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CANADA'S PERIODICAL ON REFUGEES

# REFUGEE

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**Special Issue on New Amendments to the Immigration Act**

## **Processing Bill C-86**

Bill C-86, the new proposed Immigration Act, is the first total overhaul of our immigration legislation since our existing Act was tabled in 1976. The Bill became law only in 1978. The new proposed legislation was tabled in the House of Commons in mid-June. The expressed intention is that it become the law of the land before the end of the year.

No decision a country makes, including decisions on our constitution, is more important than who and how new members will be allowed to join. Canada was constituted by immigrants. Eighteen percent of our current population were born elsewhere. Canada is a country of people as well as basic laws, and immigration laws determine who will make up a significant proportion of Canada's body politic in the future.

It is critical that new immigration legislation be given careful consideration. This is particularly important since there is a great deal of evidence that Bill C-86, the most all-encompassing legislation on immigration in Canadian history, was hastily put together. Yet the intention is to give the legislation rapid

consideration in committee during the summer months and pass it in the early part of the fall session. Bill C-86 deserves closer scrutiny.

At the time the proposed Bill was made public in mid-June, the government produced a great deal of literature explaining the legislation's intent and analyzing the major changes. Unfortunately, few journalists, concerned citizens or specialists were able to obtain copies of the actual Bill. Twelve scholars in our research centre are working from one copy of the Bill, which I obtained personally in Ottawa. (It was unavailable at the time from the government printing office.)

It would not be so serious if the Bill was to be carefully vetted in due course, but NGOs and academics have been contacted and many were leaving for summer holidays. Some had previous commitments. They were told to send any written submissions to the House Committee by July 15 or, at the latest, by the end of July. A number have told me that they have already been given dates for hearings in July; they will be allowed ten minutes to make a presentation,

followed by about ten to twenty minutes of discussion.

Such hasty consideration would not be such a serious matter if the changes were not so important to the future life of this nation. We are a country made by immigrants. The way we deal with immigrants and refugees gives our country its character. At the recent informal consultations of the Western states on immigration held in Toronto in June, my European friends in attendance were impressed at the balance between justice and efficacy that Canada had achieved in its immigrant and refugee legislation. We have developed one of the most just and rational systems for dealing with immigrants and refugees. The present Bill is intended to make significant improvements to that process. I believe that it does. The Bill proposes many excellent changes. It also has serious flaws. Let me cite just one.

The Bill has a provision for bilateral and even multilateral agreements for dealing with refugee claims. Such a legislative provision anticipates the future when refugee claims will be dealt with on a multilateral basis according to

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fair and agreed-upon rules. Refugees will then be allocated to receiving states on a previously agreed-upon burden-sharing formula. This will avoid asylum shopping and at the same time ensure that all states live up to their obligations under the Refugee Convention in a fair and equitable manner.

The Bill also strengthens the provisions for the very opposite beggary-neighbour approach encompassed in the never-implemented safe third country provisions of Bill C-55, which became law in 1990. The safe third country provision asserts that if a refugee claimant traversed or sojourned in another country en route to Canada, Canada could send the claimant back to that country and deny the individual access to the Canadian refugee claims system. The provision is intended to place the total refugee burden on those countries that are most accessible to refugees in flight. Since we are at the end of the refugee pipeline because of our geographic location, this could dramatically cut access to the Canadian system.

Some have tried to justify such drastic measures by pointing to the large number of claimants Canada receives, but the number of claims have fallen, not risen. From a peak of 37,000 claims, the numbers now average 30,000 per year. This is about one claim per 1,000 of population. Germany receives one claim per 250 of population. We receive less than the average of one claim per 840 of

population of Western resettlement countries and far fewer than countries of first asylum that border refugee-producing states. We do not carry our fair share of the burden of claimants even now.

The new legislation will allow claimants to be expeditiously and, by and large, fairly dealt with, though there still is no adequate provision for correcting inevitable mistakes. The real danger in the Bill is that we will cut access to the system dramatically and unfairly. In fact, one study of the Bill suggests that provision for accessing the system is being transferred to immigration control officers—a refugee claimant who is determined to have traversed a safe third country will be denied access to the Canadian system at the border.

Such a provision is totally at odds and contradictory to a philosophy of shared responsibility. On this issue, the Bill reads like a scissors-and-paste effort put together by competing factions of mandarins to produce an incoherent and contradictory hybrid.

A recent study by one of my colleagues, to be published in the *Canadian Review of Sociology*, concludes that "immigration policy in Canada rests on a potentially unstable foundation of disparate values and conflicting interests." It would be a pity if those conflicting interests were exacerbated by a legislative process that provided too little time for those who disagree to air their concerns. Not only would the result

**Contents:**

Processing Bill C-86, <i>Editorial</i> .....	1
Minister of Immigration on Bill C-86 .....	4
Refugee Issues Misrepresented in Amendments, CCR .....	5
CRS Discussion of Bill C-86 .....	6
No Integrity without an Appeal <i>Esther Ishimura</i> .....	18
CCR Spring 1992 Session Resolutions .....	19
Asylum Seekers and the Refugee Determination Procedure, <i>Refugee Council of Australia</i> .....	22
French and other Selected European Perspectives on Asylum <i>Liisa Coulombe</i> .....	25
Book review: Repatriation Under Conflict in Central America <i>Sheilagh Knight-Lira</i> .....	26

produce flawed legislation, but do so in a way that alienated many Canadians, particularly those who are supporters of a just and expeditious immigration and refugee process, those who are the critical partners in helping to receive and settle immigrants and refugees.

In the face of potential public criticism, the tendency is to manipulate the process to provide as few opportunities as possible for the critics to be heard and to arrange it so that they are heard at the most inopportune times and under the worst circumstances. (Short presentations tend to stimulate shrill rather than well-considered critiques, for the latter require much more time.)

The question is whether we are to have an orchestrated legislative process with inadequate time for hearings and consideration of needed amendments—that is, are we to get legislation based on a government initiative and communications strategy that undermines any critique—or are we to have a deliberative process that will reveal the excellent aspects of the Bill while giving time to correct the flaws? The latter process is much preferred because the natural allies of refugee and immigration issues will not be alienated, and also because such a process is critical to overcoming the public's general cynicism about the political process, in which the public sees itself as merely passive flotsam of a power-driven hegemonic process with only lip service paid to the democratic process. A deliberative process would still give time to pass the Bill during the tenure of the present government. We would obtain better legislation and the support of a democratic public whose views were truly taken into consideration.

Canadians and other leaders must surely learn from such political fiascos as the referendum in Denmark over the Maastricht Agreement. The political process must not only give the *appearance* of deliberate and careful reflection to allow concerned citizens to express their views. It must actually *be* deliberate and careful. ■

Howard Adelman, Editor

News Release From the Office of Blaine Thacker, M.P.  
House of Commons — June 26, 1992

## Legislative Hearings on Bill C-86

Mr. Blaine Thacker, Member for the constituency of Lethbridge, Alberta, announced today that Public Hearings will commence on Monday, July 27, 1992 with respect to Bill C-86, an Act to amend the Immigration Act and other Acts in consequence thereof.

This Bill was given First Reading by the House on June 16, 1992 and after Second Reading on June 22, 1992, it was referred to a Legislative Committee for detailed study.

The Honourable John Fraser, Speaker of the House of Commons, appointed Mr. Blaine Thacker on June 22, 1992 from the Panel of Chairmen to act as Chairman of the Legislative Committee on Bill C-86.

The Members who will be serving this Committee are:

**The Honourable Warren Allmand**

(Notre-Dame-de-Grace, Quebec);

**Harry Chadwick** (Bramalea-Gore-Malton, Ontario);

**Joe Comuzzi** (Thunder Bay-Nipigon, Ontario);

**Doug Fee** (Red Deer, Alberta);

**Benno Friesen**

(Surrey-White Rock-South Langley, British Columbia);

**Dan Heap** (Trinity-Spadina, Ontario);

**Fernand Jourdenais** (La Prairie, Quebec)

**Ross Reid** (St. John's East, Newfoundland).

Mr. Thacker pointed out that Committee has decided to schedule meetings during the month of July 1992, starting with the Officials of the Department of Employment and Immigration on the 27th and 28th and potential witnesses on the 29th and 30th. In addition, during the month of August 1992, potential witnesses will be heard on the 10th, 11th, 12th and 13th.

From September 21st to 24th, 1992 the Committee will proceed to Clause by Clause consideration of the Bill. Therefore, those organizations and individuals who wish to submit a brief or to be heard by the Legislative Committee should communicate with the Clerk of the Committee and submit their brief in writing as soon as possible, no later than September 1, 1992.

Furthermore, Mr. Thacker pointed out that the Committee reserves the right to select witnesses who will be invited to appear before the Committee.

Letters and briefs should be forwarded to:

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