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—
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The Honourable Andrew Telegdi

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• (1535)

[English]

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

Let me just say that committees usually work towards getting legislation, and this committee has certainly done a lot of work and is going to be getting legislation. It's going to be frustrating to all that we're not going to be able to deal with it, but I guess that is life.

But it is good to get the legislation in front of us, so I hope we can go through it and have the officials make a presentation, and then we can ask questions. If we're not back here next week, they will certainly have had some indication as to what the committee is thinking on these issues.

Mr. Jean, do you want to start off on international adoptions?

Mr. Daniel Jean (Assistant Deputy Minister, Policy and Program Development, Department of Citizenship and Immigration): Thank you, Mr. Chairman.

Maybe the first thing I'd like to do is to use the opportunity to introduce our new director general of the integration branch, which is where our citizenship program resides. Rose Kattackal has been with us since September, and future committee members will probably have a fair number of chances to see Rose on integration and citizenship issues, so I wanted to introduce her.

I also wanted to introduce Mark Davidson, who is our new citizenship registrar, and Alain Laurencelle, who is our legal adviser or justice counsel in CIC.

I have asked Mark Davidson, who has done a lot of the work on these proposed two bills, to do a quick presentation. We're going to start with a presentation on adoption, and we'll try to make it succinct to leave as much time as possible for questions and answers.

Mark.

Mr. Mark Davidson (Director and Registrar, Canadian Citizenship, Department of Citizenship and Immigration): Thank you.

I'll be speaking to the deck that you have in front of you, An Act to amend the Citizenship Act (adoption). The purpose of the deck is to explain to you the provisions and to outline the provisions of this particular bill.

Moving to slide two of the deck, "Objective of Amendment", this bill is intended to minimize the difference in treatment between children adopted outside of Canada by a Canadian parent and those

born outside of Canada to a Canadian parent. It's a matter of principle and equity to make these amendments in order to ensure that children adopted by a Canadian citizen have immediate access to citizenship as soon as the adoption is completed.

On page 3, concerning the summary of the bill, as you can see here, the bill would allow any person adopted outside of Canada after February 14, 1977, by a Canadian parent to become a citizen without first becoming a permanent resident. It's important to note that adoptive parents will still have the ability to choose to sponsor their adoptive child through the immigration process, but this bill would give them the opportunity of using the citizenship process in addition to the immigration process. We would anticipate that the vast majority of Canadian citizens, parents, would choose to use the citizenship process rather than the immigration process, but there may be circumstances where they're concerned that the child might lose a foreign citizenship, and therefore they would prefer to use the immigration procedures.

The citizenship will be granted when a person makes an application and can demonstrate that their adoption met certain minimum criteria. The criteria for citizenship will no longer resemble the criteria for permanent residents seeking citizenship. Instead, it will be limited to ensuring that a full legal adoption has taken place and that the best interests of the child are protected.

In order to reduce the difference in treatment between children born to and those adopted abroad by Canadians, adopted persons will not be subject to the citizenship prohibition, such as security or criminality. This, again, is a matter of equity. Children born to Canadians outside of Canada are not subject to these citizenship prohibitions. Therefore, it's not appropriate for adopted children of Canadian citizens to be subject to the criminality or security prohibitions. The proposed criteria will reflect similar criteria that exist in the Immigration and Refugee Protection Act, IRPA.

Moving on to slide four, which is entitled, "Who is eligible?", as soon as these provisions come into force, any person who was adopted by at least one Canadian parent after February 14, 1977, will be able to apply for citizenship. The provision will be available to persons adopted after that date, since that's the date the current Citizenship Act came into effect, and also because children born outside of Canada to a Canadian parent after that date are eligible for citizenship.

Moving on to slide five, “Best interests of the child”, the provisions outline that in order for an adoption to be recognized, the adoption must have been in the best interests of the child. CIC, the citizenship and immigration department, will check that there's evidence that an approved home study has been conducted and that the parents are fully aware of the medical condition of the child before citizenship will be granted. It's important to highlight that, unlike in the immigration context, the applicant will not be refused if they have serious medical problems. It's simply a matter of ensuring that the parents are aware of the medical condition.

As an integral part of the citizenship process, CIC will request confirmation from the relevant province or territory where the adoptive parent resides that they approve the international adoption. Again, this process will mirror that set out in the immigration context in IRPA.

Moving on to slide six, the proposed amendments respect provincial jurisdiction on adoption matters. It is, of course, the provinces and territories that are responsible for adoption. CIC will grant citizenship to adopted children only once the province or territory confirms that the adoption is valid.

As you'll have noted, a special provision has been added to this bill to recognize the unique adoption provisions of the Quebec Civil Code. Quebec law, uniquely, does not finalize an adoption until the child is actually in Canada and residing with the adoptive parents. If we did not have this specific provision for Quebec, the adoptive parents and the adopted child would not benefit from these citizenship provisions and would have to continue to apply through the permanent residency act. So this provision ensures that the charter protections will exist also for Quebec adopted children and parents.

The provinces and territories are well aware of these provisions. We've discussed them in some detail. In particular, the Quebec provision has been discussed in great detail with the Quebec government, and they've indicated to us they're satisfied with these provisions.

The requirement also sets out that a genuine parent-child relationship must have existed. In this context, it means the legal ties that had previously existed with the child's biological parents must have been eliminated.

We move on to slide seven. As with IRPA, there is a provision in this bill to ensure that adoptions of convenience can be refused. It indicates that the adoption cannot be primarily undertaken in order to gain immigration or citizenship status.

Slide eight deals with the provision concerning adult adoptions. There is a provision in this bill to indicate that persons over the age of 18 who have been adopted by a Canadian citizen can still qualify for citizenship. But in these circumstances, the adoptive parents and the individual would have to establish that there had been a parent-child relationship that existed before the individual turned 18—in other words, when the individual was a minor—and that that parent-child relationship had continued up until the time the individual was adopted. Again, this is very similar to a provision that exists in IRPA to recognize the mechanism for adult adoptions.

Slide nine, and the last slide, deals with the issue of the judicial review of cases where they might be refused. Applicants whose application has been refused by a citizenship officer may apply for a judicial review of the decision to the Federal Court. In the context of a citizenship application, it's not necessary to first obtain the leave of the Federal Court in order to commence a judicial review. That first level of judicial review can be done at the Federal Court without leave. The same type of appeal mechanism exists in the Citizenship Act for other decisions that have been rendered by the minister.

I'll end my presentation here. Obviously, we would be more than happy to take questions or comments you might have.

• (1540)

The Chair: Diane.

Mrs. Diane Ablonczy (Calgary—Nose Hill, CPC): I have a couple of questions on the bill.

First of all, on slide six, you say that adoptions must be completed in accordance with the laws where the parents reside and the laws where the adoption took place. Are we going to continue to accept adoptions that take place under the laws of other countries?

Mr. Mark Davidson: If the parent is resident in Canada, the adoption would have to be recognized in both jurisdictions, where the adoption took place abroad and also recognized in the jurisdiction of the residency of the parent, regardless of what province that might be.

In the circumstance where the parent is not resident in Canada, because there will be situations where a Canadian citizen is adopting an individual and the Canadian citizen is actually resident abroad, then the local Canadian requirements, provincial or territorial, would not apply.

• (1545)

Mrs. Diane Ablonczy: The next question I have is on slide seven. It says adoptions of convenience would be refused, etc. Who decides? What are the criteria? One of the concerns I've heard raised about this particular bill is there's nothing to stop people from adopting all the children of a family member in order to have them come to Canada. If you're going to accept adoptions that happen in other countries, how can you sort this out?

Mr. Daniel Jean: It's very similar to what we currently do under IRPA when people are processed for permanent residence. There is a clause that makes adoption of convenience non-eligible. Normally when you have an adoption, it's because there is a situation in which the ties are going to be severed forever. The ties will be severed permanently. That's normally what's at the bottom of an adoption, and normally we assess the situation to make sure this adoption has not been made just for the purpose of allowing somebody to immigrate.

I'm going to take a practical example. You have a child who has always lived with his parents, but suddenly the uncle decides he's going to adopt him because he wants to bring them over to Canada. There is not really a permanent severing of the ties; that situation could be an adoption of convenience.

Mrs. Diane Ablonczy: So it's a judgment call.

Mr. Daniel Jean: It's a judgment call, but it is a judgment call that is based on a number of factors.

Mrs. Diane Ablonczy: One of the things that disappointed all members of the committee—I think I speak for almost all of us—is that this bill and the two before us represent piecemeal changes to the Citizenship Act instead of the Citizenship Act we've been promised for some time and that the government has omitted or neglected to bring in. Instead we have these piecemeal provisions that have some flaws in them. Can you tell us why the decision was to come up with these piecemeal pieces of legislation instead of dealing with the need to modernize the entire act?

Mr. Daniel Jean: I will certainly communicate back to the minister the point you're making. As you know, the minister said on a number of occasions recently that he would like to have brought a more comprehensive citizenship bill, but in the interests of time, and given that a lot of people want to see these are two amendments happen, we were going to bring these two bills.

Mrs. Diane Ablonczy: Well, we do want to see them happen—the change in the adoption situation has been in our party's policy for some time—but we are concerned about this.

The other concern is that this only makes the child eligible to apply for citizenship, or the parents eligible to apply on behalf of the child, and we all know this whole process has been very frustrating for a lot of people. Getting a citizenship application approved and actually obtaining citizenship are subject to long delays. In Edmonton there's been no citizenship judge for several months—almost two years, actually. How does this really help people? They're still in the lineup with this bill. If they're Canadian children, if there's a bona fide Canadian adoption, why wouldn't they just automatically be Canadian citizens?

Mr. Daniel Jean: First of all, it's going to help them in any fashion, because even when they came under permanent residence and after one year of residence in Canada could apply for citizenship, they still needed to go through the citizenship process. Now they will go directly to citizenship, so the process is streamlined for them.

On the issue, you're absolutely right, this is something we analyzed on the service side of citizenship. We need to make improvements. I think that in the last two weeks when the minister and our deputy minister testified, they told you we've made some major inroads. Our inventory of citizenship applications in Sydney has been reduced by 55,000 since April, as we've been making some extra efforts to try to reduce the inventory of citizenship. We're going to continue to try to improve both our process and our capacity to deal with citizenship, but at least for these people the process has been streamlined. They can go directly from adoption to citizenship.

Mr. Mark Davidson: I will just add that when the adoption has taken place overseas, the whole process can also take place overseas, so there won't be a role for the citizenship judge, for instance, in Canada. The application—

Mrs. Diane Ablonczy: It's a minority, but I guess it would help them.

Mr. Mark Davidson: Probably the majority of these adoption cases will be processed overseas. In our experience, these kinds of cases are now being processed overseas through an immigration process; they would continue to apply to a citizenship officer overseas for processing.

• (1550)

Mr. Daniel Jean: Just to illustrate, if the vast majority, as Mark said, opt for the citizenship, which we think they will, several thousand people will go directly from the adoption to citizenship. It's a grant. There's no need to go through the most extensive process, like the people who have been residing here for three years, because they're not subject to a lot of the requirements that the judge assesses. They're not subject to the residence requirement; they're not subject to the criminality screening. They are in a very streamlined process.

Mrs. Diane Ablonczy: Thank you.

Thank you, Mr. Chairman.

The Chair: Excellent timing. You're dead on. You had five seconds to spare, and that's a new—

Mrs. Diane Ablonczy: I live to make your life easy.

The Chair: Madam Faillie.

[Translation]

Ms. Meili Faillie (Vaudreuil-Soulanges, BQ): Like Diane, I would have liked to have been able to read the entire bill, but we will wait for the minister's answer on that issue.

You consulted Quebec. We checked and, at first glance, the bill does not appear to pose any problem.

I would like to ask you a question about the type of appeal provided for by this bill. Apparently it would be a judicial review. Would people be able to file an appeal based on the merits, in order to provide additional information, and not based solely on procedure?

Mr. Daniel Jean: It would be a judicial review, as is the case for most of our procedures.

Alain, would you please provide more details?

Mr. Alain Laurencelle (Counsel, Integration and Admissibility Team, Legal Services, Department of Citizenship and Immigration): Indeed, the Federal Court would examine the file as it was presented to the decision-maker who, in this case, would have been the deputy of the minister. The Federal Court would make a decision on the case and facts as they were presented when the initial application was made.

Ms. Meili Faillie: Will the court restrict itself to the merits, to the facts? Will the court rule on the merits of the case?

Mr. Alain Laurencelle: The court will examine the facts presented initially to the decision-maker, to ascertain whether or not the latter properly analyzed the facts and applied the law in this case.

Ms. Meili Faillie: If I understand correctly, it is not possible to submit new information.

Mr. Alain Laurencelle: Generally speaking, new information is not considered during judicial reviews. The case is reviewed as it was presented to the decision-maker, as is the case in other judicial reviews of Citizenship Act decisions.

Ms. Meili Faillie: The provision in the bill that deals with Quebec is there quite simply because of the Civil Code. Simply put, it is the Civil Code that is enforced in Quebec.

Mr. Daniel Jean: That's right.

Ms. Meili Faille: Could you provide us with a better explanation of the process and inform us about the steps? I have seen nothing about how this will all take place, I have seen nothing about the process. How will the bill operate?

Mr. Daniel Jean: It will be exactly the same process that we currently use for permanent residency in the case of an adoption. First of all, there is sponsorship. Everything depends on the province in which you live. If you live in Canada and the sponsor lives there as well, there is also a range of provincial rules that need to be taken into account. The family is investigated. Is the family suitable for an adoption? You need to go through all these steps.

Then, the adoption normally takes place abroad. The people reviewing the file abroad review adoption cases, somewhat like spouses' cases, more quickly. Generally speaking, a complete file is submitted. The file includes the adoption decision, the medical results, everything that is required to do an analysis.

The analysis will be continued by our foreign officers, who conduct the same type of analysis for adoption as they do for permanent residency, but this will lead to the granting of citizenship.

The process will be very similar. The only difference is that it will result in citizenship rather than in permanent residency.

Ms. Meili Faille: That's good. Abroad, you can go through all of the sponsorship stages, you can receive the court decision and you can adopt a child and all of the conditions are fulfilled.

What type of document will you issue abroad so that the children can travel?

[English]

Mr. Mark Davidson: The adopted children will be given a grant of citizenship; they will become citizens.

[Translation]

Ms. Meili Faille: I'm trying to understand this properly. Generally speaking, when a child is abroad, citizenship is granted as soon as the child sets foot on Quebec soil.

Mr. Daniel Jean: That is not necessarily the case. Under the agreement reached with Quebec, we will grant citizenship to these children based on the fact that Quebec will have already done its checks and the adoption appears to be in order. This is the same procedure which is currently followed for permanent residency.

If everything seems in order we will grant citizenship. The children arrive in the country and we complete the formalities pursuant to the Quebec Civil Code.

• (1555)

Ms. Meili Faille: So once the child arrives in Quebec, he or she can be registered as a Canadian citizen. Is this when the children are registered?

Mr. Daniel Jean: The child will have already been registered as a Canadian citizen.

Mr. Mark Davidson: As soon as the decision is made abroad, the child becomes a Canadian.

Ms. Meili Faille: They agree with that. A memorandum of understanding has therefore been signed with Quebec on that issue.

Mr. Daniel Jean: Yes.

[English]

The Chair: Thank you.

Mr. Siksay.

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

Thanks to the folks from the department for being here yet again.

I have a question on refusals for adoption of convenience. Is that a problem in the system now? Are there many of those kinds of refusals already in the system? Is it a big issue?

Mr. Daniel Jean: It's not a large problem, and I can also say that it's not a large problem because there is also some vigilance. If there were no vigilance, it could become a larger problem. We don't have a large number of cases of adoption under the regular permanent residence scheme right now that are refused for that reason.

Mr. Bill Siksay: I want to come back to the questions about the appeal process.

One of the things we heard in our hearings was that some lawyers were going to recommend to clients that they stick with the IRPA process because the appeal was broader and humanitarian compassionate considerations could be heard.

In its recommendations on this issue, the committee said that a full appeal on the facts and the law should be permitted in Federal Court. My understanding is that judicial review falls short of what we were getting at there. Could you comment on why that recommendation is not necessarily followed by the legislation?

Mr. Daniel Jean: First of all, if you go back, the number of cases under that movement that are refused is extremely small.

When we say it's only a judicial review, there's sometimes a tendency to think that a judicial review doesn't look at whether or not the facts that apply are reasonable or not. The court looks at whether or not the facts were applied. They're not going to revisit the facts, and they're not going to accept new information, but whether or not this was both a fair and reasonable decision is applied.

Secondly, people who want to continue to proceed with the permanent residence process will be allowed to do so. They will then have the appeal with IAD. Our assumption is that a very small number of people would decide to do so.

Mr. Mark Davidson: If I can add, in the context of immigration, when the immigration appeal division of the Immigration and Refugee Board looks at a case, they can only consider the H and C grounds if the individual has already been determined to be members of the family class. The criteria that would get them into the family class in the immigration context are essentially identical to the criteria that we would be looking at in citizenship.

They would only get the appeal if, by its very nature, they wouldn't have been refused, if you understand. The IAD appeal in immigration wouldn't actually give them anything that they didn't already have in citizenship.

Mr. Bill Siksay: I want to go to another question. Is there a reason why the bill doesn't come into force when it receives royal assent, rather than waiting for the Governor in Council to fix some date?

I think some of us have concerns about decisions made by the minister to not enforce the immigration appeal division and are afraid that there'll be some change in opinion on other legislation. It seems to leave that possibility open. Could you comment on that decision?

Mr. Daniel Jean: I think it's pretty regular that we normally do it in this process. Not only do you need to enact legislation, but you need to prepare for implementation. There has to be a period, and then you prepare to enact legislation.

As far as the other question is concerned, I will take your comment and pass it along.

Mr. Bill Siksay: Can you tell me what the process involves? Is it formulating regulations and that kind of thing? What is the process between the passage of the bill and its coming into force?

Mr. Daniel Jean: We have to be sure that all our operational infrastructures are ready to apply this, so that our missions are ready and know that they will process these cases of citizenship from now on, our offices in Sydney are ready to process these cases in a new fashion, and we've got all the information available for our clients. There are a number of things that need to be done.

• (1600)

Mr. Mark Davidson: If I could just add to this, in the case of this particular bill, there actually are also regulation-making powers. The regulations would also be orchestrated with the coming into force of the bill.

Mr. Bill Siksay: Is there any estimate of the timeline that would take for a bill as specific as the one before us?

Mr. Daniel Jean: Compared to other bills, I think this one is much simpler, so I don't think it would be a long period of time. I would not commit to a period of time here, because there are things that are beyond our control. I think this is not something that should require too much time.

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

The Chair: Thank you.

Records are being broken here.

Mr. Temelkovski.

Mr. Lui Temelkovski (Oak Ridges—Markham, Lib.): Thank you very much, Mr. Chair. Thank you to the department for appearing in front of us.

This bill has come at a good time. It's welcomed by me and by my constituents. I have a number of cases that I've been working on. I was never able to gather all the information. Maybe this is the right place to start.

Can you tell us what is the number of adoptions per year that we're processing?

Mr. Daniel Jean: About 2,000.

Mr. Lui Temelkovski: And what is the number of refusals of those?

Mr. Daniel Jean: I don't have the data. We'd be happy to provide it to the committee, but I would say it's very low, especially on this particular group.

Mr. Lui Temelkovski: How about the time it takes for someone to obtain their citizenship papers under the current law as opposed to this proposal?

Mr. Daniel Jean: Normally, for the people who come for adoption, let's say, if the parents reside in Canada, you have the normal process. For the adoption case to get permanent residence, they come to Canada and they have to reside for one year and then they have to apply for citizenship. You have to have the citizenship process. You're probably cutting the process by half the time.

Mr. Lui Temelkovski: In terms of some of the benefits, maybe you could outline to us whether any benefits will be received sooner rather than later, in terms of education or health or stuff like that, for children who are adopted and brought into the country. Do they have to wait to get their health insurance and receive education or not?

Mr. Daniel Jean: Unless they are adopted people who are 18 years and over and it gives them the right to vote and things like that, I don't think there are a lot of benefits that are different from the benefits they get as permanent residents. There is one exception. There's another major streamlining that is occurring to this bill. It's for adopted children of Canadians residing abroad. Right now we are processing these cases through a very cumbersome waiver process that takes a lot of time, so it's going to be much simpler for this group as well.

Mr. Lui Temelkovski: Do you see an opportunity here for parents who...? We have found out, and you know very well, that parents have come over with one child, specifically from countries that only allow one child per family. They have left another child or two behind and have not listed them on their papers when they came over. Would this now be an avenue they could pursue to speed up that process, or would they still have to go through the sponsoring of the children? We know what the results of that are and the timeline it would take them.

Mr. Daniel Jean: For the adopted child to be able to come, the parents have to be Canadian citizens. If you're referring to countries that have a one-child policy, like China, this is not an issue we're facing right now. People who are emigrating from China who have more than one child usually will declare the child because their children can immigrate, and it's not a problem they are facing in their immigration to Canada. To the best of our knowledge, this is not an issue we're facing right now.

Mr. Lui Temelkovski: We know some who do leave their children behind. They only list one and leave two behind in order to speed up the process of coming into Canada. Fearing that the local authorities in China will find out that they have more than one and so on and so forth, they list one and they leave two behind and they become Canadian citizens. Will they be able to adopt their own children? Would that process be faster than going through the immigration process? We know immigration is a difficult process because kids who have not been listed are deemed not to exist.

•(1605)

Mr. Daniel Jean: In this context I don't think we're facing an adoption problem, because they are their children. They have proof they are their children and they have no need to adopt them. Why they've not declared their children when they came over, we're going to have to assess. If they have not declared the children, then there is a provision in IRPA, as you know, that puts some bar upon it. This is an issue we've discussed recently.

If there were good and valid reasons why they did not declare the children, as you're describing, and if there's evidence that there were good and valid reasons why they did not declare their children, then they could be considered to sponsor them as permanent residents. But this is not a case of adoption; these are their own children.

Mr. Lui Temelkovski: I understand.

I have one more question, if I may. Would that situation be considered as adoption of convenience? That's my question.

Mr. Daniel Jean: No. As a matter of fact, that situation would not be considered an adoption, period, because if it's their own children and they have evidence of it; there is no need for an adoption. It would be a situation of somebody who is trying to sponsor their child and who may be eligible for permanent residence. Then the issue would be, if they did not declare them when they left, why didn't they declare them, and how do we assess the situation?

Mr. Lui Temelkovski: Okay, thank you.

The Chair: Thank you.

Mr. Hanger.

Mr. Art Hanger (Calgary Northeast, CPC): Thank you, Mr. Chairman.

I have a couple of cases in my constituency where a family attempted to adopt a relative from India and were rejected. They were rejected on the basis that it was more a convenience matter for the family in India to have their child raised in Canada.

What would happen if that adoption had taken place and the youngster then decided at one point in time to reject his adopted parents and, having gained his status, apply to have his real parents come into Canada?

Mr. Daniel Jean: If we accept a situation like a genuine adoption, it assumes that the ties with the natural parents have been severed.

Mr. Art Hanger: I know it assumes it at that time, but we're talking about—

Mr. Daniel Jean: That's what I'm getting at. This means that this person, once he or she arrives in Canada and grows up and become an adult, cannot sponsor the parents as being the natural parents, because they are no longer the natural parents; by a judgment of adoption, the ties have been severed.

Mr. Art Hanger: I see, though, that... I've had some new immigrants talk that way. They gained citizenship; their adopted children then apparently rejected them to apply for their parents to come from India. I know this law doesn't come into effect here, but that is a reality. I guess my question to you is, are there are going to be legal channels that person can pursue?

Mr. Daniel Jean: In these situations, unless the parents qualify on their own to apply and are eligible to come to Canada as permanent residents, then it would be what we call a humanitarian and compassionate situation. They would have to demonstrate that there is undue hardship being experienced through being separated that way; that even though an adoption had taken place, there are still links with these parents, and there is no longer a relationship with the adoptive parents, and they are in such a situation that it warrants the use of a special process.

•(1610)

Mr. Art Hanger: What you're telling me is the door is open, then, for these adopted children to turn around and say, "Now I want my parents here".

Mr. Daniel Jean: I don't think the door is open, because it's an exceptional measure—

Mr. Art Hanger: You don't think it is?

Mr. Daniel Jean: —and the threshold they would have to meet is fairly high.

Mr. Art Hanger: Okay, it's interesting for you to say that. I would assume you have certain safeguards built into this whole process that would take all of that into account.

Going back to adult adoptions, how many adult adoptions are there in a year?

Mr. Daniel Jean: I don't think we have numbers, but we can certainly try to see whether we can get you numbers.

Mr. Art Hanger: I think it would be important to get those numbers. I'm interested in why there would be adult adoptions, especially if the individual is over 18.

The Chair: Is it possible—just so we clarify that—that it's somebody who is developmentally challenged?

Mr. Daniel Jean: My understanding is that this provision came into IRPA. The background, as the chair was saying, is that they may be people who live in adoption-like situations. They live as if they're the child of somebody, but the adoption doesn't take place until after they are 18. Under IRPA there was a provision introduced to try to deal with these situations, and in the same way we're just transposing this provision to the Citizenship Act.

Mr. Art Hanger: I won't call it a regulation, but it was a matter of a decision by someone, then, to have a more flexible policy in dealing with situations like that, and now you're making it law. Is that what you're saying?

Mr. Daniel Jean: We already had that in IRPA. When people applied for permanent residence and they were in such a situation, that adoption after 18 made you eligible if there were some ties existing prior to your being 18. We're just applying the same measure to the grant of citizenship.

Mr. Art Hanger: I know there have been a couple of questions on judicial reviews already. Why was it decided to involve this process of judicial review when it didn't exist before?

Mr. Daniel Jean: There is judicial review in all decisions we make on citizenship right now.

Mr. Art Hanger: There is?

Mr. Daniel Jean: There is.

Mr. Art Hanger: Why is it in there?

Mr. Daniel Jean: We're extending to these cases the same right of judicial review we have on other Citizenship Act decisions.

Mr. Art Hanger: So you're saying, besides the Federal Court, somebody can apply all the way up to the Supreme Court of Canada on a refusal.

Mr. Daniel Jean: If they were to be rejected and if they asked for judicial review and if the judicial review was not successful, then the next level would be—

Mr. Alain Laurencelle: Then to the Federal Court of Appeal and then, with leave, to the Supreme Court of Canada.

Mr. Art Hanger: Thank you.

Mr. Daniel Jean: These are the same recourses somebody who applies for a grant of citizenship has right now.

The Chair: How many cases are you aware of that got to the Supreme Court?

Mr. Daniel Jean: There are very few, because to start with, your population of rejected cases on citizenship is so low. It's less than 10%.

The Chair: But the Supreme Court hears very few of any cases in terms of the numbers.

Thank you.

Next we have Colleen.

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

Actually, there were two issues brought up that both, I think, need to be looked at.

One is not being allowed to sponsor a child because they were not claimed on your original application. As we know, in the social norms in many countries, if a child is born out of wedlock, the child will not be claimed. Then you end up with a child who has stayed—and in my case this is mostly in India—and who has been raised by a grandparent who is no longer... I mean, kids shouldn't have to be raised by grandparents all of their lives. They should be able to have the benefit of their own parents. These are the cases that we don't make allowances for.

The other one is the adoption in same families. I don't feel that there are any major problems with adopting orphans from foreign countries. However, the adoption in same families, in which parents are still alive, brings serious repercussions for these kids when they are brought to another country. When these occur in their country of origin, it's fine. There's the mobility there, and if it doesn't work out you can go back and forth. Families are very close there, and oftentimes adoptions occur if someone doesn't have a baby boy or a baby girl. But the proximity doesn't create the problems.

However, I have a number of young people who come to me all of the time. They've been sent across the ocean, and for many of them, not always both parents have agreed to this. For many of the kids who come to see me, it's almost a neurosis. They don't understand why they've been given away. In most cases it has been for immigration purposes, for a better opportunity for these kids, and we all understand that. But when you're 30 years old and you can't figure out why it was you who was given away, and not only can you

not sponsor your natural parents, you can't get a visitor's visa for your natural parents to come and see how you're doing in this country. As you can see, I'm quite emotional over this because it has brought a great deal of pain to these young people.

I think if we're going to continue to allow these kinds of adoptions—if kids are orphans, that's a fairly simple situation to deal with—we're going to have to develop a different attitude about, not necessarily sponsoring of parents, but certainly visitors' visas. I think we've created a monster in all of this.

I'm wondering what your thoughts are on this issue. Kids get turned down, and the reason stated is that you have severed ties with your natural parents. Well, they didn't sever the ties with their parents. In most cases, they weren't given a choice.

• (1615)

Mr. Daniel Jean: I certainly appreciate that this is not a simple issue, and that's also why there are international organizations and international instruments, such as The Hague Convention, which has been developed to look at the best interests of the child. When you look at some of the provisions around the best interests of the child that are in our regulations—and I'll be happy to provide it to you again and to members of the committee—a lot of things you're talking about are covered there. From an operational standpoint, unless there is misrepresentation involved, we meet both parents. We explain in their language with interpreters what severing ties means. We've already assessed at the beginning whether or not this is not a situation of an adoption of convenience because if we're able, we are assessing what the best interests of the child are.

At the end of the day, it's like any adoption case. We have many situations in domestic adoptions where, many years afterwards, people want to go back and meet their natural parents, right?

Ms. Colleen Beaumier: But they can, because they're in the same country.

Mr. Daniel Jean: Yes, but I think one could argue that possibility is also there. These people can go and visit their natural parents later on, if they want to. What has been severed is the legal tie that allows them to sponsor them as parents.

Ms. Colleen Beaumier: I don't want to be argumentative—although I kind of like arguing with you, Daniel, because you are a gentleman. You're very sweet.

However, once again you're saying that you explain what this separation means to the parents. You know, the kids have to live with that for the rest of their lives, and visitor visas should at least be given.

The Chair: On that issue of yours, I think the one that really dramatically demonstrated it was the case of the Romanian girl who was adopted in Canada from Romania. There was a documentary, and actually I think we talked about it at the time. We mentioned maybe wanting to have her come to talk to this committee, because it really highlights that when things go wrong, they really go wrong.

The question she asked was why it had happened to her when she didn't need to be adopted.

• (1620)

Ms. Colleen Beaumier: I think there are a lot of cases...I have a constituent who is borderline suicidal, and we can't get a visitor visa.

The Chair: Ms. Grewal.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, Mr. Chair.

Thank you all for coming and for your presentations.

While I'm generally supportive of such a bill, I do have some concerns. Regulations would have to be created to avoid issues of child trafficking and also payment. I can imagine a scenario where children are sold to Canadian parents, where Canadians themselves are paid money by people desperate to get their kids into Canada. I wonder if the present law is adequate to deal with this problem, if it emerges, or if new laws need to be created to explicitly deal with cases of human trafficking through the abuse of adoption laws.

Could you perhaps comment on this?

Let me add to that a very small question. I'm also concerned about issues of child predators. I'm sure the department has already thought about such issues, but are there provisions to prevent people with criminal records from adopting children? I am sure general adoption laws already take these matters into consideration, but are there perhaps any other provisions we would need to add in the context of international adoption?

Mr. Daniel Jean: Those are very good questions, Madam Grewal.

Under The Hague Convention and our obligation to look out for the best interests of the child, many of these things are about providing the kind of safeguards you're talking about.

With our missions overseas, it's not rare that we will see situations where we feel that the adoption system in certain countries has gone out of control from a governance standpoint. We will then advise our provincial authorities that we think we should probably suspend adoption in these countries because of the risk of trafficking.

This is a situation that we've already lived through in the process that brings people towards permanent residence. We already have some practical experience of seeing what's happening at the local level, seeing whether there are these kinds of abuses. When we see these kinds of abuses, we deal with provincial authorities and we say, in the best interest of everybody, both the children and also the parents, given what is at stake, that we think we should suspend.

Around the risk that some ill-intentioned parents adopt children, that's part of the reason the provincial authorities have a number of safeguards—such as home studies and things like that—to make sure the people who are going to adopt are suitable to be going through with an adoption.

The Chair: Madame Faille.

[*Translation*]

Ms. Meili Faille: Let's go back to the issue of war brides, which we discussed at great length. The spouses arrived in Canada and the children were not declared at the time of their arrival. These children are now older than 18. Could the provision in the bill that is applicable to individuals aged 18 and over, apply to them?

Mr. Daniel Jean: No.

Ms. Meili Faille: No?

Mr. Daniel Jean: In their case, we are not talking about adoption. However, this type of situation is becoming more and more rare. These are isolated cases. When we discussed the issue of the war brides, we looked at this type of situation. Generally speaking, we use the exception procedure to grant citizenship, because these people have often lived in the country for 30 or 40 years.

Ms. Meili Faille: That's right.

Mr. Daniel Jean: That is one of the reasons why we decided that people needed to go through the procedure in order to obtain citizenship. The war bride situation was created when we decreed that if people had been here before a given date, they were deemed to be Canadian citizens. The people didn't have any document proving that they were Canadian citizens and that is what created the mix up that we had with the war brides and their children.

• (1625)

Ms. Meili Faille: Is the situation not more difficult than the one involving the lost Canadians?

Mr. Daniel Jean: No. This bill has no impact on the provisions of Bill S-2, which was approved last year.

Ms. Meili Faille: Thank you.

[*English*]

The Chair: Mr. Siksay.

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

Related to what Madame Faille was just asking, the February 14, 1977, date, what are the circumstances for folks who were adopted before that? How would their circumstances be dealt with?

Mr. Daniel Jean: What we're trying to stop is the discrimination between natural children and adopted children. Prior to 1977, it was not all natural children who qualified for citizenship, which is why we've used 1977 as a bar, the line in the sand, sir.

The Chair: In wrapping up, I want to let the committee know, on the issue I raised in the meeting, regarding somebody who was a Canadian citizen and it taking seven or nine months to get proof, the citizenship was issued yesterday. It's in express post on its way today. It's certainly a standard that I would love to see become the standard in the department. It would make everybody's lives much more pleasant. But I was very pleased to see that get done.

Okay, we're going to leave this topic.

Monsieur Jean or Mark Davidson.

Mr. Mark Davidson: Thank you, Mr. Chair.

I'll be speaking to the second deck that you have in front of you, which concerns Bill C-77, An Act to amend the Citizenship Act (prohibitions). This will be a somewhat shorter deck.

If we move to slide two, talking about the objectives of the amendment, this bill is intended to fill a gap in the current law that exists because the citizenship prohibition section of the current Citizenship Act at present only deals with Canadian criminal activities. Prohibiting persons who commit crimes outside of Canada from acquiring citizenship is just as important as prohibiting people who commit crimes in Canada from acquiring citizenship. These amendments will ensure that criminal offences committed outside of Canada are treated the same as equivalent offences committed inside Canada.

On slide three is a brief summary of the bill. This provides that foreign charges and convictions are currently not a bar to citizenship, as I have just indicated. These provisions will ensure that charges and convictions outside of Canada, which are equivalent to those inside of Canada, will prevent individuals from acquiring citizenship if they are currently serving a sentence outside of Canada, have been convicted of a serious crime in the last three years, or are currently charged with a serious offence.

Convictions and charges outside of Canada will be assessed on the basis of the Canadian equivalency. This assessment of Canadian equivalency is a process that is done in the immigration context regularly, and there's considerable expertise within the department on doing that equivalency test.

On slide four, we talk about the exception. To address concerns about outstanding foreign charges, a provision has been added to allow the minister to waive, on compassionate grounds, the prohibition for outstanding charges. This provision will be added to the existing provision in the Citizenship Act under subsection 5 (3), which already outlines ministerial compassionate powers—for example, to waive a knowledge or language requirement.

Only individuals who are charged with a serious offence outside of Canada could be barred from citizenship indefinitely, as persons convicted or serving a sentence would, in the normal course of events, be eligible after either the completion of their sentence or three years after the date of conviction. This is identical to the situation for Canadian convictions. Therefore, this compassionate waiver is intended to address the particular circumstances of individuals who have outstanding foreign charges.

That is the end of my presentation.

• (1630)

The Vice-Chair (Mr. Art Hanger): Thank you, Mr. Davidson.

For the first round, it is Ms. Ablonczy.

Mrs. Diane Ablonczy: Thank you, Mr. Chairman.

On the face of it, this bill seems to be a no-brainer. You would naturally want to take foreign crimes and convictions into effect for someone wanting to become a Canadian. The problem is that this looks and smells and quacks exactly like the amendment the government tried to put through in Bill S-2, the bill on lost Canadians.

Therein lies the difficulty for me. Bill S-2, of course, would have allowed people, lost Canadians, who had been inadvertently stripped of their citizenship through an action of a parent—usually a father taking out citizenship in another country—to be automatically

reinstated. The government tried to amend that by saying they could be reinstated, but not if they had a criminal conviction or record. The committee took the attitude that if you're a lost Canadian and you are a Canadian, you are a Canadian. If you're a criminal, then you become a Canadian criminal and should not be discriminated against, in the sense of the principle of the restoration of lost Canadians, because of a conviction abroad.

That's the problem here. This committee rejected that amendment on Bill S-2 quite decisively, and here it is before us again. Why should we accept it this time?

Mr. Daniel Jean: First of all, the position of the department since well before Bill S-2 has been that you should have the same consequences if you commit exactly the same crime and have the same conviction, whether the crime is committed in Canada or committed abroad. If I'm not mistaken, the report this summer from the committee on citizenship also recommended harmonization in the way people are treated, whether their conviction is in Canada or outside of Canada. What we're doing is purely harmonizing it.

On the second part of your question, is it true that when we were debating Bill S-2, we tried to bring in an amendment that was going to bring in this provision? Yes, we did, because one particular concern we had with Bill S-2 was that people were no longer going to go through the permanent resident stream, so it made that problem even stronger. That problem existed before, and it will exist after. The basic policy question that needs to be asked is if you have two brothers, and one commits a crime in Montreal and the other commits a crime in Boston, is it fair that the one who committed the crime in Montreal is going to be barred for three years from applying for citizenship, while his brother with the same crime in Boston can come in? That's the fundamental policy question.

We understood, from the committee's report this summer, that the committee agreed there should be some fairness and some harmonization of these things; that's why we brought this amendment forward.

Mrs. Diane Ablonczy: The problem is that for 12 years and three majorities, the current government has not amended in any way the Citizenship Act that was passed in 1977, which refuses to recognize foreign crimes and criminal records from abroad. Now, all of a sudden, in a piecemeal fashion, we have this amendment coming forward. Basically, it's trying to do here what we wouldn't allow in Bill S-2.

If there's an anomaly with respect to lost Canadians, why not exempt them from this position and say this would not apply to people whose citizenship was inadvertently taken from them because of the actions of a parent, but who are now covered by the provisions of Bill S-2? Otherwise, you're continuing to discriminate against those lost Canadians. We're saying you shouldn't have been stripped of citizenship, so you're going to be restored, except that you're not going to be restored if you have any kind of criminal record or criminal conviction abroad. You can see, I'm sure, the contradiction.

I just can't see how we can accept that.

• (1635)

Mr. Daniel Jean: Okay, there are a few things.

First of all, when Bill C-18 died on the order paper there was a provision that was going to do exactly what we're proposing today, so that proceeded to debate. To me, it's a fact that there's been an issue of policy here that we've said for some time needs to be addressed.

Secondly, when we brought this amendment in Bill S-2, we said the reason we wanted this amendment was—and I bring back my example of the brothers again—that under Bill S-2, your brother who is in Montreal would not be eligible if the conviction or the sentence has occurred within three years. His brother who had the same exact conviction in Boston would be eligible.

So you have an issue of unfairness, discrimination, that exists.

Mrs. Diane Ablonczy: Yes, but now you're reversing them.

The other problem I have with this bill is that the safe third country regulations say that if a foreign criminal flees to Canada and that foreign criminal has been charged with or convicted of a capital crime, we can't refuse to deal with them here. It seems to me that we're not being very consistent here. We're saying in some cases criminal convictions will not bar somebody from entering the country. I know it's a different thing—entering the country is not the same as being given citizenship. But I think the inconsistencies are going to be very difficult for us to explain.

Mr. Daniel Jean: On the safe third parallel, in safe third we basically just decided, in the context of the agreement with the United States, that if there was a prospect of capital punishment, the person would not be returned to have their protection hearing done in the States, which means we are then responsible to assess the protection. If the person were in a situation where they were likely to have capital punishment in the States, obviously it would be because they've committed a very serious crime, which would make them ineligible to claim refugee status in Canada. It puts them through an accelerated stream in terms of dealing with their case and would likely bring them towards removal.

So we're not granting them a benefit; it's just that we're not returning them to the United States to have their protection assessed. The protection access will be assessed here. And in that context, because they're a serious criminal, the protection access they will have will be a pre-removal risk assessment only.

The Vice-Chair (Mr. Art Hanger): Thank you.

Ms. Faille, please.

[*Translation*]

Ms. Meili Faille: Many people—I'm talking about humanitarian cases—leave their country with false documents. For obvious reasons, these people would not have been able to get out of their country if they had not had these documents in their possession. Several European countries feel that this is a violation, but they also recognize the humanitarian situation. Accordingly, these people are exonerated on humanitarian grounds.

Two people from my riding are in this situation. They cannot obtain citizenship because they cannot obtain a pardon abroad, for a crime that they are not guilty of committing. On page 3 of the presentation, a distinction is made between a person who has been convicted and one who has been charged. One of these individuals in question has been charged, but not found guilty. We acknowledge that, generally speaking, this person should not have been able to enter Germany, but the individual has been exonerated on humanitarian grounds. We understand what prompted the person to do this. The individual has currently been sponsored, but Canada is not allowing this person to come as it is impossible for the latter to obtain a pardon since there has been no charge there. So we are in limbo.

Mr. Daniel Jean: Have the charges been dealt with or not? If they have, and if the people were not indicted or were cleared, they should not be ineligible as regards immigration or citizenship. However, perhaps the charges have not been dealt with. That is a measure provided for in this bill. For cases which, for whatever reason, the charges have not been dealt with for years or the minister thinks it is reasonable that these people be given access to citizenship, provision for a waiver is included in the bill.

• (1640)

Ms. Meili Faille: The immigration officer abroad told us that the wrongdoing for which the person was charged was punishable here in Canada under the Criminal Code. That is apparently why the individual has not come to Canada. I can send you information about the case and you could give me a more specific answer.

Can you tell me when this checking will be done?

Mr. Daniel Jean: Which checking?

Ms. Meili Faille: The checking done to determine whether a person was convicted of or charged with a serious offence. Is this an additional step in the current procedure, or is this something you are already doing?

Mr. Daniel Jean: At the moment, we are asking people to submit certain documents, and we automatically do some checking. In this context, we need to determine where these individuals lived and whether they have any proof that they have had no record with the law in the past three years or none that has not been checked out. This will be part of the documents we ask applicants to submit and the screening measures we apply in processing applications.

Ms. Meili Faille: So this is something you are doing already.

Mr. Mark Davidson: We are going to broaden the study of criminal behaviour we do at the moment, but only in the Canadian context.

Ms. Meili Faille: Does this apply retroactively? There are a number of applications that have been on hold for years from people who are permanent residents and who have been waiting for their citizenship for more than five years. There are a number of such cases in the Moslem community. The department does not give us the reasons why these cases are being delayed. We are told that they are in the process, that they are being studied and that officials are waiting for the results of investigations.

I want to make sure that there will be no retroactive measures. For example, I hope you will not be asking for additional authorizations in each such case.

Mr. Daniel Jean: The bill applies to all cases being processed. This is a screening measure for criminal behaviour. Normally, this is not something that delays processing time a great deal, particularly if the people have been living in Canada for several years.

In the case of citizenship, the prohibition applies for three years only.

Ms. Meili Faille: So this provision would apply to all cases that have been delayed at the moment and that are deemed processed. You will be reviewing each one of these files.

Mr. Daniel Jean: We must be cautious. At the moment, the processing time for a citizenship case is about 16 months. I think you have already been given information about this. In the vast majority of cases, files are processed in 16 months and, as I said earlier, we are trying to process them in 10 to 12 months by next year so as to reduce the backlog. With respect to cases that have been delayed for four or five years, the circumstances must be very unique, and there must be very specific reasons for this. Things have probably been delayed in the screening process, not only with respect to criminal behaviour, but with other factors as well.

Ms. Meili Faille: This bill would allow you to turn them down. Is that not so?

Mr. Daniel Jean: I do not think so. There has to have been charges or convictions. If there was criminal behaviour abroad, we would not have been able to turn them down and we would have given them citizenship. The reason it takes so long to process their files is that some things have to be looked into more thoroughly. These are isolated cases involving very specific situations.

[English]

Ms. Meili Faille: Do I have more time?

The Chair: Yes, you've got one minute.

[Translation]

Ms. Meili Faille: In that case, why does the minister intervene? Why not go through the Federal Court to obtain a waiver?

Mr. Daniel Jean: The minister's discretionary authority to deal with all types of situations is much broader than the power given to a third party and defined by very specific parameters. It is useful in cases where the charges have not been dealt with for whatever reason and where it is thought that there are good grounds for granting citizenship to the person despite the fact that the charges have not been dealt with. I am thinking of cases where charges were laid for political reasons or cases involving minor charges. The incident happened 20 years ago, perhaps the files no longer exist, and the minister is prepared to take action. If the minister makes a decision

and if a waiver procedure is used, the minister's discretion is much greater than the discretion that could be given to a court or to a third party.

• (1645)

[English]

The Chair: Thank you.

Bill.

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

I'd like more information on the whole issue of political charges that someone may have faced overseas that would not be acceptable to Canadians. You say it's discretionary, that the minister has this discretionary power. The parameters for making that decision, how are they established? Are they established now within the department, or is this work that would need to be done in light of this kind of legislation?

Mr. Daniel Jean: It's a very good question, Mr. Siksay. As a matter of fact, we have gained a fair amount of experience in dealing with a provision that is very similar to that under IRPA. To process applications, our missions already have a fairly good understanding of what the local judicial system is, because they have to apply these things under each of the circumstances. They also become quite acquainted with the local conditions, the local judicial system, and all of these things.

So through the experience we've gained through IRPA of looking at these types of situations, the guidelines they've had on the country conditions that we have, the advice they get from both our legal counsels and our program experts who know these countries well, we think we have a fairly good expertise in being able to assess these cases that fall in this area—that is, when these charges didn't have any *fondement*, they were really politically motivated.

Mr. Bill Siksay: Do you work with other departments to establish those kinds of criteria?

Mr. Daniel Jean: We certainly do. When we look at country conditions and then issue, we work with our colleagues at Foreign Affairs, Department of Justice, and look at country conditions that are kept at the IRB.

Mr. Bill Siksay: The minister's jurisdiction to waive a prohibition is limited to someone who's charged with, or on trial for, an offence. Is that correct? There is no extension to someone who, say, is serving a sentence, or convicted of a foreign offence within the past three years. Is there a reason why that wouldn't be extended?

Mr. Mark Davidson: That's correct. Just as within Canada, for the individuals who are serving jail time or have a conviction, those prohibitions will run out in the fullness of time, whereas a charge could in theory sit on the books indefinitely. The feeling was that we needed a mechanism to waive that prohibition for a charge, because that one could sit there forever.

Mr. Bill Siksay: Even in the case where we determine that this was a politically motivated charge and that by Canadian standards that conviction or that sentence might have been seen as unreasonable?

Mr. Daniel Jean: Normally we would have addressed that at the permanent resident stage. The people would be in Canada and would be eligible for citizenship after the three years.

Mr. Bill Siksay: But it is possible to leave while you're still waiting for citizenship. You could be out of the country for certain periods. Something could have happened on one of those trips outside of the country that landed the person in jail, for instance.

The other question I had is on the retroactivity provision of it. You would apply this to every application that's currently in the system. Do you see any problems arising out of that? Are there any concerns people would have of being judged by a different standard by this legislation being introduced?

Mr. Daniel Jean: No, I think that as long as it's the same rules for everybody, applied in a consistent manner, there's no issue of fairness.

Mr. Bill Siksay: Thank you.

The Chair: Thank you.

Lui.

Mr. Lui Temelkovski: Thank you very much, Mr. Chair.

What I see here is that those people who are ineligible to become Canadian citizens, who have done something in Canada, will now be mirrored with people who have done something outside of Canada. Is that true?

Mr. Daniel Jean: It's the reverse of your proposition. Right now, somebody who has committed a crime in Canada is ineligible until three years after they've served. What we're saying is it should be the same rules applying to somebody who committed the same crime, or was sentenced for the same crime, outside of Canada. Right now, they're not.

• (1650)

Mr. Lui Temelkovski: Therefore, there are some cases, such as we've seen highlighted in the newspaper, where it increases the blood pressure of Canadians when they see foreign people receive citizenship where they should not have been receiving a citizenship or even entering Canada. But we're talking about citizenship now. This would alleviate that?

Mr. Daniel Jean: Right now if somebody commits a crime outside of Canada and is eligible for citizenship, we do not have a way to bar them from citizenship, although the same person who commits the same crime in Canada is subject to three years from the end of the sentence.

Mr. Lui Temelkovski: You mentioned earlier that the citizenship process takes about 16 to 18 months.

Mr. Daniel Jean: Yes, right now.

Mr. Lui Temelkovski: Do you see having these provisions to be able to check or verify somebody's criminal record outside the country as increasing the flow of processing or maybe keeping it the same or decreasing it?

Mr. Daniel Jean: We do not think it's going to have a major impact on our processing capacity. It's going to have a minor impact, but we don't think it's going to be a major impact.

In the meantime, hoping that we still have the credits to do so, we are continuing to apply measures to reduce the inventory of citizenship applications in Canada. We are aiming to try to bring the processing time to 10 to 12 months.

Mr. Lui Temelkovski: Is the process being decreased by hiring more citizenship judges, or is it an administrative decrease?

Mr. Daniel Jean: It's primarily by putting more resources into our centralized operation in Sydney, where all citizenship applications start, and by having more resources available across Canada for citizenship ceremonies. That may not mean more citizenship judges, but it will mean certainly more citizenship ceremonies and larger ceremonies. Those are the kinds of measures we've taken.

Mr. Lui Temelkovski: We look forward to having ceremonies like that in our community. We had one this summer, and it was very well received. It was organized by the mayor of one of the towns in my riding, which is Markham, by the way.

The Chair: Thank you.

Mr. Hanger.

Mr. Art Hanger: An individual comes to Canada, claims refugee status, and maybe has some controversy swirling around his activities where he came from. He is given landed status and then given citizenship, even though there are controversies swirling around in his background and even though there may be investigations going on. I can relate to that situation because of one person I know in particular. He is suspected of genocide in his own country and yet was granted citizenship here in Canada.

In situations like that, and I would assume this bill and this law would apply in some fashion, even though this man has not been charged officially and there is an ongoing investigation—you can appreciate that we're faced with this situation all too often in our world, unfortunately, where genocide is taking place in many, many places—the bill really doesn't touch him and many like him, until there's an investigation and charge laid.

Mr. Daniel Jean: You're absolutely right, Mr. Hanger, that the bill is about finality, so it's for people who would have been convicted of a crime or have been charged with a crime. The situation you described would be somebody who is suspected of crimes against humanity, genocide.

Normally, assuming that we had the information available, we would try to deny admission to that person, even if they claimed refugee status. We would try to deny admission during the refugee proceedings. As a matter of fact, if we had the information available that these people had been involved in genocide right at the beginning of the process, they would be probably declared ineligible and would only be entitled to what we call a pre-removal risk assessment rather than to having the full refugee proceeding.

Now, it's quite possible that they've managed to hide the information from us or they've managed to misrepresent that information. Maybe they have had a refugee hearing, received protection, received permanent residence because that information never came to light. If it comes to light after they've obtained permanent residence, there again we have measures by which we can basically report them and try to take measures to take away their permanent residency.

In the same context, if they misrepresented facts and acquired citizenship—so one step further in the continuum—and we have never been made aware that they had been involved in genocide, and if we had known that, they would not have been entitled to come into the citizenship family, then we have the revocation process as a possibility, to go and remove the process. But all of that is contingent on our having the information to substantiate that indeed they fall within an inadmissible class, and if we had known that information, it would have been the case.

• (1655)

Mr. Art Hanger: So looking at it and breaking that down to individuals involved in the huge crime, of course, of genocide, where so many might lose their lives, to individuals committing murder or maybe associated with the broader picture of this type of activity of genocide, how are you going to sort through all of that? Undoubtedly you will have applicants applying, or maybe even individuals here already, who have been engaged in that kind of activity, and you may be uncertain. If you're uncertain about their activity, what do you do?

Mr. Daniel Jean: There again, that is not a situation where this bill would apply, because unless they've been convicted, we're not talking about criminality. But in a situation like the ones you're describing, when there are strong allegations that they may have been involved in genocide, we will work with our partners, whether they are partners in Canada—so it could be CSIS, or it could be the RCMP, because usually on the war crimes side the RCMP has the mandate—or foreign partners, in trying to ascertain whether there is credence to the allegations. If we are able to establish that these people have been involved in genocide and have misrepresented these facts, we will take action against them.

The Chair: That's the citizenship revocation section.

Mr. Art Hanger: I'm aware of that. Thank you, Mr. Chairman

The Chair: Madame Faillie.

[*Translation*]

Ms. Meili Faillie: The 1977 Citizenship Act does not take into account this type of charge or conviction abroad. Why was no provision made for this at the time?

Mr. Daniel Jean: Because in most cases, at the time, people immigrated, became Canadian citizens and stayed here. We did not have this type of situation.

Ms. Meili Faillie: Thank you.

[*English*]

The Chair: Thank you.

Mrs. Diane Ablonczy: I have two questions, Mr. Chairman.

The Chair: All right.

Mrs. Diane Ablonczy: The first one is again with respect to the lost Canadians. You mentioned the example of the person who's applying for citizenship in Montreal or Boston. With the lost Canadians, it's the opposite. If someone is in Canada as a citizen and has committed a crime, then that person is dealt with under Canadian law, but they don't lose their citizenship. You're saying that if a lost Canadian has committed a crime in another country, they can be barred from having citizenship. We want to make the lost Canadians

automatically citizens and deal with all citizens as our own criminals. I believe this bill would stop us from doing that.

Could you comment on that?

• (1700)

Mr. Daniel Jean: I think it's important that I take you back to what Bill S-2 did. Bill S-2 basically extended a grant of citizenship to the lost Canadians, as you refer to them. What this means is that it's a grant of citizenship, so everything that exists in the current Citizenship Act applies. So if you have a lost Canadian who happens to be in Montreal, Toronto, or Vancouver, and has had a conviction in Canada in the last three years, when he applies for citizenship under Bill S-2, he is prohibited. A different person with the same crime, in Boston or in London, England, is not barred, because the current act doesn't have foreign prohibitions. That's why we're saying that right now, the person who has a foreign crime in the last three or four years is actually advantaged versus the person who is in the same situation in Canada.

Mrs. Diane Ablonczy: What we're saying is that crime shouldn't be a bar to lost Canadians, and this bill would make it a bar.

Mr. Daniel Jean: But Bill S-2, as it's been adopted, is a bill that extends a grant of citizenship, and all other rules, including prohibitions, apply. So if the crime had been committed in Canada, the person would be prohibited.

Of course, it's a prohibition for a period of three years, and once the three years has elapsed, they can apply.

Mrs. Diane Ablonczy: The other question I have is a larger question. As you know, the House passed Bill S-2, which would restore citizenship to lost Canadians, but there hasn't been action on it. The process is very slow. We fought hard for a remedy. We had an all-party agreement for a remedy, but now it comes back to us that these applications are not being processed on any kind of a timely basis, let alone on an expedited basis. I think the committee needs to have an explanation.

Mr. Daniel Jean: I know we already have received 30 applications under Bill S-2. We've had discussions with some of the people who voted in favour of Bill S-2 to try to make sure we were facilitating access to people who wanted to apply. In terms of trying to facilitate the processing, I'll have to see what's done, but I know we did make a number of efforts after Bill S-2 was adopted to try to make sure it was going to be operational.

Mrs. Diane Ablonczy: Can you give the committee some idea of a timeframe that we could expect, so that we could see if we think it's reasonable?

Mr. Daniel Jean: Timeframe—you mean for a case to be processed?

Mrs. Diane Ablonczy: Yes, for the citizenship to be restored.

Mr. Daniel Jean: What I would like to do is go back and see where these 30 cases are in the process and how long it's going to take in particular.

I know that when Bill S-2 was adopted, the first thing we did was make sure we were operationally ready to implement Bill S-2. We had discussions with people like Mr. Chapman and others to make sure we were extending access to people who fell into that category, so that they knew what they needed to do—knew what forms to fill out to submit the applications. My understanding is that we have 30 applications so far. I'm going to try to come back in writing and tell you where they are in the process and what's being done.

Mrs. Diane Ablonczy: The thing we're really interested in is what kind of timeframe you're working on. Can we expect these to be processed in three months, or six months, or six years? We need to know what the processing times are going to be.

The Chair: I think there is a feeling on committee that in the case of the lost Canadians, we did something that righted a previous injustice. As far as we're concerned, they shouldn't have lost their citizenship in the first place; this is righting a wrong, and it's not like they get in the queue with everybody else. These are people who have had a problem re-establishing their status. We would like to see that facilitated.

Madame Faillie.

[Translation]

Ms. Meili Faillie: I would like to ask you a question just to be cautious. You will understand why once I have described the situation. The two bills will come into force on a day to be fixed by order of the Governor in Council. Since we know that in the case of the IRPA, the government had promised that the refugee appeal section would be run according to the same provisions, and since we know now that this will not be happening, can you assure us that once it receives royal assent, this bill will be enforced and can you tell us when that will happen? Are you prepared to implement these provisions in your operations?

• (1705)

Mr. Daniel Jean: I think Mr. Siksay asked me this question at the beginning of the meeting and that I answered it. There are some very specific reasons with respect to the appeal section, and I think the minister has already spoken about that. Why do we normally proceed by means of an order in council? The reason is that we want to give ourselves enough time to put these provisions in place. I think there are many stakeholders who want to see them in place. The department has spoken in favour of these provisions, and they were included in Bill C-18, which died on the *Order Paper*. If the bill gets royal assent, we intend to implement these provisions as soon as possible.

Ms. Meili Faillie: When the bill amending the IRPA was passed, the government was also in favour of setting up the appeal section. I would not want people to think that this bill is an empty shell. We will probably work to put forward amendments to the bill or to pass the bill, but once it obtains royal assent, we need to move on to the next stage, the regulations.

[English]

The Chair: Yes, that is a concern.

Well, I would like to thank you all for coming. If you can get us the lost Canadians information by Thursday, we'd appreciate it. We'd like to put a bow on it, seeing the degree of frustration that we have

with not getting done what we thought we were going to get done in this Parliament.

Thank you very much. Take back that case of the Canadian citizenship that was restored or the proof that was gotten very quickly. That's a great model that will make everybody on the committee very happy.

Mr. Daniel Jean: Thank you, Mr. Chairman.

The Chair: Thank you.

Now, for the committee, in terms of Thursday, perhaps we could have a bit of a discussion as to what we'll do Thursday.

Do we go in camera for it?

The Clerk of the Committee (Mr. William Farrell): No. I invited the Canadian Bar Association, but they can't make it. They are interested. When the bills come back, they would appear.

Ms. Meili Faillie: On Thursday, do you need more witnesses on this bill?

The Chair: No, but it's another committee, and if there's something the committee would like to do on Thursday, any particular...

An hon. member: Wine and cheese.

The Chair: Wine and cheese, yes.

An hon. member: The family reunification group.

The Chair: Okay. Well, realistically....

Oh, by the way—

Mrs. Diane Ablonczy: I think it's realistic.

The Chair: —just so everybody knows, on Tuesday we have debate scheduled on Bill C-283, because apparently when we don't pass the bill back on, then there's an hour's debate. That's on Tuesday. If it takes place, they phone me.

Mr. Lui Temelkovski: I thought Bill C-283 was gone.

The Chair: Well, yes, but the process is that when the bill doesn't

Mr. Art Hanger: Concurrence in the report.

The Chair: Yes, to get concurrence in the report.

Mr. Art Hanger: Mr. Chairman, are you going to be here by yourself, or what?

The Chair: Well, no, I'm just letting everybody know that's been scheduled.

And on Friday, I'm looking forward to the tabling of the revocation.

Mrs. Diane Ablonczy: We should have the minister back.

The Chair: Yes.

Mr. Bill Siksay: Mr. Chair, I still live in hope that there'll be some acceptance of the compromise that's been put forward, which would allow us to continue work through December. So I live in hope that's a possibility.

•(1710)

The Chair: I certainly was looking forward to getting these pieces of legislation through the House. As you know, it's a cruel irony that on Friday my favourite part of the bill will get tabled.

Okay, we could come back and do the family reunification, and see if we can—

Mr. Lui Temelkovski: Mr. Chairman, maybe on Thursday we can have lunch together, instead of a meeting. I think that may be the last supper.

Mr. Rahim Jaffer (Edmonton—Strathcona, CPC): We can get the minister and get some pizza.

Mr. Lui Temelkovski: You don't need expensive pizza. It's not good for your health.

Mrs. Diane Ablonczy: I actually think that's a good idea. Sadly, I won't be there.

Ms. Colleen Beaumier: You're not going to be here Thursday?

Mrs. Diane Ablonczy: As it now stands, I have a long-standing commitment on that day.

Ms. Colleen Beaumier: Isn't the meeting over?

The Chair: Not yet.

The meeting is adjourned.

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