

*Establishment of Immigration Appeal Board*

The minister takes unto himself and unto his colleagues in the cabinet the right by order in council to decide who in fact will be able to appeal. He may decide to limit the right of appeal to a very narrow sector. Why should that be, Mr. Chairman? Why, if he has given the right of appeal, should it not be available to every person falling within the general words of the earlier part of clause 17? The minister will have to produce more cogent reasons than he has to this point, before my colleagues and I can support the second part of his proposed amendment.

I mention the second point, that the appeal board should be able to deal with an appeal by a sponsor on its merits, rather than merely being able to consider the technicalities and whether they have been met. I was impressed to some extent by the minister's plea last night that this is not the place to give the appeal board the power to go beyond the confines of the law, to make decisions on humanitarian and other grounds which may be outside the actual law. That sort of thing requires a change in the substantive law itself. I think there is much logic in that.

At the appropriate time we wish to move an amendment. Perhaps I could read it to the minister now, or mention it to him, to see whether he might not consider it favourably. We would move that we import into clause 17 language the minister has introduced into clause 15, but that instead of giving the board authority to make the final decision the board have authority to recommend to the minister, that he might make the final decision. That occurred to me in response to the appeal the minister made last night.

I appreciate that one of the purposes of the separate appeal tribunal is to reduce the onerous duties in the field of discretion attached to the minister. Those duties come into play after an appeal has been heard. Under the present legislation you go from the appeal tribunal to the minister. I appreciate that the whole idea of this bill is to make the decision of the appeal board final. But I would much rather take a crack at an idea and give the appellants the opportunity to place his case before the board. That case should include human and compassionate considerations which moved him to appeal. If the board, this independent tribunal, considers his appeal, his pleas, his grounds, then, to maintain the power in the minister to administer the act and to maintain in him the authority to make special exceptions, rather than having the board make the exceptions, I should be ready to agree that instead of the board making the

[Mr. Lewis.]

final decision, it recommend the matter to the minister.

We have a proposal to change that clause. I shall read it, in the hope that the minister may think it worth considering. Our proposal is in language to this effect: that in an appeal under this clause the board may also take certain things into account—and may I stress here the word “also”. The wording I am suggesting is not wording which says “notwithstanding the act and the regulations.” The board has to consider the act and the regulations in the first place. We should like the clause to say that the board may also take into account the existence of compassionate or humanitarian considerations that in the opinion of the board warrant the granting of special relief, and that it may make such written recommendation thereon to the minister as it deems desirable, advisable or just—I do not care what adjective is used.

Summarizing, I add my words to the appeal of the hon. member for Carleton. I am sure that appeal will be repeated by others. I ask the minister not to be adamant about seeking the power to narrow the area of the right of appeal. The minister has a board of seven members. The amended clause 7 gives the chairman of the board the right to have the hearing taken by one member only, so far as evidence is concerned. There is no reason to assume that the board will have too heavy a load if everyone who is a sponsor, a citizen or landed immigrant—whoever makes the application—has the right to appeal.

I hope the minister considers this carefully because this is an important question. I am trying to be as unprovoking as I can be. I feel more strongly about this than the mildness of my words suggests. I do not see how the minister can ask parliament to give him a blank cheque to say who shall and who shall not have the right of appeal. This is what this new amendment directs us to do. It establishes the general right of appeal and then says that the minister shall determine—because the governor in council means “on the advice of the minister”—who shall have the right to appeal. He asks us to give him a blank cheque in that area. I do not think he should do that.

I appeal to him to import into this clause the right of the board to consider compassionate and humanitarian pleas, and to consider them on their merits. Personally, I should not mind were the board given authority to make the decision or order. It ought to be able to decide on the basis of all the circumstances of the case. But if the minister still feels that