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Chair

Mr. Borys Wrzesnewskyj

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● (1645)

[*English*]

The Chair (Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.)): Pursuant to the order of reference received from the House on Wednesday, November 2, 2016, the committee will resume its study on M-39, regarding immigration to Atlantic Canada.

I would like to welcome from the Canadian Federation of Independent Business, Mr. Jordi Morgan, by video conference; from Hospitality Newfoundland and Labrador, Ms. Juanita Ford; and from the Atlantic Institute for Market Studies, Mr. Marco Navarro-Génie, the president and chief executive officer, by video conference as well.

Welcome to our committee.

We'll begin with a statement from Mr. Morgan, for seven minutes, please.

Mr. Jordi Morgan (Vice-President, Atlantic Canada, Canadian Federation of Independent Business): Thank you, Mr. Chair, for the opportunity to be here today to provide CFIB's perspective on the Atlantic growth strategy's immigration pilot.

CFIB, as you may know, is a not-for-profit, non-partisan organization representing 109,000 small and medium-sized businesses across the country representing all sectors of the economy. We take direction solely from our members. I'm going to share with you, rather quickly I will say, some surveys we've taken throughout the area and some of the data we have for you.

The first slide you will see is on SME priority issues. I think you will understand why we're showing you this, as the shortage of qualified labour is one of the largest issues facing SMEs in this country, at around 45%.

The next slide you will see is CFIB's business barometer. I want to note that Atlantic Canada's small business confidence has shown some slow but steady progress since last fall. Short-term hiring plans are consistent with the trends we see at this time of year. The chart you have in front of you is the Canadian index, but there are some seasonal factors now that are contributing to slight improvements throughout the Atlantic region.

As I noted a little bit earlier, labour availability is very important to SMEs. While some dispute that there is a labour skill shortage in Canada, our members indicate that this is a serious and growing shortage of qualified people in many sectors in many regions in the country. The shortage remains an important factor limiting many small and medium-sized businesses from growing.

This is further reinforced by what you will see on the next page, which is CFIB's quarterly help wanted report that looks at private sector job vacancies. It found that the national vacancy rate is at about 2.4%, which represents 300,000 private sector job openings that have been unfilled for the last four months because business owners have been unable to find suitable employees.

In Atlantic Canada, the rate ranges from 2% to 2.5%, with construction, hospitality, and agriculture each facing vacancy rates of around 3%. Immigration and programs like the temporary foreign worker program are important tools to help some small business employers address these labour shortages.

More than half are looking to fill jobs that require on-the-job training, which can be categorized as NOC, national occupational classification, level C, or more likely level D. Almost half are looking to fill jobs with a NOC level C that require occupation-specific training. One-third are looking at college diploma/apprenticeship training at NOC level B. Fewer than 10% are looking at NOC level A, or people with a university education.

There are those who claim that businesses are not doing enough to attract and retain Canadian workers. The next slide will show you that this is not the case. Entrepreneurs are doing many things to attract and retain Canadian workers, because they would much prefer to have a Canadian working than to go through a lengthy and costly immigration process. Our slide shows how entrepreneurs are expanding their search for workers.

The next slide shows the types of positions being filled by TFWs, temporary foreign workers. These jobs are being filled by TFWs because Canadian employers cannot find homegrown workers. If you break out the data by sector, it will show that needs for different types of workers vary significantly depending on the industry in question.

It is also important to note that almost six in 10 respondents said that having access to temporary foreign workers allows them to keep their businesses open and keep the Canadian workers in those businesses employed. Another 48% believe it allowed them to expand. On the following slide, I would welcome you to take just a few moments, perhaps a little later, to look at some of the comments surrounding this from our members.

The next chart is evidence of some of the difficulties in the system —and I don't think they'll be strange to you—the pinch points being timelines, paperwork, and government customer service. Most of this is not found in the immigration department per se, but in Service Canada.

Beside the red tape and headaches are the costs. Before businesses can hire a foreign worker, they typically have to take a series of steps, including advertising, wage approval, return airfare, accommodation, recruiting fees, and the list goes on. Sixty-eight per cent of business owners said that the TFWs cost more than Canadian workers, but we are seeing some improvements.

As you'll see on the next page, we are pleased to see the four-in, four-out rule being eliminated. There is also a small victory in allowing businesses in the program prior to June 2014 to maintain a 20% cap on the proportion of lower-wage TFWs who can be employed by one employer, and an exemption of the cap for seasonal industries until the end of 2017. We are encouraged, as well, by announcements around the global skills strategy, including faster processing of permits.

We are also very pleased to see the work being done on the Atlantic immigration pilot. One of the key improvements I want to point out here is the elimination of the need for a labour market impact assessment, or LMIA. It has been a problem for our members, and it is costly and a time constraint. Less stringent advertising confirmation requirements, as well as speed of processing, are another important improvement. We are very happy to see the addition of skill level C, intermediate jobs or jobs usually needing high school or job-specific training.

We do believe, however, that more consideration should be given to businesses' capacity to provide integration services for new Canadians as that demand is being made upon them.

We are watching this program carefully to examine the uptake and the impact on the needs of those in the SME labour sector.

These changes can be a vital lifeline for many entrepreneurs, and CFIB has been making recommendations along those lines for some time, including our introduction to Canada visa program. We are supportive of the new express entry system that we have in this country, which allows employers to have a greater role in selecting immigrants. Unfortunately, a closer look at the details reveals that the new system will still not help employers looking to fill entry-level jobs that are classified as lower-skill positions. We are suggesting that employers with staffing needs at all skill levels should be permitted participation in selecting workers through express entry.

We proposed a bill of rights for temporary foreign workers, including such things as better documentation of working conditions, employer-provided accommodation and standards, and an internal dispute resolution process for employers and employees.

We hope to learn from the Atlantic pilot project, and we hope that some of the lessons we learn are applied to the immigration system more broadly.

Thank you very much for your time. I look forward to taking your questions.

● (1650)

The Chair: Thank you, Mr. Morgan. That was impressively efficient and informative.

Ms. Juanita Ford, the floor is yours for seven minutes, please.

Ms. Juanita Ford (Manager, Workforce and Industry Development, Hospitality Newfoundland and Labrador): Good afternoon. Mr. Chair and fellow committee members, thank you for the opportunity to participate in today's committee's meeting. It's my pleasure to present to you this afternoon.

Hospitality Newfoundland and Labrador is the tourism industry association for the province, and represents tourism and hospitality operators throughout the province in all sectors. As well, Hospitality Newfoundland and Labrador represents its members on provincial and national tourism bodies, such as Tourism HR Canada. The mandate of Hospitality NL includes the responsibility to support the development of a professional workforce and improve the quality and market readiness of the tourism industry.

In Newfoundland and Labrador, there are nearly 2,600 tourism businesses, primarily small and medium-sized, that support the needs of a growing economy by providing the foundation of services and attractions that municipalities and businesses need to grow, attract workers, and leverage private investment, thereby supporting sustainable and viable communities in Newfoundland and Labrador.

The tourism industry is growing and is one of the most stable revenue-generating industries in the province. Generating more than $1 billion in annual spending, tourism offers a renewable resource and accounts for 8% of all provincial jobs—full-time, part-time, and seasonal opportunities. Currently the industry supports over 18,000 jobs in the province.

Tourism, like other industries, is experiencing a labour shortage and increasingly stiff competition for workers. In today's service-oriented economies, small businesses are providing the bulk of growth. The fact that approximately 80% of all tourism businesses in Newfoundland and Labrador are small, with fewer than 20 employees, is indicative of the industry's appeal to entrepreneurs, and offers attractive business opportunities to immigrants for cultural diversification and enrichment. Welcoming such diversity encourages immigrants to practise unique customs while still thriving as a citizen, resulting in increased immigration retention levels and community growth.

The projected labour shortages in the tourism sector are caused by rising demand for labour during a period when Newfoundland and Labrador's labour force is expected to experience a sizeable shift in its growth and composition. Traditionally, the tourism sector has relied heavily on young people as a source of labour. However, the rate at which young people are entering the labour force is decreasing while competition to attract younger workers is intensifying from other sectors of the economy. The industry will experience a shortage of people, in general, to fill positions, and a much more pronounced deficiency in skilled workers to fill positions.

In 2016, research conducted by Tourism HR Canada and the Conference Board of Canada projected that by 2035 potential labour shortages in the tourism sector in Newfoundland and Labrador could reach 15.2%, leaving over 3,000 jobs unfilled. Current projections suggest the tourism sector could potentially support more jobs than workers will be available to fill. This means Newfoundland and Labrador will experience one of the most acute labour shortages in tourism in Canada.

We know that if nothing is done to increase labour supply, the shortfall in revenue to the tourism sector in Canada by 2035 will be estimated at $27.5 billion. The economic and social impact of these shortages of skilled labour will hamper growth, decrease investment in the sector, cause higher operating costs, reduce profits, erode the sector's ability to compete, and cause inferior customer service.

● (1655)

The goal of Hospitality Newfoundland and Labrador and Tourism HR Canada is to hire Canadians first. We are working with partners to support and engage non-traditional labour pools to integrate them into the workforce. The focus will be on placing and providing programs and supports to support youth, aboriginals, and people with disabilities to find work in the tourism industry, but based on the research, we know that these initiatives will not be enough, and we'll have to look to immigration to fill these skill gaps.

Immigrants will fill jobs that Canadians are not willing or able to fill. The importance of immigration to economic growth cannot be overstated, and it is as important to tourism as to any other industry, with almost a quarter of tourism workers being immigrants, including 40% of all chefs.

The immigration pathways are too narrowly focused on NOC A, B, and O categories. Regardless of the totals, individuals with experience and skills in all categories are needed, with perhaps even a greater demand existing among those not currently well represented. Immigrants meeting unfilled job demands and possessing transferable skills, in other words, those outside of NOC A, B, and O categories, must be included among the recruitment mix for immigration programs.

Future program planning and policies must focus on jobs in demand for both current and projected needs over the next decade. Many occupations in tourism fall in the NOC C and D categories and are therefore considered unskilled. While many are low entry in terms of formal educational requirements, the level of knowledge of the environment, safety, communication skills, etc., is quite demanding, and such low-skilled jobs are essential to economic growth. For example, hotels require managers and marketing specialists, but cannot successfully operate without cleaners, servers, and maintenance workers. As advanced economies create highly skilled jobs, they also create the demand and need for more low-skilled jobs.

Public policy should focus resources on continued professional development opportunities, particularly education and training offered by professional associations, which are able to respond to labour market demands and employment needs more readily. Efforts such as the immigration pilot under the Atlantic growth strategy can help change this. Tourism businesses in Newfoundland and Labrador have engaged in this pilot. Currently there are 48 businesses in the process of becoming designated employers, most of them in the food service sector.

Enhanced programming for businesses to permanently hire foreign workers if they can't find Canadians to fill the jobs must be a priority. Enabling foreign-trained workers the right to access permanent residency is good policy. This should be in addition to existing provincial nominee programs that meet labour needs. Permanent residency will enable Canada to be more competitive in attracting qualified applicants from other countries.

Continued support for organizations that assist refugees and immigrants, particularly on the education, training, and employment services front, is required, as are strengthened links to organizations and businesses that can help new Canadians enter the workforce. To grow our provincial population and achieve long-term social and economic success, efforts are required to embrace initiatives and industries that contribute to quality of life, offer family-friendly employment opportunities, and support economic diversification and growth throughout Newfoundland and Labrador and the rest of Atlantic Canada.

The tourism industry offers such opportunities and benefits. Tourism offers gainful, flexible employment and entrepreneurship opportunities throughout all areas of Atlantic Canada that are appealing to residents, expatriates, and immigrants—

● (1700)

The Chair: Ten seconds, please.

Ms. Juanita Ford: On behalf of Hospitality Newfoundland and Labrador, I'd like to thank the standing committee for asking us here today.

The Chair: Thank you, Ms. Ford.

Mr. Navarro-Génie, you have seven minutes, please.

Mr. Marco Navarro-Génie (President and Chief Executive Officer, Atlantic Institute for Market Studies): Mr. Chairman and honourable members of the committee, good afternoon. I am grateful for the chance to appear before you on behalf of the Atlantic Institute for Market Studies this afternoon.

Alarm bells have been sounding about the declining population of Atlantic Canada. The region is aging rapidly, adding to the pressures of economic decay, and without higher productivity, fewer people means a shrinking economy, greater fiscal burden, rising costs of certain economic scales. There is no significant population growth, but health care and education costs, for example, keep rising and rising.

Atlantic Canadians are proud of their cultural achievements and place a premium on them, but the economy is often placed behind cultural concerns and that will have to change for the sake of the economy and culture alike. Theatres, parks, schools, hospitals and festivals may all be important, and more important than money, but we need wealth to sustain them, and we need wealth to maintain them. The same can be said for immigration.

The Atlantic Institute for Market Studies favours and supports greater immigration. We need more people, but we are concerned that without correcting public policies that have set the region on this current path, and without removing obstacles to a more vibrant economy, retaining immigrants will continue to be difficult. The question needs closer scrutiny and it is currently under study at our institute.

We know that the population challenge in the region is caused by a decline in natural growth and the outmigration of the native, largely young, resident population. This young segment flees in search of economic opportunity that they do not find here. Hoping that the immigrant population will stay and solve our population challenges while the native residents continue to leave is no strategy for demographic renewal. The hemorrhage must be contained. People emigrate in search of prosperity for themselves and for their children. They often are willing to endure immediate sacrifice for the sake of future prosperity for their children, but unfortunately, future prosperity in Atlantic Canada is in question and a significant portion of the demographic challenge is tied to economic stagnation.

The region's economies are the most taxed jurisdictions in the country. We have labour laws that are often hostile to businesses and to investment. Energy is unnecessarily expensive. We prohibit economic activities, such as hydraulic fracturing, that are lawful elsewhere, while our children leave for employment in the very economic activities that we seem to want to ban here.

Governments, with the exception of New Brunswick, have bloated public services that act as economic ballast and impede effective economic change. We have, in addition, a paternalistic economic populism from political leaders that keep spending money we do not have and will not have, adding to the greater fiscal uncertainties.

Someone told me not very long ago that Nova Scotians may be friendly but not welcoming. Maybe it is in this realization we have sought to make immigrants feel more welcome, and this is as it should be. These are good developments. This alone will not increase immigrant retention. The point is the economy. The region needs to right its economic ship, a feat onto itself when we have a federal government determined to continue to spend more money than we have.

Atlantic Canada needs a policy regime that encourages private economic growth, reduces government and its spending, eliminates the ample diet of subsidies we have here, is more competitive, reduces barriers to trade and commerce across provincial borders, and becomes the most desirable place to invest in the country. Tinkering at the edges, such as we are, to attract more people and investment will not do in an age in which we have to compete with the rest of the world.

With immigration in mind, our recommendations are that the federal government encourage entrepreneurship and productivity in the region through the following policies:

It should slowly reduce equalization payments, while gradually letting provinces keep all of the intake of the HST. This is achievable.

It should set a legislative framework to allow Atlantic provinces to create a small number of free economic zones within the region's boundaries.

● (1705)

The federal government should also try to encourage Atlantic regional governments to join the new west partnership. This is an idea that we have been trying to advance for quite a while.

We would like the federal government to encourage the Atlantic regional governments to abandon most forms of business subsidies in the region.

If we need to attract more immigrants, and we do, we should also try to attract more American immigrants to Atlantic Canada. The situation is nearly perfect at the moment. With much economic and political uncertainty south of the border at present, it is time to explore the opportunity that highly skilled Americans want to move north under the right conditions. The federal government should assist by making the process of immigration as simple as possible.

I would conclude by rearticulating the original point. Without a solid economic ground onto which we can welcome more of the badly needed immigrants to Atlantic Canada, current immigration policy will not be as successful. Without it, Atlantic Canada may continue to be simply an additional training ground for new Canadians and their revolving door entry into the country.

Thank you very much. *Merci*.

The Chair: Thank you, Mr. Navarro-Génie.

Mr. Tabbara, you have seven minutes, and I understand you'll be splitting your time with Ms. Zahid.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you, Mr. Chair.

Mr. Navarro-Génie, you mentioned briefly in your statement international students and American immigration. One thing I want to point out is that in my region, the tri-cities are referred to in Canada as a high-tech sector. They're continually looking for international students to come to our area to learn at the University of Waterloo in engineering and various programs, and then they integrate well into the high-tech sector. It boosts our economy and our region flourishes.

This has worked in our area. It has helped us. We've tried to reduce processing times for international students so they can be more successful and they can come here more quickly, and foreign workers can as well. Can you give us an example of what you just mentioned with international students, and how immigration would help in the Atlantic provinces?

Mr. Marco Navarro-Génie: A concerted effort from the universities in Atlantic Canada is a very well-oiled machinery to attract more international students.

The reference I made was that we must attract American immigrants. I wasn't talking precisely about students in that sense. Certainly, we view American students as international students, but they're not immigrants in that sense.

My exhortation is that, given the present conditions in American politics and significant anxiety among certain sectors of the population, we should not be shy to exploit those anxieties and try to see if we can generate more desire among Americans, especially the highly qualified, to move to Atlantic Canada.

● (1710)

Mr. Marwan Tabbara: Thank you.

Ms. Ford, the temporary foreign worker program has been a tool in the tourism and hospitality industry to fill labour shortages. By 2025 potential labour shortages in the tourism sector in Newfoundland and Labrador are projected to be in excess of 13.4%.

In your opinion, would the Atlantic immigration pilot program be able to address these predicted shortages?

Ms. Juanita Ford: They will in some cases, because you're letting in class C, but there are still occupations in the D class for front-line food servers who won't be able to come in through the pilot. Those are the ones who are relying on the temporary foreign workers for the most part to relieve those pressures. If we can't get more of those classes in, the temporary foreign worker program might not meet our needs.

Mr. Marwan Tabbara: Then are you looking at other programs to help?

Ms. Juanita Ford: Yes, we are.

Mr. Marwan Tabbara: Okay.

Mr. Navarro-Génie, you discussed immigration in Atlantic Canada on CTV a couple of months back, stating it can help boost the economy. Can you elaborate on the needs and challenges faced by Nova Scotia with regard to immigration?

Mr. Marco Navarro-Génie: Yes. It's been a while since the word has been out that the decline in population here is causing shortages of labour for different reasons. There's a natural growth that is stagnant and has now become negative in Nova Scotia. As well, there is the issue of the flight of skilled labour from the province, which has waned somewhat since the collapse of commodity prices out west, but which continues to be a problem.

There is a need for technical and manual labour, and essentially for more people to come to the province if we are to grow the economy. You can't grow an economy if you don't have people, unless you have improved productivity. If you look at the productivity numbers in Atlantic Canada, you see they are among the worst in the country, so it is necessary to bring more people to the province.

My point is that we should try very hard to bring more people to the province, but we should also, in tandem, make sure that the people we bring stay. We don't have a significant plan for retaining immigrants, other than certain programs that will make them feel welcome. That's all very good, but the ultimate point I'm trying to drive at is that the economy is the fundamental factor driving native Atlantic Canadians out of the province, and unless we do something about that, immigrants we bring to the country, who have virtually no emotional attachment to the land, will also do the same.

Mr. Marwan Tabbara: Could you elaborate on that?

We're talking about wanting immigrants to stay, and the economy is a big driver. Would you also discuss other factors that might make new immigrants or individuals who come to the Atlantic provinces want to stay? For example, you have great post-secondary institutions, which a lot of people flock to the Atlantic provinces for. Maybe in the arts or maybe in other sectors.... What could drive more people to stay in the Atlantic provinces?

Mr. Marco Navarro-Génie: We have great universities, a great culture, and wonderful natural settings, all of which attract people. The issue is keeping them. The only thing that will keep them and generate the wealth we need to be able to pay for the universities and the infrastructure we have is an expanding, consistent, and sustainable economy.

Mr. Marwan Tabbara: Thank you.

The Chair: Thank you.

Will it be Mr. Tilson or Ms. Rempel?

Mr. David Tilson (Dufferin—Caledon, CPC): Ms. Rempel.

The Chair: Ms. Rempel.

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

To all three of the witnesses, thank you for your presentations. I think it's very important for us to consider, as was just mentioned, long-term economic growth in terms of the context of sustainable immigration.

The TFW issue, I think, is one that's very pertinent and relevant. Frankly, I think it's probably worthy of another study at some point in terms of reform and certainly in terms of the tourism industry. That's one of the potential bright spots for long-term economic growth.

The unfortunate thing with parliamentary committees, however, is we have limited time to review certain issues. There has been an issue that has arisen in the House of Commons very recently that I think actually begs our committee's attention.

With that, I move:

> That, pursuant to Standing Order 108(2), the committee invite the Minister of Immigration, Refugees, and Citizenship to appear on the subject of the Federal Court ruling regarding citizenship revocation appeals, to obtain information on whether the government intends to appeal the ruling, and associated rationale, and that this meeting take place on an urgent basis given the 30-day time limit on appeals.

For my colleagues who are here today who aren't familiar with what I'm talking about, on May 10, Justice Gagné issued a ruling that materially impacts some legislation that, in my understanding based on media reports, will be before the House in a very short period of time, and those are Senate amendments to Bill C-6.

What's happened here is the judge has made a ruling that would have substantive changes to our immigration system process. I will actually note at this point in time that my colleague, Jenny Kwan, from the NDP, moved an amendment at the House of Commons committee when we were originally studying Bill C-6. I believe the amendment was rejected, but I'm not sure. I can't remember. My understanding is this is something that is going to be of material import.

My concern and my desire to have the minister appear in front of the committee stems from the fact that a few weeks ago, I asked in the House of Commons whether or not the government had the intention to appeal the ruling, because if the government was going to appeal the ruling or not, either way depending on how you feel about it, that would actually materially impact a few things, first of all, the committee's and the House's deliberations on Bill C-6.

If these amendments are to be read in the House of Commons before we rise for the summer, all of our parties and members will want to develop their positions on that particular issue, but if we don't have the minister here giving the rationale or in the House.... The response I received in the House was wholly inadequate. It was, “Don't worry; we'll get back to you in due course.”

By my count, if this ruling was issued on May 10, and there's a 30-day appeal period, that time period would be up on June 9. Then after such time, we really only have a few days to debate Bill C-6. I'm not certain what the government's agenda is to get it through committee or not, but this is a confluence of information and activity whereby I feel parliamentarians need to have the minister before committee on an urgent basis in order to proceed with the appropriate amount of diligence on the bill.

In terms of the rationale one way or the other for the minister to actually appeal this ruling, and the reason why I believe he should come to committee, is that the amendment in Bill C-6 says the court hearing is given to people facing citizenship revocation on the ground of false representation or fraud. The immigration minister would be required to inform them of their right to appeal that decision in the Federal Court. The circumstances under which this amendment was introduced raised a lot of questions regarding whether the amendment was pushed by the PMO, although supposedly independent senators moved it.

I think that's something that's valid. It's a question I would like to ask the minister prior to debating this bill in the House and certainly have the public and Canadians have a better understanding of prior to the minister announcing or letting the clock run out on the appeals process for this particular ruling.

In the same vein, the Federal Court ruling argues that everyone has the right to appeal citizenship revocation. In the 62-page ruling, Justice Gagné found the new provisions violate the Canadian Bill of Rights, which some have characterized as a quasi-constitutional document.

The decision affects more than 200 individuals who have lost their Canadian citizenship since May 2015 under the shortened administrative process, and many will now be entitled to full hearings and may be able to get back their revoked citizenship.

● (1715)

This decision addresses eight test cases that challenge the constitutionality of the changes made in May 2015 over the alleged lies on their residency or citizenship applications. The changes also barred them from reapplying for Canadian citizenship for 10 years after revocation. Again, the government has 30 days to appeal these rulings.

I've asked the Minister of Immigration, Refugees and Citizenship questions in the House in this regard. To further convince my colleagues that this is something we should do, there are several areas of unanswered questions that I believe the minister should explain before the committee.

First, in regard to the existing backlogs, I would like to know if the minister is going to appeal the ruling one way or the other on the issue of judicial backlogs. An argument could be made that, if this ruling was not appealed and came into force, there would be an immediate burden on the court system. Unfortunately, this is a problem, given where the government has been in its appointment of judges.

If this Federal Court ruling is implemented and not appealed by the government, the Federal Court system could face challenges in resources because, in a Federal Court ruling allowing for an appeals process, there could be an increase in appeals that the Federal Court system would hear.

I would like to know from the minister how he feels this jibes with the current process in place. Right now, the Federal Court will examine appeals if IRCC erred in the interpretation and application of the IRPA, which is an act that covers our immigration processes in Canada.

From the IRCC website, the current process surrounding citizenship revocation is as follows:

> The Strengthening Canadian Citizenship Act (SCCA) introduces new grounds for revocation of citizenship and provides for a streamlined revocation process. Previously, the citizenship revocation process generally involved three steps: the Minister, the Federal Court, and the Governor in Council. Under the new revocation process, the Governor in Council will no longer have a role except for some transitional cases.
>
> The new process has two decision-making streams: the vast majority of revocation cases will be decided by the Minister—

So the minister does, in fact, have discretion in these cases:

> —certain complex cases will be decided by the Federal Court.

I'd like to know from the minister whether or not he feels that the ruling essentially jibes with his already existing ability and discretion to make decisions in these cases.

I should note that the case management branch handles all cases considered for revocation of citizenship. Local staff are not involved in these types of cases, other than to alert the case management branch should information come to their attention regarding a case that should be investigated for possible revocation.

As this makes clear, under the current process, some special cases are sent to the Federal Court. The cases that currently go to the Federal Court are examined if IRCC erred in interpretation and application of the IRPA. This is an important caveat as it ensures that the errors of the department do not lead to revocation. It also maintains that people are not incentivized to lie on their application.

In terms of the minister's appearance before our committee, I'd again ask my colleagues to have him come here. If he chooses not to appeal this ruling, these two elements could materially affect the process in which citizenship is revoked in cases of misrepresentation or fraud.

I'll speak a little bit about why I think the minister needs to talk more—as do departmental officials—around the fact that people may or may not, under this ruling, be incentivized to provide fraudulent information on their applications.

In respect of the IRCC website, I would like to see the minister give a clearer picture of this actual process. When I read through the ruling, I found that the process has been interpreted in certain ways. The testimony was quite interesting. The website states:

> A person under revocation proceedings remains entitled to all rights and privileges of Canadian citizenship until the person's citizenship is revoked. Under the new model, the date the person's citizenship is revoked is either the date of the Minister's decision to revoke citizenship or the date of the declaration by the Federal Court. For transition cases that still require a decision from the Governor in Council, the person's citizenship is revoked on the date of the Order in Council.

● (1720)

Returning to my point on the Federal Court ruling, which allows for an appeals process that is much broader in scope than the current mechanisms I've described, I would like to know how the minister plans to reconcile those two things should he decide not to appeal a ruling, and again what impact that would have on the Senate amendment in Bill C-6. I think it's important to consider what we already know: that the courts are facing serious challenges in existing backlogs in hearings.

Again, I would be interested to know from the minister, should we decide to bring him here, if he has had any consultation with the justice minister specifically on the issue of backlog. Many people have said the backlogs exist due to the fact that under this government, there is a growing number of judicial vacancies, which have contributed to a large number of serious criminal cases being thrown out of court. If we do not hear from the minister at this committee as to whether he plans to appeal the Federal Court ruling, then we must also think about what this ruling will do to add to the existing backlog of cases in light of the government's inability, so far, to fill judicial vacancies. As I've alluded to, this appeal would put extra strain on the courts, which are already strained by the judicial vacancies.

So many articles have been written on the impact of this, but again, I think it's so important for the minister to come to committee. I'm going to draw on a *Toronto Star* article from last year with the headline "Urgent need for judicial vacancies to be filled promptly". In it Supreme Court of Canada Chief Justice Beverley McLachlin linked the number of empty seats on federally appointed court benches across the country—44 at the moment—to unacceptable trial delays, especially in the criminal courts.

I would hope that at this point, going into our deliberations on the Senate amendments to Bill C-6 as well as the potential decision to appeal or not appeal, the minister would have reconciled the words of Chief Justice McLachlin with his action one way or the other. As well, I think many of my colleagues here would like to know how that is going.

I'm looking and can't even believe this. So many articles have been written. I'm tempted to read them all to bolster my case. I might do that. We will see. Wow, so many cases have been thrown out because of judicial appeals, really a lot.

Going through another rationale for this, I have talked to a few legal experts on the ruling, and I think one of the concerns many of us share is that if this ruling.... First of all, going back to the basis of this ruling, I think a legitimate argument could be made that perhaps contradicts Justice Gagné's ruling that citizenship that was obtained through fraud—the provisions she alluded to in terms of rights for citizenship—don't apply as that person was never entitled to citizenship in the first place.

In many cases throughout the history of Canada we've seen massive citizenship fraud, and I believe that's the rationale for why these changes were put in place to begin with. I'm looking for the actual numbers.

● (1725)

The Chair: Ms. Rempel, while you're checking your notes, if you would allow me a small indulgence, I'd like to thank our witnesses for appearing today. I know Ms. Ford has a flight to catch.

Thank you for your opening statements. They will help inform our study. You are free to leave.

Thank you to the video conference witnesses, as well.

Mr. Jordi Morgan: Thank you.

The Chair: With that, I return the floor to Ms. Rempel.

Hon. Michelle Rempel: I should say, Mr. Chair, that I didn't actually ask for the witnesses to leave. If you had asked me to cede the floor to them, I perhaps would have done that, but I will note that you did ask them to leave. With that, perhaps I will take up a little more time.

In terms of the rationale for appealing this ruling, I'd like to hear the minister's rationale one way or the other. I know the Senate had a very robust debate on whether or not this amendment should be put forward. Ms. Kwan has raised it here. I'm of the opinion that perhaps it shouldn't happen, but the article I'm going to refer to was posted on September 10, 2012, on CBC. The article has the headline "3,100 citizenships ordered revoked for immigration fraud", and states:

> The federal government has started the process of revoking the citizenship of 3,100 people suspected of lying to become Canadians.
>
> Speaking at a news conference on Ottawa Monday, [then] Immigration Minister Jason Kenney said the federal government is "applying the full strength of Canadian law" to crack down on individuals suspected of obtaining citizenship fraudulently or falsifying information required for permanent residency.
>
> "Canadian citizenship is not for sale," Kenney told reporters. "We are taking action to strip citizenship and permanent resident status from people who don't play by the rules and who lie or cheat to become a Canadian citizen."

Further on, the article states:

> This crackdown on fraudulent citizenships is part of an investigation into some 11,000 people who may be lying to apply for citizenship or maintain permanent resident status.
>
> Of these, nearly 5,000 people with permanent resident status have been flagged for additional scrutiny should they attempt to enter Canada or obtain citizenship, a departmental release said Monday.

Fraudulent applications and misrepresentations are not an anomaly in Canada. My worry is that, if the government does not appeal this ruling, there will be an incentive for this trend to continue. I'd like the minister to come to committee to discuss whether or not he has considered that and what steps he would put in place to ensure that this doesn't continue to happen should the government decide not to appeal the ruling. My sense is that it's going to be very difficult for the government to deal with that particular trend should they not appeal this ruling.

There's another article that came out in 2014. It has the headline "Blatant lying loses family its citizenship — but earns them a $63K bill from Canadian government". It provided details about a family that was stripped of their Canadian citizenship after they were caught blatantly lying about living in Canada. In this case, as the article states:

> The family — a father, mother, and their two daughters — signed citizenship forms claiming they lived in Canada for almost all of the previous four years when they really lived in the United Arab Emirates, a fact even posted online in the daughters' public résumés on LinkedIn.

There's a body of evidence that our former government used to make changes to this process and it shows that instances of lying to gain citizenship are not a rarity.

Now, here's the real kicker. Part of the reason that the minister needs to come to committee is that he has not yet addressed the findings of the Auditor General's report in 2016. For those of you who aren't familiar, what I'm concerned about is that, if the minister doesn't appear before committee before he makes this decision about whether or not to appeal the ruling, he actually also has not publicly addressed many of the findings in the Auditor General's report in 2016 around fraud. I will highlight what some of those were. This is from an article in *The Globe and Mail* published on Tuesday, May 3, 2016:

> Canada's Immigration Department did not properly detect and prevent citizenship fraud, resulting in the review of about 700 cases as of January, according to Auditor-General Michael Ferguson's spring report.
>
> The report, tabled in the House of Commons on Tuesday, found a number of concerns in the citizenship program affecting the department's ability to prevent fraud, including the absence of a method to identify and document fraud risks.
>
> "We concluded that Immigration, Refugees and Citizenship Canada's efforts to detect and prevent citizenship fraud were not adequate," Mr. Ferguson said at a news conference on Tuesday. "These gaps make it difficult for Immigration, Refugees and Citizenship Canada to assess the impacts of its efforts to combat citizenship fraud."

● (1730)

> According to the report, which covered the period between July, 2014, and October, 2015, the most common reasons for revoking citizenship are residency and identity fraud, and undeclared criminal proceedings.
>
> The report found that citizenship officers did not consistently apply the department's methods to identify and prevent fraud when dealing with suspicious immigration documents, such as altered passports. For example, in one region, citizenship officers have not seized any suspicious documents for in-depth analysis since at least 2010.
>
> It was also found that citizenship officers did not have the information they needed to properly identify "problem addresses" when making decisions to grant citizenship. Problem addresses are those known or suspected to be associated with fraud, and used by citizenship applicants to meet residency requirements.
>
> Mr. Ferguson cited an example where one address was not identified as a problem, even though it was used by 50 applicants, seven of whom were granted Canadian citizenship. He said the fact that it was so simple for his office to find that example is concerning.
>
> "The steps that we took to try to identify cases of citizenship fraud were not complicated. We're not talking here about indications necessarily of very sophisticated fraud. So it was fairly simple for us to find these 50 cases and fundamentally I think that means it's 50 cases too many," Mr. Ferguson told reporters.
>
> NDP MP David Christopherson questioned how the government missed the 50 cases.
>
> "It strikes the common-sense chord in people," Mr. Christopherson said. "I think the average Canadian would think with the technology we have these days, you have nothing in place at all that raises a red flag with that?"
>
> The problem was further complicated by poor information sharing with the RCMP, which provides information about criminal behaviour among permanent residents, and the Canada Border Services Agency (CBSA), which leads investigations of citizenship fraud....

Usually, once a scathing report like this comes out, the minister would issue a response. I did look for that. On the Government of Canada's news web page you can find the following quote from the former minister, John McCallum, in response to the Auditor General's report. He said:

> "We have thoroughly reviewed all cases flagged by the Office of the Auditor General to determine if citizenship fraud may have occurred. As a result, we've opened investigations toward possible citizenship revocation from about a dozen individuals."
>
> "IRCC has a number of different ways of detecting and preventing fraud, in addition to those that the Auditor General focused upon. As well, we are continuously looking for ways to improve fraud detection and prevention processes in all of our programs."

This came out, I think, about a year ago—actually over a year ago. Now we're faced with staring down the barrel of this ruling that has come up from the Federal Court, and with a very fast-ticking clock on whether or not the government is going to appeal it. The problem is, this is the last that I think we've heard from an immigration minister on addressing those fundamental challenges that were identified in the Auditor General's report.

If we are not going to appeal this ruling and allow this appeals process to happen, essentially my concern is that the government has really not done anything to address the prevention of fraud. We risk incenting people to lie on their applications, as they would have a drawn-out appeals process to go through. But we've also done nothing to prevent or ensure that we're detecting cases of fraud at the front end.

To me, the fact that the minister has not answered any questions in this regard and is about to make a decision that's not only pertinent to several levels of government process but also to amendments to a bill that the government has signalled they're going to be debating in the House of Commons, I actually think it's an abdication of responsibility. The fact that we're even here whatsoever and we're still getting pat answers in the House of Commons from the minister or his parliamentary secretary, I'm not sure what that is.

The last thing that I think parliamentarians want to hear, Mr. Chair, is the minister either just letting the time pass and not making any remarks about it or at some point just announcing a press conference down the road that, oh, they went one way or the other. We want to know why, especially in light of these findings, and how the government is going to address it should they choose to allow the ruling to stand.

I think it makes it clear that even the former minister was willing to admit that fraudulent applications were a problem. They continue to be a real threat to the system if proper mechanisms are not in place to stop these incidences. I would really like to know from the minister what he's done to address this prior to making my decision on whether or not to oppose the government's decision to appeal or not appeal one way, or certainly before I take a position in the House of Commons on the amendments to Bill C-6.

● (1735)

I've given you plenty of evidence to indicate that fraudulent applications and misrepresentations on documents is a real problem that exists in Canada. My Liberal colleagues may now be wondering why this Federal Court ruling on the need for an appeals process would incentivize lying on one's application. I've made a fairly strong claim there, and I'd like to walk them through some of the logic for that. I'd certainly like to have the minister come back to committee so that we can ask him how he feels about some of these assumptions.

Think of it this way. If you know that your application as a newcomer to Canada was more likely to be accepted if certain elements of your personal story were negated, exaggerated, or falsified, and if you knew that, even if the government figured this out after you were granted citizenship, there was still an appeals process to make your place, would this appeal option not provide you with some sort of incentive to make the faulty claim? I think we all know the answer to this question, and while we want to believe that everyone seeking to come to Canada is doing it through legitimate and legal means, we must ensure there are mechanisms in place in order to deter actions that could undermine the integrity of our immigration system.

I think that there is enough evidence to suggest that the Federal Court ruling will, to some extent, incentivize lying on one's application. This is a serious issue that the committee must consider prior to looking at the amendments to Bill C-6, but also, looking at our duties—I don't believe that anyone in this room has a government appointment—it's the responsibility of all of us, regardless of partisan stripe, to hold the government to account.

Further on this point, when you talk about the incentivization to lie, my colleague Ms. Kwan highlighted some very good points. When we were debating the original Bill C-6, we heard testimony about people who had been told by immigration consultants to lie on their application. I believe that was the testimony. There were some people who were saying we might need an appeals process if somebody was convicted of a crime, as an example, in a country where they felt that the system was corrupt or there was some sort of corruption involved in their ruling to which they would have no recourse. I'd like to hear from the minister directly on that particular assertion.

My experience as a member of Parliament has been that people who have come to my office in situations like this, where they've said they had an unjust court ruling, is that it's difficult for us as members of Parliament to help them because they lied on their application to begin with, right? We often say it's very difficult for us, and we encourage people to be truthful. What I would like to see the minister's opinion on is how the government plans to incent people to be truthful.

Let's say the person in the situation that I just outlined hadn't admitted the detail of a conviction, but had put what the extenuating circumstances were on their original application. We know that our process looks at extenuating circumstances. While there's no guarantee that somebody is going to be granted citizenship, the point that we want to make is to be truthful and to play by the rules.

I am very worried that the minister has not spoken yet on what this ruling could mean. The minister did at committee—I believe it was at the Senate—say that he was going to entertain this amendment. Now, in light of this ruling, I'm not quite sure what's going to happen.

I would like to talk a bit more about something else I'd like to hear from the minister on. I'd like to continue on the gaps the Auditor General found.

I think this does provide further justification to revoke citizenship from fraudulent applicants and to deter lying. I'd like to know if the minister welcomed the finding of the Auditor General, who highlighted serious gaps in the government's ability to enforce the existing citizenship requirements that are needed to keep Canadians safe and uphold the integrity and value of Canadian citizenship.

I would like to know what the minister has done in terms of working with his colleague the Minister of Public Safety to deal with the particular recommendation around the lack of information sharing between the RCMP and CBSA with IRCC, especially since comprehensive memoranda of understanding currently exist to facilitate information sharing. It would be one thing if the minister came to committee and said, “Well, we already have the legislative mechanisms in place”, or “We need to fix the legislative mechanisms”, but we know that there are memoranda of understanding in place to do that; it's just the process isn't working.

● (1740)

This is concerning, but it's also something that we must discuss with the minister if he gives insight that the government is not planning on appealing the Federal Court ruling. Again, this is one of many reasons that I'm asking for the minister to appear before committee.

In terms of the updates that were made to the Citizenship Act by our former government, it actually had not been updated for over 37 years, which is my ripe old age. We feel and I feel that it strengthened the value of Canadian citizenship by providing a balanced set of reforms that demonstrated respect for rights, duties, privileges, and responsibilities of Canadian citizenship. However, without an appeal to the Federal Court on this ruling, the safeguards in place to deter fraudulent applications could be weakened.

There's further commentary on some of the gaps that have been identified by the Auditor General, which I believe the minister should discuss in front of committee prior to making this decision: “People with serious criminal records and others using potentially phoney addresses are among those who managed to secure Canadian citizenship, thanks to a system that doesn't do enough to root out fraud”, the Auditor General has found. Again, this audit between July 2014 and last fall, which was 2016, found that the Immigration department has granted citizenship based on incomplete information or without all the necessary checks, because it's not applying its own methods to combat fraud.

The issue isn't the department's alone. Again, this is where I would want to know if the minister has talked to his colleague in Public Safety. The Auditor General found that they weren't getting timely or enough information from border officials, or the RCMP either, to help flag suspect cases. Mr. Ferguson wrote in his spring 2016 report:

> This finding matters because ineligible individuals may obtain Canadian citizenship and receive benefits to which they are not entitled. Revoking citizenship that should not have been granted takes significant time and money.

The problems range from immigration officials not routinely checking travel documents against a database of known fake papers, to a failure by officers or their computers to flag problematic addresses that could point to residency fraud. In one instance, it took seven years for officials to catch on to the fact that a single address had been used by 50 different applicants over different time periods.

There was an Order Paper question submitted by my colleague from Central Okanagan—Similkameen—Nicola back on December 7, 2016. The response to this Order Paper question is something I think the minister should respond to in light of this decision he's about to make. This response particularly concerns me, as it details how the department does not maintain centralized data on all cases where fraud has been detected. Without this information, I think it's vital for the minister to appear before us to answer whether or not he is appealing the Federal Court decision. Specifically, we need to know this because if the minister indicates that the government is not appealing the Federal Court ruling, then we need to know what the government's plan is to deal not only with these gaps but also with the fact that data on fraud is not even being tracked.

Again, going to the Order Paper question, there were several questions asked. The first one was, “How many cases of citizenship fraud have been uncovered?” This is the response, which is quite shocking:

> The Department does not maintain centralized data on all cases where fraud may have been detected, nor can it generate this Information from existing systems.

Should the government allow this ruling to stand and not appeal it, and I think there are grounds to appeal it, how is the minister possibly going to reconcile that ruling with that particular statement? That's a great question for him that he could answer here at committee.

The response to the Order Paper question continues:

> Fraud may be detected in the initial citizenship application, at any point after citizenship has been granted, and may be raised by citizenship officers, by other staff in the context of related applications, or by partners as part of large scale investigations, for example.
>
> When a citizenship officer discovers that an applicant has misrepresented material facts in their applications, they may refuse the applicant for misrepresentation and the individual is barred from reapplying for citizenship for five years. Since this new authority was introduced in the Citizenship Act in May 2015, at least 100 individuals have been refused on this ground. Where citizenship officers uncover fraud that may be part of a larger organized fraud activity, the information may be conveyed to enforcement partners for further action. In these cases, when the enforcement partners (RCMP and CBSA), take on the investigation, IRCC will assist them and carry out activities....

● (1745)

This is important, especially in light of the testimony that we've just heard on immigration consultants. That particular study is slightly out of scope. The congruency is that there are complexities and silos and a lack of accountability across what are deemed here as enforcement partners, not only on detecting and dealing with cases of immigration consultant fraud, but also fraud on citizenship applications.

Again, my worry is that the minister is just going to let this deadline pass and not say anything about it, and then not speak to the fact that there is a fundamental problem with how these cases are tracked and how that interaction between enforcement partners actually functions.

If we as parliamentarians don't hold the minister to account for that.... We may see significant and additional serious cases of fraud if we're not putting the minister's feet to the fire to ensure that those processes are put into place prior to effectively going out with a whimper.

The question on the Order Paper also asked, “Which country of origin has had the highest level of citizenship fraud?” This is a very interesting question in terms of policy. I'm going to get to that, but this is the response from the department:

> Per answer (a), the Department does not maintain centralized data to capture and report on citizenship fraud by country of origin.

The minister needs to come here, because when you think about that, everything we just heard in the immigration consultant study— and certainly processes that would have to be put in place to deter people from lying on their applications to begin with—means that we should be targeting our resources at countries where we see a high incidence of immigration fraud.

We should be going to those countries and working through diplomatic channels, through our embassies, and through officials on the ground there to put together awareness plans to make sure that it's not happening through immigration consultants or bad advice, and to figure out what's actually going on. We need to see why we're seeing that spike, or not, from different countries.

The fact that the department doesn't maintain centralized data to capture and report on citizenship fraud by country of origin, and that we're staring down the barrel of this ruling, doesn't bode well. The minister should come to committee to discuss his plans for that.

The next question was, “What type of fraud is the most common?” The response was:

> The most common type of fraud is residence fraud where individuals falsified or simulated their residence in Canada during the relevant period, often through the use of consultant services.

If the minister is not going to appeal the ruling, or if he is, there is a direct intersection between the recommendations that we would be looking at with the immigration consultant study, but more importantly with Bill C-6 coming back to the House. The bill actually shortens the residency requirement in Canada.

The fact that IRCC has flagged residence fraud as probably one of the most common types of fraud.... Think about the math on that. Bill C-6, when passed by the Liberal majority, is going to shorten the residency requirement. We know from this Order Paper question that residence fraud is one of the largest instances of fraud, and then the ruling is going to allow for an appeals process. That is a confluence that one could logically assume would allow and incentivize people to lie on their citizenship application.

I implore you to bring the minister to committee to answer questions around how they're going to deal with that problem should they choose not to appeal the ruling.

My colleague, Mr. Albas, then asked, “How many of these cases have resulted in a deportation order?” The department talked about the process there, but again, what is interesting is that I don't think there is a lot of information in the Canadian public, or certainly in the international community, on what happens should you lie on your citizenship application. I'd like the minister to explain the efforts he's made or plans to make in light of these rulings, to strengthen the international community's understanding of that particular process.

It's very clear. There are gaps in our system that were previously identified by the Auditor General, and that's why it's so important for the minister to appear before our committee to testify on whether or not they will be appealing the Federal Court ruling. If we don't have this information, it will be difficult for us as policy-makers to adequately assess Bill C-6 in accordance with these previously identified gaps and determine whether the integrity of our citizenship process is being upheld.

The other thing I would really like to get the minister's opinion on is how his department officials, or any of the government lawyers that have been advising on this, interpret what is part of the core of the ruling, on the notion that citizenship is a right in this case. I think anybody listening to this today would be very interested.

● (1750)

How I read this and how certain people read Justice Gagné's ruling is that it's predicated upon this notion that citizenship is a right.

Chris Alexander, my former colleague and former minister, said that citizenship is not a right, that it's a privilege. Just to expound upon that, I would argue that—and I would love to see if the minister's lawyers have advised him the same—if you have obtained your citizenship through fraudulent means, it is not a right because you did not obtain it properly to begin with. There have been some quotes from stakeholder groups to this effect.

In May 2014, a spokesperson for Immigrants for Canada said about citizenship, “Immigrants for Canada holds that citizenship in Canada is a privilege. To that end, we believe that it should be available to all, but provided to those who have earned it.”

I think at the core of this ruling we have changed what “earned it” means. I would really like to know if the minister agrees with that particular notion, because it fundamentally changes our understanding of the value of Canadian citizenship.

The same spokesperson, Mr. Paul Attia, said, I believe at that same meeting, “With respect to revocation, in principle and based on our organization's view that citizenship is a privilege, we strongly support the notion of revocation of citizenship...for obtaining citizenship via fraud.” I think this ruling has an impact on that. He also said, “But we at Immigrants for Canada view citizenship like being a member of a team. Everyone has the opportunity and the chance to try out for that team, but you have to meet certain requirements.”

Mr. Chair, I would like to know if the minister agrees with that statement or not. I know we've had very heated arguments on both sides of the issue on whether or not citizenship should be revoked in the instances of convictions of terrorism, but I thought there was near unanimity that citizenship should be revoked in cases where there are clear instances of fraud.

My concern is that we will incent people to mislead or put misleading information on their application, and it could be at the advice of immigration consultants who are not scrupulous. That is not true. I think that actually devalues Canadian citizenship.

I've given many of my own quotes here, but I would to try to persuade my Liberal colleagues with some of the words of their own ministers.

In an article in *The Hill Times* on October 20, 2016, titled “McCallum doesn't want to let fraudsters 'off the hook' through moratorium on citizenship revocation”, the former minister makes it clear that fraudulent applications are not entitled to citizenship. There's an important section from that article I would like to bring to your attention. In a written statement provided to the *The Hill Times*, Mr. McCallum's office said that:

> the recent increase in citizenship revocations is the result of large-scale fraud investigations led by our RCMP and [Canada Border Services Agency] partners that began under the former Conservative government.
>
> These investigations led to criminal convictions of several immigration consultants, and notices of intent to revoke citizenship were sent to their clients who had provided fraudulent documents to suggest they were living in Canada when they were living abroad, in order to gain citizenship. Others changed their identity in order to hide criminal backgrounds.

Here's the close. Here's the big finale for my Liberal colleagues, “These applicants were never entitled to Canadian citizenship.”

Those are the words of our former Immigration minister, John McCallum. Mr. McCallum and I had a boisterous and good relationship. I had the honour of giving him a goodbye speech in the House of Commons. It was one of the highlights of my parliamentary career. I only hope I get one as boisterous as that. I'm sure many people in this room would love to do that at some point.

John McCallum said that these applicants were never entitled to Canadian citizenship. I would like to know if the current immigration minister sees things the same way.

● (1755)

If John McCallum can say that people who have their citizenship revoked due to fraud, he is saying that the fundamental core of this ruling, which is that people are entitled to citizenship, *ergo* they're entitled to a long, drawn-out appeals process.... There's a dichotomy there. I would hope that Mr. McCallum's understanding of this principle has spread to our new minister and that departmental officials, lawyers from the Government of Canada, are giving him the advice to take the spirit of that statement from the former minister, John McCallum, apply it, and appeal this ruling.

I want to go back to the argument and flesh it out a bit more. Should the government decide not to appeal this ruling, based on the statement that we need to have some drawn-out appeals process and that the appeals process isn't working, I would like to get the minister's feedback on how he feels the current system of appeals is working.

I'm going to use current Minister Hussen's own words from a Senate committee meeting on March 1, 2017. I think there was a line of questioning leading up to the amendment that we now see in amended Bill C-6. He said:

> In fact, the whole point of sending the revocation notice to the affected party is to allow the party to gather information and provide any personal circumstances to the decision maker so that the decision maker takes those personal circumstances into consideration, which would include humanitarian and compassionate grounds.

He has, then, already commented on the efficacy of the current process. If he chooses not to appeal this ruling, why, given that statement at the Senate committee?

When asked about whether the person has the right to counsel, Minister Hussen noted:

> Absolute right to counsel. The written submissions and the case, you're allowed to use counsel. There's no prohibition...[to] having counsel.

Further, he stated:

> You have a right to a judicial review with leave.

If the current minister believes the process is adequate, then first, we need to know, if he is deciding not to appeal the ruling, why, because that would be a significant departure from what he testified at the Senate committee, and we need to receive clarification on his intentions with the Federal Court appeal before voting on Bill C-6. It might be helpful to have him explain what procedural fairness safeguards exist right now in the current process.

From the same committee meeting in which Minister Hussen said this, a Ms. Hubers, director of citizenship program delivery at IRCC, said the following:

> First, one division in the department initially investigates cases to see if there is sufficient evidence that may warrant consideration of revocation. Where there is belief that there is sufficient evidence, the file then gets transferred to a different division that will then make the decision whether to proceed with a notice of intent to revoke. The notice of intent provides all the evidence upon which the decision maker would be relying at that point in time to make their decision and invites individuals to submit all factors related to that which they should take into account when making the decision, including personal circumstances, such as the length of their time in Canada, the age [at which] they acquired citizenship, their ties to Canada and those sorts of things. At that point, when that material comes in, the decision maker will decide whether to proceed with the decision.

Essentially what is being presented here is that the department believes the system, as it is, is adequate.

If the government is still of that opinion and then decides not to appeal this ruling, we need to know why, in order first of all, I think, to develop and advocate for a program to discourage people from lying on their citizenship application, but also, frankly—I'm a member of the opposition—to oppose that decision. We've been led, based on this testimony, to believe so far that everything is great—although it's clearly not, according to the Auditor General—and that we have a good system to base things on.

● (1800)

It's been brought to my attention that if the minister doesn't appear, given the timing in this committee, one could make a case around contempt of Parliament. Without this information, it could be interpreted as a breach of privilege, which in *House of Commons Procedure and Practice* is defined as follows:

> Any disregard of or attack on the rights, powers and immunities of the House and its Members, either by an outside person or body, or by a Member of the House, is referred to as a “breach of privilege” and is punishable by the House. There are, however, other affronts against the dignity and authority of Parliament which may not fall within one of the specifically defined privileges. Thus, the House also claims the right to punish, as a contempt, any action which, though not a breach of a specific privilege, tends to obstruct or impede the House in the performance of its functions; obstructs or impedes any Member or officer of the House in the discharge of their duties; or is an offence against the authority or dignity of the House, such as disobedience of its legitimate commands or libels upon itself, its Members, or its officers.... “The rationale of the power to punish contempts, whether contempt of court or contempt of the Houses, is that the courts and the two Houses should be able to protect themselves from acts which directly or indirectly impede them in the performance of their functions”.

Mr. Chair, to all of us here, given the gravity of this ruling and the huge potential impact it could have on our immigration system, the Senate amendment to Bill C-6 that we are going to be tasked with reviewing, and the fact that we have not received any information from the minister on the Auditor General's finding or whether they are going to appeal this ruling or that rationale, one could make an argument around that particular point in the Standing Orders.

To further validate that, and use this as a rationale for my Liberal colleagues to perhaps support this motion, I will say that actions that can amount to a contempt of Parliament vary but typically include things such as deliberately misleading or lying to the House or a parliamentary committee, refusing to testify or produce documents to the House or a committee—why hasn't the minister come and talked about this to date?—or attempting to influence a member either by bribery or threats. There haven't been any of those. Fair enough.

The penalties for contempt of Parliament can include jail time and, in the case of a minority Parliament, usually result in a vote of non-confidence.

Moreover, a *National Post* article on February 10, 2017 states:

> At least 236 people have been served notice of Canadian citizenship revocation since the Liberals came into federal office—a dramatic increase over previous years that is the result of Harper-era legislation, according to Canada's immigration department.... Decisions are “more efficient” and “timely” since the Conservative government's new laws took effect, according to spokeswoman Nancy Caron.
>
> The way the system now works, after receiving revocation notices, people have 60 days to respond by “providing submissions or any additional information” to immigration, including “details of their personal circumstances or ties to Canada”.... Former immigration minister John McCallum had told senators in October he would “certainly welcome” the amendment....

Again, there is a discrepancy between what McCallum has said and then what Hussen is saying on another day, and what this ruling is. There is a lot of confusion about where the Liberal ministers have been on this particular issue. I'll go back to reading the article:

> ...he would “certainly welcome” the amendment [to Bill C-6] and told the Commons he believed “people should have a right to a proper appeal.” Bernie Derible, director of communications for new Immigration Minister Ahmed Hussen, said “it would not be appropriate” for the minister to comment while the Senate deliberates.

That's odd. That's quite strange, but never mind. The article continues:

> More than half of Canadians—53 per cent—would rather have kept Bill C-24 as-is, according to an Angus Reid Institute poll from March 2016, which questioned 1,492 people.... Explaining increases in citizenship revocation, Caron said immigration workers have been prioritizing “the most serious cases such as those involving serious criminality or organized fraud.” Examples include assuming a fraudulent identity, producing doctored documents to conceal criminality, or falsifying residence records.
>
> Since November 2015, 14 people have had citizenship revoked for hiding crimes they committed while they were permanent residents of Canada, and another five had citizenship revoked for hiding crimes committed before they immigrated.
>
> In the former case, if their citizenship is revoked, people revert back to being foreign nationals, while in the latter case, people revert back to being permanent residents.
>
> Revocation doesn't necessarily result in a deportation order....

● (1805)

Look, there are many things under this section that we need to question the minister on. The point I am trying to make when using the issue of privilege or contempt is that as parliamentarians, we do have the right to hear from the minister. Should he choose not to appear before this committee, or should colleagues not vote to have him here, it will be very difficult for us to do our jobs, especially on matters of such great import as this ruling.

I will speak to one more issue that has come up. It's a bit of a hot topic in legal circles right now as it pertains to Justice Gagné's ruling. A chunk of the ruling is predicated upon an interpretation of the Canadian Bill of Rights. This is something I'd like to hear from the minister on, as well as any advice he might have received from government lawyers.

The Federal Court ruling on the appeals process for citizenship revocations cited that the current legislation is in violation of the bill of rights. Obviously, the bill of rights is an important document.

● (1810)

Mr. David Tilson: I have a point of order, Mr. Chairman.

Ms. Rempel is giving us some important points about the minister appearing on these matters. With due respect to you, I think you should be giving her your full attention. I realize that members want to meet with you privately, but I would suggest that your responsibility is to listen to what she has to say. It would be very helpful if you would do that.

The Chair: I understand that was a message you wished to have delivered to me, but I take your point.

Mr. David Tilson: No, that wasn't a message I wished to have delivered to you. I'm saying it in open committee. It's a point of order. I believe the chair of any committee should pay attention to the speaker who is speaking at that time.

The Chair: I was paying attention.

Mr. David Tilson: With due respect, sir, you were not. You were talking to another member of the committee in private. I believe you should be listening to what the current—

The Chair: It certainly isn't a private committee room. In any case, I think Ms. Rempel would like to continue.

Mr. David Tilson: Thank you, sir.

Hon. Michelle Rempel: Thank you, and thank you, Mr. Chair, for listening to a lengthy argument, but one that I think is very important. Thank you for your leadership on our committee today.

Going back to the question of the Bill of Rights and its interpretation in light of this ruling, and the need for the minister to explain the advice he's been given, I'll just back up.

The Bill of Rights was created by Prime Minister John Diefenbaker in 1960, years before the Charter of Rights and Freedoms. It's important to note that the Bill of Rights contains primacy clauses asserting quasi-constitutional status as opposed to constitutional status.

The *Osgoode Hall Law Journal* published a piece in 2016 by Vanessa MacDonell entitled, “A Theory of Quasi-Constitutional Legislation”. I will share with you some excerpts from this piece illustrating what I think the minister needs to present to committee and to parliamentarians about his decision to appeal the ruling or not. These excerpts should demonstrate one reason why we believe it's in the interest of the government to consider an appeals process, which might influence the minister's decision-making. Here's the excerpt:

> SINCE THE 1970S, THE SUPREME COURT OF CANADA (SCC) has treated a small number of statutes as quasi-constitutional. These statutes, which the Court has described as “not quite constitutional but certainly more than ordinary,” include human rights acts, privacy and official languages legislation, and statutory bills of rights such as the Canadian Bill of Rights and the Quebec Charter of Human Rights and Freedoms. Although quasi-constitutional statutes are enacted in the same way as other laws, they are interpreted in the broad and generous manner usually reserved for constitutional rights. They also trump later, conflicting ordinary laws unless those laws provide otherwise. This trumping rule has significant consequences for laws that fall short of the guarantees found in quasi-constitutional statutes. Despite the longstanding presence of these statutes in Canadian law, however, the Court has yet to articulate comprehensive criteria for recognizing a statute or regulation as quasi-constitutional. Some quasi-constitutional statutes contain supremacy clauses mandating the application of the trumping rule described above and signalling to courts that Parliament intended the law to be treated as quasi-constitutional. Just as often, however, the Court’s decision to treat a statute as quasi-constitutional flows from the close relationship between these statutes and constitutional rights. Much more work remains to be done to develop a theory of quasi-constitutional statutes in Canada.

From this excerpt, I hope that I've given my colleagues something to think about. I also think it's important for the minister to appear before committee so that we can have these important discussions about the Federal Court ruling and whether or not they are planning to appeal it. This is especially important as we draw closer to the date on which the appeal can be filed.

Ms. Jenny Kwan (Vancouver East, NDP): Mr. Chair, I have a point of order.

My colleague is giving a lengthy opinion about the motion, and my name was mentioned a couple of times in her speech. I just want to make sure that my privilege has not been violated, so I want to clarify on the record the points that were made with reference to where my name was mentioned.

On the first point, the issue of an amendment was raised. An amendment was moved with respect to Bill C-6 to ensure that there would be due process for people whose citizenship would be revoked because of misrepresentation or fraud.

I feel very strongly that people should have the right to due process and to appeal that process. My amendment to Bill C-6 was to restore that process, which I fully support. However, my amendment was not supported and was ruled out of order, so I just want to state clearly in reference to that what my position is, which is to absolutely support a process for appeal that takes into consideration humanitarian and compassionate reasons and extenuating circumstances.

As I understand it, through the Senate there is an amendment to Bill C-6 that brings back an iteration of due process embedded in that. When and if that comes before the House of Commons, if the government decides to bring that forward, to be clear, that's something I do support. That's my view on that.

Again, I just want to clarify to make sure that my privilege has not been violated. My second point is on my view on appeals with respect to bad actors in the consulting industry.

Absolutely, when we were talking about the study that we had embarked on, we heard a lot of witnesses who talked about abuses in the system. We heard that there are consultants, ghost consultants or otherwise, who sometimes provide misinformation about their client's application, and sometimes that misinformation is provided unbeknownst to the applicant. They don't even know about it, but when that happens, it is actually the applicant who is penalized for that.

Hence, I would say that an appeal process is absolutely critical, because they need the opportunity to say, “Actually, that's misrepresentation that was put forward for me, unbeknownst to me.” This may be because they are not familiar with the system, because they don't really know how the process works, or because they have language difficulties. It could be for a whole variety of reasons. On that point, it is absolutely essential that we have an appeal system in place.

Mr. Chair, I want to make it clear where I stand on that. It is not the applicant who should be penalized for that. It is the bad consultants who should take the hit on that, and right now our system fails at that, which is what our previous study was all about.

● (1815)

The Chair: Thank you for those clarifications.

Ms. Jenny Kwan: Those are my points of order.

I do have one other point, Mr. Chair, that I would like to raise, and that is with respect to the right to due process.

Tying in to these two points, and so that there is no confusion about my point of view and that my privilege is not violated, I just want to be clear that I don't believe that having the right to appeal really incents people to come forward and to fraud the system. I don't think people say, “Hey, you know what? I think I'm going to think about how to fraud the system, because I have the right to appeal.” I don't think that.

I think that if for some reason people have been charged, with the view that they have somehow misrepresented...or presented fraud in their application, then they should have the right to appeal.

It is a fundamental democratic right to have that due process in place, because sometimes officials make mistakes, too, Mr. Chair. When that happens, you should have the right to challenge the officials, and say, “You know, I don't know where you got that information from, but here are the facts of the case.” Appeals are really important.

Anyway, I want to make sure that my privilege was not violated, and I want to put these issues on the record, seeing as my name was mentioned a couple of times.

The Chair: Thank you for that clarification.

Ms. Rempel.

Hon. Michelle Rempel: First of all, Mr. Chair, I want to express my deep respect for Ms. Kwan. I find that even though we don't agree—and we agree on much actually; I find it surprising sometimes—she always comes to committee very prepared and what she says is well thought out. When she moves amendments on bills or different pieces of committee studies, they're very rational, and it's a nice bridge to where I want to go with my remarks.

My intent was not to misrepresent Ms. Kwan, and I don't think I did, but I'm glad she clarified. It was more to show that the matter that's before us with regard to the Federal Court ruling from Justice Gagné on the appeals process and the amendments that we are going to be dealing with in Bill C-6 that have come back from the Senate have wide-ranging implications both for people who are using our immigration system as well as those who might be impacted by delays in the review process. This is a matter of real import. It's something on which our committee time should be prioritized given the fact that the clock is ticking on this.

One of the challenges we have as parliamentarians is that we only have a finite amount of time in committee. Certainly Atlantic Canadian immigration is one of many issues that come before us, but there are times when the committee has to say.... Certainly with this case, the minister has made no attempt to provide rationale on some significantly weighty matters. Ms. Kwan outlined her rationale for some of the things that she would like to see, and it's her job as an opposition member, just as it is mine, to hold the government to account. I would like to remind government members, as well, that it is their job, if they don't hold a government appointment and are part of the government, to also hold the government to account. I would like to think that we can do something that resembles work with regard to this topic. I would like to see us ask the minister...I'd love for Ms. Kwan to actually ask the minister where he is with some of those points.

The point I'm trying to make today is not necessarily to build an argument one way or another, although I would like to do that at some point. My point is that I don't have the information to be able to do that because I don't understand what the minister has done, for example, in response to the Auditor General's findings. I don't understand or know what advice he's being given in terms of potential appeals grounds. I don't understand the reason there are fundamental system flaws in the IRCC that have not been addressed over the last two years, especially since this amendment is not a surprise, I don't think. Ms. Kwan talked about the fact that she raised it, and it's been a topic of discussion in the Senate for over a year now, since that's come up. Yet we've heard nothing from the minister on this, absolutely nothing.

I know that the minister is new, and I know that he's busy, but this is a matter that Parliament is seized with. This is something that is of immediate and urgent import and certainly—I'm not sure about Ms. Kwan—I'm happy to sit at meetings during the summer if necessary to look at other matters of urgent import, as we did last summer.

There have been allegations, Mr. Chair. When opposition members raise notices of motion, somehow I've heard some of my colleagues say that it is a waste of time. I find that to be such an arrogant comment, and I would like to think that my colleagues in this room are beyond that, because it's very important—

• (1820)

Mr. Nick Whalen: All important.

Hon. Michelle Rempel: —to put the deliberations on these types of weighty matters as a priority of our committee.

With that, Mr. Chair, I would very much like my colleagues to support the motion for the minister to come to committee to answer these questions so that we as parliamentarians can give our best to our constituents and make well-informed decisions on their behalf based on the information that the minister has provided, which, to date, he has not done.

With that, I close my remarks.

The Chair: Thank you.

Ms. Dzerowicz.

Ms. Julie Dzerowicz (Davenport, Lib.): I move that the debate be now adjourned.

The Chair: We will now move to a vote.

Mr. David Tilson: I would like a recorded vote.

(Motion agreed to: yeas 5; nays 4)

The Chair: The meeting is adjourned.

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