



House of Commons
CANADA

Standing Committee on Citizenship and Immigration

CIMM • NUMBER 013 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Wednesday, June 21, 2006

—
Chair

Mr. Norman Doyle

Also available on the Parliament of Canada Web Site at the following address:

<http://www.parl.gc.ca>

Standing Committee on Citizenship and Immigration

Wednesday, June 21, 2006

● (1540)

[English]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): I guess we can get under way. We have somewhat of a lengthy agenda.

I want to welcome again today witnesses from the department—Mark Davidson, Alain Laurencelle, and Karen Clarke, who are here to assist us, I would imagine, on clause-by-clause a little later on.

Our first order of business will be the motions.

I'm ready to rule on the point of order raised by the parliamentary secretary, and I want to thank members of the committee for their input on this matter.

First of all, I find Mr. Siksay's motion in order. It was reviewed quite extensively. I think the parliamentary secretary had stated in the beginning that the motion as it stood, if we were sending it to the House as is, presupposed that extensive debate and witnesses had already been conducted.

We find that reviewing, studying, examining, inquiring can mean that the committee has considered, discussed, and debated the matter even if it were only for a couple of minutes. There is no rule that says a committee must start by calling witnesses before it can report. Committee members can discuss a matter among themselves without calling witnesses and then report to the House. If a committee feels ready to report to the House without calling witnesses, it can do so.

So Mr. Siksay's motion is in order.

Now, shall the report carry?

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Just before we do that, if this is a motion, it's not yet a report, and I think there are two options available to me. One is to appeal the ruling of the speaker to this committee, although I have a sense where that might go. The second aspect is the motion would then allow me to propose an amendment to that motion, which having considered I would want to do, to amend the motion, if I could. And I'd like to do it presently.

The Chair: You want to propose an amendment to the motion?

Mr. Ed Komarnicki: I would circulate the amendment to members, and perhaps I can get—

The Chair: You can give it to the clerk.

Mr. Ed Komarnicki: Now I'd like to speak to the amendment to Mr. Siksay's motion. The motion, essentially, is hardly a report in the sense that it has any hearing to it. If it goes before the House, it will

request a response back. But this amendment to the motion—I'm speaking to the amendment—

● (1545)

The Chair: There is a point of order.

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): Can the motion be read into the record first? I don't understand. Then he can go on with the explanation.

The Chair: Would the parliamentary secretary read the motion into the record?

Mr. Ed Komarnicki: Perhaps the clerk could read the motion into the record. The clerk would have the motion handier than I do.

The Chair: Do you have the motion?

The Clerk of the Committee (Mr. William Farrell): The motion is to read:

That the standing committee review and report to the House with respect to the issue of placing an immediate moratorium on the deportations of all undocumented workers and their families who pass security and criminality checks while a new immigration policy is put in place.

The Chair: Okay. Are you finished with your motion, Mr. Komarnicki, or are you continuing?

Mr. Ed Komarnicki: No, I want to deal with the amendment to the motion.

That amendment would essentially replace a portion and the motion would read:

That the standing committee review and report to the House with respect to the issue of placing an immediate moratorium on deportations of all undocumented workers and their families who pass security and criminality checks while a new immigration policy is put in place.

What I'd like to say is that because the committee is studying the issue of undocumented workers, in fact what should happen is that the committee will indeed do a proper review and then a report to the House, as opposed to directly reporting to the House in the way of the motion, and that it actually use this motion as an addition to the study that's being conducted for undocumented workers and the issue of moratoriums to be placed.

What I'm saying to this committee is that if we're going to do our jobs, if we're in fact going to make a report in the sense that the House can properly consider it, we ought to do what we're doing with the other issues relating to undocumented workers, and that is to combine this as a subheading of the main heading and then actually review the issue. There are two sides to that coin. Some people think it ought to be done and some people think it ought not, for various reasons. Some of these reasons should come before this committee. The fact that we are precluding ourselves from the benefit of that evidence and the benefit of that material when they're already doing a study I think is shirking our responsibility as a committee. It is certainly putting myself, as a member, in a position to have a report going to the House with no basis or foundation to that report. I think the committee ought to take its work far more seriously than it has.

I have certainly made the point that we should combine this particular motion with the study that we're proposing on undocumented workers, and if we were to adopt this amendment to the motion it would then preclude the report from going directly to the House. It would actually cause us to do a report in the sense that it's meant to be done. It is meant to be based on something. It's meant to have the recommendation, if you will have it, by way of motion, based on something this committee has seized itself of.

I realize that you may say perhaps there may be some other evidence in some other committee, at some other time, in some other place, but then we should have that other evidence or other material brought to this particular committee for the purpose of its review, for the purpose of its decision, with the opportunity, I might add, for additional witnesses to be called. By the same token, I think if we're going to do a report in the proper sense of a report there should be an opportunity for a dissenting report, as opposed to a unanimous report.

In order to do a dissenting report, there would have to be some basis upon which to make a dissenting report. That would mean the opportunity of having material presented to this committee, and eventually to the House, that has some basis or foundation to it and upon which I could write a dissenting report. Obviously, I would be railroaded, so to speak, in having this motion in some sort of a vacuum, without any evidence being called, sent to the House without an opportunity, on my part, to be able to present various points of view and to write an opinion on it.

When we look at Monpetit and Marleau, it actually refers quite extensively to what a report ought to look like. It envisions a fairly stringent procedure where the committee chair eventually signs his name to the report, saying we've met the requirements of the report and this is what we're putting to the House. It also gives the opportunity for other parties, including someone like myself, to write a dissenting report, but it has to be based on something. It can't be based on thin air.

What we're asking this committee to do is to take a motion that's passed by someone on the sheerness of a motion without anything else. If we were to ask, what is the evidence before us, the only evidence we have before us is the fact that a motion was put forward before this committee, nothing else, and we're calling that a report. I think we're doing ourselves an injustice in this case and in future cases if we wish to take that.

● (1550)

It's one thing if you have unanimous consent because you wish to proceed on that, but it's another thing to take a motion out of thin air and have it brought before us as a report, when we all know that in fact it is not a report under any definition that we can find anywhere, including the simple Oxford dictionary, which defines what a report might look like.

So I'm saying we should consider the amendment to the motion, which actually puts it where it should be. It should be before this committee, by way of a study and a review, as we are doing with the other issues, because they are not technical issues; they're not anniversaries. This is a very substantive issue that relates to and has effect on the major cities of Canada, on various ethnic groups, on various immigrants, on those who are undocumented. It is a very, very critical issue. It is a substantive issue. It is an issue of such importance that we need to do something relative to that area, and not do it in a knee-jerk reaction.

We don't need to do it on the basis that we will take this step without doing the necessary due diligence to get there. I think this committee owes it to itself, and certainly owes it to an individual member like myself, to have a proper study.

There's nothing to be gained. By putting this motion in the form that it is to the House and we will not get a reply for 120 days, particularly at a time when we're adjourning for the summer recess, this motion is not going anywhere. In fact, if the same response is given to this motion as the degree of due diligence that's given to it to pass it forward, the response will be in kind, in like manner, and will not in fact solve anything and will not bring this matter to a place where we can actually make some reasonable, reasoned, cogent arguments and basis upon which a recommendation can go forward.

I think it's really an abuse of this committee's authority and what it's sanctioned to do to proceed in this fashion. That's why I would ask the members to consider an amendment to the motion to say the subject matter is important, the subject matter is real subject matter that needs due consideration, but we need to review it along with the other things we're reviewing in that same area. Then we can make a reasoned, logical recommendation to the government for some action based on what we have heard.

As we all know, there is more than one side to every story. There are two sides to every story. We want to hear what those two sides are and make a decision that's based on reason.

So I would submit to all honourable members to consider whether this motion is really necessary, to go to the House in the form it is in. It will eventually get there, and it can be in the form in which we have it here, after due consideration and due deliberation.

There is no useful purpose to have it to go to the House at this time in the form it is in. It can go to the House in essentially the same form, if that's the conclusion we come to after we hear all of the appropriate evidence and have the opportunity for someone like myself and others to call witnesses, interest groups, or stakeholders to put their cases forward.

If I disagree with the conclusions and it is truly going to be a report, then I ought to have an opportunity to write a dissenting view for the consideration of the chair to present to the House, to present the other side of the story. This, in the form it is in now, would not allow that.

So I would ask the consideration of the members to amend the motion to preserve the substance of it, but to put it to the committee for study along with what we will be studying in position number two. We decided that refugees would be the first thing we'd study, and the second thing we were going to study was undocumented workers.

It certainly captured national attention, so its importance is there. This is not a procedural thing; this is a substantive matter that needs our due and proper attention. So I would ask that the committee consider in good spirit that this is an issue, and the substance of the motion is fine, but the manner in which we want to take it to the House, without due deliberation, is not.

This motion would allow us to come to the same place, perhaps unanimously, after we have heard the evidence and the particulars. It's such a significant issue that I would even move it ahead of the refugee issue, if I had my way, in terms of us returning in the fall to consider this matter—because it needs to be considered; there's no question about that.

When you look at what has happened in the former regime compared to what has happened here, it's an issue that government has struggled with. Certainly it's something that is of significant substance that I would urge all parties to treat with the due respect that I think it deserves.

Thank you, Mr. Chair.

•(1555)

The Chair: Thank you, Mr. Komarnicki.

I think we have two more people who wish to have a word on this: Mr. Siksay, and then Madame Folco.

Bill.

Mr. Rahim Jaffer (Edmonton—Strathcona, CPC): I have a point of order, Mr. Chair.

I didn't realize this motion was going to take so much time. We do have our departmental officials here, and I think the bill takes precedence over this motion. I'm not trying to say not to have a debate on this motion and the amendment; all I'm saying is that if we have the will of the committee, we could go to the bill first and come right back at the end to the motion, because the officials are waiting.

I leave the choice to the committee, but usually that's the procedure we'd follow.

The Chair: Well, I'm in the hands of the committee on that one.

Mr. Siksay.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair.

I'm ready to proceed with this, if I'm recognized.

The Chair: You're ready to proceed with your point of order?

Mr. Bill Siksay: Yes. No, with the discussion on this motion.

The Chair: Okay.

Mr. Bill Siksay: Thank you, Mr. Chair.

I don't support the attempt to amend the guts out of this motion, Mr. Chair.

With respect to the parliamentary secretary, I don't for a second believe that I'm shirking my responsibilities, that I don't take the role of the committee and my responsibilities here seriously, that I'm trying to railroad anybody, or that I'm doing a knee-jerk reaction. I really must take exception to some of the expressions the parliamentary secretary has used.

This is a very important issue that's affecting many Canadian families, many workers in Canada, and many of our communities. All this motion is doing is asking the government to put a moratorium on deporting people who have been making a contribution to our communities and to our economy and whose families are settled here in Canada until there's a review and a policy in place that deals with their circumstances. I think that's entirely a reasonable thing for this committee to suggest to the government. It's a recommendation to government. It's not a full study. We have, in fact, committed to doing that full study later on, but in the meantime, I think this is an entirely appropriate action to take.

Especially in Toronto but also in other communities, we've seen families being uprooted and workers in very key sectors of the economy—workers needed by companies on building projects, among other places—being deported. They're being uprooted and sent away, and this is an unacceptable situation.

I don't for a moment accept that this is somehow shirking our responsibilities; I think this is owning up to our responsibilities and suggesting to the government a reasonable course of action, given the seriousness of the situation. Yes, we'll do that study, and we'll perhaps come up with more extensive recommendations. We certainly hope we will do that when we return in the fall, but in the meantime, this is a very necessary course of action. I'd urge other members of the committee to defeat the amendment and support the original motion.

Thank you.

The Chair: Thank you.

We have one more submission from Madame Folco, and then we'll get into clause-by-clause study of our bill.

[Translation]

Ms. Raymonde Folco (Laval—Les Îles, Lib.): Thank you, Mr. Chairman.

First of all, I want to say that I understand the parliamentary secretary's point of view. It is always important to hear both sides, as he mentioned, and to study an issue in depth.

However, I wonder if there are not two possible solutions that would be half way between what the parliamentary secretary is requesting and what Mr. Siksay suggests. I would have two proposals to make which are not mutually exclusive.

First of all, could the committee send to the House a motion rather than a report? I would like the clerk to comment on the technical aspect and to tell us if it would be possible.

Secondly, I too believe it is important to study this issue in depth in the fall, if everyone agrees to make this our top priority. I also agree, given what the parliamentary secretary just said, that there might be major technical problems. However, the motion is not about technical considerations, it is about human beings and families that are being separated. These human beings are being hastily deported, people are losing their jobs and employers are losing their workers.

There is certainly a substantive issue that goes much deeper than just the issue of those individuals who have been deported or who will be deported very soon. If we look at what is before us today, I wonder if it is possible for the Committee to pass a motion simply asking the government to stop the deportation of this category of people pending the report of this Committee. This report would be more or less along the lines of what the parliamentary secretary envisages.

In other words, I am not opposed to undertaking the review that the Parliamentary Secretary proposes. However, there is an immediate problem that is affecting human beings and we have a responsibility to deal with the real tragedy that these people are going through. How might we deal in depth with an issue and protect, at least for a limited time, people who are being arrested and who will be sent away very shortly?

I would like our clerk to respond on the technical aspect I have raised.

● (1600)

[*English*]

The Clerk: Well, as of...

Mr. Lee wants to speak first.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): You have a minute for me; I know that, Mr. Chair.

The Chair: Let's try to do this fairly quickly, because we have clause-by-clause consideration waiting here, and we can vote on this amendment—

Mr. Derek Lee: I wouldn't want to take extra time, Mr. Chairman, debating whether I'm going to speak, because I think I will now that I've been recognized.

I just wanted to point out that this particular motion, while it's well intended—

The Chair: It's on the amendment.

Mr. Derek Lee: It's on the amendment, yes; it deals with...on the amendment?

The amendment is actually an attempt to push down the road the analysis of the policy issue, to review it before reporting, so if it's just that—

The Chair: We've already indicated that the motion is in order.

Mr. Derek Lee: Good. Well, it's just on the motion; it's simple, and that would push it down the road.

I'll shut up now and you can put the motion, if you will.

The Chair: We're talking about the amendment. The motion has already been ruled on.

Are we ready for the question on the—

Ms. Raymonde Folco: Excuse me, Mr. Chair. I've asked for an answer on the part of the clerk on the technicalities of what I've asked for. I would like to get some information on that.

The Clerk: The experience with this committee all last year, when we must have adopted five motions the same way, was that then we made it a report back to the House. That's how the committee has been acting, and it's in the proper form. We make a recommendation, and then the committee adopts it as a report to the House and then orders the chair to report it to the House.

● (1605)

Ms. Raymonde Folco: If I wanted to make a motion that this committee ask the government to stop the deportation, is this something I would do after and if this particular motion is defeated? Is that correct?

The Chair: You'd have to give notice of motion, yes.

Ms. Raymonde Folco: I'd have to give notice of motion.

Mr. Ed Komarnicki: Is the clerk saying in effect that a motion pure and simple, as suggested by Madame Folco, actually goes to the House as a report and has all of the incidences to it of Standing Order 108, which would be still subject to the same issues I raised as being an objection, because—

Ms. Raymonde Folco: I'm sorry, Mr. Komarnicki, but let me add to that. It would not rule out the suggestion you made earlier for the fall. On the contrary, it would add to it.

Mr. Ed Komarnicki: Accepting this presupposes that we take a course of action now, or suggest that the government do so, without having heard a shred of evidence of any kind. That's why the amendment would say, before a report goes to the House with a recommendation, that there be a basis for that recommendation, which we don't now have before this committee.

I still feel that it doesn't really address.... If it's going to go in the form of a report, it's going to have all of the incidences of Standing Order 108 that the motion proposes in the first place. My amendment would suggest that it not go forward as a report to the House, but rather await a proper report when we give it due consideration in September. I'm saying in effect it would not cause us any essential delay. The government has not made any more deportations and has taken due consideration, as past policy has shown, and the government is already taking into consideration humanitarian and compassionate grounds as we speak

I'm saying that before we put a motion forward, we should really deal with the amendment and put the matter to the committee, to study along with the undocumented workers, and have a report in the fall that actually goes to the House for a decision but has some basis upon which we can proceed and go forward. My sense is that even a watered-down motion still goes to the House by way of a report, accomplishing the same thing without a shred of material before this committee.

I would still ask this committee to support the amendment and do this in the proper fashion.

The Chair: What the clerk was saying.... The reason we felt Mr. Siksay's motion was in order is that there were numerous reports that have gone to the House: the 16th report, on November 17, 2005; the 15th report, on November 17, 2005.... Numerous reports have gone to the House under a similar heading.

Mr. Ed Komarnicki: Then may I say to the clerk.... I'm not sure whether the clerk reviewed Marleau and Montpetit and Standing Order 108. We can do anything we want as a committee, if we agree. For instance, Mr. Telegdi's motion can go to the House by way of a report, because it's not something that's contentious, and we all agree and think it's a good thing. We can have those kinds of things go forward. But to say it's pursuant to Standing Order 108 and to say that it's pursuant—

Mr. Blair Wilson (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): On a point of order, the chair has ruled. Why are we debating?

The Chair: What we're going to do now is vote on the new motion, the amended motion, "That the standing committee review and report to the House with respect to the issue of placing an immediate moratorium on..." Well, you have the motion.

(Motion negated [See *Minutes of Proceedings*])

The Chair: Shall the report carry?

Some hon. members: Agreed.

Mr. Ed Komarnicki: Just before, I want to make a motion—

The Chair: That is the motion that was already ruled on.

Mr. Ed Komarnicki: I want to speak to the motion.

The Chair: But it's already been ruled on.

Mr. Ed Komarnicki: Yes, the motion can move forward, but if it's going to go forward as a report, Mr. Chair, which we say it is, then I would like to have the opportunity to have a dissenting opinion to the report. Certainly the report shouldn't go to the House until I've had an opportunity to write why I feel it should not go in the fashion that it's going, because I think it's inappropriate. It would be up to this committee and the chair to allow a dissenting opinion to be put forward with the report.

• (1610)

The Chair: Yes, the clerk informs me that's in order.

Please so do.

Mr. Ed Komarnicki: Yes, I would like to so do. It would seem to me appropriate because I will mention in my opinion, if I haven't had the opportunity to hear one shred of evidence, that it is even awkward or more difficult to write a dissenting report and that the committee should give me at least the opportunity to call some people to deal with the fact of the dissent in the report. Otherwise I'll be writing it in a vacuum, based on procedure, simply because I have nothing before me to base it on.

The Chair: The question, then, is whether we can append the dissenting opinion to the report. Agreed?

Ms. Raymonde Folco: Excuse me—I wanted to make another provision.

The Chair: Let's just deal with this first, and then we can—

Ms. Raymonde Folco: I am dealing with this, Mr. Chair; that's exactly the point.

The Chair: Okay, go ahead.

Ms. Raymonde Folco: I'm not against Mr. Komarnicki or anyone else making a dissenting report, of course. However, I would like to remind Mr. Komarnicki—because he's obviously forgotten that tomorrow is the last day—that if anyone wants to table a report, it has to be done before tomorrow night.

I would also suggest very strongly that we give a deadline—I'm sure Mr. Komarnicki's never thought of that—by which he must give his dissenting report, so that we can table both the main report and the dissenting report at the same time to the House, bearing in mind that the House will rise tomorrow evening.

The Chair: Do you mean the dissenting report would be an appendage to the report?

Ms. Raymonde Folco: Exactly.

The Chair: Yes.

Ms. Raymonde Folco: Bearing in mind that the House rises tomorrow evening....

Mr. Ed Komarnicki: The motion didn't say that we report to the House during this sitting; we can report to this House now or in September, and I should be given a reasonable opportunity to write the dissenting report.

Ms. Raymonde Folco: The whole point of this, Mr. Komarnicki, is to stop the deportation of people. We're not going to wait until September to ask the government to do this.

Mr. Ed Komarnicki: It would only be reasonable to give an opportunity to write a dissenting report beyond whatever time the House adjourns. Certainly it would seem logical to perhaps put a limitation on it, but not a 12-hour or 24-hour limitation.

The Chair: Mr. Telegdi.

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): Mr. Chairman, one could say that the committee has had problems with the parliamentary secretary's report before on this committee, particularly when they want to write minority reports to the committee. I remember the same thing happened at some point last year.

Be that as it may, the reality is what we're trying to do is to get this report to the House. If the parliamentary secretary were really keen on writing a minority report, he would have been better off to have supported the motion on Monday, because I think it's very much the intent of this committee that this report be tabled in the House before we go for break.

The reality is that the previous committee has heard all sorts of evidence on this particular issue. We heard about it in committee; we heard about it as we went across the country. I dare say that if it had not been for the inopportune election, if you will, this issue would have been addressed; it was, as I mentioned before, a top priority for the previous Minister of Immigration. When we had the present Minister of Immigration, I saw some hopeful signs in his looking at this whole issue of undocumented workers.

One thing we did say as well is that instead of dedicating resources to rounding up undocumented people and getting them out of the country, the government essentially should focus on something everybody on the committee agrees on. We've got two or three thousand criminals who should definitely be rounded up, and priority should be given to them, so the government officials can continue in that, but we need to find out the extent to which we are cutting off our nose to spite our face if they continue with the deportations. We're taking people who are contributing to the economy. They're keeping the economy moving, they're paying taxes, and they're settled here. They will be greatly missed by the economy.

The committee has always been on this issue, and I think we could all agree that we should have a priority on those two or three thousand people. Those are serious criminals that we really want to get rid of, as opposed to getting rid of the bricklayer or the carpenter or the mechanic. That's the message that we want to see happen.

You cannot say you want to add a report and you need so many days to frustrate the will of the committee. It would have been better had you not objected to the motion, which was proper and was found to be proper; then you would have had some more time to do that.

The fact is that tomorrow is the final day, and we want to leave a very strong message with the government that we want the deportation of contributing members of undocumented workers stopped.

• (1615)

The Chair: Mr. Komarnicki, do you have a final submission?

Mr. Ed Komarnicki: There's no question that the government has treated with humanitarian and compassionate grounds those that are undocumented. There are many of them; they've contributed significantly, and we've talked about the issue of the need for the system itself to be looked at. That's what we were saying we were going to do to ensure that these individuals who are great contributors to our society can come in legitimately and in the proper channels.

There needs to be a way found to deal with the situation as we have it on the ground. Everybody understands that it is a significant and important problem, but the previous government has not done any fewer deportations than have been taking place here. Certainly all due consideration has been taken into account.

This motion had been put forward, only to be pulled from this committee after it sat here for maybe a week or two, if I'm not mistaken, by Mr. Siksay, and then put down unannounced to the steering committee, for whatever reason I don't know. It was jiggled with two or three other motions. Then it resurfaced here just recently, on Monday, when I took the objection, which was the first time there was an opportunity to object to it—on, I think, appropriate grounds—and the ruling came the first meeting after, so we're talking a pretty rapid succession.

Let me tell you that everyone in government and on sides opposite is aware of this issue. Outside of trying to make some extra noise on this issue, given that the House is adjourning and rising in very short order, I think that it would not change a whole lot of matters to have it go forward in due course.

In fact, if I'm not mistaken on this particular motion—and it may have changed since it came from the subcommittee—I think the request was that the House report back to this committee after 120 days. I'm not sure if that's still being pursued, but it was pursued initially.

Mr. Bill Siksay: That wasn't part of the reasoning.

Mr. Ed Komarnicki: I'm not sure if it was part of the reasoning or not, but that was part of what was in play when the first portions were put forward. If it's not asking for a report back, then it's nothing more than an opinion and not asking for any response back. I understand that initially there was a request to that degree—so if there isn't a request even for—

Mr. Bill Siksay: Point of order, Mr. Chair. Information is being promulgated, so we should be clear—

Mr. Ed Komarnicki: If there isn't a request back from the House with respect to this report, where is the point?

I don't know what's reasonable for a dissent, but it will all be in the hands of this committee, because obviously what I'll be saying in my dissent, essentially, is that's not the way to proceed—even if the committee has in the past—because you don't make reports in vacuums. Where I come from, you make them based on facts and opinions and positions, and if you don't expect a report back from the government, why are you making the report in the first place, when the reasoning behind it was to get something back from the government? As I understood it in the first place, if we're not asking for a response back, what are we really doing and what's the big hurry to get a dissent filed before the House rises? If that's what the committee wants to do, I'll do it, but I'm certainly not happy with that state of events or how we are proceeding on an issue of this importance.

• (1620)

The Chair: We can call for a vote for a dissenting opinion to the report, or I can continue to recognize people who want to speak. Is it possible to put this to a vote now, so that we can move on to clause-by-clause consideration? Are we agreed on that? Okay.

All in favour for a dissenting—

[Translation]

Ms. Meili Faille: I would like to mention a small detail, Mr. Chairman. In the French version, after the word "*subissent*", there should be the words "*avec succès*".

Ms. Raymonde Folco: Excuse me, Mr. Chairman, but I do not have a copy of what Ms. Faille is talking about.

[English]

The Chair: Can you repeat that, Madame Faille?

[Translation]

Ms. Meili Faille: After the word "*subissent*"

[English]

In the motion itself, the English and the French don't mean the same thing.

[Translation]

The words "*avec succès*" should be added after the word "*subissent*".

[English]

The Chair: Are you referring to Mr. Siksay's motion that we should add in French...where, again?

Ms. Meili Faille: It's after the word "subissent".

The Chair: It's after the word "subissent". Maybe you could point it out to us in the—

Ms. Meili Faille: It's just a detail. It's just that it doesn't mean the same thing.

The Chair: Maybe the clerk can square that away with you, and in the meantime I don't think there's anything preventing us from calling for a vote.

There's a point of order from Madame Folco.

Ms. Raymonde Folco: I would like to hear from the translators following what Madame Faille just said.

First of all, I'd like to hear from Mr. Siksay. Does he mean people who pass in the sense of getting 51% of the marks—that kind of passing—or does he mean people who are just going through the process, which is what the French says? I'd like to hear which of the two, the English or the French, is the one Mr. Siksay wanted to present.

Mr. Bill Siksay: I think Madame Faille's suggestion is well taken. I would support her suggestion as a friendly amendment to make it equivalent in English and French.

Ms. Raymonde Folco: What would it be?

[Translation]

M. Bill Siksay: There would be the words "*qui subissent avec succès*".

[English]

The Chair: All in favour of the friendly amendment to make it equivalent in English and French?

(Amendment agreed to [See *Minutes of Proceedings*])

Hon. Andrew Telegdi: Mr. Chair, I have a point of order. Are we voting to allow a dissenting report? We actually dealt with this as a committee before. The last time a parliamentary secretary put in a dissenting report, we said they could put in a dissenting report and we'd attach it as long as it was ready to go when our report was ready to go, which was tomorrow, and that's exactly what happened. The committee didn't even see the report, if you recall, Mr. Clerk.

The Chair: Are you saying you want us to be in favour of a dissenting opinion being attached?

Hon. Andrew Telegdi: That's right, as long as it doesn't delay tabling the report tomorrow.

The Chair: So it would have to be in the clerk's possession tomorrow by nine o'clock or ten o'clock.

The Clerk: The tabling is at ten o'clock, so it's by nine o'clock, in both official languages, and sent electronically.

The Chair: It will be at nine o'clock, in both official languages, and sent electronically.

Hon. Andrew Telegdi: That's just what happened the last time when we accommodated the parliamentary secretary with the dissenting report.

The Chair: Okay. We'll call for a vote to attach the dissenting opinion to the report. All in favour?

Ms. Raymonde Folco: Just one minute. Could we have the text, please, Mr. Chair—the text exactly as we are voting on it?

The Chair: The text of Mr. Siksay's...?

Ms. Raymonde Folco: No, no. It's to attach the dissenting report, but there's another part to it after that: within.... I just want to make sure we're voting on the same text.

The Chair: Okay, we're calling for a vote for a dissenting opinion to be attached to the report, for that report to be delivered to the House at tomorrow morning's sitting, for it to be sent to the clerk tomorrow morning electronically, and for it to be attached to the report to be presented in the House at that time. Is that what we're voting on?

(Motion agreed to [See *Minutes of Proceedings*])

• (1625)

The Chair: Now we go to clause-by-clause study.

Mr. Bill Siksay: Did you pass the main motion yet, Mr. Chair? We've dealt with amendments, but we haven't done the main motion as amended.

The Chair: Okay, the main motion. A recorded vote has been called for.

(Motion agreed to: yeas 7; nays 4 [See *Minutes of Proceedings*])

The Chair: We'll go on to the bill.

(Clause 1 agreed to)

(On clause 2)

Ms. Raymonde Folco: I'm sorry to be such a nuisance....

The Chair: For clause 2, we have some amendments. The first one is by the Bloc—Madame Faille, I would imagine.

The amendment is that Bill C-14, in clause 2, be amended by replacing lines 17 to 26 on page 2 with the following:

was made abroad after February 14, 1977 if the Quebec authority responsible for international adoptions advises, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions.

Do you want to move that motion, Madame Faille?

[Translation]

Ms. Meili Faille: I move that bill C-14, in Clause 2, be amended by replacing lines 17 to 26 on page 2 with the following:

was made abroad after February 14, 1977 if the Quebec authority responsible for international adoption advises, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions.

[English]

The Chair: Mr. Komarnicki.

Mr. Ed Komarnicki: The amendment in effect would eliminate the department's ability to prevent adoptions of convenience. No one from the Quebec government asked for the removal of safeguards against illegitimate adoptions or adoptions of convenience. In fact, the government has consulted with the Province of Quebec on this provision. They are in support of the safeguards that this motion proposes to eliminate, and we are opposing it for that reason. So we will be voting against that amendment.

The Chair: Madame Folco.

[Translation]

Ms. Raymonde Folco: I am all in favour of the rights of the provinces, especially those of my own, Quebec.

However, I would like to hear Ms. Faille explain to us why she believes it is necessary to add this amendment, despite the fact that the rights of the provinces are clearly recognized in Clause 2 of the Bill, namely in subparagraph 5.1(3), where the text reads:

- (3) The Minister shall on application grant citizenship to a person [...] if
 - (a) the Quebec authority responsible for international adoptions advises, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions; and

I do not understand. It would seem that Quebec's authority is clearly recognized in the process, under proposed paragraph 5.1(3) (a). I would like Ms. Faille to explain why she believes it is necessary to add this amendment.

• (1630)

The Chair: Madam Faille.

Ms. Meili Faille: Indeed, it is not an addition but rather a substitution, precisely because there was a paragraph to this effect. After consultation with the legislative clerk, we realized that the bill already covers this possibility of revoking a person's citizenship if he or she obtained it without a legitimate reason.

This section was included for the very purpose of reinforcing that. When we consulted the various interested groups, they very simply told us that they failed to see the relevance of this section.

[English]

The Chair: Mr. Komarnicki.

Mr. Ed Komarnicki: I wonder if the department could comment on that proposed amendment and their view of it.

The Chair: Mr. Davidson.

Mr. Mark Davidson (Director, Citizenship (Registrar), Department of Citizenship and Immigration): Thank you, Mr. Chair.

In working on Bill C-14 we have consulted quite extensively with all the provincial governments, and particularly with the Government of Quebec, in crafting this particular clause. As drafted in Bill C-14, it would include a safeguard to ensure that adoptions of convenience were not permitted. The amendment would remove that safeguard in the context of children who are being adopted by residents of Quebec.

The clear indication we have had from the Province of Quebec is that they support the necessity of protecting against adoptions of convenience and would support Bill C-14 as originally adopted.

The Chair: Thank you.

Mr. Siksay.

Mr. Bill Siksay: I wonder if I could ask the departmental folks if there's perceived to be some deficiency in Quebec's adoption law that it would allow for adoptions of convenience. Is that why this is required, or is it redundant to repeat that here if it's covered by Quebec's adoption law?

Mr. Mark Davidson: That provision is replicated in proposed paragraph 5.1(1)(d) when it also refers to adoptions of convenience, which would be the case for other adoptions. So this clause is not suggesting that there are more problems with adoptions of convenience of individuals destined for Quebec than for any other province. It's a problem across the board, therefore there need to be protections for individuals destined for any province, or for Canadians who are resident overseas and not coming back to Canada, where the provinces are not involved.

(Amendment negated)

The Chair: The next one is the NDP amendment.

Ms. Raymonde Folco: Excuse me, but don't we still have to vote on clause 2, seeing as the amendment has been defeated?

The Chair: There are more amendments. I think this amendment came from Mr. Siksay. It's identical to the next Bloc motion.

Mr. Siksay, do you want to proceed with that amendment, please?

Mr. Bill Siksay: Sure. I move that Bill C-14, in clause 2, be amended by adding after line 26 on page 2 the following:

- (4) Any decision of the Minister under this section may be appealed to the Immigration Appeal Division of the Immigration and Refugee Board.

I propose this motion specifically because of concerns raised by the Canadian Bar Association and others, who want to ensure that there is an effective and accessible appeal process for people who are denied citizenship under the provisions of this bill. That's why this motion is here.

• (1635)

The Chair: Thank you.

Mr. Komarnicki.

Mr. Ed Komarnicki: I'd like to make a point of order on this particular motion. I'll try to put it in the context of where I'm coming from and be more particular as to why I think it's out of order.

What it plans to do—if not directly then certainly indirectly—is put in a provision for an appeal to any refusal of citizenship, and the appeal would be to the Immigration Appeal Division, which is provided for under the Immigration and Refugee Protection Act. Presently, if you go to that act, there is no provision for an appeal, so that act would have to be at least incidentally amended to give any kind of credence to this.

It would be like me saying that the body that has authority under a particular statute also has to consider things I'm interested in, and the only way it can have jurisdiction to consider those things I'm interested in or that I'm saying under this statute is by amending the other statute to allow for hearings to come from these types of decisions under the foreign adoptions act to the Immigration Appeal Division.

It would absolutely require an amendment to that act. The rules and procedures are quite clear that at the second reading of a bill you can't have either an amendment of the parent act, or an amendment of another statute.

Now, this would at least contemplate an amendment of IRPA. It would need to do that—

The Chair: Let me ask the officials here. I think you're right on this, but would the refugee board have any jurisdiction over adoptions? If it required a change to the parent act, would that be in order? Can you do that?

Whether or not it's in order, of course, is for us to decide. I'm not asking you that, but can you appeal?

Mr. Mark Davidson: Thank you, Mr. Chair, for not asking that question.

We have reviewed this proposed amendment and have had discussions with the Immigration and Refugee Board on it. On the analysis they have given us, they feel that this amendment is incomplete. It does not provide the kind of procedural information that would be necessary for them to make a decision, nor does it spell out what the consequences of that decision would be.

The Immigration Appeal Division of the Immigration and Refugee Board under IRPA has no authority to grant citizenship under that piece of legislation. So certainly the analysis they have given us is that this amendment is very much incomplete.

The Chair: Sorry to interrupt you, Mr. Komarnicki.

Mr. Ed Komarnicki: It captures the point I'm making. We're saying something in the context of this act that can only be effective if we deal with another act, particularly if we want the appeal to go from this body to that body that is now jurisdictionally constituted to do hearings under that act, but has nothing to do with citizenship.

In a sense, if we put this in it's like a dead-end street. You're not going anywhere because you have to expand the jurisdiction of the other body to include an appeal under this section. That's something you can't do in second reading on a bill such as this.

I'll raise another point that would need to be considered.

The Chair: We would have to amend the parent act, IRPA.

Mr. Ed Komarnicki: Right. We would have to amend a statute other than this one anyway. For that reason, I think it's out of order. But I have other points of order I want to make on that.

• (1640)

The Chair: I'll go to Madam Folco first.

[*Translation*]

Ms. Raymonde Folco: Thank you, Mr. Chairman.

I too am of the opinion that it is difficult, if not impossible, with this Bill, to amend other legislation.

I would however like to put a question to our guests from the department. The appeal issue is at the very heart of this amendment presented by Ms. Faillie, or of that of Mr. Siksay, since they are the same.

With regard to the appeal issue, might some amendment be moved? I do not know if you are able to answer these questions, but if you are, how might we propose an amendment that would allow for an appeal of the refusal of citizenship in international adoption cases?

[*English*]

The Chair: Is that a question?

Ms. Raymonde Folco: Through you, Mr. Chair, they're waiting for you to—

Mr. Mark Davidson: Thank you, Mr. Chair.

The only way I can conceive of such an amendment would run up against the point the parliamentary secretary was making—that after second reading, such a provision would be outside the normal procedures of Parliament. We're obviously not the parliamentary procedural experts. You have your own experts for that.

The Chair: Mr. Telegdi.

Hon. Andrew Telegdi: It seems to me that under the act one can apply for judicial review. It wouldn't take a whole lot, in terms of a decision to turn someone down. I think we're in agreement on that. If that's the case, instead of judicial review you could say that the Federal Court could have appeal. That doesn't seem to make a whole lot of sense when you have the appeal division of the Immigration and Refugee Board, which has more expertise in this matter.

I really don't see what the problem is. Just as you have judicial review that people can apply for, why couldn't we direct them to the appeal division to appeal a decision? That would make it consistent with the Immigration and Refugee Protection Act. I think that's what legal counsel was presenting—try to make them consistent where possible.

The Chair: I have Mr. Komarnicki.

Mr. Ed Komarnicki: I made my full point on the matter of procedure. But to direct to Mr. Telegdi's point, certainly you can do it if you want to amend the other act or incidentally amend it through this legislation. But at this stage, that's not something we can do, because the bill came forward to this House with a main purpose and a main intention, and the main purpose and intention was not to provide an appeal process in a substantive form. Now, we may want to do that, but the government didn't present the bill in that way, nor are we able to amend another act to make an allowance for it.

The fact is that the judicial review process is always available to everyone, not by statute, but by other means. People can appeal on an administrative basis or on another basis to the Federal Court for a judicial review, and they do, in many cases, when an appeal is not provided. But that is a procedural matter. It's not a substantive appeal, as is suggested here, where you have a hearing *de novo* where you actually represent the evidence and so on.

While I'm on that point, if you were going to amend this act at this stage to have a substantive appeal process, as was discussed by the Canadian Bar Association, where you would actually have another hearing or a re-hearing of the matter, it would require additional expenditures and additional administrative personnel. And I think it would obviously constitute an expenditure of funds, and it's something this bill has not provided for and has not contemplated. As I read Marleau and Montpetit, if it's going to require an additional expenditure of funds or is going to become a charge in the public treasury, that amendment would not be allowable at this stage, after second reading, before we put it to the House.

There is no question; the kind of appeal we're talking about is a substantive one. It's one that actually would allow for lawyers and others to appear and present the evidence and new evidence—it's called trial *de novo*—so it's quite a substantive change to the way the process works and would involve additional people, additional facilities, and quite a new view.

And if you were going to do that in this area of the act, for this particular situation, you would have to ask what we are going to do for parents and grandparents. And what are we going to do for others who say, "If you're going to provide a level of appeal with a re-hearing in this case, how are we different, and why shouldn't we have the same process?" Then we're looking beyond the context of this bill, and we're looking at something far more major.

It's easy to make an amendment, but we need to think this thing through. My sense is that at this stage of the game, we're changing the very purpose and essence and context of this act in a way we never envisioned or thought to in the first place, and I say it can't be done.

From a point of procedure, I'm saying that this would be inappropriate at this time, not that it can't be done. It can be done under different circumstances, in a different way, and at a different time. If we want to get this legislation we've put forward through, then we should do it in the fashion it is in now. If we want to do something very different, then there is another time and hour and day for that, but not here, at this stage.

The government has the option of deciding if it wants to change the appeal procedure, of course. It can amend the act, or it can consequentially do it, but it needs to present the bill in that fashion here and now. It hasn't done that. This is so substantive that I think it's inappropriate, and on a point of order, I would ask that the amendment not be allowed as it stands in this case.

I can caution this committee that if it is allowed, it's a dead-end street. Who are you going to appeal to? Who is going to hear this? Who is going to provide the facilities? Who is going to provide the judges? Who is going to provide the hearing officers? Because there is no mechanism and no act that allows for that. That act is somewhere else.

• (1645)

The Chair: I have two more, and then we'll call for the vote on this.

Mr. Bill Siksay: On a point of order, Chair, I think I was on your list a while back. I would like to know your response to Mr.

Komarnicki's request for a ruling on whether this is in order or not. I think that would be helpful to us.

Mr. Ed Komarnicki: Yes, I think eventually it deserves a ruling on the point of order.

The Chair: This is what we're hearing arguments on. Do you have any submission to make on that, Bill? No? Okay.

We have Madame Faillie.

[Translation]

Ms. Meili Faillie: With regard to adoptions, I would simply like to know how many cases have been refused by the department at the citizenship stage.

[English]

Mr. Mark Davidson: The vast majority of these cases in the adoption context are for young children, and the overwhelming majority of those are approved. The refusals tend to be for individuals who are much older, and they're in the context of adoptions of convenience.

I believe that the total approval rate is in the order of about 90%, and again, the approval rate for young children, for infants, is 99%.

[Translation]

Ms. Meili Faillie: Again, the argument with regard to excessive costs does not necessarily hold, given that there are other elements of this bill that might reduce the number of refusals. I therefore believe that, in the interest of children and parents...

I do not know if you recall the statement that was made to the effect that parents are subject to various control measures, must supply a lot of information and fill out numerous questionnaires.

If the provincial authorities have not discovered cases of problem or convenience adoptions and if the acceptance rates are as high as that, then I would make this proposal for the sole purpose of granting parents the same rights as if they went through the immigration process. But given that there are hardly any refusals, there would not be any excessive costs tied to this.

You could perhaps identify a committee that might examine this issue.

[English]

The Chair: Well, I've ruled on the admissibility of it, and I'm told there are sufficient funds in the operating expenditures of the department to deal with the concern you raised, Mr. Komarnicki. I'll think we'll let it go to a vote and ask the committee.

• (1650)

Ms. Raymonde Folco: I'm sorry, excuse me.

Mr. Komarnicki, I want to say something, and I know you want to say something.

Mr. Ed Komarnicki: Obviously, I'm not going to debate the chair on his ruling, but I will want to appeal his ruling to this committee, to think about it further. I think the dollar issue may be a fair point, yes or no, and I haven't thought that through very clearly, but I do know this: the amendment we're proposing goes nowhere. If we want it to actually effect what you're wanting it to effect, it has to go somewhere. It has to amend another act, and it doesn't do that. If it were to do that, it would be out of order.

So either amend it and make it out of order, or don't pass it because it won't go anywhere.

I'm suggesting that this chair's ruling.... I would ask that it be appealed, that this committee as a whole overrule the chair on this issue, because it's getting us nowhere. So I'm asking that the—

The Chair: The member appeals the ruling by requesting that the committee vote on the motion that the chair's ruling be sustained.

Mr. Ed Komarnicki: I'm asking that the chair's ruling be sustained, and that we vote on that motion before we rule on the amendment.

Maybe somebody wants to speak to that.

The Chair: That the chair's ruling be sustained—all in favour?

Mr. Ed Komarnicki: I want to speak to it.

The Chair: It's not a debatable motion.

All in favour that the chair's ruling be sustained? Against?

The motion carries—

An hon. member: People are voting both ways, Mr. Chair.

The Chair: Okay, all in favour that the chair's ruling be sustained? Against?

(Motion agreed to)

The Chair: The amendment goes forward.

Is there debate on the amendment?

Madame Folco.

Ms. Raymonde Folco: I would like to add that from my experience as chair of a previous committee, I understood....

[Translation]

I had understood that an amendment entailing an additional expenditure on the part of the department and, therefore, governor in council authorization, would be inadmissible. Am I mistaken?

[English]

The Chair: If additional funds are required for a new expenditure, not an already authorized expenditure.

Ms. Raymonde Folco: Isn't that what Mr. Komarnicki is talking about?

The Chair: I will go to Mr. Davidson for this.

Mr. Mark Davidson: Perhaps, Mr. Chair, I can clarify that the Immigration Appeal Division does indeed currently look at—

The Chair: Are we talking about admissibility here of the...? It has already been ruled on. Admissibility has already been ruled on.

We'll just leave that where it is, and we'll move along to further debate on the amendment.

Mr. Komarnicki.

Mr. Rahim Jaffer: Maybe I'm the only one here who's a little confused with what's been happening.

• (1655)

The Chair: Join the crew.

Mr. Rahim Jaffer: I know Mr. Siksay is a reasonable fellow. He's putting forward an amendment that I think is a well-intentioned amendment. The only thing I fail to understand is if this amendment.... I think Ed touched on it, but I lost some of the things he was saying because I was not clear. Maybe I can refer to the officials. Even though this may be a well-intentioned amendment, by putting this in the current bill you were telling us it's not going to make any difference in the end how you guys approach it.

What I need to understand is whether it's going to make a difference if we amend it now and just move on from this thing. Or should it be rejected because it's not going to achieve...? I think we need some clarification. I don't know if I'm making myself clear. I'm just so confused now after everything that's happened. Maybe you can give us an indication, if we do pass this amendment, can something be followed up on? From what I was hearing, I was led to understand that whether we pass it or not, in the end it's not going to make any difference to the way you approach it as officials.

Mr. Mark Davidson: Perhaps I can explain a little bit more of the context of the Immigration Appeal Division in the Immigration and Refugee Protection Act. There are multiple clauses in that piece of legislation, and a number of provisions in the immigration and refugee protection regulations spell out the role of the IAD, what their responsibilities are, how they handle cases, in what context their decisions are made, who are called as witnesses, etc. Those provisions are quite lengthy and quite expressive about the context of those decisions.

This provision as a stand-alone leaves unclear whether they would have the jurisdiction to pick up these cases and actually proceed with them in the same way they would under the Immigration and Refugee Protection Act and regulations.

The Chair: Shall the amendment carry?

Mr. Siksay, further debate?

Mr. Bill Siksay: I want to ask one question of the witnesses, Mr. Chair.

Is this something that can be accomplished through the regulations by either IRPA or the Citizenship Act?

Mr. Mark Davidson: The authority for the Governor in Council to make regulations under the citizenship regulations flows from section 27 of the Citizenship Act, and there would be no regulatory-making authority. Likewise, IRPA includes a number of different regulatory-making provisions, but none of those refer directly to the grant of citizenship for adoptees.

The Chair: Mr. Komarnicki.

Mr. Ed Komarnicki: I'd like to ask Mr. Davidson as well, if we were going to make an effective appeal to the Immigration Appeal Division, you could spell it out clearly, but it would then have to amend either a regulation or the act as it now exists. The reason it's not doing that now is because it's ineffective. If it were to be effective, we'd need to touch upon those other pieces of legislation, and the moment we did, we'd be doing some kind of an expansion or an amendment to it. Am I right?

Mr. Mark Davidson: I would have to agree that the two ways of doing it are either amending IRPA or having a much more dramatic amendment to the Citizenship Act that would involve amending many different provisions of the act and would potentially lead to issues about the motion being inadmissible.

Mr. Ed Komarnicki: So I make the point again to this committee that however well intentioned it is—and I think for two reasons.... To do it properly, we could do it in a different setting by amending those acts, but not here. I still think the point that Madame Folco made.... Certainly, to do it properly is going to be a new expenditure or a different expenditure of funds to ensure it can be carried out.

For those two reasons, I think this motion should not be passed. I think it would be inappropriate. Also, it wouldn't accomplish what the committee intends to accomplish. I think proceeding through the means of this bill is not the place to do it, and therefore I think we should vote against that motion.

The Chair: Madame Faille.

[Translation]

Ms. Meili Faille: I would like to put a question to the officials who are here in the room.

At present, given that we do not have the regulations, we do not know how this will be applied. Will parents be advised to simultaneously present an application for permanent residency and an application for citizenship? That is what they will risk doing if there is no appeal and if the rights are not the same. I simply wish to ensure that that will be the case, in other words that parents will be able to present an application for permanent residency at the same time they make an application for citizenship.

• (1700)

[English]

The Chair: Mr. Davidson.

Mr. Mark Davidson: The way the bill is structured, and it's structured this way intentionally, is to leave the option to the parent to either apply for a grant of citizenship or to apply for a permanent resident status for the child. The reason is that in some cases the parent may want to maintain the potential for that child to keep his or her foreign citizenship. So that two-track option is intended. It's up to the parent or the adult adoptee to make that choice to apply through the citizenship or the immigration process.

The Chair: Mr. Telegdi.

Hon. Andrew Telegdi: I have a follow-up question. Could somebody apply simultaneously under both acts—apply for citizenship under one and apply for status under the other?

Mr. Mark Davidson: It's conceivable that someone might want to do that. Clearly, we would encourage them to make the choice,

because it would be a lot less work for them not to have to fill in applications under both provisions.

Hon. Andrew Telegdi: Mr. Chairman, that's what I'm getting at. It would be a lot less work for the government as well, if you could accomplish those things in one process versus two processes.

I can see the situation very well. If you get turned down in one, because you don't have an appeal to the appeal division, you're going to go with the other one in case you need to, as a safety thing. It ties up more resources for the government. It makes sense, in terms of what the lawyer said, to match them up as much as possible and eliminate the inconsistencies.

The Chair: Okay.

Mr. Komarnicki.

Mr. Ed Komarnicki: I raised that with the lawyer and asked him if that was a possibility. But whether that happens or not is not the issue here; the issue is that the amendment, as it stands, does not accomplish what you would like it to accomplish. The government didn't put a bill forward with the idea of a substantive appeal. That's something that could come under a different situation, through different pieces of legislation, or within the bill itself. It's not something we can do here, because it's amending another act. That's the point. Yes, it may be that two processes are used, but that's just the way it is.

The Chair: Okay.

Madame Faille, and, then, if you're ready, we'll call for the vote.

[Translation]

Ms. Meili Faille: Before voting on this amendment, I would like to know if either of these two procedures could prevent the entry of a child into the country. If the parents file a request for permanent residency as well as an application for citizenship, the two are concurrent. Will one of the two procedures prevent the child from entering Canada and prevent the adoption from being finalized and officialized in Quebec?

[English]

Mr. Mark Davidson: The short answer is no.

The Citizenship Act is about making people citizens and, by doing so, giving them the right to enter. The Immigration and Refugee Protection Act—I'm being rough here—is about allowing individuals to become permanent residents, and therefore they can come to Canada. So the two acts work in tandem. It's not a question of one superseding the other, or one act talking to the other act and that having an implication.

The Chair: Ready for the question?

Ms. Raymonde Folco: Abstention, Mr. Chair.

The Chair: Madam Folco abstains.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 2 as amended agreed to)

The Chair: The next one, of course, is identical to the NDP motion, so we'll just skip that.

Next we have the motion on page 4.

Madam Folco, are you ready to do your amendments?

• (1705)

Ms. Raymonde Folco: Thank you, Mr. Chair.

[Translation]

My comments relate to amendments L-1, L-2 and L-3. We could discuss each one of them in turn, but the same logic applies to all three age-related adoption categories.

For example, there are adoptions of children younger than 18 years of age, adoptions of young people aged 18 to 22, and, between the two, there are children who, when the adoption process is launched, are younger than 18, but have reached this age by the conclusion of the process.

It seems to me that for the latter two categories, namely those adoptees who are older than 18 and are therefore adults when they are accepted as adoptees, the applicants should be treated as adults under the legislation. This is where these sections come into play, for purposes of security and criminal record checks.

Therefore, amendment L-1 to Bill C-14, stating that "[...] be issued a certificate of renunciation [...] because there are reasonable grounds to believe that the person will engage in activity [...]", deals with the security and criminality checks that are normally carried out for adults.

[English]

In fact, it's the same logic that prevails for all three of the amendments. It's simply that they come in at different places within the act.

The Chair: Maybe we should stop it there, because all three amendments are inadmissible, according to the advice I'm getting. Amendment L-1 seeks to amend section 19 of the Citizenship Act so that certain prohibitions to the gaining of citizenship would apply to persons under proposed subsection 5.1(2), and the *House of Commons Procedure and Practice* states on page 654 that:

An amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act not specifically amended by a clause of the bill.

Since section 19 of the act is not being amended by Bill C-14, it is inadmissible to propose such an amendment. Therefore, L-1 is inadmissible. Amendments L-2 and L-3 have the same objective and also seek to amend sections of the Citizenship Act that are not amended by the bill, and they are also inadmissible.

So all three amendments, Madam Folco, are inadmissible.

Ms. Raymonde Folco: Before you rule on that altogether, Mr. Chair, I wonder if I could have a copy of what you just read out. Because quite frankly, I'm not a lawyer. I'm not sure I understand it.

The Chair: Yes, that makes two of us.

So we'll go on to amendment BQ-3 while Madam Folco's looking at that. That's on page 9.

Madam Faille, could you go to your amendment, please?

Mr. Ed Komarnicki: Sorry, Mr. Chair. Are we debating Madam Folco's motion?

• (1710)

The Chair: It's been rendered inadmissible.

Mr. Ed Komarnicki: Is that okay?

Ms. Raymonde Folco: I'm not accepting anything yet, Mr. Komarnicki.

I'm reading the text in French, and quite frankly, I really do not understand it. I wonder whether, from either our legislative clerk or our clerk, I could have some understanding. I certainly don't understand it. Perhaps other members of this committee understand it.

Could I could have a copy in English, as well, of why it's inadmissible?

The Chair: It seeks to amend section 19 of the act. The amendment is inadmissible if it amends a statute that is not before a committee, and that particular section of the Citizenship Act is not before the committee. So it cannot be amended if it's not before the committee.

So on that ground, I'm told by the legislative clerks that it is inadmissible, and the same would apply to amendments 4, 5, and 1, 2, and 3.

Ms. Raymonde Folco: Excuse me, but I understood that Bill C-14 is called "An Act to amend the Citizenship Act (adoption)", so could someone explain to me why the Citizenship Act is not before the committee?

Ms. Margaret Young (Committee Researcher): The bill does amend the Citizenship Act. Bill C-14 amends the Citizenship Act only in certain sections of the act. In clause 1, we find an amendment to subsection 3(1) of the act. Clause 2 provides a new section to go into the Citizenship Act. Clause 3 amends section 27 of the act, and clause 4 is a coming-into-force provision.

The amendments in question seek to amend sections of the Citizenship Act that the bill itself is not amending. This is the reason they have been found inadmissible.

The Chair: So they seek to amend sections the bill itself is not amending. Okay, Madam Folco?

Mr. Telegdi, you have a question?

Hon. Andrew Telegdi: Mr. Chair, I guess what I—

The Chair: I think the proper question here would be since it has been ruled by the legislative clerks that the amendments are inadmissible, are you challenging the ruling of the chair that they're inadmissible?

Ms. Raymonde Folco: Yes, I'd like to challenge it for the time being to give me more time to study this question, Mr. Chair. This is new to me, so I would like more time to study it.

The Chair: We have to vote on your challenge to the ruling of the chair. A member appeals a ruling by requesting that the committee vote on the motion that the chair's ruling be sustained. So you're challenging the ruling of the chair.

Ms. Raymonde Folco: Can I just explain why, in a few words?

[Translation]

The reason why I am challenging...

[English]

Mr. Bill Siksay: Point of order, Mr. Chair. Motions to sustain the chair aren't debatable.

Ms. Raymonde Folco: I'm not debating it; I'm explaining.

The Chair: We have to move on. You're appealing the ruling. In the interests of time, the ruling has been appealed, so we will vote on that.

The motion is that the chair's ruling be sustained. All in favour?

Mr. Ed Komarnicki: Mr. Chair, hold it a second. There's a point there, and I wanted to ask a point of order.

Hon. Andrew Telegdi: I want to ask a question. If we're talking about amending an act, we have a situation that right now regarding the security requirements for certain people entering the country—

The Chair: I have to interrupt here.

You're entering into debate here, and it has already been ruled that these particular amendments are inadmissible. The chair's ruling has been challenged, so now we have to vote on whether the ruling of the chair should be sustained. That's what we're going to do right now. We're voting on the chair's ruling.

● (1715)

Mr. Ed Komarnicki: Point of order, Mr. Chair.

It's simply this, and the clerk, I'm sure, can answer. When Madam Folco appeals the chair's decision to this committee, and the motion is to sustain the chair's ruling, which we will have to vote on, is the clerk saying that neither Ms. Folco nor anyone around this table can speak to the motion overruling or sustaining the chair and the reasons why we, as a committee, might or might not want to support the chair's ruling?

Is there no opportunity to debate the motion, not the ruling, but the motion presented to overturn? You're saying there's no debate on that at all and that it's a simple vote?

The Chair: We've already ruled that there's no debate on the ruling of the chair on that; when it's inadmissible, there is no debate on that. The chair's ruling has been appealed, so then you have to vote on the chair's ruling of whether or not it should be sustained, which is not debatable. I'm going to the vote now.

Shall the chair's ruling be sustained?

(Motion agreed to)

The Chair: We move on to page 9, which is Madame Faillie's amendment.

Madame Faillie, do you want to go to your amendment and speak to it?

[Translation]

Ms. Meili Faillie: This amendment is to proposed section 5.1. We want it to be stipulated that once the Minister has granted citizenship to an adoptee, the certificate be delivered within 30 days. This would conform to the practice that is presently in place in Quebec, where official documents are provided within 30 days. This rule applies in the case of adoptions.

The reason we would like to see this enforced is that there are a good many parents who, after having begun the first adoption procedure, wish to launch the second one. They are however prevented from doing so until the document is provided. If the document only arrives a year later, the process is delayed by that much again.

I would therefore like it to be stipulated that the document should be issued within 30 days of the granting of citizenship.

[English]

The Chair: Bad news: the same applies to your amendment.

House of Commons Procedure and Practice states on page 654:

For a bill referred to a committee after second reading, an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act unless it is being specifically amended by a clause of the bill.

Section 12 of the act is not being amended by Bill C-14. It is inadmissible to propose such an amendment. Therefore, BQ-3 is inadmissible.

[Translation]

Ms. Meili Faillie: You read it, but the interpreters did not have the text.

[English]

The Chair: Madame Faillie, are you asking if the inadmissibility is debatable?

[Translation]

Ms. Meili Faillie: The intent here is to refine the granting of citizenship. In the beginning, when I spoke with the legislative clerk, I wished to change the text. Let me give you an example. We wanted to include this in proposed subsection 5.1(1), where it is stated that the Minister shall grant citizenship...

[English]

The Chair: You can't do that.

A voice: Is she on BQ-4?

The Chair: Are you on BQ-3 still?

Ms. Meili Faillie: No, I just want to explain the process. When I was talking with the person helping me to draft this amendment... What I meant is that in the proposed subsection 5.1(1), where it says "the Minister shall on application grant citizenship", we should include the necessity of giving the document within 30 days.

The person helping me with this suggested that we do this instead, because it would be easier to understand.

● (1720)

The Chair: Well, it's correctly drafted, but it's procedurally not admissible.

Ms. Meili Faillie: Can we take this and include it in-between?

The Chair: I don't believe we can do that at this stage. It's probably in the correct place in the act now. But your amendment is inadmissible, so we have to rule it inadmissible.

[Translation]

Ms. Meili Faillie: May I table another amendment?

[English]

The Chair: You can table another amendment, but it has to be drafted and has to be submitted, so you can't table that amendment now. You can do it at report stage in the House.

[Translation]

Ms. Meili Fille: In this case, I counted on the clerk's office to have this intent indicated in the legislation. I am not a lawyer. I therefore relied on the recommendation made by the specialists. The intent was to include it here, but that would have made the text heavier, which would have adversely affected the report...

[English]

The Chair: I don't think we can do it at this stage, but you can do it at report stage yourself. When the bill comes before the House at report stage, you can do it then.

[Translation]

Ms. Meili Fille: I placed my trust in the clerk's office staff for the preparation of this amendment. That was the intent. Otherwise, I would not have changed this paragraph, I would have taken it and placed it...

[English]

The Chair: It's not the clerk's office; it's legal counsel that drafted it.

I don't think we can do it right here and now.

Ms. Meili Fille: We can do it at the report?

The Chair: Yes.

Ms. Meili Fille: But you know, if we do it at the report, it may delay the passing of the bill. I'm not sure the government wants that.

The Chair: I don't know; it may not get to the House of Commons.

Let's go to the next clause.

Is this a debate of the ruling?

Hon. Andrew Telegdi: No, just—

The Chair: Because the ruling has been made on this.

Hon. Andrew Telegdi: I'm not debating the ruling. What I'm trying to say is that maybe we should have a little caucus among our ourselves, because the way we are heading, there is no way this bill is going to go to the House tomorrow, and I think there's a will to get it through the House tomorrow.

The Chair: You want to adjourn for five minutes?

Hon. Andrew Telegdi: Yes, then we can caucus among ourselves.

The Chair: We're suspended for five minutes.

● (1720)

(Pause)

● (1730)

The Chair: We're back in session again.

Mr. Komarnicki.

Mr. Ed Komarnicki: We had some brief discussion. The clock has run out, so we're taking the position that this clause-by-clause should be suspended until the matter comes before the committee again in the fall. We will then review the various issues that have been raised to this point.

We're not necessarily going to gain anything by proceeding any further today. So if we can stop the clause-by-clause hearing, when the next meeting takes place in the fall we can bring forward this bill at the stage it's at. We may have an opportunity to look at some of the issues that are before us. Maybe in the end we can have a constructed bill that will work to everybody's satisfaction.

At this point I think we should suspend the hearing. It was to end at 5:30, and 5:30 has come and gone.

The Chair: Okay.

The bill is not going forward to the House this session, so there seems to be little point in proceeding beyond where we are right now. Is that what you're saying? Okay.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.