

WHY CAN'T I BE A CITIZEN

Last year I wrote an article about becoming a Canadian citizen. I explained how a person can be born a Canadian citizen and what it takes to become naturalized as a Canadian citizen. I did not, however, discuss the reasons that would stop someone from acquiring Canadian citizenship or how a Canadian citizen can cease to be a Canadian citizen.

There has been a fair bit of discussion in the media about Canadian citizens who have never lived in Canada and about the automatic and surprise loss of Canadian citizenship. A general principle of Canadian citizenship is that once you become a Canadian citizen you can be a Canadian citizen for life and don't have to worry about losing your Canadian citizenship. This principle is true for everyone except a small class of Citizens. Because of the new requirement that anyone entering the United States by air must have a Canadian passport some Canadians are discovering, when applying for a passport, that they have ceased to be Canadian citizens without their knowledge. This mysterious loss of Canadian citizenship is due to section 8 of the *Citizenship Act*.

Section 8 of the *Citizenship Act* has been in the Act since the Act was created in 1977. This section states that a Canadian citizen who acquired their citizenship by virtue of being born outside Canada after 14 February 1977 to a Canadian parent who was also born outside Canada will cease to be a Canadian citizen unless they make an application to retain their citizenship before their 28th birthday and either lives in Canada or has substantial ties to Canada. Since not too many Canadians were born outside Canada to parents who were born outside Canada, not too many people are going to be affected by this section. For those who are affected, however, this mysterious loss of Citizenship can come as quite a shock. It is possible that these people are living in Canada and believe themselves to be Canadians but, in fact, they have ceased to be Canadians without anyone telling them. In most cases, these people will be eligible to apply for Permanent Residence and will be eligible to apply for Canadian citizenship within one year, not the usual three years, after being landed as a Permanent Resident.

I have less sympathy, and so will the Government of Canada, for people who believed themselves to be Canadian citizens because a grandparent was born in Canada yet have never lived in Canada themselves. These people will have to apply for Permanent Residence just like any other non-Canadian.

Other sections of the *Citizenship Act* delay the time when a Permanent Resident can apply for citizenship. A Permanent Resident cannot apply for Citizenship while they are in jail, on probation or parole for criminal offence, or charged with an indictable (felony) offence. If a person is convicted of an indictable offence they must wait three after the conviction to apply for Citizenship. Since citizenship is a privilege, not a right, there is not a lot of sympathy for people who must wait to become Canadian citizens because of their criminal behavior.

Canada is one of the most generous countries in granting citizenship. Many countries deny the right of foreigners to ever become citizens and most countries have a much

longer waiting time than three years. Canadian citizenship laws are, for the most part, fair and reflective of Canadian values of inclusiveness and flexibility.