

# Bill to Amend the Citizenship Act and to Make Consequential Amendments to Another Act

[September 27, 2016]

## Second Reading—Debate Adjourned

**Hon. Ratna Omidvar** moved second reading of Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act.

She said: Honourable senators, I am pleased to present to you Bill C-6, An Act to amend the Citizenship Act.

The bill's provisions change elements introduced by an earlier bill, Bill C-24, the Strengthening Canadian Citizenship Act.

Before we get to the substance of the bill, I would like to start with some poetry, because if ever there is poetry in legislation, then I think it is in the lofty aspirations of citizenship. I think I know something about this. After all, I have possessed three passports in my life. One I was born into; the second I married into. The first two you could say were accidents: the first an accident of birth, the second an accident, and I would say a very happy accident of love and a lifelong partnership.

But it is this third passport that I have, this blue one, the one that states I am a Canadian, which is the true manifestation of citizenship. I aspired to it. I worked hard for it. It is my earned right, and it signals to me that I belong because it is in this country that I have walked the avenues of contribution, which are the real hallmarks of engaged citizenship.

But it was not always easy. There was a great deal that I had to learn and unlearn. There were written rules and there were unwritten rules that I needed to navigate. I was advised to change my name to something more usual for Canadian ears, but I decided to stick with it because my name is as much a part of me as the colour of my skin, and I can't and won't change that.

I had a hard time finding work because a quirk of fate led me to become a teacher of German, and even though I was a really good teacher, I understood that no one in Canada in their right mind would want to learn German from an Indian who had just fled from Iran. So I gave that up and I started to reinvent myself, and with reinvention came resilience, innovation, change and renewal, and slowly but surely I found the rhythm to my new life.

(1510)

I remember very distinctly the first time I felt a tug of belonging, when I, along with other parents in my daughter's rhythmic gymnastics club, made mountains of a very strange Canadian culinary confection called peanut butter and jelly sandwiches to feed the kids and the moms and dads at the regional meet. But as much as I wondered about this sticky combination, the habit of

participating in a common cause with others like me and unlike me has stuck, and, directly or indirectly, it has led me to you today.

These pathways of contribution are open to all of us, regardless of whether we were fortunate enough to have been born in Canada or fortunate enough to have been naturalized. This is the glory of Canada: It does not matter whether you came to this country 100 years ago or 50 years ago or even 10 years ago, and it does not matter where you came from, a small town in Quebec, a village in Italy, Toronto or Calgary, or Iqaluit, Mumbai or Berlin. We all get to stand shoulder to shoulder, side by side, and play our part in building this wonderful country. This is the promise of Canada — equality of rights, guaranteed by our Charter and enhanced by our understanding of multiculturalism.

Part of our success reflects our unique history, a history borne of accommodation of our founding people — Indigenous peoples, French and British — an officially bilingual country, which also became a country of many immigrants, over one quarter of a million immigrants each year in our recent history. Think of more than 2.5 million immigrants over the last 10 years.

Every immigrant I know has a different story, but there are threads of commonality in every story — exodus, arrival, rejection, survival, renewal and, finally, redemption. In each of these words, I think, there are thousands of narratives and thousands of strands of poetry.

However, much as I would like to stay with the narrative and with the poetry, I must get to the prose or, as some have called it, the plumbing of this bill, and there are lots of nuts and bolts and a great number of pipes in this bill. So, in order to help me present it to you, I am going to try to paint a picture of a house, a house with a strong foundation, lots of windows and lots of light, but with a strong protective roof.

The foundations of this house are grounded in a few essential principles. The first and most important is equality among citizens. Equality sees all citizens — by birth or naturalization, mono citizens or dual citizens, whether citizens for 50 years or 10 years — treated equally under the law. Equal rights, equal responsibility and, when necessary, equal punishment. These are not aspirational goals. These are the floor, the absolute foundation of how equality is expressed in Canada.

Second is the principle of facilitating citizenship. This bill finds a more appropriate balance between fulfilling reasonable requirements, on the one hand, and facilitating citizenship, on the other, because evidence shows that citizenship is a facilitator of integration.

When immigrants integrate, they prosper. When immigrants prosper, Canada prospers.

Think of this as the main floor of the house — a welcoming living room; a big, warm fire, blazing to keep out the wretched cold; lots of windows and a big welcoming door.

But every house needs protection, a strong roof to guard it against storms and ice, so this house too has a third principle. The bill introduces new elements that will enhance program integrity and ensure that the house stays strong.

I will return to these principles as they are woven into the bill's key provisions, which I will summarize in six parts: first, repealing the authority to revoke citizenship for dual citizens convicted of crimes like treason, terrorism and espionage; second, repealing the requirement for citizen applicants to declare an intent to reside in Canada; third, reinstating previous reduced residency requirements to obtain citizenship; fourth, reinstating residency credit for temporary residents; fifth, reinstating previous age requirements to meet language and knowledge criteria to obtain citizenship; and sixth, introducing new measures to protect the integrity of the citizenship program.

I should point out that Bill C-6 is also notable for what it leaves in place, and this is a nod, I believe, to the many good policies introduced in Bill C-24 and, indeed, why I believe the government did not choose to repeal Bill C-24 in its entirety.

But the changes before us are the ones that now require discussion, and I have heard, over the last two months, arguments on all sides. I will try to present the more thoughtful of these to you, beginning with one, repealing the authority to revoke citizenship for dual citizens convicted of crimes like treason, terrorism and espionage.

Let me repeat this, with a small clarifying word added in, repealing the authority to revoke citizenship for dual citizens only, not all citizens but dual citizens only, convicted of crimes like treason, terrorism and espionage.

Honourable senators, these are grievous crimes. If committed by any citizen, they should be punished and punished severely, but here is the problem: Under the current law, different kinds of citizens are punished differently for the same terrible crime. If a Canadian citizen commits any of these crimes, he or she is tried in court and punished, but if a Canadian who happens to be a dual citizen does, whether knowingly or unknowingly — and I will get back to this fine point later — an additional punishment of banishment, or citizenship revocation, as it is called, is added.

This is not an abstract situation but a very real one. Consider that the people charged and convicted of terrorism-related crimes to date include a mix of Canadians without any other nationality and those who are dual nationals or where another nation has a claim on them. Two people, same crime, two different responses, creating two different outcomes, when our laws, our Constitution, our Charter all say that citizens are equal under the law.

The political narrative on this is, I know, familiar to all of you. On one side, our Prime Minister says a Canadian is a Canadian is a Canadian, and the other side says a terrorist is a terrorist is a terrorist. Allow me to revise both narratives. A terrorist who is a Canadian is a Canadian terrorist and must face nothing more or less than the full force of the Canadian justice system and the Canadian criminal system. Canadians who commit crimes should face the same legal consequences — same crime, same punishment. That, I think, is how Canadians understand justice.

Bill C-24 negates this notion of equality and sets a dangerous precedent that dual citizens are less than mono citizens. This affects anyone who has another citizenship. It affects anyone whose

parents or ancestors were born abroad and who may be eligible for another citizenship. It affects individuals born in Canada who possess another citizenship through marriage, and so it affects millions of people, making some passports, I believe, more valuable than others.

Further, it is not completely clear which dual citizens the current law covers. Bear in mind that there is diversity among dual citizens. Some individuals may actually have two passports, such as dual citizens of Canada and the U.S. or Canada and the U.K. Some, however, hold no second passport and have no desired claim to it. It is the second country that may lay its claim on them. Iran is one example. Syria is another. That is one reason I don't ever dare to go back to Iran, because I know that the minute I land there, I revert to being an Iranian. Whether I like it or not, Iran has a claim on me. We should remind ourselves of what happens to citizens of another country when they are forcibly sent there against their will. We all remember Maher Arar.

Another word about punishment: Arguably, the brightest sign of civilization is civil punishment. We do not allow capital punishment or torture or stoning because we are a civil society and these practices are immoral. We should not, therefore, allow a practice that Audrey Macklin, one of Canada's brightest legal minds, has argued is akin to the medieval practice of banishment.

Bill C-6 will restore citizenship to anyone who has lost it since June 2015. One person's citizenship was revoked under the national interest grounds, and that person is Zakaria Amara, a member of the Toronto 18. Let us face that fact soberly and soberly decide to favour civil punishment.

I also want to consider the practical ramifications, which I understand were intended to make us safer. As I will point out, I think they actually make us less safe.

(1520)

For one, removing terrorists does not remove the threat they pose to Canadians or Canadian assets. Canadians and Canadian interests and assets are not only physically located in Canada. We have Canadians travelling and living abroad. We have embassies, diplomatic staff, our men and women in the Canadian Forces, and the offices and operations of Canadian companies — all these could still be the target of a deported terrorist.

For another, removing terrorists risks letting them go in every sense. There is no guarantee that a foreign government or court would punish the individual to the extent that our own justice system would. There is no guarantee a foreign government would even count this person as a terrorist.

Further, removing terrorists risks losing intelligence. No less an authority than Ray Boisvert, who is the former Assistant Director of Intelligence at CSIS, said that once we deport a terrorist they are very hard to track. Our intelligence "goes black."

This contradiction is not lost on the intelligence community. We ask our security and intelligence agencies to do everything in their power to stop radicalized people from leaving Canada. Revoking citizenship and deporting these same individuals directly conflicts with this mandate.

I also wonder why we think this measure is a deterrent. Why would the threat of losing citizenship stop a terrorist? Terrorists are not the type to be influenced by losing citizenship of a country they act against. Several security experts have underlined this.

Finally, if radicalization in Canada is the main problem we're talking about when we talk about terrorism in this country, revoking citizenship does not solve it. Instead of distracting ourselves with deportation, we should be thinking of serious and effective counter-radicalization strategies.

There are questions that I would like to try to preempt and answer.

One is this: Why, if we revoke citizenship on other grounds like false representation and fraud, would we shy away from revoking citizenship of the worst criminals? Here's the difference: When false representation or fraud is used to obtain citizenship, revocation takes away something that was never genuinely granted. This is why war criminals lose their citizenship and will continue to lose it. Not because of crimes committed as a Canadian citizen, but because of their conduct before becoming a citizen and their misrepresentation to us.

Bill C-6 does not change this. Bill C-6 will continue to pursue revocation of citizenship gained as a result of fraud or misrepresentation, but it draws the line at revoking the citizenship of a citizen.

To summarize: Revoking citizenship is likely unconstitutional, it offends basic principles of equality and justice for all, and it makes us less safe.

Let me go on to the second provision. There are six of them, so I'm sorry but I'm going to have hold your attention for a rather long time.

A second major change in Bill C-6 is to repeal the requirement for citizen applicants to declare their intent to reside in Canada. Bill C-24 introduced a requirement for all citizen applicants to declare their intent to reside in Canada. This is in order to signal to all applicants that their connection to Canada ought to be an enduring and physical one. "No thank you" to the so-called "citizens of convenience."

But this law has created a great deal of confusion because it is nebulous and vague. It is also likely unconstitutional. Section 6 of the Charter states that:

Every citizen of Canada has the right to enter, remain in and leave Canada.

So naturalized citizens who have signed off on the intent do not know whether they can leave or not. Again, it creates two classes of citizens: those who have to think twice before moving abroad and exercising their mobility rights, and those who do not.

Naturalized citizens take this seriously because the consequences of breaking such a promise are uncertain. One consequence might be revocation of citizenship on the grounds of false representation, however genuine the declaration was at the time it was made. For example, a naturalized citizen might well plan on living in Canada and honestly declare so. But plans

change. Over time, Canadians move for work, for study, for love or for adventure. I think that is a good thing. As President Obama told Parliament, the world needs more Canada.

I know of a globally connected Canadian citizen whose work as an investment banker takes him around the world for long periods of time. Deepak Dave wrote to me expressing his concern for people like him, who face a choice between conducting their business and their profession or Canadian citizenship. Deepak was lucky and was granted citizenship before 2015, but he has many peers who are permanent residents and face deep anxiety about their future as naturalized Canadians. Should they declare their intent to reside, knowing their work will take them outside of Canada? What will the consequences be for them and for their children? Naturalized citizens, he says, will always be second-guessing their rights.

These stories remind me — and should remind us — that the laws we discuss here affect the lives of individuals in deeply personal ways. This rule has created uncertainty, ambivalence and confusion with real and harmful consequences. One is that future citizens are hesitant to take out citizenship because they fear that they could be charged with fraud and misrepresentation if their lives change, so they stay outside the full circle of Canadian inclusion. Secondly, it forces citizen applicants to forgo opportunities to be global citizens in the global marketplace.

I think we all agree that Canada's immigrants are natural ambassadors to new cultures, markets, products and thinking. Let us not put an artificial noose around their neck.

If the intention of the "intent to reside" clause was to ensure a physical presence in Canada, to create that glue with the new country, I would point out that all citizen applicants must provide proof of physical presence in Canada before qualifying for citizenship. The glue that we are seeking to find, I think, is already there, a bit like that sticky peanut butter jelly sandwich that I made.

A third change addresses the length of time one must spend in Canada before applying for citizenship.

Bill C-6 returns the residency requirement for citizen applicants to three years of physical presence in Canada, the same number required before Bill C-24 came into effect and lengthened it to four of six years. This is a return to the status quo with some additional flexibility: three of five years instead of three of four years. For more flexibility, Bill C-6 also removes the requirement for a minimum number of days spent in Canada for each calendar year.

I believe that returning to three years strikes the right balance. Choosing residency requirements is a balancing act, on the one hand desiring that immigrants connect and identify with Canada and on the other hand enabling them to fully contribute to this country in ways that permanent residents cannot.

This law has, again, very practical considerations attached to it. I spoke to Edward, who works at the University of Regina. Edward is an American citizen who became a permanent resident in 2013. He intends to apply for citizenship as soon as he can, but at this point he has not applied because he does not qualify.

Edward has aging parents in the U.S. whom he visits often to care for. Because of his family duties he does not meet the residency rules. These rules require four of six years of physical presence and 183 days of physical presence per calendar year. If this sounds confusing, trust me, it is. The rules have pushed him into keeping detailed spreadsheets of his whereabouts.

He knows he does not meet the current residency requirements but he would if the rules proposed in Bill C-6 were adopted. These new rules bring greater flexibility and clarity. Applicants like Edward need only meet one physical residency requirement. He would be able to fill in his application and become a citizen as soon as Bill C-6 becomes law, and then he could be both a good Canadian and a good son.

A fourth change is that Bill C-6 would reinstate residency credit for temporary residents. I will not dwell long on this because I think the value for Canada is straightforward. It would allow temporary residents to count each full day of their time in Canada as a half day up to a maximum credit of one year. Those who will benefit are international students, temporary foreign workers, visitors like parents and grandparents, and protected persons and recognized refugees.

Many of them, like international students and workers, are among the best and brightest immigrants. It is not only fair but forward-thinking to give them due credit and encourage them to permanently invest their life in Canada. We often hear about the war for talent, and Canada needs to win this so-called war. Here is one tool in our toolbox to do so.

The fifth requirement would reinstate the previous age requirements to meet language and knowledge criteria in order to obtain citizenship.

(1530)

As you may know, under the previous government, a great deal of attention was paid to the language and knowledge tests that applicants for citizenship were required to pass. A new knowledge guide was developed called *Discover Canada*. It is a fascinating document. I would encourage you to look at it every now and then. Bill C-24 required all citizenship applicants between the ages of 14 and 65 to pass a knowledge exam based on this guide, in addition to meeting the official language requirements.

Meeting the official language requirements and knowing about Canada does not change. What will change are the age requirements. Bill C-6 returns the age requirement for demonstrating capability in an official language and knowledge of Canada to those aged 18 to 54. We are talking about two groups: youth between the ages of 14 and 18 and older Canadians aged 55 and up who would be exempt from taking these tests.

This is a reasonable and practical change. Youth aged 14 to 18 years of age will naturally learn the language and learn about Canada in the schools they attend during their three-plus years while they earn their residency credits. It is unnecessary and possibly wasteful for the government and for families to be tested to prove their language capacity.

But concerns have been expressed about the upper end of the age bracket. What is the rationale for scrapping language and knowledge tests for those aged 55 to 64 years? This policy is a compassionate one that recognizes that language acquisition gets much harder as one gets older. I can promise you I would not be able to learn German today. That knowledge and language testing is a barrier with a disproportionate impact on disadvantaged groups, for example, women from certain parts of the world with lower rates of literacy.

Parents and grandparents in the family class who arrive in Canada later in life are impacted by this policy, as well as older refugees who are accompanying their children to Canada. I ask my honourable colleagues to think of your parents, grandparents or whichever generation first arrived in Canada, if you do not trace your heritage to one of the First Nations. Maybe they were lucky enough to be fluent in one of our official languages but maybe not, yet they, too, became citizens.

Today, people who come to Canada later in their lives contribute in so many ways. Some are lucky enough to find work in the communities, whether or not they are fluent in one of our official languages. Others may live at home with their children and grandchildren, may speak a smattering of English, walk the kids to school, are relied on by other parents on the street for help, and as such become an essential part of the fabric of the community. I have lived most of my life in Toronto in Little Italy, and it was a comfort to us that there was a resident Italian grandmother on our street, who we all called Nonna.

I think older citizens are committed to this country and want to belong and share Canadian citizenship and not be left behind because they may not speak English or French as well as their children.

My mother, who has lived with me for 30-plus years, speaks to me in a fantastic mix of Hindi, Punjabi and English. For most of her years in Canada, she has cooked at home, helped raise her grandchildren and helped me raise my grandchildren. She has supported our household as much as my husband or me.

She applied for citizenship three years after she arrived and got it in the 1990s, under the old rules and the old citizenship exam. And thank God she passed. As I look at the requirements today, especially the knowledge test, I am not sure she would pass.

As a Canadian citizen whose command of English is not perfect, she avidly watches Canadian politics on OMNI Television. Thank God for OMNI. She insists on voting at every election, even though mobility issues now get in her way. She questions me constantly on the issues confronted by our Parliament and country.

Removing testing requirements for younger and older Canadians removes a potential barrier to citizenship and the sense of belonging that comes with it.

Finally, Bill C-6 invests in the integrity of Canadian citizenship by introducing new measures.



Allow me to list just a few: Bill C-6 enables citizenship officers to seize fraudulent documents, and it adds conditional sentences as a situation in which a person would be prevented from being granted citizenship, or from counting that time toward meeting the physical presence requirement. It plugs a gap that would prevent citizenship applicants from taking the Oath of Citizenship if problematic issues arise between the date their application is approved and the date of taking the oath.

In all of these issues of citizenship testing, citizenship revocation, residency provisions and language fluency, the question is asked, "What are our peers doing?" And by "our peers," we are talking about a small handful of countries that are alike, such as the U.S., the U.K., France, Australia, New Zealand and now maybe Germany. The answer is that in some cases we are with the pack, and in some cases we are not. Sometimes the difference is minimal; sometimes it is not.

But here is the real kicker: We are not just in the pack; we are the leaders of the pack. In the context of immigration, Canada leaves its peer countries behind. Our immigrants do better, their children do better, our society is more cohesive, and therefore safe; immigrants aspire and reach the highest positions in public life and have ample role models in our history to guide them. These countries should be looking to us for answers, not the other way around.

I am often asked what the secret of our success is. And there are many answers to this. One answer lies in the fact that Canada has a global soul. But a more practical answer lies in that when we select immigrants, we are actually selecting future citizens.

In closing, I will remark that the immigration system in general and the Citizenship Act in particular are not perfect. It is a work- in-progress.

In fact, there are elements in our citizenship laws that can be strengthened. The absence of a hearing for those whose citizenship is revoked for reasons of fraud and misrepresentation concerns me. On this and other matters, I look forward to discussions and findings at committee that will help the Senate improve and approve this bill in a timely and collegial manner, as a complementary house of sober second thought.

Before I close, let me harken back to the house that Canada built. When immigrants come to Canada, they enter this house. In the beginning, everything is new to them; they sit on the edge of the chair in the living room. But over time they begin to feel comfortable. They figure out how the dishwasher works, where the electrical fuses are, how to pay the bills and how to save 10 per cent. One day they may figure out how to pay some of the mortgage payments. And then they decide to paint the house another colour and rearrange the furniture, because, after all, it is now their house, too. It is where they belong; it is home.

I believe that belonging — in law and in all its expressions in practice — is the spirit and letter of this bill. Thank you.

**Hon. Don Meredith:** I have a question.

**The Hon. the Speaker:** There is a motion for adjournment, but would you like to ask a question?

**Senator Meredith:** Certainly.

**The Hon. the Speaker:** On debate.

**Senator Meredith:** Thank you so much, Senator Omidvar, for an eloquent speech. I also reflect on my time as an immigrant to this country, and what would also accompany that jam and peanut butter is a ripe banana and a glass of milk.

The stakeholders in our community are very concerned about this piece of legislation. I would like to get your feedback as to their concerns and how the changes that Bill C-6 proposes, moving forward, will enhance their lives, especially the family members who are, as you eloquently stated, at risk of not getting citizenship because they are concerned about their economics. Can you elaborate on that?

(1540)

**Senator Omidvar:** I wonder if the senator would clarify whether he was speaking about the fees attached to citizenship.

**Senator Meredith:** I didn't say "fees." I said, "How do they feel about this particular piece of legislation?"

**Senator Omidvar:** The stakeholders I have spoken to are all in support of this bill. They would like to have some things added to it, but I don't want to pre-empt the discussions in committee and that process before I can propose other changes. But my understanding is that if the intent-to-reside provision in particular is very worrisome to them — the level of citizenship uptake has been declining, and some of it can be attributed to this bill; some of it is attributed to other external factors.

In general, I know that including people in the Canadian circle fully as franchised citizens who not only work, live and pay taxes but have the right to vote is a very important step in their becoming Canadians. I hope that answers your question.

**Hon. Wilfred P. Moore:** Senator, would you take another question?

**Senator Omidvar:** Absolutely.

**Senator Moore:** I want to make sure I have the facts correct. There was a story last week in the press with respect to a young woman who was born of Canadian parents outside Canada. The family returned to Canada when she was an infant, and unbeknownst to her, she was required on her twenty-eighth birthday to reaffirm her citizenship to Canada. She had no knowledge this was a requirement; she didn't know the original citizenship was conditional.

I'm wondering if you were aware of that and if you'd consider maybe trying to fix that so that when you become a citizen, you are a citizen and acquire all the rights, privileges and responsibilities that go with that.

**Senator Omidvar:** Thank you for that question, senator.

Our citizenship law is more complex than I would have thought. It has requirements and conditions attached to leaving and departing that are fairly confusing. Some people, as in this particular case, are not aware that they have to exercise a proactive right as opposed to accepting the passive designation of a Canadian citizen. There are thousands of cases like this.

I look forward to clarifying some of these questions in committee and coming back to you in the house with appropriate answers. But all I can tell you is that it is a very common story.

**Hon. André Pratte:** Would the honourable senator take another question?

I'm intrigued about the age issue for the test. These are not tests for the fun of a test. They are tests, especially language, for the capacity of a future citizen to have a successful integration.

At 55, you would be part of the workforce. If you do not have knowledge of one of the official languages, you may have difficulty in getting or keeping a job.

Why is it 55 and not 65 or 70? I understand your idea of being older and it's more difficult to learn a language, but 55 seems to be pretty young as a standard.

**Senator Omidvar:** Since I'm no longer 55, I think it's very young. I will restate that the demographics of immigration are changing rapidly and have changed in the last five or more years. Older immigrants are adapting very well to work and language requirements.

And we're talking about a very small percentage of people. I can't give you the exact percentage but it is not the general population. I'm not saying that knowledge of English and French is not essential. I know it is one of the most important indicators of successful integration, but I also recognize, Senator Pratte, that there are certain groups of people who may not be able to gain that facility, especially if they came when they were older. As we know scientifically, language is harder to learn the older you get.

I am particularly concerned about refugee women and people in what we would call the "precarious employment sector." They have to work one to three jobs. Even though language classes are available — and that is a great gift to our country — they can't afford to take them because they have to work to pay the rent.

There are classes of people for whom this becomes a real barrier. It's not the whole demographic of 55 and over, but it is a demographic that is of particular concern to me because of the inherent disadvantages that I described.

(On motion of Senator Eaton, debate adjourned.)

