

*Immigration Act, 1976***GOVERNMENT ORDERS**

[English]

**IMMIGRATION ACT, 1976****MEASURE TO AMEND—CONSIDERATION OF SENATE AMENDMENTS**

The House resumed from Tuesday, January 26, consideration of the motion of Mr. Bouchard:

That a message be sent to the Senate to acquaint Their Honours that this House agrees with amendments 8 and 13(e) made by the Senate to Bill C-84, an Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof, but disagrees with amendments 4, 5(a), (b) and (c), 6(a) and (b), 9, 10, 11, 12 and 13(a) because this House believes they contradict the principles of the Bill for the following reasons:

Amendment 4 would exclude only criminals and war criminals from the refugee determination process, but would allow terrorists, spies and subversives to pursue a claim to refugee status, notwithstanding the fact that Article 33 of the UN Convention would permit the removal of these latter individuals to their countries of nationality or permanent residence, even if they were determined to be Convention refugees.

Amendment 5(a) would eliminate the authority of the Minister to direct a ship to leave or not to enter Canadian waters. This amendment would reopen a significant gap in Canada's ability to control its borders.

Amendments 5(b) and (c) arise out of Senate amendment 5(a), which is not acceptable, and are therefore inappropriate.

Amendments 6(a) and (b) would reverse the policy on which the Immigration Act, 1976 was based, which policy was not changed in the Bill as passed by this House. The amendments jeopardize the possibility of successfully prosecuting persons who profit from organizing illegal migration and from counselling fraud among refugee claimants.

Amendments 9 and 10 would restrict the ability of peace officers and immigration officers to act quickly to search for evidence of major offences under the Immigration Act, 1976, in exigent circumstances, where lives are at risk or where evidence with respect to those offences may be lost or destroyed.

Amendments 11 and 12 would restrict the ability of peace officers and immigration officers to execute search warrants which have been duly authorized by a justice of the peace, by denying explicit authority to break open containers where it is reasonably believed evidence will be found and by limiting the authority to execute these warrants at night.

Amendment 13(a) would reduce the initial period of detention without review from seven days to forty-eight hours, which would allow insufficient time for the gathering of information to substantiate allegations or to identify the individual, particularly when large groups of undocumented persons arrive at one time.

And that this House agrees with the principles set out in amendments 1, 2(a), 3, 7 and 13(b), (c) and (d), but would propose the following amendments:

Amendment 1 be amended to read as follows:

"Strike out lines 22 and 23 on page 1, and substitute the following:

(c) to deter those who assist in the illegal entry of persons into Canada and thereby minimize the"

Amendment 2(a) be amended to read as follows:

"Strike out lines 29 to 39, on page 4, and substitute the following:

(a) examine within seven days, *in camera*, the security or criminal intelligence reports considered by the Minister and the Solicitor General and hear any other evidence or information that may be presented by or on behalf of those Ministers and may, on the request of the Minister or the Solicitor General, hear all or part of such evidence or information in the absence of the person named in the certificate and any counsel representing the person where, in the opinion of the Chief Justice or the designated judge, as the case may be, the evidence or information should not be disclosed on

the grounds that such disclosure would be injurious to national security or to the safety of persons;"

Amendment 3 be amended to read as follows:

"Strike out lines 7 to 12, on page 5, and substitute the following:

(d) determine whether the certificate filed by the Minister and the Solicitor General is reasonable on the basis of the evidence and information available to the Chief Justice or the designated judge, as the case may be, and, if found not to be reasonable, quash the certificate; and"

Amendment 7 be amended to read as follows:

"Add, and immediately after line 6, on page 10, the following:

95.21 No proceedings for an offence under Section 95.1 or Section 95.2 shall be instituted except by or with the personal consent in writing of the Attorney General of Canada or Deputy Attorney General of Canada."

Amendment 13(b) be amended to read as follows:

"Strike out lines 1 to 22, on page 21, and substitute the following:

(2) Where, with respect to a person detained under subsection (1), the Minister certifies in writing

(a) that

(i) the person's identity has not been established, or

(ii) the Minister has reason to suspect that the person may be a member of an inadmissible class described in paragraph 19(1)(e), (f) or (g), and

(b) that an additional period of detention is required to investigate the matter referred to in subparagraph (a)(i) or (ii), the person shall be brought before an adjudicator forthwith and at least once during every seven-day period thereafter, at which times the adjudicator shall review the reasons for the person's continued detention."

Amendment 13(c) be amended to read as follows:

"Strike out lines 23 to 47, on page 21, and substitute the following:

(2.1) Where the Minister has issued a certificate under subsection (2), the Minister may amend the certificate to which the detention relates to include any matter referred to in subparagraph (2)(a)(i) or (ii), following which the person shall be brought before an adjudicator forthwith and at least once during every seven-day period thereafter, at which times the adjudicator shall review the reasons for the person's continued detention.

(3) Where a person is detained under subsection (1) and the Minister has not issued a certificate under subsection (2), the person shall be brought before an adjudicator forthwith after the expiration of the period during which the person is being detained and that person shall be brought before an adjudicator at least once during every seven-day period thereafter, at which times the reasons for continued detention shall be reviewed."

Amendment 13(d) be amended to read as follows:

"Strike out lines 48 to 50, on page 21, and lines 1 to 18, on page 22, and substitute the following:

(4) Where an adjudicator who conducts a review under subsection (2) or (2.1) is satisfied that reasonable efforts are being made by the Minister to investigate the matter referred to in subparagraph (2)(a)(i) or (ii), the adjudicator shall continue the person's detention.

(4.1) Every review under subsection (2) or (2.1) of the detention of a person suspected of being a member of an inadmissible class described in paragraph 19(1)(e), (f) or (g) shall be conducted *in camera*.

(4.2) Where

(a) the Minister is of the opinion that any evidence or information to be presented by or on behalf of the Minister at any review under subsection (2) or (2.1) of the detention of a person referred to in subsection (4.1) should not be disclosed on the grounds that its disclosure would be injurious to national security or to the safety of persons, and

(b) a request therefore is made by the minister, the adjudicator shall order that the review or any part thereof be conducted in the absence of the person and any counsel representing the person.