



Nationality and Borders Bill House of Lords, Committee Stage

Amendment 184 (Consultation on citizenship)

LORD MOYLAN
LORD HODGSON OF ASTLEY ABBOTTS
LORD BLUNKETT
BARONESS LISTER OF BURTERSETT

184

After Clause 78, Insert the following new Clause—

“Consultation on citizenship

Within six months of the passing of this Act, the Secretary of State must issue for public consultation a review of its implications for the nature of British citizenship and national cohesion.”

Member’s explanatory statement

This amendment requires the Government to consult publicly on the impact of the Act on citizenship and national cohesion.

Introduction:

1. Amendment 184 provides an important opportunity to:
 - a. reflect more holistically upon the debates in the House on Day 1 of Committee on several matters concerning citizenship that were separately debated; and
 - b. provide peers a further opportunity to press for answers to questions they put to Ministers in those debates ahead of Report stage.
2. The amendment would require the Secretary of State to issue a public consultation upon the implications of the Bill upon “*the nature of British citizenship and national cohesion.*” The need to reflect upon those implications was emphasised on Day 1 of the Committee by powerful speeches concerning citizenship rights in debate upon various groups of amendments. Those groups

included amendments concerning deprivation of citizenship,¹ fees for registration of citizenship² and a requirement that certain people, including many children, must show themselves to be ‘good’ in order to exercise their right to be registered with citizenship.³

Parliament’s intention in creating British citizenship:

3. British citizenship was created by the British Nationality Act 1981. That Act took effect on 1 January 1983. This was a seminal moment in British nationality law and it is important to recall and understand Parliament’s purpose in passing that Act and creating this new citizenship.
4. That purpose is reflected in the White Paper of the Conservative government that introduced the Act⁴ and the Green Paper of the Labour government that preceded it.⁵ The White Paper, for example, stated:

“11. The last Government concluded in the Green Paper that a new scheme of citizenship should reflect the strength of the connection which various groups of people have with the United Kingdom in the world today; they thought there should be a more meaningful citizenship for those who have close links with the United Kingdom and who could be expected to identify themselves with British society...”

“14. The Government... agree also that there should be a separate citizenship for those people connected with the United Kingdom itself, and that this should be called ‘British Citizenship’...”

5. The British Nationality Act 1981 that followed was enacted to fulfil this intention. British citizenship was to be the unifying nationality of everyone with close connection to the UK. Parliament identified these people by the way it constructed the rights to citizenship, which are conferred by the Act. That reflected Parliament’s assessment of what constitutes connection to the UK.

Rights to citizenship by registration:

6. In several instances, the Act confers citizenship automatically. But this was acknowledged to be insufficient. The Act therefore includes several provisions for people to be registered as citizens. This is the means chosen by Parliament to ensure all British people are included by right. Registration is of especial importance to many children born in the UK because the Act ended the application of *jus soli* in British nationality law. Being born in the UK is no longer in itself makes a person a citizen. But all children who are born and grow up here, grow up with the same connection. Parliament not only recognised this. It was acutely concerned to ensure these children were included and their rights to be registered as citizens is vital to that purpose.

¹ Hansard HL, Committee, 27 January 2022 : Cols 506ff

² Hansard HL, Committee, 27 January 2022 : Cols 458ff

³ Hansard HL, Committee, 27 January 2022 : Cols 451ff

⁴ *British Nationality Law: Outline of Proposed Legislation*, Cmnd. 7987, July 1980

⁵ *British Nationality Law: Discussion of Possible Changes*, Cmnd. 6795, April 1977

Belonging, identity, security and equality:

7. The parliamentary debates during the passage of the British Nationality Act 1981 were long and detailed as befitted the creation of a wholly new settlement of the UK's nationality laws. Among the critical considerations in those debates was the need to ensure that all British people – as identified by the Act – enjoyed the full and equal security of the citizenship. As Ministers emphasised in explaining the registration rights provided for children:

“This is the fundamental position that we have adopted. We believe that it is extremely important that those who grow up in this country should have as strong a sense of security as possible.”⁶

8. This was as necessary for each person's sense of identity and belonging as it was for wider national cohesion, social and racial harmony. Again, Ministers emphasised:

“We have to say that we are now living in a country where there are all sorts of different colours, ethnic backgrounds and minority communities. I believe profoundly that that is a fact of our society and we have to make it work. We shall make it work by encouraging people to feel secure in this country rather than encouraging their apprehensions. That is fundamental to our position.”⁷

Opportunity provided by this Bill:

9. Amendment 184 provides opportunity to reflect upon what has been done since the British Nationality Act 1981 was introduced and how this has undermined the purpose of the Act and the citizenship it created. More importantly, that reflection and the presence in Parliament of a nationality bill provides opportunity to correct what has gone so badly wrong. That opportunity needs to be taken for all the reasons expressed in relation to various amendments that were debated on Day 1 of Committee.

How British citizenship has been degraded over the last two decades:

10. As Lord Moylan emphasised, the “*whole concept of citizenship*” has been profoundly “*degraded*” by various changes made over the last two decades.⁸ The “*indissoluble bond*”⁹ between the State and its citizenry has not merely been dissolved but this has been done in ways that exclude and alienate British people on racially divisive grounds.¹⁰ That is not only the case for people made

⁶ *Hansard* HC, Standing Committee F, 24 February 1981 : Col 177 per Mr Timothy Raison MP, Home Office Minister

⁷ *Hansard* HC, Standing Committee F, 24 February 1981 : Col 179 per Mr Timothy Raison MP, Home Office Minister

⁸ *Hansard* HL, Committee, 27 January 2022 : Col 511

⁹ *Hansard* HL, Committee, 27 January 2022 : Col 509

¹⁰ Many peers from across the House drew attention to this including peers, who drew on their personal experience, such as Baroness Mobarik, Baroness Warsi and Baroness Chakrabarti: *Hansard* HL, Committee, 27 January 2022 : Cols 519-21, 522 and 532-33 respectively.

more vulnerable to powers to strip them of their citizenship. It is the case of thousands of children and other British people, entitled to that citizenship, who cannot secure it to begin with. Among the causes of that are prohibitive fees set far above the cost of their registration¹¹ and requirements that people must satisfy the Home Secretary that they are ‘good’.¹²

11. Several peers spoke of how two tiers of citizenship had been created.¹³ The reality is, however, worse. Some British people’s citizenship is indeed being relegated to a second tier, palpably without the security enjoyed by the majority of citizens by reason of ever-increasing powers to strip it away. But many British people are being left in a third tier. Their citizenship is not even accessible to them to begin with. Their rights to be registered are kept from them by exorbitant fees,¹⁴ tests of whether they are ‘good’¹⁵ or simply because they are unaware that their birth being registered in this country is insufficient and their citizenship of this country must be separately registered too.¹⁶
12. Lord Anderson was among peers who drew attention to how the last twenty years have seen the bonds between nation and citizen increasingly severed.¹⁷ This is undoubtedly true. But it is vital to understand that this has not only been done by changes in legislation, policy and practice concerning the power of deprivation, which received much attention on Day 1 of Committee. It has also been done – with more immediate practical effect upon a far larger number of people – by other changes over the very same period.
13. Peers from across the House have decried the treatment of citizenship rights as mere gifts and privileges for the Government to bestow or take away.

Windrush

14. In this context, Baroness Fox recalled the injustices done to members of the Windrush generation.¹⁸ The British Nationality Act 1981 was expressly intended to recognise their citizenship by providing the right of registration.¹⁹ Ministers argued for their right to be time-limited for the very purpose of encouraging people to exercise it.²⁰ Far from encouraging registration, however, the Home Office unforgivably disseminated information encouraging people to do the precise opposite – not register.²¹ That left people subject to immigration laws

¹¹ As explained e.g. by Baroness Lister of Burtersett and the Lord Bishop of Gloucester on behalf of the Lord Bishop of Durham: *Hansard* HL, Committee, 27 January 2022 : Cols 460-61 and 461-62 respectively.

¹² As explained e.g. by Baroness Hamwee, Baroness Lister of Burtersett and Lord Paddick: *Hansard* HL, Committee, 27 January 2022 : Cols 451, 452 and 453 respectively.

¹³ See e.g. Baroness Fox of Buckley, Baroness Jones of Moulsecoomb and Baroness Mobarik: *Hansard* HL, Committee, 27 January 2022 : Cols 516, 517 and 519 respectively.

¹⁴ Baroness Lister of Burtsett and the Lord Bishop of Gloucester *op cit*

¹⁵ Baroness Hamwee, Baroness Lister of Burtersett and Lord Paddick *op cit*

¹⁶ See e.g. Lord Paddick: *Hansard* HL, Committee, 27 January 2022 : Col 467

¹⁷ *Hansard* HL, Committee, 27 January 2022 : Col 513

¹⁸ *Hansard* HL, Committee, 27 January 2022 : Col 516

¹⁹ British Nationality Act 1981, section 7

²⁰ *Hansard* HL, 27 July 1981 : Cols 173-74 *per* Lord Belstead, Government Minister

²¹ Wendy Williams’ *Windrush Lessons Learned Review*, March 2020, HC 93, p59

by which, contrary to all the department said at the time,²² many people were cruelly excluded, alienated and exiled years later. What is even more unforgivable is that, even after this has all be so vividly exposed and Ministers have formally apologised for this terrible wrong,²³ the Government continues to deprive people of their citizenship rights by excluding them from registration just as was done to that earlier generation.

The alienating and divisive consequences of this:

15. The alienation this is causing is profound. The Project for the Registration of Children as British Citizens (PRCBC) has over the last nine years directly assisted hundreds of young people, many of whom in care or with other complex experiences of social isolation and deprivation.²⁴ By providing training and raising awareness among community groups and lawyers, it has assisted thousands more. But thousands of young people are deprived of their citizenship because, whether or not they receive specialist help, their rights have been stripped away by fees and other legal barriers. Many young people are growing up in this country wrongly excluded from their most basic right to be recognised as equal citizens by their Government and country. Parliament gave them that right by the British Nationality Act 1981 – only for it to be effectively blocked by what has been done since, particularly over the last two decades. Even the young people who can be assisted to register are being made to feel alienated by the fact of having to pay such exorbitant fees and overcome these hurdles that none of their peers face. None of this is good for them. Nor is it good for wider society or for fulfilling the unifying purpose of a shared citizenship.
16. Citizenship is a right. Indeed, it is the most fundamental right concerning the relationship between a person and that person's government and country. It is in that context that it has been powerfully described as the right to have rights.²⁵ As so many peers expressed on Day 1 of Committee, this right is being fatally undermined for many people. It is urgently in need of restoration. It is, therefore, vital that Parliament addresses the many ways by which its undermining is occurring.

²² *ibid*

²³ As most recently reiterated in the Government's response published by the Home Affairs Committee to the Committee's report on the *Windrush Compensation Scheme*, Third Special Report of Session 2021-22, February 2022, HC 1098

²⁴ <https://prcbc.org>

²⁵ Referred to by Lord Paddick in Committee: *Hansard* HL, 27 January 2022 : Col 467