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ACTDATE = 810326
ADDNUMB =
CREDATE = 810326
DOCDATE = 810319
DSPDATE = 810326
NAME = CURRY
RCVDATE = 810324
RECID = 000189CA
STATE =
UPDATE = 810328
ZIP =

NAME KEITH CURRY
ORG LOS ANGELES CO. BOARD OF SUPERVISORS
SUBJECT WRITING FOR PETE SCHABARUM RE: WOULD BE PLEASED
TO ASSIST PRESIDENT IN ANY WAY. SPECIFICALLY
INTERESTED IN REFUGEE RELOCATION, ILLEGAL ALIENS &
HIGHWAY CONSTRUCTION FUNDING & RR 'S VISITS TO CAL.
SUBCODE ND016 IM FA007 TR ST005 LG LOS A
INDCODE 2300
ACTION IAWILL RSI 810326 CURRY GOOD MAN.SCHABARUM CONTROLS LA SUPVS C 810326
CAFULL RSA 810326 DOES THIS LETTER NEED RESPONSE? NO C 810327

END OF DOCUMENT

ACTDATE = 810421
ADDNUMB =
CREDATE = 810421
DOCDATE = 810414
DSPDATE = 810505
NAME = SCHABARUM
RCVDATE = 810421
RECID = 019038SS
STATE =
UPDATE = 810518
ZIP =

NAME PETER SCHABARUM
ORG LA COUNTY OF SUPERVISORS
SUBJECT ILLEGAL ALIEN POPULATION
SUBCODE IM LG LOS A
INDCODE 2300
ACTION CSHODS RSA 810421 C 810505
PRREAG RPS 810513 CP2 C 810513
COMMENTS SEE CTRACK 025026
R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

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DSPDATE = 810316
NAME = BAKER
RCVDATE = 810316
RECID = 000449SS
STATE =
UPDATE = 810317
ZIP =

NAME JIM BAKER
ORG CHIEF OF STAFF
SUBJECT HAITIAN REFUGEE BOAT
SUBCODE ND016 CO064 TN005 ST009 IM
INDCODE 1110
ACTION PRREAG RPI 810316 C 810316

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

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DOCDATE = 810227
DSPDATE = 810306
NAME = FULLER
RCVDATE =
RECID = 000116CA
STATE =
UPDATE = 810626
ZIP =

NAME MR. CRAIG FULLER
ORG OFFICE OF CABINET ADMINISTRATION
SUBJECT TASK FORCE ON IMMIGRATION AND REFUGEE POLICY
SUBCODE FG258--03 IM FG322 FG017-05 FG017 FG011
FG021 FG022 FG006-01 FG013 FG026 FG024
FG012 FG006--11 FG331
INDCODE 1120
ACTION 99DOJ RAA 810227 REPLACED BY PRESIDENT'S MEMO MAR 6 C 810306
99DOS RAA 810227 REPLACED BY PRESIDENT'S MEMO MAR 6 C 810306
99DOL RAA 810227 REPLACED BY PRESIDENT'S MEMO MAR 6 C 810306
99HHS RAA 810227 REPLACED BY PRESIDENT'S MEMO MAR 6 C 810306
PDANDE RSI 810227 C 810227
APHARP RSI 810227 C 810227
PDGRAY RSI 810227 C 810227
SSDARM RSI 810227 C 810227
VPMURP RSI 810227 C 810227
NSALLE RSI 810227 C 810227
CSHODS RSI 810227 C 810227
SSDARM RSA 810305 MEMO CREATING TASK FORCE C 810306
PRREAG RPS 810305 CP2 C 810306
99DOJ RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99DOS RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99DOD RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99ED RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99DOL RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99HHS RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99DOT RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99TRES RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99OMB RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
99FEMA RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501
CSHODS RAA 810306 FOR RECOMMENDATIONS OR ALTERNATIVES C 810501

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ACTDATE = 810706
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 DOCDATE = 810706
 DSPDATE = 810707
 NAME = FULLER
 RCVDATE =
 RECID = 018690CS
 STATE =
 UPDATE = 810803
 ZIP =

NAME CRAIG L. FULLER
 ORG OFFICE OF CABINET ADMINISTRATION
 SUBJECT ALTERNATIVE FACILITIES --- FORT CHAFFEE AND ALIEN
 POPULATIONS --- AGENDA ITEM FOR THE CABINET MEETING
 11:00 A.M., TUESDAY, JUL 7 81
 CONFIDENTIAL

SUBCODE FG010-01 IM ND009-02 FG038 FG011 FG012
 FG013 FG017 FG018 FG019 FG020 FG021
 FG022 FG023 FG024 FG025 FG026 FG006-01
 FG006-11 FG006-02 IT086-27 FG006-15 FG006-03

INDCODE 1120 1110
 ACTION VPBUSH RSA 810706 C 810707
 99DOS RAA 810706 C 810707
 99TRES RAA 810706 C 810707
 99DOD RAA 810706 C 810707
 99DOJ RAA 810706 C 810707
 99DOI RAA 810706 C 810707
 99USDA RAA 810706 C 810707
 99DOC RAA 810706 C 810707
 99DOL RAA 810706 C 810707
 99HHS RAA 810706 C 810707
 99HUD RAA 810706 C 810707
 99DOT RAA 810706 C 810707
 99DOE RAA 810706 C 810707
 99ED RAA 810706 C 810707
 CNMEES RSA 810706 C 810707
 99OMB RAA 810706 C 810707
 99CIA RAA 810706 C 810707
 99UN RAA 810706 C 810707
 99SRTN RAA 810706 C 810707
 99CEA RAA 810706 C 810707
 NSALLE RSA 810706 C 810707
 PDANDE RSA 810706 C 810707
 SSDARM RSA 810706 C 810707
 PDGRAY RSI 810706 C 810706
 99OMB RAI 810706 ATTN: A. ANDERSON C 810706
 IAHOLM RSI 810706 C 810706
 VPMURP RSI 810706 C 810706
 CSBAKE RSA 810706 INVITED BY DARMAN C 810707
 DCDEAV RSA 810706 INVITED BY DARMAN C 810707
 PLDOLE RSA 810706 INVITED BY DARMAN C 810707
 LAFRIE RSA 810706 INVITED BY DARMAN C 810707



PANOFZ RSA 810706 INVITED BY DARMAN C 810707
IAWILL RSA 810706 INVITED BY DARMAN C 810707
CSHODS RSA 810706 INVITED BY DARMAN C 810707
CAFULL RSI 810706 FROM DARMAN C 810706

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DOCDATE = 810623
DSPDATE = 810623
NAME = FRIEDERSDORF
RCVDATE = 810623
RECID = 019710SS
STATE =
UPDATE =
ZIP =

NAME MAX FRIEDERSDORF
ORG LEGISLATIVE AFFAIRS
SUBJECT RECOMMENDED TELEPHONE CALL TO SENATOR
HARRISON SCHMITT
CONFIDENTIAL
SUBCODE PRO07-02 IM FG258-03 PRO05-02
INDCODE 1120
ACTION PRREAG RPA 810623 CALL MADE C 810623
END OF DOCUMENT

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DSPDATE =
NAME = FRIEDERSDORF
RCVDATE = 810624
RECID = 019740SS
STATE =
UPDATE = 810707
ZIP =

NAME MAX FRIEDERSDORF
ORG LEGISLATIVE AFFAIRS
SUBJECT RECOMMENDED PHONE CALL TO SENATOR HARRISON
SCHMITT REGARDING IMMIGRATION
SUBCODE PRO07--02 IM
INDCODE 1220
USERCODE CALL
ACTION PRREAG RPA 810624 C
END OF DOCUMENT

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DOCDATE = 810706
DSPDATE = 810708
NAME = SMITH
RCVDATE = 8107
RECID = 019916SS
STATE =
UPDATE = 810715
ZIP =

NAME WILLIAM FRENCH SMITH
ORG DEPARTMENT OF JUSTICE
SUBJECT ALTERNATIVE FACILITIES -- FORT CHAFFEE AND ALIEN
POPULATIONS
CONFIDENTIAL
SUBCODE IM ND009 ND016 FG258-03 PR005-02 FG010-01
FG017
INDCODE 1120
ACTION PRREAG RPA 810706 C 810708
RM RSZ 810714 C 810714

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DSPDATE = 810717
NAME =
RCVDATE = 810717
RECID = 019940SC
STATE =
UPDATE = 810812
ZIP =

SUBJECT DRAFT IMMIGRATION PAPERS / DECISION
RE -- DRAFT SENT OUT ON JULY 22

SUBCODE IM FG038 FG011 FG012 FG013 FG017
FG018 FG019 FG020 FG021 FG023 FG024
FG025 FG026 FG006--11 FG006--02 IT086--27 FG006--15
FG006--03 FG006--01 FG022 FG258--03

INDCODE 1120 1110

USERCODE CM62

ACTION VPBUSH RSA 810717 SEE COMMENTS C 810717
99DOS RAA 810717 C 810717
99TRES RAA 810717 NO RESPONSE C 810723
99DOD RAA 810717 SEE MEMO C 810720
99DOJ RAA 810717 NO RESPONSE C 810723
99DOI RAA 810717 COMMENTS OVER PHONE - WILL SEND MEMO MON. C 810721
99USDA RAA 810717 NO RESPONSE C 810723
99DOC RAA 810717 SEE CHANGES C 810717
99DOL RAA 810717 NO RESPONSE C 810723
99HHS RAA 810717 NO RESPONSE C 810723
99HUD RAA 810717 SEE MEMO C 810722
99DOT RAA 810717 C 810717
99DOE RAA 810717 CONCURS - SEE MEMO C 810717
99ED RAA 810717 O.K. C 810721
CNMEES RSA 810717 C 810718
99OMB RAA 810717 SEE MEMO C 810717
99CIA RAA 810717 NO COMMENT C 810717
99UN RAA 810717 NO RESPONSE C 810723
99SRTN RAA 810717 NO RESPONSE C 810723
PDGRAY RSI 810717 C 810717
99CEA RAA 810717 MURRAY WEIDENBAUM - NO COMMENT C 810717
VPMURP RSI 810717 C 810717
CNMEES RSA 810717 NO COMMENT AT THIS TIME C 810717
NSALLE RSA 810717 C 810717
PDANDE RSA 810717 SEE COMMENT C 810717
PLDOLE RSA 810717 SEE ATTACHED C 810717
CUFIEL RSA 810717 C 810717
LAFRIE RSA 810717 SEE COMMENT C 810717
SDGERG RSA 810717 C 810717
APHARP RSA 810717 C 810717
PANOFZ RSA 810717 SEE COMMENT C 810718
CAFULL RSA 810717 C 810717
IAWILL RSA 810717 SEE COMMENT C 810717
CSHODS RSA 810717 NOTE: PACKAGE SENT C 810718

CNMEES RSA 810722 C 810723

CSBAKE RSA 810722 C 810723

DCDEAV RSA 810722 C 810723

99OMB RAA 810722 C 810723

NSALLE RSA 810722 C 810723

PDANDE RSA 810722 C 810723
PSBRAD RSA 810722 C 810723
PLDOLE RSA 810722 C 810723
CUFIEL RSA 810722 C 810723
LAFRIE RSA 810722 C 810723
SDGERG RSA 810722 C 810723
VPMURP RSA 810722 SEE COMMENTS C 810723
PANOFZ RSA 810722 SEE COMMENTS C 810723
IAWILL RSA 810722 C 810723
CAFULL RSA 810722 C 810723
CSHODS RSI 810722 C 810722
VPBUSH RSA 810722 C 810723
99DOS RAA 810722 SEE MEMO C 810723
99TRES RAA 810722 SEE MEMO C 810723
99DOD RAA 810722 SEE MEMO C 810723
99DOJ RAA 810722 C 810723
99DOI RAA 810722 C 810723
99USDA RAA 810722 SEE NOTE FOR CHANGE C 810723
99DOC RAA 810722 SEE CHANGES IN DRAFT C 810723
99DOL RAA 810722 APPROVES C 810723
99HHS RAA 810722 SEE MEMO C 810723
99HUD RAA 810722 C 810723
99DOT RAA 810722 NO PROBLEMS PER RAY KARAM C 810723
99DOE RAA 810722 APPROVES C 810723
99ED RAA 810722 APPROVES C 810723
CNMEES RSA 810722 C 810723
99OMB RAA 810722 C 810723
99CIA RAA 810722 APPROVES C 810723
99UN RAA 810722 C 810723
99SRTN RAA 810722 C 810723
PDGRAY RSI 810722 C 810722
99CEA RAA 810722 URGE EXCLUSION OF PF AT PG 4 C 810722
COMMENTS SEE 018678CA
NSC 8104440

END OF DOCUMENT

DOCDATE = 810722
DSPDATE = 810723
NAME = WILLIAMSON
RCVDATE = 810723
RECID = 033001SS
STATE =
UPDATE = 810724
ZIP =

NAME RICH WILLIAMSON
ORG INTERGOVERNMENTAL AFFAIRS
SUBJECT RECOMMENDED PHONE CALL TO GOVERNOR CARLOS
ROMERO -- BARCELO OF PUERTO RICO
CONFIDENTIAL
SUBCODE PR007-02 ND016 IM ND009-02 PR005-02 ST051-02
CO064
INDCODE 2120
ACTION PRREAG RPA (DID NOT COME THRU STAFF SECRETARY) C 810723
IAWILL RSI 810723 C 810723

END OF DOCUMENT

DSPDATE = 810723
NAME = WILLIAMSON
RCVDATE = 810723
RECID = 033002SS
STATE =
UPDATE = 810724
ZIP =

NAME RICH WILLIAMSON
ORG INTERGOVERNMENTAL AFFAIRS
SUBJECT RECOMMENDED PHONE CALL TO MAYOR HERNAN PADILLA
OF SAN JUAN
CONFIDENTIAL
SUBCODE PRO07-02 ND016 IM ND009-02 PRO05-02 LG SAN J
CO064
INDCODE 2500
ACTION PRREAG RPA (DID NOT COME THRU STAFF SECRETARY) C 810723
IAWILL RSI 810723 C 810723

END OF DOCUMENT

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DOCDATE = 810724
DSPDATE = 810724

NAME = BAKER
RCVDATE = 810724
RECID = 033009SS
STATE =
UPDATE = 810725
ZIP =

NAME JAMES BAKER
ORG CHIEF OF STAFF
SUBJECT MEMO ON IMMIGRATION
SUBCODE IM
ACTION PRREAG RPA 810724 C 810724



END OF DOCUMENT

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CREFDATE = 810728
DOCDATE = 810727
DSPDATE = 810730
NAME = NOE7IGER

RCVDATE = 810728
RECID = 033048SS
STATE =
UPDATE = 810730
ZIP =

NAME LYN NOFZIGER
ORG POLITICAL AFFAIRS
SUBJECT MEMO RE IMMIGRATION BILL
SUBCODE IM LE
ACTION PRREAG RPI C
PDANDE RSA 810727 PRESIDENTIAL STATEMENT ISSUES JULY 30 C 810730

END OF DOCUMENT

033291SS DOCUMENT= 22 OF 22

ACTDATE = 810825
ADDNUMB =
CREDATE = 810825
DOCDATE = 810825
DSPDATE =
NAME = HILLER

RECID = 033291SS
STATE =
UPDATE = 810826
ZIP =

NAME DAVID HILLER
ORG DEPARTMENT OF JUSTICE
SUBJECT INTERDICTION OF UNDOCUMENTED ALIENS: PRESIDENTIAL
PROCLAMATION AND EXECUTIVE ORDER
SUBCODE IM FE009 FE003 FG017
INDCODE 1130
ACTION SSDARM RSA 810825 COPY DACOM TO CALIFORNIA TO RGD S

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

019386SS DOCUMENT= 2 OF 5

ACTDATE = 810527
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CREDATE = 810526
DOCDATE = 810525
DSPDATE = 810527
NAME = JAMES
RCVDATE = 810526
RECID = 019386SS

STATE =
UPDATE = 810608
ZIP =

NAME PENN JAMES
ORG PRESIDENTIAL PERSONNEL
SUBJECT NOMINATIONS: JAMES B. THOMAS, IG, DEPARTMENT OF
EDUCATION; JAMES T. HACKETT, A/D, ICA; KENT LLOYD,
DEPUTY UNDER SECRETARY FOR MANAGMENT, DEPARTMENT
OF EDUCATION; CHARLES L. DEMPSEY, IG, HUD;
ERNESE H. PREEG, AMBASSADOR TO HAITI, THEODORE
CUMMINGS, AMBASSADOR TO AUSTRIA
SUBCODE FG026 FG298 FG023 FO002 CO064 CO010
ACTION PRREAG RPS 810527 CP2 C 810527
ECJONE RSA 810528 TO SECRETARY OF THE SENATE C 810528

END OF DOCUMENT

026755SS DOCUMENT= 3 OF 5

ACTDATE = 810527
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DOCDATE = 810525
DSPDATE = 810527
NAME = JAMES
RCVDATE = 810525
RECID = 026755SS
STATE =

UPDATE =
ZIP =

NAME PENDLETON JAMES
ORG PRESIDENTIAL PERSONNEL
SUBJECT NOMINATION FOR APPOINTMENT ERNEST HENRY PREEG
TO BE AMBASSADOR TO HAITI
SUBCODE F0002 CO064 PE002-01 FG011
INDCODE 1120 1130
ACTION PRREAG RPS 810527 CP2 C 810527
ECJONE RSA 810527 TO SECRETARY OF SENATE C 810527
END OF DOCUMENT

SUBCHAPTER I—GENERAL PROVISIONS

§ 1101. Definitions

(a) As used in this chapter—

(1) The term “administrator” means the administrator of the Bureau of Security and Consular Affairs of the Department of State.

(2) The term “advocates” includes, but is not limited to, advises, recommends, furthers by overt act, and admits belief in.

(3) The term “alien” means any person not a citizen or national of the United States.

(4) The term “application for admission” has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.

(5) The term “Attorney General” means the Attorney General of the United States.

(6) The term “border crossing identification card” means a document of identity bearing that designation issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of crossing over the borders between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations.

(7) The term “clerk of court” means a clerk of a naturalization court.

(8) The terms “Commissioner” and “Deputy Commissioner” mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(9) The term “consular officer” means any consular, diplomatic, or other officer of the United States designated under regulations prescribed under authority contained in this chapter, for the purpose of issuing immigrant or nonimmigrant visas. In cases of aliens, in the Canal Zone and the outlying possessions of the United States, the term “consular officer” means an officer designated by the Governor of the Canal Zone, or the governors of the outlying possessions, for the purpose of issuing immigrant or nonimmigrant visas under this chapter.

(10) The term “crewman” means a person serving in any capacity on board a vessel or aircraft.

(11) The term "diplomatic visa" means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe.

(12) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(13) The term "entry" means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: *Provided*, That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.

(14) The term "foreign state" includes outlying possessions of a foreign state, but self-governing dominions or territories under mandate or trusteeship shall be regarded as separate foreign states.

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A) (i) an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii) upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

IMMIGRATION AND NATIONALITY ACT

See Legislative History, p. 1653

CHAPTER 477—PUBLIC LAW 414

[H. R. 5678]

An Act to revise the laws relating to immigration, naturalization, and nationality; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

This Act, divided into titles, chapters, and sections according to the following table of contents, may be cited as the "Immigration and Nationality Act".

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 - 103. Powers and duties of the Attorney General and the Commissioner.
 - 104. Powers and duties of the Secretary of State; Bureau of Security and Consular Affairs.
 - 105. Liaison with internal security officers.

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- 202. Determination of quota to which an immigrant is chargeable.
- 203. Allocation of immigrant visas within quotas.
- 204. Procedure for granting immigrant status under section 101 (a) (27) (F) (1) or 203 (a) (1) (A).
- 205. Procedure for granting nonquota status or preference by reason of relationship.
- 206. Revocation of approval of petitions.
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- 214. Admission of nonimmigrants.
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- 221. Issuance of visas.
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- 223. Reentry permits.
- 224. Nonquota immigrant visas.

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- 232. Detention of aliens for observation and examination.
- 233. Temporary removal for examination upon arrival.
- 234. Physical and mental examination.

this subsection. The Attorney General shall make a detailed report to the Congress in any case in which he exercises his authority under paragraph (3) of this subsection on behalf of any alien excludable under paragraphs (9), (10), and (28) of subsection (a).

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26), shall be applicable to any alien who shall leave Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States: *Provided*, That persons who were admitted to Hawaii under the last sentence of section 8 (a) (1) of the Act of March 24, 1934, as amended (48 Stat. 456), and aliens who were admitted to Hawaii as nationals of the United States shall not be excepted by this paragraph from the application of paragraphs (20) and (21) of subsection (a) of this section, unless they belong to a class declared to be nonquota immigrants under the provisions of section 101 (a) (27) of this Act, other than subparagraph (C) thereof, or unless they were admitted to Hawaii with an immigration visa. The Attorney General shall by regulations provide a method and procedure for the temporary admission to the United States of the aliens described in this proviso. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237 (a) of this Act.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

(e) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.

ADMISSION OF ALIENS ON GIVING BOND OR CASH DEPOSIT

Sec. 213. Any alien excludable because he is likely to become a public charge or because of physical disability other than tuberculosis in any form, leprosy, or a dangerous contagious disease may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper bond or undertaking approved by the Attorney General, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. In lieu of such bond such alien may deposit in cash with the Attorney General such amount as the Attorney General may require, which amount shall be deposited by him in the United States Postal Savings System, a receipt therefor to be given the person furnishing such sums showing the fact and object of its receipt and such other information as the Attorney General may deem advisable. All accruing interest on such deposit during the time it shall be held in the United States Postal Savings System shall be paid to the person furnishing such sum. In the event such alien becomes a public charge, the Attorney General shall dispose of such deposit in the same manner as if it had been collected under a bond as provided in this section. In the event of the permanent departure from the United States, the naturalization, or the death of such alien, such sum shall be returned to the person by whom furnished, or to his legal representatives. The admission of such alien shall be a consideration for the giving of such bond, undertaking, or cash deposit. Suit may be brought thereon in the name and by the proper law officers of the United States for the use of the United States, or of any State, Territory, district, county, town, or municipality in which such alien becomes a public charge.

ADMISSION OF NONIMMIGRANTS

Sec. 214. (a) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States.

(b) Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 101 (a) (15). An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act, or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 247 (b).

(c) The question of importing any alien as a nonimmigrant under section 101 (a) (15) (H) in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant.

TRAVEL CONTROL OF ALIENS AND CITIZENS IN TIME OF WAR OR
NATIONAL EMERGENCY

Sec. 215. (a) When the United States is at war or during the existence of any national emergency proclaimed by the President, or, as to aliens, whenever there exists a state of war between or among two or more states, and the President shall find that the interests of the United States require that restrictions and prohibitions in addition to those provided otherwise than by this section be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or the Congress, be unlawful—

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

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For text of Act see p. 166

Senate Report No. 1137, Jan. 29, 1952 [To accompany S. 2550]

House Report No. 1365, Feb. 14, 1952 [To accompany H.R. 5678]

Conference Report No. 2096, June 9, 1952 [To accompany H.R. 5678]

The House bill was passed in lieu of the Senate bill and the House Report is more comprehensive than the Senate Report. The Conference Report, also set out, outlines the changes in the bill accepted by the Conference.

For Congressional Debate:

House Apr. 23rd-25th, June 10th, see 98 Cong. Record (Daily Issue) 4367, 4466, 4490, 7109.

Senate May 7th, May 22nd, June 11th, see 98 Cong. Record (Daily Issue) 4967, 5064, 5074, 5081, 5171, 5233, 5268, 5293, 5314, 5401, 5413, 5556, 5599, 5693, 5728, 5884, 7163.

House Report No. 1365

THE Committee on the Judiciary, to which was referred the bill (H. R. 5678) to revise the laws relating to immigration, naturalization, and nationality, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to enact a comprehensive, revised immigration, naturalization, and nationality code.

AMENDMENTS

The sole purpose of amendments numbered 1, 2, 3, 5, 6, 8, 10, 11, 12, 19, 23, 24, 25, 28, 29, 31, 32, 37, and 38 is to correct typographical errors or to perfect the language of the bill.

The purpose of the remaining amendments is discussed hereinafter in connection with the analysis of the sections to which they refer.

HISTORICAL BACKGROUND

A. IMMIGRATION

I. Power of Congress

The power of Congress to control immigration stems from the sovereign authority of the United States as a nation and from the constitutional power of Congress to regulate commerce with foreign nations.¹ Every

¹. *Chae Chan Ping v. United States*, 130 U.S. 581 (1889); *Edye v. Robertson, Collector*, 112 U.S. 680 (1884).

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officers have been adopted in the revised bills, and in other instances changes have been made which at least partly conform to the views of this Department.

The Department considers that the revised bill is in many respects an improvement over the existing law. It endorses the idea of an omnibus immigration measure which will constitute a codification of all existing law on the subject. The bill constitutes a step in the direction of better relations with foreign countries. The Department, however, has comments and suggestions which it is prepared, and requests the opportunity, to present to your committee at its convenience.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

JACK K. MCFALL,
Assistant Secretary
(For the Secretary of State).

ANALYSIS OF THE BILL

TITLE I—GENERAL

1. DEFINITIONS (SEC. 101)

Section 101 contains the definitions of some fifty-odd terms used in the bill and, since many of those definitions are determinative of the application of other provisions of the bill, that section must be considered as one of the most important segments of the proposed legislation. Many of the definitions are self-explanatory and require no further elaboration in this report. However, in view of the interplay of many of the definitions upon the other provisions of the bill, the more significant ones will be discussed in some detail.

The term "border-crossing identification card" is defined to mean a document of identity issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of border travel between the United States and foreign contiguous territory. While the border-crossing card is referred to in the Alien Registration Act of 1940, it is not defined, and in view of its significance in relation to the tremendous volume of cross-border travel of aliens over the Canadian and Mexican borders, it seems desirable to circumscribe its permissible use as a means of documentation of aliens with definite statutory limitations.

Section 101(a) (13) defines the term "entry." Frequent reference is made to the term "entry" in the immigration laws, and many consequences relating to the entry and departure of aliens flow from its use, but the term is not precisely defined in the present law. Normally an entry occurs when the alien crosses the border of the United States and makes a physical entry, and the question of whether an entry has been made is susceptible of a precise determination. However, for the purposes of determining the effect of a subsequent entry upon the status of an alien who has previously entered the United States and resided therein, the preciseness of the term "entry" has not been found to be as apparent. Earlier judicial constructions of the term in the immigration laws, as set

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forth [redacted] 5-11 (199 U.S. 422 (1922)) generally held that the term "entry" included any coming of an alien from a foreign country to the United States whether such coming be the first or a subsequent one. More recently, the courts have departed from the rigidity of that rule and have recognized that an alien does not make an entry upon his return to the United States from a foreign country where he had no [redacted] to leave the United States (*Di Pasquale v. Karnuth*, 158 F.2d 878 (C.C.A.2d 1947)), or did not leave the country voluntarily (*Delgadillo v. Carmichael*, 332 U.S. 388 (1947)). The bill defines the term "entry" as precisely as practicable, giving due recognition to the judicial precedents. Thus any coming of an alien from a foreign port or place or an outlying possession into the United States is to be considered an entry, whether voluntary or otherwise, unless the Attorney General is satisfied that the departure of the alien, other than a deportee, from this country was unintentional or was not voluntary. ✓

Section 101(a) (15) follows the pattern of the Immigration Act of 1924 in defining an immigrant as every alien except one who falls within one of the classes of nonimmigrants. This definition, as it modifies existing law, will be discussed more particularly in connection with the treatment of the admissible classes of aliens.

The term "ineligible to citizenship" as defined in section 101(a) (19) is confined in its reference to such aliens as draft evaders, avoiders, or deserters. It appears advisable to stress at this point, that the term "ineligible to citizenship," as different from existing law, does not embrace under this legislation members of certain races. Under section 311 which will be discussed in detail hereinafter, race has no bearing on any person's eligibility to citizenship.

Section 101(a) (20) defines precisely the term "lawfully admitted for permanent residence." This term has especial significance because of its application to numerous provisions of the bill.

The definition of nonquota immigrant found in section 101(a) (27) contains significant modifications of the present definition of the term which will be discussed hereinafter more fully in connection with the admissible classes of aliens.

The term "residence" as defined in section 101(a) (33) means the place of general abode, and the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. This definition is a codification of judicial constructions of the term "residence" as expressed by the Supreme Court of the United States in *Savorgnan v. United States* (338 U.S. 491, 505 (1950)). In that case, the Court stated:

Under the act of 1940, the issue is not what her intent was on leaving the United States, nor whether, at any later time, it was her intent to have a permanent residence abroad or to have a residence in the United States. The issue is only whether she did, at any time between July 1941 and November 1945, in fact "reside" abroad. The test of such "residence" is whether, at any time during that period, she did, in fact, have a "principal dwelling place" or "place of general abode" abroad.

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of the Philippine Islands previously admitted to Hawaii are continued in effect.

The bill vests in the President the authority to suspend the entry of all aliens if he finds that their entry would be detrimental to the interests of the United States, for such period as he shall deem necessary (sec. 212(e)). The powers of the President to provide additional prohibitions and restrictions on the entry and departure of persons during time of war or the existence of a national emergency are incorporated in the bill (sec. 215) in practically the same form as they now appear in the act of May 22, 1918 (40 Stat. 559).

3. ENTRY DOCUMENTS (SECS. 221, 222, 223)

Sections 221, 222, and 223 provide for the issuance of entry documents. A consular officer is authorized to issue both immigrant and nonimmigrant visas. This represents the first time that statutory provision is made for the issuance of nonimmigrant visas. All applicants for visas must be registered, fingerprinted, and photographed, unless, in the discretion of the Secretary of State, the requirement is waived in the case of certain aliens in the diplomatic or semidiplomatic categories. In the case of an alien applying for an immigrant visa, the consular officer must require a physical and mental examination of the alien, and in the case of a nonimmigrant, he may require such examinations if deemed necessary to determine the alien's eligibility for a visa.

Immigrant visas are to be valid for such period not exceeding 4 months as may be by regulations prescribed, while nonimmigrant visas are to be valid for such periods as may be by regulations prescribed. The omission from the bill of the provision in existing law that an immigrant visa does not expire if the alien embarked on a continuous voyage to the United States from a port outside the United States and contiguous territory within a 4-month period is not designed to take away the leeway in the validity period of immigrant visas. It is intended under the language of the bill to permit discretion in determining whether or not unforeseen emergencies are to be excluded from the period of validity. This is substantially the present law, with simplification of language.

Provision is made for revocation by the Secretary of State of any visa or other documentation, and upon the communication of notice of such revocation to the Attorney General, the visa or other documentation shall be invalid from the date of issuance, with the proviso that no transportation company shall be penalized for any action taken in reliance on such visa or documentation unless due notice of revocation is received prior to the alien's embarkation. It is contemplated that timely notice of such revocation will be given to transportation companies to permit transmission of the notice to the port of embarkation prior to the alien's departure.

Amendment No. 9 (to sec. 222), reflects the committee's cognizance of the unprecedented number of persons who have been uprooted and dis-

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located during World War II or due to events subsequent thereto. The amendment is designed to alleviate hardship which might be caused by a rigid requirement that visa applications "shall be filed only with the consular officer in whose district the applicant shall have established his residence." It is believed that the Secretary of State will, by regulations, provide for a more flexible requirement regarding the place of filing of visa applications in both nonimmigrant and immigrant cases. Existing regulations could very well serve as pattern for the new rules to be promulgated. Centralized intelligence (see sec. 105) pertinent to security screening of aliens, should, in the committee's opinion, operate in the administration of this amended provision without jeopardizing United States security interest.

Authorization for the issuance of reentry permits for the documentation of certain aliens lawfully admitted for permanent residence and aliens lawfully admitted as treaty traders under the Immigration Act of 1924 between July 1, 1924, and July 5, 1932, who intend to depart temporarily from the United States, is found in section 223. Such reentry permits are to be valid for a period of 1 year and may be used for making more than one application for reentry.

4. ENTRY, EXCLUSION, AND DEPORTATION OF ALIENS (CH. 4 AND SEC. 287)

A. Inspection

The provisions relating to the inspection of arriving aliens, contained in chapter 4 of the bill, follow the general pattern of the present law. Every alien arriving at a port of entry must be examined by an immigration officer before he may enter, and such officers are empowered to detain the aliens on board the arriving vessel or at the airport of arrival for observation if suspected of being afflicted with mental or physical defects and may order the temporary removal of the alien for examination and inspection. Medical examinations are to be made by at least one qualified medical officer of the United States Public Health Service or by a qualified civil surgeon.

In conjunction with their inspection of aliens, the bill authorizes the immigration officers to board and search vessels, aircraft, railway cars or any other conveyance or vehicle in which they believe aliens are being brought into the United States. The immigration officers are empowered to administer oaths, take evidence and make a record, if necessary, concerning the enforcement of the bill with reference to the privilege of any alien to enter, pass through or reside in the United States. Any person coming to the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain, whether or not he intends to remain permanently, whether, if an alien, he intends to become a citizen, and such other information as will aid the immigration officers in determining whether the person is a national of the United States or an alien, and, if the latter, whether he is subject to exclusion under any of the provisions of the bill. It is not in-

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specifically kept in force under the saving clause of the bill, which are in conflict or inconsistent with the provisions of the bill, to the extent of such conflict or inconsistency are repealed.

Section 404 contains the usual provision for the authorization of appropriations.

Section 405 contains the saving clauses. It is understood by the committee that an application for suspension of deportation under section 19(c) of the Immigration Act of 1917, as amended, or an application for adjustment of status under section 4 of the Displaced Persons Act of 1948, as amended, which is pending on the effective date of this act, shall be regarded as a proceeding within the meaning of subsection (a) of this section.

Section 406 contains the separability clause.

Section 407 (see amendment No. 42) provides that the bill shall become effective 180 days from the date of enactment, except that the joint congressional committee (see sec. 401) shall assume its responsibilities immediately upon the enactment date.

RECOMMENDATION

The committee, after consideration of all the facts, recommends that the bill, as amended, be enacted.

ADDITIONAL VIEWS BY MR. CELLER

The revision of laws presents a unique opportunity to legislators to make good law. Hence, H.R. 5678, revising the laws relating to immigration, naturalization, and nationality merits the most careful scrutiny, because the law therein contained affects basically foreign policy, constitutional guaranties, public welfare, the health, the economy, and the productivity of the Nation. During deliberation of the full committee on H.R. 5678, it became increasingly clear that if we were to make good law, certain provisions could not be deemed acceptable.

It must be kept in mind that this legislation will have far-reaching consequences, for better or for worse, ~~to the point to which~~ ~~measures~~ ~~which stand glaringly in need of amendment.~~

Section 212(a) provides that the President may at any time establish an iron curtain against the entry of any and all foreigners into the United States. Such a delegation of authority constitutes an abdication by Congress of the control of immigration. There is a vast difference between giving such powers to the President in times of declared national emergency or war, which is presently existent, and giving him such powers at any time. This is a dangerous substitution of government by law, by government by man. I most strongly urge the retention of present law. I can conceive of no situation which demands that the President be given such powers. [Underscoring supplied.]

The Immigration Act of 1924, establishing the annual quotas for countries based on a computation of approximately one-sixth of 1 percent,

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presumably reflects composition of national origin of the inhabitants of the country in the year 1920. Due to the rigidity of our quota system, during the 27 years the present quota law has been in effect, only 44 percent of the possible quota immigrants have actually been admitted. Of the total number of 154,000 annual quotas permitted under the law, 65,700 are allotted to Great Britain; 25,900 to Germany; and 17,800 to Ireland. Every other country having a quota is accorded a quota allotment of less than 7,000. This startling discrimination against central, eastern and southern Europe points out the gap between what we say and what we do. On the one hand we publicly pronounce the equality of all peoples, discarding all racialistic theories; on the other hand, in our immigration laws, we embrace in practice these very theories we abhor and verbally condemn. In the meantime, because Great Britain and Ireland barely use the quota allotment, a large percentage of the 154,000 annual quotas go to waste each year. They are nontransferable. The simple, practical solution—which it seems to me could easily be adopted without even going so far as to disturb the national origin system which is so deeply entrenched (unjustifiably)—would be to take the unused quotas and distribute them among countries with less than 7,000 quota allotments in the same proportion as they bear to the total quota pie.

It is important that we do so in terms of our own productivity and growth. If we take a long-range view of the position of the United States in the world, we must recognize that our rapid rise to world power during our 176-year history was based upon our population growth from 4 million to 150 million, and this growth was largely the result of immigration. In the years ahead our population is headed for a stable plateau which means an aging population; that is, fewer young persons and more old persons proportionately in the total population. The rate of population growth in the United States is slightly below that required to reproduce itself. The American rate between 1933 and 1939 was 0.96. Compare that with the rate of Russia alone, which was 1.70.⁸ The population forecast for the United States in 1970 is 170 million people. The population forecast for Russia alone in 1970 is 251 million. The implications are clear.

It is also admitted that our supply of unskilled and semiskilled labor is rapidly narrowing as production for defense needs increases. H.R. 5678 retains the rigidity of our quota system. The revision of law, as I have said before, challenges our sense of responsibility, and it is imperative that we address ourselves to the unshackling of immigration shackles so that, at the very least, the 154,000 allotment can be fully utilized.

It must be noted that immigration is further restricted by the mortgaging of future quotas by the Displaced Persons Act.

I point, moreover, to the fact that the 1924 Immigration Act, as amended, sought to adjust immigration to the census of 1920. H.R.

Cross References

Definition of the term—

Alien, see section 1101(a) (3) of this title.

Service, see section 1101(a) (34) of this title.

**§ 1357. Powers of immigration officers and employees—
Powers without warrant**

(a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States; and

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States. Any such employee shall also have the power to execute any warrant or other process issued by any officer under any law regulating the admission, exclusion, or expulsion of aliens.

Administration of oath; taking of evidence

(b) Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this chapter and the administration of the Service; and any person to whom such oath has been administered, under the provisions of this chapter, who shall knowingly or willfully give false evidence or swear to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621 of Title 18.

Search without warrant

(c) Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this chapter which would be disclosed by such search. June 27, 1952, c. 477, Title II, ch. 9, § 287, 66 Stat. 233.

Historical Note

Legislative History. For legislative see 1952 U.S.Code Cong. and Adm.News, history and purpose of Act June 27, 1952, p. 1653.

Cross References

Definition of the term—

- Alien, see section 1101(a) (3) of this title.
- Attorney General, see section 1101(a) (5) of this title.
- Entry, see section 1101(a) (13) of this title.
- Immigration officer, see section 1101(a) (18) of this title.
- Service, see section 1101(a) (34) of this title.
- United States, see section 1101(a) (38) of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Library References

- Aliens ↪44.
- Searches and Seizures ↪3.3, 7(11).
- C.J.S. Aliens §§ 80, 83.
- C.J.S. Searches and Seizures §§ 18, 65 et seq.

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this title.
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immigration officers and employees—
about warrant

of the Service authorized under regu-
latory General shall have power without

person or person believed to be an alien
remain in the United States;

in his presence or view is entering
United States in violation of any law
of law regulating the admis-
sion of aliens, or to arrest any alien in
reason to believe that the alien so
in violation of any such law or
before a warrant can be ob-
tained shall be taken with-
out delay before an officer of the
Service to determine the right to
admission;

from any external boundary
search for aliens any vessel
United States and any rail-
road, and within a distance
of an external boundary to have
power to search, for the purpose of
preventing the illegal entry of aliens into

which have been committed
under the law of the United States
to the expulsion of aliens, if
the person arrested is guilty of
the offense, but the person
arrested is not to be held in
custody before the person charged
with the offense is brought
before a court of the United States. Any such
warrant may be executed by any
officer of the Service authorized
to execute any warrant or
to enforce any law regulating

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3. Purpose

Purpose of immigration inspection is to protect interests of the nation, not to further business aims of a shipowner. *Schwartz v. Compagnie General Transatlantique*, C.A.N.Y.1963, 405 F.2d 270.

4. Generally

Immigration officers have the authority to stop vehicles within a reasonable distance from the border to interrogate the occupants of such vehicles, make reasonable searches pursuant to interrogations, and conduct prosecutions for violation of crimes other than violations of immigration laws based upon evidence found as a result of such searches. *Ramirez v. U. S.*, C.A.Tex.1959, 263 F.2d 385.

5. Persons within section

This section giving immigration officers and employees power without warrant to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States applies not only to suspected pedestrians but to suspected motorists. *U. S. v. Montez-Hernandez*, D.C.Cal.1968, 291 F. Supp. 712.

6. Authority of officers

This section providing that any officer of immigration service shall have power without warrant to interrogate any alien or person believed to be alien as to his right to be or to remain in United States does not authorize interrogation of alien concerning criminal matters nor does it condone harassment. *Yam Sang Kwai v. Immigration and Naturalization Service*, 1969, 411 F.2d 683, 133 U.S.App.D.C. 369.

This section dealing with powers of immigration officers authorizes immigration authorities to question aliens as to their right to be in the United States without independent evidence that aliens were in the United States illegally. *U. S. v. Montez-Hernandez*, D.C.Cal.1963, 291 F. Supp. 712.

7. Duties of officers

Test of whether government agent is engaged in performance of "official duties" within section 111 of Title 18 proscribing assault of an officer so engaged is whether he is acting within scope of what he is employed to do as distinguished from engaging in personal frolic of his own. *U. S. v. Cho Po Sun*, C.A.N.Y.1969, 409 F.2d 489.

Under record it was not unreasonable for immigration officer to believe that defendant who worked in kitchen of res-

1. Constitutionality

This section authorizing interrogation of, search for, and arrests of aliens in certain circumstances, is constitutional. *Fernandez v. U. S.*, C.A.Cal.1963, 321 F.2d 283.

Subsection (a) (1) of this section authorizing officer or employee of immigration service to interrogate any alien or person believed to be an alien as to his right to remain in the United States, is constitutional. *U. S. v. Correia*, C.A.Pa. 1953, 207 F.2d 595.

The provisions of this section authorizing any officer of Immigration and Naturalization Service to interrogate any alien as to his right to be or remain in United States and to arrest any alien whom such officer has reason to believe is in United States in violation of any immigration law or regulation and is likely to escape before warrant can be obtained for his arrest are constitutional. *Tsimounis v. Holland*, D.C.Pa.1955, 132 F. Supp. 754, affirmed 228 F.2d 907.

2. Construction

Under this section providing that any person who has been sworn and who shall knowingly or wilfully give false evidence or swear to false statement concerning matter referred to in this section "shall be" guilty of perjury and "shall be" punished as provided by section 1021 of Title 18, words "shall be" define offense and punishment and in no sense restrict power of prosecution for violation of that or any other provision of law, and government must decide under which sections an offense shall be prosecuted. *U. S. v. Lange*, D.C.N.Y.1955, 128 F. Supp. 797.

3. Purpose

Purpose of immigration inspection is to protect interests of the nation, not to further business aims of a shipowner. *Schwartz v. Compagnie General Transatlantique*, C.A.N.Y.1968, 405 F.2d 270.

4. Generally

Immigration officers have the authority to stop vehicles within a reasonable distance from the border to interrogate the occupants of such vehicles, make reasonable searches pursuant to interrogations, and conduct prosecutions for violation of crimes other than violations of immigration laws based upon evidence found as a result of such searches. *Ramirez v. U. S.*, C.A.Tex.1959, 263 F.2d 395.

5. Persons within section

This section giving immigration officers and employees power without warrant to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States applies not only to suspected pedestrians but to suspected motorists. *U. S. v. Monter-Hernandez*, D.C.Cal.1968, 291 F.2d 712.

6. Authority of officers

This section providing that any officer of immigration service shall have power without warrant to interrogate any alien or person believed to be an alien as to his right to be or to remain in United States does not authorize interrogation of alien concerning criminal matters nor does it authorize harassment. *Yam Sang Kwai v. Immigration and Naturalization Service*, 411 F.2d 683, 133 U.S.App.D.C. 369.

This section dealing with powers of immigration officers authorizes immigration authorities to question aliens as to right to be in the United States independent evidence that aliens in the United States illegally. *U. S. v. Hernandez*, D.C.Cal.1963, 291 F.2d 712.

7. Authority of officers

Whether government agent is performance of "official duty" within section 111 of Title 18 protection of an officer so engaged to be acting within scope of employment to do as distinguished from engaging in personal frolic. *U. S. v. Cho Po Sun*, C.A.N.Y.1968, 405 F.2d 270.

It was not unreasonable for immigration officer to believe that defendant worked in kitchen of res-

taurant was an alien at time officer asked him questions as to his citizenship status so as to support defendant's conviction for assaulting and interfering with Federal Immigration Officer. *Id.*

Two immigration officers assaulted by defendant and employed to assist in obtaining compliance with immigration laws were engaged in performance of their official duties when they went into kitchen of restaurant where six Oriental employees were present and asked defendant questions as to his citizenship status, resulting in assault. *Id.*

The Navy and Immigration and Naturalization Service agents and investigator who furnished all assistance for pursuit, arrest and detention of alleged deserter from Spanish warship were not "competent national or local authorities" for performing such acts nor for making determinations of law and fact upon which detention was predicated pursuant to 1903 Treaty with Spain respecting deserting seamen. *U. S. ex rel. Martinez-Angosto v. Mason*, C.A.N.Y.1965, 344 F.2d 673.

The Immigration and Naturalization Service is the enforcement agency of this chapter and limits of its authority were transgressed by arresting and imprisoning alleged deserter from Spanish warship under color of enforcing the 1903 Treaty with Spain respecting deserting seamen. *Id.*

Arrest of alleged deserter from Spanish warship by Immigration and Naturalization Service agents and Navy could not be justified on ground that they acted in accordance with their duty to uphold the laws of the United States, or 1903 Treaty with Spain respecting deserting seamen. *Id.*

Under section 111 of Title 18 making it a crime to forceably assault, resist, oppose, impede, intimidate or interfere with immigration officer while engaged in performance of his duty, immigration officer, who entered public cafe and commenced asking persons therein suspected to be aliens as to their place of birth, was in lawful performance of his official duties when he was struck while questioning man, who was edging toward front door. *Amaya v. U. S.*, C.A.Cal.1957, 247 F.2d 947, certiorari denied 78 S.Ct. 346, 355 U. S. 916, 2 L.Ed.2d 276.

8. Due process

Alien in deportation proceeding is not required to respond to question if response would be self-incriminating. *Yiu Fong Cheung v. Immigration and Natu-*

ralization Service, C.A.D.C.1960, 418 F.2d 400.

The imprisonment of alleged deserter from Spanish warship by Immigration and Naturalization Service agents and the Navy constituted a deprivation of liberty without due process of law even if he admitted all facts required by 1903 Treaty with Spain respecting deserting seamen, and there were no legal issues to be resolved in determining whether the Treaty was operative. *U. S. ex rel. Martinez-Angosto v. Mason*, C.A.N.Y.1965, 344 F.2d 673.

Immigration patrol inspectors' questioning of alien as to his nationality, when and where he arrived in United States, and his intent to remain therein as long as he could when he left foreign ship on which he was employed as seaman, did not deprive him of due process of law or compel him to testify against himself, in view of provision of this section authorizing officer of Immigration and Naturalization Service to interrogate any alien as to his right to be or remain in United States without a warrant. *Tsimounis v. Holland*, D.C.Pa.1955, 132 F. Supp. 754, affirmed 228 F.2d 907.

9. Oaths, administration of

Special inquiry officers are authorized to administer oaths under this section in deportation proceedings. *Petite v. U. S.*, C.A.Md.1959, 262 F.2d 788, remanded on other grounds 80 S.Ct. 450, 361 U.S. 529, 4 L.Ed.2d 490.

Under Act of 1907, immigration officers had power to administer oaths and take and consider evidence touching right of alien to enter United States, but they had no power to administer oaths in inquiry relating to deportation of alien. *Backus v. Owe Sam Goon*, Cal.1916, 235 F. 847, 149 C.C.A. 159. <

Under Act of 1907, power of inspector to administer oaths was limited to right of alien to enter United States. *Whitfield v. Hanges*, Iowa 1915, 222 F. 745, 138 C.C.A. 199.

10. Custodial interrogation

Interrogation, prior to arrest, of defendant alien, who was seen by immigration officers hitch-hiking at late hour, who was standing on open highway during questioning, and who was not deprived of his freedom of action in any significant way at time that he answered questions, was not custodial interrogation and thus did not violate guidelines enunciated by Miranda rule prohibiting use by prosecution of any statements made stemming from custodial interrogation.

Note 10

U. S. v. Mendoza-Torres, D.C.Ariz.1968, 285 F.Supp. 620.

warrant can be obtained for arrest. Valerio v. Mulle, D.C.Pa.1950, 148 F.Supp. 546.

11. Privacy, invasion of

It cannot be considered an arbitrary invasion of privacy for immigration officers merely to ask Mexican for proper identification in area known to contain large numbers of illegal Mexican aliens, particularly where suspect being questioned gives appearance of being nervous and of being of Mexican ancestry. U. S. v. Montez-Hernandez, D.C.Cal.1968, 291 F. Supp. 712.

12. Arrest without warrant

Where alien had twice been deported and had absconded after his authorized re-entry for four days as transient without visa, officers of Immigration Service had right to arrest alien without warrant under this section authorizing such arrest if officer has reason to believe that alien is in United States in violation of any law or regulation and is likely to escape before arrest warrant can be obtained. La Franca v. Immigration and Naturalization Service, C.A. N.Y.1969, 413 F.2d 686.

Even if alien's arrest without warrant was illegal, it would not invalidate subsequent deportation proceedings, where Immigration Service officers had probable cause to arrest alien, who absconded after his authorized entry for four days as transient without visa, alien was deportable, and Immigration Service did not rely upon any statements taken or evidence seized at time of arrest. *Id.*

The proposition that the President is competent to execute a treaty when treaty fails to confer such competence on any particular officer, and Congress has not filled such void by an appropriate grant of authority could not legitimate the Navy's or the Immigration and Naturalization Service's apprehension and detention of alleged deserter from Spanish warship for purpose of executing the deserting seamen provision of the 1903 Treaty with Spain. U. S. ex rel. Martinez-Angosto v. Mason, C.A.N.Y.1965, 344 F.2d 673.

Though alien was admittedly subject to deportation, because in United States without permission, summary judgment would be denied defendant in alien's declaratory judgment action in absence of indication whether his arrest without warrant by immigration officers was justified under this section authorizing alien's arrest without warrant if officer has reason to believe that alien is in United States in violation of any law or regulation and is likely to escape before

An alien's arrest without warrant by Immigration and Naturalization Service patrol inspectors, who knew that alien was in United States without valid immigration visa and had been reported as deserting seaman, was justified and legal and violated no constitutional privileges of alien, in view of provision of this section authorizing officer of such service to arrest without warrant any alien believed by such officer to be in United States in violation of any immigration law or regulation and likely to escape before warrant can be obtained for his arrest. Tsimounis v. Holland, D.C.Pa. 1955, 132 F.Supp. 754, affirmed 228 F.2d 907.

An immigration officer of the United States has right to arrest a person without a warrant if he has reasonable grounds to believe that a felony has been committed. Taylor v. Fine, D.C. Cal.1953, 115 F.Supp. 68. See, also, Abel v. U. S., N.Y.1960, 80 S.Ct. 633, 362 U.S. 217, 4 L.Ed.2d 663, rehearing denied 80 S.Ct. 1056, 362 U.S. 984, 4 L.Ed.2d 1019; U. S. v. Alvarado, C.A.N.Y.1963, 321 F.2d 336, certiorari denied 84 S.Ct. 522, 375 U. S. 987, 11 L.Ed.2d 474.

13. — Escape, likelihood of

Arrest of alleged deserter from Spanish warship by Immigration and Naturalization Service agents could not be justified under this section authorizing arrest of alien without an arrest warrant since such authority is conditioned, at a minimum, upon a reasonable determination that alien is likely to escape before warrant can be obtained and upon initiation of deportation proceedings, and there was no risk of alleged deserter's escaping during time needed to get a warrant, and arrest was not made with a view to commencing deportation proceedings. U. S. ex rel. Martinez-Angosto v. Mason, C.A.N.Y.1965, 344 F.2d 673.

Under subsection (a) (2) of this section providing for arrest without warrant of an alien who is in United States in violation of immigration laws and is likely to escape before a warrant for arrest can be obtained, determination of the arresting officer that the person is likely to escape will be sustained if there is a reasonable ground for it. Taylor v. Fine, D.C.Cal.1953, 115 F.Supp. 68.

14. — Probable cause

Immigration officers, who surrounded restaurant planning to interrogate any

warrant can be obtained for arrest. Valerio v. Mulle, D.C.Pa.1956, 148 F.Supp. 546.

An alien's arrest without warrant by Immigration and Naturalization Service patrol inspectors, who knew that alien was in United States without valid immigration visa and had been reported as deserting seaman, was justified and legal and violated no constitutional privileges of alien, in view of provision of this section authorizing officer of such service to arrest without warrant any alien believed by such officer to be in United States in violation of any immigration law or regulation and likely to escape before warrant can be obtained for his arrest. Tsimounis v. Holland, D.C.Pa. 1953, 132 F.Supp. 754, affirmed 228 F.2d 907.

An immigration officer of the United States has right to arrest a person without a warrant if he has reasonable grounds to believe that a felony has been committed. Taylor v. Fine, D.C. Cal.1953, 115 F.Supp. 68. See, also, Abel v. U. S., N.Y.1960, 80 S.Ct. 683, 362 U.S. 4 L.Ed.2d 668, rehearing denied 80 S.Ct. 1056, 362 U.S. 994, 4 L.Ed.2d 1019; U. S. v. Alvarado, C.A.N.Y.1963, 321 F.2d 101, certiorari denied 84 S.Ct. 522, 375 U.S. 11 L.Ed.2d 474.

B. — Escape, likelihood of

Arrest of alleged deserter from Spanish Embassy by Immigration and Naturalization Service agents could not be justified under this section authorizing arrest of alien without an arrest warrant since such authority is conditioned, at a minimum, upon a reasonable determination that alien is likely to escape before warrant can be obtained and upon initiation of deportation proceedings, and there was no evidence of alleged deserter's escaping during proceedings to get a warrant, and arrest was made with a view to commencing deportation proceedings. U. S. ex rel. Angosto v. Mason, C.A.N.Y.1965, 346 F.2d 853.

Section (a) (2) of this section authorizing for arrest without warrant any alien who is in United States in violation of immigration laws and is likely to escape before a warrant for arrest can be obtained, determination of likelihood of escape will be sustained if there is a reasonable ground for it. Taylor v. Fine, D.C. Cal.1953, 115 F.Supp. 68.

Officers, who surrounded defendant to interrogate any

aliens found therein, who, prior to entry, did not know of existence of alien proprietor nor identity of any of patrons, but who, after entry and confrontation of proprietor with questions concerning his right to be in United States, were shown papers that conflicted as to person named therein, had probable cause to believe that proprietor was in United States illegally, and thus his arrest at restaurant was valid. Yam Sang Kwai v. Immigration and Naturalization Service, 1969, 411 F.2d 683, 133 U.S.App.D.C. 369.

Belief that alien, who was carrying nonresident alien border crossing card which authorized him to visit United States for period of 72 hours or less and in area within 150 miles of Mexican border, might have intended to violate condition of his entry was not belief that would warrant arrest under this section authorizing arrest without warrant where there is reasonable belief by officer that alien is in violation of law or regulation made in regulating admission, exclusion or expulsion of aliens. Roa-Rodriguez v. U. S., C.A.N.M.1969, 410 F.2d 1206.

Arrest of alien by immigration inspectors, who were maintaining traffic surveillance on highway at point about 90 miles north of Mexican border and who stopped automobile occupied by alien having nonresident alien border crossing card which authorized him to visit United States for period of 72 hours or less within 150 miles of Mexican border, was unlawful where there was nothing to indicate to inspectors, when they arrested alien, that he had violated conditions of his border entry card. Id.

Where foreign national who was being interrogated by immigration inspector to ascertain possible violation of national's immigration status admitted that he was narcotics addict and that powdery substance given to inspector was heroin, inspector had probable cause to believe that crime was being committed, and subsequent search which produced evidence subsequently used against companion was not unlawful. Renteria-Medina v. U. S., C.A.Cal.1965, 346 F.2d 853.

Probable cause existed for arrest of driver of automobile stopped at check point north of Mexican border, where marijuana was found under hood. Fernandez v. U. S., C.A.Cal.1963, 321 F.2d 283.

In proceedings on deportation of non-immigrant business visitors who obtained unauthorized gainful employment, record indicated that conditions surrounding the

arrest of aliens gave officers of Immigration and Naturalization Service making the arrests reasonable justification for so doing. Diogo v. Holland, C.A.Pa.1957, 243 F.2d 571.

Where, over period of six months, hundreds of illegal entrants had been apprehended in vicinity, such condition denoted persistent law violations which constituted probable cause for action, and immigration officers were not required, under penalty of civil damages, to arm themselves with warrants before arresting illegal entrants employed on plaintiff's ranch. Taylor v. Fine, D. C.Cal.1953, 115 F.Supp. 68.

15. Searches

Action of immigration inspectors, maintaining traffic surveillance on through highway at a point about 90 miles north of Mexican border, in stopping automobile and searching same for aliens was proper and within statutory authority of such inspectors to search for aliens any conveyance, or vehicle within a reasonable distance from any external boundary of the United States. Roa-Rodriguez v. U. S., C.A.N.M.1969, 410 F.2d 1206.

Authority of immigration inspectors who stopped, at point about 90 miles north of Mexican border, automobile occupied by Mexican national and driven by defendant, later charged with transportation of unlawfully imported narcotics, was restricted to searching for aliens, not general search for law violations, and, lacking any reason to suspect narcotics violation, inspectors' search of trunk of automobile and jacket found therein containing two packages of heroin, was illegal, and its fruits did not justify defendant's arrest and could not be used against him. Id.

Search without warrant of automobile stopped at immigration and naturalization service check point north of Mexican border was proper where customs inspector detected odor of marijuana coming from under hood of automobile. Fernandez v. U. S., C.A.Cal.1963, 321 F.2d 283.

Where immigration patrol inspectors lawfully stopped automobile for routine investigation to determine citizenship of occupants and there was nothing threatening or illegal about their questions, and they observed defendant trying to conceal boxes contained in automobile and upon inquiry as to what boxes contained the automobile was driven off at a high rate of speed, no "search" took

Note 15

place. *Haerr v. U. S.*, C.A.Tex.1957, 240 F.2d 533.

A "search" implies an examination of one's premises or person with a view to the discovery of contraband or evidence of guilt to be used in prosecution of a criminal action and the term implies exploratory investigation or quest. *Id.*

Where check point established by border patrol officers was within statutory "reasonable distance" from the border, officers were authorized to stop automobile transporting defendants in prosecution for transportation and concealment of illegally imported marijuana and, without warrant, to conduct search of the automobile for aliens. *U. S. v. Winer*, D.C.Tex.1969, 294 F.Supp. 731.

Where second border patrol officer who conducted search under seat of automobile and discovered contraband marijuana knew only that first officer had determined that there was something which indicated to him that automobile ought to be searched for aliens and that passenger in right front seat of automobile had bent over and remained in that position during search of trunk, second officer did not have probable cause to search under front seat. *Id.*

Search by border patrol officer of trunk of defendants' automobile was within officer's authority to look for aliens being illegally transported. *Id.*

Officers searching vehicle near border for aliens had no right to search and seize, as a possible customs violation, a cigarette package containing marihuana cigarettes, where contents were not discernible without examination. *U. S. v. Hortze*, D.C.Cal.1959, 179 F.Supp. 913.

An alien was not subjected to illegal search and seizure by Immigration and Naturalization Service patrol inspectors, so as to entitle him to order setting aside warrant for his deportation as immigrant without valid immigration visa, where inspectors made only casual search of his person for weapons by patting his arms and body and any documents or other personal property which he turned over to inspectors was freely and voluntarily delivered to them by him. *Tsimounis v. Holland*, D.C.Pa.1955, 132 F.Supp. 754, affirmed 228 F.2d 907.

Where it is incidental to a legal arrest with or without warrant, immigration officers may conduct a reasonable search. *Taylor v. Fine*, D.C.Cal.1953, 115 F.Supp. 68.

Where border patrol inspectors were interviewing alien in routine investigation of immigration status and alien handed bag of marijuana to inspectors without a search, officers did not unlawfully obtain the marijuana. *Morgan v. State*, Tex.Cr.App.1908, 438 S.W.2d 565.

16. — Reasonableness

Administrative regulation, under this section authorizing officers to board a vehicle and search for aliens within reasonable distance from boundary, defining "reasonable distance" as not exceeding 100 miles from external boundary, was not arbitrary or capricious in application to establishment of highway check point at site one quarter of a mile from ocean and 60 to 70 miles north of Mexican border, at point appropriate to scrutinize traffic between Mexico and Los Angeles. *Fernandez v. U. S.*, C.A.Cal.1963, 321 F.2d 283.

Search by immigration officers over seventy miles from the border was unreasonable. *Cervantes v. U. S.*, C.A.Cal. 1959, 285 F.2d 800.

Where search of automobile was not in connection with a "border search" government would be required to establish that search which produced contraband marijuana was based on probable cause. *U. S. v. Winer*, D.C.Tex.1969, 294 F.Supp. 731.

Border patrol officer's search under seat of small foreign automobile which produced contraband marijuana was not sustainable as search for aliens. *Id.*

Even if immigration officers actually entered upon ranch owner's driveway in order to arrest illegal entrants employed by ranch owner, such action, being upon open premises, did not constitute an unreasonable search. *Taylor v. Fine*, D.C.Cal.1953, 115 F.Supp. 68.

17. Seizures

Where border patrol inspectors had observed defendant trying to conceal boxes located in automobile and gave chase after automobile was driven off at high rate of speed and observed boxes being thrown from automobile and returned to recover them and found that they contained marihuana, there was no "seizure" in the legal sense. *Haerr v. U. S.*, C.A.Tex.1957, 240 F.2d 533.

18. Hearings

Lack of express finding by issuing officer that public interest, safety or security required that alien appear at deportation hearing earlier than seven days

Where border patrol inspectors were interviewing alien in routine investigation of immigration status and alien handed bag of marijuana to inspectors without a search, officers did not unlawfully obtain the marijuana. *Morgan v. State, Tex.Cr.App.1968, 438 S.W.2d 565.*

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Search by immigration officers over seventy miles from the border was unreasonable. *Cervantes v. U. S., C.A.Cal. 1950, 203 F.2d 800.*

Where search of automobile was not in connection with a "border search" government would be required to establish that search which produced contraband marijuana was based on probable cause. *E. R. v. Winer, D.C.Tex.1969, 294 F.Supp. 33.*

Border patrol officer's search under seat of small foreign automobile which produced contraband marijuana was not sustainable as search for aliens. *Id.*

Even if immigration officers actually entered upon ranch owner's driveway in order to arrest illegal entrants employed by ranch owner, such action, being upon open premises, did not constitute an unreasonable search. *Taylor v. Fine, D. Cal. 1963, 115 F.Supp. 68.*

Seizure

Where border patrol inspectors had observed defendant trying to conceal boxes in automobile and gave chase, automobile was driven off at high speed and observed boxes being thrown from automobile and returned to defendant and found that they contained marijuana, there was no "seizure" for legal sense. *Haerr v. U. S., C.A. Cal. 1963, 321 F.2d 533.*

Where finding by issuing of writ of habeas corpus, safety or security of public interest, that alien appear at deportation hearing earlier than seven days

after service of show-cause order was not fatal to the deportation order. *Yiu Fong Cheung v. Immigration and Naturalization Service, C.A.D.C.1969, 418 F.2d 460.*

Requirement of this section that alien arrested without warrant shall be taken without unnecessary delay for examination before officer of service having authority to examine aliens as to their right to enter or remain in United States does not empower such officer to conduct deportation hearing, but only to ascertain whether there is probable cause for detention pending issuance of charges and trial. *Id.*

Where alien was arrested without warrant, was not brought before examining officer prior to show-cause order and was not given seven days' notice of deportation hearing as provided in regulations and it appeared that first advice that he had a right to be represented by counsel was given when deportation hearing began 25 minutes after issuance of show cause order, even though alien stated he did not wish to be represented by counsel, in interest of justice deportation order must be set aside. *Id.*

Since expulsion process is not a criminal proceeding, there is not right to remain mute at deportation hearing, but there is statutory right to advice of counsel before testimony is called for. *Id.*

A special inquiry officer of Immigration and Naturalization Service may conduct administrative hearing under this chapter. *Tsimounis v. Holland, D.C.Pa. 1955, 132 F.Supp. 754, affirmed 228 F.2d 907.*

19. Unnecessary delay

This section, which provides that an alien may be brought without unnecessary delay for examination before an officer of the Immigration Service having authority to examine aliens as to their right to enter or remain in the United States instead of before a regular committing magistrate is limited to the matter of the alien's entering and remaining in the United States and cannot include other matters, as to which arrested defendant must be brought before a committing magistrate without unnecessary delay. *U. S. v. Valente, D.C.Mass.1957, 155 F.Supp. 577.*

20. Perjury

Where alien while under oath falsely answered questions put to him by duly appointed immigration inspector during

a hearing to establish facts as to his deportability and eligibility for suspension of deportation, and a few minutes later, upon being confronted with documentary evidence, the alien acknowledged that the contrary of his prior testimony was true, alien was guilty of perjury and was not absolved of guilt by his "recantation" or by the reasons for his false statements. *Llanos-Senarillos v. U. S., C.A. Cal.1949, 177 F.2d 164.*

Department of Justice employee designated as special inspector in immigration and naturalization service who at time of administering oath to alien was not authorized to do work under Alien Registration Act, former section 451 et seq. of Title 8, was not an "immigrant inspector" within meaning of former section 152 of this title, hence false swearing before such officer was not "perjury". *U. S. v. Doshen, C.C.A.Pa.1943, 133 F.2d 757.*

Indictment charging the making of a false oath before an officer of the United States designated as a special inspector of the immigration and naturalization service, Department of Justice, did not charge "perjury" within former section 231 [now 1621] of Title 18 defining perjury as the taking of a false oath before a competent officer since power to administer oaths by officers of immigration and naturalization service was extended only to immigrant inspectors. *Id.*

Where excluded alien made false statements under oath in affidavit and on hearing, and his testimony and that of his witnesses showed discrepancies, doubt was cast on his claim of citizenship, where court could not say that such false statements were not made knowingly and willfully or that they did not constitute perjury and crime involving moral turpitude, justifying his exclusion. *Ex parte Yoshimasa Nomura, C.C.A.Cal. 1924, 297 F. 191.*

Under former section 152 of this title, requiring aliens to state under oath certain facts and such other information regarding themselves as would aid immigration officials in determining their right to enter, courts could not prescribe what information immigration officials could seek, and could not hold that false statement as to relatives of alien within country, which was one of facts regularly inquired about, was immaterial, so as not to be perjury. *Kaneda v. U. S., C.C.A. Hawaii 1922, 278 F. 694, certiorari denied 42 S.Ct. 586, 259 U.S. 583, 66 L.Ed. 1075.*

Under former section 152 of this title, making it perjury to issue false statement under oath relating to right of al-

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len to admission, statement by alien that he had no relatives within country was crime involving moral turpitude, which justified his exclusion under former section 136 of this title. *Id.*

One act could constitute violation of subsection (b) of this section, providing that one who has been sworn and who shall knowingly or wilfully give false evidence or swear to false statement concerning matter referred to in this subsection should be punished as provided by section 1621 of Title 18, and section 1001 of Title 18, pertaining to false statements in matter within jurisdiction of any department or agency of United States, and defendant, if he was sworn when he allegedly gave false statement in matter within jurisdiction of Immigration and Naturalization Service, could be prosecuted under either. *U. S. v. Lange*, D.C.N.Y.1955, 128 F.Supp. 797.

21. Third-party practice

Shipowner sued by United States immigrant inspector for injuries he sustained when he tripped and fell on carpeting allegedly maintained by shipowner in dangerous condition had no third-party claim against the United States on alleged ground of implied contract of workmanlike performance arising out of status existing between shipowner and United States on day of accident, as the inspector was on board ship pursuant to statutory duty to clear aliens and crewmen for entry to United States, and as no contract existed between parties and no warranty could be implied from status existing between them. *Schwartz v. Compagnie General Transatlantique*, D. C.N.Y.1968, 285 F.Supp. 473, affirmed 405 F.2d 270.

§ 1358. Local jurisdiction over immigrant stations

The officers in charge of the various immigrant stations shall admit therein the proper State and local officers charged with the enforcement of the laws of the State or Territory of the United States in which any such immigrant station is located in order that such State and local officers may preserve the peace and make arrests for crimes under the laws of the States and Territories. For the purpose of this section the jurisdiction of such State and local officers and of the State and local courts shall extend over such immigrant stations.

June 27, 1952, c. 477, Title II, ch. 9, § 288, 66 Stat. 234.

Historical Note

Legislative History. For legislative see 1952 U.S.Code Cong. and Adm.News, history and purpose of Act June 27, 1952, p. 1653.

Library References

Arrest ↪66.
United States ↪3.

C.J.S. Arrest § 12.
C.J.S. United States § 7.

§ 1359. Application to American Indians born in Canada

Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

June 27, 1952, c. 477, Title II, ch. 9, § 289, 66 Stat. 234.

Historical Note

Legislative History. For Legislative see 1952 U.S.Code Cong. and Adm.News, history and purpose of Act June 27, 1952, p. 1653.

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Shipowner sued by United States immigrant inspector for injuries he sustained when he tripped and fell on carpeting allegedly maintained by shipowner in dangerous condition had no third-party claim against the United States on alleged ground of implied contract of workmanlike performance arising out of status existing between shipowner and United States on day of accident, as the inspector was on board ship pursuant to statutory duty to clear aliens and crewmen for entry to United States, and as no contract existed between parties and no warranty could be implied from status existing between them. Schwartz v. Compagnie Generale Transatlantique, D. C.N.Y.1963, 285 F.Supp. 473, affirmed 405 F.2d 270.

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Indians born in Canada

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Stat. 234.

Cong. and Adm.News,

Library References

Aliens ⇨1
Indians ⇨5.

C.J.S. Aliens § 1 et seq.
C.J.S. Indians § 3 et seq.

Notes of Decisions

1. American Indians born in Canada
The words "American Indians born in Canada", as used in former section 226a of this title authorizing such persons to cross Canadian border without being subject to immigration laws, had to be given a racial, and not a political connotation. U. S. ex rel. Goodwin v. Karnuth, D.C.N.Y.1947, 74 F.Supp. 660.

A full blooded North American Indian born on the Six Nations Reservation in Canada did not lose her status of "American Indian Born in Canada" authorized by former section 226a of this title to cross Canadian border without being subject to immigration laws by her marriage to citizen of Canada of the white race. Id.

§ 1360. Establishment of central file; information from other departments and agencies

(a) There shall be established in the office of the Commissioner, for the use of security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted to the United States, or excluded therefrom, insofar as such information is available from the existing records of the Service, and the names of all aliens hereafter admitted to the United States, or excluded therefrom, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this chapter.

(b) Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) The Secretary of Health, Education, and Welfare shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

(d) A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

June 27, 1952, c. 477, Title II, ch. 9, § 290, 66 Stat. 234; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.