

Immigration Act, 1976

The credible basis test looks at the statistics of other applicants from the same country. Therefore, an individual claim can be judged on group claims made previously. It is not healthy to have that in the equation because the Convention is based on the circumstances of an individual. The system should not tolerate claimants who make fraudulent claims and misleading statements and tell frivolous stories. However, the fact that individuals from a certain part of the world made frivolous claims should not impact upon an individual from the same country who arrives subsequently.

I do not believe there is any legislation on the federal books today which uses groupings of statistics to impact on individual cases, whether geographically, culturally or by profession. Our system is to look at the merits of an individual case. However, the credible basis test in this Bill takes into account previous applications made by people from the region from which a claimant has come. Therefore, Motion No. 70 is in opposition to our way of thinking.

I would ask the Chair whether it is possible for Motion No. 57 to be divided into two portions so that we can vote in favour of or against having a UNHRC representative present at the hearings and in favour of or against the decision being made on the question of credible basis. We would like to vote in favour of one and against the other.

Mr. Deputy Speaker: The Member has asked for the guidance of the Chair. If the Member would be willing to move an amendment to Motion No. 57, he may achieve the results he wishes.

Mr. Marchi: In compliance of the advice of the Chair I would like to move that Motion No. 57(a) be voted upon separately from Motion No. 57(b).

• (1650)

Mr. Deputy Speaker: I would invite the Hon. Member to come to the Table. In the meantime, we will proceed with the debate. The Hon. Member's rights are reserved concerning the amendment on Motion No. 57.

Mr. Jim Hawkes (Calgary West): Mr. Speaker, I rise on this motion in particular because Hon. Members will recall that Motion No. 65 and Motion No. 69 were entered in my name. Motion No. 69 is identical to the Minister's motion No. 70 and was stood down by the Speaker. On closer examination, I discovered in Motion No. 57 there was a one word difference between the Minister's motion and my motion, at least in paragraph (b) in my Motion No. 65. Therefore, I asked and received the consent of the House to stand down my Motion No 65 as well.

Motion No. 65 and Motion No. 69 were linked in my mind—now it would be Motion No. 57 and Motion No. 70—and I have heard the Hon. Member for Spadina (Mr. Heap) and the Hon. Member from York indicate that they do not intend to vote for those motions. I think that is the thrust of what they had to say. I would like to express as clearly and as

cogently as I can that I think they are making a mistake. The philosophy of the Bill, from the time it was first introduced into the House, I think is clear and consistent. We need as quickly as possible to sort out those who are the bogus claimants from those who are people with legitimate refugee claims.

It is also clear from the structure of the Bill that we must do that in an atmosphere where the benefit of the doubt at all times goes to the claimant.

It is inherent in the Bill that in the case of the two-person refugee panel or in the inquiry at the first stage with the adjudicator and refugee board member, in any split between those two people at either level, the benefit of the doubt goes to the claimant.

The committee worked very hard on the notion of credible claim. We made a lot of amendments to the structure of that and the way that it sits. I think that during the inquiry it is a very important principle for the protection of refugees that the benefit of the doubt on the issue of credibility in the inquiry be given to the claimant, that the claimant go forward to a hearing and that the hearing be full and complete.

If the refugee board itself, after that very thorough examination of all the evidence put forward by the claimant, in a non-adversarial manner, concludes that the claim was not well-founded in the first place, the consequences of that decision should be the same as if that decision had been reached in the inquiry. If we approve Motion No. 57 and Motion No. 70 as a pair, we will have accomplished that in statute law.

It will be an encouragement, I believe, in all cases of doubt as to whether or not the person might be a claimant, that they "shall" move the case forward to a full refugee board hearing. I think that those human beings who serve the functions of adjudicator and refugee board member at inquiry, will be able to do that in all cases of doubt when they have the assurance that when the claim is fully heard, if indeed it was not credible to begin with, if indeed it was not founded, that they can so designate on the decision at the refugee board hearing, and the consequences for removal will be the same as if it had been decided in the inquiry itself, and that is speedy removal for those who attempt to abuse the system.

During the inquiry people may present false evidence that leads the inquiry to conclude, because they did not discern it as being false, that the person indeed might be a refugee. On fuller examination some six, eight or 10 weeks later, it may be readily apparent that the information provided to the inquiry was false. There should be absolutely nothing to be gained by that claimant through the presentation of that false evidence. Surely, it is common sense that if that kind of thing is discovered, the board itself should be able to reach the decision, not only that this person is not a refugee, but that the claim was not well-founded in the very beginning.

I would also like to deal very briefly with Motion No. 53 and Motion No. 37. I hope the House will support both parts