82D CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
No. 1365

REVISING THE LAWS RELATING TO IMMIGRATION, NATURALIZATION, AND NATIONALITY

FEBRUARY 14, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

[To accompany H. R. 5678]

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

The amendments are as follows:

1. Page 2, Table of Contents, amend the title of section 212, as follows: After the word "aliens" strike out the remainder of the title and add the following "ineligible to receive visas and excluded from admission."

2. Page 5, line 7 of paragraph (9), after the words "Panama Canal", add the word "Zone".

3. Page 8, line 7 of paragraph (15) (H), change the word "campable" to "capable".

4. Page 19, beginning on line 4 of paragraph (4), strike out "; and" after the word "parent" and substitute a period and strike out all of paragraph (5) and insert in lieu thereof the following:

(5) other than as specified in paragraphs (1), (2), and (3) of this subsection, or as defined in paragraphs (27) (A), (27) (B), (27) (D), (27) (E), (27) (F), and (27) (G) of section 101 (a), any alien who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle defined in subsection (b) of this section, shall be chargeable to a quota as specified in that subsection: *Provided*, That the spouse and child of an alien defined in section 101 (a) (27) (C), if accompanying or following to join him, shall be classified under section 101 (a) (27) (C), notwithstanding the provisions of subsection (b) of this section.

5. Page 23, in the title of section 204, substitute "IMMIGRANT" for "IMMIGRATION".

6. Page 34, line 6 of subsection (c), substitute "(25)" for "(24)".

7. Page 34, paragraph (3) of subsection (d), line 6, after the words "recommendation by", add "the Secretary of State or by".

8. Page 36, line 2 of paragraph (8), after the word "servants," insert "personal".

9. Page 42, section 222 (a), beginning on line 3 and ending on line 8, delete the language beginning with "Such application shall be filed" through and including "as may be designated by regulation".

10. Page 43, line 1 of subsection (b), strike out "Every alien making application for a visa as an immigrant" and substitute in lieu thereof "Every alien applying for an immigrant visa".

11. Page 43, lines 1 and 2 of subsection (c), strike out "Every alien applying for a visa and for alien registration as a nonimmigrant" and substitute in lieu thereof "Every alien applying for a nonimmigrant visa and for alien registration".

12. Page 51, line 7 of subsection (c), strike out the word "accompany", and insert in lieu thereof the word "accompanying".

13. Page 59, paragraph 8, line 1, after the words "Attorney General, has", strike out the word "heretofore".

14. Page 59, paragraph 8, lines 2 and 3, after the words "entry become", strike out ", or hereafter and at any time after entry shall be or shall have been,"

15. Page 70, strike out all of paragraph (3) and insert in lieu thereof the following:

(3) is deportable under paragraph (2) of section 241 (a) as a person who has remained longer in the United States than the period for which he was admitted, or under paragraph (9) of section 241 (a) as a person who was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 248, or to comply with the conditions of such status, or under any law of the United States for an act committed or status acquired subsequent to such entry into the United States and is not within the provisions of paragraph (4) or (5) of this subsection; was possessed of all of the requisite documents at the time of such entry into the United States; has been physically present in the United States for a continuous period of not less than five years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation and proves that during all of such period he has been and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hard-ship to the alien or to his spouse, parent, or child who is a citizen or an alien lawfully admitted for permanent residence; or

16. Pages 70 and 71, strike out all of paragraph (5) and insert in lieu thereof the following:

(5) is deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), or (16) of section 241 (a) or under the Act of May 10, 1920, as amended, for an act committed or status acquired subsequent to such entry into the United States; has been physically present in the United States for a continuous period of not less than ten years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hard-ship to the alien's spouse, parent, or child, who is a citizen or an alien lawfully admitted for permanent residence.

17. Page 73, strike out section 246 (a) and substitute in lieu thereof the following:

SEC. 246 (a). If, at any time within five years after the status of a person has been adjusted under the provisions of section 241 of this Act or under Section

19 (c) of the Immigration Act of February 5, 1917, to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall submit to the Congress a complete and detailed statement of the facts and pertinent provisions of law in the case. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution withdrawing suspension of deportation, the person shall thereupon be subject to all provisions of this Act to the same extent as if the adjustment of status had not been made. If, at any time within five years after the status of a person has been adjusted under the provisions of section 245 or 249 of this Act to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall rescind the action taken granting an adjustment of status to such person and cancelling deportation in the case of such person if that occurred and the person shall thereupon be subject to all provisions of this Act to the same extent as if the adjustment of status had not been made.

18. Page 89, strike out section 274 and insert in lieu thereof the following:

SEC. 274 (a) Any person, including the owner, operator, pilot, master, commanding officer, agent, or consignee of any means of transportation who brings into or lands in the United States by any means of transportation or otherwise, or attempts, by himself or through another, to bring into or land in the United States, by any means of transportation or otherwise, any alien, including an alien crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or to reside within the United States under the terms of this Act or any other law relating to the immigration or expulsion of aliens, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $2,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs.

(b) Any person, including the owner, operator, pilot, master, commanding officer, agent, or consignee of any means of transportation who—

(1) knowing or having reasonable cause to believe that he is in the United States in violation of law, transports or moves, or attempts to transport or move, within the United States by means of transportation or otherwise, in furtherance of such violation of law; or

(2) wilfully or knowingly conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, in any place, including any building or any means of transportation; or

(3) encourages or induces, or attempts to encourage or induce, either directly or indirectly, the entry into the United States of any alien, including an alien crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or to reside within the United States under the terms of this Act or any other law relating to the immigration or expulsion of aliens, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000 or by imprisonment for a term not exceeding one year, or both, for each alien in respect to whom any violation of this subsection occurs.

(c) No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers of the United States whose duty it is to enforce criminal laws.

19. Page 93, the last line of section 284, strike out "specificaly" and substitute the word "specifically".

20. Page 95, strike out paragraph (3) and insert in lieu thereof the following:

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle; and

21. Page 96, strike out subsection (d) and insert in lieu thereof the following:

(d) When the Attorney General or any officer, designated either individually or as one of a class by the Attorney General for that purpose, has information indicating a reasonable cause to believe that in any designated lands or other property aliens are illegally within the United States, he shall issue his warrant authorizing the immigration officer named therein to go upon or within such designated lands or other property, other than a dwelling, in which the warrant states there may be aliens illegally within the United States, for the purpose of interrogating such aliens concerning their right to enter or to be or remain in the United States. Such warrant shall state therein the time of day or night for its use and the period of its validity which in no case shall be construed as affecting any authority granted in the preceding paragraphs of this section.

22. Page 97, line 4 of section 291, after the words "that he is", insert the following "eligible to receive such visa or such document, or is".

23. Page 100, lines 5 and 6 of subsection (b) of section 303, strike out the words "Panama Railroad Company" and insert in lieu thereof the words "Panama Canal Company".

24. Page 102, line 3 of subsection (c) of section 307, substitute "1953" for "1952".

25. Page 107, line 4 of section 315 (a), substitute "relieved" for "relieve".

26. Page 110, line 11 of section 318, after the word "Service.", strike out the remainder of the section.

27. Page 112, line 2 of paragraph (3), after the words "separation of the parents", insert "or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation".

28. Page 122, line 2 of subsection (c), substitute the word "to" for "in".

29. Page 142, in the title of section 349, substitute the word "NATURALIZED" for "NATIONALIZED".

30. Page 143, line 9, substitute "twenty-fifth" for "twenty-third".

31. Page 144, paragraph (b), line 4, substitute "state" for "State".

32. Page 144, paragraph (b), line 5, substitute "state" for "State".

33. Page 148, paragraph (1) line 2 of section 354, after the words "World War II,", insert "or the Korean conflict,".

34. Page 153, add the following sentence at the end of subsection (i):

The Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives may assign members of the staff of the said committees to serve on the staff of the Committee, without additional compensation, except for the reimbursement of expenses incurred by such staff members as prescribed in this subsection.

35. Page 153, add a new subsection "(k)" to read:

(k) This section shall take effect on the date of the enactment of this Act.

36. On page 157, at the end of subsection (h) (2) add the following:

The second proviso to subsection (c) of Sec. 3 of the Act of June 25, 1948, as amended (62 Stat. 1009, 64 Stat. 219), is further amended by deleting the language "and before January 1, 1949" and by deleting the language "outside Italy or the American sector, the British sector, or the French sector of either Berlin or Vienna, or the American zone, the British zone, or the French zone of either Germany or Austria:"

37. On page 159, line 4 of subsection (k), change "243" to "242" and "244" to "243".

38. Page 159, section 403 (a) (5), change "1898" to "1893".

39. Page 158, last line of the page, after the words "held in Italy", strike out the word "on" and insert in lieu thereof the word "between".

40. Page 158, last line of the page, after the date "June 2, 1946," strike out the words "or on" and insert in lieu thereof the word "and".

41. Page 159, line 1, after the date "April 18, 1948," insert the word "inclusive,".

42. Page 162, strike out section 407 and substitute in lieu thereof the following:

SEC. 407. Except as provided in subsection (k) of Sec. 401, this Act shall take effect at 12:01 ante meridian United States Eastern Standard Time on the one hundred eightieth day immediately following the date of its enactment.

PURPOSE OF THE BILL

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

AMENDMENTS

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

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

HISTORICAL BACKGROUND

A. IMMIGRATION

1. Power of Congress

The power of Congress to control immigration stems from the sovereign authority of the United States as a nation and from the constitutional power of Congress to regulate commerce with foreign nations.[1] Every sovereign nation has power, inherent in sovereignty and essential to self-preservation, to forbid entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe.[2] Congress may exclude aliens altogether or prescribe terms and conditions upon which they may come into or remain in this country.[3]

The power and authority of the United States, as an attribute of sovereignty, either to prohibit or regulate immigration of aliens are plenary and Congress may choose such agencies as it pleases to carry out whatever policy or rule of exclusion it may adopt, and, so long as such agencies do not transcend limits of authority or abuse discretion reposed in them, their judgment is not open to challenge or review by courts.[4]

It has been settled by repeated decision, that Congress has power to exclude any and all aliens from the United States, to prescribe the terms and conditions on which they may come in or on which they remain after having been admitted, to establish the regulations for

[1] *Chae Chan Ping* v. *United States*, 130 U. S. 581 (1889); *Edye* v. *Robertson, Collector*, 112 U. S. 580 (1884).
[2] *Nishimura Ekiu* v. *United States*, 142 U. S. 651, 659 (1892).
[3] *Fok Young Yo* v. *United States*, 185 U. S. 296 (1902).
[4] *Kaoru Yamataya* v. *Fisher*, 189 U. S. 86 (1903).

deporting such aliens as have entered in violation of law or who are here in violation of law, and to commit the enforcing of such laws and regulations to executive officers.[5]

It has been repeatedly held that the right to exclude or to expel all aliens or any class of aliens, absolutely or upon certain conditions, in war or in peace, is an inherent and inalienable right of every sovereign and independent nation, essential to its safety, its independence, and its welfare; that this power to exclude and to expel aliens, being a power affecting international relations, is vested in the political departments of the Government, and is to be regulated by treaty or by act of Congress and to be executed by the executive authority according to the regulations so established, except so far as the judicial department has been authorized by treaty or by statute, or is required by the paramount law of the Constitution to intervene.[6]

The United States may exclude any alien for any reason whatsoever, such as the Government's dislike of the alien's political or social ideas, or because he belongs to groups which are likely to become public charges, or for other similar reasons.[7]

The expulsion of aliens is a sovereign power necessary to the safety of the country, to be regulated by the legislative department.[8]

The right of Congress to provide for elimination of undesirable aliens is not limited by the fact that such aliens may have become entangled by other prohibitions of law, and deportation proceedings are entirely apart from criminal proceedings and must proceed according to laws regulating them.[9]

Although an alien who had acquired residence in this country was entitled to the same protection of life, liberty, and property as a citizen, he acquired no vested right to remain and the Government has power to deport him if, in the judgment of Congress, public interests so required, and such power is not dependent upon the existence of statutory conditions as to his right to remain at the time he became a resident.[10] An alien resident in the United States may be deported for any reason which Congress has determined will make his residence here inimical to the best interests of our Government.[11]

2. Colonial policy

The sovereign authority to control immigration has its roots in colonial policy. Before the Revolution, the control of immigration and naturalization was a function of the sovereign authority which governed the individual colonies. The Declaration of Independence refers to immigration and naturalization problems then existing. In the list of indictments against the King of Great Britain for his "injuries and usurpations" in the government of the Colonies, item 7 charges that

> he has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

The Articles of Confederation were adopted in 1778. Article 4 made the citizens of each State citizens of every other State, but every State legally controlled immigration, which in those days was practically equivalent to encouragement. Communities welcomed increases in population because it increased safety of life and property. Owners of large grants of land wanted their holdings occupied to increase their value and local governments often provided land free or at low prices to those who would settle and work it.

However, the colonists had hardly set foot in America when they sought to prevent the admission of certain types of additional immigrants. Policies varied among the Colonies with respect to selection of immigrants on the basis of religious beliefs, and their physical, mental, moral, and economic fitness.

3. Early Federal legislation

The unsettled conditions of life of the young Nation, and foreign attempts to take advantage of its difficulties and weakness lead to sporadic outbursts of antialien sentiments. The Federalists, hoping to establish themselves in power and disorganize the opposition which had a readier support at the polls from the foreign-born, pushed through the first enactment of Congress affecting immigration. This was the Alien Act of 1798,[12] adopted as part of the alien and sedition laws, which enabled the President to order the departure from the United States of any alien whom he deemed dangerous to the country. This legislation proved very unpopular, however, and it was not renewed at the expiration of its 2-year term.[13] In fact, immigration flowed into this country untrammeled and unrestricted by legislation until 1819, although John Quincy Adams, then Secretary of State, said in that year—"the Government has never officially encouraged immigration from Europe." Nevertheless, the law passed by the Congress in 1819 actually tended to encourage immigration chiefly by improving transportation conditions on vessels.[14] This was the beginning of the so-called "steerage legislation," which lasted from 1819 to 1908. The immediate causes were the reports of sufferings and privations to which immigrants had been subjected on board ship during the years following the War of 1812, especially during 1817 and 1818. In presenting the bill which resulted in the first of these laws to the House, Representative Newton, of Virginia, said (as reported in the digest of his remarks, 3 Annals of Congress, p 414):

> In consequence of the anxiety to emigrate from Europe to this country, the captains, sure of a freight, were careless of taking the necessary quantity of provisions or of restricting the number of passengers to the convenience which their ships afforded. * * * In the year 1817, 5,000 had sailed for this country from Antwerp, of whom 1,000 died on the voyage. In one instance, a captain had sailed from a European port with 1,267 passengers. On his voyage he put into the Texel, previous to doing which 400 had died. After being on the passage to our shores, before the vessel arrived at Philadelphia, 300 more had died. The remainder, when the vessel reached Newcastle, were in a very emaciated state from the want of water and food, from which many of them afterward died.

Representative Newton stated that the purpose of the bill was "to give to those who go and come in passenger vessels a security of comfort and convenience."

The bill contained provisions intended to regulate the number of passengers to be carried on each vessel and to provide for the sufficient and proper victualing of each vessel leaving a port in the United States

[5] *In re Kosopud et al.*, 272 F. 330 (1920).
[6] *Colyer v. Skeffington*, 265 F. 17 (1920).
[7] *United States v. Parson*, 22 F. Supp. 149 (1938).
[8] *United States ex rel. Zapp et al. v. District Director of Immigration and Naturalization*, 120 F. 2d 762 (1941)
[9] Id.
[10] *United States v. Sui Jay*, 240 F. 392 (1917).
[11] *Skeffington v. Katzeff*, 277 F. 129 (1922).

[12] 1 Stat. 570.
[13] This law must not be confused with the Alien Enemy Act of 1798, which is still in effect.
[14] 3 Stat. 488.

for any port on the Continent of Europe. Each ship was limited to carry only two passengers to every 5 tons "of such ship or vessel's weight," but the ship's crew was not included in this count. Every ship or vessel leaving an American port was required to have on board for each passenger 60 gallons of water, 1 gallon of vinegar, 100 pounds of salted provisions, and 100 pounds of "wholesome ship bread." The master of a ship was required to deliver to the collector of customs at the port of arrival a list or manifest of all passengers taken on board at a foreign port, showing the age, sex, and occupation of the passengers, the country to which they belonged, and the country of which they intended to become inhabitants. This marked the beginning of statistics on immigration to the United States.

From 1819 until 1835, no particular attention was paid to immigration, the plan of the Government evidently being neither to encourage it by special inducements nor to discourage it by legislation. The only departure from this rule was occasionally to furnish assistance to immigrants who, having arrived here with a view of forming settlements, had special need of assistance to carry their plans into effect. An example is the act of June 30, 1834,[15] which granted 36 sections of land in Illinois and Michigan to Polish exiles, providing they inhabited, cultivated, and paid the minimum price per acre for it. In this particular case, the Senate wanted to give them the land outright, but the House objected, claiming that it would be a discrimination against natives.

During all of this time the several States controlled immigration according to their own desires until about 1824, when the constitutionality of a New York law was tested. In 1849, the Supreme Court ruled unconstitutional statutes of New York and Massachusetts imposing taxes on incoming aliens.[16] Beginning in 1829, court decisions began to indicate the unsatisfactory status of immigration control, and in 1875, the first Federal law was passed regulating immigration.

4. Immigration reflected in political movements and legislative enactments

The thirties of the nineteenth century witnessed increased immigration to the United States from Ireland; with it the fire of racial and religious intolerance was rekindled. It was at that time that the Native American movement, followed by the Know-Nothing Party and the American Protective Association was born. A large percentage of immigration during that period was Catholic and catholicism was in disfavor at the time. Anticatholicism was the moving element in the antialien agitation. In several States, legislation against Catholics had been enacted. The Carolinas had a law preventing a Catholic from holding office, and New Hampshire had a similar provision in her constitution.

The first actual anti-Catholic outbreak occurred in 1834, when the Ursuline Convent at Charlestown near Boston was burned. This hostility next took the form of a political movement, and in 1835, there was a Nativist candidate for Congress in New York City. In 1837, Nativist societies were formed in Germantown, Pa., and Washington, D. C.; and in Louisiana in 1839, where 2 years later a State convention was held at which the party was established as the

[15] 4 Stat. 733.
[16] *Passenger cases—Smith v. Turner; Norris v. The City of Boston*, 48 U. S. 283 (1849).

American Republican Party. By 1845, the movement claimed 110,000 members, mostly in New York, Pennsylvania, and Massachusetts and had 6 representatives in Congress from New York and 2 from Pennsylvania.

The first national convention of Native Americans was held in Philadelphia in 1845, where 141 delegates adopted a national platform. The chief demands of the convention were a repeal of the naturalization laws and the appointment of only native Americans to office.

While these societies were stronger in local than in national politics and were organized chiefly to aid in controlling local affairs, their representatives in Congress attempted to make nativism a national question. As a result of their efforts, the Senate in 1836 agreed to a resolution directing the Secretary of State to collect certain information respecting the immigration of paupers and criminals.

In 1838 the House of Representatives agreed to a resolution which provided that the House Committee on the Judiciary consider the expediency and propriety of providing by law against the introduction into the United States of vagabonds and paupers deported from foreign countries. This resulted in the first congressional investigation of any question bearing on immigration. The committee reported to Congress and recommended immediate legislative action, not only by Congress, but also by many of the States, so that alleged evils could be remedied and impending calamities averted. No legislation was, however, enacted, and during the next 10 years, little attempt was made to secure legislation dealing with aliens.

In a message to Congress in 1841, President Tyler referred to immigration, in part, as follows:

> We hold out to the people of other countries an invitation to come and settle among us as members of our rapidly growing family; and for the blessings which we offer them, we require of them to look upon our country as their country, and unite with us in the great task of preserving our institutions and thereby perpetuating our liberties.

As a consequence of the sudden and great increase of immigration from Europe between 1848 and 1850, the old dread of the foreigner was revived and the Native Americans again became active. This movement, like the earlier one, was closely associated with the anti-Catholic sentiment. The new organization assumed the form of a secret society. It was organized about 1850 in New York City and increased in membership in 1852 by drawing largely from the old established Order of United Americans. Its meetings were secret, its endorsements were never made openly, and even its name and purpose were said to be known only to those who reached the highest degree. Consequently, the rank and file, when questioned about their party, were obliged to answer, "I don't know." They came, therefore, to be called the Know Nothings.

By 1854 much of the organization's secret character had been discarded. Its name, Order of the Star Spangled Banner, and its meeting places were known, and it openly endorsed candidates for office and nominated candidates of its own. By 1855 it had become quite successful in local and State politics. It is recorded that governors of seven of the States were Know Nothings.

Encouraged by its success in local affairs, the party began to make plans for the Presidential election. It held a national council in Philadelphia in 1855 and adopted a platform which called for a change

in existing naturalization laws, the repeal of several State laws which allowed aliens to vote, as well as repeal by Congress of all acts making grants of land to unnaturalized foreigners and allowing them to vote in the Territories.

The following year, a national convention of the party was held in Philadelphia, where 27 States were represented by 227 delegates. The principles of the platform adopted were that Americans must rule America and to this end native-born citizens should be selected for all State, Federal, and municipal government offices and given employment in preference to all others. When a motion was made to nominate a candidate for President, nearly all of the delegates from New England, Ohio, Pennsylvania, Illinois, and Iowa withdrew. The withdrawing minority wanted an antislavery plank. Those remaining nominated Millard Fillmore who was also nominated by the Whig Party the following September. The Whigs did not, however, adopt the platform of the Know Nothings, but rather referred to its "peculiar doctrines." At the following election, Mr. Fillmore carried only one State.

The Know Nothing strength in Congress was greatest in the Thirty-fourth Congress (1855-57). Being a minority, however, the party had little influence on national legislation. It has been said that the Know Nothings disappeared without having accomplished anything against immigration, adopted citizens, or Catholics. As a matter of fact, there had been some national legislation favorable to aliens passed during the period of their agitation. In 1847,[17] 1848,[18] and 1855,[19] the Passenger Act of 1819[20] was amended further to protect immigrants from dangers incident to travel of that day. The Native Americans and Know Nothings were opposed to the amendments.[21]

In 1863 the Coolie Act,[22] prohibiting Americans from carrying on trade in coolies between China and the West Indies, and the Homestead Act,[23] making aliens who had filed their declarations of intentions to become naturalized, eligible for homesteads, were passed.

The principal immigration legislation of the period following the Know Nothing movement was the law of 1864.[24] This was the first time the Federal Government attempted to encourage immigration by direct legislation, although the States had frequently done so. It provided principally for the enforcement of contracts in which immigrants pledged the wages of their labor to repay expenses of emigration. In recommending the bill, the House committee said the vast number of laboring men, estimated at nearly 1.25 million, who had left their peaceful pursuits and gone forth in defense of the Government, had created a vacuum which was becoming seriously felt in every portion of the country.

Following enactment of this law, there were several companies established to deal in immigrant contract labor. The act was, however, repealed the same year by a clause in the Consular and Diplomatic Act.[25]

[17] 9 Stat. 127, 149.
[18] 9 Stat. 220.
[19] 10 Stat. 715.
[20] 3 Stat. 488.
[21] U. S. Immigration Commission, Report, 1911.
[22] 12 Stat. 340.
[23] 12 Stat. 392.
[24] 13 Stat. 385.
[25] 15 Stat. 56.

During the period between 1820 and 1880, more than 10,000,000 immigrants arrived in this country. From time to time, especially during periods of economic depression, there were movements to put some control on the enormous influx of immigrants. Some of the States passed local laws regulating the admission of aliens. The Supreme Court of the United States consistently held, however, that such laws were invalid as unconstitutional attempts to regulate foreign commerce.

The Supreme Court of the United States was consistently of the opinion that powers to regulate the immigration of persons are vested exclusively in the Congress, by clause 3, section 8, of article 1 of the Constitution, providing that—

> Congress shall have power * * * To regulate commerce with foreign nations, and among the several States, and with Indian tribes.

The Supreme Court of the United States has also invoked clause 1 of section 9 of article 1 of the Constitution which provides that—

> The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

5. First restrictions

The first restrictive legislation to be passed by Congress thereafter was the act of March 3, 1875,[26] which provided for inquiry by consular officers as to contracts of immigrants from China or Japan for service for lewd or immoral purposes; penalties for citizens of the United States transporting subjects of China or Japan without free consent for a term of service and made contracts for such service void; and penalties for contracting to supply coolie labor. The immigration of convicts and of women for purposes of prostitution was forbidden. The act required the inspection of vessels under the direction of the collector of the port and the issuance of a certificate of inspection, which specified whether or not any persons whose entry was forbidden were aboard.

The fight to control immigration continued. An act was passed in 1882[27] to exclude paupers and criminals. It also provided for a duty of 50 cents to be levied on each alien passenger who arrived on boats sailing from foreign ports to the United States. The duty was to be paid to the collector of the port and deposited into the Treasury to the credit of the "immigration fund," which was to be used to defray the expenses of examination of passengers on arrival for the purpose of excluding any convict, lunatic, idiot, or any person unable to take care of himself without becoming a public charge. Expense of return of any such person was to be borne by the owners of the vessels.

a. Chinese exclusion laws.—Although political relations of the United States with China date back to 1844, the first treaty in which the emigration of the inhabitants from one country to another was considered was the Burlingame Treaty, proclaimed July 28, 1868. The pact recognized the inherent and inalienable right of man to change his home and allegiance, as well as the mutual advantage to both countries of the free migration and emigration of their citizens

[26] 18 Stat. 477.
[27] 22 Stat. 214.

and subjects for the purposes of curiosity, trade, or becoming permanent residents. Any other than an entirely "voluntary emigration" was prohibited.

Because of the tremendous influx of Chinese immigrants (200,000 from 1850 to 1880) following the discovery of gold in California, Congress, in 1882, enacted the first of the Chinese Exclusion Acts.[28] The act executed certain stipulations of a treaty with China dated November 17, 1880, and provided for suspension of immigration of Chinese laborers to the United States for a period of 10 years. However, Chinese laborers who were in the United States on November 17, 1880, were given the privilege of departure and reentry into the country. Chinese found not to be lawfully entitled to be or remain in the United States were ordered deported. The act also barred Chinese from being admitted to citizenship.

In 1884, Congress passed another act affecting the Chinese. The act of May 16, 1882, was amended by extending the suspension of immigration of Chinese laborers an additional 10-year period, and extended the application of the law to all subjects of China and Chinese, whether subjects of China or of any other foreign power.

On March 12, 1888, another act was passed affecting Chinese, executing certain stipulations of a later treaty with China (dated March 12, 1888). This act prohibited any Chinese, whether a subject of China or of any other power, from entering the United States. Chinese officials, teachers, students, merchants, and travelers for pleasure or curiosity were exempted. Reentry of Chinese laborers who had left the United States was, with minor exceptions, prohibited. Chinese or persons of Chinese descent found unlawfully in the United States or its Territories were to be deported to the country from whence they came. The acts of 1882 and 1884 were repealed effective upon the ratification of the pending treaty. Legislation of October 1, 1888,[29] took away from Chinese laborers the right of reentry to the United States, unless they had reentered prior to the effective date of the act.

The Chinese exclusion law was extended again in 1892 [30] and 1902,[31] and in 1904 [32] it was extended without limitation.

On December 17, 1943, all the Chinese exclusion laws were repealed and the Chinese made eligible for immigration and naturalization. A quota for Chinese persons, which is now 105, was established,[33] in addition to an existing quota of 100 for non-Chinese persons born in China and eligible for naturalization.

b. Contract labor law.—The next restrictive immigration measure was the alien contract labor law,[34] which became effective February 26, 1885, and was aimed at the practice of certain employers importing cheap labor from abroad. This importation practice began in 1869. Advertisements were printed offering inducements to immigrants to proceed to this country, particularly to the coal fields, for employment. Many advertisements asserted that several hundred men were needed in places where there were actually no vacancies. The object was to

[28] 22 Stat. 58.
[29] 25 Stat. 501.
[30] 27 Stat. 25.
[31] 32 Stat. 176.
[32] 33 Stat. 394, 428.
[33] 57 Stat. 600.
[34] 23 Stat. 332.

oversupply the demand for labor so that the domestic laborers would be forced to work at reduced wages.

These abuses came to the attention of Congress about 1884. The House Committee on Labor found that the evils complained of by labor organizations existed to an alarming extent.

The alien contract labor law made it unlawful to import aliens or assist in importation or migration of aliens into the United States, its Territories, or the District of Columbia under contract, made previous to the importation or migration, for the performance of labor or service of any kind in the United States. The law made such contracts void and provided certain penalties. Exception was made of foreigners temporarily residing in the United States, skilled workmen for any new industry not established in the United States and artists, lecturers, and servants. The act was amended in 1887 [35] by charging the Secretary of the Treasury with the duty of execution of the law and by providing changes in the procedure for enforcement, and again in 1888 [36] to provide for return of immigrants illegally landed and to provide for allowances to informers of violation of immigration laws.

c. Qualitative exclusions.—In 1891, an act was passed [37] which added to the list of excludables idiots, insane persons, paupers or persons likely to become public charges, persons suffering from a loathsome or dangerous contagious disease, felons, persons convicted of other infamous crimes or misdemeanors involving moral turpitude, polygamists, aliens assisted by others by payment for passage, and contract laborers who had been embraced by the act of February 26, 1885.[38] Persons convicted of political offenses were excepted from the provisions excluding criminals. Transportation companies were prohibited from soliciting immigration. The act provided penalties for persons aiding in the landing or bringing into the United States of illegal aliens. It created the office of Superintendent of Immigration and provided for inspection of immigrants on arrival, medical examination, and return of unlawful immigrants.

The law of 1891 followed the heavy flow of immigration during the eighties which resulted in a general sentiment throughout the country that something should be done to check immigrants from coming in such numbers.

6. *Congressional investigations*

On July 12, 1888, the House of Representatives passed a resolution authorizing the appointment of a select committee to investigate the immigration situation. The committee, known as the Ford committee, reported that there were thousands of alien paupers, insane persons, and idiots landing in this country annually who became a burden upon the States, and that many of them were assisted in emigration by the officials of the country from whence they came. The committee also reported that the laws of 1882 excluding convicts had been and was being repeatedly violated to such an extent that remedial legislation was imperative.

On December 12, 1889, a standing Committee on Immigration was established in the Senate, and on December 20 a Select Committee on

[35] 24 Stat. 414.
[36] 25 Stat. 566.
[37] 26 Stat. 1084.
[38] 23 Stat. 332.

Immigration and Naturalization was established in the House of Representatives.

In March 1890, the House concurred in a resolution authorizing an investigation of the laws on immigration. The committee which made the investigation filed reports showing that large numbers of aliens were being landed every year in violation of the act of 1882, that the contract-labor law was found to be generally evaded, that agents were sent to Europe to arouse interest in America by circulating glowing descriptions of wages paid here, that steamship companies had large numbers of agents soliciting passengers in Europe, and that immigration through Canada was a problem since 50,000 Europeans had gained entrance to the United States by this route. The committee presented a bill which became the act of 1891.[37]

The industrial depression following shortly after the passage of this act brought renewed efforts to restrict immigration. Both the Republican and Democratic Parties adopted planks favoring further restriction of immigration in their 1892 conventions.

In 1892 the Congress again created a joint committee to investigate the immigration laws. Bills embodying the recommendations of the committee were introduced and, although the Senate bill was passed without debate, the House took no action.

The Senate thereupon passed a resolution authorizing another investigation, the result of which was reported to the next session with two accompanying bills, one of which proposed the first educational test as a means of restriction. The investigation resulted in passage of the act of 1893,[38] which required manifests on incoming passengers and more detailed checking procedure on inspection and on bonds.

Less than 5 weeks after the approval of the act of 1893, the Senate passed another resolution providing for an investigation into the condition and character of alien immigrants coming into the United States to supply labor to the mines of the country and an inquiry as to whether the laws against the admission of laborers under contract were effectually enforced. No legislation resulted from this investigation.

The volume of immigration remained consistently high. From 1875 to 1903 immigration totaled 11,383,731 persons.

7. Additional restrictions

On March 3, 1903, another act, designed primarily to codify existing law, was passed.[39] It also contained some restrictive provisions, providing for an increase in head tax to $2 on all passengers upon arrival at United States ports who were not citizens of the United States, Canada, Cuba, or Mexico and adding to the excludable classes epileptics; persons who had been insane within 5 years prior to application for admission; persons who had had two or more attacks of insanity; professional beggars; anarchists; persons who believed in or advocated the overthrow, by force and violence, of our Government, or of all government or forms of law, or the assassination of public officials; and prostitutes and procurers. Advertising to encourage immigration of alien labor was prohibited. The act further provided for inspection by immigration officers on shipboard; deportation, within

[37] 26 Stat. 1084.
[38] 27 Stat. 569.
[39] 32 Stat. 1213.

2 years after arrival, of ineligible aliens, and return of illegally entered aliens in 3 years. It also contained lengthy provisions for administration and enforcement.

Immigration continued to grow rapidly in the early part of the twentieth century. In 1905 alone, over 1,026,000 aliens were admitted to the United States. Demands for restrictive and selective legislation were increased. The increase in Japanese immigration aroused resentment and exclusion bills were introduced in Congress. These bills led to vigorous protests from Japan and strenuous opposition from President Theodore Roosevelt, who recommended the passage of an act providing for naturalization of the Japanese.

The Immigration Act of 1907 followed, authorizing the President to enter into international agreements to regulate immigration.[42] Pursuant to this act, the President, Theodore Roosevelt, concluded with Japan a "gentlemen's agreement" in 1907 which limited the volume of admissions of Japanese laborers.

The Immigration Act of 1907 also increased the head tax on passengers to $4 and added to the excludables imbeciles, feeble-minded persons, persons with physical or mental defects which may affect their ability to earn a living, persons afflicted with tuberculosis, children unaccompanied by their parents, persons who admitted commission of a crime involving moral turpitude, and women coming to the United States for immoral purposes. The act also created a Joint Commission on Immigration to make full inquiry, examination, and investigation into immigration. The Commission's reports, published in 1911, paved the way for the Immigration Act of 1917 which, with amendments, is still in force.

On March 26, 1910, an act was passed amending the 1907 law to provide wider latitude for the exclusion of idiots, insane persons, criminals, polygamists, anarchists, prostitutes, contract laborers, immigrants assisted by others to come to this country, and unaccompanied children under 16 years of age.[43]

On June 25, 1910, an act, known as the White Slave Traffic Act, was passed for the suppression of such traffic in interstate and foreign transportations.[44] The act designated the Commissioner General of Immigration as the authority of the United States to receive and centralize information concerning the procuration of alien women and girls with a view to their debauchery.

8. The Immigration Act of 1917

During World War I opposition to free immigration gained momentum. There was particular hostility to immigration from the south and east of Europe, which had been progressively increasing, on the ground that this influx of new immigrants consisted of illiterates and racially unassimilables who would lower American standards.

Congress, on February 5, 1917, passed the basic existing immigration act,[45] which codified all previously enacted provisions excluding aliens; repealed all inconsistent prior acts and added to the inadmissible classes aliens who are illiterate, persons of constitutional psychopathic inferiority, men, as well as women, entering for immoral purposes,

[42] 34 Stat. 898.
[43] 36 Stat. 263.
[44] 36 Stat. 825.
[45] 39 Stat. 874.

chronic alcoholics, stowaways, vagrants, and persons who had a previous attack of insanity.

One of the most controversial provisions of the 1917 act was the exclusion of aliens over 16 years of age who are unable to read. It raised a storm of protest and the debates in Congress centered on the literacy provision, a subject which had been a controversial question for a number of years.

Since 1896 there had been several bills introduced requiring a literacy test. President Cleveland and President Taft each vetoed one bill and President Wilson vetoed two such bills. However, the strong feeling for restriction led to passage of the final bill over President Wilson's second veto.

a. Racial exclusions.—Another part of the 1917 act laid down further restrictions by declaring inadmissible natives of parts of China, all of India, Burma, Siam, the Malay States, a part of Russia, part of Arabia, part of Afghanistan, most of the Polynesian Islands, and the East Indian Islands. The act defined a geographical section called the barred zone, dessribed by degrees of latitude and longitude. Exempted by a box cut out of the area were natives of Persia, and natives of part of Afghanistan and of part of Russia. The purpose of the "barred zone" provision was primarily to exclude Hindus and make exclusion of Asiatics more complete. The act also made radical changes in requiring the deportation within a limited time after entry of an extensive class of cases and in requiring deportation without time limitation in certain more serious cases.

b. Emergency measures.—There were two acts passed in 1918 as war measures. The act of May 22, 1918,[16] authorized the President to control the departure from and entry into the United States, in time of war or national emergency, of any persons whose presence was deemed contrary to public safety. The act of October 16, 1918,[17] related to the exclusion and expulsion of anarchists and other radical aliens.

On May 10, 1920,[18] an act was passed for deportation of alien enemies and aliens convicted of violation or conspiracy to violate various enumerated war acts. The act provided that deportations be made upon warrant of the Secretary of Labor, in accordance with the Immigration Act of 1917. At that time, the Immigration and Naturalization Service was under the jurisdiction of the Secretary of Labor. On June 5, 1920,[19] the act of 1917 was amended to provide for admission of some illiterates on request of citizens having served in the Armed Forces during World War I.

The quota law of 1921

Immediately after World War I, the Sixty-fifth Congress, third session (December 1, 1918, to March 4, 1919), gave considerable attention to the question of immigration restrictions. Many bills were introduced and several hearings were held. A bill was reported favorably out of the House Committee on Immigration and Naturalization to prohibit immigration for 4 years. The bill was not debated and died of enactment.

[16] 40 Stat. 559.
[17] 8 U. S. C. 137.
[18] 41 Stat. 593.
[19] 41 Stat. 981.

During the Sixty-sixth Congress (May 19, 1919, to June 5, 1920), a number of bills to prohibit immigration for various periods were introduced. The House passed one (H. R. 14461) to prohibit immigration for 2 years. Blood relatives of citizens were exempted.

The Senate Committee on Immigration, after extensive hearings, substituted a bill (S. 4627) which restricted immigration to 3 percent of the foreign-born population in the United States in 1910. The House and Senate finally accepted that bill, with some amendments, by overwhelming votes of 62 to 2 in the Senate and 295 to 41 in the House. On February 26, 1921, it went to President Wilson, who killed it by pocket veto.

Reports of congressional committees during the years 1918 to 1924 show a succession of conditions very similar to the conditions facing the Congress during the present postwar period.

There were many thousands of victims of the ravages of war in Europe. There were poverty, distress, hunger, and disease everywhere, as well as disturbances and confusions among the populations of the new governments created within the territory of the old nations. It was estimated that between 2,000,000 and 8,000,000 persons in Germany alone wanted to come to the United States. A congressional committee confirmed a published statement of a commissioner of the Hebrew Sheltering and Aid Society of America that—

> If there were in existence a ship that could hold 3,000,000 human beings, the 3,000,000 Jews of Poland would board it to escape to America.

Fraudulent passports were being issued and fraudulent entry documents were sold. Even fraudulent steamship tickets were sold to the desperate population of many countries in Europe.

The United States was faced with the problems of unemployment and housing. Labor had left the farms during the war for industrial centers and had not returned, and an estimated shortage of 4,000,000 farm laborers existed.

The House Committee on Immigration and Naturalization pointed out that immigrants from Europe to this country were not going to the farms. Only 2.8 percent of the immigration in 1920 purported to be "farmer." Past experience had shown that the immigrants inevitably flocked to centers where their compatriots had already congregated. Furthermore, the American farmers did not want this immigration. At a national congress of farmers in Ohio in November 1920, a resolution was unanimously adopted stating that the organization was unalterably opposed to the proposed diversion and distribution of aliens over the farming districts until immigration was rigidly restricted.

According to the House committee, the economic aspects of immigration alone called for the passage of restrictive legislation. It was also said that to allow great portions of the discontented to enter our country would cause discontent here and that it also would not aid in the reconstruction of Europe.

The House Committee on Immigration and Naturalization, in its report on the bill that later became the quota law of 1921, reported:

> There is a limit to our power of assimilation. A speaking and reading knowledge of English is the key to assimilation. The processes of assimilation and amalgamation are slow and difficult. With the populations of the broken parts of Europe headed this way in ever-increasing numbers why not peremptorily

check the stream with this temporary measure, and in the meantime try the unique and novel experiment of enforcing all of the immigration laws on our statutes?

There was opposition to the quota law of 1921 and the House committee minority stated its views in the report. The minority minimized claims made by the majority with regard to housing, disease, unemployment, and business conditions and claimed that most of the immigration at the time was made up of persons coming to join relatives who had preceded them.

The Sixty-seventh Congress passed the first quota law, which was approved on May 19, 1921,[50] limiting the number of any nationality entering the United States to 3 percent of foreign-born persons of that nationality who lived here in 1910. Under this law, approximately 350,000 aliens were permitted to enter each year, mostly from northern and western Europe. The law was to expire by limitation on June 30, 1922, but it was extended for 2 years by the act of May 11, 1922.[51]

During the time this law was in effect, the move to curtail immigration was gaining momentum and consideration was given to legislation to be put into effect upon its expiration.

According to the House committee's report of February 9, 1924:

> There is an immediate and urgent need for enactment of immigration legislation. This need arises by reason of the fact that the act of May 19, 1921, as amended and extended by the act of May 11, 1922, popularly known as the 3-percent law, expires June 30, 1924.
>
> The committee is advised that the number of aliens desiring to enter the United States is very large. It is reasonable to assume that, despite unfavorable exchange rates, high steamship tariffs, and other untoward factors, an immigration of between 1,500,000 and 2,000,000 would have entered the United States during each of the past 2 years if the 3-percent law had not barred the way.
>
> If the 3-percent law is permitted to expire, and if no other legislation is enacted, the movement to our shores of the largest migration of peoples in the history of the world may be expected to begin on July 1, 1924. The exclusion clauses of the act of February 5, 1917, will be powerless to [illegible] the tide.
>
> Such a situation should not be permitted to occur. The country demands a restriction of immigration. The public demand is not only for restriction but for more rigid and more effective restriction than that imposed at present under the temporary 3-percent law.

The minority filed a report submitted by Representative Sabath, of Illinois, containing a condemnation of the bill as reported, particularly that part which took the foreign-born residents of 1890 as a basis for the quota, rather than the later census of 1910 or the census of 1920. The minority report contained the following statement:

> It is curious to note that, taking the census of 1890 as a basis, Germany would be comparatively in the most favorable position, and Belgium, Bohemia (Czechoslovakia), Yugoslavia, Poland, and Russia, with whom we were allied during the late conflict, in the most unfavorable.
>
> The obvious purpose of this discrimination is the adoption of an unfounded anthropological theory that the nations which are favored are the progeny of fictitious and hitherto unsuspected Nordic ancestors, while those discriminated against are not classified as belonging to that mythical ancestral stock. No scientific evidence worthy of consideration was introduced to substantiate this pseudoscientific proposition. It is pure fiction and the creation of a journalistic imagination. * * *
>
> The majority report insinuates that some of those who have come from foreign countries are nonassimilable or slow of assimilation. No facts are offered in support of such a statement. The preponderance of testimony adduced before

[50] 42 Stat. 5.
[51] 42 Stat. 540.

> the committee is to the contrary. What is meant by assimilation is difficult of definition.

10. The quota law of 1924

The House Committee on Immigration and Naturalization favorably reported a bill (H. R. 6540) and recommended its passage on February 9, 1924. Secretary of State Hughes transmitted to the committee a letter making suggestions, chiefly with respect to provisions for the protection of treaties affecting immigration and particularly with reference to agreements with Japan. This letter was followed by an exchange of correspondence between the Secretary of State and the committee, resulting in so many changes that a new bill was introduced (H. R. 7995), which, with amendments, became law on May 26, 1924.[52]

a. Japanese exclusions.—The background of the issues presented by the Secretary of State was as follows:

The Immigration Act of 1907 enabled the President to refuse immigration to certain persons when he was satisfied that such immigration was detrimental to labor conditions here. This act was a result of the growing alarm, particularly on the Pacific coast and in States adjacent to Canada and Mexico, that labor conditions would be seriously affected by a continuation of the then existing rate of increase in admission of Japanese laborers.

The Japanese Government opposed the emigration to the continental United States of its subjects, but it had been found that passports entitling them to go to Hawaii, Mexico, or Canada were being used to gain entry into the United States.

On the basis of the 1907 law, the President on March 14, 1907, issued a proclamation excluding from the continental United States "Japanese or Korean laborers, skilled or unskilled, who had received passports to go to Mexico, Canada, or Hawaii and come therefrom."

The House committee reported that a "gentlemen's agreement" with Japan existed in the form of a series of correspondence in 1907 and 1908. It was believed that the only published departmental statement on the agreement was in the annual report of the Commissioner General of Immigration for 1908:

> Department circular No. 147, dated March 20, 1907, which has been continued in force as rule 21 of the immigration regulations of July 1, 1907, outlined the policy and procedure to be followed by the immigration officials in giving effect to the law and proclamation.
>
> In order that the best results might follow from an enforcement of the regulations, an understanding was reached with Japan that the existing policy of discouraging emigration of its subjects of the laboring classes to continental United States should be continued, and should, by cooperation of the Governments, be made as effective as possible. This understanding contemplates that the Japanese Government shall issue passports to continental United States only to such of its laborers as are * * * "former residents," "parents, wives, or children of residents" and "settled agriculturists."

The "agreement" was somewhat strengthened later by the Ambassador of Japan who attached to the 1911 commercial treaty with Japan the following note:

> In proceeding this day to the signature to the treaty of commerce and navigation between Japan and the United States the undersigned, Japanese Ambassador in Washington, duly authorized by his Government, * * * are fully prepared to maintain with equal effectiveness the limitation and control which they have

[52] 43 Stat. 153.

for the past 3 years exercised in regulation of the emigration of laborers to the United States.

The committee felt justified in offering a provision that persons ineligible to citizenship, including the Japanese, shall not be admitted as "immigrants."

Considerable opposition was expressed by Japan but no other nation affected thereby made any protest. The Secretary of State objected that it was in conflict with the "gentlemen's agreement" and with the treaty of 1911. The committee felt that the modifications of the law making exception to those coming solely for trade purposes was satisfactory so far as conflict with the "gentlemen's agreement" was concerned. The committee said it was handicapped in reaching a conclusion because of lack of information on the exact provisions of the agreement since the correspondence between Japan and the United States had not been made public or made available to the committee.

The committee reported that it was a curious fact that the Department of Labor, having charge of immigration, "is not in possession of the 'gentlemen's agreement' and never has been supplied with the same."

The committee pointed out that the "gentlemen's agreement" was made with the real intent of restricting Japanese immigration. Japan was to prevent the coming of her people to the continental United States so that the Japanese population here would not increase. President Roosevelt had explained that an increase of Japanese in this country, with their advantages in economic competition and general unassimilability, would be certain to lead to racial strife and possible trouble between the United States and Japan.

The committee stated, however, that the purposes of the agreement had not been accomplished but that the Japanese population of the continental United States had materially increased during the operation of the agreement, partly by direct immigration, partly by birth, and doubtless also by surreptitious entry.

Information received by the committee showed that thousands of Japanese women came into the United States as laborers and had performed the double duty of field laborers and mothers of families which averaged five children. Thousands more leaving Japan with passports for South America had worked their way through Mexico and the Imperial Valley in California.

The United States had acquired more Japanese than any other English-speaking country in the world during the life of the "gentlemen's agreement" and the committee concluded that a continuation of this increase would be contrary to the interests of both nations.

It was suggested that Japan should be placed under quota rule, since the census of 1890 would reduce Japanese immigration to a minimum. Although it was believed that this solution would be acceptable to Japan, the committee objected vigorously to this plan, because it would at once place Japan's nationals in the United States in conflict with our naturalization laws and would discriminate in favor of the Japanese as against all other Asiatic races ineligible to citizenship.

The committee stated that in considering this feature of the bill (exclusion of aliens ineligible for citizenship) and Japan's protests, it should be borne in mind that, while we seek only to protect our

citizens in this matter against the influx of unassimilable aliens ineligible to citizenship and are not discriminating against Japan in the matter, Japan herself, in the exercise of similarly wise protection for her own people, excluded the Chinese and Koreans and thereby discriminated against people of her own color in both cases, and against the people of one of her provinces in one case.[53]

The committee reported that it would appear from these facts that the United States has been grossly lax in permitting the increase in her territory of an unassimilable population ineligible for citizenship and that she has deferred too long the adoption of remedial measures. Accordingly, the section excluding citizens ineligible for citizenship (with certain exceptions) was retained in the bill.

b. The "national origin" system.—In addition to the exclusion of those ineligible to citizenship, the bill established the requirement for immigration visas issued by American consuls abroad, changed the quota basis from 1910 to 1890, reduced the quotas from 3 to 2 percent, provided for the establishment of permanent quotas on the basis of national origin, and placed the burden of proof on the alien with regard to his admissibility and the legality of his residence in the United States. It also preserved the Immigration Act of 1917, which was primarily an act setting forth grounds for exclusion.

There was considerable objection to basing the quotas on the 1890 census, which had the effect of reducing immigration from southern and eastern Europe from 44.6 to 15.3 percent of the total. Secretary of State Hughes stated that this would be likely to offend Italy, Rumania, and other countries which considered the legislation "as an unjust discrimination, de facto if not de jure, enacted to the detriment of a friendly nation."

In the hearings preceding the debates in Congress, feeling had rather well crystallized that immigration should be restricted by some sort of quota system. The arguments were centered around the census year upon which a quota should be based. Those who wished to restrict immigration from southern and eastern Europe favored taking the census of 1890, since most immigration from southern and eastern Europe came in after that date. Those favoring immigration from southern and eastern Europe wanted the 1920 census as a basis, so that the quotas would reflect the increased numbers of foreign-born from that area. It should be kept in mind that all during the hearings on immigration bills—during the winter and early spring of 1923–24—the quota system then under discussion contemplated basing the quotas on a percentage of foreign-born in the United States on a given date, say, 1890, 1910, or 1920.

The House Committee on Immigration and Naturalization, in reporting the decision by the committee to limit admission of "quota immigrants" to 2 percent based on census of 1890, instead of 3 percent based on the census of 1910, stated that it was necessary to the

[53] It might be pointed out that the problem of Japanese immigration was also faced by the British Empire. Great Britain many years earlier had made a treaty with her ally, Japan, whereby the nationals of Japan were to have favored consideration for residence and citizenship in all the dominions of the Empire, but with the proviso that any dominion could reject this arrangement by notice before the treaty became effective. South Africa, Australia, and New Zealand promptly gave the necessary notice and provided by various methods for absolute exclusion of Japanese immigration, an action which Japan has never protested. Canada failed to take similar action but later sought to remedy the omission by a "gentlemen's agreement" with Japan, limiting yearly admissions from Japan to 400. This agreement did not work satisfactorily and the Dominion Parliament in May 1922, requested the Government to take immediate action to exclude further oriental immigration.

successful future of our Nation to preserve the basic strain of our population (report to accompany H. R. 7995, 68th Cong., pp. 13-14):

> Since it is the axiom of political science that a government not imposed by external force is the visible expression of the ideals, standards, and social viewpoint of the people over which it rules, it is obvious that a change in the character or composition of the population must inevitably result in the evolution of a form of government consonant with the base upon which it rests. If, therefore, the principles of individual liberty, guarded by a constitutional government created on this continent nearly a century and a half ago, is to endure, the basic strain of our population must be maintained and our economic standards preserved.
>
> With the full recognition of the material progress which we owe to the races from southern and eastern Europe, we are conscious that the continued arrival of great numbers tends to upset our balance of population, to depress our standard of living, and to unduly charge our institutions for the care of the socially inadequate.
>
> If immigration from southern and eastern Europe may enter the United States on a basis of substantial equality with that admitted from the older sources of supply, it is clear that if any appreciable number of immigrants are to be allowed to land upon our shores the balance of racial preponderance must in time pass to those elements of the population who reproduce more rapidly on a lower standard of living than those possessing other ideals.
>
> We owe impartial justice to all those who have established themselves in our midst. They are entitled to share in our prosperity. The contribution of their genius to the advancement of our national welfare is recognized. On the other hand, the American people do not concede the right of any foreign group in the United States, or government abroad, to demand a participation in our possessions, tangible or intangible, or to dictate the character of our legislation.
>
> How can we frame a restrictive immigration law to meet these conditions?
>
> The adoption of the 1890 census will accomplish an equitable apportionment between the emigration originating in northwestern Europe and in southern and eastern Europe, respectively. This principle has been embodied in the bill presented by your committee. Late arrivals are in all fairness not entitled to special privilege over those who have arrived at an earlier date and thereby contributed more to the advancement of the Nation.

The issue was carried to the floor of Congress. The national origin system was first proposed by Representative John Jacob Rogers, of Massachusetts, on April 11, 1924, as an amendment to the immigration bill then under consideration by the House.[54] The system was to be based not on the number of foreign-born residents in the country but on the "national origins" of the people comprising the entire United States population in a given year. The year proposed was 1920 and this date was retained when the national origins system was finally enacted into the act of May 26, 1924. However, the proposal was voted down several times in the House of Representatives without a record vote and the bill passed that body without the "national origins" provision. It was inserted in the Senate and retained in conference.

The Senate and the House agreed to the conference report. The bill, as amended, became law on May 26, 1924.

With respect to the national origin system the effective date was, however, extended on two occasions by joint resolutions of Congress, first to July 1, 1928,[55] and then to July 1, 1929.[56] The act provided that during any fiscal year thereafter, the quota of any nationality shall be a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920, having that national origin, bears to the number of inhabitants in continental

[54] Congressional Record (68th Cong., 1st sess.), pp. 6110-6111.
[55] 44 Stat. 1455.
[56] 45 Stat. 400.

United States in 1920, but that the minimum quota of any nationality shall be 100.

The 1924 act had been hailed as the most far-reaching change that occurred in America during the course of that quarter century, in that it arrested the tendency toward a change in the fundamental composition of the American stock. It has been denounced as radically biased, statistically incorrect, and a clumsy instrument of selection which bars individuals by discrimination against nations instead of considering personal qualifications of immigrants. It is said to overlook the innate differences of individuals among members of a group and to confuse racial traits and cultural attainments by identifying both physical and mental developments with country of birth.

On behalf of the law, it is said that the national origin basis for immigration gives every national group as many immigrants to this country as that national origin group has contributed as of 1920 to the population of the United States, and that it is founded, not on a foreign-born basis or on a native-born basis, but on all-American basis as far as the countries of the Old World are concerned.[57]

11. Recent legislation

The Alien Registration Act[58] was passed in 1940 to combat sedition and subversion. It provided for the registration and fingerprinting of all aliens and amended the act of 1917 by prescribing additional deportable classes, including aliens convicted of smuggling and those assisting in illegal entry of other aliens. The act further amended the 1917 law by providing for voluntary departure in lieu of deportation and for suspension of deportation in certain cases.

In 1943, the Chinese Exclusion Act was repealed.[59] In 1946, Filipinos[60] and persons belonging to races native of India[61] were granted the privilege of admission to the United States and were declared eligible for naturalization.

Immigration increased after World War II. The first big movement was that of war brides, who were granted special entry permission by Congress in an act passed in 1945.[62] Nearly 96,000 wives, husbands, and minor children of service personnel entered the United States during the fiscal years 1946, 1947, and 1948.[63]

Following this was the GI Fiancées Act of 1946[64] which was extended to December 31, 1948. Under this act there have been over 5,000 alien fiancés and fiancées admitted through June 30, 1948.[65]

On June 25, 1948, the Displaced Persons Act[66] was enacted under which 205,000 displaced persons were permitted to come to the United States over a period of 2 years in addition to over 27,000 expellees of German ethnic origin, both groups to be charged against future immigration quotas. This act also made provision for the adjustment of the immigration status of up to 15,000 displaced persons already admitted to the United States on a nonpermanent basis.

[57] Report No. 1515, U. S. Senate (81st Cong., 2d sess.).
[58] 54 Stat. 670.
[59] 57 Stat. 600.
[60] 60 Stat. 1353.
[61] 60 Stat. 416.
[62] 59 Stat. 659.
[63] Report No. 1515, U. S. Senate (81st Cong., 2d sess.).
[64] 60 Stat. 339.
[65] Report No. 1515, U. S. Senate (81st Cong., 2d sess.).
[66] 62 Stat. 1009.

Under the act of June 16, 1950,[67] the Displaced Persons Act of 1948 was amended increasing to 341,000 the number of displaced persons to be admitted and increasing to 54,744 the number of expellees and refugees of German ethnic origin.

Several provisions of the Subversive Activities Control Act of 1950[68] amended numerous sections of various immigration and naturalization laws with a view toward strengthening security screening in cases of aliens in the United States or applying for entry.

B. NATIONALITY AND NATURALIZATION

1. General considerations

Each country determines, by its own law, the persons to be admitted to its citizenship. Since the adoption of the Constitution it has been recognized that citizenship of the United States may be obtained in two ways—by birth within the country and by naturalization.

However, the Constitution, as adopted, contained no definition of citizenship. By implication it recognized a State citizenship in that clause which provides that —

> Citizens of each State shall be entitled to all the privileges and immunities in the several States.[69]

But, the Constitution has also recognized a Federal citizenship in the clauses providing that the President shall be —

> a natural-born citizen, or a citizen of the United States at the time of the adoption of the Constitution;[70]

that Senators and Representatives shall have been 9 and 7 years, respectively, "citizens of the United States";[71] and that Congress shall have the power to pass laws regulating the naturalization of aliens.[72]

The relationship between these two citizenships, State and National, however, the Constitution did not expressly determine. There has never been any question as to the existence under the Constitution of a distinction between State and Federal citizenship. The only dispute has been as to the relation of the two.[73]

Prior to the argument of the Dred Scott case[74] there was surprisingly little discussion of this point. The opinion generally held seems to have been that every citizen of a State was a citizen of the United States.

Story, in his Commentaries,[75] says: "Every citizen of a State is ipso facto a citizen of the United States," and he adds: "And a person who is a naturalized citizen of the United States by a like residence in any State of the Union becomes ipso facto a citizen of that State." In support of this statement Story refers to the case of *Gassies* v. *Ballon*,[76] decided in 1832, where it was held that the allegation that the defendant had been naturalized as an American citizen and was residing in Louisiana was equivalent to an averment that he was a

[67] 64 Stat. 219.
[68] 64 Stat. 987.
[69] Art. 4, sec. 2, clause 1.
[70] Art. 2, sec. 1, clause 4.
[71] Art. 1, sec. 3, clauses 2 and 3.
[72] Art. 1, sec. 7, clause 4.
[73] Westel Woodbury Willoughby, Ph. D., The Constitutional Law of the United States, vol. I, 1910.
[74] *Scott* v. *Sanford*, 60 U. S. 393 (1856).
[75] Joseph Story, LL. D., Commentaries on the Constitution of the United States, vol. III, 1873.
[76] 31 U. S. 761 (1832).

citizen of that State. "A citizen of the United States," the Supreme Court declared, "residing in any State of the Union, is a citizen of that State."

From the foregoing it appears that it was held that there was a reciprocal relationship between Federal and State citizenship. By residence in a State a Federal citizen—native-born or naturalized—became ipso facto a citizen of that State; and a State citizen was ipso facto a Federal citizen.[77]

In 1868 the fourteenth amendment was adopted providing that—

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

According to Willoughby [77] next to granting of both National and State citizenship to the Negro, the main purpose of the fourteenth amendment was the assertion that National citizenship is primary and paramount to State citizenship.

Thirty years after the adoption of the fourteenth amendment, in the case of the *United States* v. *Wong Kim Ark*,[78] the Supreme Court was called upon to determine whether under the terms of the fourteenth amendment persons born in the United States of alien parents are citizens of the United States.

In this case the question was as to the citizenship of a child of Chinese parents who not only were not citizens of the United States, but could not, under the existing laws, become such by naturalization. In sustaining Ark's citizenship the Court held that the fourteenth amendment declaring that—

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States—

is but declaratory of the common-law principle unreservedly accepted in England since Calvin's case (the case of Postnati, decided in 1608) and in the United States since the Declaration of Independence, that all persons, regardless of the nationality of their parents born within the territorial limits of a State are ipso facto citizens of that State. The Court admitted that the principle of the Roman law according to which the citizenship of the child follows that of the parents, irrespective of the place of birth, had been accepted by certain of the European nations, but denied that this principle had become a true and universal rule of international law, or, if it had, that it thereby superseded the rule of the common law.

The Supreme Court's opinion in the Wong Kim Ark case went on to say regarding the phrase of the fourteenth amendment, "subject to the jurisdiction thereof"—

> The real object of the fourteenth amendment of the Constitution in qualifying the words "all persons born in the United States" by the addition, "and subject to the jurisdiction thereof," would appear to have been to exclude by the fewest and fittest words (besides children of members of the Indian tribes, standing in peculiar relation to the National Government, unknown to the common law), the two classes of cases—children born of alien enemies in hostile occupation, and children of diplomatic representatives of a foreign state—both of which as has already been shown by the law of England, and by our own law, from the time of the first settlement of the English colonies in America, have been recognized exceptions to the fundamental rule of citizenship by birth within the country.

[77] Willoughby, op. cit.
[78] 169 U. S. 649 (1898).

The acceptance of the foregoing doctrine, it was held, does not prevent the United States from providing that children born abroad of American citizens shall be considered citizens of the United States.

2. Powers of Congress

Under article I, section 8, clause 4, of the Constitution

> the Congress shall have power * * * To establish an uniform rule of naturalization.

With the exception of a few early cases [79] there has never been any question that the power of naturalization, whatever its scope, is vested exclusively in the Congress. The cases holding this from the time of *Chirac* v. *Chirac*,[80] to *United States* v. *Wong Kim Ark*,[81] are too numerous to cite.

It lies within the legislative discretion of Congress to determine the mode of naturalization, the conditions upon which it will be granted, and the persons and classes of persons to whom the right will be extended; but as the Supreme Court of the United States said in the Wong Kim Ark case, the Congress may not limit the civil and political rights of naturalized citizens beyond the limits provided for in the Constitution.

It has been determined by the Congress that the granting of naturalization is to be a judicial act. Congress has by statute determined the courts which shall exercise the right to naturalize and to such courts the function is exclusively confined.

3. Legislation

The first act providing procedure for naturalization of aliens became law in the First Congress on March 26, 1790.[82] This act provided for naturalization of "any alien, being a free white person" who otherwise met the requirements of the act.

Periodically thereafter the following acts were enacted, each providing for naturalization of alien white persons: Act of January 29, 1795, Third Congress (1 Stat. 414); act of April 14, 1802, Seventh Congress (2 Stat. 153); act of March 26, 1804, Eighth Congress (2 Stat. 292); act of May 26, 1824, Eighteenth Congress (4 Stat. 69); act of May 24, 1829, Twentieth Congress (4 Stat. 310).

The Forty-first Congress enacted the act of July 14, 1870,[83] providing that—

> the naturalization laws are hereby extended to aliens of African nativity and to persons of African descent.

These early laws governing naturalization followed the general pattern of requiring formal declaration of intention, 5 years' residence, good moral character, attachment to the Constitution, and testimony of witnesses. Admission to citizenship was by Federal or designated State court procedure. The naturalization process lacked uniformity, and, by the early 1900's, when immigration was on the increase, frauds were prevalent. A commission was appointed in 1905 to investigate the naturalization process, and as a result the basic Naturalization Act of 1906 was enacted.[84] This act, as amended, continued in force until the codification of all naturalization laws was effected in the National-

[79] *Collet* v. *Collet*, 2 U. S. 294 (1792).
[80] 15 U. S. 259 (1817).
[81] Supra.
[82] 1 Stat. 103.
[83] 16 Stat. 254.
[84] 34 Stat. 596.

ity Act of 1940.[85] The 1940 act combined all substantive and procedural requirements for naturalization. The Nationality Act has been amended since codification in 1940, but the general pattern of the law remains unchanged.

The nationality law, the principal provisions of which are embodied in the Nationality Act of 1940, as amended, (1) defines who are citizens by birth, and who may or who may not become citizens by naturalization; (2) sets out the procedures to be followed to attain such naturalization; and (3) sets out the circumstances and conditions under which citizenship may be lost and regained, either by native-born or by naturalized citizens.

General Information

H. R. 5678 represents the first attempt to bring within one cohesive and comprehensive statute the various laws relating to immigration, naturalization, and nationality.

While the naturalization and nationality laws of the United States have been reexamined more recently (1937 through 1940) our present basic immigration laws consist of two acts enacted in 1917 and 1924, respectively. The act of February 5, 1917, is still regarded as the basic qualitative law and the act of May 26, 1924, as the basic quantitative law. However, a complicated superstructure of amendments, substitutes, and repeals have been added through the years to these two basic statutes. Many obsolete laws, reminiscent of their day, remain on the statute books. Inequities, gaps, loopholes, and lax practices have become apparent through the years.

In the field of our naturalization and nationality laws, very important codification work was done in 1940. However, since then, not less than 31 amendments to the Nationality Act of 1940 have been enacted, some for the purpose of clarification and others designed to meet the spirit and the requirements of the ever-changing times.

Legislation such as this, legislation which will affect the fate of millions of human beings in this country and abroad, has to be approached with foresight and caution. It requires painstaking study, as well as careful weighing of equities, human rights, and continuous consideration of the social, economic, and security interests of the people of the United States.

H. R. 5678 has not been hastily conceived. The bill, as introduced, and as now reported with committee amendments, represents the final product of a most intensive and searching investigation and study of our entire immigration and naturalization system which originated over 3 years ago with the Committee on the Judiciary of the Senate and was subsequently conducted jointly by the Committees on the Judiciary of the House and the Senate.

Basic findings are contained in a voluminous report (S. Rept. 1515, 81st Cong., 2d sess.). Certain parts of that document are being incorporated in the instant report.

Upon the conclusion of the study, the bill S. 3455 was introduced by Senator McCarran in the Eighty-first Congress. It was submitted to further study by experts from the Immigration and Naturalization Service, the Visa Division of the Department of State, the Passport Division of the Department of State, the Committees on the Judiciary

[85] 54 Stat. 1137, 8 U. S. C. 501.

of the House and of the Senate. The Department of Justice prepared a 522-page detailed analysis and comment on the bill and the Department of State set up a special committee within the Department which performed a similar function. In addition, a number of nongovernmental agencies submitted analyses and suggestions.

In the Eighty-second Congress, S. 716 (by Senator McCarran) was introduced in the Senate, and H. R. 2379 (by Mr. Walter) and H. R. 2816 (by Mr. Celler) in the House of Representatives. Hearings on these three measures were held jointly by the Subcommittees on Immigration and Naturalization of the Judiciary Committees of the House and the Senate, beginning on March 6, and terminating on April 9, 1951. Over 50 witnesses were heard and numerous statements were submitted for the record.

Following the joint hearings and in the course of numerous conferences attended by advisers representing unofficially the Departments of State and Justice, two modified versions of the above-mentioned three bills were introduced—S. 2055 by Senator McCarran and H. R. 5678 by Mr. Walter. On January 29, 1952, the bill S. 2550 has been reported in the Senate.

1. Basic changes

In addition to numerous technical and minor substantive changes in the immigration and naturalization laws, the instant bill makes the following basic and significant changes:

1. Eliminates race as a bar to immigration and naturalization (secs. 201, 202, and 311).

2. Eliminates discrimination between sexes (secs. 101 (a) (27) and 203 (a) (3)).

3. Introduces a system of selective immigration by giving a special preference to skilled aliens urgently needed in this country (secs. 101 (a) (15) (H) and 203 (a) (1)).

4. Provides for a more thorough screening of aliens, especially of security risks and subversives (secs. 212, 241, and 313).

5. Broadens the grounds for exclusion and deportation of criminal aliens mostly in accordance with recommendations made by the Senate Special Committee to Investigate Organized Crime in Interstate Commerce (secs. 212, 241).

6. Provides for structural changes in the enforcement agencies for greater efficiency (secs. 103, 104, and 105).

7. Safeguards judicial review and provides for fair administrative practice and procedure (secs. 235, 242, and 360).

2. Elimination of race as bar to immigration and naturalization

One of the significant provisions of H. R. 5678 is the elimination of race as a bar to naturalization and immigration. The removal of racial bars in our immigration and nationality statutes has been a piecemeal proposition and the result is that some races designated by the ethnologists as "yellow" or "brown" remain barred while other people of similar races have been granted eligibility to immigrate and to obtain citizenship. This bill would make all persons, regardless of race, eligible for naturalization, and would set up minimum quotas for aliens now barred for racial reasons. Thus, persons of Japanese, Korean, Indonesian, etc., ancestry could be admitted and naturalized as any other qualified alien. No doubt this will have a favorable effect on our international relations, particularly in the Far East.

American exclusion policy has long been resented there and, in the eyes of qualified observers, was an important factor in the anti-American feeling in Japan prior to the last World War. Minimum quotas of 100 would be set up for the independent far-eastern countries. Persons half of whose ancestry stemmed from such countries would be chargeable, regardless of birthplace, to these minimum quotas. This formula is similar to the one now applicable to immigrants of Chinese and East Indian descent. The oriental spouse and child of an American citizen would be given the same right to nonquota status now held by an American citizen's spouse and child of nonoriental ancestry.

3. Preventing separation of families

H. R. 5678 implements the underlying intention of our immigration laws regarding the preservation of the family unit. An American citizen will have the right to bring his alien spouse (wife or husband) as a nonquota immigrant. Similarly, he will be able to bring his alien minor child as a nonquota immigrant. A uniformly operating preference is provided for alien spouses (wife or husband) of aliens admitted for permanent residence, while the existing law discriminates between men and women in granting such preferential status (sec. 203 (a) (3)).

4. Quota system

H. R. 5678 follows the national origin formula of the Quota Act of 1924 in allocating quotas among the various independent countries of the world.

The following chart sets forth the immigration quotas as they will be proclaimed under H. R. 5678:

Immigration quotas

Area No.	Quota area	Quota	Area No.	Quota area	Quota
1	Afghanistan [1 2]	100	47	Lithuania	384
2	Albania	100	48	Luxemburg	100
3	Andorra	100	49	Monaco	100
4	Arabian Peninsula	100	50	Morocco	100
5	Asia-Pacific triangle [1]	100	51	Muscat (Oman)	100
6	Australia	100	52	Nauru (trust territory, Australia) [2]	100
7	Austria	1,405	53	Nepal [2]	100
8	Belgium	1,297	54	Netherlands	3,136
9	Bhutan [1 2]	100	55	New Guinea (trust territory, Australia) [2]	100
10	Bulgaria	100	56	New Zealand	100
11	Burma [1 2]	100	57	Norway	2,364
12	Cambodia [1 2]	100	58	Pacific Islands (trust territory, United States administered) [2]	100
13	Cameroons (trust territory, United Kingdom)	100	59	Pakistan [1 2]	100
14	Cameroun (trust territory, France)	100	60	Palestine (Arab Palestine)	100
15	Ceylon [1 2]	100	61	Philippines [1 2]	100
16	China [1 2]	100	62	Poland	6,488
17	Chinese [1]	105	63	Portugal	438
18	Czechoslovakia	2,859	64	Ruanda-Urundi (trust territory, Belgium)	100
19	Danzig, Free City of	100	65	Rumania	289
20	Denmark	1,175	66	Samoa, Western (trust territory, New Zealand) [2]	100
21	Egypt	100	67	San Marino	100
22	Estonia	115	68	Saudi Arabia	100
23	Ethiopia	100	69	Somaliland (trust territory, Italy)	100
24	Finland	566	70	South-West Africa (mandate)	100
25	France	3,069	71	Spain	250
26	Germany	25,814	72	Sweden	3,295
27	Great Britain and Northern Ireland	65,361	73	Switzerland	1,698
28	Greece	308	74	Syria	100
29	Hungary	865	75	Tanganyika (trust territory, United Kingdom)	100
30	Iceland	100	76	Thailand (Siam) [1 2]	100
31	India [1 2]	100	77	Togo (trust territory, France)	100
32	Indonesia [1 2]	100	78	Togoland (trust territory, United Kingdom)	100
33	Iran (Persia)	100	79	Trieste, Free Territory of	100
34	Iraq	100	80	Turkey	225
35	Ireland (Eire)	17,756	81	Union of South Africa	100
36	Israel	100	82	U. S. S. R.	2,697
37	Italy	5,645	83	Vietnam [1 2]	100
38	Japan [1]	185	84	Yemen	100
39	Jordan	100	85	Yugoslavia	934
40	Korea [1 2]	100		Total	154,657
41	Laos [1 2]	100			
42	Latvia	235			
43	Lebanon	100			
44	Liberia	100			
45	Libya	100			
46	Liechtenstein	100			

[1] The Asia-Pacific triangle provisions of sec. 202 (b) apply.
[2] The Asia-Pacific triangle minimum quota provisions of sec. 202 (c) apply.
[3] The existing annual quota is 154,277.

5. *Exclusion and deportation*

H. R. 5678 takes advantage of the experiences gained since the enactment of the Subversive Activities Control Act of 1950, and provides for many improvements in the language of that statute.

It appears necessary to point out to clause (I) of section 212 (a) (28) which, in incorporating the provisions of Public Law 14 (82d Cong.), broadens its scope in recognizing both involuntary membership in totalitarian organizations and bona fide defections from the ranks of such groups and organizations. However, this clause contains two conditions which have to be complied with before a former member of a totalitarian organization may be admitted to the United States, namely, such alien has to be "for at least 5 years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology" of such organization, and his admission into the United States must be proved to "be in the public interest."

6. *Adjustment of immigration status*

The various procedures available under the existing laws to aliens illegally or temporarily in the United States who desire to obtain the status of permanent resident have been thoroughly revised and changed. Adjustment of status is being facilitated specifically in the cases of aliens possessing special skills, as well as other preferential (family) categories (sec. 245), in the cases of prospective immigrants deserving of relief without being forced to leave the United States and reenter in a changed status, on the other hand section 244 strengthens similar provisions of existing law in an attempt to discontinue lax practices and discourage abuses.

THE DEPARTMENT OF STATE REPORT

The Department of State reported on the bill as follows:

FEBRUARY 6, 1952.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

MY DEAR MR. CELLER: Further reference is made to your letter of October 18, 1951, the receipt of which was acknowledged on October 22, 1951, regarding the views of the Department of State on H. R. 5678, a bill introduced by Congressman Walter, of Pennsylvania, to revise the laws relating to immigration, naturalization, and nationality, and for other purposes.

The bill H. R. 5678 represents a revision of a previous bill, H. R. 2379, which was also introduced by Congressman Walter, for the same purpose. The revision was made after public hearings were held by a joint committee of the Senate and the House of Representatives. The Senate bill in question was S. 716, introduced by Senator McCarran. It has also been revised and the revision has been incorporated in a new bill, S. 2055, of which H. R. 5678 is a counterpart.

The Department of State submitted a report and officers of the Department testified at the public hearing before the joint committee on the earlier bills. Some of the suggestions of this Department and of its officers have been adopted in the revised bills, and in other instances changes have been made which at least partly conform to the views of this Department.

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

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

Sincerely yours,

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

ANALYSIS OF THE BILL

TITLE I—GENERAL

1. DEFINITIONS (SEC. 101)

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

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

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

Amendment No. 9 (to sec. 222), reflects the committee's cognizance of the unprecedented number of persons who have been uprooted and dislocated during World War II or due to events subsequent thereto. The amendment is designed to alleviate hardship which might be caused by a rigid requirement that visa applications "shall be filed only with the consular officer in whose district the applicant shall have established his residence." It is believed that the Secretary of State will, by regulations, provide for a more flexible requirement regarding the place of filing of visa applications in both nonimmigrant and immigrant cases. Existing regulations could very well serve as pattern for the new rules to be promulgated. Centralized intelligence (see sec. 105) pertinent to security screening of aliens, should, in the committee's opinion, operate in the administration of this amended provision without jeopardizing United States security interest.

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

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

A. Inspection

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

In conjunction with their inspection of aliens, the bill authorizes the immigration officers to board and search vessels, aircraft, railway cars or any other conveyance or vehicle in which they believe aliens are being brought into the United States. The immigration officers are empowered to administer oaths, take evidence and make a record, if necessary, concerning the enforcement of the bill with reference to the privilege of any alien to enter, pass through or reside in the United States. Any person coming to the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain, whether or not he intends to remain permanently, whether, if an alien, he intends to become a citizen, and such other information as will aid the immigration officers in determining whether the person is a national of the United States or an alien, and, if the latter, whether he is subject to exclusion under any of the provisions of the bill. It is not intended by this provision to sanction the indiscriminate questioning or harassment of citizens returning to the United States, but it is to be used by the immigration officers whenever there is reason to believe that a citizen is violating or about to violate the law and is about to become expatriated. Immigration officers are also granted the power to subpena the attendance and testimony of witnesses, and the production of books, papers, and documents in aid of the enforcement of the provisions of the bill. An alien who does not appear, to the examining immigration officer, to be admissible, clearly and beyond a reasonable doubt, shall be detained for further inquiry by a special inquiry officer.

It is specifically provided in section 235 (b) that an inquiry before a special inquiry officer is not required in the case of an alien crewman or a stowaway. Furthermore, in section 235 (c), it is provided that if in an examination before an immigration officer or a special inquiry officer an alien appears to be excludable under paragraph (27), (28), or (29) of section 212 (a) as an alien whose entry would endanger the public safety or security of the United States or as an alien who is a member of one of the subversive classes of excludables, no further inquiry by a special inquiry officer shall be conducted until the case is reported to the Attorney General together with any such written statement and accompanying information as the alien or his representative may desire to submit in connection therewith. In the latter type of case, the Attorney General may direct an inquiry or a further inquiry, as the case may be, or if he is satisfied that the alien is excludable on the basis of information of a confidential nature, the disclosure of which would be prejudicial to the interests of the United States, he may, in his discretion, order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer.

Section 287 of chapter 8 further specifies powers of immigration officers and employees of the Immigration and Naturalization Service. Amendments Nos. 20 and 21 are designed to make a very carefully considered distinction between powers which may be exercised without warrant and such where a warrant will be required.

B. Exclusion and deportation procedures

The exemption of deportation proceedings from certain of the provisions of the Administrative Procedure Act contained in the Supplemental Appropriation Act, 1951 (Public Law 843, 81st Cong.), is

specifically repealed by section 403 (a) (46) of the instant bill. Under sections 101 (b) (4), 236, and 242 (b) special procedures are established for the determination of whether or not an alien is subject to exclusion or deportation, which proceedings are to be conducted before special inquiry officers specially qualified to conduct such proceedings and designated by the Attorney General pursuant to the provisions of the bill. These procedures are made the sole and exclusive ones in such matters.

Exclusion proceedings are to be conducted by one special inquiry officer rather than by a board of three members as at the present. A special inquiry officer is defined in section 101 (b) (4) of the bill as an immigration officer whom the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by the bill to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings and who shall be subject to such supervision and shall perform such duties not inconsistent with the provisions of the bill as the Attorney General shall prescribe. No immigration officer may act as a special inquiry officer in any case in which he has engaged in investigative or prosecuting functions. The special inquiry officer is empowered to determine whether an alien detained for further inquiry shall be excluded and deported or shall be allowed to enter after he has given the alien a hearing. The procedure established in the bill is made the sole and exclusive procedure for determining the admissibility of a person to the United States. The decision of a special hearing officer in an exclusion proceeding must be rendered only upon the evidence produced at the hearing. It is provided that an inquiry before a special inquiry officer shall be kept separate and apart from the public and that the alien may have one friend or relative present under such conditions as the Attorney General may prescribe. The purpose of including this prohibition against public attendance at an inquiry before a special inquiry officer is for the protection of the alien and is intended to avoid disclosures that might be harmful to the alien or bring him into disrepute. Except as provided in section 235 (c), the decision of the Attorney General on appeal shall be rendered solely on the evidence adduced before the special inquiry officer. The decision of a special inquiry officer is made final unless reversed on appeal to the Attorney General.

A right of appeal to the Attorney General is not provided in the cases of aliens temporarily excluded under section 235 (c). The review procedure described under the heading, "Inspection," of this chapter, is in substitution therefor.

Where a medical officer or civil surgeon has certified that an alien is afflicted with a disease specified in section 212 (a) (6) or with any mental disease, defect, or disability, within any of the excludable classes under paragraphs (1), (2), (3), (4), and (5) of section 212 (a), the special inquiry officer under section 236 (d) must base his decision solely upon such certification and there is no right of appeal from an excluding decision.

The bill contains detailed and comprehensive provisions relating to the apprehension and deportation of aliens who are within the deportable classes. Authorization is provided in section 242 (a) for the arrest of an alien under a warrant of the Attorney General and the

taking into custody of the alien pending a determination of deportability. This provision, in general, follows the procedure established by section 23 of the Subversive Activities Control Act of 1950. An alien arrested and taken into custody may, pending the final determination of deportability, be continued in custody, released on bond or released on conditional parole, and the determination of the Attorney General concerning such detention, release on bond or parole shall be subject to judicial review only upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with reasonable dispatch to determine deportability.

The provisions controlling proceedings for the determination of deportability of an alien are contained in section 242 (b). Deportation proceedings are to be conducted by a special inquiry officer, as defined in section 101 (b) (4), who is authorized to administer oaths, to present and receive evidence, and to interrogate, examine, and cross-examine the alien or witnesses. The special inquiry officer is also empowered, as authorized by the Attorney General, to make certain determinations and to issue orders of deportation. The determination of deportability in any case must be made solely upon the record made in the proceeding before such special inquiry officer at which the alien shall have had reasonable opportunity to be present, and if, by reason of the alien's mental incompetency, it is impracticable for him to be present, the Attorney General is directed to prescribe necessary and proper safeguards for the alien's rights and privileges. Regulations promulgated by the Attorney General for the conduct of hearings must provide for adequate notice to the alien of the nature of the charges against him and the time and place of hearing; that the alien shall have the right of being represented (at no expense to the Government) by counsel; that the alien shall be permitted to examine evidence against him and to present evidence on his own behalf and shall have the right of cross-examination of witnesses; and that no decision of a special inquiry officer shall be valid unless based on reasonable, substantial, and probative evidence.

The requirement that the decision of the special inquiry officer shall be based on reasonable, substantial, and probative evidence means that, where the decision rests upon evidence of such a nature that it cannot be said that a reasonable person might not have reached the conclusion which was reached, the case may not be reversed because the judgment of the appellate body differs from that below.

The bill provides that if any alien has been given a reasonable opportunity to be present at his deportation proceeding and without reasonable cause fails or refuses to attend or remain in attendance at the proceeding, the special inquiry officer may proceed to determine the case in like manner as if the alien were present. The committee feels that this provision is of the utmost importance from the standpoint of the best interest of the Government. Special inquiry officers have no authority to punish aliens who fail to appear or remain at deportation hearings, through contempt proceedings or otherwise. Orderly administrative processes have at times been interrupted and subjected to unnecessary delays because aliens, without legitimate cause, refused to attend scheduled hearings or insisted upon leaving at their own pleasure and without other than contumacious reasons. The Government should have authority to proceed to a final decision in the face of such obstructionist tactics.

The bill declares that the prescribed deportation proceedings shall be the sole and exclusive procedure for determining the deportability of any alien, notwithstanding the provisions of any other law. In any case in which an order of deportation is entered under the provisions of the bill, or any other law or treaty, the decision of the Attorney General is final.

It is intended that this provision will apply to any law hereafter passed or any treaties hereafter entered into (including executive agreements), unless such law or treaty, as so construed, explicitly otherwise provides. Since the bill, when enacted into law, in terms would repeal and supersede all previous laws with regard to deportability and necessarily by implication would supersede all existing treaties with regard to deportability, the provision will have only future effect.

Provisions with respect to the granting of the privilege of voluntary departure are incorporated in the bill. Deportation proceedings, including issuance of warrant of arrest and a finding of deportability, in the discretion of the Attorney General, need not be required if an alien in a deportable class voluntarily departs from the United States at his own expense, unless such alien is within the criminal, subversive, narcotic, or immoral classes of deportable aliens. Furthermore, if such an alien is unable to depart voluntarily at his own expense and the Attorney General finds that his removal without the institution of deportation proceedings would be in the best interests of the United States, the expense of his removal may be paid from the appropriation for the enforcement of the bill. The bill also specifies the conditions under which the privilege of voluntary departure may be granted by the Attorney General to an alien after the institution of deportation proceedings.

C. Detention and supervision of aliens ordered deported

The bill brings forward, in substantially the same form, those provisions of section 23 of the Subversive Activities Control Act of 1950 which amended section 20 of the act of February 5, 1917, with respect to the detention and supervision of aliens subsequent to the issuance of a final order of deportation. Those provisions, in brief, provide that after entry of a final order of deportation, the Attorney General shall have a period of 6 months from the date of such order within which to effect the deportation of the alien, during which period the alien may be detained, released on bond or released on such other conditions as the Attorney General may prescribe, and any determination by the Attorney General concerning such detention, release on bond or other release shall be subject to judicial review only upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with reasonable dispatch to effect such alien's departure. If deportation has not been practicable within such period, the alien becomes subject to further supervision under such regulations as may be prescribed by the Attorney General. The regulations governing this subsequent supervision shall require the alien to appear from time to time before an immigration officer for identification; to submit, if necessary, to medical and psychiatric examination; to furnish information with respect to his circumstances, habits, associations, and other activities, and to conform to reasonable restrictions on his conduct and activities. A willful violation of the terms of supervision is made a felony and upon conviction, the alien is subject to a fine of not more than $1,000 or imprisonment for not more than 1 year or both. Any alien who is a member of the criminal, subversive, narcotic, or immoral classes of deportable aliens against whom a final order of deportation is outstanding and who willfully fails to depart from the United States within 6 months from the date of the final order of deportation, shall, upon conviction, be guilty of a felony and shall be imprisoned not more than 10 years. Provision is made for the suspension of the sentence in such cases and the release of the alien under such conditions as the court may prescribe where there is ample justification under standards prescribed in the bill.

D. Place to which alien is to be deported

The bill in section 243 sets forth in some detail the manner in which the Attorney General shall determine the country to which an alien shall be deported. In the first instance, the Attorney General shall deport the alien to a country promptly designated by the alien, unless the Attorney General concludes that deportation to such country would be prejudicial to the interests of the United States, provided that the alien shall be entitled to make only one such designation nor shall he designate any country contiguous to the United States or any adjacent island unless he is a native, citizen, subject, or national thereof. If the alien fails to present to the Attorney General within 3 months following the date of the final order of deportation written permission that such country is willing to accept him, then the alien shall be deported to the country of which he is a subject, national, or citizen if that country is willing to accept him. If none of the foregoing countries is willing to accept the alien, then the Attorney General is authorized to deport the alien to any of several countries without priority or preference on the basis of such factors as the point of embarkation, place of birth, place of last residence, the place which had sovereignty over birthplace or the willingness of any country to accept the alien.

The costs of deportation of an alien are, in some respects, adjusted. If deportation proceedings, other than in the case of alien crewmen, are instituted within 5 years after the entry of the alien, and if it is subsequently found that the cause of deportation existed at the time of entry of the alien, the cost of deportation from the port of entry shall be at the expense of the transportation company unless the alien arrived in possession of a valid unexpired immigrant visa and was inspected and admitted to the United States for permanent residence. In no case are the deportation costs to be assessed against the transportation company if the deportation is made by reason of causes arising subsequent to the entry of the alien. In the case of any alien crewman who is ordered deported within 5 years after the granting of the last conditional permit to land, the deportation from this country shall be borne by the owner of the vessel or aircraft on which he arrived.

The bill continues the provision in existing law to the effect that no alien shall be deported to any country in which the Attorney General finds that he would be subjected to physical persecution.

5. DEPORTABLE CLASSES OF ALIENS (SEC. 241)

Section 241 sets forth the general classes of aliens who are subject to deportation, either for causes arising prior to the entry of the alien or

subsequent to his entry. Under the present law, the more important grounds for deportation are (1) violation of status, or of the terms of conditional entry; (2) entering without inspection or by fraud; (3) excludability at the time of entry because of improper documentation, conviction of a crime involving moral turpitude, membership or affiliation with certain subversive organizations, the advocacy of certain subversive doctrines, and mental, physical, economic, or educational disqualifications; and (4) acts or status after entry, such as becoming a smuggler, a public charge, a criminal, or a subversive.

The principal classes of deportable aliens, as contained in the bill, are as follows:

(1) Aliens who were excludable under the law existing at the time of entry;

(2) Aliens who entered without inspection or who are in the United States in violation of any laws of the United States;

(3) Aliens who, after enactment of the bill and within 5 years of entry, become institutionalized at public expense because of mental disease, defect, or deficiency;

(4) Aliens who, within 5 years of entry, are convicted of a crime involving moral turpitude and sentenced to confinement for a year or more; or who, at any time after entry, are convicted of two such crimes, whether or not confined. Thus, an alien who at any time after entry is convicted of two crimes involving moral turpitude is deportable, regardless of whether confined therefor, whereas under existing law the alien must have been sentenced more than once to a term of a year or more because of such convictions.

Grounds for deportation relating to aliens convicted of certain offenses set forth in the act of June 28, 1940 (54 Stat. 673), as well as the classes defined in the act of May 10, 1920 (41 Stat. 593) are continued in the bill.

(5) Aliens who have not complied with the alien registration or foreign agent registration provisions of the bill or other law;

(6) Aliens who are, or have been members of the subversive classes. It is specified that aliens who were not excludable under the law existing at the time of entry because of past membership in the proscribed subversive classes are not to be deportable solely because of such past membership, nor will aliens be deportable under this provision if at the time of entry the ground for exclusion was waived under section 212 (a) (28) (I);

(7) Aliens who, within 5 years after entry, have become public charges from causes which did not arise subsequent to their entry; (amendments Nos. 13 and 14 reflect the view of the committee that the existing 5-year statute of limitations should be retained);

(8) Nonimmigrant aliens who fail to maintain their status;

(9) Aliens who have been convicted of a narcotic violation or who are narcotic-drug addicts or who hereafter become such addicts after entry;

(10) Aliens who, after entry, become prostitutes or members of other immoral classes. The new grounds for deportation apply to conduct subsequent to entry even though prior to the effective date of the bill.

(11) Aliens who have aided other aliens to enter the United States illegally.

In section 241 (c), it is provided that an alien shall be deported as having procured a visa or other documentation by fraud if, at any time, he obtained entry with an immigrant visa or other documentation procured on the basis of a marriage entered into less than 2 years prior to such entry of the alien, and if within 2 years subsequent to any entry of the alien the marriage is judicially annulled or terminated, unless the Attorney General finds that the marriage was not contracted for the purpose of evading any of the provisions of the bill, or if the Attorney General finds there has been failure or refusal to fulfill a marital agreement which, in the opinion of that official, was entered into for the purpose of procuring entry as an immigrant. This provision is of particular importance in view of the extension of the privilege of nonquota status to a larger group of aliens on the basis of a marriage to a citizen of the United States.

The right of diplomatic sanctuary has been limited in section 241 (e). The bill provides that aliens in the top echelon of the diplomatic or semidiplomatic categories who fail to maintain their status as such shall not be required to depart from the United States without the approval of the Secretary of State, unless their deportation is ordered on the basis of public safety or security.

6. ADJUSTMENT OF STATUS (SECS. 244, 245)

The bill makes significant changes with respect to the discretionary authority to adjust the status of aliens in this country, either from an illegal status to a legal status or from one legal status to another legal status.

The provisions of section 244 substantially revise the existing provisions of section 19 (c) of the act of February 5, 1917, relating to suspension of deportation. The classes of deportable aliens who are eligible for suspension are treated in five categories.

The first category (sec. 244 (a) (1)) provides for the suspension of deportation of a deportable alien other than one defined in section 19 (d) of the Immigration Act of 1917, as amended, if such alien has 7 years' physical presence in the United States and is, and was during such period, a person of good moral character, and if the Attorney General finds that the deportation of the alien would result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child who is a citizen or a lawful permanent resident alien. A cut-off date of 5 years from the effective date of the bill is provided which will have the effect of making ineligible any alien who entered the United States less than 2 years prior to the date of enactment of the bill.

The second category (sec. 244 (a) (2)) provides for the adjustment of status of a deportable alien, except one who is of a criminal, subversive, immoral, or narcotic class or who entered without proper documents, where the grounds for deportation are based on an act committed or a status existing prior to, or at the time of entry, upon a showing of 5 years' continuous physical presence, good moral character for that period, and that deportation would result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child who is a citizen or a lawful permanent resident alien.

The third category of section 244 (a) (3), as amended by the committee (amendment No. 15), provides for the adjustment of status of a deportable alien who overstays his period of admission or fails to

the approval of Public Law No. 111, irrespective of whether he subsequently performed acts which would have operated to expatriate him. It is realized that the legal and moral pressures which were brought to bear upon persons to induce them to vote in the two elections which were national in scope were not exerted in the same degree in connection with the minor elections in Italy, but it is unquestionably true that most of the persons who voted in these elections did so in ignorance of the fact that their action would have a bearing upon their American citizenship.

Sincerely yours,

R. B. SHIPLEY,
Chief, Passport Division.

Section 403 provides for the repeal of 45 laws or parts of laws which will become obsolete when the bill becomes effective. A general provision is included to the effect that all other laws or parts of laws, not specifically kept in force under the saving clause of the bill, which are in conflict or inconsistent with the provisions of the bill, to the extent of such conflict or inconsistency are repealed.

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

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

Section 406 contains the separability clause.

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

RECOMMENDATION

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

CHANGES IN EXISTING LAW

In compliance with clause 2a of rule XIII of the House of Representatives, changes in existing law made by the bill, as amended, are shown in parallel columns (existing law set out in the second column and the law as it is proposed to be amended shown in the first column):

PROPOSED LAW

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, chapters, and sections according to the following table of contents, may be cited as the "Immigration and Nationality Act".

TABLE OF CONTENTS

EXISTING LAW

PROPOSED LAW

EXISTING LAW

PROPOSED LAW

been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States, or (2) if the court sentencing such alien for such crime shall make, at the time of first imposing judgment or passing sentence, or within thirty days thereafter, a recommendation to the Attorney General that such alien not be deported, due notice having been given prior to making such recommendation to representatives of the interested State, the Service, and prosecution authorities, who shall be granted an opportunity to make representations in the matter.

(e) An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 212 (a), and to be in the United States in violation of this Act within the meaning of subsection (a) (2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; or (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant.

(d) Except as otherwise specifically provided in this section, the provisions of this section shall be applicable to all aliens belonging to any of the classes enumerated in subsection (a), notwithstanding (1) that any such alien entered the United States prior to the date of enactment of this Act, or (2) that the facts, by reason of which any such alien belongs to any of the classes enumerated in subsection (a), occurred prior to the date of enactment of this Act.

(e) An alien, admitted as a nonimmigrant under the provisions of either section 101 (a) (15) (A) (i) or 101 (a) (15) (G) (i), and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under subsection (a) (6) or (7) of this section.

EXISTING LAW

(5) Any alien who, at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940.

No alien who is deportable under the provisions of paragraph (3), (4), or (5) of this subsection shall be deported until the termination of his imprisonment or the entry of an order releasing him on probation or parole. (Act of 1917, sec. 19 (b).)

That any alien who at any time after entering the United States is found to have secured either non-quota or preference-quota visa through fraud, by contracting a marriage which, subsequent to entry into the United States, has been judicially annulled retroactively to date of marriage, shall be taken into custody and deported pursuant to the provisions of section 14 of the Immigration Act of 1924 on the ground that at time of entry he was not entitled to admission on the visa presented upon arrival in the United States. This section shall be effective whether entry was made before or after the enactment of this Act.

When it appears that the immigrant fails or refuses to fulfill his promises for a marital agreement made to procure his entry as an immigrant he then becomes immediately subject to deportation. (Act of May 14, 1937; 8 U. S. C. 213a.)

That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: (Act of 1917, sec. 19).

That no alien who has been, or who may hereafter be, admitted into the United States under clause (1) or (7) of section 3 as an official of a foreign government, or as a member of the family of such official, or as a representative of a foreign government in or to an international organization, or an officer or employee of an international organization, or as a member

PROPOSED LAW

APPREHENSION AND DEPORTATION OF ALIENS

SEC. 242. (a) Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (1) be continued in custody; or (2) be released under bond in the amount of not less than $500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (3) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

EXISTING LAW

of the family of such representative, officer, or employee, shall be required to depart from the United States without the approval of the Secretary of State. (Act of 1924, Proviso to sec. 15.)

That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the insular possessions thereof: (Act of 1917, sec. 19 (a)).

That the marriage of an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this Act shall not invest such female with United States citizenship if the marriage of such alien female shall be solemnized after her arrest or after the commission of acts which make her liable to deportation under this Act: (Act of 1917, sec. 19 (a)).

(Section 19 (a), and (b) of the Immigration Act of 1917 provides that certain designated aliens "shall, upon the warrant of the Attorney General, be taken into custody and deported:".)

Pending final determination of the deportability of any alien taken into custody under warrant of the Attorney General, such alien may, in the discretion of the Attorney General (1) be continued in custody; or (2) be released under bond in the amount of not less than $500, with security approved by the Attorney General; or (3) be released on conditional parole. It shall be among the conditions of any such bond, or of the terms of release on parole, that the alien shall be produced, or will produce himself, when required to do so for the purpose of defending himself against the charge or charges under which he was taken into custody and any other charges which subsequently are lodged against him, and for deportation if an order for his deportation has been made. (Sec. 20 (a), act of 1917, as amended by sec. 23 of the Subversive Activities Control Act of 1950.)

PROPOSED LAW

(b) A special inquiry officer shall conduct proceedings under this section to determine the deportability of any alien, and shall administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and, as authorized by the Attorney General, shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before a special inquiry officer, at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the special inquiry officer may proceed to a determination in like manner as if the alien were present. In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer shall be assigned to present the evidence on behalf of the United States and in such case such additional immigration officer shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. Nothing in the preceding sentence shall be construed to diminish the authority conferred upon the special inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer acting under the provisions of this section shall be in accordance with such regulations, not inconsistent with this Act, as the Attorney General shall prescribe. Such regulations shall include requirements that—

(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held;

EXISTING LAW

(See sec. 16 of the Act of 1917, *supra*.)

PROPOSED LAW

(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose;

(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; and

(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

The procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is order deported from the United States under the provisions of this Act, or of any other law or treaty, the decision of the Attorney General shall be final. In the discretion of the Attorney General, and under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 241 if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraph (4), (5), (6), (7), (11), or (12) of section 241 (a). If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

(c) When a final order of deportation under administrative processes is made against any alien, the Attorney General shall have a period of six months from the date of such order, or, if judicial review is had, then from the date of the final order of the court, within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on bond in an amount and containing such conditions as the Attorney General may prescribe, or released on such other con-

EXISTING LAW

In every case where any person is ordered deported from the United States under the provisions of this Act, or of any law or treaty, the decision of the Attorney General shall be final. (Act of 1917, sec. 19 (a).)

When such an order of deportation has been made against any alien, the Attorney General shall have a period of six months from the date of such order within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on conditional parole, or upon bond in an amount and specifying such conditions for surrender of the alien to the Immigration and Naturalization Service as may be determined by the Attorney General. If deportation has

PROPOSED LAW

dition as the Attorney General may prescribe. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or other release during such six-month period upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to effect such alien's departure from the United States within such six-month period. If deportation has not been practicable, advisable, or possible, or departure of the alien from the United States under the order of deportation has not been effected, within such six-month period, the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized in this section. The Attorney General is hereby authorized and directed to arrange for appropriate places of detention for those aliens whom he shall take into custody and detain under this section. Where no Federal buildings are available or buildings adapted or suitably located for the purpose are available for rental, the Attorney General is hereby authorized, notwithstanding section 3709 of the Revised Statutes, as amended (41 U. S. C. 5), or section 322 of the Act of June 30, 1932, as amended (40 U. S. C. 278a), to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the acquisition of land and the erection, acquisition, maintenance, operation, remodeling, or repair of buildings, sheds, and office quarters (including living quarters for officers where none are otherwise available), and adjunct facilities, necessary for the detention of aliens. For the purposes of this section an order of deportation heretofore or hereafter entered against an alien in legal detention or confinement, other than under an immigration process, shall be considered as being made as of the moment he is released from such detention or confinement, and not prior thereto.

(d) Any alien, against whom a final order of deportation as defined in subsection (c) heretofore or hereafter issued has been outstanding for more than six months, shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall include provisions which will require any alien subject to supervision

EXISTING LAW

not been practicable, advisable, or possible, or departure of the alien from the United States has not been effected, within six months from the date of the order of deportation the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized hereinafter in this section. The Attorney General is hereby authorized and directed to arrange for appropriate places of detention for those aliens whom he shall take into custody and detain. (Sec. 20 (a), Act of 1917, as amended by sec. 23 of the Subversive Activities Control Act of 1950.)

Any alien, against whom an order of deportation, heretofore or hereafter issued, has been outstanding for more than six months shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall require any alien subject to supervision (1) to appear from time to time at specified times or intervals before an

PROPOSED LAW

(1) to appear from time to time before an immigration officer for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information, whether or not related to the foregoing, as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to medical or psychiatric examination if required, or knowingly give false information in relation to the requirements of such regulations, or knowingly violate a reasonable restriction imposed upon his conduct or activity, shall upon conviction be guilty of a felony, and shall be fined not more than $1,000 or shall be imprisoned not more than one year, or both.

(e) Any alien against whom a final order of deportation is outstanding by reason of being a member of any of the classes described in paragraphs (4), (5), (6), (7), (11), or (12) of section 241 (a) who shall willfully fail or refuse to depart from the United States within a period of six months from the date of the final order of deportation under administrative processes, or, if judicial review is had, then from the date of the final order of the court, or from the date of the enactment of the Subversive Activities Control Act of 1950, whichever is the later, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of deportation, shall upon conviction be guilty of a felony, and shall be imprisoned not more than ten years: *Provided*, That this subsection shall not make it illegal for any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from in-

EXISTING LAW

officer of the Immigration and Naturalization Service for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information whether or not related to the foregoing as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to medical or psychiatric examination if required, or knowingly gives false information in relation to the requirements of such regulations, or knowingly violates a reasonable restriction imposed upon his conduct or activity, shall upon conviction be guilty of a felony, and shall be fined not more than $1,000 or shall be imprisoned not more than one year, or both. (Sec. 20 (b), act of 1917 as amended by sec. 23 of the Subversive Activities Control Act of 1950.)

Any alien against whom an order of deportation is outstanding under (1) the Act of October 16, 1918, as amended (40 Stat. 1012, 41 Stat. 1008, 54 Stat. 673; 8 U. S. C. 137); (2) the Act of February 9, 1909, as amended (35 Stat. 614, 42 Stat. 596; 21 U. S. C. 171, 174–175); (3) the Act of February 18, 1931, as amended (46 Stat. 1171, 54 Stat. 673; 8 U. S. C. 156a); or (4) so much of section 19 of the Immigration Act of 1917, as amended (39 Stat. 889–890; 54 Stat. 671–673, 56 Stat. 1044; 8 U. S. C. 155) as relates to criminals, prostitutes, procurers or other immoral persons, anarchists, subversives and similar classes, who shall willfully fail or refuse to depart from the United States within a period of six months from the date of such order of deportation, or from the date of the enactment of the Subversive Activities Control Act of 1950, whichever is the later, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of dep[illegible] shall

PROPOSED LAW

carceration or custody: *Provided further*, That the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect of the alien's release upon the national security and public peace or safety; (3) the likelihood of the alien's resuming or following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws.

(f) Should the Attorney General find that any alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation, whether before or after the date of enactment of this Act, on any ground described in any of the paragraphs enumerated in subsection (e), the previous order of deportation shall be deemed to be reinstated from its original date and such alien shall be deported under such previous order at any time subsequent to such reentry. For the purposes of subsection (e) the date on which the finding is made that such reinstatement is appropriate shall be deemed the date of the final order of deportation.

(g) If any alien, subject to supervision or detention under subsections (c) or (d) of this section, is able to depart from the United States under the order of deportation, except that he is financially unable to pay his passage, the Attorney General may in his discretion permit such alien to depart voluntarily, and the expense of such

EXISTING LAW

upon conviction be guilty of a felony, and shall be imprisoned not more than ten years: *Provided*, That this subsection shall not make it illegal for any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from incarceration or custody: *Provided further*, that the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect upon the national security and public peace or safety; (3) the likelihood of the alien's following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws. (Sec. 20 (c), act of 1917, as amended by sec. 23 of the Subversive Activities Control Act of 1950.)

Should any alien subject to the provisions of subsection (c) unlawfully return to the United States after having been released for departure or deported pursuant to this section, the previous warrant of deportation against him shall be considered as reinstated from its original date of issuance. (Sec. 20 (d), act of 1917, as amended by sec. 23 of the Subversive Activities Control Act of 1950.)

If any alien subject to this section is able to depart from the United States, except that he is financially unable to pay his passage, the expense of such passage to the country to which he is destined may be paid from the appropriation for the enforcement of this Act, unless such payment is otherwise provided for under this Act. (Sec. 20

PROPOSED LAW

passage to the country to which he is destined may be paid from the appropriation for the enforcement of this Act, unless such payment is otherwise provided for under this Act.

(h) An alien sentenced to imprisonment shall not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

COUNTRIES TO WHICH ALIENS SHALL BE DEPORTED; COST OF DEPORTATION

SEC. 243. (a) The deportation of an alien in the United States provided for in this Act, or any other Act of Congress or treaty, shall be directed by the Attorney General to a country promptly designated by the alien, if the alien presents to the Attorney General, within three months following the date of the final order of deportation, written permission from the government of such country for the alien to be deported into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of such designated foreign contiguous territory or adjacent island. If the alien fails to present such written permission to the Attorney General within three months following the date of the final order of deportation establishing that the country designated by the alien will accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its

EXISTING LAW

(e), act of 1917, as amended by sec. 23 of the Subversive Activities Control Act of 1950.)

An alien sentenced to imprisonment shall not be deported under any provision of law until after the termination of the imprisonment. For the purposes of this section the imprisonment shall be considered as terminated upon the release of the alien from confinement, whether or not he is subject to rearrest or further confinement, in respect of the same offense. (Act of March 4, 1929, as amended, sec. 3.)

That the deportation of aliens provided for in this Act and all other immigration laws of the United States shall be directed by the Attorney General to the country specified by the alien, if it is willing to accept him into its territory; otherwise such deportation shall be directed by the Attorney General within his discretion and without priority of preference because of their order as herein set forth, either to the country from which such alien last entered the United States; or to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory; or to any country in which he resided prior to entering the country from which he entered the United States; or to the country which had sovereignty over the birthplace of the alien at the time of his birth; or to any country of which such an alien is a subject, national, or citizen; or to the country in which he was born; or to the country in which the place of his birth is situated at the time he is ordered deported; or, if deportation to any of the said foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory. If the United States is at war and the deportation, in accordance with the preceding provisions of this section, of any alien who is deportable under any law of the United States, shall be found by the Attorney General to be impracticable or inconvenient because of enemy occupation of the country whence such alien came or wherein is located the foreign port at which he embarked for the United States or because of other reasons connected with the war, such alien may, at the option of the Attorney General, be deported (1) if such alien is a citizen