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• (1555)

[English]

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

Welcome to meeting number 66 of the House of Commons Standing Committee on Citizenship and Immigration.

Today, pursuant to the order of reference of Wednesday, November 16, 2022, the committee will resume consideration of Bill S-245, an act to amend the Citizenship Act, granting citizenship to certain Canadians.

We are continuing our clause-by-clause study of the bill. When we left, we were on clause 1. Madame Lalonde had just moved amendment G-5, so the floor is open for debate.

Mr. Sukh Dhaliwal (Surrey—Newton, Lib.): Madam Chair, the clerk is doing really fabulous work, even in ordering the food. They are very healthy choices, so that's good.

The Chair: That's good.

We are on G-5.

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec (Calgary Shepard, CPC): Thank you, Madam Chair.

I'm looking at G-5 right now, and it is one of the longer clauses. I know we just started right at the back end to it. It's to fix the unintended consequences for a June 15 date, which I guess the G-4 amendment was going to solve.

I would just like to have an explanation of the interaction. What exactly is it solving, just so we have it on the record?

The Chair: Ms. Girard, would you like to...?

Ms. Nicole Girard (Director General, Citizenship Policy, Department of Citizenship and Immigration): Thank you, Madam Chair.

To pick up on the explanation that was given the last time, this amendment is basically a transitional provision that is necessary for legislative consistency and would enable the department to operationalize the provisions of the bill as amended this far.

The amendment is doing a couple of things. The first is that it's clarifying that those whose citizenship is being restored by the bill are being restored back to the date of their loss, and for those being restored, if they have children, those children are subject to the first

generation limit. If they have received a grant, they are now deemed to be citizens by operation of law. That is the first point.

The second point that's important to emphasize with regard to what this transitional-type provision is doing is that it's safeguarding against any unintended loss, in that the amendment is needed to ensure that anyone who's already a citizen when the bill comes into force, including the children of those whose status is restored under the bill, would remain Canadian citizens. That was an important safeguard that was also a feature of the previous legislative amendments of 2009 and 2015.

In summary, this amendment is needed to enable the government's implementation of the bill as amended and to facilitate the department's issuance of proof of certificates of Canadian citizenship.

Thank you.

• (1600)

The Chair: Go ahead, Mr. Redekopp.

Mr. Brad Redekopp (Saskatoon West, CPC): Just to make sure I understand this, the original Bill S-245, as presented, had just a few words. These words here, which take up more than a few words, are to replace those words and to make them do what the original intent was of the originator of this law.

Is that a fair statement?

Ms. Nicole Girard: Yes. They are transitional provisions that are required to enable the department to implement the bill and to guard against unintended consequences of the bill, such as.... The bill, as we've discussed, is automatically conferring citizenship on some, and that can have an impact on the children of those people.

One of the very important features of this particular amendment is to ensure that anyone who is a citizen on the day that the bill comes into force remains a citizen even if their parent, for example, in those section 8 loss cases, is becoming an automatic citizen back to the time of their loss.

Mr. Brad Redekopp: I think I understand, because that was one of the complaints we heard during the testimony. It was that potentially somebody who was a citizen could get messed up from these words, so that makes sense.

Does this amendment relate to any of the previous amendments we've made, or does it kind of stand on its own?

Ms. Nicole Girard: In general, this amendment is also relevant to those previous changes. As an example, with the section 8 people, the narrow cohort that the sponsor of the bill was looking to address through the bill as drafted, this committee has voted an amendment to extend that remedy to all section 8s. That will restore the citizenship to those section 8s and may have an impact on the children of the section 8s who were born abroad. As a practical illustration, this transition provision will also benefit that larger cohort.

Mr. Brad Redekopp: I guess another way of asking the question is this: If we had not passed the previous amendments, would this amendment still stand as it is?

Ms. Nicole Girard: Yes. I believe it would, in terms of the aspect of this transitional provision that speaks to clarifying that anyone who is a citizen on the day the bill comes into force remains a citizen, as an example.

Mr. Tom Kmiec: I'm just going to go back to territory we've gone over before, because there was a previous version of this bill, Bill S-230.

You talked about doing a legislative review the last time Bill S-245 was coming through, and that's when the department identified that the original wording of Bill S-230.... This is what we have gotten rid of, and now are amending in order to avoid unforeseen consequences, as you just described.

When did the department discover those?

Ms. Nicole Girard: I can't recall exactly when we began our deeper study of Bill S-245. I can't recall offhand, but it was some months ago, in preparation for these hearings, that the study was undertaken.

Mr. Tom Kmiec: Did something change? Did the department discover that there would be unintended consequences if the wording of Bill S-245, which was Bill S-230, was kept as is?

Ms. Nicole Girard: Nothing changed. It was as a result of the regular unfolding of the legislative process after the testimony of those previous colleagues at that earlier stage as the bill moved forward in the legislative process.

In preparing for these hearings, the department undertook a deeper, more technical study and analysis of the bill with Department of Justice colleagues in order to be able to testify as to the issues regarding the drafting of the bill.

• (1605)

Mr. Tom Kmiec: Was it IRCC or Justice Canada that identified the problems?

Ms. Nicole Girard: Initially it was IRCC experts, some of whom are here with us today. That was a study that was done jointly. We looked for things that the department could generally identify on its own; then we looked to colleagues at the Department of Justice for anything that we might have missed, and also to confirm our own analysis.

Mr. Tom Kmiec: You mentioned earlier that it was in preparation for when the House of Commons would be considering the bill, which was passed in May 2022 by the Senate. I guess the department waited until you saw whether the House of Commons would indeed take it to the committee level before considering it.

Would you be able to provide any of those reviews to the committee? It would just help going forward if we knew everything that you know. It would help with the amendments that are coming afterwards. It would help to know the considerations the department gave and how you went about identifying potential unforeseen consequences and future potentially lost Canadians that we've discussed in prior meetings.

Is that something that can be shared with this committee?

Ms. Nicole Girard: Madam Chair, the issues with the bill, such as they are, are ones that I already took care to outline in my first appearance before this committee in some detail. I think I would consider that those issues, such as we were able to identify, are already on the record with this committee.

Mr. Tom Kmiec: Do I take that to mean that I can't have the expert analysis that was done by the department? It's just that it would help me understand the drafting differences between Bill S-230 and Bill S-245 and the thought process for the amendments being proposed at this committee and the future amendments that might be proposed on this bill.

There are lots of different lost Canadians. This is a very complex piece of legislation. I'm just curious as to why we can't have those documents.

The Chair: I think Ms. Girard mentioned that the first time she came to the hearing, she outlined the details on that analysis. Maybe you can look at the Hansard.

Mr. Tom Kmiec: I have, Madam Chair, but those are statements based on documentation that the department holds. I'm wondering whether I can have those documents that inspired or informed the speaking notes that were obviously used to prepare the civil servants who are before the committee.

They obviously know more than I do. I would just like to have some of that information.

The Chair: Thank you.

Go ahead, Ms. Girard.

Ms. Nicole Girard: I believe my remarks itemizing those issues were tabled with the committee in both official languages, as is required. In terms of the technical drafting issues, the follow-up to those remarks is already reflected in the government amendments that have been shared with this committee.

The Chair: Thank you, Ms. Girard.

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: Okay. Well, I'm hearing no, I can't have those documents, but I have a problem, because in the last few weeks that this bill has been considered, we've asked lots of questions and haven't received responses yet.

Just today I saw that we received a response to my colleague Ms. Rempel Garner's questions about getting the original form, I believe, from Afghanistan. That was sent over. I got responses to questions that I asked at this committee in November of 2022 on four or five different issues. I've gone through them now, but since that time, I've had to file OPQs—Order Paper questions—and access to information requests. I actually knew the answer before I got the official answer to the committee from the department. For many of those I filed the OPQ, the Order Paper question, and received a response on the same question I asked. I got the OPQ faster than the department was able to get it. Now I'm just worried that the questions we've asked here....

Mr. Redekopp asked a question at committee just a few weeks ago about a test and its methods. There was a commitment there to provide proof guidelines as part of the public record to the committee. Mr. Redekopp also asked about the 1,095 days. The department confirmed some of the details to us. Then there was the trigger point and what the process was for calculations. Ms. Girard offered to provide the details to the committee. We're still waiting for those. There has been ample time, I think, to provide them.

Then I asked for clarification around whether we require people to do day counting and whether they need utility bills to provide residency. I asked if it's been discontinued and is only a declaration. We went into some detail about it. Then there was a commitment to provide the guidelines for decision-making in relation to assessing proof of residency. Many of these amendments are impacted by that information and that administrative burden, or whether there is an administrative burden.

I have a last one here. I have a few more, but I'll find them in my email. Ms. Rempel Garner asked, "Do you have a sense in the department of how many people who would be affected by this sub-amendment have already applied for citizenship through another stream?" The department hasn't yet responded to that question. We also have another member of the public who sent information about how many lost Canadians could be impacted.

When can the department provide the follow-ups to the information so that as we go through the rest of these amendments, we can reduce the time? A bunch of questions were asked at the committee. There were commitments made to provide information. I do read them. I would like to know when we will get those responses.

Thank you, Madam Chair.

• (1610)

The Chair: Go ahead, Ms. Girard.

Ms. Nicole Girard: Thank you, Madam Chair.

I do recall those exchanges in some detail. I will continue to answer all the committee's questions to the best of my ability as these hearings unfold. I believe I have provided complete answers whenever possible.

By my estimate, I have made two undertakings in the hearings so far to this committee. One was to provide a number of publicly available pieces of information around the residence assessment, which the member mentioned. That information and those links

have already been provided to this committee in both official languages. I think that was at least a week ago.

Second, on my appearance last week, I endeavoured to obtain some statistics on the member's request with regard to statistics on applications for grants of citizenship and then grants of citizenship. That work is under way. We hope to be able to provide it to the committee in the near future, in the coming days.

Thank you, Madam Chair.

The Chair: Thank you.

Ms. Rempel Garner is next, and then Mr. Redekopp.

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

With regard to this particular amendment, I've been studying the speech history in the House, and I notice that the Liberal speaker on second reading of this bill raised this particular issue about.... I'm just going to quote from it quickly. I think it relates to what this amendment is suggesting. She said:

In particular, on the issue of lost Canadians, history has shown us that making hasty changes can lead to the creation of new cohorts of people who may subsequently consider themselves lost Canadians. ...we should ensure that legislation addresses the [bigger] problem and does not create a bigger issue than the one we are...trying to solve.

She speaks about how "bestowing citizenship on individuals who live in another country descended from a Canadian and who never sought to be a Canadian may create unintended" consequences and how the bill creates "a simplified renunciation process as a result".

In the context of this particular amendment, can you give us a sense of the scope of how many people might be using this renunciation process? It's something I wasn't quite clear on during the initial testimony on the bill, as well.

Ms. Nicole Girard: I'll come to that in a moment.

I'll just clarify that this particular amendment is not dealing with a renunciation issue, although we will come to that.

With regard to estimating the number of applications for renunciation that we could receive as a result of the bill, that's not something the department's in a position to estimate, because we have no way to foresee who may not be happy to be automatically accorded Canadian citizenship and to be remedied. That's a matter of individual choice, depending on circumstances. Nevertheless, as it stands, from time to time the department does receive renunciation applications. We could endeavour, in response to the member's request, to obtain those statistics and provide them to this committee, because I understood that this was what the member was asking for.

• (1615)

Hon. Michelle Rempel Garner: Thank you. Yes.

Again, this amendment is dealing with those who are given ministerial grants and would become citizens under the new clauses of the bill and is confirming that their citizenship is valid.

I think where I was going in trying to pull this together was that in the speech, there was commentary that there already exist some provisions to deal with certain classes of lost Canadians through a ministerial permitting process. By adding all of these extra amendments, to the speaker's point—I think it was MP Ya'ara Saks—there seems to be a cascade effect here that continues to happen. If this amendment goes through, is there anything else that we would need to correct further on with subsequent amendments?

Ms. Nicole Girard: Yes, the member is correct that there is a cascading effect, especially when citizenship is granted automatically. The effect is particularly on the descendants of those persons who are receiving citizenship automatically through a bill such as this one, as indeed was the case with the remedies passed in 2009 and 2015. This is why this transition provision that's under discussion is so important. One of the key features of it is that it's confirming that when there's a cascading effect, any who are citizens already on the day of coming into force of this bill, should it pass, will remain Canadian citizens.

The Chair: Thank you.

Before we proceed to Mr. Redekopp, I, on behalf of all the members, would like to wish our colleague and friend Mr. El-Khoury a very happy birthday.

Voices: Hear, hear!

The Chair: I hope you have a great day.

Mr. Fayçal El-Khoury (Laval—Les Îles, Lib.): Thank you.

The Chair: We will go to Mr. Redekopp now.

Mr. Brad Redekopp: Well, now I'm expecting some sweets. Where are the sweets? There should be some sweets here.

Mr. Fayçal El-Khoury: It will be on Wednesday.

Mr. Brad Redekopp: Okay.

Madam Chair, I want to come back to the documents that Ms. Girard said were sent to the committee.

I don't think I received those documents. I don't know whether something was missed. I'm just wondering if you could check with the clerk to confirm which documents those were. I don't recall the documents, unless I'm confused.

Ms. Nicole Girard: My apologies, Madam Chair. I thought they had been provided. I misspoke. That's on me and on our side. We will go back and check where they're at so that they can be provided to the committee at the earliest opportunity.

Mr. Brad Redekopp: Thank you. That's helpful. I was confused—not that I'm always confused.

The other question I have for Ms. Girard is on the numbers. I want to make sure I get this right.

When you were responding to my colleague Ms. Rempel Garner, did you say that you cannot come up with numbers to estimate the impact of this bill? Is that what you were saying? I know you said that in the past. I just want to make sure that's what you're saying.

Ms. Nicole Girard: Yes. I was referring to the question about persons who may wish to renounce Canadian citizenship on receiving it automatically. My comment was about not being able to estimate in advance how many people impacted positively by this bill may find themselves in the situation of wanting to relinquish it. That's difficult to say.

Mr. Brad Redekopp: I get that. It's difficult to do. I would acknowledge that. Prior to coming here, I worked as an accountant for many years, in finance and in different roles. The biggest projects we always had to do were budgeting and forecasting. “If we design this product, what's the impact going to be? What are the sales going to be?” There are always tremendous unknowns.

However, I don't accept that you don't have some grasp of that. Obviously, it's a forecast. It's a guess—with all the caveats that go with it—based on these assumptions and that sort of thing. I find it strange that the department hasn't sat down and said, “Well, it could be anywhere from here to here”, or whatever.

Has any of that been done? Are you telling me it's just a straight-up no and you haven't done any of that work?

• (1620)

Ms. Nicole Girard: Madam Chair, as I indicated when asked this question before by the committee, we estimated that in terms of what the bill and amendments to the bill thus far are addressing, the numbers the department estimates would be addressed by the remedy for the lost Canadians affected by section 8 are a limited cohort. As I mentioned before, the department sees in the range of 20 to 30 such cases per year. There may be a few more who come forward, benefiting from this bill, but it could be in that range.

With regard to the remedies extended through the amendments to the bill discussed thus far, in terms of extending citizenship automatically to second-generation children born abroad to a Canadian, we estimate that number could be significantly larger. It could be in the thousands. As I mentioned before at this committee, it's difficult to know how many of those may come forward to the department and request a certificate of their Canadian citizenship. The bill as amended, if passed, would make them citizens automatically by law—citizens in law. Those who elect to come forward to apply for the proof would be a subset of those untold thousands.

The third point I would mention, to wrap up, is this: For the past legislative remedies combined—the remedies in 2009 and 2015 for lost Canadians—our updated figures, as I shared with the committee before, are that just under 20,000 such persons have come forward for proof of citizenship in the past. It's conceivable that we could be dealing with numbers in the range of a few thousand, or up to that number. However, until we see in what form Parliament decides to legislate and pass the bill, it's difficult to know with any precision.

Those are some of the orders of magnitude that we consider not unreasonable.

The Chair: Go ahead, Mr. Redekopp.

Mr. Brad Redekopp: I just want simple clarification. When you say “thousands”, are you talking per year? Is that what you mean?

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

Mr. Tom Kmiec: I have questions about the numbers now. So that I understand it, because you used “hundreds” and then you used “thousands”, when you were talking about hundreds, whom did you mean, and was it annual or total? When you were talking about the thousands, did you mean total or did you mean annual?

Ms. Nicole Girard: Madam Chair, in each case, my remarks with regard to the section 8s were that we see 20 to 30 such cases per year. With regard to those who could receive citizenship automatically when a parent meets a connection test, that could benefit in the thousands, again, per year.

Mr. Tom Kmiec: Then now I'm going to ask.... On May 1, though, there was a number of 40,000 to 60,000 used. Does that refer to the total expected persons who could be impacted by Bill S-245 in the way it's originally written, or is it based on the amendments we had done until then, or is that total lost Canadians? I guess it could be three different options.

Ms. Nicole Girard: Madam Chair, that's a different number. We were having an exchange at the time about the current number of persons who apply for a proof of citizenship annually, and as a frame of reference, I gave that 40,000 to 60,000 annual number in terms of the number of such applications the department already receives. These numbers that we're discussing at this moment would be over and above those.

Mr. Tom Kmiec: Has the department ever considered using an outside expert to come in and provide an estimate to the department—depending on what the changes are on the public record so far, versus what was there before—on the potential workload going into the future? It would be somebody who just crunches numbers—that's all they do—based on whatever input you provide them.

Ms. Nicole Girard: Madam Chair, no, we have not sought or considered outside help. We have our own folks who crunch numbers, as the member referenced.

As I mentioned before, even if we estimate that several thousand per year may come forward and make applications under this bill if it is passed by Parliament, there can be a bit of a tendency at times to overestimate the numbers we may see. This is particularly so when we consider that since the first set of comprehensive remedies in 2009 were passed and up until around now, just under 20,000

persons have come forward who benefited from those previous amendments.

It's a good number, but I don't think anyone would say that it's a huge number by any stretch, when you consider that we receive 40,000 to 60,000 applications for proof of citizenship per year.

Mr. Tom Kmiec: The committee received a letter, and I want to make sure I credit this person. It was Carol Sutherland-Brown. We got information. Some numbers were provided.

There is this court case going on right now. This is before the Ontario Superior Court of Justice. I can't pronounce the name. It's Bjorkquist et al. v. AG Canada. Hopefully, I pronounced that correctly. The co-counsels are Sujit Choudhry and Ira Parghi.

It refers to such data prepared by Dr. Doug Norris, a highly regarded retired senior Statistics Canada executive. I didn't know he worked there, but I trust the data. It goes on with the methodology.

They identify a group, using Statistics Canada data from 2016, from what I can see. In it, they have a low, a medium and a high. Their numbers are drastically lower, actually, than the numbers you've provided so far. It might be just the way they're calculating it. It's who would be impacted.

It reads, “Even by the highest estimates, by 2045 the numbers of children born abroad to Canadian parents would still be only just over 1% of the total number of immigrants that the Government claims we need. These numbers would represent only approximately .01% of the total population of Canada. These numbers do not represent a floodgate, by any means.” Those are her words.

At the beginning, in the parameters of the estimation, I guess she was trying to address the concerns some of us have expressed at the committee, the concerns “by several MPs that a change in legislation would give rise to a potentially increased workload for IRCC officials, and that there would be a floodgate of many thousands of applicants”.

The numbers they provide here show that by 2049, at the absolute maximum, it would be about 7,000. At the low end, it's 234. In a reasonable future—and I would use 2030—they thought it would be 3,877 as a pool of potential applicants.

Do you think those numbers are credible or reasonable, compared to the ones you've provided, and that they could be a low point, or do you feel that IRCC's numbers are better because you have more informed data?

I would like to know, because this is evidence that's been provided to us by a member of the public. This is part of a court case, so I assume it's credible. The judge accepted it.

• (1625)

Ms. Nicole Girard: Madam Chair, I really can't comment on the validity of the methodology used in the example that the member has provided. Nevertheless, I would propose to this committee or remark to this committee that I have made the point that since 2009, just under 20,000 people who were remedied by previous lost Canadian legislative remedies have come forward since that time, and that does suggest that the numbers, while in the thousands, could be manageable.

I've also provided the estimates for the section 8s who could benefit. It could be in the range of 20,000 to 30,000 a year, or it could be more. With regard to the second generation children born abroad to Canadians, it could be in the thousands, but it's difficult to know the range, and it may not be a huge number.

In terms of the point the member is making, I'm not sure I particularly like the term "floodgate", but I think that's consistent with the point I've shared with the committee, which is that there is a risk of overestimating what the numeric impact would be.

• (1630)

The Chair: Continue, Mr. Kmiec.

Mr. Tom Kmiec: Yes, I don't like the word either, but that's the word that was used in the communication from the department.

Actually, they provided a link to an estimation model in Excel Workbook with all the source data—the assumptions, the calculations—that were used. Handily, they also provided a password so that we can open it and play around with the methodology.

Are we able to provide that link, Madam Chair, to the officials? This is a public document, is it not, as a brief provided to committee by a member of the public?

The Chair: You would like to provide it to the officials.

Mr. Tom Kmiec: It's been provided to the committee as a brief, so I assume it's public information.

The Chair: It's public, yes.

Mr. Tom Kmiec: I just think it would be highly useful, because in the details Dr. Norris provides a breakdown of the methodology. I'm not going to read the whole thing, but in the steps he took in estimating on different worksheets the total number of persons that could be impacted, there are multiple steps. There's step five, with multiple substeps, just to get at the diaspora group that could be impacted by this, just as a total amount, and then, working backwards, how many persons might want to apply in the future. It goes into a great deal of detail in trying to estimate those numbers.

We've asked for that information from the department, obviously. I just think that this would help us to get to an actual number that we could find defensible. If it is as low as this table says—as I said, it was 7,031 on the high end and as low as just a few hundred people on the low end by 2049—then we're not talking about a large group of the population. We're talking about a very, very small group of people who would be impacted. Potentially, you could use this worksheet in the future when estimating other groups of lost Canadians that could be covered off by other pieces of legislation.

I just think it's an opportunity. As I said, there's this court case going on right now in which all this information is being considered. It was provided to them. Hopefully, we can have the officials deal with it then.

That's all I wanted to say, Madam Chair.

The Chair: Thank you.

Mr. Sukh Dhaliwal: I think, Tom, that once we read—

The Chair: Mr. Dhaliwal—

Mr. Sukh Dhaliwal: —the whole document, that will be helpful for us as well.

Mr. Tom Kmiec: Do you want me to read it into the record, Sukh?

[*Translation*]

Would you rather I read it in French or English?

[*English*]

The Chair: Can I can request members to have conversations through the chair?

Mr. Tom Kmiec: Yes, Madam Chair.

The Chair: Seeing no further debate on G-5, I will ask the clerk of the committee to please take the vote on G-5.

(Amendment agreed to: yeas 11; nays 0 [*See Minutes of Proceedings*])

The Chair: Amendment G-5 is carried.

I have Mr. Brunelle-Duceppe.

[*Translation*]

Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ): I just want to check if my mic is working.

It seems to be working, thank you.

[*English*]

The Chair: Thank you.

We are on NDP-4 now. Ms. Kwan, would you like to move it?

Ms. Jenny Kwan (Vancouver East, NDP): Madam Chair, yes, I'd like to move NDP-4.

This amendment essentially recognizes citizenship in deceased women who lost British subject status prior to 1947, or in 1949 in Newfoundland and Labrador, and on that basis they did not become citizens. Citizenship is recognized retroactively to the time each woman lost status as a British subject.

This amendment does not allow for derivative claims and there is no liability to the government. Noting that subsection 11(2) of the Citizenship Act provides for citizenship for such women if they are still alive, the amendment accordingly only covers women who are deceased.

One might ask why this is even necessary. For some family members, it is important to them. In fact, I met with an elderly lady whose dying wish actually was to have been recognized. In any event, I think this is important just for symbolic purposes, Madam Chair.

• (1635)

The Chair: Thank you.

Go ahead, Mr. Redekopp.

Mr. Brad Redekopp: Thank you.

My question for the officials is: Do you have any concerns about this amendment from your perspective as a department?

The Chair: Go ahead, Ms. Girard.

Ms. Nicole Girard: Thank you, Madam Chair.

The first point I'd like to share with the committee is that to this point, none of the previous legislative remedies for lost Canadians, either in 2000 or 2015, restored citizenship to persons who had passed away. That is a first concern.

The second concern is the potential for unintended consequences, including potentially for citizenship by descent for such persons. I believe there is a provision in the proposed amendment that is seeking to mitigate that, but from the perspective of the experts in the department and our colleagues at the Department of Justice, we're not necessarily convinced that the concern is fully mitigated. There is a potential for unintended consequences or impact on the descendants of those who are targeted by this amendment, and those are people who are alive today.

Those are some points to share for the committee's consideration.

I'll invite my colleague from the Department of Justice to speak in case there's anything I have neglected or there's anything she may wish to add on this point.

Ms. Erika Schneiderit (Counsel, Legal Services, Department of Citizenship and Immigration): I will echo my colleague's comments just now and say it's of course open to Parliament to legislate retroactively, but it is inherently complex, because we're talking about applying new laws to facts that have occurred in the past. Particularly if we're talking about a period of time some 80 years in the past, it's very difficult to say precisely what the consequences might be. In particular in this case, with the legislation that existed prior to 1947, it's difficult to say with precision exactly how these amendments might interact with legislation from that time period.

The Chair: Go ahead, Mr. Redekopp.

Mr. Brad Redekopp: That's good, because I was thinking some of the same things.

On the last point, Ms. Schneiderit, how does that actually work? The legislation obviously would have been much different back in those days. How does it even interact? How does that work from your perspective?

Ms. Erika Schneiderit: Thank you for the question.

I would just say again that it's very difficult to say with certainty. What I can say is that in general, there's typically one scheme that operates in legislation on citizenship or nationality. Nationality is

one thing; if we have two different pieces, it would be somewhat novel, I think, to try to predict how those two pieces would interact. At this point it's difficult to say.

Mr. Brad Redekopp: I'll go back to Ms. Girard's two concerns.

The first one you mentioned is that we've never legislated anything on people who are deceased. Was the consequence of that your second point, or were there further consequences? Are there other things that this brings up?

You talked about the unintended consequences of descendants. That was going to be my other question. Just on issuing citizenship to a deceased person, other than the unintended consequences of descendants, are there other issues that would potentially come up?

• (1640)

Ms. Nicole Girard: I think the member is correct in the sense that the main concern is to limit or avoid unintended consequences.

As was brought up moments ago, one of the important ways to do that is to offer a mechanism for those who may need to renounce for personal, professional, legal or other reasons. As soon as a legislative remedy like this comes into force, when the beneficiary is not alive to do that, that option isn't available. Then it can have those downstream, automatic, kind of trickle-down impacts on the children, who may now be adults, particularly in this cohort that's under discussion, when we're talking about women who—well, we're talking about a pre-1947 cohort.

I'll turn to my colleague at the Department of Justice, who may wish to elaborate further.

Ms. Erika Schneiderit: I think that mostly covers it, but I'd just say that the act as it's structured currently envisions citizenship attached to living persons. That's all I'll add.

Mr. Brad Redekopp: On that point, if this new interpretation of both living and deceased persons were to proceed, could it potentially complicate legal issues? Does that throw a bunch of complications into court proceedings—common law, and those kinds of things?

Ms. Nicole Girard: Yes, I think it would.

I think the other concern that we have in the department and that I understand Department of Justice shares is that we may not fully know the legal and practical consequences unless a provision like this passes. We want to ensure that the committee is aware of these concerns and considerations, as it hasn't been done before.

I will again pass it to my colleague in case she wishes to add.

Ms. Erika Schneiderit: I have nothing to add. Thank you.

The Chair: Go ahead, Mr. Redekopp.

Mr. Brad Redekopp: The issue of the descendants was the first thing I thought of when I looked at this. Are you saying there is some wording in this amendment to prevent that, but you don't necessarily think it's sufficient to eliminate it? Could you expand a bit more on why you think that?

Ms. Nicole Girard: Yes, that's correct. Perhaps my colleague could elaborate.

Ms. Erika Schneiderit: I would perhaps return to my earlier point on this issue of interaction between the current amendments and the previous legislation to say that as that interaction is sort of an unknown, it's again difficult to say how descendants of those persons may be affected.

Mr. Brad Redekopp: I think I'm done.

The Chair: Thank you.

Go ahead, Ms. Kwan.

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

I don't want to prolong further debate on this amendment, because I know it likely will not pass. I'll just put on the record what the legislative counsel has provided by way of language to ensure there are no implications, legal or otherwise, in this amendment.

This is the provision and language included to recognize citizenship for this group of women:

Subsection (7.1) does not have the effect of conferring any rights, powers or privileges—or imposing any obligations, duties or liabilities—under any Act of Parliament or any other law on a woman referred to in that subsection or on any other person who may have any of those rights, powers, privileges, obligations, duties and liabilities as a result of the woman being deemed to have been a citizen.

It goes on to add another clause:

(8.2) For greater certainty, no person has a right to citizenship as a result of any woman being deemed under subsection (7.1)

—and this is the section I would like to add—

—to have been a citizen.

It then goes on to say:

No action or other proceedings for damages based on subsection (7.1) may be brought against His Majesty in right of Canada or any officers, employees or agents of His Majesty in right of Canada in respect of anything done or omitted to be done.

Anyway, that was the certainty the legislative counsel suggested we incorporate into this amendment so that there would be no implications coming out of it.

In any event, I understand that perhaps people still feel that this isn't enough. However, it was not done without consideration of those elements, Madam Chair.

• (1645)

The Chair: Thank you, Ms. Kwan.

Seeing no further debate, I will go to Mr. Kmiec.

Mr. Tom Kmiec: That's something I was going to ask about. It's my fourth question.

Just so I understand, you're saying that legislating backwards like this has never been done. I was going to ask if that is even.... Let's say it were to pass and this were to become the law. Is this even defensible in court? How could a court say, "You get citizenship, but you have none of the rights of citizenship"? That's the way I read the clause that was just read by Ms. Kwan. It gives citizenship but confers no "rights, powers, privileges, obligations, duties or liabilities". You have it, but it gives you nothing.

Has that ever been done? Is that even defensible in court?

The Chair: Go ahead, Ms. Girard.

Ms. Nicole Girard: Madam Chair, in layman's terms, I would explain the department's concern as being.... While the intent of the language that was read is good, we are not satisfied in the department, nor are our colleagues in the Department of Justice, that these provisions intending to serve as a mitigation are ironclad, if I can put it like that, and doing what they're intending. I therefore completely understand the member's question, but I certainly don't want to speculate about what kind of future defence the government may wish to prepare or put forward for such a case.

Mr. Tom Kmiec: I don't want you speculate on it. I'm just wondering, in case law, how a section like this.... If I were to clip it and use it in the future, or if it were to be added to any other amendment before the committee.... Can we give people a right or a grant to citizenship and then say they don't have any of the benefits of citizenship? That's the way I read this: It would cause a person to have it but have none of the benefits of it.

"Citizenship by right or by grant" means something. You have the right to vote. You can stand for public office. You are expected, as a duty, to pay taxes. When old age security and the Canada pension plan were created, you paid into them. You have a right to those things you pay into. This would basically imply that you are a citizen but don't have any of those rights. Potentially, a section like this could be applied to any group of lost Canadians out there: They get the citizenship but don't have the benefit of it.

I'm wondering whether this is has ever been done before. The legal opinion of the Department of Justice Canada.... Is this even defensible? To me, it looks as if a judge would knock it down immediately. I don't see how you can give someone citizenship but say they have none of the benefits of citizenship.

Am I wrong?

Ms. Nicole Girard: Madam Chair, I think it comes to the point that there's not any precedent for this, as I mentioned, in the sense that none of the previous legislative remedies accorded citizenship to persons who were deceased. This issue hasn't arisen in terms of the question that the member is raising. I don't have any experience to draw on there.

Mr. Tom Kmiec: I'll move on to my other questions, then. I have the response that I think I needed.

Do we have a register or information on this term "war brides"? How many women pre-1947 would have married but lost their citizenship by these rules here?

I'll be completely honest: I did not that know this was occurring. Pre-1947, there was no Canadian Citizenship Act. Do we have a register? Does the department have such information? Is this information that Veterans Affairs or the Canadian archives would have, or is it information that was never kept, as this was a different era?

• (1650)

Ms. Nicole Girard: Madam Chair, no, the department does not have a registry, but we do have some statistics. As the member was mentioning, the legislative remedies in 2015 that benefited some additional lost Canadians did benefit women who, before 1947, married a foreign national, lost their British subject status, and therefore did not become citizens on January 1, 1947, as others did.

I believe that the statistic I previously shared with this committee was that roughly 600 persons who benefited from those changes in 2015 came forward and applied for a proof of citizenship. We do have that figure, but in terms of this particular amendment that's under discussion now with regard to people who are deceased, we wouldn't have any way to quantify that kind of number.

Mr. Tom Kmiec: Because I don't know what the rules were like before 1947, is there any chance that this might create two types of persons, pre-1947, on top of the ones...? There's a group of them who may get it back, but it would be based on....

This is basically everyone, correct? It's just a broad stroke; everyone gets it back. These are all persons who are deceased. They would get nothing extra, but is there any potential for creating two groups of people, one in which a person could have—although it would have been very rare—been either widowed or divorced at some point before 1947 when they would have gotten it back, but then would have fallen through the cracks? Is there potential that some would get it back if this amendment passes, but some will still be excluded? Is it possible that there would be a different group of lost Canadians or a subgroup of lost Canadians?

Ms. Nicole Girard: Madam Chair, I think the potential is there as a result of the way the amendment selects a particular cohort. It references women who lost their British subject status prior to 1947. We are speaking of people who are deceased, and we're not talking about any other deceased at other points in time—men, for instance—so I would say that the member is correct that in general this amendment looks to accord citizenship to some persons who were deceased and therefore didn't become Canadian citizens but not to others in that situation.

Mr. Tom Kmiec: Again, on this classification that basically confirmed that a smaller subset would still be non-citizens of Canada, in the latter sections of this amendment—it's quite a long one—it says, “For greater certainty, no person has a right to citizenship as a result of any woman being deemed under subsection (7.1) to have been a citizen.”

Can someone explain to me the impact of this particular section?

Ms. Nicole Girard: I'm going to ask my colleague from the Department of Justice to comment.

Ms. Erika Schneiderreit: My understanding of the amendment is that it is related to derivative claims. That's my understanding; I'm not confident.

Mr. Tom Kmiec: I am not burdened by a legal education, so please help me out. What does “derivative claim” mean in this context?

Ms. Erika Schneiderreit: I think the question about proposed subsection 3(8.2) would be related to claims of citizenship by descent, the way it's currently worded. I think perhaps it would be a question for the member from the NDP.

• (1655)

Mr. Tom Kmiec: Okay.

My next question is on proposed subsection 3(8.3), which is the next subsection. It indemnifies the Crown from any potential litigation, but the previous one says there are no “rights, powers, privileges, obligations, duties” given. I understand this is to give citizenship, but without any benefits associated with it.

Does this section that indemnifies the Crown occur in other parts of the Citizenship Act or the IRPA? Is it a standard section to indemnify the Crown in case litigation could happen?

I'm just asking if this is consistent with other language used. Has this happened before? Is this something unique being introduced into the act?

The Chair: Go ahead, Ms. Girard.

Ms. Nicole Girard: Similar language was included in the previous legislative remedies in 2009 and 2015, though I can't say at this moment whether the language is the same or if it might be slightly different.

The Chair: Go ahead, Mr. Maguire.

Mr. Larry Maguire (Brandon—Souris, CPC): Thank you.

This is just a small detail. It is a really small subset, I would say, but my colleague has been speaking about war brides and you've mentioned this aspect as well.

We're talking about pre-1947. What about persons or women who came from Britain at that time and were living in Newfoundland, which didn't become a province until 1949? Is there any difference there?

I'm assuming they would have kept their British citizenship when they landed in Newfoundland as war brides. Were they considered war brides if they were living in Newfoundland, which was not a part of Canada at that time? Would there be a change, or were they just all Canadian citizens with everyone else when Newfoundland became a province?

Ms. Nicole Girard: I'm sorry. Could I ask the member to repeat the last part of his question?

Mr. Larry Maguire: I'm wondering about when these war brides came, and we will call them that. Everywhere else in Canada we would have called them that. I'm assuming that the same term that applies to those in Canada applies to those who came to Newfoundland pre-1947.

There's that period of time between 1947 and 1949 when Newfoundland wasn't a province yet. Would they all have become citizens of Canada automatically when Newfoundland became a province in 1949?

Ms. Nicole Girard: Yes, that's my understanding, Madam Chair.

Mr. Larry Maguire: That's my only question.

The Chair: Seeing no further debate, we can take a vote on NDP-4.

Can I ask the clerk to please take the vote?

Go ahead, Mr. Brunelle-Duceppe.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: I'm really sorry, but I just thought of a question.

Regarding this amendment, if Quebec became a country tomorrow morning, would that change anything?

Ms. Nicole Girard: I thank the member for his question.

Given that the amendment targets people who ceased to be a British subject before 1947, I'm not sure this would have an impact on the people the member is talking about.

[*English*]

The Chair: Thank you.

Seeing no further debate, we will take the vote. I will ask the clerk to please take the vote on NDP-4.

(Amendment negated: nays 10; yeas 1 [*See Minutes of Proceedings*])

NDP-4 is defeated.

We will now proceed to NDP-5.

Ms. Kwan, would you like to move NDP-5?

• (1700)

Ms. Jenny Kwan: Yes, I'd like to move NDP-5. Thank you very much, Madam Chair.

This amendment deals with a number of the issues. I want to particularly highlight the issue around those who don't want citizenship conferred on them. There was quite a bit of discussion, committee members will recall, about that concern. What happens to those who don't want it, for whatever reason?

To that end, written into this amendment is the opportunity to opt out. Those who don't want it could opt out. Upon notification to the government that they don't want citizenship conferred on them, then this would have no impact for them. It would not apply to them. Effectively, it is an opt-out provision. That is what it is aimed to do, Madam Chair.

The Chair: Go ahead, Ms. Lalonde.

[*Translation*]

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

I'd like to propose two changes to this amendment. I will present them one at a time to facilitate our discussion.

When it comes to the first change to amendment NDP-5...

[*English*]

Hon. Michelle Rempel Garner: I have a point of order. I believe the interpreter has just asked for a copy of the amendment, if possible, Madam Chair.

The Chair: Go ahead, Ms. Lalonde.

[*Translation*]

Mrs. Marie-France Lalonde: Is it possible that my colleague read amendment NDP-8 instead of amendment NDP-5?

I apologize once again, dear colleagues.

[*English*]

The Chair: Ms. Kwan, can you please read it? I don't think you read the whole amendment.

Ms. Jenny Kwan: I didn't read the whole thing.

The Chair: Could you read it so that it is clear to everyone which one we are on?

Ms. Jenny Kwan: Okay.

The Chair: We are on NDP-5. Could you please read it?

Ms. Jenny Kwan: NDP-5 states that Bill S-245 in clause 1 would 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 (7):

(7.1) Despite any provision of this Act or any Act respecting naturalization or citizenship that was in force in Canada at any time before the day on which this subsection comes into force, a person is deemed to be a citizen under paragraph (1)(b) from the time that they were born if

(a) the person is a citizen under paragraph (1)(b);

(b) the person was born after April 16, 2009 and before the coming into force of this subsection; and

(c) at the time of the person's birth, only one of the person's parents was a citizen and that parent was a citizen under paragraph (1)(b), (c.1), (e), (g), (h), (o), (p), (q) or (r) or both of the person's parents were citizens under any of those paragraphs.

(5) Section 3 of the Act is amended by adding the following after subsection (8):

(8.1) For any period before the day on which subsection (7.1) first takes effect with respect to a person, subsection (7.1) does not have the effect of conferring any rights, powers or privileges—or imposing any obligations, duties or liabilities—under any Act of Parliament other than this Act or any other law on the person or on any other person who may have any of those rights, powers, privileges, obligations, duties and liabilities as a result of the first person becoming a citizen.

The Chair: Thank you.

Go ahead, Madame Lalonde.

[*Translation*]

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

So, I'd like to propose to changes to amendment NDP-5. I will do it in order...

• (1705)

[*English*]

The Chair: Madame Lalonde, can you just introduce one?

[*Translation*]

Mrs. Marie-France Lalonde: That's exactly what I just said, Madam Chair.

The first change would be that amendment NDP-5, which corresponds to No. 12307559 and proposes to amend Clause 1 of the bill...

[English]

Hon. Michelle Rempel Garner: On a point of order, Chair, the interpreter is not keeping up with the subamendment. I can't follow.

[Translation]

Mrs. Marie-France Lalonde: I will speak more slowly. Sorry.

[English]

Hon. Michelle Rempel Garner: This seems to be a very technical subamendment. I would like to know what I am voting on.

Thank you.

The Chair: No problem.

Madame Lalonde, can you go a bit more slowly?

[Translation]

Mrs. Marie-France Lalonde: Of course, Madam Chair.

[English]

The Chair: One second, Madame Lalonde.

Do we have a copy?

I'll just suspend the meeting for a few minutes to figure out where the copy is.

• (1705) _____ (Pause) _____

• (1710)

The Chair: I call the meeting back to order.

Go ahead, Ms. Kwan.

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

I apologize. I think I might have confused committee members. I should have actually followed the notes. Instead, I followed my own handwritten notes, which was wrong.

This amendment is actually not to deal with the opt-out provision. That's another amendment for another time. This is dealing with a package in relation to the second generation cut-off rules that have been dealt with previously. Specifically, this amendment addresses the "retroactive to birth" and "no liability" issues for citizens related to this, and says that there would be no consequences or duties, such as back taxes and those kinds of things.

Finally, as is the current practice in any event, it would allow people to challenge the government, as they are doing right now in court.

I apologize for the confusion, Madam Chair.

The Chair: Go ahead, Madame Lalonde.

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

I do have two subamendments, and I'll go one at a time.

• (1715)

[Translation]

I move that amendment NDP-5, reference number 12307559, which proposes to amend Clause 1 of Bill S-245 by adding after line 18, on page 1, the following:

(3.1) Section 3 of the Act is amended by adding the following after subsection (6.2):

(6.21) A person who is deemed to be a citizen under paragraph (1)(b) from the time that they were born solely by operation of subsection (7.1) and 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.

[English]

These are our proposed subamendments, the first of two, and I would like to provide some explanation, because I know these are extremely technical and complicated. I want to make sure it's clear.

The NDP amendments aren't referring to the same cohort of people that the government subamendments touch. In the government's subamendments are about the former section 8s, who were second generation people born abroad between 1977 and 1981. The NDP amendments address the situation for children born abroad in the second or subsequent generation after 2009, including those who will be born in the future. NDP-5 describes what happens to children who were born abroad in the second or subsequent generations since April 16, 2009, and are still alive when this bill passes. If the children have parents who met the connection tests prior to their birth, these kids will become citizens.

This subamendment addresses an issue similar to the one talked about in G-5. In this case, it's about the situation of a child born abroad after 2009 who received a grant of citizenship at some point in their life because they immigrated or received a special grant, but now is able to receive automatic citizenship because of this bill.

This subamendment clarifies that individuals in that situation are now deemed to have never received a grant and are now considered citizens by operation of law from the time they were born.

[Translation]

Thank you, Madam Chair.

[English]

The Chair: Thank you, Ms. Lalonde.

Go ahead, Mr. Brunelle-Duceppe.

[Translation]

Mr. Alexis Brunelle-Duceppe: My question is for the analysts. This time, it might be more relevant than my previous question. Sorry again about that.

From the beginning, we've been talking about very hypothetical cases. We had no choice. All the questions we've posed to you often dealt with hypothetical cases that may or may not happen.

[English]

The Chair: Mr. Brunelle-Duceppe, is it for the analysts or for the officials?

Mr. Alexis Brunelle-Duceppe: It's for the officials.

[*Translation*]

Excuse me, I used the wrong word.

If I understand correctly, if we pass Bill S-245 as is, with its amendments and subamendments, and Quebec becomes a sovereign country in 2028, it means that the next two generations of Quebecers, who would then be living in another country, would be Canadian citizens too, even if they were not born in Canada?

Would it therefore mean that these people, as expatriates with Canadian citizenship, could vote in Canadian elections for two generations?

It's a hypothetical case, but I was wondering about it.

• (1720)

[*English*]

The Chair: Thank you.

Go ahead, Ms. Girard.

[*Translation*]

Ms. Nicole Girard: Thank you, Madam Chair.

It is an interesting question. I'm sorry, but I can't give the committee an exact answer. It requires looking more closely at both the facts and the various legal provisions that could come into play. A scenario like that requires more in-depth analysis.

Mr. Alexis Brunelle-Duceppe: And yet the legislation is clear. You are born abroad to Canadian parents, and your children would be born abroad to Canadian parents. The second generation would also be born abroad, but born to the first generation of people born abroad with Canadian citizenship.

Logically, according to the legislation, and taking into account currently proposed changes, that hypothetical case would happen unless agreements are struck later. Right now, if we rely only on the bill, I'm right about that scenario.

Ms. Nicole Girard: Was there a question for the government's representatives, Madam Chair?

[*English*]

The Chair: Is there any clarification you're looking for, Mr. Brunelle-Duceppe, or just a...?

[*Translation*]

Mr. Alexis Brunelle-Duceppe: No one can tell me if I'm right or wrong. However, based on the hypothetical case I presented and what we are voting on, I thought it was clear. Unfortunately, I get the impression that people don't find it clear.

I'm done, Madam Chair, but I believe my federalist friends might find it interesting to think about.

Thank you.

[*English*]

The Chair: Ms. Girard, do you have any clarification for his question?

Ms. Nicole Girard: I don't have anything to add. Thank you, Madam Chair.

The Chair: Thank you.

Mr. Dhaliwal is next.

Mr. Sukh Dhaliwal: Thank you, Madam Chair.

Madam Chair, I have difficulty with this. If sovereignist Quebecers want to separate and have their own country, why wouldn't they...? Now they have Canadian citizenship, and my dear friend Mr. Brunelle-Duceppe is asking if they will be able to vote in Canadian elections. They might as well stay with Canada.

All I can tell you, Madam Chair, is that the chances will only improve if Mr. Brunelle-Duceppe becomes the leader of the Bloc and can progressively and [*Inaudible—Editor*] work with other people.

The Chair: Thank you.

Mr. Brunelle-Duceppe, go ahead.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: I just want to answer briefly.

In any event, it really would be a case of interference at that point. We're not going to start a new debate on the subject. I thought we already had enough fun with it.

Thank you, Madam Chair.

[*English*]

The Chair: Mr. Redekopp is next.

Mr. Brad Redekopp: Just so that I'm tracking here, this subamendment goes before anything that is in NDP-5, and it doesn't delete—

The Chair: This is an amendment. We don't have any subamendment. We have an amendment on the floor.

Mr. Brad Redekopp: I'm sorry, but this is a subamendment.

The Chair: The amendment....

Voices: No, no, it's a subamendment.

The Chair: It's an NDP-5 subamendment. I'm sorry about that. It's a subamendment.

Mr. Brad Redekopp: Do you see how confusing this is?

Okay, so the subamendment to NDP-5 comes before any of the text in NDP-5 and doesn't delete any of NDP-5. Am I correct in that statement?

The Chair: Can you please repeat that?

Mr. Brad Redekopp: The subamendment comes before any of the text of NDP-5 but does not actually delete any of the text of NDP-5.

Am I correct?

The Chair: Go ahead, Ms. Lalonde.

Mrs. Marie-France Lalonde: You are correct.

Mr. Brad Redekopp: Okay. Thank you.

It is difficult, without understanding what NDP-5 does, to try to understand what the subamendment does. Maybe the officials could tell me and the committee what exactly this is doing and why it needs to be there.

Ms. Nicole Girard: These proposals once again fall into the category of what we would describe as a transitional type of provision. It's technical, but it's important that it be there for the department to be able to implement the bill correctly and in line with previous legislative remedies.

Our understanding is that the NDP amendment, as shared, is intended to clarify, first of all, that those who are benefiting in the cohort are receiving Canadian citizenship back to the date of their birth, not to the date that a bill comes into force.

Then the element that's added by the subamendment that was just shared is to clarify that if those who are receiving automatic citizenship back to the date of their birth have already been granted Canadian citizenship, it's as though they've never been granted citizenship. They are considered automatic citizens from the date of their birth. It's undoing the grant of citizenship, if I can put it that way.

That is a transitional provision. It's important that it be there. It's also consistent with the legislative remedies that were done in 2015 and in 2009. It's so that the department, when we receive a request for proof of citizenship, can process it correctly. We know that we're dealing with someone who is a citizen from birth. We're no longer dealing with someone who was at some point granted Canadian citizenship.

• (1725)

The Chair: Go ahead, Mr. Redekopp.

Mr. Brad Redekopp: This subamendment is only needed if the amendment passes. Is that a fair statement?

The Chair: First we will be voting on the subamendment and then going back to the amendment as amended.

Mr. Brad Redekopp: I understand.

Maybe to put it a different way, this piece of text isn't needed in this discussion today other than if NDP-5 passes. Is that a fair statement?

The Chair: Go ahead, Ms. Girard.

Ms. Nicole Girard: Madam Chair, the answer is yes, to a point.

Again, we could consider them as transitional provisions. They are necessary for consistency with past legislative remedies that were done in 2015 and in 2009. They are necessary to treat like cases in a like manner, so that we are able to legally treat these persons who are citizens from the time of their birth as never having been granted citizenship, if they were at some point in time.

The Chair: Go ahead, Mr. Redekopp.

Mr. Brad Redekopp: I think that's it for the moment.

The Chair: Mr. Kmiec is next.

Mr. Tom Kmiec: If the amendment passed as is without the subamendment, what's the impact?

Ms. Nicole Girard: Madam Chair, it's not a desirable situation for the department to find itself in, in terms of administering the bill if it becomes law.

There would be a lack of clarity, especially with regard to those individuals who may be benefiting and becoming citizens automati-

cally and who have already been granted citizenship at some point in their lives. It could lead to confusion.

It is desirable to have a clear legislative rule, similar to what the other legislative remedies in 2009 and 2015 contained, in order to facilitate the administration and processing of the proof applications that would come in the future, should this bill pass as amended.

Mr. Tom Kmiec: To follow up on that, if this doesn't pass, is that just an administrative burden, or is it a legal question of a citizen who got a grant of citizenship and now is automatically, by right, a citizen, and whether those two conflict? Do they basically get an extra citizenship number? Is that the problem, or is it a question of when the benefits of citizenship accrued to them?

Would there be an impact on things like CPP, OAS, and those types of things? I'm trying to understand what the issue is here with the subamendment.

• (1730)

Ms. Nicole Girard: The member is correct. It's both a legal question and a question of administration. The law needs to be clear in order to avoid any kinds of unintended or unforeseen questions or consequences, such as the example given by the member. Also, for consistency with the current scheme of the legislation, you are considered either a citizen as of right, as we've discussed in the committee, or someone who's been granted citizenship at some point. You can't be both.

Therefore, we need this transitional provision in order to reconfirm, if I can put it that way, that you can't be both, and that if you're benefiting from the bill and you had previously been granted citizenship, it's as if it had never happened. You are a citizen as of right and you are a citizen from the time of your birth. It is clear. There's no risk of confusion. There's no risk of unintended consequences for the person, and the department can clearly administer these provisions.

Mr. Tom Kmiec: You used the word "can't" be a citizen by grant and by right at the same time. Is it "can't"? In the Citizenship Act, as far as I know, I don't think it says that. Is it just the interpretation of the department that you can't have it both ways? There are only two ways to get citizenship rights, so is that the problem?

The act doesn't say you can't get it by either way. It just seems that it would cause confusion. Nobody is going to go to court to fight this out, or a government department wouldn't deny someone a service or the right to a pension because they got it by grant versus by right, except for the timelines. I understand the latter part. Is the issue just the timelines?

I can't understand how you could find yourself as a Canadian citizen, having received citizenship through either path, with an issue in accessing a service or a government product provincially or federally. I'm trying to understand where the issue would be, because I don't see that in the act or in any other sections of the total amendment.

I don't see where that issue is. I'm trying to understand whether to vote for or against the subamendment.

The Chair: Thank you.

Go ahead, Ms. Girard.

Ms. Nicole Girard: Madam Chair, section 3 of the legislation sets out different circumstances or categories of ways that people are Canadian citizens. A separate section of the act, section 5, sets out ways that people can become Canadian citizens. As I've mentioned, you're under either one or the other. Under the legislation as it currently is, it's not possible to be both. However, in practical terms, the member is correct: The timeline is very important.

I can share with this committee that when I was working on preparing for the implementation of the 2009 legislative remedies, I did have persons in the provinces—I forget which ones—contact me on live cases soon after the implementation. They understood from the person they were working with that they were a Canadian citizen. They said that they had benefited from this legislative remedy that made them a citizen back to the date of their birth, and they wondered if that was actually what had happened.

Of course, we don't disclose any individual's information, but we had to confirm to the provinces in question that indeed the legislative remedies were retroactive and that the remedies were giving citizenship back to the date of birth. Then the other jurisdiction could take that information and could assess how it applied for the purposes of benefits to be extended to those applicants.

Mr. Tom Kmiec: Thank you. That's a pretty thorough explanation.

Do provinces and provincial agencies sometimes request information from IRCC on a person's citizenship status and how it was acquired, or do they just ask, yes or no, if this person is a citizen?

Ms. Nicole Girard: It happens from time to time. The cases and operations that I am aware of are not in my remit. I'm more concerned with changes to the legislation and the regulations.

The provinces would come to us, especially after the legislative remedies passed in 2009 and 2015 and persons were coming forward who were benefiting from the legislation, to understand whether the legislation was retroactive and to what point. That was because it's not every day that Parliament passes legislation that has a retroactive effect and that could have implications for the other jurisdiction in terms of other benefit applications that were being made.

Because we're constrained by privacy legislation, I wouldn't be permitted to tell a person in a provincial authority the specific circumstances around someone's citizenship acquisition, but it was usually sufficient for them to have it confirmed that yes, the legislation was retroactive for the categories and to what date. In this case, it was back to someone's birth. That's what they needed to know in order to be able to move forward.

● (1735)

Mr. Tom Kmiec: In this particular situation, it's the timeline that the subamendment touches upon that's most important, not the difference between right versus grant. That is not....

Ms. Nicole Girard: They're both very important. In practical terms, though, the timeline makes an important difference for the reason that the member has mentioned.

Mr. Tom Kmiec: I'm still looking at the subamendment. I'm trying to grasp why....

You are saying the right versus grant is important, but in the description you gave, because of privacy legislation, you can't disclose to a province or provincial agency that's communicating with the department.... They can just confirm the status—yes, the person is a citizen—and as of what date they were a citizen. I'm still uncertain how grant versus right is important in a situation like that, because that's in this subamendment. I'm trying to grasp why that is important.

The dates I understand. I just don't understand this difference between the two. If you don't disclose it to the provincial agencies, why is it important in the subamendment?

Ms. Nicole Girard: I'd like to come back to a different example. As discussed in the committee before, a person who is naturalized in Canada who immigrates and who's granted Canadian citizenship is able to pass on citizenship automatically to their child born abroad, who is considered the first generation born abroad, whereas currently, someone who's a citizen as of right—generally, that's someone who is born abroad—cannot.

That is an important distinction. It doesn't have to do so much necessarily with provincial benefits administration, but it is one of the very important reasons that it's important for the law to be clear and why this transitional provision, consistent with similar provisions in past remedies, is important.

The Chair: Go ahead, Ms. Rempel Garner.

Hon. Michelle Rempel Garner: I'm good. Thank you, Chair.

The Chair: Seeing no further debate on the subamendment, we will go for a vote. We will be voting on the subamendment tabled by Ms. Lalonde.

(Subamendment agreed to: yeas 11; nays 0)

The Chair: Now we have NDP-5 as amended. We'll go to Ms. Lalonde.

● (1740)

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

As I explained at the beginning, I would also be bringing another subamendment to NDP-5. I would like to propose a second subamendment.

I move that NDP-5, proposing to amend clause 1 of Bill S-245 by adding text after line 18 on page 1, be amended at paragraph 7.1 of subclause 4 by striking the the text after the words “subsection comes into force, a person” and inserting the words “who was born after April 16 of 2009 but before the coming into force of this subsection and who is a citizen under paragraph (1)(b) is deemed to be a citizen under that paragraph from the time that they were born if (a) at the time of the person's birth, only one of the person's parents was a citizen and that parent was a citizen under paragraph (1)(b), (c.1), (e), (g), (g.1), (h), (o), (p), (q) or (r) or both of the parents were citizens under any of those paragraphs; or (b) at any time, only one of the person's parents was a citizen and that parent was a citizen under any of the provisions referred to in subparagraphs (3) (b)(i) to (viii); or both of the person's parents were citizens under any of those provisions.”

Again, Madam Chair, as you know, these are very technical and complicated subamendments. This subamendment clarifies that a child born since 2009 who receives automatic citizenship due to the fact that their parent has a substantial connection is deemed to have been a citizen retroactively from the time of their birth, as opposed to only starting from when the bill comes into force.

This subamendment also ensures that the new (g.1) category, the former section 8, is correctly included wherever it should be in the amendments for consistency purposes.

[Translation]

Thank you, Madam Chair.

[English]

The Chair: Thank you, Mrs. Lalonde.

We will have to suspend the meeting for a few minutes because the legislative clerk has a question. There is some issue between the text he has and the text you read, so I will suspend the meeting for a few minutes so that we can work on that.

Thank you. The meeting is suspended.

• (1740) _____ (Pause) _____

• (1750)

The Chair: I call the meeting to order.

Mr. Dhaliwal, you have the floor.

Mr. Sukh Dhaliwal: Madam Chair, I want to commend the officials for the great work that they have done and for the intelligent answers that they bring forward to us. I'm sure that they will continue to do so until June 15 and that we'll be able to pass this bill.

Madam Chair, I see my watch is almost at 5:45, so I ask for adjournment of the meeting, please.

Mrs. Marie-France Lalonde: Let me just correct the record, please.

Mr. Sukh Dhaliwal: You can do that next time.

Some hon. members: Oh, oh!

Mr. Sukh Dhaliwal: You'll have more time.

Mrs. Marie-France Lalonde: No, please.

Madam Chair, just for the purpose of this exercise, I would like everybody to have a copy. I need to read it properly, if that's all right with my colleagues.

The Chair: Thank you, Mr. Dhaliwal.

I think that would be good, so that everyone has it. Let her read it, because there was some confusion about the text she read earlier. I will ask Ms. Lalonde to read the text, and then we'll be coming up to two hours at 5:56, so we can adjourn the meeting.

Ms. Lalonde, can you read the correct text for the subamendment?

Mrs. Marie-France Lalonde: Yes. Thank you very much. I apologize to all my colleagues for this confusion.

I would like to move a second subamendment to NDP-5. I'll read it.

I move that motion number 12307559, proposing to amend clause 1 of Bill S-245 by adding text after line 18 on page 1, be amended by substituting the following for the text of the proposed subclause 4: (4) Section 3 of the act is amended by adding the following after subsection 7: “(7.1) Despite any provision of this Act or any Act respecting naturalization or citizenship that was enforced in Canada at any time before the day on which this subsection comes into force, a person who was born after April 16, 2009 but before the coming into force of this subsection and who is a citizen under paragraph 1(b) is deemed to be a citizen under that paragraph from the time that they were born, if (a) at the time of the person's birth, only one of the person's parents was a citizen and that parent was a citizen under paragraph 1(b), (c)(1), (e), (g), (g (1), (h), (o), (p), (q) or (r) or both of the person's parents were citizens under any of those paragraphs; or (b) at any time, only one of the person's parents was a citizen and that parent was a citizen under any of the provisions referred to in subparagraphs 3(b)(i) to (viii); or both of the person's parents were citizens under any of those provisions.”

Thank you.

• (1755)

The Chair: Thank you. We have a subamendment. Just one second.

Thank you, Ms. Lalonde. The legislative clerk has just one quick question. I'll pass it on to the legislative clerk.

Please go ahead.

[Translation]

Mr. Philippe Méla (Legislative Clerk): Mrs. Lalonde, in the wording of the subamendment, you replaced all the text in section 4, meaning 7.1a), b) and c), with the text you proposed, which is 7.1a) and b). So, subsection c) would disappear.

Did you want to keep subsection c) or not?

The Chair: Mrs. Lalonde, you have the floor.

Mrs. Marie-France Lalonde: No, we would strike subsection c).

[*English*]

The Chair: I hope everyone is clear on the subamendment she has tabled.

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: I'm sorry, Madam Chair. Is proposed paragraph 3(7.1)(c) in or out? I understood it was out.

The Chair: It is out.

I'll make sure that the clerk distributes the exact text of the subamendment proposed by Ms. Lalonde to all members in both official languages.

With that, we have come to two hours in this meeting.

Is it the will of the committee to adjourn the meeting?

Some hon. members: Agreed.

Thank you. The meeting is adjourned.

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