

are conscientious and dedicated public servants. My principal contacts have been with the distinguished chairman, Colonel J. C. A. Campbell, Q.C., a first class public servant; and the vice chairman, Mr. E. B. Tim Reid, an equally sincere and capable public servant. They have struggled, in my view, against great odds on the existing board.

The proposed new board, of course, will be a very different body. It arises, I suppose, directly out of the report of Mr. Joseph Sedgwick, Q.C., one of the most distinguished and sophisticated counsel in Canada. It is but one of the many recommendations of the Sedgwick report, though perhaps the most important and most palatable.

There are some obscurities in the bill as drafted, Mr. Speaker which I believe need to be clarified before it finally passes. It is nowhere clear whether what is intended is an appeal from a special inquiry officer under ordinary appellate rules or a genuine hearing *de novo*. It is true that the board is given power to summons and hear witnesses, which appears to indicate a hearing *de novo*, but the operative provisions in the bill on the other hand, seem to contemplate an appeal on the record. An appeal on the record, in my view, would be obviously unsatisfactory because very often the prospective deportee has almost no preparation and probably very little advice at the time of the inquiry before the special inquiry officer. I think the nature of the intended appeal procedures will need to be explored in some detail when we are in committee of the whole.

I believe it was Mr. Sedgwick who pointed out the importance of building up a body of jurisprudence in the field of immigration practice. Today it is an impenetrable maze in which only departmental officers can venture with confidence. I am not suggesting that precedents be on any rigid, inflexible basis, or indeed that the board establish the principle of *stare decisis*. However, I do believe the board should give reasons which should be published and from time to time would be annotated so that principles could be readily ascertained by appellants. Building upon these precedents a flexible body of immigration jurisprudence would be achieved.

If this is to be done it is obvious that the quality of board membership is of the greatest significance. The board cannot achieve its objective and be a real success unless the men and women who compose it are persons of flexible mind, devoid of the rigidity of departmental administration, persons of compassionate and humanitarian instincts.

Establishment of Immigration Appeal Board

• (3:20 p.m.)

The role of successive ministers of immigration has been to bring fair and impartial administration to the department, coupled with—and I emphasize the words “coupled with”—a warm, sympathetic, compassionate understanding of the basic human problems which are involved in all immigration cases. It would be a sad day, sir, if we were to take away ministerial discretion and landed up with a rigid, legalistic, dispassionate approach on the part of the board.

From that statement, Mr. Speaker, arises what I think is the basic issue that I have had to settle in my own mind relating to this bill. Ought the board's decisions to be final, or ought there to be a residuum of discretionary authority left with the minister after the board has decided? Mr. Sedgwick reported very strongly that the board's decisions should be final, and he gave four reasons to which I should like to refer. I quote from page 8 of the report on immigration, part II, by Joseph Sedgwick, Q.C.:

In recommending that the board's decisions be final I do so for these reasons:

1. To make appeals to the board subject to review and final determination by the minister is to render the board essentially sterile. If the board's decision is unfavourable, recourse to the minister is almost automatic in a great proportion of cases and the board is reduced to a mere stepping stone between the special inquiry officer and the minister.
2. This would relieve the minister of a great deal of pressure of an undesirable nature. My inquiries satisfy me that the pressures brought to bear have often dictated the disposition of cases.
3. Ministerial duties and commitments are onerous and such that it is impossible for the minister to give careful consideration to a multitude of individual cases.
4. I would expect that an independent board exercising discretion along the lines indicated above would soon, on the basis of precedent, evolve intelligible and reasonable guide lines which would be made known to members of the legal profession and others particularly interested in immigration matters as well as to the public generally.

These, sir, are very cogently and intelligently expressed reasons, yet I am not fully convinced. While Mr. Sedgwick was doing the research for his report I argued this issue with him in detail, as did the Minister of Transport (Mr. Pickersgill), I believe, based upon his experience as minister of citizenship and immigration and as, I believe, did other former ministers of that department.

I understood that the Minister of Transport took a very strong position in favour of the finality of decisions. On the other hand I argued for a limited, carefully guarded