

## **THE OTTAWA BUSINESS JOURNAL**

### **IMMIGRATION'S NEW CATEGORY: THE CANADIAN EXPERIENCE CLASS**

Finally, there is a glimmer of hope for foreign nationals in Canada on work and/or study permits who deserve a little special treatment for their applications for permanent resident status. Long overdue, the Department of Citizenship and Immigration has recently signalled an intention to give some priority to those intending immigrants already settled and established in Canada as workers or students. This program should be of particular value to many already in Canada on study permits and post-graduate work permits, as well as others on straight work permits.

Canada has for many years been one of the primary destinations for immigrants and newcomers. This is no real surprise. We have a very stable political system, a successful democracy, excellent medical and educational systems, and a vibrant economy. While Canada does not have the allure and the pull of the United States and its superpower status, we are right next door, we are the largest trading partner with the United States, and it does take much less time, on average, to obtain permanent resident status in Canada than it does to obtain an American Green Card. Perhaps most important in any intending immigrant's mind, however, are the generous and welcoming host communities in Canada. These communities have a broad spectrum of ethnic diversity, and are comprised of many immigrants who are already successfully and happily established.

There are of course exceptions to the general rule. The concept of immigration is not a good solution for everyone, no matter what the "push" factors are that cause people to consider departing their homeland, or the "pull" factors that attract them to any particular country such as Canada. After all the considerations are made, both positive and negative, Canada does however continue to enjoy a buoyant number of new immigrants every year: about 250,000 new permanent residents, another 125,000 foreign workers, and another 90,000 foreign students. These are very big numbers, taken particularly in the context of our population, which has just tipped 33 million. Canada does have one of the world's lowest fertility or birth rates. Our politicians therefore, of all political stripes, unanimously support a robust immigration program. Simply put, our economy needs new labour inputs, and we are doomed if we do not plan for it.

In the last 20 years, the type of immigration that our government has prioritized has changed dramatically. 20 years ago the priority was family reunification with an emphasis on parents and grandparents. Today, 55% of all immigrants are skilled workers and other economic classes, who must be assessed according to a variety of criteria. These criteria include age, education, language ability (in either or both of English and French), occupational skills, years of work experience, and whether they have close relatives in Canada.

The immigration program delivers approximately 250,000 new immigrants a year. These positive selection decisions are made from an inventory which currently stands at about 900,000, and which does not seem to be abating any time soon. For every new immigrant, there may be as many as 4 more who apply, and who then form part of the processing backlog. Wait lines and

administrative costs, expenses and resources both, rise. For some years and during the watch of a number of recent Ministers of Citizenship and Immigration, I as others have tried to impress upon the Government the value of establishing a special category, and a special protocol for processing including reduced times, for those persons already established in Canada who would make good immigrants.

Many foreigners who are currently in Canada on either work permits or study permits would, if given the clear chance, want to convert their status to that of immigrant. These are, as I have argued, low-lying fruit. They already have a track record in our country. They are already established. They have already adjusted and acclimatized. They are already contributing. Their intention to want to settle here permanently is well-reasoned and not based upon speculation or naive dream. Why not merely do the obvious, and make it easy for them to have immigrant visas? Our Government should, in deserving classes of cases, roll out the welcome mat, and provide some red carpet treatment. Each Minister (and there have been plenty during my 22 years of law practice) has always made political announcements about the value of immigration to our country, of the importance of welcoming immigrants, and the need to settle them quickly. Very few Ministers, however, have ever done anything bold or constructive about this value proposition. It seems that governments, Conservative or Liberal, majority or minority, have all merely taken for granted that the very high demand of the intending immigrant will continue, and that nothing creative or visionary needs to be done to harvest this energy and interest.

Finally, in a speech to Parliament in November 2007, Citizenship and Immigration Minister Finley has announced a new category of immigration that will capture those people who are in Canada and already established. The "Canadian Experience Class", as they will be called, are about to receive some special treatment. They will be allowed to stay in Canada while their applications are processed, and they might even receive some amount of expedited processing. At least this is the plan. The Government of Canada is describing this as a "new avenue to immigrate", allowing qualified individuals with Canadian skilled work experience, or with a combination of Canadian work and studies, to apply from within the country. Maybe the foreign cook who skillfully prepares your curries or your sushi will finally qualify, even though he has no degree and cannot write an award-winning novel in English. Finally a breath of fresh air, and a program that may help provide the skills and the experience more quickly for the Canadian labour market. This new program is not aimed so much at recruiting new comers to Canada. We already do a reasonably good job at that, as indicated by the massive backlog of 900,000 people. Instead, it is aimed at retaining those foreign nationals already present in Canada on temporary status. Watch for further announcements and the regulations for this program that will contain the detail, both of which are anticipated very soon.

*Warren L. Creates, B.A., LL.B. is a certified specialist in Citizenship and Immigration Law, and has practised in this field for 22 years. He was formerly a federal government immigration lawyer, having been in-house legal counsel to the Immigration and Refugee Board. He is the Head of the Immigration Law Group at the law firm of Perley-Robertson, Hill and McDougall LLP located in the nation's capital city, Ottawa. He may be reached at (613) 566-2839; or at wcreates@perlaw.ca.*

