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# Standing Committee on Citizenship and Immigration

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**Chair**

**The Honourable Andrew Telegdi**

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## Standing Committee on Citizenship and Immigration

Tuesday, May 3, 2005

• (1100)

[English]

**The Chair (Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.)):** We're going to call this meeting to order.

We have a number of witnesses, so we'll have each group make a seven-minute presentation, after which time we will go into our question mode. But before starting, I would like to welcome you all to the committee. Certainly the issue we're discussing, relating to citizenship, is close and dear to all of our hearts.

I'd like to start with Mr. Bill Janzen.

**Mr. Bill Janzen (Director, Ottawa Office, Mennonite Central Committee Canada):** Thank you, Mr. Chair and members of the committee, for this opportunity to come before you.

We did prepare a written submission that I understand you have received. We did mail it to you, but I believe you received it in both languages following translation from the clerk of the committee, and we appreciate that.

Our main concern on this occasion relates to a provision that is called the "loss retention provision" in the Citizenship Act. Its general meaning is that if you are a second-generation, born-abroad person, even if you have a shiny new certificate you will cease to be a citizen when you turn 28 unless you apply for retention and live in Canada for one year.

We do not object to this provision. We are not asking that people be allowed to retain Canadian citizenship automatically while living outside of Canada generation after generation, indefinitely. Our problems lie with the practical dimensions of this provision. The fact is that not all second-generation, born-abroad people come under this provision, and only those who obtain their certificates of citizenship under a particular section of the law come under it. For this reason it's essential to distinguish those who come under it from those who do not come under it, and that's where the problems lie.

The certificates of citizenship of people who do come under this provision are indistinguishable from the certificates of people who do not come under it. They do not carry a notation stating that this certificate ceases to be valid when the holder thereof turns 28. If they carried such a notation we would have no problem with it; then things would be clear.

In our work since the current act came into force in 1977, we have asked officials a number of times how they planned to implement this provision. Sometimes officials would say, "We have not yet made plans for provision; we hope it will get changed before anyone

under it turns 28". There were a number of attempts to bring in a new act, but they did not succeed, and now in the year 2005, the first people under it are turning 28.

In the preceding year, two years, or three years, we have worked hard to publicize this provision, to provide guidelines so that people can check if it is likely that they come under it, to inform them of what they must do if they wish to retain citizenship. We are trying hard to make the best of a bad situation, but it remains a bad situation.

The essential problem is that for all those occasions when people present their citizenship certificates, be it in relation to getting a driver's licence, or a health card, or even at the Canada-U.S. border, there is no way of knowing whether the certificate has ceased to be valid or not.

My colleagues in the southern areas of Ontario, Manitoba, and Alberta who work at it in a very front-line way with people, say they meet with considerable skepticism. Sometimes a person will say to them something like: "Why should I register? Why should I apply to register and retain my citizenship? My certificate of citizenship looks perfectly valid. No government official has questioned it, and indeed one citizenship official has told me it will remain good forever. My neighbour, who took your advice and sent in an application to register, now has a new certificate of citizenship, but it is exactly the same as mine. So why should I bother?"

What remedies do we propose? One remedy would be simply to immediately institute a practice of placing a small notation on the certificates issued to people who come under this provision to say, "This certificate ceases to be valid when the holder thereof turns 28".

A corollary of this would be a regulation that stated that the certificates that do not carry this notation will be deemed to be valid unless they've been revoked or annulled under some other provision.

• (1105)

The other remedy involves a cut-off provision for people born abroad after the second generation. These people would simply not be eligible for citizenship in the first place. Since they would not be able to get a certificate of citizenship in the first place, they could not cease to be citizens. Such a cut-off provision was present in the recent citizenship bills—Bill C-63, Bill C-16, Bill C-18—and it would very effectively accomplish the purpose of preventing people from living abroad generation after generation indefinitely while remaining Canadian citizens. With such a cut-off provision, it would then be unnecessary to also have this loss retention provision like the one in the current act.

If I have another two minutes, I would like to talk about one other provision. Thank you.

One other provision that is of concern to us is that under the current act, a person born abroad may be eligible for citizenship, and the eligibility does not depend on whether the person was born in wedlock. However, under previous citizenship law, the in-wedlock question was a factor. So a person born now may apply for citizenship and will have to prove that his or her parent was born in wedlock. For some countries that's no problem, but for some other countries the question of what constitutes a legal marriage is really quite complex. The government has become quite a bit more rigorous in dealing with that question of what constitutes "born in wedlock". So we now have people applying for citizenship, and they have to prove that their mother or father was born in wedlock.

Now, with the more rigorous standards, it's sometimes established that we don't deem that the parent was born in wedlock, even though the parent has carried a certificate of citizenship for 30 years. So now the child who wants to apply for citizenship is refused, and the parent receives a nice little letter saying, "Sorry, we made a mistake and we are now asking you to send back your certificate of citizenship, the one that you've carried for 30 years".

We would like to ask on this issue, minimally, that there be a policy that if the only reason a citizenship certificate would be recalled is a question of whether an ancestor was born in wedlock, then it should not be recalled. If there are other reasons for recalling it, that's another matter. But this one, by itself, should not be sufficient.

Thank you.

**The Chair:** Thank you very much.

Now we have Ms. Wendy Swedlove.

**Ms. Wendy Swedlove (President, Canadian Tourism Human Resource Council):** Good morning, and thank you for the opportunity of making a representation. It will not be nearly as technical as the first one.

I'm with the Canadian Tourism Human Resource Council. It is an organization that brings together business, labour, education, and government to address the labour market issues in the tourism industry. There are some 30 sector councils in Canada. We are the one for the tourism industry.

About 10% of the Canadian labour force is employed in the industries that fall under the tourism umbrella, as defined by Statistics Canada. That's 1.7 million Canadians employed in tourism. We anticipate growth in the number of jobs will be approximately 1.8% over the next 10 years, and that means 30,000 new jobs every year in the tourism industry. Thirty-three per cent of the workforce is under 25. This is the group, in the Canadian demographic situation, that is shrinking. There are very few who will be retiring, but we will be trying to recruit for those 30,000 new jobs a year from amongst a pool of young people that is decreasing.

Immigration will be key to the tourism industry's ability to fill those new jobs and to fill the turnover in existing jobs, because in that group of very young people, there's a lot of what we refer to as structural turnover. The vast majority of them are paying their way

through school and are therefore going on to other careers in the Canadian economy.

So we're going to have some serious labour shortages over the next ten years, and those are already being seen in many parts of the country. We don't see them here in Ottawa, we don't see them in Toronto, and not yet in Vancouver, but just wait until the Olympics come.

Right now, the immigration rules in terms of those who are admitted under the skilled program—and we are not as familiar as we should be with that program, but are doing some research now to fully understand what those rules are—would never allow the vast majority of the folk in the entry level to be admitted to this country. We are urging you to urge the folks who make those rules to reflect on Canada's need for entry-level, lower-skilled staff and find a way to facilitate that.

I know you're going to be listening to submissions about foreign credential recognition, and we are making a submission there too. There are some sectors in the lower-skilled arena that can assess the competencies and the experience of people who have worked in these jobs in other countries. That might be a way of facilitating the entry of those lower-skilled folks into those sectors of the economy that will need those folks in the future.

That's all we're here to say. Again, I thank you for the opportunity and would welcome some questions.

• (1110)

**The Chair:** Thank you very much.

Next we're going to go to Mr. Victor Goldbloom.

[*Translation*]

**Mr. Victor Goldbloom (Chair, National Executive, Canadian Jewish Congress):** Thank you, Mr. Chairman. We also want to thank the committee for giving us the opportunity to speak on such an important topic.

[*English*]

My name is Victor Goldbloom. I am chair of the national executive of the Canadian Jewish Congress. I am accompanied by the director of government relations, Mr. Eric Vernon.

I also chair a task force on the promotion of immigration for Jewish Immigrant Aid Services of Montreal.

You have our brief. It is in two parts and they are interconnected. They both focus on enhancing and preserving the integrity and the value of Canadian citizenship.

We have always been in the forefront of support for Canada's policy of multiculturalism, which embraces new Canadians and, in bestowing citizenship on them, gives them the opportunity of celebrating the maintenance of our ethnocultural diversity.

[*Translation*]

Canada's multiculturalism policy encourages communities to maintain and nurture their ethnocultural uniqueness, while embracing and sharing Canadian values. These include freedom, democracy, civility, respect for diversity, social harmony, inter-community respect and understanding and the rule of law.

These are minimum obligations that accrue to citizenship and must be adhered to as the flipside of our Charter of Rights and Freedoms. This is the essence of values-based citizenship.

● (1115)

[*English*]

Canada is a particular kind of country. Because of our policy of multiculturalism, because of our attitude towards pluralism, differences are welcomed as a source of creativity, strength, and prosperity. It is our challenge to ensure that as diversity continues to increase, it contributes to learning, innovation, cooperation, and cohesion rather than to division and strife, which we have, by and large, succeeded in avoiding. Especially during times of instability, we must ensure that dialogue is carried out in an atmosphere of civility. Political views, even those passionately held, can be freely expressed as long as that discourse is conducted in ways compatible with basic Canadian values. Citizenship involves the inculcation of those values. In an annex to our brief, there is a suggested text for a preamble to the Citizenship Act.

There is another side to this coin, which is that we must keep Canada's doors closed to those who do not deserve Canadian citizenship. Those who have gained that citizenship perhaps through fraud, through misrepresentation, need to be identified and dealt with. The government must have the authority to deny admission to Canada to those who have acted fraudulently, and to revoke the citizenship of those who are here with the intent to undermine our patrimony and undermine the value of our citizenship. Obviously, that would include people who have perpetrated crimes, those who are affiliated with organizations associated with terrorism, and those who have been involved in war crimes, crimes against humanity, and violations of human rights.

In our brief, we deal with several issues pertaining to denaturalization that have come before this committee. We put forward some myths and we deal with those myths.

In summary, we advocate that falsely or fraudulently obtained citizenship should legitimately be revocable if proven to be so in a court of law, and that no statute of limitations should apply to denaturalization. We advance the view that revocation of citizenship does not offend the Charter of Rights and Freedoms and is consistent with the inherent values of Canadian society.

[*Translation*]

We respectfully submit that long-standing residence in Canada should not compensate for misrepresentation upon entry of prior involvement in heinous activities or organizations.

Use of the evidentiary threshold for the civil remedy of denaturalization and deportation is entirely legitimate, in our view, to rid Canada of individuals implicated in war crimes, crimes against humanity and terrorism. Ample due process and procedural fairness that meet the stringent standards in Canadian law are available to such individuals. Following a determination of fraudulently obtained citizenship, such persons should not be exempt from revocation. Persons denaturalized who would become stateless should not be exempt from revocation.

● (1120)

[*English*]

We urge that the current revocation regime remain in force and be applied to pending cases involving war crimes and crimes against humanity. Consultations may be held and consideration may be given, in the longer term, to alternative processes, but until such changes are implemented, the pursuit of justice with regard to present cases cannot and must not be suspended or abandoned.

Finally, we recommend that the denaturalization and deportation processes be amalgamated.

[*Translation*]

That concludes our presentation, Mr. Chairman. Thank you.

[*English*]

**The Chair:** Thank you.

Next we have Mr. Hassan Yussuff.

**Mr. Hassan Yussuff (Secretary Treasurer, Canadian Labour Congress):** Thanks, Mr. Chair.

What we hope to do today is make a brief presentation. We are here before the committee again on Thursday. We will submit the final brief covering both aspects of our presentation both today and Thursday.

I'll just highlight some of the key points we would like to comment on today.

The CLC welcomes the opportunity to appear before the Standing Committee on Citizenship and Immigration. We'll make a verbal presentation, as I said, today and, again, we will respond very shortly.

In the absence of a bill that proposes specific amendments to the existing act, we would like to engage you in a discussion of some broad areas that we believe leave impacts on the committee's work. The two successive presentations will be submitted in the formal brief.

First, let me make some very brief points. As an organization representing working people and their families who arrived in this country from different parts of the world, we are proud of our contribution in building Canada. The history and success of Canada cannot be told without acknowledging the role of immigration in making this country a success story of the world. Union members are an important part of that history. Except for the aboriginal people, immigration has played a critical role in the development of Canada and its national economy. This is true for the last century and equally true for today.

Because of the changing nature of our communities and global demand for labour, we must pay closer attention to any political and social forces that will jeopardize the integrity of Canadian citizenship. Over the past years, we have appeared before the standing committee and have raised a number of issues outlined later. We'll also raise them as part of the current review of the anti-terrorism legislation.

One that we of course believe has some impact on the committee's work is, it is important to remember, that security certificates predate the Anti-Terrorism Act. They have been part of the Immigration and Refugee Protection Act, IRPA, since 1991, but they are in fact counter-terrorism tools and a critical part of the evolving system of secrecy and arbitrariness surrounding the security agenda.

The CLC believes the use of security certificates, which currently applies to permanent residents and refugees, violates fair trial standards and Canada's international human rights obligations. Under the security certificate process, individuals are held for an extended period of time without charge and are denied a fair opportunity to see the evidence against them. They are unable to mount a meaningful challenge concerning the lawfulness of the detention and face deportation from Canada and a possible risk of prosecution in their own country. If we believe that those who are in this country as permanent residents should be afforded the opportunity to become citizens, the use of a security certificate has a negative impact on this fundamental principle. Vulnerable members of our society, such as immigrants and refugees and people of colour or members of a particular religion, are being used as scapegoats for failed national security measures. The use of security certificates also has the potential of furthering the systemic and overt racism that is present in Canadian society.

A Montrealer, Adil Cherkaoui, was detained under a security certificate for 22 months without ever being charged. He was released on bail in February 2005 and is under virtual house arrest as a result of tough bail conditions imposed upon him. Four other Muslim members who lived in Canada have also had their lives torn apart as a result of being charged under security certificates, yet without being allowed to defend themselves fairly and openly before the courts.

I really have some concerns about family reunification. Family reunification is an important component of strengthening our communities. Canadian citizens and permanent residents should not have to wait for years to be reunited with their family members living overseas. Problems with the existing act include too many barriers for family reunification, including the use of the exclusion provision, and that there is inadequate settlement funding. However, there has been an important acknowledgement recently, and positive steps have been taken by the government, such as the recent announcement to change the rules to increase the number of people who can immigrate to Canada each year because they are related to someone's parents or grandparents.

According to an article in *The Globe and Mail*, 100,000 of those applicants are waiting in the immigration queue, having already paid their \$550 processing fee to have their case heard. The backlog has been building, and the numbers of available applicants who have succeeded in being accepted in the parents and grandparents class have not kept pace with it. The intake will boost to 18,000 in the next two years.

• (1125)

Second-class citizens. The CLC has been increasingly alarmed by the escalation of attacks on the integrity of Canadian passports and citizenship, in particular towards people of colour, by U.S. immigration and customs officials. Section 12 of the Canadian

Charter of Rights and Freedoms confirms the equality principle by saying that all citizens have equal rights and obligations no matter how they acquire citizenship—from birth in Canada, through birth abroad to Canadian parents, or through a grant of citizenship for permanent residency meeting the residence requirements.

The equality provisions that underpin our society are also included in section 7 of the charter. The charter clearly states that everyone has the right to life, liberty, security of the person, and the right not to be deprived thereof, except in accordance with the principle of fundamental justice. We have indicated in past submissions that Canadian officials should not put their country in a position where we have different levels of citizenship. The case of Maher Arar proved this point, I think explicitly. Maher Arar would never have been deported to the U.S. and to Syria to face torture if Canadian security agencies had protected his citizenship rights. All Canadians have a right to be treated equally under democratic and international law. I will not elaborate, as some of these points will be elaborated on in our bill.

One area we also want to bring to the committee's attention, of course, is the whole question of non-status workers in our country. I think it's been acknowledged through a number of presentations that have been made by others before this committee. In this country there are too many workers contributing to the economy whose status is not recognized. They should be regularized by being granted permanent residency status, which will eventually lead to full citizenship rights. We continue to call for a general amnesty for all these workers who fall within this category. It's suggested that there are some 100,000 workers who fall within this category in our country.

Another area with which we have some concerns and which I think the whole committee could elaborate on a bit, even though it may not specifically fall within the purview of this committee's work, is the whole question of the impact on workers within the transportation sector in our country. A number of Canadians cross the American-Canadian border every day as part of their work. We're concerned that their citizenship rights may be jeopardized through the anti-terrorism rules.

The application of security became a major concern in Canada in the aftermath of the Air India bombing in 1985 that led to a hastily conceived and implemented security clearance system in airports. An already difficult situation for innocent air transportation industry workers worsened when Transport Canada changed its pass policies last summer without consultation with labour in the airline industry. According to the Air Transport Association of Canada, as many as 100,000 airline employees, some of them long-term workers with impeccable records, are unable to obtain the security clearance they need to work.

To obtain an airport security pass, anyone who lived outside of Canada for more than three months in the previous five years must provide documentation from a police or security service in the foreign country where they were for that period. Regulations are particularly hard for recent immigrants, who have a difficult time obtaining proper documentation from their home countries. These regulations hit hard the long-time workers who have been posted abroad or have visited other countries for more than three months. Again, we have elaborated on a number of cases that I think the committee may want to pay some particular attention to.

The other areas we'd like to bring to the committee's attention are racism and racial profiling. Despite being a country of immigrants, we have always had enormous social tension regarding the question of immigration. The presence of racism in our society and the ongoing struggles to integrate workers of colour into the social, economic, political, and cultural life of this country are living testimony to those tensions. We cannot build a strong country if we allow discrimination, hate, and bigotry to be exhibited toward aboriginal people or toward Canadians of African, Asian, Muslim, Jewish, and Arab descent. One of the most multi-racial societies in the world, Canada has been held up as an example to others of how to integrate people of different racial, cultural, and religious origins from around the world.

However, the introduction of Bill C-36 has impacted negatively on Canadians of Arab and Muslim descent. It seems that the government has turned its back on this idea by giving de facto permission to the police and intelligence agencies to use racial profiling and to indulge in witch hunts.

• (1130)

**The Chair:** Could you wrap it up?

**Mr. Hassan Yussuff:** Sure.

To conclude, as you're aware, the issues of immigration and citizenship rights have always been critical politically. Due to skill shortages and the changing demographics, such as aging of the population, low birth rates in our countries, in Europe and North America, we have no choice but to find solutions. This will make your work critical to the future of Canada. In particular, a recent study done by Statistics Canada suggested that the Canadian visible minority population by 2070 will grow dramatically throughout our country. If we're going to meet these challenges we have to settle more and more immigrants in our country, and, more importantly, they're going to be settling in a large number of cities. We believe it's critical for the committee to again reflect on the challenges we face, both in an urban context and also in how we're going to continue to attract and settle new immigrants in our country.

The CLC believes the work that needs to be done is strengthening citizenship rights of all Canadians for the purpose of building a more inclusive and united movement in the society as a whole. Our movement is a microcosm of Canadian society as a whole.

I'm open to questions from the committee.

**The Chair:** Thank you very much.

We're going to go to our first round of questions, which will be seven minutes—that's question and answer.

Mr. Mark.

**Mr. Inky Mark (Dauphin—Swan River—Marquette, CPC):** Thank you, Mr. Chairman.

I'd like to thank our witnesses for being here this morning.

This committee has travelled the country in the last three weeks, and many of your concerns have been heard repeatedly—and I need to emphasize “repeatedly”. I just hope the government not only puts in a report, but literally does something about it. I've been here too long to hear the same comments over and over again. Every time we have public hearings, we hear the same things.

One of the questions I'd like you to answer is on this whole business of citizenship, whether it should be treated as a right or a privilege. If it is to be treated as a right, then should people's citizenship be revoked? I'd like you to answer the question on whether we should place a limitation on war crimes or crimes against humanity. From that perspective, one of the suggestions was that they should be charged under our laws, and if they're found guilty, then put into our jails, rather than deported from this country.

Perhaps you can respond to that question.

Mr. Goldbloom, would you like to begin?

**Mr. Victor Goldbloom:** Our country is founded on due process, and if there are acts that are contrary to our laws and our values, they should be dealt with. What we're saying is only that there should not be a statute of limitations if a person has demonstrably committed a crime at an earlier time and has, in relation to that, made fraudulent representations for obtaining citizenship.

**Mr. Eric Vernon (Director, Government Relations, Canadian Jewish Congress):** If I can add to that, there's nothing wrong with using the Criminal Code to prosecute war criminals in Canada. In fact, that was one of the three channels that was recommended by Justice Deschênes in his report, and we're coming up to the 20th anniversary of that. But that shouldn't preclude the government from using the civil route of denaturalization as well. So you have the opportunity to make a criminal case if you can provide sufficient evidence to meet that threshold, or you have the opportunity to go the civil route of denaturalization, in conjunction, of course, with extradition as the third arrow in the quiver.

From our perspective, there should not be a statute of limitations on the giving of notice to someone for revocation. The fact that they have lived here in Canada for a number of years, no matter how good a citizen they've been, no matter what the rectitude of their conduct is, should not obscure the fact that they either have misrepresented themselves or obtained that citizenship fraudulently, or, if it can be proven through the criminal route, that they have actually been shown to have committed war crimes. We're talking about maintaining the integrity and the value of Canadian citizenship, and the presence of these people in our country, whether they're war criminals, perpetrators of crimes against humanity, or terrorists, is a stain on our society. We should do whatever we can to protect Canadian citizenship by denying it to them, or taking it away from them if we can prove that they got it fraudulently.

• (1135)

**Mr. Inky Mark:** What would you do in the case where they came here as a teenager or a young adult and they have nowhere to be deported to? What would you do with them?

**Mr. Eric Vernon:** First of all, you have to exhaust all avenues of trying to find the country of their original citizenship to see if that's a possibility for deportation. That would apply no matter how old they were when they came here. But the fact is that if there is no country that will take them, then provisions will have to be made to have them remain in Canada, but not as citizens.

**Mr. Inky Mark:** Would you support the notion that the process should be separate, between the political process and the judicial process? That's where I think we get hung up today: we're waiting for the political judgment to determine the fate of the people waiting.

**Mr. Hassan Yussuff:** I really believe that ministers shouldn't have the authority to revoke someone's citizenship. It should be a due process that should be followed. I think citizenship should be revoked only due to fraudulent means, that somebody may not have been factual in their application. Beyond that, if somebody violates a law, there's due process in our society to prosecute them under the Canadian Criminal Code. I think that should suffice to maintain the integrity of Canadian citizenship.

**Mr. Eric Vernon:** From our perspective, the judicialization of the process is something we would support. I would just caution you that there's no guarantee that this is going to accelerate the process, however, because part of the problem that we've seen, under the current regime, is that once the cases have actually gotten into the courts, there have been phenomenal delays. Every defence motion is considered over a lengthy period of time. Every continuance is granted. So there certainly is available due process through the civil procedure, but just because it's going to be strictly in the courts, and the final decision will not necessarily be in the hands of the Governor in Council, does not mean the system is going to work smoothly and quickly.

**The Chair:** Thank you.

Madam Faillie.

[*Translation*]

**Ms. Meili Faillie (Vaudreuil-Soulanges, BQ):** Since I missed the first part of the discussion, I'll turn the floor over to Mr. Clavet and wait for the second round.

**Mr. Roger Clavet (Louis-Hébert, BQ):** Thank you very much, Mr. Chairman.

I want to thank the witnesses for taking part in this morning's meeting of the Standing Committee on Citizenship and Immigration. We've heard a number of interesting observations about broad principles. I particularly want to congratulate the Canadian Jewish Congress on the calibre of their presentation.

I'd like to focus on some of the comments in your submission, notably your reference to citizenship as being a privilege, not a right. I'd like to discuss that statement further.

Mr. Goldbloom, I have a question for you concerning your suggested preamble to the new legislation. You maintain in this suggested preamble that Canadian citizens must be loyal to values such as equity, justice and impartiality. My attention was drawn to

one whereas in particular, namely the assertion that new Canadians have an obligation to know enough about Canada's past before coming to this country, so as not to be swayed by ideas and trends.

I'm venturing into political territory here. In 1995, naturalization was expedited for a large number of new arrivals. This event coincided with the Quebec referendum. If the same situation were permitted and the granting of Canadian citizenship was expedited for other new arrivals as we witnessed in 1995, would we not be going against the whereas in the preamble, namely that new arrivals have an obligation to learn the history of their country before acquiring citizenship? If we did not require people to have sufficient knowledge of the country's history, would we be violating the act?

Obviously, a person cannot learn history simply by getting off an airplane and attending a political meeting. It's difficult enough to understand security instructions given in French and in English. I'd like to know if this preamble could be used to protect us from the arrival of massive numbers of people who, for whatever reason, might land here and become Canadians.

• (1140)

**Mr. Victor Goldbloom:** Canadian citizenship must be earned by demonstrating one's commitment to Canadian values. Prospective citizens must also demonstrate a knowledge of the country, including its history.

I do not feel qualified to comment on the incident to which you referred. A decision was made at the time. I have to assume that these principles factored into the decision that was made and that all those who were granted citizenship first had to prove that they were deserving of it. That is the essence of this suggested preamble.

**Mr. Roger Clavet:** If possible, I'd like to come back to the broad principle of citizenship as a privilege as opposed to a right. What exactly is the Canadian Jewish Congress implying by this statement?

Immigrants tells us that they have as many rights as those who were born here in Canada. What distinction do you draw between a privilege and a right?

**Mr. Victor Goldbloom:** Once conferred, a right implies recourse. A person can go to court and claim that his rights have been breached. In this particular instance, it's more a matter of gaining the trust of the country in order to acquire citizenship.

I don't think anyone seeking Canadian citizenship could successfully argue that he or she is entitled to that citizenship. This right cannot be acquired simply by spending a certain amount of time in this country. A prospective citizen must demonstrate that he or she is deserving of citizenship and can contribute to and uphold the system of Canadian values, which includes social peace.

**Mr. Roger Clavet:** I now have a question for Ms. Swedlove of the Canadian Tourism Human Resource Council. The Council recommends that mechanisms be developed and implemented to facilitate the permanent entry into Canada of foreign students and of participants in the Foreign Worker Program who wish to stay in the country. What mechanisms did you have in mind? How could this process be facilitated? I know industry needs foreign workers.



[English]

**Ms. Wendy Swedlove:** There is a program that goes from a set of occupational standards. Let's take an occupation—for example, food and beverage server. We have brought together food and beverage servers from across Canada and they have set out the skills, knowledge, and attitudes necessary for competent performance as a food and beverage server.

For example, we ran a program in the Philippines and people were brought in under the temporary foreign workers program. They were trained in the Philippines using the learning materials that teach to the standards. There is a certification program. You can become a professionally certified food and beverage server. It consists of a written exam, which is also online, and a practical evaluation in the workplace.

So those Filipino workers who had had experience in the Philippines reviewed the standards, looked at the work book, and were confident they could pass the exam. They took the exam online. All of this happened in the Philippines. They came to Canada under the temporary foreign workers program. They were placed. After they'd had the requisite amount of Canadian work experience, they were then evaluated in the workplace, which was the second part of the certification program, and at that point they became certified under a Canadian program as food and beverage servers.

So that is a signal to any employer of food and beverage servers that they're fully qualified to work in this country.

• (1145)

**The Chair:** Mr. Siksay.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Thank you, Mr. Chair, and thank you to all of the presenters this morning. Your presentations have been very helpful.

I have a question for Mr. Goldbloom and for Mr. Vernon.

I do struggle with the issue of second-class citizenship, and I know you've stated very strongly that you think the argument is a specious one. I'm still struggling with it. I guess I don't agree that it is a specious argument. My question is, when does someone become our criminal? If you become a Canadian citizen, when do we take responsibility for our action in allowing this person to immigrate to Canada, allowing this person to become a Canadian citizen? When does our society take that responsibility and say, we've brought this person into our country, we've allowed them to come to our country, we've put them through a process where we've checked their background and done security checks on them, and we've had them apply for citizenship and granted them that citizenship? When do we take responsibility for that process and their responsibility to our laws and our system of values—that kind of thing?

That's my question. When does someone become our criminal in this sense? I guess it's broad too. I struggle with the issue in the case of war crimes of not wanting to separate Canada from the horrible things that happen around the world and the things that have happened historically. I don't think we're removed from that. I think we bear responsibility in those things as well, so I want to make sure we have effective laws within Canada to deal with those circumstances. At what point does a person become our criminal in those situations?

**Mr. Eric Vernon:** The point where a person in that set of circumstances becomes our criminal is the point where the Crown has put together what they believe to be a convincing case that either they obtained that citizenship through fraud or material misrepresentation or that they can prove in a criminal court that they have been guilty of war crimes or crimes against humanity or terrorism. That's the point where it becomes our criminal.

It's at that point that our justice system kicks in, and it doesn't matter whether the person has been here five minutes or fifty years. If the Crown can put together what they believe to be a proper case, having deduced all the evidence they believe they need to meet the threshold of whichever particular option they choose, it's at that point that the person becomes our criminal. Whether that person eventually winds up in a Canadian cell or is deported elsewhere depends on (a) the process they choose and (b) the outcome.

**Mr. Bill Siksay:** Given the seriousness of the kinds of issues that we've been talking about and that your brief talks about, I struggle with the whole evidentiary standard as well and why we wouldn't apply the criminal standard and need a criminal conviction. Isn't that the appropriate place for dealing with crimes as serious as the ones we're talking about?

**Mr. Eric Vernon:** That's only one option. The government's hands should not be tied by having only the criminal route. Justice Deschênes made it quite clear that the evidentiary threshold in the civil process of removing citizenship is perfectly legitimate as an option to deal with these issues. So in that situation, you have a lower evidentiary threshold because you're not proving war criminality per se, but you're saying on the basis of one's past and one's fraudulent entry into Canada, that person is no longer deserving of Canadian citizenship.

**Mr. Bill Siksay:** Hassan, you mentioned that transportation workers were facing some difficulties in having their citizenship recognized in terms of work back and forth across the border. I think you mentioned that you had some specific cases you could talk about. Could you raise one or two of those with us?

• (1150)

**Mr. Hassan Yussuff:** We'll present that in our brief, but we've highlighted a couple. A worker who went off on a three-month vacation came back and subsequently had to reapply for her security pass, and of course she had to prove her whereabouts for the last three months. Of course, she was in China, and not that we should, but she couldn't get any information from the Chinese authorities to prove her whereabouts in that country. So at the end of the day, she lost her ability to work because she was not able to provide adequate evidence as to what she was doing for the last three months when she went to China.

We have umpteen examples.

As you know, there are thousands of workers in the transportation industry, in trucking. The vast majority of them are immigrants, or at least at one time they had some other previous citizenship background. They're being scrutinized far more than has been done in the past, and some of them are finding even more difficulty as to whether or not they're going to be granted...because there's now a proposal to change the system at the borders in terms of access, going back and forth, if you're in the trucking business.

We highlight that a bit in our presentation. We'll elaborate more in our brief as to what's happening to these workers on a day-to-day basis.

Similarly in the rail sector, again, our members go back and forth across the border every single day, and it depends on where you were born and what your citizenship background may have been. There are some who are finding extreme difficulty in having to be scrutinized more often than other workers going across the border.

Again, it brings up the whole question of the integrity of Canadian citizenship. Are you a citizen once you attain it, or is there a dual class of citizenship in our country? I think this is really a fundamental question. It's a question of who we are as a people and as a country, and I think we have to finally resolve this. When you become a Canadian, you are a Canadian, what is it, 60%, 80%, or 100%?

I'm a Canadian when I travel the world. I don't see myself as a second-class citizen, nor would I allow anybody to treat me that way. But I know, given my work and my responsibility, it's a different threshold of how people treat me. I can't say that's the same as my colleagues' experience on a day-to-day basis in their field of work, but also given the kind of ethnic background they might come from....

So I think it's a fundamental question. The Maher Arar question, for us, really raises a serious concern. If Maher Arar was simply born in Canada and just happened to have the name he did, would he have been treated the same way in which he was treated? Would he have been deported to Syria for torture? We're just raising those questions because I think they're fundamental to the whole basis of our citizenship system in this country.

**The Chair:** Thank you very much.

Mr. Anderson.

**Hon. David Anderson (Victoria, Lib.):** Thank you, and I congratulate the witnesses on their presentations. They will be very helpful to us.

Mr. Janzen, you mentioned at some length the 28-year provision for those who do not have a connection with Canada in a sense other than parentage; they have not lived in the country. I want to be clear that you do believe this is a legitimate provision in itself and that the requirement for return to Canada for some minimal period, for at least some familiarity with the country, is a reasonable provision for the act to have.

**Mr. Bill Janzen:** Yes, there is no question. If not for the practical problems of the provision, we would not object to it. Our concern is with identifying the people who will be affected. A person may have been born abroad and come to Canada at age one. I'm sure there are thousands who have come at a very young age. They are still affected by this. When they turn 28, their citizenship ceases to be valid, even though they may have lived in Canada for 27 of those 28 years. They do not know this. None of the places where the government might look at their Canadian citizenship can detect that it has ceased to be valid. We're talking about the practical reality. The principle of it we don't quarrel with. We are definitely not saying that people should be able to live outside of Canada, generation after

generation, indefinitely, and retain Canadian citizenship. You and I are not in disagreement on the basic purpose and principle.

• (1155)

**Hon. David Anderson:** Thank you for that.

You have outlined some of the practical difficulties of individual cases. Some of these we will be bringing to the attention of the minister, if my colleagues agree.

Dr. Goldbloom, thank you for coming. We appreciate your presence and your contribution. Could you and Mr. Vernon expand on the differences between the civil and criminal aspects of these cases? It seems to me that the emphasis of the debate has been focused on the criminal aspect. The revocation of citizenship, however, is not based on a crime. It's based on lying or misrepresentation on the application to enter Canada. Proof of misrepresentation may be impossible to obtain in Canada. It may, however, be possible to obtain evidence in the countries where the misrepresentation took place, where witnesses are still available. I can understand why we have the provision to allow people to be tried in Canada under certain circumstances. But as a practical matter, the vast majority of these cases would be more effectively handled elsewhere, because of the evidentiary question.

If we stick to the civil aspect, do you feel that the balance of probabilities is the appropriate level of determination for the minister concerned?

**Mr. Eric Vernon:** Of course, that is the level that attains to that procedure. I guess you're asking if it is sufficient to remove citizenship on the balance of probabilities.

I think it's important to keep in mind that these cases are launched against individuals who have been involved in these kinds of activities. They're not picked out of a hat, and they're not chosen at random. It doesn't stigmatize the entire level of Canadians who have come here legitimately, who have become new Canadians, and who have made a contribution to Canadian society.

We're dealing with people who came here fraudulently and got in by cheating. Canadians don't like cheaters, and if we have the opportunity to make a statement about the value of Canadian citizenship by removing it when it was obtained fraudulently on the basis of those kinds of activities, then I think it's perfectly legitimate. As I said before, Justice Deschênes flagged that as one of his three-pronged attacks on dealing with these issues. I think it certainly needs to be understood that it is a legitimate option for the government to have.

The government needs to be able to say we understand the value of Canadian citizenship, and we need to have a tool to take it away from people who don't deserve it. People who don't deserve it are the ones who lie or misrepresent themselves upon entry. They would not have been allowed in if they had been truthful about what they had done during the war, whether it was the Second World War or the Rwandan crisis. We're not dealing only with Second World War cases here, of course; we're dealing with contemporary conflicts as well.

So if somebody comes in from the killing fields of Cambodia and lies about what they did there, they don't deserve to have Canadian citizenship, and they don't deserve to be in Canada.

**The Chair:** The time is up. We got a bell and we're going to have to wrap it up here. It's a procedural vote and everybody has to be there.

Nina, very quickly.

• (1200)

**Mrs. Nina Grewal (Fleetwood—Port Kells):** Thank you, Mr. Chair, and thank you for your time and your presentation.

My question goes to the Canadian Jewish Congress. I wish to congratulate the Canadian Jewish Congress for their efforts to promote the rights of all Canadians, and especially those of ethnic, religious and other minorities, and equality-seeking groups.

I know your organization has considerable expertise in the matter of revocation of Canadian citizenship. Could you please comment on the current process? Have there been improvements in the length of time it takes to revoke a person's citizenship? In your opinion, how can we enhance the value of Canadian citizenship?

**Mr. Eric Vernon:** I'll respond to your first question. We have not seen much in the way of material improvement in the way the cases are being handled. Although we acknowledge the fact that there are more cases in the system now than there have been before, the pace at which these cases move through the system is depressingly slow. There doesn't seem to be a sense of urgency about these cases.

If you're dealing specifically with the Second World War and Nazi war crimes cases, there's a continually narrowing window of opportunity to deal with these cases, as witnesses and perpetrators die. Half a dozen individuals who were served notice that their citizenship was to be revoked have died during the process.

From our point of view, we believe the system has to be accelerated. That doesn't mean there have to be shortcuts with due process. But we would like to see the process accelerated as it works its way through the court. Under the current system, we have continuously urged the Minister of Citizenship and Immigration to decide these cases quickly once they've come to his or her desk. They are complex and difficult cases, to be sure. It's become a cliché to say that justice delayed is justice denied, but it's true nonetheless, and we urge that at all steps along the way, the process be accelerated.

One last point is to consider the amalgamation of the denaturalization and deportation processes so they work in parallel. We've never actually got to the point where there's been a decision made to proceed on revocation and then have the subsequent deportation hearing under way, but it would be much more efficient and practical to merge the two.

**The Chair:** Ms. Beaumier.

**Ms. Colleen Beaumier (Brampton West, Lib.):** Thank you.

I think I'd like to go back to Mr. Siksay's point. This is becoming a bit of an emotional issue for me. I may be the only one on the committee, at least who's here today, who has Canadian roots going back, back, back, almost to the beginning. I'm not referring to Adam and Eve, of course.

The idea of two classes of citizenship bothers me. In terms of evidentiary thresholds to strip someone of their citizenship, if there is

enough evidence to go forward on criminal matters, such as crimes against humanity, I don't understand why we cannot accept the fact that they should be prosecuted, but as Canadians. To go back to Bill's point, when do we as a society, and as a government, accept responsibility for the decisions we have made in granting citizenship?

**Mr. Eric Vernon:** I would say that as long as the government can make a case, they should have the opportunity to proceed. I dispute your framework of second-class citizens. We're not dealing with the entire class of Canadians who come here and are naturalized legitimately and through legal means. This has nothing to do with them. We're only talking about people who came here and obtained Canadian citizenship by lying or by misrepresenting themselves. That's not a class that needs to be, or that is, protected by the charter.

While it would be nice, I suppose, to be able to adduce sufficient evidence to substantiate a criminal charge, that evidence is not always going to be there, particularly when you're dealing with cases that are 50 and 60 years old. But if the Crown can meet the threshold for a civil case, then they must have that authority to do so. Otherwise, they have no legal recourse to deal with people who are here fraudulently. We're talking about a class of people who have participated in heinous activities. We are not well served in Canada by having people living here who are terrorists, war criminals, or perpetrators of crimes against humanity.

• (1205)

**The Chair:** Thank you very much. I'm now going to grab a couple of questions.

I think if you're going to deal with citizenship, you don't cheapen it by lowering the standards so that you can catch who you believe you can catch. The evidence we heard across the country over the last three and a half weeks overwhelmingly goes to the position that if you're going to revoke citizenship, you're going to revoke it because you've proved that somebody committed a crime. The civil standard doesn't deal with that. That's one point.

Given your stance...and you were talking about the killing fields of Cambodia. We had the killing fields of Europe during the Second World War, and of course the killing fields of the former Soviet Union. On Monday, April 25, there was an article published in *The Globe and Mail* that dealt with Joseph Riwash and Nahun Kohn, both of whom have written books outlining their involvement in crimes against humanity. Do you think we should be charging those people?

Second, should we be barring anybody from the SLA who came into Canada?

**Mr. Eric Vernon:** With respect to your first question, I leave it to the Crown to look into those cases. It's not for us to recommend yes or no on individual cases. We are talking about maintaining the government's ability to deal with these cases through a variety of options, all legally established.

With regard to the SLA, I don't believe you can necessarily make out the case that they have been involved in war criminal activity.

**The Chair:** In terms of leaving it to the Crown, I'm not sure. When somebody writes a book and details the history of what took place, that's pretty self-evident; that's a heck of a lot stronger proof than any proof I have seen on any of the citizenship revocation cases.

My problem is very much that we have six million Canadians who were not born in this country. I'm one of them. Under Bill C-63, the government proposed extending the stripping of citizenship, not only to the people who are presently captured in what I consider to be a fraudulent process, but they were also going to extend it to kids—which would have meant me, or that I could have been eligible for that.

Now let me say to you, I came from a particularly troubled background, where my stepfather was a Jew who survived World War II and my mother a Catholic—though it was weird enough in those days to have interracial marriages. Having gone through those horrors and all of a sudden having come to a country where we believed that the due process of law applied and that we had just laws, why should I, as a young individual, have to be terrorized about my citizenship? This extends to all sorts of folks.

I can tell you that we had a black university professor from Simon Fraser University making a presentation to this committee on international credentials. At some point, she said, when do I become a Canadian, a “real Canadian”, where I don't have to be anxious about my citizenship, because the process of revocation is so unfair? You might say what you will about it meeting the charter challenge, but I don't think it meets the charter challenge. In January of last year, Justice Reilly ruled in the Superior Court of Ontario that it has to meet section 7 of the charter. Unfortunately, before that could be taken to the Supreme Court for final deliberation, it was dropped, because the Federal Court of Appeal indicted the government's process for revoking citizenship by restoring citizenship.

• (1210)

**Mr. Eric Vernon:** Well, there was a lot in there. I'll try to pick out a couple of the points.

First of all, our focus is on people who have come to Canada illegally or by fraud; that's the main interest we have. Whether they've been involved in war crimes, crimes against humanity, or terrorism, they're the ones who are responsible for their actions and need to be held accountable.

With respect to Justice Reilly, I believe you are aware that there was limited value to the comments he made with respect to section 7. There has been some question of whether he had jurisdiction to rule on that particular situation at all. Certainly, there's not been any kind of consensus that he got it right.

Section 15 of the charter is there to do two things: it's there to enshrine non-discrimination against identifiable groups and to entrench constitutional protection for affirmative action. It's not there to protect people who have come to Canada and lied and gained their citizenship fraudulently.

**The Chair:** Section 15 of the charter wasn't in question; it was section 7 of the charter.

Mr. Yussuff.

**Mr. Hassan Yussuff:** Just briefly, I think the point you're stating about the anxiety some Canadians feel regarding the value of their citizenship is real; it's not something people make up.

There's a great deal of debate going on in certain segments of our society about whether or not, despite the fact that they have been born here and in other cases they have got their citizenship through a naturalization process, they are the same as their white Canadian colleagues. That's been real, because experience has demonstrated to them that there is a duality in how our citizenship is treated in this country. I think it's absolutely critical for the committee to find a way to address that.

Having ministerial authority to revoke citizenship to me smacks the whole principle of what our charter is all about. I think there has to be a way to restore some integrity to the system and say a Canadian is a Canadian, regardless, recognizing that there should be provisions within the citizenship act that if somebody obtains their citizenship through fraudulent means, then we should take whatever steps are necessary. Beyond that, I can't see any reasons for any other provisions to revoke someone's citizenship in our society, because you're reinforcing it.

I think the point you were trying to make is this. Given the reliance on immigration to keep building and growing this country, I think we're going to find ourselves in a position where people are going to keep raising these questions more and more, because the vast majority of people who are coming are people who are going to be faced with questions such as those a black professor raised with you in British Columbia. There are always these kinds of questions: when do I become a citizen in this country, a full citizen with equal rights and equal opportunity to participate like others in the society?

**Mr. Eric Vernon:** Let me comment on that. I think it's important to keep the distinction in mind here between certain conduct that may be evident in certain parts of the country towards particular groups, and the process of revocation for coming here falsely and fraudulently. The two need to be kept quite distinct.

With respect to Justice Reilly on section 7, if, as he pointed out, there is some concern with respect to the minister making the recommendation on revocation and then being part of the decision-making process in the Governor in Council, then they might have to work out some kind of process by which the minister would recuse him or herself from those conversations. But it doesn't bring into dispute the entire process, and it certainly doesn't bring into dispute the notion that it violates section 7 of the charter.

Thank you.

• (1215)

**The Chair:** We have also a record of people who have been wrongfully convicted in this country under the criminal standard. Having a civil standard would probably increase the prospects of many unjust decisions where people would be stripped of their citizenship. Courts make mistakes.

But let me just end with something I'm really concerned about. We have the Middle East peace situation, and hopefully it's going to come to some kind of fruitful conclusion. Offering people exile from troubled parts of the world so that peace can be secured in that part of the world is something Canada should very much be part of. The reason I raised the example of the SLA is that while there can be a good case made against members of the SLA, I think Canada should have people from the SLA here, because it would be too much of a problem having them in the Middle East if we're going to maintain peace in the long term.

That's one of the biggest concerns I have. We have dealt with trouble spots—we had Bosnia and Herzegovina—all over this planet, and if we're going to eliminate our ability to offer amnesty, then we're going to have a real problem.

Anyway, we have to go off for a vote. I want to thank you very much for coming. The meeting is adjourned.

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