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Chair

Mr. Borys Wrzesnewskyj

Standing Committee on Citizenship and Immigration

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•(1105)

[English]

The Chair (Mr. Borys Wrzesnewskij (Etobicoke Centre, Lib.)): I would like to call the meeting to order. Pursuant to the order of reference received by the committee on March 21, 2016, the committee will now proceed to the consideration of Bill C-6, an act to amend the Citizenship Act and to make consequential amendments to another act.

We have three witnesses before us. The witnesses will make opening remarks in the order in which they appear on the notice. The first witness is Mr. Shimon Fogel, chief executive officer of the Centre for Israel and Jewish Affairs.

The second witness will be Ms. Elke Winter, associate professor of sociology, department of sociology and anthropology, University of Ottawa, as an individual.

The third witness will be Mr. Peter Edelmann, lawyer, Edelmann and Company Law Offices, and he is here as an individual as well.

Mr. Fogel, you have seven minutes, please.

Mr. Shimon Fogel (Chief Executive Officer, Centre for Israel and Jewish Affairs): Thank you. I am grateful to be here representing the Centre for Israel and Jewish Affairs, the advocacy agent of the Jewish Federations of Canada, to discuss Bill C-6.

As I noted in my testimony before this committee regarding Bill C-24, Canadian citizenship is one of the most valuable and highly respected commodities in the world, but it is far from being just a prestigious status one acquires. Citizenship in this country is an unparalleled package of balanced rights and responsibilities based on a set of core values designed to ensure dignity, freedom, and equality for all. I am certain that everyone around this table agrees that immigrants are among the proudest patriots and shapers of this country, a source of cultural vitality and economic strength.

Despite the dark era of Canada's "none is too many" immigration and refugee policy for Jews, we have come here from all corners of the globe for more than 200 years. Our community has made a positive contribution to the Canadian story, like so many others whom we join in appreciating the extraordinary opportunity and privilege of being Canadian.

We are glad that Bill C-6 will once again allow time spent in Canada as a temporary resident to count towards the residency requirement for citizenship. This will be particularly beneficial with regard to retaining talented international students who come to this country to advance their education and skills while simultaneously

integrating with Canadian peers. They would seem to be ideal candidates for citizenship, and there should be no unnecessary obstacles in their path.

As this committee considers the merits of repealing many of Bill C-24's other provisions, I would like to highlight some elements that Bill C-6 quite correctly will leave in place, the importance of which cannot be overstated.

Retaining a physical presence standard in determining residency requirements for citizenship is an important principle that can enhance integration and decrease marginalization of new immigrants and, as Minister McCallum has mentioned, can also help counteract the problem of citizens of convenience. Bill C-6 will also maintain basic language and knowledge testing requirements for citizenship applications. Coupled with physical presence, this can make a significant contribution towards counteracting the importation of anti-Semitic and other extremist views, which, though marginalized here in Canada, are unfortunately still prevalent in many parts of the world.

We are very pleased that Bill C-6 does not seek to repeal Bill C-24's streamlined provisions for revoking citizenship from those who obtained it through fraud or misrepresentation. These provisions consolidated a process that has been routinely abused by those who hid their Nazi past when coming to Canada. The ongoing case of Helmut Oberlander is a timely example. Oberlander was a decorated member of the savage Nazi mobile killing unit responsible for the murder of more than 90,000 Jewish men, women, and children. When he applied for entry into Canada in 1954, he misrepresented his wartime past and fraudulently obtained Canadian citizenship. Oberlander has avoided the final revocation of his citizenship and removal from Canada by exploiting a flawed system for more than 20 years.

This ongoing experience demonstrates the need for Bill C-24's revocation provisions to be retained, and the government's commitment in this regard should be universally supported.

In this regard, I would like to take this opportunity to thank the government for seeking leave to appeal the latest Federal Court of Appeal's decision regarding the revocation of Oberlander's citizenship to the Supreme Court.

There are other components that Bill C-6 seeks to repeal that we believe merit further consideration. We supported the introduction of measures to ensure that those who apply for Canadian citizenship actually intend to maintain a meaningful connection to Canada. The intent-to-reside provisions that Bill C-6 will repeal are an important element in this regard and could continue to have an impact on reducing the problem of citizens of convenience.

That said, the current articulation of this provision does indeed create a potential for abuse. Safeguards are needed to preclude a minister from commencing a revocation proceeding for someone who declared intent to reside but then went abroad to study, work, or tend to an ill relative. People should not fear being penalized for such eminently reasonable actions, even if the chances of a minister actually doing this are remote.

• (1110)

In reference to this provision, Minister McCallum when he was a member of this committee in the previous Parliament noted, with regard to:

...the question of citizens of convenience. We want measures in place to deter that. I sympathize with that goal, in principle. We want measures in place to deter that. I sympathize with that goal in principle.

Instead of repealing “intent to reside”, the existing law could be amended to more closely align this provision's substance with its principle. This could be achieved with a check on ministerial discretion, a requirement for the minister to seek a court declaration in cases of misrepresentation of intent to reside, similar to the requirement included for other cases of fraud.

When I last appeared before this committee to testify regarding Bill C-24, I articulated a position in support of the revocation of citizenship from dual national Canadians who commit certain offences, including terrorism offences. This position was a reflection of our belief that in the case of certain particularly heinous political crimes, the perpetrator is actually guilty of two distinct offences. First, they're guilty of the particular crime they have committed; but second, they're guilty of a fundamental betrayal of the core values on which Canadian citizenship is based.

Our support for this provision reflects the desire to address not just the crime but also the grievous insult to Canada and Canadian identity that has taken place. This is why we advocated for the revocation provisions to be expanded to include those convicted of war crimes, crimes against humanity, and genocide.

The Chair: Mr. Fogel, you have 20 seconds, please.

Mr. Shimon Fogel: Okay. I have actually just one more paragraph.

The government has articulated a different position on this issue. We respect the mandate they received to do so and acknowledge the compelling arguments that have been made for why the law should not distinguish between dual nationals and other Canadians. But I encourage members, Mr. Chairman, to reflect on that second dimension, the insult to Canada, and consider ways in which they can reflect it in their approach to individuals who fit these circumstances.

Thank you.

The Chair: Thank you, Mr. Fogel.

I would now like to call on Ms. Winter.

You have seven minutes, please.

Professor Elke Winter (Associate Professor of Sociology, Department of Sociology and Anthropology, University of Ottawa, As an Individual): Thank you.

It is a great honour to be in this House again, so thank you very much for giving me the opportunity to speak to you about Bill C-6.

I am a sociologist who looks at citizenship legislation as a part of the government's effort of nation-building. My testimony is based on past and ongoing research, and today I would like to emphasize three points.

First, I commend the minister for proposing to repeal subsection 10(2) of the Citizenship Act, which provides the grounds for revoking citizenship related to national security. I would like to make three points to support this.

First, from a nation-building point of view, the revocation of citizenship is not a solution for a social problem, because it means exporting potential criminals to countries that cannot handle these individuals any better than Canada. Perpetrators may be either submitted to the death penalty, incarcerated in inhumane conditions, or most likely, the countries they are exported to may not be able to prevent them from committing terrorist acts from abroad. None of these are desirable, I believe, from a Canadian point of view.

Second, research suggests that perpetrators seldom refrain from heinous crimes due to drastic penalties. Not even the death penalty deters them, and potential terrorists rarely feel discouraged by the threat of citizenship revocation.

Third, and probably most important, our research has shown that past legislation, maybe unintentionally, contributed to the stereotyping of Canadian Muslims. Supported by a grant from Public Safety, researchers at the University of Ottawa have studied the media and social media coverage of the terms of revocation for Canadian dual nationals convicted for the threat of committing treason, espionage, and terrorism.

You will be interested to hear that the revocation measure was discussed skeptically by the media. Although the media was skeptical of it, their way of reporting also supported the idea that it is among Canadian Muslims, as well as dual Canadians more generally, that we are most likely to find terrorists. This, I would argue, is not conducive for multicultural nation-building.

I now come to my second substantial, larger point. In my reading of Bill C-6, as it's proposed, this legislation will bring Canadian law back in line with the idea that naturalization, becoming a citizen, is not an end point or reward of integration, but rather an important step toward immigrant integration.

Comparative research shows this approach is much more conducive to making immigrants not only part of the country's socio-economic fabric, but also to winning their hearts and minds, which is the ultimate goal when building a nation.

Once again, let me make three points to support this. Language skills are important to facilitate participation in society, but so is formal citizenship. Restoring the previous age limits for language and knowledge testing, and adjusting the language level in the application kit, will reduce barriers to the less educated, non-European-language speakers, and the economically vulnerable.

As we well know, at universities testing is a stressful undertaking, specifically for older persons and accompanying family members, often women.

As the previous speaker has already noted, restoring the pre-permanent resident 50% credit toward citizenship is an important incentive to those with Canadian experience: students, refugees, and former temporary workers. It highlights the interpretation of formal citizenship as a step within the longer journey to becoming fully integrated.

Third, changing the residence requirement to three out of five years, I believe, is conducive to retaining immigrants who are highly skilled, and highly mobile, the so-called best brains in the world that Canada and other countries want to attract. This measure enables these individuals to also become citizens, even though they may have to work outside of the country for some time and not be physically present. It gives them more flexibility.

My larger point is not part of Bill C-6 as it is presently proposed, but I urge the government to consider implementing a recommendation made by the Truth and Reconciliation Commission, namely to revise the citizenship oath to include the respect of treaties between the crown and indigenous people.

● (1115)

Interviews that I conducted with new Canadian citizens show for them the citizenship ceremony and the oath are very important and meaningful elements of the naturalization process. Since the current government has already pledged to value the Truth and Reconciliation Commission's recommendations, from the perspective of building a nation, this may be a good moment to strengthen the relations between our new Canadians and our oldest ones.

In summary, Canada has a long history of selecting immigrants who make an economic contribution to this country. For this it is envied in the world. This rationale, however, needs to be complemented by a warm welcome of new Canadians. I believe that this bill as it stands will move the legislation closer to that end.

Thank you.

The Chair: Thank you, Ms. Winter.

Mr. Edelmann, you have seven minutes. Go ahead, please.

[*Translation*]

Mr. Peter Edelmann (Lawyer, As an Individual): Thank you, Mr. Chair.

My thanks to the members of the committee for inviting me to appear before you today.

I had the opportunity to have a discussion with your Senate colleagues about Bill C-24. At that time, I expressed serious reservations about the bill, which was subsequently passed by

Parliament. So I am pleased to see that a lot of changes are proposed in the bill you are studying today.

I was born in Canada, but my parents were immigrants from Switzerland. I am eligible for Swiss citizenship, as are my two sons. Like many Canadians, we can claim another nationality. But under Bill C-24 and the legislation as it currently stands, we incur a risk that other Canadians do not, and that is not fair.

When I was before the Senate, Senator Eaton told me that all I had to do to keep my citizenship was to refrain from committing terrorism-related crimes. The issue is not whether or not I want to commit terrorism-related crimes. A person who commits a crime has only to give up his other citizenship in order to maintain the stability of his Canadian citizenship. That is not a solution.

So I am really happy that this legislative change is being dealt with today.

● (1120)

[*English*]

I'd like to speak to you in a bit more detail today with respect to some of the things I think would be helpful to see the bill go a little bit further either by going back to the system we had or by making some other changes that have been suggested by other witnesses before this committee. I'm going to focus my comments on revocation.

It's important to understand that in a world of nation-states, and as long as we live in a world of nation-states, citizenship is one of the most fundamental of statuses. It's the status upon which your ability to sit in this committee is predicated. It's the status upon which the ability to choose the people who sit around this table is predicated. It is the right to have rights. It's the right to have full rights as a participating member of Canadian society. It's a fundamental status and it's deeply important to the people who hold it. Many Canadians and many of your colleagues are naturalized citizens. For naturalized citizens to lose that status is one of the most fundamental losses they can have.

Under the current law, there is more procedural fairness built into our law around parking fines and traffic tickets than there is around loss of citizenship. The revocation of citizenship, under the current law, happens with a decision by a single officer. You get a letter in the mail that says, "Please tell us why we shouldn't take away your citizenship". Then you send submissions to the officer, and the officer can decide whether or not they want to hold an interview. They may interview you or they may not. You may just get a letter in the mail saying that you're no longer a citizen. At that point, you are no longer a citizen. You can go to the Federal Court and you can ask the Federal Court to hear your case and to judicially review that decision from the officer, but you're doing that from the position of a non-citizen. At that point, you may well be in the removal stream. I'll talk about the situation of permanent residents at that point. That process is very fast and one with very few procedural safeguards and very little transparency.

Prior to Bill C-24, the process was very different. You would get the notice in the mail and you would have the opportunity to convince the minister why they should or should not seek the revocation of your citizenship. You could then ask to go to the Federal Court. Then the Federal Court would decide whether the misrepresentation or the fraud upon which you obtained your citizenship was in fact serious enough to warrant the loss of citizenship. Then the Governor in Council would ultimately decide whether to revoke the citizenship.

There are examples of cases that have taken a long time. In the Oberlander case or other cases, there are a number of reasons why there may have been some delays, but the process itself does not require those types of delays.

We have procedural safeguards for the loss of permanent residence that are much more rigorous. In the vast majority of cases, a permanent resident who's going to lose their status will get a notice and an opportunity to make submissions. They then get a hearing before the immigration appeal division, where they not only can present an argument as to why they shouldn't lose their status, but also get an opportunity to present humanitarian and compassionate or compelling reasons for why, despite the misrepresentation, they shouldn't lose their status.

Not all misrepresentations are equal. Some are very serious. Others are relatively trivial. The question is whether a single officer should be making a decision as fundamental as the one we're talking about.

In the law as it currently stands, there is a particular problem with respect to persons who are found to have misrepresented when they got their permanent residence.

Before you get your citizenship, if you are found to have misrepresented when you got your permanent residence, you get access to the immigration appeal division. You get an opportunity to present humanitarian and compassionate factors and to say that despite the fact you misrepresented 20 years ago, you now have children and a family here. Under the law as it currently stands, once you become a citizen, you go straight back to being a foreign national if you are found to have misrepresented when you got your permanent residence. You don't go back to being a permanent resident; you go straight back to being a foreign national. Therefore, your status is more precarious once you become a citizen than it was when you were still a permanent resident.

I would urge this committee to make some amendments with respect to those two aspects.

I thank you for your time.

• (1125)

The Chair: Thank you, Mr. Edlmann.

We now move to the first round of questions for our witnesses.

Ms. Zahid, you have seven minutes.

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

I'd like to take this opportunity to thank all our witnesses for providing their valuable input.

My first question is for you, Ms. Winter. In your testimony before this committee on Bill C-24, you referenced research you were conducting regarding the raising of suspicion against dual nationals and the detrimental impact legislation, such as Bill C-24 and others, has had on some communities, particularly Muslim and Arab Canadians. You mentioned numerous rants against Muslims in print media, online fora, and social media, with negative stereotypes being extended and amplified by Bill C-24.

As a Muslim Canadian, I have seen these stereotypes first-hand. Could you update us on this research and on any conclusions your team has reached?

Prof. Elke Winter: Yes. Actually, I reviewed that statement, and we have just completed the study, so I can.

The task we were given by Public Safety was to see to what extent government policy would lead to the stereotyping of Muslims. We looked at the law as it was written. We looked at your discussions in Parliament and in the House of Commons. We then looked at the mainstream media newspapers. My students told me to look at social media.

What you can actually see is that while the law obviously applies the same way to everyone alike, and the discussions in the House of Commons and in Parliament were fairly balanced, you can see more of those stereotypes coming out in the newspapers and even more in social media.

However, on this one, I have to kind of credit the Canadian media, and it's not often the case that I do that. They were very concerned about the fact that this law would target Muslims. They spoke critically about this, for the most part. However, at the same time, by always assuming that this law was there because there were Muslims, and while not all of them would be terrorists, that it would be among them, most likely, that you would find terrorists, in that sense they contributed to the stereotyping of a vulnerable group.

I think what it shows is that a law that may not intentionally target a particular group may ultimately lead to this. Once that genie is out of the bottle—revocation as a legitimate means to penalize someone and to punish someone—it is very difficult to contain.

Mrs. Salma Zahid: Thank you, Ms. Winter.

My next question is for Mr. Fogel. I am confused by your support of the intent-to-reside provision of Bill C-24, which is being proposed to be repealed in Bill C-6.

I think we all dislike the concept of the so-called citizens of convenience. As you know, the Charter of Rights grants all Canadians mobility rights. That is part of the Charter of Rights. The intent-to-reside provision would seem to be unenforceable symbolism.

How do you reconcile it with the charter?

Mr. Shimon Fogel: I think none of the issues that are being raised are very simple or lend themselves to easy kinds of solutions. What you are implying is correct insofar as we do want a balance between benefiting from a degree of confidence that those who express an interest in securing Canadian citizenship have the intent of participating fully in the Canadian experience, and recognizing that there are a whole set of other considerations that could preclude somebody from physical presence in Canada at all times.

By way of an example, I will cite the Lebanon-Israel crisis in 2006 or 2007, where some 15,000 Canadians were airlifted from Lebanon and brought to Canada, having not lived here for many years. They stayed in Canada for a very short period of time before returning back to Lebanon.

When we are confronted with that kind of reality, we have to ask ourselves an important question. How does an individual Canadian enrich the Canadian experience? Typically, it is done by participating in and being part of the fabric of Canadian society over here.

I don't know that there is such a black and white solution. I simply think that it is important to integrate the intent to reside, mindful of the citizenship of convenience challenge that I think we are faced with as a country.

• (1130)

Mrs. Salma Zahid: Thank you.

You have supported the revocation provisions of Bill C-24. How can you justify supporting a provision that seems to target particular minority groups and has been shown to generate suspicion and mistrust of many minority groups by the broader population?

Mr. Shimon Fogel: I am not insensitive to that particular challenge and the exchange you had with Prof. Winter. I recognize that this, too, is a difficult issue. I also recognize the mandate of the current government and its expressed intent with respect to this issue.

For us, it is almost a philosophical problem. By way of analogy, I will talk about a marriage, if I can.

One goes into a marriage, into that kind of partnership, with an expression of a commitment to a set of values. If those values are breached, then the solution that occurs, more often than not, is a divorce, because the individuals, through their actions, have repudiated the essential values that caused them to go into that union.

For a particular set of crimes—and we listed what we thought they were—we felt that somebody has been guilty not just of the objective crime but also of a crime against Canada.

The Chair: Mr. Fogel, your time is up, unfortunately. Thank you.

Mr. Saroya, you have seven minutes, please.

Mr. Bob Saroya (Markham—Unionville, CPC): Thank you. Mr. Chair, I will be splitting my time with Michelle.

Thank you to the panel. We hear from both sides. My question is for Mr. Fogel.

It seems totally different from Mr. Edelman. You are suggesting that people who are committing heinous crimes against the country

or the Canadian citizens, innocent people, commanded by other people who commit crimes in other countries, should be deported back to save Canadians.

Can you elaborate more on that?

Mr. Shimon Fogel: I listened very carefully to what Mr. Edelman said. I'm actually not sanguine or insensitive to the points he raises. I don't propose that these are easy issues with easy solutions.

I'm also mindful of something Professor Winter said, which frankly I'd not fully considered, about what the consequences of deportation can be not just for the individual but also for the environment or the locale they go to. It's why I think, as I acknowledged in my comments, the government's position offers some compelling arguments in its favour, including, as Mr. Edelman said, not differentiating between different Canadians: those who were born here or those who were naturalized as Canadians.

But I still can't escape the fundamental philosophical problem I have that when we talk about a convert to a particular religion as opposed to somebody who was born into that faith, they're making an active choice. They're making a declaration that for whatever reasons, that faith resonates with them. It's something they want to embrace.

When they do something to so fundamentally offend the values of that particular faith community, or in our case the values of Canada as a society and a country, then there has to be some kind of response. There has to be some kind of consequence. It may not be revocation. There may be other remedies that could be contemplated. But surely the insult to Canada requires some kind of recognition and redress.

• (1135)

Mr. Bob Saroya: Okay.

Professor Winter, can you tell us about the impact of language skills on successful integration in the case of Canada, especially a knowledge of English and French?

Prof. Elke Winter: I think research has clearly shown that language is important. I don't have to tell Canadians that language is a means of both civic and economic integration and cultural integration. We live close to Quebec, so we know this. In that sense, I think it is an important fact.

However, I also think that language testing in itself doesn't do it all. The idea that just being here, that just residence time for someone means they will learn the language, can only be a proxy. Language skills require involvement with other people.

The Chair: Thank you.

Ms. Rempel.

Hon. Michelle Rempel (Calgary Nose Hill, CPC): Thank you.

If we have time, I'd like to go back to that.

I guess for both Mr. Fogel and Mr. Edelmann, we've had witnesses come before committee on this bill to talk about perhaps going farther than what's in the bill in terms of the revocation of citizenship, particularly in terms of being able to revoke citizenship based on citizenship being obtained by fraudulent methods.

I'm just wondering, Mr. Fogel, if you think this is necessary—and if so, what you would suggest in terms of an amendment—or if you don't think it's necessary, especially in light of the Oberlander case.

Mr. Edelmann, I'm just curious, based on what you said, as to how we can safeguard the perception that if you do present fraudulent information and somehow you slip through the cracks of our review system, which sometimes happens.... That's why this provision exists. How can we safeguard the obtainment of Canadian citizenship from someone who would be trying to achieve Canadian citizenship through fraudulent means?

Mr. Shimon Fogel: I think the case for action against those who willfully commit fraud in the application process is more straightforward and an easier case to make. I think the ability to consolidate the process in terms of appeals that can be presented by the defendant would be helpful in ensuring that justice is done in a timely kind of way.

But I do think there is indeed not just value but also a legal and moral imperative to maintain those kinds of provisions, which I think in every respect are different from the debate about revocation after the fact. Somebody who is intending to misrepresent or to commit fraud can't benefit from the results of that fraud having been perpetrated.

Mr. Peter Edelmann: I don't disagree with the proposition that there is revocation based on misrepresentation. It's built into the treaty on statelessness as well.

My suggestion—and perhaps the example of permanent residence is a good one—is that historically we have removed the status from many more permanent residents than citizens. The process is relatively straightforward. There is an allegation made by the minister. You go to the immigration division. If the immigration division finds that you misrepresented, an order is issued and you get a chance to go to the immigration appeal division.

But not all misrepresentations are the same. If, let's say, 25 years ago you came here as an engineer and your engineering diploma was not in fact genuine, and you were from more of a technical trade, in those 25 years, you've had children, grandchildren, and whatever; you're established here. There may be reasons for not taking away someone's permanent residence in those circumstances today.

• (1140)

The Chair: Thank you, Mr. Edelmann. Your time is up.

Ms. Kwan, go ahead for seven minutes, please.

Ms. Jenny Kwan (Vancouver East, NDP): I want to thank all the witnesses very much for their presentations.

Just to carry through on the question around revocation and on the issue around misrepresentation or fraud, is it my understanding, Mr. Edelmann, that the issue here is to ensure that there is a process for each case to be considered? That is not to say that if someone misrepresented, they should automatically have their citizenship

revoked or not revoked, but it is simply to ensure that there is due process and a fair process in place. Am I assuming correctly that is what you are requesting that the committee consider?

Mr. Peter Edelmann: That's correct.

My position is not that there shouldn't be revocation in these circumstances but that there should be a more rigorous process and that people shouldn't be put in a more precarious situation when they become citizens. In the example that I gave of the engineer with a misrepresentation from 25 years ago, when that person shows up in my office and asks me if they should become a citizen when they know they've misrepresented and there's not much they can do about it, my advice to them is to not become a citizen, because their situation will become more precarious once they become a citizen. Once they're a citizen, if an officer decides they've misrepresented, they will go all the way back to being a foreign national—an inadmissible foreign national—and they can be removed with no process.

Ms. Jenny Kwan: In the same vein, might this argument not also apply to those with a criminal record abroad? As it stands right now Bill C-6 did not make any changes relative to Bill C-24 in that if you have a criminal record abroad for an indictable offence, you are automatically exempt from consideration. You will not become a citizen here in Canada.

We have seen situations like Mr. Fahmy's, whereas in other jurisdictions the judicial system might be different. There might be other factors that should be considered. I wonder what your thoughts are on that issue, and whether or not there should also be a proper process to deal with that as opposed to an automatic decision.

Mr. Peter Edelmann: I think that's a different stage in the process. At that point, we're talking about the acquisition or the grant of citizenship or the bars to the grant of citizenship. In my view, the problem with that is that there already is a mechanism in the act for dealing with that. A permanent resident who has committed a serious crime or who has been convicted of a serious crime overseas can lose their permanent resident status and is then not eligible to become a citizen.

The problem with building it into the Citizenship Act as an on-off switch is that there's no room for context. There's no room for looking at whether or not this is in fact a serious crime and whether or not the person should be barred from citizenship. It simply says that if you've been convicted of these types of offences overseas, you are not eligible for citizenship. In my view, the appropriate process should be that if it's serious enough, take away the person's permanent resident status. If it's not serious enough for them to lose their permanent resident status, then let them get on with integrating into Canadian society and becoming a citizen.

In my view, there's already enough mechanisms in IRPA to deal with that, and adding it into the Citizenship Act would create problems rather than solving anything.

Ms. Jenny Kwan: Thank you.

I guess you're calling for that provision to be amended or revoked from the bill itself.

Mr. Peter Edelmann: That would be my recommendation.

Ms. Jenny Kwan: Can I just touch on the issue around language?

This committee has heard about the issue of double testing, particularly for immigrants whose language capacity.... They have to do the test on the knowledge of Canada in either French or English. That's deemed to be double testing and I wonder what your thoughts are around that.

Mr. Peter Edelmann: I think the double-testing issue is the fact that you do a language test to be able to become a citizen, and you need to meet the CLB 4 benchmark. Testing knowledge and testing language are two separate criteria that have been set out by Parliament, and we can debate their scope and whatnot, but if you're going to have a knowledge test it should be separate from the language test. You're testing knowledge.

What's happening right now is that the knowledge test, by virtue of having to be done in English or French, becomes a second language test and arguably is a language test that might be hard for someone who can otherwise pass a CLB 4. They're having problems passing the knowledge test because of the language, not because of the knowledge.

Test the knowledge separately from the language would be my recommendation.

• (1145)

Ms. Jenny Kwan: What was the system before Bill C-24?

Mr. Peter Edelmann: You could do the knowledge test with the assistance of an interpreter, so you would be testing knowledge separately from language. You test the knowledge of Canada, but you do it through an interpreter.

You might know the history of Canada inside out, but if you can't do it in English then you're not going to pass the test even though you might be very knowledgeable about Canadian history.

Ms. Jenny Kwan: Thank you.

I'm just going to touch on the issue around humanitarian and compassionate considerations. You touched on that in your presentation.

Can you tell me about the importance of why that should be considered when someone's application for citizenship is being revoked?

Mr. Peter Edelmann: In some circumstances what you're dealing with is that there's no statute of limitation on misrepresentation.

The example Mr. Fogel gave of a misrepresentation in 1954 is a very serious misrepresentation. There's no doubt that in those circumstances it may well be appropriate to go after somebody who misrepresented themselves 60 years ago. However, in other cases, if somebody.... Take the example of the engineer that I gave you earlier, if they misrepresented 60 years ago and have since become an engineer and have established themselves here, there may be factors that make taking their citizenship away unfair, even though technically they did misrepresent.

There's a big difference between the scope of the misrepresentations we're talking about and the context of somebody's status—how long they've been here and their establishment here. I would say those factors are relevant here and should be considered.

The Chair: Thank you, Mr. Edelmann.

Mr. Chen, you have seven minutes, please.

Mr. Shaun Chen (Scarborough North, Lib.): Thank you, Mr. Chair.

Mr. Fogel, you cited historical examples to demonstrate your support for citizenship revocation, and as you know, under Bill C-6 citizenship can still be revoked for reasons of fraud or misrepresentation. You seem to be satisfied that these grounds should remain for those that willfully, as you put it, commit fraud. How do you determine willful fraud?

Some critics have argued that under the current legislation a single immigration officer is empowered with making that decision of whether or not to revoke citizenship on these grounds. It seems to me it's quite a subjective decision. What are your thoughts on this?

Mr. Shimon Fogel: I wouldn't disagree. I think there's a compelling case to be made for putting into place the kinds of protocols that would ensure that while there's sufficient flexibility to distinguish between, with some nuance, different kinds of misrepresentation and context and so forth, that we should also put into place safeguards from the kinds of arbitrary decisions that could be made by single individuals who are evaluating cases.

I think there's room for putting into place the kinds of mechanisms that would ensure that the individual has the protections of law without undermining the core principles that inform the whole Citizenship Act.

Mr. Shaun Chen: Would you support a full hearing or a right to appeal for those cases where citizenship has been revoked for fraud or misrepresentation?

• (1150)

Mr. Shimon Fogel: The chairman will be very pleased with this response because it's brief: yes.

Mr. Shaun Chen: Good.

Currently there are two organizations that have launched a lawsuit. They argue the current process for citizenship revocation under Bill C-24 is not only problematic for the stated grounds that are related to national security, but they argue that charter rights are violated. They believe these elements of the current law are out of line with a free and democratic society.

What is your opinion of their claims?

Mr. Shimon Fogel: I'm not sufficiently familiar with the arguments they're advancing to offer comment, I'm sorry.

Mr. Shaun Chen: Okay.

I would throw the question out to the other witnesses.

Prof. Elke Winter: I'm not aware of the case, either, so I can't comment.

Mr. Peter Edelmann: In terms of the positions taken by the other organizations, I'm not sure what the positions are that you're suggesting.

Mr. Shaun Chen: Okay. Their position is, essentially, that the current process of citizenship revocation, which is what we've been discussing, and specifically the revocation of citizenship based on grounds of national security, are violating the charter rights of individuals.

Mr. Peter Edelmann: I can say there are several lawsuits that have been—and our office has been involved in at least one case—challenging the current provisions, in that taking away citizenship without a hearing is a problem. It's a problem of procedural fairness. It's a problem with respect to taking away a right as fundamental as citizenship.

The rights of citizenship are integrated into the charter itself, in terms of fundamental rights to vote, mobility, and moving in and out. It's a fundamental status to take away with no hearing.

Prof. Elke Winter: Yes, I've heard about the same claims. I'm not a lawyer, so I'll let my legal colleagues speak on that.

What is the alternative to taking away citizenship? What about other countries, should they do that too? Where does it lead? There seems to be a race toward taking that away and the individual having to pay for it. It really means to say to someone, “You have no country”, and in a world of nation-states that is a harsh sentence.

Mr. Shaun Chen: I want to follow up on Mr. Edelmann's comments around the language, vis-à-vis the knowledge test. Some would argue it's important for someone who is making Canada their new home, and making that choice to become a Canadian citizen, to have a certain level of knowledge about the country. You've talked about the problem with having a knowledge test that is in English or French. Some people might find that difficult to pass, not because they don't have the knowledge about the country, but because they don't have a sufficient level of proficiency, which is one that may exceed the requirements of the language test.

What is your solution, if you have one to propose, around ensuring new Canadians do have a sufficient, basic knowledge of the country?

Mr. Peter Edelmann: Sorry, just to be clear, my criticism is not around the knowledge test itself. My criticism is around the knowledge test being done in English or French.

To give you an example from my own schooling, I did school in French. I learned my math and science in French. It took me years before I could even say “Pythagorean theorem” in English, because it's a difficult thing to say. It's difficult for me, even now. I've learned over the years, but science and math don't make as much sense to me in English as they do in French. It's not that I don't understand the concepts, although my grasp of the concepts is not at a particularly high level. I understand the basic concepts, but I understand them better in French than I do in English, because I learned them in French.

It's more about doing the knowledge test. You might have the knowledge of Canadian history and understand the democratic principles, and the democratic rights, and all of those kinds of things, but the language used to describe those things is often higher than a CLB 4.

The Chair: Thank you, Mr. Edelmann.

That concludes our round of questioning.

I'd like to put a quick question to the three witnesses. One of the fundamental principles of our justice system is that every citizen is treated equally before the law. The question is quite simple, and it can be answered yes or no. Do you subscribe to this principle?

Mr. Fogel.

• (1155)

Mr. Shimon Fogel: For me, it really reflects competing imperatives. I recognize the force of that argument, of the position the government has staked out. I still think there are circumstances in which the breach is so fundamental that it requires some other remedy that we have to put into place.

The Chair: Thank you.

Ms. Winter.

Prof. Elke Winter: I subscribe to that principle. I think that citizenship revocation is targeting dual nationals. Because they are the only ones who can be targeted by it, it does not treat them equally, although I do understand that philosophical kind of dilemma.

The Chair: Thank you.

Mr. Edelmann.

Mr. Peter Edelmann: I would say yes. They should be treated equally before the law.

Just to come back to Mr. Fogel's example of a marriage, I would say that a more apt example is one of having a child. Renouncing a child is something that is very rare. Marriages break down a lot, unfortunately. The reality of—

Mr. Shimon Fogel: Mr. Chairman, he opened the door. Can I take 30 seconds to respond?

The Chair: Mr. Fogel.

Mr. Shimon Fogel: The difference between the two is that the child is the product of the relationship. In the case we're talking about, it's the individual who is taking upon herself or himself independent actions that are an affront to the partnership they entered into.

Prof. Elke Winter: May I...?

The Chair: Yes.

Prof. Elke Winter: Since you opened the door, in speaking to a sociologist, we would also say that individuals do not only act on their own. I'm not condoning acts of violence or acts of terrorists, but we have to take into consideration the context, and I think in that case we all may be guilty.

The Chair: Thank you, Professor Winter.

At this point—

Mr. David Tilson (Dufferin—Caledon, CPC): On a point of order, Mr. Chairman, you have done this before. You've just very conveniently taken the Conservative time to ask questions. You have a right to ask questions, but not at the prejudice of members of the committee. Your job is to make rulings. You can ask questions from time to time, but at almost every meeting you have done this, and I ask that you stop.

The Chair: To your point, “The Chair may, on occasion, participate in the questioning of witnesses.” That's in O'Brien and Bosc on page 1067.

Mr. David Tilson: I'm well aware of that, but this is not "on occasion". You're doing it at every meeting. I just want to make a point. I resent your using up the Conservative time.

The Chair: The round of questioning had concluded. It's not using up anyone's time.

Thank you.

Mr. David Tilson: We'll have this out again, Mr. Chairman, if you do it again, and I'll take longer.

The Chair: Thank you.

I'd like to suspend for two to three minutes to allow witnesses on this panel to depart and the next group of witnesses to settle in.

Thank you.

• (1155) _____ (Pause) _____

• (1200)

The Chair: The meeting resumes.

I would like to welcome our second panel today, which consists of Mr. Richard Kurland, lawyer and policy analyst, who is here as an individual; Avvy Go, clinic director, and Vincent Wong, staff lawyer, of the Metro Toronto Chinese and Southeast Asian Legal Clinic; and Mr. Stephen Green, lawyer and partner at Green and Spiegel LLP, also here as an individual.

Thank you.

Mr. Green, you may start, with seven minutes, please.

• (1205)

Mr. Stephen Green (Lawyer, Partner, Green and Spiegel LLP, As an Individual): Thank you very much for inviting me here today.

What I would like to discuss today is a very specific provision within the bill, and that deals with residence.

I certainly commend the government, with respect to this bill, for reducing the amount of time to three years within five. However, I would also ask you to look at the requirement of physical presence. For the past 30 years or so, physical presence has not been the test in Canada. We provided applicants with the ability to apply for citizenship when they hadn't lived here physically, based on certain types of circumstances. I think the introduction of the new act back in June of last year hurt a lot of people whom, as Canadians, we don't want to hurt.

I propose this to you. Should a journalist from CBC who is posted abroad have to decide between becoming a citizen or taking that posting? Should a permanent resident who has been accepted to MIT or Harvard—who can get a wonderful education and bring that back to Canada to help us—have to choose between taking that education and becoming a citizen? One question that I think will hit home with a lot of you is this. Members of this House are no less residents, I submit, because they are here in Ottawa. Think of the time you spend here in Ottawa, but where is your centralized mode of living? I would suggest it is back in your home ridings. Why? It is because you have a home. You may have a family. You have social connections, bank accounts. Because members of Parliament spend time in Ottawa, are they any less residents of Manitoba or Quebec?

I suggest to you that the current bill is asking you to do that, and I don't think you want to. We need exceptions to that physical presence. As many of you may know, prior to June of last year we basically had three tests in Canada to determine whether you met the old residency requirements.

One was a purely physical test. Another one was referred to as the Papadogiorgakis case, which is the story of a gentleman in Nova Scotia who was a student. He lived in a bus in Massachusetts and went to school. The court said that if you centralized your ordinary mode of living in Canada, that would be counted as residence time.

The last test, which was called the Koo test, was a test where Madam Justice Reed had set out six questions, some of them being, "Do you spend more time outside of Canada than inside? Was it a voluntary reason you went abroad? Did you return home after you were abroad?"

Those three tests were used and available. The problem was that the courts have held that as long as a citizenship judge chooses one of the three, that judge has not made a mistake, so, quite candidly, it was like going to a casino where you knew you were going to get your citizenship or you weren't, depending on whatever judge you got.

We have to have a system that will get rid of that lack of transparency, but one that will go ahead and at least provide the opportunity for students and workers to go abroad.

This is common in other countries. I will give you just two examples, one being the United States of America. In the United States, we are told that you must be a physical resident of the U.S. for 30 months within five years. We reduce it—it's interesting.... If you are married to an American citizen, you must show that you have resided for 18 months in a period of three years, but then they go on to exceptions. What are some of these exceptions in America? Well, if you work for an American company abroad, you can count that time toward your physical requirement. Do you work for a media organization? Do you work for a religious organization? In the United States, they have exceptions and we must look at them.

In the United Kingdom, there is the same type of test, where they go ahead and say that you must be a resident in the United Kingdom for three out of five years, but again they give exceptions. What are some of these exceptions? Ask the applicants where their family is. Where is their main business? Where are their social connections? You see that the U.K. and the United States provide this exception, and I submit that we should.

• (1210)

So what do I recommend?

I recommend that with respect to the current bill, if we keep the physical requirement in, we go ahead and we provide exceptions. Some of these exceptions, I would submit to you, are working abroad for a Canadian company, studying as a full-time student abroad, or perhaps working as a missionary abroad. We have to look at some of the exceptions because I think at the end of the day we as Canadians are going to lose some great people who should be part of our Canadian community.

You could even look at our Immigration and Refugee Protection Act. Section 28 of that act talks about who can renew their permanent residence. One of the exceptions about physical presence in two out of the five years is that you're working for a Canadian company on a temporary basis abroad. Again, we recognize that for permanent residents. I believe that we should recognize it for our citizens.

Finally, if this committee decides not to look at the recommendation of removing physical presence, then, yes, we have subsection 5 (4), which is a provision that says that, if the person doesn't necessarily meet the residence, then the minister can look at various reasons. But the problem with that is that it's not transparent enough for us. We must have transparency in such an important type of thing that we provide to our people.

Thank you.

The Chair: Thank you, Mr. Green.

We now move to Ms. Go and Mr. Wong for a combined seven minutes. Thank you.

Ms. Avvy Go (Clinic Director, Metro Toronto Chinese and Southeast Asian Legal Clinic): Thank you.

My name is Avvy Go. I'm the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic, which is a not-for-profit, community-based organization providing free legal services to low-income people in the greater Toronto area. With me is Vince Wong, who is a staff lawyer at our clinic. We're very pleased to be here and we thank you for the opportunity to comment on the bill.

For us, the Citizenship Act is one of the most important pieces of legislation in our country. Citizenship defines who we are as a people and therefore what Canada is as a nation. Being able to become a Canadian citizen is important, particularly for many immigrants, because our legal system reserves certain benefits, rights, and privileges to those with citizenship status, and of course, the most important, which is the right to vote.

Citizenship also gives immigrants to Canada a sense of belonging and it reaffirms their place in the country they call home. It's important for many of our clients at the clinic—many of them are racialized, many are non-citizens—to be reassured that our Citizenship Act does not promote injustice and exclusion. In fact, I will argue it's in the interests of all of us in our country that our citizenship law signals to all of our immigrants that Canadian society is a welcoming place for all people, regardless of their race, gender, socio-economic status, and so on.

We are pleased to see that Bill C-6 repeals many of the provisions that previous Bill C-24 had put in, for example, resetting the language and knowledge requirement so that they only apply to applicants aged 18 to 54, repealing the intent-to-reside provision, and reinstating a half-day credit for time spent prior to acquiring permanent resident status. These and others are positive changes, but many serious problems still exist with the current framework, and I'm going to turn to my colleague to address some of those problems.

Mr. Vincent Wong (Staff Lawyer, Metro Toronto Chinese and Southeast Asian Legal Clinic): Thank you. I'll dive straight into the issues.

Firstly, it's our position—and we support Mr. Green's eloquent arguments on this—that an overly rigid application of the physical residency test would leave otherwise deserving applicants unfairly barred from citizenship. We see these cases all of the time for clients who spend time abroad for business or schooling, but what I would outline is that it's also for those situations of compassionate care, for example, cases where clients go back home to take care of their ailing parents.

Therefore, we recommend that whatever test the committee deems appropriate in this situation, whether it be the Koo test or the centralized mode of existence, really gets at the heart of providing that flexibility in situations where it's deemed just. We believe that putting in a deemed residency test that focuses an analysis on a centralized mode of existence would get to the heart also of the concerns surrounding so-called citizens of convenience. We also submit that putting in a deemed residency test will balance the interests of legal clarity and processing efficiency on one hand, with concerns of fairness and equity on the other hand.

The second issue that I'd like to get into is that we recommend the right of appeal to be reinstated for all citizenship decisions. Previously, the Citizenship Act allowed for an automatic right of appeal to Federal Court for essentially all citizenship decisions. Bill C-24 replaced this automatic right of appeal with a far more limited judicial review only with the permission or leave from the court. We submit that it is of critical importance for the rule of law that there be proper judicial scrutiny of all citizenship decisions to ensure that they are legally sound and that discretion is being exercised in a reasonable fashion. This is only possible when effective avenues exist to challenge these decisions.

Finally, my third point relates to that of the policy of requiring an upfront language test to prove language skill for citizenship, and we recommend that this policy be completely scrapped. The reason is that the policy is a double whammy for immigrants because it erects a language barrier, but also a financial barrier to citizenship in that applicants would actually have to pay for testing as an a priori matter before their application is even processed by CIC. We recommend that it be placed within a pre-Bill C-24 system, which allows decision-makers to determine whether there is sufficient knowledge of language through an oral hearing or interview.

We also recommend that the requirement of a written knowledge test to be taken in French or English be repealed, as this requirement essentially amounts to a second language test, which we heard a little earlier about. We agree with the CBA submission on this that, "Language competency required to pass a knowledge test is significantly different than that required to live and work [practically] in Canada." Previously, language requirements have always focused on practical listening and speaking skills. Requiring applicants to pass a written test in English or French creates additional reading comprehension and written language requirements, areas that historically, prior to Bill C-24, had not been deemed necessary for naturalization.

Now, I appreciate that there are members of the public who, out of good intention, want to promote acquisition of English and French among immigrants in order that they can better improve their socio-economic outcomes. We agree that language acquisition is an important goal for successful settlement; however, this is a situation where you already have the carrot, you don't need the stick. When you use the stick, unintended consequences may happen. Many immigrants and refugees arrive at the bottom of a socio-economic ladder. They don't have time when they're working multiple jobs and taking care of family to get formal language testing done.

•(1215)

The Chair: Thank you, Mr. Wong.

Mr. Kurland, you have seven minutes, please.

Mr. Richard Kurland (Lawyer and Policy Analyst, As an Individual): I have two points. The proposed amendment to section 5 of the act has a titanic-sized loophole. The second point is the strategic design flaw in the proposed bill.

First, before I begin, I express deep pleasure at the honour and privilege of again being before this standing committee. Thank you for having me here.

The goal of including references to Income Tax Act filings was to resolve the irony that one could be a resident in Canada for immigration purposes but not for tax purposes. If you're going to live here and obtain our Canadian benefits systemically, pay for them.

I'm pleased to see that this component of the current law survived the electoral transition, but there's a gaping loophole. The proposed amendment in its current form fails to include four tiny words. I'll read the sentence. The relevant part is:

met any applicable requirement under the Income Tax Act to file a return of income in respect of three taxation years

It must continue, "as a resident of Canada". Otherwise, a person can file an income tax return as a non-resident, thus defeating the core intent of Parliament that if you wish to be a citizen you must be resident in Canada, not just for immigration purposes but taxation purposes as well.

The second point relates to our citizenship revocation process. Simply put, in its present form there are fewer procedural safeguards for citizens than permanent residents enjoy. It needs a rethink. Structurally, it's possible to engage a new division at the immigration, refugee and citizenship board, possibly. That could structurally channel citizenship issues for adjudication in a quasi-judicial forum. The alternative, structurally, is to substantively

downgrade the person concerned from citizenship to permanent resident in order that they can attain access to a modicum of justice.

Those are the two points. I owed the chair two minutes from last year for going over time. I restore what I owed.

•(1220)

The Chair: I know that it's highly appreciated by the previous chair.

Thank you.

Mr. Ehsassi, you have seven minutes, please.

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you, Mr. Chair.

I wanted to thank all the witnesses. I've had the opportunity to go over all your statements, and it's quite obvious that each of you brings a lot of expertise to bear, and you've had the chance to actually go through the legislation, through the various provisions to ensure that we do have a good Bill C-6, to ensure that there are no shortcomings or gaps, things of that nature.

I was wondering whether I could ask each and every one of you whether you agree that insofar as the revocation provision is concerned, there isn't enough procedural oversight or mechanisms. Do you agree with that particular statement? What would you envision to ensure that we can strengthen that particular area of Bill C-6? I'd like to ask all three of you to answer that question.

Mr. Stephen Green: Perhaps I'll go first.

Under the current revocation system I do not think there are enough safeguards. You should be aware that there's a very large class action suit right now dealing with the changes that occurred last year, and I think we need to have proper court oversight in the process. Also, it's interesting. We have an immigration appeal board that deals with refugees and with adjudication matters under the Immigration and Refugee Protection Act. You have a board right there to perhaps be the oversight dealing with citizenship. You may want to consider having that board look at that.

I have just one very quick comment with respect to revocation. One of the cases in the court is of a situation where it was a family of four. There's an allegation that the main applicant had misrepresented something on his immigration, and they were going after all the children as well. That is the problem with this situation. There's not enough oversight. It's just an officer looking at it, making the decision. I would say we have to have proper oversight, and there isn't under the current system.

•(1225)

Ms. Avvy Go: I absolutely agree with that assessment. It's kind of ironic that you have more right to appeal if you get a parking ticket than you do if your citizenship is revoked.

A lot of good suggestions have been made including perhaps expanding the IRB jurisdiction to include citizenship cases. There are questions about the H and C factors, the humanitarian and compassionate factors, that could also be included up front when an officer decides whether or not to refer a case to a hearing.

Of course, we need judicial oversight at the end of the day, whether it's the right to appeal to the Federal Court or to have a judicial review of a decision from a panel such as the Immigration and Refugee Board. I think all of those are very good suggestions.

Mr. Richard Kurland: The role of the witness is to assist in improving a proposed bill. It's passed in principle. Clearly we're in a transition of philosophy going from making citizenship harder to get and easier to take away, to making citizenship easier to get and harder to take away. In that context, revocation needs an overhaul. Fundamentally our criminal justice system in Canada is there to sanction inappropriate behaviour with penal consequences. That is not the function of a citizenship act.

Mr. Vincent Wong: I would just add that as a matter of principle, you're always questioning the significance of the consequences of taking away these rights. If those consequences are really material—and I would argue, in the case of citizenship as a meta-right, that they are really fundamental to any individual who is subject to revocation—then your procedural safeguards have to be very high. If they're not significant or they are somewhat immaterial, then you have more leeway. But certainly I agree with the notion that if we're talking about fraud and misrepresentation, the IRB does these cases all the time for permanent residency, so you might want to look at leveraging the expertise they already have in these sorts of issues for the purposes of citizenship.

Mr. Ali Ehsassi: Thank you.

Given the time limitation, I want to ask Ms. Go and Mr. Wong about section C of their submission, which relates to the issue of expansion of bars to citizenship for foreign charges and convictions.

In that particular section, I thought you made a very compelling argument in which you were talking about how there is this inclination for many to conflate immigration law with criminal law, and how that is fundamentally flawed because each system is supposed to act independently. If you could speak to that particular issue, I'd be very grateful as well.

Ms. Avvy Go: Sure. In addition to the concern about conflating immigration law with citizenship law, we're also concerned about the fact that while in Canada we are governed by the rule of law. We have a constitution and we have a charter. That's not always the case with many other countries.

At our clinic we have mostly clients from China and Vietnam. I think a strong argument can be made that the rule of law is not always present in those systems, so it's very problematic that we start to kind of equate foreign convictions with convictions in Canada, for instance, and also that we use the citizenship process to basically doubly penalize someone who may or may not have been wrongfully convicted overseas.

For those reasons, we are very concerned about this.

Mr. Vincent Wong: Right. I would quickly add to my colleague's submissions that it's a seductive notion that they're criminals, they're bad people, and we want to punish them.

● (1230)

The Chair: You have 10 seconds, Mr. Wong.

Mr. Vincent Wong: We want to use all sorts of avenues to punish them, but it's a slippery slope, because we have a good criminal justice system here. It has procedural safeguards. When you put the criminal punishment on top of the immigration or citizenship punishment, you violate a lot of those procedural safeguards.

The Chair: Thank you, Mr. Wong.

Mr. Tilson, go ahead for seven minutes, please.

Mr. David Tilson: Thank you, Mr. Chairman.

I'd like to ask a question to Mr. Green and Mr. Kurland, in particular, and it has to do with subclause 1(8) of Bill C-6, which repeals the requirement that a person intend to reside in Canada if granted citizenship. This was established in Bill C-24. Are you concerned that Canadian citizenship might be sought by those looking for a citizenship of convenience, without the intent of living in Canada once it's obtained?

It appears there are many citizens who get their citizenship and then they're gone. They go to Saudi Arabia and make a lot more money there. I don't mean to pick on Saudi Arabia, but they go to another jurisdiction where they make substantially more funds than they do here.

One of the witnesses in the first round gave the example of Lebanon. In July of 2006 there were 34 ship evacuations of Canadian citizens who left Lebanon. That's ships; that's not individuals. There were 34 ship evacuations and 65 air evacuations. It's interesting to know that many of the people who had the air evacuations, even though it was paid for by the Canadian government, wanted the travel points. That amounts to approximately 15,000 Canadians at a cost of about \$75 million. Many of those people returned to Lebanon when things settled down. That's just one example.

That section is gone. I think it was raised by Mr. Wong about this whole issue of citizenship by convenience. It's a great thing to have a Canadian passport. Many people on this planet would love to have a Canadian passport.

Those are my questions for Mr. Green, and then Mr. Kurland.

Mr. Stephen Green: Thank you.

I am glad to see the intent section is taken out. First of all, from a practical standpoint, I don't think we could ever manage it. If a person becomes a Canadian citizen, and they leave after one month, is that okay? Or did they leave after six months? I don't think it's a practical section.

I say that if you meet the requirements the government has put forward with respect to your residency, then you become Canadianized. That's what we want. Are you a Canadian? Have you thrown your lot in with Canadians? I think that's the purpose of the citizenship test. With a globalized world, people moving, and people working, I think it was an inappropriate section to put in.

With respect to the Lebanon issue that was brought up, I don't think that has anything to do with intention. Those were Canadian citizens who were abroad. We decided to go ahead and help them. If that intention section had been in place, I don't think that would have changed that one bit. I'm glad to see that it's removed.

Mr. David Tilson: Mr. Chairman, on that, the difficulty is that with many people who get these things—and I don't have the statistics with me—once they get that blue passport, they're gone.

Mr. Kurland.

Mr. Richard Kurland: Let's talk about money. If a Canadian passport holder is not in Canada for 10 or 20 years, Canada is not spending money on that person. There's no draw, but the holder has an entitlement to emergency diplomatic services. It's an insurance passport. As a first solution, it's a group insurance plan. Pay the premium if you're not in Canada for five consecutive years, or fail to file Canadian income taxes as a Canadian resident during a certain period of time. Have a \$1,000 to \$5,000 passport fee for a non-resident Canadian, and problem solved.

Similarly, the last solution—and this will be very unpopular in the blue chip living rooms of this country—is to adopt the American taxation rule, where we tax based on citizenship and not residence. That's a second solution.

• (1235)

The Chair: Thank you.

Ms. Rempel, you have two minutes.

Hon. Michelle Rempel: I have a very brief question for all the witnesses, anyone who wants to jump in. I want to be clear. Some of the witnesses have talked about criminal convictions being considered as part of citizenship. Are you suggesting that an overseas criminal conviction should not be considered as part of a review of eligibility for citizenship?

If that's the case, often where we see revocation instances or we get rejections of citizenship, it's when somebody has not disclosed that information on their application. Can you explain some of your comments in the context of that type of situation and what you're suggesting, because I think a lot of people would say that if you want this to be considered on humanitarian grounds or whatever, why not just disclose it on the original application.

If you wilfully do not put that on your application, what about that situation? How do we deal with that?

Ms. Avvy Go: Our concern is the foreign convictions themselves may have been wrongfully obtained. There are too many variables. It will make the citizenship application process a lot more costly because it will require more resources to determine which convictions you consider and which you don't.

If you do make that a requirement and require people to disclose, then I can see if someone did not disclose it becomes a misrepresentation issue. I think that overall there are too many variables and too many questionable convictions for us to justify making it a requirement.

The Chair: Thank you, Ms. Go.

Ms. Kwan, you have seven minutes, please.

Ms. Jenny Kwan: Thank you very much to all the witnesses for their presentations.

I'd like to touch on the issue that was not discussed today, although it was in the submission from Mr. Wong and Ms. Go. That is the issue around barriers to accessing citizenship. You touch on the issue around language and the upfront requirement, and your recommendation is that we should do away with that and the double testing as well.

But there's also another issue around barriers to access to citizenship and that's the financial barrier. I wonder if you can touch on that issue.

Mr. Vincent Wong: Sure. Over the past few years we've seen more than a 500% increase in the citizenship processing fee. The justification, of course, is that it will put money into the system to cover processing costs, so it's a money issue. But there are significant long-term problems with that. The most obvious one is for people with low incomes or people who are immigrants or former refugees, it's not that easy for a family to cough up \$2,000 in discretionary income to try to get citizenship processed.

We're looking to either reducing the fees altogether or providing waivers in places where it's justifiable.

The other thing, and I'd like the committee to think on this, is that if you put these financial barriers in place or language barriers or other very strict barriers to accessing citizenship, you're essentially disenfranchising a lot of people who are already marginalized who might be in the situation where they can't get to that language level because they're working a lot or they don't have the money. But they're still here in Canada. They're still permanent residents. They still live here. They still work here. They still have children. They contribute to the community. The only difference is that you're essentially disenfranchising them and exacerbating their current marginalization. Then we know if they don't have a vote, the policies are not going to reflect any of their interests.

It's that cycle we're trying to break here.

Ms. Jenny Kwan: Thank you very much.

If a group of individuals are deemed to be stateless and are in that situation for a whole variety of reasons, I wonder if you have any suggestions as to whether or not an amendment should be brought forward under Bill C-6 to address these groups of individuals.

I'll open it up to all the presenters.

• (1240)

Ms. Avvy Go: In our clinic, a lot of the stateless individuals are former citizens of Vietnam. Many of them have been in Canada for a long time. Some of them, for whatever reason, lost their Canadian permanent resident status at some point. Many have mental health issues. They had some criminality linked to their mental health, lost their permanent resident status, and became stateless because they have no country to return to.

There are other situations as well. I know that the CCR, for instance, has raised a number of these concerns, as well as concerns around unaccompanied minors who are in Canada and can't get citizenship without the parents.

I guess there is no single solution to this issue. There are different situations, and some of them may need to be dealt with not in citizenship law but under immigration law.

Certainly, I think it needs to be addressed. I don't think I can offer you one solution that will address all the stateless issues, because there are different situations within which one becomes stateless.

Ms. Jenny Kwan: Mr. Green.

Mr. Stephen Green: Unfortunately, I have not experienced it yet, so I can't comment on it.

Ms. Jenny Kwan: Mr. Kurland.

Mr. Richard Kurland: It merits careful scrutiny for the following security reason. If I'm the HR director of a very nasty group in the Middle East seeking to do damage in Canada or in our like-minded allies, I would be focusing my recruitment efforts among the stateless who are physically present in Canada. They're ripe for recruitment. We must collect the empirical evidence and track this group carefully. We cannot leave them without remedy.

Ms. Jenny Kwan: For example, there are groups of people who are deemed stateless because they're second-generation Canadians. When they have children overseas, in that instance they don't have access to Canadian citizenship. What are your thoughts about that? Should they be granted Canadian citizenship?

Ms. Avvy Go: Yes, I think that's an area that needs to be improved.

For instance, I have relatives where the husband was born in Canada and the wife wasn't. They're both citizens. I was advising them to make sure, when the kids are born overseas, that it's the father who applies for their citizenship, because if they apply for citizenship under the mother, their children may not become Canadian citizens. I think that example highlights the unfairness of the situation. I would certainly recommend that this provision be amended.

Ms. Jenny Kwan: Mr. Kurland, can I have a quick answer on that? I have one other question to ask, if I have time.

Mr. Richard Kurland: The quick answer is to merge the issue into the creation of a structural remedy for discretion in individual citizenship cases.

Ms. Jenny Kwan: Thank you.

In the case where minors are without a parent—for a whole variety of reasons—they are precluded, under Bill C-6, from making an application for citizenship. Other witnesses have come forward to say that we should have provisions to address that issue, along with that of people with disabilities.

I have probably less than 30 seconds now, so I'm splitting that among all of you.

Ms. Avvy Go: I agree. They should be allowed to apply for citizenship.

Mr. Richard Kurland: There's a conflict between this proposed amendment and the rights of the child, the international rights of the child.

Ms. Jenny Kwan: That is to say that they should have the right to make application. Am I correct?

Mr. Richard Kurland: Yes.

Ms. Jenny Kwan: I want to be absolutely clear about that. Thank you.

The Chair: Thank you, Ms. Kwan.

Mr. Chen, please, you have seven minutes.

Mr. Shaun Chen: Thank you, Mr. Chair. I'll be splitting my time with Mr. Tabbara.

I want to thank the witnesses for appearing before us today.

My question is directed to you, Ms. Go and Mr. Wong. I want to first congratulate the work of the Metro Toronto Chinese and Southeast Asian Legal Clinic for their advocacy on immigration and other related issues. I'm aware that the majority of your clients are of Chinese descent. I speak as a member of this committee but also as a Chinese Canadian to say that I know how two-tier citizenship doesn't work. We know that Chinese Canadians arrived in Canada in the late 19th century and were subject to the Chinese head tax, the Chinese Exclusion Act, and were treated as second-class citizens. I always say that we use history to learn from the mistakes of the past and to guide us moving forward.

My question is related to what you believe can be done to better support marginalized groups that come to Canada. The Chinese were in Canada to help build the railroad, a job that Canadians at the time were not prepared to do. As we all know, the House issued a formal apology 10 years ago. The last spike, which was presented to the Prime Minister at the time, was lost, and most recently found again. This symbolizes how the Chinese were not given a pathway to citizenship and were not treated as equal citizens.

We know that many people come to Canada as live-in caregivers, as temporary workers. Do you believe Bill C-6 goes far enough to provide them with a pathway to become full citizens?

• (1245)

Ms. Avvy Go: With respect to temporary foreign workers and live-in caregivers, I think the pathway to citizenship was blocked within the immigration law itself. I think amendments need to be made there in order for them to become permanent residents. Then they can apply for citizenship.

With respect to support for the Chinese community, in the context of citizenship I want to highlight two points. One is the need for a lot more investment in language classes. I agree, as do many, that it is better for immigrants to acquire the linguistic skills in order for them to succeed, but if you have a low-wage job and you have to care for your kids, this is not something you're able to do for a long time. In fact, we're just about to release a report on Chinese restaurant workers on Monday that will show that a lot of them work extremely long hours without minimum wage and so on. I think support for supplemental language classes for immigrants is very important.

The second part I think is access to employment. One of the reasons a lot of our clients actually have to leave Canada and go to other countries is that they can't get a job within their field in Canada. Their international credentials are not recognized in Canada. I remember how one of my clients who used to work for IBM in China couldn't get a job with IBM in Canada. She had to move to the States to work for IBM again.

I think those issues need to be addressed.

The Chair: Thank you, Ms. Go.

Mr. Tabbara, you have three and a half minutes.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you to all for being here today.

My first question is for Ms. Go and Mr. Green.

Some constituents of mine have come here. Their families are Canadian citizens, but unfortunately one of the members who has to travel overseas is not. Could you give the committee examples of what you've encountered where otherwise desirable or worthy citizenship applicants would be unable to acquire citizenship as a result of Bill C-24's restrictions and physical residency requirements?

Ms. Avvy Go: I can give you two examples of what we often see at the clinic. One is with regard to the access to employment issue. Usually it's the husband who is not able to get a decent job in Canada. The wife and kids are in Canada. The kids go to school in Canada, but often the husband has to move or go overseas to get a job that pays enough to support the family in Canada. Of course, in some cases they may not even be able to retain their permanent resident status, because they may not be working for a Canadian employer. At the end of the day, the question becomes whether or not they have a centralized mode of residence in Canada.

The second example would be students who are studying in another country. I think somebody gave an example of someone going to Harvard or Yale. It may not be Harvard or Yale. It could be another university, but the fact is that their families are here. Their parents are here. The kids go overseas to study, but they come back

to Canada. Then they have to wait much longer before they can become citizens. Is it really in the best interests of Canada to delay their citizenship applications?

• (1250)

Mr. Stephen Green: I don't think there's a person in Canada, except a citizenship judge, who's attended more citizenship hearings than myself with my clients. I can tell you the normal situation with respect to the business people is that they have successful businesses inside of Canada, they're exporting Canadian products, they're travelling abroad, and their spouses and their children are eligible for citizenships, but they can't get them under the new legislation. They have to make the decision, do they limit their amount of business, which would not be a good thing for Canada, to get their citizenships? I think that's the typical one I see, and I think it's a bad move. Years ago it wasn't an issue, but now they've changed the law. These people would be able to demonstrate they paid their taxes, their kids go to school, and they created jobs in Canada, but that doesn't matter anymore.

It's putting their—

The Chair: Thirty seconds.

Mr. Marwan Tabbara: If I can ask this quickly to Mr. Green.

You had a case of an immigrant from Cyprus. He was a student, I think, by the name of Papadogiorgakis. Can you tell us a bit about his situation?

Mr. Stephen Green: I can't tell that one.

The Chair: Thank you. That concludes this round of questioning.

I would like to thank all the witnesses for appearing before the committee.

Maybe we'll suspend for a couple of minutes to allow the witnesses to leave, and I understand there is a procedural matter that will be raised in camera.

Thank you once again.

[*Proceedings continue in camera*]

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