 election and were in second place, it was obvious self-dealing.

There are laws that apply to Canadians but apparently not to the privileged ICCRC-CAPIC insiders. They arrogantly and unilaterally stripped the membership of their rights, violated the act at least 86 times and calculated that nobody adversely affected would take time to read the act.

ICCRC was asked numerous times by me and others but failed to call mandated special general meetings of members under the act pursuant to subsection 132(2). Instead, ICCRC culled its bylaws, and they were not even voted on at the board levels, so they continued to fill vacancies with their CAPIC friends, deliberately attempting to sidestep the act and remain in power.

Now ICCRC and the CAPIC insiders want the minister to approve its continuance while they're in default of the act and their own articles of continuance transitioning to the college. ICCRC and CAPIC will try to blame me for many of the shortcomings, but I was not a director for most of these appointments, as I was unlawfully removed by board trial in a breach of parliamentary privilege and against the act, sections 131 and 132, whereby only members who elected me can remove me. Nor was I there for the current quid pro quo hiring of the current ICCRC CEO, after he apparently helped quash formal CPA Ontario complaints, where he was then the registrar.

I believe the ICCRC financial statements fail to follow accounting standards at multiple places. The audited financial statements did not include members of the public on the audit committee, as required by the act in subsection 194(1).

Merv Hillier, CPA and former ICCRC director and the subject of my CPA Ontario complaint, signed and dated in writing a statement in which he said he was going to use all of his power and influence to sway the outcome of the CPA Ontario investigation, being past president of that organization.

The core competency of the ICCRC investigation team was already given to a small, third party, private corporation run out of a residence and not provided for in the ICCRC bylaws—it was indeed explicitly denied by Mr. Hillier at the 2016 AGM that it even existed—while the entire board and officers looked on in approving silence. This is essentially the same management that will be running the college.

ICCRC's registrar, Mr. Barker, was running interference by answering questions for two other ICCRC officers in a discipline complaint investigation, and he provided evidence to an investigator, Mr. Atkins, that was taken without question. Yet when the owner of the third party investigation firm, Ms. Kewley, was asked about one of the four investigators working out of her home for years, she stated that she did know who Mr. Atkins was. Are investigators who may not exist a problem?

Every discipline or appeals decision made at ICCRC is invalid under section 158 of the act, because the committee making the decisions did include a member of the public, and asking to adjudicate it in Federal Court.

The last time we were at CIMM, we were here trying to figure out why immigration consultants who acted badly were not being disciplined. ICCRC blamed those consultants as the real problem and pointed at the statute as the solution, and yet certain board members were helping to train as many ghost consultants as they could for a fee. To keep their discussions out of the public view and plot these things, ICCRC insiders make extensive use of the CAPIC chat room.

• (1110)

Shortly before the media announced the call, I had just filed an application with the court to dissolve ICCRC and CAPIC for their abuse of powers and for activities that fundamentally changed the members' rights. Ironically, all of these unlawful appointments, this forgoing of proper notice and this skipping of special general meetings are grounds under the act to have ICCRC and CAPIC dissolved.

It is a big deal. If I'm successful in my application, it may mean that the college will get shut down, and ICCRC will be allowed to transition to it under paragraph 85(7)(g). That's not my intention at all. To be clear, the college is a terrific idea, but having any ICCRC or CAPIC director and/or officer running the college would create corruption, deceit and abuse of powers. There's no upside to transitioning the council.

Why risk the college at all? We should make a clean break now. Besides, ICCRC already skipped 19 special general meetings with members. With all of these unlawful appointments and my removal, why do they deserve one now? I believe that they will surely try to manipulate the process. Moreover, I sent a letter to the ICCRC board officers about a month ago about all of this, and not one of them was moved.

Being a self-regulating organization is nearly the same as being a monopoly, except for the fact that self-regulation includes the power of law. Awarding ICCRC and CAPIC with further powers is downright dangerous to Canadians and Canada, in my opinion. Those who abuse a little will abuse much. How much would it

embolden ICCRC and CAPIC to do even more unlawful things if they are rewarded after these revelations?

If a new broom sweeps clean, this same group of individuals and their friends will finally be able to tap into the unlimited resources—

The Vice-Chair (Hon. Michelle Rempel): You have about 30 seconds, Mr. Dean.

Mr. Ryan Dean: —of competent immigration consultants already in the membership, and staff the college board, officer and employee positions with competent, honest and intelligent immigration consultants.

Thank you.

The Vice-Chair (Hon. Michelle Rempel): Great.

Now we are on to Mr. Jain.

Mr. Ravi Jain (Lawyer, Green and Spiegel LLP, As an Individual): Thanks for having me here.

I should note that I am vice-chair of the Canadian Bar Association, and I'll be chair in August, but there just wasn't time for us to go through our vetting process, so I am making these remarks in my personal capacity, with thanks to some of my colleagues for their comments.

It is a tacit acknowledgement of failure to spend \$100 million over 10 years to educate the public on how to protect against fraudulent immigration consultants and to spend so much taxpayer money on strengthening compliance and enforcement measures for consultants, including government oversight of a new college for them, when consultants could have easily been brought under the supervision of lawyers at no cost.

It seems the government is trying to do three things: fight ghost consultants, tackle fraud by registered consultants and deal with competence issues amongst registered consultants. Let's deal with those first.

We don't know how the money will be allocated, but I will say that I do support increased funding to CBSA and on overseas positions to liaise with foreign governments and encourage them to crack down on ghosts, but the best way to deal with ghosts is if only lawyers may represent for a fee, because then the messaging becomes quite simple, and the public is not confused with different categories of representatives. Saying that only lawyers may practise law for compensation is not complicated to communicate or grasp.

Now let's deal with registered consultant fraud. As *The Globe and Mail* reported in its three-part investigative series covering 2,600 foreign workers and students: "...exploitation is far more prevalent than has been reported, primarily because most victims are reluctant to go to the authorities for fear that they will be deported."

Navjot Dhillon appeared before you two years ago talking about consultants asking clients to pay tens of thousands to find employers to support permanent residence applications with kickbacks to employers. He said, "I have never seen a lawyer going that route." He even described female students being asked for sexual favours. He said that there was no documentary proof of such acts, so it was very difficult to hold people accountable for such fraud, echoing what the *Globe* had said.

If victims are unlikely to complain and documentary proof is illusive, setting up a bureaucratic administrative penalty scheme for negligent consultants and a compensation fund and liability insurance will not provide the desired public protection, because people don't come forward.

Now let's deal with competence amongst registered consultants. Two years ago, Paul Aterman, the then deputy chair of the IAD of the IRB, differentiated the rigorous training lawyers go through and said, "...there is considerable scope for improvement when it comes to consultants acting as litigators."

Exactly two weeks ago, the former Federal Court of Appeal Justice John Evans, wrote a Globe and Mail op-ed, and in it he said, "Accurately determining whether a claimant meets the legal test for refugee status presents unique challenges, both factual and legal. For a claimant without a lawyer they are likely to be insurmountable." He said, "Lawyers' professional skills in identifying relevant evidence and presenting it cogently enable refugee decision makers to navigate around these obstacles to accurate fact-finding."

He said that lawyers:

... play a vital role in assisting the board and the federal courts on the interpretation and application of the law. Refugee law is very complex. The IRPA alone has more than 200 densely packed sections. It must be interpreted in the light of international human-rights law and...the protections of the...Charter... Arguing cases in this area also requires knowledge of administrative law, a set of principles that even seasoned litigators find difficult.

My submission is that those comments apply equally to application work and solicitor work. There is no such thing as simple applications, by the way. Thus the issue is lack of competence, or put differently, under-representation can be worse than no representation.

Elizabeth May illustrated this well when she said:

...in my little riding office, we spend at least 80% of our time on immigration and refugee cases. The ones that come to us, after an immigration consultant has "helped" the applicant, are the hardest to unravel, with the the multiple mistakes that have been made.

Adam Vaughan said, "I think all of us as MPs know that when one single department generates 75% to 80% of our work, depending on our ridings, there is something wrong."

Michelle Rempel said:

We just need to think of the cost of 338 members of Parliament employing someone in their offices just to do immigration case work, or the amount of resources required within ICCRC to look at poor applications, or the cost of the deportation of people who have been given bad advice

There were 1,600 under CSIC, and now there are over 5,500. If a future government proceeds with the college—and here are my recommendations if you're proceeding with this—they should not be grandfathered; all consultants should undergo language testing; referral fees should be barred, which they aren't; all should be audited; and dues should be sufficiently high to cover the compensation fund and liability insurance. I don't know, by the way, how you compensate for a lifetime of potential Canadian earnings when someone has lost out on their permanent residence.

Further, I submit that a Canadian Bar Association executive member should be invited to sit on the college board, and lawyers

should be exempt from this administrative penalty scheme, given that law societies have robust disciplinary measures, as we've heard.

Even nurses who complete an entire degree program have restrictions on their practice. The same should apply to consultants with respect to litigation, which should be completely off limits; but again, a future government may change course.

Finally, I just want to take the remaining time to talk about a few myths I'd like to dispel. This is all based on assumptions, this whole reality of immigration consultants. It is assumed that immigrants prefer to go to members of their own community for legal advice and representation, that lawyers cannot fulfill this role, but this is utterly outdated, given the diversity of the bar today.

It's also assumed that immigration lawyers are inaccessible because we charge too much, and yet, unlike family, criminal or civil litigators, most immigration lawyers litigate in the four-figure range and provide upfront, fixed-fee quotes and reduce fees based on clients' ability to pay. Of course, we do a tremendous amount of pro bono work, whether that's at the airport.... There are Trump's executive orders, times of natural disasters, Syrian refugees. There is no comparable tradition among the consultants, even though they have been in business for decades now.

Also, most immigration lawyers operate as sole practitioners or in small firms with low overhead, so we're not talking about big, fancy firms with a million dollars' worth of art. They save money for clients and taxpayers by discouraging unmeritorious applications and appeal, which is a timely consideration given the pressure on the IRB. We aren't business people. We're members of the bar. We're mindful of the critical role we are entrusted with in acting for the client's best interests and upholding the fair administration of justice.

Propping up consultants for a third time—

● (1120)

The Vice-Chair (Hon. Michelle Rempel): You have about 30 seconds.

Mr. Ravi Jain:—albeit with more government control and more penalties does nothing more than protect them so they continue to practise law, now with more government bureaucracy paid for by taxpayers. What's worse, telling people that these consultants who are registered with the college are overseen by the government sends a wrong message. It may lead to confusion that people are hiring government agents or that they will receive more favourable treatment than if they hired lawyers whose regulatory bodies are not intermingled with the government. People are disappointed to learn that consultants who run law offices and call themselves lawyers are anything but. This will get worse with the Queen's and Sherbrooke programs because people will say they graduated from law school.

Sadly, stories of fraud will continue. The next review will be maybe the triannual review. What we'll be hearing is, "Oh, it's just a young body. Just give them a chance".

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Professor Trabucco.

Professor Lisa Trabucco (Assistant Professor, Faculty of Law, University of Windsor, As an Individual): Good morning, Madam Vice-Chair and members of the committee. Thank you for the invitation to appear here this morning.

I'm an assistant professor in the faculty of law at the University of Windsor. I'm also a lawyer. I've practised for 15 years. I'm a doctoral candidate. My research focuses on paralegal regulation and access to justice in Ontario. I recently authored two publications that address the topics of paralegal regulation and the regulatory scheme and the extent of independent non-lawyer legal service provision that exists in Canada. Much of it is authorized by statute, including immigration consultants. Previously, I taught for 10 years in college paralegal programs in Ontario.

I would like to address today the public interest mandate of the college of immigration and citizenship consultants act, specifically in proposed section 4. It's set out in part 4.

First, however, I would like to briefly situate this issue—the important issue, I think—of the regulation of immigration and citizenship consultants within the broader context of non-lawyer legal service provision.

It is clear that there is an important role in Canada for non-lawyers who provide legal services to the public, independently and for a fee. This committee has recognized that. The legislation recognizes that. Not only are the roles of non-lawyers well entrenched but they have also been authorized by statute at the federal, provincial and territorial levels, and in some jurisdictions, as far back as the 1800s. More recently, the Supreme Court of Canada has acknowledged the expertise of independent, non-lawyer representatives before administrative tribunals. In Ontario, paralegals have been licensed since 2007 as independent providers of legal services.

Studies have shown that non-lawyers are effective representatives in a variety of areas and practice settings—with appropriate training and experience. The regulation of paralegals has been successful in Ontario in providing effective consumer protection in the public interest. What is key is the design of the regulatory scheme. That design and that regulatory scheme matter.

It is also helpful to consider this committee's previous recommendation in the "Starting Again" report of 2017 that the mandate of any new regulatory body be a public interest mandate empowered to regulate and govern the profession. It should include protection of the public by maintaining high ethical standards to preserve the integrity of the system, to protect "applicants from exploitation by maintaining high standards of competence and encouraging reasonable fees for services rendered".

With that in mind, I turn to proposed section 4 of the bill, which sets out that the purpose of the college is to regulate immigration and citizenship consultants in the public interest and to protect the public. The public interest is at the heart, or should be at the heart, of any

regulatory scheme. The public interest is served by access to quality and affordable services provided by competent providers. Regulation in the public interest must therefore aim to ensure quality services, competence of those who provide those services and also address the cost of those services.

Part 4 already lists measures by which regulation in the public interest—and to protect the public—can or should be realized, including qualification standards. My concern, though, is that it does not contain specific language with respect to competence or cost of services. These are components of the public interest and access to justice. While they do appear elsewhere in the act in various places, I'm of the view that they should be upfront in proposed section 4 so it is clear they are part of the college's public interest mandate. I think that overall would strengthen the regulatory scheme.

If we look at competence, again the 2017 report recommended that the regulatory scheme ensure high standards of competence. As I've said, no such language is found in section 4. I think it should be and could easily be added.

Proposed section 44 of the bill does look at licensing, standards of professional conduct and competence established by a code of professional conduct. Proposed section 4 requires compliance with a code of professional conduct.

Compliance with a code of conduct is not necessarily competence. I think they need to be two separate things and competence needs to be set separately in proposed section 4.

● (1125)

I would recommend language such as one of the listed items, "ensuring high standards of competence of licensees", being one of the measures by which the college would regulate in the public interest and to protect the public.

I am going to make a few brief comments with respect to fees charged by licensees. The 2017 report, again, had a recommendation that for any new regulatory body, mandates should include encouraging reasonable fees for services rendered. I appreciate that's difficult to do but, again, there is not even a mention of fees or costs of services in section 4 of the act. Again, I think there should be because affordability of services is one key component of access to legal services, access to justice in the public interest.

I would recommend adding another item to section 4 in that list, another subsection with language similar to this. Part of the college's mandate is "establishing reasonable fee guidelines to be charged by licensees".

I argue in conclusion that fees and competence should be put in section 4 as part of the public interest mandate, in competence and cost of services, to make it clear that these are components of what regulation in the public interest and protection of the public entails.

With that, I appreciate being here, and I am happy to answer further questions you might have with respect to this matter.

The Vice-Chair (Hon. Michelle Rempel): Thank you very much to our witnesses.

We will begin with Ms. Zahid for seven minutes.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Thank you, Chair.

Thanks to all the witnesses for your important testimony.

Mr. Dean, based on this legislation, the minister will appoint the majority of the board members. They can be found outside the industry. The minister will have the power to step in if there are issues and the minister establishes the code of conduct. He will also have new powers to require the regulator to take action and change its bylaws.

Do you feel these measures will help to ensure an effective, accountable regulator?

Mr. Ryan Dean: Yes, absolutely. One person is going to have oversight. They can make a decisive decision whenever there is a problem.

Mrs. Salma Zahid: In regard to the compensation fund, when we did the study in 2017, we heard a lot of testimony. In this legislation, the College of Immigration and Citizenship Consultants would create a compensation fund for persons who are adversely affected by the work of a licensed consultant.

Mr. Jain, can you please explain how this would help the most vulnerable people and how you think the department expects this compensation fund to work? Because we heard a lot of testimony from vulnerable people in 2017.

• (1130)

Mr. Ravi Jain: It's terrible when people go to someone and they think they are going to a lawyer. Most of the time when people come to see me, they say they went to this lawyer and he misguided me. I ask the person's name. I look it up and they are an RCIC. They say that all the staff refer to him as a lawyer and he himself refers to himself as a lawyer.

However, the compensation fund is too little, too late, because how do you compensate for a lifetime of earnings a person could have made in Canada if their express entry application and their spousal sponsorship had gone through and they were making Canadian dollars and they are from India where they were only making \$3,000 or \$4,000 a year? You can't compensate for that.

Sometimes, when people are complicit in it, they are not going to go the distance. The department is never going to be sympathetic to someone where they are somewhat complicit because they went to a consultant who asked them what they did. Maybe there was no other way they could qualify and they suggested something and they went along with it. This is to the client, because you asked me about this. You know the government is never going to say it wasn't their fault, so here's immigration; here is their permanent resident visa. It's not going to happen. The department is never going to agree to that.

Mrs. Salma Zahid: Ms. Trabucco, can you please add to that compensation fund element?

Prof. Lisa Trabucco: I think there will always be room for incompetent and unscrupulous practitioners. I daresay there are lawyers who may be as well. The difference is that law societies have been around for a very long time, regulating lawyers who have been held to high standards. That doesn't mean there aren't bad apples, of course.

These are very similar arguments that preceded paralegal regulation in Ontario. Those conversations went on from at least the mid-1980s until regulation was implemented about incompetent and unscrupulous practitioners in 2007. They certainly do exist, and that's a serious problem, a serious concern.

I think regulation is the answer. How that plays out, I'm not sure I have the expertise to speak to the actual compensation fund. It's difficult. I think it's like anything. How do you compensate people after the fact? It's no different from other areas of law in some ways. If someone is seriously injured in an accident, money compensates but it never brings that person back to the person's pre-existing physical or mental or emotional health.

Mrs. Salma Zahid: I have one more quick question for you. You mentioned in your testimony that studies on access to justice have been done in Ontario. We have seen a lot in the news about recent cuts to legal funding for refugees and immigrants. Do you think the reduction in funding for immigrants will make more of a demand for consultants? That would make it more important to have the model of the college, right?

Prof. Lisa Trabucco: Yes, I think you're right. I think less legal aid funding will then drive people to other sources, and to the least expensive. I think that's difficult in all areas. Cost is kind of a double-edged sword, I think. In some ways, the high cost of legal services that many have written about is due to the cost of overtraining. We don't need, for example, a surgeon to pierce an ear. On the other hand, in terms of the cost of services, if there's no funding, then people will go to....

Affordability is a big part of the regulation of paralegals. Somehow, that's fallen off to the margins in Ontario. Affordability is a big part of it. I'm not speaking specifically to refugee and immigration lawyers themselves or to the costs of their services, but in a general sense.

Mrs. Salma Zahid: Mr. Dean, did you want to add to that?

Mr. Ryan Dean: Yes. Just quickly, the compensation fund, in my opinion, mirrors an insurance fund. I really think this question ought to be answered by actuaries, who calculate these kinds of things for catastrophic events and whatnot. That will nail down how much there ought to be in the fund. We can kind of estimate, but we don't know. An actuary will figure that out.

Mrs. Salma Zahid: My next question is for you, Ms. Trabucco. We heard in this committee back in 2017 that many people were afraid to come forward to make a complaint about the immigration consultants. It was very difficult to hear that testimony from people. Do you believe the measures being proposed in this legislation will encourage people to come forward or to bring forward the complaints or issues they face with consultants?

•(1135)

Prof. Lisa Trabucco: In a general sense, I think so. I think it certainly goes some measure toward addressing those. Proposed paragraph 4(c) talks about “public awareness” and about making the public aware. I think there is a provision for that in the bylaws. There has to be a very serious....

Mr. Jain makes some very important points about people misrepresenting themselves, about immigration consultants or paralegals misrepresenting themselves. Of course, a lot of that can be covered by a code of conduct and competence standards. I mean, there are lawyers who misrepresent themselves and commit fraud in real estate and banking matters as well. I do think the act goes at least some distance toward addressing that.

The Vice-Chair (Ms. Jenny Kwan): Thank you.

We'll move on to Ms. Rempel for seven minutes.

Hon. Michelle Rempel: Thank you, Madam Chair.

Mr. Jain, thank you for what I think was a pretty accurate assessment of the situation. I say this after eight years of running a member of Parliament office where, to the points that have been made, I employ someone just to deal with immigration casework.

This morning the Auditor General rolled out a report that said that 70% of people who were trying to access the IRCC call centre were prevented from reaching a live agent. The wait time was approximately 32 minutes. There were no service standards there. Even colleagues from the immigration consulting profession said that sometimes false information was given.

I look at this from the perspective of the end-user. Something that the government did not answer for me yesterday, when we had the minister and department officials here, was what is the definition of “legal advice” as it pertains to the immigration consulting profession? That's really what my concern is with perpetuating this system as it is right now. We still have not, from a legislative perspective, dealt with the nub of that, even though I feel there's probably a lot of jurisprudence that defines that. What constitutes somebody helping somebody filling out a form? What constitutes legal advice in terms of the scope we're dealing with today? Are immigration consultants regulated adequately to practise only within something that would not constitute providing legal advice?

Mr. Ravi Jain: I can speak to that. I watched the testimony last night so I did see what the minister said. I actually think the minister was wrong to say that if you're helping out with a form but not for a fee then it's actually providing legal advice and you have to have proper training, because you can actually assist someone who is a friend in answering questions as long as it's not for a fee.

My issue is that it is absolutely legal work. Whatever the consultants are doing, they're absolutely practising law in terms of whether they are advising on what information to put on the form. I heard yesterday what they were saying about that. All of that is legal advice. They're getting a fee for it and they are advising. How to answer a form can be quite critical. Are you a member of a terrorist organization? Are you this, or are you that? That's critical information.

Hon. Michelle Rempel: Unfortunately, our timelines are short. What would be helpful for this committee is if the Bar Association

could provide the committee with an opinion to that effect, or some information specifically outlining this because we don't have a lot of detail on what constitutes the code of conduct. That's one of my concerns in perpetuating the system as it is right now.

The other component that I'm looking at was on the point that you made about somebody thinking that they're receiving a government agent because now the government is taking more direct oversight of the profession. I think that is interesting and valid. I also really didn't get much of an answer from department officials on any sort of liability that the government could be undertaking given now that they are overseeing this profession. Do you have any opinions on that? Given that immigration law is one of the most highly litigated fields in Canada, how would legislators go about trying to actually analyze that and then comparing it to the current structure, as to whether or not the government should actually be getting into this business?

•(1140)

Mr. Ravi Jain: We know there's a long history now of complaints against immigration consultants. If the government is now stepping in, and the minister is giving himself so much power throughout this whole process, the danger, I think, would be that someone could potentially launch a class action one day. They could say, you knew there was this problem. You had testimony from the CBA and others that there was this ongoing problem with consultants. Instead of clamping down on it and calling it the practice of law, which is what it is, you are basically propping them up and allowing them to practise law. You have so much control in it that really you're liable for it.

I think there could be an argument that could be run.

Hon. Michelle Rempel: I will give you my own example. I have very specific algorithms and practices within my own office to make sure I am not giving legal advice to people when we are working on casework. I worry about exactly what you just said, and also about what my scope of work is as a member of Parliament. What would be also helpful is if the Bar Association would be willing to provide an opinion to us on that perspective. Again, across political stripes, I do worry about the government taking on ownership. I believe that the government's role here is to ensure that information is provided in an accurate, simple way with accurate processes in place, where the call centre deals out information to newcomers, where perhaps there's a little more on translation services.

Could you comment on that approach? To me here we really have legal services and then the responsibility of the government to deliver service in an efficient way that keeps the end-user in mind.

Mr. Ravi Jain: The operations people in the department always want to make things simpler, and the policy people are always the ones who understand that life is very complicated. It's very difficult to simplify in the way that you want. We look at this in terms of, why our area of law? To your point, MPs' offices spend so much time on this. Law is just one facet of society. Immigration law is just a tiny little sliver. From an immigration lawyer's perspective, we wonder why people aren't calling for more criminal consultants in other areas of law.

Hon. Michelle Rempel: With the time I have left, I would also be very interested if the Bar Association would be willing to table with our committee a comparative rate schedule. You raised the issue of rates. Is there any work on that? What do immigration consulting lawyers charge versus immigration consultants? That's the research I'm doing right now, and that would be helpful. As well, what is the potential impact of referral fees not being regulated?

Mr. Ravi Jain: Okay I'll take that back.

Hon. Michelle Rempel: Thank you.

Lastly, with regard to the code of conduct, do you have any specific recommendations, if the government proceeds with this, that would limit liability; or can this just not be done within the model that's being proposed?

Mr. Ravi Jain: My view is that it can't be done. We're going to be sitting here in another three or four years. All the examples of fraud and negligence are going to continue.

I wonder again, why us? Immigration lawyers are the most bleeding-heart types who go into this area to help people. We're not

The Vice-Chair (Ms. Jenny Kwan): Thank you. Sorry, we've reached that time. Maybe you can finish that thought in the next round.

We're just going to switch out.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

We need a chair. It's perhaps not the most efficient system, but work with us.

Ms. Kwan, you have seven minutes.

Ms. Jenny Kwan: It's an example of what not to do, self-regulate.

Mr. Jain, one of the issues you highlighted was the impact of ghost consultants for the end-user. The government in this proposal suggested that especially for international consultants or lawyers, there would be an educational program, five people in five countries.

Do you think that's sufficient, or would you have any suggestions as to what needs to be done to address this issue properly?

Mr. Ravi Jain: We heard yesterday that they're going to use some of the VACs as well to try to spread the message, but obviously one person in a country such as India is not a huge amount of resources.

My submission on behalf of the Canadian Bar Association last time I was here was that when you just say that only lawyers can represent for a fee, it's such a simple message that you could put it on a form. You could put it on a form in multiple languages so that people understand.

People unfortunately don't get that they're hiring people who are calling themselves lawyers, or maybe they're calling themselves people who are authorized to practise overseas as ghost consultants. Maybe they're saying, "Don't worry about it; I'm a travel agent and I can do this", or whatever.

If the message is really that only lawyers can represent for a fee, it's a very simple message and you can say, "You can look up your lawyer", and even provide a link.

It could even be right on the forms. That's the best way to deal with the ghost consulting issue, otherwise what's going on now and propping up this whole thing is going to be here for years. For years and years, we're going to have this ghost consulting problem. You're never going to get rid of it otherwise.

• (1145)

Ms. Jenny Kwan: Thank you.

On the question around the applicant at the end, if they encounter an unscrupulous immigration consultant, or a lawyer, for that matter, and they've been led down a bad path, they've lost their status and know they're faced with deportation. Their pathway to permanent residence is forever lost. Do you think the recourse for that in this piece of legislation will actually insure and protect the end-user?

Mr. Ravi Jain: No. It has always been "buyer beware". That's the way the system is set up and the unsuspecting public doesn't know that they're not hiring lawyers.

With this Queen's University and Université de Sherbrooke program, people are going to graduate with a 500-hour online course and they're going to say, "I went to Queen's law school." It's just getting worse and worse. Absolutely, people are going to be duped by this.

Ms. Jenny Kwan: Do you think there should be provisions in recognition of this situation, that for individuals who have encountered those experiences, the government allow for them to resubmit an application and provide an open work permit to them, for example, so that we can try to right the course?

Mr. Ravi Jain: It's a very difficult problem, because then you're going to have people who are going to make these complaints against consultants because they think they can get an open work permit out of it, even when the consultant may not have actually done anything wrong. You'll just go down this path. If there's a clear example, fine.

I'm just saying that the better solution is to just say that only lawyers can help these people because the complaints.... It's a false equivalent. I keep hearing about how there are bad lawyers, too. If you look at the period from 2011 to 2016 in British Columbia, do you know how many disciplinary measures there were against lawyers? This was the time when CSIC was in existence, from 2011 to 2016. Zero. There were zero disciplinary matters in B.C.

Yes, there are some bad lawyers who, through greed, or apathy, or whatever, make some mistakes, just like there are some bad doctors and some bad engineers, but they're few and far between. You can't compare them.

Yesterday we heard there are 350 complaints, and the person from the disciplinary committee said that of the 350 a year only 2% take up 60%. Okay, so let's take that off. What's the math? It's 140 a year. That's only reported. You have to understand; I see these people every day and 99% don't want to proceed because they say, what's the immigration benefit for me? What am I getting out of this? They don't want to complain. You can imagine the volume of harm you're talking about. That's what motivates me on this issue.

It's disappointing to me. I look at the witnesses here and yesterday, and I just think that I'm a lone voice. What motivates me is just seeing, day in and day out in my practice, so many people who are hurt. I think there are some good consultants who try to be diligent—I'll say that on the record—but they can partner with lawyers like they currently do. They can work with lawyers and law firms. They can rain-make and bring business in. They can do marketing initiatives. They can benefit from the reputation of a law firm that can carry their practices forward. They can work together with lawyers.

There is a value. It's not like WebMD. You can't just go to CPDs for five years and then say, okay, I'm just as good as a lawyer. It doesn't work that way. Lawyers are trained to interpret statutes. They don't just go to the website. There's a system of ethics that's ingrained in us over three years in law school and beyond.

Ms. Jenny Kwan: Thank you for that.

On the issue around compensation, I think it has been raised that if you've lost your pathway there is no way to really compensate for that. With respect to this fund that is being established, do you have recommendations as to what procedural standards should be established to access this compensation?

Mr. Ravi Jain: Firstly, if you're going to go down this route you have to have a huge increase in dues to cover the professional liability and the compensation fund. It has to be massive. The fees that have been paid to date have been nothing relative to.... The law society benefits from economies of scale. There are so many lawyers out there. They charge us a few thousand dollars, but there's this whole economy of scale thing happening. If you're talking about just a whole regulatory body just for immigration consultants, then it's going to have to be massive.

In terms of the threshold to access it, I think you have to establish, obviously, that there was negligence. That's going to come out with their professional ethics and code of conduct, and all that. It should be relatively low in terms of accessing it, but it has to be funded properly.

• (1150)

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mr. Ayoub, you have seven minutes.

[Translation]

Mr. Ramez Ayoub: Thank you.

Let me turn to the recommendations of the 2017 report. I believe you have read it. These recommendations were unanimous, but from what you're telling us, Mr. Jain, we were all way off the mark.

From what you said, everything should be done by lawyers. You do not agree that there should be immigration consultants, because

their work always has a legal aspect. However, it's not just consultants whose administrative work has a legal aspect. There is a legal aspect to everything people do in general. This is especially true when professionals provide services that cost money. I would like to come back to the notion of cost.

Mr. Jain, are you saying that only lawyers could perform that role? Right now, what is preventing lawyers from doing so?

[English]

Mr. Ravi Jain: I see this as just a way to protect consultants to continue to practise immigration law, but the best way to protect the public is if a lawyer is on the hook.

Why? It's because a lawyer doesn't just go to a community college course and then start hanging out his shingle, right? A lawyer has to invest, and a lot of graduates come out with \$200,000 in debt. By the time you're through that system and have invested so much, you're not going to risk it. Your ethics are ingrained in you during the whole law school program.

How does this protect the public? It's because if a lawyer is signing an application form or is the one litigating, they're going to take their role very seriously. They're not going to engage in that kind of fraud or, obviously, the competency issues that we're talking about.

Mr. Ramez Ayoub: Only because they're lawyers?

Mr. Ravi Jain: Well, there will be some, as I mentioned. I said that there will always be a few bad apples, but it's a false equivalence when you look at the sheer volume here. I think we missed the boat last time. I think that in 2017, you looked at it, and you're so used to having consultants that you don't question.

Why aren't you calling for consultants in all the other areas of law? Would you trust a non-lawyer to represent you in a criminal matter? Probably not. Civil liberties are at stake, right?

Mr. Ramez Ayoub: You need to go to court for that. You don't go to court for immigration—

Mr. Ravi Jain: But it's a tribunal. It's life and death at the Immigration and Refugee Board, sir.

[Translation]

Mr. Ramez Ayoub: Thank you.

[English]

Mr. Dean, do you want to react?

Mr. Ryan Dean: I'm going to have to differ with my co-worker, Mr. Chair. I think an immigration consultant costs less. They're more accessible. Immigrants can sue an immigration consultant, or at least file a discipline complaint, but who sues lawyers? Immigrants aren't going to be so apt to sue lawyers because everyone knows not to sue a lawyer.

Also, you can't escape the fact that there are many immigration consultants working for law firms because the law firms themselves can't handle the immigration work. The immigration consultants have more expertise. That's a fact.

[*Translation*]

Mr. Ramez Ayoub: I want to come back to the issue of costs.

As you said, Mr. Dean, it costs more to deal with a lawyer. The average hourly rate of a lawyer can be very high. The fees of dealing with a consultant vary depending on the case. There is no particular fee mentioned in the report or in the recommendations that go with the legislation. It is also illegal to guarantee an outcome. All of this means that, ultimately, the client needs an administrative entity to be protected.

In the case of a college of physicians or real estate brokers, there are always escrow accounts, ways to secure the money and get it to the right place, if necessary.

Isn't there a way to set rates and limits? Clients cannot be guaranteed the result of the service, but they could be guaranteed affordable quality services.

• (1155)

[*English*]

Mr. Ravi Jain: Again, if I can speak to that, we're sort of flailing here. The direct answer, of course, is that there's the Competition Act, and I don't think that legislating fees is the answer. I know that the Liberal government in particular talked a lot about making evidence-based decisions, and I think that's an important way to proceed.

I guess my question to you is where the evidence is. Again, immigration lawyers don't operate in fancy law firms with million-dollar works of art hanging on the walls. They're generally sole practitioners. They're generally making six figures or just under, so I ask you, where's the evidence—

Mr. Ramez Ayoub: Is that a problem?

Mr. Ravi Jain: Where's the evidence that they're not—

Mr. Ramez Ayoub: —making six figures?

Mr. Ravi Jain: I'm talking about \$80,000 or \$90,000, depending on the practice. It's not an ultra-lucrative area of law. These are people who are going into it from a humanitarian impulse. I don't think there's any evidence that the fees are high.

[*Translation*]

Mr. Ramez Ayoub: Let me stop you there.

Madam Chair, I would like to move the following motion in the time I have:

That, keeping with the spirit of 106(2), the Committee hereby appoints Nick Whalen, as Acting Chair, who shall be vested with all the powers and authority of the Chair; this appointment shall expire on Friday, May 10, 2019; this appointment may be extended by the Committee by resolution; and the Clerk of the Committee shall advise the Clerk of the House of this resolution.

[*English*]

The Vice-Chair (Hon. Michelle Rempel): Thank you for providing the name, rather than saying “insert here”. This is helpful.

An hon. member: He's a lawyer.

[*Translation*]

Mr. David Tilson: Thank you.

I am a patent agent. So I know—

[*English*]

The Vice-Chair (Hon. Michelle Rempel): That motion is in order, Mr. Ayoub, because that is business that is of import and in front of the committee right now, given our previous chair's elevation. I think that there has been discussion among the parties on this. So if there is not any debate, we can proceed to a vote on that.

(Motion agreed to)

The Vice-Chair (Hon. Michelle Rempel): And it was unanimous. Mr. Whelan, I invite you to take the chair. Thank you.

Some hon. members: Hear, hear!

The Acting Chair (Mr. Nick Whalen (St. John's East, Lib.)): I'd like to thank the witnesses for joining us today.

The clock is now at noon.

The meeting is adjourned.

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