

Immigration

now concerns those persons who have been found guilty of such offences.

Since we will now be dealing with persons found guilty, it is obvious that these persons will also have been sentenced. And it is precisely that sentence, Mr. Speaker, which should be used as a criterion in deciding whether a refugee should be deported to his former country. For, Mr. Speaker, it is quite frequent in Canada that persons who have committed an offence for which a term of imprisonment of 10 years or more may be imposed are only given a suspended sentence or even a probation period of some months or some years by the presiding judge at their trial. The judge who passes that sentence must take into account the type of more or less aggravating or mitigating circumstances that surrounded the commission of that offence.

Mr. Speaker, would it not be repugnant for Canada to remove a refugee to a country where torture or death may await him—for it is indeed the subject of clause 55—simply because he would have committed an offence for which a term of imprisonment of 10 years or more may be imposed, while the judge, taking into account the circumstances of the case, would only in fact have sentenced him to a light prison term? Besides, Mr. Speaker, the deputy minister of manpower and immigration, Mr. Manion, stated before the committee on July 8 that he personally was in favour of such an amendment. And here I quote Mr. Manion, as reported on page 48:36 of issue No. 48 of the minutes of proceedings of the committee: If you really want to know whether we should consider an effective term of imprisonment or a possible sentence, I do not think the department would be opposed to it. Of course, this clause only provides for removal for very serious reasons, and I do not think we would object to amend subclause (c) to comply with this objective.

And when the committee discussed the term of imprisonment to be imposed as a criterion for the removal of refugees under clause 55, Mr. Manion stated, and I quote from page 48:40: In my opinion, the purpose of this provision is to ensure that removal can only follow a very serious crime and we would agree to provide for a term of imprisonment of five years in this clause. Finally, Mr. Speaker, I wish to remind hon. members that European countries signatories to the Geneva Convention usually apply the imposed rather than the possible sentence criterion.

To conclude, Mr. Speaker, I urge my colleagues to support this amendment, because its only purpose, on one hand, is to make clause 55 comply with the requirements of the Geneva Convention and, on the other hand, to take into account the effects of the amendment put forward by the minister himself in committee. The amendment I am putting forward should therefore get the support of the minister since his deputy has assured committee members that the department had no objection to it.

● (1540)

[English]

Hon. Bud Cullen (Minister of Manpower and Immigration):
Mr. Speaker—

Mr. Epp: Don't respond.

Mr. Cullen: The hon. member says I should not respond, but if I do not respond here I will have to respond in some other place, and I do not mean the other place.

This motion of the hon. member substitutes a five-year actual sentence for a ten-year potential sentence as the standard for determining that a Convention refugee who has committed a serious criminal offence in Canada should lose protection against deportation to a country where his life or freedom could be threatened. I commend to hon. members a close look at Clause 55 on page 36 where we make what I think is a significant improvement and provide the kind of protection about which we are all concerned. I refer to the addition of the words:

... and the Minister is of the opinion that the person should not be allowed to remain in Canada.

This amendment would also exempt political offences from the class of very serious offences which render a convention refugee inadmissible to or removable from Canada, even to a country where he would be persecuted.

On the first point, if the ten-year potential standard is retained, a refugee could be removed even though he received a relatively light sentence.

If the five-year actual sentence standard were adopted, a refugee could be removed for an offence not considered serious enough in Canada to warrant a ten-year potential sentence.

Court sentencing practices vary, so it is difficult to determine which standard best represents the Convention standard of a "particularly serious crime". On balance, we believe that the ten-year potential standard now in Clause 55 more often represents a particularly serious crime.

On the second point, there is really no need to exempt political offences because a truly political offence in another country is unlikely to be construed as any offence at all under Canadian law, so that the refugee would be neither inadmissible nor removable under the bill.

If, however, a person had committed murder, arson, kidnapping or any other such offence which would bring him within the very serious inadmissible class in Clause 19(1)(c), I question whether Canadians would feel secure with the person in their midst, even if the crime had been committed for political purposes.

On balance, this motion is unnecessary, in my view, since it adds little or no protection for Convention refugees and could conceivably endanger Canadians.

Mr. Andrew Brewin (Greenwood): Mr. Speaker, I support the amendment moved by the hon. member for Montmorency (Mr. Duclos). I disagree with the minister that adding a