

*Establishment of Immigration Appeal Board*

available through the Queen's Printer to members of the public who wish to buy them in the same way that the equally detailed customs tariff is made available to the people of Canada who wish to purchase a copy from the Queen's Printer, or who wish to consult it in a public library. Again, Mr. Chairman, if this step is not taken then the right of appeal will not have the meaning that I think the minister wishes to place upon it.

I would point out, Mr. Chairman, that something else could possibly happen if the change I have suggested in connection with stating the reasons for refusal is not implemented at the time the bill becomes law. Some people, rather than file an appeal, may merely file a formal notice of appeal, and the board would also find itself swamped with numbers of appeals which would not be brought before it if the criteria which are generally applied by the department, and its reasons for refusal of an application, were clearly stated and made available to the applicants at the outset.

Clause 17 does not make clear that an appeal taken under it can be decided on the basis of law or fact or mixed law and fact, in the same way that appeals with respect to deportation can be decided in other parts of this legislation. It could be argued that questions of fact would have to be taken into account under the wording of clause 17, but this is not clear. Therefore one area in which an amendment to clause 17 might be made is in making clear that appeals under that clause could be heard on the basis of law or fact, or mixed law and fact.

I think there is much merit in making the provision that decisions of the board under clause 17 should take into account compassionate or humanitarian considerations, something which is not possible under the existing wording of clause 17, the board being restricted to a consideration of whether or not the requirements of the Immigration Act and the regulations made thereunder have been met. These requirements and regulations, it seems to me, do not leave much area for consideration on humanitarian and compassionate grounds, especially if the right under the present law for the minister to grant permits is eliminated if an appeal is heard by the board. This has been mentioned by another member.

• (9:10 p.m.)

I ask the minister why an appeal on questions of law with respect to decisions under clause 17 should be only to the Supreme Court of Canada. The board itself can hear

questions of law and fact. Perhaps I should backtrack for a moment and say that I should not be applying my remarks at this stage only to clause 17, as it is not yet clear whether appeals under that clause to the new board can be on questions of law and fact. My remarks here should be related to the act as a whole, and include questions of deportation.

As I was saying, under clause 23 there is a right of appeal from a decision of the board to the Supreme Court of Canada, on a question of law. But the board itself has jurisdiction to hear questions of law and fact. It seems to me that if the board can make an error on a question of law, it can make one on a question of fact. This seems to be a useful area for amendments—to widen the right of appeal to the Supreme Court to take in questions of fact as well as law.

While I do not claim to have at my fingertips the rules of the Supreme Court it seems to me, if my memory is correct, that appeals to the Supreme Court involving property rights can be made on questions of law and fact. If appeals on questions of fact and law can be taken with respect to matters of property, those rights should be equally available when dealing with the rights of human beings.

It has already been noted that clause 17, as worded, limits the right of appeal to citizens. There is much to be said for extending the right of appeal to landed immigrants. I do not think it would be fair or equitable to limit the right of appeal to citizens unless and until changes have been made in our existing citizenship laws, to make sure that procedures which are uniformly fair are available in every citizenship court across Canada, and give people rights of appeal from decisions of citizenship court judges, rights which do not exist at the present time.

I can understand how the present minister and his predecessors have been concerned about the burden placed upon them by the existing powers under the Immigration Act, which give them opportunity to use discretion. As has been said by other members of the house, much can be said for a power of discretion vested in the minister, especially when it comes to considering matters of humanitarian concern and compassion. It seems to me that the burdens presently placed on the Minister of Manpower and Immigration, because of the opportunity and ability to use discretion, would be lessened to a great degree if there were sufficient highly