

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE

ON

VETERANS AFFAIRS

Thursday, April 11, 2013

Committee Room 1

Canadian Association of Veterans in United Nations Peacekeeping

Printed and Published by Nova Scotia Hansard Reporting Services

VETERANS AFFAIRS COMMITTEE

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[Michele Raymond was replaced by Mat Whynott.]
[Lenore Zann was replaced by Gary Ramey.]
[Alfie MacLeod was replaced by Keith Bain.]
[Chuck Porter was replaced by Eddie Orrell.]

In Attendance:

Kim Langille
Legislative Committee Clerk

WITNESSES

Canadian Association of Veterans in United Nations Peacekeeping

Ronald Griffis, National President



House of Assembly
Nova Scotia

HALIFAX, THURSDAY, APRIL 11, 2013

STANDING COMMITTEE ON VETERANS AFFAIRS

9:00 A.M.

CHAIR

Gary Burrill

VICE-CHAIR

Jim Boudreau

THE CHAIR: I'd like to welcome everyone to our meeting this morning. Our guest today is Ronald Griffis, National President of the Canadian Association of Veterans in United Nations Peacekeeping, to speak to us and to think together, some with us, about the particular concerns of that association about the operation of the Veterans Review and Appeal Board.

Our format, Mr. Griffis, is to invite you to present the material you have to present to us and then to take a period, after that, to explore the things you raise in conversation and question with the members of the committee. We are open about that as to time, although we would need to bring that towards a conclusion by 15 or 20 minutes to 11:00 a.m. or so because we have a little committee business we need to deal with, at the end of that part of our meeting.

We will begin by introducing ourselves. I'm Gary Burrill, I represent Colchester-Musquodoboit Valley and chair the committee. Perhaps if we could begin with the vice-chairman;

[The committee members introduced themselves.]

THE CHAIR: Mr. Griffis, we invite you to take us through the presentation that you've prepared for today.

RONALD GRIFFIS: Thank you, sir and good morning. I'd like to thank the committee for inviting our association here today to speak of the committee's interest with respect to Veterans Review and Appeal Board. My name is Ron Griffis; I'm the National President of the Canadian Association of Veterans in United Nations Peacekeeping.

I have discussed the issues that I'm going to discuss today, with our Board of Directors, CAVU, and our association members, and we have arrived at a consensus and that is what I am stating. Our veterans association was formed in 1988 and we have 27 chapters across Canada. Our newest chapter was formed in London, Ontario, in 2012. Our association is for, and on behalf of, veterans. We are the fourth largest veterans association in Canada but by the same token, we are the largest association that has veterans only, as regular members. We do not have any civilian members; all of the members are veterans.

We are Canada's pre-eminent veterans association. We have members who have participated in missions as far back as the Korean War and members who have participated in just about every peacekeeping support: peacekeeping, peace support and peace-making mission, including the Afghanistan mission. One of our members, to date, has been on 14 deployments since the late 1950s, when he came to Halifax to be deployed to the Middle East - 14 deployments with the United Nations service.

My background is military, initially the infantry, and then I was with the military police. In those days it was called the Canadian Provost Corps. I was a member of the civilian police for approximately 11 years and I spent 22 years with the judiciary with the Ontario Court of Justice.

The Veterans Review and Appeal Board have an entitlement for 29 members. Presently I understand they have a complement of 24 members but I am uncertain as to how many are conducting hearings across Canada, taking into consideration the most recent development where members of the board are involved in an investigation involving the Royal Canadian Mounted Police, who have been requested by the Canadian Human Rights Commission to carry out a review of allegations made against some members of the board. I find that this particular invitation to the Royal Canadian Mounted Police to be extremely onerous. It's a very important step that has been taken by the Human Rights Commission.

Over the last 18 months or so the board has experienced difficulties with respect to their reputation. I have discussed this with Mr. Larlee, the chair of the board. I recently spoke with Mr. Larlee, chairman of the Veterans Review and Appeal Board, and received information that the Veterans Review and Appeal Board has accepted the recommendations made by the federal Standing Committee on Veterans Affairs, and are doing their best to improve their image.

Respect is a very important part of military life, in that you will respect your subordinates as well as those who are of a higher rank. The Veterans Review and Appeal Board has to once again gain the respect of those who appeared before them. As you well know, earned respect can be lost in moments, and it is very difficult to regain what took many months to achieve. Members of the board who I have met over the years appear to be very nice people.

A copy of the Veterans Review and Appeal Board's mission, vision, and values statement is included in the package before you. Words of this nature are very pleasant, as they appear before you, but in reality mean very little in today's atmosphere. An example would be the word "balance" in their values. Balance: we foster a workplace where individuals can sustain a healthy balance between their personal and professional lives. There has been a tremendous amount of information that has surfaced recently that goes against that suggestion.

Members of the board who have met the appointment criteria are appointed for a set period of time, in most cases, two years. Six months of training, vacation entitlement, and other factors quickly involve the member in the reappointment process. I understand a very important part of the reappointment process involved what is called the Veterans Review and Appeal Board Members Professional Performance Assessment. This is completed by Mr. Larlee. The five-page combination of documents is included in the package before you.

I should point out that these documents were in my possession prior to receiving another combination of documents. I was under the impression they were current, but in reviewing the documents that were sent to me yesterday, I think they may require a correction from time to time.

Taking into consideration the board member was a quasi-judicial officer, it is unheard of that a judicial officer would be subject to a review of this nature of their conduct and performance. It is an insult to the board member. I ask myself, are there any other tribunals in Canada where work performance is judged with respect to the reappointment process? Please remember that prior to the appointment, the board member must meet the selection criteria, which is very stringent and particular in nature. And it goes without question that the proposed candidate would be vetted by the Office of the Minister of Veterans Affairs, and I'm suggesting perhaps even the Privy Council's office.

It is strongly recommended by our association that the successful candidate be appointed full-time, with a retirement age of 70 years. Our association has undertaken to assist veterans in their dealings with Veterans Affairs Canada and the Veterans Review and Appeal Board. We assist them in preparation of documents and accompany them to hearings, and in some cases, participate in the hearings. All of this is done on a volunteer basis.

On several occasions, I have requested information as to why there are two judicial officers hearing cases. To date, the information I have received is, because it has always been done that way. I have not received an answer that reveals why it has always been done that way. I ask that particular question because I'm fully cognizant of the various courts and tribunals in Canada, where they are presided over by a single judicial officer. On several occasions, there is one judicial officer who conducts well over 90 per cent of the hearings, with respect to the appeal hearings or the review hearings. The second judicial officer does very little. They may ask one or two questions.

Historically, countless tribunals and court proceedings in Canada are conducted with one presiding judicial official. I respectfully suggest that when you have two officials presiding, and a discussion takes place focusing on the merits of the veteran's application, the judicial officer with the strongest personality will carry the ultimate decisions. Yes, the benefit of the doubt, as legislated, is supposed to go to the applicant but recently that situation appears not to be the case, at least as the applicant understands the negative decision.

It is respectfully suggested that the Veterans Review and Appeal Board hearings be presided over by a single judicial officer. The merits of this suggest that in effect the VRAB can almost double their output without any significant financial implications. Many, many courts and tribunals are conducted in Canada on a daily basis quite nicely with one judicial official presiding.

When an appeal is conducted pertaining to an application, the applicant is apparently not permitted to address the tribunal - how is the applicant to place their opinion before the appeal tribunal if they are not permitted to address the tribunal?

It is common knowledge that in some cases senior veterans have chosen not to embrace a world that involves computers. Their opinion may relate to the perceived misinterpretation of a word or a part of the evidence submitted at the review hearing that the applicant wishes to expand upon, but apparently this is denied. If the Veterans Review and Appeal Board wishes to be respected, I feel they have to change their practice and become more open and transparent. It is respectfully suggested that if you are going to have your co-workers review your decisions then, in all fairness to these judicial officials who sit in the appeal process, they should be appointed to a level that is understood to permit them to deal with appeal matters.

Yes, this may mean a special appointment and, perhaps, even an increase in remuneration, but to sit in judgment of your equals requires special authorization. Taking into consideration the current status of the VRAB, most veterans do not appeal the negative decision received and abandon the process in frustration.

Another aspect pertaining to the VRAB is that the decision, either on the review or the appeal, does not reach the member of the Bureau of Pension Advocates who assisted the veteran until well after the applicant receives the decision - why this occurs is unknown. Frequently the member of the Bureau of Pension Advocates will ask the veteran applicant to let them know the results of the hearing; in effect, the lawyer representing the applicant does not receive any information until well after the hearing, well after the decision is made. Thank you.

THE CHAIR: Thank you, Mr. Griffis, and thank you also for taking the trouble to consult enough so that we understand these are the positions of the entire association.

We would be open for exploration of these points about the structure and operation of the VRAB - who might have an enquiry about this, or a comment first?

Mr. Orrell.

EDDIE ORRELL: Thank you, Mr. Griffis, for your presentation. You say that this process has been going on - how long has this process been going on?

RONALD GRIFFIS: Since 1995, sir.

EDDIE ORRELL: No one can give you a reason why the applicant is not allowed to address the board?

RONALD GRIFFIS: I have asked that many, many times and, no, they have not given me a reason. I have made the suggestion and even the Supreme Court of Canada will permit a presentation of up to 15 minutes or so, but when the applicant attends in Charlottetown, in most cases in Charlottetown, they just sit there.

EDDIE ORRELL: Does the person representing the applicant get to present to the board or is it just a written presentation?

RONALD GRIFFIS: It's a written presentation, sir.

EDDIE ORRELL: So even the person who is representing them can't address the board verbally?

RONALD GRIFFIS: In some cases they are not even there, sir.

EDDIE ORRELL: Thank you.

THE CHAIR: Mr. Ramey.

GARY RAMEY: I think what you're up against here is something that has become a common practice with dealings with the federal government. We spoke last night in the Legislature about presentations that used to be made. As a matter of fact, I've made several of them myself. I take Canada Pension Plan cases where the applicant is refused Canada Pension, and I go - well, I used to - I used to go to a tribunal. There were a doctor, a lawyer, and a citizen, and I would present the case on behalf of my constituent, and then these people would review it. A couple of months down the road, we would get a decision as to whether or not the appeal was successful, and I thought it was a very fair, open, and decent process. Similarly, you could do that with Employment Insurance claims. The federal government has shut that process totally down. No longer can these people appear before a board.

I guess you do a written submission. I think that's the latest, isn't it? You do a written submission, and you send it off to an umpire, some person. It doesn't even have to be in your area - it could go to the umpire in Vancouver and you're applying from Halifax and you get an answer back saying no or yes. I'm guessing more likely no.

What you're up against here, I think, sir, is a trend that I'm seeing in many different areas of jurisdiction by the federal government when it comes to the appeal process. I totally understand your point, and I totally believe that a person who is appealing that process should be able to appear in person and present their case, with an advocate, if necessary. I do get it, and to the extent that someone like me, an ordinary provincial guy, can say something about it, I certainly will speak out on your behalf. I don't know how much it will help you, but I will certainly be prepared to do it. Thank you.

THE CHAIR: Do you have any response to Mr. Ramey's comments?

RONALD GRIFFIS: No. I'll just point out that when I attended at the location of the appeal hearings in Charlottetown - taking into consideration that the Veterans Review and Appeal Board Act indicates that the process should be open and the courtroom or the tribunal room should be open to the public. This is a non-existent order. When you enter the building in Charlottetown, you can't go anywhere. There is a tremendous amount of security, and if you were a member of the public and wanted to attend, as perhaps members of the public have attended this hearing, that is not permitted. You must sign in, and then you must be escorted to the hearing room, and then you must enter the hearing room, and if you leave, you cannot get back in because the door locks automatically as you leave.

As I've indicated, the process for the VRAB is supposed to be open and transparent, and yet I have brought this to the attention of Mr. Larlee and other members of his board, and they see no difficulty with you being escorted to the hearing room and then, as I said, if you leave you're locked out, and if you wander the building, well, you can rest assured that security will be along very shortly.

THE CHAIR: Mr. Epstein.

HOWARD EPSTEIN: Thank you for bringing this to our attention. I really should preface what I'm about to say by admitting that I'm a lawyer, and I've actually just been sitting here reading the legislation and some of the cases that have been decided under it. I have to say, I'm amazed at what you're telling us, given the nature of the legislation.

If I could ask you a couple of more detailed questions about it, just so I can get a better feel for what's going on here; I have to say, I had the impression that the board members were part-time members, but I gather under the legislation that they're not part-time, that this is meant as a full-time position. Is that your understanding as well?

RONALD GRIFFIS: No, sir, it is not.

HOWARD EPSTEIN: Oh. Can you tell me about this? When I read the legislation, what it provides for is what they call "permanent members," and then also what I think they call "temporary members." The difference is not whether they are full-time or part-time; the difference is whether they're appointed for a period of up to 10 years, which is supposed to be the core members who are permanent, and then there are these so-called temporary people, who can be appointed for up to two years. The Statute is quite clear. In Section 9 it says they are all supposed to be full-time members and the salary schedule certainly looks as if they're all paid on a full-time basis, so you are telling me some people are actually part-time, in the sense that they work 10 hours a week, or every second week, or one week a month, or something like that?

RONALD GRIFFIS: No.

HOWARD EPSTEIN: We're using different language.

RONALD GRIFFIS: It is my understanding that when you're appointed, and I'm under the impression the minimum appointment would be for two years, you are a permanent member. I agree that the legislation indicates that a permanent member can be appointed for a period of up to 10 years and then be reappointed once again, so I am of the opinion that they are all full-time members.

HOWARD EPSTEIN: So they are full time, right.

RONALD GRIFFIS: So even if the minimum appointment is for two years, they are not permitted to engage in any other employment whatsoever, so that would be full time.

HOWARD EPSTEIN: Right, so they are full time, although some people are appointed for a shorter total term than others, is that right?

RONALD GRIFFIS: Well I have never seen that, sir, although it's in the Act. I have never read where an appointment is on a part-time basis, including . . .

HOWARD EPSTEIN: Sorry, is anyone appointed for longer than two years?

RONALD GRIFFIS: Yes, sir.

HOWARD EPSTEIN: Yes, right, so I think that part of the Act is being complied with, is that right?

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: Okay, I just wanted to clear that up because I wondered about the full- and part-time thing.

The other part I wondered about is people sitting in groups, because you mentioned that in passing. It usually happens that people sit in panels of two, three - is that what happens?

RONALD GRIFFIS: The review hearing is conducted by two members and the appeal hearing is conducted by three members. I agree with the three-member appeal.

HOWARD EPSTEIN: Right. What the Statute actually says is that they have to sit in panels of at least two, that it is required in the Statute, although, with the consent of the applicant, they could sit with one person.

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: Have you any experience of whether any applicants who appear before them have made a request just to have one person and have had it turned down?

RONALD GRIFFIS: No sir.

HOWARD EPSTEIN: Is there a problem with people sitting with panels of two?

RONALD GRIFFIS: Well as I've indicated, the person with the strongest personality is going to win over the argument. If there's an argument that is 50-50, with respect to the merits of the veteran's case, I'm of the opinion that the person who presents the strongest argument, and in some cases maybe even the loudest argument, is going to win the argument, and is going to present the decision in such a way that their decision, their reason, is there. I've never seen a decision where the second member has disagreed. Now I don't know if they exist, or if they do exist and they are just not published.

HOWARD EPSTEIN: Could you describe one of the hearings for me, in the sense of whether there are, as you sometimes see in courtrooms, two sides arguing a case? I take it there's the applicant.

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: Who is the respondent? Is there someone on the other side kind of answering the points that the applicant makes or it just the applicant and the panel?

RONALD GRIFFIS: The applicant, usually the member of the Bureau of Pension Advocates is assisting the applicant, and then across from the applicant and the member from the bureau will be two board members, and usually to the right or the left there will be people there, there is somebody recording what is taking place, and there might be one or two spectators.

There are no chairs provided for the spectators, unless you ask for them. So you go in and you say, well where can I sit? They'll say, just a moment, let me get you a chair. Although it's supposed to be an open process, that happens.

Then what happens is the Bureau of Pension Advocates will present the case on behalf of the veteran, with the veteran sitting right there. Then the two board members - usually one - one board member will ask the majority of questions to clear up any ambiguities that have surfaced with respect to it. They go into a detailed description of the veteran's application.

HOWARD EPSTEIN: But there's no representative, say, of the Department of Veterans Affairs or of the Canada Revenue Agency or whoever in the federal government might be responsible for ultimately paying the benefits - say, the Department of National Defence. I mean, there's no one there representing them.

RONALD GRIFFIS: No, sir.

HOWARD EPSTEIN: So it is essentially the applicant and the board who get together and deal with this - is that right?

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: What kind of evidence is put forward by the applicants? Are you limited at all in the kind of evidence that you can put forward?

RONALD GRIFFIS: It has to deal with how you experience the injury that you are claiming a benefit for. For instance, if you were in a vehicle that rolled over and you became injured as a result of that, you would have to explain that, one, it was in a Department of National Defence vehicle, and maybe even if you were admitted to hospital

because of your injuries, a copy of that particular admission and the findings of the doctor indicating that something might have happened to you - that you cut your head, or something of that nature.

HOWARD EPSTEIN: Wouldn't a lot of that all be in the file before? Wouldn't there be file material in front of the board?

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: So they would have seen all that before.

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: So they must kind of assume certain facts, and if you want to challenge facts, that's the focus of the hearing - is that right? - if the applicant wants to challenge some of the facts on the file?

RONALD GRIFFIS: No, sir.

HOWARD EPSTEIN: So what is the focus of the hearing then?

RONALD GRIFFIS: The focus of the hearing is, if the board members accept your application and it's accepted that you were injured while you were a member of the Department of National Defence, they'll complete their decision and indicate that they approve of benefits being issued to this particular member. Then that particular decision goes to Veterans Affairs Canada. There is a scale that they use to determine what percentage of the top dollar that is available goes to the applicant.

HOWARD EPSTEIN: Maybe I misunderstood this, but I would have thought that - this is an appeal board, and so wouldn't there be cases where the paperwork would have been done and the department would have just accepted the claim in the first place?

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: So it is a true appeal board, in the sense that it's only when the department has not agreed in the first place that anyone ends up at this board at all.

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: So I guess that gets me back to my other question, which is what would be the focus of the dispute that ends up at the appeal board? Why would the department have turned someone down in the first place? I guess that's another way of thinking about that.

RONALD GRIFFIS: The department would turn you down, and then you can apply for the first part of this process, which is a review hearing. The review hearing would be chaired by two members of the board, and they would either accept or reject your application once again. I don't know the percentage of it, but I'm of the opinion that quite a few of the cases are rejected. Once the review is heard and a negative decision is rendered, then it can go to the appeal process, and the appeal process, as I said, is by a panel of three, usually in Charlottetown.

HOWARD EPSTEIN: Can the applicants put witnesses in front of the board to talk to the appeal board?

RONALD GRIFFIS: The appeal board, no, but the review hearing, yes.

HOWARD EPSTEIN: So all the evidence is prior to this.

RONALD GRIFFIS: Yes.

HOWARD EPSTEIN: So the opportunity to put in, say, medical evidence would have been at an earlier stage?

RONALD GRIFFIS: At the review hearing, yes. Now, by the same token, if you secured further medical evidence that assisted you in your application, that can be submitted by the Bureau of Pensions Advocates to the appeal board - to the appeal hearing - written documentation.

HOWARD EPSTEIN: Only written - they don't want to see witnesses?

RONALD GRIFFIS: No. New written documentation.

HOWARD EPSTEIN: Can you tell us anything about the background or qualifications of the people who are members of this appeal board? Are any of them physicians, for example? Are any of them ex-military people? Can you tell us anything about them?

RONALD GRIFFIS: For the record, they are all very nice people.

HOWARD EPSTEIN: Good - that's a start.

RONALD GRIFFIS: I understand that there are four to six members of the military. I understand that there is one nurse - I may be mistaken; there may be two nurses. One is a military nurse out of Ottawa; one is, the police aspect of it is one member is a spouse of the member of the RCMP. The other members that I am aware of are members of the community - for example, they would be a lawyer or two, other members of the community

who have expressed an interest in being employed or being appointed to the board, they may be from right across Canada.

HOWARD EPSTEIN: How many of them are there?

RONALD GRIFFIS: To the best of my knowledge at this time, 24 out of 29.

HOWARD EPSTEIN: Is that 29 being the maximum that the Statute allows for?

RONALD GRIFFIS: Save and except, if there's a heavy workload the minister has the authority to appoint these part-time members.

HOWARD EPSTEIN: Not part-time, but temporary.

RONALD GRIFFIS: Temporary.

THE CHAIR: Going back to your first point about this full-time, part-time question, I think possibly there's confusion here that comes around the meaning of the word "full-time." It's often used in two different senses, on the one hand it refers to the hours which one works and on the other hand it refers to the status of one's employment. You can have a full-time status employment which involves less than full-time hours, and a full-time hours employment which does not have full-time status. It's important to be clear about that.

So about the status of the members of the board you are saying, Mr. Griffis, if I've understood it right, that whatever hours they work they do not enjoy the full-time status of their position, rather a contract status.

HOWARD EPSTEIN: I think that's not what he's saying.

THE CHAIR: Oh, okay. Mr. Griffis, could you clarify this?

RONALD GRIFFIS: Yes, if you are a full-time member of the board, that's your position. If you only happen to work 20 hours one week, so be it, you're still a full-time member of the board.

THE CHAIR: That is, in fact what Mr. Griffis is saying then.

HOWARD EPSTEIN: Well, okay, yes. The Statute, Mr. Chairman, uses the term "permanent or temporary members," but it makes it very clear in Section 9 that they're all full-time, that they are in fact prohibited from doing any other work - they have to treat it as a full-time job and they are remunerated as full-time people.

The difference between the permanent and temporary members is that the permanent ones can be appointed for up to 10 years and be reappointed, and the temporary ones are added as necessary for a term up to two years. But whether they are permanent or temporary, they are all full-time. They are full-time in the sense that you first referred to it as number of hours.

THE CHAIR: Does this accord with your sense of their status?

RONALD GRIFFIS: Yes.

THE CHAIR: Mr. Boudreau.

JIM BOUDREAU: In your submission you refer to the fact that this needs to be changed - they need to change their practices to become more open and transparent. Can you sort of delve into that a little bit - what do you see that needs to be changed, and whether it's the appointment process or the process itself?

RONALD GRIFFIS: I believe the process itself. I'm on several committees and we have agreed, and Veterans Affairs Canada has agreed, that they need to communicate much better with their clientele.

We feel that this is the situation with the VRAB. The only time a veteran goes before the VRAB is if his application has been denied by Veterans Affairs Canada, and it is a strange set of circumstances that brings the veteran to the hearing room and, as a result of that, they're not aware of what takes place. I feel, as what might take place right here in our City of Halifax, is in the open courts or in the courts that are heard every day you have people who have made a hobby of coming to the courts, and them being aware of what takes place - they're probably recognized on a regular basis. They communicate to different persons about what is going on and when to go, when not to go, what type of case to hear, you know.

But the VRAB does not communicate anything. Yes, they give out a folder, but the folder is merely words. I feel they could communicate more; they could be more open - there's no secret about what goes on in the VRAB, it's an open process but, as I said, you have a veteran who makes an application for benefits, he goes in and everything is strange around him.

JIM BOUDREAU: Okay, what about the appointment process itself, do you see anything that needs to be changed there as well?

RONALD GRIFFIS: Well taking into consideration the recent decision by the Human Rights Commission to ask the RCMP to look into matters, I feel there may have been a breakdown in the selection criteria or the selection process. If, in fact, we do have members on the VRAB whose conduct requires attention, they slip through the net.

The appointment process itself is up to the Minister of Veterans Affairs and of course that's his prerogative, so I don't know. I'm aware of the initial process to become a member of the pool, where the Minister of Veterans Affairs selects the person from, but I don't know what takes place after that and that's the minister's prerogative.

JIM BOUDREAU: I'm just trying to get a handle on if you have any concerns about that process, even to the pool, as you referred to people being appointed to this pool or put into this pool. Do you have any concerns about the way that is working right now? You just mentioned there are people who slipped through the cracks.

RONALD GRIFFIS: I do have concerns but they're of such a nature that nothing can be done about it. This is a political process and I accept that. It's the luck of the draw, if you will. It's a difficult process and it's a political process.

JIM BOUDREAU: Yes, okay.

THE CHAIR: Mr. Ramey.

GARY RAMEY: Mr. Griffis, I'm just going to try to ask you a couple of questions for my own clarification here. I followed pretty much, I think, what you said but I just need you to confirm some things for me. Is it correct, in your opinion, that the physical setup of these meetings, in Charlottetown let's say, seems almost deliberately intimidating? Would you describe the physical setting of where it takes place as being somewhat intimidating, to the average person, let's say?

RONALD GRIFFIS: The physical setup on Chebucto Road, where the hearings are held in this community, is not intimidating to the average person, to the best of my knowledge at this time, but the physical setup of the hearing room in Charlottetown is, to the best of my knowledge, intimidating.

GARY RAMEY: Correct me if I'm wrong - I'll work it through a case. We'll take a hypothetical case: I was a peacekeeper in Bosnia and I got exposed to hazardous chemicals and it has affected my respiration, so now I'm a vet and I've applied and I've been turned down. They said, we don't think you have a good case. So I can go before a review board?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: Okay, and when I go before this review board, if I'm from Halifax, is that where I go, to Chebucto Road?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: Am I allowed to speak?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: At that review hearing, I am allowed to have a back and forth with the people in the room, myself?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: How many people are in the room? I'm allowed to have an advocate with me?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: Take my lawyer?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: Okay. How many are on this review panel?

RONALD GRIFFIS: Two, sir.

GARY RAMEY: Two of these board members, is that we're talking about?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: Okay, and I get turned down.

RONALD GRIFFIS: Yes.

GARY RAMEY: Okay, so then I can appeal it?

RONALD GRIFFIS: Yes.

GARY RAMEY: Do I have to go to Charlottetown for that?

RONALD GRIFFIS: If you wish to, yes, you can go.

GARY RAMEY: Can I do it here?

RONALD GRIFFIS: No sir.

GARY RAMEY: Okay, so I can go there but I'm not allowed to speak at that.

RONALD GRIFFIS: Correct.

GARY RAMEY: I can have an advocate - well you mentioned the name, some kind of a title of a person who can speak on my behalf.

RONALD GRIFFIS: Bureau of Pension Advocates.

GARY RAMEY: So I meet with that person, prior, obviously, and tell them what I'd like him to say on behalf, but can I be in the room?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: But I can't say anything.

RONALD GRIFFIS: Yes sir.

GARY RAMEY: I can have my spouse with me?

RONALD GRIFFIS: Yes.

GARY RAMEY: If they get her a chair. (Laughter) No, seriously, I don't know, is that a stupid thing? I have to request a chair for her sit down on, probably, at the hearing?

RONALD GRIFFIS: Well in Charlottetown, if memory serves me correctly, there are four chairs behind the applicant. In Chebucto Road, when I went there as a spectator, I had to ask for a chair.

GARY RAMEY: So at this appeal hearing, even though it's my life we're talking about, I can't say anything.

RONALD GRIFFIS: Correct, sir.

GARY RAMEY: Only the advocate who's there, this person, can speak on my behalf.

RONALD GRIFFIS: Yes.

GARY RAMEY: And then after I leave the room - after we all leave the room - I have to wait how long to get a decision? A couple of months?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: And it comes in writing.

RONALD GRIFFIS: Yes.

GARY RAMEY: And it's mailed to my home.

RONALD GRIFFIS: Yes.

GARY RAMEY: Okay, that's what I needed to know. I wasn't sure how it worked but I'm pretty sure how it works now, thank you.

JIM BOUDREAU: Just a follow-up to our previous discussion. I guess what I would like to know is what could this committee do to assist your association in doing what you feel you need to do.

RONALD GRIFFIS: Our association, our board of directors, has suggested that the appointments be full time. The appointment being full time speaks of the independence of the judicial officer. If an officer is not independent, there are certain winds that carry where that particular person goes. If the review of his conduct is of such a nature that he has ruffled a few feathers, the reappointment process is not favourable to him, but if they had independence, if they had tenure of security, which is paramount in any legal - to the best of my knowledge at this time - that's a paramount position to be in. If, in fact, they go astray, for some reason or another, they can be removed, for just cause, but on the same token, if they're not independent they can be - it's difficult, it's very difficult to always look behind you and say well I'm coming up for reappointment in two months, I better toe the line. I better do what is expected of me or I better do this or I hear rumors about this. The independence process is very important, and I use the word independence with respect to a vast majority of the judiciary in our great country. They have tenure and they have independence.

JIM BOUDREAU: We had a bit of a discussion around permanent and temporary. We talked about permanent being an appointment for up to 10 years, I think that was talked about, that was mentioned. So in that 10-year period that person would not be able to, I'm assuming, that in that 10-year appointment, you could not be able to be removed for that 10-year period, or is that not the case?

RONALD GRIFFIS: I would imagine you can be removed for just cause.

JIM BOUDREAU: Yes, I understand that, but that 10-year period would then allow you that ability to function without worrying about reappointment in that 10-year period, is that correct?

RONALD GRIFFIS: Yes.

JIM BOUDREAU: Just refresh my memory again, how many members of the 24 would be 10-year appointments.

RONALD GRIFFIS: I don't know sir.

JIM BOUDREAU: Okay, you have probably asked that question and haven't been able to get an answer to it.

RONALD GRIFFIS: Yes.

JIM BOUDREAU: So in reality, there might not be one or two or maybe none.

RONALD GRIFFIS: Yes. For instance the chair of the committee, the chair of the VRAB, is a six-year appointment and his appointment is up in 18 months.

JIM BOUDREAU: Okay, so a six-year appointment there.

RONALD GRIFFIS: Well for the chair.

JIM BOUDREAU: Yes.

RONALD GRIFFIS: So there is flexibility there.

JIM BOUDREAU: Okay, that answers my question on that. So what I'm hearing then is that you would like to see an appointment process, perhaps 10 years, everyone would be classified as a permanent. They would be permanent for a set period of time. Is that what you're suggesting?

RONALD GRIFFIS: If I had to make a decision that that was what was available, the answer is yes. By the same token, I would always lean towards permanent, full-time position tenure.

JIM BOUDREAU: So can you just explain to me what you see as permanent?

RONALD GRIFFIS: From a personal point of view, tenure is that you are appointed until you wish to retire or you are removed for just cause.

JIM BOUDREAU: Okay, I understand. Thank you.

GARY RAMEY: I'm seeing the same kind of questioning there, I guess. There can be 29 members, there are 24 now.

RONALD GRIFFIS: Yes sir.

GARY RAMEY: So if someone wishes to be one of these members, they contact the Minister of Veterans Affairs?

RONALD GRIFFIS: What they do is the Veterans Review and Appeal Board sends out a notice twice a year that they are accepting applications and if the applicant is successful in the process, their name is entered into a pool that is given to the Minister of Veterans Affairs. That particular process takes place in the end of February and the end of August of each year.

GARY RAMEY: Is this call for applicants advertised in the daily press across the country or is it a call internally, to people who are - well I don't know - how is it advertised? How would I know about this? How would any of us know about it?

RONALD GRIFFIS: I receive an e-mail from the Veterans Review and Appeal Board telling me that they are now accepting applications and would I notify any person who I thought might be interested in applying.

GARY RAMEY: So it goes out to . . .

RONALD GRIFFIS: Associations.

GARY RAMEY: Okay, so it's not advertised in the open press?

RONALD GRIFFIS: I don't know the answer to that, sir.

GARY RAMEY: Okay, and then this pool of people - they get 200 applications or something like that - it is the minister, himself, who ultimately writes a letter to somebody and says you've been appointed? Is that how that choice is made, to the best of your knowledge?

RONALD GRIFFIS: The ultimate decision, yes, rests with the minister.

GARY RAMEY: Sometimes the Supreme Courts in various countries are criticized because they say the appointments are being made, well, by the President of the United States or the Prime Minister or somebody, and they are appointing people to the court who have similar views on major issues to the Party in power or the person in power, so I guess it's not unreasonable to assume that if the appointment is made by the minister, who is representing a government or whomever, that the people who are picked may be of similar thinking to the governing body.

You don't want to comment on that? It's okay if you don't want to, but it's possible, right?

RONALD GRIFFIS: Yes sir.

GARY RAMEY: Okay, thank you.

THE CHAIR: Mr. Bain.

KEITH BAIN: Thank you very much, Mr. Chairman. I have to speak on the remarks . . .

GARY RAMEY: The same question, I know you're going to ask.

KEITH BAIN: Mr. Ramey mentioned, in the Province of Nova Scotia we have applications for boards and commissions, the same way as anybody else, and in a lot of cases the people who sit on those boards or commissions are left at the discretion of the minister, too, so I don't think the process is any different in this particular respect than it is in a lot of respects in this province.

THE CHAIR: Did you want to explore that any more, Mr. Bain?

KEITH BAIN: No.

THE CHAIR: Thank you. Mr. Boudreau.

JIM BOUDREAU: Now that I have some clarity on what you're asking and the understanding of the fact that this is a judicial-type activity, I would put forth the following motion: In the interest of creating greater independence of the Veterans Review and Appeal Board, VRAB, the committee calls on Veterans Affairs Canada to alter the present appointment system of VRAB members, such that the appointment of board members henceforward can be made on a full-time, rather than a contract, basis. So this is the . . .

RONALD GRIFFIS: I would support that motion, sir.

JIM BOUDREAU: Okay. So that's on the table.

MAT WHYNOTT: I second that, Mr. Chairman.

THE CHAIR: Thank you, Mr. Whynott. A discussion of Mr. Boudreau's motion.

HOWARD EPSTEIN: I have to say, I thought we clarified that all the members are full time. I wonder if that language does it. I mean, all the members are full time. Can I hear that motion again? I have to say, it sounded to me . . .

THE CHAIR: The motion reads, in the interest of creating greater independence of the Veterans Review and Appeal Board, the committee calls on Veterans Affairs Canada to alter the present appointment system of VRAB members such that the appointment of board members henceforward can be made on a full time, rather than a contract, basis.

HOWARD EPSTEIN: I have to say, that was my understanding before I had a chance to look at the legislation, and heard the evidence. But I think we've been told now that they are all full time, so I don't know if this really gets at the nature of the problem. That's the difficulty I have.

THE CHAIR: I think maybe the problem, again, is the word "full time." Maybe you could clarify this for us, Mr. Griffis. My understanding of what you're saying is that your organization is advocating that positions on the board should be tenured.

RONALD GRIFFIS: Yes, sir.

THE CHAIR: As opposed to contract. Would it be helpful, Mr. Epstein, if the word "tenured" replaced the word "full time" in this motion?

HOWARD EPSTEIN: Well, that would certainly get at part of it, I have to say. Although we've also heard, I think, some aspects of the hearing process that are disturbing. For example, the inhibitions on the openness on the process that we've heard examples of, seem to me to be problematic, and the nature of evidence seems to me also to be problematic. These are aspects that also appear. So I'm wondering if we want to say anything about those?

THE CHAIR: Could I suggest that that would be an appropriate second motion?

HOWARD EPSTEIN: Sure, absolutely.

THE CHAIR: So maybe what we ought to do is, could I ask the mover and seconder of this motion if it would be agreeable to change the word "full time" here to "tenured"?

JIM BOUDREAU: Yes, that was the intent.

THE CHAIR: And could I just check with the clerk, does that alter the . . .

GARY RAMEY: Could you read it again?

THE CHAIR: Yes. In the interest of creating greater independence of the Veterans Review and Appeal Board, the committee calls on Veterans Affairs Canada to alter the present appointment system of VRAB members such that the appointment of board members henceforward can be made on a tenured, rather than a contract, basis.

So it is agreed by Mr. Whynott and Mr. Boudreau that the motion so altered stands without further discussion on the motion.

Mr. Orrell?

EDDIE ORRELL: So if we're talking tenure versus contract for independence - that's what I'm hearing. Is that what I'm hearing?

JIM BOUDREAU: Yes.

EDDIE ORRELL: We had a question asked by - I guess I can use your name in this forum, Mr. Ramey - about independence, about how it's the minister who has the final say. So if we're assuming that the meaning was - it could be a political appointment - so if the independence is because of a political appointment, giving it a long-term tenure is going to - in my opinion, if that's what we're saying - make it worse, because that political appointment, then, if the government changes, you're going to be dealing with another round of concerns on independence. Am I not correct in assuming that? So if it's a tenured position, and it's a job, it's not a contract anymore, it's someone's full-time job. So then it's not a board.

THE CHAIR: I wonder if we might ask Mr. Griffis if you had any comment on this concern of Mr. Orrell's?

RONALD GRIFFIS: I disagree with his point of view for this particular reason: in the appointment process for judges, it doesn't matter whether they are a defence lawyer, or a prosecutor, or whether they dealt in real estate, or whether they dealt in criminal law, or matrimony law. When they are appointed, they accept the responsibility that they do have tenure, and they are independent, and I accept that they have accepted that responsibility, and all of the baggage that they bring with them is shed. They don't have any baggage whatsoever and that's demonstrated every day, every day you have . . .

EDDIE ORRELL: I guess I'm just trying to get a feel for - they're appointed because they're a lawyer with X amount of experience and it's a job that they're appointed to. You are not appointed to a board that's going to last. They're appointed full time because they have the qualifications and because they have - rarely do we hear that a judge is appointed because it was political affiliation, and we just heard that that's a possibility on this board and that when you come to the end of your appointment you could be toeing the line, per se, of your political experience so you can be reappointed to the board.

I'm only asking because I don't know the answer to this, but I would think that if that is the case and that's what we're assuming may be happening we would want to have a certain contract, I guess, if that's the person who is just going to toe the line. And if some of them were to change they would want to make sure that someone else was there who was maybe a little more independent. That's all I'm asking.

THE CHAIR: Mr. Griffis, did you have any further clarification about this point that you might want to offer?

RONALD GRIFFIS: I respectfully suggest that when a person is appointed to a position that if they bring any baggage with them, it's shed. You'll appreciate the appointments are vetted, they're vetted by a committee, in some cases they're vetted by Parliament and that person is expected to do that job that he or she is assigned and carries on that way.

I'll give you an example - perhaps a lawyer who has gone through a divorce is appointed as a judge, then that divorce is cast aside and if somebody appears before them in a domestic dispute his or her divorce has nothing to do with the case before him and he or she focuses on that aspect of it. I understand it, that's a given, and if the person does have political leanings then that's shed, that's gone.

THE CHAIR: Is there further discussion on the motion? Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

Thank you, Mr. Boudreau.

Mr. Epstein, were you going to offer a further motion?

HOWARD EPSTEIN: Yes, thank you. I was going to suggest that the committee express concerns to the Minister of Veterans Affairs about process at the appeal board and that our concern focus on making the requirement that the hearings be open to the public be an effective requirement, and that the process by which evidence is offered be, again, effective. I think those are the two points that I would focus on - that the openness and the process of offering evidence be more effective.

THE CHAIR: Thank you.
So this is the motion before us, Mr. Epstein?

HOWARD EPSTEIN: Thank you, yes.

THE CHAIR: Mr. Ramey.

GARY RAMEY: I wish to speak on that a bit.

JIM BOUDREAU: Does he have to second it first?

THE CHAIR: No he doesn't have to.

GARY RAMEY: Well that's what I need to find out.

THE CHAIR: No, it doesn't have to be. Go ahead.

GARY RAMEY: My question regarding process with Howard, is it going to be explicit enough to say, for instance, in terms of giving evidence, that the person who is appealing will actually be able to speak on his own behalf. I mean, I can't image why he wouldn't be able to if he or she wanted to.

HOWARD EPSTEIN: Here's the problem. The problem is that the legislation already says that - there is a Section 36(2) that already talks about it being open to the public and there is another section, Section 20, says that the applicant can appear and give evidence. The problem isn't the Statute, the problem seems how the board is applying it.

GARY RAMEY: I realize that the legislation says that, but in practice that is not what's happening. So however we have to word it so that they actually follow the rules of the legislation and do what the Act says they should do, I'm fine with that, but I certainly would want - I would assume that anybody who is going before a tribunal like that should be able to speak on their own behalf. I mean it's ridiculous to assume that they are not able to do that. That's the only point I wanted to make.

THE CHAIR: On the motion, Mr. Whynott.

MR. WHYNOTT: I don't really think this is on the motion, but I do have a question.

THE CHAIR: Perhaps we'll deal with the motion and come back?

KEITH BAIN: I think Mr. Epstein is correct. There are things already in the Act but they are just not being enforced. I guess, in reference to what Mr. Ramey is saying, the letter would state that, that's our understanding, that sections aren't being enforced and encourage that they be enforced.

THE CHAIR: Is there any further discussion on the motion? Is there enough clarity in the motion as it was presented?

MS. KIM LANGILLE (Legislative Committee Clerk): The motion is to express concern to Veterans Affairs Canada about the process at the Appeal Board and focus on making the hearings more open to the public and also change the process, or make it more open, for offering evidence, to be more effective.

THE CHAIR: Mr. Epstein, that accords with your sense?

HOWARD EPSTEIN: It does.

THE CHAIR: We've heard the motion, is there further discussion on the motion? Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

Are there further questions or things we would like to explore with the material Mr. Griffis has presented? Mr. Griffis, is there anything you might want to sum up with?

RONALD GRIFFIS: I want to thank you for the opportunity to be here today and it is appreciated. Our association will continue to represent veterans and to do the best for veterans. In this community our association, and myself, are on several committees and we work together. All of the members of the Client Advisory Committee on Chebucto Road work together to make things better for veterans and that's what we work towards.

We appreciate the opportunity to come forward and I appreciate, once again, this is a very narrow focus with respect to the VRAB, as opposed to veterans in general, and that's appreciated. I appreciate you have had visitors here like Mr. Lowther, and other persons of that nature, and we certainly appreciate their work also, as I've indicated. Thank you.

THE CHAIR: We very much appreciate your having brought these concerns forward with the precision you've brought them forward with. With that, we can bring this part of the meeting to a conclusion, let's have a five minute recess and then we'll return to deal with the committee business.

[10:03 p.m. The committee recessed.]

[10:08 a.m. The committee reconvened.]

THE CHAIR: We can turn back to the committee business.

We have in front of us these three pieces of correspondence. The first of them is from the Department of Transportation and Infrastructure Renewal, following up on our support for this Highway of Heroes sign project. They are asking what our thoughts would be about a time when the people from the Veterans Affairs Committee could be there for the unveiling of the new sign.

Would it be a good idea to say that after the House is out, if they could suggest to us some possible times and then have the clerk circulate those and see if we could find a time when the most of us would be able to attend that? Is there a better way to do it than that? Is that agreed? Kim?

KIM LANGILLE: And also, we would contact the CAV folks as well.

THE CHAIR: Yes, I was assuming that the department had done that, but we'll make sure that if they haven't, we do it. Okay. All square on that? Good.

The second letter is from Jacques Dufort, just acknowledging the receipt of our letter following up on the presentation by Dennis Manuge at the last meeting. There's nothing to do with this but accept it as correspondence, is there? Is it agreed? It is agreed.

Then the third matter, this refers to a motion that was made by Mr. MacLeod about the cutbacks in VAC in Cape Breton. There is a lengthy defence of the federal government's posture towards VAC in Cape Breton, here from the minister. Is there anything to do other than to receive this for information? Is that agreed? It is agreed.

Would all those in favour of the motion please say Aye. Contrary minded, Nay.

[The motion is carried.]

Just to mention, for everyone's information, on May 1st there is a concert, which is being held in support of Canada's naval memorial, *HMCS Sackville*, where we were recently. This is an evening of wartime and other music, featuring the Stadacona Band at the Royal Canadian Navy, in a support benefit for the *HMCS Sackville* project, which we had presented to us. This is at Pier 21, 7:00 p.m. on May 1st. Ticket and contact information I have here, and barring anything unforeseen, I'm planning to go to that on behalf of the committee. I have the information here if anyone would like to have and Ms. Langille has it also. Can we agree to just acknowledge that? Okay.

Our next meeting date, this is the special meeting that we have been working towards having with the Pictou District Health Authority, on the subject of the Northumberland Unit diet in Pictou County. That's scheduled for the 25th of April.

Is there anything else that should come before the meeting today?

We are adjourned.

[The committee adjourned at 10:12 a.m.]