

Immigration Act, 1976

that individuals have rights over and against those of states. That is new in international law. Until then it was only the rights of states. The UN Convention on refugees enlarges on that point and says that a refugee claimant as an individual who has rights which very slightly limit the rights of sovereign states.

What they are saying on this point is that we should examine the person's case individually and not treat him collectively by saying, "Well, you come from country *x* so we know you are not a refugee".

Sometimes Hon. Members opposite undertake to defend the rights of individual human beings and suggest that democratic socialists do not respect the rights of individuals. It is very ironic that it is Hon. Members opposite, government Members, who in this passage wish to deny the right of the individual to state his claim and to submerge him in some collectivity by identifying him only by the country from which he has fled.

I hope that Motion No. 33 will be supported by the House.

Mr. Jim Hawkes (Calgary West): Mr. Speaker, Motion No. 25 was moved by the Hon. Member for La Prairie (Mr. Jourdenais) and seconded by the Hon. Member for Edmonton—Strathcona (Mr. Kilgour). I want to assure both Hon. Members that the issue which they raised in Motion No. 25 was carefully considered and discussed in committee, and that the amended Bill reported back to the House takes care of their concern. However, since the two of them suggest that they might find disposition, at least on the government side, for unanimous consent to withdraw the motion if they chose to do so—and I do not see either of them in the House at the moment—at a later stage, it really is not relevant because the amended Bill has taken care of the "refugee in orbit" phenomenon to which their amendment was addressed.

Motion No. 31 brought forward by the Hon. Member for Spadina (Mr. Heap) provides an opportunity system for bogus claimants once again. I think everyone who is knowledgeable about this matter is concerned about changing circumstances. In terms of true refugees, those will occur rarely.

The humanitarian and compassionate provision under the Act provides a mechanism for taking care of unique situations. I believe that our history shows that we have taken care of them in the past and that we will take care of them in the future.

We must be careful in the scheme of this Act not to provide another legal opportunity for bogus claimants to delay their removal from the country. What Motion No. 31 would really do is enable another legal process to occur, which would be used by bogus claimants almost as a matter of habit and would not occur in terms of legitimate claimants very often at all.

In committee we discussed the intent of Motion No. 32. Certainly we heard a lot of testimony which wanted us to use the concept of "manifestly unfounded". The committee listened carefully to all the testimony and indicated that the basic problem with the original drafting was that perhaps it

was not assertive enough in terms of the rights of legitimate claimants.

The redrafted version brought back to the House has that characteristic. If there is anything in the evidence or testimony which might lead the refugee division to conclude that the person was a legitimate refugee, then we want that case to go forward.

In both Motions Nos. 32 and 33 the Hon. Member is removing the obligation to provide evidence of refugee board hearings about similar cases in similar countries. If we look at it from a barrier point of view, surely the Hon. Member's arguments have some cogence. If we look at it from the point of view of how the clause is now worded to protect better our rights and obligations under the Charter, the removal of the principle wherein the Crown must provide evidence would take protection away from legitimate refugees. It is there so that the rights to a hearing of a refugee claimant, that frightened individual who comes from another country and meets a stranger who becomes his duty counsel, are protected by the evidentiary requirement that the Crown must provide evidence on prior determination hearings and their consequences.

I think the Hon. Member will find that that particular evidentiary requirement will be the mechanism which enables people to go forward quickly to a refugee board hearing, the kind which the Hon. Member indicated that he would value.

It would be a sad mistake for the House to take that obligation away from the Crown. It is perhaps one of the most solid pieces of this legislation in terms of providing protection for legitimate refugees. On that basis I urge the House to vote against Motions No. 32 and 33.

Mr. Ernie Epp (Thunder Bay—Nipigon): Mr. Speaker, again I appreciate the opportunity to join in debate on these motions, particularly Motions Nos. 31, 32, and 33 in which the Hon. Member for Spadina (Mr. Heap) is trying to ensure protection for persons who have been sent out of the country, returned to a supposed safe third country and returned again to Canada. Each of these motions deal with very precise matters. They open possibilities in the law and are very important.

If, for example, a claimant has some experience, having left Canada, which could create a new situation and wishes to present it to immigration officers, it is most important that the law include provisions which will ensure that the officers consider the particular information.

The Hon. Member for Calgary West (Mr. Hawkes) has been trying to assure us that the evidentiary provisions, the rules which prevail in the country, should provide that protection. However, I suspect that these officers are less trained in judicial proceedings and more urged on to deportation action and so on these days than we might well like. In those circumstances, it seems to me very important to have these possibilities provided.