

Federal Court Bill

question involved is not one of fact alone. I suggest that the formula used in clause 31 might very happily be introduced into section 23 dealing with appeals from the Immigration Appeal Board.

I am delighted that the net effect of this legislation seems to be to relieve the Supreme Court of Canada of a very heavy or case burden. It seems to me that in the past the Supreme Court of Canada has often been involved in dealing with matters that should not have been before it, sometimes relatively small matters. I know that in the Supreme Court of the United States, another great institution, at least 90 per cent of the cases are of a constitutional nature or have to do with the rights and liberties of individuals.

Mr. Turner (Ottawa-Carleton): Or interstate matters.

Mr. Brewin: I believe our Supreme Court of Canada should eventually be performing a similar function. I do not have any doubt that as this place remains busy and legislates, there will be plenty of opportunity for the Supreme Court of Canada to exercise its constitutional jurisdiction. I am glad this bill seems to move in that direction.

In short, Mr. Speaker, we support the general principle of this legislation. All I can do is repeat what I said at the opening of my remarks, that when this bill comes before the committee, the representatives of our party will do their best to submit it to a searching examination to make sure that the excellent intentions that are involved in it are in fact enacted in the wording of the law that Parliament will be asked to pass.

Mr. Steven Otto (York East): Mr. Speaker, you will have noticed that the speeches today on this bill have been relatively short. I think the reason is that so far those who have taken part in the debate have been lawyers, and you know, Mr. Speaker, the first admonition of a lawyer is never to talk for nothing—always be paid for it. I do not intend to break that very good rule or legal practice, and I shall be very brief.

• (4:40 p.m.)

Mr. Speaker, the hon. member for Greenwood (Mr. Brewin) and the hon. member for Halifax-East Hants (Mr. McCleave) mentioned the problem arising with regard to clause 41 and especially subclause 2. The argument went something like this, that there is no reason to disallow the court or the judges to delve into the secrecy or the rea-

[Mr. Brewin.]

sons for the certificate on national security, and so on. As the hon. gentleman from Greenwood said, surely we can trust judges to delve into this question.

I put it to these hon. gentlemen and to the committee that will be considering this bill that having gone into the reasons for the secrecy, what shall the judges do then? Shall they put in their judgment the reasons why such a document is secret? Shall they disclose it, or sit in camera and not give any reasons? If they give no reasons, I put it to you, Mr. Speaker, that this is not the role of the judges because then there will be suspicion that somehow there was a political connection and the judges acted in concert with the minister.

I should like the hon. member for Greenwood to reconsider his stand on that matter and consider what would happen if, first, the judges had gone into the reasons why a document was secret and did not publish their reasons. What would the hon. gentleman have said then? And second, if they did not publish the reasons because—

Mr. Brewin: Would the hon. member permit a question?

Mr. Otto: Yes, Mr. Speaker.

Mr. Brewin: Would he not feel that a judicial mind would be a greater degree of security to a person concerned with the document, and that he would be more likely to accept this than a political judgment by a political officer?

Mr. Otto: I think I would. I think the hon. gentleman would accept the judge's opinion in blank; that yes or no, it is a secret document and should not be published or produced. But a suspicion may still hover in the minds of many other citizens that possibly the judge's decision was not correct, and the same thing could come up again. As it stands, the bill gives much better protection.

The point I want to bring to the minister concerns clauses 19 and 32. The details of the bill be gone into very thoroughly by the committee, but here we are proposing to continue giving constitutional jurisdiction to our Supreme Court. I daresay that is not a good idea for Canada, for the Confederation that we have. It may be a perfect solution to a constitution such as the American constitution and the republican system and it may be good for other nations. However, if we consider our experience in Canada, I wonder whether Supreme Court decisions rendered