

DÁIL ÉIREANN

AN ROGHCHOISTE UM GHNÓTHAÍ EACHTRACHA AGUS TRÁDÁIL, AGUS COSAINT

SELECT COMMITTEE ON FOREIGN AFFAIRS AND TRADE, AND DEFENCE

Dé Máirt, 24 Deireadh Fómhair 2017

Tuesday, 24 October 2017

Tháinig an Roghchoiste le chéile ag 11 a.m.

The Select Committee met at 11 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Simon Coveney (Minister for Foreign Affairs and Trade),	
Seán Crowe,	
Noel Grealish,	
Darragh O'Brien.	

Teachta / Deputy Brendan Smith sa Chathaoir / in the Chair.

Business of Select Committee

Chairman: All mobile phones must be turned off as they interfere with the broadcasting equipment. This meeting has been convened to consider Committee Stage of the Diplomatic Relations (Miscellaneous Provisions) Bill 2017 and Committee Stage of the Protection of Cultural Property in the Event of Armed Conflict (Hague Convention) Bill 2016.

Diplomatic Relations (Miscellaneous Provisions) Bill 2017: Committee Stage

Chairman: I welcome the Minister for Foreign Affairs and Trade, Deputy Simon Coveney, and his officials. As this is the first time he has attended the committee, I wish him well in his role. The members of the committee look forward to working with him in a genuine spirit of partnership and co-operation.

Sections 1 to 8, inclusive, agreed to.

SECTION 9

Chairman: Amendments Nos. 1 and 2 are related and may be discussed together.

Minister for Foreign Affairs and Trade (Deputy Simon Coveney): I move amendment No. 1:

In page 6, line 27, to delete “and”.

This section amends the Irish Nationality and Citizenship Act 1956 to provide that any period of time spent in the State while exempt from immigration controls is not reckonable for naturalisation purposes. It also clarifies that children born to diplomats and associated persons who are exempt from immigration controls do not qualify for Irish citizenship by birth, unless one of the child’s parents is an Irish citizen or entitled to be, a British citizen, a person entitled to reside in the State without any restriction on his or her residence, or a person entitled to reside in Northern Ireland without any restriction on his or her residence.

With the amendments I am proposing to address a minor anomaly that has been identified in our citizenship legislation with regard to Irish public servants serving the State overseas. Under section 7(3) of the Irish Nationality and Citizenship Act 1956, as amended, a person born outside the island of Ireland derives Irish citizenship through a parent who was also born outside the island of Ireland but only if their birth was registered on the foreign births register. Pursuant to section 7(3)(b), if at the time of birth that parent was abroad in the public service of the State, the person is automatically an Irish citizen without being required to be registered on the foreign births register. This ensures children born to non-Irish born public servants serving abroad are not disadvantaged in terms of entitlement to citizenship. However, an issue has been identified with the provision in so far as disadvantages may arise in respect of subsequent generations. For example, if a person who has derived his or her citizenship by virtue of section 7(3)(b) and who is not a public servant has a child abroad, assuming the child’s other parent is also non-Irish born, that child would not derive Irish citizenship unless registered on the foreign

births register. The proposed amendments are aimed at correcting this anomaly by deeming such a person as having been born on the island of Ireland for the purposes of that subsection.

I am sure Deputies will agree that public servants working overseas do crucial work and are a credit to the State. In many cases, taking up a foreign posting can entail considerable sacrifices for the individuals concerned and their families. For these reasons, we are committed to ensuring disadvantages are minimised. This is a minor anomaly in the citizenship legislation. Nonetheless, it seems appropriate to take the opportunity in a miscellaneous provisions Bill to address it to ensure public servants, their children and grandchildren will not be disadvantaged under the citizenship laws. I hope Deputies can support the amendments which are a practical and sensible response to recognising what service abroad is actually about, namely, working for one's country. In simple terms, the provisions recognise that when an Irish diplomat serving abroad has children abroad, in law it is the same as having a child at home.

Amendment agreed to.

Deputy Simon Coveney: I move amendment No. 2:

In page 6, between lines 27 and 28, to insert the following:

“(c) in section 7 (amended by section 3 of the Irish Nationality and Citizenship Act 2001) by the insertion of the following after subsection (3):

“(3A) A person to whom paragraph (b) of subsection (3) applies shall be deemed to have been born on the island of Ireland for the purposes

of that subsection.”,

and”.

Amendment agreed to.

Chairman: Deputy Seán Crowe submitted an amendment that was ruled out of order. As such, we cannot discuss its content.

Amendment No. 3 not moved.

Question proposed: “That section 9, as amended, stand part of the Bill.”

Deputy Seán Crowe: As the Chairman indicated, I submitted an amendment that was ruled out of order. The Bill is technical in nature and I welcome the explanation in the memorandum of the amendments the Minister is putting forward. On Second Stage I referred to my concerns about the provisions of this section. Those concerns were reflected in the disallowed amendment. Having read through the debate on Second Stage in the Official Report, it seems mine were the only concerns raised in this regard. My amendment was disallowed on the grounds that it could involve a charge on Revenue, in accordance with Standing Order 179(3). With the Chairman's indulgence, I would like to explain why I submitted it.

Chairman: The Deputy should focus in his comments on the section rather than the subject matter of his disallowed amendment.

Deputy Seán Crowe: I will do so. The section seeks to amend the Irish Nationality and Citizenship Act 1956 to provide that any period of time spent in the State where persons are exempt from immigration controls, as workers in embassies are, is not reckonable for residency

in the context of a naturalisation application. The rights of embassy workers are important and should not be undermined or interfered with in any way. On Second Stage I said I did not understand why this provision was being included in the Bill. Is it to do with immigration controls, checks and so on? It proposes to take away the rights of a category of persons without any explanation as to why it is being done. I still do not understand the purpose of excluding in this way what is likely to be a very small group of workers which will probably comprise no more than 20 or 30 persons.

Following the Second Stage debate, nobody from the Department contacted me to provide the information I had requested and the section remains the same. That is bad form. It is seldom we have legislation passing through the House these days but normally the Minister or the Minister of State who sums up the debate will reply to questions raised by Members in the course of the debate. That was not done in this instance. I acknowledge that it was the Minister's predecessor who took the debate, but it is still unacceptable. On Second Stage I asked the previous Minister to explain why these workers should be treated differently from others and indicate how many people had applied for naturalisation or citizenship in this way in recent years. I pointed out that having this important information would help to explain the inclusion of this provision. I questioned why this change was being made at this time and asked the Minister to outline the policy goal it reflected, but none of my questions were answered. Does the Minister agree that they deserve some response?

On Second Stage I indicated my intention to raise this matter again on Committee Stage unless my questions were answered in a satisfactory manner. Bizarrely, I was told my amendment had been ruled out of order because the retention of the current provision might involve a cost to the Exchequer. Apparently, under the existing provision, people might potentially be eligible for citizenship at an earlier date, as a consequence of which additional costs might arise. That is my understanding of the reason the change is being made. That is an unacceptable usage of Standing Order 179(3), in respect of which there is no appeal mechanism. When I queried why it cost an applicant €950 to apply for Irish citizenship, I was told that the charge was necessary to cover the cost of the administration work involved in processing the application and reflective of the high value in which Irish citizenship was held. If applicants are paying for their own application process, how can more applications be considered to be a charge on Revenue, or do citizenship applications cost the State money?

I am seeking clarity from the Minister on these legitimate questions. I am unable to push the amendment to a vote, but the Minister can do so on Report Stage. If he does not, I will be voting against the Bill, something I do not want to do. I have no other objections to what is a largely technical Bill. When an Oireachtas Member asks legitimate questions, he or she should be given answers. I thank the Chairman for allowing me to speak to the section. It is worth spending a few minutes to discuss the matter

Chairman: On a point of clarity, neither the Minister nor the Department was involved in ruling the Deputy's amendment out of order. That decision fell to me as Chairman of the committee and was made on the basis that the proposal would involve a potential charge on the Exchequer. Only a Minister or a Minister of State may bring forward an amendment that has a revenue or expenditure implications.

Deputy Simon Coveney: I will try to address the issue the Deputy has raised in the context of the section as a whole. As the Chairman noted, neither I nor my Department has a role in deciding whether an amendment is ruled in or out of order. From a policy perspective, the Deputy deserves to understand why we have not brought forward a similar proposal to what

he has set out in the amendment which has been ruled out of order. During the Second Stage debate my predecessor, Deputy Charles Flanagan, explained the rationale for this policy which I will reiterate briefly for the benefit of the Deputy.

Under the Vienna Convention on Diplomatic Relations, members of diplomatic missions and their families are required to be exempt from immigration controls. With regard to citizenship, like many other countries, Ireland has long considered that the spirit of the Vienna Convention envisages people coming to the State as employees of a foreign government for a finite period of time before returning to that country or another on assignment. In these circumstances, it is considered appropriate to exclude such persons from the mainstream citizenship arrangements, just as they are exempt from immigration controls, one being a logical corollary of the other. In effect, employees of foreign governments are deemed to be the responsibility of those governments. Persons who are working in a diplomatic mission here are effectively exempt from all sort of things, including a potential liability for tax and PRSI, and do not need to go through work permit application procedures or anything like that. They come as part of a diplomatic mission and are usually here for a set period before moving to another mission, whether back home or in a different state. As such, they are in a different category from other types of non-citizen worker. Somebody who receives a work permit to come here is effectively part of the Irish immigration system by being here. After four to five years, he or she has the timeline required to be eligible to apply for naturalisation. By contrast, a person who comes to Ireland to work in a diplomatic mission bypasses all of these application procedures and arrives as part of a team from another country, representing that country's interests and being employed by its government. Of course, at some later point, if such persons wish to apply to come here as individuals, they may do so on the same basis as anybody else. The matter being raised by the Deputy was whether they should be able to use the time they spent here on a diplomatic mission as time towards a naturalisation application at some stage in future. That was not the intention of the Vienna Convention on Diplomatic Relations in general. Just as when Irish teams are abroad in Irish embassies, they are essentially still part of Ireland although they operate outside the State as a representative for Ireland. That was the rationale as outlined by the previous Minister, Deputy Flanagan. I will take a look at it in a bit more detail if the Deputy so wishes before Report and Final Stages. Perhaps we could have a stab at the numbers involved, as they would not be huge. There is a point of principle whereby somebody who comes to Ireland and needs to go through the permitting and visa procedures and who works here on the back of that permit system is in a different category to somebody who comes here as part of a diplomatic team. I will have a look at it but the rationale as outlined by the former Minister stands, and that is why we do not have an amendment mirroring that of the Deputy yet.

Question put and declared carried.

Sections 10 and 11 agreed to.

Title agreed to.

Bill reported with amendments.

Chairman: As the Bill has completed Committee Stage, it is recommended that members submit Report Stage amendments to the Bills Office without delay as Report Stage may be tabled at short notice.

Message to Dáil

Chairman: In accordance with Standing Order 90, the following message will be sent to the Dáil:

The Select Committee on Foreign Affairs, Trade and Defence has completed its consideration of the Diplomatic Relations (Miscellaneous Provisions) Bill 2017 and has made amendments thereto.

Protection of Cultural Property in the Event of Armed Conflict (Hague Convention) Bill 2016: Committee Stage

Sections 1 to 11, inclusive, agreed to.

Schedules 1 and 2 agreed to.

Question proposed: “That the Title be the Title to the Bill.”

Minister for Foreign Affairs and Trade (Deputy Simon Coveney): I will make a general comment as I have not had the chance to put anything on the record in this regard.

Deputy Noel Grealish: The Minister could quit while he is winning.

Deputy Simon Coveney: I am impressed by the committee’s pace.

Chairman: We might put a time limit on this.

Deputy Darragh O’Brien: Everything that needed to be said was said on Second Stage.

Deputy Simon Coveney: I wish every Chairman was as efficient as this Chairman. The purpose of the Bill is to make the necessary provisions in Irish law to enable the State to ratify a 1954 Hague Convention on the protection of cultural property in the event of armed conflict. There is also a 1999 protocol that supplements this. It is important to recognise these conventions go back some time. I am glad to say we are amending Irish law to recognise them. This is as important in terms of the signal sent to other countries as it is to the law in Ireland. I am glad to say we are unlikely to have armed conflict in Ireland where this law would be necessary to apply but, unfortunately, many other countries are not in those circumstances. We have seen devastating consequences of the destruction of very significant cultural and historical monuments, artefacts and so on in the latest Syrian war, for example, as well as many other conflicts in other parts of the world. I hope that with Ireland ratifying and producing this legislation, we will encourage others to do likewise. I thank the Opposition for its support in allowing us to move this through swiftly.

Deputy Darragh O’Brien: I outlined the rationale for my party’s support of this legislation on Second Stage in the Dáil. I agree with the Minister that this requires an approach from the whole of the European Union. This copperfastens our international obligations but the rationale for our support for the Bill without amendment was outlined in the debate in the Chamber on Second Stage.

Deputy Seán Crowe: There are no amendments to the Bill and we welcome it. A total of 126 states are party to the Hague Convention and we want to ensure Ireland makes the necessary provisions in law to ensure it complies with obligations. I acknowledge the work of my colleague in the North, Ms Carál Ní Chuilín, who served as Minister with responsibility for culture, arts and leisure in the Six Counties and supported similar legislation in the Assembly. I welcome the Bill but I also want to see the application of its core values in the country at all times. It is useful to be cognisant of the various aspects of cultural property in this country during peace, and not just in the case of war, as the Bill outlines. It would be farcical to lament the destruction of cultural property in war without applying the same standards to the preservation of such property during peace.

We need only look at the historical quarter around Moore Street, which falls into the broad and positive definition of cultural property as laid down in section 1 of this Bill, yet it remains under threat from the policies of the Government and construction companies. I am thankful we are at peace but I wonder whether outsiders looking in would consider the Government guilty of the destruction of our cultural property in peace through negligence and ignorance. We have seen historic buildings being knocked down by developers because of light-touch legislation in the past and I refer to fighting a legal battle against the likes of the Moore Street campaign with public money in order to side with developers, whose only appreciation of culture is from pictures on bank notes. I commend the Lord Mayor of Dublin, who held a cultural event last weekend on Moore Street that drew attention to the spirit of bygone days, as well as the historic nature of the quarter. I support the Bill but we must also scrutinise what we do during peace as well.

Question put and agreed to.

Bill reported without amendment.

Message to Dáil

Chairman: In accordance with Standing Order 90, the following message will be sent to the Dáil:

The Select Committee on Foreign Affairs and Trade, and Defence has completed its consideration of the Protection of Cultural Property in the event of Armed Conflict (Hague Convention) Bill 2016 and has made no amendments thereto.

I thank the Minister and his officials for attending the committee. It has been the Minister's first opportunity to address this committee and we are looking forward to having good interactions and working well alongside him. I know that he has a very heavy agenda and workload but I was in County Down at the weekend where I was given a clear message by people I met from both communities that they are very concerned that the institutions are not back up and running in Northern Ireland. I said that I would be speaking to the Minister today - I am not asking him to comment - and I would convey the people's frustration to him and how anxious they are that the two main parties in Stormont, Sinn Féin and the DUP, would make every effort to get the institutions back up and running as quickly as possible. We know the importance of the Good Friday Agreement and the institutions it provides for. I have the privilege of representing an area that has benefited very considerably from the agreement and we would like to see its potential maximised. I said that I would convey that message to the Minister on behalf

of people from both traditions I met at the weekend. We look forward to further engagement with the Minister. I am sorry if I have drifted off topic.

Deputy Simon Coveney: That is the Chairman's prerogative. This is my first time before this committee, dealing with two quite technical pieces of legislation. There are many other things we need to tease through and discuss. I look forward to being asked back to the committee again. I would like us to have regular interaction on Northern Ireland in particular. I know that the Chairman is very interested in and knowledgeable on the matter, as are other members.

It is a very important week in the context of protecting and maintaining devolved government and the institutions in Northern Ireland. I will be in Belfast tomorrow, working with all parties but especially the two largest parties, to try to find a way to ensure that we do not allow the heart to be ripped out of the Good Friday Agreement, which is what would happen if we do not have institutions in Northern Ireland making decisions for people there. In order for that to happen, the two largest parties need to find a way to accommodate each other, which is not easy, and I recognise the efforts made by both parties and their negotiating teams in recent weeks. That has happened in private, which is as it should be, but the negotiations cannot go on forever, as everyone knows, so we are coming to a point where people must make choices. My job and that of the Secretary of State, James Brokenshire, is to try to facilitate and encourage and help parties find the accommodation that is necessary in a way that is true to the agreements, including the Good Friday Agreement. There is a genuine effort in both the DUP and Sinn Féin to do that and support from the other political parties who want to be part of a fully inclusive executive in Northern Ireland. We are at a point where most people accept that negotiations cannot continue week after week. Northern Ireland needs a budget. There are practical issues around that. I passionately believe that Northern Ireland needs to decide on its own budget and how it is spent and it is people elected in Northern Ireland rather than anywhere else who should be doing that. It is an important week, a sensitive time and we should be careful about what we say but also be clear about the outcome that is necessary for the people of all communities in Northern Ireland.

I also want to thank the committee members for their support for the Government's efforts to represent Ibrahim Halawa who arrived back in Dublin about 20 minutes ago, where he met his family and friends at the airport. The Minister for Children and Youth Affairs, Deputy Katherine Zappone, is there representing the Government. It is a happy ending to a very difficult period in his life. I had the opportunity to speak to him over the weekend and we wish him well in trying to get his life back to some form of normality. Today is a great day for him and his family, who I am sure will celebrate it. We will do what we can to ensure that he finds the transition from imprisonment over the last four years to normal life as a young Irishman in the coming months and years as smooth as possible.

There are many other issues that I would like to talk about but we are unable to do so this morning. I would like to return and discuss some of the matters on which the Government has strong views including the Middle East peace process, EU relations with Africa, Brexit, and the future of Northern Ireland, and there must be many issues on which the members would like to probe me. I look forward to doing that when we have more time.

Chairman: I thank the Minister. Our committee had much engagement with his predecessor, Deputy Charles Flanagan, and Department officials regarding Ibrahim Halawa and we are all very glad he is back home in Ireland. We wish him well into the future. We want to record our appreciation for the officials in the consular section of the Department who met us on numerous occasions and briefed us. We had engagement both publically and privately, during

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which we all expressed our concerns about Ibrahim for so many years. We wish him well in the future.

As the Minister said, there is generally not much interest in Committee Stage debates which are technical matters but I am glad so see we are joined by members of the diplomatic corps. I see the ambassadors of Cyprus and Israel as well as the *chargés d'affaires* from Georgia and Saudi Arabia, and also a representative of the Russian Federation. We are glad that they are here with us, at a technical Committee Stage debate on two important Bills.

I thank the Minister and his officials for their attendance.

The select committee adjourned at 11.37 a.m. until 12.15 p.m. on Thursday, 23 November 2017.