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• (1630)
[English]

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

Welcome to meeting number 63 of the House of Commons Standing Committee on Citizenship and Immigration.

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

I want to thank the officials who are here today. We are joined by Nicole Girard, director general, citizenship policy; Uyen Hoang, senior director, legislation and program policy; Erika Schneidereit, counsel, legal services; Allison Bernard, senior policy analyst; and Judy Dewan, senior analyst.

Thank you, all. Thank you for providing us this support as we go through clause-by-clause on this.

We are continuing our clause-by-clause study of the bill. When we left, we were on clause 1. NDP-2 was just voted on and was defeated.

I'll remind you that since NDP-2 has been defeated, amendments NDP-7, NDP-10, NDP-11 and NDP-13 cannot be moved, since they refer to paragraph 3(1)(s), which would have been created by NDP-2.

We will begin with NDP-3.

Ms. Kwan, would you like to move it?

Ms. Jenny Kwan (Vancouver East, NDP): Thank you very much, Madam Chair.

I will move NDP-3.

This amendment is really related to the package on the second generation cut-off rule. It extends citizenship to the second generation born abroad and subsequent generations, and restores those impacted since the second generation cut-off rule was enacted back in 2009.

Included in this, I should just point out that it also recognizes the connections test and that it would apply to both the parents and the grandparents.

The Chair: Thank you.

Ms. Kayabaga.

Ms. Arielle Kayabaga (London West, Lib.): Thank you, Madam Chair.

I'd like to propose subamendments to NDP-3.

I'd like to move that NDP-3, proposing to amend clause 1 of Bill S-245 by adding text after line 14 on page 1, be amended by substituting the following for the words “(g), (h)” in the proposed paragraph 3(3)(a):

(g), (g.1), (h)

and by substituting the following for the words “(g), (h)” in the proposed subparagraph 3(3)(a.01)(i):

(g), (g.1), (h)

That was (a). Then:

(b) if the person was born before April 17, 2009 and, at any time, only one of the person's parents was a citizen and that parent was a citizen under any of the following provisions, or both of the person's parents were citizens under any of the following provisions:

and:

(2.3) Subsection 3(3) of the act is amended by striking out “or” at the end of paragraph (a.2), by adding “or” at the end of paragraph (b) and by adding the following after paragraph (b):

The Chair: Are you done, Ms. Kayabaga?

Ms. Arielle Kayabaga: No, I'm not done, Madam Chair. Just give me a second, please.

The Chair: Let her finish and then we will...

Ms. Arielle Kayabaga: I'm not done.

Thank you, Madam Chair. I'm sorry.

Going back to the first—

[Translation]

Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ): I have a point of order, Madam Chair.

[English]

The Chair: Just wait one second, Ms. Kayabaga.

Mr. Brunelle-Duceppe.

[Translation]

Mr. Alexis Brunelle-Duceppe: Madam Chair, I believe the French version was not provided to the interpreters.

Personally, I didn't receive the subamendments text in French. Interpreters have trouble following discussions if they don't have the texts on hand.

Would it be possible to get them?

• (1635)

[*English*]

The Chair: Ms. Kayabaga, do you have them in both official languages?

Ms. Arielle Kayabaga: Madam Chair, for NDP-3, the first amendment I'm making is a really small amendment—

The Chair: Do you have it in both languages?

Ms. Arielle Kayabaga: Yes, we do.

The Chair: Okay.

I will suspend the meeting for two minutes, so that the clerk can get that in French to Mr. Brunelle-Duceppe.

• (1635)

(Pause)

• (1637)

The Chair: I call the meeting back to order.

Ms. Kayabaga has the floor. She is proposing some amendments to NDP-3.

Go ahead, Ms. Kayabaga.

Ms. Arielle Kayabaga: Thank you, Madam Chair.

Just for the sake of this not being super confusing to everyone, I'll put one amendment on the floor at a time.

I'll go back to the first one I was proposing. I would like to move that NDP-3, proposing to amend clause 1 of Bill S-245 by adding text after line 14 on page 1, be amended by substituting the following for the words “(g), (h)” in proposed paragraph 3(3)(a):

(g), (g.1), (h)

and by substituting the following for the words “(g), (h)” in proposed subparagraph 3(3)(a.01)(i):

(g), (g.1), (h)

This is a minor change, Madam Chair. The bill gives citizenship to all those impacted by the former section 8. These individuals will now be represented in the act under new paragraph 3(1)(g.1). We needed to add (g.1) to NDP-3 in two places to add them to the list of the people who can't automatically pass citizenship to children born abroad without substantial connection.

Thank you, Madam Chair.

The Chair: Thank you.

We have an amendment proposed by Ms. Kayabaga to NDP-3. The amendment is on the floor.

Yes, Mr. Redekopp.

Mr. Brad Redekopp (Saskatoon West, CPC): Just so that I understand, and I'll attempt to read it back to you, basically you're saying that this adds a new section because of what we did before. It prevents somebody from passing on citizenship to a new class of person.

Is that what you said?

• (1640)

The Chair: Go ahead, Ms. Kayabaga.

Ms. Arielle Kayabaga: It adds a reference to the—

Mr. Brad Redekopp: I'm sorry. I should ask the officials—but go ahead.

Ms. Arielle Kayabaga: Go ahead.

Mr. Brad Redekopp: I'm sorry, guys. I forgot you were there.

Voices: Oh, oh!

Ms. Nicole Girard (Director General, Citizenship Policy, Department of Citizenship and Immigration): Yes. It's further to the remedy that the committee voted on and agreed to in the last session, to add those section 8s as citizens but creating a new category for them, (g.1), and at the same time confirming in the scheme of the act that their descendants are subject to the first generation limit.

There's no transmission unless the family member meets the connection test that's under discussion.

The Chair: Thank you.

Seeing no further discussion....

Yes, Mr. Kmiec.

Mr. Tom Kmiec (Calgary Shepard, CPC): I'm sorry. Again, this is so complex and involves so many subparts of the Citizenship Act now.

So far, with the amendments that have been accepted, with this subamendment to the NDP-3 amendment, this means that the 1,095 rule will apply to people who are seeking the right, not the grant, of citizenship if one of their parents is a Canadian citizen in those cases. Is that correct?

Ms. Nicole Girard: That's correct. It's for the descendants of those remedied in that narrow category of section 8s. It's a minor amendment to ensure that the descendants of those who are remedied in that category will be subject to the first generation limit and can also access this.... There's no pathway to citizenship for the descendants unless the connection test is met—the 1,095 days. The member is correct.

Mr. Tom Kmiec: This just makes it more consistent with other parts of the act. This is the substantive connection test of 1,095 days. Is that correct? That's the only requirement.

Ms. Nicole Girard: Yes, it's consistent. The member is correct.

The Chair: Go ahead, Ms. Rempel Garner.

Hon. Michelle Rempel Garner (Calgary Nose Hill, CPC): To clarify, in no amendments we've made yet is there an obligation for consecutive residency or time in Canada. Is that correct?

Ms. Nicole Girard: That's correct.

Hon. Michelle Rempel Garner: Is that consistent with other usages of the rule in other parts of the act, as well?

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

Hon. Michelle Rempel Garner: Just to be clear, what I'm asking is this: Any time there's a presence test required in other parts of the act, there's no obligation for the time to be consecutive. Is that correct?

Ms. Nicole Girard: Yes, that's correct, in the sense that for a grant of citizenship, the current requirement is to accumulate three years of physical presence at any time within the qualifying window of five years. There's no requirement for it to be consecutive.

Hon. Michelle Rempel Garner: Okay.

Based on the amendment that was just made, is it clear that it still has to be within the five-year window, or is that not clear now, with these amendments?

Ms. Nicole Girard: The five-year window doesn't apply to this cohort, because in this case we're talking about the descendants of citizens for whom the connection test on the family member is three years of physical presence. It's a slightly lower threshold, if I can put it that way, because there isn't a specific window.

Hon. Michelle Rempel Garner: Does the department have any concerns about there being a discrepancy between other parts of the act, in terms of the window and the provisions we're building here? Is that going to create a legislative dissonance, if you will? Are there any concerns about that?

Ms. Nicole Girard: I'm not aware that any concerns have been identified at this point in time.

Hon. Michelle Rempel Garner: Thank you.

The Chair: Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: Thank you, Madam Chair.

I just remembered that on Monday, one of the questions we asked was how many people this change would affect? This particular section, with this amendment and subamendment.... Do you have those numbers, and do you also have the numbers from Monday for those questions about how many lost Canadians would be encompassed by the amendments passed so far in this committee?

• (1645)

Ms. Nicole Girard: As I mentioned on Monday, depending on which legislative remedy—in terms of which aspect of the bill is under discussion—the department doesn't have a specific estimate or a way to have a precise number. Those remedied by section 8 are a relatively modest cohort, as we discussed before. We see in the order of 20 to 30 such cases come forward every year.

Those who could benefit from the second generation connection test could potentially be in the thousands, I think, as we discussed in the previous session, although it depends on how many come forward to the department to request a proof of their citizenship. There's no way to know that in advance.

I think that covers your question. I apologize if I left a part out. I'd be happy to cover it.

Mr. Tom Kmiec: Actually, the 20 to 30 gives me an idea...and potentially thousands.

If this subamendment passes, just so I'm perfectly clear, this is by right, not grant, citizenship. Is that correct? Do paragraphs (g), (h) and (g.1)—this is by right citizenship—apply the same rule?

Ms. Nicole Girard: That's correct, though this subamendment is targeting the descendants of the narrow cohort. One would anticipate that those numbers are likely to be more modest, though it's difficult to know in what range they may be.

The Chair: Go ahead, Ms. Lalonde.

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

For our officials, in regard to this subamendment, my understanding is that all this does is take the former section 8 people who were added with the G-3 amendment we passed and make sure they are added in the listing of folks in NDP-3.

Could I ask whether that's correct?

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

Thank you.

The Chair: Thank you, Ms. Lalonde.

Seeing no further discussion, we will take the vote on the amendment proposed by Ms. Kayabaga.

(Subamendment agreed to: yeas 11; nays 0)

The Chair: Go ahead, Ms. Kayabaga.

Ms. Arielle Kayabaga: Thank you, Madam Chair.

I would like to move a second subamendment.

I move that NDP-3, proposing to amend clause 1 of Bill S-245 by adding text after line 14 on page 1, be amended by substituting the following for the text of the proposed subparagraph 3(3)(a.01) (ii):

(ii) neither of the person's parents was a citizen who had a substantial connection with Canada;

This makes a change to the list of people who can meet the substantial connection requirement introduced by NDP-1. NDP-3 proposes that it should be the parents or a grandparent, but this makes it so it can be only the parents.

Thank you, Madam Chair.

The Chair: Ms. Kayabaga has proposed an amendment to NDP-3.

Go ahead, Ms. Kwan.

Ms. Jenny Kwan: I'll speak very quickly about this.

My personal perspective is that we should include the grandparents so they can establish that connection test. I can go into all the reasons that would be important, but I understand the government does not agree with me on that. I don't like it, but I also recognize that sometimes in life there are many things I don't like but just have to learn to live with.

The Chair: Go ahead, Ms. Rempel Garner.

Hon. Michelle Rempel Garner: Perhaps I can ask this of both the officials and my colleagues opposite, just so I am keeping score appropriately here.

The amendments we have made so far in the list of orders.... Does what is being proposed here keep it consistent?

So far on the list, we have not yet introduced the concept of grandparents. Is that correct?

• (1650)

Ms. Nicole Girard: I'm sorry. This is just coming up now.

You've heard the proposed subamendment to limit it to parents.

Hon. Michelle Rempel Garner: Through you, Madam Chair, to my colleague, Ms. Lalonde, could she run through it one more time? I am not clear now, with the two Liberal subamendments, on what the amendment actually does overall. If it weren't here at all, how does it change it substantively? If this Liberal subamendment passes, what is the function of the amendment as amended? What cohort would it affect?

Mrs. Marie-France Lalonde: I certainly would like the officials....

My understanding, again, is that we are removing grandparents from the NDP-3 amendment. It's a subamendment to remove...because if you read NDP-3, it refers to parents or grandparents. What we're proposing is to take grandparents off.

Certainly, my colleague and the officials can share that.

The Chair: Go ahead, Mr. Dhaliwal.

Mr. Sukh Dhaliwal (Surrey—Newton, Lib.): Thank you, Madam Chair.

Basically, instead of bringing the subamendment, we can just defeat Madam Kwan's amendment. That will probably do the job anyway. Is that true? The one we passed is just the first generation. She was trying to introduce the grandparents. If the grandparent category doesn't go through, then it's fine. Even bringing in the subamendment does the same thing we will do, as it is.

The Chair: Go ahead, Ms. Rempel Garner.

Hon. Michelle Rempel Garner: I need another coffee before we get into these technical points.

What I'd like to ascertain is...I understand what this subamendment is doing now, and I think I understand what the motion as amended does. It places a restriction on what has already been passed, correct?

I guess I would ask, is there a more...? It seems to me we're confusing two matters in the same motion. I'm feeling negative energy vibes from the law clerk table, because whenever we confuse two matters in the same amendment, it can sometimes lead to confusion in the legislation. Is there a more elegant way for us to achieve what Ms. Kayabaga originally proposed with the subamendment? There seems to be a consensus emerging to delete the remaining substantive parts of this amendment.

I might look to the law clerk for advice on that, as well. Maybe I'm misunderstanding it. To be clear, I agree, and it's the reason we supported the last subamendment proposed by Ms. Kayabaga, which was to clarify what happened in the first instance. What I think is happening now is that we are amending the rest of the motion, so that it doesn't do what it was originally supposed to do. I'm wondering whether it should all be defeated, and then we can put that clarification in a different way.

If I'm misunderstanding, I'm happy to be corrected. I just want to know what I am voting on?

The Chair: Thank you, Ms. Rempel Garner.

Next, we have Ms. Kayabaga, and then Mrs. Lalonde.

Ms. Arielle Kayabaga: Thank you, Madam Chair.

NDP-3 proposes to allow either a parent or a grandparent to meet the criteria for substantial connection to Canada.

What I'm proposing as a second subamendment is to make it only parents, not grandparents. That's what we're proposing. It's a very minor change. It doesn't affect the entire NDP-3. This is a technical amendment. We're basically changing grandparents to parents. That's what you're voting on.

• (1655)

The Chair: Mrs. Lalonde.

Mrs. Marie-France Lalonde: I'm certainly happy to reiterate what my colleague said. NDP-3 is needed, because it talks about who can meet the substantial connection. We're proposing to limit the substantial connection requirement to only a person's parents, and not their grandparents.

The Chair: Thank you.

Mr. Brunelle-Duceppe.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: I feel it's pretty clear that the subamendment aims to exclude grandparents.

The Bloc Québécois will vote in favour of this subamendment.

[*English*]

The Chair: Seeing no further discussion, I will ask the clerk to take the vote on the subamendment.

(Subamendment agreed to: yeas 10; nays 1)

The Chair: I will go back to Ms. Kayabaga.

Ms. Arielle Kayabaga: Thank you, Madam Chair.

Now I would like to move subamendment number 3.

I'd like to move that NDP-3, proposing to amend clause 1 of Bill S-245 by adding text after line 14 on page 1, be amended by adding the following after the proposed text:

(2.2) The portion of paragraph 3(3)(b) of the Act before subparagraph (i) is replaced by the following:

(b) if the person was born before April 17, 2009 and, at any time, only one of the person's parents was a citizen and that parent was a citizen under any of the following provisions, or both of the person's parents were citizens under any of the following provisions:

(2.3) Subsection 3(3) of the Act is amended by striking out "or" at the end of paragraph (a.2), by adding "or" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) if the person was born after April 16, 2009 and

(i) at any time, only one of the person's parents was a citizen and that parent was a citizen under any of the provisions referred to in subparagraphs (b)(i) to (viii), or both of the person's parents were citizens under any of those provisions, and

(ii) at the time of their birth, neither of the person's parents was a citizen who had a substantial connection with Canada.

Madam Chair, NDP-3 is proposing automatic citizenship by descent, beyond the first generation, for anyone who has a parent who meets the requirement of a substantial connection to Canada. However, as written, it would exclude someone who has a Canadian parent who was born before February 15, 1977, even if they meet the substantial connection requirement.

We believe that this is a simple oversight, and this subamendment fixes the oversight and allows the parent to meet the substantial connection requirements, regardless of when they were born.

Thank you, Madam Chair.

The Chair: Thank you, Ms. Kayabaga.

We have a subamendment proposed by Ms. Kayabaga.

Is there any discussion?

Mr. Tom Kmiec: Can we get it distributed?

The Chair: The clerk has sent an email, so it's coming to everyone.

Mr. Redekopp.

Mr. Brad Redekopp: While we're waiting for that to come in writing, just so that everyone has the right story on what's going on here....

This is very complicated, and it's hard to understand. If anybody questions why we're asking questions, it's that we want to make sure we get it right. We want to understand what's going on. We want to make sure you guys are in favour of this because, ultimately, it's you who have to make this work.

It's a lot of "(iii)"s and things like that to understand. Just to be clear, we're not trying to slow this process down. We're trying to make sure it's done correctly.

• (1700)

The Chair: Mr. Brunelle-Duceppe.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Madam Chair, I can only agree with my colleague Mr. Redekopp.

We're dealing with a very complex bill and we have subamendments before us. We are working to produce a good bill. So I just can't understand why these subamendments were not sent to all members so that each party's research team could have the opportunity to carefully examine them. The fact that they are written up means they have been for some time. The Liberal Party didn't write them up 15 minutes before the meeting started. It would have been nice and proper to get these subamendments to us beforehand.

It's unfortunate. This isn't how we normally do things. It means that the next few times, the Bloc Québécois might introduce complicated subamendments during the meeting. I don't know, but I'm raising the issue.

Thank you.

[*English*]

The Chair: Next we have Mr. Kmiec and then Ms. Lalonde.

Mr. Kmiec.

Mr. Tom Kmiec: I'm going to ask the officials some questions.

I'm just following the notes I took on the amendment when Ms. Kayabaga was speaking. I want you to correct me if I'm wrong and to tell me what the correct answer is, just so I understand.

It would be parents pre-April 17, 2009, but it would also apply for the substantial connection test for those pre...I heard 1977. That is what's really confusing me—those who were not born in Canada and cannot, or were not made to, prove a substantial connection to Canada pre-1977.

It sounds like there are two things at play here. It would really help if you had an example of how this would function, because this is all over the Citizenship Act. Could you just help us understand?

Ms. Nicole Girard: As the member was mentioning, this is an amendment intended to provide equal access to the connection test to children born since 2009 and who were impacted by the first generation limit, where only the parent is given access to demonstrate the connection test.

The issue for the subamendment is, which parents will have access? We think that, through a drafting issue, there may have been an oversight. It was drafted in a way that covered only parents born since 1977. You could have a family with one parent whose kid was born abroad in 1976 and grew up in Canada. They wouldn't have access to the connection test for their child born abroad in the second generation, but the other sibling, who was born in 1978, so after the 1977 dividing line, would have access.

All this amendment is looking to do is to say, "Regardless of when your parent was born, if your child is born abroad from 2009 on, you can access the connection test via your parent."

The Chair: Thank you.

Go ahead, Mrs. Lalonde.

[*Translation*]

Mrs. Marie-France Lalonde: I'd like to make two comments.

We can all agree that this clause-by-clause consideration is complex. I would just like to thank the folks who are helping us clarify this.

Esteemed colleague, I certainly understand that you're very disappointed that you didn't have access to some of the documents earlier, but we couldn't introduce a subamendment until the amendment itself had been moved. As has already been said, the amendments have been introduced, but they cannot be debated until they are moved to the committee. It's a matter of confidentiality, that's the reason.

That said, I'd like to thank the folks who are helping us navigate through all this complexity.

[*English*]

The Chair: Thank you.

We have Mr. Redekopp, then Mr. Brunelle-Duceppe.

Go ahead, Mr. Redekopp.

Mr. Brad Redekopp: It appears to me that this subamendment is actually not related to anything Ms. Kwan's amendment brings forward. This is something that has been an oversight in the existing legislation. It's just that, since we're here, we're going to fix it.

Is that the right way to understand this?

Ms. Nicole Girard: Madam Chair, that's not correct.

It's related to Ms. Kwan's amendment in the sense that it's introducing a connection test accessible to those born abroad in the second generation and beyond. It's a mechanism that doesn't currently exist.

As the member mentioned, it's a minor adjustment to address a drafting issue, which was probably unintended. It cut out some parents, when it was intending to be inclusive with regard to the proposed connection test to be met by parents of these children born abroad since 2009, if I can sum it up that way.

Thank you.

• (1705)

The Chair: Go ahead, Mr. Brunelle-Duceppe.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Thank you, Madam Chair.

I have a question about my colleague Mrs. Lalonde's last comment.

Am I to understand that the parties never discuss amendments and subamendments with each other before committee meetings, and that there have never been any such discussions prior to introducing subamendments?

I don't mean to belabour the point, but I don't want to be thought of as any less intelligent than I am.

Thank you.

[*English*]

The Chair: Thank you.

Go ahead, Ms. Rempel Garner.

Hon. Michelle Rempel Garner: I want to clarify some of Mr. Redekopp's questions with the officials.

Through you, Madam Chair, to Ms. Girard, you mentioned it was a drafting error. However, it wasn't a drafting error with the bill, as originally received by this committee. It was a drafting error with the amendment.

Is that correct?

Ms. Nicole Girard: Yes, it was with the motion. That's correct.

Hon. Michelle Rempel Garner: Okay.

I would look myself, but are you aware of any debate on this issue that came up when the bill was in the other place?

Ms. Nicole Girard: Since the issue was not addressed in the original form of the bill, I don't believe it was an issue that came up at that time.

Thank you.

Hon. Michelle Rempel Garner: Perhaps the legislative clerk....

Again, I'm trying to understand where this fits in the grander scheme of things. Would this amendment have been ruled in the scope of the bill had the House not passed the motion to expand the scope?

The Chair: I will ask the legislative clerk to clarify.

Thank you, Ms. Rempel Garner, for your question. As per the advice of the legislative clerk, it is admissible right now, in the present situation.

Hon. Michelle Rempel Garner: Okay.

To build on what my colleague, Mr. Brunelle-Duceppe, said, I'm going to state this as a blanket reservation to qualify how I think I'm going to be making my mind up on how to vote on some of these amendments, just for the record.

My concern is that the bill in the original form went through the Senate fairly quickly. There wasn't a lot of debate beyond this. I haven't seen data on the implications of some of these amendments. This is not a slight on the department. What would be the cohort that was impacted by this? Are there resourcing issues? Are there administrative issues that may come up with this? We don't have that in front of us.

Procedurally, part of the reason we try to keep clause-by-clause amendments within the scope of the bill is that typically, in the legislative process, you'd have testimony, have a study, have data to review as a legislator. What we're being asked to do here, as Mr. Brunelle-Duceppe said, is to consider on the fly substantive amendments that were considerably beyond the scope of the initial bill, trying to listen to subamendments (a), (b), (c), (d), (e) and (f), when this actually has significant implications for how many people can have the right to claim citizenship to this country.

I'm now sitting here and not really feeling like I have the resources and tools as a legislator to consider this carefully. That really concerns me. This is why there's procedure. We typically don't do business this way.

I think I understand what my colleagues on the governing side are trying to do. I think they're trying to fix an amendment that was put forward by the NDP. However, based on what we just heard, there's a drafting error in the amendment from the NDP that would potentially be quite out of the scope of the original bill.

I just want to reserve that I think we could have some significant unintended consequences here. I understand we're trying to fix a situation and keep it tighter, but my preference would be that we stick to the original scope of the bill as much as possible in order to make good decisions that have already been reviewed in other places, in debate in the House and whatnot.

I just want to qualify that when I'm voting on this, I'm trying to do as best I can with limited data under a programming motion that I don't think was in the best interests of this bill. I worry that I'm going to make mistakes here, and I just wish I wasn't in this situation.

Thank you.

• (1710)

The Chair: Thank you, Ms. Rempel Garner.

Mr. Kmiec.

Mr. Tom Kmiec: Again, I'm trying to understand everything.

If this subamendment passes, it will apply only to parents, not grandparents, regardless of the age of the parent and the place of birth. The only test will be the 1,095 days, non-consecutive, as long as you can show it, for all children born after 2009. Good. Everybody's nodding. I'm still on the right path. It's parents of any age.

How many people do you estimate this could potentially affect?

This is a question I will ask often, the estimate of how many people would be affected.

Ms. Nicole Girard: Thank you.

That is correct and a good summary, first off.

Second, I'd just like to reiterate that while it's difficult to estimate with any precision, it's likely to benefit thousands in the future—those children of the first generation born abroad, for whom we already receive in the range of 40,000 to 60,000 requests for proof of citizenship per year, as a kind of a frame.

Mr. Tom Kmiec: How much [*Inaudible—Editor*]?

Ms. Nicole Girard: It's 40,000 to 60,000 applications for proof of citizenship that we receive yearly in the department; this is for the first generation born abroad, to prove their citizenship. It's the children of those people who can benefit from this change that's under discussion and consideration. What we don't know is how many may come forward to request it in the future; that can't be estimated at this time.

Thank you.

Mr. Tom Kmiec: The 40,000 to 60,000.... Is that annual?

Ms. Nicole Girard: Yes, that's correct. We receive in the range of 40,000 to 60,000 applications for proof of citizenship for the first generation born abroad, who are citizens by law and because their parent was either born in Canada or naturalized in Canada prior to their birth.

Thank you.

Mr. Tom Kmiec: I'm going to back to the Senate testimony on Bill S-230, which is the original version of this bill. During that testimony, there were numbers. Alec Atfield, director general, citizen-

ship branch, strategic and program policy, IRCC—your predecessor, if I am correct—said that as a result of the 2009 changes and the subsequent 2015 changes, “As a result of the communications there, in the range of 17,500 people became Canadian citizens or regained their citizenship.... There was extensive and sustained communication at that time. With the 2015 amendments, another 600 cases were identified and became Canadians as a result of the changes in the law and the communication that resulted from that.”

The 40,000 to 60,000 annually now who request proof of citizenship—so the certificate or the number or the microfiches that we talked about last time—to get their number.... Those 17,500 at some point were requested from the department. Are they included in that, or is that separate? If the department, after the fact, was able to estimate for the 2009 changes and the 2015 changes, why can't the department provide a stronger estimate now?

Ms. Nicole Girard: Those are also numbers that I've mentioned in my previous testimony. The 17,000—some from 2009, plus the lost Canadians remedied in 2015.... In fact, our updated numbers are in the range of just under 20,000 who came forward to request proof of citizenship.

The difference is that those are actuals. Those are persons who were remedied by the law and who actually came forward and applied since those legislative changes were passed. We continually update the numbers for these purposes, to provide up-to-date testimony at committee.

Those lost Canadians who came forward in those numbers that the member referenced, would be up to the first generation born abroad. The descendants of those people—should the committee and should Parliament legislate and pass this bill—would also have access to the connection test. However, they would be included in the rough estimate that I've alluded to—in the thousands, although it's difficult to know how many came forward—because those are actuals, as I mentioned, that you were provided at that time and that I mentioned, I think, during my first appearance before this committee.

Thank you.

• (1715)

Mr. Tom Kmiec: Just so I make sure.... Back then, Catherine Scott, associate assistant deputy minister, strategic and program policy, IRCC—I made a note here because I went through all the testimony again—said, “legislative amendments gave citizenship back to almost all Lost Canadians.”

If this passes—this subamendment and amendment—right now, will this include most of those lost Canadians who were not included in the 2009 changes and in the subsequent 2015 changes as well? Are this amendment and subamendment with regard to a large group of people whom we would consider lost Canadians who will be included, or is this a smaller group? Is this more like 2009 or more like 2015?

Ms. Nicole Girard: The correct summary is that the vast majority of lost Canadians were remedied in 2009, the caveat being that up to only the first generation born abroad were included in those previous remedies, for consistency with the first generation limit.

As we've mentioned, this bill was initially dealing with the small cohort who were left out, the section 8s, because they were the second generation born abroad. The topic of this particular amendment and subamendment is about others who see themselves as lost Canadians, because there's not a direct avenue or mechanism to access citizenship for the second generation born abroad—the larger cohort estimated to be in the thousands, where the parent has a strong connection to Canada and can demonstrate that they have been in Canada for at least three years.

Thank you.

The Chair: Ms. Kayabaga.

Ms. Arielle Kayabaga: Thank you.

Madam Chair, I originally wanted to comment on the question that Ms. Rempel asked, but based on Mr. Kmiec's questions it sounds like it makes sense. What we're trying to do is to bring an amendment to NDP-3. I think the questions you asked bring me to believe that you understand what we're trying to do here. I don't want to add too many comments.

The Chair: Thank you.

Any there any further questions?

Hearing none, we will go to a vote on the subamendment proposed by Ms. Kayabaga. The clerk will take the vote.

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

We have NDP-3 as amended.

Ms. Rempel Garner.

• (1720)

Hon. Michelle Rempel Garner: Could somebody read it out as amended?

The Chair: Everyone is taking a deep breath.

Hon. Michelle Rempel Garner: Could we see a copy of it?

The Chair: The legislative clerk would need a few minutes. We could suspend for a few minutes, so we can have NDP-3 as amended....

Ms. Kwan.

Ms. Jenny Kwan: I wonder if it would suffice, instead of reading the amendment, to just actually summarize what it does. We could have it read, but it would be citing (i) and (f), and this and that. It would be hard to follow in any event.

The Chair: We can have him read it, and if there's any explanation we can go to that.

Ms. Rempel Garner.

Hon. Michelle Rempel Garner: I love all of my colleagues. I know we work in the spirit of non-partisanship, but this is significant legislation. I would actually like to have the opportunity to review what we're voting on, given the change in the substantive motion, and just because it's so technical and there have been so many changes to it. That would be my preference.

Thank you.

The Chair: Let's suspend the meeting for a few minutes so we can have the amendment as amended...and then we can go for a vote.

Thank you.

• (1720)

(Pause)

• (1725)

The Chair: I call the meeting to order.

We have the legislative clerk ready, as requested by the members, to read the amendment as amended.

Thank you.

Mr. Philippe Méla (Legislative Clerk): Thank you, Madam Chair. Hopefully, the attempt is successful.

The amendment would read, once amended three times over, like this:

That Bill S-245, in clause 1, be amended by adding after line 14 on page 1 the following:

(2.1) Paragraph 3(3)(a) of the Act is replaced by the following:

(a) if the person was born before April 17, 2009 and, at the time of his or her birth, only one of the person's parents was a citizen and that parent was a citizen under paragraph 1(b), (c), (e), (g), (g.1), (h), (o), (p), (q) or (r) or both of the person's parents were citizens under any of those paragraphs;

(a.01) if the person was born after April 16, 2009 and, at the time of his or her birth,

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

(ii) neither of the person's parents was a citizen who had a substantial connection with Canada;

(A) had a substantial connection with Canada, or

(B) had a parent who was a citizen with a substantial connection with Canada.

(2.2) The portion of paragraph 3(3)(b) of the Act before subparagraph (i) is replaced by the following:

(b) if the person was born before April 17, 2009 and, at that time, only one of the person's parents was a citizen and that parent was a citizen under any of the following provisions, or both of the person's parents were citizens under any of the following provisions:

(2.3) Subsection 3(3) of the Act is amended by striking out "or" at the end of paragraph—

• (1730)

Ms. Arielle Kayabaga: I have a point of order, Chair. I don't think the information that the clerk is reading right now matches with the subamendments that we have made.

Hon. Michelle Rempel Garner: That's my concern.

Ms. Arielle Kayabaga: Can we review that again, Madam Chair?

Thank you.

The Chair: Okay. We will have to suspend the meeting so that we can incorporate and make sure everything is there.

The meeting is suspended.

• (1730) _____ (Pause) _____

• (1730)

The Chair: If members could take their seats, we will resume the meeting.

I will pass it on to the legislative clerk to read NDP-3 as amended.

Mr. Philippe Méla: Thank you, Madam Chair.

My apologies for that. I misread the second subamendment.

Should I start from the top?

Hon. Michelle Rempel Garner: Yes, please.

Mr. Philippe Méla: The amendment proposes that Bill S-245, in clause 1, be amended by adding after line 14 on page 1 the following:

(2.1) Paragraph 3(3)(a) of the Act is replaced by the following:

(a) if the person was born before April 17, 2009 and, at the time of his or her birth, only one of the person's parents was a citizen and that parent was a citizen under paragraph (1)(b), (c.1), (e), (g), (g.1), (h), (o), (p), (q) or (r) or both of the person's parents were citizens under any of those paragraphs;

(a.01) if the person was born after April 17, 2009 and, at the time of his or her birth,

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

(ii) neither of the person's parents was a citizen who had a substantial connection with Canada;

(2.2) The portion of paragraph 3(3)(b) of the Act before subparagraph (i) is replaced by the following:

(b) if the person was born before April 17, 2009 and, at any time, only one of the person's parents was a citizen and that parent was a citizen under any of the following provisions, or both of the person's parents were citizens under any of the following provisions:

(2.3) Subsection 3(3) of the Act is amended by striking out "or" at the end of paragraph (a.2), by adding "or" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) if the person was born after April 16, 2009 and

(i) at any time, only one of the person's parents was a citizen and that parent was a citizen under any of the provisions referred to in subparagraphs (b)(i) to (viii), or both of the person's parents were citizens under any of those provisions, and

(ii) at the time of their birth, neither of the person's parents was a citizen who had a substantial connection with Canada.

• (1735)

The Chair: Thank you. Is everyone clear on that?

Mr. Maguire.

Mr. Larry Maguire (Brandon—Souris, CPC): Thank you, Madam Chair, and I would say to the clerk, thank you for that. I don't have it all written down here, but as I was trying to follow

this, just to go back to the (2.1)(a.01), the first one, I believe there was a difference in dates there. I believe you said if the person was born after April 17. The paper I have is the 16th.

A voice: It's the 16th.

Mr. Larry Maguire: The 16th, it would be, because I think that's clear with the section (c) part, that was April 16 as well.

Mr. Philippe Méla: The (a) part is April 17, and the (a.01)—

Mr. Larry Maguire: It wasn't picking you up there—

Hon. Michelle Rempel Garner: Put it down and let him talk.

Mr. Philippe Méla: Yes. In paragraph (a), in the NDP-3 amendment, the first line is "if the person was born before April 17, 2009".

Mr. Larry Maguire: So it's before....

Mr. Philippe Méla: Then in (a.01) it's "if the person was born after April 16, 2009".

Mr. Larry Maguire: I just want to ask our colleagues across the way, now that those amendments are all there—

The Chair: Yes, if I can recognize and then—

Mr. Larry Maguire: Yes. Thank you for the floor.

—does this do what you want it to do? Can you describe that to me, as I don't have it all written down here?

Ms. Arielle Kayabaga: I'm sorry.... What?

The Chair: Can you please repeat?

Mr. Larry Maguire: I'm just asking what it does. Now that we've got it all out and it's been read to us, does this do what you wanted it to do, and could you just describe what that was?

The Chair: Give me one second, before I go to the next person.

Are you asking for an explanation on the subamendments?

Mr. Larry Maguire: Yes, that's all I was looking for. It's for clarity.

The Chair: Is it on this amendment as amended? It's the whole thing.

Mr. Larry Maguire: Yes.

The Chair: Okay.

Go ahead, Ms. Rempel Garner.

Hon. Michelle Rempel Garner: I think this is a good question, but I'm going to put it a different way.

Can I ask my colleague Ms. Lalonde, as amended, what it is her intent for it to do? I ask that. As amended, what is the actual mechanism trying to do?

I think it's important to get this on the record. Sometimes, when there are legal interpretation matters, they occasionally look back at committee testimony. I want to get on the record what the intent is as amended.

The Chair: Thank you.

Go ahead, Ms. Lalonde.

Mrs. Marie-France Lalonde: Thank you very much to my colleague.

I'll be very brief, because I would love to think that we could end Bill S-245 today.

NDP-3, with that amendment, now describes who can meet the connection test. The person who can meet the connection test is a parent born any time, as long as their second-generation child is born after April 16, 2009.

The Chair: Go ahead, Ms. Rempel Garner.

Hon. Michelle Rempel Garner: Thank you.

To the officials, based on your understanding of the amendment as amended, does it do what Ms. Lalonde said it was going to do? Is there any potential ambiguity in the intent that we should be rectifying with further subamendments?

The Chair: Go ahead, Ms. Girard.

Ms. Nicole Girard: Thank you.

There are no issues with the motion as subamended. It's clear and drafted in a way, as read by the clerk, that will enable the implementation as intended and as outlined by the member.

The Chair: Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: I like the subamendments that have been made to the amendment. I want to be clear that because the substantial connection test isn't as substantial as I would like, I still intend to vote against the amendment, despite liking all the subamendments.

• (1740)

The Chair: There are no further questions.

We will vote on NDP-3 as amended. Is everyone clear?

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

The Chair: Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: On a question of privilege, Madam Chair, I've been waiting to confirm that this information I received from an outside party was correct.

This is a question of privilege. I believe some of the amendments and subamendments from this committee were shared with a stakeholder. That goes to the point that my colleague from the Bloc was making, that people have been talking to outside groups, including two political parties here.

I have an email that I am going to read. I also have a French translation that was kindly provided my friend Alexis from the Bloc.

I'm going to read this email that I received April 28, 2023, and then I'm going to go into the point of privilege and what I believe the role of the chair is. This is what I was told:

Following up on our conversation in committee, there are two sets of amendments to Bill S-245 related to the after-first generation exceptions in the Citizenship Act:

Here's where my concerns begin.

NDP-1, NDP-3, NDP-5, NDP-8, NDP-12, G-2, G-6, G-7, G-8, and G-9.

Then it continues on:

From our perspective—

This is from the stakeholder group. I don't blame the stakeholder; this is not their fault. This is something that happened here at committee between parliamentarians. I was not included, and thankfully there are no CPC amendments affected by this.

From our perspective, the NDP amendments best address the issue of family separation/lost mobility for Canadians who work abroad because the connection test can be met by parent or grandparent and has a threshold that Canadians can meet naturally. One big problem with existing law is that it treats citizens so differently that nobody really understands it, so this last point is very important.

It goes on:

The Liberal amendments have the advantage of a grant that can be met at any point in time. If you miss the residency requirement before you have children, you can make it up. But the test is one that a great many people will miss even if they stay connected in Canada.

Here is the sentence in the next paragraph that's most important to me, because this is exactly what's happened here on amendment NDP-3, which is, I believe, a breach of the privileges of the committee:

What I have heard about the Liberal NDP compromise is that they will offer subamendments—

That has just happened.

—to the NDP amendments to increase the connection test to 1,095 days—

The subamendment made the reference back to the substantial connection test.

—only for parents—

We just removed grandparents.

—and by right vs. grant.

I asked the officials whether this was by right versus by grant.

The stakeholder group then goes into the details describing their preference.

I went back to Bosc and Gagnon. On page 1,062, it says:

Notices of motions normally remain confidential until they are moved during a meeting, although the sponsoring member may choose to make it public prior to doing so.

This would mean that any member controls their amendments. The government side and opposition side will control their amendments. We're allowed to give those out. I'm entirely okay with what people do.

It continues, in Bosc and Gagnon, on page 1,005:

When there is sufficient time, if the committee agrees, the package can be circulated in advance of the clause-by-clause consideration meeting, ensuring that all members of the committee may see the amendments that their colleagues wish to make to the bill.

That's the enumeration of the bills that we have. Those amendments can be shared amongst ourselves as parties meet confidentially.

Everybody has perked up. I'm glad I have everybody's attention.

We can meet. We get the numbering of all our amendments. It just makes it easier to work out which amendments we like and which amendments we don't like amongst parliamentarians on this committee. That's fine.

These practices combine such that the usual practice in committees of the House is that notices of amendments are treated as confidential when submitted to the clerk of the committee until the sponsoring member moves them during clause-by-clause consideration of the bill.

Now, I have an example of what happened at another committee, because I think it's very relevant to what's happened here. Occasionally, exceptions are made by committees and not by individual members. This is the example I have.

Last fall, there was a debate on Parliament Hill about the Liberal government's overreach with amendments G-4 and G-46 to Bill C-21, which is the firearms confiscation bill that the government has before the public safety committee. It's still before the public safety committee. That committee, while debating amendment G-4, also agreed to make public amendment G-46.

We have no such agreement here that I understand. Reading from this email, it's indicative that a person knew the numbering of our amendments and knew what subamendments were going to be made at committee at some point. I didn't know about any of this, and I believe that's a breach of the privileges of the committee.

Now, they agreed to that, and ahead of it being moved at the appropriate stage of clause-by-clause consideration, that agreement can be found. It's recorded at the beginning of the public safety committee's minutes for November 24, 2022. If the extra legislative clerk wants to go check, it's there.

• (1745)

Again, that said, it's acknowledged and common practice for members to engage with stakeholders in policy development which could extend to developing those policies in the expression of legislation, including amendments to bills.

It's not, however, appropriate to take the amendments that have been filed with the clerk, especially other parties' amendments, and share them with stakeholders or the public at large for comment. It's a protected document at the committee.

The approach of the public safety committee on releasing amendment G-46 to Bill C-21 shows, I think, the correct method of proceeding and the correct way of doing it. This stakeholder group did not have the right to know which amendments were which, or what subamendments would be moved, especially because they knew the strategy of when they would be moved.

Based on the communications I have received, we know he had possession of the committee's amendment package and not merely draft text yet to be finalized and filed. He cited amendments by their reference numbers, which are assigned to them by the clerk of the committee. There's no other way for him to know which ones are NDP-1, NDP-2, NDP-3, NDP-4 and the enumeration of which ones were in there.

It makes me glad that the Conservatives didn't submit any amendments despite, Madam Chair, my having moved an amendment when we were going into this, to give us extra time to submit them. I'm glad I didn't do that now, because I don't know if they would have been made public or given to the stakeholder group.

Because the draft amendment package has been shared with members of the public, a possible breach of privilege has occurred, and the committee must report the matter to the House for appropriate consideration. On the committee chair's role, this is from the online "Privileges and Immunities" chapter:

Unlike the Speaker, the Chair of a committee does not have the power to censure disorder or decide questions of privilege. Should a Member wish to raise a question of privilege in committee, or should some event occur in committee which appears to be a breach of privilege or contempt, the Chair of the committee will recognize the Member and hear the question of privilege, or, in the case of some incident, suggest that the committee deal with the matter.

It goes on to say:

The Chair, however, has no authority to rule that a breach of privilege or contempt has occurred. The role of the Chair in such instances is to determine whether the matter raised does in fact touch on privilege and it's not a point of order, a grievance or a matter of debate. If the Chair is of the opinion that the Member's interjection deals with a point of order, a grievance or a matter of debate, or that the incident is within the powers of the committee to deal with, the Chair will rule accordingly giving reasons. The committee cannot then consider the matter further as a question of privilege. Should a Member disagree with the Chair's decision, the Member can appeal the decision to the committee.... The committee may sustain or overturn the Chair's decision.

I have the motion ready and written out, Madam Chair, if you find that it was a breach of privilege. I can give you a copy, if you want to consider that.

I also have the email from the stakeholder who gave it to me. Madam Chair, I'm more than happy to give it to you so you can take a look at it. I think you will find it's egregious. It is a violation, I believe, of my privileges as a member and those of my colleagues who were not privy to any of these conversations.

Amendments are supposed to be confidential to the committee. We can share our own. I know that's a practice that is done regularly. There are sentences here that talk about subamendments that were just done in NDP-3.

I believe there was a breach of privileges of the committee, and my privileges as a member, because I was not party to any of this, and there is an outside member of the public who knew what the subamendment strategy was of certain members of this committee.

The Chair: Thank you.

Ms. Lalonde and then Ms. Rempel Garner.

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

I am very upset to hear that the amendments package was shared with anyone outside this committee. While I can say I have had conversations with all members about potential amendments and subamendments, I have never given these details to any stakeholders.

The conversation between a member of Parliament...is, I think, normal. I think my colleague has made reference to this as a process. However, it is unacceptable that anyone should share any details, especially in writing, with stakeholders.

• (1750)

The Chair: Thank you.

Ms. Rempel Garner and then Mr. El-Khoury.

Hon. Michelle Rempel Garner: Thank you.

I appreciate my colleague Ms. Lalonde's comments on this question of privilege.

I didn't know my colleague was going to raise this today.

Again, we are going through very complicated technical amendments that will make.... I've heard one analogy, and I won't take credit for it. The Citizenship Act, in some ways, is more complicated than the Income Tax Act, and we're sitting here trying to make amendments without a lot of data that could impact operations. I'm just taking it on good faith that the information I'm receiving is right. This is not how the legislative process is supposed to work.

However, if I had, as a member of this committee, not been afforded the same opportunity to review legislation that a member of the public has been given in a breach of privilege, that's a big deal. It goes against the spirit of what we're supposed to be doing here.

I hope that you find, Chair, in favour of my colleague's point.

Building on the comments of Ms. Lalonde and my colleague, I want to proceed in good faith on this bill. I think that at its heart, it's an important issue that is meritorious and worthy of cross-partisan agreement, but this is a breach of privilege.

The other question I have is this: If this is in violation of the Lobbying Act, who was lobbying? What's going on here? How is this influence being put forth?

Anybody who is watching this committee today is now going to question the process that was undertaken here. It's highly problematic.

I take no pleasure in this. I think that, to protect the integrity of the committee, Chair, I would implore you to find in favour. I think my colleague has outlined this. Also, to acknowledge my colleague Mr. Brunelle-Duceppe's earlier comment, he was not afforded the opportunity to review these amendments as we were. Now we find out that there's a member of the public who did, and that's just wrong.

Thank you.

The Chair: Thank you, Ms. Rempel Garner.

Mr. El-Khoury, you have the floor.

Mr. Fayçal El-Khoury (Laval—Les Îles, Lib.): According to me, it's categorically unacceptable.

Through you, Madam Chair, is it possible to know which stakeholder?

Mr. Tom Kmiec: I gave it to the chair, the direct email. It's my parliamentary email.

The Chair: It is from Citizens Rights, that's the organization—the Canadian Citizens Rights Council, Randall Emery.

We have Mr. Redekopp and then Ms. Kwan.

Mr. Brad Redekopp: Thank you, Madam Chair.

I'll be very brief. I appreciate the comments from everybody so far.

I want to remind everybody that this is exactly what Mr. Brunelle-Duceppe said earlier on about not having access to things and not being able to study things ahead of time. Now, here we are. It's almost a bit ironic. That's the whole gist of this. I won't prolong this unnecessarily.

The Chair: Go ahead, Ms. Kwan.

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

I'll also put myself on the record here to say that, in the development of proposed amendments, I certainly consulted with various stakeholders, including having conversations with the legislative counsel on proposed amendments; however, with respect to amendments that were submitted to the clerk afterwards, that documentation was definitely not released from my office.

The Chair: Are there any other—

Ms. Jenny Kwan: From me, I should say, very specifically, just in case the people are wondering.

The Chair: Is there anyone else who wants to speak to it?

I will have to suspend the meeting to consult with the clerk.

I'll suspend the meeting for a few minutes and then come back.

Thank you.

• (1755)

(Pause)

• (1830)

The Chair: [*Inaudible—Editor*] the issue that has been raised by Mr. Kmiec. I need more clarity and information on that before I make a decision, so I hope members will agree with that. I want to make the right decision based on the things that have been raised by Mr. Kmiec.

Is it all right that we adjourn the meeting today and start with this on Monday?

Mr. Sukh Dhaliwal: It makes perfect sense.

I will adjourn the meeting.

The Chair: Thanks a lot for your co-operation. I'll see you on Monday.

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