

the to process that and the record of the
 matters must be clearly and fully
 support the whole report and explain my position with
 regard to "partial amnesty".

development of law... hearing... those from
 the section on... the Creditor Bank...
 having the credible basis test applied to them...
 majority of the Committee rejected this idea however...
 legal advice upon a possible dissent
 to notations and topics was...
 My concerns were:

ADDENDUM

1. Would such a procedure be... without change in legislation as it was amended by Bill C-55?
2. If so, would it likely fall if challenged under Section 15 of the Charter?
3. Even if it were legally acceptable would it be a fair means of expediting the backlog clearance?

REPORT OF CLARIFICATION

BY DAN HEAP, M.P.,

TRINITY SPADINA

1. This procedure would be... Bill C-55 and the Immigration Act so revised. Although the law provides for the present credible basis hearing for the backlog it does not prohibit Cabinet discretion in choosing not to use that procedure (Compare with the Cabinet decision that "for the time being" it will not use the "safe-third country" clause with new refugee claimants).
2. If challenged (as would be likely) under Charter Section 15, "equality", the procedure would likely be struck down on the ground that it differentiated between claimants solely on the ground of national origin, and could not be justified under Section 1 of the Charter.
3. Even if we chose to take this risk, a problem arises from the difficulty of finding an objective basis for a fast determination.

The old "B-1" list and the "no-deport" predecessor in practices and programs of the Commission were never (to my knowledge) tested under the Charter. Some countries were apparently listed on confidential grounds, on Minister's discretion, and the listing kept fairly quiet. This practice would not fly now, and ought not to fly. If the incidence of success or failure by claimants were chosen as the basis of a list -- say "x percent of decisions being favourable" -- the question is begged "Why?" Because, for example, Nicaraguans have a current success rate of 90% and Guatemalans 85%. At the IRB, I find this very unjust, inasmuch as independent observers such as Amnesty International find the human rights