

GRANTING OF PERMANENT RESIDENCE TO CERTAIN ALIENS

FEBRUARY 7, 1951.—Committed to the Committee of the Whole House and
ordered to be printed

Mr. FELLOWS, from the Committee on the Judiciary, submitted the
following

REPORT

[To accompany H. Con. Res. 49]

The Committee on the Judiciary, to whom was referred the resolution (H. Con. Res. 49) granting permanent residence to certain aliens, having considered the same, report favorably thereon without amendment and recommend that the resolution do pass.

PURPOSE OF THE CONCURRENT RESOLUTION

The purpose of the concurrent resolution is to record congressional approval, in accordance with Public Law 555, Eighty-first Congress, of the granting of status of permanent residence in the case of certain displaced persons whom the Attorney General has determined to be eligible for such privilege under the terms of section 4 of the Displaced Persons Act of 1948, as amended (62 Stat. 1011; 64 Stat. 219; 50 App. U. S. C. 1953).

GENERAL INFORMATION

Section 4 of the Displaced Persons Act of 1948, as amended by the act of June 16, 1950 (Public Law 555, 81st Cong.), has authorized the granting of the status of permanent residence in the United States to a limited number (15,000) of "displaced persons residing in the United States" who establish that they meet several specific requirements such as (1) lawful entry into this country as a nonimmigrant under section 3, or as a student under subsection 4 (e) of the Immigration Act of 1924, as amended, and (2) displacement from the country of their birth or nationality or of their last residence as the result of events subsequent to the outbreak of World War II, and (3) inability to return to any of such countries because of persecution or fear of persecution on account of race, religion, or political opinion.

Section 4 of the above-cited act also provides that if the Attorney General shall, upon consideration of all the facts and circumstances of the case determine that such aliens are qualified under the provisions of this section, the Attorney General shall report to the Congress all of the pertinent facts in the case. If during the session of the Congress at which a case is reported, or prior to the end of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the granting of the status of permanent residence to such alien the Attorney General is authorized, upon receipt of a fee of \$18 which shall be deposited in the Treasury of the United States to the account of miscellaneous receipts, to record the admission of the alien for permanent residence as of the date of the alien's last entry into the United States. If prior to the end of the session of the Congress next following the session at which a case is reported, the Congress does not pass such resolution, the Attorney General shall thereupon deport such alien in the manner provided by law. Upon the grant of status of permanent residence to "displaced persons residing in the United States" the Secretary of State will, if the alien was a quota immigrant at the time of entry, reduce by one the immigration quota of the country of the alien's nationality as defined in section 12 of the Immigration Act of 1924, as amended, for the fiscal year then current or the next succeeding fiscal year in which a quota is available.

Included in the concurrent resolution (H. Con. Res. 49) are 110 cases. Eighty-five of these cases were among 86 cases referred to the Congress on March 15, 1950; 2 were referred on February 15, 1950; 1 was referred on March 31, 1950; 1 was referred on May 1, 1950; 1 was referred on June 15, 1950; 5 were referred on July 3, 1950; 1 was referred on September 8, 1950; 2 were referred on September 15, 1950; 10 were referred on December 1, 1950; 1 was referred on December 15, 1950; and 1 was referred on January 15, 1951. Of the 86 cases referred on March 15, 1950, 1 case has subsequently been withdrawn by the Attorney General and returned to the jurisdiction of the Department of Justice.

In each case which is recommended for approval, a check has been made to determine whether or not the alien (a) has met the requirements of the law, (b) is of good moral character, and (c) is possessed of strong equities which would warrant the granting of the status of permanent residence.

The committee, after consideration of all the facts in each case referred to in the concurrent resolution (H. Con. Res. 49), recommends that the concurrent resolution do pass.

the exercise of human rights and enjoyment of fundamental freedoms as solemnly guaranteed to their people under the provisions of the treaties of peace.¹

From these observations it may be concluded that an alien who professes religious affiliations and espouses its tenets should not necessarily lose preference if he should be compelled to return to a Communist-dominated country. The applicant testified that he is a member of the Protestant religion. A witness appeared on his behalf who is a minister of religion. The witness stated that Protestant leaders are suffering persecution in Bulgaria. The regulations set forth by the Department of State publications referred to above verify this assertion. The extent of one's religious affiliation, its importance in his daily life, and the impossibility of changing or foregoing one's religious observances render it practically a factor which will entangle a true believer who lived in free under conditions known to his beliefs. Where this liberty is the part of an established government has taken the form of persecution, as revealed in the present case in Bulgaria, it seems reasonable to conclude that this applicant's fear of persecution on account of religion is in good faith, specific, and well-founded.

Since it may be found that the applicant has a reasonable basis of fear of religious persecution if he should return to his native country, it will not be necessary to determine whether he would be subjected to persecution on political or racial grounds.

Other factors and admissibility in the United States: The applicant is a student at Kent State University where he is reported to be industrious and accomplished. We believe his education and industry portend that he will not become a charge upon the community. A negative report received by an office of the United States Public Health Service reveals that the applicant is not inadmissible to the United States on physical or mental grounds. Local, Federal, and foreign police reports are negative. Affidavits of witnesses and the results of an independent character investigation conducted by an office of this Service establish that the applicant has conducted himself as a person of good moral character. The evidence relative to the applicant's character refers to a period in excess of 5 years.

No investigation by this Service nor information before us has raised any inference that the applicant is or has ever been a member of or in sympathy with any organization whose purpose are adverse to the best interest of the United States.

From all the facts in this case it is concluded that the applicant has met the eligibility requirements for adjustment of his immigration status as a displaced person residing in the United States, and should be accorded the status of a permanent resident of the United States, which privilege should be enjoyed as long as the applicant abides by the duties of that status.

Order: It is ordered that the alien's application for adjustment of his immigration status under the provisions of section 4 of the Displaced Persons Act of 1948, as amended, be granted.

It is further ordered that if Congress approves the granting of the status of permanent residence to this alien, a record of permanent residence be created as of the date of the alien's last entry, and the alien be charged to the appropriate quota of Bulgaria.

A. C. DUNN,
Assistant Commissioner, Adjustment Division.

10. CHINA (Case A-6730648)

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
November 15, 1950.

File: A-6730648—New York (0300-270678). (No appeal.)

In re M— T— C—.

PROCEEDINGS UNDER SECTION 4 OF THE DISPLACED PERSONS ACT OF 1948, AS AMENDED

In behalf of applicant: No one.

Application: Adjustment of immigration status.

Statement of facts: The applicant is a 31-year-old male alien, a native, citizen, and last a resident of China. His last entry into the United States occurred at the port of San Francisco, Calif., on July 3, 1947, when he was lawfully admitted to the United States under the provisions of section 4 (e) of the Immigration Act of 1924. He testified that at the time of his entry into the United States it was

¹ United States Delegation to the General Assembly, press release No. 88, vol. 5, December 6, 1948.

not his intention to remain here permanently. The applicant stated he has resided in the United States continuously since the date of his entry. Upon the basis of the applicant's testimony with respect to his intentions at the time of his entry into the United States, it will be concluded that he lawfully entered the United States and was then a bona fide nonquota student.

The applicant is single. At the time of the hearing the applicant was a student at New York University.

Displacement: 8 CFR 171.1 (a) (4) outlines one of the qualifications to be met by an alien seeking adjustment of his immigration status under the provisions of section 4 of the Displaced Persons Act of 1948, as amended. This qualification provides that the alien must be displaced from the country of his birth, or nationality, or of his last residence, as a result of hostile military action or fear of persecution on account of his race, religion, or political opinions, occurring subsequent to the outbreak on September 1, 1939, of World War II.

This applicant has testified that he departed voluntarily and unmolestedly from China when the Government of that country was under the control of the Nationalist forces of Chiang Kai-shek. The applicant states that he presently is unable to return to China because of a fear of persecution.

This Service has held that where an individual departed temporarily from a given country, intending to return thereto, shortly before Communist domination of that country, and where, should he have remained in the country, such domination would have necessitated his flight because of persecution or fear of persecution on account of race, religion, or political opinions, he may be said to be displaced.¹

The applicant alleges that he cannot return to China because of a fear of persecution at the hands of the de facto government of China, which he claims is communistic. He testified, and the records substantiate his testimony, that he is anticommunistic in political opinion. He has further established the fact that he departed only temporarily from China with the intention of returning thereto. If he is able to establish that the control of China is in fact in the hands of Communists and that such control is a result of events which occurred subsequent to the outbreak of World War II and was established subsequent to his departure, it is felt that he may be said to be displaced within the reasoning set forth in Matter of S—, supra.

During World War II and prior thereto, the Communists were a minority party in China. Subsequent to the Japanese surrender in August 1945, the Communist Party made large gains in strength. The party made numerous demands on the Chinese Government for a larger representation in both the Army and government. Numerous armed conflicts between the Nationalist Government troops and the Communists took place during 1946 and 1947. Many attempts were made by the Nationalist Government, assisted by the United States, during 1946, to arbitrate the differences between the two parties. These attempts failed and the Communists were proclaimed by the Nationalist Government on July 4, 1947, to be in open rebellion. From that date, the military situation, with respect to the Nationalist Government, deteriorated rapidly as the Communists gained further strength and accomplished many military victories. By 1949, the Nationalist Government had been so overwhelmed by the Communist forces that it removed itself from China to Formosa. Mention will be made hereafter of Formosa. We believe that this summary needs no citation of authority in view of the general interest in the role of the United States in China which has resulted in widespread dissemination of China's history during and after World War II.

Although the United States does not recognize the Communist Government of China, we must realize, without regard to the equities involved, the unalterable fact to be that this party does presently dominate China.

Before the conclusion can be reached that the applicant has been displaced within the meaning of section 4 of the Displaced Persons Act of 1948, as amended, it will be necessary to examine the character and significance of communism in China. This examination is necessary for several reasons.

In the first place, the term "communism" is not the creation of Marx, Engels, Lenin, and their followers. The term "communism" or the espousal of government to some degree akin to communism is found throughout the history of mankind. Plato in his Republic favored a form of communism in government. Hebraic history speaks of communities which would be termed communistic. The struggle between the early Christians and the Albigensians was over the latter's espousal of Communist communities. In our own age communities which

¹ Matter of S—, A-6887200.

were economically communistic in nature were found, such as the Dukhobors, the original Mennonites and Mormons, and the followers of Horace Greeley. Considering what must have been the nature of these groups, it is not likely that they were groups whose objectives were engendered by persecution such as we have found in our consideration of the Communist-dominated countries behind the iron curtain.² Thus, the question emerges whether the Government of China is a government in the nature of the governments behind the iron-curtain countries.

Before that question is answered another consideration appears making it necessary to examine the nature of the Government of China. After the communistic domination of China it was hoped in some quarters that a form of government would emerge in that country which, although labeled Communist, would not be similar to the governments of the iron-curtain countries. It was hoped that the basic freedoms would remain and that the form of government would not be based upon the tenets of Marx and Lenin. It will be seen below these hopes were not well-founded.

In a booklet entitled "Heroic China, or 15 Years of the Communist Party of China," by P. Miff, published by the Workers Library Publishers, the history and development of the Communist Party in China is traced. We believe this document reveals that the form of communism in China is similar to that form found in the Soviet Union and in the countries behind the iron curtain. Two revealing documents, *The Fight for a New China* and *China's New Democracy* by Mao Tse-tung, published by the New Century Publishers, one with a foreword by William Z. Foster and the other containing an introduction by Earl Browder, also show the close association of the Chinese Communist Party to Russia. In fact, *China's New Democracy* has been characterized by Subcommittee No. 5 on National and International Movements of the Committee on Un-American Activities, in House Document No. 154, part 3, of the Eighty-first Congress, first session, at pages 27 to 34, as being the most important Communist writing produced outside of the Soviet Union since the Russian Revolution, and that the document has made a great contribution for the Communist system of thought. It is also stated that the document is completely orthodox with respect to communism. We believe an examination of the very documents published by Communists themselves clearly reveal that the communism of China is the communism of Russia and the communism of the iron curtain countries.

With the foregoing conclusion the above-mentioned subcommittee is in complete accord. In the introduction to the cited document the first sentences are as follows: "Chinese communism is regular communism. Its doctrines follow those of Lenin and Stalin. Its leaders are Moscow trained. Its policies and actions, its strategy and tactics are Communist. The Chinese Communists have followed faithfully every zigzag of the Kremlin line for a generation." At page 1 of the same document it is stated: "Chinese Communists are Communists as well as Chinese. Their leaders are steeped in the lore of Marx and Lenin and Stalin. They are saturated with the analysis of the present state of civilization as taught by Moscow, in the prophecies for the future that shape Communist strategy, and in the commands for present action that guide Communists everywhere. No Communists in the world have better standing."

In addition to the foregoing it is safe to say that any form of government which takes its inspiration from the doctrines of Marx and Lenin may be and should be characterized as communistic in the same sense that that term is applied to the form of government found in the Soviet Union and in the countries behind the iron curtain. This declaration is supported by the revelations found in an exhaustive documentary brief prepared by the Enforcement Division of this Service as well as by the findings of the Committee on Un-American Activities in the House of Representatives which met during the second session of the Eightieth Congress. Its findings are published in Union Calendar No. 933, House Report No. 1920, Eightieth Congress, second session, at page 5. There it is stated that Communist publications themselves reveal that Lenin and Stalin were primarily inspired by the Communist Manifesto of Marx and Engels, and that Lenin had described the Manifesto as "a handbook for every class-conscious worker." Communist publications reveal that in China those fighting on the side of communism are inspired by the teachings of scientific communism, and that this description of the teachings is meant to be a synonym for the Manifesto. The sources reveal that the followers of Marx and Engels, Lenin and Stalin characterize themselves as "Communists" by their very espousal of those doctrines.

² Matter of L—, A-9767993 (Estonia); Matter of B—, A-7364828 (Latvia); Matter of T—, A-446243 (Lithuania); Matter of W—, A-6831778 (Poland); Matter of P—, A-6235548 (Czechoslovakia); Matter of R—, A-6817383 (Rumania); Matter of S— (Hungary).

In summation, then, it will be concluded that the de facto government of China is communistic, and as communistic as the governments of Russia and the countries behind the iron curtain. Therefore, the term "communism" and its derivatives in this opinion will be used in the same sense as they were used in our consideration of the countries mentioned in footnote 2.

We see, therefore, that the Communist Party has, since the inception of World War II, gained complete control of China, where prior to the outbreak of World War II they had little say in the workings of the Government of that country. Since their domination of China places this applicant in a position where, if he had been in that country when the domination took place, his flight would have been justified, because of his anticommunistic political opinions, it follows that he is displaced by virtue of events which occurred subsequent to the outbreak of World War II, on September 1, 1939.

We find, therefore, that this applicant has established the fact that he is displaced within the meaning of section 4 of the Displaced Persons Act of 1948, as amended.

Fear to return: The applicant's testimony above relative to displacement based upon his fear of persecution will be utilized to establish that other cardinal eligibility requisite; namely, that the applicant is unable to return to the country of his birth, nationality, or last residence because of persecution or fear of persecution on account of his race, religion, or political opinions. His testimony with respect to his opposition to communism, and the acknowledgment that China is at this time a Communist-dominated country, establishes that the applicant is unable to return to China because of his fear of persecution on account of his political opinions.

With respect to the applicant's ability to return to the present location of the Nationalist Government it cannot be said that Formosa is either a part of, or a possession of, China until such time as a treaty is effected with Japan making either of these possibilities an actuality. With respect, therefore, to his ability to return to China, it is concluded that his ability to return to Formosa is irrelevant.

Admissibility to the United States and other factors: As related above, the applicant is a student at New York University. He has listed his assets as \$1,000 in cash and \$1,500 in personal effects. The applicant stated that until May 1948 his educational living expenses were paid for by the Chinese Government. He stated that now the Department of State, from funds apportioned to ECA, assists him financially as part of the ECA program. The applicant is in good health. He has received more than an average education. Upon the basis of his background, his use, and his manifested above-average intelligence, it may properly be concluded that the applicant will not become a charge upon the United States.

The applicant has presented a statement from the consular general of the Republic of China. That officer declares that, to the best of his knowledge, the applicant is a law-abiding citizen of China and a person of good moral character. Reports from the police departments of New York City and Providence, R. I., in whose jurisdictions the applicant has resided since arriving in the United States, are negative. The record also contains a negative report from the Identification Division of the Federal Bureau of Investigation. He has presented three affidavits executed by citizens of the United States wherein the affiants state that in their opinion the applicant is of good moral character. A report of an independent character investigation conducted by an officer of this Service is favorable. There is nothing in the record to indicate that the applicant is in any way disloyal to the United States. The applicable statute requires that an alien seeking adjustment of his status establish that he had conducted himself as a person of good moral character for the preceding 5 years. This applicant has resided in the United States for a little more than 3 years. All of the documents which he has submitted speak in terms of the period of residence in the United States. The applicant's record reveals that when he arrived in the United States he was in possession of a passport issued by the Chinese Ministry of Foreign Affairs at Nanking, China. An officer of the Chinese Embassy has informed this Service that the Ministry of Foreign Affairs will not issue a passport unless the applicant for such a document presents a statement as to his character from a reliable business concern in China, or, if that is impossible, from an individual who is considered by the Ministry to be a reliable person. The officer further stated that the Ministry of Foreign Affairs makes its own independent examination of appropriate police records in China. In view of the unsettled conditions in China we shall accept the fact of the issuance of a passport to this applicant giving consideration to the circumstances surrounding the issuance of such a document as attestation of the applicant's good character in China, in lieu of a document relating to

his character. For these reasons, then, it will be found that the applicant has satisfied the requirements in the statute relative to good moral character.

A report of a medical examination conducted in the applicant's case reveals that he is not excludable from the United States either on mental or physical grounds.

Upon an examination of the entire record in this case it is concluded that if the applicant were at this time petitioning for admission to the United States for permanent residence, and if he were in possession of the necessary documents, he would be admissible to the United States under the existing immigration laws.

Order: It is ordered that the alien's application for adjustment of his immigration status under the provisions of section 4 of the Displaced Persons Act of 1948, as amended, be granted.

It is further ordered that if Congress approves the granting of the status of permanent residence to this alien, a record of permanent residence be created as of the date of the alien's last entry, and the alien be charged to the quota of Chinese persons.

A. C. DEVANEY,
Assistant Commissioner, Adjudications Division.

H. TYGOMLAVIA (Case A-598248)

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
November 20, 1950.

File A-598248—Buffalo, N. Y. (NY-5175). (No appeal.) DP-1942.
In re: J— G— G—

PROCEEDINGS UNDER SECTION 4 OF THE DISPLACED PERSONS ACT OF 1948, AS AMENDED

In behalf of applicant: No one.

Applicant: Adjustment of immigration status.

Statement of facts: The record relates to a 32-year-old male alien, a native of Austria-Hungary and a citizen of Yugoslavia. The applicant last arrived in the United States on March 14, 1949, at the port of New York, N. Y. He was admitted to the United States in transit under the provisions of section 4 (b) of the Immigration Act of 1948. The applicant entered the United States for the purpose of passing through this country in transit to Argentina. The applicant, an ordained priest of the Roman Catholic Church, stated that he was on his way to Argentina when he entered the United States, because he discovered it was possible for him to engage in his vocation under the direction of a bishop in Argentina. He testified that he fully intended to depart from the United States in accordance with the terms of his admission upon the completion of his entry. The applicant stated that when he entered the United States he was without sufficient funds to pass through this country and to travel to Argentina. However, he testified that when he arrived, although he was without funds, he intended to depart and the matter of lack of funds was not a bar to his complying with the terms of his admission, for he expected friends whom he had in the United States to furnish him with sufficient money with which to continue his journey. While securing these funds he became aware of the "new" displaced persons bill and was informed that it might be possible for him to remain in the United States under the terms of that act.

We believe the applicant's testimony with respect to his intentions regarding his proposed departure from the United States reveals that he was a bona fide traveler at the time of his entry. His entry into the United States conformed with the published governmental action upon the Displaced Persons Act of 1948. His motive, after arrival in the United States, to attempt to remain in the United States, does not render his entry into the United States unlawful. Accordingly, it will be concluded that the applicant at the time of his entry into the United States was a bona fide nonimmigrant admitted in transit. He has not departed from the United States.

Country of last residence: The applicant testified that at the time of his birth, his birthplace was part of Austria-Hungary, and that in 1919 his place of birth was ceded to Yugoslavia. Therefore, with respect to the applicant's country of birth and nationality Yugoslavia will be the only country to be considered. Prior to the applicant's arrival in the United States, he resided in Italy. He was in