

Senators:

I believe I could clarify some of yesterday's testimony.

With both adopted and non-adopted children, the Citizenship act is a Rubik's cube. Even among adopted children, and sometimes within the same families, inequities exist. In my own family, my brother and sister are adopted- I'm not. For this reason, I was stripped of my citizenship and they were not.

The fairest way I can think of when dealing with *all* children born outside Canada, adopted or not adopted, is that their citizenship status should be determined based on the substantial connection of their Canadian parent. Thus, if their parent can demonstrate a substantial connection using the 1095-day connection test (or as I mentioned in my testimony, the Koo, Papadogiorgakis, and So connection-test rulings that are available to immigrant Canadians who wish to naturalize), then the child should be Canadian.

On the other hand, if their parent(s) does not have a substantial connection, then per the UN Convention of the Rights of the Child, the child must be able to live with their Canadian parent, such that if the Canadian parent moves to Canada, the child must be guaranteed permanent residence status. The period of a PR guarantee must be from the day the baby is born, up to a specific age limit to be determined. When Bill C-37 was passed, what Parliament intended, was the child be guaranteed PR status from birth to age 23. IRCC subsequently did not do this, which forced a fair number of Canadian parents and children to live apart- better known as forced family separation. Per the UN Convention on the Rights of the Child, Canada has an obligation to make certain that a child can live with their parents, can go to school, and receive medical care. It wouldn't matter if the child was natural born or adopted- the rules under the UN convention are the same.

Back to my brother and sister: Because they were adopted, they had more rights than me – a natural born child– so the unequal treatment and byzantine laws are longstanding.

The scenario concerning Senator Arnot is rather specific to a small number of Canadian families who adopted a child outside of Canada. By going through the Canadian International adopted services (or whatever it's called), when they bring their child to Canada, if the parent(s) have a substantial connection, then their child would qualify for Canadian citizenship via a grant. Compare this to a Canadian couple living in the United States who adopts their baby in the States, with the distinction that this family did not go through a Canadian International adoption service (or whatever it's called), and thus their baby would have a claim to Citizenship only if one the adoptive parents had a substantial connection to Canada- the difference between the two families is the way they adopted their child. The possibility exists that the child of the parent going through the Canadian

International adoption services (or whatever it's called) has more rights than the child adopted from the United States.

To be clear, my expertise is not about adoptions and procedures. But I have noticed over the decades, a lot of different scenarios of children, born in Canada, who ended up being adopted by families outside of Canada. As I mentioned in my testimony, there was the forced adoption practises put in place by the Canadian government, often called BFA (babies for adopt adoption). This was particularly so with Indigenous families, as babies were sometimes sent to the United States to be adopted by American families.

Likewise, the same thing happened to children of the Catholic church's black-market, for-profit baby-selling ring out of Montreal.

There was also quite the cross-border movement with Canadian women who got pregnant out of wedlock pre-1980, who travelled to the States to give birth. Those babies were often adopted by U.S. couples. Conversely, there were thousands and thousands of U.S. women who were pregnant out of wedlock going to Canada to give birth, with their babies often adopted by Canadian couples.

The number of possibilities become quite the tangled web. In great part Bill C-71 corrects most of the historic wrongs.

Once again, going forward, the way your baby is adopted has the potential to create differential treatment for the next generation. Not being an expert on this subject of adoptions but having dealt with thousands of people who were adopted, it seems the best solution is to treat all children the same –adopted or not adopted– regardless of where the child was born.

For the most part, a child is Canadian if born in Canada. If the child was born outside Canada, their citizenship and legal status is determined by the substantial connection of their Canadian parent. If the Canadian parent has amassed a substantial connection prior to the baby's birth, then the baby has a right to Canadian citizenship. If the Canadian parent has not amassed a substantial connection to Canada, the baby has to be able to come to Canada with all legal rights, with guaranteed permanent resident status, until they are of a certain age like 18 or 23. Similarly, if that baby grows up having amassed a substantial connection to Canada on their own accord, then they too, will be able to confer citizenship to their future children. The adopted child would, therefore, not be penalized as a born-abroad but would be the same as a natural-born Canadian child with the same rights and privileges.

To allay the fears of the witness, Andrew Griffith, he implied C-71 could confer citizenship to “*unlimited generations*” and “*without consequences*.” The statement doesn’t hold up. And rather than attack the issue with fear and dire warnings, if every subsequent generation can prove their substantial connection to Canada, then what’s the problem? The only differential treatment would be children born in Canada as they’d satisfy the substantial connection test simply by birth on soil, which is called jus soli. By itself, the merits of jus soli can be debated. By moving to jus sanguine there’d be no differential treatment to children born in or out of Canada.

As to witness Randall Emery, he’s an immigration consultant and has no legal in-depth expertise on Citizenship law. He’s not a lawyer. I would discount much of his testimony. For example, Randall said that C-71 treats people differently when the laws are applied retroactively. Not only do I disagree with much of what he said, but he used the example of his aunt and uncle, saying they weren’t covered under C-71. After the hearing we got together and in fact he’s mistaken, his relatives are covered, which eliminates his argument on retroactive differential treatment.

As for Mr. Griffith, I believe he was a Director General at IRCC at the time Bill C-37 was being drafted and debated, which means he was involved in supporting and implementing the unconstitutional law regarding 2<sup>nd</sup> generation born abroad. His department also ignored the 1985 Interpretation act which is specific regarding the legality of the government being able to retroactively quash rights, as C-37 did. The Interpretation Act question has not been tested in court, nor does it need to be at this point because the 2<sup>nd</sup> gen law has now been declared unconstitutional. Mr. Griffith’s IRCC department was a huge part of the problem with Lost Canadians as it never wavered from wanting to scrutinize every Lost Canadian via case-by-case.

In the House of Common’s 2007 CIMM report, *Reclaiming Citizenship for Canadians: A Report on the Loss of Canadian Citizenship*, they said that case-by-case doesn’t work on any sort of mass scale. The CIMM committee report also recommended the rules of citizenship must be easy and clear to understand. Not only do Lost Canadian’s not understand the current laws, but neither do Parliamentarians, and neither does the bureaucracy. Arbitrary decisions are common, and IRCC decisions are consistently inconsistent.

The other standard IRCC position is that Lost Canadians be treated as immigrants. With Mr. Griffith’s testimony, he obviously agrees with that position. Truth be told, our issue is about citizenship- not immigration. We are NOT immigrants, and it’s insulting and wrong to treat us that way.

I know of no one who doesn't want some sort of 'substantial connection' test after C-71 becomes effective. However, a 'retroactive' substantial connection test is not appropriate for Lost Canadians covered by C-71, since many would be unable to do so since Canada denied them of their citizenship due to 'unconstitutional' and anachronistic legislation. However, the substantial connection test should apply to all Canadians after C-71 becomes law, and then only going forward- not retroactively.

Again, people born on Canadian soil are unique in that simply by being born in Canada, they have fulfilled the substantial connection test. Hence, they have a right that immigrant Canadians do not have, that is, until the immigrant is naturalized, at which point they too will be deemed to be born in Canada (This is not a blanket statement as IRCC, in their interpretation of the law, has un-deemed children of Lost Canadians who got their citizenship by being naturalized). They've also un-deemed the age 28 folks who lost their citizenship only to have it restored via a grant (the grant deemed them to be born in Canada for purposes of passing on the Citizenship). IRCC plans to un-deem these folks as well.

IRCC's Rubik's cube keeps adding layers.

The very best way to fix the issue is with Bill C-71, whereby every child born to a Canadian parent, adopted or not adopted and no matter where the child is born, their citizenship and legal status is dependent on their Canadian parent's substantial connection to Canada. If the parent was born in Canada, the child has the right to Citizenship. If the parent was not born in Canada, then the child would be a citizen *only* if their Canadian parent has amassed a substantial connection prior to the child's birth. If the parent had not amassed a substantial connection, the child *must* have the right to live in Canada with their Canadian parent(s) and be given immediate PR status, which would be guaranteed up until a certain age.

As for Mr. Griffith's concerns over security and background checks, per the recommendations in the 2007 CIMM committee report, "*background checks are only appropriate for a candidate seeking a grant of citizenship as opposed to those for whom citizenship is a birthright. Along with the principle that citizenship should be permanent, this implies that Lost Canadians should not be subjected to background checks as a precondition for having their citizenship resumed.*" I'll also cite the 1997 Supreme court decision, *Benner versus Canada*. The court's unanimous decision was that a background check for a Lost Canadian was unconstitutional. Witness Mr. Hayer touched briefly on this decision in his testimony. The Supreme Court ruling was clear- while you may not like everybody in your family, you can't choose who your family members are. Clearly, Mr. Griffith's desire for background checks is inappropriate and have been ruled 'unconstitutional'.

Regarding Mr. Griffith's estimates of the number of people affected by the changes, it's impossible to know. At best it's a guess. Mr. Griffith interpreted the number of Canadians living outside of Canada, and specifically the number of people holding Canadian passports. I think his numbers are quite irrelevant. What is known is that there are many ex-pats. Unknown, are how many are in their child-bearing years. Or how many are working outside of Canada on a temporary basis. Under C-71, if they have children born outside Canada, then citizenship wise, their babies will all be treated the same regarding the parent(s) substantial connection test. If the parent has a substantial connection (amassed before their baby's birth), the child has a right to citizenship. If the parent(s) doesn't have a substantial connection, and if the family elects to move to Canada, the baby must have guaranteed permanent residence status up to a certain age. If the family doesn't move to Canada and the baby does not end up amassing a substantial connection, the child will not be able to confer Citizenship- as it should be.

Mr. Griffith does some fear mongering. Remember, the same exact scenario and concerns happened with Bill C-37 and the world didn't come to an end. As well, after a year since the Bjorkquist decision, the Citizenship Minister has said that just 700 people are in IRCC's queue for citizenship.

Likewise, since the passage of C-37, in the ensuing 16 years only 20,000 people have applied for either resumption or to become Canadian citizens. I have no doubt the results will be similar with C-71.

I am not in any way accusing Mr. Griffith of attempting to give false information. What I will say is that figures often don't tell the complete story. The numbers of people affected by C-71 and the specific circumstances are unknown. The best source to try to understand the answers is not via a former director general or a current director general of IRCC guessing, but rather to contact the U.K. equivalent of IRCC and ask them how many people applied for citizenship after they passed a C-71 equivalent Bill after their 2018 Supreme Court decision, "*The Advocate General for Scotland (Appellant) v Romein (Respondent) (Scotland)*". I suspect the results of C-71 will be a mirror's image. England, the country that largely created the Lost Canadian problem, has been far better at correcting their historical injustice. Speaking of which, I believe Canada is the last remaining holdout of all the British Colonies for not fully correcting its anachronistic Citizenship legislation. It is not something Canadians should be proud of. Ironically, even Germany has extended the welcome mat to everyone, including all descendants, of those who were stripped of their German citizenship in the 1930's and '40's. It's hard to believe that Germany, back then not known as an accepting country, is today more inclusive and accepting of their people than Canada is of theirs.

One more thing about Mr. Griffith, is that he's connected to a political party. He worked for Jason Kenney who supported and defended the illegal 2nd-gen cutoff. Citizenship must belong to all Canadians, and it must never be Party specific.

Lost Canadians will work with any Party. One of my favourite comments came from Bloc MP Meili Faille who stood in the House of Commons about 20 years ago when debating Lost Canadians and said, "*there is no limit to virtue.*" She then called on the Prime Minister and the government to correct the problem of Lost Canadians. Two decades later we're still waiting, the government is still asking the same questions, and IRCC is still raising the same concerns. In the meantime, real people are being targeted. There's forced family separation, statelessness, and women having less rights than men. How long will Canada continue being a Human Rights violating country?

And don't forget, it's imperative to have a Citizenship ombudsman. Again, to allay Senator Arnot's concern of another lawsuit, by not passing C-71 or by diluting it, will cause further judicial reviews. The time has come for Canada to do the right thing. Common sense must rule the roost. Please, pass C-71, then get cracking on a brand new, Charter-compliant Citizenship act.

Finally, I put together a 12-part series on Lost Canadians. Running time is 3 hours, 38 minutes and it thoroughly covers the subject. It takes you through the history of citizenship from Confederation forward, and you can do it piecemeal on your own time. For now, the video is by invitation only since I identify children. If you'd like to watch and learn, contact me. I also wrote a book: *Lost Canadians: A Struggle for Citizenship Rights, Equality, and Identity*. In aviation terms, I wouldn't want a pilot who didn't fully understand how to fly the plane. You need to understand citizenship. I've been awarded the Governor General's Meritorious Service Cross for my work on Lost Canadians. Only 246 people have ever received the MSC. My Lost Canadian team has a wealth of knowledge, and it's not only free for the taking, but we are anxious to share. If you have questions, please let me know.

Thank you,

Don Chapman, MSC

Head of the Lost Canadians

[dcinbc2@outlook.com](mailto:dcinbc2@outlook.com)

[www.lostcanadian.com](http://www.lostcanadian.com)