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Chair

Mr. Borys Wrzesnewskyj

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● (1100)

[*English*]

The Chair (Mr. Borys Wrzesnewskyj): Good morning. I'd like to call the meeting to order.

Pursuant to the order of reference received by the committee on March 21, 2016, the committee will now proceed to the consideration of Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act.

I'd like to welcome our first panel of witnesses on the subject of Bill C-6: Andrew Brouwer, senior counsel in refugee law, Legal Aid Ontario; Audrey Macklin, professor and chair in human rights at the faculty of law, University of Toronto; and Tamra Thomson, director of legislation and law reform, and Christopher Veeman, executive member of the immigration law section, both from the Canadian Bar Association.

Welcome. Each of you will have seven minutes or less to make opening statements, and we will proceed alphabetically.

Mr. Brouwer, you're up first.

Mr. Andrew Brouwer (Senior Counsel, Refugee Law, Legal Aid Ontario): Thank you, Mr. Chair and members of the committee. It's a pleasure to be back before the committee.

I work for Legal Aid Ontario, or LAO. Legal Aid is the country's largest legal aid plan. Our mandate is to ensure access to justice for the most vulnerable and marginalized Ontarians. We do that through staff legal services, community and specialty legal clinics, and of course, funding private bar lawyers on certificates to represent our clients. Legal Aid Ontario helps almost 4,000 low-income Ontarians each day, accessing justice in the areas of criminal, family, immigration and refugee, and poverty law matters.

Legal Aid Ontario also has a law reform mandate directed to the core goal of access to justice for the most vulnerable. We have a number of key priority areas in the area of refugee and immigration law. Those are, first of all, equal access to and effective protection of charter rights; protection of mentally ill non-citizens; protection and promotion of the rights of the child; domestic implementation of international human rights law; and access to and protection of citizenship, particularly for naturalized Canadians.

We applaud the government today for introducing Bill C-6 so very early in its mandate, and we support much of what's in the bill. We're particularly pleased about the provisions scrapping the intention to reside requirement and removing the power to strip citizenship for national security grounds. We also support the changes to the language and the residency requirements for naturalization.

That said, in our view the bill's not perfect. There are some significant problems and gaps that we hope this committee can address. Of particular concern to us are five areas. I've handed out a summary in English and French of the specific recommendations we have, and I hope those are before you. I'll just go through very briefly what we're suggesting.

The first issue I know has been a topic of a great deal of debate. I'll rely on Professor Macklin on the issue of the revocation process. Legal Aid Ontario shares Professor Macklin's position on the best remedy for that, and I know that Minister McCallum has also expressed interest in looking at how to reform that provision.

The second is with respect to remedies for refused citizenship applications. Bill C-24 stripped refused citizenship applicants of their right to appeal refusals to the Federal Court, and introduced instead a remedy of judicial review by way of leave. That change imposes unjust and costly barriers to access to justice, particularly in an area that really goes to the core of what it means to be a member of society. Leave requirements in Federal Court can double the time it takes to get a remedy and double the cost of seeking that remedy; and leave refusals, as I'm sure you know, are made without reasons by the Federal Court judge, which does an injustice to the individual applicants who naturally will perceive the leave requirement as being arbitrary. They don't know why they get refused. We therefore urge the committee to amend Bill C-6 to reverse the amendments that were introduced in section 20 of Bill C-24 and return to the Federal Court appeal provisions that existed before.

Our third area of concern is with respect to the first generation born abroad limitation. We were very pleased to hear Minister McCallum affirm before this committee that there should be one class of citizen. There's no place in Canadian law, in our view, for provisions that treat citizens born on our territory differently from those who are naturalized. My grandchild will be a Canadian citizen no matter where she's born. Mr. Virani's grandchild—he is my MP—will not be, unless she's born on Canadian territory. That's an unjust distinction. We ask, therefore, that the committee amend Bill C-6 to include a provision that strikes down the first generation born aboard provision in section 3(3) of the Citizenship Act.

The fourth area of concern is with respect to the residency calculation. We supported the change to the residency requirements that were set out in Bill C-6. We ask that they be expanded so that credit can also be given for Canadian residency to those who have made a refugee claim that's been found eligible but are waiting to have their hearing. As you know, there is a massive backlog right now. People are waiting for three or four years to have their claim heard. They should get credit for that time.

● (1105)

As well, those who have been accepted on humanitarian and compassionate grounds at stage one should also get credit for the time. It's a two-stage process, and people sometimes wait for years to get the final approval. That period of delay is not the fault of the applicant; it's a problem at Immigration, which is just taking too long to process them. We ask that they also get half-time credit for that period.

Finally, I'd like to ask the committee to consider seriously the issue of statelessness and how this act can be amended to deal with the stateless within Canada.

We are certainly hopeful that the new government's renewed recognition of the importance of international law and global engagement will result in our signing the 1954 Convention Relating to the Status of Stateless Persons, but there is something that we can do right now with this act to make sure that we are better protecting stateless persons and coming into better compliance with international law and norms.

We have three recommendations.

The first, which is critical, is to include a definition of "statelessness" within paragraph (a) of subsection 2(2) of the act. We ask that this include both de jure or legal statelessness as well as de facto statelessness. Practically speaking, the whole point of dealing with statelessness and assisting stateless persons to get protection is to make sure that every member of society has a connection to a state.

Concerns have been expressed by various people, including in a case in the U.K. called Pham, which shows the problems when we have an overly legalistic and narrow definition of statelessness. We are proposing the following definition, which is also included in the materials handed out. It's that "stateless" means that the person is not considered as a national by any state under the operation of its law and includes both de jure and de facto statelessness.

I've handed out a little printout from the website of CIC, which includes this government's understanding and definition of those two terms, de jure and de facto.

The second provision with respect to statelessness is that we're asking for an amendment to subsection 5(4) of the act, the provision that allows discretionary grants of citizenship in special cases. We propose that statelessness be identified specifically within the act as a factor that would justify a grant of citizenship under subsection 5 (4).

Finally, we are proposing an amendment to section 10 of the Citizenship Act, the revocation process. We propose adding a restriction on revocation when it might result in a person's becoming stateless, whether de jure or de facto. We believe this would provide a very significant protection against an unexpected result of a revocation decision, and we ask that you seriously consider it.

Those are my submissions.

● (1110)

The Chair: I'd like to remind the witnesses—I was a little lenient there on the timing—to attempt to stay within the seven minutes allocated for each witness's testimony.

Professor Macklin.

[*Translation*]

Prof. Audrey Macklin (Professor, Faculty of Law, University of Toronto, As an Individual): Thank you for this opportunity to make a presentation.

I will give my presentation in English but will do my best to answer any questions you might have for me in French.

[*English*]

I would like to echo Mr. Brouwer's congratulations to the government for the many salutary features of Bill C-6. For reasons of time, I'm going to accentuate those factors that I think perhaps still require further attention.

My presentation will be exclusively on the question of the procedure for the revocation of citizenship based on fraud or misrepresentation.

The process as it currently exists, through the amendments to the Citizenship Act made by the previous government, is such that where the government considers revoking citizenship, the minister or a delegate sends a notice to the individual concerned. The individual, the citizen, then has the opportunity to respond in writing to the allegations leading to the intention to revoke citizenship. That's done exclusively in writing, except that the minister has discretion to convene an oral hearing.

Based on whatever submissions the minister receives in response, and other evidence before the minister, the minister then makes a decision to revoke citizenship. At that point, the individual may seek judicial review before the Federal Court, but can only do so with leave of the Federal Court.

Rather than walk through a jurisprudential analysis of why I think this process probably fails to pass constitutional muster, let me just explain it through some examples.

Generally speaking, the more secure one's status, whatever it is, the greater the procedural protections one is afforded prior to a decision to remove that status. Similarly, the more important the consequences of the decision, the greater the emphasis is on procedural fairness in the course of making the decision that will have that consequence.

Bear those two features in mind while I recount that the process under the current law for revoking citizenship provides fewer procedural protections than one would have as a permanent resident before the immigration appeal division, or indeed, as an individual fighting a speeding ticket in court. I hope that illustrates to you that there might be something problematic about revoking somebody's citizenship with a thinner, less protective process than is required to lose permanent resident status or, indeed, to fight a speeding ticket in court.

I should add that in the United States, for example, citizenship revocation on grounds of fraud or misrepresentation is done through a civil court process. That is, it is done before an ordinary court using ordinary civil court procedures.

What I will do is offer a suggestion or proposal for how one might consider amending the existing citizenship revocation process in a manner that would bring it into compliance with section 7 of the Charter of Rights and Freedoms. Section 7 of the charter guarantees to everybody the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with fundamental justice.

What I am proposing here is a mechanism for dealing with citizenship revocation on grounds of fraud or misrepresentation that complies, I think, with principles of fundamental justice. Let me preface it by saying that I anticipate that the majority of cases that would come up for revocation would concern potential fraud or misrepresentation regarding the physical residence requirements for citizenship, although there are certainly many other bases upon which citizenship could be revoked.

What I propose is that the first level decision remain with a delegate of the Department of Immigration, Refugees and Citizenship. From there, I would suggest that, should an adverse decision be made, the individual has the right to appeal to an independent quasi-judicial tribunal. An example of that one could consider is the immigration appeal division of the Immigration and Refugee Board. One might choose that or one might develop some other tribunal for that purpose.

One would have to consider the composition of that tribunal. Should they be legally trained? Do you want one member, perhaps two members or three members? These are all issues to be considered.

● (1115)

With respect to important questions of procedure and evidence before that appeal body, I think it would be important that the burden of proof—that is, proving that the facts and the law in favour of revocation are met—be on the minister; that it be proven on a balance of probabilities; that there be full disclosure of the record, so that the citizen has access to all the available evidence; and in addition, that the parties be able to adduce further evidence on appeal.

What would the jurisdiction or the mandate of such a tribunal be? It would be able to consider an appeal on the basis of law, fact, discretion, as well as what are called “equitable” considerations, or humanitarian and compassionate discretion. Broadly speaking, this conforms to the existing mandate of the immigration appeal division with respect to loss of permanent resident status. The tribunal would have various remedial options, which again could be further explored in questions.

What happens from there? It goes from the initial decision maker to an independent appeal body that has the ability to uphold or set aside the decision made by the first-level decision maker. In the event of an adverse decision, either side could then go to the Federal Court. One might ask whether it should be an appeal or a judicial review. I would favour an appeal. I think this is a matter, certainly, for further discussion.

It is important, and here I would concur with what Andrew said with respect to denials of grant of citizenship, that it be “as of right”; that is, that there be no leave requirement.

With that, I will end my presentation here. I look forward to questions.

The Chair: Thank you, Professor Macklin.

I would now like to ask Ms. Thomson for her presentation.

You have seven minutes, please.

Ms. Tamra Thomson (Director, Legislation and Law Reform, Canadian Bar Association): Thank you, Mr. Chair, and honourable members.

Mr. Veeman and I will be sharing the seven minutes.

I'd like to start by thanking you for the opportunity to appear on these amendments to the Citizenship Act today.

The Canadian Bar Association is a national association. We are more than 36,000 lawyers across Canada, more than 1,000 of whom are members of the immigration law section, whose primary objectives include improvement of the law and the administration of justice. That is the optic by which we have reviewed the bill and make our comments to you today.

The submission you have before you was prepared and approved as a public statement by members of the immigration law section, and reviewed by the legislation and law reform committee. I would like to pass to Mr. Veeman to make the remainder of our remarks.

Mr. Christopher Veeman (Executive Member, National Immigration Law Section, Canadian Bar Association): Thank you to the committee for the invitation to appear.

I'm assuming that everybody has the submission. I'm proposing to highlight some of the points that we make in the submission, but it's there for you to review at your leisure.

Over the time I've been practising in this area, it's possible to discern two phases in Canadian citizenship law. The law was largely unchanged after the major rewrite in 1977—with the exception of the lost Canadian issue in 2009—until Bill C-24 came into effect. Leading up to Bill C-24, the perspective of practitioners in this area was that the system was in its "Byzantine" phase, if you can use that word. I say this because nobody knew what the legal test was for residency and how you qualified to become a citizen. There was a problem with the jurisprudence. The courts couldn't solve that problem, the processing times were backlogged, and Canada's interests were not being served by the old system.

The CBA supported the efforts in Bill C-24 to improve that situation. To its credit, Bill C-24 did fix a lot of those problems. The definition of residency was clarified, so we now have the physical presence definition. The decision-making process was streamlined, and also the government committed resources to processing. All those things led to the decline in processing times that we've seen.

Back in 2014 the CBA opposed many of the other parts of Bill C-24. While Bill C-24 brought citizenship law out of its Byzantine phase, in the view of some practitioners it moved it in a sort of Kafkaesque direction where, as we've heard, a person can have their citizenship revoked by a government official without any hearing. In a point that wasn't touched on yet, section 13.1 was introduced into the law, which allows the department to suspend processing of an application essentially indefinitely. These are features that in our view do not support the rule of law. Another thing we heard under the changes that came in with Bill C-24 was that the system of appeals for citizenship matters was changed to judicial review instead. From the point of view of practitioners, that's an inferior system. As we've heard, you need to get leave, and in all cases where you don't get leave, you don't get reasons. People can get an application refused, and they don't have the opportunity to get an appeal with reasons.

Our section supports many of the aspects of Bill C-6 that reverse some of those changes, in particular the national interest revocation. We were strongly opposed to that. Rather than listing all the points that we do agree with, which are in our brief, I want to point out some of the things where we think the bill can be improved.

The first one has already been touched on today by Professor Macklin, and also by the minister in his remarks last Tuesday, which is the question of ensuring there is a fair and independent process for persons subject to revocation of citizenship for misrepresentation or fraud. Professor Macklin outlined that, so I'm going to skip over parts of this. Our solution for this problem is slightly different from what Professor Macklin has proposed. The overall goal is the same, to ensure that everyone has the opportunity to at some point have their case considered on humanitarian and compassionate grounds prior to the revocation of their citizenship. In our view, it may be appropriate to consider granting the department official that discretion when they're reviewing the case and have that decision directly reviewed by the Federal Court on a reasonableness standard.

In some situations under the current law, people can have their citizenship revoked for misrepresentation, and they go directly back to foreign national status. This is the case where the misrepresentation occurred in their permanent residency application, and then they subsequently obtained citizenship.

● (1120)

We say that all persons who have their citizenship revoked should revert to permanent resident status, and then have an appeal before the Immigration Appeal Division to retain that status and try to remain in Canada.

In our brief we have advocated, in terms of the grant of citizenship process, for some residual discretion to grant citizenship in deserving cases where people cannot meet the physical presence test, despite strong connections to the country and a desire to become Canadian citizens. In 2014 we proposed certain definitions that might be used.

I'll just give you a couple of examples of cases that might be problematic. A pilot who lives in Canada but is flying overseas for work may have trouble meeting the three in five standard. Just as an aside, the three in five standard is an improvement from the four in six. It's slightly more flexible, but still, there may be these hard cases that will arise.

The Chair: Thank you, Mr. Veeman. Perhaps we can get into some of the other recommendations during the questioning. Your time is up.

Ms. Zahid, you have seven minutes for questions to our witnesses.

● (1125)

Mrs. Salma Zahid (Scarborough Centre, Lib.): First of all, I would like to take this opportunity to thank all our witnesses for coming and providing their input to this important legislation we are going through.

First, my question is either for Christopher or Tamra from the Canadian Bar Association. I read your submission. In your brief, you called for more flexibility in determining an applicant's ties to Canada rather than strictly relying on strict measures of physical delays. I certainly support flexibility and don't believe in unnecessarily onerous and lengthy residency requirements, but would giving citizenship judges more subjectivity here not open the door to potential uneven applications of the Canadianization demonstration, with standards varying from judge to judge?

Mr. Christopher Veeman: Yes, it's certainly possible that there could be differences, if you have to have a decision-maker assessing those questions. This type of analysis is undertaken in the context of the Immigration and Refugee Protection Act, section 25, where people can make an application to remain in Canada as a permanent resident on humanitarian and compassionate grounds.

That type of decision-making exists in our law in this general area. I guess from our perspective, we're the ones who are dealing with the people who have these hard cases, and we're looking for a way to advocate for them. We think some of them may have strong cases to become citizens.

Mrs. Salma Zahid: My question is for Andrew Brouwer. You have written and spoken extensively on the issues of statelessness and Canada's need to adhere to its international obligations with regard to not rendering any individual stateless through its immigration policies. Several bills have sought to address shortcomings in the Citizenship Act in this regard. Could you outline what changes you feel are still necessary to address this issue? Should these changes be made as an amendment to Bill C-6, or would they be better addressed on their own with stand-alone legislation that would allow for a more focused debate on that matter?

Mr. Andrew Brouwer: Certainly there's a great deal that Canada could and should do with respect to statelessness. We're here talking about Bill C-6. I do think that, if you take a look at my handout, you'll see there are some changes that can be made in this context that would make a big difference right now with respect to access to citizenship; and particularly, introducing a definition in law, in the Citizenship Act, would make a big difference.

Beyond that, though, I agree. There are some larger issues that need to be dealt with, with respect to the protection of stateless persons. I know that the UNHCR, Amnesty International, and other organizations have been asking the new government to consider, once again, signing on to the 1954 convention. I think that would be a very important step, and having done that, establishing a process for status determination for stateless persons likewise would be an important step.

If we were able to recognize—through a procedure like they have in the U.K. and in other countries—a procedure for determining whether someone is truly de facto or de jure stateless, and then grant them access to Canadian status, I think that would be a critical change. That is a stand-alone measure that needs to happen, and that needs to have some debate and some legislative crafting, for sure.

Beyond that, another measure that I understand the department was looking at was to make amendments to the H and C, the humanitarian and compassionate, permanent residence guidelines to make sure that statelessness is an identified factor for the exercise of discretion under section 25 for grants of permanent residence. That would be similar to what I'm recommending now that the Citizenship Act have under subsection 5(4), which is again a recognition that statelessness is an important factor that should justify an exercise of discretion to grant citizenship.

Mrs. Salma Zahid: My question is for Ms. Macklin.

I would like to touch on the revocation of citizenship for acts that demonstrate the [*Inaudible—Editor*] "Canadian values" that was introduced to the Citizenship Act by Bill C-24 and that Bill C-6 proposes to remove. In an op-ed in the *Toronto Star* on April 25, 2013, you likened this provision to the "medieval practice of banishment".

Could you discuss how allowing a politician to revoke citizenship for a vaguely defined [*Inaudible—Editor*] of values opens the door to a slippery slope of grounds for revocation and opens the provision to a likely challenge under the Charter of Rights and Freedoms if it is not removed from the act?

● (1130)

Prof. Audrey Macklin: The revocation of citizenship engages several charter rights, most notably I think section 7, which I described earlier. It may also constitute cruel and unusual treatment or punishment, as the Federal Court has recently defined it in the refugee health care case.

The way in which the previous government formulated citizenship revocation was to predicate it on commission of listed offences. They were, broadly speaking, national security offences. If you were convicted for one of those offences, the minister could further revoke citizenship.

That tells us two things. One is that citizenship revocation is in effect being used as punishment. It is a punishment that is being imposed by a minister outside of a normal minister's legal powers. The power to find somebody guilty of a crime and to punish them belongs to a court and only to a court. A minister doesn't have that authority. That's one problem. Another, of course, is the principle of double punishment, that whoever does it, you can't punish somebody twice for the same offence. These are in addition to constituting it as what I've called cruel and unusual treatment or punishment.

Finally, in earlier jurisprudence from the Supreme Court of Canada about denying prisoners the right to vote, the court there said that revoking something as fundamental as a right of citizenship in furtherance of the achievement of symbolic value constituted a breach of the right to vote. If you take that principle and extrapolate it, then surely it applies to citizenship as well.

The Chair: Thank you, Ms. Macklin.

Mr. Tilson, for seven minutes.

Mr. David Tilson (Dufferin—Caledon, CPC): Some of you have been here before for Bill C-24. Welcome back. All of your presentations are legal, but I can understand why: you're all lawyers.

I want to ask a question on the issue of revocation, which deals with terrorism. It's happening more and more, particularly in Europe, but it has happened here.

Canadians want to feel safe. I just want to outline—you probably already know this, but I'll outline it anyway—three other jurisdictions that have similar legislation to Bill C-24, and if we have time, perhaps you could comment on them.

In the United Kingdom, under the provisions of the British Nationality Act 1981, a natural-born British citizen could have their citizenship revoked if the Home Secretary is satisfied that it would be conducive to the public good to do so and the person would not be rendered stateless. Naturalized citizens of the United Kingdom could have their citizenship revoked if the Home Secretary is satisfied that it would be conducive to the public good to revoke citizenship because the person engaged in conduct seriously prejudicial to the U.K.'s vital interests and the Home Secretary had reasonable grounds to believe that the person could acquire another nationality.

The latter provision, which would leave a person stateless, came into effect two years ago. The term "conducive to the public good" includes involvement in terrorism, espionage, serious organized crime, war crimes, or unacceptable behaviours.

In France, where it's still being dealt with—their legislation has passed through the lower house and is now in the Senate—the French law allows naturalized citizens to have their citizenship revoked if doing so will not render them stateless.

All states seem to be concerned with the issues that you've raised on statelessness.

Article 25 of the Code Civile provides that citizenship may be revoked for persons convicted of certain crimes related to national security; however, citizenship can only be revoked if it was acquired less than ten years before the conviction, or 15, depending on the crime. In other words, I suppose there's the issue of fraud, which I don't recall any of you having commented on.

The current debate in France is over a new legislative proposal to allow for revocation of the citizenship of natural-born French citizens with another citizenship when they are convicted of a crime of a serious attack on the life of the nation. The law passed the French lower house of their parliament in February and is now before the Senate. It's quite controversial. It hasn't passed, that I know of.

Following the passage in both houses, the law would require a constitutional amendment, and this in return requires a two-fifths majority vote in their two legislative houses together. That may not happen.

In Australia, there were changes in December of last year. Dual-national Australians may lose their citizenship for national security reasons. The specific grounds for losing citizenship are engaging in specified terrorist-related conduct, fighting for a declared terrorist organization, and being convicted of a specified terrorism offence.

These laws seem to be similar to what was put forward in Bill C-24, although the French law may not happen. I'll ask particularly the representatives from the Canadian Bar Association—maybe we'll start off with Mr. Veeman—whether you have any reaction to this. I expect you're going to say, ah, but we have the Charter of Rights, although to my knowledge there's no jurisprudence on that subject as of yet.

● (1135)

Mr. Christopher Veeman: I think my reaction is more of a practical one, in the sense that I'm not sure how the revocation of someone's citizenship actually makes us safer. I think the problem of terrorism—

Mr. David Tilson: Well, they'll be gone. That's what makes it safer.

Mr. Christopher Veeman: Yes, but people will find a way back into the country. It's better to keep them in a jail, which, if they're convicted of a terrorism crime, is probably where they're going to end up.

Mr. David Tilson: Mr. Chairman, speaking through you, my understanding of these three jurisdictions and of Bill C-24 is that this would happen after a conviction—not before a conviction, but after a conviction.

Mr. Christopher Veeman: I haven't studied that legislation.

Mr. David Tilson: Ms. Thomson?

Ms. Tamra Thomson: I'll defer.

Prof. Audrey Macklin: I can speak to this, if you'll permit me.

French President François Hollande has recently announced that they have abandoned their attempt to enact that legislation, so I don't think France is doing that.

It is true that Australia doesn't have any kind of entrenched bill of rights. In Britain, from what I understand, it is continually litigated and remains litigated, most recently in the Pham case. Rather than point out the anomalous cases of countries that have enacted this legislation, I think it's more interesting to note how many haven't, including the United States, which long ago, through the U.S. Supreme Court said, “citizenship is not a license that expires upon misbehaviour”.

As to the idea that we are made safer by stripping citizenship and removing people, my understanding is that governments have characterized terrorism as a global problem. That is to say, it is not one that is parochial in the sense that we resolve it by exporting it to somewhere else. In fact, people remain at risk, so exporting people who are alleged terrorists to some other country is in fact not a solution on its own terms, such as countries have characterized this problem.

Finally, allow me to highlight the absurdity of following the British model. Let's say that somebody is a Canada-U.K. citizen, and let's say that both countries decide that revocation of this person's citizenship is warranted, then I guess it's just a race to see who gets to revoke it first. The other country has to accept that person because that person will become a “mono-citizen”. If one thinks that the UK approach is a model that ought to be emulated by all other countries, one needs to think of consequences if everybody behaves in that way. I would suggest that the consequences are absurd.

The Chair: Thank you, Professor Macklin.

Ms. Kwan, you have seven minutes.

● (1140)

Ms. Jenny Kwan (Vancouver East, NDP): I would like to thank all the witnesses for their thoughtful presentations, as well as for the written presentations.

I'm not going to rehash some of the issues that were brought forward with Bill C-24 because we now have Bill C-6, which I'm very happy about. More to the point, there are issues that we need to focus on and address with C-6 that still need to be remedied.

On the issue of revocation, I think we've dealt with that. On the issue around independent and impartial hearing, I think we have the full sense of it. On the issue around statelessness, we have full sense of it as well.

There are a couple of other issues that were not touched upon due to time limitations, I think. One is the issue of knowledge of official languages. I know that was in the brief from the Canadian Bar Association. I wonder whether or not you could elaborate on the requirement to pass a knowledge test in one of the official languages. Would it amount to double testing, and what is your remedy for this issue?

Mr. Christopher Veeman: Prior to Bill C-24, applicants could take the knowledge test with an interpreter. So the knowledge test was really a test of their knowledge and not necessarily of their language ability. Our submission was that requiring people to take the knowledge test in an official language amounts to a second-language test. So the proposal is just to revert to the prior system, where people could take that test with an interpreter.

Ms. Jenny Kwan: I would like to move on to a different topic, the issue of criminal offence abroad. Bill C-24 brought in provisions that were left in place in Bill C-6, which prohibited citizenship from being granted to individuals charged with, or serving a sentence for, a criminal offence abroad.

There is also a related matter of term bars to citizenship, which I think was in some of your submissions as well. I wouldn't mind hearing about this issue and whether or not this committee should entertain making changes in addressing these two items.

I would open it up to any of the witnesses.

Mr. Andrew Brouwer: Legal Aid does have concerns about that provision. It permits a situation where, if a repressive regime has a problem with a dissident who has come to Canada, all they need to do to deny that person access to citizenship in Canada is to lay a charge against them. That would be enough to delay indefinitely that person's getting citizenship. I would certainly support removing that provision.

Ms. Jenny Kwan: I gather that all the witnesses are in support of that change.

As you may know, the citizenship fee has gone up significantly over the last number of years. It has increased almost 500%. In your experience with people making application, do you see that as a hardship for people, and should the government—although not in this bill because it's beyond its scope—look at measures to reduce that hardship?

Mr. Andrew Brouwer: Given our client base, the citizenship application fees and permanent residence application fees do present a serious barrier for many families. We made no submissions in this context because it's not part of the act. To the extent those fees can be reduced or can somehow be tied or related to income, or that there be exceptions allowed for people who are impoverished, I think that would be an important way to get rid of one of the barriers to citizenship for our clients.

Prof. Audrey Macklin: My understanding from the limited research that was done following more recent changes is that they have the strongest detrimental impact on access to citizenship by people who came as refugees. I think that includes the financial dimension of it. To the extent refugees are among those who most desperately want, need, and embrace citizenship as soon as possible, we should be mindful of not erecting arbitrary barriers to their ability to access it.

Mr. Christopher Veeman: My only additional comment is that to my understanding, the processing fee is intended to be a cost recovery model. From our point of view, we like to see fast processing of citizenship applications. In terms of addressing the issues of access, perhaps something like a waiver on humanitarian grounds could be considered, but we would not necessarily support the reduction of the fee if that's going to negatively affect processing times.

● (1145)

The Chair: I would like to remind everyone to stay within the scope of BillC-6. Thank you.

Ms. Jenny Kwan: Can you also comment on the question of humanitarian and compassionate grounds being considered at all stages of citizenship revocation? There have been changes made with respect to Bill C-24 related to that. In your experiences, why is it important that humanitarian and compassionate reasons be considered, and at what stages should they be considered?

The Chair: There are 40 seconds to answer.

Prof. Audrey Macklin: Humanitarian and compassionate consideration is crucial in any immigration system, because one can never foresee the impact of the law in all circumstances and on all people.

In this case, H and C consideration with respect to citizenship revocation should be located with the immigration appeal division or with whatever tribunal, if there is to be one, that will consider an appeal. The factors to be considered for H and C should be specified, or could be specified in relation to that particular task with respect to citizenship.

The Chair: Mr. Tabbara, for seven minutes.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): I have a constituent who is a permanent resident. His wife and children are 100% present in Canada. His family immigrated here from overseas, and he's developed a successful business in the Gulf, which he frequently attends to. He flies back and forth. He continues to operate that business to support his family. He has spent time in the Gulf tending to that business. Bill C-24 changed longstanding Canadian citizenship law by reducing residency to a question of days of physical presence.

Our current Minister of Immigration, when he was a third-party member of a committee, criticized Bill C-24 by saying it tightened the definition of residence so as not to allow any more time spent abroad.

The constituent is working for a Canadian company, but Bill C-6 doesn't address that restriction. As a result, my constituent's wife and children would easily qualify for citizenship, which they already did, but he may never be able to get citizenship due to his attending to his business overseas.

Your brief today addresses the issue at length, on pages 5 through 8. Could you take us through your evidence in regard to the undue restriction on the definition of residence?

Mr. Christopher Veeman: This was a submission we made at the time that Bill C-24 was coming into effect. We're still proposing, in what we call the “hard cases”, that there be a provision to allow the department to grant citizenship.

The test that existed prior to Bill C-24 I described as a bit of a vacuum. Nobody really knew, but there were multiple different tests that were applied. As a compromise position, we proposed what IRCC had in citizenship policy manual 5, which were some allowable exceptions to physical presence in Canada. They're set out there on pages 6 and 7.

It's a bit more of a nuanced assessment of the persons's connection to Canada, and potentially could allow someone like your constituent to qualify for citizenship. On the other side of the coin, the physical presence test makes things very black and white for officers who are processing cases. I think that may have contributed to the speed with which they can process them. There's a bit of a trade-off in terms of having discretion on the one hand, to allow those cases to be processed, and the fast processing that everybody wants. CBA's position is that there are those cases where deserving potential citizens should be heard.

● (1150)

Prof. Audrey Macklin: I would add that there's a difference between having a rule that's unclear—what does “residence” mean—and having a rule that's reasonably clear and capable of being implemented effectively and speedily, namely “residence as physical presence”, plus an exception where people can apply for a discretionary exemption from that.

I think it makes a difference administratively in how efficiently you can operate your system. The latter, I think, is probably much more efficient than the former.

Mr. Marwan Tabbara: You touched briefly on this, but if you were to propose an amendment to broaden the definition of residence beyond mere physical presence, to allow for some common situations, do you have any recommendations on what kind of criteria you'd implement?

Mr. Christopher Veeman: They're set out on pages 6 and 7 of the test from that manual. These apply, for example, to a person who is travelling on business, but their family lives in Canada and their children go to school here and they have a house or a residence here. It depends on whether they've centralized their mode of existence—that's the language from the case law—in Canada. It depends also on the extent of the absence from Canada. If you've got a large gap, it may be harder to justify.

The last factor that's listed—and this is again from the citizenship processing manual prior to Bill C-24—is what is the quality of their connection with Canada? Is it more substantial than that with another country? For example, if your constituent is more established in the Gulf, then it would be harder for him to be accepted as a Canadian citizen.

Mr. Marwan Tabbara: In brief, you suggested the minister be given discretion or that citizenship judges make the decision. If the minister were given the discretion, would the minister be able to delegate that authority to immigration officers?

Mr. Christopher Veeman: Yes, I think that's the thrust of the submission. Under section 25 of the Immigration and Refugee Protection Act, officers can be delegated the authority to grant exemptions, and that's how we would approach this as well.

The Chair: Mr. Saroya, for five minutes.

Mr. Bob Saroya (Markham—Unionville, CPC): I have a question regarding revocation of citizenship. Is there any condition where a person's citizenship should be revoked, like a condition such as fraud or lying on the application in any shape or form? Would you support anything?

The Chair: Who is the question being directed to?

Mr. Bob Saroya: It's for anyone.

Mr. Christopher Veeman: The position of the Canadian Bar Association would be that citizenship should be revoked in cases of misrepresentation and fraud, but that there should be some consideration available for someone who has been in the country for a long time and is established, and where the revocation could have a serious effect—for example, on their job. Maybe there could be an exception there.

But in general, yes, we don't support maintaining citizenship for people who have misrepresented.

Prof. Audrey Macklin: I'll add to that. It's important that whatever the fraud or misrepresentation was, it was actually material, in the sense that had it been known, the person would not have obtained citizenship.

There's the other dimension of it that might be considered, and here there is some comparative data from other states such as France and others. One could consider putting a statute of limitations on it, as with many things where we have statutes of limitations. After a certain period has passed, we think it's inappropriate to continue subjecting somebody to a risk. We do that in the criminal law. We do it in the civil law. One might consider doing that with respect to citizenship revocation as well. It's another factor to consider.

Mr. Bob Saroya: For those people who committed war crimes in the Second World War or in Bosnia-Herzegovina, some of that information comes out 10 or 20 years after they became citizens. There are things like this. Should their citizenship be revoked or should they be left here?

● (1155)

Prof. Audrey Macklin: You may decide that there's no statute of limitations for war crimes or crimes against humanity. You may decide that there ought to be a statute of limitations for misrepresentation with relation to some lesser issue that might be grounds for revocation. Of course, this is something that one would have to consider more carefully than I'm able to provide in this response.

Mr. Bob Saroya: Keeping Canadians safe is very important to me and my colleagues. Given your testimony, what changes would you recommend making to Bill C-6 so that the safety and security of Canadians are safeguarded? Anybody can answer that.

Prof. Audrey Macklin: I'm not sure citizenship is the optimal place to be trying to achieve the goal of protecting the security of Canadians. I think we might consider our criminal laws and our other security regimes. The role of citizenship in that is limited. I'm not saying it's absent, but it's limited, and one shouldn't overstate it or try to use it for a purpose for which it's not intended or for which it's not suited.

Mr. Andrew Brouwer: I'll agree completely with that. I don't think the Citizenship Act is the right place to be looking for measures that will protect Canadians. We have criminal law. We have security measures.

Mr. Bob Saroya: Another question I have is in regard to what can be done for language skills. The minister was here last Tuesday. Consultation was not done on the language skills. Language skills are vital to success in this country and to integration in the society. Language skills protect the individuals.

I can give you my prime example. When I came here 42 years ago, I had to buy somebody lunch every day because he could translate my stuff to the employer, right?

Voices: Oh, oh!

Mr. Bob Saroya: It's funny, but it wasn't funny at that time.

What can be done so that people are properly protected? Should more money be put on the table? What can be done so that people learn one of the languages and then have the language skills so they are not socially or culturally isolated and can find a job or go to school? What can be done from the government side to make sure that people are protected properly?

The Chair: Unfortunately, Mr. Saroya, you are over time at this point, and we will have to continue.

Mr. Sarai, you have five minutes.

Mr. Randeep Sarai (Surrey Centre, Lib.): I was going to ask a few other questions, but maybe I'll ask a question to help my colleagues on the other side and some others who don't understand why we want to change Bill C-24.

You're all lawyers, and I'll ask you to put your minds in a devil's advocate or a reciprocal mode. What if other countries were to adopt Bill C-24, not Bill C-6 but the original bill, similar to Great Britain and Australia, or as France was about to do, and a Canadian born from Canadian parents here was adopted and moved to and became a citizen of Australia—moved there for a job—but later became radicalized by a crazy ideology, became a terrorist there, and blew up something? Do we think that as Canadians we would like it if after he was convicted there, they were to revoke his citizenship and say that he was born in Canada and we should take him back? Do you think Canadians would like that?

I would like to hear from the Bar Association first and perhaps Professor Macklin afterwards.

Mr. Christopher Veeman: Well, the submissions of the bar are in support of the repeal of the national interest revocation provisions. I think the answer is probably no. Canadians wouldn't want to see that happen and to have people being sent back in that scenario.

I'll pass it on.

Prof. Audrey Macklin: I take your question to be rhetorical. It's a version of the reciprocity. I explained that if somebody is a Canada-U.K. citizen, the country that ends up with them is simply the last one to get to the revocation of citizenship. There's obviously an arbitrariness to that.

Your question draws on the ideas of to whom do we belong and what does belonging mean? We often talk about “belonging” in a very rich sense when we talk about what we expect people to experience as Canadian citizens, but when it comes to removing them elsewhere, we rely on the purely formal possession of legal citizenship as a valid basis upon which to deport them, because they really belong “over there”. I think your question exposes that fault line in how we use and understand citizenship.

● (1200)

Mr. Randeep Sarai: My other questions are more technical. The CBA has recommended that income taxes not be a requirement in the last three years. Can you tell me what the logic is behind not requiring you to pay taxes in Canada or for proof of that for citizenship being exempted?

Mr. Christopher Veeman: The reasoning behind it is that the Income Tax Act contains its own enforcement mechanisms, and imposing or requiring that for citizenship applications is really trying to enforce the Income Tax Act through the Citizenship Act, which we don't think is a good approach.

Also, we raised the issue of the potentiality that someone could, for example, think that they weren't required to file their income tax report and then would submit their citizenship application saying that they didn't think they were required to file. It later turns out that they should have and they were supposed to file. Is that a misrepresentation for the purpose of their citizenship application? Could they have their citizenship revoked for that mistake in their knowledge of the Income Tax Act? That's what the reasoning is there.

Mr. Randeep Sarai: Here's my next question. For a citizen whose citizenship may be revoked under Bill C-6 due to fraud or misrepresentation on an application, you're stating that they should revert to permanent resident status rather than being inadmissible foreign nationals. What steps define that?

One example would be a war criminal who didn't state that they were a war criminal. I think that would probably be an appropriate person to be declared inadmissible. Others may just be somebody like an uncle of mine who I know overstated his age to get into the military in World War II and then wanted to come to Canada. He was 15 and wanted to be 17, so his records all showed that; perhaps today the rules might say that he was fraudulent when he came to Canada. For those, it may be pertinent to either remain a citizen or to at least be a permanent resident.

Should there be a two-step mechanism? Or is it a hearing process that you're proposing? What would be the appropriate mechanism to determine if one reverts to a being permanent resident or an inadmissible foreign national?

The Chair: You have 20 seconds.

Mr. Christopher Veeman: There are only some situations where that would happen. It's where somebody misrepresented in their PR application and then became a citizen. Under the act now, they go back to being a foreign national. Our submission is that they should go to permanent resident status so that they can have an appeal. Those issues could be dealt with at the Immigration Appeal Division. Also, there could be some agency consideration at the stage of citizenship revocation itself.

The Chair: I'd like to thank our panel of witnesses for their informative briefs and answers to questions posed by the committee.

We will now suspend for two to three minutes to allow the next panel of witnesses to appear.

● (1200)

(Pause)

● (1210)

The Chair: Our meeting will resume.

The second panel today consists of Mr. James Bissett as an individual; Ms. Debbie Douglas, executive director, Ontario Council of Agencies Serving Immigrants; and Mr. Ihsaan Gardee, executive director, National Council of Canadian Muslims.

We will start with Mr. Bissett, for seven minutes, please.

Mr. James Bissett (Former Ambassador, As an Individual): Thank you very much, Mr. Chairman.

I might add that my interest in the subject is from my experience as head of the Canadian immigration service for five years and having spent most of my public service career dealing with immigration and refugee issues.

I have been before the committee before, and I have to confess that I defended Bill C-24. I defended it on the basis of two provisions that I think are important: the first was the length of time it takes to acquire Canadian citizenship, and the second was whether we should take away the citizenship of dual citizens who commit acts of terror or treason.

I can see no valid reason for extending the length of time for citizenship. I think the most compelling reason seems to be that—and the members of the committee will probably appreciate this—it enables them to vote in elections, but other than that I don't see a strong reason. I think many Canadians feel the same way. It's a short time to grant the precious gift of Canadian citizenship to people who have been only here for three years.

If members of the committee found themselves by chance as immigrants in let's say India or Egypt, in 10 years would they feel that they knew enough of the language, the customs of the country, the rights and responsibilities, and the social and political institutions of those countries to be able to vote in elections? I rather doubt it. That's what we're expecting the immigrants that are coming here to Canada to do, that in three years they should be able to know all of those things and also the obligations and the responsibilities of citizenship.

This coming year we're going to be letting in roughly 300,000 new immigrants. They're coming from roughly 190 different countries, and many thousands of them are coming from countries that have no traditions of democratic government. They don't have that opportunity. They haven't had it, and I think it's naive to think these people will be ready in three short years to accept all of the responsibilities of citizenship.

The reduction of residence encourages what is becoming more and more common, and that is the citizens of convenience: people who spend just enough time in Canada to acquire citizenship and then go back to live in their home country.

The Asia Pacific Foundation has estimated there are roughly 2.8 million Canadian citizens outside of Canada. Many Canadians remember that in 2006, with the trouble in Lebanon, we had 15,000 Canadians from Lebanon brought back to Canada at the expense of the taxpayer of roughly $94 million. Shortly after events in Lebanon settled down, 7,000 or more of those people returned to Lebanon.

On the question of whether we strip citizenship from dual nationals, I remind the committee that not everybody in Canada who's a legal permanent resident and applies for Canadian citizenship can get it. We don't let criminals, who have serious criminal records, obtain citizenship. We don't allow people who've even been charged with crimes against humanity to accept citizenship. Those qualifications to be met ought to be met as well for people who acquire citizenship later on and then commit horrendous acts of terror against their own citizens.

I think the primary argument used against revocation of citizenship has been the usual argument that it creates two classes of citizenship. I don't buy that argument because it's inherent in the very nature of citizenship that there is going to be more than one class. There are the natural born Canadians. There are the citizens who apply and receive it by meeting the naturalization requirements, and then you have a third category of dual citizens. You already have three categories of citizenship.

● (1215)

As a matter of fact, some natural Canadians can have their citizenship revoked under the provisions of Bill C-24, because many thousands of Canadians today have derived another citizenship through their father or their mother. If your father was a German citizen, you have automatic citizenship of Germany. So you have natural citizens as well as those who are naturalized who can be affected under the old Bill C-24 law.

I think there is also a fundamental, inherent difference, whether we like it or not, between natural-born and naturalized citizens. A natural-born citizen acquires citizenship by accident, by birth. They have no choice in the matter. A naturalized Canadian has to apply for citizenship. It's a voluntary choice and an option they have. It also requires a formal undertaking, an oath of allegiance to the new country. Natural-born Canadians don't have that choice, and they can't lose their citizenship. There are no penalties, that is true, but a naturalized Canadian has taken an oath of allegiance to their country, has made a choice to become Canadian, and if they violate that oath and that allegiance, it seems to me logical that there should be penalties attached to it.

Certainly we're not the only country that takes citizenship away from dual citizens who've committed or are suspected of having committed acts of terror. In England, for example, the Home Secretary has the power to strip the citizenship of a dual citizen without giving reasons, or, if they do give a reason, it's a very vague one—

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

Mr. James Bissett: —saying that it was conducive to the public interest.

Finally, there's a 2014 government report—

The Chair: Mr. Bissett, unfortunately your time is up.

Mr. James Bissett: —that CSIS is aware, or their security forces are aware, of 130 Canadians abroad who are associated with ISIS and other terrorist groups: 80 have come back.

The Chair: Thank you, Mr. Bissett.

Ms. Douglas, you have seven minutes, please.

I'd like to stress to our witnesses that in consideration of our limited time, please stay within the time allocations.

Ms. Debbie Douglas (Executive Director, Ontario Council of Agencies Serving Immigrants (OCASI)): OCASI, the Ontario Council of Agencies Serving Immigrants, welcomes the amendments introduced in Bill C-6. I was here for Bill C-24, and it's good to be back.

We hope it will remove certain barriers to citizenship, particularly for disadvantaged groups, such as racialized immigrants and refugees, and immigrant and refugee women, children, and seniors.

We welcome the potential for the bill to move toward a more inclusive and accessible citizenship process and remove the two tier citizenship created as a result of changes introduced through the previous Bill C-24. We are pleased that the present government made the repeal a priority and has moved so quickly to bring this forward.

Bill C-24 extended the residency eligibility from three out of the previous four years to four out of the previous six years. It required six months of physical presence in Canada for each of the four out of six. It took away the pre-permanent residence credit that could be counted toward residency to a maximum of one year for those legally in Canada prior to becoming permanent residents, such as refugees, international students, live in caregivers, and in Canada, sponsored spouses.

Bill C-6 will change the residence requirements to three out of five while maintaining the six months physical residence requirements for each of those three out of five years. It returns the pre-permanent residence credit of up to one year.

The bill reduces the waiting time required to become eligible for citizenship and allows immigrants and refugees to become citizens more quickly. It will let them participate more fully in Canadian society to become full members and to contribute to their full potential. This is particularly important for refugees who may not have any other country in which to turn to for protection, and it will meet practical needs such as a passport for travel.

Reducing the time is especially important for future citizens, such as live-in caregivers, other migrant workers, and international students. They would have been living and working in Canada for a certain period even before they became permanent residents, getting to know the country and the people, and contributing to the communities in which they live, including by paying local taxes.

Maintaining the strict physical presence requirements removes any discretion, even if extraordinary circumstances have forced potential applicants to travel for too many days.

OCASI supports the proposed residency eligibility period of three out of five years and supports allowing applicants to count at least one year in Canada before becoming a permanent resident.

We do not support the strict physical presence requirement. We recommend a citizenship judge should be allowed to exercise flexibility to approve an application when an applicant has met all other requirements and has a compelling reason for missing certain days of physical presence in Canada, particularly for applicants who are otherwise stateless.

On the issue of language, Bill C-24 extended language and knowledge test requirements from those aged 18 to 54 to those aged 14 to 64, thus extending it to more people. Older applicants may very well learn English or French enough to function, but have difficulty in passing the test. Those with limited formal education and literacy will have the most difficulty in passing the test. Learning a new language and passing a test is often difficult as one gets older.

OCASI believes it is important to encourage and support all residents, including older residents, to learn one of the official languages and acquire knowledge about Canada, but making this a condition of citizenship would exclude many from full participation in our society. Given the general vulnerability of older people, we should support improving access to citizenship so more residents have secure status and the additional rights, entitlements, and protection citizenship would give them.

Younger applicants aged 14 to 18 would still be in high school, and in that process will be learning one of the official languages as well as about Canada. It was never clear to us why Bill C-24 reduced the age requirement to 14 years. Reversing this requirement is the right thing to do.

OCASI supports the proposed amendment to require language and knowledge tests for those aged 18 to 54. We also ask the committee to recommend that particularly older applicants, and I will add here particularly older refugees, should be allowed the use of an interpreter in the interview with the citizenship judge to satisfy the knowledge requirement. This element was in place before the Bill C-24 changes.

● (1220)

Through Bill C-24, the previous government changed citizenship application rules in 2012 to require up-front proof of language ability. We suggest that the requirement for up-front proof also be eliminated. Many potential applicants have been excluded from applying for citizenship because of this requirement. For example, applicants who have been working in more than one job to support themselves and their families, and who therefore have found it difficult to also fit in language classes, have not even attempted to take the test. Some others could not afford the testing fee. Yet others live and work in communities that don't have a test centre. Those who don't have the time or money to travel to a test centre have not been able to take the tests either.

We have heard from immigrant and refugee settlement workers that because of a variety of difficulties, their clients are opting to wait until they are older so that they can apply for citizenship without having to take a language or knowledge test. Refugees, especially refugee women in particular, are those who are most impacted. Often they have met all other requirements for citizenship. These are Canadian residents who are living and working here. They are part of our communities. They are contributing to Canadian society in many different ways, and yet they are excluded from citizenship because of this language requirement.

OCASI asks the committee to consider a recommendation that would remove the up-front proof of official language ability. Instead, we ask you to recommend that having met all other criteria, the citizenship judge should be given the flexibility to determine through an interview if the applicant has sufficient official language ability and knowledge of Canada to satisfy these requirements of citizenship.

Other amendments in Bill C-6—

The Chair: Ms. Douglas, you have 15 seconds.

Ms. Debbie Douglas: Oh. Then let me jump to applicants with disabilities.

At present, certain applicants with disabilities, such as those with vision or hearing impairment, are exempt from language and knowledge requirements, but the rules are vague with respect to everyone else, other than suggesting to those who have a certain order or condition, and can provide certain documents, can ask for a waiver.

● (1225)

The Chair: Thank you, Ms. Douglas. Perhaps we can continue during the questioning.

Ms. Debbie Douglas: Absolutely I will continue during the question period.

The Chair: Mr. Gardee, you're next.

Just as a reminder, please try to stay within your seven minutes.

Mr. Ihsaan Gardee (Executive Director, National Council of Canadian Muslims): Good afternoon, honourable Chair, and respected members.

On behalf of the National Council of Canadian Muslims, I'm pleased to have this opportunity to offer the committee our organization's perspective on Bill C-6 and the Citizenship Act.

Briefly the NCCM is an independent, non-partisan, and non-profit grassroots organization that is a leading voice for Muslim civic engagement and the promotion of human rights. Our mandate is to protect the human rights and civil liberties of Canadian Muslims, promote their public interests, build mutual understanding between communities, and confront Islamophobia. For over 15 years, we have worked to achieve this mission through activism in four primary areas, including community education and outreach, media engagement, anti-discrimination action, and public advocacy.

At the outset, the focus of NCCM's submissions today will be on the provisions in Bill C-6 that repeal the grounds for revocation of Canadian citizenship as related to national security. We do not take a formal position on the bill's other proposed amendments to the Citizenship Act.

As a civil liberties organization, the NCCM supports the proposed legislative changes under Bill C-6 in order to remedy the problematic and legally dubious elements introduced by Bill C-24. Specifically, in our view and that of many other respected Canadian human rights organizations, including Amnesty International Canada and the British Columbia Civil Liberties Association to name a few, removing the grounds for revocation of Canadian citizenship that relate to national security upholds Canada's democratic ideals and ensures the protection of our deeply cherished and hard-won civil liberties.

The law as it exists today has created, in essence, two classes of citizenship. That dual citizens are more vulnerable to losing their citizenship means that some individuals and groups are less Canadian than others and therefore are less deserving of equal protection of the law. This is completely antithetical to the equality rights guaranteed by section 15 of the Canadian Charter of Rights and Freedoms, namely equality before and under the law, and equal benefit of the law. In effect, exposing dual citizens to banishment, something not faced by Canadians holding no other citizenship, makes dual citizens unequal before the law.

The Citizenship Act allows for a dual national found guilty, and incarcerated for a national security-related criminal offence, to be punished again with banishment through citizenship revocation and deportation. In our view, and that of many legal experts, this is inconsistent with the rule of law and the protections of the charter.

Aside from these human rights concerns, there is also the larger context to the social implications of the citizenship revocation provisions, which our organized is cognizant of, as we regularly receive and hear the concerns of Canadian Muslims. Simply stated, these laws do not exist in a vacuum and have harmful consequences. Stripping dual citizens of their citizenship for national security reasons unfairly targets immigrant and racialized groups, particularly those belonging to Muslim communities. It does little to enhance our national security by effectively unloading our problems on the doorsteps of other countries, many of whom may be our allies in the fight against violent extremism.

Make no mistake, the implications of the current law also go beyond dual citizens. Canadian Muslim individuals, families, and the broader community have been disproportionately affected by ostensible anti-terrorism measures enacted in the name of national security. In some cases, citizenship revocation proceedings have been commenced against individuals who were born in Canada and held only Canadian citizenship, merely because it was theorized that they would be able to obtain citizenship in a foreign country through their parents, even though they had never held such foreign citizenship or even lived in a foreign country.

This is an astonishing and deeply draconian and archaic development. Such an arbitrary and dangerous interpretation and implementation of the citizenship revocation provisions speaks to the urgent need to repeal them.

It is in this context that we remind the committee of what the Arar commission report warned about in 2006:

> Given the tendency thus far of focusing national security investigations on members of the Arab and Muslim communities, the potential for infringement on the human rights of innocent Canadians within these groups is higher.

Since 9/11, Muslims have been living under a microscope and are subject to heightened suspicion, which is perpetuated by negative stereotyping and discrimination in Western countries, including Canada. The potential reliance on terrorism convictions outside of Canada to revoke citizenship further exacerbates the issue. Had the citizenship revocation provisions been fully in effect, it is not difficult to imagine that someone like Canadian journalist Mohamed Fahmy could absurdly have been stripped of this citizenship after being convicted in what was widely described as a flawed legal process. That should give us all pause.

Ultimately, while Canadian Muslims benefit as much as our fellow citizens from our shared national security and public safety, Canadian Muslims also pay a higher cost for any benefit that may be derived from national security measures. This is also true when we take into consideration the impact of other national security measures, such as the Anti-Terrorism Act of 2015.

NCCM strongly believes that repealing provisions that revoke citizenship for national security related criminal offences is both a necessary and critical step in protecting the constitutional rights of Canadians. It is imperative, as a democratic and free society, that Canada upholds equal treatment for all under the law. At the same time, the NCCM supports measures that effectively enhance security and public safety while respecting civil liberties and the protections afforded under the charter.

● (1230)

To be clear, all Canadians agree that people should be held accountable for the crimes they commit. There is no question that the offences listed under the existing act are serious crimes; however, these crimes are appropriately punished by the criminal justice system, founded on a robust and transparent adversarial system and due process. In stark contrast to this principle of fundamental justice, the power to enforce banishment, as the law currently stands, is profoundly unjust and discriminatory.

In keeping with the spirit of Bill C-6, we would also like to take this opportunity to encourage Parliament to, at best, repeal or, at worst, significantly amend other harmful pieces of legislation that threaten the principles of democracy, equality, and the rule of law. Bill C-6 would have little meaning if the same principles are undermined through other legislative measures such as the Anti-terrorism Act, 2015, and if any changes made to these are only cosmetic in nature.

As mentioned, given the disproportionate impact that previous security measures and legislation have had on Muslim communities, it is not unreasonable that they fear they will be the collateral victims in a web of unchecked power and unbridled information sharing, if not the direct targets of unfair scrutiny.

The temptation to create more powers of enforcement, detention, and punishment to make the general population feel safer can be appealing, but represents a slippery slope in a liberal democracy. The Citizenship Act provisions for citizenship revocation—

The Chair: You have 15 seconds.

Mr. Ihsaan Gardee: —are part of that slippery slope.

In closing, the NCCM strongly supports the removal of the grounds for citizenship revocation as related to national security under Bill C-6. By repealing these measures, the government can reinforce its commitment to rebuilding the trust of Canadians that they will be treated equally, including Canadian Muslims, who have felt stigmatized by national security policy and the public discourse surrounding it.

The Chair: Mr. Ehsassi, you have seven minutes.

Mr. Ali Ehsassi (Willowdale, Lib.): I'd like to thank everyone for appearing before the committee. Obviously, one of the issues that we did have surrounding Bill C-24 is that there was very little input from experts such as you, so I'm very grateful that we've been provided this opportunity to determine if there are any gaps in Bill C-6.

I wanted to follow up on the testimony that you provided, Mr. Gardee. I understand that you're very much concerned about revocation of citizenship. I'm not quite sure whether you were here in the first hour when Professor Macklin provided a mechanism that would deal with revocation of citizenship. I was wondering if you would have any comments, and if you can think of any proposed mechanism to make sure that there are safeguards in place.

Mr. Ihsaan Gardee: I was only here for part of the last hearing, so unfortunately I would not be in a position to comment on the mechanism appropriately.

Mr. Ali Ehsassi: Okay. Perhaps I could ask Mr. Bissett a question.

Mr. Bissett, you obviously have many years of experience insofar as immigration matters are concerned. You're probably aware that when Bill C-24 was introduced, the Canadian Bar Association prepared lengthy submissions. One of the issues that they were very much concerned about was safeguards in ensuring that Bill C-24 was consistent with the charter or, more specifically, with section 7 of the charter. I was wondering if you have any comments on that situation.

Mr. James Bissett: No. I was aware that the Canadian Bar Association expressed concern that it might not comply with the charter, but as far as I know, it does comply with the charter. I'm not sure if it's been tested, but certainly, the Department of Justice officials would have looked into that very carefully. If they thought there was a chance that it did not comply, they would have been reluctant, I think, to let the government of the day go forward with that bill.

Of course, there are always two opinions on legal issues of that kind, and I would have thought that Bill C-24 would have been challenged by now. It's been in effect for some time. Indeed, it has been enacted in one case, as far as I know, where one Canadian has had his citizenship taken away.

● (1235)

Mr. Ali Ehsassi: Well, as you can imagine, the Canadian Bar Association is responsible for speaking on behalf of the bar. It obviously canvassed the opinions of experts in the field, people who are fully aware of the charter and its implications for any piece of legislation. I think one can assume that if they adopted a report that saw all sorts of gaps and shortcomings in the legislation, they brought their legal training to bear. Would you have anything to say about the—

Mr. James Bissett: I wouldn't other than to say that the Canadian Bar Association speaks for the lawyers who belong to the association, but many lawyers who also belong to the association would perhaps disagree with their association's presentation, or at least would have some doubt as to whether the bill, if challenged before the courts, did or did not meet the charter.

Mr. Ali Ehsassi: Thank you very much.

That concludes my questions.

The Chair: Thank you.

Ms. Rempel, seven minutes.

Hon. Michelle Rempel (Calgary Nose Hill, CPC): I'll start with my questions with Mr. Gardee.

We started our review of the bill with the minister this week, and we spoke a lot about the change in the language requirement. I'm just wondering, it's something the minister agreed on, but would you agree that having language proficiency in one of Canada's official languages is important for any new Canadian coming to Canada in terms of being able to overcome barriers related to social inclusion?

Mr. Ihsaan Gardee: As I mentioned in my opening statement, the NCCM does not take a position on the other elements of the bill itself. The positions we took were in relation to the citizenship revocation elements.

Hon. Michelle Rempel: So you have no comment whatsoever on the language requirements?

Mr. Ihsaan Gardee: No. That is correct.

Hon. Michelle Rempel: Okay.

Ms. Douglas, I would direct my question to you then.

Ms. Debbie Douglas: Yes, we believe it's important to function that newcomers speak one of Canada's official languages. As I said in my presentation, many folks are able to speak in English and French as a way of functioning. However, having language requirement as a condition of citizenship, especially for folks who may not be able to meet the threshold—

Hon. Michelle Rempel: Thank you, Ms. Douglas. Just as a matter of time, I'd like to continue with my questioning.

The Chair: Ms. Rempel, I believe Ms. Douglas was about to finish answering the question.

Hon. Michelle Rempel: Mr. Chair, I believe, on a point of order, I do have time to direct the questions along my own lines. But thank you.

My question would then be related to a discussion that's come up in the Quebec legislature. There was an article written in the *Montreal Gazette* earlier this month, in April, wherein a proposal had been made essentially to deal with overcoming some challenges in terms of getting new Canadians, or people new to Canada who are settling in Quebec, to learn French as a language to overcome inclusion issues.

The proposal, which I'm reading out of the *Montreal Gazette*, was that under the plan:

> ...an immigrant would be issued a transitionary certificate valid for three years on arrival in Quebec. At the end of the period, the immigrant would be evaluated on his or her knowledge of French and Quebec values...as well as their efforts to find work. If they pass the test, the immigrant would get an immigration selection certificate after signing a commitment to respect Quebec values. Those who fail would be given an additional year to improve themselves. If they fail again, they will not be issued the certificate which means they could not apply for Canadian citizenship.

Certainly this would have some implications, if passed or discussed, under the provisions in Bill C-6. I'm just wondering if you could comment on whether or not you would see that as something that would be acceptable.

Ms. Debbie Douglas: I would hesitate to comment on something that I haven't read myself. But on the face of what you've just read, I have many problems with the whole idea of folks being asked to sign off on a document that talks about Quebec values, and having that be a condition for Canadian citizenship.

I think that's as much as I'm willing to say until I've seen the article or have a sense of the broader context in which this is coming forward.

● (1240)

Hon. Michelle Rempel: Okay.

Mr. Gardee, I would give you another chance to answer the question. In terms of lowering the language requirement as per this bill, would your organization have a position in terms of what has been proposed in Quebec as it would relate to the changes under Bill C-6?

Mr. Ihsaan Gardee: I would repeat my answer, honourable member, that we take no position on the other elements of the bill. Thank you.

Hon. Michelle Rempel: Excellent.

Ms. Douglas, we heard from the minister that the department hadn't conducted any quantitative research regarding whether or not it would be more beneficial to newcomers to Canada to perhaps invest in more, or more effective, language training services as opposed to simply reducing the age of language requirement. Given that a large percentage of people who would come to Canada fall in that new 10-year window, would you perhaps explain any research that your organization has done that shows this is a preferable method to seeing newcomers to Canada integrate into society rather than to simply lower the age, and again, look at perhaps a more structured system for providing language training services?

Ms. Debbie Douglas: We have a robust language training system here in Canada. Resources are always a problem because of scope and scale, more so than content and quality. It is interesting that you are asking the question, because that was exactly what our concern was when the changes were made to Bill C-24—that it was not based on any evidence, given the many years when we had the language requirement and the writing of the test for those between 18 and 54. The fact that Bill C-6 goes back to a proven system is why we support the changes that were made.

Hon. Michelle Rempel: In the interest of time, when you talk about proven system, could you explain that? What sort of proof is there—

Ms. Debbie Douglas: For decades we had—

Hon. Michelle Rempel: —that lowering the language requirement shows better integration into Canadian society?

Ms. Debbie Douglas: Mr. Chair.

The Chair: Ms. Douglas, go ahead.

Ms. Debbie Douglas: For a very long time, we had the age of requirement for writing the Canadian citizenship test between 18 and 54. The changes to lower the age to 14 and to increase it at the upper end to 64 were an arbitrary decision that was made. We flagged at the time that there were a significant number of folks—particularly refugees, and particularly refugee women—who would not be able, regardless of how many English or French classes they took, to acquire the language for them to be able to pass a citizenship test. What I am suggesting is that Bill C-6 is actually going back to what has been proven in the past.

Hon. Michelle Rempel: You talk about overcoming barriers for these women, and I agree with you. We should ensure that women coming to Canada should be able to have full participation in Canadian society and shouldn't have social inclusion issues. In your opinion, why would the argument be made to change the age language requirement, rather than look, perhaps, at better language training services?

Ms. Debbie Douglas: For many refugees who have been victims of violence and war, who have had many years of deprivation, or who have spent a generation in a refugee camp, regardless of how many hours of language training they have, they may never be able to acquire the language at the level where they are comfortable or able to write a test. They may very well be able to carry on a conversation with their neighbours or at their corner stores, to be able to get along.

The Chair: Thank you, Ms. Douglas.

The time is up. However, I would like to use the chair's discretion, if you would like to take a moment to complete your thoughts on Ms. Rempel's first question.

Ms. Debbie Douglas: I don't remember what Ms. Rempel's first question was.

The Chair: We will move on, in that case.

Ms. Kwan, you have seven minutes.

Ms. Jenny Kwan: I'd like to thank all the witnesses for their thoughtfulness. There may well be some elements where I do not agree with some of the witnesses' presentations. That being said, I do appreciate the effort and the time they have taken.

I would like to direct my question to Ms. Douglas. I was particularly intrigued by the experiences that I know your organization brings and the number of people you are in contact with, your on-the-ground knowledge of reality. You mentioned that the issue and concern around the upfront proof of language in obtaining citizenship should be eliminated. I understand that. I can tell you that my mother, for example, has been a citizen for close to 50 years now, but if that test were to apply to her today, she would likely fail. In fact, she would fail it in her first language as well, because she has only a grade 6 level of education from China.

That being said, I wonder if you can elaborate on the point about the importance of the issues around barriers to citizenship in language and in finances. Why should it be changed, and what should be done in Bill C-6?

● (1245)

Ms. Debbie Douglas: One of the reasons we are wanting the upfront proof of language is because of cost. We've heard both sides of the spectrum. We've heard from folks who have lived all their lives in Canada, and for some reason didn't apply for citizenship until they were much older. English is their only language, and yet they have to pay for a test that says they have language requirements. We were particularly concerned around the 14-year-olds to 18-year-olds who are in school. You would think they were going to school in English and French, but if their parents were to apply for citizenship for them, they would have to pay to take a test to prove language ability. We don't believe it adds anything to someone being able to demonstrate their knowledge of Canada and our values as a society.

As I said, and your mother is a good example, we hear this over and over again from folks on the ground, who have elder folks, and especially older women, who've come to Canada, and who are often the last ones to be able to access services because they're busy taking care of their children, they're working two or three jobs to be able to pay their rent, and yet they have picked up on what it means to be a Canadian. What we're suggesting is that instead of having to show upfront proof, a citizenship judge could have a conversation with them to test their knowledge. In cases—and I keep coming back to refugee women and particularly older refugee women—where they may well be aware of what's happening in Canada, and very much aware of our system, there should be interpretation where required in a conversation with a citizenship judge.

Ms. Jenny Kwan: To that end, Bill C-6 makes the change for the aged. The elderly, in Bill C-6 in that context, would be exempt from this process. In my experience, there are a lot of people who may not be in the elderly bracket. Would you suggest this change should also be applied to all the categories?

Ms. Debbie Douglas: We've asked, and that was the conversation I wanted to have about issues of disability. There are folks who do have disabilities who may not be able to write, or even speak, or sign about the test. With the introduction of Bill C-24, we were active in advocating, together with some of our agencies who work with folks with disabilities, and then had processes put in place for those who are hard of hearing as an example. There are other folks with disabilities who may also need a waiver. It is certainly something that Bill C-6 is silent on and that we want this committee to take a look at in terms of the barriers that exist for folks with disabilities in being able to meet language requirements or being able to pass the citizenship test.

Ms. Jenny Kwan: On the issues around barriers and financial barriers, the implications are huge. If people cannot afford to go through the process to obtain citizenship through the requirements as they are set out, they will be prevented to do so. On the financial barrier side, would you have any recommendations for government to consider what actions should be taken to address that concern?

Ms. Debbie Douglas: With the elimination of the need for upfront testing, that will take care of the financial barriers, but we're also concerned that citizenship went from $200, to $400, to $630. Imagine large families having to pay that significant amount of money. This is not in Bill C-6, but this committee should be recommending a reduction in citizenship acquisition fees.

Ms. Jenny Kwan: On the question around access to citizenship and relating to language classes, I think you rightfully pointed out that it's difficult for a lot of people because they're trying to survive, and trying to work, and so on. There are some who might be required to stay with their children. Addressing that concern, what kind of capacity do you think the community needs, and what action needs to be taken from the government side, to better facilitate access to language classes, and also with the provision of child care as well to enable people to embark on this journey?

● (1250)

Ms. Debbie Douglas: What we have been encouraging, and some member agencies—we have 238 agencies across the province of Ontario—have been doing, is ensuring there are language classes available on weekends, or in the evenings after work hours.

Child care and child minding continues to be a significant issue. Not all federal government funded programs can accommodate all of the various needs of everyone. Provincial programs unfortunately, while more flexible, do not have child minding attached to them.

If the government were to look at reinvesting in language training, child minding has to be part and parcel with it, and I would argue transportation dollars as well.

Ms. Jenny Kwan: What about the issue of 25,000 refugees and access to citizenship?

Ms. Debbie Douglas: We anticipate that those who have come in and refugees who will continue to come in will meet the three out of five requirements, but once again those who have spent many years in camps may not be able to pass the test.

The Chair: Mr. Chen, you have seven minutes.

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

I will be sharing the last minute of my time with Ms. Zahid.

I want to thank the panel of witnesses for coming today and for providing their input.

Mr. Bissett, earlier you talked about inherently there being more than one class of citizen, and you described at least three categories and subcategories including natural-born citizens, dual citizens, and naturalized citizens. Within the category of naturalized citizens you described a citizen of convenience. By this measure one could extrapolate and categorize citizens born in Canada who are second, third, or tenth generation. You could then look at indigenous peoples differently. You talked about if people violate laws they should be penalized. Are you suggesting that the criminal justice system has the power to revoke citizenship and that there be different rules for each of these subcategories? For example, what would you propose for a natural-born citizen who is a tenth-generation Canadian?

Mr. James Bissett: I'm just saying that this system is inherently set up to have three classes. It's not set up to have 15 or 20, and I wouldn't suggest it should be. The point is that if you're a natural-born citizen it's not a question of choice. It's an accident and if you become a naturalized citizen you make a choice. Not everybody who comes to Canada as an immigrant acquires citizenship; many of them don't want to. Others are afraid that if they do apply and acquire citizenship they lose the citizenship of their homeland. The choice is a matter for the naturalized; the natural-born have no choice, and if you make a choice, and if you go through the procedures of qualifying for what you're looking for and one of them is to swear allegiance to your country and to obey its rules and regulations, and if subsequently you violate those rules, even to the extent of perhaps slaughtering your fellow citizens, then I think there should be a penalty for that.

It's more a symbolic penalty than anything else because as has been pointed out someone who has been convicted—and remember they have to be convicted—of acts of terror or treason, whether you take their citizenship away from them or not may not matter much to the individual, but it's a symbol that Canadians cherish their citizenship and are not happy when fellow citizens attempt to commit terrorist acts that may kill their fellow citizens. I think that's worthy of a penalty, and the penalty is to take their citizenship away.

Hon. Michelle Rempel: I have a point of order, Mr. Chair.

Given that we're one of the first committees that's starting bill review in this Parliament I want to establish a precedent for using your prerogative to speak with witnesses. I believe you said you use your prerogative to allow the witness to speak. My point of order relates to chapter 20 of O'Brien and Bosc under the role of chairs, vice-chairs, and acting chairs. Under procedural responsibilities it says, “They ensure that any rules established by the committee, including those on the apportioning of speaking time, are respected”.

I would reference the routine motions that we started at the beginning of this committee in terms of speaking order. I would then refer to the component of O'Brien and Bosc under committees under testimony where it says, “Witnesses must answer all questions which the committee puts to them”.

I would argue that would be at the direction of the member who's been apportioned time by you to answer questions. Through this point of order I would object, Mr. Chair, to your chair's prerogative in questioning witnesses. I know that chairs may ask questions, but how does your decision to do that relate to the standing order in terms of the apportioning of time if you took a Liberal spot to do so? I would ask you to clarify to the committee under what circumstances you will use your prerogative in the future to use opposition members' time to question the witness yourself and if this constitutes a change to the routine motion.

● (1255)

The Chair: Thank you, Ms. Rempel.

I would like to point out to you that Mr. Ehsassi, in his round of questioning, used up three minutes and 50 seconds of his seven minutes, meaning that the Liberal round still had several minutes left in that particular round. I used my prerogative to allow the witness because I felt that the witness was in the midst of answering a question. I also believe it's my responsibility to maintain decorum in our committee.

Thank you for that point, but I don't believe it applies. It's not debatable. If you—

Hon. Michelle Rempel: Additionally, Mr. Chair, on that point of order, I would ask this, though, because you've just introduced something that is precedent-setting. If a member chooses not to use their whole time in their slot, I would argue that the round would be deemed to be over.

Mr. Chair, are you trying to make a change to the routine motions? I believe that would need to be voted on by the committee.

The Chair: No. We were not changing the routine proceedings. I was allowing the witness the courtesy of answering a question that she was in the midstream of answering. I was using the time that was remaining from the Liberal round.

Hon. Michelle Rempel: I do believe that this is precedent-setting, Mr. Chair. Are you saying that when a member says their time is done and you move to the next round of questions...? I would deem that, Mr. Chair, as that round is over and we're proceeding to the next round, and that there's no saving of time. Have you made a change to the routine motions? If so, I would say that it's out of order and we should take it to the vote of the committee.

Mr. Ali Ehsassi: On a point of order, Mr. Chair, I wanted to comment on the two rules that were invoked by Ms. Rempel. I don't think they apply to what happened here today.

Hon. Michelle Rempel: I would ask my colleague, Mr. Chair, to prove that in O'Brien and Bosc, because I've cited O'Brien and Bosc in my—

Mr. Ali Ehsassi: You absolutely did cite it, but I don't think it applies to the facts.

The Chair: Order. Everything will go through the chair.

Thank you for your question, Mr. Ehsassi. I'll defer to the clerk to provide me with background on that.

Thank you, Mr. Ehsassi. It's not clear when a chair can use their prerogative to ask questions. It can be at the end of a committee hearing. It could be at the end of a particular round of questioning. I had a particular interest in hearing the interrupted answer, so I used my discretion.

Thank you.

● (1300)

Mr. Ali Ehsassi: I agree with that. I'm just saying that the two rules cited by Ms. Rempel—

The Chair: Are not applicable.

Mr. Ali Ehsassi: —did not apply to the facts of this.

Hon. Michelle Rempel: On a point of order, Mr. Chair, I would like your ruling on whether the routine motion supersedes your prerogative to interrupt and ask questions in terms of the apportioning of time.

The Chair: Ms. Rempel, your time in fact was not interrupted, so the routine motions do not apply. In fact, you were provided with an extra 16 seconds in your particular round.

Hon. Michelle Rempel: Mr. Chair, on a point of order, I'm not arguing whether my time was interrupted, but the time of other members on this committee was interrupted, including that of my colleague from the NDP. Hers was. Arguably, there would have been an opposition round that could have taken place had you not.... I'm just saying that in terms of precedent-setting, I am wondering if you're saying that the chair's prerogative supersedes the routine motions, because, if so, I believe this is probably a matter for the House of Commons to decide in terms of a point of privilege.

The Chair: It—

Mr. Shaun Chen: Mr. Chair, I have a point of order. Look, speaking of routine procedure and speaking of interrupting people, I believe I had the floor. I believe I was asking a question of a witness. He was in mid-sentence when this issue came up. While I appreciate the concern that's being brought forward by the member opposite, I would also appreciate witnesses not being interrupted halfway through a sentence. That's number one.

Number two, I would like it clarified as to whether my time on the floor has now been cut short because of these points of order that continue to come from a member of the committee.

The Chair: The routine procedures were voted on, and they fully apply. The chair's discretion is strictly the chair's discretion, and basically that's that.

We will continue in this committee by following routine procedures. The chair will at times use the chair's discretion to ask questions of witnesses.

Hon. Michelle Rempel: Mr. Chair, as a point of clarification, when the chair decides to use his prerogative to ask question of the witnesses, how will that time be taken out of other rounds of questions that have been already appropriated in the routine motions?

The Chair: It's not taken out of anyone's round of questioning.

Hon. Michelle Rempel: Well, Mr. Chair, I would argue that it is. By your interrupting and asking questions, you are taking time away from other members of the committee. If you should like to use a spot from the Liberal Party, I think that would certainly be welcome.

The Chair: I used my discretion in a way that would not have interfered with anyone's round of questioning and I used my chair's prerogative to do so.

Hon. Michelle Rempel: Mr. Chair, I formally challenge your decision on this ruling. I believe it's in violation of the routine motions and I'd like a recorded vote on that.

Mr. Randeep Sarai: Mr. Chair, I think that answers the question. She's formally challenging it. She can make her application to it. I think we continue with the questions, and you can do that afterwards. Thank you.

Hon. Michelle Rempel: Yes, and procedurally, Mr. Chair, I'm raising this as a motion.

The Chair: This is not debatable, and I'll allow the clerk to take the vote.

(Ruling of the chair sustained: yeas 5; nays 4)

The Chair: The decision is sustained. Thank you.

Mr. Chen, you may continue.

● (1305)

Mr. David Tilson: Mr. Chairman, the time has expired.

Hon. Michelle Rempel: A point of order, Mr. Chair. The time of this committee has expired.

The Chair: I would like to ask the members of the committee whether or not they would like to continue and finish with at least this round of questions.

Hon. Michelle Rempel: Mr. Chair, on a point of order, I believe that for an extension of meeting, notice has to be given to the committee, and that, as such, the motion is out of order.

Mr. David Tilson: The agenda says the meeting ends at one o'clock, Mr. Chairman.

The Chair: My advice is that is not correct.

Mr. David Tilson: No, but the agenda said the meeting ends at one o'clock, and it's now after one o'clock. You can't just unilaterally deem that the—

The Chair: The agenda is—

Mr. David Tilson: Mr. Chairman, a point of order. You can't just deem that the meeting continue on your own volition. This meeting expired five minutes ago.

Mr. Shaun Chen: Mr. Chair, I move:

> that the meeting be extended for 15 minutes.

The Chair: The agenda is a guiding document. There has not been a motion to adjourn.

Mr. Shaun Chen: Mr. Chair, I just moved a motion to extend the meeting by 15 minutes.

Hon. Michelle Rempel: Mr. Chair?

The Chair: Mr. Chen has the floor.

Hon. Michelle Rempel: A point of order, Mr. Chair. I would say on the motion—

The Chair: Ms. Rempel.

Hon. Michelle Rempel: —in the spirit of fairness, and to show your impartiality, if you are extending the committee meeting, I would say that we would allow an additional full round of questioning by each of the opposition parties.

Mr. Shaun Chen: Mr. Chair, I'm moving a motion to extend the meeting by 15 minutes with a hard stop at 15 minutes past the hour.

Hon. Michelle Rempel: I would move to amend the motion to allow the extension of the meeting to include an extra full round of questioning for each of the parties represented at the table.

The Chair: Just for clarification for the committee members, Mr. Chen had another three and a half minutes in his round. The second round has five slots, and there are four five-minute slots, so for 20 minutes, and one three-minute slot, for a total of 23 minutes.

Hon. Michelle Rempel: Sorry, can you clarify that, Mr. Chair?

The Chair: The second round, which would follow the first round, has a total of 23 minutes according to the routine procedures that were adopted. So there are 23 minutes, plus Mr. Chen has another three and a half minutes, so approximately 26 and a half or 27 minutes.

Is that what you are requesting?

Hon. Michelle Rempel: To be clear, I would just say that the CPC and the NDP would each like an additional round of questions if the meeting is to be extended.

The Chair: Ms. Kwan.

Ms. Jenny Kwan: Thank you very much for this scintillating round of discussion.

I would suggest this. Given that the questions to the witnesses were interrupted with points of order, with the loss of that time perhaps what we can do, and I would move the amendment, is extend the meeting equal to the number of minutes that were lost in the round from the points of order discussion.

Mr. Shaun Chen: Mr. Chair, I would withdraw my motion. Ms. Kwan's—

The Chair: Well, we have the motion before us.

Ms. Jenny Kwan: I don't know exactly—

Hon. Michelle Rempel: [*Inaudible—Editor*] and just to clarify what my subamendment was, I moved that in the notion of fairness, and to show impartiality, since the chair is unilaterally extending the committee at his prerogative, that the meeting be extended to include an additional round of question for each opposition party, as well as the government, of course.

The Chair: Just for clarification, there is no unilateral extension of the committee. There is a motion to extend by the chair. There is a motion before the committee.

Do we have the motion written out so that everyone is clear on the motion and the subamendments?

Just for clarification, the subamendment on the amendment, which was to allow a full extra round of questions, asks for an equal number of minutes lost during the point of order debate. So we would allow a full round, just for clarification.

I assume that's.... No?

There were approximately 10 minutes lost from when Ms. Rempel began her points of order, so the subamendment would request that we amend to allow for only 10 minutes, just for clarification on that subamendment.

● (1310)

Ms. Jenny Kwan: Right. Let me just find out what is actually on the floor right now.

The Chair: The original motion was to extend the meeting by 15 minutes.

Ms. Jenny Kwan: Correct.

The Chair: The amendment to the motion was for a full extra round of questions. The way I was understanding your subamendment was that it would add 10 minutes to the time that was lost when Ms. Rempel began her points of order.

Ms. Jenny Kwan: Correct. Now are we going to vote on my first amendment?

The Chair: The subamendment.

Ms. Jenny Kwan: Okay. Thank you.

The Chair: Mr. Ehsassi, you're on the speakers list—

Mr. Ali Ehsassi: Mr. Chair—

Mr. David Tilson: [*Inaudible—Editor*] until I understand what we're voting on, and it appears we're not going to vote on it.

The Chair: We've added you to the list. Mr. Ehsassi was first on the list.

Mr. Ali Ehsassi: I would just like to clarify the amendment that was proposed.

My understanding was that the amendment said that we should use the time that had yet to be used, which would have consisted of three and a half minutes. The way it's been interpreted since is that all the time that Ms. Rempel actually took up should actually now be allocated, which would be closer to 10 minutes. I think three and a half minutes would be sufficient to ensure that questioning is completed.

Mr. David Tilson: I just want to know what is going on here.

Just so I understand what you are suggesting, my understanding is that it is being proposed that Mr. Chen be given three minutes and then we continue on with the round, which means that Mr. Chen is the last of the first round, and therefore we would then start on the second round.

The Chair: We are dealing with Ms. Kwan's subamendment first.

Mr. David Tilson: I understand—10 minutes or whatever. I just want to be clear about what all this means, because I have no idea what is going on here.

The Chair: The subamendment to the amendment was that there be an allocation of 10 minutes to the question.

Is that correct, Ms. Kwan?

Ms. Jenny Kwan: We have spent a whole bunch of time talking about nothing, and we could have actually heard from the witnesses. In the spirit of moving forward, I think I would withdraw my motion, and let's just get on with it.

If the interest is to hear the witnesses—and I understand from my colleague Ms. Rempel's motion that it's simply to hear from the witnesses—let's just do it. If we get another round, that's great. I think the witnesses have a lot more to say. Let's just do it, and let's do it within the hour that we have so that we can get to the House for the next part of our work.

The Chair: Thank you, Ms. Kwan.

You have removed your subamendment.

Ms. Rempel, go ahead.

Hon. Michelle Rempel: Right now, only my amendment is on the table, which is to have an extra round for each party, or three minutes. If we do have another 10 minutes here, could you just clarify what that looks like in terms of who gets to speak, Mr. Chair?

The Chair: There were approximately three and a half minutes left for Mr. Chen's questioning in the first round. You have requested that the second round begin, which would add another 23 minutes. That is where it stands right now, with Ms. Kwan removing her subamendment to your amendment.

Hon. Michelle Rempel: Mr. Chair, just to be clear.... Should the second round proceed, we would go through the full 23 minutes.

The Chair: That is how I understood your—

● (1315)

Hon. Michelle Rempel: Will the Conservative Party have a slot to speak in that?

The Chair: You have two slots.

Hon. Michelle Rempel: Excellent.

The Chair: You have two five-minute slots.

Hon. Michelle Rempel: Will we get to that within 23 minutes?

The Chair: That's of that 23 minutes.

Hon. Michelle Rempel: Fantastic.

I remove my amendment then.

The Chair: Ms. Zahid, go ahead.

Hon. Michelle Rempel: Sorry, we keep it.

I keep it on the table.

Mrs. Salma Zahid: Let's vote on it.

The Chair: Thank you. I am calling the vote.

We are voting on the amendment to extend the committee hearing by finishing Mr. Chen's round of questioning and beginning a second round of questioning.

(Amendment negatived)

A voice: The meeting is adjourned.

The Chair: There is still a motion. The original motion was to extend the meeting by 15 minutes.

Mr. David Tilson: It was withdrawn. Mr. Chen withdrew that.

Mr. Shaun Chen: I attempted to, and then the chair ruled that it was out of order and proceeded with the subamendment.

Mr. David Tilson: Mr. Chen withdrew his motion.

Mr. Shaun Chen: How could you vote on an amendment when there is no original motion—

The Chair: Before we get into a cross-table debate, do we have a record of exactly...? I believe that Mr. Chen did not remove his motion.

Mr. David Tilson: I must be hearing things, because he withdrew his motion.

The Chair: Can we clarify that point?

It was ruled out of order because Ms. Kwan's subamendment was before the committee at that point in time.

Mr. David Tilson: I am sorry, Mr. Chair. My recollection is that Mr. Chen clearly withdrew his motion as a result of Ms. Kwan making a subamendment.

He withdrew his motion. If he is going to deny that, I'd like to hear him deny that.

He withdrew his motion. There is no question.

Mr. Shaun Chen: Mr. Chair, I did request to withdraw the motion, and you indicated no to me. My understanding is that around the table we just voted on an amendment to my original motion. If members of this committee believe that the original motion was not on the floor, why did they just vote on an amendment to a non-existent motion?

The Chair: Thank you for that clarification, Mr. Chen.

Ms. Rempel.

Hon. Michelle Rempel: Just as a point of clarification, Mr. Chen's motion would result in no opposition members getting to speak to the witnesses with the 15-minute extension of the meeting?

The Chair: It would, in fact, provide Mr. Chen with his three and a half minutes to complete, and then it would provide the Conservative Party and the Liberal Party a five-minute round.

Hon. Michelle Rempel: Excellent.

The Chair: Mr. Sarai.

Mr. Randeep Sarai: Mr. Chair, on behalf of the whole committee, I want to apologize to the witness for this kangaroo circus over here. I wish this had never happened. Your time is very valuable and this should never happen again. I hope our chair and the clerk make a point to ensure this never happens again.

The Chair: I see no more debate, so I am calling the vote on the original motion to extend the meeting by 15 minutes.

(Motion agreed to)

The Chair: Mr. Chen.

Mr. Shaun Chen: Thank you very much, Mr. Chair.

I would also like to apologize to the witnesses that they had to endure the proceedings that just unfolded with respect to the various nonsensical points of order.

Mr. Bissett, I know you were interrupted. I will ask you another question.

You mentioned in your submission to the committee that there are 130 Canadians abroad with ties to ISIS and that 80 of them have returned to Canada.

Could you elaborate and provide the committee with details of your assertion?

● (1320)

Mr. James Bissett: This is a 2014 report by the Canadian Security Intelligence Service in which they make that statement.

Mr. Shaun Chen: With respect to that statement, and in light of your other comments around Bill C-6, there was an article dated March 1, 2010, by Mr. James Bissett stating that the charter had in effect undermined Canadian sovereignty. This article also asserted that all prospective immigrants of Muslim faith should be interviewed to determine if they hold extremist views.

Could you indicate whether you are the same Mr. James Bissett? If you are, do you hold those same views that were written in this article?

Mr. James Bissett: I don't remember saying that it is what undermined the charter.

I have argued, indeed before this committee, that all immigrants should be interviewed before coming to Canada. All immigrants used to be, but now in the digital age, people can submit their application. It's forwarded to Ottawa, an immigration officer peruses it, and if the paper is all in order, the visa is issued. Immigrants are coming to Canada without being seen or without being interviewed.

In relation to the security side, I thought this should apply particularly to countries where we know there are terrorists. Most of those countries are, at the moment, Muslim countries. It was unwise and a threat to Canadian security to let people in without the visa officer seeing them first, interviewing them, and establishing whether they think the individual could come to Canada, adapt quickly to our laws, and be qualified to apply for citizenship.

The other side of it is, of course, can you imagine any Canadian employer hiring anyone in their organization without first seeing them, and interviewing them?

That's going on today and we're getting 300,000 newcomers into Canada, very few of whom are seen or interviewed before they get here. If you're in Bangladesh and you want to come to Canada, you submit an application with all your credentials. They may be reliable, they may not be.

You can buy your police certificate in Dhaka for a certain number of rubles, attach it to the application, and send it to Ottawa. If everything looks in order, it is stamped, and the visa is sent. The next day you board a plane to Toronto or Montreal.

I think that's dangerous and silly. I've said that before this committee before and I will repeat it.

The Chair: Thank you, Mr. Bissett.

Ms. Rempel, for five minutes.

Hon. Michelle Rempel: Thank you, Mr. Chair.

My apologies to witnesses. This happens from time to time when we're checking out the routine motions, and whatnot, in a committee.

Mr. Gardee, I want to thank you for your time here today and for your comments.

Ms. Douglas, I want to thank you for the work you do with newcomers to Canada in ensuring they have a successful experience here and they overcome obstacles they may face in terms of social inclusion. Sometimes we get caught up in the heat of legislation, but at the end of the day, regardless of political strife, that is something we all seek to maintain. When we ask questions about how to do that best, sometimes that's with legislation and sometimes that's with programming. Certainly I appreciate it. At some later point in time, I'd like a meeting with you to discuss that.

I also want to thank Mr. Bissett for his time here today.

On that, Mr. Chair, I move:

> That pursuant to Standing Order 108(2), the Committee study the 2016 Immigration Levels Plan; that the study include an examination of planned reductions to the Caregiver Class; that the study investigate whether or not these reductions will result in increased backlogs; that this study be comprised of no less than two meetings to be held prior to May 1, 2016; that departmental officials be in attendance for at least one meeting, and that the Committee report its findings to the House.

I think this is a very important study to look at, given the changes to Bill C-6. We've heard over and over again of the backlogs that certain classes of applicants to Canada come into, especially the spousal sponsorship stream.

I think this study is important. The immigration levels report that was tabled significantly reduces the amount of caregiver class spots available in Canada. We've heard a lot of concern about this. I don't think there was a lot of consultation done, and I think this would be a study that is completely worthy of the committee's time. I also think it would be of interest to a lot of people, including those in the spousal sponsorship class.

● (1325)

The Chair: Thank you.

Ms. Zahid.

Mrs. Salma Zahid: I think we should suspend debate and vote on this motion because of the time constraint.

I'm calling for a vote on this motion.

The Chair: Thank you.

We will proceed with the—

Hon. Michelle Rempel: You can't do that.

The Chair: Mr. Tilson.

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

I support the motion. It's an issue we have discussed in the past. It's an issue that is of great interest to Canadians, and to new Canadians. There's no question we should spend some time, as has been suggested in the motion, with respect to debating it, hearing witnesses, hearing clarification from the department, and possibly even the minister as to what his intention is. I think it's an issue we should continue to look at, and it's most important that it be given priority over some of the other issues we've been looking at.

Thank you.

The Chair: Thank you, Mr. Tilson.

There's no one else on the list. I will call the vote on the motion.

Mr. David Tilson: Recorded vote.

(Motion negatived: nays 5; yeas 3)

The Chair: Ms. Rempel, you have three minutes and 38 seconds left.

Hon. Michelle Rempel: Thank you, Mr. Chair.

My question would be to Ms. Douglas.

How many people your organization would work with come in through the caregiver class of immigration?

Ms. Debbie Douglas: OCASI is the umbrella policy, advocacy, and research body, but my member agencies across the country, particularly in large urban centres, work with I would say hundreds of live-in caregivers per year.

Hon. Michelle Rempel: What are some of the challenges that they face when they come to Canada?

Ms. Debbie Douglas: Long waiting times in terms of being able to access citizenship, and eligibility issues around accessing services before becoming permanent residents.

Hon. Michelle Rempel: Given that you were able to watch us vote on a potential study to look at the caregiver class and whether or not changes would allow increased backlogs—I had hoped that this was going to be a non-partisan one—do you think that that perhaps would have been a potentially good study to do?

Ms. Debbie Douglas: We are very much in support of evidence-based policy-making.

Hon. Michelle Rempel: Great. Thank you.

Mr. Gardee as well, I'm just wondering if your organization has any affiliation or ties to the caregiver class of immigration and if you would like to comment on that particular program or any of the changes that have been made, which will be affected as well by some of the changes to Bill C-6.

Mr. Ihsaan Gardee: Again, I would repeat that we take no position on the other aspects of the bill. Thank you.

Hon. Michelle Rempel: Great.

Mr. Bissett, I know that in the past you've talked about changes to what should be the amount of time that people have to have in terms of residency requirement. I firmly believe that Canada benefits from immigration. I think that we are a nation of immigrants who stand shoulder to shoulder with our first nations people on their traditional territory and I think that for somebody who wants to come to Canada and obtain citizenship, their intent to reside here is a statement that they want Canada to make them better and vice versa, that they want to contribute to the country.

Could you comment a little bit on the efficacy of this change in the bill and give us your opinion?

● (1330)

Mr. James Bissett: I've always felt that five years should be the minimum number of years of residence before people are qualified to apply for citizenship. A five-year period seems to be, I would guess, the average of most other countries. Switzerland and Germany require eight years, and some countries, of course, don't allow people to apply for citizenship. The five-year period, I think, was in the original legislation, the Citizenship Act of 1947, and the idea was that immigrants coming to Canada would have to acquire domicile before they were eligible to apply for citizenship, and to acquire domicile meant they had to be legal residents for five years. After they had the five years domicile, they were then eligible to apply for citizenship.

Hon. Michelle Rempel: In your estimation, what evidence would be necessary in order to precipitate such a change as we see here in Bill C-6?

Mr. James Bissett: The first change in the Citizenship Act came in the 1970s, when the domicile requirement was reduced basically to three years. Bill C-24 extended that. I didn't think it extended it quite long enough. I still would have preferred five years, but I think if you value your citizenship and allow it to other people to apply for, shortening the time period somewhat devalues the concept of citizenship—

The Chair: Thank you, Mr. Bissett.

Mr. James Bissett: —and we shouldn't do that, in my view. Five years is time enough for people who have come here.

Let's take the 25,000 refugees who have come from Syria—

The Chair: Thank you, Mr. Bissett.

Ms. Zahid, five minutes.

Mr. James Bissett: Very few of them speak the language...sorry —

The Chair: Mr. Bissett, you are now 25 seconds over time.

Mrs. Salma Zahid: Thank you, Chair, and I would like to thank our witnesses for their patience today.

My question is for Mr. Gardee. Your organization, the National Council of Canadian Muslims, includes as one of its objectives "protecting the human rights & civil liberties of Canadian Muslims (and by extension of all Canadians), promoting their public interests, building mutual understanding and challenging Islamophobia and other forms of xenophobia."

In this context, could you discuss the impact that the two-tier citizenship aspect of Bill C-24, which Bill C-6 seeks to revoke, has had on the Muslim community in Canada and its perception by other Canadians?

Mr. Ihsaan Gardee: In terms of the impact, many immigrants to the country from the Muslim community are dual citizens and they're citizens of another country by birth. They may not even want to keep the citizenship. They may not even have the option of revoking that citizenship. So this previous bill, this legislation, Bill C-24, when it was introduced, it made them feel like second-class citizens, and it stoked fear in the Muslim community about being treated as second-class citizens.

As I said earlier, Canadian Muslims are as committed to national security as our fellow citizens and they've paid a disproportionately high price for anti-terrorism measures enacted in the name of national security. We just need to look at the case of Maher Arar, which is emblematic of everything that can go wrong when the balance between legitimate security concerns and civil liberties is treated as a zero-sum game. It's important, from our view, that we move towards a comprehensive and balanced pursuit of safeguarding national security while promoting Canadian citizenship in a manner that upholds the rule of law and protects the human rights of all.

Mrs. Salma Zahid: My next question is for you, Ms. Douglas. I would like to focus on the changes to the age range for the demonstration of language proficiency as proposed in Bill C-6, which is under discussion, and discuss the work of your member organizations with immigrants and permanent residents on a path to achieving citizenship, which I am sure has included language support and services.

First, with regard to teenagers between the ages of 14 to 18, what has generally been their experience with gaining a knowledge of English or French?

Ms. Debbie Douglas: The 14- to 18-year-olds are enrolled in our school system. If they came in at that age as new immigrants without either of our official languages, they are often enrolled in English as a second language. But for us, the majority of these kids actually have been in the school system for a number of years and do have English.

The problem is about having to pay for a test to prove they have that language ability, which we find problematic. Also, there is no evidence for why that requirement was put in place through Bill C-24. If parents are applying for citizenship and including their 14- to 18-year-olds and they go in and write their tests, we hope that our school systems are teaching our kids enough civics that they would understand how our country operates. As for the fact that now parents have to take on this extra cost of proving language, we never did understand why that was necessary. That's why we support the changes that are happening in Bill C-6.

Also, as you've heard me talk about, on the other end of the age spectrum we do have permanent residents who come into Canada and who have had such traumatic experiences, especially our refugee seniors, that there is absolutely no way that they will ever acquire enough language skills or be comfortable in writing in either of our official languages, and especially when literacy is an issue. We've heard from Ms. Kwan, whose mother had a grade 6 education. That's not unusual with some of our older immigrants and refugees.

● (1335)

Mrs. Salma Zahid: My next question is for you, Mr. Bissett. Earlier, you indicated your support for the lengthening of the extended period of naturalization that was created in Bill C-24. We have now had some time since that legislation came into force. What changes in the quality or the other attributes of new citizens have you observed since then that you can link to this change and that justify the decision to make permanent residents wait a longer period before being able to apply for citizenship?

The Chair: You have 10 seconds.

Mr. James Bissett: I haven't noticed any changes at all, but it has been a short period of time, and we won't know the changes, if there are any. I'm not objecting to the idea that many people who come here can be eligible to apply in the three years, but generally speaking that's not the case.

The Chair: Thank you, Mr. Bissett.

I'd like to thank our witnesses for appearing before the committee today.

Before the committee adjourns, I'd also like to bring this to the attention of committee members for reference as per the subcommittee request. There is a report that shows the projections for a budget for a study and a comparison between a study that travels across the country and a study that is done here on the Hill. That will be disseminated to all committee members.

Ms. Kwan.

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

Before we adjourn, I'd like to officially request this. For the submissions presented to us today, some of the witnesses were not able to complete their presentations due to time limitations, and I want to make sure that the written presentations they have provided us will be incorporated into our proceedings so that none of the information would be lost and it would be taken into consideration as we embark on the next phase, after all the witnesses have been heard and as we prepare for the next phase.

The Chair: Thank you, Ms. Kwan. Yes.

Do we have a motion to adjourn? Thank you.

We are adjourned.