The Parliamentary Secretary when addressing Motion No. 19, suggested that it would not be unreasonable for a country like Uganda, which requires time to produce the documentation and the evidence, to be given the time required to do that. I believe that the Parliamentary Secretary, speaking on behalf of the Government, does not understand the premise of the problem. I am glad that the Minister of Employment and Immigration (Mr. Bouchard) is in the House to listen to me. It is not a question of the length of time required to obtain documentation as much as it is who decides, and in what manner it is decided. This legislation provides the Minister and the Government with unilateral excessive powers, which may be, or perhaps will be abused or misused.

A representative from the Canadian Association of Civil Liberties suggested that it was important to maintain the flexibility of an adjudicator to decide if the evidence is correct, and if the evidence warrants further detainment. In the present role, the adjudicator is politically disinterested. He is an objective player. He considers the concerns of government and tempers them with the concerns of the claimant based on the evidence submitted. A Minister of the Crown would be politically interested, not in a personal sense, but in a realistic sense that a politician is faced with pressures on either side of an issue. Mr. Borovoy suggested there should be a politically disinterested individual who makes the decisions on whether further detainments are required. That is the real premise of the problem, and that is the area that I believe we have to safeguard.

It is not a question of the Liberal Party being opposed to individual powers to detain people to find out identification or verify information that has come to the attention of the Government which could endanger anyone in Canada or pose a threat to the country. However, there is the question of the decision-maker which is very crucial in this instance.

• (1510)

I believe that most Canadians would like to retain a check and a balance; a check against anyone who wishes to do harm in or bring a threat to this country as well as a balance that would ensure that no one's rights are infringed and that a Minister or a Government would not move toughly over the rights of individuals.

The testimony of Mr. Borovoy of the Canadian Civil Liberties Association was very articulate and passionate. He said:

> It is a violation of democratic principle to create a power of jailing people—on the basis of a unilateral, essentially unreviewable decision of a politician . . . consider the incongruity this creates with our criminal law.

He went on to say:

> The powers created by this Bill are excessive, repressive and needless. No less gratuitous is the rush to get it enacted yesterday.

Those are the words of the representative of the Canadian Civil Liberties Association who also went on to say that an individual who either breaks into a bank or murders an individual is not treated as badly or detained as quickly without question as a refugee claimant. We are treating individual claimants much worse than individuals who would commit crimes on the streets in broad daylight.

I think all Hon. Members will agree that there should be a check and a balance on these powers. The Opposition is calling for the deletion of the current clause in Bill C-84 so that we may return to the existing legislation which provides all the detainment powers necessary to keep an individual legitimately detained for as long as the Government can prove the evidence merits it through an adjudicator. As proposed by Bill C-84, the adjudicator would have no discretion. He would become a mere rubber stamp.

In his earlier discussion, the Parliamentary Secretary implied that because some of the evidence that may be used against claimants is of a confidential nature, that evidence would not be given to an adjudicator. The Parliament Secretary is suggesting that somehow Canadians cannot trust their adjudicators. I do not believe that is the case. An adjudicator would have the same feelings as the rest of us about protecting our country from undesirables.

We are saying that we should allow the adjudicator to make the decision his position was created to make. In the process, we will ensure that there is a safeguard for Canada while at the same time respecting our Charter of Rights. Otherwise, as legal experts have predicted, this clause will be subjected to court challenges.

As the Hon. Member for Davenport (Mr. Caccia) stated earlier and quite correctly, if we allow too many of these clauses to become legislation they will be challenged in the courts. The legislation will become paralyzed by the courts and Canadians will lose patience with a Government which again missed an opportunity to set the situation right. We would also undermine one of the two major responsibilities we have as parliamentarians, which are to create good laws and to ensure that Canadians' money is spent wisely.

It would be simply irresponsible to pass a piece of legislation which has received the wrath of the Canadian Bar Association, the Civil Liberties Association, the Canadian Jewish Congress, the Inter-Church Committee and a wide range of leading authorities. They all predict that if this legislation goes unamended, it will go to the courts and make more disorderly the system that is presently in place. It is in that spirit that we have proposed to delete this clause and retain the powers that exist now to avoid any court challenges, and hopefully we will receive the co-operation of government Members on this.

Mr. Dan Heap (Spadina): Mr. Speaker, the clause dealt with by Motion No. 20 is the same one that was the subject of Motion No. 19 and the problem is the same. My friend who just spoke reviewed the grounds for opposing either part of the clause or the whole clause.

The motion I moved previously opposed one specific part of the clause, the part I thought was the most troublesome.