

Immigration Act, 1976

that there is no discretion or flexibility left to the adjudicator. The adjudicator must simply rubber-stamp a government request to detain a person for another 21-day period. That is Draconian and excessive. I think it is essentially not Canadian when one considers that the Charter of Rights protects the rights of individuals not to be detained on unreasonable grounds or for suspicion.

It goes beyond that. We are not merely talking about refugees who deserve rights. After all, they are human beings as well and merit some human rights standards that are applicable to a person arriving on our shores. What would be the ramifications to our society when one Minister is granted the full discretion and flexibility to detain people for periods of up to 28 days without any questions asked? Of course, Canadians believe we need to protect ourselves as a sovereign state from undesirables. No adjudicator would ever lend himself or herself to allowing people who would do a disservice to our country or commit a crime in Canada. They will always protect our flag and protect Canada. We trust the adjudicator. What kind of society are we trying to create by vesting Draconian and excessive powers to a government that one day may abuse those rights? I suggest that if the rights of one individual are abused, the collective rights of our nation are abused and undermined.

These types of powers are not needed. Since the time of Diefenbaker, the Government has had the authority to protect our shores, protect our sovereignty and stand up for our flag, while at the same time offering civil liberties as expounded in the Charter of Rights which states that all men and women, whether rich or poor, black or white, catholic or atheist, enjoy human rights as all Canadians should. That is what is being undermined today if the clause is not changed.

Hon. Chas. L. Caccia (Davenport): Mr. Speaker, I will not deprive the Hon. Parliamentary Secretary of his ten minutes, so I will limit my remarks and simply say that the motion presented by the Member for Spadina (Mr. Heap) is very sensible. The reasons have been eloquently explained by the Member for York West (Mr. Marchi).

It is an amendment that would at least introduce an element of balance in what otherwise would be a Draconian clause. This amendment, if accepted by the Government, would turn this clause into one that contains some checks and balances whereby the adjudicator would have the option to make a decision on his or her own, motivated of course by the basic principles and guidelines that the Member for York West has outlined.

Again, we find ourselves advancing an eminently sensible amendment which permits a certain latitude to the adjudicator. It is a good amendment.

Of course, the Parliamentary Secretary will tell us whether he will accept it in good grace, in keeping with the ideology of civil liberties that he expounds at home and abroad, particularly at the Interparliamentary Union. He has an opportunity to

apply what he preaches, and we call upon him to demonstrate the mettle he is made of when it comes to the facts and the reality of legislative measures.

Mr. Benno Friesen (Parliamentary Secretary to Minister of Employment and Immigration): Mr. Speaker, I thank the Member for Davenport (Mr. Caccia) for the confidence he has expressed in my view of civil liberties. I certainly hold to those.

Since we have heard from the Member for York West (Mr. Marchi) I think we should move back to the Bill and see what it really says, instead of what we have heard.

As the Member for Spadina (Mr. Heap) rightly points out, the Bill deals with the inadmissible classes, including what we agreed to yesterday; that is, those who have been guilty of war crimes or crimes against humanity.

● (1250)

Picture the scene, Mr. Speaker. We have someone arriving on our shores, at our airports, or other port of entry, with no documentation—absolutely none. He has either destroyed it or has given it back to the person who trades in passports and visas so it can be recirculated.

Mr. Caccia: Some refugees legitimately have no documents.

Mr. Friesen: Yes, and some legitimately have no documents. But those persons come to the port of entry and the immigration officer meets them and is supposed to identify them. How does he go about it, especially if there are 30 or 40 coming in at the same time without documentation? The Bill requires that there be a seven-day detention period in order to establish identity. If a person is from Uganda, for instance, where there is a constant state of turmoil at the present time, how does any officer go about establishing identity in seven days? It is not necessarily possible.

The next subparagraph says that the Minister may apply for an extension of another 21 days. Here is where due process, about which the Hon. Member for Spadina was concerned, enters the picture. He cannot just willy-nilly say, "We are going to hold you another 21 days". What he does under Clause 12, proposed Section 104.1(2), is continue the person's detention for the additional period specified in the certificate, which additional period may not exceed 21 days from the day on which the person was brought before the adjudicator.

How does the Minister go about getting a certificate? He goes about it by dealing with the securities forces of Canada to get as much information as he can. If there is reason to believe that this person may be a threat to either Canadian security or to other people in Canada, he has to file evidence which would substantiate the need for a certificate.

The Hon. Member for Spadina knows that that is not the kind of information he can give to the adjudicator. He can give the certificate to the adjudicator but he cannot give the evidence. In the interests of privacy for the individual, to protect his privacy, he cannot give that evidence and allow it to