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Chair

Mr. David Tilson

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•(0915)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good morning, ladies and gentlemen.

This is the Standing Committee on Citizenship and Immigration, meeting number 76. It is Thursday, April 18. This meeting is televised. We are studying Mr. Shory's private member's bill, Bill C-425.

We have one witness. We will be going for one half-hour. Our witness is B'nai Brith Canada. Mr. David Matas is the senior honorary counsel. He has appeared before this committee at least twice that I can think of. We also have Marc Chétrit Rieger, who is the legal counsel. Good morning to you, gentlemen.

Mr. Chétrit Rieger, I gather you're going to introduce the program. You have up to eight minutes to make a presentation.

[Translation]

Mr. Mark Cherit (Legal Counsel, B'nai Brith Canada): Good morning. My name is Marc Chetrit Rieger. I work in Montreal as a criminal and human rights lawyer. I also have a master's degree in international law from the Sorbonne.

[English]

B'nai Brith Canada has been active in Canada since 1875 as the Jewish community's foremost human rights agency.

[Translation]

I will turn things over to my colleague, who will expand on the brief we submitted on behalf of B'nai Brith Canada.

[English]

David Matas is an immigration and refugee lawyer from Winnipeg. He is the senior counsel for B'nai Brith, and he was awarded the Order of Canada in 2010.

David.

Mr. David Matas (Senior Honorary Counsel, B'nai Brith Canada): Thank you very much.

I've prepared a 15-page brief, which I gather has been circulated to the committee. To start, I'll go through the recommendations at the end. I have seen the proposed amendments and they have been helpful.

The brief makes 10 recommendations. The first is that the bill encompass all acts of war or acts of armed conflict rather than just

attacks on Canadian Armed Forces. I can see that the amendment picks up that suggestion.

The second proposal is to apply the bill only to citizens of a country other than Canada and not to legal residents of a country other than Canada, when it comes to laws of citizenship. Again, the proposed amendment to the bill picks that up.

The third proposal is to not apply the bill to persons born in Canada whose primary connection is Canada. That's not something in the amendments.

I'll point out that the bill right now could potentially apply to somebody who was born in Canada, has never left Canada, and has no connection with the other country of citizenship other than the fact that, potentially, one of the parents is a citizen and had that citizenship passed on. That parent may never have been to that other country in his or her life and may not speak the language of that country.

We have to think about what would happen if other countries were to pass the same legislation we did. I think we would be dismayed if we found another country shipping to our borders someone who doesn't know English or French, has never been here, and has committed an act of terrorism abroad.

The fourth proposed change is to change the consequences of the acts encompassed by the bill from deemed application for renunciation of citizenship to revocation of citizenship. One of the anomalies of the bill was that it was in a deemed application. The amendment, to a certain extent, corrects that by saying you can't withdraw the application. We still have terminology that doesn't reflect reality. This is not an application for renunciation. It is revocation, and it should be called revocation, simply to use language that conforms to the reality. Another reason, which I will get to later, is that we should have the same procedure for the same consequences.

The result of the different labelling—and this has to do with the fifth recommendation—is that we have different procedures for this type of revocation than we do for other types of revocation. For this type of revocation, which is a deemed renunciation, there would be a decision by the minister and then access to the Federal Court by way of judicial review. For other types of revocation already in the act, the issue goes to the Federal Court on the merits of misrepresentation. It's our position that in both cases the procedure should be the same and should use the same terminology.

We also say—and this is recommendation 6—there should be a removal order issued within the same procedure as the revocation or deemed renunciation. There should be consolidation of proceedings. This government proposed this in Bill C-37 in a previous Parliament. It was also a proposal to a previous government, in Bill C-16, that revocation and removal be consolidated. The way it stands now, if this bill is enacted, you'll have a revocation, but the person will still be in Canada. So there would have to be some consideration of removal procedures.

B'nai Brith has had extensive experience with revocation. Our experience is that revocation alone is not sufficient to deal with the problem the legislation is directed towards. One has to consider removal, and removals have not been working well in conjunction with revocation.

● (0920)

The seventh recommendation is to limit the ground of revocation or deemed renunciation relating to acts of war or armed conflict to personal participation in such an act or membership at the time of war or armed conflict. This component of the law, for membership at least, must be prospective only. Right now we have it, even with the amendment going before the bill, as well as after the bill, and not limited to membership at the time of the armed conflict.

This is an issue that arises very often in immigration, where membership before the act or after the act is sufficient to allow for loss of status, and presumably that jurisprudence would be carried forward here. If somebody is a member before the act or after the act, but not at the time of the act—and particularly if that's the case before this legislation is passed—it would be improper to revoke citizenship or deem renunciation.

The eighth proposal is to provide as an exception to the ground of revocation/deemed renunciation for conviction for having committed an equivalent foreign terrorism offence that the conviction was imposed in disregard of accepted international standards. Again, that's an exception in the Immigration and Refugee Protection Act for the refugee protection definition. Right now the bill proposes that you could lose status for having committed a foreign terrorism offence, even if there was a conviction for that offence abroad, even where that conviction was imposed in disregard of accepted international standards. The reality is that many repressive governments accuse their opponents of being terrorists, and convict them of being terrorists, when the real crime is being opposed to the repressive government in place, and one has to make some allowance for that.

The ninth proposal would expand the grounds of revocation/deemed renunciation to include complicity in war crimes, crimes against humanity, terrorism, and genocide. Right now we are limited to armed conflict and a few other specifics. We believe the concept applies, and should be applied, to these other grave international human rights offences.

Finally, we propose authorizing revocation/deemed renunciation only where prosecution is not reasonably practical, because revocation/deemed renunciation is a remedy, but for some people who are already living abroad, it doesn't have much of an impact, and prosecution, if it's available, is preferable in terms of its deterrent effect.

● (0925)

The Chair: Thank you, Mr. Matas.

Mr. Shory.

Mr. Devinder Shory (Calgary Northeast, CPC): Thank you, Mr. Chair, and thank you to the witnesses for coming this morning.

Mr. Chair, as everyone knows, this bill is based on my three beliefs: I believe in more pathways to integration; our troops deserve the highest respect; and in my view, Canadian citizenship is a privilege that deserves the highest esteem.

Mr. Chair, I appreciate the committee members' taking this bill very seriously and putting in all their time. I also appreciate the witnesses for their input, and specifically those witnesses who lost their loved ones in this kind of activity. They had to listen to all the other witnesses, to an extent, with my colleagues from the opposition basically shrugging away the victims' concerns and trying to defend offenders, I would say.

In my view, Mr. Chair, the individuals who attack those who give their lives or put their lives on the line to defend Canadian values, to defend the rights we enjoy here, should not have any right to Canadian citizenship or the privileges that come with that citizenship.

Mr. Matas, as you know, eighty percent-plus Canadians from coast to coast to coast have supported this bill, and of course your organization has supported my bill—I thank you for that. On top of that, during break weeks, etc., I had an opportunity to meet numerous Canadians from numerous provinces, and I have not found one single Canadian who would not support the intention of my bill, which basically says that those who protect our privileges and the rights that come with citizenship should have the right to citizenship as well.

I have attended all the meetings during this bill's study in this committee, and it saddened me, to an extent, when I saw some witnesses—and, as a matter of fact, some of my colleagues—suggesting that there is no due process in my bill. For the benefit of those members and, if they are watching, those witnesses, assume that section 18 of the Citizenship Act simply puts up the process under which the minister is obligated to, first, notify the person or individual affected. Then there is a judge who will make a decision, and that decision is appealable in the Federal Court. On top of that, the minister will also have the right or authority to change that decision.

My question, Mr. Matas, is very simple today, because we are talking about the bill and the assumed amendments, which I have to go through minutely.

In your view, once someone is convicted of any of these offences—terrorism, act of war, or, as you call it, armed conflict, or whatever we eventually call it—what minimum sentence should be required to apply to that convicted individual?

Mr. David Matas: What should be the minimum sentence, meaning the—

Mr. Devinder Shory: What will happen, Mr. Matas—and this is my understanding and this is my intention—is that once someone gets involved in the actions to attract my bill, which is terrorism or, as you talked about, an act of war, that individual has to go through the criminal procedure here in Canada. Obviously, that person will be convicted. Once that individual is convicted, what minimum sentence should apply? Do you think the minimum should be ten years, five years, two years, or one day? Do you have any opinion on that?

• (0930)

Mr. David Matas: The amendment says sentenced to at least five years, in proposed paragraph 5(g), and for an equivalent offence it would also be five years—that's paragraph (c).

Mr. Devinder Shory: Mr. Matas, let me ask you this directly. In your view, should it be five years, or less, or more?

Mr. David Matas: The issue of what the minimum sentence should be is not an issue that B'nai Brith has taken a stand on.

I noticed you referred in your preamble to the due process, and that's something we did address in the bill. I appreciate that there is a process. As you point out, there is the section 18 process.

The concern we have is that that's a different process from the process for revocation for fraud and misrepresentation that exists now. We should have a uniform process for revocation. It shouldn't be a different process depending on the grounds of loss of citizenship. It just gets too confusing.

As well, the process we have for revocation now, in my view, is a better process than the one that's set out in section 18. It goes straight to the Federal Court, rather than to the minister, the citizenship judge, and then to the Federal Court by way of judicial review, which is a lot more limited review.

I would encourage an amendment to the bill to have the same process for loss of citizenship under this bill as already exists for loss of citizenship under the Citizenship Act.

Mr. Devinder Shory: Mr. Matas—

The Chair: You're out of time. I'm sorry.

Ms. Sitsabaiesan.

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): Thank you, Mr. Chair.

I want to start by saying thank you. I think all of us, as parliamentarians, have a fiduciary responsibility to ensure we are doing our best to write legislation that is sound and is not in contravention of Canadian values or principles. With that in mind, I'd like to once again thank you. Your submission is very thorough.

Mr. Matas, in your opinion, will those with dual citizenship be targeted for further scrutiny if this bill is actually passed?

Mr. David Matas: Certainly people with dual citizenship would be in a different situation from people with single citizenship. They would become vulnerable to this type of revocation or deemed renunciation, which persons with single citizenship would not become subject to.

I suppose it's true now that people who are not born in Canada and come into Canada can potentially lose citizenship through

misrepresentation, which obviously somebody who is born in Canada could not. But this expands the potential vulnerability of people with more than one citizenship.

Ms. Rathika Sitsabaiesan: Thank you.

You spoke quite a bit about the revocation of citizenship for people who were born in Canada, and only know Canada as home, but may have dual citizenship.

Canadian citizens who are convicted outside of Canada of certain offences that are equivalent to offences in Canada are the people I'm going to talk about right now. The concern that many other witnesses in previous meetings have brought up is particularly of countries that do not share the same type of respect for judicial due process as Canada does, or rule of law or human rights.

Are there any safeguards in this bill to protect these individuals?

Mr. David Matas: The answer, in a word, is no, not in the bill itself.

• (0935)

Ms. Rathika Sitsabaiesan: Do you have any recommendations that you'd like to—

Mr. David Matas: Yes. We propose the phrase for an exception where the conviction was imposed in disregard of international standards. That's recommendation 8.

That phrase is drawn from the current Immigration and Refugee Protection Act. That phrase is found in section 97 of the act. The way the present law works is that you cannot get refugee protection if you've been convicted of a serious criminal offence abroad, except for an offence that was imposed in disregard of international standards. It would mean using that phrase in this context. That's what we're proposing.

Ms. Rathika Sitsabaiesan: Okay.

If I heard you correctly, you mentioned that recommendation 8 is actually language that you borrowed from IRPA itself?

Mr. David Matas: Exactly.

Ms. Rathika Sitsabaiesan: Okay.

We heard from witnesses previously that this is really creating two classes of citizenship, those who are born Canadian and those who are naturalized Canadians.

Would you like to comment a little bit further on that?

Mr. David Matas: Of course one would hope that most dual citizens would not be involved in these types of acts, so I wouldn't say that every dual citizen is somehow tarred by this brush. But we are dealing with serious offences and they need to be treated seriously.

Our first position, and what's preferable, is that people should be prosecuted. That's why we put in, as the last recommendation, that it should be preferred where "reasonably practicable". It should be the first option.

But when you're dealing with a serious offence, I think it's important to bring the perpetrators to justice. It may well be that prosecution is not a viable option in those situations. I wouldn't say, well, we can't prosecute and we're not going to do anything. I think we have to use every legal means available to bring to justice the people who have committed these grave acts.

Ms. Rathika Sitsabaiesan: Along those same lines, I 100% agree with you that the majority of our dual citizens in Canada, and the majority of the people in Canada, are law-abiding citizens.

With this bill, with the revocation of citizenship, Canada as a country actually loses the jurisdiction to be able to prosecute. This is what we learned from a human rights lawyer, a professor, at the last meeting.

Is it important for Canada to maintain that ability to prosecute?

Mr. David Matas: In the Canadian criminal jurisdiction for prosecution, the basic principle is territoriality, not personality. We would maintain an ability to prosecute.... I mean, we can prosecute foreigners who commit crimes in Canada. They don't have to be citizens of Canada. We can extradite people from abroad, whether they're citizens of Canada or not, for prosecution here if we have other jurisdictional ties.

Our position is that you do prosecution if you can, but if you can't, then.... I'm not even sure that worrying about maintaining the ability to prosecute is that valuable.

Ms. Rathika Sitsabaiesan: Thank you.

I'm going to pass the rest of my time to Sadia.

The Chair: You have about 30 seconds.

[*Translation*]

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Right.

Thank you for your presentation.

I have a question about what you proposed. You said:

The right to citizenship is a constitutional right.

Revoking citizenship for whatever reason of a person born in Canada, raised in Canada, whose primary connection is Canada is arguably a violation of the constitutional right to citizenship.

Could you please expand on that?

[*English*]

Mr. David Matas: Sure. The Charter of Rights and Freedoms has rights granted to citizens. Section 6, for instance, says that every citizen has the right to remain in Canada.

As well, because the word "citizen" is embedded in the Constitution, it has constitutional significance. It is not necessarily limited or defined by the way the Citizenship Act defines it. There's jurisprudence in other countries.

In the United States, for instance, its Supreme Court has developed a constitutional jurisprudence—

• (0940)

The Chair: We have to move on.

Mr. David Matas: —on the meaning of citizenship, which is different—

The Chair: We have to move on, sir, I'm sorry.

Mr. Lamoureux.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Thank you, Mr. Chair.

Mr. Matas, it's great to see you here this afternoon.

When Mr. Shory introduced the bill—and we were there for second reading. I had always thought that the big push during second reading was to try to recognize the importance of landed immigrants who come to Canada, and that if they joined the forces, their citizenship requirement would be reduced from three years to two years.

Shortly thereafter, the members started to get a bit of attention or play on it. We had a Minister of Immigration who thought he would possibly exploit this particular bill's position on the order paper and bring in a totally different agenda. Now the focus seems to be more on terrorists and taking away citizenship, as opposed to bringing in his own bill. I suspect we will have a great problem with it because it denies us the opportunity to have a good, thorough discussion about what the government, as opposed to this particular private member, might be trying to do.

The charter does give rights to Canadian citizens, and they do have a right to be able to remain in Canada. With some of the suggestions that are being made in terms of potential government amendments, we could see that issue, in particular where there is dual citizenship. As you pointed out, someone could be born, raised, and spend their entire life here in Canada, and then maybe marry someone from another country, and as a result, that individual, because he or she has dual citizenship, could have their citizenship taken away.

Given your background, do you see any potential charter issue here? I would think I would have a right to my citizenship if I were born and raised here and had never experienced any other country. The only reason I might have access to another citizenship is through marriage or something of that nature. Do you see the establishment of two-tier citizenship here?

Mr. David Matas: I was interested in your comments about the process, which relates to your question. I'll try to connect the two.

There's been a long history—over 10 years now—of various governments introducing amendments to the Citizenship Act to deal with revocation, for example, Bill C-16, Bill C-18, and Bill C-37, which have some good suggestions in them that we like. We've proposed that some of them be incorporated in here.

It's of some concern to us that all these proposed amendments—which would change the revocation process, which is not working now—are put aside, and instead we have this bill. There are some good things in the bill, and we support many of the components of it, but because it's a private member's bill—and this is a point your colleague Irwin Cotler has mentioned—it doesn't go through Justice charter scrutiny the way government bills do.

To answer specifically, yes, there's a charter right of citizenship, which is not limited necessarily to the way citizenship is defined in the Citizenship Act. It's open to anybody who loses their citizenship to say that this is a violation of their charter right to citizenship, regardless of what the Citizenship Act says.

I can't tell you whether a charter challenge like that is going to succeed or not, but it's certainly potentially there.

Mr. Kevin Lamoureux: In terms of that process being a government bill and the requirement to have some sort of a charter test done on it, would you suggest this is something on which there should be some sort of a legal opinion coming from the Department of Justice, as to whether or not it would meet a charter challenge? Should the government be concerned in any way with regard to what they're doing in terms of conflicting with the Charter of Rights?

• (0945)

Mr. David Matas: I suppose all members of Parliament should be concerned at all times about that issue, absolutely.

I would say that generally, when the government endorses a private member's bill, it would be useful to have a Justice charter scrutiny on it. Of course we have some whistle-blower litigation right now indicating there's been a problem with that scrutiny, and it could probably be enhanced, but it certainly is better than having none at all.

The Chair: I'm sorry, the time has come to an end.

Mr. Chétrit Rieger, I hope I have said your name correctly finally

Mr. Marc Chétrit Rieger: Sure.

The Chair: —and Mr. Matas, we appreciate your coming and giving your comments to the committee on behalf of B'nai Brith. Thank you very much.

Mr. Marc Chétrit Rieger: Thanks for having us.

The Chair: Okay.

We will suspend.

• (0945)

_____ (Pause) _____

• (0945)

The Chair: We will reconvene.

We have representatives from the Department of Citizenship and Immigration, all of whom have been here before.

As well, we have a representative from the Department of Justice, Mr. Glenn Gilmour, who is a lawyer with the criminal law policy section. I think you have not been here—though maybe you have—but welcome.

All of you have up to 10 minutes to make a presentation, which I gather is going to be made by Madam Girard.

You may start.

Ms. Nicole Girard (Director General, Citizenship and Multiculturalism Branch, Department of Citizenship and Immigration): Thank you.

[*Translation*]

Good morning, Mr. Chair and members of the committee.

[*English*]

My name is Nicole Girard. I am the director general responsible for the citizenship and multiculturalism branch at Citizenship and Immigration Canada.

As the chair has mentioned, I am accompanied here by my colleagues, Ms. Mary-Ann Hubers, acting director of legislation and program policy; Mr. Eric Stevens, legal counsel for CIC; and Mr. Glenn Gilmour, legal counsel at DOJ.

I'd like to thank the committee for providing us with this opportunity this morning to contribute to your discussion of MP Shory's private member's bill.

As you are aware, the bill consists of two key elements. First, the bill proposes to fast track citizenship for members of the Canadian Armed Forces who are permanent residents by reducing the residence requirement for citizenship by one year for members.

The second element of the bill, which has generated quite a bit of discussion, consists of provisions that would deem a person to have applied to renounce their Canadian citizenship or to have withdrawn, in the cases of permanent residents, their application for Canadian citizenship if they engage in an act of war against the Canadian Armed Forces.

I'd like to take just a few minutes to address some of the concerns raised by the committee members, other witnesses, and stakeholders over the course of recent hearings. These include concerns about the term “act of war”, concerns about statelessness, and some of the issues raised about due process.

First of all, concerning an act of war, as the committee has heard, the term “act of war” is problematic. This is because there is no clear definition in law of the term “act of war”. As a result, the term “act of war” would be very difficult for us to apply and could render the deemed renunciation provisions in the second part of the bill ineffective.

To address this issue and to ensure that the bill achieves its intent, Minister Kenney proposed that the committee consider amending the bill by replacing the reference to persons who commit an act of war and specifying instead that the act would apply to persons who have served as a member of an armed force of a country or any organized armed group engaged in an armed conflict with Canada; have been convicted of high treason under section 47 of Canada's Criminal Code; have been sentenced to five years or more of imprisonment for a terrorist offence as defined in section 2 of the Criminal Code, or an equivalent foreign offence for terrorism; or have been convicted of specific offences under the National Defence Act involving traitorous or terrorist acts.

These amendments would be in line with one of the main objectives of the bill, which is to deprive or deny citizenship to those who commit acts of violence and treason against Canada.

• (0950)

[*Translation*]

It is worth noting that similar provisions existed under the 1947 Canadian Citizenship Act.

[*English*]

Under that act, for example, Canadians could have their citizenship taken away if they committed acts of treason, if they served in the armed forces of another country that was at war with Canada, or if they unlawfully traded or communicated with the enemy during a time of war.

Under the current act, as was noted this morning, citizenship can only be revoked in cases where it has been obtained by fraud. Other democratic countries have analogous legal provisions to deprive people of their citizenship for reasons of treason or terrorism. For example, citizens of the United States can be deprived of their citizenship for being a member of an armed force at war with the United States and/or following a conviction for high treason. Australia also has a provision where citizens who become members of the armed force of a country at war with Australia can be deprived of their citizenship.

With regard to statelessness, the committee has heard and expressed concerns that Bill C-425's provisions could render people stateless. The deemed renunciation provisions, as currently written, would apply to dual Canadian citizens as well as legal residents of a country other than Canada. The challenge with this is that the potential result is that a Canadian citizen who is a legal resident of another country but who does not have another citizenship to fall back on could be rendered stateless. This would be in contravention of the 1961 Convention on the Reduction of Statelessness, to which Canada is a party.

To ensure that Canada respects its international commitments in this area, Minister Kenney asked the committee to consider an amendment to ensure that only Canadians with dual citizenship, whether they were born or naturalized in Canada, would be deemed to have renounced their Canadian citizenship. It's important to note that similar provisions to take away citizenship in other countries, such as in the United Kingdom, Australia, and New Zealand, also include restrictions to apply such provisions only in cases where it would not lead to someone becoming stateless.

With regard to due process, concerns were also raised in this area under the proposed bill and ensuring there would be appropriate safeguards in place. Under the current act, citizenship judges, who are independent decision-makers, are the decision-makers for renunciation cases. As the minister explained, for deemed renunciation of citizenship under this bill, the appropriate legal safeguards would be in place. CIC would gather available information to determine if the deemed renunciation provisions apply. The individual would then be notified and given an opportunity to provide additional information relevant to the decision. A citizenship judge would then make the decision as to whether or not individuals are deemed to have renounced their citizenship. In addition, individuals would be able to seek review by the Federal Court of a decision to take away citizenship.

Concerns were raised with regard to the possibility—and it was mentioned this morning—that an equivalent terrorism conviction may be from a country where there are questions about the independence of the judiciary or where membership in an armed force may have been the result of coercion. As the minister explained, to ensure that individuals in these situations are not unfairly penalized, the minister would retain discretion not to pursue applications for deemed renunciation for individuals, for example, where they may have been compelled to do something against their own volition. Such a provision would be in line with discretionary provisions under the Immigration and Refugee Protection Act.

Once again, Mr. Chair, I wish to thank you for inviting us to appear before you today. I hope these remarks have been helpful, and we would be happy to answer your questions.

[*Translation*]

Thank you.

• (0955)

[*English*]

The Chair: Thank you for your presentation, Ms. Girard.

Mr. Dykstra has some questions.

Mr. Rick Dykstra (St. Catharines, CPC): Thank you, through you, Chair.

One of the repeated questions that has been asked of witnesses seems to be perhaps what I feel to be a misinterpretation of the words. One is renunciation and the other is revocation. I'm wondering if you could just briefly explain the differences between those two.

Ms. Nicole Girard: Thank you.

There are some key differences. This bill opens up section 9 of the act, which relates to the renunciation of citizenship. The key differences between renunciation and revocation of citizenship under section 10 of the act are as follows.

Canadian citizens can renounce their Canadian citizenship, whether they were born in Canada, whether they were born abroad to a Canadian parent as a Canadian citizen, or whether they're naturalized citizens. That decision is made by an independent decision-maker who is a citizenship judge.

This contrasts with section 10 of the act, which is the revocation provisions. The revocation provisions only apply in cases where citizenship has been obtained by fraud, and the revocation provisions only apply to naturalized citizens.

The third difference is that in fact it's not the Federal Court that makes a decision on revocation cases. That is a decision made by cabinet. The step of the Federal Court is an interim step, but revocation decisions are made by cabinet.

Mr. Rick Dykstra: Thank you very much. It's excellent to identify the differences.

The second is, again, that questions come up with almost all witnesses on the whole issue around charter compliance. In terms of reviewing a government piece of legislation and the legislation in a private member's bill, each individual ministry does indeed look at charter compliance. I'm wondering if you could comment on that.

Ms. Nicole Girard: That's absolutely correct. I'll make a couple of comments and then I'll ask Mr. Stevens to add comments if he wishes.

We do that review. I think the question has been raised at this committee with regard to whether these provisions would be applying equally to Canadian citizens, and they would. A number of witnesses have taken pains to point out that the bill would address Canadian citizens equally, regardless of whether they were born Canadian citizens in Canada, or to a Canadian parent abroad, or whether they're a naturalized Canadian citizen.

Mr. Stevens, would you like to add some comments about the charter aspect?

Mr. Eric Stevens (Counsel, Legal Services, Department of Citizenship and Immigration): Okay. There may be a slight misunderstanding here.

While it's true that the private member's bill is not drafted by the Department of Justice and therefore doesn't go through our process, what we're dealing with here is a situation where the issue that is most contentious, I suppose, is provisions about loss of citizenship. The minister has appeared and has suggested replacing the provisions that are in the private member's bill with a series of amendments. Now, all of those amendments have been drafted and approved by the Department of Justice and therefore have gone through the charter compliance test.

Mr. Rick Dykstra: Thank you very much.

One of the aspects of the amendments includes a provision for where a minimum sentence would be five years. When we went through Bill C-43 in terms of the issue surrounding the faster removal of foreign criminals, we actually lowered the bar in that regard to make it six months for serious crimes.

I wondered about your thoughts on a position in terms of how the amendments speak specifically to the length of time. If, for example, a judge were to hand out a sentence of five years less a day, would we still, based on the amendments, be able to have that individual say or state that they've actually renounced their citizenship?

• (1000)

Ms. Nicole Girard: The short answer to that question is no. The amendments to the bill contemplate a threshold of a minimum of five years. Where a minimum of five years or more is imposed, someone could be subject to the provisions of the bill, but not in a situation of five years less a day.

Mr. Rick Dykstra: Perhaps you could just comment on why the amendment suggests five years and why that was determined as a threshold.

Ms. Nicole Girard: As members of the committee may be aware, terrorism offences under the Criminal Code cover a wide range of conduct. There is a maximum range for the offences, and it varies. For example, participation offences, which involve the offence of knowingly participating in any activity of a group for the purposes of

enhancing the ability of a terrorist group to carry out a terrorist activity, have a maximum punishment of 10 years. The offence of knowingly facilitating a terrorist activity has a maximum punishment of 14 years' imprisonment.

Much of the conduct captured by these Criminal Code offences is very serious. Some may even lead to a life sentence in prison. But there are other cases that may be less serious, so depending on the charge laid and the circumstances of each case, it's possible that a person may be convicted of a terrorist offence and may receive a much lower sentence than five years in prison.

The main consideration is that given the seriousness of the consequence of taking away someone's citizenship, even recognizing that they have another citizenship to fall back on under the amendments proposed for the bill, this would only occur in relation, it is proposed, to a terrorism offence following a conviction for terrorism where the court imposes at least five years, as you've noted.

Mr. Rick Dykstra: Thank you.

Further to the issue around the fact that Canada did have this type of legislation up and until approximately 1976—and we've heard this brought forward a number of times—I'm wondering if you could give a brief outline as to why the government of the day made a determination that this in fact would be rescinded. I only have a minute left, so I'll turn the microphone over to you.

Ms. Nicole Girard: I'm not sure I can give a definitive answer on that.

We're not aware that the past provisions were ever used. You heard me mention in the speech that some of the aspects were a little bit more limited in scope and had to do with particular circumstances of declared wars, which don't happen so frequently nowadays, and also enlistment in a foreign armed force fighting against Canada, which is not always the situation, as the committee has heard over the past few days.

In the government amendments that are proposed, these contemplate the practical reality of the kinds of situations we face out there and that our Canadian Armed Forces may face out there, in the range of potential situations where an attack on Canadian Armed Forces may emerge.

Mr. Rick Dykstra: Thank you.

The Chair: Ms. Sims, go ahead.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Thank you very much.

Mr. Gilmour, since Monday evening, committee members have had the opportunity to study the government's proposed amendments to this bill, and in committee on Tuesday, Mr. Dykstra informed us that they were, from that point, available for public consumption.

Just a yes or no: have you had an opportunity to look at the government's proposed amendments?

Mr. Glenn Gilmour (Counsel, Criminal Law Policy Section, Department of Justice): Yes, I have.

Ms. Jinny Jogindera Sims: Thank you.

I want to ask about Canada's international obligation to prevent statelessness, with reference to those proposed amendments.

One of our most significant concerns with this bill has been its potential to render someone stateless. The government's amendments, if adopted, would ensure that anyone with citizenship would not be rendered stateless via its proposed changes to clause 2, but the proposed amendments to clause 1 would not ensure that permanent residents couldn't be rendered stateless.

The Library of Parliament estimates that there were 84 stateless refugees accepted into Canada between 2003 and 2010. That totals approximately 12 annually.

We know it is quite possible that no one would ever encounter this problem via the legislation, if passed, with the government's amendments. Nonetheless, our international obligations are important. Can you comment on the problem of statelessness?

●(1005)

Mr. Glenn Gilmour: If you don't mind, I'd appreciate it if Mr. Stevens could respond to that. He'd be much more familiar with that particular convention and the international obligations thereunder.

Ms. Jinny Jogindera Sims: Thank you.

Mr. Eric Stevens: Mr. Chair, the Convention on the Reduction of Statelessness is Canada's obligation vis-à-vis citizens. If I understood your question, you're talking about permanent residents.

Ms. Jinny Jogindera Sims: Yes.

Mr. Eric Stevens: The proposed amendments being contemplated would prevent a permanent resident from going on to become a citizen but would not affect any citizenship status they might have. I don't think we're dealing with anything that might be a contravention of the Convention on the Reduction of Statelessness.

Ms. Jinny Jogindera Sims: Let me see if I understand that. If they're permanent residents, they haven't become Canadian citizens yet. Would they just carry on living in Canada as permanent residents, and they would get prosecuted and all of those things?

Mr. Eric Stevens: As I understand it, the amendments being contemplated would just simply stop the citizenship process. What would then follow may depend upon the person's profile. For instance, if the permanent resident were in Canada and had been convicted of a terrorism offence, then the criminal law system would kick in and the person could face prosecution.

Ms. Jinny Jogindera Sims: I understand the prosecution part, but could a permanent resident, through this legislation, become stateless? In other words, they're here, they've arrived in Canada as a stateless person.

Mr. Eric Stevens: This legislation or the contemplated amendments would not make somebody stateless who is not already stateless. If you have permanent residents here and they've applied for citizenship, and then they're not entitled to citizenship, the immigration process would become applicable to them. The possibility of removal is not necessarily clear if they have no country to go to. They would be entitled, under the Immigration and Refugee Protection Act, to a risk assessment to assess whether there would be a breach of the charter in sending them to some other jurisdiction.

Ms. Jinny Jogindera Sims: Thank you very much. That's very clear.

Going back to clauses 1 and 2, for both of these clauses the government has proposed amendments to include ministerial oversight that would allow the minister to exempt certain individuals from the legislation. Can you comment on ministerial oversight more generally? Is it a good thing in the case of this bill?

Ms. Nicole Girard: You're quite right, the amendment that's proposed is to enable the minister to have some discretion to deal with an important issue that's been raised by this committee and by witnesses. That is where a citizen may be caught up by the provisions as described in the amendments, but perhaps they have been convicted overseas of an offence and perhaps the procedure was one where there were concerns around independence of the judiciary, or perhaps they were forced to enlist in a foreign army against their own volition.

Recognizing that these cases are exceptional to begin with and that the numbers would be small, and that cases of that nature would be an even more exceptional subset, it's important to have that discretion. It's analogous to what exists under the Immigration and Refugee Protection Act, and it is in order to ensure that such individuals are not unfairly penalized under those kinds of circumstances. So it is limited, if you will, to enabling the minister to decide not to proceed with the application of these provisions in very specific circumstances, the ones that I've outlined.

Ms. Jinny Jogindera Sims: Thank you very much.

●(1010)

The Chair: You're running out of time.

Ms. Jinny Jogindera Sims: Mr. Gilmour, does this bill ensure due process under the law?

Mr. Glenn Gilmour: If you don't mind, I'll pass that on to Ms. Girard.

Ms. Nicole Girard: If I may, there are a number of ways in which the bill and the amendments before the committee for consideration provide key elements of due process, and they are as follows.

First of all, there are limited circumstances in which the provisions of the bill would apply under the amendments because there's a very specific and limited list of specific circumstances, and those are the listed categories in which someone could be subject to the deemed renunciation provisions, the conviction for terrorism or treason, etc. That's the first element of due process.

The second very important element of due process is that the amendment requires the minister to provide notice to an individual who could be subject to these provisions, and as part of that notice the person would be invited to make a submission to provide any information they wish to with regard to their own case.

The third element of procedural fairness is that the amendments clarify that it would be a citizenship judge who is an independent administrative decision-maker who would be making the decision based on all the evidence before them. That would be the evidence put together by the department and the evidence provided by the person concerned.

The fourth element of due process relates to a provision that's already in the Citizenship Act, and it is that any decision of a citizenship judge is subject to review by the Federal Court.

So there are four very important elements of due process.

The Chair: Thank you.

Mr. Lamoureux.

Mr. Kevin Lamoureux: Thank you very much, Mr. Chairperson.

First I would ask you, Mr. Chair, given that we're asking questions about the amendments the minister is going to be proposing or recommending we take advantage of, and we were provided a document, is it safe to assume that this is now public information?

The Chair: The amendments have not been moved, but it appears what you've said is correct.

Mr. Kevin Lamoureux: I do find it interesting.

Ms. Girard, can you indicate whether or not you are aware of any other occasion where the Minister of Immigration, either this current one or a previous one, has made such a presentation in terms of detailed amendments in a private member's bill in the last 10 years?

Ms. Nicole Girard: I'm sorry, I'm not really aware of whether that's the case or not. I think that would be something a committee would be more aware of than perhaps a government official.

Mr. Kevin Lamoureux: But from the government officials who are present here today, none of you is aware of a minister bringing forward amendments to a private member's bill to this extent?

The Chair: I think they've answered the question, Mr. Lamoureux. Let's move on.

Mr. Kevin Lamoureux: There is concern, and I'll read from the charter:

6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada.

Are we to understand from the Department of Citizenship and Immigration that it has sought legal opinion on that particular clause, and there is no concern in regard to this not standing up to the charter in terms of what the minister is proposing in amendments?

Ms. Nicole Girard: I'll ask my colleagues from Justice to jump in, but the first point—and it was raised this morning—is that who is a citizen and how citizenship is accessed and how citizenship may be lost is a creature of statute, the Citizenship Act.

Mr. Kevin Lamoureux: Sure. If I'm born in Canada and raised in Canada, does the government have the right to take away my citizenship in any situation? If I read the charter, it would imply to me that it doesn't. Has this issue been brought to the Department of Justice, and if so, is the Department of Justice of the opinion that it's a non-issue for someone who is born in Canada and happens to have a dual citizenship?

Mr. Eric Stevens: I'm not sure I would frame it as a non-issue. As I indicated earlier, though, the proposed amendments have gone through the legislative drafting process, and it's the government's position that they are constitutional.

I could say just a couple of other things. There's nothing in the charter that suggests that citizenship is inalienable. Our current law does actually allow for revocation of citizenship. International conventions like the European Convention on Nationality talk about

instances where states can take away citizenship based upon conduct —

• (1015)

Mr. Kevin Lamoureux: I'm going to stop you because of the time.

If I'm a minister and I say, "Here's legislation, and I don't care if it's compliant with the charter, I want this legislation", is there an obligation on the department to say that in its opinion it would be contested in the Supreme Court of Canada? Is there an obligation for the department to do so?

Mr. Eric Stevens: There's an obligation on the Department of Justice to scrutinize legislation to deal with the constitutionality—

Mr. Kevin Lamoureux: Do they provide an opinion on it? If so, did they do it in this case?

Mr. Eric Stevens: I'm not going to get into revealing solicitor-client privilege, but as I explained, the legislation that's drafted has to be assessed for charter compliance under the Department of Justice Act. So that has been done.

Mr. Kevin Lamoureux: If that's been done, and it was negative, is the minister obligated to follow that negative?

Mr. Eric Stevens: If there's a concern about whether the minister is obligated to follow the advice...? Maybe just explain that question a bit more.

Mr. Kevin Lamoureux: If the department comes back and says its opinion is that it would be contested in the Supreme Court because it could be against the charter, is the minister obligated, then, to respect that opinion, or can he still present the amendment?

Mr. Eric Stevens: If the Department of Justice determined that legislation to be introduced was unconstitutional, there's an obligation on the Minister of Justice to report that to the House.

The Chair: Thank you.

Go ahead, Mr. Weston.

[Translation]

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thank you, Mr. Chair.

First, I'd like to react to the questions asked recently by Mr. Lamoureux. I think it is the prerogative of the minister to show interest in a bill introduced by a member of the House, isn't it?

It's obvious, but I would like you to answer the question, Mr. Stevens.

[English]

Mr. Eric Stevens: Yes, it is evident.

[Translation]

Mr. John Weston: Okay. Thank you.

It is truly impossible to anticipate all the challenges that Canadians might make under the charter. Obviously, some people will probably want to start these kinds of challenges, but that is not a reason not to consider a bill or even not to pass it.

[English]

Mr. Eric Stevens: I agree with your comments. The matters we're talking about here are very serious.

Could there be litigation? Of course. Immigration is a highly litigious area. Citizenship could be as well.

[Translation]

Mr. John Weston: Thank you.

I think everyone supports many of the principles put forward by my colleague Mr. Shory. We all want to discourage terrorists and strengthen Canadian citizenship around the world and in the minds of all Canadians.

Perhaps the biggest challenge is the one mentioned by my colleague Mr. Dykstra when he spoke about charter compliance. He asked you what you thought about it. I do not want to make a habit out of asking the simplest questions to support my colleague; rather, I prefer asking the most difficult questions.

You have already said that, according to the department, this bill complies with the charter. However, we have heard some people say that this bill would have a different impact on certain people, such as those with dual citizenship.

Despite that, you still find that it complies with the charter. Is that right?

• (1020)

[English]

Mr. Eric Stevens: The difference in treatment between the dual citizen and those who have only one citizenship is evident. It is a distinction that raises a question about section 15 of the charter, "equality rights". The government's position is that this distinction would not amount to discrimination as it's not based upon stereotypical assumptions or advancing prejudices.

In fact, the minister explained that whether you're born in Canada or you have arrived here and attained citizenship, if you have another citizenship you will be subject to this initiative. The initiative is about enhancing the value of citizenship. However, the minister wants to do so consistent with international obligations and therefore is limited as to who can be affected by the legislation.

When you're thinking about section 15, again, is that a justifiable distinction? The government's position would be yes.

Mr. John Weston: So even if there is a distinction and even if there were a problem, a second defence to the potential charter challenge is that it could be reasonably justified in a free and democratic society, which saves it under our constitutional law.

Is that correct?

Mr. Eric Stevens: That's correct. You're referring to section 1, and that's the second line of defence when faced with a charter challenge.

Mr. John Weston: I think that's very helpful.

As I say, what most of us aim for in this committee is consensus, ideally unanimity. It seems to me that my friends on the other side have raised some serious questions about the bill. But even with the most serious questions, ultimately I've found an answer to them in your responses this morning. That gives me the ability to see the

good things that are being promoted here, especially having heard the problems. The minister, working with the private member to make sure the bill succeeds to the best of our ability, can promote these important principles that all Canadians care about.

Could you comment on what we could do better as a committee, or what we could do better as Parliament, in order to put forward what we're doing here and to make sure it works?

Ms. Girard, would you like to respond to that?

Ms. Nicole Girard: I guess the only suggestion I could make is the one Minister Kenney has made already. There's a bill before the committee that deals with a serious subject matter, and there are a number of amendments that are proposed to deal with some of the issues that have been raised with regard to the bill. We would hope those amendments would be seriously considered.

Mr. John Weston: Thank you.

Do I have any time left, Mr. Chair?

The Chair: You have 30 seconds for question and answer.

Mr. John Weston: All right.

We've also heard of other countries that can strip citizenship, and they're countries whose democratic systems we respect, like Britain, Australia, and even the United States.

I'll go back to you, Mr. Stevens. Have you taken any solace in your charter assessment from the record of these other countries?

Mr. Eric Stevens: Yes. In assessing charter compliance, international standards may be highly relevant.

The Chair: Thank you.

Madame Groguhé.

[Translation]

Mrs. Sadia Groguhé: Thank you, Mr. Chair.

I would like to thank our witnesses for their answers.

One of our witnesses told us, and rightly so, that exile was used as a possible punishment before modern times, and that the current penal justice system also sets out to punish people.

In your opinion, why would the provisions in this bill be more appropriate when the person has dual citizenship, with respect to revocation?

• (1025)

Ms. Nicole Girard: I would just like to clarify your question. You want to know why we are insisting that these provisions apply only in cases where individuals have another citizenship?

Mrs. Sadia Groguhé: With respect to the acts of terrorism that may be mentioned or other acts by other names, would the provisions relating to revoking citizenship or denying citizenship apply when the individual has dual citizenship? Do you think this application is justified even when the person has dual citizenship? What do you think justifies this?

[English]

Ms. Nicole Girard: If I understand your question correctly, you're asking more about what justifies the application of these provisions to dual citizens.

[Translation]

Mrs. Sadia Groguhé: Yes, exactly.

[English]

Ms. Nicole Girard: That goes back to the objective of the second part of the private member's bill, looking at circumstances where an individual who has Canadian citizenship and another citizenship has made a choice to violently demonstrate their disloyalty and has made a conscious choice to violently engage in some very serious and heinous actions, which could include terrorism, high treason, or enlisting in the army of a foreign state and engaging in armed conflict with Canada.

The objective of the second part of the bill relates to taking action against those who would attack our Canadian Armed Forces in some way, shape, or form and to the notion that the Canadian Armed Forces make a commitment to defending Canada and often give their lives to defend Canada and to defend Canadian citizenship. The idea is, why would people who would attack other citizens or our Canadian Armed Forces continue to benefit from Canadian citizenship?

[Translation]

Mrs. Sadia Groguhé: Okay.

I understand your explanation, but that said, a Canadian citizen without dual citizenship could, eventually, commit this kind of act. So, it is really important to think about the comparison between someone with dual citizenship and someone with single citizenship, in this case Canadian citizenship. In this case, we are faced with a somewhat arbitrary decision, as one of our witnesses said. That was really the context for my question.

I have a second question. One of our witnesses, Catherine Dauvergne, talked about a cost of \$40 million to process 13 cases of citizenship revocation since 2002. Do you think we will have to take on similar amounts to apply Bill C-425?

[English]

Ms. Nicole Girard: We haven't done an analysis of the cost of implementing these provisions. However, the CIC minister, Minister Kenney, has already noted that we anticipate these provisions would apply in very exceptional circumstances, in very few cases.

If I understand, the costs you're quoting from the other witness relate to the revocation process, which is a fairly complex and burdensome process that's multi-stepped and involves not only cabinet but also the Federal Court. Here we're talking about the renunciation process, where a decision is made by a citizenship judge. The cases are few, and the evidence would be prepared by the department.

It's a simpler, more straightforward process, but with the important procedural safeguards built in. It would be a less expensive process than the revocation process, and the cases would be few. So I don't imagine the costs would be anywhere near approaching those sums, although we haven't done a study of the costs.

The Chair: Thank you.

Mr. Menegakis.

Mr. Costas Menegakis (Richmond Hill, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for appearing before us today.

Prior to 1976—I think Mr. Dykstra alluded to part of this question earlier—Canadian citizenship could be stripped for high treason. The Liberal government at the time chose that it should no longer be grounds for stripping a person of citizenship, even though almost every other peer country would disagree, and many have since added grounds for revocation or deemed renunciation.

In addition, it is legal to strip citizenship from someone who is found to have obtained it fraudulently. I think that's pretty obvious. Clearly there used to be, and there still are, legal and constitutional grounds to strip citizenship from someone.

Would you agree that this would still be the case with this bill and with the suggested amendments?

● (1030)

Ms. Nicole Girard: The current legal grounds for taking away citizenship, as you've pointed out, are limited to revocation, and those apply only in cases of fraud by naturalized citizens. As you've rightly pointed out, under the 1947 act, there used to be provisions to take citizenship away from citizens who acted in certain heinous ways.

As we have noted, really it's a function of the rules set out in the Citizenship Act, in terms of what is legally possible. The provisions of the bill propose to amend the Citizenship Act in that way, to make it legally possible once again to take Canadian citizenship away in certain specific circumstances.

I'm not sure if that answers your question. Perhaps if you require clarification, I can add.

Mr. Costas Menegakis: No, that's good. Thank you.

As we said, we know that citizenship can be taken away if it was obtained fraudulently. Almost all of our peer countries have the ability to strip a person of citizenship for reasons such as treason or terrorism, amongst other things, which I'm sure you know. Yet critics of this bill claim that Canadian citizenship is an inalienable right.

How do you respond to that?

Ms. Nicole Girard: That's not correct, and I would note that other witnesses have made comments on this point. Citizenship is alienable. It's possible under the current Citizenship Act to take citizenship away. The revocation provisions exist for that reason, and the 1947 act had additional provisions to take citizenship away.

It's just a false notion that citizenship is inalienable.

Mr. Costas Menegakis: We are talking about people who are committing acts of terrorism here. We're not talking about attacking somebody vulnerable or targeting somebody, as we heard this morning. We're talking about people who decide to commit acts of terrorism or treason.

Would you agree that people who do those things effectively reject Canadian values that are part and parcel of citizenship, which they swore to uphold?

Ms. Nicole Girard: I would agree, and I think other witnesses have commented very effectively on exactly this point, that if a Canadian citizen is undertaking these kinds of heinous actions, that should be given consideration, and it's not necessarily appropriate that they should continue to benefit from the very Canadian citizenship they may have used in the service of committing such heinous acts, whether in Canada or abroad.

Mr. Costas Menegakis: Do you believe that if citizenship is stripped from someone who has been convicted of terrorism or high treason, that person should be barred from ever applying to get it back?

Ms. Nicole Girard: The bill already provides a permanent bar in certain circumstances for a citizen who would be subject to the provisions of this bill. However, in our study we did note that there could be some loopholes in this area. Remember, we are talking about someone who has been convicted of terrorism, who has been sentenced to a term of imprisonment of five years or more, or potentially high treason. The amendments before you propose to strengthen that bar to ensure that whether it's a permanent resident or a citizen, they are not able in any capacity to come forward once again and apply for citizenship.

Mr. Costas Menegakis: Thank you very much.

Thank you, Mr. Chair.

The Chair: Mr. Dykstra.

Mr. Rick Dykstra: Thank you, Chair.

Following up on Mr. Menegakis's questions leads me to one of my own. You referred to some witnesses who have appeared and made comments. Ms. Sheryl Saperia was a witness at our last official meeting, and she said the following:

With regard to discrimination in the case of people who have dual citizenship versus people who don't, first of all, not all distinctions constitute discrimination.

She said when there's a distinction that's grounded in law, meaning that Canada has obligations under the Convention on the Reduction of Statelessness, we are bound by those rules.

And then she says:

I should note that in that convention it says that there is no problem with a country having the right to remove a person's nationality if the person does things that are disloyal to the state and can cause harm to the state. This is fully within the bounds of that convention.

Could you comment on that?

•(1035)

Ms. Nicole Girard: That's correct.

Mr. Rick Dykstra: Okay, thank you.

I'm going to refer to an example that happened this week—the Boston marathon, with 26,000 participants. Hundreds of thousands of individuals were on the streets watching that event take place. We're all aware of the tragic consequences of what has now been deemed a terrorist act. In fact, at this committee we had a moment of silence on behalf of the individuals who not only perished but were injured in that event. There were over 2,000 Canadians who

participated in that event, not to mention those who went along to witness those Canadians participate.

I know this is only a hypothetical position, but because we're studying this bill, it stood out for me in terms of understanding the consequences of what these individuals have done. If one of those individuals, hypothetically, were to have dual Canadian citizenship, how would this bill impact those individuals?

Ms. Nicole Girard: We were also deeply saddened by the tragic events.

Speaking hypothetically, whether it's in the United States or any country abroad, if there's a situation where a Canadian who has another citizenship, as contemplated under the amendments of the bill, makes a conscious choice to engage in heinous acts and participate and commit terrorism, and that person is ultimately convicted of terrorism, as the amendment to the bill contemplates, there is the potential that an individual, under those circumstances, could become subject to the provisions of the bill.

The two key considerations there would always be, under the proposed amendment of the bill, first, whether the person is an individual who has dual or more citizenships to fall back on; and secondly, whether they are described in one of the categories in the amendments that are put forward for consideration of the committee.

Mr. Rick Dykstra: I don't mean to put you on the spot—and I should point out that we actually had one of our colleagues participate in that race as well, a federal member of Parliament—but if an American were to be convicted, how would it impact their citizenship, potentially?

Ms. Nicole Girard: I can't really comment on that. That would be something that would be as a result of U.S. law, and for U.S. officials, our counterparts, to look at.

Mr. Rick Dykstra: The reason I ask is that we have used the United States as an example of a democracy like ours that actually has in fact renunciation or loss of citizenship laws in place. If you can't, I understand. Again, I repeat, I'm putting you on the spot on this, asking you to interpret American law. But there are provisions, potentially, for an American citizen to lose their citizenship based on this?

Ms. Nicole Girard: There are specific provisions in American legislation that contemplate loss of American citizenship for specific actions, but we're not experts on American law, so I'm not able to get to the detail of that.

The Chair: Thank you.

[*Translation*]

Mrs. Groguhé, you have the floor.

Mrs. Sadia Groguhé: We are talking about the minister's discretionary power and the fact that each case could be assessed separately.

As one of our witnesses pointed out last Tuesday, is there not a risk of this process becoming politicized, of confusing the political and the judicial, when such significant acts are involved?

[English]

Ms. Nicole Girard: I would answer that question by pointing to the fact that there is a limited and specific list of circumstances and categories under which a dual citizen, under the proposed amendments to the bill, could be subject to these provisions. I would seek to refute that comment and point out that the minister's discretion is for the benefit of the applicant. In a situation where someone may have been convicted of an equivalent terrorism offence abroad, but where there may be concerns about the independence of the judiciary in a foreign country, because perhaps it's known that there was a political prosecution, the proposal to have ministerial discretion is for the benefit of the applicant, to prevent them from being penalized.

• (1040)

[Translation]

Mrs. Sadia Groguhé: Given that the bill does not set out a specific age limit, do you not think that there is a risk that child soldiers would fall under its application? If so, what do we need to do?

[English]

Ms. Nicole Girard: I will answer the member's question, and I will invite my colleagues to add, should they wish. The member is quite correct that the renunciation provisions that are the subject of this bill apply to adults only. So even under the proposed amendments, for someone to be subject to the provisions of this bill, they need to be an adult.

That being said, the bill also contemplates, as I think one of the witnesses raised this morning, that an adult could be subject to the provisions of this bill for actions that were committed either after the bill comes into force or before the bill comes into force, so that's an issue for consideration. But, again, these cases would be rare and unusual.

Mary-Ann or Eric, is there anything you want to add?

Mr. Eric Stevens: No.

[Translation]

Mrs. Sadia Groguhé: Okay.

The United Kingdom has a six-month waiting period for citizenship revocation. In other words, the authorities wait six months before revoking citizenship to avoid cases of statelessness.

Do you think that might be a way of preventing cases of statelessness in the current bill?

[English]

Ms. Nicole Girard: I would address your question in the following way with regard to avoiding situations of statelessness,

which is a very important consideration for us, given our obligations under the 1961 convention to which Canada is a party, under which we have an obligation to ensure that we're not rendering Canadian citizens stateless.

How we propose to address the issue under the bill would be in the following two ways.

First, there's the amendment before the committee on ensuring that the bill is limited to circumstances where someone has at least one other citizenship to fall back on.

Second, as a matter of procedural safeguard to ensure that problem doesn't present itself, another amendment for consideration before the committee is the one where the minister is required to provide the person notice, and as part of that notice the person would be invited to make submissions in their own case. The person would be enabled to know the case against them, including the department's evidence that the person is a dual citizen and the other part of the evidence with regard to the actions they've committed.

At that time, the person would be in a position to make submissions to the decision-maker, to identify whether they may be at risk or whether the evidence may not be correct that the person is a dual citizen in fact, so that would be a safeguard.

If, for example, the government has evidence suggesting that the person is a dual citizen but for some reason that evidence may not be up to date or correct, the person would have the opportunity to put forward their own evidence on that count. If it turns out that the person doesn't have access to another citizenship, the case wouldn't be able to proceed.

The Chair: Thank you, Ms. Girard.

A point of order, Mr. Weston.

Mr. John Weston: Thank you, Chair.

Just briefly, given the discussion raised by Mr. Dykstra of what happened in Boston, I want fellow members and everyone in the room to know that on Monday at 1 o'clock there will be a march from the steps of Parliament to the U.S. embassy to express solidarity and condolences for the people of Boston. That will end at the U.S. embassy in time for us to get back for question period.

Thank you.

• (1045)

The Chair: Thank you, Mr. Weston.

To our representatives from the departments, thank you for your contribution to the committee. It's been most helpful.

This meeting is adjourned.

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