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## 2. THE IMMIGRATION PROGRAM

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# 1

# THE EVOLUTION OF POLICY

Canada's immigration history can be told, and indeed has been told, in many ways. At its most important level it is the story of people, what they endured and what they achieved. It is the story of those who have come to Canada alone and in groups over the years, and who together have built the nation of today. Their efforts and their talents have constructed Canadian society, its institutions, its cultural diversity, its political and economic character. In a remarkably short span of time, it is these people who transformed half a continent from a wilderness into a mature and prosperous state, ranking high among the countries of the world.

This chapter makes no attempt to re-tell that exciting tale. Its sole purpose is to introduce the reader to an account of how immigration is managed now, by tracing the development of governmental policies and regulations in this field since Confederation. Accordingly it is not a history of immigration to Canada or the settlement of immigrants here. Instead it is offered as a backdrop to put into its historical perspective the subsequent description of current immigration laws, regulations and procedures.

The development of Canadian immigration policy since Confederation has been evolutionary – unmarked by radical shifts in posture, yet characterized by constant change. Rarely have more than a few years gone by without some adjustment of approach in response to the events of the day. This state of affairs reflects the absence of any clearly stated national consensus – either now or in the past – about what immigration should be, or should do. While there has been an underlying sentiment favouring population growth in the interest of Canada's sovereignty and development, there has been no grand public vision of a specific purpose for immigration, as there has been in some other countries. As a result, governments have not felt obliged to proclaim clearly defined long-range immigration objectives – whether demographic, economic, social or other. Lacking a larger design, Canadian immigration history can be read as a series of pragmatic reactions to relatively short-term interests and pressures, influenced by the emergence of the concept of Canada's "absorptive capacity" for immigrants at any given time. Unfortunately, no one has yet succeeded in defining absorptive capacity with much precision. Similar problems of definition have also impaired popular ideas about the "benefits" and "costs" of immigration.

Canadian immigration thinking has been an exercise in sustaining an uneasy balance among a variety of forces, all tugging in different directions. As one student of the subject observed some years ago,

> the way to paradise in migration as in other matters appears to lie along that path of negotiation and mutual adjustment on which the feet of nations are so uncertainly set today. It is a difficult way, beset by more economic and political goblins, giants, devils and abysses than Christian ever dreamed of in his pilgrim's progress to another paradise.[1]

Although they are perhaps not all "goblins" and "devils", the strains have indeed been legion. Some appeared at an early date – for example, Quebec's early resistance to immigration in contrast to general encouragement from the English-speaking provinces. Some are more recent, such as the opposing views of those who favour a continued rapid expansion of Canada's population and those who endorse "zero population growth". Some strains are virtually perpetual, while others are relatively short-lived. Some have arisen from internal administrative dictates, others from external conditions. The theme of tension between varying objectives runs through much of the account of Canadian policies and programs in this and subsequent chapters.

[1] Dr. M. F. Timlin, "Canada's Immigration Policy, 1896-1910", *Canadian Journal of Economics and Political Science* (November 1960).

## THE EXPRESSION OF POLICY IN THE LAW

In these circumstances, it is not surprising that governments have preferred to use regulations rather than statutes for expressing policies respecting what classes of people might be admitted to Canada. Regulations can be changed relatively easily and quickly, and thus new policy can be implemented with a minimum of delay. The result has been a steady flow of new regulations over the years.

Acts respecting immigration are another matter. Acts are much more difficult and time-consuming to change, and convey a greater sense of permanence. They have therefore been found unsatisfactory as legislative expressions of policy that is subject to frequent adjustment. As a result, in the 107 years since Confederation, there have been only three major acts respecting immigration and two important collateral acts (the Chinese Immigration Act and the Immigration Appeal Board Act), although these have received minor modifications from time to time. The Immigration Acts have not concerned themselves with the admission of immigrants, but rather with the control of non-Canadians and, to a lesser extent, with the welfare of immigrants before and after their arrival in Canada. The infrequency of changes to the acts reflects, for the most part, the greater uniformity and permanence of views on these subjects.

## THE FREE-ENTRY PERIOD (1867-95)

This first period was essentially one of *laissez faire*, the prevailing migration philosophy of the time, which was probably observed by Canada in a purer form and longer than by any other country. It was assumed that the forces of supply and demand for population, especially the working population, would spontaneously produce equilibrium. Canada had enormous space to be populated and work (especially agricultural) to be done at a time when other countries had surpluses of population (especially agricultural) eager to seek new homes. Nature was simply allowed to take its presumed course, with a modest assist in the form of promotional activity, mainly in Britain, together with an arrangement for paying part of immigrants' transportation costs, and providing cheap land for settlers. The result was a steady flow of immigrants into undeveloped territory. Most were farmers and farm workers. Most came from Britain and the United States, with smaller numbers from western and northern Europe.

Even this period, however, was not without its strains. Quebec was unenthusiastic about immigration, fearing submersion of its culture, whereas the other provinces saw it as essential to their development. Heavy emigration from Canada to the United States was also a phenomenon during much of the period, and there was dispute as to whether immigration was causing it by driving out earlier settlers, or was necessary to replenish a stock that would have diminished anyway. Completion of the Canadian Pacific Railway and termination of the associated need for labourers, coming at roughly the same time as a succession of poor crop years and falling world agricultural prices, led to increasing unemployment and a drift of unemployed workers into urban settlements with little capability to cope with them. Even a major depression in the early 1890s, however, did not provoke a change in the *laissez-faire* policy.

This policy is evident in the legislation of the period. Immigration was placed under the Department of Agriculture and Canada's earliest legislation, adopted just two years after Confederation provided for

- an agreed federal-provincial division of responsibilities
- establishment of immigration agents in Canada, Britain, and elsewhere
- quarantine stations
- the responsibilities of transportation companies carrying immigrants
- immigrants' welfare from their port of arrival to destination, and
- a head tax to cover indigent immigrants' expenses, and prevent them from becoming public charges.

This act said nothing about what classes should be admitted as immigrants, and did not provide for exclusions. In fact in the case of immigrants from the United States, it did not even call for examination.

The silence on admissible classes continued throughout the period, but a few excludable classes gradually appeared in the law. In 1872 the act was amended to authorize proclamations prohibiting the landing of criminals and other "vicious classes", and in 1879 an Order-in-Council excluded paupers and destitute immigrants. The *laissez-faire* policy thus remained virtually intact in the law as well, with one important exception. The province of British Columbia became very concerned about the number of single male Chinese who had entered that province either to work on the railway or to seek new opportunities when the American gold fields began to give out. After several years of effort, the province succeeded in convincing the federal government to make an exception to the free-entry policy and pass in 1885 an act "to restrict and regulate Chinese immigration". This act did not ban Chinese immigration, but imposed a stiff head tax ($50) that few could meet. Other non-white immigrants, notably ex-slaves from the United States, were not subjected to restriction.

Also dating from this period is the Immigrant Aid Societies Act of 1872, which established the conditions to be met by organizations set up to assist immigrant settlement. This statute remains in force, although it has not been invoked for over half a century.

During the years 1867-95 nearly 1.5 million immigrants came to Canada, the great majority from the British Isles and the United States. Annual movements ranged from 12,765 in 1868 to 133,624 in 1883, with an average of about 51,000. Most came to work on the land, but many found their way into city factories, mines and other non-agricultural work.

## SIFTON AND AFTER (1896-1914)

The appointment of Clifford Sifton as Minister of the Interior (the department responsible from 1892 for lands administration and immigration) coincided with Canada's recovery from the depression of the 1890s, the recovery of world agricultural prices, the renewal of enthusiasm for immigration in Canada, and reawakening interest in emigration in many European countries. Sifton is remembered for his aggressive promotion of immigration, especially to western Canada. He deserves to be just as well known as the founder of the concept of selective immigration. His activities created an approach that remains the foundation of policy and law to this day.

Sifton was convinced of the need for massive agricultural immigration to promote general Canadian prosperity. Development of primary resources was the key; industry and commerce would follow naturally and did not need to be stoked by immigration. Tradition and sentiment favoured immigration from Britain, the United States and France, and to a lesser extent from northern and western Europe, and it was in these countries that promotional efforts were concentrated – lectures, slide shows, attendance at fairs, mobile exhibits, printed material in several languages, an expanded network of immigration offices, and "finder's fees" paid to travel agents. In addition, free land was offered to farm settlers, and reception services in Canada were expanded and improved. When these efforts failed to produce enough immigrants, either for lack of supply of emigrants or because of the hostility of governments (notably in France and Germany), Sifton did not hesitate to turn to new sources of supply – the countries of eastern and southern Europe, which were ripe for this initiative. Group migration was also encouraged, and people of many origins – Poles, Ukrainians, Hutterites, Doukhobors, etc. – took advantage of it to found many new settlements, especially in the West. Thus began substantial non-Anglo-Saxon, non-French immigration.

Despite his enthusiasm for large-scale immigration, Sifton recognized that the policy of unrestricted access to Canada must be checked. Many people – including the Prime Minister, Sir Wilfrid Laurier – still believed in wide-open immigration, but countervailing pressures were becoming too strong to ignore. Within the narrow limits of the existing law, Sifton began the process of refining admission policy to reflect more closely contemporary concerns.

A principle of Sifton's policy was that immigration should not swell the urban population; he was sensitive to the emerging problems of American cities, especially unemployment even in times of prosperity. He hoped to avoid these problems by concentrating on farmers, farm workers and domestic servants, and discouraging all others. There was nevertheless nothing in the law, initially, to prevent the admission of city workers if they could make their way to Canada, particularly if they came from the United States. However, his approach was reflected in the passage of the Alien Labour Act of 1897, which was designed to prevent Canadian employers from importing contract labourers from certain countries, especially railroad workers from the United States. (This Act is still in force, although no use of it has been made in living memory.)

British Columbia was still concerned about the number of Asiatics entering that province. Its concern coincided with Sifton's view that non-agricultural workers were not required, and the result was that the head tax on Chinese was doubled in 1900 and further increased (to $500) in 1903. Sifton would have liked to impose similar restrictions on Japanese, who were now arriving in substantial numbers, but was prevented by diplomatic considerations from doing so.

Sifton's concern for the protection of public health manifested itself in a 1902 amendment to the act to exclude "diseased persons".

Overzealous activity of certain employment and travel agencies resulted in large numbers of British labourers arriving in Canada, where they promptly became unemployed or acted as strike-breakers. Canadian labour unions were understandably incensed, and reinforced Sifton's view about the disadvantages of non-agricultural immigrants. The immediate result was an amendment of the law in 1905 to make it an offence to misrepresent the attractions of immigration to Canada.

These problems and others – including those arising along the virtually unpatrolled Canada-U.S. boundary, and the arrival of numerous "undesirables" – convinced the government that the 1869 immigration legislation, and the policy it embodied, were no longer adequate. In 1906 the legislation was extensively consolidated and revised, and the free-entry policy was officially laid to rest. The 1906 amendments provided for

- a much expanded immigration service, including control along the Canada-U.S. border
- the continued exclusion of criminals, public charges, and the physically and mentally infirm (with prostitutes and procurers added to the list)
- the deportation of immigrants who became criminals, public charges or infirm after admission to Canada

and, perhaps most important in the present context,

- the making of regulations "necessary or expedient for the carrying out of this Act according to its true intent and meaning and for the better attainment of its objectives", and in particular specifying the amount of "landing money" immigrants must have in their possession.

For the first time, there was an effective legal mechanism to implement a selective immigration policy. It was not long before it was put to the test.

During 1907 a substantial number of labourers arrived from Britain, their passage having been paid out of British public or charitable funds. Since there was strong suspicion in Canada that this represented an attempt to export unemployment and welfare problems, regulations were passed in 1908 to exclude charity-paid cases and require immigrants to be in possession of "landing money" ($25 or $50, depending on whether they arrived in summer or winter). The landing money requirement was waived, however, for the preferred occupations (agricultural workers and domestic servants) and for immigrants coming to join certain relatives (presaging the development of family-reunification policies).

British Columbia's concerns about migration from the Orient had also been mounting again. Although the head-tax regulations had largely achieved their purpose in checking Chinese immigration, substantial numbers of immigrants were now arriving from Japan and India. Among the concerns expressed was the bizarre apprehension that Japan might be trying to found a colony on the Pacific coast. Following riots in Vancouver in 1907, the federal government decided it must act to control Asiatic immigration. First came an Order-in-Council excluding immigrants who did not come to Canada by *direct continuous journey* from their homeland. Another regulation stipulated landing money of $200 for Asiatic immigrants other than Japanese and Chinese. Finally, the Japanese government was persuaded to restrict the number of its emigrants to Canada. An interesting historical footnote to these events is that the federal official sent to investigate the difficulties in Vancouver was not an Interior officer, but the then Deputy Minister of Labour, William Lyon Mackenzie King.

The Act was again revised in 1910, mainly to tighten its administration and enforcement. Of chief importance to policy evolution were the addition of a new prohibited class, subversives, and the inclusion of new regulation-making powers respecting the presentation of passports and penal certificates.

A report by the Deputy Minister to the Estimates Committee in 1910 summarizes the situation towards the end of this period:

> The policy of the Department at the present time is to encourage the immigration of farmers, farm labourers, and female domestic servants from the United States, the British Isles, and certain Northern European countries, namely, France, Belgium, Holland, Switzerland, Germany, Denmark, Norway, Sweden and Iceland.
>
> On the other hand, it is the policy of the Department to do all in its power to keep out of the country

> undesirables which for the purposes of this review I will divide into three classes.
>
> 1. Those physically, mentally or morally unfit whose exclusion was provided for by Act of Parliament last session.
>
> 2. Those belonging to nationalities unlikely to assimilate and who consequently prevent the building up of a united nation of people of similar customs and ideals.
>
> 3. Those who from their mode of life and occupations are likely to crowd into urban centres and bring about a state of congestion which might result in unemployment and a lowering of the standard of our national life.
>
> While neither the law nor the Orders-in-Council passed thereunder absolutely prohibit the landing in Canada of persons belonging to the second and third classes mentioned still their entry has been made extremely difficult by the passing of Orders-in-Council . . . (which) put many obstacles in the way of immigrants from Asia and southern and eastern Europe and, consequently, the numbers coming or likely to come from those countries are correspondingly diminished.

The last few years of this period saw no further major changes in policy or legislation. Only two regulations are of note: in the winter of 1913-14, temporary regulations prohibited the admission of any "artisans or labourers" to certain parts of British Columbia, and early in 1914 the $200 landing-money requirement was extended to Chinese in addition to their heavy head tax.

During this short period nearly three million immigrants came to Canada, of whom almost half arrived in the four years 1910-13; no single year since has matched any of these four years. Immigrants still came predominantly from Britain and the United States, but substantial contingents now represented nearly all the peoples of Europe. Notwithstanding the wishes of Sifton and his like-minded successor, Frank Oliver, large numbers swelled the population of Canadian cities.

In some ways, these relatively few years from the turn of the century to the First World War were the most significant in Canada's immigration history. They saw not only six of the eight largest annual movements ever recorded, but also the birth of the principle of selective immigration, a cornerstone of all policy since; the development of the Immigration Act to a point from which it has changed only in detail in the ensuing three generations; and the adoption of the practice of using regulations to control the composition of the immigration movement.

## WAR AND DEPRESSION (1914-45)

It may be that the outbreak of the First World War saved the government of the day from some difficult decisions. By 1914 nearly all good, accessible homesteading land had been taken up, the supply of non-agricultural labour was more than adequate to meet demand, and the ethnic fabric of Canada was being decidedly changed by the large inflows (150,000 in 1913 alone) of immigrants from other than Britain and the United States. It therefore seems probable that pressures to adjust the policies of the preceding decade might have become irresistible.

But the war intervened and Canadian immigration entered a long period of uncertainty. The field was treated with extreme caution by policy-makers. The war cut off virtually all emigration from the Continent and absorbed the efforts of nearly all available British manpower, but agriculturalists with capital continued to come in substantial numbers from the United States until that country also entered the war in 1917.

In some quarters it was expected that the end of hostilities would mean a resumption of immigration on the pre-war scale. Perhaps in anticipation a separate department for Immigration and Colonization was created in October 1917. But events belied these expectations. Demobilization threw thousands of workers into the labour market at a time when

Canadian business and industry were suffering the dislocation of conversion to a peacetime economy. Heavy unemployment, labour unrest, and a general recession ensued, and continued into 1922. New agricultural lands were not readily accessible, and capital could not be committed to building new railways. Transportation costs had soared, while the residents of many war-torn countries were impoverished. Finally, the Canadian war experience had generated considerable public resentment against some potential migrant groups.

All this pointed to a restriction of immigration, and inspired a series of legislative measures. Regulations in 1918 prohibited admission of people not possessing evidence of exemption from military service. Steps were taken the following year to prohibit the admission of enemy aliens, "skilled and unskilled labour" destined to British Columbia, and Mennonites, Doukhobors, and Hutterites. The landing-money requirement was raised to $250 (except for farm workers, domestic servants, and first-degree relatives of a person established in Canada). Amendments to the Act in 1919 made it possible for non-Canadian strike leaders to be found deportable and added, as new prohibited classes, alcoholics, conspirators, and illiterates.

Another long-simmering issue was resolved in 1919. Canada's effective exclusion of immigrants from India had provoked dispute over the concept of free movement between countries of the Empire. The Imperial Conference of 1919 decided the question in Canada's favour, a decision that would influence future immigration policy respecting non-white British subjects.

Despite the restrictive regulations just mentioned, Canada's doors remained open through the difficult reconstruction years to agriculturalists with capital, farm workers (the demand for wheat was again rising strongly) and domestic servants. Nevertheless, it was found desirable in 1920 to restrict the latter category to those who had been issued a "sailing permit" by a Canadian official in Britain. This foreshadowed the 1921 introduction of a requirement that all immigrants (except British subjects from the "old Dominions", American citizens, and certain others from the United

States) be in possession of visas issued abroad by Canadian immigration officers or British consular officers. This was the logical culmination of efforts over many years to prevent the entry of those regarded as undesirables, and to avoid hardship for both intending immigrants and receiving communities.

The return to normality began in 1922 as the sharp sentiments and disruptions provoked by the war faded. The restriction on Hutterites and Mennonites was withdrawn, and for the first time admissions policy was expressed in a selective regulation, which listed as admissible classes agriculturalists, farm labourers and female domestic servants, and cancelled the landing-money requirement. The normalization process continued into 1923, when the enemy-alien prohibition was terminated, and the admissible classes were extended to the wives and minor children of Canadian residents, and American citizens and British subjects from the "old Dominions" able to support themselves in Canada until they found employment. Restrictions on Asiatic immigrants were also relaxed to the extent that farmers, farm workers, female domestic servants, and wives and minor children of residents were made admissible, subject to a $250 landing-money requirement and there being no contrary legislation (i.e. Chinese) or agreement (e.g. Japanese). On the other hand, a new Chinese Immigration Act cut off Chinese immigration completely.

Another significant development in 1923 was the government's decision to accept several thousand Jewish refugees from Roumania on compassionate grounds. These people were accepted, notwithstanding their inadmissibility under the existing regulations, if they had relatives in Canada and were endorsed by the Jewish Immigrant Aid Society. This movement continued for several years.

The return of economic prosperity in 1923 induced the government to adopt a more active approach. Land settlement continued to be the main objective. The government entered into numerous arrangements with the British Government, Canadian railway companies, other federal and provincial agencies, private land development organizations, and others, for the recruitment, selection, transportation and establishment of agriculturalists with sufficient experience and capital to develop new farms, or take over partially developed ones. Others, although not as eagerly pursued, were not forgotten; in the words of the Minister of the day:

> While there are some would-be immigrants into Canada who are not suited for the Dominion owing to physical, moral or industrial unfitness or because they belong to races that cannot be assimilated without social or economic loss to Canada, there are at the same time in Great Britain and Continental Europe tens of thousands of skilled and unskilled workers (not agriculturists) who would be an asset to Canada if steady employment could be found for them.

Emphasis remained on Britain, the United States, and northern Europe – and on well-qualified immigrants, rather than numbers. This turning-away from eastern and southern Europe paralleled xenophobia in the United States which resulted in considerably more restrictive U.S. immigration laws in 1921 and 1924.

The renewal of a positive approach to immigration also featured an expansion of services:

- More offices were opened in Britain and Europe
- Generous passage assistance was made available
- Overseas medical examination was instituted, first for British immigrants granted passage assistance and later for all British and European immigrants
- Immigrants were welcomed at ports of entry, and in some cases were escorted to their destination
- Every possible assistance was given to land settlers in finding, evaluating and exploiting opportunities.

Steadily improving social and economic conditions brought more adjustments in the legislation. The prohibition of Doukhobor immigration was revoked in 1926. In the same

year, the admissible classes were extended to non-British (but also non-Asian) immigrants with occupations in demand in Canada, and to the parents, unmarried children and unmarried brothers and sisters of Canadian residents. One aspect of these changes granted preferential treatment to citizens of Belgium, Denmark, France, Netherlands, Norway, Sweden and Switzerland. Another instituted what later came to be known as the "sponsored" category.

A consolidation of the Act in 1927 produced nothing new, but in 1928 the labour movement finally succeeded in its years-long effort to overcome the opposition of the Senate to the repeal of the provision under which strike leaders were deemed to be deportable.

Although immigration returned to substantial levels in the late 1920s, it was not an unqualified success. Few prospective immigrants of the most preferred class (agriculturalists) could be found with the necessary capital, and currency-exchange problems interfered even with these. The many schemes to promote agricultural immigration were abused by people with no intention of settling on the land or whose real aim was to enter the United States. A Parliamentary committee in 1928 noted with concern the growth of what was seen as a detrimental concentration of immigrants in the cities. Abuse of the required-labour provision was also prevalent, and resulted in a regulation in 1929 to prohibit contract labour not approved by the Minister or not in preferred occupations (farmers, farm workers, domestics).

Some disenchantment with immigration was thus setting in, but again *force majeure* – the crash of 1929 – created the imperatives governing policy. Faced with deepening economic depression, the government moved in 1930 to delete farm workers, domestics, required labour, and residents' relatives from the admissible classes, thus leaving only agriculturalists, residents' wives and minor children, British subjects from the old Dominions, and American citizens capable of self-support. (This policy was confirmed in 1931 after consultations with the provincial governments had shown widespread support for an "immigration holiday".) At the same time the Asiatic admissible classes were reduced to only the wives and minor children of Canadian *citizens* and the passport requirement was amended to remove the exemption previously accorded to non-citizen residents of the United States who were in the preferred occupations.

All promotional work was stopped in 1930, and much of the overseas immigration organization was dismantled in the following years. Although British subjects with means to maintain themselves in Canada remained theoretically admissible, applicants were advised that since workers were not in demand anywhere in Canada, their movement could not be encouraged until conditions improved. Even workers with moderate capital were discouraged from sailing. All special programs were terminated, and in practice only persons with substantial capital, or going to join close relatives, were allowed to proceed to Canada.

Although much of the field organization in Canada was preserved by making it available for a co-operative "relief land settlement" program, the immigration service was demoted from a separate department to a branch of the Department of Mines and Resources in late 1936.

Somewhat improved economic conditions in the late 1930s did not evoke any change in policy. Even the plight of refugees from fascism immediately before the Second World War failed to overcome the restrictive attitudes born of the Depression. Only those who had sufficient funds to guarantee their establishment were admitted to Canada.

The outbreak of the Second World War suspended what little immigration activity there had been and naturally prompted an almost immediate regulation barring enemy aliens. Basic immigration policy and legislation remained unchanged during the war years, although a number of special steps were taken. In addition to providing temporary haven for children evacuated from Britain, refugees, and certain foreign merchant seamen, etc., a series of regulations made provision for the immigration of wives and children of Canadian servicemen, and people who had served in the Canadian armed forces. In addition, provision was made in 1945 for refugees previously admitted on a temporary basis to be granted immigrant status.

This period ended as it had begun. Theoretically at least (there being little immigration in practice), immigration was still regarded primarily as a matter of land settlement, with the immigration service organized to serve that objective. British and American immigrants were the most favoured. Northern Europeans were relatively well received. Other Europeans were accepted if no one else was available. Non-whites were not welcome. Immigration policy and law had developed hardly at all. The main policy contributions of the 1914-45 period were the introduction of the concept of sponsored immigration, and the use of the visa to control immigration at source.

The low level of immigration activity is shown clearly in the statistics of the period. In these three decades barely two million immigrants came to Canada, an average of less than 65,000 a year. Only ten of these years saw more than 100,000 immigrants, with a high of 166,783 in 1928 and a low of 7,576 in 1942. Once again, the immigrants were predominantly British or American.

## THE SECOND FLOWERING (1946-61)

It has been since the Second World War that Canadian immigration policy has evolved most rapidly, reflecting the swift pace of national development and profound changes affecting patterns of international migration. The kinds of people moving to Canada have changed radically during this latest period; Canadian needs and priorities have altered; and new challenges have emerged. All this has demanded substantial development both of policy and organization.

As soon as the war ended, a liberalization of immigration was sought by many – by Canadians believing immigration necessary to populate and develop the country; by ethnic groups and individuals wanting to rescue their relatives and compatriots from the chaos in Europe; and by foreign governments hoping to relieve serious problems of overpopulation and unemployment. Several factors, however, delayed immediate changes in policy. Canadian servicemen had to be returned by the scanty shipping available. Many people, remembering 1919-22, thought the Canadian economy would revert only with great difficulty to peacetime conditions, and feared the return of depression. The immigration service lacked facilities abroad for examining immigrants, and – after years of highly restricted immigration – possessed limited planning capacity.

Nevertheless, faced with continuing pressures and recognizing a responsibility to assist in resettling the enormous number of displaced persons crowding western Europe, the government responded by admitting, in the first instance, some who could be easily accommodated and maintained. The pre-Depression experiment was repeated of allowing residents of Canada to sponsor their first-degree relatives plus certain orphan nephews and nieces. Special authority covered the admission of about 4,500 ex-members of the Polish army, then in Britain, to work in agriculture and other primary industries; provision was made for the acceptance of travel documents, rather than passports, on behalf of displaced persons; and the enemy-aliens prohibition was not applied to sponsored wives and minor children. As the government wrestled with formulating a longer-range policy for the post-war years, further piecemeal adjustments were made, and the overseas organization was gradually re-established. Labour shortages began to appear in some primary industries, leading in early 1947 to the provision that any resident of Canada could sponsor any immigrant to whom he could ensure employment in agriculture, mining, or lumbering.

The curtain on Canada's peacetime policy was raised on May 1, 1947, in a comprehensive statement by the Prime Minister, Mr. King.[1] The policy of the government would be to foster the growth of the population of Canada by the encouragement of immigration. The government would seek by legislation, regulation and vigorous administration, to ensure the careful selection and permanent settlement of such numbers of immigrants as could advantageously be absorbed in the national economy. Canada could not ignore the danger that lay in a small population attempting to hold so great a heritage. A larger population would help to develop our resources. It would reduce the dependence of Canada on the export of primary products. It was of the utmost importance to relate immigration to absorptive capacity. Any

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[1] The text of this important statement is reproduced in Appendix A.

considerable oriental immigration would be certain to give rise to social and economic problems of a character that might lead to serious difficulties in the field of international relations. The government, therefore, had no thought of making any change in immigration regulations which would have consequences of that kind. For the immediate future, emphasis would be placed on sponsored relatives and the resettlement of displaced persons.

To implement the policy decision on sponsored relatives, the admissible classes regulation was amended to permit the sponsorship of several more classes of relatives. In addition, and in deference to the United Nations charter, the Chinese Immigration Act was repealed, with the effect that Chinese became eligible for sponsorship in the same limited way as other Asians.

The apparatus for giving effect to the second policy decision – on displaced persons – was also quickly put in place. Canada had been a member of the Intergovernmental Committee on Refugees since 1946, and joined the International Refugee Organization as soon as it was formed in July 1947. Regulations were passed authorizing the admission of 10,000 (subsequently much increased) displaced persons for job placement. Since the immigration service had no experience in industrial placement, this operation was conducted by officers of the Department of Labour. In addition, the government entered into the first of a series of agreements with agencies such as the Canadian Christian Council for the Resettlement of Refugees (CCCRR) for the pre-selection and settlement of displaced persons and related groups. These developments are notable on several counts: the commencement of non-agricultural open placement immigration, the increasing involvement of the Department of Labour, and the interest of church and ethnic groups in participating in the immigration process.

Other significant developments about this time included: X-ray examination was made compulsory for all immigrants where indicated by local conditions; French and Irish citizens were made admissible on the same terms as British and Americans; the continuous journey regulation of 1908 affecting Asiatic immigrants was rescinded; and for the first time, the government accepted responsibility for the medical care of indigent immigrants, in this instance displaced persons.

In view of Canada's apparent ability to absorb greater numbers of immigrants, and given the shortage of shipping space and housing for immigrants, the government began entering into agreements to purchase both air and ocean transportation, and hostel accommodation, especially for British immigrants. The admission of increased numbers of displaced persons and orphans from various countries was authorized. The arrangements for meeting indigent displaced persons' medical expenses were further developed by conclusion of cost-sharing agreements with the provinces, and large grants were made to the IRO and CCCRR. A high-level interdepartmental committee (Mines and Resources, Labour, External Affairs, Health and Welfare, and Secretary of State) was established to advise the government on immigration policy, especially in respect of movements of labour. This committee among other things devised a system of allotting "quotas" to individual occupations. Finally, the increasing importance of immigration led to legislation at the end of 1949 to create a new Department of Citizenship and Immigration.

Despite piecemeal additions to the admissible classes, and in 1950 exemption of all German sponsorable classes from the enemy-aliens prohibition, immigration began to decline as the pool of displaced persons gradually diminished, and people in Canada found fewer relatives to sponsor. The supply was not matching, in either quantity or quality, the demands of the Canadian labour market. Moreover, numerous meritorious cases, inadmissible under the existing regulations, were either excluded, or increasingly frequent resort to individual Orders-in-Council was required. A clear need existed to define those admissible to Canada more generously, for measures to ensure the arrival of the right number of the right kinds of immigrants in the right places at the right time.

The response, in June 1950, took the form of a new kind of regulation. It maintained the preference for British, Irish, French and American immigrants, but otherwise left the determination of admissibility to the judgment of the

Minister who was to consider (a) suitability "having regard to climatic, educational, social, industrial, labour and other conditions and requirements in Canada", and (b) whether the immigrant might be undesirable due to "peculiar customs, habits, modes of life, methods of holding property", or general unassimilability. In practice, this regulation meant that the following groups (other than Asians) became admissible:

- relatives of any degree sponsored by residents of Canada
- agriculturalists, entrepreneurs, professionals, domestics and nurses' aides
- other workers specifically nominated by Canadian employers, and
- other workers approved by the immigration settlement service or for placement by the Department of Labour.

Blacks were held to be inadmissible unless they fell in the preferred classes, or were the spouses or minor children of Canadian residents.

This regulation was soon followed by others removing all Germans from the enemy-aliens prohibition, and extending the Asiatic admissible classes to the husbands of Canadian citizens and unmarried children up to 21 years of age. In addition, agreements were signed with the Governments of India, Pakistan and Ceylon, early in 1951, under which Canada agreed to accept limited numbers of their citizens as immigrants, over and above any who might be admissible under the Asiatics regulation. Finally, in view of the continuing shortages of workers and the high costs of transportation, arrangements were made to subsidize immigrants' transportation by air and to make assisted-passage loans to selected workers and their families.

The impact of these changes in policy, but especially the general admissible-classes regulation and the transportation measures, was immediate. The size of the annual movement leaped, but not entirely in the direction anticipated. Although the desired increase in unsponsored immigrants from Britain and northern Europe took place, there was also an increase in sponsored relatives from southern Europe. Moreover, immigrants' occupations were still not wholly consistent with Canadian labour market needs. The next few years witnessed a constant series of adjustments to the admissible classes, facilitated by the extreme flexibility of the new regulation.

Sponsored immigration began to pose a dilemma. This group seemed to settle in more quickly, but did not necessarily include the most desirable type of immigrant judged by the labour-market and other criteria of the day. Moreover, the sheer number of sponsored applications was seriously interfering with the recruitment and processing of unsponsored immigrants. There were therefore frequent changes as certain classes of relatives were alternately added and subtracted, depending on the pressures of the moment. Differentiation was also made among countries; more classes were eligible for sponsorship from some countries than from others. Other control valves employed included the setting of priorities, the expansion or curtailment of processing facilities, and the waiver (or not) of certain stages of examination. At the same time, however, the assisted-passage loan scheme was extended to sponsored wives and minor children, and black persons and the citizens of most Middle Eastern countries came to be treated as Europeans rather than Asians for the purposes of sponsorship.

For unsponsored immigration during this time, the interdepartmental advisory committee, expanded to include several more departments, continued its efforts to set annual occupational targets. The Department of Labour generally favoured a very conservative approach, preferring to look at "one immigrant for one job" in the immediate future. The other departments usually supported a more active program geared to long-range development and the maintenance of a steady recruitment capacity. Annual programs usually represented a compromise between these positions. Some of the voluntary agencies (e.g. CCCRR, Canadian Jewish Congress, Rural Settlement Society of Canada) were very active, with government blessing, in pre-selecting and assisting specific groups of unsponsored immigrants, as were the railway companies. In addition, advice was sought each year from influential Canadian organizations, such as the Trades and Labour Congress, the Canadian Chamber of Commerce, and the Canadian Council of Churches. Another important development was the gradual replacement of Labour officials in selecting and placing immigrants, by officers of the immigration service. A measure of additional control over numbers was achieved by refusing permission for most unsponsored immigrants to move to Canada during months of lower economic activity, usually October to March inclusive.

Legislative changes in these years were relatively few compared to the immediate post-war years. The enemy-aliens prohibition was completely revoked in 1952, a year which also saw the passage of the present Immigration Act. The latter was a sharper instrument for control and enforcement, but contributed little to immigration policy except to eliminate a few obsolete prohibited classes and to establish the assisted-passage scheme. Regulations made under the new Act in 1953 were largely a consolidation of earlier regulations, but included some important new aspects. All immigrants were required to have passports and visas, but in practice, under authority granted to the Minister, the old exemptions in favour of the preferred nationalities remained in effect. The admissible classes regulation was identical to that of 1950, except that the determination of admissibility of the non-preferred classes was assigned to Special Inquiry Officers rather than the Minister.

Other new elements of immigration policy in these years were the introduction of annual quotas for domestic workers from the Caribbean (1955) and the payment of "family assistance" in lieu of family allowances to immigrant families (1956).

The problem of increasing numbers of visitors applying for landing while in Canada also began to emerge during the fifties, due partly to controls on sponsored immigration, and partly to the restrictions on non-European immigration. A court case made it necessary to draft new regulations – not so much to alter policy, as to express it with legal precision. These regulations listed as admissible classes:

- the preferred nationalities (as before)

- citizens of western European countries coming to Canada for placement in employment or as entrepreneurs
- the spouses, parents, grandparents, children and brothers and sisters with their spouses and minor children, unmarried orphan nephews and nieces, and fiancé(e)s of residents of Canada, if they were citizens of a country of Europe or the Americas, or Egypt, Israel, Lebanon or Turkey
- the spouses, minor children and elderly parents of Canadian citizens, if they were citizens of any other country, and
- citizens of India, Pakistan and Ceylon covered by bilateral agreements.

In addition, the passport exemption was withdrawn from all but American citizens, and the immigrant-visa exemption was reduced to those who were citizens of, and born in, Britain, Australia, New Zealand, South Africa, Ireland, France and the United States, and citizens of other countries permanently resident in the United States.

These changes effectively circumscribed the almost unlimited flexibility that had existed since 1950, and made it more difficult to deal with unusual cases on either side of the dividing line between admissibility and inadmissibility. But they did dispel confusion about just who was or was not an eligible immigrant.

As direct involvement by the Department of Labour in the immigration program lessened, the ability of the immigration field staff to place immigrants in jobs became more of a policy determinant for selecting unsponsored immigrants. In choosing immigrants, personal factors such as initiative and determination came into account, as well as occupation. Indeed, during the 1956-57 boom, occupation tended to be the subsidiary consideration, as all stops were pulled to meet the labour market's apparently insatiable demand for workers of all kinds.

This was also the time of the Hungarian uprising and Suez. Responding to the former, the first major refugee crisis

since the war, and helped by buoyant conditions in Canada, the government mounted an extensive program. Special processing teams were rushed to the spot, occupational criteria were largely waived, medical examination was deferred in part, transportation was arranged and paid, and sponsorship criteria were relaxed.

The swelling sponsored movement, the all-out promotion of unsponsored immigration, the massive refugee movement – coupled with other events such as the Suez crisis – all contributed to a post-war record number of immigrants in 1957. At the same time, there were signs the economic boom was about to end, and the brakes were slammed on immigration by administrative devices. In unsponsored immigration, the winter-arrival deadline was advanced, and occupation again became the key selection criterion. On the sponsored side, sponsored children, brothers and sisters were not approved for the balance of the year unless they had occupations in demand in Canada. Most relaxations in favour of refugees were suspended. Nevertheless, even while these restrictive measures were taking place, the regulations governing the sponsorship of Asian immigrants were amended to enable permanent residents, as well as Canadian citizens, to sponsor their spouses, minor children and elderly parents.

The next four years (1958-61) showed little development in policy. Despite mounting pressures from many quarters on the existing system, the continuing economic recession, with its heavy unemployment, dictated a cautious approach to immigration. Torn between appearing to add to labour market problems on the one hand, and upholding confidence in Canada as a country of immigration for future years on the other, policy settled on restricting the unsponsored movement to only the most obviously qualified applicants, without special regard to numbers.

Undermining this policy, however, were ever-increasing numbers of unqualified persons entering Canada as visitors and then seeking to stay permanently. The government attempted to deal with this by approving the landing of the preferred nationalities, sponsorable relatives and other desirable individuals – by special Order-in-Council, if necessary – while refusing and deporting others. However, pressures in favour of refused applicants rendered consistent and effective enforcement impossible. The result was a compromise, announced in August 1958: an amnesty for all applicants then in Canada, with rigid enforcement for all subsequent cases.

The problem of unqualified sponsored workers became particularly acute during this period of high unemployment in Canada. After a second winter (1958-59) of applying occupational criteria to sponsored sons, daughters, brothers and sisters, and with no sign of a lessening of the recession or of the number of applications, it was decided to remove brothers, sisters and married children from the sponsorable classes. This decision, taken in March 1959, met such a storm of protest from ethnic organizations, some segments of the press, and even members of the Government party, that the sponsorable classes were hurriedly restored. The strength of the reaction, in fact, halted any thought of early legislative changes. But when, by mid-1960, the basic problems seemed as acute as ever with immigration from Italy on its way to exceeding immigration from Britain for the third consecutive year, adjustments were again attempted administratively. Sponsored relatives were divided into five processing categories, with married children, brothers and sisters of permanent residents receiving the lowest priority. The quality of settlement arrangements offered by the sponsor was graded according to four classifications, with the two lowest requiring the sponsored relative to meet occupational requirements. This change was successful and remained in effect, with minor modifications, until 1964.

These years also witnessed growing objection to restrictions on non-white immigration, including new pressures from Commonwealth countries which had recently achieved independence. Again, however, high unemployment rates in Canada, and apprehension that many beneficiaries would be in low-skill, low-pay occupations, delayed policy change.

Despite the recession's otherwise stultifying effect on immigration policy, some special humanitarian measures were taken during these years. As a contribution to World Refugee Year, Canada agreed to relax its requirements so that a number of refugees who had failed to meet admission requirements of several other countries might be resettled in this country. Similar exceptions were made at various times in favour of such diverse groups as White Russians in Hong Kong, Armenians in Greece, North African and Roumanian Jews, Belgians from the Congo, and refugee orphans.

This period ended, as it had begun, in a state of uncertainty as to the future course of immigration policy. It resembled earlier periods in the weight accorded economic considerations, and the preservation of a system of preferred nationalities. But it was distinctive for a new emphasis on social and humanitarian considerations, for the play of non-governmental influences on policy development, and for the willingness to make exceptions in favour of individuals and groups. Sponsored immigration, virtually non-existent before 1947, had become a major phenomenon, its attendant problems notwithstanding.

Two million immigrants came to Canada during these years, an average of 130,000 each year. The wide year-to-year fluctuations are noteworthy – e.g. from 74,000 in 1950 to 194,000 in 1951, and from 282,000 in 1957 to 125,000 in 1958 – as they are characteristic of the "tap-on tap-off" approach that attempted to relate the immigration movement solely to short-term policy considerations. Britain and the United States continued to be important but no longer predominant sources of immigrants; other European countries (especially Germany, Italy and the Netherlands) were now supplying the majority of Canada's immigrants. Many agricultural workers came during the earlier part of the period, but generally throughout these years the most numerous workers were in manufacturing occupations.

## THE LATEST PHASE

In 1960, policy-makers had begun seriously to think of ways to end the discriminatory features of immigration policy. As already noted, however, slack economic conditions militated against immediate change. And time was needed to resolve the following conundrum:

> To treat all nationalities as "preferred", under the existing regulations, would extend eligibility to huge numbers of potential immigrants, at a time when a relatively low level of immigration was desirable.

> Conversely, to eliminate racial discrimination by making all nationalities admissible on some narrower basis, would have imposed unacceptable restrictions on some traditional source countries, notably Italy, Greece and Portugal.

It was January 1962 before a workable compromise was achieved that safeguarded perceived economic interests while going far towards a universally applicable policy. The new policy made unsponsored immigrants from anywhere in the world admissible on the same criteria – the "education, training, skills or other special qualifications" necessary to obtain employment or to set up their own enterprises. The sponsorship rule allowed all residents of Canada to sponsor their spouses, parents, grandparents, fiancées, and unmarried children under 21 years of age, regardless of nationality. Canadian citizens could sponsor their children of any age or fiancés, again regardless of their nationality, but subject to provisos about their "education, training, skills or other special qualifications". But the full range of sponsorable relatives as previously constituted was retained in respect of nationals of the "traditional source countries" (i.e. Europe, the Americas, Egypt, Israel, Lebanon and Turkey). Thus nationals of the previously preferred countries lost nothing; nationals of Asian and African countries gained several degrees of sponsorable relatives; and nationals of Asian, African, Latin American and Caribbean countries gained access as unsponsored immigrants for the first time. The occasion was also taken to refine the passport and visa requirements, partly to reduce (but not eliminate) discrimination in favour of the preferred nationalities, and partly to strengthen the government's position in refusing to deal with visitors who sought immigrant status while in Canada.

Selection of unsponsored worker immigrants was now based on education and skills, and related to Canadian demand for various occupations. Continuing uncertainty about the extent of economic recovery dictated that preference should be given to immigrants in the professions and technical and skilled occupations, and that workers with lesser qualifications should not be encouraged. Since few prospective immigrants in the developing countries could meet these standards, the effect of the new regulations was not really felt until economic conditions in Canada began to improve and a wider variety of occupations again came into demand a few years later.

A first step toward non-discrimination in Canadian refugee policy was also taken in 1962, when the government agreed to the special admission of 100 Chinese refugee families from Hong Kong. Similarly, special provisions for the admission of orphans for adoption were extended to non-white children in 1963.

Even in the presence of the liberalized admissible classes regulations, special action continued to be taken in favour of certain groups, for example Armenians and North African Jews. The agreements with India, Pakistan and Ceylon were also continued, at the request of the governments concerned, although they were now of little practical value.

The year 1964 spawned a number of issues, some that would only come to a head in later years. Manpower measures were becoming increasingly important aspects of economic policy. Rapid changes in the work world had resulted in shortages of certain skills and obsolescence of others; and unemployment remained disturbingly high even during times of relative prosperity. Renewed difficulties with visitors seeking to become immigrants occurred, and immigration-enforcement policy and practices received much criticism. Although manifest only gradually, the cumulative impact of these developments on immigration policies and programs was to be substantial.

The emphasis on employment policies had led the government to conclude that a national employment service providing placement service only was inadequate; that more attention should be devoted to worker training and, more generally, to the integration of Canada's working population with the labour market. Logically this could only mean the closest possible co-ordination between employment and immigration policies. The outcome, in January 1966, was the amalgamation of the National Employment Service, elements of the Department of Labour, and the immigration service, in a new Department of Manpower and Immigration.

The pace of technological change manifested itself in the obsolescence of acquired skills that once would have seen a worker through his whole working life. It became clear that, in future, workers would have to be retrained periodically to keep up with technology, and that the successful worker would be the one best prepared to undertake and benefit from that retraining. Translation of this perception to immigration policy led to increased emphasis on the education and personal characteristics of immigrants and ultimately, via the 1966 White Paper, to the 1967 regulations.

Despite improving economic conditions in Canada, the level of unemployment remained at an unsatisfactory level. Studies found that the largest single component of the unemployed consisted of unskilled, undereducated workers, and that the addition of such native-born workers to the labour force was not likely to diminish in the near future. These findings intensified concern over the large sponsored movement, which annually included thousands of unskilled, undereducated workers. This concern, too, would be dealt with in the White Paper and 1967 regulations.

A series of controversial deportation cases during 1964 drew bitter public criticism. The Government decided to clear the air by commissioning an independent inquiry by Mr. Joseph Sedgwick, Q.C. Mr. Sedgwick's mandate was subsequently extended to cover such related problems as visitors seeking immigrant status. His reports and recommendations, in 1965 and 1966, eventually led to the Immigration Appeal Board Act, and thus had profound implications for immigration policy.

By 1964 the problem of visitors-turned-immigrant had got badly out of hand. Frustrated by the criteria for unsponsored immigrants, thousands of people (especially Italians, Greeks and Portuguese) were entering Canada as visitors, making contact with influential individuals or bodies, and then applying to stay permanently. The rapidly expanding use of air transportation contributed to this phenomenon, as did the fact that the non-immigrant visa system had been largely dismantled in the interests of international trade and tourism. The problem had grown so big by mid-1964 that rigid adherence to established policy was out of the question politically since it would have meant thousands of deportations. Instead, a new amnesty for applicants already in Canada, with stricter control of future non-immigrant traffic, was considered, but a decision was deferred pending the outcome of the extended Sedgwick inquiry. In the interim, enforcement activities respecting applicants for landing were suspended.

This train of events persuaded the Government of the need for a general review of all aspects of immigration, and in December 1964 the Department of Citizenship and Immigration undertook the preparation of a White Paper. This was nearly two years in the making, during which time Mr. Sedgwick's reports appeared. Recognizing that concrete action arising from the White Paper was not imminent, the Government decided to proceed, early in 1966, on the question of visitors seeking landing, and on Mr. Sedgwick's recommendations.

Unwilling to deport all the visitor applicants who had accumulated since 1964, but not wishing to stimulate the flow by a total amnesty, the Government selected a middle course. Existing applicants were granted landing if they met normal immigrant requirements, were successfully established in employment or business, had 10 years of education, or had married Canadian residents. Future applicants would be landed only if they could meet unsponsored immigrant requirements, or were the spouses or minor children of Canadian residents. All others were to be refused landing and deported. This policy, effective in 1966, was expected to clear away the existing backlog without serious hardship, and discourage the future flow of unskilled, undereducated workers.

Mr. Sedgwick recommended establishment of a completely independent immigration appeal board, empowered to deal conclusively with all deportation appeals; the transfer of discretion from the Minister to the board; and the creation of a system of appeal for a sponsor whose application to bring in a relative had been refused. The purpose underlying these proposals was to relieve the Minister and his officials of pressures to make exceptions to law and policy, by transferring the matter to an impartial, non-political arbiter. Legislation to implement these proposals was passed early in 1967 and the Immigration Appeal Board became operative in November of that year.

## THE WHITE PAPER OF 1966

Meanwhile, the White Paper had recommended the future outlines of immigration policy. It was expansionist in philosophy, stressing the traditional reasons to encourage immigration (population growth, expansion of the domestic market, lower per capita costs of government and services, cultural enrichment). But it also reflected reservations about unselective immigration, emphasizing the upgrading of the employability and productivity of the labour force, and the vulnerability of the unskilled and semi-skilled to rapid technological change. Without disparaging the place in policy of family reunion and assistance to the less privileged, the White Paper was preoccupied with the interface between immigration and manpower policy. Accordingly it advocated a clear distinction between those immigrants who would compete in the economic marketplace, and those who would not. Education and skills were the best guarantee that the former could adapt to the realities of Canada's economic life. And throughout, the White Paper unambiguously heralded the total end to racial discrimination in immigration policy.

The White Paper proposed no basic change in the criteria for unsponsored immigrants, but it did propose a substantial modification in the provisions for admitting sponsored immigrants. Canadian *residents* could sponsor genuine dependants, but it proposed that other relatives – those most likely to be taking employment in Canada – should be sponsorable only by Canadian *citizens*, and should meet educational or occupational demand standards.

The special Parliamentary committee, to which the White Paper was referred, directed its attention almost exclusively to the recommendations on admissible classes. The proposals respecting both sponsored and unsponsored immigration received little support in the committee, which heard numerous presentations by ethnic and church groups, labour and management organizations, a provincial government, and other groups and individuals. The proposed sponsorable class was criticized as too narrow; it was argued that it should be broadened to include aunts, uncles, cousins and even beyond. The distinction between citizen and permanent-resident sponsors was regarded as arbitrary and the economic-adaptability indicator as unfair. With respect to unsponsored immigrants, the education criterion was described as too rigid, and inaccurate to boot; it ignored opportunities for people with little education or training (e.g. mining, construction); and there was no leeway for the immigrant with nothing but initiative and determination. Although the committee never submitted a final report, its proceedings had a formative influence on the regulations that ultimately evolved.

## THE 1967 REGULATIONS

These introduced four new elements to immigration law (although two had been foreshadowed by administrative practice over several years):

- Discrimination on the basis of race or nationality was eliminated for all classes of immigrants.
- The criteria for unsponsored immigrants, renamed independent applicants, were set out in detail in the regulations for the first time, in the form of nine factors against which applicants were to be judged on their short-term and long-term prospects for successful establishment in Canada. In addition to education and skill, these factors included the individual's personal characteristics, the demand for his occupation in Canada, knowledge of English or French, age, and the existence of pre-arranged employment. No one factor would be critical; and their weighting was designed to be flexible, and to correspond to changing conditions in Canada.

- The sponsored class was reduced to the dependent relatives proposed in the White Paper, with a few minor additions. However, a totally new class – nominated relatives – was created. These were midway between sponsored dependants and independent applicants in that they were subject to assessment on the long-term selection factors, but their nominators' proposed assistance replaced the short-term factors. Small distinctions were made between more and less distant relatives, and Canadian citizen and non-Canadian citizen nominators. The new nominated class included sons and daughters of any age or marital status, brothers and sisters, parents and gradparents likely to enter the labour force, nephews, nieces, uncles, aunts and grandchildren.
- Specific provision was made for visitors to apply for landing while in Canada. With a few stated exceptions, any applicant could qualify who could meet the requirements as a sponsored dependant, nominated relative or independent applicant – and the visa requirement was automatically waived. With the establishment of clear selection standards in the law, it was judged preferable to regularize a movement that apparently could not be stopped anyway; but it was made somewhat more difficult for the applicant in Canada to qualify than for the applicant abroad.

## REFUGEE POLICY

Meanwhile, Canadian refugee policy was also developing. The Czechoslovakian crisis of 1968 produced a large outflow of refugees, and the government again, as in the case of Hungary, rushed examining officers to the spot, relaxed examination standards, and provided special funds for the movement and establishment of the refugees. Unlike the Hungarian program, however, the Czechoslovakian one was

terminated after only four months. Influencing this decision were declining economic conditions in Canada, and a desire to reserve the benefits of the program for true political refugees (as opposed to people merely taking advantage of unsettled conditions).

Early in 1969 Canada also adhered to the United Nations Convention Relating to the Status of Refugees. This step was largely formal, however, since Canada already accorded refugees benefits equal to or greater than those prescribed in the Convention. Later in the year, a special movement of Tibetan refugees in India was authorized; nearly all normal requirements were waived, and an extraordinary program for their orientation and establishment was set up. Special measures resembling a refugee program were also approved to assist the movement of Jews from Iraq. These developments led, in July 1970, to a general policy under which any refugee, as defined by the United Nations, would benefit from more generous admission standards and transportation and establishment assistance than ordinary immigrants; similar but lesser benefits were authorized for "oppressed minorities". This set the stage for a particularly successful refugee program two years later, when Canada responded promptly with special measures to receive the Asians expelled from Uganda.

## PROBLEMS AND REMEDIES

Within a year of the establishment of the new appeal system, stresses began to appear. More appeals were received than had been anticipated, and the Immigration Appeal Board soon fell seriously behind on its caseload. At the same time, more people than expected were taking advantage of visitors' entitlement to apply for landing while in Canada. This in turn produced delay in dealing with those refused, of whom there were more than had been foreseen. Also contrary to expectations, the Board was exercising its discretionary powers in favour of appellants very frequently; policy-makers and legislators had anticipated use of this power in perhaps 5 per cent of all cases, whereas it soon approximated 40 per cent and never dropped below 20 per cent.

This was the pattern of the problem that was to prevail, with increasing severity, until late 1972. Immigrants unable to meet our selection criteria came to Canada as visitors and then, sometimes immediately, applied for landing. On being rejected, they refused to leave and insisted on deportation proceedings. On being ordered deported, they appealed to the Board, thereby gaining a roughly 50-50 chance of being allowed to stay. While awaiting examination, special inquiry and appeal hearing, they often took employment in Canada and otherwise established useful connections. Even if unsuccessful before the Board and actually deported, they could immediately return to Canada to repeat the process. The situation was, of course, self-generating: more applicants bred longer delays, longer delays bred more applicants. Apart from the inordinate workload imposed on the Board and departmental staff in Canada, the effectiveness of the selection process abroad was undermined. The end result was loss of control of immigration policy and the immigration program. Each year the problem grew: in 1972 more than one-third of those admitted as immigrants had not undergone examination and selection before coming to Canada, and many had initially been refused landing. At the same time thousands of people in the backlogs were enjoying most of the benefits of legally admitted immigrants although those benefits had technically been denied them, often on very serious grounds.

As early as February 1969 the government found it necessary to consider amendments to the Immigration Appeal Board Act to eliminate delays in dealing with appeals and thus discourage visitor applicants. Numerous legislative solutions were developed but not proceeded with, for a variety of reasons: uncertainty concerning the best method of attaining the objective; a crowded Parliamentary timetable; frequent changes in ministerial portfolios; a situation changing so fast that approved proposals became obsolete before they could be acted upon. Repeated postponement of corrective measures only aggravated the problems, and it became apparent that drastic action would be necessary, however reluctant the government might be to amend liberal provisions of the law.

Despite an administrative attempt to clear the backlog through a partial amnesty, by October 1972 the situation was such that the government saw no option but to revoke the visitor's right to apply for landing. This step was recognized as only a holding measure until new legislation could be prepared, but it did secure a few months breathing space until illegal immigrants realized they could exploit the appeal system by merely reaching Canada, whether or not there was an entitlement to apply for landing. Many thousands more had therefore entered Canada before the government was able to introduce a bill to amend the Immigration Appeal Board Act.

This bill expanded the Board's capacity to deal with appeals, and reduced appeal rights sharply, in particular excluding visitors ordered deported after failing to qualify on applications for landing. In addition, in order to clear an unknown number of illegal immigrants who had not formally applied for landing, it included a transitional provision under which these people, if they had entered Canada on or before November 30, 1972, could qualify for landing under a special set of extremely lenient selection criteria. The bill passed rapidly through Parliament, and became law on August 15, 1973.

## CONCLUSION

This chapter has attempted to give an overview of the objectives, problems and pressures that have conditioned the development of immigration policy and law through the years. That it ends with August 1973 does not mean that there have been no developments since. Quite the contrary – immigration policy is never static, and there have in fact been a number of important changes very recently. For simplicity's sake, these are described in subsequent chapters where various aspects of present policy and procedures are described in detail, e.g. adjustments to the selection criteria in Chapter 2, the Chilean refugee program in Chapter 4, implementation of the amended Immigration Appeal Board Act in Chapter 6, and the employment visa system for non-immigrants in Chapter 7.

Historically, immigration priorities and objectives have shifted with changes in the perception of national requirements, in response to the development of Canada's society and economy, and as a consequence of external pressures. Immigration policy-makers through the years have been obliged to take into account a wide variety of objectives, which often have jostled each other for attention. At times special emphasis has been accorded to population growth, or to the particular economic imperatives of the day. At other times humanitarian and social considerations, such as international refugee crises or the call to reunite families, have taken precedence. This need to respond to rapidly changing circumstances, and to strike a reasonable balance between often conflicting aims, is central to Canada's immigration history.

Although one may search that history in vain for a single dominant policy objective, immigration has consistently served a broad national purpose. It has been an essential tool in building the Canada of today. Policy, and the framework of law and regulation within which policy operates, must continue to show resilience in meeting new challenges if immigration is to make its best contribution to constructing the Canada of tomorrow.

# 2

# SELECTION OF IMMIGRANTS

In immigration parlance, the term "selection" describes the process of examining people who want to come to Canada to live, and their acceptance if they are found to be suitable future residents of this country. In this broad sense, it has both positive and negative aspects: applicants are examined both to find out whether they can meet certain standards, and to determine whether they are affected by certain statutory limitations (e.g. health and security). More narrowly, "selection" may also refer simply to the assessment of whether applicants have the potential to become successfully established in Canada; it is in this sense that "selection" is most often used in this chapter. The other, broader aspects of selection are described in Chapter 6, *Controls and Enforcement.*

Selection must, of course, reflect current governmental objectives and policies for the admission of people to Canada. At present the broad objective, as defined in the annual review of government programs that is the basis for departmental financial estimates, is to administer the admission of immigrants (and non-immigrants) to serve the economic, social and cultural interests of Canada. Within this broad objective, specific goals have been

- to promote family reunion by expediting the movement to Canada of dependants of Canadian citizens and residents, and by facilitating the movement to Canada of other relatives who, in conjunction with the assistance available in Canada, have the qualifications necessary for successful establishment
- to recruit, or assist Canadian employers in recruiting, qualified workers for whom there is an immediate specific demand in Canada
- to encourage the movement to Canada of other workers whose occupations and skills are in

continuing demand, and of entrepreneurs possessing the capital, knowledge, experience and personal qualities necessary for successful industrial or commercial enterprise

- to help alleviate human distress by admitting to Canada refugees who, although they may not have the usual qualifications necessary for admission, are likely to become successfully established within a reasonable period
- to facilitate the movement to Canada of other workers or retired persons who, although lacking occupations currently in demand, have the financial and other resources and qualifications necessary for successful establishment
- to promote the early adjustment and establishment of immigrants by counselling them fully about living and working conditions in Canada.

(The foregoing list of goals should not be taken as a priority ranking; each of the goals is important in itself.)

Governing the pursuit of these goals is the policy of non-discrimination and universality first enunciated in the White Paper on Immigration of 1966. For all practical purposes "non-discrimination" and "universality" are synonymous; they mean simply that every person seeking to come to Canada as an immigrant is assessed against exactly the same standards, regardless of race, religion or country of origin.

"Universality" has sometimes been misunderstood as a commitment to provide whatever facilities are necessary to respond to demand for migration to Canada, wherever it may occur, or even to provide such facilities where a *potential* demand exists, regardless of Canada's immigration needs. This commitment is not part of Canadian policy. The 1966 White Paper in setting out the new policy said no more and no less than that admission to Canada "must involve no discrimination by reason of race, colour or religion, and consequently that (policies) must be universally applicable".

The current objectives and policy are expressed in law in

the Immigration Regulations (Sections 31, 32 and 33) established in 1967, which set the standards against which all prospective immigrants are measured. "Selection" is the application of those standards in respect of individual applicants for admission to Canada.

The regulations also seek to strike that elusive balance, mentioned in Chapter 1, between immigrants who are expected to make a contribution to Canada's economic growth (workers with needed skills, entrepreneurs, and retired people with capital to invest), and those who are admitted for social or humanitarian reasons (mainly relatives of people in Canada, and refugees).

Regardless of the category to which he or she belongs, the overriding consideration in each case is whether the applicant is capable of becoming successfully established in Canada, either through personal effort or with the help of others. Different standards for measuring this capability are provided, depending on whether the prospective immigrant will be wholly independent, wholly dependent on someone already in Canada, or partly the one and partly the other. These three groups are referred to, respectively, as independent applicants, sponsored dependants, and nominated relatives.

## SELECTION OF INDEPENDENT APPLICANTS

Independent applicants are those prospective immigrants who expect to become self-supporting and successfully established in Canada by virtue of the skills, knowledge or other qualifications they possess. They are not expected to require any assistance other than that which is available to any resident of Canada (such as placement assistance from a Canada Manpower Centre). They form the largest and most important component of the immigration movement. They are the ones most likely to make a positive contribution to Canadian economic development if selection is good, the ones most likely to be a burden on receiving communities if selection is poor. Without them, there would soon be no sponsored dependants or nominated relatives. For these reasons they are sometimes referred to as "economic immigrants" and "seed immigrants"; in the past they were also called unsponsored immigrants.

The spouse and unmarried children less than 21 years of age are normally admissible to Canada on the basis of the principal applicant's acceptance as an immigrant. If they are examined at the same time as the independent applicant abroad, they are counted as belonging to the independent category when they arrive in Canada.

## The Selection Criteria

The Regulations of 1967 establish nine factors or criteria (eight of them wholly objective) against which independent applicants are assessed. Four of these were originally intended to reflect mainly an individual's prospects for establishment in the short term, while the other five were conceived chiefly as indicators of his prospects for long-term success. This distinction is somewhat arbitrary because in fact none serves only the one purpose exclusively. Each factor receives a value in "units of assessment". The relative values reflect the importance of each factor in determining successful establishment, as it was perceived in 1967; the balance among them has been kept under review to identify the possible case for adjustments. (A summary of the selection factors and their relative values appears on page 59.)

The nine factors have a combined potential value of 100 units. If an applicant receives 50 or more, his success is judged likely; with less than 50, his success is deemed unlikely. (This has become known popularly as the "points system" of selection.) The values of some of the factors vary according to economic conditions in Canada; this is designed to check or stimulate, as the case may be, the size of the immigration movement – to match it more closely to labour-market conditions in Canada.

Generally, the use of the nine criteria appears to have fulfilled the system's main purposes – to judge with reasonable accuracy an individual's potential and to regulate the size and composition of the immigration movement according to changing conditions in Canada. Nevertheless, the appearance of certain anomalies led, in February of this year, to an amendment of the Regulations. This was designed to correct two problems at opposite ends of the spectrum: on the one hand, some classes of workers much in demand in Canada were not receiving enough units of assessment to be approved for immigration, while on the other, some workers were receiving ample units although their job prospects in Canada were extremely poor. The answer to the problem of under-assessment was to add an alternative to one of the short-term criteria (described below), so that units of assessment could be awarded where it was not possible previously. The second problem (over-assessment) was attacked by requiring that an applicant receive at least one unit of assessment on one of the criteria directly concerned with securing employment in Canada (occupational demand, or arranged employment/designated occupation). This represented a departure from an original principle that no one selection factor should be conclusive.

The *five long-term criteria* are: education and training, personal qualities, occupational demand in Canada, occupational skill, and age.

The *education and training* factor is given the greatest weight – a potential 20 units of assessment – not only because an advanced level of education and training is associated with most good jobs available today, but also because it is the best known indicator of an individual's potential for adapting to, and taking advantage of, the frequent changes in our increasingly technological economy. The better preparation a person has, the more likely he is to be able to go on improving his qualifications, productivity and personal achievement.

One unit of assessment is awarded for each year of formal education, apprenticeship, or professional, vocational or trades training, which the person has successfully completed according to the standards of the country where the education or training was taken. Ideally, the assessment of education and training should be related to Canadian standards. However, disparities in educational and training systems throughout the world, together with numerous differences from province to province in Canada, make the determination of equivalences an extremely difficult task. Some progress has been made in achieving standardization in Canada, and in relating foreign qualification to these standards. Improving the assessment of applicants under the education and training selection factor will require a major co-operative effort by the federal, provincial and academic authorities in Canada and with the corresponding authorities abroad. In assessing the number of units to be awarded, the selection officer may ask the applicant for evidence in the form of school-leaving certificates, diplomas, apprenticeship papers, etc. Selection officers stationed abroad must become adept in interpreting and evaluating local documents in order to arrive at an accurate assessment of this factor.

Next in importance is the *personal qualities* factor, for which 15 units of assessment may be awarded. Certain personal characteristics, such as adaptability, motivation, initiative and resourcefulness, have a major bearing on a person's ability to become settled in a new country. A person strong in these characteristics might be able to do well despite a lack of formal qualifications, whereas another person might fail no matter how high he ranked on formal qualifications. This is the one factor that involves a subjective judgment, and therefore makes particular demands on the selection officer's competence.

In assessing this factor the selection officer must rely largely on his personal interview with the applicant, during which he tries to discover what positive personal qualities the applicant has demonstrated in his life and career. He must be alert to characteristics that could impede successful settlement, such as bigotry, or a sense of grievance. To a limited extent the officer may also be able to gain insights by examining the record of the applicant's working career. This might reveal, for example, obvious efforts at self-improvement, ingenuity in overcoming difficulties, or a capacity for successful adaptation to change – all positive qualities in potential immigrants. Ultimately the selection officer must draw his conclusions and, relying on his best judgment as a conscientious Canadian public servant, choose a number of units between zero and 15.

Officers, individually and collectively, strive for consistency of judgment on this factor, but there is no doubt that, being human, they can and do differ in their emphasis of particular characteristics, as well as in the bias of their individual backgrounds and perceptions. Every effort is made to hold these differences to a minimum through training, extensive guidelines, careful supervision and a constant awareness of the gravity of the responsibility being exercised.

The *occupational demand* factor is also heavily weighted, being worth up to 15 units of assessment. Gainful employment is the primary requirement for successful settlement; without it, there is no hope of an immigrant's becoming established. An applicant's prospects for obtaining employment in his own or a related occupation are therefore very important. The variability of occupational-demand ratings makes it easier for immigrants with occupations most in demand to meet the selection standards, while making it more difficult for those less likely to be able to find employment; it thus contributes to keeping the movement of immigrant workers in line with the needs of the Canadian labour market. Although originally conceived as a long-term indicator of establishment prospects, it has become evident that occupational demand is at least as important as a short-term factor. This is reflected in the recent amendment of the Regulations that makes this factor one of the two for which applicants *must* receive at least one unit of assessment if they are to qualify.

How occupational demand is calculated is described in some detail in Appendix B. In brief, a continuing study is made of the Canadian labour market to determine in which occupations there are existing and anticipated shortages. Shortages are then ranked on a scale of one to 15 (zero means no shortage). These ratings are updated and provided to selection officers every three months, with interim amendments as necessary. Thus, although there may be a strong demand for a particular occupation in a particular place, the general demand may be low because of employment conditions in other parts of the country. Local shortages may be taken into consideration under the arranged employment/designated occupation factor (see below).

To assess applicants on this factor, the selection officer must first determine in what occupation or occupations they are qualified to work, and then the occupation in which they actually intend to work. These will normally be the same; it is only when the actual and intended occupations do not coincide that judgment enters the picture (this is discussed below).

The level of applicants' *occupational skill* also affects their prospects for successful establishment in Canada. In our technological economy, most new jobs require advanced skills, and even old jobs are continuously being upgraded. Moreover, it has been conclusively proven that long-term unemployment is much more prevalent among the unskilled than among even the semi-skilled. Thus the more skilled an immigrant is, the better are his chances for initial establishment and future success.

Selection officers cannot be expected to be familiar with the skill requirements of every occupation. Accordingly, a basic skill rating, from one to 10, has been assigned to every occupation in accordance with internationally recognized standards. Having established an applicant's occupation, the selection officer awards the corresponding number of units of assessment, but may add or subtract one unit to reflect evidence of a particularly high or an unusually low skill attainment by the applicant.

*Age* affects capacity to start a new life in a new country. Studies show that workers between 18 and 35 years of age have the easiest time finding employment. After 35 the task becomes more difficult, and by 45 the prospects are *relatively* poor due to a variety of real or imagined impediments such as obsolescence of learned skills, reduced mobility and adaptability, rigid pension schemes, etc. For these reasons an applicant in the high-employability age group is awarded the full 10 points. Applicants between 36 and 44 years of age receive one less unit for each year over 35; those 45 and over receive no credit on this factor.

The *four short-term factors* (those intended to indicate an applicant's chances of establishing an early foothold in Canada) are: arranged employment or designated occupation, knowledge of English or French or both, presence of a relative in Canada, and general employment opportunities in the area of destination.

*Arranged employment or designated occupation* is a double factor under which an applicant may be awarded 10 points for one of two reasons (but not both). Both reflect the virtually certain knowledge that the applicant will find a job immediately or almost immediately after arrival in Canada. In addition, the designated-occupation element permits weight to be assigned to short-term local or regional labour shortages that is not possible under the general occupational demand factor.

*Arranged employment* simply means that a definite job with a specific employer (not an employment agency) has been arranged for the applicant in Canada. This job must offer reasonable prospects for continuing employment, and working conditions and wages consistent with the situation prevailing in the occupation and place where the job is available. An objective of Canadian manpower strategy must always be to assure that employment opportunities are made available first to the resident labour force. Accordingly, prospective immigrants are now awarded points for a job offer in Canada only when the Department of Manpower and Immigration certifies that suitably qualified Canadian citizens or permanent residents are not available to fill the job concerned. Before awarding the 10 units of assessment, the selection officer must also satisfy himself that the applicant, in addition to being suitably qualified, can meet any federal, provincial or other licensing or regulatory requirements applicable to the job.

*Designated occupation* is a new element, introduced in February 1974, that recognizes that a persistent, unfillable shortage in an occupation in Canada is a virtual guarantee of employment to anyone qualified in that occupation. The federal government identifies occupations in which such shortages exist in particular localities or areas. Provided the jobs in question offer continuous employment and adequate wages and working conditions, and after consultation with the appropriate provincial government if requested by the province, the shortage is certified and the occupation is designated. An applicant qualified in the occupation in short supply and destined to the area of certified shortage receives 10 units of assessment, provided he is able to meet any federal, provincial or other licensing or regulatory requirements applicable to the designated occupation.

*Knowledge of English or French* is obviously important to an immigrant's establishment prospects. Although there are a few occupations in which a worker may be able to get along without either for a while, and although language instruction may be provided, as a general rule the immigrant who has some capability in one of Canada's official languages on arrival has a head start in getting settled. For either language, five units are awarded for full fluency, two units for either or both of a good speaking or reading knowledge, and one unit for either or both of a limited speaking or reading ability. An applicant fully fluent in both English and French may thus receive 10 units. Selection officers do not administer formal tests, but base their judgment on applicants' ability to converse during the interview and to cope with documents in English or French.

The presence of a *relative in Canada* may assist an immigrant in becoming established. Even if the relative is unable or unwilling to undertake the formal responsibilities of sponsorship or nomination, he may be willing and able to help the immigrant find employment, to provide shelter and useful information, and generally be a helpful and guiding influence. An applicant may receive three units of assessment if he has such a relative anywhere in Canada, or five units if he will be living in the same municipality. Selection officers normally accept applicants' assurances that such relatives exist and are willing to help; in cases of doubt, however, and where this factor may be critical to acceptance or rejection, the nearest Canada Immigration Centre may be asked to look into the situation.

The general status of *employment opportunities in the area of destination* (commonly called *area demand*) may also affect an immigrant's prospects of quick establishment. If economic conditions in a particular area are buoyant and job opportunities abundant, the immigrant is likely to be able to find work of some sort, although possibly not in his own occupation. Conversely, if where the immigrant is going

economic conditions are depressed and work scarce, he may face considerable difficulties. The area-demand factor also recognizes, as the general occupational-demand factor cannot, variations between regions, and exerts some slight influence on immigrants to go to the parts of the country best suited to receive them. As in the case of national occupational demand, area-demand ratings, from zero to five, are worked out continuously and provided to selection officers at regular intervals.

Besides the nine selection criteria, *one other requirement* applies in the selection of independent applicants. Although the government is prepared to assist immigrants who get into financial difficulty through no fault of their own during the initial adjustment period, it does not wish to subsidize all comers. The law therefore requires each independent applicant to have "the means to maintain himself and his immediate family (i.e. his spouse and dependent children) until he is established".

The practical effect of this requirement differs for each applicant: it depends on such factors as the number of his dependants, the existence of friends or relatives in Canada, how long it is likely to take him to find permanent employment, and the cost of living at his destination in Canada. These must be reviewed with the applicant by the selection officer before the necessary "means" can be quantified, and in each case a degree of judgment is involved. At present, the minimum "means" for a single person proceeding to arranged employment would probably be about $200. For a small family, without arranged employment and with an occupation in only middling demand, the requirement could be well over $1,000. Having determined the amount necessary, the selection officer must then assure himself that the applicant has that much available from his own resources, over and above what he needs until he arrives in Canada. The officer may accept the applicant's word for his ability to meet the requirement, or, in cases of doubt, he may ask to see bank statements or evidence of readily convertible assets.

### Discretion

Introduction of weighted selection factors in 1967 was a totally new immigration concept. It was hoped that totalling the units of assessment awarded for each of the factors would indicate, within reasonable limits, the likelihood of most applicants' success or failure in becoming established in Canada. It was recognized, however, that it was impossible to cover every eventuality, and that the regulations should contain a mechanism for dealing with the exceptional case. Accordingly, when a selection officer is satisfied that there are significant circumstances affecting an applicant's prospects that have not been reflected in the assessment under the nine selection factors, he is authorized, subject to the concurrence of a designated senior officer, to accept or reject the applicant irrespective of the number of units of assessment that may have been awarded (and, since February 1974, notwithstanding the requirement with respect to the critical employment-related factors).

In deciding whether to exercise this discretionary authority the selection officer is guided by two principles:

(i) The special considerations must relate to the applicant's ability to establish himself successfully in Canada, and are therefore likely to be economic in nature. Special considerations that are essentially compassionate or humanitarian in nature do not justify the use of discretionary authority (although other ways in which they can be taken into account are outlined later).

(ii) The special considerations must not have been taken into full account under any of the selection criteria.

There can obviously be no definitive description of when discretionary authority should be exercised. However, a few examples will give some appreciation of its use:

- An applicant intending to enter the labour market in Canada receives less than 50 units of assessment, mainly because of deficiencies under the employment-related selection factors. Nevertheless, he has enough capital to permit retirement in comfort if he fails to find employment in Canada. Exercise of discretion in favour of the applicant would be justified because there is no doubt that he can establish himself successfully.

- An applicant receives more than 50 units of assessment, due in good part to occupational-demand and occupational-skill factors. However, the occupation he intends to enter in Canada is not the one he has practised all his life, and he has no training or demonstrated aptitude in the intended occupation. The selection officer could well find that he was unlikely to become successfully established in Canada if he persisted in his plans.

- A refugee is awarded less than 50 units of assessment on the selection criteria, but the selection officer knows there is a church group in Canada that has undertaken to care for this particular refugee until he is on his feet. Although there is a humanitarian element, the economic support of the refugee is the significant consideration and the selection officer could find him likely to become successfully established.

- An applicant scores well on all the selection criteria, but during the interview the selection officer discovers that the applicant's wife and children have no desire whatever to migrate. Their attitude could well justify a negative use of the discretion.

When a selection officer encounters such special situations, he must submit his opinion and the reasons for it to a reviewing officer designated by the Minister of Manpower and Immigration (usually the officer-in-charge). If the reviewing officer agrees with the selection officer, discretionary authority is exercised. In most instances use of discretion has been in favour of the applicant. (See *Immigration and Population Statistics*, Table 4.3).

## SELECTION OF SPONSORED DEPENDANTS

The rules for the selection of this category reflect Canada's commitment to the principle of reunion of families. When Canada accepts immigrants, we consider ourselves duty-bound also to accept those close relatives who would normally be dependent on them in a society such as our own.

The law therefore permits any Canadian citizen, or landed immigrant not under order of deportation, to sponsor the entry to Canada of the following:

- the husband or wife
- the fiancé or fiancée
- an unmarried son or daughter less than 21 years of age
- a parent or grandparent 60 years of age or more (or younger if widowed or incapacitated)
- an orphan brother, sister, nephew, niece or grandchild less than 18 years of age
- an unmarried adopted son or daughter less than 21 years of age, provided the adoption took place before the child reached 18 years of age
- an orphan, abandoned child or other child placed with a welfare authority for adoption, who is less than 13 years of age and whom the sponsor intends to adopt.

In addition, a person who has no close relatives in Canada, and no relative abroad eligible for sponsorship, may sponsor, once in his lifetime, one relative of any degree to come to Canada and be with him as a companion, heir, etc. In each applicable case, a sponsorship includes the spouse and unmarried children less than 21 years of age of the relative named.

### Criteria to Be Met by Sponsors

The conditions for acceptance of a sponsor's application are few. No economic requirements are set; it is felt that prospective sponsors should be their own judges of their ability to receive and care for their sponsorable relatives. They are asked, however, to undertake responsibility for their relatives' care and maintenance. Where it is obvious that the dependant might suffer hardship if admitted to Canada, sponsors may be encouraged to postpone their applications until their circumstances improve, but very rarely would an application be refused.

The only general requirements are that the sponsor be at least 18 years of age and that he establish the existence of the sponsorable relationship. Often the immigration officer examining the application finds it possible to accept the sponsor's statements at face value, but in cases of doubt he may ask for evidence in the form of birth or baptismal certificates, marriage certificates, adoption decrees, exchanges of correspondence, etc. The officer must be alert to the possibility of fraudulent applications; because of the minimal requirements made in the sponsored dependants category, it has been an occasional target for exploitation.

A few special requirements apply to certain classes of sponsored dependants. In the case of an application for a fiancé or fiancée, the sponsor must show a sincere intent to marry, and produce evidence that he or she is free to do so and has made the appropriate arrangements.

Provincial child welfare authorities have an interest in some minor children who are not accompanying or coming to join their natural parents. In the case of an orphan blood relative, the sponsor must obtain the consent of the legal guardian to the child's migration, and the approval of the competent provincial authorities. When a child is sponsored for adoption in Canada, the sponsor must obtain approval from the competent child welfare authorities and a commitment from them to supervise the adoption, or alternatively assume responsibility for the child if the adoption does not take place.

### Criteria for Sponsored Dependants

The sponsored dependants themselves are not subject to any selection criteria. They may be asked to assist in clarifying any uncertainty about relationship, age, marriage intentions, etc., but otherwise have no special requirements to meet.

## SELECTION OF NOMINATED RELATIVES

The nominated relatives category is a compromise, a hybrid between the independent and sponsored dependants categories. On the one hand it recognizes the legitimate desire of people in Canada to help relatives other than close family members, and in this sense it has a social and compassionate connotation. On the other hand it also takes account of the fact that the great majority of relatives other than close family members will be entering the labour market and setting up separate self-sustaining family units; there are thus strong economic considerations from the standpoint of both Canada and the immigrant. The balance between social and economic considerations has historically been an elusive target of immigration policy; the creation of the nominated relatives category represents the latest attempt to strike it.

It was recognized, when the new selection regulations were devised in 1967, that it was not in the national interest to allow every resident of Canada to select immigrants for economic settlement according to his own lights – which would have been the practical result of dealing with more distant as well as close relatives by means of sponsorship. But it was also decided that it would be unreasonable to require all those with relatives in Canada to meet the same standards as applicants without them – the practical effect of dealing with them as unsponsored (or independent) immigrants. The principle of selection criteria for independent applicants involving both long-term and short-term factors appeared to offer a logical solution: since immigrant relatives could expect assistance from their relatives in Canada, this support could take the place of the short-term economic factors; on the other hand, since the immigrant relatives would ultimately have to strike out on their own and establish themselves in the Canadian economy, they would be assessed under the long-term economic factors applicable to independent applicants. It should be noted that this approach provided the basis for responding to pressures that the law should facilitate the admission of a wider range of relatives than had the previous sponsorship rules.

The regulations adopted in 1967 thus allow Canadian citizens, and landed immigrants not under order of deportation, to nominate the following relatives as immigrants to Canada:

- sons and daughters, irrespective of age or marital status (i.e. those not eligible to be considered as sponsored dependants)
- parents and grandparents less than 60 years of age
- brothers and sisters (including half-brothers and half-sisters)
- grandchildren
- uncles and aunts[1]
- nephews and nieces.[1]

In each applicable case, a nomination includes the spouse and unmarried sons and daughters less than 21 years of age of the relatives named.

### Criteria for Nominators

There are a number of *general conditions* that nominators must meet before their applications can be approved. Like sponsors, they must be more than 18 years of age, and must establish the existence of the relationship by which the proposed immigrants are eligible to be nominated. Unlike sponsors, they must have lived up to any obligations undertaken with respect to relatives sponsored or nominated previously; permitting non-dependent immigrants to come to Canada on the undertaking of an unreliable nominator would not serve the best interests of either the immigrants or Canada. Departmental records reveal whether a person has undertaken earlier nominations, and whether he has defaulted on his obligations. Nominators must also be judged willing and able to "advise, counsel and assist" their relatives in fulfilling their responsibilities as residents of Canada. A person who expects to wash his hands of his relatives soon after they arrive, or who has made a poor adjustment to life in Canada himself, or who is engaged in activities of marginal legality, is unlikely to be much help to his relatives in their becoming successfully established in Canada.

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[1] Uncles and aunts had not previously been eligible for sponsorship. The eligibility of grandchildren, nephews and nieces had been considerably narrower.

Probably most important, and again unlike sponsors, nominators are subject to assessment of the kind and amount of support they can provide for their relatives (usually called *settlement arrangements*). This distinction is made for a variety of reasons. Many relatives will not normally become members of their nominator's household and are likely to impose an extra burden on his day-to-day finances, whereas sponsors are likely to be supporting sponsorable dependants as a matter of course whether they are in Canada or not. Similarly, the degree of relationship of nominable relatives is often less close and the natural sense of obligation less strong; thus a more formal and exacting undertaking of responsibility is considered advisable for all parties concerned. Also, a nomination is likely to involve more people than a sponsorship, and the demands on the nominator's resources are therefore likely to be greater. Last but not least, the settlement arrangements substitute for the immigrant's assessment on four selection criteria under which, if he were an independent applicant, he would have to meet definite standards to receive units of assessment towards his acceptance. If he is to receive comparable credit for his nominator's ability to provide for his successful establishment in the short term, it follows that the settlement arrangements should be of some considerable substance.

Evaluation of the settlement arrangements to be provided is a rather complex task. In broad terms, it involves a comparison of the prospective nominator's family and financial circumstances, with prescribed standards of support for the number of relatives for whom he would be assuming responsibility. This is done during an interview with an immigration officer. The first step is to calculate the nominator's requirements for the maintenance of his own family, his residual obligations for any previously nominated relatives, and his future obligation for other relatives being nominated concurrently. These figures are normally determined in accordance with guidelines prescribed by the Minister of Manpower and Immigration, which represent a mean between the standard of the average Canadian family and current levels of welfare assistance. The second step is to calculate the nominator's total family income, and any liquid or convertible assets that would be readily available in case of need during the period of responsibility for the nominated relatives. From the total of income and assets are subtracted any major liabilities, plus the sum obtained in the first step. If the balance exceeds the prescribed standard for the number of relatives for whom application is being made, the settlement arrangements are considered to be satisfactory. The prescribed standards are, of course, subject to regional variations, and they are amended regularly to reflect changes in the cost of living. No attempt is made to grade the settlement arrangements along a scale; they are merely found to be either satisfactory or not satisfactory.

Finally, the nominator must give an *undertaking* to provide care and maintenance to the nominated relatives, from his own resources, for a period of five years from the date of their arrival in Canada. This requirement is intended to protect the Canadian community against the possible need to support indigent immigrants who might not have been accepted had it not been for the presence of their relative in Canada. On the other hand, the undertaking is not of unlimited duration, since it was considered unreasonable to extend it beyond the time when the nominated relatives could acquire Canadian citizenship.

If the nominator is a married person, one additional condition applies: the nomination must be supported by the nominator's spouse.

## Criteria for Nominated Relatives

A nominated relative is subject to assessment under the same five long-term selection factors applied to an independent applicant – education and training, personal qualities, occupational demand, occupational skill, and age. The wording, application and assessment-units value of the criteria are identical, except that there is no minimum to the age range for which nominated relatives may receive 10 units of assessment under the age factor.

Since February 1974, as in the case of independent applicants, a nominated relative must receive at least one unit of assessment under the occupational demand factor, or alternatively be proceeding to arranged employment or a designated occupation for which he would have received 10 units of assessment if he had been an independent applicant.

It often happens that a nominated relative is not the breadwinner in the family (e.g. a married sister) and therefore not really assessable under the selection criteria. In these cases the breadwinner is treated as the nominated relative and is assessed accordingly.

The assessment units relatives may receive on the basis of kinship with their nominator are accorded on the following scale:

- son, daughter, brother, sister, parent, grandparent, or unmarried nephew or niece less than 21 years of age, of a Canadian citizen: *30 units*
- son, daughter, brother, sister, parent, grandparent, or unmarried nephew or niece less than 21 years of age, of a landed immigrant: *25 units*
- grandchild, uncle, aunt, or nephew or niece married or more than 21 years of age, of a Canadian citizen: *20 units*
- grandchild, uncle, aunt, or nephew or niece married or more than 21 years of age, of a landed immigrant: *15 units.*

### SUMMARY OF SELECTION FACTORS

#### INDEPENDENT APPLICANTS

| *Long-Term Factors* | *Range of units of assessment that may be awarded* |
|---|---|
| Education & Training | 0 – 20 |
| Personal Qualities | 0 – 15 |
| Occupational Demand | 0 – 15 |
| Occupational Skill | 1 – 10 |
| Age | 0 – 10 |
| *Short-Term Factors* | |
| Arranged employment/designated occupation | 0 or 10 |
| Knowledge of English and/or French | 0 – 10 |
| Relative in Canada | 0 or 3 or 5 |
| Area of destination | 0 – 5 |
| Potential maximum | 100 |

#### NOMINATED RELATIVES

| | |
|---|---|
| Long-term factors (as for independent applicants) | 1 – 70 |
| Short-term settlement arrangements provided by relative in Canada | 15, 20, 25, or 30 |
| Potential maximum | 100 |

#### SPONSORED DEPENDENTS

| | |
|---|---|
| Close relative in Canada willing to take responsibility for care and maintenance | Units of assessment not required |

*NOTES:*

1. Independent Applicants and Nominated Relatives, to qualify for selection, must normally earn 50 or more of the potential 100 units of assessment. In addition they must have received at least one unit for the occupational demand factor or be destined to arranged employment or a designated occupation.
2. In unusual cases selection officers may accept or reject an Independent Applicant or Nominated Relative notwithstanding the actual number of units of assessment awarded.
3. Entrepreneurs are assessed in the same way as Independent Applicants except that they receive an automatic 25 units of assessment in lieu of any units they might have received for the occupational demand and occupational skill factors.

Unlike most of the short-term factors applicable to independent applicants, the number of units of assessment to be awarded is not variable according to the quality or intensity of the elements composing the factor (in this case, the settlement arrangements in Canada). The numbers of units indicated on page 59 are flat rates awarded regardless of whether the settlement arrangements are merely marginally satisfactory or are much above the prescribed minimum. The additional units for relatives of Canadian citizens are awarded because a person who qualifies for Canadian citizenship is regarded as more likely to be able to fulfill all the responsibilities of a nominator and thus speed the successful establishment of his relatives. Similarly, the distinction between classes of relatives reflects a judgment that, the relationship between the nominator and the first group being closer, he is likely to make greater efforts to help them and they are more likely to benefit from his support.

Normally, a nominated relative who receives a total of 50 or more units of assessment is considered likely to become successfully established in Canada. As in the case of independent applicants, however, the selection officer has discretion to approve or reject a nominated relative, notwithstanding the number of points awarded, if he believes that there are significant elements or circumstances affecting the immigrant's prospects that have not been taken into account. This discretionary authority is exercised under the same conditions and in the same way as for independent applicants.

## DEPARTMENTAL ORGANIZATION FOR SELECTION

Canada, in common with most other countries, has long held that the proper place to conduct selection (in the broader sense) is in the prospective immigrant's homeland or country

of residence. Necessary documents are easier to obtain. Background investigations can be conducted more quickly. Applicants are put to much less expense. Selection officers have an opportunity to counsel applicants on what to expect and what to do on arriving in Canada. Officers can become experts in interpreting local documents, customs, and attitudes that have a bearing on applicants' selection. A refusal entails only a private, informal and sympathetic notification to the individual. And finally it allows, to a greater degree, an ordering of the size and composition of the immigration movement in keeping with Canada's current needs and capacity to receive immigrants.

Given that prevailing circumstances were making it more important than ever to ensure that the employment prospects of immigrants were satisfactory, a change in the Regulations was made in October 1974. The Regulations now stipulate that, from the total points awarded either an independent or nominated applicant, 10 are deducted unless the applicant shows evidence of bona fide arranged employment, or is going to a job where persistent regional shortages are known to exist (i.e. a "designated occupation" as described on page 47). The applicant will receive credit for arranged employment only when it has been established that no Canadian citizen or permanent resident is available to fill the vacancy.

The opposite is true if selection is conducted in Canada: documents may be difficult or impossible to procure; background investigations take longer; applicants, if refused, may incur substantial financial loss; there is little or no opportunity for detailed advance counselling; selection officers cannot hope to attain a comprehensive knowledge of all the countries from which applicants come; a refusal can be an embarrassing and even traumatic event for the individual, possibly involving deportation and other public legal proceedings; and the immigration movement would tend to control itself, rather than being geared to Canadian interests. Selection in Canada, as a normal practice, would not help Canada or the adequately qualified applicant; it would benefit only the applicant who would likely be refused if examined at home.

Whether selection is conducted abroad or in Canada, absolutely no fee is charged the applicant (although he must bear the costs of medical examination or tests in most instances). This free-service approach is rare in the world, and some applicants find it difficult to believe it is true. Applicants should beware of any person who alleges that any fee or recompense of any sort is necessary to secure consideration of an application or issuance of a visa.

## Organization Abroad

Since before Confederation, Canada has had some sort of external organization for selecting immigrants. It has alternately expanded and contracted over the years, as Canada's interest in receiving immigrants fluctuated. The greatest development of this system occurred in the past decade, reflecting the elimination of discriminatory provisions in immigration law and policy. The Department of Manpower and Immigration now has a network of 60 posts abroad, capable of providing service in all inhabited and accessible areas of the world. Some of these posts deal only with applicants in their host countries, or in particular regions of those countries. This group comprises the following posts:

### POSTS DEALING ONLY WITH APPLICANTS IN THEIR HOST COUNTRIES OR IN PARTICULAR REGIONS OF THOSE COUNTRIES

Athens
Atlanta
Belfast
Berlin
Berne
Birmingham
Bonn
Bordeaux
Boston
Brussels
Buffalo
Chicago
Dallas
Detroit
Dublin
Glasgow
Hamburg
Helsinki
London
Los Angeles
Manchester
Manila
Milan
Minneapolis
New Orleans
New York
Oslo
Port-au-Prince
Rabat
San Francisco
Seattle
Stockholm
Stuttgart
The Hague
Warsaw

Each of the remaining posts provides service not only in its host country, but also in one or more adjacent countries. These are the "area posts" listed on page 63.

### POSTS PROVIDING SERVICE NOT ONLY IN THEIR HOST COUNTRIES BUT ALSO IN ONE OR MORE ADJACENT COUNTRIES

Beirut
Belgrade
Bogota
Budapest
Buenos Aires
Cairo
Copenhagen
Hong Kong
Islamabad
Kingston
Lisbon
Madrid
Marseilles
Mexico City
Nairobi
New Delhi
Paris
Port of Spain
Rome
Seoul
Singapore
Sydney
Tel Aviv
Tokyo
Vienna

Many factors are considered in deciding whether to open a post abroad. The size of the current workload at the area post is important, as are the area post's problems in serving the country, e.g. as regards travel, interviewing accommodation, mail service, and the distances that applicants must travel to be interviewed. Past and probable future trends in the size and composition of the immigration movement from the country must be taken into account. The number of nationals or former nationals of the country now living in Canada (and constituting an actual or potential basis for sponsorships and nominations) has a bearing, as does the government's commitment to make special efforts to increase francophone migration to Canada (discussed below). The cost of opening a new post, set against known savings (e.g. at an area post) and non-quantifiable benefits such as more efficient and effective administration and operation, is a significant factor. Finally, the attitude of the host country may vary from highly favourable to prohibitive.

Similarly, there are definite criteria for closing existing posts. The most important are the trends in local manpower and immigration activity (present, potential, and in comparison with other posts existing or proposed), program priorities in relation to available resources, and the probable political consequences, both locally and in Canada. In general, unless there are special overriding considerations, a post will be closed when the cost of maintaining it is no longer justified by the results attainable. An important factor in this connection is a post's refusal rates for both independent and nominated applicants, since these provide an indication of the return on local investment and effort. High refusal rates are also generally not conducive to good relations with host countries.

Post workloads are difficult to predict since they are sensitive to diverse, uncontrollable and largely unforeseeable developments both abroad and at home. One example was the situation that followed an increase in the demand ratings for a large number of occupations in September 1973. The immediate effect abroad was that significantly more immigrants qualified for counselling and selection interviews, producing a considerable increase in workload. Another example was the repeal of former section 34 of the Immigration Regulations in November 1972, making it impossible for visitors to qualify for permanent residence during their stay in Canada; the result has been a substantial increase in the number of prospective immigrants applying at some posts abroad.

To deal with this relatively unpredictable workload, the Department of Manpower and Immigration employs 173 Foreign Service Officers and some 350 other staff at its posts abroad. The standards for officers have risen significantly in recent years, reflecting the increased complexity of their job. New entrants to the Foreign Service must be university graduates. Their introductory and ongoing training includes immigration legislation, regulations and directives, immigrant selection procedure, interviewing and counselling techniques, practical training at Canada Immigration and Manpower Centres in Canada and at posts abroad, and Canadian familiarization tours, including visits to labour-intensive industrial organizations. In addition, training in English, French or a foreign language may be given as needed.

## Priorities

Actual selection procedures begin with a post's receipt of an application from an independent applicant, or approval of sponsorship or nomination from a Canada Immigration Centre. At all posts applications are divided into the following priorities:

1. sponsored dependants
2. independent and nominated applicants destined to arranged employment or designated occupations, or whose occupations have a high occupational demand rating
3. entrepreneurs who will create jobs in Canada
4. all others.

The first three categories are processed with the least delay possible at all posts; remaining processing capacity may then be used for the last category, to help other posts keep their work up to date, or to deal with special programs such as a refugee movement. This system of priorities fulfils several purposes. It guards against close family members and workers needed by the Canadian economy being caught up in and delayed by backlogs of other applicants. It ensures that similar applicants in all parts of the world are examined in approximately the same time, and that backlogs do not build up in one place while processing capacity is available elsewhere. It provides flexibility to respond quickly to special or emergency situations without disruption to the regular work flow.

Although procedures vary somewhat from country to country, generally they follow a typical pattern. For independent applicants, the first step is to review the information on the application form against the selection criteria. It is often possible to do a preliminary assessment in this way of all except the personal qualities factor. If an applicant is clearly not going to obtain 50 units of assessment, or any units for any of the employment-related factors, and there is no apparent reason for the selection officer to exercise discretionary authority, the applicant may be refused at this stage, to save him a fruitless trip to the post. If an applicant is clearly going to receive at least 50 units of assessment, or if the outcome is uncertain, and he is living in the same country as the post, he is normally invited to come for an interview and other selection formalities. If he is living in another country, the responsible area post will arrange an interview when there are sufficient applications to warrant sending a selection team to that country; alternatively the applicant may be given the option of proceeding to the post. The interview is waived only in respect of exceptionally well qualified applicants with occupations in high demand or with employment already arranged, and only when the interview cannot be arranged without an unreasonable delay.

During the interview the selection officer verifies the information tendered on the application form, confirms the results of the selection factors previously assessed, and determines the number of units of assessment to be awarded for any remaining factors, especially the personal qualities factor. He will also decide whether to exercise his discretionary authority. If the outcome is favourable to the applicant, the selection officer then completes or arranges for the completion of other procedures, such as counselling and medical examination. When the applicant has successfully passed all stages of the examination, the selection officer issues him an immigrant visa or its equivalent. The time required for the whole process, from receipt of application to visa issuance, varies considerably from country to country, depending on such factors as post workload, efficiency of host country officials, availability of examination facilities, etc. Where all elements are favourable, the elapsed time may be as little as two or three months; at the other extreme it may take a year or more. Most applications are processed relatively quickly.

The processing of nominated relatives is little different. On receipt of an approved nomination from Canada, the selection officer sends the nominated relative a formal application for completion. On its return, further procedures are exactly the same as for independent applicants, with one exception. When a nominated relative is not approved due to failure on the occupational-demand factor, his application may be reactivated if the demand rating for his occupation rises during the two years in which the nomination remains valid.

As in the case of nominated relatives, the overseas post, on receipt of an approved sponsorship from Canada, requests the sponsored dependant (if more than 18 years of age) to complete a formal application. Since sponsored dependants have no selection criteria to meet, an interview is less important for them than for the other two categories. It is routinely waived unless there remains some question about identity or relationship, or it appears that counselling would be beneficial; in these cases only the medical examination needs to be completed before visas can be issued.

## Organization in Canada

Although the Foreign Service is the principal instrument of the selection function, Immigration Centres in Canada also have important roles to play. Unlike the overseas posts, however, most Canada Immigration Centres are not operationally specialized; they must perform the entire range of immigration functions. There are at present 98 Canada Immigration Centres throughout the country, of which 29 are situated along the border or at major international airports.

One simple but important task performed by immigration officers at Canadian ports of entry is the final act in overseas selection. For legal and practical reasons (because a person's circumstances may change between the time a visa is issued abroad and the time he arrives in Canada, which may be nearly six months in some cases), the law has always prescribed that the final decision on an immigrant's entry to Canada must be made at the port of entry. The visa, legally, has no binding effect, although in practice there is only the remotest possibility that it will not be honoured. Thus when an immigrant appears at a port of entry, it is up to the immigration officer there to make a quick check of his ability to meet the requirements and then to grant the formal admission to Canada that completes the process begun when an application was submitted.

The domestic service's principal participation in the selection function is in the examination of sponsorships and nominations. These may be submitted to any Canada Immigration Centre, but in fact the majority are received by only a handful of centres. In some places it is possible for an application, especially a sponsorship, to be submitted, examined and approved all on the same day. In others with heavier workloads it is usually necessary to arrange an interview appointment for a convenient future date; the delay is seldom more than two or three weeks. Minor delays may also occur, especially in nominations, if supporting documents are not produced in the first instance or if there is need for verification of other information. If it is possible to approve an application, it is sent immediately to the overseas post responsible for the country in which the sponsored dependant or nominated relative lives. If the application cannot be approved, the reasons are explained to the prospective sponsor or nominator and he is counselled, where applicable, on the steps he should take to ensure that a renewal of his application will be more favourably received. In the case of refusal of a sponsorship where the prospective sponsor is a Canadian citizen, he also has a right of appeal to the Immigration Appeal Board.

Immigration officers in Canada also have a role in the actual selection of prospective immigrants, when visitors to Canada decide they wish to stay permanently. For reasons explained in Chapter 1 this was an important activity for many years, especially in the period from October 1967 to November 1972 when this form of immigration was legally sanctioned. It is technically impossible now for a visitor to be approved as an immigrant: the regulations require every immigrant to be in possession of an immigrant visa (or equivalent), and stipulate that these may be issued only by immigration officers stationed outside Canada. Nevertheless, when there are compelling compassionate or humanitarian reasons for making an exception to the regulations, a special Order-in-Council may be sought (described later in this chapter). When such a case is identified, selection procedures are carried out in much the same fashion as at an overseas post, except that the lack of ready access to and familiarity with pertinent documentation and other information complicate the task of the selection officer.

## OTHER ASPECTS OF SELECTION

*Promotional Activities.* Due to relatively high levels of unemployment in Canada in recent years, the overseas immigration promotional program has declined to one of response to requests for information. (The Foreign Service budget for information, mostly advertising, declined from $2,651,000 in 1966-67 to $293,000 in 1973-74.) Foreign Service Officers do, however, seek opportunities to keep alive the image of Canada as a country of immigration (to the extent that they are permitted by host countries to do so). They respond to invitations to speak, or to show films about Canada to clubs, professional organizations and university groups. In the peak years of 1966 and 1967, the Foreign Service conducted extensive advertising campaigns in France, Britain, Belgium, Germany, Italy and the Netherlands, although some of these countries reserved the right to review advertising content before publication. In addition, posts arrange public meetings and participate in exhibitions and fairs to promote the migration to Canada of people with skills needed by the Canadian economy. Even in periods of high promotional activity, however, Canada does not promote migration in developing countries or countries that are themselves seeking immigrants. International relations and other reasons argue against attempting to stimulate the emigration of people from countries whose development may depend on their skills.

Complementary activities are carried on in a few countries by overseas representatives of provincial governments. Their interests are usually sharply defined, and their promotion aimed at specific kinds of potential immigrants for specific opportunities in their provinces. There is close co-operation between officials of the two levels of government to make sure that their activities do not duplicate each other, or operate at cross purposes.

*Recruitment on Behalf of Canadian Employers.* Recruitment must be distinguished from selection. Selection implies only the examination of prospective immigrants; recruitment means actively seeking out immigrants. Many foreign countries do not permit Canada to recruit their workers, nor does Canada wish to do so in developing countries where the "brain drain" causes anxiety. Where recruitment *is* permissible, the Department of Manpower and Immigration co-operates to the fullest possible extent with Canadian employers and their representatives in their efforts to find, recruit and secure immigration approval for the workers they need.

Representatives of most provincial governments are also regularly or occasionally engaged in recruitment to meet employers' needs in their particular provinces. Again, close co-operation is maintained between officers of the two levels of government to ensure that their efforts are complementary.

One aspect of federal activity in this field is the clearance-order system, which is put in action when an employer requests help from a Canada Manpower Centre in finding workers in specific occupations. If the Manpower Centre is satisfied that a job does indeed exist, that it cannot be filled by competent workers available in Canada, that the wages and working conditions are reasonable, and that there is no labour dispute existing or in the offing, it will provide full details of the offered employment to those posts abroad most likely to be able to fill the order. An order will not be cleared overseas, however, if the employer will not accept workers regardless of race, religion, country of origin, or sex.

Alternatively, an employer may proceed abroad to do his own recruiting or may commission another Canadian employer with facilities abroad to do it for him. Provided the applicants so recruited meet Canadian criteria, and the conditions of the jobs offered conform to established standards, the regular facilities are extended to process them. In either situation, overseas posts provide some or all of the following services, as required:

- placing advertisements (at the employer's expense) for the workers required
- providing office, stenographic and telephone facilities for employers whose recruitment programs have been approved by a Canada Manpower Centre
- at some of the larger posts, maintaining "manpower inventories" of prospective immigrants who have asked to be notified if a Canadian employer is seeking workers with their occupational skills
- giving immigration selection and processing priority to workers with pre-arranged employment who are urgently needed in Canada
- granting assisted-passage loans (see below) to workers accepted as the result of a Manpower-approved recruiting campaign by a Canadian employer
- in conjunction with the responsible Canada Manpower Centre, acting as a channel of communication between the Canadian employer and interested immigrant workers.

At the time of writing the whole matter of special assistance to employers wishing to recruit abroad is under active review.

*Encouragement of Francophone Immigration.* The drop in the Quebec birth rate, combined with declines in French-speaking immigrants, and in the movement generally to Quebec, has prompted action to promote more French-speaking immigrants. The Foreign Service has conducted surveys

- to determine in which francophone countries or regions there exists sufficient potential interest in migration to Canada to justify opening new Manpower and Immigration posts
- to ascertain which other countries have significant francophone minority groups that may wish to emigrate because of local conditions.

Of the main francophone countries of the world, only eight sent more than 75 French-speaking immigrants to Canada in 1973. In four of these (France, Belgium, Switzerland and Lebanon) there has been one or more Manpower and Immigration posts for some years. In two of the others (Haiti and Morocco) new posts have recently been opened, and a seventh (Tunisia) will be served by the new post in Morocco. In the last of the eight (South Vietnam) it is presently impossible to conduct a full examination of most prospective immigrants. Relatively large contingents of French-speaking immigrants also came, in 1973, from Britain, Egypt, Germany, Israel, Italy, the Netherlands, Portugal, Spain and the United States, all of which also have one or more posts. Lesser numbers arrived from Argentina, Australia, Chile, Colombia, Greece, Hong Kong, Mauritius and Turkey.

While the process of identifying potential sources continues, other important steps have been the Quebec Government's formation of its own Department of Immigration, and its conclusion of an agreement with the federal government (the Lang-Cloutier Agreement, reproduced as Appendix D) under which it stations "orientation officers" in federal immigration offices in selected countries. These officers are charged with increasing prospective immigrants' awareness and understanding of opportunities in Quebec, encouraging the movement of immigrants considered especially suitable by the province, and providing detailed information on living and working conditions in Quebec. They play a key role in recruiting and counselling prospective immigrants, although the ultimate decision to accept or reject an applicant is made by a federal selection officer in accordance with the standards established for Canada as a whole.

*Counselling.* Full and effective counselling of prospective immigrants, once they have demonstrated their ability to comply with the selection criteria, is vital to their ultimate success in establishing themselves and their families in Canada. All immigrants intending to enter the labour force must be counselled. Other immigrants (e.g. dependants and other relatives not planning to enter the labour force) may receive counselling at their request, or at the discretion of the selection officer.

The subjects covered during counselling depend upon individual requirements. They may include housing, education, employment, social benefits, hospital insurance and medical care, language training, importation of settlers' effects, cost of living, credit buying, destination in Canada, transportation to Canada, tradesmen's and professionals' licensing, trade unions, zoning laws, facilities offered by Canada Manpower Centres, sponsorship or nomination of relatives, personal documents, avoidance of exploitation by speculators, bilingualism, driving licences, business licences, insurance, adapting electrical appliances, recreation, and entertainment.

In addition, overseas representatives of provincial governments may provide specialized counselling on particular aspects of living and working conditions in their provinces.

Group counselling has been used successfully at some posts, principally those that have fairly large, relatively unsophisticated movements of immigrants in a comparatively narrow range of occupations. At such posts group counselling has significantly reduced the time required for individual interviews and has proved particularly effective when negative counselling or discouragement is required. Counselling by means of audio-visual presentations has proved useful in providing background information about Canada, and about certain occupations, in advance of the applicant's personal interview. All oral counselling, however, has a major defect: the applicant remembers only so much of it as he wishes to remember. It must therefore be supplemented by a supply of written material, in the applicant's own language, about all the things he needs to know before and during his initial settling-in period.

*Entrepreneurs.* The selection criteria recognize that people coming to Canada to invest in or establish businesses are distinguishable from immigrants who enter the regular labour force. The resources at the disposal of the independent businessman can create new jobs in Canada. The law provides that such an applicant need not be assessed under the occupational demand and occupational skill factors, but instead may be awarded 25 units of assessment if he has the capital and know-how to become established in business in Canada.

The number of entrepreneurs wishing to migrate to Canada has been increasing in recent years, and steps are currently being taken to maximize the benefits of this movement. These include the identification of entrepreneurial opportunities in Canada, helping applicants to assess the prospects for any given project, and ensuring that they receive the assistance they need after arrival in Canada.

*Assisted-Passage Loan Scheme.* Canada, like most countries that encourage immigration, has for a long time assisted immigrants who need such help to defray their transportation costs. The law establishes a fund of $20,000,000 from which loans for this purpose may be made, and authorizes the Minister to designate what classes of immigrants shall be eligible at any given time. The eligible classes now include:

- independent applicants who receive at least 12 units of assessment under the occupational demand factor
- immigrants recruited on the basis of clearance orders from Canada Manpower Centres
- immigrants selected for participation in a scheme in which a provincial government undertakes to share transportation costs if the immigrants go to, and remain in, certain employment for a minimum period (only Manitoba has such an agreement with the federal government at present, but no immigrants have been accepted under it recently)
- immigrants selected following recruitment by a provincial government department or agency acting on behalf of Canadian employers, provided advance notice of the recruitment program has been given to the Department of Manpower and Immigration
- refugees.

Eligibility and need for an assisted-passage loan are determined during the selection interview. If the selection officer is satisfied that the applicant is eligible, cannot pay his passage to Canada without assistance, and is willing and able to repay the loan after he becomes established in Canada, he may authorize a loan not exceeding $1,500 to cover the transportation costs of the applicant, his wife and any children under 18.

Eligible dependants who remain abroad may also receive assisted-passage loans when the post concerned receives an approved sponsorship from a Canada Immigration Centre.

Loans bear interest, since a 1967 change in the Assisted Passage Loan Regulations, at six per cent a year. It is expected that they will be repaid in one, two or three years, depending on their size, but extensions may be approved where insisting on timely repayment would impede the recipient's establishment. The record of repayments, over the 22-year history of the assisted-passage scheme, has been exceptionally good; less than 5 per cent of the total amount loaned has ultimately had to be written off.

*Some Exceptions to Normal Selection Standards and Procedures.* Not all kinds of cases fall foursquare within the usual framework. In the interests of the efficient and humane application of the law, always with a view to immigrants' successful establishment in Canada, account is taken of the circumstances of many diverse groups. Special procedures exist, for example, for counselling and selecting certain professionals, for the recruitment of domestic workers, as regards divorced and separated spouses, and the processing of sponsorships and nominations for people living in some countries that play a prominent part in the emigration of their nationals. It would take many pages to describe all such minor variations. Chapter 4 deals in detail with the special measures for refugees. Here, a few of the more important other exceptions are outlined.

As noted previously, there are still a number of visitors to Canada who request permission to stay permanently. Although it is impossible for such an applicant to meet the legal requirement of possession of an immigrant visa issued abroad, there is the occasional case where an exception should obviously be made – for example, for the spouse or child of a Canadian citizen, or a refugee. There may also be cases at overseas posts where the person does not qualify for a visa but there are circumstances that warrant special consideration. A typical example would be a family consisting of an independent applicant, his wife and minor children, and the elderly mother of the applicant or his wife. If they meet other requirements, the applicant and his wife and children may be granted visas as a family group, but the elderly mother, under the law, could come to Canada only as a sponsored dependant. If the letter of the law were observed, the applicant would have to come to Canada first, leaving the mother behind, and then sponsor her after being granted landed-immigrant status. The situation could not be dealt with by exercise of the selection officer's discretionary authority, because the special circumstances do not concern the applicant's prospects of becoming successfully established in Canada. Another example might be an orphan stepbrother. Step-relationships are not included in the classes of relatives who may be sponsored or nominated, but in the case in question the person in Canada might be the orphan's only source of support.

For this type of case, in which a person is unable to meet a requirement set in the Immigration Regulations, but there are strong compassionate or humanitarian considerations, an Order-in-Council is used; in effect, a special regulation is made, which exempts the person concerned from having to meet the particular requirement that is the obstacle to his or her acceptance as an immigrant. This device is very valuable in coping with unusual cases, but cannot be undertaken lightly; it does take time – perhaps as much as three months, depending on circumstances.

Another kind of case for which a special procedure has been approved is where a high degree of urgency attaches to an applicant's move to Canada. The most common situation would be a highly qualified professional or technician whose services are urgently required by a Canadian employer at a date before the applicant's examination can be completed. There may also be urgency, however, for compassionate or humanitarian reasons. For example,

- a nominated sister's early arrival would be valuable because serious illness in the nominator's family necessitates help in caring for children
- a person accorded temporary haven in a Canadian embassy during political disturbances must leave the country at the earliest possible moment.

When a selection officer identifies such a case, he may employ the special procedure, provided the applicant meets the selection criteria and his examination thus far has not raised any serious doubt about his acceptability as an immigrant. The selection officer has an option if he decides in favour of the applicant. He may issue a conditional immigrant visa, allowing the person to proceed to Canada for completion of examination. Or, where there is some uncertainty about the applicant's acceptability, he may issue a special permit to allow the applicant to enter Canada temporarily; if the applicant is then successful in passing the remaining stages of his examination, an Order-in-Council permits the grant of landed-immigrant status by exempting the applicant from the need to have an immigrant visa.

A recent and extraordinary exception to normal selection procedures was the Adjustment of Status Program embodied in the 1973 Act to Amend the Immigration Appeal Board Act. Due to circumstances described in Chapter 1, there were believed to be tens of thousands of people who were, in fact, living in Canada as immigrants although they had never been accepted, or in some cases even examined, as immigrants. In order to clear up this situation, the Adjustment of Status Program, recognizing the hardship that insistence on normal selection criteria would cause, allowed these people 60 days in which to register to adjust their status to that of properly landed immigrants. A very lenient set of criteria was established. Applicants had only to show, in one of several different ways, that they had made a reasonable adjustment to life in Canada. The provisions of this program, sequential to the withdrawal in November 1972 of the right of visitors to apply for landing as immigrants, were also designed to furnish a transition to the situation created by the decision to curtail appeal rights, by giving people already in Canada one final opportunity to have their cases considered under the old appeal provisions.

# 3

# RECENT IMMIGRATION PATTERNS

The first chapter traced the development of Canada's selection policies. The second contained a detailed description of the rationale of the present selection criteria, adopted in 1967, and explained how these are applied. This chapter examines the product of these policies, the pattern of the immigration movement itself in recent years. By briefly analyzing statistical data covering selected aspects of the movement, it is the purpose of this chapter to identify some of the more significant trends in Canadian immigration and, in so doing, to give an insight into the operation of the current selection norms in practice.

From Confederation until just after the Second World Way, most immigrants to Canada had a lot in common. Most came from Anglo-Saxon countries. The majority came to work the land. Primarily they were selected on the basis of their own qualifications rather than as a result of their relationship to someone in Canada. Since the Second World War this broad picture has undergone steady and substantial change. The rate of that change has accelerated during the past decade.

To a very large extent, of course, changes in the pattern of the immigration flow to Canada in the post-war years have been due to important changes in Canadian conditions and requirements. The country's economy and labour market have experienced very notable developments during this period. With altering conditions it was found necessary to change the criteria for selecting immigrants. Over this same period there were mounting pressures to remove discrimination from Canadian life, and steps were taken to eradicate discriminatory features in Canadian immigration policy. As the criteria for selecting immigrants altered as a consequence of these various factors, the kinds of applicants able to meet those criteria naturally changed.

Looking at the changes in the immigration movement during the post-war years, however, it would be a mistake to attribute all of them to domestic causes. Other factors have been at work outside the framework of conditions within Canada which are unrelated to the operation of the selection criteria in force. Taking just the last six-year period, for example, it is very evident that a number of events apart from the regular immigration selection system have had a major impact on both the size and the composition of the immigration movement to Canada. These events include:

- The Czechoslovakian and Ugandan movements. These two major refugee situations increased the number of immigrants Canada might otherwise have received, and temporarily altered the pattern with respect to countries of origin, occupational categories, and language spoken.
- The rapid growth of the European Economic Community's free labour market which created attractive opportunities for very substantial numbers of Europeans who might otherwise have emigrated to Canada.
- The acceptance of thousands of immigrants who had exploited previous loopholes in Canada's immigration law, mostly under the appeal system of that time. Many of these would not have been selected had they been subject to examination overseas. This component, then, of the immigration flow could be regarded as a distortion of a hypothetical "normal" pattern in the movement's composition by country of origin and by occupation.
- Two major programs launched to cope with the problems created by visitor applicants for landed immigrant status which had results similar to those just mentioned. In addition, these programs had a marked effect on the composition of the movement by selection category, since most applicants were treated as independent applicants, even if they had potential sponsors or nominators in Canada.

It is impossible to quantify precisely the impact that factors such as these have on the shape of the immigration movement. Cumulatively, however, their effect is considerable. Bearing this in mind, it is advisable to be cautious about deducing longer-term trends in the composition of immigration flows from a mere examination of the statistics.

## SOURCES OF IMMIGRANTS

Information on where immigrants come from is to be found in the statistics the Department of Manpower and Immigration maintains on "countries of last permanent residence" – that is, the countries in which immigrants had their permanent homes immediately before coming to Canada. Because people are generally much more mobile than they used to be, this way of classifying the source of immigrants has been chosen as more useful than the "country of birth" or "country of citizenship" data kept by some other immigrant-receiving countries. Before 1967 Canada also kept "ethnic origin" figures. With the removal of discrimination by origin from the selection criteria, it was decided that this information was irrelevant for immigration purposes, and its collection was dropped.

In source statistics, therefore, "Britain" (for example) does not necessarily indicate a white, English-speaking, citizen of the United Kingdom, nor "France" a white, French-speaking, French citizen – any more than "Jamaica" necessarily means a black, English-speaking, Jamaican citizen. Rather, they merely designate the country in which the individual, whatever his citizenship or race, was living when he decided to migrate to Canada. In fact, many immigrants come to Canada from countries other than their countries of citizenship or birth. This is due to a variety of factors, such as second migration (e.g. British from the United States), permanent migration following temporary migration (e.g. Yugoslavs from Germany), refugee situations (e.g. eastern Europeans from Austria), nationalization (e.g. Asians from East Africa), and colonial and Commonwealth relations (e.g. Indians from Britain). The phenomenon is illustrated in Table 3.1.

TABLE 3.1

PROPORTIONS OF IMMIGRANTS FROM SELECTED COUNTRIES, 1972, WHO WERE NOT CITIZENS OR NATIVES OF THOSE COUNTRIES

| Country from which Immigrants Came to Canada | Percentage Not Citizens of That Country | Percentage Not Born in That Country |
|---|---|---|
| Australia | 31.8 | 44.2 |
| Belgium | 43.6 | 47.4 |
| Britain | 9.8 | 16.1 |
| France | 34.8 | 41.3 |
| Germany | 35.3 | 38.3 |
| Hong Kong | 46.5 | 48.4 |
| Israel | 12.7 | 57.7 |
| Sweden | 32.3 | 31.7 |
| United States | 6.6 | 16.6 |

The composition of the movement according to source country has changed greatly in the post-war period, especially in recent years. Table 3.2 shows the proportion of the movement coming from the various areas of the world in four periods from 1950 through 1973. As the proportion of immigrants from Europe has declined, the proportions from all other areas have increased, some quite strikingly.

Turning from continental areas to the individual countries from which immigrants have been drawn, we find a similar pattern of pronounced change. Table 3.3 shows that Britain has remained the first or second leading source. But immigration from the United States has risen steadily in importance, while there has been a marked shift, first, from western to southern Europe, followed by a replacement of the latter in order of importance by Asian and Caribbean countries.

TABLE 3.2

PERCENTAGE DISTRIBUTION OF IMMIGRANTS BY SOURCE AREA, 1950-73

| Area | 1950-55 | 1956-61 | 1962-67 | 1968-73 |
|---|---|---|---|---|
| Africa | 0.4 | 1.0 | 2.2 | 3.3 |
| Asia | 2.8 | 2.7 | 7.2 | 16.8 |
| Australasia | 0.8 | 1.4 | 2.2 | 2.3 |
| Europe | 88.0 | 84.8 | 73.5 | 49.9 |
| North and Central America (except U.S.A.) | 0.7 | 1.0 | 2.8 | 8.4 |
| U.S.A. | 6.3 | 7.7 | 10.4 | 15.2 |
| South America | 0.8 | 1.3 | 1.6 | 3.6 |
| Others | 0.2 | 0.1 | 0.1 | 0.5 |
| | 100.0 | 100.0 | 100.0 | 100.0 |

## DESTINATION OF IMMIGRANTS

The proportion of immigrants going to most provinces has been relatively consistent over the post-war years, with the important exception of Quebec. After a gradual increase in its share of the immigrant movement from 1958 through 1962, it entered a period of steady decline that has continued up to the present. Other notable, if somewhat less pronounced trends, are the decline in the proportion of immigrants going to Saskatchewan since 1968, and British Columbia's rise, also

TABLE 3.3

TEN LEADING SOURCE COUNTRIES OF IMMIGRANTS
SELECTED YEARS

| 1951 | 1960 | 1968 | 1973 |
|---|---|---|---|
| Britain | Italy | Britain | Britain |
| Germany | Britain | United States | United States |
| Italy | United States | Italy | Hong Kong |
| Netherlands | Germany | Germany | Portugal |
| Poland | Netherlands | Hong Kong | Jamaica |
| France | Portugal | France | India |
| United States | Greece | Austria | Philippines |
| Belgium | France | Greece | Greece |
| Yugoslavia | Poland | Portugal | Italy |
| Denmark | Austria | Yugoslavia | Trinidad |

since 1968, to become the second most popular destination in the last two years (Table 3.4).

## BASIS OF SELECTION

Immigrants have been selected in the post-war period because they had a relative in Canada (sponsored category), on the basis of their own qualifications (unsponsored or independent category), or, since the introduction of the 1967 Regulations, on a combination of these elements (nominated category). The distribution of immigrants among selection categories has followed a regular pattern over the whole period: during years of economic expansion the proportion of unsponsored (or independent) immigrants rises, while in years of lower economic activity the proportion of sponsored (and nominated) immigrants rises and even predominates. This is due in part to the relative stability of the size of the sponsored/nominated movement regardless of conditions in Canada. In part it may be attributed to Canada's greater attractiveness to employment-seeking immigrants during periods of greater prosperity. In the past few years, however, the proportion of independent immigrants has tended to be

TABLE 3.4

PERCENTAGE OF IMMIGRANTS DESTINED TO EACH PROVINCE, 1962-73

| Province | 1962 | 1963 | 1964 | 1965 | 1966 | 1967 | 1968 | 1969 | 1970 | 1971 | 1972 | 1973 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Newfoundland | .5 | .4 | .4 | .4 | .4 | .4 | .6 | .5 | .4 | .7 | .6 | .5 |
| P.E.I. | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .1 |
| Nova Scotia | 1.3 | 1.3 | 1.1 | 1.1 | 1.1 | 1.1 | 1.1 | 1.3 | 1.4 | 1.5 | 1.5 | 1.4 |
| New Brunswick | 1.3 | .8 | .6 | .7 | .7 | .6 | .6 | .8 | .7 | .9 | 1.1 | .9 |
| Quebec | 25.7 | 25.0 | 23.1 | 20.7 | 20.1 | 20.5 | 19.3 | 17.5 | 15.8 | 15.8 | 15.2 | 14.6 |
| Ontario | 49.9 | 52.8 | 54.6 | 54.3 | 55.3 | 52.4 | 52.3 | 53.6 | 54.7 | 52.8 | 52.3 | 56.0 |
| Manitoba | 3.2 | 3.0 | 2.7 | 2.7 | 2.6 | 4.2 | 4.7 | 4.0 | 3.9 | 4.4 | 4.3 | 3.6 |
| Saskatchewan | 1.6 | 1.5 | 1.6 | 1.8 | 1.8 | 1.7 | 1.9 | 1.5 | 1.2 | 1.2 | 1.2 | 1.0 |
| Alberta | 6.4 | 5.1 | 4.9 | 5.5 | 5.2 | 6.7 | 7.2 | 7.0 | 7.0 | 7.1 | 6.9 | 6.5 |
| British Columbia | 10.0 | 9.9 | 10.9 | 12.6 | 12.7 | 12.2 | 12.2 | 13.6 | 14.7 | 15.5 | 16.5 | 15.2 |
| Territories | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .1 | .2 | .3 | .1 |

somewhat lower than might have been expected from earlier experience.

TABLE 3.5

PERCENTAGES OF IMMIGRANTS BY SELECTION CATEGORY, 1951-73

| | Sponsored | Nominated | Independent (Unsponsored) |
|---|---|---|---|
| 1951 | 35.6 | | 64.4 |
| 1952 | 32.3 | | 67.7 |
| 1953 | 36.5 | | 63.5 |
| 1954 | 34.6 | | 65.4 |
| 1955 | 41.3 | | 58.7 |
| 1956 | 32.1 | | 67.9 |
| 1957 | 21.9 | | 78.1 |
| 1958 | 48.1 | | 51.9 |
| 1959 | 55.1 | | 44.9 |
| 1960 | 47.3 | | 52.7 |
| 1961 | 47.9 | | 52.1 |
| 1962 | 45.2 | | 54.8 |
| 1963 | 42.3 | | 57.7 |
| 1964 | 41.4 | | 58.6 |
| 1965 | 38.9 | | 61.1 |
| 1966 | 34.2 | | 65.8 |
| 1967 | 33.4 | | 66.6 |
| 1968 | 20.8 | 19.1 | 60.1 |
| 1969 | 20.8 | 24.2 | 55.0 |
| 1970 | 21.8 | 23.8 | 54.4 |
| 1971 | 27.4 | 24.1 | 48.5 |
| 1972 | 27.1 | 25.4 | 47.5 |
| 1973 | 22.8 | 24.3 | 52.9 |

The proportion of immigrants in each selection category who intend to enter the Canadian labour force has also been relatively consistent – about 35 per cent of the old sponsored category, about 20 per cent of the modern sponsored category, about 55 per cent of the nominated category, and about 60 per cent of the unsponsored or independent category. At least in this respect, nominated relatives behave more like independent immigrants than sponsored dependents. These figures bear out the finding of the Longitudinal Survey[1] that nominated immigrants tend to come to Canada more for economic purposes than for purposes of family reunion.

TABLE 3.6

WORKERS AS A PERCENTAGE OF IMMIGRANTS IN EACH SELECTION CATEGORY, 1961-73

| | Sponsored | Nominated | Independent (Unsponsored) |
|---|---|---|---|
| 1961 | 36.9 | | 59.3 |
| 1962 | 33.4 | | 62.4 |
| 1963 | 30.6 | | 62.9 |
| 1964 | 35.3 | | 60.2 |
| 1965 | 35.2 | | 60.4 |
| 1966 | 34.6 | | 59.4 |
| 1967 | 35.2 | | 62.9 |
| 1968 | 15.6 | 54.4 | 63.6 |
| 1969 | 19.6 | 56.0 | 62.8 |
| 1970 | 20.4 | 55.8 | 64.1 |
| 1971 | 22.4 | 57.4 | 62.5 |
| 1972 | 23.4 | 56.7 | 58.8 |
| 1973 | 21.3 | 54.0 | 60.6 |

Table 3.7, showing the proportions of all immigrant workers contributed by each selection category, reveals a definite shift. Before the introduction of the present selection criteria, up to three-quarters of all immigrant workers came from the independent category. Since 1968, however, this proportion has fallen, with the sponsored/nominated group

accounting for over one-third of immigrant labour force participants.

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[1] This long-term study of how a recent group of representative immigrants fared in Canada is published in this series under the title *Three Years in Canada: First Report of the Longitudinal Survey on the Economic and Social Adaptation of Immigrants.*

TABLE 3.7

WORKERS IN EACH SELECTION CATEGORY AS A PERCENTAGE OF ALL IMMIGRANT WORKERS, 1961-73

| | Sponsored | Nominated | Independent (Unsponsored) |
|---|---|---|---|
| 1961 | 36.4 | | 63.6 |
| 1962 | 30.6 | | 69.4 |
| 1963 | 26.3 | | 73.7 |
| 1964 | 29.2 | | 70.8 |
| 1965 | 27.0 | | 73.0 |
| 1966 | 23.2 | | 76.8 |
| 1967 | 21.9 | | 78.1 |
| 1968 | 6.3 | 20.0 | 73.7 |
| 1969 | 7.8 | 26.0 | 66.2 |
| 1970 | 8.5 | 25.3 | 66.2 |
| 1971 | 12.2 | 27.5 | 60.3 |
| 1972 | 13.1 | 29.5 | 57.4 |
| 1973 | 9.7 | 26.2 | 64.1 |

## OCCUPATIONS OF WORKER IMMIGRANTS

In the post-war years there have been several significant trends in the composition of the immigrant movement according to the occupational categories to which worker immigrants belonged. Generally, patterns have changed less in recent years than earlier in the period (Table 3.8). Most noteworthy are (a) the continuing strong growth in the proportion of the managerial and professional category; (b) the sharp declines since the 1950s in the labouring, service, and recreation categories; and (c) the gradual shift from blue-collar to white-collar occupations.

TABLE 3.8

PERCENTAGES OF IMMIGRANT WORKERS IN VARIOUS OCCUPATIONAL CATEGORIES, SELECTED PERIODS

| | 1946-50 | 1951-57 | 1958-61 | 1962-67 | 1968-73 |
|---|---|---|---|---|---|
| Managerial, professional and technical | 7.7 | 12.7 | 21.7 | 25.8 | 32.0 |
| Clerical and sales | 11.4 | 14.8 | 15.8 | 16.8 | 18.5 |
| Service and recreation | 10.9 | 14.9 | 18.9 | 10.5 | 10.8 |
| Manufacturing and mechanical | 31.6 | 30.9 | 23.2 | 23.3 | 21.6 |
| Construction | - | - | - | 8.8 | 7.0 |
| Primary industries | 25.4 | 9.6 | 7.2 | 4.1 | 3.7 |
| Labourers | 9.2 | 14.0 | 11.5 | 8.3 | 2.5 |
| Others | 3.9 | 3.1 | 1.9 | 2.4 | 3.9 |

The skill level of immigrants' occupations has been assessed and recorded systematically only in recent years. Although these data relate to the normal skill requirements of the various occupations, and not to immigrants' competence within their occupations, this series also reveals an interesting trend. Despite the increasing proportion of managerial, professional and other highly trained occupations, the overall skill level trend has been downward for the past seven years (Table 3.9). The main factors responsible for this trend appear to have been the increasing proportion of immigrant workers accounted for by workers in the nominated relative category (cf. Table 3.7), among whom less than 30 per cent may be classified as skilled; an increasing number of immigrants from certain new source countries where advanced skills tend to be relatively less common in the labour force; and the many visitors who have been accepted in Canada as landed immigrants under special programs that involved more lenient selection criteria, especially those conducted in 1972 and 1973.

TABLE 3.9

PERCENTAGES OF IMMIGRANT WORKERS BY OCCUPATIONAL SKILL LEVELS, 1966-73

| | Unskilled | Semi-skilled | Skilled |
|---|---|---|---|
| 1966 | 10.4 | 15.3 | 74.3 |
| 1967 | 10.9 | 19.8 | 69.3 |
| 1968 | 6.5 | 28.5 | 65.0 |
| 1969 | 7.1 | 27.7 | 65.2 |
| 1970 | 7.8 | 30.3 | 61.9 |
| 1971 | 8.8 | 33.1 | 58.2 |
| 1972 | 10.5 | 32.6 | 56.9 |
| 1973 | 12.5 | 36.6 | 50.9 |

## IMMIGRANTS' LANGUAGE ABILITIES

Data on immigrants' ability to speak English or French have been collected only since 1968. The decline in the proportion of immigrants with no capacity in either of Canada's official languages appears to represent a continuation of a long-standing trend. But the increasing divergence between the proportions of those able to speak English, and those able to speak French, seems of more recent vintage. This trend is probably due to the recent sharp rise in immigration from countries where English is widely used, whereas no comparable new sources of French-speaking immigrants have developed.

TABLE 3.10

PERCENTAGES OF IMMIGRANTS ABLE TO SPEAK ENGLISH OR FRENCH, 1968-73

| | English | French | Both | Neither |
|---|---|---|---|---|
| 1968 | 51.3 | 6.3 | 3.7 | 38.7 |
| 1969 | 59.5 | 4.4 | 3.8 | 32.3 |
| 1970 | 60.7 | 4.0 | 4.0 | 31.3 |
| 1971 | 61.6 | 3.4 | 4.0 | 31.0 |
| 1972 | 63.2 | 3.1 | 4.0 | 29.7 |
| 1973 | 64.6 | 3.7 | 3.4 | 28.3 |

## MEETING THE SELECTION CRITERIA

Because the criteria for the selection of immigrants have varied through the years, the proportion of applicants able to meet them has also fluctuated. An applicant approved in one year might well have been refused in another, and vice versa. A factor that has tended to depress the general approval rate in the last decade is the expanded interest in immigration to Canada among an ever wider range of developing countries, where a higher proportion of applicants do not have the degree of education and training necessary for successful establishment in Canada. The figures in Table 3.11 give a general view of applicants' ability to meet basic Canadian immigration standards over the past twenty years.

The approval rate on applications from prospective sponsors and nominators in Canada has been much less subject to fluctuation. Although the standards have changed from time to time, Table 3.12 shows that applicants have had little trouble meeting them in recent years.

TABLE 3.11

PROPORTION OF APPLICANTS ABROAD GRANTED IMMIGRANT VISAS, 1953-73

1953 – 85.7
1954 – 84.4
1955 – 86.5
1956 – 90.4
1957 – 86.7
1958 – 76.3
1959 – 74.3
1960 – 77.6
1961 – 55.0
1962 – 44.2
1963 – 56.8
1964 – 65.1
1965 – 60.3
1966 – 50.2
1967 – 48.3
1968 – 55.0
1969 – 30.2
1970 – 45.0
1971 – 40.0
1972 – 51.8
1973 – 58.2

TABLE 3.12

PROPORTION OF PROSPECTIVE SPONSORS AND NOMINATORS SUCCESSFUL IN THEIR APPLICATIONS, 1968-73

| | Sponsors | Nominators |
|---|---|---|
| 1968 | 99.7 | 91.7 |
| 1969 | 99.9 | 93.0 |
| 1970 | 99.9 | 94.2 |
| 1971 | 99.9 | 94.7 |
| 1972 | 99.9 | 94.2 |
| 1973 | 99.8 | 93.4 |

## EMIGRATION

Immigration to Canada is, of course, only half of the migration equation. At the same time that immigrants have been coming to Canada, Canadians and former immigrants have been departing to live in other countries. We have quite extensive data on immigrants, but unfortunately we have very little in the way of hard facts about emigrants. We know every single immigrant, because of the examinations all immigrants must undergo to be lawfully admitted to Canada. We have no way of identifying individual emigrants. This could be achieved only by examining every single person leaving Canada, which is manifestly impracticable, or by requiring emigrants to report their intentions, which would likely be as unpalatable to Canadians as it would be unenforceable.

In these circumstances, to get any kind of picture at all of Canada's population losses by emigration, we have had to rely on indirect sources of information: an analysis of census returns, and an examination of other countries' immigration statistics. Census analysis yields a general impression of population changes as a result of emigration, as seen at five- or ten-year intervals. But it is imprecise at best, and cannot provide either annual data or detailed information on the characteristics of emigrants. Examination of other countries' statistics provides some data on emigrants' characteristics, but does not give a full picture by any means; only a handful of countries collect migration statistics of any kind, and even fewer publish them in a form that makes them readily comparable with Canadian data.

Recognizing the need for long-range planning purposes of better information on losses from, as well as additions to, Canada's population, Statistics Canada in conjunction with the Department of Manpower and Immigration has been negotiating with other countries believed to be recipients of substantial numbers of emigrants from Canada. It is hoped that, by these efforts, we may obtain more complete and more detailed data on at least part of Canada's population loss by emigration, and ultimately arrive at a clearer appreciation of dynamic changes in Canada's migration balance.

In the meantime, there are fairly reliable indications that emigration patterns have also been changing in recent years. Although it is not statistically demonstrable, most demographers agree that the bulk of Canada's population loss by emigration has been to the United States. That country's immigration law, in relation to Canada, underwent major changes in 1965 and 1968, which strongly affected the size and nature of the north-to-south movement. Emigration from Canada to the United States dropped by 25 per cent from 1965 to 1966, by 30 per cent from 1968 to 1969, and in 1973 stood at barely half the 1969 level. In fact, for the past three years, changes in the United States law, coupled with Canada's increasing attractiveness to residents of the United States, have reversed the long historical trend of a net Canadian loss in Canada-United States migration. Moreover, whereas workers regularly made up more than half the pre-1966 movement from Canada to the United States, they have formed only 45 per cent of the 1966-73 movement. Among the workers, there has been a sharp rise in the proportion of professional, technical and managerial occupations, accompanied by a corresponding decline in the proportions of clerical and sales occupations and skilled craftsmen. These trends may or may not be characteristic of the total outflow from Canada to all other countries, but are certainly pronounced in a major part of it.

## POLICY IMPLICATIONS

From an examination of changes in the characteristics of the immigration movement that have taken place during the period since the present selection criteria were implemented in 1967, it is apparent that there are a number of areas that require careful study in designing Canada's future immigration policy. The pattern of change in the immigration movement revealed by the data over the past few years has, as we have seen, been pronounced in a number of respects. Some of the changes experienced, for example the growing proportion of highly qualified immigrants, are the direct outcome of the policy expressed through a selection system that puts a premium on educational attainment and the recruitment of highly qualified manpower generally. Other shifts in the pattern are not attributable to the selection criteria as such, having more to do with changes in the nature of interest in immigration to Canada over this period. The interplay between Canadian selection requirements on the one hand, and the type and number of applicants on the

other, has produced a movement revealing certain trends that harmonize with the objectives that underlay the framing of the criteria. But other features in the pattern are plainly not the deliberate consequence of policy decisions. When considering immigration policy in the light of national needs now and in the future, it would be worthwhile devoting particular attention to some of these features which are illuminated by the data presented earlier.

In this connection there are three general areas which seem to call for special mention at this point.

The first relates to the sources of the immigration movement, probably the most prominent change of all those which have occurred since 1967. Here, a change in the pattern was certainly expected when Canada's selection criteria eliminated any provision that discriminated between applicants on the basis of their origin. At the time this important step was taken, there was, of course, no means of estimating with precision its effect on the composition of the movement. As the figures show, the rate of change, both in terms of the volume of immigration from countries from which historically Canada has drawn relatively few immigrants, as well as in terms of the number of new source countries involved, has been extremely rapid. In both respects the pace of change has probably been greater than was generally anticipated in 1967.

A major policy question arises in this connection. Although our network of immigration posts has been substantially expanded since 1967, there are still many countries where no Canadian immigration presence has been installed. Surveying the allocation of visa processing capacity as it exists now in relation to current and prospective demand for immigration service, it is evident that the problem of how to allocate available resources equitably to cope with world-wide demand from people wishing to migrate to Canada is one of the more difficult challenges that future policy must be fashioned to meet. This problem, as well as possible approaches that would be designed to deal with it in a manner consistent with Canadian requirements and objectives, is examined more closely in Part One of this report.

A second policy area of great importance relates to the distribution of immigrants. The data presented in this chapter show that in the post-war years the pattern of immigrant settlement among provinces has remained fairly constant. The figures indicate, however, a decline in immigration to Quebec in recent years. They also show a downward trend in the number of French-speaking immigrants. An intensified effort overseas, which has taken advantage of the flexibility inherent in a universal selection system, together with special measures taken at both the provincial and federal levels, have thus far been unsuccessful in correcting a trend which threatens the long-term maintenance of Canada's linguistic and cultural balance. There are other important implications as well for Canada's demographic future which obviously flow from the marked disparities in the immigrant settlement pattern across the country.

Thirdly, there are important policy questions raised by the apparent impact of a selection system which imposes different selection norms for independent immigrants and nominated immigrants. The concept of an intermediate category – the nominated class – between sponsored dependants and unsponsored independent immigrants, was an important feature of the system adopted in 1967. The creation of the nominated class was designed primarily to help reunite families. Undoubtedly it has served that purpose, as the number and proportion of nominated immigrants within the total movement testify.

Much less certain, however, is the extent to which this concept has furthered another basic objective of immigration policy: the matching of the total immigration movement as closely as possible with domestic economic conditions, especially the requirements of Canada's labour market. There is ample evidence that the primary motivation to migrate on the part of those who have qualified for selection as nominated immigrants has been economic in character. At the same time, the data suggest that a significant proportion of nominated immigrants entering the labour force have not possessed the skills most likely to permit their rapid integration. The fact that members of this category have too frequently been unqualified for jobs in high demand has meant that their employment experience in Canada has often been unsatisfactory.

Pending the outcome of the present review of the total system, two amendments to the regulations were made in the course of 1974, the first in February and the second in October. These changes are described in the preceding chapter. Both were designed to ensure that the employment prospects of immigrants are satisfactory, and thus to reinforce the economic purposes of the program. Both amendments involve requirements applying equally to both the independent and nominated streams. It would be premature to attempt to assess the longer-term impact of these interim adjustments. Nevertheless, the appropriate balance to be struck between the claims of the family on the one hand and Canadian economic and labour market imperatives on the other, remains a crucial issue that should be scrutinized carefully when formulating future immigration policy.

In concluding this brief overview of recent immigration patterns, it is right to recall that the selection criteria incorporated in the 1967 regulations were never intended to be rigid or immutable. An objective and searching assessment of the sort of immigration that has occurred on the basis of the current selection system, in the light of Canada's contemporary and projected needs, is central to the purpose of the present review.

# 4

# REFUGEES

Besides promoting a selective movement of immigrants in the interest of Canada's economic and social development, Canadian policy has long found prominent room for concern with people for whom migration offers the only route to escape intolerable conditions – war, persecution, or oppression. In earlier periods there was frequent coincidence between our national requirements, humanitarian considerations, and the needs of the displaced, homeless or persecuted. Most refugees came from Europe, and their adjustment to working and living conditions in Canada tended to be relatively swift and trouble-free. Today the picture has changed totally as far as the origin of refugee situations is concerned. These crop up everywhere in the world. Not that other parts of the globe were ever immune from conflict and social tension. But now modern communications, a more interdependent world order, and increased international attention to individual rights and freedoms all make positive relief action an option which was not open before.

This chapter will review the efforts of the international community to alleviate the plight of refugees, Canada's role as a major refugee-receiving country, and the evolution of our policy and programs in this field.

## INTERNATIONAL ACTION, POST-1945

A victim of man's inhumanity to man, the refugee has been with us since the beginning of history. Discrimination against particular racial, religious or political groups, together with wars, political upheavals, changes in national boundaries, and the rest, have uprooted people and caused them to flee home and country. In many instances, displacement was permanent; the refugee became stateless as well as homeless. It was the massive displacements of population of this century that forced on the international community the need to find solutions, to protect those who no longer had the protection of a state, and to assist them to resettle elsewhere.

The Russian Revolution, for instance, sent 1,500,000 people into exile. Countless others were displaced by the First World War and the resulting boundary changes in central Europe. The Second World War and its aftermath created temporary or permanent refugees in the millions. It is estimated that at the height of the conflict 60,000,000 people had been displaced. In 1945, therefore, a first task of the United Nations Relief and Rehabilitation Administration (UNRRA) was the repatriation of those refugees. In this it was successful, helping more than 98 per cent to return to their homes.

## The International Refugee Organization (IRO)

There nevertheless remained more than 1,000,000 refugees who for political reasons would not or could not return to live under the communist regimes of eastern Europe. But western Europe, ravaged by war and suffering from acute housing shortages and unemployment, could not possibly absorb them. To meet the problem, a new international agency was established in 1946, under the auspices of the United Nations – the International Refugee Organization (IRO). Its mandate was to provide legal protection for refugees, assist them to resettle, and develop resettlement opportunities outside Europe.

The IRO in six years carried out the greatest overseas resettlement program in history. It provided food, shelter, and language and occupational training for refugees, and stimulated governments to relax their immigration laws. Canada, Australia, and the United States were among the first to accept refugees in significant numbers.

Immediately after the war, ocean transportation was extremely scarce. In Canada priority was naturally given to the return of Canadian servicemen and their dependants from Europe. Nevertheless, in his 1947 statement on immigration policy, the Prime Minister singled out, as engaging Canada's responsibility, "the urgent problem of resettlement of the displaced and homeless". Early that year, the first selection teams reached Germany where several large refugee camps were located. In less than a month, the first refugee ship sailed for Canada. The Canadian government granted special authority for the admission of 20,000 refugees in 1947 and 20,000 more in 1948. During 1949, nearly 50,000 refugees entered Canada. In addition to those early groups, more than 4,000 Polish veteran servicemen were first admitted temporarily, and then granted permanent residence; families and relatives followed. During 1948 and 1949, at the risk of their lives, 1,000 refugees left the Baltic States, crossed the North Atlantic in small boats, and sought and received asylum on Canadian soil.

By the time the IRO was wound up in 1952, a million refugees from Europe had been settled under its auspices in 80 different countries. Canada contributed $18 million to IRO's operation and provided 70 Canadians to its staff. And by early 1952 Canada had opened its doors to 124,000 refugees.

Notwithstanding this major international undertaking, the European refugee problem remained severe. No sooner had the programs for the resettlement of displaced persons been launched, than the refugee camps were flooded again with thousands fleeing from eastern to western Europe. It became unmistakably evident that the refugee problem was to be a durable phenomenon.

An immediate and delicate matter was the status of nationals of eastern European countries seeking first asylum in border states which could not absorb them permanently. Obviously, resettlement opportunities, as for displaced persons, had to be found outside Europe. The IRO was created for short-term purposes; the need was apparent for formal and permanent arrangements to deal with a continuing problem.

## United Nations High Commissioner for Refugees (UNHCR)

The Office of the UNHCR was established in 1950 to provide international protection for refugees under the auspices of the United Nations, and to assist governments and private organizations in the voluntary repatriation of refugees, or failing that, their assimilation within new national communities. The UNHCR identifies the immediate and long-term needs of refugees, enlists the help of governments, organizations and individuals in meeting them, and co-ordinates and finances refugee relief programs.

The administrative expenditures of the UNHCR's office are borne by the regular United Nations budget, while its operational programs are financed from voluntary contributions, mostly by governments. The High Commissioner's program is supervised by an Executive Committee on which Canada has been represented from the beginning. Over 70 countries contributed in 1973 to financing UNHCR programs. Of these, Canada ranked sixth highest with a contribution of $450,000.

Unlike the IRO, the UNHCR was not equipped for the care and maintenance of refugees in countries of first asylum or to make transportation arrangements. To discharge these operational roles, the Intergovernmental Committee for European Migration (ICEM) was established in 1951 by a group of countries directly interested in the movement of refugees and immigrants (European countries of first asylum, and countries offering major resettlement opportunities, such as the United States, Canada, Brazil, and Australia).

Set up to take over where IRO left off, ICEM 's fundamental purpose was to relieve the pressures of surplus population felt in western Europe, but its mandate and activities in the refugee field were extensive. Canada was one of ICEM's founding members, held a seat on its executive committee, and gave its active support to the organization as long as it played a key role in the movement of refugees. This it certainly did in the early years of its life, making a particularly notable contribution during the Hungarian crisis of 1956. However, by the 1960s the situation had altered. The refugee problem in Europe had been reduced to manageable proportions; there was no longer a shipping shortage and Canadian immigration offices established in most European countries gave us the capability to deal with all aspects of immigrant and refugee selection and resettlement without

resort to ICEM's good offices. Since it no longer served our requirements, Canada withdrew from ICEM in 1962 and somewhat later transferred its ICEM contribution to the UNHCR.

## The 1951 Convention

The United Nations in 1951 adopted a Convention Relating to the Status of Refugees, and invited UN member states to accede. In its preamble, the Convention emphasizes the fundamental human rights and freedoms of refugees. It goes on to recognize that granting of asylum to refugees places heavy burdens on certain states, and that the whole problem calls for international co-operation. And it enjoins member states to do everything possible to prevent refugee problems from becoming a source of international tension.

While assigning to the states adhering to the Convention the responsibility to determine eligibility for refugee status in their territories, the Convention defines the term "refugee" and lays down specific standards for his or her treatment in countries both of first asylum and permanent resettlement. This Convention remains the chief international instrument for the protection of refugees. Initially designed to deal with a European situation at a given point in time, the terms of the Convention were broadened in a 1967 Protocol. The Protocol's main effect is to remove restrictive geographic or time factors, thus recognizing the universal and recurring nature of refugee problems.

## Who is a Refugee?

Historically, victims of many different circumstances have been called refugees. Displaced or stateless persons, asylum seekers, defectors, members of oppressed minorities, even victims of natural disasters have all, at various times, been so designated. However, the 1951 Convention described above laid down precisely the conditions under which, for United Nations purposes, a person will be considered a refugee eligible for protection and assistance. It defines a refugee as "any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence is unable or, owing to such fear, is unwilling to return to it".

Although Canada delayed its accession to the Convention and Protocol, it was a largely formal move when it did so in 1969 because of the generous treatment accorded refugees in Canadian practice. Although no specific provision is made in our Immigration Act and Regulations for the admission of refugees outside the normal regulations applicable to all immigrants, Canada to this day has given permanent haven to well over 300,000 refugees and victims of persecution.

## CANADA'S POLICY AND PROGRAMS

The movements to Canada of refugees and displaced persons in the late 1940s had been conducted with special governmental authority. From then on administrative direction regularly guided immigration officers in dealing with the admission of refugees. Admittedly, the majority who sought asylum in western Europe up to the mid-1950s were basically healthy and many had good qualifications. This meant that most could meet normal immigration standards. But many were destitute. Canada's early efforts concentrated on the admission of large numbers of those who could, with assisted transportation, be quickly resettled.

Nevertheless it soon became evident that extraordinary measures were required to cope with more difficult cases. Purely humanitarian considerations accordingly led to a policy under which regulations were relaxed to permit the admission over the years of several thousand refugees including the unskilled, the sick, and the physically and socially handicapped.

Apart from programs administered on a regular basis, the Government of Canada, in response to international crises, has taken special decisions to give priority to the admission of large groups of refugees. A brief description of both aspects, the regular program and special movements, follows.

### Regular Programs

Initially, for the purposes of selection, the Department treated as a refugee anyone displaced as a result of the Second World War or who, because of fear or dissatisfaction, had left an eastern European country and had not been resettled permanently elsewhere. Such persons were admissible without regard to age or occupation provided they were of good character and seemed likely to become established in Canada. Minor physical handicaps that did not impair their prospect of earning a livelihood were overlooked. A refugee could also be sponsored by a relative, a friend or a responsible agency in Canada willing and able to help him become established. In such cases, selection criteria were further relaxed. Sick refugees could be admitted on condition that their sponsors had made prior care or hospitalization arrangements with provincial authorities.

In July 1959 a World Refugee Year was proclaimed by the United Nations to focus international attention on the plight of thousands of hard-to-resettle refugees, some aged or handicapped, who were still in camps, mainly in Austria, Italy, Germany, and Greece. On that occasion, the Canadian government reviewed and further liberalized its refugee policy. It confirmed the intention to continue a relaxation of normal immigration criteria and set up, to supplement private sponsorship arrangements, a government-sponsored program on behalf of socially or medically handicapped refugees. During World Refugee Year, the government, with the co-operation of several provinces, also undertook the admission of groups of unsponsored refugees suffering from tuberculosis, together with their families. This program took place in three separate phases and the complete movement included 325 tubercular patients and 501 family members.

In response to an appeal by the UNHCR, Canada introduced in 1967 a special Handicapped Refugees Program. Under this program – conducted in co-operation with the provinces – Canada sponsors up to 50 handicapped refugees and their families each year. Where the seriousness of the medical condition precludes the person's legal admission as an immigrant, he is allowed to come to Canada under the authority of a special Minister's permit until such time as he can meet immigrant standards. By its very nature this program has been particularly difficult to administer and has required close co-operation with the UNHCR, the provincial governments concerned, and voluntary agencies.

The 1966 White Paper on Canadian Immigration Policy reaffirmed Canada's wish to accept its "fair share of international responsibility for refugees, including the sick and handicapped". When the new immigration regulations came into force in 1967, they still did not contain specific provision for admitting refugees. However, the stipulation that allows immigration officers to use their discretion on applications which, because of exceptional circumstances, warrant consideration outside the prescribed norms, provided continuing scope to honour Canada's refugee commitments.

In 1970, following accession to the UN Convention, the government set new guidelines, which still govern the admission of refugees. The guidelines employ the definitions of the UN Convention and its Protocol. They provide explicitly for the admission of refugees, notwithstanding their inability to achieve 50 units of assessment under the usual selection factors, when the information available indicates that there is sufficient private or government assistance available in Canada to ensure their eventual establishment. There is also provision for the Minister to authorize, in unusual circumstances, the admission, on the same basis as refugees, of people who would be refugees as defined in the Convention except that they are still living in their countries of nationality or habitual residence. Although such persons are not protected under international agreement, the policy makes it possible to consider their admission on humanitarian grounds. Canada's response to events in Uganda in 1972 and in Chile in 1973 are significant recent illustrations of the application of this latter policy. Still more recently, the introduction of an examination priorities system at posts abroad (described in Chapter 2) has made it easier to respond quickly to the need of people in ongoing refugee situations

and in small new situations. This approach, which relies on close consultation with the UNHCR, will make it possible to divert examination resources promptly as and when the need arises. Major new refugee situations, of course, will continue to require special consideration by the Government.

There has perhaps been little general public awareness of Canada's on-going regular refugee programs, under which an average of 2,000 refugees a year were admitted for permanent residence in Canada from World Refugee Year in 1959 to the middle sixties. The number of refugees in Europe has declined sharply since, reflecting the evolution of economic and political conditions in that part of the world.

## Special Movements

Canada's response to major international crises is much better known. A common feature of most of these post-war crises has been their suddenness, and unpredictability. Otherwise they have differed widely, requiring a special type of policy response in each instance. However there are standard features which have characterized all our special programs. The usual selection criteria have not been used as the only gauge of the applicants' prospects for successful establishment in Canada. These have been weighed together with additional factors such as the availability in Canada of special measures to assist the refugees' settlement. Applicants have been medically examined and security background checks conducted as thoroughly as possible. Methods and approaches with respect to these common features and controls have naturally been adjusted to the circumstances involved in each program.

## The Hungarian Refugee Movement: 1956-57

Probably the most dramatic movement of refugees undertaken by Canada occurred in 1956 when tens of thousands of Hungarians fled their country in the aftermath of revolution and sought refuge across the border, mainly in Austria. By the end of the following year, Canada had accepted for

TABLE 4.1

ADMISSION UNDER SPECIAL PROGRAMS

| Period | Admissions | |
|---|---|---|
| 1956-57 | 38,000 | Hungarians |
| 1968-69 | 12,000 | Czechoslavakians |
| 1970 | 228 | Tibetans |
| 1972-73 | 5,600 | Ugandan Asians |
| 1973-74 | 700 | Chilean residents* |

* Estimated, as of end of August 1974

permanent resettlement nearly 38,000 Hungarians. This made Canada's contribution the highest of any nation on a per capita basis, and the second highest in terms of absolute numbers. Procedures were of course considerably simplified to move so many people so quickly and ICEM played a key role, particularly in arranging transportation. Although the problems were amazingly few, medical and institutional care was required for approximately 1,500 of the refugees. Also involved were approximately 1,000 university students, and special arrangements were made for those who wished to continue their studies. Provincial governments, voluntary agencies, and several private citizens' groups all had valuable parts to play in receiving the refugees and helping them to settle.

## The Czechoslovakian Refugee Movement: 1968-69

A decade later, following the invasion of Czechoslovakia, the Canadian government undertook another major program in response to appeals from the UNHCR and the Austrian government. On that occasion, a special committee of representatives of the Departments of Manpower and Immigration, External Affairs, National Health and Welfare, and the Solicitor General (RCMP) was set up to co-ordinate the program. From September 1968 until January 1969, when the emergency operation ended, arrangements were made to fly 12,000 Czechoslovakian refugees to Canada. Upon their arrival, the Department of Manpower and Immigration put in motion a large scale adjustment program to facilitate their successful establishment in Canada. In addition to financial assistance for immediate living expenses and interim medical and dental coverage, Canadian language training was subsidized under the Canada Manpower Training Program (CMTP) to prepare the refugees to enter the labour force. Canada Manpower Centres across the country made special efforts to place the refugees in suitable employment.

The Department has carried out a continuing survey of the economic and social adaptation of a sample group of Czechoslovakian refugees during their first three years in Canada. Preliminary results indicate that persons in the sample group have progressed as rapidly as other immigrants admitted during the same period and have been readily accepted into the Canadian communities where they live and work.

## The Tibetan Movement: 1970

The government agreed in 1970 to accept a small group of Tibetans from India for resettlement in Canada. In this instance selection criteria were set aside in order to choose a group of families and single adults accompanied by their spiritual leaders. The 228 Tibetans thus admitted to Canada were settled, with the agreement of the provinces concerned, in Ontario, Quebec, Manitoba, Saskatchewan and Alberta, mostly in rural areas where it was thought they would adapt more easily. Coming from such a vastly different environment and culture, it is scarcely to be wondered that this group has needed extra assistance. The Tibetans have now completed initial orientation courses and language and basic skill training, and most are gainfully employed. Although small in number, this group presented very special problems of assimilation, and hence affords an interesting case study in the settlement of unusually distinctive refugees.

## The Movement of Asians from Uganda: 1972

A new crisis was provoked when the President of Uganda announced in 1972 that all members of the Asian minority would be obliged to leave the country or be expelled within a matter of months. Some had claims to British citizenship, while others were nationals of India or Pakistan. These had a place to go. Others were stateless; those who had acquired Ugandan nationality faced the prospect of being made stateless. Facing a huge influx of British passport holders, Britain appealed to Canada to assist. The reaction was prompt and positive. Representatives of Manpower and Immigration were dispatched to Uganda to form a processing team with officials of Health and Welfare, supported by External Affairs, the Canadian International Development Agency (CIDA), and the Canadian University Service Overseas (CUSO). To facilitate the medical examination of the applicants, a complete mobile laboratory and X-ray unit of the Canadian Armed Forces was flown from Canada to Kampala. The joint immigration operation in Kampala started September 5 and ended November 8, 1972, the deadline set by the Ugandan Government for the Asians' departure.

During this period, over 6,000 Asians obtained immigrant visas on the spot. Chartered aircraft flew the refugee groups from Kampala to Montreal. Altogether, 4,420 persons were airlifted to Canada in 31 flights. During the long flights, there was counselling on what to expect on arrival in Canada. From the Montreal airport, these groups were escorted to a nearby temporary transit centre. After a period of rest, they were given information about their destination in Canada, initial job counselling, winter clothes, and pocket money if needed. Within 48 hours, they were on their way to where they would settle.

The Ugandan Asians were encouraged to settle widely throughout Canada to ease housing and employment problems, and to speed their integration. Ugandan Asian Committees across the country very usefully supplemented the regular adjustment programs available to all immigrants such as job placement, and occupational and language training where necessary. These committees, composed of voluntary agencies and groups, and officials of all levels of government, assisted with housing, helped the newcomers get in touch with friends or relatives, counselled them on various aspects of life in Canada, and co-ordinated the many offers of assistance received from groups and individuals in the area.

Including the relatives who followed later, Canada has received over 7,000 Asians from Uganda.[1] Most of those who expected to enter the labour force have now found employment. A few are still being assisted, or are enrolled in Manpower Training Programs. Aside from problems that were to be expected – most stemming from the drastic change of environment – remarkably few difficulties have been encountered. This is undoubtedly due partly to the initiative and adaptability of the Asians themselves, and partly to the warm-hearted welcome extended by the Canadian people.

## The Chilean Movement: 1973-74

The most recent crisis to be faced erupted with the coup d'état in Chile in the autumn of 1973. A grave and complex situation resulted, affecting thousands – Chileans as well as nationals of other Latin-American countries living in Chile. The proportions of the problem, the number of people whose lives and liberty were in jeopardy, prompted the UNHCR to appeal for international assistance. In the aftermath of the coup the situation was confused in the extreme. Reports differed as to the numbers of people in imminent danger, about how many sought permanent resettlement, and where those who did wanted to go. Reliable information was hard to obtain about the status of those claiming refugee treatment, and their intentions. Views within Canada varied widely, with the government subjected to contradictory pressures. Consistent and responsible policy demanded energetic efforts to get at the facts, and the development of a program to process those people who most needed and deserved attention.

[1] Britain apart, which accepted the largest number, Canada received more Ugandan Asians than all other countries combined.

This was achieved by setting up a special program on lines similar to those followed in past refugee situations. It allowed refugees and other persons affected by the coup to immigrate to Canada provided they complied with basic health and security requirements and appeared able to become self-supporting eventually. Most applicants were processed by a special interdepartmental team at the Canadian Embassy and in refugee transit centres set up by the UNHCR in Santiago. Special teams also travelled to Costa Rica, Honduras, Panama, Mexico and Peru to interview people who had sought refuge in those countries. The Immigration Office in Buenos Aires undertook the processing of applications in Argentina. The situation focussed attention on the question of political asylum when groups of Chileans and others sought shelter in the Canadian Embassy. There is no generally recognized obligation to grant this form of asylum, which is a peculiarly Latin American concept. Temporary safe haven in exceptional circumstances is another matter, and justified the humanitarian course taken by the Canadian Embassy in this instance. Safe conducts were obtained for those who had taken refuge on Embassy premises and arrangements were made for them to leave the country. Most of them were included in the group of 170 who arrived in Canada in early January 1974 on a special Canadian Armed Forces flight.

By the end of August 1974, over 1,400 persons had been accepted for immigration to Canada under the special program; half of those had already arrived. Federal reception arrangements cover initial food, accommodation and incidental expenses; language training is also made available through Canada Manpower Training Programs. Several churches and private groups have offered valuable assistance. A partial list includes the Canadian Council of Churches, the Canadian Red Cross Society, the National Interfaith Immigration Committee, the Centre for Spanish People in Toronto, the *Comité d'Accueil des Réfugiés du Chili* in Montreal, and Ontario Welcome House in Toronto.

By November 1974, the special program had dealt with most of the urgent cases. However, the Department continued to commit staff and other resources to handle applications resulting from the coup in Chile, from persons in other countries of South America as well as Chile itself.

### Resettlement Assistance

The government recognizes that refugees need special assistance to make it possible for them to start a new life in Canada. Over the years, prevailing conditions and the specifics of each refugee situation have determined the nature and the extent of this assistance. Help has always been forthcoming to cover travel costs. Initially, this meant chartering ships, for the displaced persons after the Second World War, and again for the Hungarian refugees in 1956. More recently, the government has organized and financed major airlifts. In addition, refugees under government-sponsored programs (e.g. for handicapped refugees) receive non-recoverable travel assistance.

The government mobilized very considerable resources on the occasion of the Hungarian refugee movement. Besides the cost of transporting nearly 38,000 persons to destinations in all parts of Canada, centres were established to accommodate large groups of refugees; these centres disbursed financial help to cover living and medical expenses until the refugees found work. The entire cost of the Hungarian program came to some $15 million.

Some 12 years later the Czechoslovakian refugee movement took place under substantially changed conditions. Extensive use was made of Canada Manpower programs to provide refugees with language and occupational training. Those programs were also most valuable in the case of the Ugandan Asians in 1972. All facets of the Czechoslovakian refugee program cost the federal government $12 million, while a special allocation of $4,000,000 was needed to finance the Ugandan Asian movement. Moreover, the provincial governments have also greatly assisted refugees, both directly and through their support of voluntary agencies. Although the provinces play no direct role in selection, their participation and views are sought regarding acceptance of refugees with special needs.

### Voluntary Efforts

Over the years, the chief motive behind Canada's contribution to refugee resettlement has been the desire of the Canadian people to help. This has found very tangible expression on many occasions. For example, in 1956, local committees across Canada were spontaneously formed to welcome and assist Hungarian refugees. There was a similar response during the Ugandan crisis, when individual Canadians made countless offers of assistance of every type, and committees in several cities performed an invaluable service. Voluntary organizations have long been active in sponsoring the admission of refugees and lending them support after they arrive. While most of these organizations lack the funds to undertake long-term financial assistance to newcomers to Canada, there is much they can do to help the newly arrived refugee. Ethnic, religious or social groups have provided transportation, day care centres, initial accommodation and material aid in the form of clothing, furniture and other household items.

It has been standing government policy to co-operate closely with national and international voluntary organizations actively engaged in the refugee field. In Canada during the post-war years a partial list of organizations concerned would include the Canadian Christian Council for the Resettlement of Refugees, the Canadian Council of Churches, the Rural Settlement Society of Canada, the Catholic Immigrant Aid Services, the Canadian Jewish Congress, and the Jewish Immigrant Aid Services. More recently, 19 Canadian churches formed the National Inter-faith Immigration Committee to co-ordinate church-sponsored aid to refugees and immigrants generally. Its activities are a welcome development, and assistance proffered by the Committee is a factor visa officers overseas consider in selecting refugees.

## REFUGEE STATUS IN CANADA

Canada's original reluctance to accede to the UN Convention on refugees stemmed essentially from the worry that parts of the Convention protecting refugees against expulsion might be incompatible with the deportation provisions of the Immigration Act, and thus that the Convention could not be fully honoured. Nevertheless, even before accession, Canada complied in practice with both the letter and the spirit of the Convention, its policy being to avoid deportation in cases where a threat of persecution existed for the individual in his homeland. In addition, all refugees admitted to Canada have access to social and other benefits that generally exceed those required by the Convention.

Although the provisions of the 1951 Convention are not specifically reflected in our Immigration Act and Regulations, they have had a double effect on policy. First, the eligibility of a person for admission as a refugee under the more lenient criteria is determined by whether or not he or she comes within the Convention definition of a refugee. Secondly, the articles of the Convention protecting from arbitrary expulsion the refugee who has been lawfully admitted (with safeguards for national security) necessitate procedures to establish the validity of claims to refugee status within Canada. Under the terms of the Convention, giving each state party the responsibility to determine the validity of claims to refugee status in its territory, Canadian practice affords each applicant an opportunity to have his claim examined in a fair and sympathetic manner, under procedures offering legal guarantees, including the right of appeal. An interdepartmental committee comprised of representatives of the Department of External Affairs and of the Immigration Division of the Department of Manpower and Immigration examines claims for refugee status by persons in Canada, and advises senior management on whether the person concerned conforms to the Convention definition. The committee meets on a regular basis and reviews individual dossiers, requesting what further information, legal opinions or clarification it needs to make its recommendation. The UNHCR representative in Canada participates in the committee's work in an advisory capacity. In the first three months of 1974, the interdepartmental committee reviewed 89 claims for refugee status. Although claims were made by nationals of 30 different countries, half the cases still came from eastern Europe.

Furthermore, persons claiming refugee status in Canada under the Convention retained the right of appeal to the Immigration Appeal Board when amending legislation restricted this right to a few categories. This preserves the opportunity for someone who has been ordered deported but claims to be a refugee to have this claim considered by the Board. If the Board finds that there are reasonable grounds to believe that the claim is justified, it allows the appeal to proceed. Otherwise the Board does not entertain an appeal and directs that the order of deportation be executed. These procedures, being fairly new, have so far been applied relatively seldom, and are still open to different interpretations. The point to emphasize, however, is that explicit protection for refugees in Canada was first introduced into Canadian immigration legislation when the Appeal Board Act was amended in 1973.

## CANADA'S FUTURE ROLE

Thus far Canadian refugee policy has been largely founded on the assumption that Canada can best contribute by offering resettlement opportunities, and that it is more useful to concentrate on helping large numbers of people requiring relatively little assistance rather than much smaller numbers of people requiring a great deal of assistance. This is reflected statistically in the fact that nearly 10 per cent of all immigrants admitted to Canada since 1946 were refugees or members of oppressed minorities. Until very recently, the vast majority have come from Europe under Canada's ongoing refugee programs with "bulges" in the pattern when special movements were organized to meet emergencies. As the refugee situation ceased to be a European problem, Canada's regular refugee programs decreased in proportion. Thus, in 1973, fewer than 400 refugees were admitted from Europe.

The actual and potential number of refugees on a global basis, however, shows little sign of diminishing – rather the reverse. Although it is not possible to determine that number with any precision, its magnitude is suggested by the fact that, in recent years, between two and three million persons are estimated to come within the terms of UNHCR's mandate. Wars of liberation, border disputes, tribal conflicts, and internal political upheavals, have provoked the temporary or permanent displacement of hundreds of thousands of persons in Africa and Asia. In Africa alone there are at present approximately 1,000,000 persons under the protection of the High Commissioner for Refugees and in urgent need of assistance from the international community. At a recent session of his Executive Committee, the UNHCR listed 11 African countries where groups of refugees had been or were still being assisted by his Office.

Refugee crises in densely populated developing countries can reach staggering proportions, as during the 1971 conflict in East Pakistan/Bangladesh which displaced 10,000,000 persons. No single country can begin to cope with a problem of these dimensions; only urgent and substantial international assistance can provide adequate solutions. These can take a variety of forms. Besides channelling emergency financial and material assistance to those countries faced with a sudden influx of refugees, the United Nations through the UNHCR assists in negotiating repatriation arrangements. Land resettlement projects and integration within countries of asylum, with the help of the international community and UN agencies, have proved an appropriate solution in several instances, notably in Africa.

Whatever the responses made by Canada or the international community in the past to refugee crises, there is no reason for complacency about the future. Continuing pressures on minority groups exposed to nationalistic Africanization policies, and the coup d'état in Chile, are but the latest examples of the sorts of complex situations which continue to exert difficult demands on Canada's generosity and sense of international responsibility. The only certainty for which Canadian policy in this area must be prepared is the unhappy prospect that grave refugee crises will continue to erupt. Policy must provide for flexible response to situations in which it will be imperative to preserve a sensible and humane balance among a wide range of factors and options. In each specific instance we must weigh the choice of providing resettlement opportunities in Canada in the light of the development of Canadian immigration policy as a whole and the equitable distribution of responsibility within the international community at large, bearing in mind that the Canadian contribution may often appropriately take the form of financial or material aid in addition to, or instead of, opportunities for immigration.

# 5

# SERVICES TO IMMIGRANTS

In 1966 the White Paper on Canadian Immigration Policy recognized the important role that adjustment services perform in helping the immigrant to adapt quickly to the increasingly complex fabric of Canadian life. In the eight years since the White Paper was published, some 1,400,000 immigrants have arrived in Canada, and most are now, or soon will be, productive and satisfied members of Canadian society. We know, however, that this process has not been equally easy for all, and that a significant number of people continue to experience serious adjustment difficulties.

It is not possible to identify immigrants needing help as a special group of people with certain personal characteristics in common. All belonged to a larger body of people who were able to meet the requirements of Canada's selection criteria, were sponsored or nominated by relatives who undertook to help with their initial settlement, or were refugees for whom special assistance was to be provided. In approaching the question of the assistance Canada should extend to the newcomer, it is therefore useful to begin by looking at the flow of immigrants, identifying some of the problems they all face as they begin a new life in Canada.

## THE PROBLEMS FACING IMMIGRANTS

Since 1966 immigrants have arrived in Canada from more than 150 countries. Some have been highly trained people, others have had relatively poor academic or occupational training. Most of them have headed for large urban centres such as Toronto, Montreal and Vancouver. Many came from similar urban environments, but many others came from remote villages or societies that are vastly different from modern urbanized, industrial Canada. And a sizable proportion of the immigrant movement continues to come from countries where neither English nor French is generally spoken.

All immigrants to Canada face the same basic problems of finding employment and accommodation, settling into a new community, and coping with the multitude of demands that life in an unfamiliar society imposes. For the newcomer these problems differ only in their frequency and gravity from the difficulties faced by established Canadian residents who move from one part of Canada to another.

The decision to migrate to Canada is generally the result of a combination of factors. They include dissatisfaction with conditions in the home country, and an optimistic evaluation of conditions here. The desire to rejoin families is a motive for nominated and sponsored immigrants. But, above all, people decide to come to Canada in the hope of bettering themselves in material respects. When the decision is the result of severe problems in the home country – such as extreme poverty, an oppressive social system, or exceptional personal troubles – immigrants may find it especially hard to adjust to Canadian society.

Highly educated immigrants from urban societies who speak English or French may have less difficulty adjusting to life in Toronto or Montreal than would Canadians from small rural communities. But even those immigrants with professional qualifications may have problems getting them recognized in Canada, just as lawyers or teachers from one Canadian province may have difficulty in obtaining the right to practise their profession in another. Canadian professionals, however, have the advantage of familiarity with Canadian institutions, procedures, and ways of life. The range of options available to them while they await recognition of their credentials is usually much wider than it is for the immigrant.

All immigrants to Canada face the problem that migration itself presents. To begin with, migration involves getting to a distant destination, finding accommodation, and obtaining a source of income. Here the problem is one of regaining the confidence, lost in the move to a strange environment, which is needed to face new challenges. Dr. Joseph Kage of the Jewish Immigrant Aid Services eloquently describes the situation:

> Migration even under the most favourable of circumstances is a traumatic process. This trauma, resulting in a sense of insecurity, a feeling of bewilderment, is certainly evident in migration undertaken under some form of social or economic pressure. The immigrant, when he arrives in his new country must, as it were, be "born again". He is asked to give up much of his old way of life; he usually severs his old associations; he must acquire a new language; he must submit to a new set of values, and often faces status dilemmas . . .
>
> Basically integration is a life-long process and applies to every individual, immigrant and non-immigrant alike. However, the immigrant, at least in the initial stages of his arrival in a new country, has special problems which are the out-growth of the causes that had prompted immigration and the resettlement process as such.

Since the end of the Second World War, Canadian governments (federal and provincial) and a great variety of professional and voluntary associations have maintained an interest in providing necessary services. Those services offered by government have gradually broadened in their scope over the years, from an original emphasis on information to immigrants abroad and initial economic adjustment assistance in Canada, to include helping them in the entire process of becoming Canadian citizens. The 1966 White Paper concluded with the following statement of objectives in this field:

> Counselling, reception and placement services will be strengthened and improved. Consultative machinery will be used to assist in additional efforts to help immigrants to learn our official languages, to adjust to the ways of Canada, and to become personally well established as they make their important contribution to the growth and progress of our country.

## THE DIVISION OF RESPONSIBILITY

With the major reorganization of government departments in 1966, it was necessary to allocate responsibilities for immigrant services at the federal level (previously borne entirely by the old Department of Citizenship and Immigration) between the newly created Department of Manpower and Immigration and the Secretary of State Department. The former accepted responsibility for immigrants' "economic integration" while the latter undertook to ensure their "social, political and cultural integration".

As a description of the two Departments' respective roles in practice, this definition of the division of responsibility has proved a less than satisfactory conceptual basis on which to develop programs. For one thing, it obscures the extent to which the immigration program under the Department of Manpower and Immigration is social as well as economic in orientation; the Department has continued to assume responsibility for all aspects of settling immigrants, looking after initial reception, counselling, accommodation, employment, and any other assistance they require when they first arrive in Canada. For another, it does not make clear that the Department of the Secretary of State has been essentially concerned with immigrants as members of the total Canadian community. The Secretary of State Department addresses itself to Canadian society as a whole, and its activities are directed to ensuring that immigrants are received into a hospitable environment. They are focussed not on the delivery of services to the immigrant on an individual basis, but rather on programs that promote the integration of the immigrant community within Canadian society at large.

Accordingly, the division of responsibility between the two Departments is more accurately understood when viewed in a temporal framework – the Department of Manpower and Immigration responding to the *initial* needs of the individual immigrant, and the Secretary of State Department responsible for the *longer-term* needs of immigrants as a group, assisting their harmonious adjustment to the greater Canadian society. Many of the activities and projects carried out under the programs of the Department of the Secretary of State in recent years in such varied fields as

multiculturalism, citizens' rights, and youth participation, are of very immediate concern to immigrants in both the social and economic spheres, but they are offered to all members of the Canadian public and not simply to the immigrant community. Such a recognition of the overall functions of each Department provides a firmer point of departure for organizing their respective roles in relation to immigrant services than does the distinction drawn in 1966 between economic integration on the one hand, and social, political and cultural integration on the other.

The provinces are primarily responsible for the delivery of social services to the public. Clearly they have a major role in guaranteeing that the services offered through their institutions are readily accessible to individual immigrants settling within their jurisdictions. Thus, the provinces in this respect may be seen as the logical successors to the Department of Manpower and Immigration, after the latter has facilitated the immigrant's initial settlement, in ensuring that an adequate level of service is available on a continuing basis. It should be noted as well that two of the major immigrant-receiving provinces, Ontario and Quebec, are heavily involved at an earlier stage. Both provinces maintain offices in the United Kingdom and France which counsel immigrants, and have reception facilities in their international airports and post-arrival service programs in their major cities.

A wide variety of non-governmental and voluntary organizations have a crucial role to play in the field of services available to immigrants. Because of their cultural, ethnic or religious affiliations with the communities of which they are a part, many are particularly well placed to assist immigrants as individuals in solving their problems, and in reaching those to whom it may be difficult for governmental institutions to provide service. Such organizations can also perform an effective educational function through encouraging the community to develop positive attitudes of understanding, support, and receptivity towards the newcomer.

## TYPES OF SERVICES

The services currently available to immigrants can be classified into three areas:

Services provided to prospective immigrants abroad;

Services designed to help immigrants to acquire financial security and to maximize their employment opportunities; and

Services designed to help the immigrant over such initial obstacles to adjustment as language differences and lack of familiarity with Canadian ways.

The White Paper of 1966 acknowledged an underlying principle: if immigration is in the national interest, then it is the responsibility of Canadian society to provide services to help immigrants over some of the psychological, social and economic barriers to integration. Services to immigrants not only reflect concern for the welfare of those who join the Canadian community, but are also an essential aspect of policy to ensure that the immigration process efficiently serves the nation's social and economic interest.

## FROM ORIGIN TO DESTINATION

### Overseas Counselling

As described in Chapter 2, selection officers abroad offer prospective immigrants counselling and information regarding life in Canada, as well as employment opportunities. Some provinces maintain offices abroad to encourage immigration to their respective provinces (subject to federal acceptance) and to disseminate information. Selection officers also receive information provided by Canada Manpower Centres about adjustment problems currently being experienced by recent immigrants.

### Assisted-Passage Loans

Assistance available to immigrants to meet the expense of their transportation to Canada is described in Chapter 2.

### Reception Services

A number of services are available to immigrants upon their arrival at a Canadian port of entry. These include a "Welcome Kit" prepared by the Department of Manpower and Immigration, containing information about social services, initial employment and training, and assistance with transportation to final destinations. Counselling and interpreter services are provided in major arrival centres by federal and provincial officials and representatives of voluntary agencies.

If an immigrant's community of destination does not have a Canada Manpower Centre or Canada Immigration Centre, departmental officials are prepared to make arrangements with local, provincial, or voluntary agencies to ensure that the new immigrant obtains any necessary help.

### Emergency Medical Assistance

Immigrants who become ill after admission at a port of entry, and prior either to their arrival at their final destination or their settlement in employment, are provided, if necessary, with hospital, medical and dental care through funds voted annually to Health and Welfare Canada.

### Limits on Effectiveness

In theory, these various services should provide prospective immigrants with all the assistance they need between the time they begin to think about emigration and their eventual settlement anywhere in Canada. Such services are, however, only effective if adequately used, and if information and counselling are both up-to-date and thorough.

Every effort is made to ensure that the information passed to the potential immigrant abroad is complete and current. But the rapid rate of change in Canadian conditions makes this a demanding task.

In practice, the majority of immigrants do not make full use of the services available to them abroad or en route to their destinations. During this transitional period the immigrant generally has three opportunities to be counselled by Canada Manpower and Immigration officials or by provincial and voluntary representatives: first, at the interview with a selection officer abroad where the immigrant is tested against Canadian selection criteria; then, on his arrival at the Canadian port of entry; and finally on arrival at his final destination. But there are inhibiting factors. They include the tension that inevitably accompanies an examination by an immigration officer, the confusion of arriving in a strange country at a busy port of entry, and the disorientation most people experience on arrival at a final destination. For these reasons opportunities to obtain information at these stages are, more often than not, inadequately exploited by the immigrant.

Moreover, in some of the major source countries of Canadian immigration, officialdom is often viewed with suspicion. This prevents many immigrants from asking Canadian immigration officials for information. It may also prevent them from accepting advice freely given.

The most important information and counselling services, although the least used, are therefore those available to the immigrant abroad, *before* he makes up his mind to come to Canada. The immigrant's eventual adjustment to Canadian life depends heavily on reasonable expectations about life in Canada. Yet many immigrants arrive unprepared for the difficulties they may encounter in finding housing and employment, in learning Canada's official languages, and in becoming part of a Canadian community.

The obstacles, in some source countries, to effective governmental counselling service are compounded by the role played by private interests, in particular by travel agencies, which provide information that is often of dubious quality. These private sources of advice, information, translation and problem-solving frequently continue to be used by immigrants after they arrive in Canada, sometimes at considerable cost.

If, for whatever reason, immigrants do not receive the best possible information in the course of their selection abroad, they are less likely to turn to governmental sources for help in Canada. This raises questions that demand further study: are the selection and counselling functions performed abroad by immigration officers compatible activities? How can we expand, enrich and generally make more effective the counselling services provided in the course of screening immigrants?

## FINANCIAL AND EMPLOYMENT SERVICES

Financial assistance and employment services are offered by government at the federal and provincial levels, both to the immigrant family as a unit and to those immigrants entering the labour force. Families are offered such benefits as family allowances, emergency financial assistance and interim health coverage, as well as counselling on living accommodation and schools. In addition, to those immigrants seeking employment, mobility grants, occupational training programs and special language training are made available. The following sections describe these services.

### Family Allowance Benefits

Prior to 1974, on arrival at the port of entry, immigrant mothers received application forms for benefits under the Family Assistance Program. After one year's residence, immigrants became eligible to receive regular Family and Youth Allowance benefits. Transfer from the special Family Assistance scheme was carried out automatically within Health and Welfare Canada.

As of January 1974, Family Allowances became payable on behalf of children under 18 when they arrive in Canada, if at least one of the parents is either a landed immigrant, or a non-immigrant admitted to Canada for a period of at least one year whose income is subject to Canadian income tax. The allowances are payable within a month of the parents' landing or admission.

## Emergency Financial Assistance

Where independent immigrants do not have adequate funds to cover such necessities as food, clothing and shelter, these are provided by Canada Manpower Centres. Assistance is also forthcoming to cover up to 10 per cent of the total cost of special items such as work clothes, tools, and deposits on essential furniture or utilities. Sponsored and nominated immigrants may, if sponsorship or settlement arrangements break down, receive financial assistance under the same conditions as independent immigrants, subject to official approval at a senior level.

The amount of financial assistance of this sort usually corresponds to local welfare levels, and is allocated according to need. As noted previously, the Department of Manpower and Immigration is responsible for the maintenance of immigrants until they have been placed in permanent employment. Should subsequent assistance be required, immigrants may be eligible for Unemployment Insurance, or provincial and municipal officials may authorize benefits under the Canada Assistance Plan.

## Interim Health Coverage

All provinces and territories, with the exception of British Columbia, make it possible for newly arrived landed immigrants to obtain first-day coverage from their hospital insurance and medical care insurance plans (i.e. from the time of arrival in the province or territory where they will be residing). To receive coverage immigrants must be registered and premiums paid where necessary. In the case of British Columbia, coverage is effective from the first day of the third month following arrival as a resident in the province, which means a waiting period that varies from 61 to 90 days. In most provinces, whether or not premiums are

required, registration is necessary. But generally a 30-day grace period is allowed in which the newly arrived landed immigrant must register with the provincial plan(s) to avoid the normal waiting period.

The provinces in which premiums are charged are British Columbia (medicare only), Alberta (medicare only, but hospital insurance is contingent upon medicare coverage), Ontario (hospital and medical care coverage combined in one premium system and plan) and the Yukon Territory (medicare only). All other provincial hospital and medical care insurance plans are non-premium plans, financed from general and other provincial revenues.

## Canada Manpower Services

All immigrants are entitled to the full range of programs and services provided by Canada Manpower Centres. In major immigrant reception centres such as Montreal, Toronto, Vancouver, Winnipeg, and Calgary, special immigration reception facilities have been established. These, staffed by multilingual counsellors, provide immigrants with information about entering the Canadian labour force from all aspects: working and living conditions, money value, wage rates, trade qualifications, union membership, local transportation, language training, and unemployment insurance. The counsellors also help to find accommodation and schools, and advise on the availability of provincial and voluntary services.

In other than major centres this type of counselling and assistance is provided by designated Canada Manpower Centre counsellors. After initial counselling and placement by specialized counsellors, the immigrant may then use normal Canada Manpower Centre services.

## Canada Manpower Mobility Grants

Immigrants who have been in Canada for 12 months are eligible for transportation assistance within Canada under the Canada Manpower Mobility Program. This program assists Canadian citizens and landed immigrants who are unemployed or underemployed, and have few employment opportunities in their community of residence, to move to jobs or look for employment in more favourable labour-market areas. It provides four basic types of transportation assistance: trainee travel grants, exploratory grants, relocation grants, and special travel grants.

For an immigrant or a Canadian citizen to qualify for any of these grants it must be determined that his employment difficulties in his community of residence cannot be solved by programs to upgrade his skill level, or by language training available locally. Grants are not authorized for immigrants – or for that matter, Canadian citizens – to travel to another community to appear before an accreditation board or write examinations for trade certification, unless such assistance is part of the referral process to a job in another area.

## Occupational Training Programs

Immigrant workers, like all Canadian residents, are eligible for occupational training courses and allowances, should upgrading or acquisition of new skills be required to compete in the labour market. The Department of Manpower and Immigration pays for 100 per cent of the cost of training and allowances. The provinces have assumed administrative responsibility for these programs. In-plant training is also available to immigrants, the federal portion of the costs being designed as an incentive to employers to hire and train the unemployed.

Under the Canada Manpower Training Program (CMTP), the Department of Manpower and Immigration also purchases specialized technical, occupational or language courses for immigrants who require such help to pass qualifying examinations or to practise their trades or professions.

## Language Training

Under the CMTP, immigrants whose lack of one of the official languages is a barrier to successful placement in employment are eligible for full-time language training and allowances subject to the following criteria:

- If an immigrant can be placed in his own occupation (even if not at the working level of income he received in his own country), he is so placed and can take any desired language training on a part-time basis.
- If an immigrant cannot be placed in his own occupation because of low demand for that occupation, but can be placed in a related occupation which is appropriate to his education, training and experience, he is placed in employment and can take language training on a part-time basis.
- If an immigrant cannot be placed in his own or a related occupation because of a language deficiency and any other placement would create a hardship or adversely affect his social attitude and assimilation, he is referred to full-time language training.
- Prior to referral to training, the Manpower counsellor must satisfy himself that language deficiency is really the cause of inability to obtain employment. In many cases, this may involve contacting prospective employers.
- Immigrant workers are tested before language training begins, to ensure instruction at the appropriate level; and training continues only until they can be satisfactorily placed in employment.

### Limits on Effectiveness

Notwithstanding this range of services designed to cover immigrants' initial financial and employment needs, a significantly higher percentage of immigrants, as the Longitudinal Survey reveals, suffer from unemployment during their first two years in Canada than do native Canadians. Nominated immigrants, chosen under less stringent criteria, have had greater difficulty finding employment than independent immigrants, who have generally been more highly skilled or educated.

Any unusual expenses (legal fees, for example) or a general lack of familiarity with Canadian merchandising may put severe strains on an immigrant's financial position. Exploitation can cause further hardship. It may occur in the form of underpayment for employment or overcharging for goods and services. Understandably, the more recent immigrant tends to be more exposed to exploitation than established residents.

The Longitudinal Survey and other governmental and non-governmental studies show that more immigrants have problems with employment and income security than with any other facet of Canadian life. One of the frequent complaints from immigrants who have such problems is that employers exploit their lack of Canadian experience by paying them low wages.

Immigrants are also troubled by non-recognition of their professional or trade qualifications. A substantial number are unable to obtain jobs which meet their expectations on arrival in Canada. Others suffer financially because of persistent unemployment or employment in low-paying jobs.

Clearly some of these problems cannot be solved by any amount of information or counselling, because immigrants, like other Canadian residents, must face the vagaries of the labour market. And the solution of other problems, such as the recognition of qualifications, may take time.

But difficulties, as often as not, begin with lack of information. Large numbers of immigrants do not make use of Canada Manpower counselling services either because they

distrust officialdom or, in many cases, because newcomers are not fully aware of the government services available to them. Immigrants with language difficulties may also hesitate to contact government offices because they are unaware that interpreting services exist.

This information gap is sometimes filled by non-governmental agencies, both non-profit and profit-making. Community organizations often act as go-betweens, directing or actually taking immigrants to meet with appropriate government officials. These organizations usually possess staff who speak the immigrant's language, and are found in places that are convenient and familiar to the immigrant. But they do not always exist outside centres that have large ethnic communities, and even in important immigrant-reception areas some immigrants are unaware of the existence of intermediary services. The problem is more acute for people who come from countries or regions where neither government nor the private sector offer financial or employment assistance and who may, therefore, simply not realize that this sort of help exists. This often means that immigrants turn to private commercial channels for help and guidance, and unwittingly pay for services that are available free of charge.

## OTHER SERVICES

### Language and Citizenship Classes

Formal training in English or French is available to all adult immigrants through cost-shared arrangements between the federal government and each of the provinces. Funds are provided to the provinces by the Citizenship Branch of the Department of the Secretary of State to cover the cost of textbooks and 50 per cent of teaching costs. These classes are usually organized and conducted by local school authorities as part of regular night-school programs. Courses based on a two-year program of instruction are held two nights each week for two hours a night in elementary and secondary classrooms.

The Citizenship Branch provides these classes with booklets containing citizenship instruction, and general information about Canadian institutions. The provincial governments and local school boards are totally responsible for the administration of these programs.

Additional language classes are provided by a variety of professional and voluntary organizations.

The Quebec Department of Education has set up *Centres d'orientation et de formation des immigrants* (COFI) throughout that province. They offer residential and non-residential language training courses (supported by funds made available through the Canada Manpower Training Program) and orientation programs. When the Quebec Department of Immigration was established, it took over the management of these centres. The Government of Quebec, of course, has a unique interest in immigrant adjustment, and relies heavily on COFI to encourage immigrants in Quebec to assimilate the language and culture of French Canada.

### Interpreter Services

Interpreters are available in those Canada Manpower Centres serving communities with large numbers of immigrants, in Canada Immigration Centres, in provincial and divisional courts, and in some municipal government offices. Under a number of programs, provincial and federal support is available to professional and voluntary organizations, and social agencies and ethnic associations have assumed much of the responsibility for providing these services.

All major immigrant-receiving cities in Canada have one or more phone-in interpreter services established by community organizations. Immigrants who require interpreters to accompany them to interviews can obtain them, frequently with no charge, from ethnic associations, neighbourhood immigrant aid services, and city-wide agencies. Organizations providing interpreter services in Montreal, Toronto, Hamilton and Vancouver have been partially or completely supported by grants from the Department of Manpower and Immigration, the Department of the Secretary of State, and certain provincial governments.

Other interpreter projects originating in the community have received support from the Local Initiatives Program, Opportunities for Youth grants, the United Way, and various other community fund-raising activities.

### Information, Counselling and Referral Services

Besides the counselling and information services made available to immigrants in Canada Manpower Centres and Canada Immigration Centres, a great number of services are provided by other federal government departments, the provincial and some municipal governments, and by social agencies, churches, ethnic associations and community groups. Not all of these services are designed to provide assistance specifically to immigrants. But they are nevertheless extensively used by newcomers to Canada in need of information and advice. Some government and professional agencies have had to acquire translators in order to meet this demand.

The Ontario government has initiated a project in Toronto, called "Welcome House", on a two-year experimental basis, designed to bring together in one place a number of services provided by federal and provincial government and voluntary agencies. Welcome House makes counselling, referral, information distribution and interpreting services available to Toronto immigrants in a downtown location.

The range of services provided by non-government organizations is broad, as is the variety of methods of delivery. Social agencies with large professional staffs may carry out long-term casework with immigrant families who have adjustment problems. At the same time they may participate in one or more information or referral projects that provide solutions to immigrants' immediate problems.

Small neighbourhood information posts with volunteer staff may provide immediate assistance to their local immigrant communities. By working with them in groups to solve common problems and develop leadership potential, these voluntary organizations play a valuable role in helping the immigrants to become self-sufficient.

Some of these services are highly specialized: for example, providing consumer information to immigrant women, or dealing with Workman's Compensation or Unemployment Insurance claims. Religious and ethnic associations may respond to requests for assistance in solving financial problems by providing low-interest or interest-free loans. Other services are very general: translation, help with filling out application forms, information on everything from drug abuse to city by-laws, and referral of cases to social agencies or government departments. Certain services are directed to specific age groups or nationalities; others give assistance to anyone requiring it.

These services receive support from a variety of sources. Funds may be available from the Department of the Secretary of State, the Department of Manpower and Immigration (Opportunities for Youth and Local Initiatives Programs), provincial departments, municipalities, the United Way, corporate and private foundations, established social agencies, ethnic associations, religious or clerical organizations such as the Primate's World Relief and Development Fund of the Anglican Church, and the Canadian Jewish Congress, and the activities of local communities. Often small businesses and individuals help support neighbourhood services by donating furniture, office materials, small amounts of money, and time.

## Limits on Effectiveness

The language-training courses administered by the provinces, while effective for those adults who attend them, are not presently designed to serve the needs of all sectors of the immigrant community. School children, housewives and senior citizens may all need training in English or French, and yet be often unable or unlikely to attend evening courses. Housewives and senior citizens have special problems acquiring Canadian languages and experience because their day-to-day life is so often isolated from the mainstream of Canadian community life.

Immigrant children entering the Canadian school system are often handicapped by lack of knowledge of the language of instruction. They experience learning difficulties with which school administrators may not be currently equipped to cope. This may cause some immigrant children in the early years of schooling to suffer setbacks that prevent them from achieving their full potential later in life. More widely, as a group, immigrant youth would stand to benefit from special orientation programs that are not now available.

Especially for women and older people from societies based on a closely knit family structure, separation from friends and kin can be extremely painful. They need special help in finding new and congenial companionship. There is a shortage of this type of assistance even in cities where there are many potential opportunities for immigrants to form closer and more meaningful links with the community at large.

Interpreter services are not always available where the need is most urgent. Hospitals, police stations and other institutions which provide emergency services on a 24-hour basis pose extreme problems. Some clinics and government offices ask immigrants to bring interpreters with them, but during working hours capable interpreters are often hard to find. Children frequently act as interpreters for their parents, although they are not always capable of following difficult discussions and it may be inappropriate to use them when family problems are discussed. Hospitals sometimes use maintenance staff to interpret. Obviously, this is a poor channel for discussing medical problems or conveying instructions.

Despite a multitude of government and community services providing information and counselling, many immigrants still turn to "service brokers" for assistance. The prices charged by travel and real estate agencies and similar offices range from a few dollars for translating a letter to several hundred dollars for immigration counselling. The quality of such assistance depends on the competence and integrity of the agents involved. As noted earlier, some immigrants spend money unnecessarily for information and counselling because they are unaware that free services are available. Others live in communities where no such services exist. Still others are predisposed to think of such help as a commodity for which one must pay.

The success of small community agencies in reaching those who need help, and responding adequately to that need, depends on the skill of their staff, their reputation for service in the community, and, in many cases, their financial stability. Many effective small projects are short-lived, appearing long enough to identify and begin to fill a need, then disappearing for lack of funds. Even well-established agencies experience difficulties in adapting their services and methods to the rapidly changing nature and requirements of immigrant communities.

## CONCLUSIONS

The provision of comprehensive and effective social services to any segment of Canadian society is a challenging task. Planning such services is like weaving a net; no matter how tight the weave, individuals keep falling through the holes. In summary, the following gaps have been identified in the description of the field of services now available to Canadian immigrants:

- The "information gap" – the problem immigrants have in learning about and using existing services and institutions
- The shortage of special services for immigrants who are not destined to the labour force: children, teenagers, housewives and the elderly
- Disparities in the range and quality of services across the country (a problem with an obvious bearing on the question of the uneven distribution of immigrants in Canada)
- A shortage of general counselling services even in major immigrant-receiving areas.

These shortcomings are by no means of exclusive concern to immigrants. They stem, to a considerable extent, from failures by Canadian society to come to the effective aid of many who are at some disadvantage in playing a full and productive part in the life of their community. It follows that the responsibility for closing the gaps and solving the problems is not simply a matter for those institutions that now concentrate on assistance to immigrants.

Yet a concerted policy to improve the level and quality of immigrant services clearly must come to terms with problems inherent in the dispersal of responsibilities among federal departments of government, provincial and local governments, and a host of private organizations. Although the federal government absorbs the costs of a major part of provincial and private agencies' services to immigrants, there is evident room for more co-ordination and evaluation of the effectiveness and efficiency of activities in this field.

It is the aim of federal policy that the delivery of a satisfactory level of immigrant services be assured through the utilization of the programs and resources of governments, professional social agencies, and community groups in a systematic and co-ordinated effort. Each of these bodies has a distinctive contribution to make in aid of their particular clienteles. Immigrants turn to government, social agencies and community groups with different kinds of problems and different expectations. Each institution has its own range of service to provide, and style of delivery.

Government has the most resources to place at the immigrants' disposal. Government agencies are equipped to provide immigrants with service of a consistent quality. They are generally less able to follow up individual cases and must adhere closely to established policies and procedures which are not always easily adjusted to individual requirements.

Traditional social agencies, in their regular operations, generally maintain with the immigrant a relationship of professional and client. Cases are referred to agencies by schools, hospitals, government offices or by other social agencies. Often immigrants are unable to approach an agency on their own. Caseworkers are frequently assigned, and considerable follow-up work is done with the immigrant and his family. This approach has two sides. Periodic visits by caseworkers are sometimes considered by the immigrant as an invasion of privacy, or may cause anxiety. On the other hand, there is a risk that immigrants may become overly dependent on the caseworker.

Neighbourhood information posts and similar "grass roots" projects are the least consistent in the quality and methods of their delivery of services. Their great advantage lies in their relationship to the immigrant, which is usually a more personal and informal one. Staff are frequently immigrants themselves, or at least people who resemble the immigrant in terms of social position and life-style. The immigrant can approach such a service on his own and return as often as he likes, with or without a specific problem. Although this flexibility may make the immigrant comfortable, and the opportunities to acquire self-sufficiency are greater, dependency may still occur because staff are not always qualified to help the immigrant to help himself.

There are distinctive merits and limitations in all three styles of services. But if combined imaginatively, the financial and administrative resources of government, the thoroughness and skill of the social agency, and the informality and flexibility of the community group, are capable of producing an effective overall system.

The federal Government attaches high priority to the improvement of the field of services available to immigrants to ensure that it genuinely meets the objective of providing all immigrants, wherever they may settle, with the help they need in effecting their full adjustment to life in Canada. To determine in detail what the attainment of this objective demands in terms of planning and supporting an adequate continuum of services will entail further efforts, involving notably the development of closer collaboration between different levels of government and with non-governmental organizations and groups.

Progress is being made in overcoming the problems involved. A special task force in the Department of the Secretary of State conducted some time ago a thorough investigation of all aspects of immigrants' settlement needs, evaluating how those needs were being met. Studies by the Department of Manpower and Immigration, such as the Longitudinal Survey, have yielded a valuable fund of information, and a clearer perception than previously existed of the difficulties immigrants face. During the past year the work has been carried forward in a group composed of senior representatives from the Department of Manpower and Immigration and the Department of the Secretary of State. This has clarified the allocation of responsibilities at the federal level.

On the basis of this work, the federal Government has approved an approach designed to improve the planning and delivering of immigrant services. This approach recognizes that the major types of services that should be provided and the methods for their delivery are already in place. The aim must be to maximize the effectiveness of existing concepts and, where necessary, expand and improve the quality of the services available in the various categories in which essential services may be grouped. These relate, as this chapter has explained, to: financial assistance; job counselling and placement; language and occupational training; information and referral services; social counselling; centres for community contact; and other general forums relevant to immigrants' concerns.

The Department of Manpower and Immigration is now in a position to undertake active consultations with the provinces to determine their views and encourage their role in the delivery of services, either independently or through federal mechanisms. Both the Department of Manpower and Immigration and the Department of the Secretary of State are assuming an energetic co-ordinating and funding role with respect to private organizations engaged in the fields pertaining to each Department's responsibilities. The federal Government, with its ultimate responsibility for national immigration policy, accepts the obligation to provide strong leadership in co-ordinating a fully adequate immigrant service system. In the execution of that role, it recognizes that it must take on operational and financial responsibility for the delivery of those essential immigrant services that provincial governments or private agencies may be unwilling or unable to undertake.

# 6

# CONTROLS AND ENFORCEMENT

Canada began life with a completely open-door approach to immigration. The country needed population; anyone who wanted to come here to live was welcome. Legislators were not long in realizing, however, that there had to be limitations. Some kinds of people were seen to be unsuitable residents of Canada because they endangered the interests of Canadians or of Canada itself. The first such class was identified in the law in 1872, and more (eventually to become known as the "prohibited classes") were added in following years, as views became firmer on what immigration should add, or not add, to the Canadian population.

At the same time, the law originally did not recognize a category of foreign travelers other than immigrants. Foreign travel for purposes other than migration was so rare that no provisions were necessary to govern it. Moreover, only the well-to-do could afford it, and they were not regarded as any risk to Canadian interests. It was not until 1910, therefore, that non-immigrants came to be recognized in the law, provision was made for their examination, and they were made subject to much the same limitations as immigrants.

From these two dates stem the notions of control and enforcement. Once the open door was closed at all, it became necessary to detect those people who were not to be allowed to come through – to prevent their entry, or expel them if they did manage to slip through. These notions remain valid today. So long as Canada does not choose to extend its hospitality to all comers, and continues to operate a selective immigration policy, there will be a need to prevent the entry of the unwanted immigrant and undesirable visitor, and take action against abuses of immigration law and policy.

Although these principles have a long history, the context in which they operate has changed in nearly every respect. Whereas foreign arrivals in Canada were once nearly all immigrants, immigrants today constitute only about one-third of one per cent of the annual movement. In the early days total annual traffic (including returning Canadians) might amount to a few hundred thousand; today around 70 million travelers pass through Canadian ports of entry every year. All travelers from overseas used to arrive by ship. Now most come by air. Then, Canada was an undeveloped, frontier society that attracted only those willing to work hard to carve out a new existence for themselves. Now it is a sophisticated, affluent society that attracts people of all sorts. The vast majority have perfectly legitimate ambitions in seeking to come to Canada. Inevitably, however, a few seek entry in order to exploit in an unacceptable way the advantages offered by a prosperous society.

The huge increase registered in recent years in the volume of international travel confronts all countries (and especially those like Canada that are notably attractive as destinations for tourists and as centres for business activity) with growing problems in the prevention of illegal entry.

Major changes have occurred in the categories and numbers of people subject to control, in the places where control must be exercised, and in the type of person likely to be involved in enforcement activity. The pace of change in these areas continues to accelerate. But there are two important aspects of the situation that have changed hardly at all: the legislative foundation for control and enforcement, and the attitude of the Canadian people.

All control and enforcement activities are now based on the Immigration Act of 1952, which differs only in detail from the legislation that preceded it. In fact, it is scarcely an exaggeration to say that jet-age traffic is still largely governed by steamboat law. Administrators do their utmost to discharge their responsibilities to Canada and Canadians in these circumstances. They have at their disposal an array of tools, developed here or in other countries, for the control of foreign travelers and residents, and continual efforts are made to improve these mechanisms. But because of a second aspect of the situation – the attitude and values of the Canadian people – certain available tools have never been employed.

Canadians have always enjoyed a free and open society, and this forms no small part of Canada's attraction for people in other lands. Canadians wish to preserve the freedom and openness of their society, and therefore immigration control activities have always shunned any general practice that would infringe on those qualities. In contrast, many countries, including some with long democratic traditions, practise a form of immigration control that requires every foreigner to report every change of address to the police or another enforcement agency. This has not been acceptable in Canada. Another example is fingerprinting, the only completely reliable means of identifying individuals, especially in respect of past criminal records. It is used by many countries as a routine technique. Yet the deep-seated aversion of Canadians to fingerprinting has excluded it from Canada's immigration control system.

Canada's immigration control objectives are not unique. Like all other countries, Canada seeks to protect its citizens and residents against foreign criminals, people who would endanger public health, those who would undermine our democratic institutions, and those who would wrongfully practise economic exploitation of Canadian residents and communities. The control system also seeks to protect Canadian employment opportunities for Canadian residents, and to preserve the integrity and objectives of the immigration selection program.

For the most part, Canada's control problems are not unique either. They arise from Canada's affluence and consequent attractiveness, the international transportation explosion, the increasing mobility of people everywhere, and the requirement that control and enforcement activities accord with those concepts of human and civil rights that properly have received increased emphasis in recent years. One special Canadian problem is the long land border with the United States, the first choice of a great number of the world's potential immigrants. Not only does the heavy traffic across this virtually open border make it easier for people who should not be permitted entry to slip into Canada, but it also demands constant alertness to the risk that people may attempt to enter the United States through Canada, only to be stranded in this country by the effectiveness of the American control system.

Before describing how the Department of Manpower and Immigration goes about meeting these problems, we should pause to make a distinction that needs to be borne in mind throughout this chapter. The Immigration Act recognizes, directly or indirectly, six categories of people:

1. Canadian citizens, whether natural-born or naturalized;
2. people with "Canadian domicile", i.e. people who have lived in Canada five years or more since being granted admission as immigrants;
3. permanent residents (popularly called landed immigrants), i.e. people who have been granted admission as immigrants but have not yet lived here for five years;
4. immigrants, i.e. people seeking to be allowed to come into Canada to live permanently;
5. non-immigrants, i.e. people seeking to come into Canada or already in Canada for a temporary legitimate purpose with no intention of staying permanently, and
6. illegal entrants, i.e. people who have entered or stay in Canada improperly.

The requirements and limitations imposed by the law vary from category to category, and consequently so do the control and enforcement procedures.

## CONTROL OF PEOPLE SEEKING TO COME INTO CANADA

### The Prohibited Classes

The basic legislation underlying control of people seeking to come into Canada (other than Canadian citizens and people with Canadian domicile) is found in section 5 of the Immigration Act, which describes the kind of people who are deemed inimical to Canadian interests and therefore not to be allowed to come into Canada. As already noted, some of these "prohibited classes" have a long history, dating back as much as a century. Each was added when a particular danger to Canadian society was recognized. This means that such dangers as those presented by terrorists that have arisen in the last 20 years are not specifically covered. On the other hand, some things which were once regarded as hazards have ceased to be so, with the result that some people may needlessly be denied admission to Canada by the law. Certain of these anomalies are mentioned later.

The most important of the 20 prohibited classes reflect five basic concerns:

- impairment of the individual's health that poses a possible threat to Canadians' health or involves the individual's inability to look after himself in Canada
- the individual's past or present involvement in criminal activities
- the individual's past, present or anticipated future involvement in subversive activities
- the possibility of the individual becoming an economic burden on Canada, and
- the individual's inability to meet the positive requirements of the law.

The remainder of the prohibitions resist easy grouping. They forbid the admission of a variety of persons who, at one time or another, have been considered unacceptable, e.g. alcoholics, drug addicts, homosexuals, and those "living on the avails of prostitution".

*Health.* The health prohibitions do not apply equally to all categories; previous insanity, epilepsy and physical defects affect only immigrants (not visitors). Nor are all provisions absolute: exceptions can be made in cases of previous insanity, contagious diseases and physical defects, subject to stipulated conditions being met. Determination of whether an individual is affected by one of the health prohibitions is made in accordance with standards set by the Department of National Health and Welfare in consultation with provincial health departments and a wide variety of Canadian organizations and professional associations with expertise in particular fields of health and medicine.

The health group contains some of the more glaring examples of obsolete provisions. Thus the absolute bar against immigrants with epilepsy is outdated now that epilepsy can easily be controlled by medication. The absolute bar against people who are mentally retarded would be inhumane and pointless were it to be applied to keep a non-immigrant child from accompanying his parents on a vacation in Canada.

*Criminals.* The criminal activities group includes such specific offenders as procurers and narcotics traffickers, as well as narcotics users. ("Narcotics" includes such substances as heroin and marijuana, but not other commonly used drugs such as barbiturates, amphetamines or hallucinogens.) Also included in the Act is a more general prohibition against people convicted of a crime involving "moral turpitude", a term used in Canadian and United States immigration law for many years. Although difficult to define with precision, the term carries the connotation of baseness or depravity. A considerable body of case law and precedents based on legal opinions guide immigration officers in determining whether an offence committed by a particular individual does or does not involve moral turpitude. Some of the offences generally considered in this category (besides obvious ones like murder and rape) are assault, fraud, kidnapping, perjury and smuggling. In contrast, examples of offences generally considered *not* to involve moral turpitude would be destruction of property, drunkenness, gambling, libel, military desertion and usury. The distinction the term conveys has been employed to assess offences committed in jurisdictions whose criminal laws may not be identical to Canada's. The concept has therefore served a useful purpose in allowing officers to go beyond the legal wording of a conviction to determine the essence and gravity of the offence.

Exceptions may be made to most of this group of prohibitions, provided rehabilitation is demonstrated in accordance with standards set in the law.

*Subversion.* Compared with criminals, those engaged in subversive activities are more difficult to identify. The term "subversive activity" is open to many interpretations, and one must guard against classifying as subversive what may amount to no more than innocuous dissent. Great care is taken by the government to ensure that the criteria for determining whether an organization or individual is subversive relate directly to the security of Canada and Canadians, and that they are fair, relevant to current conditions, and conscientiously observed. Persons are considered to belong to the subversive group if they have been convicted of espionage or treason, or are known or believed likely to engage in espionage, sabotage, intelligence-gathering activities affecting Canadian interests on behalf of a foreign power, or activities designed to effect governmental change within Canada or elsewhere by force or any criminal means. Other criteria include activities on behalf of a foreign power which are either actually or potentially hostile to Canada, or involve the commission of terrorism in or against Canada. The law permits no exceptions with respect to this group except where a person's only connection with subversion was membership in an organization to which he no longer belongs.

*"Economic-Burden" Group.* This prohibition is based less on what the person has been or is, but rather involves judgment that he is likely to become a public charge.

*The Inability-to-Comply Group.* This covers a wide variety of circumstances: inability to meet the conditions for admission as an immigrant or non-immigrant, untruthfulness about background or intentions, failure of a person previously deported to obtain the Minister's consent to come into Canada, and lack of possession of a necessary passport or visa. The main purpose of these provisions is to reinforce the selective immigration system and the control system itself. There is no specific authority for exceptions.

## Control Abroad

The first outpost of the control system has traditionally been the visa office abroad. Beginning in the early 1920s, most immigrants and non-immigrants were required to have visas for entry to Canada, and these could only be obtained abroad. This is still true in respect of immigrants, although only a small proportion of non-immigrants now pass through visa offices.

In dealing with *immigrants*, the selection officer must determine not only whether the individual can become successfully established in Canada, but also whether he is affected by any of the limitations or prohibitions in the law. The selection officer may normally count on the expert advice and assistance of representatives of the Department of National Health and Welfare and the Royal Canadian Mounted Police in carrying out this function.

The law requires all prospective immigrants to undergo a full medical examination. This generally consists of a physical examination, a chest X-ray, routine blood tests, and such other special tests as may be indicated by the applicant's medical history or the general health conditions in his country of residence. The examination may be conducted directly by a medical officer of the Department of National Health and Welfare, but more commonly is performed, in accordance with Canadian standards, by designated local medical practitioners who report their findings to a Canadian medical officer for assessment. The latter informs the selection officer whether, in his opinion, the person falls within one of the health-prohibited classes. The number of people found to be medically prohibited is small, and they are, of course, normally refused visas.

The RCMP also stations officers at many posts abroad, whose duty is to advise selection officers on all applicants' (other than sponsored dependants) security status and criminal records. Through their contacts with other national police forces and from other sources of information, they attempt to determine whether independent applicants and nominated relatives have engaged in any activities that could bring them within the subversive classes, or whether they have been convicted of any offences. Selection officers normally accept RCMP officers' opinion on questions of subversive activity; where a criminal record is identified, however, it is the selection officer's responsibility alone to decide whether the offence is one which should be considered to involve "moral turpitude". In countries where the RCMP has not been able to establish the necessary contacts, independent applications are normally not accepted. In such countries selection officers conduct the required screening of refugees and of nominated relatives, and, in cases of exceptional merit, of independent applicants as well. The time involved by security screening varies considerably from country to country, but the present global average is 70 to 75 days. Any applicant found to fall within the subversive or criminal prohibited classes is normally refused a visa, unless an exception authorized by the law is indicated. Such refusals are even fewer than those made for medical reasons.

The selection officer must rely on his review of the applicant's documents and his personal interview with him to determine whether any of the other grounds of prohibition apply. In practice, refusals on these other grounds (excepting of course inability to meet the immigrant selection criteria) are extremely rare.

If, on completion of all phases of the examination, the selection officer finds the applicant acceptable as an immigrant, he issues an immigrant visa. The visa now usually takes the form of a document in a format prescribed by the Minister of Manpower and Immigration, but it may also be an impression stamped in a passport or on some other document. Possession of the visa constitutes evidence that the person has been examined at a post abroad and found admissible at that time.

A person not approved as an immigrant is told why in as much detail as possible. If the grounds for refusal are medical, the individual is generally referred to his own doctor for an explanation. In certain other cases there are obvious constraints on divulging security information obtained from sensitive sources.

The situation respecting *non-immigrants* is quite different. Although many of them were also required to obtain visas at one time, this form of control has largely been dismantled. The vast increase in transportation capability in the past 10 to 15 years has resulted in many countries agreeing to reduce obstacles to travel, especially visa requirements, in order to promote international exchanges and understanding. Canada has systematically exempted the citizens of more and more countries from the need to obtain non-immigrant visas, starting with Commonwealth countries and proceeding through countries of the western hemisphere, many countries with which it has traditional migration ties, and partner countries in the Organization for Economic Co-operation and Development. Other exemptions are being considered.

For those relatively few non-immigrants who do require visas, the overseas examination is much less formal than that for prospective immigrants, since non-immigrants will not be in Canada long and do not acquire the rights of residence gained by immigrants. In most cases (e.g. tourists and people coming to Canada to visit relatives and friends), the application for a visa is processed by mail, without the applicant having to appear for a personal interview. Medical examination is not required unless the selection officer has doubts about the applicant's health, the applicant intends to stay in Canada a relatively long time (a year or more), is likely to be engaged in certain kinds of employment such as food-handling, or is coming to Canada as a student under a government-sponsored training program. Similarly, formal security and criminal screening is not conducted except as a post-factum audit. The selection officer is mainly concerned with the person's intentions in going to Canada (Is the applicant truly a visitor and not a clandestine immigrant?) and the individual's wherewithal to carry them out: Does the applicant have the necessary funds for self-support, and transportation arranged both ways? Is there evidence, in the form of a passport and visas as applicable, that the person can return home or go to some other country on completion of the visit to Canada? Is there a letter of acceptance from a Canadian institution of learning if the applicant is going to Canada to study? Have adequate arrangements been made with a physician or hospital if the purpose of the visit is to seek medical treatment in Canada?

Particular attention is paid to non-immigrants who intend to enter employment in Canada. Provided the applicant has evidence of a definite job offer, the selection officer may issue an employment visa if the occupation involved is one that need not be certified by a Canada Manpower Centre.

(The general requirements and procedures of the employment visa system are described in Chapter 7.) If the occupation is one that must receive Manpower concurrence before an employment visa may be issued, the selection officer may advise the applicant to have the prospective employer make the necessary arrangements with the appropriate Canada Manpower Centre (in which case the employment visa is sent direct to the applicant), or in cases of obvious urgency the officer may himself seek the approval of the Manpower Centre (in which case he issues the employment visa to the applicant). If the applicant does not have a firm job offer, or Manpower approval is not forthcoming, an employment visa may not be issued.

It is important to note that an employment visa and a non-immigrant visa are not the same. They are different instruments serving different purposes. The non-immigrant visa concerns only temporary admission to Canada; the employment visa concerns only employment while in Canada. Some applicants may need one but not the other, and some may need both.

If a non-immigrant applicant meets all the relevant requirements, the selection officer issues a non-immigrant visa, whether or not the applicant actually requires one under the law. The visa is normally in the form of an impression stamped in the person's passport. In most cases it is valid for a single visit to Canada, to be made within the near future; in a few instances where Canada has bilateral agreements with other countries, the visa may be valid for any number of visits within one year. In addition, if the person has been medically examined, a certificate to this effect, valid for six months, is issued.

## Control at Canadian Ports of Entry

*Organization.* Canadian ports of entry are the pivotal points in the whole control system. Regardless of whether a person seeking to come into Canada has been examined at a visa office and has a visa, the ultimate decision to grant or deny entry belongs to the examining officer at the port of entry (as described in Chapter 2). Similarly, it is this officer who must decide the degree of control to which the person will be subject while in Canada. In practice, because of the heavy traffic from the United States and the gradual elimination of the non-immigrant visa requirement, the port of entry officer is the first control point for about 99 per cent of all travelers arriving in Canada.

The sheer weight of numbers, combined with the need to avoid impeding traffic unnecessarily, presents perhaps the greatest problem in maintaining effective control at ports of entry. The vast majority of foreign travelers arriving in Canada come from the United States, and a large proportion of these come by car. Accordingly, the largest number of examinations still occur at points along the international border. During the period 1946-73, although railway traffic decreased by more than 90 per cent, overland traffic from the United States more than doubled. In the same period air traffic from the United States grew nearly 15 times over; in 1973, nearly 1,100,000 air travelers from the United States were examined at Montreal, Toronto and Vancouver airports, of whom an estimated 100,000 were residents of overseas countries.

Traffic direct from overseas has been numerically insignificant compared to that from the United States, but remarkable in its proportionate growth. While traffic from the United States was doubling, that direct from overseas (excluding immigrants) increased nearly 100 times. In 1973 the number of overseas residents (excluding immigrants) seeking entry to Canada direct from overseas rose to more than 570,000, of whom the great majority arrived at the three airports mentioned above.

These figures do not include Canadian citizens and residents returning from visits abroad, who nearly equal the non-Canadian movement in size. They present little or no control problem in themselves, but their numbers do add to the strain imposed on the examination resources available.

It should also be noted that, of the 560 official ports of entry in Canada, only 43 are permanently staffed by immigration officers. At the others the volume of traffic requiring detailed immigration examination is too small to warrant the full-time presence of an immigration officer.

To cope with the problems presented by the rapid increase in traffic, a number of steps have been or are being taken.

An integrated inspection program was implemented in December 1963 at 45 ports of entry. Under this program, customs officers recognized by the Minister of Manpower and Immigration as immigration officers conduct the initial examination. This quickly clears a high proportion of readily identified admissible persons. Doubtful cases and those requiring detailed documentation are referred to an immigration officer. The system provides for a double control filter at border ports of entry staffed by immigration officers.

At ports of entry not staffed by immigration officers, the officers of other agencies either refer doubtful cases to the nearest immigration office or contact the office and take action as directed.

At airports, the increased traffic loads, arrival of passengers in large groups, language difficulties, baggage-handling problems, restricted physical space, and additional health and agricultural inspections, have dictated the development of another integrated examination system – the Primary Inspection Line (PIL). In this system the initial examination of all travelers for all four services (Customs, Immigration, Health, Agriculture) is conducted by the officer of one service (usually Customs); only doubtful cases or those requiring detailed documentation are referred for specialist examination by the service concerned. The PIL appears to operate with a high degree of effectiveness, but this can be maintained only with continuing training programs. The PIL system now functions at Gander, Halifax, Montreal, Toronto and Vancouver and, with modifications, at Winnipeg, Edmonton, Calgary and Yarmouth airports.

*Preclearance.* Although the integrated examination system has done much to alleviate congestion at major entry points, conducting some examinations outside Canada would make an additional contribution to the efficiency of the system. Although Canada has long operated a preclearance system on trains and ships when the traffic warranted it, using Customs and Immigration officers from ports within Canada, it has lacked preclearance facilities at airports [illegible] the United States Immigra- [illegible] examina- [illegible] Winni-

The sheer [illegible] avoid impeding traffic unnecessarily, [illegible] greatest problem in maintaining effective control at por[illegible] entry. The vast majority of foreign travelers arriving in Canada come from the United States, and a large proportion of these come by car. Accordingly, the largest number of examinations still occur at points along the international border. During the period 1946-73, although railway traffic decreased by more than 90 per cent, overland traffic from the United States more than doubled. In the same period air traffic from the United States grew nearly 15 times over; in 1973, nearly 1,100,000 air travelers from the United States were examined at Montreal, Toronto and Vancouver airports, of whom an estimated 100,000 were residents of overseas countries.

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Northern Development, are treated the same as Canadian citizens for immigration purposes.

People with Canadian domicile also have a strong, although not absolute, right to come into Canada. The right ceases only if an individual left Canada for the purpose of making a home in another country, or has performed, while away, military or other service for a country hostile to Canada. Again, the immigration officer's task is relatively simple: he need only satisfy himself that the person has acquired Canadian domicile (this may be proved by presentation of the record of the person's original admission as an [illegible] if necessary) and has not forfeited the right to [illegible] have not [illegible] officer. [illegible] at border ports of entry staffed [illegible]

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At airports, the increased traffic loads, arrival of passengers in large groups, language difficulties, baggage-handling problems, restricted physical space, and additional [illegible] agricultural inspections, have dictated [illegible] another integrated examination [illegible] Inspection Line (PIL). In [illegible] of all travelers for [illegible] Health, Agriculture [illegible] (usually Customs) [illegible] detailed [illegible] tion by [illegible] with [illegible] outside Canada. By comparison, the United States Immigration and Customs Services conduct preclearance examinations of U.S.-bound passengers at Montreal, Toronto, Winnipeg and Vancouver airports.

Recent negotiations have taken place between Canada and the United States on a Preclearance Agreement, the object of which is reciprocity with American preclearance activities in Canada, and the speedy clearance of passengers and aircraft on arrival in Canada. Initially, the Preclearance Agreement will provide for operations at 12 airports in the United States on request by the airlines involved.

*Examination of Travelers.* To understand the procedures for examining travelers arriving at ports of entry, the distinction among categories of people is especially important. Although the Immigration Act requires *every* person seeking to come into Canada to submit to examination by an immigration officer, the nature and consequences of the examination vary among the different categories.

Canadian citizens have an absolute right to come into Canada. The examining officer need only satisfy himself that the individual is indeed a citizen; he normally accepts the individual's word for it, and only rarely asks for evidence in the form of a birth or naturalization certificate. One unusual situation is the case of North American Indians born in the United States but eligible for Indian treaty rights in Canada. They are usually also eligible for registration as Canadian citizens, but decline to take this step because of their own view of Indians' status. This presents a dilemma for immigration officers confronted with people entitled to citizenship and other rights in Canada, but who in law are American citizens who may come into Canada only as immigrants or non-immigrants. Despite long and serious study by the federal departments concerned, no solution has yet been found that is both feasible under existing immigration, citizenship and Indian legislation, and wholly satisfactory to all concerned. Consequently immigration officers on the spot are frequently obliged to take an expedient not covered by the law: Indians in possession of Certificates of Indian Status, issued by the Department of Indian Affairs and

Northern Development, are treated the same as Canadian citizens for immigration purposes.

People with Canadian domicile also have a strong, although not absolute, right to come into Canada. The right ceases only if an individual left Canada for the purpose of making a home in another country, or has performed, while away, military or other service for a country hostile to Canada. Again, the immigration officer's task is relatively simple: he need only satisfy himself that the person has acquired Canadian domicile (this may be proved by presentation of the record of the person's original admission as an immigrant, if necessary) and has not forfeited the right to readmission.

Permanent residents – landed immigrants who have not yet acquired domicile – returning from abroad are an intermediate class. In principle they are subject to the same limitations as immigrants and non-immigrants, and like people with Canadian domicile must not have left Canada to make their home elsewhere. In practice very little difficulty is made about their return, especially if they have been outside Canada only a short time. In most cases a summary examination to establish that they have been previously admitted as immigrants is all that is required. They are not normally subjected to detailed examination respecting their health, criminal record, etc., and extremely few have ever been denied entry on these grounds.

The examination of immigrants is also a relatively simple matter. All immigrants require visas. Those without visas may not be admitted to Canada. Those with visas have been thoroughly examined overseas, and the immigration officer may restrict his examination to a cursory verification of identity and a few other details, and then grant formal admission ("landing") to the immigrant. Once landing has been granted, no further continuing control is normally exercised.

Non-immigrants constitute more than half the total traffic and about 99.5 per cent of the non-Canadian traffic. Moreover, only a minute fraction have been examined overseas and possess visas. They thus form the largest and most difficult group for examining officers at ports of entry. In the few moments available for examination of each traveler at busy ports of entry, the examining officer must conduct the kind of assessment already described for examinations at visa offices abroad, and further decide whether the person is subject to registration (described below). Fortunately, in the majority of cases the person's identity and intentions can be established easily and registration is not required; these people can be examined quickly and allowed to proceed into Canada without further ado. If the examining officer cannot reach such a decision promptly, or if registration or other procedures (e.g. medical examination) are required, he normally refers the person to a second officer who can spend more time with him or who has the requisite expertise. This happens in about three per cent of cases.

Registration is required, with only a few exceptions, for non-immigrants who intend to stay in Canada more than three months. The person's particulars are recorded, including where he or she may be reached in Canada, and the length of time (not exceeding one year) the person is authorized to remain in Canada. This information is then fed into a computerized data bank in Ottawa. (For people entering employment in Canada, the employment visa takes the place of the registration document.) Registration provides the basis for subsequent control and enforcement activities, described later.

Medical examination, if required, is performed directly by a medical officer of the Department of National Health and Welfare, or through his assessment of the medical reports, chest X-rays and other items of medical information submitted on the person's behalf in a manner similar to what would have been required had examination occurred abroad. Expenses of the examination, whether performed directly by a medical officer or through the medical assessment procedure, must be borne by the person concerned.

Should an examining officer not be entirely satisfied that the person is indeed a non-immigrant, the person may be given the benefit of the doubt if he is willing to enter into a cash-bond undertaking to leave Canada by a certain date. By law, he must be able to put up the money himself; it may not be provided by someone else. The amount varies depending on circumstances. It must be large enough to impress on the person the seriousness of the undertaking, but not so large that it would be impossible for him to meet it and still maintain himself in Canada. For one person this might be $200, for another $2,000. If the individual subsequently leaves Canada on or before the stipulated date, the money is refunded; if not, it may be forfeited.

Every examining officer has the power to let a person of any category come into Canada; indeed, it is incumbent on him to do so unless he thinks there is a definite reason why the person should not be allowed to come in. On the other hand, no examining officer has the power to deny admission to a person of any category. In each and every case where an examining officer believes a person should not be admitted, he must submit his reasons to a Special Inquiry Officer, and only this officer can actually refuse the person's admission. Before this stage is reached, however, the examining officer informs the person of the opinion he has formed and of the proceedings that will follow. If the person then wishes to avoid the delay of the special inquiry and possible subsequent deportation, he may be allowed to withdraw his application to come into Canada and depart without formal proceedings.

If a person is referred for a hearing by a Special Inquiry Officer and for some reason the hearing cannot be held forthwith (for example, at a port not staffed by immigration officers, or when particularly heavy traffic has resulted in a temporary backlog of hearings), the examining officer may offer the person the choice of returning abroad and coming back at a fixed later time when the hearing can be held (usually practicable only at border ports of entry) or of being detained until a Special Inquiry Officer is available to hear the case. Most ports have adequate facilities for detention for a short time. But if detention is necessary for a longer period or overnight, special local arrangements are made – for example, with a nearby hotel and a private security service, or, as a last resort, with local police facilities. (The nature and function of the special inquiry are explained in full on page 168.)

## Control within Canada

Not infrequently, non-immigrants find that they need more time to complete the activity for which they have entered Canada, or wish to accomplish some other purpose while they are here. For example, a person who has entered Canada for medical treatment may need more time; a person who has come to visit relatives may discover a local school giving a short vocational course not available in his homeland.

The Immigration Act stipulates that, in such cases, the facts must be reported to an immigration officer and the person must be re-examined as if seeking to come into Canada for the first time. In particular, the person must undergo medical examination if the proposed cumulative stay will exceed one year and he has not been medically examined previously. Registration is also automatic in these cases. (Where employment is involved in the extension of stay or change of purpose of the stay, the employment visa provisions apply; see Chapter 7.) There is no limit in law to the number of times that a person may seek and be granted such extensions or changes of non-immigrant status, provided he satisfies the requirements each time.

Similarly, when a visitor indicates a desire to become a landed immigrant and there is justification for making an exception to the general rule that such applications may not be approved (see Chapter 2), he is subject to the same medical and security examination as if he were applying for an immigrant visa abroad. Medical examination is conducted in the same way as for people at ports of entry, while security screening is carried out in the normal manner by the RCMP.

As in the case of a person seeking to come into Canada at a port of entry, the examining officer, if he believes the application for extension of non-immigrant stay or for landed immigrant status should be refused, must report his findings to a Special Inquiry Officer, who alone can make the final decision. Here too, however, the person may be permitted to withdraw his application and depart without formal proceedings.

## Some Exceptions

Notwithstanding the absence of specific provision for exceptions to some of the prohibited classes, the Minister of Manpower and Immigration has general discretion to make exceptions in respect of any person seeking to come into Canada. This power is exercised only where there are especially compelling reasons for not adhering to the law as laid down in the prohibited-classes provisions. A few examples:

- a convicted criminal may be needed as a key witness at an important trial in Canada, or seek short-term admission on humanitarian grounds
- a mentally retarded child may be coming to join family members established in Canada
- a prominent individual subject to prohibition as a member of a subversive organization may be invited to attend a scientific congress being held in Canada.

In brief, the Canadian interest in having the person here must outweigh the danger covered by the prohibition.

The prohibition is overcome in these cases by a special permit authorizing the person's admission for a set period not exceeding one year. Such a permit is renewable, but it may also be revoked at any time. In particularly sensitive cases the Minister issues these permits himself; for others he has delegated his authority to a few very senior immigration officers who are in a position to react quickly when a deserving case turns up unexpectedly.

Another kind of exception is commonly made for sponsored dependants especially, and for nominated relatives and a few independent applicants in certain circumstances. If the prospective immigrant is found to be medically prohibited because of tuberculosis but the sponsor or nominator can make arrangements in Canada, satisfactory to provincial health authorities, for the immigrant's treatment, hospitalization or medical surveillance, as necessary, the immigrant may be allowed to come to Canada as if he were a non-immigrant coming for medical treatment. If the treatment is successful, arrangements are made for "landing".

A similar case would be an immigrant who has had an infectious disease that is now inactive but may become active again (most commonly, pulmonary tuberculosis). If the medical officer is satisfied that the risk to Canadian public health is minimal, the person may be allowed to proceed to Canada if he agrees to periodic examination in Canada. Immigration officers co-operate with federal and provincial health authorities to ensure that the undertaking is honoured. This is the only instance in which landed immigrants are subject to continuing control.

## CONTROL OF PEOPLE IN CANADA

### The Deportable Classes

Early Canadian legislation did not recognize any need to expel people, and it was not until the Immigration Act of 1906 that provisions for removal from Canada began to develop. At first these provisions applied only to landed immigrants, but they were soon extended to others. The classes of expellable persons also expanded gradually, for the most part paralleling the development of the prohibited classes. Today's deportable classes, described in section 18 of the Immigration Act, are essentially the same as those included in the Act of 1927.

Broadly speaking, most of the deportable classes are identical with, or correspond to, the prohibited classes. They fall under the same general headings of health, criminality, subversive activity and indigence, the objectives being the same as for the prohibited-classes provisions. In addition, there are provisions respecting people who have entered Canada by improper means (such as avoiding examination or presenting false documents) or remain here improperly. The deportation provisions, however, are not as universally applicable as those for prohibition; there are, in particular, numerous differences among the various categories of people concerned.

### Deportability of Various Categories

People with Canadian domicile are almost free of liability to expulsion from Canada. They may fall within the deportable classes only for subversive activity, treason, espionage, sabotage or narcotics trafficking. No other act of omission or commission exposes them to deportation. They would not be deportable, for example, for having committed a crime in Canada, however serious, or for having gained landing by fraudulent means in the first place.

With respect to deportation, landed immigrants are in the same position as non-immigrants and illegal entrants; they may be deported for any of the reasons for which they might have been denied admission in the first place (with one partial exception), for being convicted of an offence under the Criminal Code or being confined in a penal institution, or for having gained landing by fraudulent means. The exception is in the health provisions. Although persons may be deportable if it is proved that they were actually medically prohibited when they first came to Canada, they are not deportable for a health condition arising after their arrival. On the other hand, if the health condition arising after arrival leads to confinement in a mental institution, the person may again be deportable. In practice, landed immigrants are seldom deported for any health reason unless their return abroad is considered to be in their best interests as well. Expanding acceptance of the philosophy of broad social welfare benefits for all has also meant that indigence is hardly ever deemed to be adequate grounds for a landed immigrant's expulsion.

Non-immigrants may be deportable for all the reasons mentioned for landed immigrants and, in addition, for remaining in Canada beyond the period authorized when they were examined; or for changing from one non-immigrant class to another (e.g. student to worker) without reporting to an immigration officer for examination as required by the law. The aim is to protect the selective immigration system since unacceptable immigrants often try to slip into Canada under the much easier criteria for non-immigrants and then just stay on indefinitely. Like landed immigrants, non-immigrants are not deportable for health conditions arising after their arrival in Canada. Depending on circumstances, however, they may be subject to medical examination and to subsequent surveillance by provincial health authorities if necessary.

Both landed immigrants and non-immigrants may also be deportable for returning to Canada without obtaining the Minister's consent to do so after having been previously deported. This provision has little practical application to landed immigrants, however, since very few deported persons slip through the intensive overseas screening required of all immigrants.

Illegal entrants may be subject to deportation for the same reasons as landed immigrants and non-immigrants, as well as for the fact of illegal entry, whether by avoiding examination or, as in the case of crew members, failing to return to their vehicles after being allowed entry for shore leave or similar purposes. These additional grounds for deportation also discourage circumvention of the control system.

Finally, the dependants of any person found to be deportable, may also be deportable (although recommended changes would exempt landed dependants over the age of 18). This provision was designed to guard against the separation of families, hardship for the dependants, and imposition of welfare burdens on Canadian communities. It does have the unfortunate effect, however, of stigmatizing innocent people for the offences of others.

## Detection of People Who May Be Deportable

As already noted, the Department of Manpower and Immigration does not attempt to maintain direct or continuing surveillance over people with Canadian domicile or the vast majority of landed immigrants. Immigration officers are therefore unlikely to discover by themselves that such a person may have become deportable. Rather, the information

usually comes from an official of some other agency – for example, a police officer (one of 43,000 in Canada) who knows of a person's conviction for an offence, the director of a mental institution to which a person has been committed, a municipal employee concerned about excessive welfare payments.

Much the same is true of non-immigrants who run afoul of the general deportability provisions. The situation is quite different, however, in respect of possible infractions of non-immigrant status – i.e. staying in Canada longer than authorized, and changing non-immigrant class without reporting for examination (especially where employment is involved). All non-immigrants authorized to stay more than three months are registered; any without proof of such registration are deemed automatically by the law to have been granted entry for less than three months. Similarly all persons authorized to take employment are issued an employment visa; lack of an employment visa means no authorization to take work (except for certain exempt groups).

The control system does not rely on trying to track down non-immigrants whose registration documents or employment visas have expired. This procedure, used in the past, was found to be very wasteful of time and resources because most of the people concerned had actually left the country. Instead, the system operates on the premise that every person trying to become settled in Canada must, sooner or later, come in contact with some government office – an Unemployment Insurance office, a provincial health insurance office, etc. – that can verify his status by checking through an immigration office with the central data bank. If he is not recorded in the data bank, he may be in Canada unlawfully and further investigation is indicated.

The system is intended not only to provide immigration control, but to guard against abuse of public benefits and services to which non-residents may not be entitled. It is still in the developmental stage but already gives good promise of greater effectiveness than any previous system. Several agencies now participate in the arrangement, and efforts are being made to secure the co-operation of others at all levels of government. A few find it difficult in principle to do so, however, because their governing legislation provides for services or benefits to all comers, regardless of their immigration status (or lack of it) in Canada.

Illegal entrants are often detected in the same ways as deportable landed immigrants and non-immigrants. In addition, a special program is operated for the detection and apprehension of deserting seamen. Shipmasters are required by law to report to an immigration officer when a crew member deserts their vessel. The immigration officer in turn passes all relevant information to the nearest office of the Immigration and Passport Section of the RCMP and arranges through Immigration and RCMP headquarters for the distribution of look-out notices to all police forces. Another valuable source of information on illegal entrants is the United States Immigration Service. The Canadian and American services co-operate closely in combatting illegal transborder traffic in both directions.

Finally, detection of a deportable person occasionally occurs as a result of information from a concerned citizen who is indignant that the person is working without authorization, receiving benefits to which he is not entitled, etc.

All this might suggest a passive-reactive approach by the immigration service, but in fact it plays an active role as well. Observation and experience reveal places or areas likely to be frequented by those in Canada illegally. Periodic investigations in these places and areas (popularly referred to as "sweeps" or "raids") have proved useful in detecting and apprehending many deportable persons.

## Preliminary Enforcement Procedures

When a person who may be deportable is detected, the law requires that a written report be made to a senior immigration official. Although constables, other peace officers, and clerks or secretaries of Canadian municipalities are authorized to submit such reports, in normal practice they merely inform an immigration officer who makes the formal report, after further investigation if necessary, to one of the five regional Directors of Immigration Operations in Canada.

The Director must first decide whether the evidence points to the person's deportability. Then he considers whether there are reasons that argue for allowing the person to remain, even if found deportable under the law. He may decide, for example, against continuing the proceedings where a reported conviction is for a relatively minor offence, or where there are strong humanitarian reasons for allowing the person to remain in Canada. This is an important difference from proceedings in respect of prohibited persons seeking entry to Canada, where no such discretion exists. In some cases where proceedings are dropped it may be necessary to issue the person a special permit to remain in Canada, for instance in the case of a deserting seaman who would otherwise continue to have no legal status in Canada. In the absence of such special considerations, the Director issues an order for a hearing by a Special Inquiry Officer; this is described below. If there is good reason to believe the person will not submit voluntarily to the proceedings, the Director may exercise delegated authority to issue a warrant for the person's arrest. This is the earliest point at which the person can be physically apprehended.

An important exception involves people believed to have entered Canada without examination, by fraudulent means, in contravention of a previous deportation order, or as a deserter from a crew. On detecting such a person, any immigration officer, constable or other peace officer is empowered to arrest him without a warrant and turn him over to a Special Inquiry Officer for a hearing. There is no requirement for a report to, or consideration by, the Director, although these are not ruled out. This procedure does not apply to any of the other deportable classes, even the more serious ones, and is employed only when there is strong reason to believe the person will not be available for apprehension if the regular procedure is followed.

A Special Inquiry Officer will hold a hearing as soon as possible in respect of a person who has been arrested, with or without a warrant. In the meantime, if there is to be any delay at all, the Special Inquiry Officer may either grant the person a conditional release from custody or, more rarely, order his detention. The Department of Manpower and Immigration maintains its own detention facilities in Quebec

City and Toronto, but elsewhere it must rely on the availability of police facilities.

In the exercise of their statutory powers of arrest and detention, immigration officers are guided by a policy sensitive to the gravity of the responsibility entailed. Their decisions must be taken in full cognizance of the seriousness of depriving a person of his liberty, and must carefully avoid any arbitrariness, bias, or unwarranted inconvenience to the individual.

## ENFORCEMENT: THE SPECIAL INQUIRY

### Purpose and Nature of the Special Inquiry

As indicated at several points above, inadmissibility or deportability are not conclusively determined by the officer who first examines the person or receives information about him. The most that can be said of this officer's function is that he formally casts doubt on the person's entitlement to come into or remain in Canada. This doubt must be resolved, according to the law, at a hearing called an inquiry (or, more commonly, a special inquiry).

The inquiry is not an appeal proceeding, since there is no decision against which to appeal. Nevertheless, for practical purposes, the inquiry resembles an appeal hearing at which the Special Inquiry Officer adjudicates on the examining immigration officer's preliminary finding that the person is inadmissible or deportable.

An inquiry is not a judicial proceeding. Although occasionally considered in the past to be quasi-judicial in nature, it was originally designed as an administrative function, and more recently has been confirmed by the Federal Court to be an administrative function – but one that must be performed judicially. Whatever its nature, the Department of Manpower and Immigration has always sought to ensure that the principles of natural justice are fully observed at all inquiries.

At one time the law specifically excluded the courts from reviewing decisions made at inquiries, although prerogative writs could be used to permit review of the legality and propriety of the manner in which decisions were reached. In 1967 exclusive jurisdiction to review inquiry proceedings was conferred on the Immigration Appeal Board. Although this jurisdiction was reduced in 1973, review of proceedings is still possible through one of three routes: the Appeal Board, the prerogative writs, or the provisions of section 28 of the Federal Court Act, depending on the circumstances.

An inquiry, then, is a formal proceeding to determine whether an individual does or does not comply with the law's requirements for coming into or remaining in Canada. In addition to giving the person concerned a full opportunity to establish that the enforcement provisions of the law do not apply to him, it ensures that the ultimate enforcement action, removal from Canada, is never taken without the matter having been studied by at least two officers.

### Role of the Special Inquiry Officer

As early as 1906 the need to guard against unjust, arbitrary or frivolous exclusion of immigrants seeking entry to Canada was recognized. The law provided for boards of inquiry, consisting of at least three officers, to hold hearings at ports of entry into the excludability of immigrants. These provisions were subsequently extended to deportation cases; officers-in-charge held exclusion inquiries where a board was not available, and officers designated by the Minister held deportation inquiries. It was only with the Act of 1952 that all inquiries came to be held by a single officer, who might be either an officer-in-charge or a Special Inquiry Officer nominated by the Minister. Today, most inquiries are held by nominated Special Inquiry Officers.

The duty of a Special Inquiry Officer, is not to act as a prosecutor on behalf of the Immigration Department. It is to obtain and review all pertinent facts in the case before him, in an impartial and unbiased manner, and then to apply the law in accordance with those facts. To achieve these ends he is given broad powers in the law, including the authority to issue summonses, administer oaths, issue commissions to take evidence, engage counsel and supporting staff, and order the detention or release of a person who is the subject of inquiry proceedings.

Once a case is referred to a Special Inquiry Officer, he acquires exclusive jurisdiction to examine it and make a decision; he is not subject to direction from any other officer or agency, including the Minister. When the case involves a person seeking to come into Canada, including a non-immigrant in Canada who has sought a change in his status, the Special Inquiry Officer is empowered to find in the person's favour without proceeding to an inquiry. That is, if a quick review of the facts reported to him indicates that there are really no grounds for denying entry or the requested change in status, the Special Inquiry Officer may grant entry or the change in status to the person. When this course of action is not clearly indicated, however, he must proceed with the formal hearing. In no case may he find against the person without a hearing.

Special Inquiry Officers are selected for their knowledge of the law and their demonstrated impartiality, fairness, honesty and good judgment. They receive special training in the interpretation and application of immigration law, related federal statutes, the principles of natural justice, and the proper way to conduct a hearing. Although not subject to direction in individual cases, their work is under constant scrutiny to ensure that a high standard is maintained.

## Proceedings at an Inquiry

With a few minor variations, inquiries are conducted in essentially the same manner whether they concern people seeking to come into Canada, non-immigrants seeking a change in their status, or people in Canada who may be deportable. Basically, they involve informing the person in full about the opinions or allegations reported about him; presenting or adducing evidence in support of those opinions or allegations; giving the person ample opportunity to refute the opinions or allegations and present evidence or witnesses of his own; weighing all the evidence presented; and reaching a decision whether or not the law permits the person to come into or remain in Canada.

Inquiries involving people at ports of entry and people who have been arrested are held as soon as possible. Others, involving people at liberty in Canada, may be arranged more to the convenience of the person concerned and the Special Inquiry Officer; in any event the person concerned receives substantial advance notice of the time for his hearing. Hearings are usually held in immigration offices, although they may be held elsewhere if the person concerned cannot come to an immigration office. By law inquiries are not open to the public, in the interest of protecting the individual. If he wishes, however, he may have a few observers present, circumstances permitting (not, for example, at a hearing held in a penitentiary or mental hospital).

At every inquiry the person concerned is entitled to be assisted by counsel of his choice. Counsel may be a lawyer, but may also be any other person in whom the person concerned has confidence to represent his interests. If the person concerned does not speak the language of the Special Inquiry Officer, a competent interpreter is provided at government expense. Except in cases involving people seeking to enter Canada from the continental United States or St. Pierre and Miquelon, a verbatim record of the proceedings is made, either by a skilled stenographer or electronic recording apparatus. In border cases only a summary record is prepared.

An inquiry, not being a judicial proceeding, is not bound by judicial rules of evidence. The Special Inquiry Officer is empowered by the law to accept and consider any evidence he finds credible and trustworthy. Evidence accepted should be relevant to the matter at hand, and as much as possible reliance on hearsay evidence is avoided. The Special Inquiry Officer may not take into consideration any information or evidence not presented at the inquiry itself. This presents a problem in certain security cases, usually involving people already in Canada, when information cannot be released because its source must be protected. In such cases an inquiry may be impossible, there being no evidence, presentable at the inquiry, on which the Special Inquiry Officer could find that the person concerned falls within a subversive prohibited or deportable class. Accordingly, there are rare cases in which, despite the existence of adverse information, no inquiry is held and the individual concerned must be allowed to remain in Canada.

When an inquiry concerns a person seeking to come into Canada (including a non-immigrant seeking to change his status), the burden of proof is on him to establish that he does not fall within a prohibited class and therefore may be allowed to come into Canada. But when the inquiry concerns a person in Canada who is alleged to be in a deportable class, the burden of proof lies on the other party to show that the person is indeed deportable. This consideration also applies to the dependants of the subject of an inquiry, who must be given an opportunity to show that they should be allowed to come into or remain in Canada even if the head of family is found to be inadmissible or deportable.

The Special Inquiry Officer must base his decision only on the evidence presented at the inquiry and on the law. He has no discretionary authority comparable to that of selection officers examining prospective immigrants, or that of a Director deciding whether an inquiry should be held. In a case where it is clear that the person is inadmissible or deportable in accordance with the law, but the inquiry officer is convinced that exclusion or deportation is not desirable, he may, in the interests of equity and fair play, adjourn the inquiry to give time for another officer to consider whether special relief (e.g. a Minister's permit, an Order-in-Council) should be sought.

Once the Special Inquiry Officer has reached his decision on the basis of the evidence and the law, his options are extremely limited. If he finds that the person does not fall within a prohibited or deportable class, he must immediately and formally permit him to come into Canada or remain in Canada, as the case may be. If he finds, on the other hand, that the person is indeed a member of a prohibited or deportable class, he must immediately make a deportation order.

In the latter case there is no alternative to the deportation

order, whatever the person's status in Canada (landed immigrant, visitor seeking landing, illegal entrant, person seeking admission as a visitor, etc.) or whatever the grounds on which he is found unacceptable (narcotics trafficking, insufficient funds for maintenance, illegal entry, inability to meet selection criteria for immigrants, etc.). The consequences of a deportation order, described in the following section, are equally invariable. The deportation order, then, constitutes an extremely blunt instrument. To mitigate this situation in the law, immigration officials give many people, liable to inquiry proceedings, every opportunity to withdraw voluntarily from Canada and so avoid the serious consequences of deportation. Justice would be better served if the law provided for a variety of possible decisions and consequences adaptable to the circumstances of each case.

## Execution of Deportation Orders

When a deportation order is made against a person seeking to come into Canada from the continental United States or St. Pierre and Miquelon, it is executed immediately. In all other cases it is executed as soon as practicable. However, action is delayed when the person is to be prosecuted for offences under immigration law, is an inmate of a jail, or makes an appeal pursuant to the Immigration Appeal Board Act.

The "practicability" of deportation depends on several factors. Most important is the agreement of the country, to which the person is to be deported, to receive him. If it is the country of citizenship, this seldom presents a problem, although a few countries, contrary to common international practice, do refuse to take back their deported citizens. If the country of destination is other than the person's country of citizenship, consent may be more difficult to secure; it may be necessary, for example, to prove he has substantial ties with that country, and in this his co-operation cannot be counted upon. The United States is an exception; here there exists a reciprocal arrangement that permits, with a few minimal conditions, the orderly return of each other's residents and even people without status, without many of the formalities normally involved in this kind of transaction.

Regardless of the country of destination, there may be further delay if passports or other travel documents must be obtained. This takes time, and can stretch out indefinitely if the issuing country insists on personal application and the person concerned refuses to sign the necessary documents.

With consent for return and travel documents taken care of, the next step is to arrange transportation. The government cannot compel a transportation company to carry a deportee except under certain circumstances spelled out in the Immigration Act. Most companies nevertheless co-operate. Transportation costs are at the expense of the government except in the circumstances mentioned above where a company may be compelled to carry a deportee.

Another consideration is how long the person has been in Canada. If the individual has property to dispose of and affairs to wind up, a short period is allowed for such purposes. This is usually two weeks, but it may be more or less depending on circumstances.

Finally, as a matter of practice, although not required by the law, deportation is normally stayed if there is firm evidence that the person has initiated proceedings for a rehearing by the Immigration Appeal Board, a prerogative writ, or leave to appeal to the Federal Court or the Supreme Court.

The country of destination is determined in accordance with the law, which prescribes that it be

- the country from which the person came to Canada (or to the United States if he came through that country on the way to Canada, other than in direct transit)
- the country of citizenship, or
- the country of birth.

This does not include the country in which the person last resided before coming to Canada, which may be none of the foregoing but nonetheless the one with which he has the

strongest ties. However, the transportation company responsible for transporting a deportee may request that the destination be any country, provided the person concerned, the country concerned and the Minister all agree. It is anomalous that neither the person concerned nor the Minister may make such an election without the initiative of a transportation company.

Between the making of a deportation order and its execution, the Special Inquiry Officer may order the person's detention if he has firm reason to believe the person would otherwise disappear. On the other hand, where the person was already in detention before the inquiry, the Special Inquiry Officer will grant a conditional release from detention unless he is sure the person will try to elude deportation.

The form of a person's removal from Canada also varies. If the Special Inquiry Officer believes the person will respect the effect of the deportation order and is willing and able to make his own arrangements for departure, he may permit him to do so. If "voluntary departure", is granted, the person is given a date by which to be out of Canada and asked to check in at the port of entry through which he leaves Canada. If he fails to leave as directed, he is subject to apprehension without a warrant and execution of the deportation order.

In other cases an immigration officer (or officers) normally escorts the person to the border port of entry or airport. In a few cases the escorting officer may accompany the person right through to the country of destination. Sometimes escorting officers may be accompanied by assistants – e.g. a police officer when a dangerous criminal is being deported, or a medical attendant.

A deported person may not return to this country for any purpose unless an appeal against the deportation order is subsequently allowed, or the consent of the Minister is obtained. This applies even if the original grounds for exclusion or deportation cease to exist. The Minister has delegated the power to give consent to regional Directors of Immigration Operations in respect of people deported on the grounds that they were likely to become public charges, were untruthful about their intent in entering Canada, or were dependants of prohibited persons. A person may seek consent by approaching a visa office abroad or a port of entry, or by communicating with any immigration office. Each case must be considered on its merits, but consent will usually be given if the original ground for deportation has disappeared (e.g. the person now has adequate funds, or required documents that he previously lacked) or is no longer applicable (e.g. an independent applicant, refused for inability to meet the selection criteria, is now sponsored); if deportation was the result of a violation of immigration law immaterial to the status he is now seeking (e.g. a former illegal entrant now applying as an immigrant); if the person has demonstrated rehabilitation (e.g. a person deported for a conviction under the Criminal Code); or if there are other cogent reasons for allowing him to enter Canada (such as those taken into consideration in the issuance of a Minister's Permit).

## OTHER CONTROL AND ENFORCEMENT ACTIVITIES

### Look-outs

Visa officers and examining officers in Canada are not dependent solely on their own interviewing skill in detecting people who should not be allowed into Canada. Over the years the immigration service has built up a list of such people likely to seek entry; it is available in all offices. The list does not include every person ever discovered to be inadmissible to Canada as an immigrant or non-immigrant for any reason; if it did, it would now run to many millions of names. Rather, it includes only the vital statistics of some 5,000 whose presence in Canada would constitute an immediate and serious danger to public health, public safety, or national security. A few examples would be drug traffickers, hijackers, and notorious criminals. The list is reviewed and revised constantly, and names are removed when it appears there is no longer any likelihood of the person trying to enter Canada.

The list provides valuable assistance to selection officers and to investigative officers in Canada, although obviously less use of it can be made at busy ports of entry where examining officers may have only a few moments for each traveler. To increase the usefulness of the available information, development is now underway on a computerized central data bank that will not only include more information on inadmissible persons but also information about people in Canada wanted for immigration questioning, inquiry, deportation, etc. This information will be readily accessible to all immigration officers in a matter of minutes and should considerably enhance the control and enforcement capability.

Meanwhile the RCMP helps by circulating information about people in Canada unlawfully, and other police forces assist when they can.

### Control of Third-Party Interests

Some people who seek entry to Canada notwithstanding their inability to meet requirements do not rely on succeeding unaided. Over the years there have been many schemes involving false documents or visas, the fabrication of stories for applicants to tell, fraudulent sponsorships, false employment offers, phony "schools" to which foreigners seek to come as students, etc. Detecting and combatting such schemes is an important aspect of control activity, and the immigration service has a special group that gathers information on rackets and searches for patterns that might not be apparent to individual offices. Once a pattern is recognized, it becomes much easier to detect new participants in the scheme and to prosecute its organizers.

Besides its control function, the program to detect these rackets helps protect gullible and often desperate people. Many cases have been discovered of people bilked of large sums, or held in virtual bondage by threats to reveal their unlawful entry or lack of proper status in Canada.

To prevent another form of exploitation, the Regulations provide that immigrants may receive financial assistance for their passage only from sources accredited by the Minister. This prevents persons or organizations from making loans to immigrants at exorbitant rates. Generally speaking, accreditation is granted only when loan conditions are comparable to the Canadian Government's assisted-passage loan scheme; currently accredited for this purpose are a number of national and provincial governments, several internationally recognized voluntary agencies, and some major airlines with fly-now-pay-later schemes.

Transportation companies are required by law to support control and enforcement activities in several ways. Every company carrying immigrants or overseas non-immigrants to Canada must deposit security to guarantee that it will observe all the requirements of the Immigration Act and Regulations. The security may take the form of cash, certain negotiable government bonds, or a guarantee bond, in the amount of $2,000 for a single trip or $5,000 for multiple trips, and it must be valid for a clear five years at all times. Masters of vehicles (the captain of a ship, the driver of a bus, etc.) arriving in Canada are forbidden to allow passengers to leave at a place or time other than that set by the responsible immigration officer in charge. Masters of ships arriving from overseas must present passenger and crew lists, to aid in identification and examination of people seeking to come into Canada; in addition, masters of all vehicles must report and detain stowaways, and report any deserting crew members. Companies may also be required to deposit security to cover the costs of removing deserters from Canada. Permission to leave Canada again may be denied to any vehicle where there has been a failure to comply with the law.

### Prosecution

Deportation is not the only string to the enforcement bow. Prosecution is also possible in a variety of circumstances. In some instances, in fact, prosecution may be the only enforcement avenue open. In others, both may be feasible and desirable.

A series of specific provisions makes offences of many of the infractions mentioned in the deportable classes: evading examination, use of fraudulent documents, untruthfulness, escaping custody, etc. Other actions identified as offences are the making of false offers of employment, dissemination of false information about employment opportunities in Canada, representing that a bribe is payable to secure a person's admission to Canada, and aiding and abetting violation of the law. The penalties that may be imposed on conviction range from relatively insignificant ($50 fine or one month imprisonment) to moderate (18 months imprisonment).

Another general provision makes it an offence to violate any provision of the Act or Regulations for which a specific offence is not provided. This might cover, for example, taking employment without an employment visa, or failing to submit a document or make a report required by the law. The maximum penalties that may be imposed on conviction for such a violation are $500 or six months imprisonment, or both.

It is proposed that Parliament be asked to amend the law in order to fill a notable gap in the offence provisions. At present a deported person who re-enters Canada without the Minister's consent does not commit a prosecutable violation of the law. The only enforcement action possible is re-deportation, and this is having no deterrent effect whatever on some foreign criminals who repeatedly return to Canada after each deportation. Return to Canada without the Minister's consent will be an offence if the new legislation is approved.

Investigation and prosecution of offences are usually carried out by the RCMP after consultation with the Department of Manpower and Immigration.

## THE IMMIGRATION APPEAL SYSTEM

The law has long provided some form of appeal against deportation orders. For almost half a century the appeal was exclusively to the Minister responsible for immigration. The 1952 Immigration Act made provision for the establishment of appeal boards, but it was not until 1956 that such a board was created. This board, and its subsequent manifestations, was an administrative agency, separate from the immigration service but still subordinate to the Minister.

At first, this board was empowered to deal only with appeals of deportation orders made against landed immigrants and persons claiming to be Canadian citizens. Later, the categories of appeals heard by the board were broadened to include all appeals except those from deportation orders executed at ports of entry. Eventually, the board was empowered to hear all appeals that could be made under existing law. Appeals were technically to the Minister, but were routinely referred to the board for review of the validity of the deportation orders and an expression of opinion on execution of valid orders. However, the decisions of the board remained subject to review by the Minister (and, in practice, the Deputy Minister) who could confirm or quash them, or substitute his own decision. It soon became common knowledge that the Minister had the final say in deciding whether deportation would be carried out, and consequently the board's unfavourable decisions were almost routinely appealed to the Minister.

Mounting disenchantment with the superficiality of this board's functions led to the creation, in 1967, of a new Immigration Appeal Board with its own statute, and powers unprecedented in Canada or any other country.

## The New Immigration Appeal Board

*Original Jurisdiction and Powers.* The new Board, consisting of nine members, was a completely separate and independent tribunal, with the status of a court of record and with sole and exclusive jurisdiction to hear and determine all questions of fact or law, including questions of jurisdiction, that might arise in relation to the making of an order of deportation, where appeals against those orders were entered. The new Board was also given similar exclusive powers with relation to appeals by Canadian citizens from a refusal by the Department of Manpower and Immigration to approve an application for a sponsored dependant. The Minister, rather than reviewing the Board's decisions, became a party to appeal proceedings with no special status, and was as bound by the Board's findings as the appellant. The Board's decisions were final and any additional remedy

had to be sought through an appeal to the Supreme Court (later the Federal Court) on questions of law or jurisdiction.

The statutory authority granted the Immigration Appeal Board extended its ability to resolve appeals beyond their legal and technical merits. If it found that the deportation order was valid, the appeal would be dismissed in law and the Board would then take up the non-legal aspects of the case. In appeals by landed immigrants, the Board would deliver its decisions with "regard to all the circumstances of the case". In all other appeals, the Board would go on to examine any ground for believing that, if deportation was carried out, the appellant would be punished for activities of a political character or would suffer unusual hardship; it would also take into account the existence of compassionate or humanitarian considerations warranting special relief. In these latter cases, if it decided in favour of the appellant, the Board could override the deportation order by quashing it, staying it subject to review, or quashing it and directing the grant of temporary entry or permanent residence. Similar authority existed with regard to appeals by Canadian-citizen sponsors.

The right of appeal against deportation orders was made universal, in that any person ordered to be deported under the Immigration Act had access to the Appeal Board. Further, any person detained pending the hearing of his appeal was given the right to apply to the Board for release.

To protect Canada from security or criminal threats, a special provision was included in the Appeal Board Act to curtail the Board's discretion on the non-legal aspects of a deportation appeal, and with respect to the allowance of an appeal by a Canadian sponsor against the Department's refusal to approve the admission of a relative. It was operable only if a certificate signed by the Minister of Manpower and Immigration and the Solicitor General of Canada was filed with the Board stating that, in their opinion, based upon security or criminal intelligence reports, it would be contrary to the national interest for the Board to take such action. The Board, however, was not prevented by this section from allowing appeals of deportation orders on the legal aspects of the case.

*Present Jurisdiction and Powers.* For reasons described in

Chapter 1, the exceptionally progressive appeal philosophy introduced in 1967, in conjunction with a very liberal selection policy, proved to be unmanageable in practice. Legislative changes presented in June 1973 were accepted with unanimous approval by Parliament.

The most important change restricted the Board's jurisdiction to hear appeals against deportation orders to the following groups:

- landed immigrants
- people ordered deported on arrival at Canadian ports of entry who possess valid Canadian visas appropriate to the status they are seeking in Canada
- people who claim they are protected by the United Nations Convention relating to the Status of Refugees, and
- people who claim they are Canadian citizens.

The first two have an unconditional right of appeal; the last two must establish to the Board's satisfaction, before an appeal, that there is *prima facie* evidence to support their claim to refugee status or Canadian citizenship.

The Board's status and powers remain unchanged in cases over which it retains jurisdiction. In addition, for an indeterminate period, it is empowered to have appeals heard and determined by single members instead of quorums of three members. For the same period, an unlimited number of temporary members may be appointed to help the Board clear its backlog of cases; 13 temporary members have been appointed to date.

The main purpose of the Board is not, of course, to interpret and implement government policy respecting immigration generally, but rather to judge the applicability of existing immigration law to individuals ordered deported. Nevertheless, its decisions, through the precedents and pattern they establish, do have an impact on general policy. From this viewpoint, the main effect of the legislative changes will be to reduce or eliminate the Board's inadvertent involvement in the selection side of immigration, and to restore its intended role of ensuring the just and equitable operation of the enforcement provisions of the law.

## Proceedings before the Board

The Board, originally established only in Ottawa, now has offices and holds hearings in Montreal, Toronto and Vancouver as well; and also holds circuit hearings in provincial capitals when the caseload warrants. Its services are free to appellants who, if they reside more than 100 miles from the Board, may also apply for partial or complete financial assistance to enable them to appear personally at their hearings.

Appellants may choose to present their appeals orally, in writing, or by merely relying on the information contained in the record of their hearing before a Special Inquiry Officer. They have the right to be assisted or represented by counsel of their choice at their own expense and, if they do not speak either of Canada's official languages, the Board provides interpreters at public expense. Any interested person may attend the hearings and testify before the Board if called as a witness. Appellants are given full opportunity to present any evidence they consider relevant, either by testifying on their own behalf or by calling witnesses at their own expense. Appellants or their counsel may also present to the Board any argument, explanation or submission for consideration. Similarly, written statements presented by appellants, their counsel and witnesses are accepted and incorporated in the record for consideration by the Board. The Minister in turn makes his submission to the Board through Departmental appeals officers or legal representatives provided by the Department of Justice. The Minister's representatives may cross-examine the witnesses testifying on the appellants' behalf, call their own witnesses, and present the Minister's views to the Board in their submission following the appellants'. Appellants or their counsel are given the opportunity to comment on these submissions before the Board adjourns to consider the case.

The Board's hearings are conducted in public and in an atmosphere of solemn dignity. The rules of evidence, natural justice, and judicial conduct are scrupulously followed in accordance with precedents established in the courts. After decisions are rendered, and upon request of either of the interested parties, the Board provides a full transcript of the hearing and also gives written reasons for its decision in particular cases. Many of the Board's reasons rest on legal precedents established by the Board and in various courts.

The Board's attitude toward appellants has consistently been one of patience and understanding. Although appeals are heard at the earliest possible date if this is in the interest of appellants, the Board grants adjournments on the request of either party if valid reasons are presented. The Board's concept of natural justice has always taken precedence over considerations of expediency or expense. Although such provision is not in the Act, the Federal Court and Supreme Court have ruled that the Board must give consideration to motions for re-hearing or re-opening of appeals, if it appears that new material evidence is to be presented.

Any person detained pending the hearing and disposition of an appeal may apply to the Board for release and, notwithstanding anything in the Immigration Act, the Board may order release under any number of conditions. The Board has consistently taken the position that detention must be for reasons related to the individual's availability, and not for violations of the Immigration Act. At any time after it orders release, the Board may cancel its order and direct the return of the person to custody or issue an order for his arrest and detention.

# 7

# ADMISSION OF NON-IMMIGRANTS FOR EMPLOYMENT

Canada owes much to non-immigrant workers who have come to this country not to settle and become Canadians, but to perform specific tasks and then return home. They have provided skills, knowledge and manual labour for jobs for which Canadians could not be found in sufficient numbers.

In certain respects the role of non-immigrant workers in the Canadian labour force has changed little in the last hundred years. In the 1870s engineers from the United States provided much of the know-how, and foreign workers much of the labour, needed to build our transcontinental railways. The 1970s have brought us engineers with skills not foreseen a decade earlier, technicians to install or repair new and complex machinery, farm workers from the Caribbean and other areas, and visiting actors, athletes, singers and musicians.

In other respects there have been many changes. In earlier times, there was not today's clear distinction between the non-immigrant and the landed immigrant. Many of the former, while not intending to do so when they first arrived, stayed on and became Canadian citizens. This, of course, has been rendered impossible by recent legislative changes and the distinction they have established between the rights and obligations of the landed immigrant and the non-immigrant. It now is obligatory in most cases for the non-immigrant to obtain an employment visa before taking any type of job in Canada. If the non-immigrant wants to apply for landed status, he must first return to his own country or apply from abroad.

## EMPLOYMENT VISA REGULATIONS

Employment visa regulations were introduced on January 1, 1973, to protect the Canadian labour force against the unwarranted use of foreign labour, and to introduce an additional measure of control over the long-term visitor. The employment visa system does not apply to the millions of visitors Canada welcomes yearly who do not intend to take jobs, and in no way affects the procedures established to facilitate their entry. The system's essential purpose is twofold: on the one hand to preserve job opportunities for Canadian residents; on the other to provide a mechanism to permit the temporary employment of people the Canadian economy needs in jobs for which no Canadian or landed immigrant is available.

Apart from the specifically exempt categories, examples of which are described below, all persons other than Canadian citizens and landed immigrants who wish to work in Canada are required to have an employment visa. In adopting this rule, Canada has followed the lead of other countries which, in recent years, have set up stricter controls over the employment of foreigners. But Canada's approach differs. In most other countries foreigners are permitted to work only if an employer demonstrates a need for them which he cannot satisfy from domestic sources. In this country an application for an employment visa is normally approved once the Manpower Division of the Department of Manpower and Immigration certifies that no qualified Canadians or permanent residents are available and willing to undertake the employment concerned. Other provisos are intended to ensure that the issuance of the visa will not aggravate any labour unrest that may be present at the prospective location of employment. This approach places on the Department an important ongoing responsibility for ensuring that the employment visa system is administered in a manner that is not only responsive to the immediate requirements of the labour market but also is in harmony with the development of Canada's longer-term manpower strategy.

There are several types of visitors to Canada who are not required to have employment visas. Certain sales representatives, for example, are exempt from the regulations on the grounds that Canadian industry stands to profit from new products and technologies developed elsewhere. Officials coming to inspect a Canadian branch of a foreign company are also exempt, as are persons coming to perform an emergency service to protect life or property, visiting teams of athletes, large groups of performers, the crews of foreign ships or aircraft, and foreign news correspondents. Diplomats, naturally, are also exempt.

For certain other categories of visitors the procedure for obtaining an employment visa is relatively simple. Approximately 30 of these categories of persons constitute what is known as a "Waiver List". This list includes students for whom work is an essential part of their studies, ministers and members of religious orders, teachers, small groups of entertainers, executives of subsidiary companies, medical interns, U.S. commuters, and other workers admitted for short periods under federally sponsored or approved programs. Such persons may be issued an employment visa at a port of entry on request if they meet the requirements of their waiver group and are otherwise admissible as non-immigrants. However, anyone wishing to come to Canada to work is encouraged to consult the nearest Canadian Immigration office abroad in advance to ensure he will be admitted on arrival.

This arrangement controls the entry of certain classes of foreign workers into Canada without unduly complicating admissions at ports of entry. It also avoids infringing on the free flow of information and ideas from abroad. This is the consideration underlying the virtual free entry of persons engaged in religious work. It also applies to small groups of entertainers, whose entry into Canada is sometimes objected to by Canadian entertainers. By including them on the waiver list the Department avoids acting as an arbiter in cultural matters, while at the same time exercising control over their stay. Similar reasoning applies in the case of teachers, to whom employment visas are issued on the basis of evidence of a firm job offer from a university, community college, school board or other recognized institution. It must be borne in mind, however, that simplified procedures for the admittance of non-immigrants for employment are applied only where it is recognized that the nature of an occupation, for one reason or another, renders the usual certification procedures inappropriate. The basic policy criterion governing the administration of the system remains: that employment visas should normally be issued only in cases where the job opening cannot be filled by a Canadian or a landed immigrant.

## SOURCES OF NON-IMMIGRANT WORKERS

Non-immigrant workers, whatever their nationality, can be classified into one of five general groups: (1) members of an approved movement based on an agreement between Canada and another country; (2) persons recruited abroad by Canadian employers; (3) certain foreign students; (4) people already in Canada as visitors who take temporary work during the course of their visit; (5) certain people involved in judicial proceedings.

### Approved Movements

Most of those involved are agricultural workers, but in principle this type of arrangement is not restricted to any single sector. Movements of this type may range from relatively informal arrangements under which students from other countries combine a certain amount of vacation sightseeing with a period of work, to the much more highly organized Caribbean Seasonal Workers' Program, and the movements of *stagiaires* and *co-opérants* from France.

The Caribbean Seasonal Workers' Program is governed by agreements between Canada and the governments of certain Caribbean countries (Jamaica, Barbados, Trinidad and Tobago) covering recruitment of agricultural help. Wages to be paid – including a weekly guaranteed minimum wage – and accommodation and transportation arrangements are determined by agreement. Employers' associations and provincial officials are also involved. The employer notifies a Canada Manpower Centre of his requirements and these are passed to the Department of Labour of the island government concerned. The latter recruits the necessary workers. The employer then enters into a contract with the workers. The Caribbean countries concerned station liaison officers in Canada to resolve complaints by either the workers or their employers, and to arrange repatriation when necessary. Canada contributes to the cost of these officers.

This movement is well organized, satisfies an urgent seasonal requirement of Canadian farmers without displacing Canadian workers, and provides needed income to Caribbean workers. The employers are assured qualified and willing workers, but must meet more than minimal standards of wages and accommodations, and contribute to transportation costs. Normally, employers will make every effort to find suitable Canadian or landed immigrant workers before incurring these additional costs; they are assisted in this effort by the newly-created Canada Farm Labour Pools and their affiliated CMC's.

During 1973, over 3,000 workers came to Canada under this program. All engaged in some form of agricultural work or food-canning operation. Only 140 were repatriated before the end of their contract; fewer than 100 cases represented actual breaches of contract, the remainder returning home for medical or domestic reasons. In the light of experience with this program, Canada signed, in June 1974, a similar agreement with Mexico, which has been a traditional source of temporary harvest labour.

A number of young foreigners enter Canada under organized exchange programs that aim to give them an experience of work and life in Canada. Some are students in their home countries and are permitted to work in Canada during the summer months, often in those sectors of the labour market where seasonal shortages occur. Other young workers, not necessarily students, are brought to Canada under the auspices of organized movements for longer periods of time. They are placed in positions where they can become familiar with Canadian technologies, and treat their time here as an opportunity to broaden their professional skills.

The first of these movements began in the early 1950s, and the following years saw a gradual expansion of the practice. Today, the Department of Manpower and Immigration and other agencies administer the movement of approximately 2,600 young people to Canada annually for purposes other than academic training.

## Recruitment Abroad by Employers

Employers may recruit non-immigrants directly (for example, by obtaining names of prospective workers from their employees), by carrying out a recruiting campaign abroad, or they may be approached by someone whose services they could use for a temporary period. The prospective employee must, of course, be eligible to receive an employment visa. Since employment visas are not normally issued if Canadian citizens and landed immigrants are available, employers are advised not to recruit abroad until the Department certifies that there are no suitable Canadian workers. The Department also advises them to consult the consular representative or embassy of the country involved to make sure they will not be violating the laws of that country respecting recruitment.

## Foreign Students in Canada for Study

Foreign students admitted to Canadian schools and colleges since early 1973 may not normally take jobs unless they qualify for employment visas in the same way as any other non-immigrant. But there are some exceptions: those for whom employment forms an integral part of their course of study, and those coming under the sponsorship of certain international associations or federal programs are issued employment visas without reference to the availability of Canadian resident workers.

Some 30,000 foreign students were enrolled in Canadian schools and colleges in 1972, before the employment visa regulations were introduced. Until such time as these students graduate or otherwise terminate their studies they too are permitted to accept part-time or summer employment without reference to the availability of Canadian workers.

The natural attrition caused by their graduation will quickly reduce the number of foreign students enjoying this privilege.

Proposals are made from time to time for more lenient employment regulations in the case of foreign students. It has been suggested, for example, that academically promising students should be admitted without having to prove financial self-sufficiency, and that those needing funds to support their studies should be allowed to earn their way and seek employment in the same way as Canadian students. It is sometimes argued, especially with respect to students from less developed nations, that many are likely to become policymakers in their own countries and should therefore be allowed to acquire, through work experience, a broader understanding of Canadian life, industrial technology and commerce, than they can obtain in the confines of the university environment. Such considerations, and the promotion in the Canadian interest of greater international understanding, underlie the exemptions that are now made for some students admitted under the sponsorship of certain international associations and federal programs, many of which are reciprocal, with equal numbers of Canadians studying and working abroad.

## Visitors

Among those who come to Canada as visitors or tourists are substantial numbers who subsequently receive offers of employment – many remarkably soon after arrival. They may be issued employment visas, however, only for those jobs for which Canadians or landed immigrants are not available. Various aspects of this situation are discussed in Chapters 2 and 6.

## Persons Involved in Judicial Proceedings

The employment visa regulations also make special provision for non-Canadians (other than landed immigrants) in Canada who are involved in legal proceedings. They may, for example, be appealing a deportation order or be awaiting trial on some charge or other. Unless held in custody, they might be forced to resort to welfare were they denied the chance to support themselves. Therefore, even if such persons cannot meet the usual requirements, senior immigration officials may exercise delegated authority to approve an employment visa. In practice very few such cases have arisen.

Employment visas issued in the first year of the new regulations numbered approximately 81,000, but by the end of the year only 23,000 were still in force (Table 7.1). Of these, 7,500 had been issued to applicants for permanent residence in Canada under the Adjustment of Status Program, or to persons awaiting the outcome of an inquiry or appeal against a deportation order.

TABLE 7.1

EMPLOYMENT VISAS ISSUED TO DECEMBER 28, 1973

| Occupational Groups | Number |
|---|---|
| Managerial, administrative | 4,169 |
| Natural and social sciences, engineering, mathematics | 8,435 |
| Teaching | 4,899 |
| Artistic, literary, performing arts | 12,234 |
| Service | 11,342 |
| Farming, horticulture and animal husbandry | 9,159 |
| Processing, machining, fabricating, assembling and repairing | 13,357 |
| Material handling | 1,166 |
| Construction | 2,984 |
| Other | 13,189 |
| Total | 80,934 |

Table 7.2 on page 194 shows employment visas issued to U.S. and other citizens during 1973 by duration of the visas. Two-thirds of those issued to Americans were for three months or less. This reflects economic relationships that required large numbers of U.S. citizens to enter Canada for specifically defined short-term tasks. About one-third of all employment visas were issued for the maximum permissible period of one year.

### THE NON-IMMIGRANT AND THE LABOUR MARKET

To the employer, the advantages of having a ready source of labour for short-term periods are fairly obvious. This is particularly true in fruit, vegetable or tobacco farming, where production is concentrated in a few summer months. It is often extremely difficult to get enough Canadian workers for these temporary and sometimes onerous jobs. Many employers welcome a regular supply of foreign workers brought in for the harvest, and regard their return fare or other disbursements connected with their maintenance an acceptable price to pay for help during these periods of peak activity.

The attractions of the system are also evident when there is a temporary shortage of particular skills – for example, those of a specialized chef, aeronautical engineer, or foreign-language teacher. Moreover, the processing of regular immigrants is time-consuming. A non-immigrant is submitted to a much briefer examination and can therefore be brought to Canada expeditiously to fill an urgent demand for his services.

It is less easy to dress the balance of benefits and drawbacks for the worker concerned. The benefits are clear: the non-immigrant earns an income and gains an employment opportunity he would not otherwise have without uprooting himself. And he frequently has his transportation and accommodation either paid for or subsidized by his employer. The disadvantages are real, if somewhat less obvious, the major one being the availability and costs of social services. As a general rule non-immigrants pay for these services but do not benefit from them. For example, with certain exceptions, they are subject to income tax. Upon

TABLE 7.2

EMPLOYMENT VISAS
BY TERM OF EMPLOYMENT, 1973

| | 1-3 Months | 4-9 Months | 1 Year | Total |
|---|---|---|---|---|
| Total visas issued | 31,580 | 22,543 | 27,640 | 81,763 |
| Issued to U.S. residents | 20,273 | 6,059 | 5,338 | 31,670 |
| Of whom commuters | 219 | 104 | 454 | 777 |
| Issued to residents of other countries | 11,307 | 16,484 | 22,302 | 50,093 |

returning to their own country (where they may also be subject to tax on their Canadian earnings) it is often impracticable for such workers to submit Canadian income tax returns and benefit from any refunds that may be due them.

Similarly, if employed in work that is insurable under the Unemployment Insurance Act, non-immigrant workers are subject to deductions for the premiums. Again, if their homeland does not have a reciprocal agreement with Canada, they cannot collect benefits after their return. The position of the non-immigrant is also unenviable with regard to job security and health insurance. Except for those non-immigrants who have a firm contract of employment, few have any guarantee of job security.

## FEDERAL-PROVINCIAL CO-OPERATION

Most workers in Canada are in occupations that come within the exclusive jurisdiction of the provinces insofar as labour standards and minimum wage levels are concerned. The obvious purpose of provincial legislation in these fields is to provide acceptable minimum standards, while permitting the processes of the market place to establish equilibrium above them. This purpose would be frustrated by an influx of temporary workers from abroad, if they took employment at less than average wages, or under conditions that were below average standards for their occupation. To ensure this does not happen, discussions have been opened with the authorities in provinces where significant numbers of non-immigrant workers have sought employment. Their aim is to determine appropriate wages and conditions in jobs where non-immigrants are concentrated, and work towards an agreed basis for denying admission to those going to work under substandard conditions.

## INTERNATIONAL ASPECTS

A prominent and familiar international movement of non-immigrants involves the large number of persons who live on one side of the U.S.-Canadian border and work on the other, particularly in areas such as Windsor-Detroit, Sault Ste. Marie, and Niagara Falls. Historically, Canadian workers have benefitted as much as American workers from this daily commuter traffic.

An unduly restrictive attitude by Canada towards these movements could result in a tightening of U.S. regulations to Canada's disadvantage. Besides the disruptive effect this might have on some border communities, Canadians in the performing arts, in post-secondary education or in many managerial or entrepreneurial professions, might then be denied the much larger U.S. market for their services. On the other hand, a totally uncontrolled influx of U.S. entertainers, teachers and managers into Canada would clearly act as a disincentive to the development of Canadian skills. The question of reciprocity is not simply a matter of absolute numbers. At the same time, in this field, as in so many others, the vulnerability of Canada's economy and social identity to powerful influences from her larger neighbour to the south is an important factor to be weighed in assessing the balance of advantage.

## CONCLUSIONS

Canada's experience with the employment visa system has been brief, and the Department is monitoring it closely to determine whether it is meeting the purposes for which it was introduced, to detect irregularities and, broadly, to identify any improvements that may be required. To date the evidence indicates the system is fulfilling its primary objectives of responding to the requirements of employers on the one hand and, on the other, of giving the Department a much-needed instrument to exercise control over Canada's temporary worker population.

This chapter has outlined how the system performs as an

interface, so to speak, between the essential control responsibilities of immigration policy and the functioning of Canadian manpower policy. As more experience with the system is acquired, regulatory modifications and innovations may be needed to enhance both aspects of this dual role.

On the control side, there are a number of options available which would tighten the administration of employment visas should it become apparent that the system is being exploited for purposes inconsistent with its fundamental objectives. For example, should it be discovered that a significant number of people enter Canada declaring themselves to be visitors when their real intention has been to seek employment, one logical step would be to deny them employment visas. Other areas which will need careful watching concern current practices with respect to the renewal of visas, and the definition of the type of employment for which they may be issued.

As for manpower policy, an underlying principle the employment visa concept is designed to serve is that no Canadian productive enterprise should be seriously hampered because an employer faces insurmountable difficulties in securing the workers he needs. If production is cut back by labour shortages, the Canadian worker stands to suffer from the curtailment of employment opportunities. At the same time the facility that places non-immigrants at the disposal of employers must not absolve the latter from the responsibility, taking advantage as appropriate of governmental manpower programs, to seek out, develop and train members of the Canadian labour force. In this connection one of the advantages of the employment visa system is the additional opportunities it gives Canada Manpower Centres to provide service to Canadian employers. When the latter deal through a Canada Manpower Centre before hiring a non-immigrant, the Centre gains an opportunity to place local workers whenever they are available. More generally, the data on the administration of employment visas assist manpower services to acquire a sharper perception of the manpower and training needs of various segments of Canadian industry.

It is vital to safeguard the general policy of issuing employment visas only when qualified Canadians or landed immigrants are not available and prepared to take the jobs for which visas are sought. Evidently the willingness of the Canadian labour force to participate in meeting the demands of the market is closely linked to wage levels and the nature of working conditions. A policy dimension to the operation of the employment visa system requiring constant vigilance is the potential impact of non-immigrant workers on the attractiveness of job opportunities. It is incumbent on manpower policy to ensure that the availability of non-immigrant workers does not cause or perpetuate the depression of wage rates or conditions of work below acceptable standards in any sector of industry, either nationally or regionally.

The inauguration of federal-provincial discussions on these and related problem areas has already been noted. Recourse to the employment of non-immigrant workers to serve national and regional needs in a way fully compatible with overall manpower strategy is facilitated through the Manpower Needs Committees. The latter exist in each province and bring together federal and provincial representatives, with provision for consultation with business, educational and other interested bodies. The development of their role in maximizing the immigration program's contribution to provincial manpower planning is a current federal objective.

Any consideration of the current place of non-immigrant workers in a modern industrialized society would be incomplete without reference to the European experience with so-called "guest workers". It will have been evident from the present description of Canada's approach that it is no part of Canadian policy to contemplate a resort to this type of manpower on any scale remotely comparable to that which has taken place in the countries of the Common Market. There, millions of temporary workers have become a major element in the labour force, their numbers ranging from 10 per cent to as high as 30 per cent of all workers in some countries.

It is undeniable that during the post-war period Europe's rapidly expanding economy has benefitted greatly by drawing on the ample reserves of unskilled and semi-skilled labour in the economically less advantaged countries of the Mediterranean rim. But equally uncontestable are the problems that have ensued. Over the years western European industries have become structurally dependent on this foreign labour reserve. For their part, while the foreign workers concerned have been eager to take advantage of Europe's employment opportunities, they have come to fill jobs which the native labour force is unprepared to accept. In many cases these temporary workers have had to leave their families at home, have been restricted to "socially undesirable" occupations, and generally live and work in conditions that set them as a group apart from the communities whose prosperity they serve. Concentrated in congested urban areas, these workers have frequently been exposed to discrimination, and are extremely vulnerable in times of any economic downturn. Although specific practices and regulations vary widely from one recipient country to another, the social consequences of the system have been a cause for mounting concern in the countries where it operates, and have been creating increased difficulties, both economic and political, in relations between receiving and sending countries.

The carefully defined purposes of Canadian policy with respect to non-immigrant employment, as well as the relatively limited numbers of temporary workers which Canada receives, clearly distinguish the Canadian situation from that in Europe and provide no grounds for drawing a parallel between the two. Nonetheless, the unhappy results elsewhere of permitting an economy, or any sector of it, to become heavily dependent on foreign labour represent an important and useful lesson for those engaged in planning the future development of manpower and immigration policies in this country.

# APPENDIX A

## Statement of
## Prime Minister Mackenzie King
## On Canada's Immigration Policy

Excerpt from Hansard, Thursday, May 1, 1947

Right Hon. W. L. MACKENZIE KING (Prime Minister): Mr. Speaker, before the house resumes the debate on the second reading of the bill to amend the Immigration Act, I should like to set forth, in broad outline, the government's policy with respect to immigration.

The policy of the government is to foster the growth of the population of Canada by the encouragement of immigration. The government will seek by legislation, regulation, and vigorous administration, to ensure the careful selection and permanent settlement of such numbers of immigrants as can advantageously be absorbed in our national economy.

Like other major problems of today, the problem of immigration must be viewed in the light of the world situation as a whole. A wise and productive policy for Canada cannot be devised by studying only the situation within our own country. For example, temporary but effective limits on any policy that is to be applied immediately are created by the problem of providing ocean transportation and of establishing inspection facilities in certain countries to which access is difficult at present. Moreover, Canada's policy has to be related to the social, political and economic circumstances resulting from the war. Among other considerations, it should take account of the urgent problem of the resettlement of persons who are displaced and homeless, as an aftermath of the world conflict.

Under existing circumstances, therefore, Canada's policy with respect to immigration falls, necessarily, into two parts: measures designed for immediate application, and a long-term programme.

Let me point out at once that with regard to immigration at the present time, there is confusion of two fundamental points; namely, the extent to which immigrants may legally enter Canada, and the extent to which they can physically get to Canada. At present, the limiting factor is not our legislation or regulations, but the shortage of transport. Through Canada's high commissioner in London, the government has kept in active touch with shipping authorities and transportation companies in the United Kingdom to see what may be possible in the way of special shipping services. As to what may prove feasible, I am unable to make a report at this time. Other countries interested in encouraging immigration face precisely the same conditions, and are experiencing the same difficulties. The problem of transportation is a very real one. It cannot be overcome in a week or a month, or indeed within the next year.

The shortage of shipping means that Canada cannot secure more immigrants simply by changing laws and regulations. Since those persons we would be glad to welcome will not all be able to come, the shortage of shipping also means that we have to decide to which immigrants prior opportunity to come to Canada is to be given.

Because of the limitations of transport, the government decided that, as respects immigration from Europe, the emphasis for the present should be on the admission of the relatives of persons who are already in Canada, and on assisting in the resettlement of displaced persons and refugees.

Up until the end of the war and since – under order in council P.C. 695 of March 21, 1931 – four broad categories of persons were admissible to Canada. These were:

1. British subjects from the United Kingdom, Ireland, Newfoundland, New Zealand, Australia or the Union of South Africa, who possessed sufficient means to maintain themselves until employment was secured.
2. United States citizens, similarly possessed of means of maintenance.
3. Wives, unmarried children under 18, or fiancees of men resident in Canada.

4. Agriculturists with sufficient means to farm in Canada.

During the 1930's, due to the adverse economic conditions of the period, these provisions were necessarily interpreted in a restrictive manner. Because of improved economic conditions, it is now possible to interpret them broadly. It is the intention of the government, under present circumstances, to have the regulations so administered that British subjects from the United Kingdom, Ireland, Newfoundland, New Zealand, Australia or the Union of South Africa, and citizens of the United States, who desire to enter Canada will only be required to meet certain standards of health and character, and to show that they are not likely to become public charges.

At the end of the war, it was felt that conditions in Europe made it desirable to widen the categories of relatives of Canadian residents who could be admitted to Canada. As a result these categories, some time ago, were extended substantially. Recently, the terms of admissibility were extended to include still wider groups of relatives. All married relatives who are admissible are now granted the right to bring their families with them. I would ask leave of the house to table a copy of the order in council – P.C. 1734 of May 1, 1947 – which extends the terms of admissibility.

The government has also extended admissibility to persons who are suitable for employment in the primary industries. As hon. members are aware, Canada's primary industries are experiencing an acute shortage of manpower.

The resettlement of refugees and displaced persons constitutes a special problem. In the intergovernmental committee on refugees, and in the discussions in the united nations leading to the establishment of the international refugee organization, Canada has taken an active part. In this connection, the government has taken measures respecting the admission of refugees and displaced persons, and also of Polish ex-soldiers. These measures, though not of wide scope, are practical steps within the present physical limitations imposed by transportation.

Canada is not obliged, as a result of membership in the united nations or under the constitution of the international refugee organization, to accept any specific number of refugees or displaced persons. We have, nevertheless, a moral obligation to assist in meeting the problem, and this obligation we are prepared to recognize.

The government is sending immigration officers to examine the situation among the refugee groups, and to take steps looking towards the early admission of some thousands of their number. In developing this group movement, the immigration branch and the Department of Labour will determine jointly the approximate number of persons who can be readily placed in employment and absorbed into various industries and occupations. Selection officers will then consider applicants for entry into Canada, examine them on a basis of suitability and physical fitness, and make arrangements for their orderly movement and placement. Persons so admitted will, of course, be included in whatever quota Canada finally accepts as its share in meeting the general problem. In taking these steps the government is seeking to ensure that the displaced persons admitted to Canada are of a type likely to make good citizens.

Let me now speak of the government's long term programme. It is based on the conviction that Canada needs population. The government is strongly of the view that our immigration policy should be devised in a positive sense, with the definite objective, as I have already stated, of enlarging the population of the country. This it will seek to attain through the development and energetic application of productive immigration measures.

The population of Canada at present is about 12,000,000. By 1951, in the absence of immigration, it is estimated that our population would be less than 13,000,000 and that by 1971, without immigration, the population would be approximately 14,600,000. Apart from all else, in a world of shrinking distances and international insecurity, we cannot ignore the danger that lies in a small population attempting to hold so great a heritage as ours.

The fear has been expressed that immigration would lead to a reduction in the standard of living. This need not be the case. If immigration is properly planned, the result will be the reverse. A larger population will help to develop our resources. By providing a larger number of consumers, in other words a larger domestic market, it will reduce the present dependence of Canada on the export of primary products. The essential thing is that immigrants be selected with care, and that their numbers be adjusted to the absorptive capacity of the country.

It is of the utmost importance to relate immigration to absorptive capacity. In the past, Canada has received many millions of immigrants, but at the same time many millions of people have emigrated. Of the latter, a large proportion were young people born in Canada, and others who had benefited by education or training received in Canada. The objective of the government is to secure what new population we can absorb, but not to exceed that number. The figure that represents our absorptive capacity will clearly vary from year to year in response to economic conditions. At the present stage, when Canada is returning to a normal situation after wartime disruption, it is impossible, with any degree of accuracy, to make forecasts as to our future power of absorption. For some time to come, no matter what special shipping arrangements we may be able to achieve, conditions of transport will limit the number of immigrants. When that limitation ceases to prevail, it will be necessary to consider further what measures will best achieve the adjustment of immigration to the numbers that can be absorbed into the economy of Canada.

With regard to the selection of immigrants, much has been said about discrimination. I wish to make it quite clear that Canada is perfectly within her rights in selecting the persons whom we regard as desirable future citizens. It is not a "fundamental human right" of any alien to enter Canada. It is a privilege. It is a matter of domestic policy. Immigration is subject to the control of the parliament of Canada. This does not mean, however, that we should not seek to remove from our legislation what may appear to be objectionable discrimination.

One of the features of our legislation to which strong objection has been taken on the ground of discrimination is the Chinese Immigration Act. This act seems to place persons from one particular country in an inferior category. The government has already initiated action for the repeal of that statute. Chinese residents of Canada who are not already Canadian citizens may now be naturalized. Once naturalized, they are permitted to bring their wives and unmarried children under 18 to join them in this country.

The East Indians legally resident in Canada are British subjects who have resided here for many years. They are therefore Canadian citizens. As such, their wives and unmarried children under 18 are admissible.

With regard to the Japanese, I stated, on August 4, 1944, at which time we were at war with Japan, that the government felt that in the years after the war the immigration of Japanese should not be permitted. This is the present view and policy of the government. It will be for future parliaments to consider what change, if any, should be made in this policy.

There will, I am sure, be general agreement with the view that the people of Canada do not wish, as a result of mass immigration, to make a fundamental alteration in the character of our population. Large-scale immigration from the orient would change the fundamental composition of the Canadian population. Any considerable oriental immigration would, moreover, be certain to give rise to social and economic problems of a character that might lead to serious difficulties in the field of international relations. The government, therefore, has no thought of making any change in immigration regulations which would have consequences of the kind.

I wish to state quite definitely that, apart from the repeal of the Chinese Immigration Act and the revocation of order in council P.C. 1378 of June 17, 1931, regarding naturalization, the government has no intention of removing the existing regulations respecting Asiatic immigration unless and until alternative measures of effective control have been worked out. Canada recognizes the right of all other countries to control the entry or non-entry of persons seeking to become permanent residents. We claim precisely the same right for our country.

I wish to make it equally clear that the Canadian government is prepared, at any time, to enter into negotiations with other countries for special agreements for the control of admission of immigrants on a basis of complete equality and reciprocity.

Through the years of depression and war, and consequently of greatly restricted immigration, the immigration branch of the Department of Mines and Resources and its offices abroad were reduced to proportions wholly inadequate to cope with an active immigration policy. With the end of the war, and in the light of changed economic conditions, the government has already taken steps to expand and strengthen this branch of the public service. To carry out the government's policy effectively, immigration services will be further developed to meet expanding requirements.

# APPENDIX B

## Measuring Labour Market Demand For Immigration

Labour market demand in Canada is reflected in the criteria used to assess prospective immigrants in a number of ways. One assessment factor reflects demand in the country as a whole for workers in specific occupations. Another reflects the *general* buoyancy of the labour market in the area of the applicant's intended destination. Third, points are assigned if the immigrant has a pre-arranged job, or is in an occupation where there is such a persistent shortage of labour in the area of his destination in Canada that early employment is a virtual certainty. As explained in Chapter 2, a possible 15 assessment units may be awarded on the basis of the first, general occupational demand; up to 5 points on the second, area demand; and 10 points are assigned for pre-arranged employment and/or designated occupation. An independent or nominated immigrant must receive points under either the general demand or pre-arranged/designated occupation heading in order to qualify for a visa.

Increased emphasis on labour market conditions in the selection process requires that labour demand be measured more comprehensively and in greater detail than was possible a few years ago. Considerable progress has been made in improving the statistical base by setting up a continuing job vacancy survey, by more effective use of information from the department's operations, and by regular consultation with provincial authorities. Additional improvements are being developed in techniques for projecting demand into the future.

### Occupational Demand Ratings

These ratings are based on a survey of job vacancies carried out each month by Statistics Canada. The survey covers hirings in establishments accounting for 90 per cent of paid workers in Canada. In the economic activities not covered (primarily agriculture, fishing and employment in private households) ratings are based on assessments made by the department's officials.

Demand ratings are calculated by using the ratio of persistent job vacancies to total employment in an occupation. Ratings are assigned on the basis of a fixed scale, from 15 points to occupations with high ratios to one point for occupations with the lowest ratios. Zero ratings are assigned to occupations with no labour demand. The ratings are revised periodically to reflect increases or decreases in job vacancies. The effect of these revisions (reinforced by corresponding changes in area demand and designated occupations) is to increase or decrease the number of immigration visas granted to applicants whose overall qualifications are marginal.

A list of occupations with the assigned demand ratings, together with the area demand ratings, is sent regularly to immigration selection officers for use in the selection process (for a description of this process see Chapter 2). The list is reviewed regularly and revisions are transmitted to immigration posts.

The development of a reliable measure of demand, by occupation, has been a process of considerable complexity. Until recent years there was no means of counting job vacancies on a systematic, comprehensive basis, and to do so required the development of a completely new survey mechanism by Statistics Canada. The measurement of job vacancies has many hidden difficulties, particularly when the job vacancy count is being used for purposes of immigration selection. For example, one would not want to count as a vacancy (or at least count separately) a part-time job; or a job that is open only to persons already employed in the firm concerned; or one that a manager intends to set up but has not yet taken steps to obtain company authority; or one that can be filled within a few hours through a recall list. This and many other conceptual problems had to be identified and resolved by Statistics Canada during an initial development phase of some three years. The survey is now yielding a

consistent measure of job vacancies. To avoid basing occupational demand ratings on jobs that may be plentiful but have a high turnover, the ratings are calculated on the basis of jobs that remain unfilled for a month or more. In this way an attempt is made to link the selection process to persistent labour shortages in Canada.

One important adjustment to the raw data reflects the need to ensure that the occupational ratings are not affected simply by the highly seasonal nature of hiring in some occupations in Canada. The success of most immigrants in establishing themselves in Canada depends on employment in a year-round job, and it is important that the occupational demand ratings reflect the opportunities available in such jobs. This can be done by "deseasonalizing" the vacancy statistics – applying to each occupational group a statistical technique to eliminate the normal seasonal changes in vacancy levels. Work is going forward in developing seasonally-adjusted figures for use in calculating demand ratios.

Another shortcoming of the data base for occupational demand ratings has not yet been resolved. This is the fact that the job vacancy survey, and the ratings based on it, measure current demand, whereas the immigrants to whom they are assigned may not land in Canada for many months. Labour market conditions can and sometimes do change significantly in the intervening period and job opportunities that were available when the immigrant applied for a visa may no longer exist when he arrives. Ideally, therefore, occupational ratings should be based on a figure arrived at by projecting demand in each occupation a year or so ahead. Research efforts are now being directed to improving the scope and reliability of short-term occupational projections. The development of such projections will be assisted by the significant progress made in recent years in developing multi-purpose models for forecasting economic activity.

### Area Demand Ratings

This selection criterion is based on general labour market conditions in specific areas of the country. In the selection process the applicant for an immigration visa may receive up to five points, of the 50 normally needed to qualify, based on conditions in the area of his intended destination.

For this purpose the country is divided into 35 areas, and demand ratings are assigned on the basis of a combination of employment growth and the level of unemployment in the area during the past year. The manner in which these two factors are combined in establishing the area ratings can be demonstrated most easily in tabular form:

AREA DEMAND RATINGS

| Unemployment Rate (per cent) | Employment Growth | Area Rating |
|---|---|---|
| 0 - 4.9 | Positive | 5 |
| 5 - 6.9 | More than the national average | 4 |
| 5 - 6.9 | Less than the national average | 3 |
| 7 - 9.9 | More than the national average | 2 |
| 7 - 9.9 | Less than the national average | 1 |
| 10 plus* | Employment decrease* | 0 |

*An area is assigned zero points if either of these conditions prevails.

The area demand ratings are reviewed every three months and revisions are transmitted to selection officers along with the occupational demand ratings.

## Designated Occupations

An amendment to the immigration regulations in February 1974 provided that an occupation in persistent local shortage could be so designated. These designated occupations would be automatically assigned 10 units of assessment, the same number as arranged employment.[1] Thus an applicant in an occupation with a demand rating of, say, 12 units, may be assigned an additional 10 units if his occupation is "designated" in the area of his destination, just as if he had a pre-arranged job there.

An occupation is designated if in a given locality (normally the area serviced by a Canada Manpower Centre) the demand for qualified workers has been persistently greater than the available supply and is likely to continue for another year or more. To qualify for designation, the average number of job vacancies in the occupation over the previous year would ordinarily exceed 100, at wages and working conditions prevailing in the area. The occupations, and the areas to which they apply, are designated by the senior departmental official of the region concerned, on the advice of the regional economist and after consultation with appropriate provincial authorities.

This amendment is designed to encourage a larger flow of immigrants with the right occupational qualifications to areas in which these workers are in short supply. To ensure that the influx is not too large a monitoring system has been set up to keep a continuing check on the number of visas granted in each designated occupation. These figures are sent directly from immigration posts to the regional officials concerned, and on the basis of this information and reports from the areas concerned, designated occupations are reviewed each month. Revisions are transmitted immediately to all immigration posts abroad.

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[1] This selection criterion is fully described on page 47, Chapter 2.

# APPENDIX C

## The Occupational Skill Rating

One of the qualities bearing on the successful integration of an immigrant into the Canadian labour market is the skill he possesses. This is an aspect of immigration selection that is not to be confused with occupational demand. An immigrant will find it easier to get a job and settle successfully in Canada if there is a large number of vacancies in his occupation. The demand for labour in the applicant's occupation is consequently a separate part of the selection criteria. But the greater the skill of the immigrant the more likely it is that he will be able to move into a job of his choice, and the easier it will be for him to adjust to technological or structural differences in employment. Candidates for immigrant visas are therefore given credit for occupational *skill* on a rating scale ranging from one to ten units.

Performance in most occupations depends on a combination of reasoning power, ability to understand and follow instructions, and a degree of language, mathematical or other technical skill. These abilities are usually acquired by means of academic courses in a system of formal education. The necessary knowledge can also be acquired through self-education, though that route is very rare these days. To function satisfactorily in a job, a person also requires information, techniques and manual skills that are specific to a particular occupation. This kind of skill, though it may also be taught in the formal education system, is usually acquired in special vocational, or in-plant training courses, apprenticeship or simply experience on the job.

For purposes of assessing applicants for immigration visas on this factor, skill is defined as the job-related knowledge a person has acquired through a combination of formal education, training and experience on the job. In effect, the knowledge required for an average performance in each occupation in Canada is given a rating of from one to ten points. With these given ratings in hand the selection officer identifies an applicant's occupation (in terms of the Canadian equivalent) and assigns the relevant rating.

A degree of flexibility is built into the selection procedure to allow for evidence that may be presented to show unusually high or below-average skill in an applicant's occupation. In these instances the selection officer may increase or decrease the given occupational skill rating by one unit. To this extent, and to this extent only, the applicant's skill *in the performance of his occupation* is taken into account in the selection system.

The development of the skill rating scale starts with the Canadian Classification and Dictionary of Occupations (CCDO), a publication issued by the Department in 1971, giving detailed descriptions for nearly 7,000 occupations based on Canadian standards. The CCDO also contains information which makes it possible to identify, for each occupation, the degree of skill normally required by an individual who is qualified to perform the duties of the occupation described. Skill is expressed numerically in the CCDO by two separate factors called General Educational Development (GED) and Specific Vocational Preparation (SVP). GED (rated from 1 to 6) embraces those aspects of education which contribute to the worker's reasoning capability and ability to understand and follow instructions. SVP (rated from 1 to 9) refers to the amount of training time required for average work performance in a specific occupation. For purposes of the immigration selection system these two factors are combined and transposed into the 1 to 10 rating scale which makes it possible for selection officers to identify and assign to each applicant the number of units appropriate to his occupation.

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# APPENDIX D

## Lang-Cloutier Agreement

### AGREEMENT

relative to the presence of orientation officers of the Department of Immigration of Quebec in federal immigration offices outside Canada.

SIGNED in Ottawa by

the Minister of Manpower and Immigration of Canada

Otto E. Lang

and the Minister of Immigration of Quebec

Francois Cloutier

this 18th day of May 1971.

### GENERAL AGREEMENT

1. The agreement recorded in this document, and reached this day, between the Minister of Manpower and Immigration of Canada and the Minister of Immigration of Quebec duly empowered by their respective Governments for the purpose of these presents reflects and expresses the assent of the Governments of Canada and of Quebec as to the object, terms, conditions and modalities of this agreement. For the purposes of this agreement, the Minister of Manpower and Immigration of Canada (and his authorized representatives) constitutes "the Federal party", while the Minister of Immigration of Quebec (and his authorized representatives) constitutes "the Quebec party".

2. The general object of the agreement is to render possible and facilitate the presence of an orientation officer and a

secretary-clerk-interpreter, both in the employ of the Department of Immigration of Quebec, within federal immigration offices outside Canada, that is, in the immediate future, in Athens, Beirut, Brussels, Lisbon and Rome, but also in any other federal immigration office where a similar Quebec presence might be requested and deemed possible.

3. Because of Canada's desire to maintain good relations with the authorities of all countries where Canadian Immigration offices are located, the parties will not be bound by the present agreement in cases where such countries object to the arrangements proposed. It will rest with the Department of External Affairs to determine whether there is any objection to the arrangement in the host country and to advise the parties accordingly.

4. Under the terms of this general agreement, specific agreements could be discussed, concluded and signed by the duly authorized representatives of the Departments of Immigration of Canada and of Quebec concerning any particular office where a Quebec presence were to be requested, and deemed possible provided that each such specific agreement complies with the spirit, the form, the conditions and modalities provided for hereinbefore and hereinafter.

5. Any specific agreement shall be of the nature and shall take the form of a lease of tenancy (or subtenancy, as the case may be) consented to and approved by the Ministers of Canada and of Quebec duly empowered to do so, and this lease shall be subject to the terms of the original lease held by the Federal party to this agreement.

(a) Where the Government of Canada is the holder of a lease of tenancy due to terminate before three years, the agreement could cover a duration equal to the unexpired period of this lease; the agreement shall be for a maximum duration of three years if the unexpired period of the federal lease is in excess of three years. Either party may terminate the agreement, subject to notice in writing, six months prior to the beginning of a new fiscal year.

(b) Any agreement may be renewed for a period of three years, under the terms provided for in sub-paragraph (a).

(c) The space placed at the disposal of the Quebec party shall comprise two rooms, preferably adjoining, and identified only by the inscription: *Agent d'orientation du gouvernement du Québec*. The Federal party shall provide for heating, lighting, maintenance and security of these rooms. The cost of rental, local taxes, and the services mentioned above shall be established according to space occupied and shall be borne by the Quebec party. The rent shall be payable on a monthly basis; the other costs shall be payable periodically, after the prorated share of the Quebec party has been determined and upon the request of the Federal party. Payments shall be made to the order of the Receiver General of Canada in Ottawa.

(d) No alterations or improvements may be made to the space rented without the prior consent of the Federal party.

(e) The furnishing and equipping of the space allocated to the Quebec party shall be its responsibility, but shall be neither inferior nor superior in quality to the standards established by the Government of Canada, taking into account the rank of the occupant.

6. (a) The cost of telegraph and telephone communications of the Quebec party shall be assumed by the Quebec party, but these services shall be requested from and supplied by the Federal party from its own facilities.

(b) The Federal party shall provide the Quebec party with local mail handling facilities, at the following address:

L'Agent d'orientation du gouvernement du Quebec,

a/s de l'Ambassade du Canada,

(le numero et la rue),

(la ville et le pays).

7. (a) The Quebec party shall pay a supplement according to a percentage to be determined in keeping with local circumstances, in respect of the various costs enumerated in subparagraph 5(c), except the rent, to compensate for administrative services rendered under sub-paragraphs 5(c), 6(a) and 6(b). This supplement shall be payable on an annual basis in the manner indicated in sub-paragraph 5(c).

(b) Any service rendered by the personnel of the Federal party over and above the services mentioned above in subparagraphs 5(c), 6(a), 6(b) shall be subject to special agreement and additional remuneration.

8. It is agreed that the security officers in the service of the Government of Canada shall have access at any time to the rented premises, in any situation where it is the duty of these officers to ensure compliance with the security regulations applying to the entire space in question.

9. (a) The recruitment, the selection and the remuneration of the orientation officers of the Department of Immigration of Quebec will follow criteria and standards comparable to, but not exceeding those applied by the Federal party. The secretary-clerk-interpreters will be recruited locally, and their salaries will be comparable to those of their federal counterparts, plus reasonable compensation for not being able to participate in a superannuation plan. Before employment is confirmed, these officers and secretaries shall be subject to the same security requirements as those governing the selection of federal personnel. It is understood that the orientation officers of the Quebec Department of Immigration shall comply with the security regulations in force at these posts and to which federal members of the mission are subject. Neither the personnel of the Federal party nor the personnel of the Quebec party shall have access to, or make use of, information or instructions intended for the exclusive use of the personnel of the other party. Working hours and statutory holidays shall coincide with those of the Federal Government.

(b) The posting of an orientation officer of the Government of Quebec shall be subject to a communication, in the usual manner, through the Department of Manpower and Immigration, by the Department of External Affairs of the Government of Canada to the foreign government concerned, so that this officer may be granted the same privileges, including those of first installation, and immunities enjoyed by a member of the non-diplomatic personnel of the Government of Canada in the place to which the said officer is posted.

(c) It is fully understood that personnel of the Quebec Department of Immigration shall in their private conduct and in their professional or social activities, conform to the standards governing the conduct and activities of the Federal personnel of the mission. The Federal Immigration officer-in-charge will be responsible to the head of mission for the Quebec personnel in the same way as he is for his own staff. If a member of the Quebec personnel fails to comply with these standards, the head of mission may intervene, and his decision, which can be appealed to the two parties to the agreement, will be enforced in the interim.

10. (a) The regular and normal role of an orientation officer of the Quebec Department of Immigration is to provide further information beyond that supplied by the Federal party on living and working conditions in Quebec to applicants destined to that province; referrals of the applicants with their applications will take place at the interview after they have been declared admissible by a visa officer and the applicants have then agreed to a suggested meeting with the representative of the Quebec party.

(b) The Quebec orientation officer shall not act as a recruitment officer. He may, however, receive directly and at his discretion any person who seeks him out, and if he deems it appropriate, subsequently indicate in writing his opinion regarding the candidate, to the visa officer. In cases which, *prima facie,* appear valid to him, the Quebec orientation officer may give his visitor the required application form for admission.

(c) It is also fully understood that, in the last resort, any application for immigration must necessarily be decided upon in the light of the Canadian Immigration laws, regulations and criteria.

11. The parties to this agreement understand and accept that the activities of the Federal officer are Canadian in scope; consequently a Quebec presence in a federal office does not have as its objective or effect to place the Quebec government in a privileged position in the field of immigration recruitment and selection, as compared to the other provinces, but to enable a Quebec orientation officer to receive, and to advise, counsel and assist an immigrant who has chosen Quebec as his place of settlement before the immigrant departs.

12. This agreement is written in the French and English languages, both texts being equally valid. It shall come into force on the date of its signature.

In witness thereof, have signed in Ottawa, in two copies both being originals, this eighteenth day of May 1971.

Otto E. Lang

Minister of Manpower and Immigration of Canada.

Francois Cloutier

Minister of Immigration of Quebec.

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# APPENDIX E

## United Nations Convention

## Relating To

## The Status of Refugees

### ARTICLE 32

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

### ARTICLE 33

### PROHIBITION OF EXPULSION OR RETURN

### *(REFOULEMENT)*

1. No Contracting State shall expel or return *(refouler)* a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

# APPENDIX F

## Manpower and Immigration Guideline
## For Determination of Eligibility
## For Refugee Status

### 1. The Refugee Definition

The key to determining eligibility for refugee status is the definition of "refugee" contained in the 1951 Convention. It follows that a thorough understanding of every part of the definition is essential if a just and impartial determination of eligibility is to be made. Outlined hereunder, therefore, is a breakdown of the definition with interpretations:

(a) . . . *Owing to well-founded fear of being persecuted . . .*

This is the most difficult part of the refugee definition to interpret and most appeal decisions in various signatory states relate to this clause. "Well-founded fear" is normally interpreted to mean that the person has either actually been the victim of persecution or can show good reasons why he fears persecution. As "fear" is a subjective feeling, "well-founded" provides the objective element and imposes an obligation on the applicant to provide such indications as will enable the determining authority to decide whether the applicant has good grounds to fear persecution. "Persecution", within the context of the refugee definition, has not been defined but an acceptable definition is "followed, harassed, importuned with questions, threatened, coerced, discriminated against, etc.; usually because of beliefs or actions considered heretical". The persecutor of refugees will normally be the government of the country, province or locality of the refugee's former nationality or habitual residence and the persecution may be either direct or indirect. An example of indirect persecution would be where the responsible authorities simply turn a blind eye to the persecution of a person or a minority group by other nationals of the country concerned.

(b) . . . *For reasons of race, religion, nationality, membership of a particular social group or political opinion . . .*

Persecution must be feared for one of the reasons stated in the definition. Whether the person concerned is a member of a racial, religious or national minority that is known to be persecuted will, of course, be relatively easy to determine. In the case of social group or political opinion it is necessary to determine whether the person is considered a political adversary because of such membership and thus, subject to persecution. It should be noted that several weak grounds may cumulatively make the fear of persecution well-founded.

(c) . . . *is outside the country of his nationality . . . or . . . not having a nationality . . . outside the country of his former habitual residence . . .*

It follows from the word "is" that the person need not have left his country for the reasons mentioned but he must be outside the country because of these reasons. If the person did not leave because of fear of persecution, then it is a question of establishing what has happened since he left which would make his fear of persecution well-founded. Examples of the latter would be changes in government in the country concerned, impositions of new laws or regulations which could constitute persecution of a minority or, in the case of an individual outside his country, association with emigré circles considered hostile by authorities in his country of origin. An important factor to note is that a person possessing a nationality must fear persecution in the country of his nationality, and a stateless person, in the country of his former habitual residence. The term "former habitual residence" is interpreted to mean the country in which the person resided and in which he suffered persecution or fears he would suffer persecution if he returned to it.

(d) . . . *is unable or, owing to such fear, is unwilling . . .* "Unable" refers primarily to stateless refugees or refugees refused passports or other protection by their own government. "Unwilling" refers to refugees who refuse to accept the protection of the country of their nationality, if the reason is well-founded fear of persecution.

## 2. Related Terms

There are many terms which are erroneously considered synonymous with "refugee" such as "stateless person", "displaced person", "asylum seeker", "defector", etc. Any of these persons may or may not also be refugees. The key is whether the reason for statelessness, displacement, defection or seeking asylum is well-founded fear of persecution on the grounds mentioned in the refugee definition. It should be noted that any of the actions implied in the above terms may also be taken for reasons totally unrelated to persecution, e.g., a person may be displaced because of war or natural disasters; a person may defect for reasons of social and/or economic betterment or simply because he disagrees with the laws or policies of his country. A person may in some cases become stateless by renouncing his citizenship for various reasons; a person may seek asylum from the consequences of a criminal act.

3. From the foregoing it will be seen that establishing whether or not there is well-founded fear of persecution for the specific reasons mentioned in the definition is of paramount importance. There are several indications which tend to show whether the applicant has a well-founded fear of persecution such as:

(a) membership in a minority group – social, political, ethnic, national or religious;

(b) whether this group was persecuted and, if so, for what reasons;

(c) history of incidents indicating persecution of the applicant or his close relatives;

(d) his mode of exit – legal, illegal, at the risk of injury or life or otherwise;

(e) previous opportunities to apply for refugee status (particularly in another signatory state). The decision of the authorities in that state with regard to refugee status;

(f) the stringency of exit controls imposed by the country of the applicant's origin;

(g) The political beliefs and/or activities of the applicant while in his country, whether or not he was ever punished for political as opposed to other crimes;

(h) did the applicant ever receive punishment for a non-political offence which appeared inappropriate (i.e. unduly severe) to the offence committed;

(i) reasons for wishing to go to Canada or stay in Canada (do they appear to indicate fear or simply a desire for improvement in his economic and/or social status?);

(j) how was the applicant treated in his country of origin compared with other nationals of that country with regard to obtaining education or training, employment, housing, and other social benefits.

### 4. Problem Areas

One of the general problems encountered in determining refugee status relates to the "Burden of Proof" and "Rules of Evidence". The burden of proof is, according to the general principles of law, on the applicant. The normal rules of evidence are, however, difficult to apply in proceedings leading to a determination of refugee status. While the applicant may, on occasion, be in a position to call witnesses or present documentary evidence in support of his statements, such occasions are apt to be rare. It follows from the very situation in which he finds himself as an exile that he is not apt to be in a position to submit conclusive evidence. It will essentially be a question of whether his submissions are credible and, in the circumstances, plausible. In the absence of conclusive evidence and where no facts are known which give the examining officer reason to question the veracity of the applicant's claims, he should be given the benefit of the doubt. In order to do justice to the spirit of the Convention Relating to the Status of Refugees, its provisions should be interpreted sympathetically and from a humanitarian viewpoint. This does not mean, however, that totally unsupported claims to refugee status will be accepted, if there is no evidence or indication of persecution on the grounds contained in the refugee definition.

Another problem area relates to fear of persecution as opposed to fear of prosecution. Deserting seamen often claim they will suffer persecution on return to their country because they deserted their ship. The relevant question in these cases is whether the applicant will be treated any more harshly than any other deserting seamen from that country. Persecution implies discriminatory or special treatment and, in the case of a refugee, on grounds of his race, religion, nationality, membership of a particular social group or political opinion. The same principle can be applied to other types of applicants for refugee status.

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