

*Establishment of Immigration Appeal Board*

be people who feel aggrieved by some of our decisions. To me it is self-evident that this calls for some system of appeals. The minister should not have the final say in cases where the individual has claim to rights in Canada or as a Canadian.

I do not mean that the person overseas, who wants to come to Canada but whose qualifications are not accepted as adequate, should have a right of appeal. To be admitted to a country not one's own is a privilege, not a right. But once a person is in Canada, he should not be deported without a right of appeal. And Canadian citizens, I believe, should be regarded as having a right to bring members of their immediate family to Canada. Like other rights, it is not absolute. But if it is denied in a particular case, the citizen should be able to take his case to an independent body.

Mr. Speaker, an Immigration Appeal Board does now exist. It provides for appeals against some deportation orders but not against all. Moreover, the present board has authority only to allow or dismiss an appeal on matters of law; and furthermore its decisions are, under the Immigration Act, subject to review by the minister. The minister can confirm or quash its decisions or substitute his own. Worst of all, the board cannot make any decision on the non-legal merits of a case. It cannot bring humanitarian or compassionate considerations into play. It may recommend to the minister that the minister do so, but the decision again is up to the minister. The board has no final say.

In these circumstances, the effectiveness of the existing board is extremely limited. The public is aware of the board's limitations. Everyone knows that its decisions may be reversed by the minister or by officials acting on the minister's behalf. Thus the board has no independent status. It is regarded as merely an arm of the immigration division which appears, in effect, to decide the outcome of appeals against the actions of its own officers. This casts doubt on the application of other aspects of immigration law, policy, and procedure. It invites the application of pressure to the minister and the department. Indeed it is through such representations, rather than through the appeal board, that efforts to obtain the redress of alleged grievances are chiefly made.

The purpose of this bill therefore is to establish public confidence in the appeal process and to remove a serious cause of dissatisfaction and criticism. An effective appeal procedure will greatly reduce the discretionary

[Mr. Munro.]

powers of the minister and his officials. The action that may be taken administratively, following a decision by the board, will be restricted and clearly defined by the bill. In effect the board will be able to bring the humanitarian and other non-legal aspects of a particular case fully into consideration. On that basis, it will be able to make final decisions that are as fair and impartial as possible.

The main provisions of the bill empower the governor in council to appoint seven persons as members of the Immigration Appeal Board. It will be a court of record and function accordingly. Its proceedings will be public unless the appellant wishes otherwise. The members will hold office during good behaviour until they reach the age of 70 years. The Chairman and at least two other members will be barristers or advocates. With these and other provisions we hope to ensure that the board commends the respect appropriate to its new function.

• (9:50 p.m.)

The board will be authorized to deal conclusively with all appeals against deportation orders. The one proviso is that provided a deportation order is found to have been legally made, it must be carried out where in criminal or security cases the board is provided with proper certification from the Solicitor-General and the Minister of Manpower and Immigration to say that the national interest requires execution of the deportation orders. The one proviso is that provided a one that we expect to use frequently.

The discretionary authority of the board is defined according to two types of deportation cases. Where a legal resident of Canada has been ordered deported and has appealed, the Board can decide what is fair and reasonable in all the circumstances of the case. On humanitarian or other grounds it can set aside a deportation order, however legally valid.

It would not be reasonable to exercise such wide discretion in the case of people who have been ordered deported because they came to Canada claiming to be non-immigrants or who entered surreptitiously without any status, or indeed who are simply seeking admission without having complied with immigration procedures.

In these cases the board, having decided the lawfulness of the deportation order, will have authority either to enforce the order or to authorize entry or landing, but this discretionary power will be exercised only when