

*Immigration Act, 1976*

accept this motion and allow appeal on questions of fact or mixed law and fact and that it do so without the restriction of having to appeal for leave to appeal. Let the Federal Court itself judge the case before it.

[Translation]

**Mr. Fernand Jourdenais (La Prairie):** Mr. Speaker, again today I rise in the debate on certain amendments to Bill C-55, but I am still firmly convinced that even if the 77 amendments were to be accepted, which will certainly not be the case, Bill C-55 is not what Canada needs to ensure the well being of refugees. What we do need is fair, fast and equitable legislation, and Bill C-55 does not fit this description. The legislative committee heard a number of expert witnesses who told us why this measure is worthless. Mr. Speaker, allow me to recall some of the comments of these experts.

● (1150)

[English]

The Canadian Bar Association is, I believe, made up of a very responsible and respected group of Canadian citizens. They claim that Bill C-55 violates the three basic principles of a proper refugee system; universal access, oral hearings for all, and review on the merits. They also said that the screening process and the lack of discretion for the immigration adjudicator and member of the refugee division concerning access criteria prevent a complete evaluation of claims and do not comply with the Convention in allowing *refoulement* without inquiry on the merits. They recommend full universal access before two members of the refugee division. They think the board should have the capacity to recommend to the Minister that a person be permitted to stay in Canada on humanitarian and compassionate grounds.

Furthermore, a no less respected organization, the Canadian Council for Refugees, also says that ultimately the only way to have a workable system is to have one that is fast and fair. C-55 will be challenged in every way possible. They predict that significant parts of the Bill will be struck down and the backlogs will be enormous.

Professor Hathaway, a well-versed expert on the matter said that after all the studies which have preceded it, it is disappointing to find that Bill C-55 has gone in this direction. The Eelam Tamil Society, a group which represents many refugees, says that Bill C-55 has the purpose to change Canada's approach to refugees to one consisting entirely of overseas selection. This is very unfortunate.

The Canadian Jewish Congress believes very strongly that C-55 will set up an unworkable process which will, in some cases, turn away genuine refugees. The system will create as many backlogs as the system it replaces.

I could express the views of many more experts, Mr. Speaker, all of whom say the same thing—Bill C-55 should be scrapped and replaced by a more adequate and humane law.

[Translation]

As I said before, Mr. Speaker, there has to be an alternative to this Bill. I gave all interested parties a document to replace this highly controversial measure and I am convinced that a study of the proposed amendments would have enabled one and all to understand the reasons why Canada must now amend the Immigration Act of 1976 with respect to refugees, while at the same time honouring the Geneva Convention and remaining the world's most humanitarian country.

As far as amendment No. 68 goes, I urge my colleagues to follow the dictates of their conscience. Motion No. 68 is aimed at ensuring that the appeal be made in accordance with a rule and that it become a true appeal. To this end, the clause must read as follows. The motion reads, and I quote:

Motion No. 68

That Bill C-55, be amended in Clause 19 by striking out lines 28 to 38 at page 43 and substituting the following therefor:

"any ground of appeal that involves a question of law, a question of fact, or a question of mixed law and fact."

I hope Hon. Members will support it but I have my doubts, Mr. Speaker, as in the case of all the other amendments.

[English]

**Hon. Chas. L. Caccia (Davenport):** Mr. Speaker, as a result of the initiative of the Member for York West (Mr. Marchi) and the Member for La Prairie (Mr. Jourdenais) we are discussing a very important principle, that is, what appeal mechanism ought to be available in a society like ours for people who apply to remain in Canada as refugees. Therefore, the technicality of the proposal should be seen against the background of the desire of those who are speaking in favour of this motion to have a fair system of appeal.

We have grown accustomed to not seeing either Minister of Immigration in the House during this debate on report stage. Today we are treated to the unusual spectacle of the absence of the Parliamentary Secretary as well. This is an all-time low in the presentation of any Bill by any Minister in the history of this Government. No one representing either Minister of Immigration, not even the Parliamentary Secretary, is here to listen to the debate.

I want to reinforce what the Member for La Prairie just said, and what the Member for York West said today and last night, namely, that it is important to design an appeal mechanism which will take into consideration not only the law but also the facts, which sometimes the law does not take into consideration. This point was very well covered by the Canadian Bar Association when it said that an appeal on legal grounds alone does not permit a review of the merits.

That is the substance of the issue being advanced by the Member for York West. Under the Bill as now written the merits of a case will not have one iota of effect on the mind of the judge because they will not be taken into consideration. From a human point of view this law is a very weak instrument