

*Immigration Act, 1976*

and want to be assured that the new legislation complies with that desire. It clearly does not. Based on almost all the tests those drafting the legislation would use, it fails.

Not only is it wrong-headed and malicious, as I intend to point out, but it is unconstitutional and contravenes at least three sections of the Canadian Charter of Rights. It breaches our agreements with the UN. As other Members have pointed out, it also sends out a very dark signal to countries around the world about how Draconian they can be with refugees arriving on their shores.

If a ship is considered to be bringing undocumented passengers to Canada, it can be turned away from our territorial waters. We have heard both inside and outside this House that we will have someone from the Coast Guard board the ship and see whether or not these people should be allowed to land or whether the ship should be turned back. That does not answer some questions. What if the ocean is rough? What if the captain decides simply to discharge the passengers within Canada's 12-mile limit? What if, after being turned back, the ship comes in somewhere else? Why not take a sensible approach which Canadians expect and respect and accompany that ship either with a Fisheries vessel, a Coast Guard vessel or a military vessel into a Canadian port, hold the captain and crew and all passengers on board, and have someone who is trained in refugee determination policy go on board, review the documents, speak to the passengers and find out just exactly what is going on? If the captain and crew or some other group were surreptitiously involved in the smuggling of people who would not be eligible, those now known as queue jumpers, then the ship could be impounded, fines or jail sentence imposed, and so on.

I must say I was saddened to hear the Right Hon. Leader of the Opposition (Mr. Turner) say that turning them back is perhaps what we should have done with the 174 refugees. That sent shock waves throughout his own Party and through other Canadians. Certainly it was a popular comment to make. It made a good 30-second clip and hummed through the newspapers for a few days. Yet it certainly sent the wrong signal to many caring Canadians. Other than Canada's first citizens, the Inuit and the aboriginal people who lived here for thousands if not tens of thousands of years before us, all Canadians are immigrants from the United States, Europe or other parts of the world. Most Canadians would do well to take a closer look at this piece of legislation which is so wrong-headed and Draconian.

• (1720)

One of the other key intentions of this Bill is to punish, in various ways, those who come to Canada without documents to claim refugee status. They can be held without any kind of hearing for up to 28 days. They can be turned back, and in some cases not even to a safe third country. Many Members in this House, including members of the government side, in particular the Chairman of the Government's immigration committee, disagree with this legislation and have made the

point that many *bona fide* refugees dare not try to get official documents from the country they intend to leave because they might just disappear, as happens in many Central and South American countries and other areas of the world.

Those who are already being persecuted for religious, political, economic or other reasons cannot simply go into the local motor vehicle branch and ask for a driver's licence then drop down to the passport office and say, "I am taking off for Canada, I am going to be a refugee, give me my passport". Any government that is sound, enlightened and intelligent knows that those who are really being persecuted are the last ones who can possibly get *bona fide* documents. On any test, whether constitutional, in terms of our agreements with the United Nations, or even in terms of our own history, that clause fails miserably for many refugees who come to Canada.

One of the few clauses that has any justification at all is that which provides for an increase in the punishment for ship captains and crews for disembarking passengers at sea or attempting to do so. It is obviously wise to provide for that, although there are all kinds of international laws prohibiting captains and ship owners from doing that. However, in terms of Canada's territorial waters that may well be one of the few useful clauses within Bill C-84.

The new search and seizure powers are worth looking at as well. Other Members have pointed out that the search and seizure powers provided by this legislation go far beyond those provided in almost any other country in the world. There is provision for search and seizure, even without warrant, of anything considered to be related to the offence of smuggling 10 or more people or disembarking at sea.

It has been pointed out by many lawyers that that could include the search and seizure of lawyers' privileged solicitor-client documents or even a refugee's personal records, which, we have sadly learned, often endangers the family and friends of refugees in the countries from which they have fled. Often the names and addresses of the people who have assisted them in escaping from persecution are carried in those documents.

The legislation provides for more wire-tapping. One must wonder why, after passing the Charter as we did in 1982 with provision in relation to search and seizure, the Government is jamming in that which is, of course, unconstitutional. Would it not be appropriate to include a standard clause providing that immigration or police officials who believed that there was some kind of surreptitious smuggling activity going on would provide that information to a judge as is required under the common law in almost every other circumstance to obtain a warrant to wire-tap? In my view the extent of the wire-tapping powers are clearly excessive.

The intention of the Bill, as the Minister originally tried to explain it in those early days of August when we were recalled here, Madam Speaker, was "to deter the smuggling of persons into Canada and thereby minimize the exploitation of and risks to persons seeking to come to Canada". That sounded