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Chair: Mrs. Salma Zahid



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• (1635)

[English]

The Chair (Mrs. Salma Zahid (Scarborough Centre, Lib.)): I call this meeting to order.

Welcome to meeting number 65 of the House of Commons Standing Committee on Citizenship and Immigration.

Today we will be dealing with the potential matter of privilege regarding Bill S-245, an act to amend the Citizenship Act by granting citizenship to certain Canadians.

We are joined by Mr. Randall Emery, executive director, Canadian Citizens Rights Council.

Welcome. Thank you for appearing before the committee.

Mr. Emery, you will have five minutes for your opening remarks, and then we will go into rounds of questioning. You can please begin.

Mr. J. Randall Emery (Executive Director, Canadian Citizens Rights Council, As an Individual): Thank you, Madam Chair.

I accepted the committee's invitation to come today because it's important to set the record straight.

I've heard committee members say that the issue is privilege. With the greatest of respect, I say that the issue is the role of stakeholder consultation in a democracy.

Consultation with stakeholders is not just permitted and not just something that's tolerated. Stakeholder engagement is vital and necessary in a democracy. Stakeholder engagement means that decision-making gets to benefit from the widest possible range of perspectives and points of view. Stakeholder consultation exposes the implications and the effects of legislative proposals. Stakeholder engagement empowers Canadians. It gives voice to people and communities that might not otherwise be heard.

Politicians might not always like what stakeholders have to say. You won't always appreciate the feedback, but hearing from Canadians is the price of holding public office in a free and democratic society.

It's not just about listening to stakeholders. Engagement and dialogue run two ways. True dialogue means more than passively listening. It means talking to stakeholders, reaching out, bouncing ideas, exploring options, sharing alternatives, seeking input and gathering feedback.

I challenge the very notion that, in 2023, it is still appropriate to make laws in secret, to develop amendments behind closed doors and to purport to do the people's work without the people seeing or hearing or knowing. Government must be "open by default". Who wrote that? It was Justin Trudeau.

"Secrecy. Censorship. Control...putting us in step with countries like China & North Korea." Who wrote that? It was Pierre Poilievre.

"We want to see more transparency. We want to see people able to trust their institutions because they see the decisions being made in a transparent manner." Who said that? It was Jagmeet Singh.

I urge the committee to remember that openness and transparency are vital to our democracy. What you want to call privilege is, in fact, the triumph of secrecy and opacity. This isn't about democracy. It's about protecting a closed system that shuts Canadians out.

This committee wants to hunt for the MP who allegedly consulted with stakeholders. This committee has interrupted its ordinary business to find out whether an MP did too much stakeholder engagement.

Too much stakeholder engagement...? Too much dialogue with the people affected by law-making...? This isn't Belarus. This isn't Bahrain. This is a democracy. This is Canada. It's not a crime for MPs to dialogue with Canadians.

Suppose an MP consulted with stakeholders. What's wrong with that? Suppose an MP tried to gather feedback on amendments to the bill. Does that not strengthen democracy? Suppose an MP said, "Instead of taking marching orders from the kids in the PMO or the minister's office or the OLO before voting, I want to hear what stakeholders have to say." How is that a breach of privilege? Is that not the very essence of how honourable members are supposed to act?

Consulting with stakeholders, talking to stakeholders, sharing and listening should be routine. Those should be the ordinary functions, but after today, MPs will think twice before sharing with stakeholders. Today is going to have a chilling effect on stakeholder dialogue by members, and that's a shame.

To be clear, I did not receive numbered amendments from a member of Parliament or from a staff member. I did not.

• (1640)

If one of your committee members was behind this consultation with stakeholders, then I say, “Bravo.” To that unnamed MP, I say, “Thank you for challenging secret law-making. Thank you for upholding democracy. Thank you for respecting, not disrespecting, Canadians.”

The Chair: Thank you.

Before we get into rounds of questions, I just want to read some important information so that all members are aware of what we can do and what we cannot do.

Before we begin, I wish to make an important statement regarding today's meeting. Pursuant to Standing Order 108(2) and the motion adopted on Monday, May 8, we will be studying the potential matter of privilege, originally raised on Wednesday, May 3, and hearing from a witness. Drawing on procedure, practice and precedent, I wish to make the following very clear to all the members.

The committee cannot decide whether this matter is a *prima facie* question of privilege. Only the Speaker has this authority once a matter is raised in the House. This is why we are referring to this as a potential matter of privilege. The committee cannot censor or punish the conduct of a member or another person. Only the House has this power.

The committee should not attempt to investigate the matter on the assumption that the matter is a *prima facie* question of privilege, because such a determination, which rests with the Speaker, has not been made.

As I already explained in my ruling on Monday, May 8, the committee's authority is limited to reporting a potential matter of privilege to the House. As explained on page 1060 of *House of Commons Procedure and Practice*, third edition, such a report should:

- clearly describe the situation;
- summarize the facts;
- provide the names of the people involved, if applicable;
- state that there may be a breach of privilege; and
- ask the House to take such measures as it deems appropriate.

Today the committee is hearing from the witness as a way of better understanding the facts related to this matter. I would then encourage the committee, if it indeed wishes for the matter to continue its course, to report the matter to the House as soon as possible.

As we have heard in many Speaker's rulings, including as recently as this week, questions of privilege should be brought to the Speaker's attention with the shortest possible delay. In order to do this, the committee must first report the matter to the House.

Thank you all for your attention.

With that, we will go into rounds of questioning. We will begin our six-minute round with Mr. Kmiec.

Mr. Kmiec, you may begin.

Mr. Tom Kmiec (Calgary Shepard, CPC): Thank you, Chair. I'm sorry for missing Monday. It was unavoidable on my part. I had a personal matter to attend to, and my daughter broke her finger

too, as a bonus prize. I can provide evidence if you'd like the X-ray pictures.

Mr. Emery, thank you for coming before the committee. As a quick question to you, how did you know the amendment numbers?

Mr. J. Randall Emery: I received that information.

Mr. Tom Kmiec: From whom did you receive the information?

Mr. J. Randall Emery: I'd like to just reiterate that this is about protecting a closed system that shuts Canadians out.

The answer to your question—

Mr. Tom Kmiec: From whom did you receive the amendment numbers?

Mr. J. Randall Emery: —is that I received it from another stakeholder.

Mr. Tom Kmiec: From another stakeholder? Which stakeholder was this?

Mr. J. Randall Emery: It was Michèle Vallée.

Mr. Tom Kmiec: Is she with a particular organization, or is she just a member of the public in general?

Mr. J. Randall Emery: Just a member of the public.

Mr. Tom Kmiec: When Ms. Vallée communicated the enumeration of the amendments, did she provide it as a document, or did she refer to it in an email?

Mr. J. Randall Emery: As a document.

Mr. Tom Kmiec: Would you have received these electronically?

Mr. J. Randall Emery: Yes.

Mr. Tom Kmiec: Do you still have that email, including the electronic document, in your Gmail or whatever email you use for work?

Mr. J. Randall Emery: I do not have an email.

Mr. Tom Kmiec: Did you delete it?

Mr. J. Randall Emery: No, I did not receive it over email.

Mr. Tom Kmiec: She just handed you a paper copy at some point.

Mr. J. Randall Emery: No.

Mr. Tom Kmiec: Was it over a phone call?

Mr. J. Randall Emery: No.

Mr. Tom Kmiec: How did she communicate these to you?

Mr. J. Randall Emery: It was a message.

Mr. Tom Kmiec: A message over electronic means, like WeChat, WhatsApp, Signal?

Mr. J. Randall Emery: Yes.

Mr. Tom Kmiec: Okay, and when was that communication?

Mr. J. Randall Emery: On April 20.

Mr. Tom Kmiec: Did she mention from whom she received this information?

Mr. J. Randall Emery: Again, I'd like to say that stakeholder engagement is not just something that is permitted and not just something that is tolerated. It is vital and necessary in a democracy.

What she indicated is that it came from a member of the Bloc.

Mr. Tom Kmiec: You're saying Michèle Vallée said that she received this document from a member of the Bloc.

• (1645)

Mr. J. Randall Emery: From the Bloc.

Mr. Tom Kmiec: A member of the Bloc...?

Mr. J. Randall Emery: That's all the information I have.

Mr. Tom Kmiec: Okay.

You probably saw that, when I raised a matter of a point of privilege.... I don't blame you, Mr. Emery. This is entirely not of your doing. It wasn't even my motion to bring you before this committee. I wasn't there at that meeting, either, when this motion was passed. The reason we have all of these rules is so that the work can be done by the committee.

I would like you then, if you can, tell me this: When it was communicated to you, what was the context of the communication? Was this one stakeholder group sharing it with another and she had just obtained the information in a roundabout way, or was she communicating it to you so that you could do your work more easily?

Mr. J. Randall Emery: This was in the context of a conversation.

Mr. Tom Kmiec: Okay. You didn't ask for this information. She just volunteered it to you.

Mr. J. Randall Emery: I did ask for this information.

Mr. Tom Kmiec: Did you know that she had this information, or did you come to be aware of it during the conversation?

Mr. J. Randall Emery: I knew, yes.

Mr. Tom Kmiec: Okay.

Later on in that email that has been shared with the committee, there's a line where you say:

Nhat I have heard about the Liberal NDP compromise is that they will offer sub amendments to the NDP.amendments

-to increase the connection test to 1095 days, only for parents, and by right vs. grant.

Did you find out that information from Michèle Vallée as well, or did you find out through your communication with MP offices and MP office staff?

Mr. J. Randall Emery: Would the member mind repeating the full question?

Mr. Tom Kmiec: Sure.

I hope that time is not deducted from my overall....

Your wrote in your email:

Nhat I have heard about the Liberal NDP compromise is that they will offer sub amendments to the NDP.amendments

-to increase the connection test to 1095 days, only for parents, and by right vs. grant.

Mr. J. Randall Emery: The question is whether I received....

Mr. Tom Kmiec: Did you come to understand through Michèle Vallée that this is what was going to happen to one of the NDP amendments, or did you come to understand that this is what was

going to happen based on communication with different MP offices and their staff?

Mr. J. Randall Emery: I came to understand that, as Ms. Kwan had mentioned, in the last meeting that she shared this very broadly—

Mr. Tom Kmiec: When was this meeting?

Mr. J. Randall Emery: This meeting...?

Mr. Tom Kmiec: The meeting with the NDP member.

Mr. J. Randall Emery: This was just.... I don't remember.

Mr. Tom Kmiec: You don't remember. Do you want to take a moment to look through your calendar for when this happened?

Mr. J. Randall Emery: No. I don't recall.

Mr. Tom Kmiec: Okay.

During this meeting, this information was shared that there were going to be three subamendments. Did you get it, at any point, in writing that there would be a series of subamendments to the NDP amendment?

Mr. J. Randall Emery: I'd like to stop right there.

Again, this is.... I did not have knowledge of three subamendments.

Mr. Tom Kmiec: Then how is it possible that you could have written:

they will offer sub amendments to the NDP.amendments

-to increase the connection test to 1095 days, only for parents, and by right vs. grant.

Those are three distinct ideas that were then done at this committee to one of the NDP amendments. It was debated. The officials had come here to inform the committee on what the impact would be of each amendment.

That's when I raised a point of privilege. I understand that sometimes stakeholders discuss things and may come to an understanding, but you had the numbers, which we now understand came from Michèle Vallée. Then you basically described what would happen at committee. Your sense of divination is expert if you were able to guesswork.

I'm just wondering. At this meeting with the NDP, did they communicate to you in writing? Were they very specific on what they had been told by other members and what happened?

The Chair: I'm sorry for interrupting, Mr. Kmiec. Your time is up. I gave you an extra few seconds for the time in which you had to repeat your question.

We will now proceed to Mr. Dhaliwal.

Mr. Dhaliwal, you will have six minutes. You can begin, please.

Mr. Sukh Dhaliwal (Surrey—Newton, Lib.): Thank you, Madam Chair.

Madam Chair, first of all, I would like to thank Mr. Emery for joining us here today, especially on short notice.

On behalf of my colleagues on this side, I want to thank you, Mr. Emery. However, on the other hand, we want to make sure that you tell the committee the whole story, because you are a very key witness to this. Hopefully, you will be able to answer the questions that I and other colleagues on both sides have.

In your email that you sent on April 28 to staff in the office of Mr. Kmiec, you specifically referenced:

sets of amendments to Bill S-245 related to the after-first generation exceptions in the Citizenship Act:
 NDP-1, NDP-3, NDP-5, NDP-8,
 NDP-12 G-2, G-6, G-7, G-8, and
 G-9

How did you come to know about the specific content of the amendments that you listed in your email to Mr. Kmiec's office? Further, how did you come to learn which numbers had been attributed to this content?

• (1650)

Mr. J. Randall Emery: It's as I just indicated.

Mr. Sukh Dhaliwal: Can you repeat it?

Mr. J. Randall Emery: I'm sorry...?

Mr. Sukh Dhaliwal: You said that you had a meeting with Madam Kwan. Is that correct?

Mr. J. Randall Emery: No. I'm sorry. That was.... No, no, no. Please let me be clear.

As I said, no member of this committee shared amendments with numbers with me, numbered amendments.

Mr. Sukh Dhaliwal: You got a message from Michèle Vallée. Is that correct?

Mr. J. Randall Emery: Yes. That's correct.

Mr. Sukh Dhaliwal: How do you know...? I mean, do you trust that Michèle Vallée was telling you the truth that this came from the Bloc?

Mr. J. Randall Emery: That's just what was said. I don't know. I can't say what's true and what's not. That's just what I was told.

Mr. Sukh Dhaliwal: The information that you put in your letter is not the first-hand information that you had, to particularly say what it is.

Mr. J. Randall Emery: Are you referencing the numbers?

Mr. Sukh Dhaliwal: Yes.

Mr. J. Randall Emery: The numbers were in the document.

Mr. Sukh Dhaliwal: In the correspondence that you sent to Mr. Kmiec's office on April 28, you referenced that, "There is no question in my mind that the Liberals will amend this bill. There are both external and internal reasons."

Could you please speak about what you meant by that language? What external and internal factors were you referring to?

Mr. J. Randall Emery: That was an assertion on my part. With regard to internal reasons, very simply, I know that there are members of the Liberal Party, who have been on record publicly, who support this. Those are the internal reasons.

The external reasons were that there are folks who have been talking to members of the Liberal Party, and I believed, when I wrote that.... I felt confident that the Liberal Party would amend this for those reasons.

Mr. Sukh Dhaliwal: No, but you said that folks talked to the Liberal Party.

Mr. J. Randall Emery: Yes.

Mr. Sukh Dhaliwal: Can you tell me who those folks are?

Mr. J. Randall Emery: I was one.

Mr. Sukh Dhaliwal: Who did you talk to on the Liberal side? Can you tell me?

Mr. J. Randall Emery: Sure. I spoke with Vanessa Cranston.

Mr. Sukh Dhaliwal: On which day did you talk?

Mr. J. Randall Emery: I don't remember.

Mr. Sukh Dhaliwal: Did she tell you all these amendments by their numbers that—

Mr. J. Randall Emery: No.

Mr. Sukh Dhaliwal: You also mentioned meeting Madam Kwan. Is the meeting you're talking about the meeting that happened in the committee meeting, or a meeting besides the committee meetings?

Mr. J. Randall Emery: As I said, I don't recall exactly when—

Mr. Sukh Dhaliwal: No, but I'm not asking you when. All I'm asking you is whether the meeting you're referring to was a committee meeting or a meeting outside this committee room.

Mr. J. Randall Emery: I don't recall. I mean, I don't think it was in this committee meeting. It was verbal. It wasn't in writing.

Mr. Sukh Dhaliwal: If you can't even recall, I'm just.... It's amazing that you can point a finger at the Bloc and then point a finger at Madam Kwan. How can we trust you that the information you're giving to the committee is true?

Mr. J. Randall Emery: I am here to answer truthfully. I'm answering truthfully.

Mr. Sukh Dhaliwal: I'm going to give you another chance, then, to process this. You're saying that you don't even remember, when you talked to Madam Kwan, whether it was in the committee room or outside it.

How many times have you talked to Madam Kwan outside the committee room?

• (1655)

Mr. J. Randall Emery: Perhaps about four times, maybe.

Mr. Sukh Dhaliwal: In any of those instances, did she bring in and tell you exactly these amendments...the government and the NDP amendments that you referenced in the letter?

Mr. J. Randall Emery: As I understood her statements from the last meeting, she said that she shared a general strategy with me and other stakeholders.

Mr. Sukh Dhaliwal: It's okay to share general strategy, but you—

The Chair: I'm sorry for interrupting, Mr. Dhaliwal. Your time is up.

We will now proceed to Mr. Brunelle-Duceppe.

Mr. Brunelle-Duceppe, you have six minutes. Please begin.

[*Translation*]

Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ): Thank you, Madam Chair.

This is not the committee meeting I was expecting.

Mr. Emery, I was prepared to shed some light on what happened, but I had not anticipated what came next. You and I have never talked before. I even think that when you came here to testify, I wasn't even there, because I was replacing someone on another committee, is that right?

[*English*]

Mr. J. Randall Emery: Madam Chair, I apologize. The translation is not coming through.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: That's normal. It happens all the time.

[*English*]

The Chair: I'll stop the clock. I'll get the translation checked.

Mr. Brunelle-Duceppe, you can begin, please.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Hello.

This was not the meeting I was expecting, because I wanted to shed some light on it. However, I am learning some rather surprising information.

Mr. Emery, we have never met. I even think that when you came here to testify, I wasn't present, because I was replacing someone on another committee, is that right?

[*English*]

Mr. J. Randall Emery: It just cut out right at the end, but I believe the member's question was that we have never met. The answer to that is that, yes, we have never met.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Right. We have never had any communication, whether by email, text message or any other means, is that right?

[*English*]

Mr. J. Randall Emery: That is correct.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Excellent. Things are starting off well.

You spoke about Michèle Vallée, but you also spoke about the Liberal Party and Vanessa Cranston. You talked to Jenny Kwan.

I believe you when you say you are here to tell the truth. It is just that I am surprised, because when subamendments started being

proposed to the NDP amendments, I was the one who said that I had not received them and that I had the impression that people had been talking to each other without me. Now, however, I am told that it may have been the Bloc Québécois that provided the NDP amendments to a stakeholder. That is what I don't understand in all this.

[*English*]

Mr. J. Randall Emery: I'm sorry. The translation cut out.

What I don't understand in that—

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Madam Chair, this has to be fixed, because it is too important. This is really a joke.

[*English*]

The Chair: I will stop the clock. Let us check.

Mr. Brunelle-Duceppe, can you just say a few sentences? Let's see if we can....

[*Translation*]

Mr. Alexis Brunelle-Duceppe: It's pretty important, so I would like to make sure it's working. You understand?

Is the interpretation working? Please tell me it's working. Suspend the meeting if necessary, but fix it for me, Madam Chair.

Thank you.

[*English*]

The Chair: We will get it checked.

I'll suspend the meeting for two minutes so that the clerk can have a look at what the problem is.

• (1655)

(Pause)

• (1700)

The Chair: I call this meeting to order.

Mr. Brunelle-Duceppe, please start from the beginning because there were some issues with the translation.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Thank you, Madam Chair. I will start over from the beginning.

Mr. Emery, we have already confirmed that we have never met, so I have just one question. I know you are here to tell the truth. I have no doubt about that. You seem to be a very respectable person, even though we have never met and this is the first time we have spoken.

Just before the Conservatives produced this famous email that you wrote, which said that you had certain information, the Liberals had started moving subamendments, and I told the committee that I had never seen them and I was not expecting that. I asked whether it was possible, since there were very complicated things being proposed, to speak to all members of the committee so that my team and I, and the research staff, could prepare.

What I can't understand in this whole thing is that that the Bloc Québécois is suddenly being said to possibly be connected with all this, when I was not even aware, myself, that the Liberals had moved subamendments in response to the NDP amendments and that the Conservatives had an email coming from you.

Since the beginning of this whole thing, I said to myself that it has nothing to do with me, that I will let it go ahead and we will see what happens. So you will kind of understand my surprise when I hear you naming the Bloc Québécois in all this. Basically, can you enlighten me?

[English]

Mr. J. Randall Emery: I can say that is what I heard. I understand that this is not a court of law where hearsay is—

[Translation]

Mr. Alexis Brunelle-Duceppe: No, we just want...

[English]

Mr. J. Randall Emery: I'm just speaking truthfully. That's the information I had.

[Translation]

Mr. Alexis Brunelle-Duceppe: Did you hear that it was the Bloc Québécois that had sent out the Liberal subamendments?

[English]

Mr. J. Randall Emery: That is not correct. Subamendments—

[Translation]

Mr. Alexis Brunelle-Duceppe: Ah, okay. So, that's false. However, in the email sent to the Conservatives, am I dreaming or does it refer to the Liberal subamendments?

• (1705)

[English]

Mr. J. Randall Emery: Yes.

[Translation]

Mr. Alexis Brunelle-Duceppe: Okay. I'm not sure I understand.

So, in the email sent to the Conservatives, it refers to the Liberal subamendments. You are telling me that it was not the Bloc Québécois that provided those subamendments to you. We are all wondering how you were aware of the Liberal subamendments. I don't see why there is any mention of the Bloc Québécois in this whole thing. Essentially, that is pretty much what I am asking myself.

[English]

Mr. J. Randall Emery: I'm speaking—

[Translation]

Mr. Alexis Brunelle-Duceppe: I'm sorry. I'm surprised. So these are really the questions that come to my mind. I am almost thinking out loud.

[English]

Mr. J. Randall Emery: Just to be clear, I did not receive any amendment or subamendment language from any member or staff. I received general information on strategy. What I communicated in

my email reflected an anticipation of the execution of that strategy with regard to subamendments. With regard to specific numbers, those I did receive.

[Translation]

Mr. Alexis Brunelle-Duceppe: Right, but the Liberals obviously did not send me the subamendments they were going to move, since I was the first to be surprised when they moved them. So, and I repeat, the Bloc Québécois could not have sent out those subamendments, because that would mean that the Liberals had informed me of them. That is impossible. That is what I don't understand in all this.

[English]

Mr. J. Randall Emery: I'm sorry. What was—

[Translation]

Mr. Alexis Brunelle-Duceppe: I don't understand this: how could the Bloc Québécois have sent out the Liberals' subamendments if the Liberals had never provided them to me? That's it, in fact. It's a pretty simple question.

[English]

Mr. J. Randall Emery: Again, I saw no subamendment language.

[Translation]

Mr. Alexis Brunelle-Duceppe: Right. So it was only the NDP amendments that were provided by the Bloc Québécois, at that point. Is that what you are telling us?

[English]

Mr. J. Randall Emery: I saw both amendments with numbers from another stakeholder. That's correct.

[Translation]

Mr. Alexis Brunelle-Duceppe: Okay; fine.

Madam Chair, sorry, I have a point of order about my own remarks, if you don't mind, and if committee members don't mind. I think I may need to do some checking with my team. I also understood that Mr. Emery spoke to a lot of people, having told us that he had spoken to the Liberals and the NDP.

Can someone explain what the next steps would be in this matter?

[English]

The Chair: Mr. Brunelle-Duceppe, just one second, Mr. Dhaliwal has a point of order.

Mr. Sukh Dhaliwal: Madam Chair, it is quite reasonable that Mr. Brunelle-Duceppe does want to discuss with other staff. I think we should suspend the meeting for a few minutes if he wants to. I would really love to see if that is his intent.

The Chair: We have 30 seconds left, so I would ask Mr. Brunelle-Duceppe to complete his time—

[Translation]

Mr. Alexis Brunelle-Duceppe: Madam Chair, I will leave the rest of my speaking time for the others. I am finished.

[English]

The Chair: —and we will then proceed to the next person.

Yes, please go ahead.

[Translation]

Mr. Alexis Brunelle-Duceppe: I am finished, Madam Chair. I leave the rest of my speaking time for the others.

[English]

The Chair: Thank you.

We will now proceed to Ms. Kwan.

Ms. Kwan, you will have six minutes.

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

Thank you to the witness for being at this committee's meeting today.

First off, I'd like to touch on the issue around the overall strategy because that seems to be the central issue here. Right from the beginning—and I'll repeat it again at this committee—I engaged with stakeholders all the way through to talk about Bill S-245 and what amendments needed to be made. Through that consultation, it was clear to me that the groups wanted the lost Canadians issue addressed once and for all, and not just as it related to the narrow category that was established under the bill itself.

There were a variety of areas that we needed to address, including those who had lost their right to pass on their citizenship to children born abroad. There were issues around what I loosely call “war heroes”. Those are individuals who fought for Canada, went to war for Canada, for example, died for Canada and never came back. However, at the time they did that, because Canada was not formulated as a country—Confederation had not taken place—they were not recognized as citizens in a technical sense. Part of the goal, of course, was trying to address those people and to make them whole, even though they may have passed on. Their descendants have already had access to Canadian citizenship. It's just really a symbolic thing.

Another category that needed to be addressed, for example, included those who faced discrimination because of Canada's immigration laws and citizenship laws over the years. I was trying to capture those individuals and make them whole.

Anyway, there are a number of these kinds of categories. Right from the get-go, I made it clear that's what I was trying to do.

In that process, it was determined, through the stakeholder consultation, that they would like to see the government address this by way of conferring those rights back to them. In that process, I came up with a number of suggestions to address those. For example, being in Canada for 1,095 days, consistent with what the Citizenship Act outlines by way of the number of days, was one connections test.

There were other connections tests that I thought were important to establish a connection to Canada, such as if someone voted in Canada or was on the voting registry, or for example, someone who went to school here or who worked for Canada or represented

Canada abroad. Those were the categories that I thought for sure we should consider to establish that connection.

In that process, in discussing all of this with the stakeholder groups, I proposed that this was what we should do by way of amendments. Various drafts and instructions went to the law clerk, who then came back with lots of different drafts and different things at different times. In that process, I also recognized that I needed the government to support this.

I had these conversations, by the way, with the minister and the minister's office to see if we could come to an agreement and work collaboratively to find a way to address the lost Canadians issue. It was a long process. We put a lot of work into it.

While I didn't get everything I wanted in those negotiations, it was generally agreed to that we would address the issue of the lost Canadians on this second generation born abroad question by establishing a citizenship test. I had wanted it to apply to parents and grandparents. The government wanted it to apply only to parents. I don't agree with it, but I also recognize that I'm not in government, and that this required negotiations. That's where it landed.

The overall strategy of where we landed was something that I did share with stakeholders, all the way through from the beginning. This committee was advised of that as well, so there's no mystery there. Specifically in terms of the subamendments—yes, the subamendments—I should just point out, too, that those subamendments members are referring to were never submitted to the clerk, by the way, as an official package that came back to us. It didn't, until much...until when we were debating this matter.

• (1710)

Loosely, what were the subamendments to do? I knew the government would amend my amendments and that they would only apply the 1,095 connections test to parents. I knew that right from the beginning going in, even before all of this stuff went into the clerk.

In my view, which is what I have been saying all along, I do not believe that there was a breach in confidence here, most certainly not by me or my staff. We did not provide the amendments package from the clerk after it was released back to us to anyone.

We had drafts from legislative counsel on the amendments that I wanted to achieve. We did share some of those drafts with stakeholder groups to invite their feedback and so on and so forth. That's all within the purview of what we are allowed to do and is part of the normal engagement with stakeholders.

• (1715)

The Chair: I'm sorry for interrupting, Ms. Kwan. Your time is up. You'll get an opportunity when we come next.

We will now proceed to Mr. Kmiec for five minutes.

Mr. Kmiec, you can please begin.

Mr. Tom Kmiec: Thank you, Madam Chair.

Mr. Emery, just to go back, you said that you got the amendments on April 20 from Michèle Vallée. How were they provided to you again, on paper?

Mr. J. Randall Emery: They were electronically messaged.

Mr. Tom Kmiec: It was an electronic message, and through what medium again?

Mr. J. Randall Emery: It was a messaging app.

Mr. Tom Kmiec: Which messaging app?

Mr. J. Randall Emery: It was WhatsApp.

Mr. Tom Kmiec: You don't have that original message anymore.

Mr. J. Randall Emery: I do.

Mr. Tom Kmiec: You do. Would you be able to share it with the committee?

Mr. J. Randall Emery: I suppose.

Mr. Tom Kmiec: Is that yes or no?

Mr. J. Randall Emery: Yes.

Mr. Tom Kmiec: Madam Chair, can we take that as he will share it with the committee, to make sure there's follow-up? Thank you, Madam Chair.

I'm going to ask this: Do you believe Michèle Vallée when they tell you they obtained it from a Bloc staffer or from the Bloc somehow?

Mr. J. Randall Emery: I do not have a.... I didn't question it.

Mr. Tom Kmiec: You didn't question it, so on face value you think this person is trustworthy. They were telling you the truth as to where they sourced it from.

Mr. J. Randall Emery: We're getting into areas here that.... This is just something I heard. I am answering truthfully. That's all I can say, I think. I'm not going to speculate on more.

Mr. Tom Kmiec: I've never met this person. We have met before over Zoom way back in November. I have nothing else to go on. I don't know who this person is.

They did send a letter to the chair of the committee on March 15, 2023. That's the only communication I've seen from this particular person.

I'm asking for your character assessment. Do you think this person is being accurate when they say they specifically got it from someone in the Bloc and that they're not either accidentally misleading you or just making a general statement that it was a Bloc supporter who had this? I'm trying to determine how widely this document was shared.

Mr. J. Randall Emery: That is I think not a question I'm able to answer.

Mr. Tom Kmiec: With regard to this document that you got digitally through WhatsApp, did it have any annotations on it? Were there any handwritten annotations or highlights that were on it?

Mr. J. Randall Emery: No.

Mr. Tom Kmiec: It was a pristine document. It had the enumeration of all of the amendments on it.

Did it have the date of when those amendments were distributed to the committee?

Mr. J. Randall Emery: No.

Mr. Tom Kmiec: Okay.

To the best of your knowledge, when discussing this with other stakeholder groups and other people, nobody else said that they had these amendments.

Mr. J. Randall Emery: That's correct.

Mr. Tom Kmiec: Didn't you think at any point that you should have informed the committee that you had digitally obtained this packaged document of the amendments being considered, to inform the chair or any one of us on the committee?

Mr. J. Randall Emery: What I think is that I have acted in a way that has not violated any obligations on my part. The issue here is really about stakeholder consultation in a democracy—

Mr. Tom Kmiec: I'm sorry to interrupt you, but at no point did you think you should inform the committee that someone had shared with you this document? It's just a yes or no, or you're unsure. That's okay too.

Mr. J. Randall Emery: This is not something that came into my mind.

Mr. Tom Kmiec: No.

Have you ever worked on Parliament Hill or for a member of Parliament?

Mr. J. Randall Emery: I volunteered briefly.

Mr. Tom Kmiec: Briefly...? For whom?

Mr. J. Randall Emery: For Ms. Kwan.

Mr. Tom Kmiec: For Ms. Kwan. Okay, so you're familiar with the work that is supposed to be going on here and that this particular document shouldn't be shared with others. Did you ever do committee work for Ms. Kwan?

Mr. J. Randall Emery: Most of the work I did was answering constituent emails and drafting responses to constituents.

Mr. Tom Kmiec: You have worked on Parliament Hill as a volunteer. You have had interactions. Okay.

Madam Chair, I'm prepared to move the motion on breach of privilege. There are other people involved here. This goes far beyond. I think I've heard enough. I would like to move it.

This is the first opportunity that I have had, based on the information I've received, to move the motion for the potential brief of privilege, which is:

That the committee report to the House of Commons the potential breach of privilege resulting from the premature distribution of notices of amendments to Bill S-245, an Act to amend the Citizenship Act (granting citizenship to certain Canadians), to a member of the public, before clause-by-clause consideration and amendments and subamendments were moved at committee.

• (1720)

The Chair: Thank you.

There's a point of order.

Mr. Sukh Dhaliwal: Madam Chair, it's quite expansive, what Mr. Kmiec is bringing forward. I would like to have a suspension so we can have a discussion for a few minutes.

The Chair: Yes, that is fine.

Have you given this to the clerk?

[*Translation*]

Mr. Tom Kmiec: Yes. I have also given him the French version.

[*English*]

The Chair: Okay.

We will get that to all the members. I will suspend the meeting for a few minutes so members can have a look at the motion. Then we will reconvene. Thank you.

The meeting is suspended.

• (1720) _____ (Pause) _____

• (1730)

The Chair: I call the meeting to order.

Would the members who are virtual please turn on their cameras? Thank you.

We have a motion on the floor, which has been moved by Mr. Kmiec. I hope everyone has received a copy of that motion in both official languages.

We have that motion and we will have Ms. Lalonde speak.

Ms. Lalonde.

Mrs. Marie-France Lalonde (Orléans, Lib.): Thank you very much, Madam Chair.

I want to say thank you to the witness who came to speak with us. I really appreciate his candour and his transparency.

I also am hearing a lot of hearsay, and for that reason I move to adjourn the debate.

The Chair: A motion has been moved by Ms. Lalonde to adjourn the debate. It's a non-debatable motion, so we will have to go to a vote on that.

(Motion agreed to: yeas 7; nays 4)

The Chair: The debate is adjourned.

We will now go back....

Ms. Kwan, you have your hand raised.

Ms. Jenny Kwan: Yes.

I was just going to ask whether we're going back to the amendments and clause-by-clause for Bill S-245, and if yes, I would like to move on to the next—

The Chair: We will be going back to the witness. That's where we left, so we will complete that round.

I believe we were at Mr. Kmiec.

Mr. Kmiec, you have a minute.

Mr. Tom Kmiec: I have a minute left.

The Chair: Yes.

Mr. Tom Kmiec: Thank you kindly, Madam Chair.

So the cover-up begins, I guess. I find it appalling that we would not at least debate the potential breach of privilege of a member, because it impacts all of us. It impacts the whole committee.

We can at least report this to the Speaker. The Speaker can make a decision so that we can continue on with other things. Let the Speaker decide this. If he directs it to PROC, then PROC can decide and then investigate and call this Michèle Vallée and other people too.

I just find it appalling that this would be done. I have been, I think, infinitely reasonable. I have not tried to prolong things when I have been here. Everybody knows my position. I've been very clear. I hid nothing from nobody. When I found this and this was sent to me, I thought the entire committee needed to know. I can be very reasonable. I can also be very unreasonable, as I have been in other committees.

I find it appalling that we would not at least debate it and have a vote today so that this could be sent to the Speaker. The Speaker can make a decision. Based on everything that we saw here, he can then make a determination on whether there was a prima facie breach of privilege.

Again, I'm just appalled that we would do this and adjourn debate on my motion.

• (1735)

The Chair: I'm sorry for interrupting, but your time is up.

We will now proceed to Ms. Lalonde for five minutes.

Mrs. Marie-France Lalonde: Thank you, Madam Chair.

I have some questions.

Mr. Emery, I want to reiterate my thanks for coming in front of our committee and speaking with us. I have a few minutes only, so I'm going to ask for brief answers, if I may.

Mr. Emery, you spoke to someone who received numbers, by which we mean NDP-1, NDP-4, G-5, etc., and I think you alluded to that. That document you're referring to is the amendments package. You believe that this document came to Michèle Vallée via the Bloc.

In your email to MP Kmiec, when you refer to subamendments, you only have strategy information, not specific wording and no numbers. Is that correct?

Mr. J. Randall Emery: That is correct.

Mrs. Marie-France Lalonde: You've also indicated that you met with staff in the minister's office. Did those staff ever send you any documents? To your knowledge, did they ever send documents to Michèle Vallée?

Mr. J. Randall Emery: There are two questions there. Did they send any documents to me? No, and I have no knowledge of the other.

Mrs. Marie-France Lalonde: Thank you very much.

When you met with the minister's office staff, was that a meeting you asked for, yes or no?

Mr. J. Randall Emery: Yes, it was.

Mrs. Marie-France Lalonde: At that meeting, I assume you advocated for change to Bill S-245 and for other changes related to lost Canadians. Is that correct?

Mr. J. Randall Emery: That's correct.

Mrs. Marie-France Lalonde: Did anyone in the minister's office ever give you a concrete yes or no, or tell you that they definitely agreed with your proposal?

Mr. J. Randall Emery: No, they did not.

Mrs. Marie-France Lalonde: Did they ever concretely tell you that they either agreed or disagreed with any proposal from the NDP or any other party?

Mr. J. Randall Emery: No, they did not.

Mrs. Marie-France Lalonde: Thank you very much for alluding.

I know we're in the last few minutes, Madam Chair.

Is there anything, Mr. Emery, that you would like to share with this committee?

Mr. J. Randall Emery: No, thank you.

Mrs. Marie-France Lalonde: Madam Chair, how many more minutes?

The Chair: You have two minutes and 30 seconds.

Mrs. Marie-France Lalonde: I feel like this witness, in all fairness to him, did take the time in a very short time frame to come in front of this committee, and he did share some thoughts. I have reason to believe that he comes with his transparency, as I mentioned, and his candour. One fact that the witness, Mr. Emery, did talk about, and that spoke to me, was the fact of always having broad consultations. I think that not only we, as members of Parliament, have public consultations but also the government has public consultations.

I was just in the Yukon, actually, Mr. Emery, a couple of days ago, where we were doing consultation on immigration in Canada and how this should look going forward. This is always, in my view, a very important conversation.

I know that I'm a few minutes from ending, Mr. Emery. I really want to say thank you. Thank you. I'm sure it was not easy for you to come in front of Parliament in this kind of ask. We appreciate, again, the time that you made in your busy schedule, your commitment to addressing immigration and certainly your passion for lost Canadians.

[*Translation*]

Thank you.

[*English*]

The Chair: Thank you, Mrs. Lalonde.

We'll now proceed to Mr. Brunelle-Duceppe for two and half minutes, and then we'll end this panel with Ms. Kwan for two and a half minutes.

Mr. Brunelle-Duceppe.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Thank you, Madam...

Mr. Tom Kmiec: Excuse me, Mr. Brunelle-Duceppe.

[*English*]

Madam Chair, my understanding is that we started at 4:34 and that we would end this meeting at 5:34 for this first hour. Has something changed?

The Chair: Because we had some disruptions, we're just finishing this round with Ms. Kwan. Then we will end this panel, and we will proceed with the second half.

Mr. Tom Kmiec: Okay.

• (1740)

The Chair: Mr. Brunelle-Duceppe.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Actually, I don't have much to say.

Mr. Emery, I understand, basically, that you had communications directly with all parties except the Bloc Québécois. There should be some checking to do on both sides, because my impression is that several people from several parties are involved. Thank you for coming here, in any case. It must not have been easy, as Ms. Lalonde said so well. Thank you for participating in the Committee's consideration of Bill S-245, and I wish you a good trip home.

Madam Chair, I will not be using the rest of my speaking time. Thank you.

[*English*]

The Chair: Thank you.

We will now proceed to Ms. Kwan for two and half minutes, and we will then end this panel.

Ms. Jenny Kwan: Thank you very much, Madam Chair.

From my perspective, I think that it's important that we actually get back to doing the work before us, and that is on Bill S-245. The implication of lost Canadians is significant. There are many people whose lives have been disrupted, and they have waited for 14 years to see if changes to the law could be made. We have an opportunity before us today through Bill S-245. It is my hope that we can focus in on the work before us, get the clause-by-clause done and refer the bill back to the House accordingly, so that we can move forward. I know that, most importantly, the people whose lives have been impacted want to see this work done.

Madam Chair, from my perspective, I just want to say thank you to the witness for shedding light on this. I don't have any further questions for the witness. I do hope that we will be able to get back to doing this important work.

Thank you so much, Madam Chair.

The Chair: Thank you, Ms. Kwan.

With that, this panel comes to an end.

On behalf of all the members of this committee, Mr. Emery, I would like to thank you for appearing before the committee and taking the time out on very short notice.

I will suspend the meeting so the witness can leave, and we can have the witnesses for the clause-by-clause take their seats.

Thank you, Mr. Emery.

The meeting is suspended.

• (1740) _____ (Pause) _____

• (1745)

The Chair: I call the meeting to order.

We will start with clause-by-clause consideration of Bill S-245, an act to amend the Citizenship Act regarding the granting of citizenship to certain Canadians.

Today we are joined by the witnesses from the Department of Citizenship and Immigration. We are joined by Nicole Girard, director general, citizenship policy; Uyen Hoang, senior director, legislation and program policy; Alain Laurencelle, senior counsel, legal services unit; Allison Bernard, senior policy analyst; and Jody Dewan, senior analyst.

Thanks a lot for appearing before the committee. I want to thank you for coming again and again, and thank you for your patience and understanding as we get through clause-by-clause on this bill.

Go ahead, Ms. Lalonde.

• (1750)

Mrs. Marie-France Lalonde: I would like to bring an amendment once you're ready to start.

The Chair: Okay.

Go ahead, Ms. Kwan.

Ms. Jenny Kwan: I was just going to get on to the order to move the amendments. I guess you will call members from the order in the package before us to get on to the speakers list then, Madam Chair.

The Chair: Yes, we ended at NDP-3 as amended. We're now on G-4.

Go ahead, Ms. Lalonde.

(On clause 1)

[*Translation*]

Mrs. Marie-France Lalonde: Thank you, Madam Chair.

I would like to move that Bill S-245, in clause 1, be amended by deleting lines 16 to 19 on page 1.

[*English*]

The explanation is that these lines could be interpreted as shifting the application date of the first-generation limit from April 17, 2009, to June 11, 2015.

When Senator Martin appeared before this committee, she acknowledged that this provision was something that legislative drafters told her should be included for clarity, but she did not know the technical reason why.

We believe that the way this is written amounts to a drafting error. Pushing back the application date of the first-generation limit would result in significant unintended consequences. Therefore, this amendment proposes to remove those lines of the bill.

[*Translation*]

Thank you, Madam Chair.

[*English*]

The Chair: Thank you.

Mr. Kmiec.

Mr. Tom Kmiec: Thank you, Madam Chair.

I move to resume debate on the potential breach of privilege motion.

The Chair: The debate was adjourned on that, so—

Mr. Tom Kmiec: On a point of order, I kind of know where you were going, Madam Chair. However, that was a previous agenda item. Now we have a new agenda item.

What I'm proposing to do is to change the agenda item to resume debate on the potential breach of privilege motion that I moved at the end of the previous section. Because it is a different agenda item that we are covering, I'm proposing to change the agenda item to resume debate on the potential breach of privilege motion that was before the committee earlier.

The Chair: I will have to suspend the meeting to consult the clerk to see what the rules are on that. I will suspend the meeting.

Mrs. Marie-France Lalonde: It's the same meeting.

I want to be on the record. It is the same meeting right now.

The Chair: The meeting is suspended.

• (1750) _____ (Pause) _____

• (1755)

The Chair: I call the meeting back to order.

Mr. Kmiec has moved to resume the debate on the motion for which the debate was adjourned a few minutes ago. Based on the precedents and common practice, once the debate has been adjourned... When the debate is adjourned... A member who moves that the debate is now adjourned wishes to temporarily suspend the debate under way on a motion or study. If the motion is carried, the debate on the motion or study ceases and the committee moves on to other business.

Based on the precedents and common practice, the motion cannot be brought back in the same meeting. I will rule that out of order.

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: I have a point of order.

I want to get clarity for future meetings, because this might happen again. On page 1068 of O'Brien and Bosc, in chapter 20, it says, in the middle, that this is a motion that can be moved: "That the Committee proceed to [another order of business]".

We have another order of business here. This motion results in a matter under consideration by the committee being replaced by the order of business proposed in the motion. If the motion is carried, the committee merely proceeds to the order referred to in the motion. It has footnotes in that about what's happened in other committee meetings, including the foreign affairs and international trade committee from way back in 2005.

I want it to be clear. How is that consistent with the ruling, just so I have it? If you have a page number, Madam Chair, I'd be more than happy to look at it.

I was basically moving a motion to proceed with a different order of business to resume debate on a potential breach of privilege motion I had moved in a previous order of business. I'm just seeking clarity for the future.

• (1800)

The Chair: I'm sorry for interrupting, Mr. Kmiec. Once I have given a ruling, we cannot debate on that.

Are you challenging my ruling?

Mr. Tom Kmiec: No, I'm just trying to understand it, so I can't make the same mistake again.

The Chair: It's not debatable. You can challenge my ruling if you want, but once I have given the ruling....

Mr. Tom Kmiec: Madam Chair, you've been so reasonable so far. I don't have problems with you.

Voices: Oh, oh!

The Chair: Thanks for your co-operation.

We will resume.

Ms. Lalonde moved G-4. Is there any debate on that?

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: When Ms. Lalonde moved the motion, she mentioned that there could be, I think, legal consequences for the moving of the dates. Could I just have the officials explain what those potential, unforeseen, unintended consequences could be?

Ms. Nicole Girard (Director General, Citizenship Policy, Department of Citizenship and Immigration): Madam Chair, as I mentioned in my initial remarks before this committee, the concern is that this amendment is pushing out the first-generation limit to a later date.

The Chair: Please pause for a second. I see a hand raised by Ms. Kwan.

Yes, Ms. Kwan.

Ms. Jenny Kwan: I'm sorry, Madam Chair. I just want to get on the speakers list.

The Chair: Okay, that's fine.

Ms. Girard.

Ms. Nicole Girard: Thank you, Madam Chair.

As I was mentioning, this amendment pushes out the start date for the first-generation limit, which would have the impact of automatically conferring citizenship on untold thousands of individuals who were born abroad, impacting persons who, since 2009, would not have been automatic citizens and would have had to have gone to apply for and obtain a grant of citizenship. In automatically conferring citizenship to untold thousands of such persons, the concern is twofold. The first is that it's benefiting some through automatic citizenship but not others in terms of all of those born after. Second, it's creating the potential for future lost Canadians in the sense that those who are receiving automatic citizenship by the moving of the first-generation limit are impacted by being unable to pass on citizenship to their descendants and their future children and potential lost Canadians.

Thank you, Madam Chair.

The Chair: Ms. Kwan, it's your turn.

Ms. Jenny Kwan: Thank you very much, Madam Chair.

I just very quickly want to say that I do believe that this is a drafting error that is going to be corrected with this amendment. To that end, I will support the amendment.

The Chair: Thank you.

Mr. Kmiec.

Mr. Tom Kmiec: It's been mentioned now that this was a drafting error, but this bill is exactly the same bill as Bill S-230, which was considered by the Senate one Parliament ago. I've gone back through that committee testimony from officials, and nobody identified this as a drafting error at the time. I'm just wondering. When did the department discover that this would be a drafting error, and how did you discover it?

The Chair: Ms. Girard.

Ms. Nicole Girard: Madam Chair, in the preparation for these committee hearings, we conducted the usual sort of deeper analysis, if I can call it that. At that time, we consulted with citizenship experts as well as with the Department of Justice. This revealed a number of concerns with the drafting of the bill, which have been shared with this committee, including the significant concern with this provision that is impacting the first-generation limit. We did hear the sponsor of the bill indicate that this was not the intent, and I recollect the sponsor indicating, given that this wasn't the intent, her support for the change moved by MP Lalonde.

Thank you.

• (1805)

The Chair: Thank you.

Mr. Kmiec.

Mr. Tom Kmiec: I'm just concerned here because Bill S-230 was considered by committee, and Bill S-245 was redrafted, I assume, by the Senate clerks and the legislative clerks that they have there. They were drafted in the same manner, and then it sailed through the Senate at all stages with the understanding that the work had been done on Bill S-230 on the previous committee, on June 16, 2021, and that the bill had no errors at the time.

I have two officials who spoke. One was Catherine Scott, associate assistant deputy minister, strategic and program policy at Immigration, Refugees and Citizenship Canada. That testimony—and I've gone through it—didn't identify an issue here. The other official was Alec Attfield, director general, citizenship branch, strategic and program policy, IRCC. He did not identify there being any known issue with the wording of the bill. You said that there were citizenship experts since then.

Are these internal to the department, or are they external to the department?

Ms. Nicole Girard: Madam Chair, I'm referring to the experts at this table before the committee this afternoon.

Thank you.

Mr. Tom Kmiec: Were you involved in the Bill S-230 drafting or the internal debate within IRCC when you learned that the bill was provided to the Senate? Because the two bills are identical, at that point did you raise concerns with Bill S-230, or did you raise them and they never got to the level where they were considered by more senior officials? Was that work caught only later?

I don't have the exact people who were there at the time. Are you all new in these roles? It was a few years ago, and people do move around.

Ms. Nicole Girard: Madam Chair, to respond to the question, no, I was not involved.

We too have reviewed that testimony the member is referring to. My understanding of that previous testimony is that officials were called to speak in general to lost Canadian issues. They were not questioned with regard to any technical aspects of the bill. That may be why the member is noticing a difference.

I'm not aware that there was a previous deeper analysis of the technical drafting elements of that previous bill. What I can say is that, in preparation for these hearings, the department, in consultation with Department of Justice colleagues, conducted that analysis and on our first appearance before the committee outlined a number of key concerns with the drafting of the current bill.

Mr. Tom Kmiec: In a previous response, you said there was a potential that, if we don't eliminate the section, there would be future lost Canadians. We would create another group of lost Canadians.

I've done this before on other sections. Can you give me an example of what you mean? It's a lot easier for us to work with examples. You were really good on the previous amendment, where I actually grasped the implications of what we were going to do once it was three times amended on the subclauses. Can you give an exam-

ple of whom we're talking about when there's a potential for future lost Canadians?

Ms. Nicole Girard: Since the first-generation limit was put in place in 2009, those born abroad in the second generation to a Canadian parent, as this committee is aware, are not automatically Canadian citizens. A Canadian parent needs to sponsor their child for immigration to Canada. Once the child becomes a permanent resident, they can obtain a grant of Canadian citizenship.

With this drafting issue with the bill, the provision is moving the application of the first-generation limit out to 2015, which means that those children born since 2009 who have been granted citizenship automatically become Canadians from birth. It's converting them from a grant of citizenship to citizenship by right.

When you obtain citizenship by right, you are impacted by the first-generation cut-off and cannot pass on citizenship to your future child born abroad. That is the impact of what this provision would do in the absence of the subamendment that's being discussed.

• (1810)

Mr. Tom Kmiec: Just so I understand this, you're saying that, if you receive citizenship by right, you are affected by the first-generation.... I'm going to call it the FGL; it's just shorter. If you get it by grant, though, you are not affected by the FGL for 2009 or this new FGL that would be moved to 2015.

Ms. Nicole Girard: Yes, the member is correct. If you're receiving citizenship by right, if you're born abroad and you're the first generation, you cannot transmit citizenship automatically to your child born abroad.

If you are granted citizenship—typically, the scenario is that someone is naturalized in Canada and is granted citizenship—you are the same as someone who was born in Canada for the purposes of transmitting your citizenship to a child born abroad.

Mr. Tom Kmiec: I talked about that example. I'm going to use myself as an example, because I'm a naturalized citizen. I'm not affected, then, is my understanding.

Ms. Nicole Girard: Yes, that's correct.

Mr. Tom Kmiec: I'll use my daughter as an example. If my daughter, then, left Canada after secondary school, studied abroad and had a child there, the FGL rule would apply to her child, and then that child, if they came back to Canada and applied for a grant of citizenship, because they don't have it by right, would be affected?

If we don't eliminate this section, is that what will happen?

The Chair: Ms. Girard, go ahead.

Ms. Nicole Girard: I'm not clear on the location of the birth of the individual being described, so the example is not clear to me, but the member is correct. If this provision is not removed, those children born abroad between 2009 and 2015 will become citizens automatically from birth, even if they were already granted citizenship, and they will no longer be able to transmit their citizenship automatically to their future children born abroad. Therefore, lost Canadians will be created in the future.

Mr. Tom Kmiec: I will try to make this my last question, but I feel as though I could have another one, because you said they would automatically get citizenship by right even if they were granted citizenship.

We've talked before about how the department actually has very deep records of everybody's citizenship that's been obtained. I brought my citizenship card this week because I wanted to show it to my staff. The old cards were plasticized, and I have that kind. There's a number at the bottom.

You've granted it to some, but now some will have it by right. How does the department then treat that? Would they be issued a separate number, or is it the number you receive on your document of citizenship? Does that cause an administrative problem?

Ms. Nicole Girard: Yes. The member is correct. We issue documentation, but the department doesn't issue the cards anymore. We issue a certificate of citizenship.

We have different application forms for different purposes, as the member knows, whether someone is having to apply for a grant of citizenship, in terms of those children born abroad since 2009 who were affected by the first-generation cut-off versus those who are being born now or who will be born in the future. Those in the first generation, who are citizens by right, would apply for a proof of citizenship. Because they are citizens automatically, it's just an issue of obtaining the evidence from the department, as I have described previously.

Thank you.

Mr. Tom Kmiec: I know some of my colleagues have questions too.

The cards were better. I'm just going to say that. The cards were better than the document, the big certificate, because you can put a card into your wallet. Frankly, I don't think I could prove I'm a citizen without that card.

Thank you for the explanation.

• (1815)

The Chair: Thank you, Mr. Kmiec.

We'll now proceed to Mr. Kram.

Mr. Michael Kram (Regina—Wascana, CPC): Thank you very much, Madam Chair.

For the benefit of those of us on the committee who are new, and that includes me, I wonder if you could offer an explanation as to the significance of the date of June 11, 2015. Was that the last day that Parliament sat before the election? Was that the anniversary of some particular event? Why do you suppose the drafters would have chosen that particular date to insert into the bill?

Thank you.

Ms. Nicole Girard: I believe that may coincide with the date of the last round of legislative remedies for lost Canadians, because there were two recent sets of remedies for lost Canadians through different amendments. There was one set in 2009, which remedied the majority of lost Canadians, as we've mentioned, and a subsequent set in 2015.

Thank you.

The Chair: Mr. Baldinelli, go ahead.

Mr. Tony Baldinelli (Niagara Falls, CPC): Thank you, Madam Chair.

Thank you to the witnesses for being here.

Like Mr. Kram, I'm new to the committee. I'm pleased to be here. I'm subbing in for my colleague Michelle Rempel Garner.

That being the case, Madam Chair, I would like to move that we resume the debate on the motion that was tabled by my colleague on May 8.

That motion, if I may read it, was:

That, should any relevant emails between Randall Emery and Members of Parliament or their staff exist, these emails be submitted to the committee prior to the meeting scheduled for Wednesday, May 10, 2023.

That was tabled by my colleague at the last meeting, and it was provided in both English and French at that last meeting.

The Chair: Thank you, Mr. Baldinelli.

Mr. Baldinelli has moved a motion that is non-debatable, so we will go to a vote.

(Motion negatived: nays 7; yeas 4)

(On clause 1)

The Chair: I have a hand raised by Ms. Kwan and then Mr. Kmiec.

Go ahead, Ms. Kwan.

Ms. Jenny Kwan: I don't have a hand up, Madam Chair.

The Chair: Okay, thank you.

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: Just to return to the grant versus right of citizenship, because again, officials have said they've gone through the testimony on Bill S-230. I'm just wondering why it has taken two years to get to the point where a problem was identified with the drafting.

Mr. Attfield, who was the director general, was asked questions by Senator Attaullahjan on the grant of citizenship, and Mr. Attfield responded:

It's worth noting that the discretionary grant of citizenship also then allows that individual's child to also pass on citizenship. The grant of citizenship allows that person to extend their citizenship so that basically the first generation limit will not apply to their child as a result. It resets the person's generational clock for passing on citizenship if that person has a child born abroad.

That was Mr. Attfeld's understanding of Bill S-230, and now there's a problem with Bill S-230's drafting. Is this your understanding? This is the crux of the problem, that some people will be treated differently because of the way they have obtained citizenship. He talks here about resetting a "person's generational clock"—I'm not sure if this is the right terminology, but that's what's here—"for passing on citizenship if that person has a child born abroad."

We've talked about the difference between "right" and "grant", and that's the crux of the problem with this section. I seem to remember understanding Mr. Attfeld's saying that's the way they want it to work here.

If I'm misunderstanding it, then please correct me.

• (1820)

The Chair: Go ahead, Ms. Girard.

Ms. Nicole Girard: Madam Chair, from my hearing of the member's reading of the passage, my former colleague seemed to be commenting to the effect that the discretionary grant under subsection 5(4) is a grant, and, therefore, like any other grant, as I've mentioned, those who are recipients of a grant are able to pass on citizenship to their children born abroad.

The member is correct that what I'm saying in summary is that we believe moving the date for the first-generation limit is undesirable, because it would cause these unintended consequences of conferring automatic citizenship on untold thousands born abroad, who would then be unable to pass on citizenship to their future children born abroad, including those who have obtained a grant since 2009, because that was their main way to access citizenship's, being impacted by the first-generation limit.

Thank you.

Mr. Tom Kmiec: How many people have received a grant of citizenship from the minister or a delegate between 2009 and 2015?

Ms. Nicole Girard: Madam Chair, could I just clarify the question?

Is the member referring to the discretionary grants or is the member referring to grants in general? We will endeavour to obtain the statistics that are available for the committee, but I would just like to clarify the question. Thank you.

The Chair: Mr. Kmiec, can you please clarify?

Mr. Tom Kmiec: This is why I'm glad we have the officials.

If you can provide both numbers, that would be even better. If you could separate them out or make it clear if one number includes the other, that would be absolutely ideal.

I can give you maybe more specific dates. It would be the specific dates from when the first-generation rule was introduced and received royal assent in 2009, to when the Citizenship Act was changed in 2015 and royally assented to. That covered I think 600 lost Canadians in those changes.

Between those two dates and not just calendar years would be ideal: Do you believe that it would be possible to get that for the next meeting or before the next meeting?

Ms. Nicole Girard: Madam Chair, we will take that back and endeavour to provide statistics as soon as they can be made available, but I'm not able to say at this time how quickly we can turn that around. We will do that as quickly as we can.

The Chair: Thank you.

Continue, Mr. Kmiec.

Mr. Tom Kmiec: I've had this one question. I'm wondering. When you get a grant of citizenship, are you obliged to do a citizenship ceremony, or is it just assumed that you have taken the oath? Is there a difference between them? When a minister or a delegate grants citizenship, is there a ceremony that is obligatory? Do you have to take the oath of citizenship, or can you bypass that requirement?

Ms. Nicole Girard: Typically an adult applying for citizenship is required to take the oath at a ceremony.

I just want to check with the member to see if that is answering the question, or if in fact he had a slightly different question.

Mr. Tom Kmiec: Because we're talking about grants versus the right, if you get the right of citizenship, you don't have to take the oath. You're a citizen by right.

• (1825)

Ms. Nicole Girard: That's correct.

Mr. Tom Kmiec: If you get a grant of citizenship, where you have applied to the minister to obtain it, do you have to do a citizenship ceremony as well? Is the grant basically conditional on your going to take an oath in a citizenship ceremony?

Some of you are nodding your heads. Anybody can answer this. I'm not picky.

Ms. Nicole Girard: Yes, the final requirement that an adult citizenship applicant is required to meet is to take the oath of citizenship. That is generally done at a citizenship ceremony. That is the final step and requirement to be fulfilled before someone can be granted Canadian citizenship.

Mr. Tom Kmiec: When you do provide the data on how many grants of citizenship there were, if there is a discrepancy between those who have been given a grant by the minister but have not gone through the citizenship ceremony.... I'm sure it's going to be zero, but just in case it's not zero, if someone applied for a grant of citizenship and never actually went ahead and took an oath, they then would not be a citizen in my understanding, even though they made a grant and it was approved by the minister.

Could you separate those numbers? It would just be an extra column, really. Is that possible?

Ms. Nicole Girard: It's a requirement that the applicant has to fulfill and generally is not going to become a citizen until the requirement is fulfilled.

In the statistics we're able to provide, there wouldn't be any sub-division. The assumption would be that this is someone who has fulfilled their requirement, including taking an oath at a ceremony. That's what the numbers we could provide to this committee would reflect.

Mr. Tom Kmiec: You wouldn't be able to provide the total number of applications received by the minister for a grant of citizenship versus how many were actually granted the citizenship.

Ms. Nicole Girard: Yes, Madam Chair, for a particular time frame we could endeavour to provide this committee with applications received versus citizenship applications granted, which is ongoing. There are ceremonies all the time.

Thank you.

The Chair: Thank you, Mr. Kmiec.

Seeing no further debate on this, I would ask the clerk to please take the vote on G-4.

(Amendment agreed to: yeas 11; nays 0)

The Chair: We're now coming to G-5.

Go ahead, Ms. Lalonde.

[*Translation*]

Mrs. Marie-France Lalonde: Thank you, Madam Chair. I would like to move amendment G-5.

I move that Bill S-245, in clause 1, be amended by adding after line 18 on page 1 the following:

(4) Section 3 of the Act is amended by adding the following after subsection (4.1):

Exception — transitional provision

(4.2) Subsection (3) does not apply to a person who, on the coming into force of this subsection, was a citizen. However, subsection (3) applies to a person who, on that coming into force, would have been a citizen under paragraph (1)(b) only by operation of paragraph (7)(n) in respect of one of their parents.

(5) Subsection 3(5.2) of the Act is repealed.

(6) Section 3 of the Act is amended by adding the following after subsection (6.3):

Citizenship other than by way of grant — paragraph (1)(g.1)

(6.4) A person referred to in paragraph (1)(g.1) who, before the coming into force of this subsection, was granted citizenship under section 5 or 11 is deemed never to have been a citizen by way of grant.

(7) Subsection 3(7) of the Act is amended by striking out “and” at the end of paragraph (l), by adding “and” at the end of paragraph (m) and by adding the following after paragraph (m):

(n) a person referred to in paragraph (1)(g.1) is deemed to be a citizen under that paragraph from the time the person ceased to be a citizen.

• (1830)

[*English*]

Madam Chair, I know this is very technical. I want to add a bit of an explanation to help my colleagues understand this, because as we said, this is a very complex piece of legislation.

I want it to be clearly understood that all of the government's amendments relate only to the people we're calling the “former section 8”. These are the folks who were born in the second generation abroad between 1977 and 1981. They are the people Senator Martin talked about and wanted to help with the original wording of the

bill. These are the people who lost their citizenship when they turned 28 years old, either because they didn't apply to retain it or they applied and the application failed.

We all agreed they should be scoped into this bill when we unanimously adopted amendment G-3.

Further, any time our amendments mention the letter-number combination of “(g.1)”, they refer to those former section 8 people who will now be citizens because of this bill. In several instances, these (g.1) former section 8 people have to be added into the current act to ensure that they are treated the same as all other citizens who were born abroad and got their citizenship because it was passed down to them from a Canadian parent.

Amendment G-5 proposes new text to clarify three things.

One is the people whose citizenship is being restored by the bill. By that, I mean the former section 8 people are being restored back to the date of their loss.

Two is if, since losing their citizenship at age 28, they received a grant of citizenship, they are now deemed to have never received that grant and are a citizen by operation of this bill.

Three is that their child, if born abroad, would not automatically be a citizen. The reason I say “automatically” is that earlier, we adopted the NDP amendments that modified the first-generation limits to say that the limitation doesn't apply if the child is born after 2009 and the parent has that substantial connection of physical presence in Canada for three years. Through this amendment, a former section 8 person being restored by the bill who meets the substantial connection would be able to pass their citizenship to a child born abroad. Again, though, the substantial connection would have to be made before the child is born.

This amendment is also really important, because it would protect any unintended loss of citizenship. This amendment is needed to ensure that anyone who was already a Canadian citizen when the bill comes into force will remain a Canadian citizen.

[*Translation*]

Thank you, Madam Chair.

[*English*]

The Chair: Before we get into the debate, we started at 4:34. We've had the services for two hours, so we have to end around 6:35. Would the members like to go into debate at the next meeting? It's 6:34.

Is it the will of the members to adjourn?

Some hon. members: Agreed.

The Chair: Thank you. The meeting is adjourned.

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