

*Immigration Act, 1976*

**Some Hon. Members:** Yea.

**Mr. Deputy Speaker:** All those opposed will please say nay.

**Some Hon. Members:** Nay.

**Mr. Deputy Speaker:** In my opinion the nays have it.

*And more than five Members having risen:*

**Mr. Deputy Speaker:** The recorded division shall stand deferred.

The House will now proceed to Motions Nos. 43 and 44, which will be grouped for debate but voted on separately.

**Mr. Dan Heap (Spadina)** moved:

Motion No. 43

That Bill C-55, be amended in Clause 14 by striking out line 2 at page 19 and substituting the following therefor:

"allowed to return and remain in that country."

Motion No. 44

That Bill C-55, be amended in Clause 14 by striking out line 3 at page 19 and substituting the following therefor:

"(2) Notwithstanding paragraph (1)(b), or (1)(d),"

He said: Mr. Speaker, I wish to speak to Motion No. 43 and, following our disposal of Motion No. 43, I would seek leave to withdraw Motion No. 44 since its effect is very close to that of Motion No. 43.

However, what I am seeking in Motion No. 43 is the safety of a person who is returned to the country from which he came to Canada. In the original version of the Bill it was called a safe third country. At page 14 of the Bill, Section 48.01, which is the description of a person who is ineligible, reads:

• (1640)

(1) A person who claims to be a Convention refugee is not eligible to have the claim determined by the Refugee Division if

—(b) the claimant came to Canada from a country, other than the country of the claimant's nationality or, where the claimant has no country of nationality, the country of the claimant's habitual residence, that has been prescribed as a country that complies with Article 33 of the Convention either universally or with respect to persons of a specified class of persons of which the claimant is a member;

The problem with that clause is that a person may be sent back to a country and not really accepted by that country. If the country bounces the person right back to Canada, the Government has introduced into the present version of the Bill a procedure for bringing him back into the process of refugee claim determination. That is good.

I am very glad the Government has made that amendment in the present version of the Bill, but it does nothing for the case of a person who is not accepted by a country and who is not returned to Canada. We do not know what is going to happen. We do know from the United Nations High Commissioner for Refugees, and from other sources, that there are currently thousands of refugees who are described as refugees in orbit. They are sent from this country to that, from that

country to another, and so on. Refugees were sent from Denmark to Turkey. They had come from Turkey to Denmark. Turkey found out that they had come to Turkey from Iran and Turkey sent them back to Iran. Denmark did not send them to Iran directly. It was not expected that that Turkey would do what it did. People probably expected Turkey would allow them to stay there. But there is no guarantee.

I am concerned that it has not been possible so far to find an agreement within Parliament here, within the committee, between the Opposition and the Government on words that would ensure that, when a person is sent from Canada to the country from which that person came, the individual will either be allowed to remain in that country, meaning, in my opinion, allowed to live there, not to be detained as a prisoner or starved for want of being able to earn a living. In the previous amendment that was defeated I asked for those other points, but what I am asking now is that a person be allowed to remain in the country from whence he came and that Canada would then be responsible for making sure before long so that he would be allowed to remain.

This is a point on which the United Nations High Commissioner for Refugees commented in his *aide-mémoire* in June. In paragraph 6 he refers to Section 48.01 which sets out access criteria which must be met if an applicant for refugee status is to have his or her claim referred to the refugee division. He goes on to say:

In the general context of returns to "safe" or intermediate countries, UNHCR would reiterate the guiding principle that every State party to the 1951 Convention/1967 Protocol—

That is us, Mr. Speaker. We are party to it.

—should examine all such applications for refugee status as are made on its territory.

That is exactly what in this Section Canada would be choosing not to do, in Section 48.01(1)(b) which I read. Canada would be saying that it will not examine a person's claim. Canada will send him or her back to where they came from. Suppose the country a person came from takes the same attitude as Canada. Suppose it follows our lead, the country that was given the Nansen Medal last year for its good treatment of refugees. Suppose the country says "We won't keep the individual. We will send him somewhere else". It could be a country where the person fears persecution and where, in fact, he might be persecuted. Therefore, I am asking that we bring this law into some degree of compliance with the United Nations Convention, as asked for by its representative.

There is another point which the United Nations High Commissioner for Refugees has raised as well. In paragraph 17 of the same *aide-mémoire* we find:

UNHCR warmly welcomes incorporation of the principle of non-refoulement in Section 55, and trusts that its extension to all persons found ineligible will be considered.

Article 55 is a good article as the UNHCR has commented, but it does not go far enough. Article 55 says, in effect, that no person who is described in Section 48.01(1)(a) shall be