

Frances Biddle Papers  
Box 1  
Aliens and immigration

February 19, 1942

Dear Mr. Mann:

I acknowledge your letter enclosing a copy of your letter to the President suggesting that consideration be given to an official announcement that the victims of Nazi and Fascist oppression are not enemy aliens.

I am very much interested in such a matter, which largely, however, seems to me to be a question of policy for the President and the State Department.

With warm personal regards,

Sincerely yours,

Thomas Mann, Esq.

740 Analfi Drive

Pacific Palisades, Calif.

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February 19, 1942

My dear Mr. Welles:

I think you ought to see the enclosed communication from Thomas Mann and his letter with certain other distinguished Italian and German aliens regarding victims of the Nazi oppression.

This cannot be handled from an administrative angle. I cannot conceive how the classifications can be changed, but I think it might be done by some expression from the State Department and the President.

Will you give this your consideration and let me have your reaction.

Sincerely yours,

Honorable Sumner Welles

Under Secretary of State

Washington, D. C.

THOMAS MANN

Pacific Palisades, California  
840 Amalfi Drive

February 13th, 1942

To the Attorney General of the United States  
Honorable Francis Biddle  
Department of Justice  
Washington, D. C.

Dear Mr. Attorney General:

Yesterday, February 12th, I sent the enclosed message to the President of the United States, together with Borgese, Albert Einstein, Bruno Frank, Arturo Toscanini and Bruno Walter. I am anxious, of course, that you, Mr. Attorney General, take cognizance of this step, and I may assume in view of your public utterances and my personal acquaintance with you, that you agree with its content. I do not have to say how grateful the signers would be if your Department would give friendly consideration to their suggestion.

Sincerely yours,

/s/ Thomas Mann

President Franklin D. Roosevelt  
The White House  
Washington, D. C.

Mr. President:

We beg to draw your attention to a large group of natives of Germany and Italy who by present regulations are, erroneously, characterized and treated as "Enemy Aliens".

We are referring to such persons who have fled their country and sought refuge in the United States because of totalitarian persecution, and who, for that very reason, have been deprived of their former citizenship.

Their situation is such as has never existed under any previous circumstances, and it cannot be deemed just to comprise them under the discrediting denomination of Enemy Aliens.

Many of these people, politicians, scientists, artists, writers, have been among the earliest and most farsighted adversaries of the governments against whom the United States are now at war. Many of them have sacrificed their situation and their properties and have risked their lives by fighting and warning against those forces of evil, which at that time were minimized and compromised with by most of the governments of the world.

As, so far, no official announcement to the contrary has been made, these victims of Nazi and Fascist oppression, these staunch and consistent defenders of democracy, would be subject to all the present and future restrictions meant for the directed against possible Fifth Columnists.

We, therefore, respectfully apply to you, Mr. President, who for all of us represent the spirit of all that is loyal, honest and decent in a world of falsehood and chaos, to utter or to sanction a word of authoritative distinction, to the effect that a clear and practical line should be drawn between the potential enemies of American democracy on the one hand, and the victims and sworn foes of totalitarian evil on the other.

G.A. Borgese  
Albert Einstein  
Bruno Frank  
Thomas Mann  
Arturo Toscanini  
Bruno Walter

December 29, 1944

MEMORANDUM FOR THE PRESIDENT

A group consisting of Professor Joseph Chamberlain, Columbia University, Mrs. M. P. Schauffler, of the Americans Friends Service Committee, Mr. I. L. Asofsay, Hebrew Immigrant Aid Society, and Joseph Beck, National Refugee Committee, are seeking what they call a solution of the problem presented by the detention of refugees at Oswego, New York. Their plan is to arrange for a number of these refugees to obtain immigrant status by going to Canada under the pre-examination practice, obtain a visa from an American Consul, and then return to the United States under the quota laws. Since this may come to your attention, I am writing you about it.

I believe that under no circumstances should any such arrangement be made. The 982 refugees now at Oswego were brought in by the War Refugee Board, with your approval. You reported to Congress at that time that they were being brought in for military as well as humanitarian reasons, and would be kept temporarily at Oswego and sent back to their homelands upon the terminations of the war.

When I testified recently before the Immigration Committee, several Senators wanted to know how these refugees could be brought in legally; and I assured them that they were not brought in under the Immigration laws but simply as refugees for detention in a camp until after the war.

I think if any of them were released it would create very serious trouble in Congress where suspicion already prevails that the administration is trying to get around the restrictions of the Immigration Laws. It would be taken, and with some justification, as a breach of faith by the Administration.

Respectfully yours

Attorney General

ADMINISTRATIVE STANDARDS FOR IMPROVING  
NATURALIZATION PROCEDURE

Naturalization procedure is a complex process involving a dozen different steps from the time the alien enters the country until he finally receives his order of admission from the court. In recent months we have been giving considerable attention to it in the hope that part of the red tape and resulting delay may be obviated. Criticism of red tape and useless steps in the procedure has been widespread. As a student of the administrative process, I have tried to devote as much time as possible to improvement and simplification of naturalization, and in this I have been encouraged by the Attorney General and officials of the Department of Justice. In my treatment of this subject, the analysis and recommendations are primarily the result of my own thinking and analysis, but it can also be said that on the general approach, all of us who are concerned with this problem in the Department of Justice see eye to eye. In the study of administrative procedure and the determination upon improvements, we in Washington have been greatly assisted by the administrative studies of the National Council on Naturalization and Citizenship.

Before we can deal intelligently with administrative analyses and recommendations, we must make up our minds as to the results we are trying to achieve. I am one of those who thinks that administration cannot be intelligently considered apart from the social problems and objectives which it subserves, for if it is so considered, it is almost sure to fall wide of the mark. What kind of citizenship are we inter-

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ested in producing? Some of the most important administrative determinations which must be made depend upon the answer which is given to this question.

Throughout history there have been two principal emphases in citizenship, one based upon status and the other upon territory. The emphasis upon status goes back to the earliest times and is the predominant emphasis during most of recorded history; the concept of citizenship growing out of mere residence in a territorial expanse of the world's surface is a fairly recent idea and has received its principal support from the United States. In Greece and Rome citizenship was a privilege, an exclusive right. The citizen stood in a class by himself, distinguished from slaves and others who were denied full participation in the community because of one limiting factor or another. In Greece the citizens constituted a democratic fraternity in which the principle of equality within the citizen elite was extended so far in Athens during one period that administrative and military leaders were chosen by the drawing of lots. In the Roman Empire only a small percentage of those in Rome were admitted to the privileged status of citizenship, while this privilege was also extended to some of those who lived in the provinces--hence it may be seen that in this early period, citizenship was primarily a matter of status, not a matter of geographical residence. One qualification or another--birth, property, educational qualifications, which were among the most common--obtained in most of the countries of Western Europe and Great Britain until fairly recent times. The idea that citizenship attaches to territory is a consequence of the development of national sovereign states, following the disintegration of the

Holy Roman Empire, the Treaty of Westphalia in 1648, and the development of democratic influences claiming that all men are equal and entitled to participation in the conduct of civic affairs. The territorial idea was championed by the United States because of our democratic attachment; because we were drawing immigrants from all of the countries of Western Europe and needed to assure ourselves that they would give up citizenship by birth and swear loyalty to the country of their new allegiance; and also because a part of the population was made up of persons born in the United States of alien parents. It is quite natural, therefore, that the United States has been the principal champion of citizenship by the naturalization process.

In historical and legal treatises naturalization is customarily referred to as "artificial" as compared with "natural" citizenship. Citizenship by naturalization is now so widespread that this distinction has lost much of its original significance. I wonder, however, if it does not point to a consideration which we would do well to keep in mind. Both from the standpoint of the interests of our country and also from the standpoint of those who have assumed citizenship by naturalization, should we not take care that citizenship by birth and citizenship by naturalization are of equal value in common currency and acceptance? Our democratic form of government is based upon the assumption that citizenship should be universally held, that it is necessary for national unity, and that universal suffrage is one of the fundamental planks in the American foundation of government. It does not mean, however, that all persons who are admitted to the United States

are necessarily entitled to citizenship and must be granted citizenship. If we were ever to adopt so radical an idea, we would certainly debase the value of the currency. There would then be two kinds of citizenship: citizenship by birth and citizenship by naturalization, and they would not be of equal value and acceptability. Such an unfortunate and unnecessary result we must avoid at all costs.

The two most important tests in granting naturalization are loyalty and education. The determination of these two most important questions is imposed upon the Immigration and Naturalization Service by explicit statutory provision. The loyalty test is all important because it establishes the individual's sympathy with our democratic beliefs and aspirations, and assures us of universal support in times of crisis such as the present war. The educational test is of equal significance because it determines the qualifications of the applicant to understand our language and institutions, and hence to be able to participate in the operation of our democratic form of government. Obviously, he will not be able to participate as an equal unless he has the knowledge of our language and institutions which makes participation possible.

From my point of view, any proposed reforms in naturalization procedure should be aimed at furthering the social purposes of citizenship. I make the following assumptions: that citizenship in this country is based primarily upon the territorial consideration rather than status; that it should be made as universal as possible in order to encourage national unity and true democracy; that naturalization is an invitation to become a citizen but not an assurance that everyone will be able to qualify; that naturalization is selective, and that the most important

tests are those which have to do with loyalty and sufficient knowledge of our language and institutions to participate as a full-fledged member of the democratic community. If these social standards be kept in mind, then certain administrative implications immediately appear: speed in naturalization is not an end in itself; any proposed remedy must meet two tests, not merely one of them--it must improve the efficiency of the process and at the same time it must contribute to its effectiveness. Effectiveness is judged by the maintenance of standards and the protection of the selectivity of the process. One of the assumptions of our American way of life is that free public education is available to all. So long as this is true, we are justified in demanding, and should insist, that persons who are accepted into the body politic as full-fledged citizens must have sufficient knowledge and understanding to be entitled to the privilege of citizenship.

The war has intensified the criticisms of delay in naturalization procedures. The war has made naturalization more important to the country as a whole, because it is a means of contributing to our national unity, and it has also made it of greater urgency to the unnaturalized person. In many cases, his job, his full right to serve in the war effort, and his complete acceptance by the community depend upon it. Some of our large urban centers are still hampered by serious delays. In recent months we have made considerable improvement in many large cities such as Los Angeles, Chicago, and Philadelphia. However, there are serious delays in other places, particularly New York City, Boston, and San Francisco. The problem cannot be solved merely by additions to personnel. It is clear to those of us who have studied naturaliza-

tion procedure that greater administrative efficiency and resulting saving of time are possible by improvements within the administrative procedure itself. We need an administrative reform such as that which has been put into effect in immigration procedure during the last two or three years. This improvement is long overdue and is now in the process of being put into effect.

What are the guiding administrative standards in analyzing the present system and recommending that it be streamlined and made more efficient? In the first place, there needs to be a simplification of procedure accompanied by an increased concentration upon the most important substantive requirements. The two principal substantive requirements are, as I have said, the loyalty and education tests. Another way of expressing the idea is that we must eliminate anything that can be safely eliminated and that serves no useful social purpose, and direct attention to the social objectives of naturalization. We must eliminate red tape, which is a relic of the past and which no longer serves any important purpose, assuming that it had one at the time it was put into effect.

In the past, limitations of budget, personnel, and space have all been important contributing factors. Thanks to the recognition of the seriousness of this problem by Congress in recent years, there has been considerable improvement in all these respects, but additional facilities in some cases are still necessary. However, it can no longer be said, as it once could, that the principal limiting factor is that of manpower to do the job. We can no longer hide behind this excuse, but must look to improvement of the administrative process itself if further progress is to be made.

Much of the time of the naturalization examiner is devoted to purely clerical operations. The naturalization examiner sits behind a desk, asks an innumerable number of questions, which he laboriously records on the forms which he has spread out before him, and so much of his time is taken in merely recording what is said that it is not surprising if, because of the sheer weight of routine procedures, he lacks the time and energy to concentrate upon the most important aspects of the procedure. I hesitate to make such generalizations, however, because I know from personal study in the field that generalizations are unwarranted. It cannot even be said that large cities universally present a different problem from the small communities. Some problems which are found in large cities are also found in smaller jurisdictions. Some problems which are non-existent in large cities, in small cities have also been eliminated. In large part, the result seems to depend upon the type of administrative leadership that is secured in a particular jurisdiction. If the chief naturalization officer is a good administrator, knows how to organize, delegate, supervise, and inspire his staff, then we find the office up to date and as efficiently run as some of our smaller offices.

One of the principal ways of improving the administrative efficiency of the naturalization process is to provide in-service training opportunities for our naturalization staff. For years we have been operating a training school for Border Patrolmen. In recent months we have set up and are conducting an exceptionally fine training program for Special Inspectors who perform the investigatory work of the Immigration and Naturalization Service. Plans have now been made for extending this

training program to Immigration Inspectors and Naturalization Examiners. I am confident that this training program can accomplish a great deal in the way of administrative reform. If you take a group of men who have natural equipment and the necessary experience, and give them special training along certain lines, you can revitalize the work that is being done in a surprisingly short period of time.

Despite these provisos and exceptions, however, there seems to be no question that the larger percentage of the time of our naturalization examiners is spent on purely clerical operations. I believe it is administratively feasible to take some of this from their backs and to make use of a greater amount of clerical assistance in certain portions of their work, thereby reserving the major percentage of the time of naturalization examiners for intensive questioning on loyalty and educational requirements. Just how the two aspects of the procedure may be geared together will have to be worked out, but I have already observed some improved methods in some of our outlying offices.

One of the most difficult parts of naturalization work has to do with the determination of the loyalty factor. There are two principal ways of getting at this question--either by the questioning of the naturalization examiner during the hearing, or by outside investigation in the applicant's neighborhood. I have heard it stoutly contended that one or the other of these methods is the panacea. Such, I believe, is not the case. Rather, we stand in need of improvement in both questioning and investigation if real improvement is to be made. Have you ever observed a naturalization proceeding in which an examiner is attempting to draw out the truth from an applicant who aroused suspicion? The

problem is essentially the same in a naturalization proceeding and in a hearing before one of our Alien Enemy Boards. Stock questions get one nowhere. If the naturalization examiner is satisfied to ask the applicant stereotyped questions, there is little likelihood that he will detect and recommend adversely against the applicant who is anti-democratic and out of sympathy with our institutions.

The skillful naturalization examiner must develop that sixth sense which I have observed in well-trained immigrant inspectors. It is the ability to size up a person in a remarkably short period of time and determine whether he should be held for further questioning and consideration. The skillful immigrant inspector can board a train coming from Canada, and can make up his mind in a few seconds as to whether he can believe the story an individual is telling, or whether in certain cases he must remove individuals from the train for a hearing before a Board of Special Inquiry. This ability is a combination of native intelligence, understanding of human nature, knowledge of immigration law, and experience. The green recruit cannot be expected to have this ability. It is acquired only after months or years of experience, and becomes part of the man's equipment almost unconsciously. Similarly, the naturalization examiner must be able to segregate the good case from the suspicious case after the hearing has been in process in the very small percentage of normal time allotted to the hearing of each case. One of the principal qualifications of a naturalization examiner is this ability to segregate the good case from the bad.

The skillful naturalization examiner must know as much as the person he is questioning if he is to have any hope of success. This means

that he must have political sophistication. He must understand political philosophy. He must know how Nazi philosophy differs from that of democracy. He must have an understanding of the underlying meaning of such key concepts as religious freedom, jury trial, and all of the Bill of Rights, if his questioning is to be penetrating rather than stereotyped. Frequently the most dangerous persons from the standpoint of espionage and subversive activities are those who have the greatest sophistication in these respects. It is obvious, therefore, that the naturalization examiner must not only have equal background, but he must be adept as an interrogator if he is to perform his function successfully.

Neighborhood investigations are indicated in all those cases in which there is any ground for suspicion. Recently the Immigration and Naturalization Service has consolidated all of its investigatory work in twenty districts, covering the United States. As a general proposition, the person who holds the hearing should not be the person who makes the investigation. They are two separate functions. If the investigation is skillfully executed, it can contribute a great deal to the determination of the loyalty factor. Obviously, it is not sufficient merely to rely upon the testimony of the two witnesses who are required by law, because every applicant chooses his own witnesses, and hence they may be presumed to be "safe."

The educational requirement is equally difficult in its administration, because it depends upon subtleties which only the initiated can be expected to administer. Here, as in the case of the loyalty test, the asking of stereotyped questions is worse than useless. It is some-

times recommended that there be a standardization of questions for the country as a whole. In my opinion, this is moving in the wrong direction. Isolated facts are frequently of no great significance. Instead an attempt should be made to determine how much the applicant knows about the underlying reasons for universal suffrage, separation of policy-making and policy-administering departments, and the checks and balances system. If a person is coached long enough, almost anyone can memorize the name of the first President of the United States, the present governor of a particular state, and the date of the Declaration of Independence.

One of the most needed and urgent improvements is the better articulation of the citizenship education program, and the drafting and administration of educational tests by naturalization examiners. Improvements in the former have not been adequately transferred to the latter. I believe that we should place increased reliance upon the certification of candidates by well-qualified educational institutions. Is there any reason why a good public school should not certify to the Immigration and Naturalization Service that a particular alien applicant is literate and that he understands the fundamentals of the American form of government? If such procedure were made more universal, it would have two advantages: it would make the educational program more effective because it would be a requirement in most cases, and secondly, it would relieve the naturalization officials of a heavy burden by delegating this responsibility to qualified educational authorities. Such a plan would involve the accrediting of each institution, frequent inspections of its faculty and methods, and the reservation of the right to examine any ap-

plicant de novo, if any ground existed for believing that the certification of his case was unmerited. This method has already been tried, and the results have been promising. If the program is carefully run and surrounded with adequate safeguards, it can contribute much to the improvement of the educational test.

In the administrative history of naturalization there has been a gradual metamorphosis from a judicial proceeding to one which is almost wholly administrative. I believe that the time has now arrived when the metamorphosis should be completed. The logical extension of the role of the designated examiner is to make naturalization procedure wholly an administrative one. The designated examiner should be permitted to order the admission of the applicant to citizenship. This last step is desirable if accompanied by appropriate safeguards. The right should be reserved to every court having jurisdiction to hear de novo both as to law and to fact any case in which there are grounds for believing that further consideration by a judicial tribunal is indicated. Not only would the alien have the right to appeal, but a competent tribunal would assume jurisdiction on its own motion in those cases where such action seemed desirable. In view of the fact that in 93 per cent of the cases at the present time the recommendation of the designated examiner is accepted, there would seem to be no possible objection to the proposed course of action.

Comes now the meat of the matter: at the present time there are twelve steps in the naturalization procedure. Some of these steps seem superfluous and can be eliminated without any loss to the substantive

process. What is more, by their elimination it should be possible to give increased attention to those substantive provisions which are of the greatest concern.

The twelve steps are: (1) Lawful admission; (2) preliminary application for certificate of arrival and declaration of intention; (3) issuance of certificate of arrival; (4) filing of declaration of intention; (5) establishment of residence requirements; (6) preliminary application to file a petition; (7) preliminary examination; (8) filing of petition; (9) preliminary hearing; (10) statutory waiting period; (11) final hearing in open court; (12) order of admission.

The substitute plan consists of the following steps: (1) Record of admission for permanent residence. Eliminate declaration of intention and substitute application for citizenship. This application could be filed any time after entry and would contain adequate information concerning entry for the Service to verify. This application would be valid for one year following completion of residence requirements. (2) Copy of application stamped "Verified" to be returned to alien. (3) Alien to petition on his own motion before a naturalization examiner to file formally a petition for citizenship, provided he has five years' residence and can at that time submit the affidavits of at least two citizen witnesses, as well as paying a fee of \$10. This dispenses with the declaration of intention. This document shall be on file for a period of at least thirty days, in order to conduct any necessary investigation. (4) Investigation of applicant. (5) Final hearing. When the petition is ready to be heard by the naturalization examiner, the petitioner shall be advised to appear, at which time he will be granted a final hearing

and admitted to citizenship by that officer, if the petition is granted.

(6) If the petition is denied, the individual shall be advised of his right to appeal within ninety days to the Federal court for a judicial hearing in the district where the application was filed, the complete record to be sent to the court, which may review the proceedings not only as to facts, but the law.

Although I wish to avoid the danger of being repetitious, I may be able to impress the difference in the two procedures upon your minds by the following comparison:

At the present time, the alien who desires to become a citizen of the United States is required to file a declaration of intention and an application for a certificate of arrival, and he cannot be naturalized, notwithstanding that he may have the required period of legal residence (usually five years), until two years have elapsed from the filing of the declaration of intention. It is believed that the application for a certificate of arrival and the declaration of intention may well be dispensed with in the future. The desire to become a citizen is as well evidenced by the filing of an application or petition for naturalization as by any other document, and the fact that in more than 60 per cent of the cases now coming before the Service individuals are naturalized without declarations of intention speaks persuasively that this document can easily be dispensed with without detracting from the substantive requirements of the naturalization procedure. Under the proposed plan, lawful residence would be established on the application or petition for citizenship.

Over a long period of time there has been a gradual substitution

of the administrative process of naturalization for the original judicial proceeding. That a judicial proceeding has certain merits cannot be gainsaid; that it involves delays is established beyond question; that it affords any feature which is irreplaceable seems doubtful. Hearing days in the courts cannot be secured at all times; calendaring of cases is essential; clerical burdens are imposed upon the clerks of the courts-- all of these creating delays.

In 1926 the naturalization law was amended to permit certain examiners to be designated by the courts to act in their stead in the examination of petitions for naturalization. In 99 per cent of the cases now heard by the designated examiner, the findings are approved by the courts. A step in the direction of expeditious naturalization would seem to be naturalization by administrative process by a designated examiner, when the latter has determined that the petitioner is qualified for citizenship, allowing, however, a review by the Federal courts in those cases where the petition for naturalization has been denied, or where for any reason the court finds reason for reconsidering the case de novo. This proposal is not as radical as it may seem at first blush, for in substance this is the method which is used today. It would merely be given legislative sanction; it would be possible to dispense with the present court routine; but it would not remove the essential safeguard of an independent examination of the case by the court having appropriate jurisdiction.

In the history of naturalization in the United States, legislative enactments have contributed considerably to the improvement of the

process, as for example, the Nationality Act of 1940, which represents a codification of all naturalization law, is a landmark in legislative progress. I would not for a moment assume that further amendments and substantive revisions are not necessary. I do sincerely believe, however, that further improvement in the naturalization process should be sought by administrative reform and by a program of removing superfluous procedures, and strengthening substantive requirements. It is this approach which is most likely to achieve the accomplishment of results which is desirable,--fewer delays in securing naturalization and more effective testing of all who seek this priceless privilege.