

Supply

for the terrific work he has been doing, since he was elected to the House, on the question of refugee policy in Canada.

My colleague referred to Canada's international obligations in respect of refugees. I know he has seen firsthand the tragic plight of refugees, in particular from Central America, who are seeking to flee tyranny and repression in those jurisdictions. Could he elaborate upon the extent to which Canada's international obligations will in fact be undermined as a result of the adoption of this legislation? To what extent will Canada be failing to meet the commitments it has made in the United Nations and in other international forums in this important area?

Mr. Heap: Mr. Speaker, that is a very good question, because it is one which is apparently left obscure in the legislation and in the promotional documents that have been issued by the Government in support of its legislation.

Canada's obligation in the law of the United Nations and in law as adopted by Canada is *non-refoulement*, non-forcible return of a refugee to the country from which he is fleeing. According to law, that *refoulement* may not be done directly or indirectly.

• (1230)

In other words, when a Salvadoran comes to our border and says he had to get out because of what the police, the army or the death squad were doing around his home, not only is our obligation under international law and under Canadian law, as it stands at present, not to send him back to Salvador, it is also not to send the Salvadoran back to a country that will not guarantee us or guarantee the United Nations not to send him back to Salvador. The United States gives no such guarantee and yet Canada is prepared to send people back to the United States. There are many other countries that give no such guarantee. The Government has not mentioned that aspect of the law in its treatment of this act.

Non-refoulement is the primary obligation. In other words, when a person comes to Canada claiming protection, we do not send him away first and then say we would like some other country to find out whether he is a refugee, washing our hands of him. What we do is, first, find out whether he is a refugee. After we have heard his case, and he has had his appeal, if we decide he is not a refugee, then we are entitled to return him to his country of origin or country of embarkation, whichever will accept him.

What we must not do is to ship him back to a country which might, either without a hearing or with a mickey-mouse hearing, in which the United States has indulged for Salvadorans and Guatemalans, send him back to the very country he had to flee for the sake of his life. Even if we do not know whether he is a refugee, we are not entitled to take that risk with his life. We have to first determine whether or not he is a refugee before we make a decision about whether to deport him. If he is a refugee in our estimation, we do not have to keep him in Canada but we must—if we do not keep him in

Canada—find a country which will guarantee not to return him to the country he fled.

Mr. Hawkes: Mr. Speaker, I have a quick question. The current situation is such that Canadian immigration officers at border points have been told to admit Salvadorans and Guatemalans immediately if they are under any kind of removal order from the United States Government. Is the Hon. Member implying there is something in the new legislation that would change that situation? Is there something that he sees that is not readily apparent to me? It seems to me that we might have a reasonable expectation that the current situation in that regard would, indeed, be very likely to continue.

Mr. Heap: That is another very vital question, Mr. Speaker. The way the law is written, and I have read in *Hansard* the Minister claiming that this is not true and I have been told he said on *The Journal* that this is not true, but what I read in the law and what several quite experienced immigration lawyers read in the law is that if a Salvadoran comes to Canada from the United States, Canada by this law, if it has designated the United States as a safe country—and one will get you ten that the United States will be regarded as a safe country—the officers must return that Salvadoran to the United States. They do not have discretion. If a person came to Canada, perhaps not through a so-called safe country but from a country considered not a refugee producing country, those officers would have to return him. That can happen.

In 1982, a Guyanese person approached me. He had been refused refugee status by a refugee status advisory committee on the ground that he belonged to the government Party, that he belonged to the dominant race in Guyana. He tried to explain to them that even though he was on the police force he had been expelled from the force because he went to a political meeting of an opposition Party. In that country they do not disagree only in words, they disagree with actions and sometimes with fatal actions. He and his wife had been threatened. All of that was disregarded because at that time Canada refused to admit that Guyana, a former member of the Commonwealth, was a refugee producing country. Since then Canada has admitted that Guyana is a refugee producing country. I believe he was the second person to win such an appeal from Guyana. Under this act, officers would not even let him make the appeal. He would not have a refugee hearing. He would be told, "You are from a non-refugee producing country. Go home".

Mr. Deputy Speaker: Resuming debate with the Hon. Minister of Immigration (Mr. Weiner).

Hon. Gerry Weiner (Minister of State (Immigration)): Mr. Speaker, I am delighted to be able to enter into a discussion that has so pre-occupied me, certainly for the last 10 or 11 months. I have had an opportunity to travel our countryside, more particularly in the last 30 days. I have been to Vancouver, Calgary, Edmonton, Winnipeg, London, and Toronto on