

Immigration

must be made by persons who have regular access to and involvement with secret information, and who are thus better able to appreciate its significance, its reliability, and its ramifications. It is internationally recognized that security matters must be dealt with by the executive rather than the judiciary. The same observation applies to motion No. 32; although we agree with the presence of one retired judge on the special advisory board, we do not think that a board consisting solely of judges could bring sufficient experience and expertise to bear, having regard to both the board's functions specified in Clause 42.

The hon. member for Greenwood (Mr. Brewin) constantly reminds us of security cases under the Defence of Canada regulations, but I would point out that in those cases the information was domestically generated whereas much of the immigration material comes in trust from foreign sources. Furthermore, immigration security cases do not appear to be a fit subject for judicial proceedings since none of the usual court rules can apply—I am thinking primarily of the ability to cross-examine witnesses, for example. National security is generally regarded in all countries as a matter for the executive branch, not for the judiciary.

In conclusion I repeat that we understand and appreciate the sentiments which have inspired the movers of this group of motions. Nevertheless, I am convinced that the scheme set out in the bill, especially as it was modified in committee, comes as close as we can hope to get to an appropriately balanced protection of the rights of both the individual and the state, and I respectfully urge the House to defeat these motions.

Mr. David MacDonald (Egmont): Mr. Speaker, I shall not prolong the debate unnecessarily. I am grateful for the minister's intervention because it clarifies the nature of the difficulty we have encountered this afternoon with respect to these amendments. The hon. gentleman said at the outset that all kinds of safeguards were needed with respect to this situation. The very fact that confidential material is being brought forward and used against individuals creates a delicate situation.

These provisions are certainly intended to apply to those said to have been engaged in criminal or subversive activity, and I realize that from time to time information might be forthcoming which it would not be in the interests of the security of the state to make public. Nevertheless, I feel the minister has failed in his argument on two points.

In the first place it seems to me there is an assumption that the information which is made available by security and intelligence agencies is almost without question accurate, full and fair. This is an assumption we encounter at the outset. If there were any way in which we as members of parliament could be sure that the kind of information made available to the department in these cases involving the suggestion of criminal activity or criminal conspiracy was not to be questioned, those who have raised this matter would feel a great deal more comfortable. The difficulty is that we are dealing with a whole variety of sources of information. The minister knows, because he is experienced in the law, that much of the

information obtained by way of the creation of a file with respect to criminal or subversive activity may not be hard information but in fact hearsay evidence, or the evidence of prejudiced witnesses, those with a particular axe to grind.

● (1520)

In the case of agencies operating in other countries, we have no way of ascertaining the veracity or accuracy of information made available to our own government. There have been very sorry experiences indeed on occasions when we have acted upon the assumption and in good faith that information provided to us was accurate, only to find subsequently that it was misleading and in fact sometimes downright untrue. In situations like that one must be doubly sure there is sufficient protection for the particular individual involved. There is therefore a major weakness in what the minister said today. He has given us no indication how he or of the officials of his department can be protected against information which is incorrect or unfair to an individual who stands accused. In those instances, of course, any individual can stand in jeopardy.

The other point that concerns me even more is what I think is a false proposition which the minister conveyed to the House this afternoon, which I suppose creates a difficulty for the minister in taking the position he does, or it gives him the basis for taking a position which I think is unwarranted. The minister said something like this—I do not want to misquote him: "The real issue, Mr. Speaker, is the question of the right of the individual to a fair and just treatment as against the right of Canada, the state, to be paramount".

If the choice is between the individual in terms of receiving a fair and just treatment and the survival, the integrity or the legitimacy of the state, surely we have a false notion of what our society is all about. There can be no Canada worth preserving, to put it bluntly, unless the right of the individual to a fair and just treatment is preserved.

I really do not think the minister wants to push this very far. If he is saying that we will have to begin sacrificing certain rights before the law to have a fair and just hearing in order to protect the sanctity and survival of the state, then surely he is saying something that is not in the best tradition of a liberal democracy. Therefore he will want to reconsider, if not today I hope before the time comes for us further to revise the bill in amendments which will come in years to follow. It seems to me that we must be very certain, when establishing the methodology and procedures for dealing with certain situations, which I realize are very often complex and difficult, whether they be of a criminal or subversive nature, to create responsibilities on the part of government and the bureaucracy to deal with innocent people who may be detrimentally affected through the forfeiture of their right to a fair and just hearing.

There is no justification in my estimation for accepting the proposition that there must be some kind of trade off between the survival of the state and the right of each and every individual who is a resident of this country to a fair and just