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THE UNITED STATES DEPARTMENT OF JUSTICE
ROBERT F. KENNEDY, *Attorney General*

IMMIGRATION AND NATURALIZATION SERVICE
RAYMOND F. FARRELL, *Commissioner*

Contents

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Raymond F. Farrell Takes Office As Commissioner

Mr. Raymond F. Farrell, Service career executive and former Associate Commissioner, has assumed a new role as Commissioner of Immigration and Naturalization.

President John F. Kennedy named Mr. Farrell to fill this position of leadership, and the appointment was confirmed by unanimous consent of the United States Senate on February 5, 1962.

Mr. Farrell took the oath of office at an impressive Department of Justice ceremony attended by Attorney General Robert F. Kennedy and more than 100 officials from all three branches of Government. Supreme Court Justice Tom C. Clark, long-time friend of the new Commissioner, administered the oath of office.

Following the ceremony, Associate Justice Clark, Attorney General Kennedy, and several members of Congress expressed their pleasure at the appointment, and their commendations were acknowledged by the new Service chief.

Long an Immigration and Naturalization Service official, Mr. Farrell had served as Associate Commissioner in charge of Operations since November 1958.

The new Commissioner is a native of Pawtucket, Rhode Island. He attended Georgetown University, and graduated from Georgetown Law School in 1931.

During his public career, which commenced in 1925 when he joined the Civil Service Commission, Mr. Farrell has held positions of increasing responsibility. He served with the Federal Bureau of Investigation, the Public Works Administration, the Department of Interior, and, since 1941, with the Immigration and Naturalization Service.

During his earlier years in Government, Mr. Farrell performed investigations of a wide and varied nature throughout the United States. In 1938 and 1939, he was Special Counsel of the Joint Committee of Congress for the Investigations of the Tennessee Valley Authority.

His career in the Immigration and Naturalization Service was interrupted in May 1942 by World War II. He received the Bronze Star Medal for outstanding service in Italy during the Rome-Arno Campaign, and was separated on November 30, 1945, with the rank of Lieutenant Colonel.

Upon his return to this Service following World War II, Mr. Farrell was named Chief of Investigations at New York City. In 1948 he came to the Central Office in Washington as information Specialist and the following year was made Assistant Commissioner for Research, Education and Information. He became Assistant Commissioner for Investigations in 1952.

As Associate Commissioner in charge of Service Operations, Mr. Farrell carried heavy responsibility for initiating policies, regulations, and procedures to implement the law. He coordinated the functions of the investigative, enforcement, and examinations work of the Service, as well as the overseas offices, so as to achieve an integrated operation and keep pace with changing world conditions.

Principles Of Immigration Law -- Part 2

by Helen F. Eckerson
Chief, Statistics Branch, and
Gertrude D. Krichefsky
Statistician[1]

The January 1962 issue of the I AND N REPORTER carried Part 1 of this study of the principles of immigration law. The two principles covered were selectice immigration of skilled aliens, and family unity. Part 2 treats of the principles of asylum for refugees, and of Western Hemisphere solidarity.

ASYLUM FOR REFUGEES

From the beginnings of this "land of the free, and home of the brave," millions of political, economic, and religious refugees have found homes here and harkened to the invitation to "give me your . . . huddled masses yearning to breathe free." Hence, prior to World War II, the principle of giving asylum to refugees grew out of the traditions and facts of immigration, rather than through specific legislation.

As the war clouds darkened in the late 1930's and the ideologies of Nazism and Fascism spread over Europe, thousands of refugees fled their homelands, many to find asylum in the United States as immigrants under the general immigration laws. During World War II the United States participated with other nations in efforts to resettle refugees. However, quota restrictions limited admission of the displaced persons to whom a new homeland was most necessary.

Against this background, specific legislation has been enacted that benefited first the displaced persons and later the refugees from communism. Under these laws more than 700,000 displaced persons and refugees came to the United States between 1946 and 1961. They comprised a fifth of all United States immigrant admissions during that period, and represent more than a third of the refugees resettled throughout the world.

Tables 1 and 2 show the major classes of displaced persons and refugees, the laws under which they were admitted, and their countries of origin.

Over half of the beneficiaries were displaced persons. Principal countries of origin were Poland (22 percent), Germany (14 percent), Hungary (9 percent), Italy (9 percent), Yugo-

Chart I.

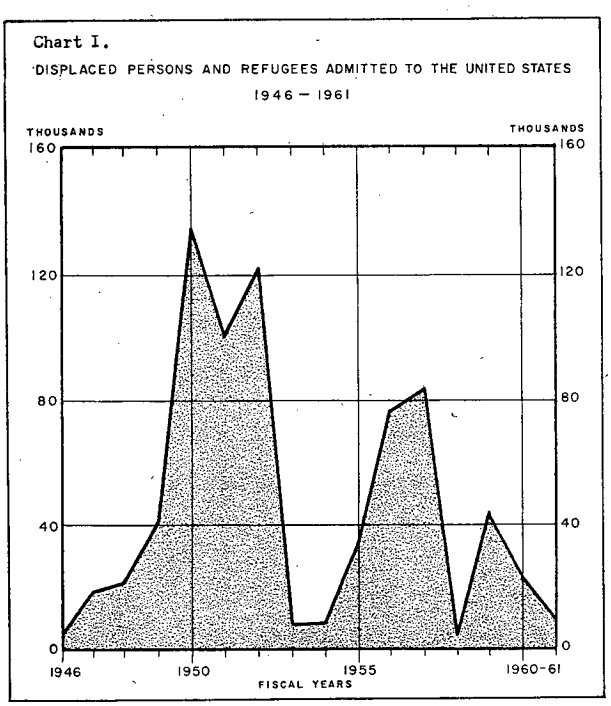

TABLE 1. DISPLACED PERSONS AND REFUGEES ADMITTED TO THE UNITED STATES, BY CLASS: YEARS ENDED JUNE 30, 1946—1961

Class	Number admitted
Total	715,096
Displaced persons (excluding orphans)	392,185
German ethnics and expellees	93,388
Italian refugees and relatives of U. S. citizens or alien residents in Italy or Trieste	59,461
Greek refugees and relatives of U.S. citizens or alien residents in Greece	16,716
Netherland refugees and relatives of U.S. citizens or alien residents	27,898
Persons whose status was adjusted under Sec. 6, Refugee Relief Act	3,658
Azores refugees	3,964
Hungarian refugees	36,743
Refugee-escapees	51,587
Orphans	17,914
Other refugees *	11,582

* Includes 1,996 Polish veteran refugees in the United Kingdom, 3,884 Far East refugees, 1,997 Chinese refugees, and 1,939 Palestine refugees in the Near East admitted under Refugee Relief Act of 1953 and 1,766 close relatives of refugees admitted under Sec. 6, Act of Sept 22, 1959.

[1] George D. White, Statistician, assisted in preparation of this study.

TABLE 2. DISPLACED PERSONS AND REFUGEES ADMITTED TO THE UNITED STATES, BY COUNTRY OR REGION OF BIRTH YEARS ENDED JUNE 30, 1946 — 1961

Country or region of birth	Number admitted										
			Displaced Persons Act								
	Total	President's Directive	Displaced persons admitted	Displaced persons adjusting under Sec. 4	German ethnics	Refugee Relief Act of 1953 *	Act of July 29 1953 (Orphans)	Act of Sept. 11, 1957 (Sections 4 and 15)	Act of July 25, 1958 (Hungarian parolees)	Act of Sept 2, 1958 (Azores and Netherland refugees)	Act of Sept 22, 1959 (Sec. 6) (Refugee relatives)
All countries	715,096	40,324	352,260	3,666	53,766	189,002	466	27,704	30,613	15,529	1,766
Europe	672,307	39,802	349,751	1,790	53,689	171,674	140	16,236	30,574	7,319	1,332
Austria	16,324	2,015	6,425	2	2,529	4,657	75	518	102	1	-
Belgium	1,567	147	947	1	3	451	-	8	7	3	-
Bulgaria	1,286	22	567	10	12	478	-	192	5	-	-
Czechoslovakia	19,171	3,386	9,522	277	2,839	2,916	-	52	179	-	-
Denmark	111	11	55	-	7	29	-	8	1	-	-
Estonia	11,247	145	9,943	221	263	657	-	18	-	-	-
Finland	156	12	93	1	1	18	-	30	-	1	-
France	1,800	157	791	-	8	660	1	168	10	2	3
Germany	99,791	16,071	52,049	5	10,069	20,922	54	588	29	4	-
Greece	28,968	7	10,272	3	2	16,922	4	1,357	12	6	383
Hungary	62,094	885	12,826	297	3,504	9,653	-	5,151	29,775	2	1
Ireland	58	7	31	2	-	18	-	-	-	-	-
Italy	61,893	154	2,237	12	19	57,024	4	1,514	2	-	927
Latvia	38,207	538	35,158	211	645	1,567	-	85	-	-	3
Lithuania	27,263	790	23,202	18	1,478	1,681	-	93	-	1	-
Netherlands	15,861	116	53	2	9	11,337	-	1,022	-	3,322	-
Norway	58	5	25	-	5	20	-	3	-	-	-
Poland	159,952	11,660	128,569	338	6,392	11,910	-	1,068	14	1	-
Portugal	4,133	8	14	1	7	34	-	103	-	3,962	4
Rumania	16,279	535	5,129	136	5,353	4,368	-	477	270	2	9
Spain	293	-	31	1	5	123	-	131	-	2	-
Sweden	443	10	347	-	-	79	-	3	-	4	-
Switzerland	295	66	131	1	3	38	-	52	1	3	-
United Kingdom (England	2,240	154	1,507	4	2	557	-	14	1	1	-
United Kingdom (No. Ireland	44	13	27	-	1	2	-	-	1	-	-
United Kingdom (Scotland	234	14	186	-	-	33	-	1	-	-	-
United Kingdom (Wales	202	2	99	-	4	87	-	10	-	-	-
U.S.S.R. (Europe)	43,749	1,982	31,373	51	4,323	5,826	-	185	9	-	-
Yugoslavia	54,664	736	17,238	193	15,936	17,423	-	2,984	153	-	1
Other Europe	3,924	154	904	3	270	2,184	2	401	3	2	1
Asia	39,458	416	2,157	1,848	11	16,329	324	9,782	4	8,163	424
China	12,608	284	909	1,729	2	6,900	3	2,663	-	5	113
India	83	4	7	1	1	46	2	16	-	6	-
Indonesia	11,819	-	2	-	4	3,148	-	582	-	8,082	1
Israel	753	-	16	8	-	521	-	205	1	-	2
Japan	4,107	3	9	2	2	2,268	287	1,267	-	1	268
Korea	3,974	-	-	-	-	630	4	3,339	-	1	-
Palestine	934	40	77	46	-	607	-	161	-	-	3
Philippines	321	3	19	3	-	121	15	156	-	3	1
Other Asia	4,859	82	1,118	59	2	2,088	13	1,393	3	65	36
North America	1,051	50	228	3	57	486	-	162	35	22	8
Canada	53	3	17	-	8	15	-	7	1	-	2
Mexico	10	-	3	1	-	5	-	1	-	-	-
West Indies	215	5	1	-	1	50	-	137	-	18	3
Central America	17	4	3	-	1	7	-	1	-	-	1
Other North America	756	38	204	2	47	409	-	16	34	4	2
South America	114	24	15	-	4	43	-	18	-	8	2
Africa	1,988	15	78	25	4	405	1	1,459	-	1	-
Australia and New Zealand	62	-	10	-	-	29	1	9	-	13	-
All other	116	17	21	-	1	36	-	38	-	3	-

* Includes 6,130 recent Hungarian refugees.

slavia (8 percent), U.S.S.R. (6 percent), and Latvia (5 percent).

Displaced Persons. During World War II approximately eight million persons were moved from their homes. By December 31, 1945, about seven million persons had been repatriated. A million others remained in camps and centers in Germany, Austria, and Italy.[2]

The first displaced persons were admitted not under specific legislation but under a Presidential Directive of December 22, 1945,[3] which directed the appropriate agencies of government to use all statutory and administrative means available to bring the displaced persons to the United States as immigrants. During the two and one-half years this directive was in effect, 40,324 displaced persons were admitted to the United States.

The Displaced Persons Act of 1948,[4] which followed the President's Directive, authorized issuance of a maximum of 341,000 visas to displaced persons in the Western Zones in Germany, Austria, and Italy, and 5,000 to displaced persons in the United States whose status could be adjusted to that of permanent residents. An unlimited number of visas was authorized to displaced persons residing outside of Germany, Austria, or Italy (Sec. 3(c)).[5] Preferences in the issuance of visas under the DP Act were made available to agriculturists, persons of professional and other skilled occupations, blood relatives of citizens and resident aliens, and to their dependents. Within the preferences, priorities were also given to displaced veterans and displaced persons in camps. The law provided that a displaced person admitted must have an assured job and place to live in the United States and that he would not supplant a worker in the United States.

Most of the heads of families and single adults among the displaced persons were farmers, laborers, semiskilled workers, and domestic and household workers. About eight percent of the total displaced persons admitted were in the professions—principally teachers, physicians, nurses, and others in the medical professions, accountants, librarians, engineers, musicians, chemists, and scientists.

The principal provisions of the Displaced Persons Act expired on June 30, 1952. Altogether a total of 352,260 displaced persons (348,103 quota and 4,157 nonquota) were admitted to the United States and 3,666 already in the United States became permanent residents through adjustment of status under the provisions of that Act. Eight-tenths of the displaced persons were natives of Poland, Germany, Latvia, the U.S.S.R., Lithuania, and Yugoslavia.

Under the DP Act immigrants were to be charged to quotas. If quota numbers were not available in the year of admission, 50 percent were to be charged to future quotas. Under this provision a number of countries, such as Austria, Latvia, Lithuania, Poland, and Germany, mortgaged half of their quotas for many years into the future (in a few cases beyond the year 2000).

The Act of September 11, 1957,[6] removed these mortgages on quotas and restored the full use of the quotas, making about 8,200 numbers available per year.

Refugees—General. The ranks of persons displaced by the war were soon swelled by refugees who fled from Communist or Communist-dominated countries because of persecution or fear of persecution due to race, religion, or political opinion. Whereas those admitted under the Displaced Persons Act were quota immigrants (at the time of admission), all refugees and escapees admitted under subsequent legislation entered as nonquota immigrants.

Most of the refugees admitted between 1954 and 1961 entered under the provisions of the Refugee Relief Act of 1953.[7] A maximum of 214,000 visas were authorized and 189,002 refugees were admitted under this Act. Most of the refugee legislation following the Displaced Persons Act was for the benefit of specific ethnic groups of refugees and certain refugee-escapees, without regard to country of origin (see Table 2).

German Ethnics and German Expellees. Refugee legislation enacted since 1948 carried certain provisions relating to German ethnics and expellees. The Displaced Persons Act of 1948 (Sec. 12) authorized quota visas for persons of German ethnic origin born in Poland, Czechoslovakia, Hungary, Rumania, and Yugoslavia, who were ejected from areas conquered by the Soviet armies and who, on the effective date of the Act, were residing in Germany or Austria. Fifty percent of the German and Austrian quotas were made available exclusively for these groups.

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[2] The Displaced Persons Commission Second Semi-annual Report to Congress, August 1, 1949, pages 4-5.

[3] For the provisions of the President's Directive of December 22, 1945, see Annual Report of the Immigration and Naturalization Service, 1946, p. 12.

[4] Act of June 25, 1948 (62 Stat. 1009), as amended by the Acts of June 16, 1950 (64 Stat. 219), June 28, 1951 (65 Stat. 96), and June 27, 1952 (66 Stat. 277).

[5] See paragraph on German ethnics and expellees for provisions in DP Act relating to German ethnics.

[6] Sec. 10, Act of September 11, 1957 (71 Stat. 639).

[7] Act of August 7, 1953 (67 Stat. 400).

TABLE 3. GERMAN ETHNICS AND EXPELLEES

Law	Visas authorized	Number admitted
Total	112,244	93,388
Displaced Persons Act of 1948	54,744	53,766
Refugee Relief Act of 1953	55,000	37,192
Act of September 11, 1957	2,500	2,430

The Refugee Relief Act of 1953 (Sec. 4(a)(1)), authorized nonquota visas for German expellees from Communist or Communist-dominated countries who were residing in Western Germany, Berlin, or Austria. When the law expired there were 2,500 German expellee visas left over, which were carried over into the Act of September 11, 1957 (Sec. 15).

Beteween 1949 and 1961, 93,388 German ethnics and expellees were admitted as immigrants.

Italian and Greek Refugees. After the war, problems of overpopulation faced Italy and Greece, attributable largely to the consequences of World War II. The situation in Italy was aggravated by the repatriation of thousands of ethnic Italians from the Italian colonies. Under the limited resources in Italy, it was difficult to absorb these persons. The Communist-inspired civil war in Greece also contributed to dislocation and imbalance in population in that country. Under the provisions of the Refugee Relief Act of 1953 (Secs. 4(a)(5) and 4(a)(6)), a total of 13,153 Italian refugees and 46,308 Italian relatives of United States citizens or alien residents, residing in Italy or Trieste, came to the United States for permanent residence. There were also 9,198 Greek refugees and 7,518 Greek relatives of United States citizens or alien residents residing in Greece who were admitted under Sections 4(a)(7) and4(a)(8) of that Act.

Netherland Refugees. Repatriation of thousands of Dutch nationals from the Netherland colonies placed a heavy burden of overpopulation in the Netherlands at the end of World War II. Persecution by the Government of Indonesia against Dutch nationals who had resided in the Dutch East Indies caused thousands of them to leave Indonesia after it became an independent state. Between 1945 and 1958 almost 300,000 Dutch nationals departed to the Netherlands from Indonesia.[8]

Refugee legislation enacted in Congress carried special provisions for admission of Netherland refugees to the United States. The Refugee Relief Act of 1953 (Secs. 4(a)(9) and 4(a)(10)), authorized a maximum of 17,000

TABLE 4. NETHERLAND REFUGEES AND RELATIVES

Law	Visas authorized	Number admitted
Total		27,898
Refugee Relief Act of 1953	17,000	14,769
Act of September 11, 1957	1,600	1,564
Act of September 2, 1958: Netherland nationals displaced from Indonesia	6,272	4,097
Their spouses or unmarried children		7,468

visas to Dutch refugees and relatives of United States citizens and resident aliens residing in the Netherlands. When this Act expired, there were 1,600 Netherland refugee visas still unissued. These were authorized to be issued to such refugees and relatives by the Act of September 11, 1957 (Sec. 15). Nearly one-fourth of the refugees admitted under these two acts were born in Indonesia. The Act of September 2, 1958,[9] which expires on June 30, 1962, authorized issuance of visas equaling two years of the Netherland quota to Netherland nationals displaced from Indonesia, and an unlimited number to their families. By June 30, 1961, 27,898 Netherland refugees and relatives of United States citizens and resident aliens had been admitted to the United States under such special legislation.

Azores Refugees. Disaster struck the Island of Fayal in the Azores in 1957 and 1958 when several earthquakes and volcanic eruptions occurred and destroyed five villages. As a result of this calamity, most of the island's 25,000 inhabitants sought to escape to other islands. Many were evacuated by the Portuguese Navy and in small fishing boats. Some of these islanders were former residents of the United States. Largely because of appeals from Portuguese friends and relatives in this country to offer refuge to these hardy people, Congress included in the Act of September 2, 1958, a provision which authorized issuance of 2.000 special nonquota immigrant visas to distressed Portuguese nationals from the Azores and an unlimited number of visas to their immediate families.[10] By June 30, 1961, 3,964 Azores refugees and their families had resettled in the United States.

[8] See House Report No. 2558, 85th Congress, 2nd Session, to accompany S. 3942, p. 7.

[9] Act of September 2, 1958 (72 Stat. 1712), as amended by Act of July 14, 1960 (74 Stat. 504).

[10] Ibid. Sec. 2.

Hungarian Refugees and Parolees. Following the revolution on October 23, 1956, against the Communist Government in Hungary, thousands of Hungarians fled their oppressors and sought refuge in Austria. Overwhelmed by the large numbers of such refugees, Austria appealed to the free nations of the world to accept some of these revolutionaries and thus relieve the heavy burden on Austria. The United States immediately offered asylum to these refugees. There were 6,130 visas available that were assigned to Hungarian refugees under the escapee provisions of the Refugee Relief Act of 1953,[11] and 31,915 Hungarians were paroled into the United States under the general parole provisions.[12] Of this number, approximately 700 Hungarian parolees returned to Hungary.

The average age of the Hungarian refugees and parolees was 29 years. Most of those reporting an occupation were professional workers, craftsmen, or skilled workers.

On July 25, 1958, Congress passed a law[13] permitting Hungarian parolees who had been in the United States for at least two years to be inspected and granted permanent residence status. By June 30, 1961, 30,613 Hungarian parolees became permanent residents under this law. In total, therefore, 36,743 Hungarians who fled during the October revolution have become permanent residents.[14]

Refugee-escapees. Between 1954 and 1958, a total of 33,761 [15] escapees from communism residing in Western Germany, Berlin, and Austria, and 9,867 escapees in North Atlantic Treaty Organization countries and in Turkey, Sweden, Iran, and Trieste, were admitted to the United States as permanent residents under the Refugee Relief Act of 1953.[16]

When this law expired, there were 14,556 escapee visas not used. In the Act of September 11, 1957 (Sec. 15), Congress authorized issuance of these visas to refugee-escapees, as defined in the law, irrespective of country of origin. By the end of June 1961, virtually all of the refugee-escapee visas had been used and the immigrants (14,089) admitted. Section 15 of the 1957 Act was repealed by the recent Act of September 26, 1961.[17] However, the Act authorized such admissions for another 180 days following enactment of the law.

The Refugee Relief Act of 1953 and the Act of September 11, 1957, helped considerably to ease the refugee problem. However, the vast number of refugees still unsettled continued to concern the United States and other free nations of the world.

In a newsletter on the World Refugee Year released by the United Nations in January 1960,[18] it was stated that there were more than one and one-half million refugees within the United Nations High Commissioner's mandate —over a million in Europe and about one-half million in other parts of the world. About 22 thousand refugees under the UNHC's mandate were still living in European camps. There were also about eight thousand refugees of European origin in the Far East who came within the UNHC mandate. In Tunisia and Morocco there were about 180 thousand refugees from Algeria. Approximately one million Chinese refugees in Hong Kong were not, technically, within the mandate of the High Commissioner.

The Act of July 14, 1960,[19] enabled the United States to participate in World Refugee Year by authorizing the United States to parole during July—December 1960 a number of refugee-escapees not to exceed 25 percent of the number of refugee-escapees who were resettled outside the United States during fiscal year 1960. In succeeding six-month periods, until June, 30 1962, the United States may parole not to exceed 25 percent of the refugee-escapees who have, within the preceding six months, availed themselves of resettlement opportunities of other countries. The law also provides a procedure whereby the paroled refugee-escapees may be inspected and admitted for permanent residence after a two-year period of residence in the United States.

The Secretary of State in an advisory opinion stated that 22,286 refugee-escapees resettled in countries other than the United States in the period July 1, 1959—June 30, 1960. Accordingly, under the 25 percent formula, 5,571 refugee-escapees were authorized for parole in July —December 1960. During the second period, July 1, 1960. — December 31, 1960, 14,819 refugee-escapees resettled in other countries, making an additional 3,705 refugee-escapees authorized for parole in the six-month period January—June 1961. During the third six-month period January 1—June 30, 1961, 16,560 refugee-escapees resettled in other countries. Thus, an additional 4,140 refugee-escapees were authorized for parole in July—December 1961,

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[11] Sec. 4(a)(2).
[12] Sec. 212(d)(5) Immigration and Nationality Act, as amended (66 Stat. 163).
[13] Act of July 25, 1958 (72 Stat. 419).
[14] For additional information on Hungarian escapee program see I & N REPORTER, April 1958.
[15] Includes 6,130 recent Hungarian refugees.
[16] Sec. 4(a)(2) and 4(a)(3).
[17] Act of September 26, 1961 (75 Stat. 650)(P.L. 87-301, 87th Congress, 1st Session).
[18] Newsletter No. 21, January 1960, The Refugee Companion, United Nations.
[19] Act of July 14, 1960 (74 Stat. 504).

bringing the total number authorized by statutory fair share to 13,416.

By the close of December 1961, 14,160 refugee-escapees had registered for parole, 9,322 were found qualified, and 4,925 refugee-escapees residing in Austria, Belgium, France, Germany, Greece, Italy, and Lebanon were paroled into the United States. Over 40 percent of these persons had fled from Yugoslavia; most of the others had escaped from Hungary, Poland, Rumania, and Egypt. The law (Sec. 2(b)) authorizes the parole of 500 refugee-escapees designated by the United Nations High Commissioner as "difficult to resettle". By the end of December 1961, 114 such refugees found qualified for parole were referred to ICEM for transportation to the United States.[20]

Orphans. In the wake of World War II and the Korean conflict thousands of children were abandoned or deserted or were orphaned by the death or disapperance of their parents. Their tragic plight prompted Congress to include orphan programs in the various refugee acts, so that orphans adopted abroad or coming to the United States for adoption by a United States citizen and spouse were given permanent homes in this country. Between July 1, 1948 and June 30, 1961, 17,914 eligible orphans were adopted and were admitted under these special acts: 4,065 under the Displaced Persons Act of 1948 (Sec. 2(e)); 466 under the Act of July 29, 1953,[21] 3,762 under Section 5, Refugee Relief Act of 1953; and 9,621 under Section 4 of the Act of September 11, 1957. Over three-fourths of the orphans admitted were natives of only five countries: Korea (3,746), Greece (2,990), Japan (2,807), Italy (2,422), and Germany (1,835).[22]

The orphan provisions of the Act of September 11, 1957, expired on June 30, 1961. Subsequently, eligible orphans were paroled into the United States under authority of Section 212(d)(5) of the Immigration and Nationality Act until passage of the Act of September 26, 1961 (P.L. 87-301). Section 25(b) of this Act provides that nonquota visas may be issued for 180 days subsequent to enactment of the law to eligible orphans, provided the orphan petitions were approved or pending prior to September 30, 1961.

The Act of September 26, 1961, provided that refugee orphans should be admitted under the Immigration and Nationality Act. This was significant since, for the first time, a phase of the refugee legislation was incorporated into the permanent law. Under this provision,[23] eligible orphans adopted abroad or coming to the United States for adoption by a United States citizen and spouse may be admitted for permanent residence as children of such citizens.

Various proposals have been made in Congress to make refugee-escapee provisions a permanent part of the immigration law. Some of the proposals are similar to the provisions in the laws concerning Hungarian parolees and refugee-escapees, whereby eligible refugee-escapees would be paroled into the United States and after two years of residence would be eligible to be inspected and adjusted to immigrant status. Other proposals aim to admit a certain number of refugee-escapees each year as nonquota immigrants.

WESTERN HEMISPHERE SOLIDARITY

The First Quota Act, which provided for numerical restriction of immigration from Europe, Asia, and Africa, also contained provisions exempting from the quota, immigration from independent countries in the Western Hemisphere. Such exemption rested chiefly upon considerations of the geographical proximity of Canada, Mexico, and other Western Hemisphere countries, and upon the deeply imbedded principle —first put forth in the Monroe Doctrine—of Western Hemisphere solidarity. The good neighbor and alliance for progress policies are more modern expressions of this principle. Another reason for such exemption was that few nationals of some of the countries in Central and South America had entered the United States by 1920, so that the application of the quota system would have meant the almost total exclusion of immigrants from these countries.

When the First Quota Act was passed on May 19, 1921, it exempted from the quota aliens who resided continuously at least one year immediately preceding the time of admission into the United States in one of the independent countries of the Western Hemisphere.[24] The following year the one-year residence requirement was increased, by a Joint Resolution, to five years.[25]

The restriction of European immigration by the First Quota Act caused many Europeans to immigrate to Canada, Mexico, Cuba, and South America with the intention of waiting out the prescribed five-year period for exemp-

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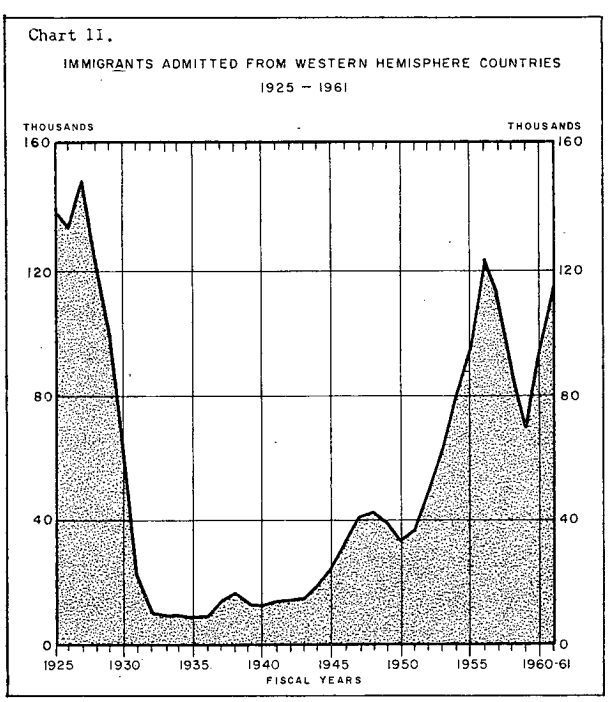
[20] For additional information on the Refugee-Escapee Parole Program, see I & N REPORTER, April 1961.
[21] Act of July 29, 1953 (67 Stat. 229).
[22] For additional information on orphan programs, see articles on alien orphans in I & N REPORTER, April 1960, and April 1961.
[23] Sec. 101(b)(6), Immigration and Nationality Act.
[24] Sec. 2(a), clause (7), Act of May 19, 1921 (42 Stat. 5).
[25] Act of May 11, 1922 (42 Stat. 540).

tion under the 1921 law, or to smuggle across the border into the United States. Congress recognized this predicament and, in the Immigration Act of 1924, changed the five-year residence requirement for quota exemption to birth in an independent country of the Western Hemisphere. The 1924 law also exempted from the quota the wife and unmarried child, under 18 years of age, of natives of Western Hemisphere countries.[26]

The Immigration and Nationality Act of 1952 retained the same exemption as in the 1924 Act for natives of independent countries in the Western Hemisphere and also exempted from the quota the husbands, as well as the wives, of such natives and their children under 21 years of age.[27]

Between 1925 and 1961, 1,961,372 immigrants born in Western Hemisphere countries were admitted with their 19,088 spouses and 8,219 children born in quota countries but exempted from the quota restrictions.

As stated, the nonquota exemption applies only to independent countries of the Western Hemisphere. There are in the Western Hemisphere some 23 colonies or dependencies of the United Kingdom, France, the Netherlands, and Denmark which are subject to quota control. Each area is allotted from the quota of the mother country a subquota of 100 per year.



The effect has been to restrict immigration from certain of these countries. This has been particularly true of the British West Indies where portions of the subquotas often are oversubscribed.

Immigration from independent Western Hemisphere countries comprised 40 percent of the total immigration to the United States in the period 1925—1930 (see Chart 2). The quota laws, having sharply reduced European immigration, curtailed the supply of workers and left openings soon filled by Mexican and Canadian workers.

During this period, when it appeared that this nonquota immigration might exceed quota immigration, there was much debate in Congress on bills which would have imposed quota controls on Western Hemisphere immigration. However, the agitation in Congress subsided as Western Hemisphere immigration dropped to under 10,000 per year during the depression years of the 1930's. The requirement of visas and visa fees and intensive consular examinations were other factors that contributed to the low immigration during that period.

Canadian and Mexican immigration rose slowly in the late 1930's. Uninterrupted by lack of travel facilities during the war years, such immigrants, nonetheless, averaged fewer than 14,000 per year between 1937 and 1944. Following World War II, immigration from the Western Hemisphere climbed to a peak of 123,391 in fiscal year 1956, just 16 percent below the previous high of 146,729 in 1927. In the next wave, such immigration subsided to 70,327 in 1959 and rose to 114,557 in 1961. In that year natives of Western Hemisphere countries rep-

TABLE 5. IMMIGRANTS ADMITTED TO THE UNITED STATES FROM WESTERN HEMISPHERE COUNTRIES,* YEARS ENDED JUNE 30, 1925—1961

Country or area	1925-1961	1925-1945	1946-1961
Total number	2,010,339	900,579	1,109,760
Canada	944,927	535,158	409,769
Mexico	688,399	289,327	399,072
Cuba	128,852	23,177	105,675
Other West Indies	27,290	4,153	23,137
Central America	83,649	20,801	62,848
South America	124,416	27,623	96,793
Other	12,806	340	12,466

* Figures cover immigrants born in independent countries and U. S. possessions in the Western Hemisphere.

[26] Sec. 4(c), Act of May 26, 1924 (43 Stat. 153).
[27] Sec. 101(a)(27)(C), Act of June 27, 1952 (66 Stat. 163).

resented 42 percent of the total immigration to the United States.

Over four-fifths of the Western Hemisphere immigration has been from the neighboring countries of Canada and Mexico.

For a number of years, Canada furnished more immigrants to the United States than any other country. Thousands of Canadians from nearby cities and industrial centers flocked into the United States following World War I for employment. The largest number of Canadians came here between 1925 and 1930, when such immigration averaged nearly 70,000 per year.

Canadian immigration reached its lowest point, 4,702 in 1933, and remained low during the depression. This trend continued during World War II years because of full employment in Canada. Since the end of World War II, Canadian immigration has grown and in recent years has averaged about 30,000 immigrants per year. Canadian immigrants have supplied 17 percent of the professional and semiprofessional workers admitted for permanent residence during the last decade.

In 1961 there were 338,242 Canadian nationals who reported their addresses in the United States. They were the second largest nationality group in this country.

Whereas before the war Canadians tended to be concentrated in the areas close to the border, this has changed. Seventy percent now live in the following seven States: California (74,338), Michigan (41,729), New York (40,522), Massachusetts (30,274), Florida (19,027), Washington (16,436), and Maine (15,534).[28]

Mexico has been the source of the next largest portion of immigration from the Western Hemisphere. Immigration from Mexico was high in fiscal years 1925—1929, when it averaged some 47,000 immigrants per year, reaching its highest point of 67,155 in fiscal year 1927. As in the case of Canadian immigration, Mexican immigration dropped in fiscal year 1932 and reached its lowest point of 1,286 in fiscal year 1935. During the depression years more Mexicans left the United States than entered. In the late 1930's and early 1940's Mexican immigration averaged only about 2,000 per year.

When manpower shortages became acute in this country in the early 1940's the United States Government entered into agreements with Mexico and certain of the West Indies to import nationals of these countries to work in the railroad industries and in agricultural pursuits. By far the largest number of these workers were Mexican agricultural workers. Since then, the need for such workers has continued, and in the past 10 years nearly three and one-half million agricultural laborers were admitted temporarily from Mexico.

The pattern of Mexican immigration to the United States has been complicated by the considerable number of illegal entries from Mexico, which snowballed after the end of World War II. In 1954 over one million such apprehensions were recorded in the Southwest. Some of the effects of this migration were to depress farm wages, and increase crime rates in the cities of the Southwest.

In June 1954 the Immigration and Naturalization Service made a concerted effort to apprehend and expel the illegal entrants. A "Special Mobile Task Force" was assembled in southern California to round up and expel aliens in illegal status. As one area was cleared, the force shifted to other border areas. Thousands of illegal aliens in the United States were apprehended and returned to Mexico, and many thousands more departed of their own accord. As a consequence, apprehensions of Mexicans dropped sharply from a million in 1954 to only 29,877 in 1961.

Concomitant with the decline in illegal entries of Mexicans has been the rapid rise in the legal immigration from Mexico in recent years, which reached 65,047 in 1956. This was almost as high as the previous peak of 67,155 in 1927. Mexican immigration dropped to 23,061 in 1959 and then took another upturn to 32,684 in 1960, reaching 41,632 in fiscal year 1961.

Mexican aliens have lived largely in their own groups, concentrated near the southwest border. The high degree of illiteracy has often prevented Mexicans from becoming naturalized citizens. The 1940 census reports showed that, for the United States as a whole, about seven percent of the native population of Mexican parentage reported English as their mother tongue. In the 1950 census, special reports on persons of Spanish surnames in five southwestern States, which covered most of the Spanish-American and Mexican-American population in the United States, show that the median school years completed by such aliens was only 5.4 years; 18 percent had no schooling.[29]

Largely because of high immigration in recent years and low naturalization rates, the Mexican alien population in the United States

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[28] Annual Report of the Immigration and Naturalization Service, 1961; (see Table 36).

[29] U.S. Bureau of the Census: **U. S. Census of Population, 1950,** Vol. IV, **Special Reports,** Part 3, Chapter C, Persons of Spanish Surname, pages 3C-5 and3C-16.

had grown to 520,884 by 1961, 73 percent over the 301,605 figure reported in 1953. While there were Mexican nationals in every State, 80 percent were in only two States: California (219,335) and Texas (199,816). About one-half of the Mexican aliens admitted in the past decade who were in the labor force were farm and other types of laborers.

Immigration from the West Indies and Central and South America averaged only about three percent of the total immigration from nonquota countries prior to World War II.

Cuban immigration averaged about 2,200 per year in fiscal years 1925—1930, 566 per year in 1931—1944, and some 2,600 per year in fiscal years 1945—1953. Largely as a result of political events in Cuba, immigration from that country increased rapidly after 1954. In the four fiscal years, 1955—1958, 49,561 Cuban immigrants were admitted to the United States, a number equal to the total Cuban immigration to this country in the preceeding 30 years.

Cuban refugees began to arrive in Florida by air and small craft beginning the first day after Fidel Castro seized power from President Batista on January 1, 1959. From that day through December 31, 1961, 35,230 Cuban immigrants were admitted to the United States. Other Cuban refugees who cannot meet the requirements for admission as immigrants have been admitted in temporary or other status.

On December 31, 1961, there were 12,200 Cuban nonimmigrants in the United States; 24,700 Cuban refugees who were paroled into the United States under authority of Section 212(d)(5), Immigration and Nationality Act; and 51,900 Cuban refugees who had been originally admitted as nonimmigrants and who were in overstay status. Most of the Cuban refugees are concentrated in the States of Florida and New York.

In February 1961, at the direction of the President, the Department of Health, Education and Welfare, in cooperation with private and local government agencies, began a program of assistance to Cuban refugees in Florida. The purpose was to resettle refugees in other areas, thus relieving the situation in Florida. As of December 1, 1961, 14,440 persons had resettled under this program.[30]

Immigration from Haiti and the Dominican Republic and other independent countries in the West Indies has been insignificant, averaging about 200 per year before 1946 and about 1,300 per year between 1946 and 1960. Recent political upheavals in the Dominican Republic were, no doubt, responsible for the upturn of immigration from that country—from 756 in fiscal year 1960 to 3,045 in fiscal year 1961.

Numerically, immigration from independent countries in Central and South America was low until the past decade. Central American immigration increased from 2,535 in fiscal year 1952 to its highest point of 6,641 in fiscal year 1961. Immigration from South American countries grew from 3,739 in fiscal year 1952 to 15,247 in fiscal year 1961, representing 13 percent of the total immigration from the Western Hemisphere countries. Most of the South American immigrants came from Ecuador, Peru, Colombia, Argentina, and Brazil. Expansion of air travel has brought many visitors to this country in recent years. Lack of economic opportunities in their home countries, and the awareness, of better living conditions in the United States were, no doubt, factors motivating their migration.

In 1961, there were in the United States 14,882 West Indians, other than Cubans, 41,045 Central Americans, and 65,314 South Americans.

SUMMARY

The principle of selectivity to meet the occupational requirements of the United States has been incorporated in immigration law since the 1924 Act, when a first priority was established within quotas for skilled agriculturists. However, as a method of attracting workers with needed skills the selective system has not been particularly effective, since only a fraction of the authorized 50 percent of the quota has been filled. The number of petitions for first preference immigrants is relatively small and is governed by the pressure for quotas by nationals of certain countries, rather than the selection of such immigrants by the United States from a wide choice of applicants.

The greatest number of professional and highly skilled immigrants have entered either from nonquota countries or from quota countries with low demand for quota visas. Nevertheless, highly skilled professional and technical workers whose admission might have been long delayed are able to make their contribution today because of the first preference priority. The continuing urgent need for immigrants of special skills in defense industries and the sciences

[30] See Statement of William L. Mitchell, Commissioner of Social Security, Before the Special Subcommittee on Refugees and Escapees of the Senate Judiciary Committee on the Cuban Refugee Program, December 13, 1961.

has recently led to the practice of permitting beneficiaries of first preference petitions to remain here until quota numbers become available, and to parole into the United States their families.

The humane principle of providing for families to be united is evident in the continuous liberalization of the provisions relating to relatives of United States citizens and resident aliens. However, there remain areas where oversubscribed quotas limit the number of close relatives who may be admitted under present laws. To improve the quota situation, various proposals have been made in Congress to increase present quotas and to pool unused quotas into a reserve for the benefit of oversubscribed quota areas.

As a world leader, the United States together with other free nations, continues to give asylum to thousands of refugee-escapees who are fleeing from the tyranny of communism. The legislation dealing with refugee-escapees, however, has been on an emergency, temporary basis. A number of proposals have been made to incorporate into the permanent immigration law a provision for admission of refugees.

Western Hemisphere immigration, particularly that from Canada and Mexico, fluctuates with changes in the economic situation, both in the United States and the neighboring countries.

From time to time, there has been considerable agitation in Congress to impose quota controls upon Western Hemisphere immigration, particularly when the tide of such immigration was at a high level. However, our friendliness and solidarity with the other countries of this hemisphere have kept Western Hemisphere immigration numerically free.

The composition of immigration to the United States since 1930 did not follow the National Origins Plan to admit immigrants in proportion to the national origin of this country's population in 1920. Three of the principles discussed in this article have contributed to this divergence, i.e., continuing removal from quota control of relatives of U.S. citizens and resident aliens and of refugee-escapees (most of whom came from quota countries), and to the high nonquota immigration from the Western Hemisphere. On the negative side, nationals of countries with large authorized quotas, chiefly Great Britain and Ireland, did not fully use their quotas.

RECENT ADMINISTRATIVE DECISIONS

(Due to space limitations it is possible to print only an index and indentifying paragraph on each precedent decision. Copies of these decisions may be seen at any local office of the Immigration and Naturalization Service. Copies of these Interim Decisions may also be purchased on a yearly subscription basis ($3.25 per year, 75 cents extra for foreign mailing) from the Superintendent of Documents, Government Printing Office, Washington 25, D. C. The decisions will be printed later in bound volume form. Volumes of past Administrative Decisions are on sale at Government Printing Office, Washington 25, D.C.)

Interim Decision Number 1146

(In the Matter of L—. In Exclusion Proceedings, A-11681384. Decided by Special Inquiry Officer, April 4, 1961; Approved by Board of Imm. Appeals, June 2, 1961.)

Expatriation—Section 349(a)(4)(A), 1952 Act—Employment as public school teacher in Canada.

Employment as a public school teacher in the Providence of Ontario results in expatriation of dual national of United States and Canada under section 349(a)(4)(A) of the 1952 Act. (Cf. **Kenji Kamada v. Dulles,** 145 F. Supp. 457.)

Interim Decision Number 1147

(In the Matter of J—J—. In Deportation Proceedings, A-8874489. Decided by the Board of Imm. Appeals, June 5, 1961.)

Deportability—Effect of dismissal with prejudice of action unrer section 503, Nationality Act of 1940.

(1) Court's dismissal with prejudice of respondent's suit for declaratory judgment pursuant to section 503 of the Nationality Act of 1940 constitutes adjudication of his claim to citizenship on its merits.

(2) Respondent having been admitted with certificate of identity in nonimmigrant status for sole purpose of pursuing section 503 action, that action having been concluded adversely to him on the merits, and respondent having failed to depart on notice, further proof of alienage is not required to establish his deportability on "remained longer" charge.

Interim Decision Number 1148

(In the Matter of L—L—. In Exclusion Proceedings, A-11666111. Decided by the Board of Imm. Appeals, June 7, 1961.)

Excludability — Section 212(a)(19), 1952 Act — Purchase of entry document not procurement by fraud within first clause.

An alien who on a prior occasion obtained entry into the United States with a Form I-151 which he purchased from a private person is not excludable under the first clause of section 212(a)(19) of the Act as having procured documentation by fraud. That charge cannot be sustained unless the fraud was practiced upon an authorized United States government official by inducing him to issue a document through material misrepresentations made by the alien involved.

Interim Decision Number 1149

(In the Matter of Z—. In Deportation Proceedings, A-8866185. Decided by Board of Imm. Appeals, June 9, 1961.)

Expatriation — Section 349(a)(4)(A), 1952 Act — Economic duress.

Where the record fails to refute respondent's testimony that his employment as music teacher in the Israeli school system for a period of about one year (1956 57) was a matter of economic compulsion, the Government has failed to sustain its heavy burden of proving that his conduct was voluntary. Accordingly, a native-born United States citizen who under Israeli law acquired Israeli citizenship upon his arrival there as a Jewish immigrant in 1950, is held not to have expatriated himself under section 349(a)(4)(A) of the 1952 Act by reason of such employment.

HIGHLIGHTS OF SELECTED RECENT COURT DECISIONS

DEPORTATION

Sherman v. Hamilton. Administrative Subpoena—enforcement of; Constitutional Rights. **(C.A. 1, No. 5841, October 30, 1961).**

This was an appeal from an order of the United States District Court for the District of Massachusetts entered on May 12, 1961 upon application of the appellee for the enforcement of an administrative subpoena under the provisions of section 235(a) of the I & N Act of 1952 (8 U.S.C. 1225(a)).

The District Court distinguished **U. S. v. Minker,** 350 U.S. 179, and held that it would be an extremely futile thing for Congress to authorize the Service to interrogate, examine, and cross-examine an alien, as it did in 8 U.S.C. 1226 and 1252, and simultaneously withhold the power to subpoena him. It also held that, on the record as it then stood, the fears expressed by the plaintiff concerning his constitutional rights were premature.

The Court of Appeals affirms the District Court's Order.

Dentico and Lahtinen v. Esperdy. Judicial Review of Order of Deportation; Transfer to Court of Appeals Under P.L. 87-301. **(S.D., N.Y., 61 Civ. 2905 and 3132, December 8, 1961).**

A suit seeking judicial review of an order of deportation is "pending unheard" and transferrable to a Court of Appeals under section 5(b), P.L. 87-301, when it is unheard on the merits in the District Court on October 26, 1961, the effective date of that section.

Walters v. Esperdy. Judicial Review of Denial of Application for Suspension of Deportation; Transfer of Suit to Court of Appeals. **(S.D., N. Y., Civ. 138-347, December 18, 1961).**

Plaintiff sought a judicial review of the administrative determination which refused to suspend his deportation so as to relieve him from a final order of deportation outstanding against him. Defendant moved for an order transferring the suit to a Court of Appeals under section 5(b), P.L. 87-301, effective October 26, 1961.

While the plaintiff did not oppose the motion to transfer, the defendant requested a ruling on the motion since the question was one of first impression under the new statute. It was urged that suspension of deportation and the granting or withholding of voluntary departure by the Special Inquiry Officer form an integral part of the deportation proceedings and if an application for either is granted deportation would not be carried out; this case necessarily involved the judicial review of a final order of deportation and that therefore under section 5(a) of P.L. 87-301 (8 U.S.C. 1105a) in the case is cognizable only by a Court of Appeals.

The court said that while the question is not free from doubt, because it is a case of first impression, the Court of Appeals should have the opportunity to pass on the question of its own jurisdiction and the granting of the motion to transfer will place this question before it.

Motion granted.

Diminich v. Esperdy. Stay of Deportation—Physical Persecution—Yugoslavia; Denial of employment and punishment for ship desertion as physical persecution. **(C.A. 2, No. 27086, December 29, 1961).**

This was an appeal from the District Court's order granting the defendant's motion for summary judgment in an action by a Yugoslav crewman to annul a denial of his application to withhold his deportation to Yugoslavia on physical persecution grounds (8 U.S.C. 1253(h).

The Court of Appeals held, following a line of cited cases, that punishment in Yugoslavia for desertion of his vessel and "difficulties" that would interfere with religious observance and freedom of association, repugnant as they may be, are not the "physical persecution" which Congress chose to make the sole factor warranting a stay of deportation.

The appellant relied on a pilot administrative decision (**Matter of Kale,** A-9 555 532) which he contended stood for the proposition that economic sanction by the complete withdrawal of all employment opportunity in Yugoslavia would not be physical persecution for purposes of 8 U.S.C. 1253(h). The court could not so read Kale, for the statement there "that 'economic sanctions, are not physical persecution, when read in context, does not go to the extent of saying that complete withdrawal of employment opportunities would not be." (Cf. **Dunat v. Holland,** 183 F. Supp. 349 rev. C.A. 3, No. 13307, January 24, 1962, May 29, 1961; motion for rehearing **en blanc** granted, C.A. 3, August 3, 1961).

Affirmed.

Fusaro v. Pilliod. Judicial Review of Order of Deportation; Transfer to Court of Appeals as "Pending Unheard" Case. **(N.D., Ill., No. 61 C 250, January 3, 1962).**

This is an action seeking review of a deportation order and a temporary restraining order against the threatened deportation.

After a hearing on the merits had commenced and testimony taken the case was remanded to the Service for a clarification of the record. After that had been done the defendant moved, pursuant to section 5(b) of P.L. 87-301 (75 Stat. 650), for transfer of the cause to the Court of Appeals on the ground that it was "pending unheard" on the effective date of that section. He contended that a case is "pending unheard" until it has been submitted for final determination or decision.

The court said that to adopt that interpretation would mean that a case in which substantial testimony has been taken would be subject to transfer to a court of appeals where, presumably, the taking of testimony would have to be commenced **ab initio;** in the absence of a clear indication that Congress intended to require such duplication of testimony, it may be presumed that the phrase "pending unheard" was meant to apply only to cases which were not in process of hearing and determination.

Motion to transfer denied.

Rozenberg et al. v. Esperdy. Judicial Review of Order of Deportation; Constitutionality of Quota System. **(S.D., N.Y., 61 Civ. 3012, January 4, 1962,.**

The plaintiff, married to a resident alien and concededly deportable as an overstayed nonimmigrant, brought this action for declaratory judgment to annul the order of deportation against her. She sought the convocation of a Three-Judge Court to test the constitutionality of the immigration quota system (8 U.S.C. 1151 — 1153) and for injunctive relief.

She contended that those statutory provisions are unconstitutional as in violation of due process because they are arbitrary and capricious and without rational relation to any lawful Congressional purpose; that while aliens abroad have no standing to complain against Congressional regulation of immigration, her presence here (even if illegal) gives her that standing and she may so complain.

The court held that she stands in no better position

have been served the alien shall be returned to the custody from which he was paroled and shall then be dealt with as any other alien applying for admission.

As to the second contention, and again relying on the language of the parole statute, the court said that when the plaintiff was given an exclusion hearing in 1957 his admissibility was considered and determined as if he was still on the vessel on which he arrived in 1956 and that his conviction while on parole made him excludable. "If admission or exclusion is to be based on facts in existence at the time the alien first arrives it would be contrary to Congressional intent," the court said.

Summary judgment for defendant.

IMMIGRATION

Montgomery et al. v. Ffrench. Petition for nonquota status; judicial review of denial; Petitioners' ability to care for beneficiary. **(C.A. 8, 16864, February 9, 1962).**

The applicants, husband and wife, sought judicial review of the administrative denial of their petition to accord a nonquota status in the issuance of an immigrant visa to their adopted (by proxy) Korean national daughter, a resident of Korea. The denial was because they had failed to establish that they will properly care for the eligible orphan beneficiary if she is admitted to the United States. Their appeal is from the district court's grant of the appellee's motion for summary judgment.

In the court of appeals they contended that they had been denied due process since they were given no fair hearing administratively on the merits of their petition; that its denial was arbitrary and capricious; that they had a right to bring such an eligible orphan to the United States under the law.

The court of appeals cited countless leading cases which hold that the admission of an alien to this country is a privilege and not a right and that whatever the procedure authorized by Congress is as far as an alien applying for admission is concerned, it is due process.

In this case the court said that the statute (8 U.S.C. 1155(b)) provides only for an "investigation of the facts". No hearing is required nor is one intended. No "right" has been established by or in behalf of such a beneficiary of a petition as in this case. The statute established merely a privilege which can be exercised only with the approval of the Attorney General or his designate.

The statute also specifically provides that the petitioners (appellants) "shall establish to the satisfaction of the Attorney General that (they) will care for such eligible orphan properly if (she) is admitted to the United States . . .". Their petition was properly denied when they failed to so establish.

Affirmed.

CHANGES IN THE REGULATIONS

UNDER TITLE 8, CODE OF FEDERAL REGULATIONS

Consult The Federal Register, Vol. 26, No. 242, December 16, 1961, Sections 212.1(f); 212.4; and 214.1(a)(b).

Vol. 26, No. 243, December 19, 1961, Sections 103.5; 103.7(c); 242.8(a); 242.9(a); 242.15; 242.16(e) (revoked); 242.17-23 (replaced); Part 243; Section 244.1; Part 245; and Part 249.

Vol. 26, No. 245, December 21, 1961, Sections 103(f)(g); 103.2; Part 204; Sections 212.2; and 214.2(2)(c).

Vol. 26, No. 247, December 23, 1961, Sections 242.6; and 242.23.

Vol. 27, No. 12, January 18, 1962, Sections 212.7(c) (added); 214.1(a); 214.2(f)(j); 214.3; 248.1; 282.1; 299.1 (list of forms); 299.2; and 299.3.

Vol. 27, No. 34, February 17, 1962, Sections 101.1(j)(1); 214.2(c)(1); and 237.5.

Vol. 27, No. 31, February 14, 1962, Sections 211.1 and 214.2.

Vol. 27, No. 49, March 13, 1962, Section 212.1(a)(d).

UNDER TITLE 22, CODE OF FEDERAL REGULATIONS

Consult The Federal Register, Vol. 27, No. 31, February 14, 1962, Sections 46.3(k); 46.4(a); and 46.5(a)(2).

Vol. 27, No. 49, March 13, 1962, Section 41.6(a), (d), and (e)(1).

to challenge the quota system than the countless aliens abroad awaiting their turn for immigrant visas, that her continued illegal presence here does not improve that position, nor does her marriage to a resident alien except to the extent that it gives her a third preference status under the quota.

It construed her pleadings to mean that if the quota to which she is chargeable (Israel) were not oversubscribed or if she were entitled to a nonquota status she would not consider the quota system arbitrary or capricious.

As to her husband (co-plaintiff) the court said that he took his wife as he found her, with whatever legal disabilities to which she was then subject (they were married after her arrival in the United States as a temporary visitor). Whatever he is being deprived of under the facts of this case it is being done with due process of law.

There being no substantial federal question involved the court denied her motion for a Three-Judge Court and granted the defendant's motion for summary judgment.

(The defendant's motion was heard before the effective date of section 5(a) P.L. 87-301 (8 U. S. C. 1105a)).

Dunat v. Hurney. Physical persecution; Judicial Review of Order Denying Application for Stay of Deportation. **(C.A. 3, No. 13307, January 24, 1962).**

This was an appeal from the order of the District Court (E.D., Pa.) granting the respondent's motion for summary judgment. On May 29, 1961 the Court of Appeals held that the appellant should be granted an indefinite stay of deportation and reversed and remanded for the entry of an appropriate order below (One dissenter, Forman, S.J., would affirm).

Because of the impact of that ruling a petition for rehearing **en banc** was authorized and filed. The Court of Appeals granted it and the full court heard reargument on November 14, 1961.

In a **per curiam** opinion the court noted that it was evenly divided (4-4) on the question of whether the views expressed by the majority of the panel which first heard the case were correct. It was unanimous, however, that economic proscription so severe as to deprive a person of all means of earning a livelihood may amount to physical persecution for purposes of 8 U.S.C. 1253(h).

But in the circumstances the court agreed that the judgment below must be reversed and the case remanded to the Attorney General who will be free to reopen the administrative proceedings for further consideration based upon evidence or information not heretofore considered. (Note: The Solicitor General declined to petition for certiorari.)

Pezzulich v. Esperdy. Judicial Review of Denial of Suspension of Deportation and of collateral issues; Transfer of "Pending Unheard" Case under P.L. 87-301. **(S.D., N.Y., 60 Civ. 497, February 23, 1962).**

The plaintiff commenced this action in the district court seeking a review of the denial of his applications for relief under section 4 of the Displaced Person Act of 1948, under section 6 of the Refugee Relief Act of 1953, for a temporary stay of deportation on the grounds of physical persecution under 8 U.S.C. 1253(h), and for suspension of deportation under 8 U.S.C. 1254(a)(1).

While this action was pending unheard P.L. 87-301 became law on September 26, 1961 and makes final orders of deportation exclusively reviewable by an appropriate Court of Appeals. Section 5(b) of that Act provides for the transfer of such cases from the district courts.

The defendant moved for such a transfer of this case on the grounds that since the complaint seeks a judicial review of the denial of suspension of deportation P.L. 87-301 confers exclusive jurisdiction on the Court of Appeals, and that that court should also assume jurisdiction over the entire case and consider and deside all the issues raised.

The court held that insofar as it seeks a review of a denial of suspension of deportation and remains "pending unheard" the case requires transfer to the Court of Appeals. This had been settled in the same court in **Walters v. Esperdy,** Civ. 138-347, on December 18, 1961.

It also held that the other challenges contained in the complaint are also transferrable to be determined together with the challenge to the denial of suspension of deportation.

That holding was under the doctrine of pendent jurisdiction which says that a federal court which properly has jurisdiction over one claim in a case may take jurisdiction over other claims in the case over which it ordinarily would not have jurisdiction, provided that the claims are closely enough related factually as to be regarded as distinct grounds in support of a single claim (citations).

Defendant's motion to transfer granted.

EXCLUSION

Klapholz v. Esperdy. Grounds for Exclusion — Conviction of Crime; Conviction while in parole status; Service jurisdiction over paroled alien. **(S.D., N.Y., 61 Civ. 1706, December 30, 1961).**

In July 1956 the plaintiff arrived at the port of New York in possession of a valid immigrant visa and sought admission for permanent residence. The examining immigration officer, alerted that this alien may have been involved in diamond smuggling, deferred completion of his inspection and telephoned the United States Attorney. In short time a United States Marshal appeared, removed the plaintiff from the ship on which he arrived and lodged him in the Federal House of Detention. Later he was formally notified by the Service that he was paroled pursuant to 8 U.S.C. 1182(d) (5) pending completion of his primary inspection.

On October 29, 1956 he pleaded guilty to an information charging him with violations of 18 U.S.C. 2 and 545 (smuggling diamonds at New York International Airport in 1954) and was sentenced to 15 months imprisonment. While serving his sentence he was ordered excluded under 8 U.S.C. 1182(a)(9) as an alien who had been convicted of a crime involving moral turpitude.

When that order became final he brought an action for a declaratory judgment to annul the order. He advanced several contentions, the principal ones being that the Service lost jurisdiction to exclude him when it turned him over to the Marshal on his arrival and the government then exercised criminal jurisdiction over him and, that even if such jurisdiction was not lost, that his admissibility should be determined as of the date of his arrival and not at some later date after he had been convicted.

The court found that the first contention is contrary to almost all of the cases that have considered the problem and that the legislative history of 8 U.S.C. 1182 (d) (5) clearly shows that one of the purposes that Congress envisaged in permitting the parole of aliens into the country "in the public interest" was for the purposes of "prosecution", and that the statute prescribes that when the purposes of the parole shall