

*Immigration Act*

The brother and his family.

—cannot meet requirements for admission to Canada. It is regretted that a favourable decision is not possible.

That is all. In other words, all the information you are given or are entitled to receive is information to the effect that you do not meet the requirements of the Immigration Act.

I can give the house an illustration of a typical case under this particular regulation. I mentioned it during the discussion of the estimates of the department last session. It is the case of a Scots lady. She had come to Canada to rejoin her first husband whom she had divorced. When the immigration department found out about that she was ordered to be deported. There was a hearing on the matter and the ground that was given to her was that she did not have a letter of pre-examination. She was asked: "Do you have a letter of pre-examination?" She had to say no, of course, that she had never even heard of a letter of pre-examination. So she was solemnly ordered to be deported because she did not have this letter of pre-examination. After the hearing was over she spoke to the immigration officer and he told her the real reason. The real reason, he said, was that she was living in sin with her previous husband. He said: "That is the real reason you are not be allowed into the country".

The procedure of refusing admission by reason of failure to have a document, which in turn is refused without any reason given, has received the legal imprimatur of the Supreme Court of Canada, with Mr. Justice Cartwright dissenting, in the recent *Espaillet* case. But because the department can now claim that it has the legal power by this device to effect the deportation of people without any real reason therefor does not make it right. Indeed in my submission it is very wrong. It denies the elementary principle of justice. It deprives the hearing prescribed by parliament in the act of any reality. It is totally inconsistent with the bill of rights passed by this parliament. I remind the house that section 2 of the bill of rights provides that no law of Canada shall be construed or applied so as to deprive a person of a right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights.

The fundamental right to a fair hearing is contained in thousands of cases. The sort of practice we now have and which we are now discussing is a cloak behind which people can be refused admission on any discriminatory ground that the officials see fit to employ. In addition, refusal of admission to Canada without grounds given can mean that someone may be excluded, shall we say, because of malicious gossip, in some cases mistaken

[Mr. Brewin.]

identity in the country from which they came, some incidental attendance perhaps at a communist meeting, a mistaken police report. Any of these things, undisclosed to the applicant, can be used and are used from time to time as a reason for the refusal to admit people into this country.

These are real rights, Mr. Speaker. They are human rights. These cases are cases of husbands seeking to bring their wives to this country or parents seeking to bring their sons or daughters to this country. They are rights which are not only human rights but rights conferred by the statutes of Canada, and those rights should not be denied without the opportunity for a hearing. The fundamental elements of a fair hearing are contained in thousands of cases, are summed up in the Latin maxim, *audi alteram partem*, and were expressed by Sir John Fortescue in his quaint English way in 1723 when he said:

The laws of God and man both give the party an opportunity to make his defence. I remember to have heard it observed by a very learned man upon such an occasion that even God himself did not pass sentence upon Adam before he was called on to make his defence. "Adam" says God, "where art thou? Hast thou not eaten of the tree whereof I commanded thee thou shouldst not eat?"

As Sir John Fortescue says, the same question was also put to Eve. The purpose of my bill, Mr. Speaker, is a simple one. It is that expulsion from Canada, this other Eden, this demi-paradise, if I may borrow a Shakespearean phrase, should not, any more than the expulsion from the original garden of Eden, be without an opportunity to answer any adverse allegations that may be made. The purpose of the bill is to re-introduce the fundamental right that a fair hearing shall be given to a person whose rights are being dealt with.

I can anticipate some of the arguments that may be made on the other side. I am glad to see the Minister of Citizenship and Immigration (Mr. Tremblay) in the house. He has not been in office very long. I hope his term of office will be one of substantial reform in this field. I know these matters are not simple. There are arguments on the other side about security, but in my view security grounds are no excuse for the denial of fundamental rights. Indeed, security reasons really do not have much to do with this matter. Even in time of war when people were interned they were given the reasons why they were interned, after they were interned they were given a hearing at which the reasons for their internment were disclosed. You cannot tell me that all sorts of people should be denied the right to know why their sons and brothers cannot be