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DEPORTATION

A SIGN POST TO IMMIGRATION REFORM

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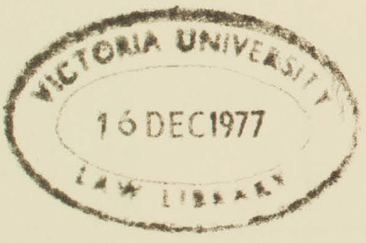

INTRODUCTION

"The complex dynamics of population change are interwoven with the organisation of the economy, the quality of life in our cities, and the provision of services. They exert a pervasive influence on the political and cultural evolution of our society as a whole. They affect decisions about how we should plan the use of our land and resources, protect our environment and overcome disparities - whatever their nature and service - in the opportunities available to individuals and sectors of our community".[1]

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1. Department of Manpower and Immigration, Canada, Highlights from the Green Paper on Immigration and Population

The intricacies of a policy which affects both citizens and immigrants of any country must be appreciated if an operative immigration policy is to be formulated. Any neglect of the potential effects of immigration legislation will render some party vulnerable. Ports of entry may become over-populated while immigrants could face harsh entry restrictions or exclusion procedures.

If my claim is valid then there is a need for future planning in our immigration legislation. This paper will show how the lack of future planning in the area of deportation has led to the vulnerability of immigrants under New Zealand immigration legislation.

When I began this paper the topic suggested to me was the reform of the deportation provisions of the Immigration Act 1964. An appropriate means of reform was to be found in the Canadian System where most classes of people to be deported can appeal to the Immigration Appeal Board.[2]

In the light of the 1976 overstayers issue this suggestion seemed admirable as it appeared New Zealand had no appeal provisions for people about to be deported.

During my research it became clear that New Zealand is not only in need of appeal provisions to ensure that immigrants have some means of contesting Departmental decisions but that the basis of our Immigration legislation is out-dated[3], invalid[4] and totally unsuited to the migration patterns which exist today.[5] In short the legislation is badly in need of review and reform. By pointing to anomalies in the area of deportation it should become clear that review and reform will be beneficial to the Government, the Immigration Department and the Immigrant.

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2. See Immigration Appeal Board Act, 1966-7
3. Being based on the 1964 consolidation of legislation dating from the 1880's
4. The legislation does not give a full description of procedures (e.g. deportation)
5. A.T. Bauscaren, "International Migrations Since 1945"

Historical Background

> "Apart from the Maori population, New Zealand has been wholly peopled by immigration and natural increase of immigrants"6

As our population composition has been developed through our immigration policies the rights of immigrants and our national objective should be prevalent in our policy. Even today we still look abroad to fill the gaps in our labour and professional markets:-

> "New Zealand's broad objective since 1945 appears to have been to a moderate net inflow of people who could provide suitable skills and assimilate reasonably easily into the general population".7

New Zealand's attitude toward immigrants should be sympathetic if these quotations are true as the immigrant is a valuable source of our population growth. Hence the law should reflect our need and appreciation of the immigrants' contribution to society. In reality our policy does not reflect any of these features:-

> "There is no statutory provision which specifically restricts entry on the basis of race, religion or nationality. Preference however is given to persons of British birth and parentage."8

One of the dominant trends in New Zealand's Immigration legislation has been racial discrimination. This trend had its origins in the early English settlers who jealously guarded their new land. They developed a selfish policy favouring immigrants who were already established. This policy is still relevant today. Many of its effects were highlighted in 1972 at the Annual Conference of the Race Relations Council:-

> "New Zealand Immigration Policy includes invalid and racially discriminatory criteria. The Government seems to believe that it should endeavour to maintain social homogeneity in New Zealand by erecting barriers against the

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6. New Zealand Institute of International Affairs, Dunedin, "Immigration into New Zealand" p3
7. National Development Council, "Report of Targets Advisory Group on Population and Migration" June 1973 p33
8. International Labour Organisation "Analysis of Immigration laws and Regulations of New Zealand 1954.

entry of non-Europeans, much more restrictive than those applying to Europeans, because it considers that non-Europeans will not assimilate to our life style as readily as Europeans".

In the light of this resolution we must question the basis of entry and exclusion provisions in our legislation.

Writers have acknowledged that it is legitimate for any nation to determine the composition of its population[9], just as deportation is a sovereign right.[10] The methods adopted to achieve the composition or exclusion must not be weighted in favour of either party, specifically the Government.[11]

Historically, it will be found that the racially biased trend existed in New Zealand in the 1890's, although the rights of exclusiuon were maintained:-

"It is not because a man is of a different colour from ourselves that he is necessarily an undesirable immigrant but it is because he is dirty or he is immoral or he is a pauper".12

These remarks, allowing for exclusion of immigrants on the basis of cleanliness and not colour were directed specifically at allowing Indians (Her Majesty's Subjects) free movement in the Commonwealth while Asians were restricted.

The example of Asian exclusion provides an interesting example of the developments in New Zealand's Immigration legislation.

Before 1920 most restrictive legislation was directed at preventing Chinese and Asian immigrants entering New Zealand. The excluding legislation is to be found in the Restriction Acts. It reached a peak in 1907[13] when a poll-tax of

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9. W.D. Borrie (Ed) "The Cultural Integration of Immigrants" UNESCO Paris 1960 p39

10. L.F. Oppenheim, "International Law: A Treatise" 498-502 (8th ed) See also Harisiades v. Shaughnessy 342US 580 (1952) "The Government's power to terminate hospitality has been asserted and sustained by this court since the question arose ... such is the traditional power of the nation over the alien".

11. "The fact cannot be denied that an alien is more or less a guest in a foreign land and the question under what conditions a guest makes himself objectionable to his host cannot be answered once and for all by an established body of rules". O'Connell International Law (2nd ed) p693

12. Reply by Her Majesty's Representative at the Conference on Alien Immigration attended by Member Dominions (including New Zealand) in 1897.

13. Chinese Immigration Amendment Act 1907 - Sir Joseph Ward introduced the Bill on 12 November1907, explaining its nature:-

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£100 and a literacy test were imposed on Asian Immigrants.

The Asian Immigration Restriction Bills[14] introduced by Richard Seddon between 1896 and 1897, directed at the exclusion of all Asians, failed to receive royal assent in view of the Queen's attitude to her Indian Subjects in the Commonwealth.[15]

National fears which motivated this legislation have been traditionally justified as economic rather than racial:-

> "... the Chinese are eating up an inheritance that we should leave for our race in the future."16

Such a justification diminishes in view of a comment by Sir George Grey:-

> "... even the smallest influx of Chinese is prolific of disasters in New Zealand".17

and the fact that Chinese could not be naturalised as a result of Government policy between 1908 and 1952.[18]

The Chinese being frugal and working long hours in a collective community were a threat along with other immigrants to the economic hopes of a social utopia. They represented a threat of being reduced to the same serf-like conditions which

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"The object of the Bill is to restrict further the immigration of Chinese ... it proposes to do this by the imposition of an education test and the reading of 100 words of English ...".
Parliamentary Debates, Vol. 93 p420

14. The preamble of the Act reads:-
"An Act to prevent the influx into New Zealand of persons of alien race who are likely to be hurtful to the public welfare".

15. See note 12.

16. Lake Wakatipu Mail May 17 1871

17. Memo of Sir George Grey on Chinese Immigration Appendices to Journals of House of Representatives A-J 1898 D1A

18. In 1908 the Minister of Internal Affairs decided not to naturalise any more Chinese and placed the matter before the Cabinet. After that date for 44 years no Chinese in New Zealand was naturalised.
Ng Bickleen Fong, "The Chinese in New Zealand" 1959 p37

many British Immigrants had left behind.[19]

The Immigration Restriction Act 1920 introduced a different form of control, more potent than the literacy test, which was retained as a basis for citizenship. At his discretion the Minister of Customs was empowered to permit persons of non-British ethnic origins and nationality to settle in New Zealand. A poll-tax on Chinese immigrants was, however, retained[20] and only in 1944[21] was it finally removed from New Zealand legislation.

Even today the form of control devised in 1920 continues substantially unchallenged. It was incorporated in the consolidating legislation of 1964[22] when Ministerial discretion was placed in the hands of the Minister of Labour and Immigration. From August to October 1963 a debate took place in the correspondence colums of "The New Zealand Herald". The subject was Asian migration.

The attitude of two correspondents was expressed as follows:-

> "... like rabbits, they (Asian immigrants) wait for someone else to develop the pastures before they move in."
>
> "Over the past ten years we have had an invasion of Islanders, and now Indians are swarming in from Fiji".23

Statistical sources[24] reveal that the percentage of immigrants in the category complained of is very low. In 1963 the figure was about one-tenth of the total permanent[25] immigrants. Most immigrants have been drawn from Britain, Australia and European countries. These immigrants, have in certain cases[26] had assisted

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19. Fong op cit p16
20. Ng D. "Ninety Years of Chinese Settlement in New Zealand 1866-1950" - unpublished MA (Geography) Thesis University of Canterbury 1963 p44
21. The Finance Act 1944
22. The Immigration Act 1964
23. Seminar on New Zealand's Immigration Policy Proceedings, Human Rights Year 1968
24. The Report of the Department of Labour (Immigration) for 31 March 1964 is as follows:-
25. Number of Permanent Arrivals

United Kingdom	16,363	Netherlands	767
Australia	8,928	Other foreign countries	3,026
Other British countries	5,150		
Total British	30,441	Total Aliens	3,793

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See Appendices to Journals of House of Representatives 1964, Vol. 2 H 11, 7
See also Appendix 1 for numbers and categories of people deported 1975-76

passages to New Zealand to take up employment positions. This is in direct contrast to the latest migration trend of Island immigrants who were either recruited by New Zealanders for employment in New Zealand or had to borrow heavily to find the cost of air fares.[27]

Until 1951 the Immigration Restriction Act 1908 and its amending Act were administered by the Customs Department. At that date the operation of the Act was taken over by the Labour Department. All procedure relating to restriction remained in the hands of the Customs Department. A description of the operation of the Act appears in the Report of the Customs Department in 1956.[28]

> "... a person arriving in New Zealand can be prohibited or restricted from entry under the Immigration Act either on account of health, character, nationality or race ..."

This bears out the conclusion that the Act was operated with a definite racial basis, the basis being an overriding feature in dealings with immigrants. Today even as an unacknowledged basis of policy, this bias is an invalid means of determining questions regarding immigrants.

Under the legislation of the 1950's a conviction for breaches of the Act meant that deportation was mandatory. The collector of customs was responsible for the deportation of the convicted persons.

The pragmatism of this legislation dealing with a completely hypothetical situation is well illustrated by Fyfe[29] when he states that:-

> "At no time after 1871 did the influx of Chinese immigrants to New Zealand necessitate restrictive legislation, but by 1902, New Zealand had erected an impressive restrictive and almost prohibitive barrier to meet a purely hypothetical danger".[29a]

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26. Department of Labour Report 1964, note 24
    "(5) Of the new settlers who arrived from the United Kingdom 4171 travelled under the assisted-passage scheme. The balance of assisted immigrants were 6 Australians, 5 Belgians, 5 Danes, 14 Swiss, 16 Germans and 130 Greeks".
27. Amnesty Aroha - Submissions to Government November 1976 p4.
28. Appendices to Journals of House of Representatives 1956 Vol. 4 H 25, p25
29. Frances Fyfe "Chinese Immigration to New Zealand in the 19th Century" unpublished MA Thesis Victoria University College 1948 p57.

29a cf footnote 12

Figures compiled from the census for 1897-1906[30] show the departures of Chinese immigrants exceed the arrivals. This brings into question the whole basis of our restrictive and excluding policy.

During 1974 the government announced guide-lines which were forward looking and recognized that the previous restricted entry of non-European immigrants was invalid. It was admitted that such a policy was of dubious value to New Zealand's needs and that we had failed to recognize our responsibility to the South Pacific. Changes were promised.

> Immigration policy "will be directed towards securing a unified and non-discriminatory approach to New Zealand's needs while reflecting New Zealand's interests in International Policy".31

To rectify the situation the government proposed features such as pre-departure familiarisation courses for Islanders,[32] guaranteed employment and advance of return fares. It appeared that immigration was going to become more honest and equal.

There was a significant upsurge of temporary immigration in 1974-75.[33] Many temporary workers entered on tourist permits and took up work. No questions were asked. At the same time a "concerted plan"[34] to prevent overstaying was begun. The Immigration Department in co-operation with the Police began to arrest and obtain deportation orders against those people who had overstayed their permits. It is relevant to note that at this stage the economic situation was worsening and unemployment rising. However, because there is no provision in the present legislation for the government to change its policy regarding temporary

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30. Fong op cit p21 1897-06 arrivals 1,104, departures 1,385
31. Statement by Rt Hon N. Kirk 7 May 1974
32. Mr Gill in answering questions on Immigration Policy could not confirm in July 1977 if such schemes had been introduced or extended: see Parliamentary Debates vol. 403 p429
33. Review of Immigration Policy - Policy Announcements 2 Oct. 1973 to 7 May 1974:- "A significant feature of this policy, once it is fully in effect, is that all citizens ... will be subject to the same criteria in determining their eligibility to settle in New Zealand".
34. Amnesty Aroha op cit p6.

permits without a major legislative change, the harshness of the deportation provisions soon became obvious.

The Government's vocal concessions had created an "employment buffer" dependent on temporary workers. Its unregulated nature meant that without legislative change, when the economy faced a downturn, the buffer was no longer able to be absorbed.

By 1977 the economic situation seemed no better. One Government had introduced further restrictions[35] and temporary permits that had previously been allowed to lapse, once again became very temporary. Short term problems such as overstaying have been rectified by resorting to deportation provisions but the promised reform of immigration has not eventuated.

The incoming government made a great play of the immigration problems. Appealing to racial bias they presented in their election campaign a cartoon of the proposed immigration policy. It showed Polynesians and other immigrants clogging up schools and hospitals. The resulting amendment to the Immigration Act tightened Government control of immigration and allowed a greater opportunity to deport by placing more discretion in the hands of the Minister. This development was in direct response to the Speech from the Throne at the opening of Parliament in 1976:-

> "To help preserve law and order, measures will be introduced under which the Minister of Immigration will have the authority to order the return to their homelands Immigrants convicted of offences punishable by imprisonment".36

This step essentially renders the immigrant liable to be deported in a similar manner to that developed to restrict the entry of Chinese immigrants. Arbitrary tests were applied in both cases. If an immigrant is convicted of an offence[37] he is to be deported. We have essentially found another way of patching the legislation for the sake of expediency.

> "It could enable the Minister to exclude his discretion for petty crimes which are annoying rather than destructive. Such a measure seems to be unduly restrictive and does not get to the problem Government is concerned about; violence by Polynesians especially in Auckland".37a

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35. Immigration Amendment Act 1976
36. Dominion June 24, 1976
37. Just as if a Chinese immigrant cannot pass the literacy test

It would, I submit, be more rewarding if instead of dealing with existing problems by repairing the present legislation, some step was made toward reforming the legislation as a whole.[38]

The Deportation Provisions

At present the New Zealand deportation provisions are contained in the Immigration Act 1964, the Aliens Act 1948 and their amendments. These Acts deal with British and non-British immigrants respectively, although temporary visitors are subject to the Immigration Act 1964. These anomalies should be corrected.[39]

The Acts give the Ministers concerned, with their administration an overwhelming discretion to deport, while a person ordered deported has little if any recourse to appeal.

Deportation can occur in either of two procedures. The first is "voluntary" deportation.

Under Section 14(6) of the Immigration Act 1964 the Minister may revoke a temporary permit at anytime. The permit holder must leave within the time indicated in the written notice which accompanies the notice revoking his permit. Failure to leave is deemed an offence, as is failure to leave when a temporary permit or its extension expires.[40] Under these provisions, if the permit holder leaves within the specified time he voluntarily deports himself, thus avoiding the attendant consequences of a deportation order, not being able to enter most countries.[41]

37a The Dominion, 25 June 1976 - strangely the clogging of schools and hospitals does not equate with Polynesian violence.

38. Parliamentary Debates 1976 p4560. Mr Prebble stated "The Minister should introduce an Act to make the Immigration Act an open Act" (Second Reading of Immigration Amendment Bill 1976).

39. The recent Citizen and Alien Bill 1977 attempts to consolidate and amend the British Nationality and New Zealand Citizenship Act 1948 and Aliens Act 1948.

40. In the case of Labour Department v. Aloua 1975 1 NZLR 507 held that if the permit holder can point to some evidence which creates doubt as to whether he had a guilty mind, he has a defence. In Aloua's case his permit was being renewed by a third party. The third party had failed to extend the permit but Aloua did not know as he had had a previous extension.
This provision is no longer part of the literal law as amended in 1976, although Mr Gill maintains...

41. See Immigration Act 1964 S.4(1)(d).

The second procedure of deportation is embodied in Section 22 of the Immigration Act 1964 as amended by Section 5 of the Immigration Amendment Act 1976. These provisions make up the formal procedure for deporting immigrants.

Section 22 reads:-

"(1) The Minister may by order signed by him, order any person (being neither a New Zealand citizen nor an alien within the meaning of Section 2 of the Aliens Act 1948) to leave New Zealand, where:-

(a) Any court certifies to the Minister that that person has been convicted, either by that Court or any inferior court from which the case has been referred for sentence or brought by way of appeal, of an offence committed within five years after his arrival in New Zealand or an offence committed outside New Zealand being in either case an offence for which the court has the power to impose imprisonment for a term of one year or more, and that that person should be deported either in addition to or instead of sentence; or

(b) That person is convicted in New Zealand of an offence committed within five years after his arrival in New Zealand or an offence committed outside New Zealand and in either case is sentenced to imprisonment for one year or to preventive detention.

(1A) Notwithstanding anything in sub-section (1) of this section or in Section (14) of the Aliens Act 1948, the Minister may by order signed by him, order any person who is not a New Zealand citizen to leave New Zealand if that person is convicted in New Zealand of an offence committed within two years after his arrival in New Zealand or of an offence outside New Zealand being in either case an offence for which the Court has the power to impose imprisonment".

These provisions reveal the scope of the Minister's power.

Under the 1964 legislation it was possible for an immigrant to commit an offence, which on conviction the prescribed penalty was a fine or short term imprisonment.

In 1977, a person who is liable for imprisonment for any offence is liable for deportation. Where previously the decision to deport was in the hands of the Judiciary, it now rests exclusively with the Minister. The Minister of Immigration, Mr Gill, maintains that there is no extensive change in policy.[42] However, when so much depends on the Minister's discretionary powers, how is the justice of

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42. "...Minister of Immigration can deport a person only in a case where the court has recommended deportations. That is not so. The Court does not have

individual decisions to be decided?

Instead of providing an open immigration policy which is stated within the legislation, the legislation is silent and the Minister "all powerful".[43] Such lack of instruction in the legislation is not beneficial to an immigrant who wishes to know how he is to be affected by the legislation. He must remain ignorant as the law is not adequately expressed.

Under the provisions of Section 22 1(A)[44] if an offence is punishable by imprisonment for a year or more the order for deportation can be made on recommendation by the court, or if the sentence is actually imposed, an order may be made without recommendation. With the enactment of Section 22 1(A)[45] a conviction for an offence carrying any term of imprisonment means that deportation, if the Act is read literally, will be almost inevitable. During the first reading of the amending bill this problem was pointed out to the Minister.[46] In reply the Minister suggested that this would not be the case and that the procedure of deporting without a court recommendation has "often been done".[47] This is not a cogent reason for continuing the practice. An immigrant has now an added burden when he appears in court. He must seek to be acquitted of any offence for which a conviction renders him liable to a term of imprisonment. Even if convicted, and discharged under S.42 of the Criminal Justice Act 1954, there is a possibility that he will face deportation. That question is for the Minister to decide.

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to make any recommendation. If a person is imprisoned the Minister himself can decide whether that person should be deported, and that has often been done". Parliamentary Debates 1976 p4553

43. Hon. Mr F.M. Coleman, Parliamentary Debates 1976 p4553
In reply Hon. Mr Gill, however, maintained that the "power and responsibility have been with the Minister for many years" as everything had been left unprinted." See p4561

44. Immigration Act 1964

45. Immigration Act 1964 S.22(1) as amended by the Immigration Amendment Act 1976 S.4.

46. Hon. F.M. Coleman, Parliamentary Debates Dec. 1 76 p4322.

47. Hon. T.F. Gill, Parliamentary Debates Dec. 1976 p4325

From my discussion[48] with Immigration Officials it appears that the Minister has the use of a selection of materials in any such decision.[49] I was informed that representations on behalf of the individual ordered deported can be written to the Minister but depend on his understanding of the situation and the help he receives from Prison Welfare Officers.

These procedures are not contained in the Act or a departmental manual, but are what is referred to as informal rules of procedure in the department.

The justice of this procedure is dependent on careful timing and understanding on the part of the person ordered deported. Should he fail to appreciate his predicament or not be told of the informal procedure, the decision to deport him will be decided without any representations from him. A more open piece of legislation could avoid this situation by clearly stating the procedure to be adopted by anyone ordered deported.

The second means of deportation affects immigrants who are not British Subjects. The Aliens Act 1948 requires all immigrants subject to the Act[50] to register on the Aliens Register. Failure to do so or to notify any change of address is deemed an offence.[51]

Section 14 1(a) of the Act authorises an order in respect of an alien in the same conviction and recommendation situation as under Section 22 1(a) of the Immigration Act 1964.

Section 14

"(1) The Minister may by order signed by him, order any alien to leave New Zealand in any of the following cases, that is to say:-

(a) If any Court certifies to the Minister that the alien has been convicted, either by that court or by any inferior court from which the case of the alien has been referred for sentence or brought by way of appeal, of an offence for which the court has power to impose imprisonment for a term not exceeding one year and that the court recommends that the alien should be deported either in addition

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48. Discussion with Immigration Department 21 August 77.
49. These include Probation and Police reports. Reports from the Minister of Justice.
50. As consolidated by the Citizen and Alien Act 1977 which comes into force

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to or instead of sentence; or

(b) If the Minister is satisfied that it is not conducive to the public good that the alien should remain in New Zealand, and the making of an order is approved by the Governor General".

The Alien Act's provisions give the Minister of Internal Affairs an extremely wide discretion. This has some historical basis in the fear of aliens[52] during times of strife and their supposed infiltration into the Public Service.[53]

The impact of these provisions can be seen in the case of Pagliara v. Attorney General[54].

Pagliara, an Italian, entered New Zealand in 1963. He committed the offence of selling L.S.D. in 1971 but the court refused to recommend deportation. The Secretary of Justice wrote to the Secretary of Labour recommending deportation and the letter was passed ultimately to the Minister of Internal Affairs who approved it and obtained the approval of the Governor General in Council. The Minister met with Pagliara's solicitor but would not change his decision, and signed the formal order of deportation. Pagliara challenged the order on the chief ground that the procedure followed amounted to a denial of natural justice in that

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on 10 January 1978.

51. Section 6, Aliens Act 1948

52. "In many cases, if not the majority of cases - he (the alien) is an undesirable or a criminal in his own country from which he is forced to flee in order to avoid punishment there. So he comes here, free to propagate his filty and immoral species and by his degrading activities, to deluge the country with a flood of bitterness and class hatred, and to create industrial unrest, strikes socialism and communism". Lieutenant-Colonel A.H. Lane "The Alien Menace" (2nd ed) 1929.

53. See p10 Report of Labour Department on Immigration 1952, Appendices to the Journals of the House of Representatives H 14 f 4.

54. (1974) 1 NZLR 86

the Minister made his decision without giving Pagliara an opportunity to be heard or to make submissions in his defence.

Mr Justice Quilliam in the Supreme Court, felt obliged to reject this argument because the application of the audi alteram partem principle would be contrary to the meaning and purpose of the legislation.[55]

This decision brings into question the whole basis of our immigration policy. Should the government be allowed to remove any person from the country at will. Perhaps it would be better if this method was only open in cases of danger to the National Security if it is clearly defined. Even with the new provisions of the Immigration Amendment, it is hard to justify the Minister's discretion.

In a letter to Mr Gill from the Acting Chairman of Amnesty Aroha it was stated:-

> "The Bill (Immigration Amendment) is in breach of Article 10 of the Universal Declaration of Human Rights that,
>
> > 'everyone is entitled in full equality to a fair and public hearing by an independent and public tribunal, in the determination of his rights and obligations and of a criminal charge against him'".56

It is hard to understand why the government is so unwilling to align itself with international policy and reform the immigration laws.

The Canadian System of Deportation

By providing a comparison with the Canadian System of dealing with immigrants ordered deported, some of the provisions lacking under the New Zealand legislation should be clarified.

The development of Canadian immigration policy and law[57] has many parallels with the New Zealand system.

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55. See (1974) 1 NZLR 86, 95 also Tobias v. May (1976) 1 NZLR 509, 511, "The decision of the Minister to revoke a temporary permit is final and he is not bound by the audi alteram partem principle".

56. John Tamahoui - Acting Chairman Amnesty Aroha in letter to Minister of Immigration, 8 December 1976.

57. Hawkins, F., Canada and Immigration: Public Policy and Concern 1972, pp 139-173.

The Canadian Immigration Act 1952 was seen as an outgrowth of legislation dating back to the turn of the century. It was an evolutionary policy similar to that which exists in New Zealand in that it responded to the needs, pressures and problems as they occurred. As a result, discriminatory provisions[58] were adopted. Medical and criminal reasons as well as reasons of national security became grounds for restriction of entry and expulsion.[59]

This, it is argued,[60] reflects the absence of any clearly stated national consensus about what an Immigration policy should be or do. In New Zealand this question has never been answered. Canadian authorities on the other hand are attempting to answer the questions about Immigration policy in an attempt to provide a rational policy which is written into the legislation.

In the early years both Canada and New Zealand followed an open door immigration policy. Everybody who could work was welcome and problems concerning undesirable immigrants were resolved in Canada under unwritten regulations; in New Zealand by port officials and Health Inspectors. It is submitted that New Zealand has not proceeded much further than this stage. Undesirable immigrants and their problems are now being resolved by the Immigration Department, more recently the Minister.

Canada has developed a policy which attempts to find a balance between the discretion of the Minister and individual rights. The Canadian Immigration Act 1952 left a large amount of discretion in the hands of the Minister[61]. He had the final word in all cases and as a result his work became burdensome, controversial and unrewarding:

> "a flow of individual files across my desk preventing constructive administrative action".62

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58. The Immigration Act of 1885 was designed to "restrict and regulate Chinese immigration".
59. These provisions are noted in the Acts of 1910 and 1921.
60. Canadian Department of Manpower and Immigration, The Immigration Programme Vol. 2
61. See Section 39
62. Richard Bell, Minister of Citizenship and Immigration 1962-3 from an Interview at Ottawa 1967.

During the following decade Canada experienced considerable unrest as a result of her immigration policies. The outcome of public concern was a series of reviews set up by the Government.[63] These led to the White Paper on Immigration in 1966 and the setting up of the Immigration Appeal Board in 1967.

In 1966 the Government had recognized the need for action and not wishing to trigger an accelerated flow of immigrants, it allowed immigrants already illegally in Canada, landed status if they met the normal requirements.

In 1967 regulations[64] were adopted which introduced four new elements into the law:-

(a) The removal of discrimination

(b) A detailed list of factors determining unsponsored immigrants

(c) A reduction of the sponsored class

(d) Specific provisions were outlined for visitors to apply for landing

During 1966 the Ministry of Employment and Immigration was combined in the new Manpower and Immigration Ministry. The advent of the unique new Appeal Board in 1967 was designed to relieve the Minister and his officials of the pressure to make exceptions to the law and policy. These matters were transferred into the hands of an impartial and non-political arbiter.

Within a year people were exploiting the Appeal System[65] to such an extent that a revision of the system was necessary[66]. Amnesty was granted to all illegal immigrants in 1972 to combat the problem. Visitors rights to landing were then revoked as a temporary measure awaiting the final amendment of the law.

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63. An example being the Government commissioned study by Mr Joseph Sedgwick Q.C. reporting on deportation provisions.
64. Order in Council P.C. 1967-1616 (Immigration Regulations 1967)
65. Immigrants unable to meet selection criteria went to Canada as visitors, then applied for landing. On being rejected they refused to leave and insisted on deportation proceedings. Once ordered deported they applied to the Appeal Board thereby gaining a 50/50 chance of admission. While awaiting an appeal hearing many made contacts in employment so that if they failed in their hearing they could return in a similar manner and repeat the process." The Immigration Programme p35. Se also Table attached to Appendix One.
66. Immigration Appeal Board Amendment Act 1973.
66a. See Appendix Two for comparative figures.

The amending legislation expanded the Board's capacity to deal with appeals but reduced appeal rights for visitors ordered deported after failing to qualify on application for landing.[67]

More recently the Canadian Government has prepared a revised Immigration Act[68]. This act attempts to remove the "steam boat" laws of 1952 which now govern "jet age traffic" and replace it with an act which can adequately cope with an increased volume and

to the national interest and international environment.

The new act has attended to three main areas:-[69]

1. (i) Up-dating the old fashioned provisions - for example restricted entry on medical grounds,

   (ii) Combining the independently established Appeal Board as part of the Act.

   (iii) Drafting the legislation in easily understood terms

2. Outlining essential principles of policy which give a statutory basis for the administrative process and government regulations.

3. Offering broad national objectives for example, alternatives to exclusion when an immigrant is convicted of a minor offence.[70]

These new ideas incorporated into the Act are the result of the studies of Canadian Immigration policy. They aim at giving a realistic appraisal of the position of an immigrant and the government.

The sense of such a development should not be ignored in the New Zealand situation. If our immigration policy was reformed, some of the injustices of the

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67. Immigration Appeal Board Act 1967 as amended by the Immigration Appeal Board Amendment Act 1973 S.8
68. Department of Manpower and Immigration Explanatory Notes of an office consolidation of the Immigration Bill, Nov. 1976
69. Explanatory Notes op cit note 62.
70. Alternatives exist that can be instituted instead of deportation, for example suspension of deportation orders and voluntary departure. For a further

present system may be overcome.

A Comparison of Deportation Procedures

Early Canadian legislation did not recognise the need to expel people. In 1906 provisions for expulsion were introduced in the Immigration Act. Since then the classes of people to be deported have expanded. The classes used today[71] are essentially the same as those included in the Immigration Act 1927. Expulsion provisions in the New Zealand legislation date from 1908 when authority was given to remove prohibited immigrants.[72]

Detection of deportable people in the Canadian system is done through official agencies - for example the Police. Most illegal immigrants are found when they register in provincial health or work organizations as at this stage their status is checked, through a central data bank. The system, it is felt, provides guards against the abuse of public benefits and immigration control.

Once an illegal immigrant is detected a report is written to one of five regional directors of immigration operations. The director decides whether the evidence points to the person's deportability.[73]

In the absence of special considerations,[74] the director issues an order for a hearing by a Special Inquiry Officer. New Zealand's counterpart is a field officer of the Immigration Department.[75]

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discussion see Mitgang I.F., Alternatives to Deportation: Relief Provisions of the Immigration and Nationality Act, University of California, Davis 1975, UCD Law Review Vol. 8 p323-344.

71. Immigration Act 1952, S.18 General headings of health, criminality, subversive activity and indigence.

72. Immigration Restriction Act S.24.

73. See Sections 29-35 Immigration Act 1952 and Sections 10-16 Immigration Appeal Board Act 1967. See also "Enforcement and Control", Department of Manpower and Immigration, The Immigration Programme pp162-184.

74. An example would be a minor criminal conviction not warranting deportation.

75. I was led to believe by departmental officials that this officer works according to departmental instructions which are not open to the public. No comparison can therefore be offered.

The hearing of the Special Inquiry Officer is not an appeal as there is no decision to appeal against. However, it resembles an appeal as the Special Inquiry Officer adjudicates on the findings of Immigration Officers, and it is a closed hearing carried out in a judicial manner applying the law according to the facts.

The Special Inquiry Officer has exclusive jurisdiction to examine and make a decision. This decision is based solely on the evidence and the law. Once it is reached, the appropriate action must be taken immediately. As there is no alternative to deportation, should this decision be reached, the person concerned is given every opportunity to leave voluntarily, thus avoiding the consequences of formal deportation.[76]

Appeal provisions had developed by 1956 but they were subject to ministerial control. As a result, the method of appeal was not functional because the Minister made the final decision.

In 1967 the new impartial Appeal Board was established. This Board provided a further appeal from deportation orders.

The Act allowed for external reasons to be considered in rendering a decision to deport someone.[77]

Appeal was universal except in areas of national security where an order signed by the Minister of Immigration and Solicitor-General could prevent an appeal hearing. Further restrictions followed in the 1973 amendment to the principal Act.[78]

The Board's decision is final and any additional remedy must be sought through an appeal to the Federal Court on questions of law or jurisdiction. The main purpose of the Board it is explained, is not to interpret and implement

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76. In New Zealand, Section 14(1)(d) Immigration Act 1964 provides that anyone deported from any other country is a prohibited immigrant.

77. See Section 15(1)b Immigration Appeal Board Act 1967

78. See note 65.

Government Policy (this is the domain of the Special Inquiry Officer), but rather to judge the applicability of the existing law to individuals ordered deported. It should, however, be noted that the decisions of the Board create a precedent and have an impact on general policy.

Hearings are held in four main Canadian centres. Circuit hearings are held in provincial capitals when they are warranted.

The services of the Board are provided free of charge and in the case of someone who resides further than 100 miles from the hearing, financial assistance is provided so that he can attend the hearing.

Both the Minister and the person concerned in the hearing are treated as independent parties, each making submissions, calling witnesses and being cross-examined.

Hearings of the Board are held in public and rules of evidence, natural justice and judicial conduct are strictly followed.

In New Zealand there exists some form of appeal, although it is submitted that against the background of the Canadian system, the form of appeal is quite inadequate.[79]

There is no formal appeal system in New Zealand. A person ordered deported has three channels open to him:-

1. He can request the Minister of Immigration to reconsider his case, or perhaps seek help through the local member of Parliament with the aid of friends.
2. He may bring an action to court in an effort to reverse or quash the decision to deport.

This method is futile for unless there is some specific point of law, the amending legislation of 1976 has removed the deportation decision from the

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79. Hon. Dr. A.M. Finlay, Parliamentary Debates Dec. 1976 at page 4556-8

courts to the Minister. It was argued in the second reading of the Amending Bill that the person ordered deported "ought to be given the opportunity to show cause why deportation should not be ordered". Under the 1964 legislation it was argued that once a court order had been issued, before the recommendation of deportation was made, the person concerned had the right to appear before a court and state his case. Now the Minister is all powerful.

In reality the courts have been unwilling to review decisions to deport individuals.[80]

Prior to the Immigration Appeals Act 1969 in England a similar position was the case.

Lord Denning in Schmidt v. Secretary of State for Home Affairs[81] said of a person who was refused an extension of a temporary permit:-

> "He has no right to enter this country except by leave, and if he is given leave to come for a limited period he has no right to stay for a day longer than the permitted time".

Lord Denning saw an exception to this strict interpretation of the law:-

> "If his permit is revoked before the time limit expires, he ought, I think to be given an opportunity of making representations, for he would have a legitimate expectation ofbeing allowed to stay for the permitted time".82

Then the person ordered deported cannot establish a duty in the Minister to afford him an opportunity to be heard, and the validity of the order cannot be impinged on the grounds that it is unreasonable.83

3. Submit the case to the Ombudsman.

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80. See Pagliara v. Attorney-General (supra) and Tobias v. May (supra)
81. (1969) 2Ch 149, 166
82. Supra p171
83. R. v. Leman Street Police Station Inspector: ex parte Venicoff [1920] 2 KB 72

The Ombudsman Act 1975 gives the Ombudsman's terms of reference. Section 13 states:-

> "...to investigate complaints, by private individuals or corporations, against decisions of departments or organs of government".

He may "recommend and request that the decision be reconsidered or rectified or that steps be taken, if he considers it to be contrary to law, unreasonable, unjust, or oppresive..."[84]

This basis of appeal has some alarming features. Although it provides a source for researching complaints a recent complaint concerning the revoking of a temporary permit ended with the statement by the Ombudsman's office that:-

> "the Minister's decision was of course not within my jurisdiction to investigate".[85]

The confidence to be gained from this system of appeal is not excessive. An immigrant faces a Minister with exclusive discretion whose decision is virtually unreviewable by the judiciary or the Ombudsman. Such an imbalance in the favour of the Minister needs correction if we are to encourage more immigrants to enter New Zealand. It was said of the 1976 amending legislation by the Hon. F.M. Coleman that:-

> "This legislation will actively discourage migration to New Zealand".

An example of the harshness of the provisions in both the Aliens Act 1948 and Immigration Act 1964 appeared recently in the "Evening Post".[86]

A Greek prisoner, jailed for fire-bombing the home of the Greek Consul was jailed three years ago. He had lived in New Zealand for fourteen years. He was ordered deported under the Aliens Act. The reason given by the Minister of Foreign

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84. Ombudsman Reports 1976 Case No. 10545 p32.
85. Parliamentary Debates Dec. 1977 p4323 (first reading of Immigration Amendment Bill).
86. 12 August 1977 p20 also "Evening Post" 15 August 1977 p1

Affairs who administers the Act was based on the grounds of the prisoner's criminal record. The record in fact only contained one offence under the Crimes Act - a nuisance record. The unusual feature of this case and an earlier one concerning an Italian, Angelo La Mattina, is that these men face double jeopardy. Having served a term of imprisonment in New Zealand, they are deported and then face possible recharging for the offences on return to their homeland.

These conflicts are not provided for in the New Zealand legislation, although the Canadian provisions state quite clearly that they must be considered by the Appeal Board when an appeal is brought.

The circumstances of the case reported in the "Evening Post" showed quite clearly that the prisoner's record and condition was temporary. Unfortunately the legislation provides no alternative to deportation and it appears that apart from diplomatic intervention, the prisoner faces double punishment.

CONCLUSION

"Immigration Policy should be generous: it should be fair: it should be flexible. With such a policy we can turn to the world and our past with clean hands and a clear conscience".

The late President J.F. Kennedy, A Nation of Immigrants

From an historical point of view New Zealand's system of deportation has evolved from old provisions in equally old Immigration legislation. This legislation has undergone systematic patching as loopholes have been found.

As a result the present legislation is based on outdated provisions designed for an earlier era. An example is racial bias especially in the area of restricting Chinese immigrants. These provisions are no longer relevant when decisions on entry and deportation arise. Migration trends have changed and thus procedures

for dealing with immigrants should change.

In the specific area of deportation the present provisions, it is submitted, are out of touch with modern trends regarding human rights.

The Minister has been given an increasing discretion while the immigrant has less chance to put his case. The disadvantage of allowing a one-sided balance of power is that under the present legislation an immigrant may be deported for a minor offence. The Minister retains the power to decide.

It was claimed by one of the Members of Parliament during the debate of the 1976 bill that:-

> "The Government has acted in a clumsy and heavy-handed manner on the question of deportation".87

By having no clear statement of our policy contained in the Immigration legislation an immigrant cannot feel secure. The uncertainty of which decision the Minister will make in a deportation case cannot enhance New Zealand as a place for immigrant labour.

It is submitted that there is a need for change. The time has come to allow an immigrant some form of appeal so that he can state his case to an impartial tribunal.

There is a two-fold advantage in the institution of such a system.

The Minister is given more time to consider and develop policy guide-lines for future immigration - for example the attraction of fishermen to work our natural resources, a consideration of the attendant consequences of such workers is needed before they arrive in New Zealand.

On the other hand immigrants are allowed the chance to have their case heard and cannot claim they have been unjustly deported.

Other advantages such as complying with the United Nations Human Rights Conventions for deporting aliens would also result.

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87. Hon. F.M. Coleman, Parliamentary Debates Dec. 1976 P4553

Ultimately the adoption of the Canadian System which has eliminated many of the loopholes in an appeal provision would be suitable until an extensive review of the direction of the future immigration policy is undertaken and implemented.

By revising the area of deportation, immigration will become more public, just and based on specific statutory procedures which are understood by those people who are made subject to them. Considerations such as eliminating the chance of double jeopardy and providing alternatives to deportation for minor criminal offences will provide a basis for attracting employable immigrants who, having uprooted life in another land, can find security under the law in New Zealand

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APPENDIX ONE

Deportation Figures Provided by Immigration Department

(A) Persons Deported Under the Provisions of the Immigration Act 1964 Between 1 April 1975 and 31 March 1976

- for Overstaying and Stowing Away 327
- as criminals prohibited at time of entry or ordered by the court or Minister of Immigration to be deported following a conviction in this country. 98
- Ship deserters 21

(B) A Breakdown of (A) by Country of Citizenship

	Ship Deserters	Overstayers/ Stowaways	Criminals/ Prohibited Immigrants
Australia	-	Not applicable	62
Argentina	1	-	-
China	1	-	-
Denmark	1	-	-
Fiji	1	80	2
France	-	2	-
Germany	-	1	1
Greece	5	1	-
Hong Kong	4	2	2
India	-	3	-
Japan	1	-	-
Malaysia	-	1	-
New Hebrides	-	2	-
Philippines	2	-	-
Singapore	5	-	-
South Africa	-	-	1
Tonga	-	95	8
United Kingdom	-	4	14
United States	-	5	-
Western Samoa	-	131	8

(C) Persons Deported under the Provision of the Immigration Act 1964 Between 1 April 1976 and 31 March 1977

- for overstaying and stowingaway 235
- as criminals or prohibited immigrants 79
- as ship deserters 2

(D) A Breakdown of (C) by Country and Citizenship

	Ship Deserters	Overstayers/ Stowaways	Criminals/ Prohibited Immigrants
Australia	-	Not applicable	45
China	1	-	-
Denmark	1	1	-
Fiji	-	70	2
France	-	-	1
Germany	-	1	-
Indonesia	-	1	-
Japan	-	2	-
Malaysia	-	1	-
Netherlands	-	-	1
Singapore	-	1	-
Tonga	-	85	7
United Kingdom	-	5	17
United States	-	7	1
Western Samoa	-	61	5
Yugoslavia	-	1	-

These figures reveal that the majority of Polynesian Immigrants are deported for overstaying and not criminal offences as outlined in the Speech from the Throne.

Canadian
immigration
and population
study

Immigration and population statistics

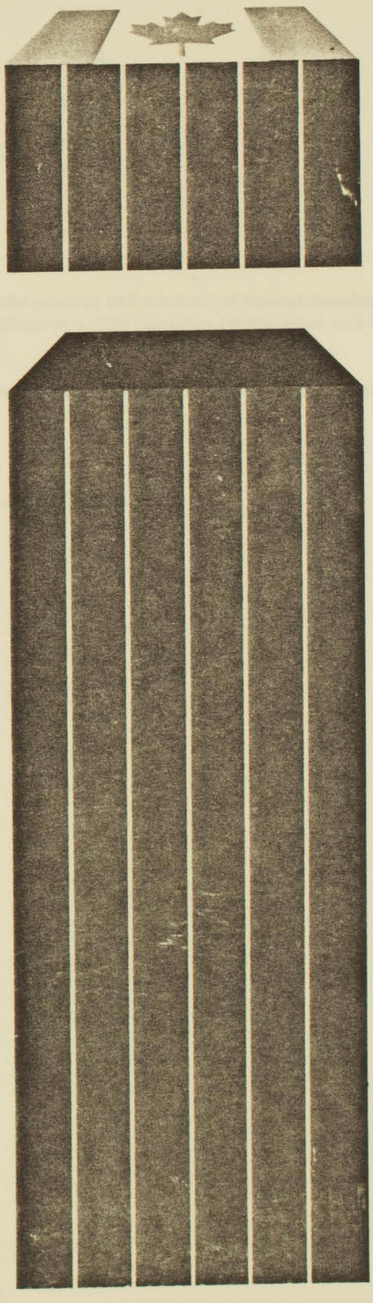

TABLE 8.2

NUMBER OF SPECIAL INQUIRIES,* 1960–73

Year	Section 22**	Section 18***
1960	379	816
1961	1,092	913
1962	1,094	953
1963	1,161	748
1964	1,091	905
1965	782	1,089
1966	1,327	1,489
1967	1,576	1,603
1968	1,940	1,494
1969	3,619	2,020
1970	5,761	2,514
1971	6,278	2,888
1972	7,582	2,829
1973	18,389	3,549

* For further explanation of the purpose and conduct of Special Inquiries see Part 2, *The Immigration Program*, Chapter 6, The Canadian Immigration and Population Study, Information Canada.

** Persons seeking to come into Canada, or seeking changes of status or conditions within Canada.

*** All others.

Source: Department of Manpower and Immigration.

TABLE 8.3

PERSONS EXCLUDED AT PORTS OF ENTRY AND ALIENS DEPORTED
BY CAUSE AND BY COUNTRY OF FORMER RESIDENCE, 1965–73*

Country	Public Charge	Criminality	Narcotics	Mental or Physical	Not Complying**	Seamen Deserters	Others	Total
1965								
itain	0	16	1	3	10	41	1	72
rope	1	19	0	12	60	355	11	458
rica	0	1	0	3	1	3	1	9
ia	0	0	0	0	7	4	2	13
stralasia	0	1	1	0	0	3	0	5
rth and Central America	4	129	6	21	75	9	11	255
uth America	1	15	0	0	11	1	1	29
eania	0	0	0	0	0	0	0	0
TOTAL	6	181	8	39	164	416	27	841
1966								
itain	1	28	0	6	5	58	4	82
rope	3	38	0	9	57	400	9	536
rica	0	0	0	2	0	1	0	3
ia	0	2	0	3	6	20	1	32
stralasia	0	3	0	0	1	3	0	7
rth and Central America	7	181	5	42	94	2	16	347
uth America	0	1	0	0	3	5	0	9
eania	0	0	0	0	1	2	0	3
TOTAL	11	253	5	62	167	491	30	1,019

1972 figures were not available at time of printing.
Not meeting one or more of the requirements of the Immigration Regulations.
urce: Department of Manpower and Immigration.

TABLE 8.3 (continued)

Country	Public Charge	Criminality	Narcotics	Mental or Physical	Not Complying**	Seamen Deserters	Others	Total
1967								
ritain	1	34	4	5	24	19	15	102
urope	4	47	1	7	111	336	32	538
frica	0	2	1	1	3	4	5	16
sia	0	7	0	1	9	57	1	75
ustralasia	2	1	0	1	1	2	1	8
orth and Central America	5	282	29	65	190	6	28	605
outh America	0	11	0	0	20	0	0	31
ceania	0	0	0	0	1	0	2	3
TOTAL	12	384	35	80	359	424	84	1,378
1968								
ritain	1	47	3	10	41	14	7	123
urope	0	90	2	7	255	287	33	674
frica	1	3	0	0	25	1	6	36
sia	0	10	0	2	72	22	4	110
ustralasia	1	4	0	0	14	3	0	22
orth and Central America	13	314	157	47	479	11	48	1,069
outh America	0	0	1	0	63	6	6	76
ceania	0	0	0	0	14	0	1	15
TOTAL	16	468	163	66	963	344	105	2,125

For explanatory notes see p. 98.

TABLE 8.3 (continued)

Country	Public Charge	Criminality	Narcotics	Mental or Physical	Not Complying**	Seamen Deserters	Others	Total
				1969				
Britain	0	40	9	3	29	9	9	99
Europe	1	54	2	6	189	226	34	512
Africa	0	1	0	0	21	2	0	24
Asia	0	6	0	4	83	16	7	116
Australasia	0	2	1	2	14	0	1	20
North and Central America	9	353	101	58	462	8	34	1,025
South America	0	6	1	1	118	5	6	137
Oceania	0	1	0	1	14	1	4	21
TOTAL	10	463	114	75	930	267	95	1,954
				1970				
Britain	0	13	5	3	33	13	1	68
Europe	3	50	7	9	265	275	63	672
Africa	0	3	0	2	33	7	1	46
Asia	1	8	3	2	98	31	15	158
Australasia	0	0	0	2	12	4	1	19
North and Central America	7	523	132	73	599	7	65	1,406
South America	2	9	8	1	85	4	11	120
Oceania	0	2	0	0	11	0	2	15
TOTAL	13	608	155	92	1,136	341	159	2,504

For explanatory notes see p. 98.

TABLE 8.3 (continued)

Country	Public Charge	Criminality	Narcotics	Mental or Physical	Not Complying**	Seamen Deserters	Others	Total
				1971				
Britain	2	21	5	4	47	8	5	92
Europe	0	54	5	5	458	297	72	891
Africa	2	3	3	0	57	20	1	86
Asia	0	19	3	3	147	52	20	244
Australasia	0	4	1	1	16	2	2	26
North and Central America	20	974	288	73	942	5	107	2,409
South America	0	12	0	0	217	4	23	256
Oceania	0	1	1	1	17	1	2	23
TOTAL	24	1,088	306	87	1,901	389	232	4,027
				1973				
Britain	1	17	3	3	34	7	9	74
Europe	1	111	10	9	474	146	75	826
Africa	1	7	2	0	181	11	4	206
Asia	2	38	2	3	368	23	20	456
Australasia	0	13	3	1	18	1	0	36
North and Central America	10	1,811	1,201	142	1,505	6	204	4,879
South America	1	48	0	7	529	6	37	628
Oceania	0	2	0	0	3	0	0	5
TOTAL	16	2,047	1,221	165	3,112	200	349	7,110

For explanatory notes see p. 98.

TABLE 8.4

APPEALS FROM DEPORTATION ORDERS, DISPOSITION AND BACKLOG, 1963–73[1]

	1963	1964	1965	1966	1967[2]	1967[3]	1968	1969	1970	1971	1972	1973[2]	1973[3]
Total appeals entered	100	601	631	823	864	63	1,379	2,667	4,018	4,875	6,128	14,779	54
Appeals withdrawn	–	7	2	–	1	8	66	125	225	401	317	438	3
Total appeals heard	100	594	629	823	863	11	987	990	926	1,156	1,132	8,463	11
Allowed[4]	11	16	20	11	6	–	32	66	81	144	133	1,644	–
Dismiss & deport[5]	32	321	336	533	532	8	513	525	557	762	726	1,162	7
Dismiss & stay[6]	55	226	225	233	272	3	392	296	116	53	47	75	1
Dismiss & quash[7]	2	31	48	46	53	–	50	103	172	197	226	5,582	3
Backlog at end of year	–	–	–	–	–	44	370	1,922	4,789	8,107	12,668	18,546	30
DEPORTATIONS ORDERED AND DEPORTATIONS EFFECTED, JANUARY 1, 1963 – NOVEMBER 1, 1973													
Deportations ordered	1,521	1,526	1,655	2,082	2,262	100	2,125	3,600	5,600[8]	7,700[8]	8,600[8]	17,000[8]	2,500[8]
Deportations effected	1,250	1,219	1,363	1,754	2,170	1	1,903	1,954	2,504	4,027	4,469	3,400	2,400

[1] One appeal unit includes more than one person where members of a family enter joint appeals; total number of appellants has consistently been 7 per cent higher than number of appeals entered.
[2] Processed under previous legislation.
[3] Processed under new legislation.
[4] Deportation order found to be invalid; person allowed to come into or remain in Canada.
[5] Deportation order found to be valid; execution of order directed.
[6] Deportation order found to be valid; but its execution suspended temporarily and person allowed to come into or remain in Canada for that time.
[7] Deportation order found to be valid, but cancelled for non-legal reasons; person allowed to remain in Canada in status he previously enjoyed.
[8] Estimated. Detailed statistics not kept on border exclusions.
Source: Department of Manpower and Immigration.

TABLE 8.5

PERSONS CONVICTED ON CHARGES ARISING FROM ILLEGAL IMMIGRATION-RELATED ACTIVITIES 1964–74

	1964	1965	1966	1967	1968	1969
Total convictions	126	108	317	352	319	485
	1970	1971	1972	1973	1974*	
Total convictions	501	611	523	383	89	
Seamen who entered Canada by stealth or remained after the departure of the vessel which brought them to Canada	174	113	67	51	17	
Persons who failed to report a change of status	115	149	151	61	14	
Persons who entered Canada at other than a port of entry and failed to report for examination	66	68	75	80	5	
Persons who came into Canada or remained by using false documents, false information or any other false means	40	68	47	35	3	
Persons refusing to be sworn, affirmed, or declared, or did not answer a question put him or did not answer all questions truthfully	69	174	151	60	22	
Persons working without an employment visa	—	—	—	41	21	
Others	37	39	32	55	7	

* To March 31, 1974.
Source: Royal Canadian Mounted Police.

LXO'B O'BRIEN, G.W. Deportation.

Orders of Deportation by Cause

		1974	1975	1976
5(a)	Insanity, idiocy, epilepsy (immigrant)	19	5	5
5(b)	T.B., Trachoma, contagious disease	2	1	-
5(c)	Dumb, blind, physically defective	-	-	1
5(d)	Crimes involving moral turpitude	2243	818	693
5(e)	Prostitutes, pimps, homosexuals, living on avails	7	3	2
5(h)	Public charge or likely to become	15	10	12
5(i)	Chronic alcoholics	1	-	-
5(j)	Narcotics addicts	2	1	4
5(k)	Drug involvement	105	508	151
5(o)	Accompanying inadmissible family member	1	2	1
5(p)	Non-bona fide immigrants or non-immigrants	2297	2523	2841
5(t)	Not complying with Act or Regulations (e.g., no visa)	949	821	897
18(1)(d)	Conviction under Narcotic Control Act	226	129	119
18(1)(e)(i)	Prostitution, homosexuality, living on avails	59	149	140
8(1)(e)(ii)	Criminal code conviction	584	567	755
(1)(e)(iii)	Inmates of jails	42	41	86
	Inmates of mental institutions	15	36	16
8(1)(e)(iv)	Member of prohibited class at time of admission (criminal) (1)	215	190	216
	Member of prohibited class at time of admission (health) (2)	5	4	9
18(1)(e)(v)	Public charge after admission	6	2	22
	Prohibited for criminality after admission (3)	41	33	54
	Prohibited for reasons other than health	4	3	4
8(1)(e)(vi)	Overstay/change of class	1238	1813	2825
(1)(e)(vii)	Eluding examination, inquiry, or escaping from custody	212	322	317

		1974	1975	1976
(1)(e)(viii)	Enter or remain by fraud or stealth	211	407	572
18(1)(e)(ix)	Return or remain in Canada after ordered deported .	257	300	296
18(1)(e)(x)	Seamen deserters	224	211	212

(1) Coupled with 5(d).

(2) Coupled with 5(a), 5(b).

(3) Coupled with 5(d).

LXO'B O'BRIEN, G.W. Deportation.