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Mr. Norman Doyle

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• (1100)

[English]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): Our meeting will now come to order.

I want to welcome all of you here today, as we continue our study on the loss of Canadian citizenship for the years 1947, 1977, and 2007.

We have two panels that we will hear from today. Our first panel will go from 11 to 12, and the second panel will go from 12 to 1.

I want to welcome our first panel. Appearing as individuals are Wendy Adams, Charles Bosdet, William Smith, and Christopher Veeman. And from the Canadian War Brides, we have Melynda Jarratt, historian.

I want to welcome you here today. I think you're familiar with how the committee operates, so I'll pass it over to you to begin your opening statements. I think Mr. Chapman will be introducing each of you.

Mr. Chapman, do you want to begin, please?

Mr. Don Chapman (Lost Canadians Organization): Thank you.

Wendy Adams came to me not too long ago. She is a Benner child. If you remember, the Benner decision was a unanimous Supreme Court decision granting citizenship to people born outside of Canada to a Canadian parent.

When Charles and I testified before the Senate, the response of Citizenship and Immigration Canada was to come in and basically cancel the Benner decision. In testimony just a few weeks ago, with Minister Finley, they said they had given great notice to people for loss of citizenship. Wendy is going to testify that this is not exactly true, because here she is, still affected by the Benner case.

Wendy.

Ms. Wendy Adams (As an Individual): Are we lost?

I'd like to start out by thanking you for having me here. It is an honour. It is my first trip to Ottawa, so I'm in awe. Nevertheless, are we lost? It was in essence the question I was asked. I asked myself this when I chanced upon the February 26 standing committee meeting hearings a few weeks ago. By virtue of several circumstances, my brother and I are lost. We are considered to be lost Canadians. This is how we came to be lost.

Our parents met in 1960 in Cold Lake, Alberta. Our mom was serving in the Canadian Forces as an MP, and our dad was in the U. S. Air Force. They married in 1961 and our mom left the Canadian Forces to be with our dad. Being in the military, our family moved often. In 1963 my brother was born in Peru, Indiana. I was born five years later in Colorado Springs, Colorado. In 1970 our dad left for a one-year tour in Vietnam and we moved to Canada to live with my mom's family. When he returned we moved to Omaha, Nebraska. Then in 1972 we moved to Spokane, Washington.

Knowing that the next orders my dad would receive could possibly be another isolation assignment where he would have to be away from us for another year, he decided to retire from the air force. With my mom's desire to live near her family and my dad's love for fishing, we moved to Canada. We arrived in the small oceanside town of Powell River, British Columbia, in 1973. I was five years old. We've lived in Canada for the past 34 years, and amazingly, for the most part, in one place. As children, when the topic of citizenship arose we knew we were born in the U.S. and held U.S. citizenship, but we had always been told by our parents that we were entitled to dual citizenship because our mom was Canadian.

At one time my brother even registered to vote until my mom reminded him that he hadn't yet applied for his Canadian citizenship. Aside from being left out on election days, we found that the citizenship papers were unimportant to us, as we could travel quite freely across the border at that time with photocopied documents, papers, birth certificates, and immigrant papers. Then September 11 came. The photocopied documents became a thing of the past and we would need passports and permanent resident cards to travel.

We decided it was time to apply for Canadian citizenship. We filled out our applications for proof of citizenship, had our documents verified for certificates, etc., and paid our fees, \$200 each. Our applications were mailed in fall 2004. Then we waited and we waited. After several phone calls and a year later we finally were able to talk to somebody in the immigration department. We were told our application had not yet been processed. Then we waited some more. Finally, in November 2005 we received a letter stating that our applications were denied and we had missed the August 14, 2004 deadline. We didn't even know there was a deadline. Our applications were received in October 2004, so we had missed the deadline by a few months. They were kind enough to send us applications for Canadian citizenship, just as other immigrants would have received. We felt defeated.

For 32 of the past 34 years that my brother and I have lived in Canada we thought we were Canadian. Imagine our shock when we were told that we had missed a deadline. What deadline? We didn't know there was a deadline.

We truly feel as though we are Canadian. We have lived in Canada for the majority of our lives. We were educated, we worked, and we paid taxes in Canada. We are married to Canadians and our children are Canadian. We really felt that becoming Canadian citizens was just a formality. Now we have been asked to pay yet another set of fees, to wait 12 to 15 months, and to take a test. Our only alternative is to apply for our permanent resident cards, which means yet another set of fees and time off work, because logistically where we live we would have to take a day off and travel by ferry, which is a \$100 expense, to pick up our permanent resident cards. So we weighed our options and decided to consider Canadian citizenship for another day. That was until three weeks ago, when we learned of these hearings and the Lost Canadians Organization. We didn't realize there were so many others like us.

I hope that in some small way our story can make a difference for the thousands upon thousands of Canadians like us waiting for citizenship.

I thank you for your time. Again, it's an honour to be here.

• (1105)

Mr. Don Chapman: It should be noted that six days ago there was a Federal Court decision very similar to Wendy's—Babcock v. Canada. It was a gentleman in the same position—a Benner case—who applied in July 2004 and they sent him a refugee package, not anything to do with citizenship. So he missed the deadline of applying for a Benner by one month, and he won last week in the Federal Court of Canada, defending himself. This is a decision already determined by the Supreme Court.

Charles Bosdet and I came across each other many years ago. We've testified many times together before this committee. He's one of the smartest people I've ever come across and knows this backwards and forwards from a legal standpoint and a personal standpoint. I think he was thrown in together with the Mennonite group because his grandfather was born in Mexico, but in fact he's not Mennonite.

Charles.

Mr. Charles Bosdet (As an Individual): I want to thank the committee for an opportunity to speak here today.

My name is Charles Bosdet. I am pleased to see a few familiar faces from earlier times. I want to focus on some suggestions today, and by way of explaining where those suggestions come from, give you very quickly where I get my perspective on this.

I have been hired by companies to help vet their policies and procedures and to help them prepare for compliance audits, recently helping one company to come into compliance with the Sarbanes-Oxley law, which was the biggest change in securities law in the United States since 1934. I've been brought in to help on compliance matters with various regulatory schemes, including nuclear navy quality assurance and other corporate governance matters. Before that, I was news and opinion editor of the largest daily law newspaper in the United States and editor-in-chief of a couple of smaller ones before that. Earlier, I worked as a document analyst in complex litigation cases for a couple of law firms in California.

My journey to this table began when I applied for a certificate of citizenship and the application for the certificate was denied. That began what became a tortuous two-year process that didn't make any sense to me. For starters, it seemed to be following a script, and I wasn't privy to what that script was. I understand policies and procedures and so forth, but it got to the point that what I was receiving in letter after letter from my evaluator didn't acknowledge the stuff that I was sending in and also didn't really match the content of what was in some of these things. It didn't acknowledge, in some cases, secondary evidence that the citizenship policy manual plainly states is acceptable and will be accepted in lieu of primary evidence.

In my case, I believe the evaluator thoroughly violated the proscription against placing an undue burden on an applicant, which says you can't place somebody at an extraordinary financial burden to try to meet the proof requirements that the evaluator is placing on them.

There was also a certain lack of professionalism. This evaluator sought to disprove my own citizenship by applying a foreign nationality law to one of my ancestors. In a subsequent discussion, it was very clear that this evaluator did not understand—was completely ignorant of—the fact that there was a difference between this foreign nationality law and Canada's. The two systems handled things differently, and this person didn't know that. That bothered me a lot, because this person, I was told, is the quality assurance evaluator for the citizenship case processing centre in Sydney. She passes judgment on the other files that come on her desk, and a lot of Mennonite families from my home province of Manitoba were apparently run through the same script that we later surmised she was running me through.

What bothered me wasn't that she was ignorant of the law; what bothered me more than anything was a complete lack of interest in learning anything new. I expected her to say she would check on that, or ask me to send her something that would tell her what I was talking about, or say she didn't know that and would consult with somebody on it. There was none of that. Her response was that we treat this all the same, and besides, I've been doing this for many years, and I've been doing this for a long time. I just thought that was an astounding thing to say.

There followed a series of disingenuous and misleading request letters that looked fine if all you knew was what you read in the letters, but in truth many of the things that appeared in these letters were belied by a stack of evidence sitting on her desk, evidence that she was pretending wasn't there.

She shoved the burden of proof onto me in one really onerous regard, and that was trying to prove a negative. She surmised that maybe somebody in my family tree was born someplace else and suggested that I go out into the middle of Mexico and search the records there, because maybe that's where my grandfather's birth certificate was. I suggested back to her that maybe he was born at any town between the middle of Mexico and Arichat, Nova Scotia, where an entire stack of documents said he was from, including his Canadian military enlistment papers, his registration as a British subject, and his—oh, by the way—Canadian passport in 1942 that was issued first sometime in the 1930s—and she had a letter from the British consulate confirming that.

• (1110)

On appeal, it didn't stop there. I kicked up a bit of a fuss, and my case eventually was taken over by an evaluator in Ottawa. The case processing centre evaluator on my file apparently misrepresented my case to the Ottawa person, and this came to light when the Ottawa evaluator called me, and a whole raft of things came to light. She had been misinformed about the nature of the evidence in the case. She had not been informed about a significant number of key documents. I don't know how you leave out things like registration as a British subject or passports, acceptable secondary evidence, apparently a lot of which wasn't mentioned in this phone call.

The Sydney evaluator—and this is the quality assurance evaluator, mind you—then faxed what she said were the pertinent documents or the important ones in the case. The Ottawa evaluator, when I finally got around to discussing this thing with her, was astounded at the stuff that had not been faxed to her, because she had a deadline to meet. She had to rule on my case. My full file from Sydney did not arrive in Ottawa until hours before the ruling was due on the minister's desk.

If I had not faxed 110 pages of material to the Ottawa evaluator, she would have nothing but the say-so of the Sydney evaluator to go on in making her determination. As I understood it later, the Ottawa evaluator concluded I was a Canadian citizen. I don't hold that privilege right now because somebody else disagreed with that, and that's sort of getting off onto another track already. However, what this did for me, and the reason that I'm here today, is that it pointed out—and I've seen it confirmed at mid-level and at high levels in this department—systemic problems, some of which seem to be the same from top to bottom. There are issues of fairness and issues of

inefficiency. There is no real administrative solution at hand to when somebody runs amok, as seemed to be the case with my file. For heaven's sake, this department doesn't live up, in many ways, to the values that we profess to hold dear.

What we need to do and what this committee needs to do is to fix this system in a way, all the way down to the desk level in Sydney, because nothing else you do matters. You can pass amendments, you can rewrite the Citizenship Act to turn out the perfect act, but what I know from my work as a process auditor and from helping people with this kind of stuff is that it's sort of like a relay race. No matter how good the first three people are, if the last one drops the baton, the whole object of the race is defeated, and that's what's happening, in my view, in Sydney, Nova Scotia, in the case processing centre, where all of the citizenship applications go.

I want to turn to two things: evidence and then recourse when evidence goes out the window. As I mentioned, and as members of this committee are probably aware, we have primary evidence like birth certificates. We have secondary evidence consisting of passports or maybe even driver's licences, and other things. They're all spelled out in the policy manuals, CP 14.

I would suggest that the committee consider statutorily shifting the burden of proof from the way it seems to be executed now in Sydney—that is to say, from a prosecutorial standpoint—to having a statement of what is acceptable primary evidence and acceptable secondary evidence, and if somebody submits adequate primary and secondary evidence or secondary in lieu of primary evidence, then you should accept that.

The onus should not be, in my view, on a citizen whose resources are far more limited than the evaluator's are to overcome every single objection. In many instances, those objections seem to have no bearing whatsoever on the case at hand. The denial letters, if they're issued, should inform people of what the recourse is, and I'll say more on that in a bit, but right now the only resource seems to be pretty inadequate.

There is one thing here too. I would propose to the committee that it might consider putting expiry dates on challenges to official documents issued by the Canadian government. If you issue a passport in 1942, somebody 60 years later should not be able to come along and, for no reasons they disclose to you, say this is not acceptable.

• (1115)

The Chair: I know witnesses would love to have unlimited time, but I know you've been told there is roughly about five minutes for each witness, and we're into about eleven minutes here now, so Mr. Bosdet, could you move to the conclusion?

Mr. Charles Bosdet: In thirty seconds?

The Chair: I'm not going to hold you to thirty seconds. You can move a little bit beyond that.

Mr. Charles Bosdet: I would suggest that the current system of citizenship judges is not adequate. I would replace it with an administrative law panel that is fairly typical in tax departments. Such a system works in California, where an agricultural labour relations board and other executive agencies publish opinions and rule in disputes involving people there so everybody knows what the reasons and game rules are and how they're being interpreted.

This would be a significant help to practitioners, to lawyers in Canada, because the case law on citizenship is very thin relative to Canada's citizenship population.

The Chair: Thank you, Mr. Bosdet.

Mr. Chapman, do you want to take a moment to speak?

Mr. Don Chapman: Charles made a comment to me one time that his family paid in blood for their citizenship. His grandfather, the man they're questioning, took original pictures of Flanders Fields with the poppies in World War I. It's appalling what they've done to Charles.

Melynda Jarratt is the world-wide historian on Canadian war brides.

Melynda, would you like to tell your story?

Ms. Melynda Jarratt (Historian, Canadian War Brides): Good morning.

My name is Melynda Jarratt. I live in Fredericton, New Brunswick, and I'm an historian of the Canadian war brides. I've been working on this subject for 20 years. This is my third appearance before this committee. I appeared in April 2005 and was recalled in May 2005 to speak again. Now here I am back again, telling the same old story.

I know I only have five minutes, so I am going to try to make this as short as possible. I have three points I want to make, which might turn into five.

My first point is that as the main contact point for Canadian war brides in this country and internationally, through the aegis of my website that I run, called canadianwarbrides.com, which is sort of the clearinghouse, and the listserv with which I'm involved as an Internet-based point of contact for all war brides and their children and grandchildren, I can tell you right now that war brides are not happy about what's going on, and their children are not happy and their grandchildren are not happy. Their fathers and grandfathers and their husbands did something for this country in World War II for which they deserve to be honoured. We hear a lot about honouring veterans, but when it comes to providing the security that these people need in their old age, and they are indeed citizens, all we are hearing from the halls of government is insecurity and uncertainty.

I personally find it depressing. I find it insulting. I find it frustrating, and I just can't believe this. It's beyond the pale. It's ridiculous. You talk to Canadians and you ask them about war brides and what they think about war brides. War brides are a unique phenomenon in Canadian history. They came to this country—and this is my point number two, a brief history—between 1942 and 1948: 43,454 war brides were brought to this country under the system organized by the Canadian government, through the Department of Immigration at first but then the Department of

National Defence took over in 1944. They were transported to this country in a government-organized scheme. With them they brought 20,997 children over the space of six years. Those children were welcomed, and the mothers were welcomed with open arms as the best citizens one could ever possibly hope for.

The overwhelming documentary evidence in the files of the National Archives—and you can believe that over 20 years I have explored it to no end—thousands and thousands and thousands of sheets of paper on microfilm, not to mention newspapers and contemporary accounts and just plain old archival documents that children, the wives, and the grandchildren have saved over these years and have sent to me.... And the archival evidence is what I want to talk to you about as point number three. The archival evidence is so astounding; it's a mountain. What is going to happen here in the next couple of years is a tsunami of applications for people's old age pension and Canada pension and passports and they're going to get caught up. This morning we heard the figures. An estimated 25,000 to 35,000 war brides and their children are going to be affected by these problems in the old 1947 Citizenship Act. Something has to be done.

I'm going to show you just a couple of small things, and let the government try to deny it. Here are some of my juicy ones. I call them "my juicy ones" because they're so obvious.

There is no date of printing on this one, but I believe it was 1944. It was called the *Canadian Cook Book for British Brides*. It is a Canadian cookbook on how to cook potatoes and lobster and all that sort of thing. It's kind of funny actually, when you look at it these days, on how to iron clothes and the Canadian lifestyle. This is what they say: "You are now a Canadian and these are your services." This was in 1944, before there was a so-called Citizenship Act. They're not saying "You are now a Bornean." They're not saying "You're from New Guinea." They are saying "You are a Canadian." There was a concept called Canada before the Citizenship Act came into being. They're not saying anything else. They're saying "You are a Canadian."

● (1120)

Here is Princess Alice, the sister-in-law of Queen Mary, who was married to the Governor General of Canada at the time. She had been asked to write a foreword to the welcome to war brides. It was printed in 1944 by the Department of National Defence and the Wartime Information Board. In it she says, "I have been asked to prepare this by the Canadian government." Assuming the way the government is today and the way they were back then—in wartime they would have been very concerned about every detail—one would wonder if there's no such thing as Canadian citizenship, which the present citizenship and immigration department is trying to say there isn't, why then would they have an entire chapter on Canadian citizenship in a 1944 document?

I'll read one sentence from it. We just laugh when we read this stuff because we can't believe that people are trying to deny it. "Coming from the British Isles to become a new citizen of Canada, you will have...", and then they go on and on. They are not saying you are going to become a new citizen of Borneo, they are saying you are going to become a new citizen of Canada.

Here's another little one that was given to me by Marion Vermeersch, who testified last week. This was a document that was given to every war bride—it's really beautiful, actually, colourful—"Dock to Destination". It was two pages, folded. I've scanned it for this presentation. In the introduction it explains to the war brides what they can expect when they arrive in Canada on the ship:

As soon as the ship docks, Canadian immigration officials will come aboard. These men will complete the formalities for your entry into Canada, which automatically makes you a Canadian citizen.

Now, what else are they saying there?

Can I just make one more—

• (1125)

The Chair: Yes. I'll give you about 30 seconds. We're on to eight minutes now.

Ms. Melynda Jarratt: Okay.

The last thing I want to say is that as far as the Minister of Veterans Affairs.... And so many other ministers were dragged into this over the course of those years, because everywhere the war brides met, or interceded with any government department, the ministers would get involved. In that regard, the Minister of Veterans Affairs, in 1946, specifically stated in a document that war brides are Canadian citizens, and he got agreement with that from the trade and commerce minister and the Minister of Immigration.

In that regard, Eswyn Lyster, who is a war bride—I'll make this very quick—wrote to Her Majesty the Queen in October and asked Her Majesty to intercede on behalf of war brides, who she felt were being treated so shabbily by the Canadian government. Her Majesty has asked the Governor General of Canada to deal with it, and the Governor General has asked the Minister of Veterans Affairs to deal with it.

Now it's in the Minister of Veterans Affairs' lap about what people thought in 1946. What was the Canadian government saying? They were saying Canadian war brides are Canadians. To say anything else is a bunch of malarkey.

The Chair: Thank you. That's a very interesting presentation, Ms. Jarratt.

Is there any introduction needed for Mr. Smith?

Mr. Don Chapman: Yes.

By the way, General or Senator Romeo Dallaire fits into that category as well, and she has his landing documents.

William Smith called me a while back. He's one of these people who, when you look at his story, it just devastates your life. It also shows the complete inequity of treating siblings differently. His brother, same situation, same parents, same everything, but the brother is employed by the Canadian government, and Will Smith is being denied. It has broken him financially. It's just total devastation.

William, tell your story.

Mr. William Smith (As an Individual): Thanks, Don.

I appreciate the invitation to be here and to express some of my reaction to the situation. One of the first things I'd just like to clear up is that unless somebody can admit there is a problem, the solution to the problem will never be found. It's not obvious to me, and it's certainly not evident, that there is an intent or an ability to resolve that problem. I think the situation has been well explored over a long period of time, but it doesn't look like we're there yet. That's just my observation.

My understanding of laws is that they come into being to maintain order and provide security. They're supposed to serve the interests of the public. They're supposed to be based on common sense and be tempered with reasonableness.

I don't know what happened, but something went tremendously wrong. I really cannot believe this was part of the original intent of the citizenship law the way it was written. I also note that 1945 to 1947—the time it took before this became a law—wasn't a long period of time, but it's certainly taking an awfully long time to modify the shortcomings and to take care of the evolutions of the law that have been lacking.

There are obligations of law. There's tort law, the duty of care, and responsibility for the actions and the consequences. The shortcomings of these obligations, when they fail, damage and cause harm to other people. That's something to which somebody has to pay serious attention.

For me, there's one very fundamental right. In French it comes out better than it does in English: *un droit acquis*, an acquired right. A mother and father decide to have their children. The child grows as it's conceived. Along the way, before it is born, it acquires the right to life while it is being fed before it is born. Throughout the life, even after birth, rights are added to those rights that are acquired at the first instance. Looking back over everything, one of the things I feel I acquired was the right of the citizenship of my father genetically, before I was born, and I'm not going to flex on that.

Later on, after completing all my schooling in Canada, I was able to acquire my social insurance number, which allowed me to work and which allowed me to pay taxes. I vote in elections. I've even been summoned to serve jury duty in a murder trial. Those are pretty Canadian experiences, but there were errors along the way.

The first error occurred three weeks after I was born, in April 1949. My mother, with her new child, was accompanied by my father, who made the trip out to the United States to accompany his wife and his new son back to Canada. When we arrived at the border, on the train, Immigration's only comment was, "Oh, you have a new Canadian". There was no documentation of my entry into Canada. Somebody was representing Immigration at a border point during the entry of a child into the country, and something should have happened. Nothing did.

This was followed up by a second visit by some gentleman. We believe he was from Immigration, but it was a long time ago. He left a document that traces back to December 7, 1951. The gentleman came to acquire the information about the citizenship status, birth certificates, and marriage certificates for my parents and all of their children, in order that the children could be enrolled into and receive benefits or so our parents could receive the benefits on our behalf from the federal baby bonus program. He took all of the documents and we were enrolled and our parents received those benefits.

• (1130)

It has always been my understanding throughout my entire life that I have dual nationality: from where I was born, the United States, and also from the citizenship I acquired through my parent.

The consequences of that failing is that I have lost my employment security. The positions in which I seek to be employed all have a requirement of proof of Canadian citizenship. Through a long and lengthy process, I have not been able to get that. It has caused me many months of waiting, from March until November of last year. After not receiving any reliable information, even though all the calls down to Sydney are recorded for quality purposes, not one person I talked to had any status related to reality, and just said that somebody would be in contact with me.

When I finally received a letter I was so blown away, it was like somebody shot the light out in a room and all I could see was red, and I vomited blood for three days and was hospitalized. At that point my wife asked my older brother, who had worked for the federal government until his retirement, if he would take a look into the matter. My older brother is a very tenacious, consistent, and detailed person. He wrote letters to Prime Minister Harper, to the Governor General, and to every level of administration within his reach, looking for a solution and trying to do his best on behalf of me, his brother. I think his intent was very noble.

The outcome of that is still unknown, but it has left me financially destitute.

• (1135)

The Chair: Thank you.

We're into eight minutes now, so in order to ensure that our committee members have some time to question, of course, we have to—

Mr. William Smith: I'd just like to say that my Canada includes me.

The Chair: Thank you. It was a very interesting presentation.

Our last presenter will be Mr. Veeman.

Mr. Don Chapman: Again, although my brother and sister have turned out to be Canadian, I am not; and with William, his brother turns out to be Canadian. Or is he? You never know in this process.

Now, to come back to another thing, we have Chris Veeman representing somebody who has to do with this committee.

Diane Finley testified and said they were correcting this with subsection 5(4) of the Citizenship Act. Well, we have a couple of the brothers who received subsection 5(4) consideration, but one brother

is being denied citizenship—and Chris represents that brother. So again there is an inequality within families.

Mr. Christopher Veeman (As an Individual): Thank you for the invitation to be here.

I'm not a lost Canadian, at least I don't think so. I was born in Saskatoon, and until I got involved in this file I had no doubt in my mind that I was Canadian, but stranger things have happened, I guess.

Anyway, I'm a lawyer and I am representing Robert Gene Clark, who is caught up in this border baby situation.

I want to give you a bit of the history of his family. His grandfather arrived in Manitoba, having immigrated from Ontario back in the late 19th century. Mr. Clark's father was then born in Manitoba in 1909. His mother was born in Manitoba in 1916. They were married in 1939. Mr. Clark's father served in World War II in the air force. Then Mr. Clark's sister was born in 1940. The three brothers were born after the war. Mr. Clark was born in 1947, immediately after the first Citizenship Act came into force. They lived right by the United States border in southern Manitoba, and the nearest medical facility was in Westhope, North Dakota. That's where all of the children were born. They all came back to Canada immediately after their respective births, and all have lived in Canada ever since.

During that time from 1947 to 2006, Mr. Clark and his brothers and sister considered themselves to be Canadians and did everything that you would expect a Canadian to do, including going to school, working, voting, borrowing money from Farm Credit and paying it back, receiving family allowance cheques. In 2006 the beginning of the situation came to light when Mr. Clark was convicted of an offence and somebody discovered that he had been born in the United States. This commenced an immigration inquiry. Ultimately he was told that he is a foreign national in Canada and has no status here, and because of the conviction he was issued a deportation order.

The Federal Court stayed the deportation order on the basis of the argument that he is in fact a citizen under the Citizenship Act, although it's an interim stay. Fast forward another few months: Mr. Clark's two brothers are granted citizenship under section 5(4) of the Citizenship Act, so that means that they are citizens as of February 2007. They apparently had no status in Canada until that time, but Mr. Clark has not received the same treatment, presumably because of the criminality involved.

We say that he is a citizen. The whole family in fact are citizens by operation of law. But even if we're wrong in that, I submit to you that something is wrong with the system that permits people to live in Canada for 59 years, openly processing themselves to be Canadians, and then be issued a deportation order after a summary hearing in front of a bureaucrat of the Canada Border Services Agency.

The points I wish to make to the committee are if you're considering revisiting the Citizenship Act, limit as much as possible the use of discretion in the act and consider also the establishment of an independent decision-maker for these types of questions, as suggested by Mr. Bosdet.

• (1140)

The Chair: Thank you.

Mr. Don Chapman: That's very interesting. That just shows you why section 5(4)'s don't work, because you can't do this by discretionary authority. We must legislate an answer, and I want you to remember on this committee that two of these people did not know about these hearings and what was going on until this was televised and broadcast across the country and people were coming forward and saying "I am not alone here".

The Chair: Thank you, all witnesses. Thank you, Mr. Chapman.

We will now go to questioning. We don't have time for a seven-minute round, but we will begin with a five-minute round with Mr. Alghabra and we'll continue around the table. We will have to call our second panel by 12.

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Thank you, Mr. Chair.

Good morning, everyone. Thank you so much for coming today.

Many of you, and previous witnesses, continue to put a human face on what I would call a tragedy. It's extremely important that we hear these stories, learn from your experiences, and that we work together on hopefully fixing this problem. I was speaking earlier with Ms. Jarratt.

Unfortunately, you have had to continually struggle with this dilemma. You are doing it on behalf of all Canadians. Many Canadians are not aware of this problem. It might seem distant to them, but the reality is that it could touch upon any of us. You're helping us to navigate through this problem with this leadership, and we will find a way to resolve it.

I'm not sure who would want to answer this. The minister and officials were here, and they tried to give us the impression that the problem is not that big. They gave us a number of about 450 individuals who have been affected by this flaw in the legislation. If that's the case, you've probably heard from about 10% of these individuals. Can any of you tell us...?

Go ahead, Mr. Bosdet.

Mr. Charles Bosdet: I heard that, and I heard how she qualified that remark every time. It nevertheless leaves a misleading impression.

All I would say to the members of this committee, or anybody, is that if my experience is any indication, I can pick half a dozen people at random who are now wondering about their citizenship. I didn't approach these people. I didn't know the members of the community who all of a sudden are wondering about it. To my knowledge, not one of them has contacted CIC. And they have said they absolutely don't want to for fear of what might happen.

I would suggest that the minister doesn't need to leave her armchair. Take a look at that number of 450. Think about the nature of the problem and how people would react to it. Think about the population of 30-odd million people. That ought to put 450 into perspective. I have no doubt that they only got maybe 450 calls to the CIC call centre. Who would want to make that call?

Ms. Melynda Jarratt: I can add to that.

On Friday afternoon I personally received calls from two people I'd never heard from before. They were asking me for help about how they can get their passenger list—such as this one for Senator Roméo Dallaire, for example. This is his passenger list. These things are very difficult to come upon. Not everybody can get their hands on these. Why are they being asked for this piece of paper? This is not what they need to prove their citizenship.

People don't understand the process. They're afraid and they don't know what to do. I'm not an expert in immigration, for goodness sake—war brides, yes, but not immigration.

I personally feel there is a tsunami waiting. I used that word a while ago, and I really mean it. There is going to be trouble. People are afraid.

There is a lady. I'm not going to say her name. Jan is her first name. She is afraid to speak. She would have been here today, but she cannot. She is afraid that if she says anything, she's going to be targeted.

They are going to stick their heads in the sand until the time comes and they can't wait any longer. When they need their CPP, their OAP, whatever it is, some federal government service, then, boy, oh boy, we're going to see something hit the fan. It's going to be huge. It is huge.

• (1145)

The Chair: Mr. Alghabra.

Mr. Omar Alghabra: The reason I'm asking this question is to illustrate how serious this problem is and that it really needs to be dealt with as quickly as possible.

I only have 40 seconds. Can somebody tell me what they think the solution should be?

Mr. William Smith: Establish what a fair claim to citizenship is and make it apply. But put it in law. Don't leave it to somebody's whim and fancy, because you're going to have different results.

The Chair: Mr. Veeman, you have your hand up as well.

Mr. Christopher Veeman: I was going to add that births abroad were able to be registered until 2004. I haven't heard a good explanation of why that registration period could not be extended. I think that would take care of a lot of these cases. There are different kinds of cases, but in the one I'm talking about, that would solve the problem.

The Chair: Thank you.

Thank you, Mr. Alghabra.

Madame Faillie.

[Translation]

Ms. Meili Faillie (Vaudreuil-Soulanges, BQ): Thank you, Mr. Chairman.

First, I would like to greet you all. This isn't the first time we've met. The issue of citizenship is very important for me, for two reasons.

First, the identity question is a great concern for us as Quebecers, but there is also the fact that I am the member for Vaudreuil-Soulanges. That's a riding located just next to the veterans hospital. A lot of veterans' families live in my riding. The Manoir Cavagnal, among others, houses a number of elderly persons. During my visits, I met war brides, who told me all their stories. When I took an interest in the citizenship issue, that meant a lot to them. It also troubled them for their children, I believe.

Melinda, you know one of those women from Hudson, with whom you worked. I'd like to ask you some questions. You talked about the fact that, in 1994, there was this concept of Canadian citizenship. Last week, the veterans of the Canadian Legion came and testified. As the celebrations of the anniversary of the battle of Vimy approach, we're talking about the emergence of a nation at that time as well.

In the historical research that you've done, could we go back to 1917?

[English]

Ms. Melynda Jarratt: In fact, I find it interesting that you raise that question, because I spoke with Pierre Allard, of the Royal Canadian Legion, on Friday, and with Joe Taylor, by way of conference call. In that conference call, Mr. Allard surprised me by saying he's not even happy with 1910. He wants to go back to 1867.

Listen, I keep on using the example of Borneo because I think it's so ridiculous. When we're talking about Canada, yes, there may not have been a Citizenship Act, but the spirit of Canadian citizenship existed. My mother was born in 1917, in Bathurst, New Brunswick. She's a Canadian. My father was born in Quebec, in 1915. He's a Canadian. These war bride children are people who were born to Canadian servicemen. Joe Taylor is a Canadian. You can't revise it.

It's the spirit of Canadian citizenship. Even the Canadian government documents prove it. In 1942, 1943, 1944, 1945, they were saying "Canadian citizenship". They are definitely saying citizenship. Prime Minister Mackenzie King was welcoming war brides in August 1946, saying, "Welcome, Canadian citizens". The Minister of Veterans Affairs in 1946 was saying that war brides were Canadian citizens.

So, yes, it is a continuum, as Mr. Kish said last week from the Legion. There is a continuum of citizenship. Just because a thing called the Citizenship Act came into being on January 1, 1947, that doesn't mean everybody who lived in Canada before then wasn't a Canadian.

I hope that answers your question.

• (1150)

[Translation]

Ms. Meili Faille: Thank you. I just have one more question for Mr. Veeman.

Do you know how Americans react to deportation orders of that kind, when people have lived here for 59 years and suddenly they're sent back to the United States?

Mr. Christopher Veeman: I don't really know how they would react.

[English]

I don't know how they would react, but I don't think they'd welcome this type of person with open arms. The important thing is that he has no connections to the United States. I just find it to be somewhat absurd to think that's a logical response to the situation.

[Translation]

Ms. Meili Faille: I believe Mr. Bosdet would like to make a comment.

[English]

Mr. Charles Bosdet: Melynda was talking about a continuum, and that brought an image to mind. My grandfather's passport—the one I have a copy of—was issued by the British government in Mexico, but it said in huge block letters on the page, "Canada". I imagine this continuum, this sense of citizenship in Canada, began before 1947, to be sure.

The Chair: Thank you, Madame Faille.

Mr. Siksay.

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

I want to thank you all for coming, some for the first time and some of you after many times. I'm sorry that you have to come back and keep working on it, but I'm glad you're persistent folks and willing to do that.

It's interesting, Mr. Veeman, in regard to the specific case you raised, we spent a lot of time in the committee when we were looking at Bill S-2 talking about what to do in the circumstance where someone was a Canadian but had a criminal record. I remember some of us saying very clearly that it shouldn't matter, if they were a Canadian they were our criminal, in that sense. That may be a blunt way of putting it, but I think we have to deal with the fact that there's no reason to discriminate against that person on that basis, and we already made that decision when we were looking at Bill S-2 and trying to decide what the ramifications were. Citizenship does imply that you will make mistakes and won't lose your citizenship because you've made that kind of mistake.

Mr. Bosdet, you ran out of time in your presentation, and I just wonder if there were other things you wanted to cover. You were talking very specifically about some suggestions about administrative law panels. Mr. Veeman made that suggestion as well, but did you have other suggestions or issues you didn't get to that you'd like to speak about?

Mr. Charles Bosdet: Yes, and I want to add a couple of points.

The administrative law judge panel is a good idea, because when I went through the Federal Court database some time back, reading every case I could find on citizenship, I was frankly amazed at how few cases there were. There is not a substantial body of case law there, and this is a problem for citizens because when they go to find a citizenship lawyer, good luck. There are tons of immigration lawyers; there's money in immigration. There's no money in citizenship, and so you don't find them. That's one problem for practitioners.

Another is that you have this system that's cranking out decisions left and right, but the rationale is never brought to light. It's never made available for others to see and to vet, and so one part of the system may be doing this, another part is doing that. Somebody is unfairly denied something, but you never hear about it. These are people getting mugged in the dark.

If you want to bring transparency to the system and raise the quality of the decisions being made, one way of doing that is to say, "Okay, this decision is going to go on the web. We're going to put a panel of professional judges in here, and they're going to vet these things, and when they issue a ruling, the ruling is going to be public." There are all of the benefits that flow from that, not least of which is that even as administrative law opinions, they can be used for precedential value.

That also plugs a huge gap between what you have now, where the citizenship judge is the only alternative somebody has in the process right now, and Federal Court. Spend your life's savings on Federal Court, or if you feel lucky, go to a citizenship judge, whose decision is based on a summary prepared by the prosecutor. I don't know anybody in the western hemisphere who thinks that if you have a dispute with the citizenship processing centre evaluator, it is a good idea to have that person who is prosecuting your case be the one to write it up and present it to somebody else without any input from you, other than maybe what you've put on paper. The only obligation these citizenship judges have is to read that summary, unless something piques their curiosity, and then they can ask for the file. That's sort of an abortion of justice right there.

I am a big fan of transparency. It's worked for California across a number of fields. I don't see why it couldn't work in citizenship. If we hold citizenship as dear as we say, let's put a few judges out there, get this system on track, and then audit the thing. Audit it initially to see that it's on track and that it's working, and certainly audit randomly the decisions coming out of the case processing centre. Let's see what that turns up. I'm kind of curious here.

There's another reason there isn't as large a body of law there, and that's because some people just don't have the money to go to court.

Something else comes into play here. If you have people who come from different countries, maybe they grew up in a culture that's a bit different. Maybe they're very deferential to authority. If somebody in Sydney says no, they don't challenge it, maybe, or they don't have the resources to challenge it, or they don't know how. The result is the same—they go away. Then there are those who have the money and mount the challenge in Federal Court at considerable cost to themselves, and the moment it looks like they're losing, maybe the government attorneys do what any attorney would do—they go and offer to settle. So those don't make it into the database either.

I suggest that what you see in the database is a very skewed picture of what goes on in Sydney, and quite possibly Ottawa, because all of the cases that could get there don't, and the system is stacked against making that happen. I don't think that's in the benefit.... We wouldn't be wrangling with some of these problems here if you had a more effective system at that end, doing what it ought to be doing in the way it ought to be doing it.

That's one thing.

• (1155)

The Chair: I will have to leave it there. We're into six minutes.

I'll go now to Mr. Komarnicki briefly for five minutes, and then we have to cut it off there. Some members have asked me for an additional question. We can't do it. We have a second panel that we have to bring on.

Mr. Komarnicki.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you, Mr. Chair.

Obviously we won't be able to ask specific questions, so I'm going to make some comments rather than ask questions. I want you to know that I appreciate your coming in and giving some very specific concerns that you have and some specific suggestions that we'll certainly take into account.

I know in this area there is a lot of misinformation, misconceptions, and so on. We need to try to stay away from that. I know my colleague Mr. Alghabra indicated that the impression was that the problem was not a big one, that it was a problem affecting only 450 persons. In fact—and I can say this for the minister—she didn't say that's the number out there. That is the number of people who actually called with specific issues that the department received, but that's certainly not an indication of those who might be affected. Certainly those numbers are far larger, and if you had everyone involved, it would be far larger than that.

So you can't mix the facts and throw facts and figures loosely out there, because it certainly isn't something that is correct. We realize and appreciate that there are more than 450 affected, and there are reasons why some may not have called in to the call centre. Certainly we need to address that. I appreciate that there are a lot of war brides and war children. Many of them have entered Canada and are citizens today, but it's those who are not considered citizens who we want to address. There are a number of categories—at least six specific ones, but perhaps more than that—which we need to address. I know there's a great temptation to politicize this by many and make a political issue of it and try to make political points and political gains.

This problem has been around since 1977, perhaps earlier—as you suggested, 1947. Simply pointing fingers and trying to make the next guy look bad is not the issue. The issue is whether we can address it in a logical way that will resolve the majority of problems. I think it's probably safe to say you'll never get it 100% resolved, but we should attempt to do that. Certainly it is our view that we need to address this problem. It's been there for a long time under many administrations, under many different ministers, and it would be good to get this matter to a place where we can see some resolve.

I take Charles Bosdet's concern that there is perhaps a need for some streamlining within the administration and a positive attitude in determining it. Perhaps we need to have a communicative system and an administrative system that brings all of these issues to a focal point at a single desk where there are knowledgeable people who can deal with that. I certainly take that into account.

Mr. Veeman comes from my home province—good to see you here—and obviously has a unique case at hand, which hopefully will resolve itself. You raised the issue of what happens in terms of criminal offences that are committed in the midst of this, before discretion is resolved. I'm wondering if you feel that the discretion should be exercised without regard to criminality or security or whether we should look at the point at which citizenship takes place—

● (1200)

The Chair: We have about a minute and a half to answer all these questions.

Mr. Ed Komarnicki: I haven't posed a question. I'm just posing a question to Mr. Veeman, and I'm making comments.

Do you think we should go back to the point at which the person ought to have gained his citizenship and not be concerned about criminality or security, or is that an issue that should be in place? That's a question to Mr. Veeman.

And then I have a question to Mr. Smith. I appreciate your stress and concern and emotional regard. I know the minister, on a temporary basis while we're looking at this, has asked for persons to apply for discretion for.... I wonder if you applied under that provision, because it's certainly something that would be given concern.

Mr. William Smith: It's still the second application, but I'm a big believer in the old statement “Don't listen to what people say. Watch what they do.” So I'm still in the second slot there.

Mr. Ed Komarnicki: I'm hopeful that you will get a positive result to your case.

Perhaps Mr. Veeman can answer my question, and then I will conclude, if I have time.

Mr. Christopher Veeman: I think that the different treatment might be with regard to those who are applying for a grant of citizenship from the minister, for example, permanent residents applying to become citizens. I think that criminality is a factor that should be considered there, but when you're talking about someone who we say is a citizen by birth, then I think you're looking at when that citizenship right accrued, and criminality is not relevant to that.

The Chair: I'll give you 15 seconds.

Mr. Ed Komarnicki: I guess in 15 seconds all I can say is that I certainly appreciate you taking the time and effort to bring to our attention some of the very specific things that concern you. I want to assure you that we are listening and we are hearing what you're saying. Hopefully, we will have some positive results in due course.

The Chair: Thank you. You've had the last word, Mr. Komarnicki.

I thank the witnesses for being here today. Be assured that we share many of your concerns and we will be working diligently toward a resolution of your problem.

We will ask witnesses to leave the table for our second panel to come to the table.

●

_____ (Pause) _____

●

The Chair: I want to welcome our second panel to the table this morning. Panel two is Barry Edmonston, who is a professor in the department of sociology at the University of Victoria; Donald Galloway, a professor of law at the University of Victoria; and from the B.C. Civil Liberties Association, Jason Gratl, president, and Christina Godlewska, who is a student.

I think you are aware of the drill. I will go first of all to Mr. Edmonston for his opening comments, which will be approximately five minutes in length.

Please proceed.

● (1205)

Dr. Barry Edmonston (Professor, Department of Sociology, University of Victoria, As an Individual): Good morning, everyone. I appreciate the invitation to be here.

I'm going to cover three topics. I'm going to give a few introductory comments. I'm going to summarize some key numbers very briefly, handle questions, and then I'm just going to express a few cautions.

My training is as a demographer, with my academic research in demography primarily in the area of immigration. About four years ago I received a phone call from a *Vancouver Sun* reporter. He said he was doing a story on lost Canadians and asked how many were there. Some were saying there were a few hundred, some said there were millions. What I did was use public information from census data and estimated that there were about 85,000 lost Canadians living in the United States. That was several years ago. I continue to work in this area, more in the area of public service to help aid discussion. It's not a hot topic in demography, I must tell you, so it doesn't further my academic career very much.

What I do is I use census data from either the United States or Canada. These are public-use, confidential data files that many academic researchers and government agencies use. They don't have names or addresses, so there's nothing confidential about them. I try to define the groups as carefully as I can, one by one, and say, “If people born in 1947 to 1977 have the following characteristics, how many would there be in these different groups?”

I'll say a bit more about war brides. I look at women who were born in Europe, who would have been 15 years of age or older in 1945, who were not Canadian when they were born but report they married someone who was Canadian, in the military or otherwise, and who then came to Canada between 1945 and 1955. How many women fit that definition? The answer is about 25,000 women in Canada fit that kind of definition as a war bride. It doesn't mean they all have citizenship problems. It doesn't mean that some of them have even applied. So I think there's a big difference among the ones who potentially would have a problem, if they applied, and the ones who we see in counts from the government agency. But there are about 25,000 of them.

There were about 5,000 babies born in Europe after the war with a Canadian mother or father. There are about 10,000 lost Canadians in Canada. I mentioned the 85,000 in the United States. There are about 10,000 border babies—babies born in the United States with Canadian parents who are now back in Canada. Finally, there are about 75,000 babies born abroad with Canadian parents.

The estimates overall, then, are that about 115,000 Canadians are living in Canada with potential citizenship problems. Again, not all of them necessarily would have them if they applied, but it's more than a few dozen. There are about 85,000 in other countries.

Let me close with three cautions.

First, census data do not include detailed immigration history summaries. They are not the same as what you would get if you applied for a passport or citizenship card. So we don't get all the information that one would really want to make a one-to-one case. Nevertheless, the data are useful, I think, because they help us get a ballpark estimate of what the numbers might be.

Secondly, the estimates that I prepared are for selected groups in Canada and the United States. There may be other citizenship problem groups that I have not looked at. There are also probably people who have Canadian parents living in Germany, England, Australia who also face some of these issues. I don't know how many there might be.

Thirdly, the numbers are changing. The war brides, if we use Canadian census data right now, are about 83 years old, on average. They're not young. There are about 1,500 dying each year. There won't be very many of them left after 15 or 20 years. Those numbers are dropping fairly rapidly. One group is growing: there are about 1,000 babies born outside of Canada every year to Canadian parents. They are showing up. So we're adding at that end.

I'd be glad to take questions about anything I've done. Thank you.

• (1210)

The Chair: We will go with the presentations first and then we'll do questions after.

Mr. Galloway, please.

Mr. Donald Galloway (Professor of Law, University of Victoria, As an Individual): Thank you, Mr. Chair. I would also like to thank you for inviting me here.

My name is Donald Galloway. I'm a professor of law at the University of Victoria. I specialize in immigration and refugee law. I

have published some articles on Canadian citizenship law, which is a very obscure area, believe it or not. I've served as a member of the Immigration and Refugee Board.

I submitted a brief two weeks ago, and in the time that's allotted to me, I want to expand on some of the ideas I expressed there.

I want to propose to you, first, that there is a very simple and very thin conception of citizenship that underlies our Citizenship Act and the various acts that identify the rights of Canadian citizens, such as the Canada Elections Act and the Immigration and Refugee Protection Act.

The simple idea is this: a Canadian citizen is a person in whose name the Government of Canada acts and whose interests the Government of Canada has undertaken to promote. It is these two facets, these two principles, that underlie the Citizenship Act and its predecessor, the Citizenship of Canada Act.

How do we distinguish between a citizen and a non-citizen? It is not that the government has no obligations to non-citizens. Whether somebody is a permanent resident, a temporary resident, a foreign national, or an enemy combatant in war, the government has an obligation to respect the human rights of these individuals. The obligation to Canadian citizens is greater than that. The government has undertaken to look after the interests of Canadians and to promote them, not just to respect them. Similarly, the government claims to act not in the name of permanent residents or foreign nationals; it claims to act in the name of us citizens.

When did the Government of Canada start acting on behalf of Canadians? Was it in 1947, or was it much earlier? The answer, I think, is obvious. The Government of Canada made these undertakings much earlier in our history. Now, that is a simple idea that I think Mr. Justice Martineau, in the Taylor case in the Federal Court, has understood. I don't think it is an idea that the government, which has decided to appeal the decision in Taylor, has understood—that the notion of citizenship, until 1947, was very loose, but nevertheless still existed.

That's the first point, and I think that's crucial to understanding everything that follows.

The next question I want to ask, and it's the first point I make in my brief, is this: Is the government living up to its undertakings to look after the interests of Canadians and to promote them? If we look at the Citizenship Act, I think the answer is no. In the first part of my brief I try to argue that this is a continuing failure. We're not just dealing with historical anomalies concerning people who have arrived in Canada and are being mistreated or people who were born here and were mistreated. It's something that continues.

The idea that a Canadian citizen who is born overseas to a parent who was also born overseas and is a Canadian citizen can lose his or her citizenship automatically, without us hearing any story or any mitigating circumstances—they automatically lose their status at age 28 unless they register, the onus being on them to identify themselves as citizens—is going to lead, in the future, to continuing troubles.

It doesn't matter how transparent our process is or how quasi-judicial or judicial our process is in dealing with citizens or people who have lost their citizenship. If it is an automatic loss, and we don't hear their stories about why they thought their father was born in Canada and why they missed the deadline, if we don't hear these stories and act upon them, then the problem will continue.

• (1215)

That's the first part of my brief. The rest of my brief is in writing, and I will be happy to answer questions on it.

The Chair: Thank you. We appreciate that very much.

Mr. Gratl is next.

Mr. Jason Gratl (President, B.C. Civil Liberties Association): I'd like to thank the committee for inviting the B.C. Civil Liberties Association to come and address the committee on this important issue.

My name is Jason Gratl. I'm the president of the British Columbia Civil Liberties Association. With me is Christina Godlewska, an articulated student for our association, and she'll be presenting our brief.

The Chair: You may proceed, Ms. Godlewska.

Ms. Christina Godlewska (Articled Student, B.C. Civil Liberties Association): Thank you.

I understand that our written submissions have arrived and are before you as of this morning. I apologize for our tardiness, but I hope you have a chance to review them.

I'm going to use what little time we have in order to outline our key recommendations and hopefully make some constructive comments regarding how the Department of Citizenship and Immigration might engage in a realignment of priorities in order to change their fundamental approach to this problem in order to better comport with the value of Canadian citizenship.

The starting point is something that Professor Galloway did an excellent job of emphasizing. We have the same starting point, which is citizenship is a right. It's not a special dispensation. It's a fundamental right, and it's more primary, more conceptually primary in a lot of ways than some of the other rights that are enumerated in the charter.

Our primary submission is that you need to send a strong and clear signal to the ministry that it is time to start taking this citizenship seriously and that doing this does not mean shutting the door on as many people as possible to keep it special, but rather doing whatever we can to make sure that Canadians are never lost or rejected or turned away by their country.

Our basic recommendation to accomplish this, the one that's emphasized in our brief, and that hasn't really come out in many of the submissions that we've heard so far.... Most people are arguing that we need a revamp of the Citizenship Act, and we agree with that on a fundamental level. However, we've also heard that you've had your funding cut for this project. We have the uncertainty of an upcoming election, and in light of this kind of political climate, what we'd like to emphasize is the idea that there is some discretion in the act. There is some discretion within the current legal framework, and this committee is in a position to urge the minister to start using this

discretion to start fixing this problem now and to start changing the attitude within the department toward people with citizenship claims.

I believe that Mr. Galloway did a good job emphasizing citizenship as a fundamental right, so I'm going to focus on how we might tell when somebody has what I would call a *prima facie* claim to citizenship and what follows from this.

In her evidence, the minister has stated that she has created a task force within her call centre in order to deal with individual situations on a case-by-case basis. We support this step, but she has also admitted that she has, so far, only used this discretion with respect to 33 people. They're appealing the ruling in *Taylor v. Canada*. We have Senator Dallaire inspired to use the term "bureaucratic terrorism", and the question is why. What is going on here? What are these people up against? We think maybe the department is taking a bit of a guilty until proven innocent approach, which is simply not appropriate in this context.

Our key recommendation is to take steps to ensure that people are dealt with in a careful and sensitive and judicious fashion when they can produce at least some evidence that they may have been or had good reason to consider themselves Canadian citizens, which is to say people with a *prima facie* claim to citizenship.

What might this look like? I'd like to draw your attention to three themes that emerged in the evidence presented to you already, and that we argue form the basis for this *prima facie* claim. The first is birth in Canada. The minister assured us several times that in most cases those who are born in Canada are Canadian. We submit that this represents a widely shared and accepted view of Canadian citizenship that deserves better recognition and protection.

The second is being born to Canadian parents. As Professor Galloway points out in his submission, one of the primary benefits to citizenship is the right to pass it on to one's children. The fact that this is a common-sense principle of citizenship is reflected in how shocked we are all are to hear that the sons and daughters of World War II veterans and tenth-generation Québécois are being denied their citizenship or stripped of their Canadian citizenship without notice while abroad.

The third is probably a little more controversial, but in a lot of these stories we hear of a big pile of administrative errors, failures of due process, and lack of notification, which adds up to a reasonably held belief in Canadian citizenship that's gone on for years. The citizenship cards are a good example, the ones without expiry dates. People are holding them because they think they're Canadian citizens, for a good reason. We think this adds up to a situation where the government should be stopped from suddenly turning around and denying them citizenship without good, charter-compliant reasons.

• (1220)

How this might work legally is elaborated in our written submissions, which I'll refer to you, but basically we think things should be sent to the task force and that the specialized administrators need to help people build their cases for a grant under subsection 5(4).

The Chair: Okay, thank you. I'm sorry to cut you off, but I'm trying to get in two rounds of questioning of five minutes each. Instead of going with a seven-minute and five-minute round, I think we'll go with two fives. I think we have time for that.

Our first questioner will be Mr. Telegdi.

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): Thank you very much, Mr. Chair.

As we start, I would like to point out that the CBC Radio website today breaks down the number of lost Canadians, if you will, on such bases as being chattel children, the category Mr. Chapman falls into; border babies; war brides; war babies; born-abroad babies pre-1977, and post-1977; illegitimate Canadians, affecting tens of thousands of Mennonites; as well as military brats. When one looks at those numbers, if you take the top end, you are at about 400,000 people. They include two categories—military brats and illegitimate Canadians—that Dr. Edmonston did not refer to. These weren't in his focus.

So I invite anybody to view those numbers and members of the committee to go to that webpage and take a look at them, because the numbers are quite shocking.

The question I have for the committee is about subsection 5(4), whereby the minister has discretion to grant citizenship to some and not to others, as we heard from the previous witnesses, where three siblings in one family were border babies and got citizenship under subsection 5(4), but in the fourth case they're taking a person to court and are trying to deport him out of the country.

So the question I would like all of you to respond to is the point that just as it is improper for a politician to strip citizenship from somebody, it's also improper for a politician to grant citizenship wholesale. Surely when we're dealing with these issues, we have to have a citizenship act that is charter-compliant. Could all of you please comment on this: we need a citizenship act that's charter-compliant.

• (1225)

Mr. Donald Galloway: The answer is yes, of course.

We are in a situation where, as I think as Mr. Bosdet said this morning, we have a major rule-of-law issue here. How do you get the most important aspect of your Canadian status and how do you lose it? Is this going to be governed by law, or is it going to be governed by discretion? We live in a legal society. And it is not just a matter of charter values, but basic constitutional values we are committed to and that are at stake here. We are committed to the rule of law. The answer, therefore, seems very clear.

Hon. Andrew Telegdi: The other issue I have is that the 1947 citizenship act, with all its discriminatory clauses, is 60 years old this year. The 1977 citizenship act is 30 years old this year. The Charter of Rights and Freedoms is 25 years old this year. Surely it's time we

had a citizenship act that brought it all together and that is definitely charter-compliant.

I guess the only thing I can say is that the previous government was committed to bringing in a citizenship act and had funding of \$20 million to do so. The Standing Committee on Citizenship and Immigration has gone on two cross-country tours, in 2003 and 2005, on this. We had a lot of the basis for a new citizenship act, and one of the things the committee decided was that it had to be charter-compliant, and that was very, very important to the committee. So \$20 million is not a lot of money when you're dealing with a \$200 billion budget, but it's so fundamentally important, particularly when citizenship means that you want people to embrace the charter and the constitution.

The Chair: Could we have a brief answer, please?

Mr. Jason Gratl: I would comment briefly that there are two paths to ensure that the legislation is charter-compliant. The first is a path of litigation—that is, forcing individuals to take the time and expense of bringing the judiciary to a point at which they will either strike down unconstitutional laws or read in more constitutional provisions. That's expensive and time-consuming, and it puts the burden on the individual in a way that's unbelievably unfair and costly to that individual.

The second path that can be taken is that the legislature and its committees can take responsibility for ensuring charter compliance; that, in our view, is the more appropriate path to take.

The Chair: Thank you, Mr. Gratl.

We will go to Madame Faillie or Mr. Gravel.

Go ahead, Madame Faillie.

[Translation]

Ms. Meili Faillie: Thank you. I'm going to ask the question.

In fact, I can't be more in agreement with Mr. Galloway when he says that citizenship is a fundamental human right. I've been working on that basis since I've been sitting on this committee. As Andrew mentioned when we toured across Canada, some witnesses came and told us the same thing. There is a series of rights attached to citizenship.

I want to get you to talk about the immigration issue. I recently had a case involving young children born on Canadian soil of refugee parents, who thus sought refugee status. Unfortunately, their claim on compassionate grounds was rejected, a removal order was issued against them, and they had to leave Canada.

Mr. Edmonston, I don't know whether you have any statistics on this, on how many young children born on Canadian soil have been removed from Canada. With regard to civil rights, would you have an overview of the quality of the information that is transmitted to persons who are removed concerning retention of their citizenship?

• (1230)

[English]

Dr. Barry Edmonston: I don't have any numbers for that one. That's probably going to come out of administrative sources as much as anything, if one kept good data on that, but I'm always worried about the administrative sources, because they have very special functions as to what they collect; when I turn to them as a demographer, I often think that it's not that the numbers are wrong, but just that they're very limited and very specialized in their use.

Ms. Christina Godlewska: I don't have any information as to what people in that situation are told. I would say, though, given the nature of the subject matter before us, that I think there's a real benefit to having simple rules—born in Canada, you're a Canadian; once a Canadian, always a Canadian; that's the way people understand it, and I think that's for a good reason.

However, although it's tempting to think of the citizenship problem facing the committee right now along the lines of immigration, as though you're trying to balance the social safety net and national security against Canada's need for immigration to sustain growth—and I know that came up in the question period before—we want to urge that in order to get the ministry's attitude towards this problem right, we need to keep a firm focus on what citizenship means and on the fact that it's not the same thing as immigration.

We're not handing out special dispensation, deciding who's in and who's out. We need a basic understanding of what citizenship is, and then we need to defend that. It's just a different set of considerations.

[Translation]

Ms. Meili Faille: All right.

A number of persons have come to testify before the committee over the past few weeks. It seems that a number of them did not have the necessary information or had an incorrect interpretation of their status in Canada. I don't know whether you can give us your assessment of the quality of the information that was available? In our first meeting with departmental officials, we asked some questions on the quality of information, on the department's efforts to publish the information. We were told that there had been advertising campaigns and all that. In short, we subsequently received a letter telling us the contrary, in which apologies were made for misleading the committee.

Based on your experience, what is your assessment of the information that existed at that time? How is it that a person can find himself in such an unfair situation?

[English]

The Chair: We have about 45 seconds for an answer, so I'll go to the witnesses.

Mr. Jason Gratl: Citizenship is such a fundamental right and such a fundamental aspect of membership in our democratic community that anything shy of complete information, anything shy of personal notice to the person whose citizenship might be revoked, withdrawn, and never granted, is inappropriate and fundamentally unjust. It doesn't comport with the obligation of the government to use fair process alone to deny rights. It's not in keeping with section 7 of the Charter of Rights and Freedoms.

The Chair: Thank you.

Mr. Siksay, for five minutes, please.

Mr. Bill Siksay: Thank you, Chair.

I want to thank you all for your presentations this morning.

Ms. Godlewska, you mentioned at the very end of your statement that a shift to helping people actually build their case around their citizenship might be helpful. Could you just say a bit more about how you see that or what it might involve?

Ms. Christina Godlewska: From what I understand from the testimony, there are many points of first contact, and the ministry has committed the special task force to help deal with some interim problems. The way in which the members of that task force need to see what they're doing is this.

We have people who have a fundamental right that is being threatened. How are we going to collect enough information to make the case in their particular circumstance, so that they can have this right recognized? This means accepting as evidence things that are commonsensical pieces of evidence, such as someone saying they have been living here for 49 years, that they've been an electoral officer in Osoyoos, B.C., for 60 years. Help them put this together.

The current process seems to be that a low-level administrator tells them they aren't a citizen, they have a devastating experience, and their life starts falling apart. They are the ones left looking for the sorts of records that previous witnesses have been talking about. They're left with trying to do things no regular Canadian knows how to do. This needs to be fundamentally shifted.

You're talking about an administrator making a decision that's going to greatly impact somebody's life. You therefore start from the principles of fundamental justice. You start off giving them notice, a hearing, and representation. Give them all of these things we afford to people charged with criminal offences or to people faced with evictions. In these other contexts, we recognize that when people's rights are threatened, they get something called due process. That's what we're calling for here.

• (1235)

Mr. Bill Siksay: Are there other models similar to what you're talking about, ones that work in other areas of law or administration and you can point to off the top of your head?

Mr. Jason Gratl: Certainly in the human rights context, there are commissions that will assist people in gathering evidence and determining whether or not there's a prima facie case. Certainly when it comes to those types of violations that on the face of it would seem less severe or less extreme than the retraction and withdrawal of citizenship, the government is prepared to put agencies in place that will assist citizens or permanent residents in building a case.

When it comes to this issue, it seems as though, in the ordinary case, Citizenship and Immigration Canada is engaged in a process whereby they entertain applications for refugee status and citizenship status. The obligation is on the citizen to qualify, and the applicant brings forward the materials. What we're suggesting is that there's a fundamental conceptual distinction between the ordinary applicant for status and a person whose citizenship has been lost or taken away.

Folks who were citizens or ought to have been considered citizens in the first place, once they can make out a *prima facie* claim that they fall into one of these obvious lost Canadian categories, ought to be accorded higher-level procedural protections than are accorded to the ordinary status applicants. There ought to be policies in place that will guide the discretion of the minister so that the delegates of the minister have an understanding of their obligations that are different from the ordinary way in which the Minister of Citizenship and Immigration proceeds. There's a fundamental conceptual shift, and there ought to be a principal dividing line and some policies in place to assist the ministry delegates in making those decisions.

Mr. Donald Galloway: Could I just add to that?

The Chair: Okay, you have 30 seconds.

Mr. Donald Galloway: I think the apt analogy is with permanent residents who lose their status. They appear before the immigration division of the IRB. Then, in most circumstances, they have a right to appeal to another division in the IRB, and we are dealing at that level with quasi-judicial decision-makers. Citizens, who have a more basic status, have none of that.

The Chair: Thank you, Mr. Galloway.

Mr. Komarnicki.

Mr. Ed Komarnicki: Thank you.

I will direct most of my questions to Mr. Edmonston.

I should say that unfortunately this issue has in a lot of ways become politicized. Mr. Telegdi has indicated that the Citizenship Act had been introduced, but it hadn't been since 2002. There was opportunity to get it done and they failed to get it done. And there's no question we'll do some small steps, like dealing with the issues we have before us with the various categories of the lost Canadians, to see if we can tackle the small problem before we address a larger one. The minister has invited us to come forward from this committee with some unanimity as to the amendments that would specifically address these issues, so that we can actually deal with them and deal with many of the concerns.

With respect to the numbers, there have been some wild fluctuations and, as Mr. Edmonston mentioned, some really high numbers, but obviously you've tried to at least identify who might be involved in these categories. If I were trying to get an educated guess, or perhaps a ballpark estimate of what we might be talking about in categories—but let's just take them category by category. I'll do two.

First of all, on the war brides and the war babies, the previous witness, Ms. Jarratt, indicated there were a number of war brides. I'm not sure of the number she quoted. It was perhaps 65,000 or so. In your estimation, you've indicated that there are about 25,000 to 30,000 war brides. Dealing with war brides alone, I understand that

the majority of those war brides who entered Canada have remained here as citizens, have always been citizens, and don't actually have problems with citizenship. Would that be correct?

• (1240)

Dr. Barry Edmonston: That's one of the major cautions, I think. When I define a demographic group, in the written part I said that the actual counts would be if every one of them has actually filed for citizenship, and then we'd see what happened. But I don't know, and I don't know anyone who does know what the proportion is of that group—

Mr. Ed Komarnicki: So on the number of people who are war brides who actually have a problem in the fact of their not being a Canadian citizen for one reason or another, you have not identified that number.

Dr. Barry Edmonston: That's right. I defined three groups. One group is—

Mr. Ed Komarnicki: Just to answer that, you haven't identified what that number would be.

Dr. Barry Edmonston: No.

Mr. Ed Komarnicki: You have no idea what percentage of the group of 25,000 or 30,000 who are legitimate war brides actually has a problem with Canadian citizenship. You don't know.

Dr. Barry Edmonston: That's correct, I don't know. I don't know anyone who does know, either, by the way.

Mr. Ed Komarnicki: But we do know that it's considerably less than the 25,000 or 30,000 that you identify as the group.

Dr. Barry Edmonston: That's right. I've been very clear on that. The number that would actually have problems is certainly less than the number I'm giving you.

Mr. Ed Komarnicki: All right. So you just gave the outside limits to identify the categories. Specifically how many we're talking about you don't know, but you know it is considerably less than what you've identified.

Dr. Barry Edmonston: I don't know if the word is “considerably”. I know it is less.

Mr. Ed Komarnicki: Okay.

Now let's talk about the war babies. You've identified that category as 6,000 war babies. As I understand, you said 71% report their father was born in Canada. Would you agree with me that those war babies who were born to a Canadian father in wedlock are Canadian citizens and there are no issues about establishing their Canadian citizenship? Would you agree with that?

Dr. Barry Edmonston: There shouldn't be.

Mr. Ed Komarnicki: Right. So you'd have to discount those. So how many of that 71% actually were born in wedlock to a Canadian father?

Dr. Barry Edmonston: I don't know their marital status at birth.

Mr. Ed Komarnicki: You would have no idea as to what percentage we're talking about then.

Dr. Barry Edmonston: No, not on that one.

Mr. Ed Komarnicki: That would help us identify the actual problem numbers that we do have. Is that correct?

Dr. Barry Edmonston: If we knew that, yes. If we knew the precise immigration history, marital status, all the things that we normally would see if we were doing a review of them, that would help with the number. But we don't have that from census data.

Mr. Ed Komarnicki: You also indicate that 21% of those would have been born to Canadian mothers.

Dr. Barry Edmonston: That's right.

Mr. Ed Komarnicki: And if they were born out of wedlock to Canadian mothers under the legislation as it then existed, they would have no problem with their Canadian citizenship.

Dr. Barry Edmonston: They shouldn't.

Mr. Ed Komarnicki: No. So do you know what number that is, of the 21%?

Dr. Barry Edmonston: No. We don't have a marital history on any of these individuals.

Mr. Ed Komarnicki: So would it be fair to say that what you've done doesn't establish the number of problematic or problem cases—people who don't have Canadian citizenship because of legislation?

Dr. Barry Edmonston: That's right. The only accurate number we would have, if we turned to administrative records, is the number of cases that are actually under review and on which some decision has been made, and that's a very limited number.

Mr. Ed Komarnicki: I have one final question.

The Chair: You have fifteen seconds.

Mr. Ed Komarnicki: Of those you've identified as being born outside Canada, and with the numbers that you have, there may be some who do not desire to have Canadian citizenship. Have you identified that number?

Dr. Barry Edmonston: No.

The Chair: Thank you.

Thank you very much, Mr. Edmonston and Mr. Komarnicki.

We'll now go to our second five-minute round.

Mr. Karygiannis.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): Thank you, Mr. Chair, and thank you to the witnesses for coming.

I'm not going to play with numbers. I'm going to call a fair shot a fair shot. Mr. Komarnicki might want to play with numbers and sort of do a run-about and say is this this, or is this this?

The number I'm looking at is what the previous individuals who were here said—that there were 20,000 children—and I believe it was Ms. Jarratt who said so—who came with their mothers. That was about 60 years ago, plus. So when you take that over two generations and think of each child as having two kids, you could be looking at 80,000 Canadians who could be affected. That's simple math that anybody who's a mathematician can put together or any individual can put together. It doesn't take a lawyer to do a reversal, as Mr. Komarnicki did, in order to do this.

However, going on the record here, the minister was in committee on February 19, and when the question was put to her, "Have you

advertised?" she turned to her official, and her official said, "Yes, we have advertised". Since then, the deputy minister has issued a letter to this committee apologizing for having—I don't want to use the word "lied", because it is improper as far as parliamentary terms are concerned, so I'll use another word—misled the committee.

Now, I'm wondering if they had, in your estimation, done an aggressive campaign of advertising, telling Canadians what they could face, how many people you would guesstimate would be coming out.

• (1245)

Dr. Barry Edmonston: That's a good question, because we're seeing what we are right now only because of needs for passports. We're seeing lots of people for the first time applying for their certificates of citizenship. I've tried to get a ballpark idea in terms of bounding the problem. When we hear people saying there aren't very many, that there are only a few dozen, and then someone else says there are millions, I think it's useful to get some better measure than that. Whether or not the number is as high as the numbers I'm giving, I've been fairly clear in saying that there are certainly people who would not have citizenship problems if they actually applied. In fairness, there are probably some people who will never apply. They're not in a status in which they need to be concerned about it. I think an application that was advertised and on which people knew what they'd have to do would be the kind of thing we could get a closer number on.

Hon. Jim Karygiannis: Would any of you, or even the previous witnesses, care to take a stab at what numbers you think would come out of the woodwork?

Dr. Barry Edmonston: My guess would be tens of thousands.

Hon. Jim Karygiannis: Tens of thousands?

Dr. Barry Edmonston: Tens of thousands at least.

Hon. Jim Karygiannis: More than 100,000 or less than 100,000?

Dr. Barry Edmonston: There are 100,000 in Canada, so I don't think it's going to be much more than that.

Hon. Jim Karygiannis: Then again, we do have the children who are born abroad.

My other question is about somebody who says we could be in a tidal wave or a tsunami, so let's extrapolate from this. A Canadian is abroad and something similar to what happened in Lebanon happens, and we're there to evacuate Canadian citizens. Somebody, in this case, is a child of a war veteran who gave his life, whose blood was shed for this country, and because of whom we have today the freedoms and rights that we have. What are we going to tell that child? Sorry, we can't take you on board the ship because you're not a Canadian citizen?

The Chair: If that's a question, anyone can respond or comment if they want to. If not, we can move along to the next question.

Hon. Jim Karygiannis: So we do have what are called two citizens: one is good to be a citizen, and the other need not apply, as this minister doesn't care.

I have a question for Mr. Galloway. You're a professor of law, sir, and you certainly gave a brief. Are there the means, in your estimation, if there's willingness from the government side, to fix this and fix it very quickly, so even if there's an election come spring, we can walk away and say we did the right thing, that we were responsible, unlike the minister, who was irresponsible when she was here and misled this committee about advertising? Is there a fix that we can have?

The Chair: You have 45 seconds, please.

Mr. Donald Galloway: I think there is a fix. I would much rather it be correct than fast.

One of the things we've done in the past is act quite quickly to solve the problems that are visible. I think we have to think about all the invisible problems that have existed in relation to individuals we don't know about. We have to give it some thought. I think a lot of thought has gone into this. I see the problem relating to citizenships being taken away in the past. I think we can retroactively deal with it.

The problem, as I suggested today, continues. We have to look at the application of section 8 of the Citizenship Act, which automatically takes away citizenship for some individuals.

Hon. Jim Karygiannis: My last question before the gavel comes down: Should the government do the right thing and advertise to tell Canadians that they are in jeopardy of losing their citizenship?

Mr. Donald Galloway: Part of the thrust of my talk is that I think this government has a lot of responsibility that it has been perhaps not shirking but overlooking in relation to promoting the interests of its citizenry.

The Chair: Thank you, Mr. Galloway.

I'm going to try to get in three speakers. If you don't need five minutes, four might be enough for your questions, so that we can get the full round in.

Mr. Gravel.

[Translation]

Mr. Raymond Gravel (Repentigny, BQ): This will be quite brief. I'd like some clarification. We talk a lot about Canadians who have lost their citizenship. I'm from Quebec. Is the situation the same in that province? I know that children who were born outside marriage were registered differently. There were a lot of nurseries in Quebec. Nuns took care of those children, and they were adopted. If those youths or adults show up today, if they want a passport, if they want to know whether they are Canadian citizens, even if they were born outside of marriage, is there anything in particular for them? These were often children of young girls, and the nuns took charge of those children and put them up for adoption. Are they full-fledged citizens, or are they declared as having lost their citizenship, at some point, if they make an application?

• (1250)

[English]

Mr. Donald Galloway: My immediate response would be that I think Quebec citizens have faced the same problems with the 1947 act and earlier situations as the rest of Canada. It's a problem about

citizenship being automatically removed if certain criteria are met. I think it applies across the board, from coast to coast to coast.

Ms. Christina Godlewska: In our submissions, we deal a little bit with the situation of making these decisions based on whether or not you're born in or out of wedlock. I'm not sure whether you meant people who have been adopted out of the country and who were born here and then left.

Our basic submission is that a new citizenship act will have to make some hard and fast distinctions. What's clear is that not only that act but also discretionary decisions made now, today, need also to be charter-compliant, so that when people are being denied citizenship based on the legitimacy of their birth, we simply can't have this happen in a post-charter era. That's been a unanimous decision. A 1997 decision by the Supreme Court of Canada says that when somebody today comes to ask for a citizenship card or citizenship status, when they're being denied today, that is a post-charter decision that needs to be charter-compliant. Saying to somebody that you're not a citizen because of the legitimacy of your birth is just something we can no longer do in the modern era, the post-charter world.

The Chair: Okay.

[Translation]

Mr. Raymond Gravel: I was talking about an earlier period; I was talking about the 1940s and 1950s in Quebec because there were a lot of adoptions at that time. I was wondering whether it was... It's no longer the case today. It doesn't work the same way, I know.

[English]

The Chair: Are there any brief comments before I go to Mr. Siksay on the comment that was made by Mr. Gravel? No? Okay. We can go to Mr. Siksay, and then on to Mr. Komarnicki.

Mr. Gravel, did you have a comment?

[Translation]

Mr. Raymond Gravel: If you estimate the number of citizens who are in that situation in Quebec, how many are there roughly?

[English]

Dr. Barry Edmonston: There are about 11,000 children in Quebec who report that they were born outside and think of themselves as Canadian at birth.

The Chair: Thank you.

Mr. Siksay, if you could keep it a bit brief, too, below the five-minute mark, we'd appreciate it.

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

I'm glad Ms. Godlewska got to the question of the retroactivity of the charter, because I know it's something that both Professor Galloway and the B.C. Civil Liberties Association talked about in their brief. I think it's a very important piece of what's happening around all of this. I don't know if anybody has anything further to comment on the retroactivity of the charter.

The other question I had for Mr. Gratl and Ms. Godlewska was about the Taylor case and your comments in your brief about speculative concerns being inappropriate in the kind of government response. I'm wondering if you could just expand on that as well.

Ms. Christina Godlewska: I would urge the committee to take a look at that part of our brief in particular. Our recommendations are in bold, the first one being that current acts done by the ministry need to be charter compliant. In turning people away based on the gender of their Canadian parent, the legitimacy of their birth, even though we're blaming the 1947 act, the truth is that's a current act. It still enforced the ghost of these provisions, which live on because they're referenced and referenced. The Supreme Court of Canada took one look at this. Mr. Yakabuski wrote a very powerful and well-reasoned judgment in 1997. All nine justices agreed, this is called current discrimination, and give the example—and Professor Galloway does as well—that if this were a race issue, if we were saying to people, “Sorry, you're black, and it used to be that black people didn't get citizenship,” then nobody would stand for that. It's the same with respect to legitimacy.

When the minister was here before you, she gave a few reasons for wanting to appeal the Taylor judgment. I don't really hold her particularly to the legality of what she was saying. She cited a few things, such as if we do this for citizens, then when people come to do their taxes they're going to use the excuse of notification. We argue in our brief that's just poor legal reasoning. There seems to be kind of a speculative fear here of what's going to happen if we open the door. That's just not the way to approach citizenship. That's like saying “What's going to happen if we allow equality in our society and we let women into the workplace?” That was the same horn that was being blown when that issue first came before our country. Now we have a different issue, but once again, that kind of speculative reasoning of “Oh, no, what's going to happen if we give people their rights” is just not the way rights should be approached.

• (1255)

The Chair: Thank you, Mr. Siksay.

Mr. Devolin.

Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC): Thank you, Mr. Chair, and thanks to the witnesses for being here.

I didn't get an opportunity to ask a question in the first round, but I'd like to thank those witnesses as well.

Ms. Godlewska, I thought you made a couple of very good points for people listening or reading this, or even for me sitting here, the distinction between citizenship in terms of immigrants coming into Canada, that it's a process and it's an ongoing process in the future, and that Canada doesn't have any legal responsibility or obligation to grant citizenship to people who aren't citizens, if they are coming from somewhere else, whereas for people who live in Canada who are potentially lost citizens, it's a totally different situation. This is more a question of status, really, than process. I think some of your arguments regarding the importance of citizenship in a democracy and the role that plays, and the concern that the state somehow would have the authority to take citizenship away from people, ought to frighten all of us, not just those who may find themselves in these situations. I thought you made those points very well.

You referenced that there ought to be, just to start with, three or four fairly simple questions, a few simple questions, to establish whether someone is a *prima facie* case, such as “Were you born in Canada?” I had the sense that you didn't complete a list. Do you

actually have a set of questions that you would argue would be a starting point for this process?

Ms. Christina Godlewska: My three points are not exhaustive, and I think one of the major tasks before this committee is to enumerate where we want to draw that line. The three things I was pointing to were birth in Canada—these are just basic principles of international law—descending from Canadian parents, and my third was just taking into account the situations we hear of with people.

The situation of Rod Donaldson comes to mind. He was here three weeks ago. It's just a situation where who could have ever anticipated this. He was abducted and he was abducted again. He was adopted by notary publics who forged documents. It's just crazy. So I'm saying that for those kinds of people, for these unanticipated situations that even amendments to the law can't necessarily foresee, the department should be encouraged to use its discretion to use some kind of common-sense, estoppel approach. Where somebody has been living here and the government has represented to them in several ways—here's your passport, here's your social insurance number, we'll take taxes from you, thank you very much—that citizenship should just be granted on kind of a humanitarian grounds basis.

Mr. Barry Devolin: I don't know if anyone else has anything.

The Chair: Does anyone else have a comment on Mr. Devolin's questions?

If not, we will thank witnesses for appearing here today, both panels. Thank you very much for your attendance. You're making a very compelling case to have this problem dealt with and resolved. This is our fourth meeting, and I would imagine after Easter we will be doing the report, so stay tuned. Thank you again.

We will move to committee business in a moment. We'll give our witnesses a chance to leave the table, and we will go to Mr. Karygiannis's motion of March 20.

Again, many thanks.

We're still public. We're not in camera. I would remind members we're still public, and we'll deal with the first motion by Mr. Karygiannis:

That the Standing Committee on Citizenship and Immigration ask the Minister, the Deputy Minister, and other appropriate officials from the Department of Citizenship and Immigration to appear before the Committee to further discuss the issue of Lost Canadians and the measures the Government is taking to notify potentially affected Canadians of the retention rule, with regard to the letter from Deputy Minister Richard B. Fadden, dated February 23, 2007, and that the letter be appended to the committee evidence.

This motion is deemed to be in order, so I will go to Mr. Karygiannis for comments, and to committee members as well.

• (1300)

Hon. Jim Karygiannis: Mr. Chair, as a clarification, I noticed that when we were discussing this motion the last day, there was a postponement to see if the department would consider issuing a press release that this happened.

I'm wondering if the parliamentary secretary, who took it upon himself to move this forward, can advise this committee if there's a press release on the website—I failed to see one a couple of seconds ago—or if there's one coming.

The Chair: Mr. Komarnicki, do you wish to answer?

Mr. Ed Komarnicki: Certainly I'm prepared to answer.

I can advise that the department will not be issuing a press release. A letter has been forwarded to this committee by Mr. Richard B. Fadden that sets out the circumstance and the context in which the answer was given, and the reasons for it. It's quite specific and clear. Certainly it could be read into the record. It's something I am prepared to do, and it clarifies the whole situation.

I don't think it's really up to this committee to instruct someone else to issue a press release. If the committee wishes to do so, that's certainly up to it, but as far as this is concerned, in my view the letter should be read into the record, and I'm prepared to do that.

• (1305)

The Chair: Go ahead, Mr. Karygiannis.

Hon. Jim Karygiannis: If I may continue, Mr. Chair, unfortunately Mr. Komarnicki certainly did not put forth in the answer whether the department was willing to do it or not.

However, I would like to read from the letter a couple of excerpts. The letter says:

I replied that we had advertised but that I did not know exactly when or where because it took place a couple of years ago.

The deputy minister continues:

I wish to inform you that this particular answer was not correct.

On a personal note that the deputy minister wrote to me, I'd like to take exception to it and I'd like to read it for the rest of the committee members to hear. It says,

Mr. Karygiannis:

I attach a copy of a letter I sent to Mr. Doyle (as Chair of the Standing Committee) letting him know that I had inadvertently misinformed the Committee during my appearance with Minister Finley.

As the question at issue came from you, I wanted to register my apology directly. Whether or not I agree with the rationale behind the question asked by a Parliamentarian I feel very strongly you are entitled to the facts. I regret any inconvenience my answer may have caused.

I'd like to table this as part of it.

Mr. Chair and members of this committee, I think Canadians need to know what the deputy minister knew and what he did not know, what the minister knew and what she did not know. I think this information that came to this committee needs to be addressed. Officials who come to this committee must be ready to answer questions. Officials who came to this committee had a clear indication that we were going to ask those questions, as I had written to the minister a couple of days before and asked if they would take any aggressive advertising on this. They knew this question was coming, and to come to this committee and misinform it on the day it opened is certainly uncalled for. No due diligence was done, and the responsibility lies with the department to come and get the facts straight for us.

I'm urging the committee members to support the motion.

The Chair: Okay.

Is there any further debate on the motion?

We have Mr. Siksay, Mr. Komarnicki, and Mr. Telegdi.

Go ahead, Mr. Siksay, please.

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

I just want to say that I will be supporting the motion. I do believe it will be helpful to have the minister and the deputy minister come back and appear on the issue of lost Canadians.

I also want to say, though, that I do accept Mr. Fadden's apology for not providing appropriate information to the committee at the time he was asked the particular question. I'm not as interested in pursuing that particular issue; a mistake was made, regret has been expressed for it, and I appreciate that the deputy minister has taken the initiative to do that, but I do think the motion is supportable, because I think it will be helpful, after we've heard the witnesses we've been hearing the last few weeks on the citizenship issues, to have a further go-round with the department.

The Chair: Thank you.

Mr. Komarnicki is next.

Mr. Ed Komarnicki: Obviously we'll oppose the motion in respect of the error that was made; whether this committee wishes to have the minister respond following the evidence is another question.

It was clear that the minister deferred the question to the deputy minister, and in his letter he's quite clear. He said:

During the February 19, 2007, meeting of the Standing Committee on Citizenship and Immigration, we were asked about the extent to which the Department had made use of newspaper advertising to inform potentially affected Canadians of the retention rule. I replied that we had advertised but did not know exactly when or where because it took place a couple of years ago.

I wish to inform you that this particular answer was not correct. While the Department did conduct an awareness campaign via posters and various types of notices in our offices in Canada abroad, as well as some outreach with communities and stakeholders such as the Mennonites, it did not run commercial advertisements.

More generally on the same subject, I would confirm that since 1980, all people born abroad who were subject to the retention rules received a letter to that effect when they were registered by their parents. On January 1, 2007, in keeping with the 2005 Citizenship and Immigration Standing Committee recommendation, Citizenship and Immigration Canada added an expiry date on the citizenship certificates of individuals affected by the retention rules, as further notification.

It clearly sets out all of what happened. It is a narrow point. I don't think for that reason we should call people back in. It's not necessary; the point's made.

I would say this motion should be opposed. If you want to come up with another motion or request for the minister to attend, that's another issue. It's separate from this one.

The Chair: Mr. Telegdi.

Hon. Andrew Telegdi: I will be supporting the motion. I think it's important for us to hear from the officials now that they have had a chance to look at the testimony. Clearly the numbers the minister stated were really low-ball. I guess the question could be asked whether the minister misinformed the committee or was misinformed herself. I tend to think that the minister herself was misinformed.

I have seen this bureaucracy operate over the years, and I think it's very important for them to be here to tell us how quickly and how we're going to end the terrible hardships that members of this committee have heard about from personal accounts, and understand there are many more people in those types of situations. This really has to be a priority, and I think it's important to have the officials here to respond and admit to us that the numbers they gave us were false.

● (1310)

The Chair: Thank you.

Madam Faille.

[*Translation*]

Ms. Meili Faille: In fact, I'm going to take the same line as Andrew as regards this notice of motion. We are going to support it as well for similar reasons. The question asked was clear, that is whether an advertising campaign had been conducted. The answer was yes. So if we hadn't requested a more detailed report—I'm speculating here—perhaps we wouldn't have received this reply from the department. Perhaps we wouldn't have received these excuses. After hearing from witnesses who had to defend themselves with respect to the Citizenship Act, I believe we owe them an answer, and this would be an opportunity for the department to come and address this question.

[*English*]

The Chair: Thank you.

We'll have a final comment from Mr. Karygiannis and call for the vote on the motion.

Mr. Karygiannis.

Hon. Jim Karygiannis: I'd like to refer to paragraph three of the letter and advise Mr. Kornarnicki that it says:

I would confirm that since 1980, all people born abroad...received a letter to that effect when they were registered by their parents.

So either the minister or the deputy minister is telling me a lie, or he doesn't know what he's saying. My daughter was born abroad in 1982 and I received absolutely no letter.

Not only do we have the deputy minister's signature, we had the deputy minister and the minister here, and they turned around and asked officials.... At that point I asked if he would invite the person to whom he was speaking to the table. So that was clearly a misleading of this committee.

The Chair: I will call for the vote on the motion.

Hon. Jim Karygiannis: Could we have a recorded vote please, Mr. Chair?

(Motion agreed to: yeas 7; nays 4)

The Chair: We have two more motions, but the presenter is not present. If anyone wishes to present these motions it will have to be done by unanimous consent.

Does anyone wish to present the motions, and is there unanimous consent to do that?

There is no unanimous consent, so there's no point in asking the other question.

There being no further business, the meeting is adjourned.

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