

WALLGREN, MON G. (Hon.)

000768

SEP 28 1944

My dear Senator:

The Honorable Herbert H. Lehman, Director of the United Nations Relief and Rehabilitation Administration, has referred to me your letter of September 2, 1944, with which you enclosed a letter addressed to you by Mrs. Floyd C. Kinnear of Tacoma, Washington, concerning the temporary admission of refugees to this country.

The only persons who have been permitted to enter the United States outside the immigration laws, are the 982 refugees recently brought to the Emergency Refugee Shelter at Fort Ontario, Oswego, New York, where they are being cared for until they can be returned to their own countries at the end of the war. It should be noted that these persons were not permitted to enter under the immigration procedure as immigrants and that they, therefore, obtained none of the rights of immigrants to be at liberty within the country or to remain here. The circumstances which required their removal from Southern Italy and the details of the arrangements therefor were outlined by the President in his message to Congress on June 12, his cablegram to Ambassador Murphy in Algiers, and his memorandum to the heads of the agencies concerned with the execution of the plan.

The statement in Mrs. Kinnear's letter that "we are now to have unlimited numbers of these people brought into our country to be maintained in idleness in abandoned army camps at the expense of the American tax-payers" is without factual foundation. Other facilities in North Africa and the Mediterranean areas are being utilized to care for refugees on a much larger scale than the Shelter at Fort Ontario. The extent to which additional refugee shelters or camps may be established depends in great measure on military expediency. As a matter of practicability, it is the Board's policy, insofar as circumstances permit, to seek facilities to care for refugees in places as near to their homelands as possible.

000769

I am enclosing a copy of this letter for your convenience  
in replying to Mrs. Kinnear's letter, which is returned herewith.

Very truly yours,

(Signed) J. W. Pehle  
J. W. Pehle  
Executive Director

Honorable Mon C. Wallgren,  
United States Senate.

Enclosures.

EAT ca JH  
EBTowler: 9-26-44

UNITED NATIONS  
RELIEF AND REHABILITATION ADMINISTRATION  
1344 CONNECTICUT AVENUE  
WASHINGTON 25, D. C.

13 September 1944

Mr. J. W. Pehle  
Executive Director  
War Refugee Board  
Executive Office of the President  
Washington 25, D. C.

My dear Mr. Pehle:

I enclose a self explanatory inquiry from Senator  
Mon C. Wallgren, together with the enclosure therein  
mentioned.

I believe that the major subject matter of this inquiry  
relates to the work of your Board, and I am accordingly  
referring it to you for such action as you may wish  
to take.

I enclose also a copy of my letter to Senator Wallgren  
advising him of this reference.

Sincerely yours,

  
Herbert H. Lehman  
Director General

Enclosures

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UNITED NATIONS  
RELIEF AND REHABILITATION ADMINISTRATION

1344 CONNECTICUT AVENUE  
WASHINGTON 25, D. C.

13 September 1946

Honorable Mon C. Wallgren  
United States Senate  
Washington, D. C.

My dear Senator Wallgren:

I have your letter of 9 September forwarding a letter you received from Mrs. Floyd C. Kinnear which raises a number of questions relating to the United States Government's handling of refugees.

Since UNRRA has had no part in bringing refugees to the United States, I have taken the liberty of referring your inquiry to the President's War Refugee Board which, I am sure, can answer your questions satisfactorily. I attach a copy of my letter to The Board.

There is a misconception in Mrs. Kinnear's letter, however, which I feel I should correct. UNRRA is not spending the sum of one billion three hundred and fifty million dollars on refugees in North African camps. That figure is, as you know, the amount of the United States contribution to UNRRA, to which must be added the contributions of all the other participating nations in order to reflect the organization's total resources. Those resources are to be devoted only in very small part to the running of camps in North Africa or elsewhere. The remainder, a very large proportion, is dedicated to relief and rehabilitation work in liberated areas throughout the world.

Sincerely yours,

Herbert H. Lehman  
Director General

cc: Mr. Pehle

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MON C. WALLGREN  
WASHINGTON

HUGH B. MITCHELL  
EXECUTIVE ASSISTANT

WASHINGTON, D. C. ADDRESS:  
444 SENATE OFFICE BUILDING

HOME ADDRESS:  
EVERETT, WASHINGTON

United States Senate

WASHINGTON, D. C.

September 9, 1944

COMMITTEES:  
MILITARY AFFAIRS  
COMMERCE  
PUBLIC LANDS AND SURVEYS  
MINES AND MINING  
INDIAN AFFAIRS  
SPECIAL COMMITTEE INVESTIGATING  
THE NATIONAL DEFENSE PROGRAM

Honorable Herbert H. Lehman,  
Director, UNRRA  
1344 Connecticut Avenue  
Washington, D. C.

My dear Governor Lehman:

The enclosed letter has been received  
from Mrs. Floyd C. Kinnear concerning our government's  
policy in taking care of refugees.

Any information which you could send  
me about this matter will be greatly appreciated.

With best wishes,

Sincerely,

*Mon C. Wallgren*  
Mon C. Wallgren

MCW:JH  
Encl.

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Tacoma, Washington  
August 30, 1944

Hon. Mon C. Wallgren, Senator  
United States Senate  
Washington, D. C.

Dear Senator Wallgren:

Recently I have read the statement submitted by Captain John B. Trevor on "Refugees -- 1944", which discloses the alarming fact that we are now to have unlimited numbers of these people brought into our country to be maintained in idleness in abandoned army camps at the expense of the American tax payers.

Since we are now paying the huge sum of \$1,350,000,000.00 to have European refugees maintained in North Africa in our six U.N.R.R.A. refugee centers as well as Camp Marshall Lyantey near Casa Blanca, I am certainly not in favor of having any more of them brought into this country. Why bring these people a distance of 4,200 miles to the United States when there is plenty of room for them to be amply cared for in North Africa, a distance of 303 miles from Naples.

I am writing this letter to urge you to use your influence in behalf of the total exclusion of all immigration into our United States. I heartily endorse the above mentioned report submitted by Captain John B. Trevor on behalf of the American Coalition of Patriotic Societies to the Committee on Immigration.

Respectfully,

(Signed) Mrs. F. C. Kinnear  
Mrs. Floyd C. Kinnear  
3521 North Proctor

000774

# REFUGEES

## 1944

Statement Submitted By

**JOHN B. TREVOR**

On Behalf of

**THE AMERICAN COALITION**

to the

**COMMITTEE ON IMMIGRATION  
AND NATURALIZATION OF THE  
HOUSE OF REPRESENTATIVES**

In reference to the problem of alien  
refugees and certain House Res-  
olutions relating thereto  
which are now before  
that Committee

## REFUGEES 1944

Mr. Chairman and Gentlemen of the Committee:  
Permit me on behalf of the American Coalition to submit for your consideration the following statement in reference to the problem of refugees which has been raised by the President's Message and the House Resolutions which are now before the Committee.

ON June 12 the President, in a special message, advised Congress that he had authorized the making of arrangements for the entry into the United States of approximately 1,000 refugees. These refugees are to be placed, said the President, in a vacated army camp on the Atlantic Coast where they would remain under appropriate security restrictions.

This order of the President raises two momentous questions, which demand the immediate and serious consideration of the Congress and the people of the United States. There is first the question of policy, and there is, then, the equally important question of constitutional law.

The policy of exclusion of refugees was considered in all its aspects following the first World War. Millions of people were not only displaced by war but were in peril of extermination as a result of the revolutions which were the sequence of war in Russia, the Balkans, Hungary and even in Germany itself. In the Russian terror, within a brief period, the Communist dictatorship slaughtered 1,800,000 men, women and children under circumstances of ruthless barbarity. Two million or more fugitives from Russia alone clogged the highways and byways of the world. Millions more from all countries of Europe sought to migrate to the United States. The Hon. Albert Johnson, Chairman of the House Committee on Immigration and Naturalization, at that time, estimated the total to approximate 10,000,000 people. Lack of transportation alone checked the influx at its inception.

Congress, however, recognized not only the economic peril to our American standard of living, but also, appreciated the political menace which would be incident to the entry of millions of people whose traditions were radically different from those established in North America by the founders of the Republic. Therefore Congress passed the first quota law known as the Immigration Act of 1921. The failure of this law to meet expectations resulted in the passage three years later, of a more stringent measure. That law is now in force and is known as the Immigration Act of 1924.

In addition to these laws, the Congress, since the last war, has placed upon the statute books

a number of measures providing for the exclusion of certain classes of aliens such as anarchists, and members of other subversive groups of a revolutionary character.

A review of the history of the present Administration's policy of enforcement of this legislation and its efforts to weaken its tenor or block any extension of the provisions of existing statutes is too well known to need any review here. It will suffice to recall that the act to register aliens was vigorously opposed by the Administration until the advent of war made its passage by Congress inevitable.

In the autumn of 1942, the President sent a message to Congress asking that power be delegated to him to modify or annul any part or all of any immigration act then on the statute books. The reasons advanced in the President's message and the testimony of Government witnesses were wholly unconvincing and the Ways and Means Committee of the House of Representatives unanimously refused to report the bill.

The President has now revived the issue by ordering the admission of refugees "outside of the regular immigration procedure." (See the President's cable to Ambassador Murphy published in the Department of State Bulletin of June 10, 1944.)

A careful analysis of the President's message of June 12 fails to disclose any moral or legal justification for this extraordinary action. The pertinent part of the President's message is summed up in the following words:

"Recently," said the President, "the facilities for the care of refugees in southern Italy have become so overtaxed that unless many refugees who have already escaped to that area and are arriving daily from the Balkan countries, can be promptly removed to havens of refuge elsewhere, the escape of refugees to that area from German occupied territory will be seriously impeded. It was apparent that prompt action was necessary to meet the situation. Many of the refugees in southern Italy have been and are being moved to temporary refuges in the territory of other and friendly nations. However, in view of the number of refugees still in southern Italy, the problem could not be solved unless temporary havens of refuge were found for some of them in still other areas. In view of this most urgent situation it seemed indispensable that the United States in keeping with our heritage and our ideals of liberty and justice take immediate steps to share the responsibility for meeting the problem."

This statement by the President in his message to Congress on June 12 is amazing because less than two weeks previously, in reply to a question at his news conference, Mr. Roosevelt said that he favored the establishment of "free ports" to facilitate the relocation of war refugees but that these ports need not be in the United States (cf. N. Y. Times, May 31, 1944).

The President might have added, if he had

seen fit, that "since May 1, 1944, the United Nations Relief and Rehabilitation Administration has been administering in the Middle East six refugee centers" and also that "Camp Marshall Lyautey, near Casa Blanca, is a joint United States-United Kingdom undertaking to which stateless and other refugees in Spain are being removed so that other refugees may be able to enter Spain from enemy occupied areas" (cf. Department of State Bulletin, June 10, 1944).

In other words, there is no demonstrable urgency which demanded the issuance of an order by the President to ship 1,000 refugees to the United States for entry "outside of the regular immigration procedure," as he stated in his cable to Ambassador Murphy, to which reference has already been made.

The policy of assisting refugees to reach North Africa and maintaining them until an opportunity is afforded for their repatriation is as commendable and defensible as their introduction into the United States in defiance of law is reprehensible and indefensible.

The Congress and the American people must understand that the order of the President providing for the entry of 1,000 refugees establishes a precedent which should not be countenanced. The refugee problem in Europe, and, indeed, elsewhere, is not to be settled by the admission into the United States of 1,000 aliens outside the regular immigration procedure.

The magnitude of the problem is suggested in the testimony of the Honorable Dean Acheson, Assistant Secretary of State, before a joint meeting of the House of Representatives on Foreign Relief. "Similarly," said Mr. Acheson, "when you come to the displaced persons problem, you have there something the like of which has never faced civilization before, so far as I know. You have in Europe 20,000,000 people who are away from their homes, in Asia probably 40,000,000 people."

MR. TABER: "Do you mean refugees?"

MR. ACHESON: "Yes, there are 20,000,000 of these people. Most of them are in a country other than their own country. They are not the responsibility of the country where they are now found; they are the responsibility of the country to which they are going. They cannot be turned loose and sent back to the country to which they belong until that country is prepared to receive them."

The fact of the matter is that the refugee problem so far as it concerns the United States is the problem of U.N.R.R.A. for which the Administration has asked the Congress to appropriate \$450,000,000, with an authorization to use an additional \$350,000,000. That is to say a total of \$800,000,000 for immediate use out of the \$1,350,000,000 of appropriations which the Congress has authorized.

A study of the records of migratory movements after the first World War and the testimony of the well known news commentator, Mr. Henry J. Taylor, in his outstanding book entitled "Men in Motion," indicate that millions of people in Europe will seek not merely a temporary refuge overseas, but rather a permanent severance of all ties with their native lands. "Europe," says Mr. Taylor, "remains overcrowded to the extent of something like 60,000,000 people." (Men in Motion, p. 104). "... Europe's only hope is a second gigantic migration. . . ." (ibid p. 106.)

"The story of migrations is the story of small movements which accumulate as the result of small events. As the small migrations accumulate the great waves of migration appear to be dormant but when the accumulations have taken place events occur. And with these events, such as World War I and II, the next great wave of migration breaks out again, and man populates the earth.

"Yet the chances are overwhelming that, if Americans are not exceedingly watchful, we shall find the Europeans knocking at the doors of the United States and urging us to let them in here.

"It hardly seems conceivable that we should be so dull and thoughtless as to permit this. But there are many indications that it can happen and that Africa, the other colonies, and the dominions will be passed over by the Europeans, preserved in very much their present state, while arguments will be advanced, presumably along so-called humanitarian lines, to obtain immigration to the United States." (ibid pp. 108-109.)

Mr. Taylor concludes his chapter "Europeans can make this contribution" with the following pertinent remarks, "First, all refugees are not good refugees. Europe was very glad to get rid of many of these people, some of whom exasperated everyone abroad with their infatuation for thinking and talking and not working. Others had been ceaseless trouble makers wherever they were, castigating all who disagreed with them and assuming a superiority to which they somehow claimed title by virtue of the fact that Europe was old and wise and they were Europeans. . . . Second, we should not take any immigrants at all. We are doing other welfare services. We are doing them on a scale so vast that our gifts are nearly beyond enumeration. We should not receive refugees in exchange." Mr. Taylor speaks from personal observation. He has travelled over 100,000 miles by air. "Men in Motion" is a compilation of his findings. It is a great book and every American should read it and heed what he has to say.

Africa is the solution of the refugee problem. Our armies have overrun Morocco (the French Zone), Algiers and Tunis. The British hold Egypt and conquered Tripoli. Tunis is only 303 miles from Naples. The area of its territory is something over 48,000 square miles, or approximately that of North Carolina. The popu-

lation of Tunis is 2,608,313 with a density per square mile considerably less than that of North Carolina. Tunis has been a substantial exporter of food stuffs. For example: in 1937 Tunis exported grain to the value of 232,025,000 francs; live animals to the amount of 24,824,000 francs; animal products 72,834,000 francs; vegetable oils 134,169,000 francs; beverages and wines 152,104,000 francs; and, fruits and seeds 48,444,000 francs.

The city of Algiers, the capital of Algeria, is only 581 miles from Naples. The population of Algiers was, according to the census of 1936, 7,234,684, settled on an area of 847,000 square miles; that is to say, Algeria is only a trifle smaller than the combined areas of the states of Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah and Nevada. Algeria, like Tunis, has been also a substantial exporter of food stuffs. For example: in 1937, Algeria exported the following: animal products valued at 426,218,000 francs and vegetable products at 3,379,701,000 francs. The French Zone of Morocco, which is now under our military control, has an area of approximately 200,000 square miles, or, let us say, about twice the size of the states of New York, New Jersey and Pennsylvania combined. A census of the French Zone taken in 1936 shows a total population of 6,298,528. Agriculture is by far the most important industry and like Tunis and Algeria. Morocco has been an exporter of food stuffs. In 1938, Morocco exported cattle, sheep and pigs to the value of 46,952,000 francs; eggs 62,647,000 francs; wheat 192,849,000 francs; barley 32,511,000 francs; dried vegetables 59,498,000 francs, and fish 90,373,000 francs.

It will be observed that the combined area of these sparsely settled provinces of North Africa is substantially greater than a third of the area of continental United States, and that it is not merely potentially an important source of food stuffs but that prior to the outbreak of war it was a large exporter of these commodities to markets which are now closed. That is to say, these provinces are capable now of supporting a large population of refugees from their own resources provided that the allied military establishments are maintained by supplies shipped in from overseas. In this connection it must not be forgotten that the United States is now importing food stuffs from the Argentine (cf. N. Y. Sun, June 14, 1944) to supplement our domestic supplies. Inasmuch as the steaming distance from Buenos Aires to Algiers is only 5,453 miles as compared with a steaming distance of 5,871 miles to New York, it is wholly illogical to import refugees to the United States on the theory that it is easier to feed them here than in Africa.

When to these facts are added the hazards of shipping refugees 4,200 miles from Naples to

New York in time of war, as compared with transporting them only 300 miles to Tunis and less than 600 miles to Algiers, the humanitarian argument is completely demolished.

The second question raised by the President's order to admit 1,000 refugees "outside of the regular immigration procedure" presents to the Congress and to the American people a problem of constitutional law of the first magnitude. That question is this: Has the President the power to set aside an act or any part of an act of Congress restricting or prohibiting the entrance of aliens or certain classes of aliens into the United States on the theory that in time of war he has an unlimited reservoir of constitutional and statutory powers which are sufficient to sustain such extraordinary action? Here is what the President says: "You should bear in mind that since these refugees are to be placed in a camp in the United States under appropriate security restrictions, the procedure for the selection of the refugees and arrangements for bringing them here should be as simple and expeditious as possible, uncomplicated by any of the usual formalities involved in admitting people to the United States under the Immigration laws." (Emphasis supplied. Excerpt from President's cable to Ambassador Murphy.)

It will be recalled that in the autumn of 1942, the President, in a special message to Congress, asked that the power be delegated to him to annul any immigration law or part thereof wholly, or to such extent as he deemed necessary, in order to facilitate his conduct of the war. In one of the introductory paragraphs of this memorandum it has been pointed out that when a bill providing for such a delegation of power came before the Ways and Means Committee of the House of Representatives for consideration, that Committee unanimously declined to report the bill to Congress. This request from the President for a delegation of power and the testimony of the Attorney General before the Ways and Means Committee in support of what was called the Third War Powers Bill would seem to establish beyond dispute that all preceding grants of authority did not go so far as to authorize any such order as the President has now issued in respect to the entry of the 1,000 refugees referred to in his special message to Congress on June 12, 1944.

In a letter to a United States Senator of which the substance is set forth in the N. Y. Daily News of June 27, 1944, the Attorney General appears to have completely reversed the opinion that he gave to the Committee on Ways and Means of the House of Representatives on November 18, 1942, respecting the necessity of additional legislation to relieve the President from mandatory provisions of the immigration

laws. He now seeks to draw an analogy between the admission of refugees under the President's order and the detention of prisoners of war outside of the requirements of these statutes. No such analogy is justified because the status of prisoners of war has definite statutory recognition and the conditions of their detention are specifically provided for in a series of International Conventions to which the United States is a party. The most recent of these Conventions is set forth in a United States Government publication "Treaty Series No. 846" entitled "Prisoners of War."

The reference by the Attorney General to the internment of the crews of Russian war vessels in the course of the Russo-Japanese War, is neither relevant nor pertinent. The obligation of a neutral government to intern members of the armed forces of a belligerent who enter their territory has long been established by generally accepted provisions of international law. This recognition of the law of nations respecting the internment of armed land or naval forces of a belligerent nation is specifically referred to in Title 18, Sec. 37 of the U. S. Code. There is nothing of a comparable nature covering refugees. A refugee seeks to enter a foreign country of his own initiative. Prisoners of war are members of the armed forces of the enemy and the only civilians who are covered by the International Convention, to which reference has already been made, are specifically limited to special classes "such as newspaper correspondents and reporters, contractors, who fall into the enemies' hands and whom the latter think it expedient to retain." Such persons, be it noted, in order to be entitled to the privileges of treatment as prisoners of war, must have in their possession a certificate from the military authorities of the armed forces which they were accompanying.

The Attorney General goes even further in trying to develop his analogy between refugees and prisoners of war, by pointing to a recent practice of our Government in admitting into the United States German, Italian and Japanese nationals who have been deported by Latin-American countries to the United States under an arrangement whereby they are interned in this country. The legality of such an arrangement, whereby civilian political prisoners of a foreign nation have been admitted into the United States for internment should be scrutinized with the greatest care. That these people constituted a grave danger to the Latin-American countries which deported them is self-evident. It would seem, therefore, to be a reasonable assumption that they are members of one or the other of the Fascist or Nazi subversive groups who constructively fall within the scope of the provisions of Title 8, Sec. 137. That

is to say, presumptively they believe in the overthrow by force or violence of the Government of the United States. If they do, the law is explicit. Such persons are mandatorily excluded from entry into the United States. If such persons are found in the United States, the Executive Branch of the Government is under a mandate to deport them whence they came. (cf. Title 8, Sec. 137, sub-section (g).) It is suggested, also, that the provisions of law discussed in the following paragraph have a bearing on the propriety, or rather impropriety, of admitting these aliens. Certainly, it can safely be said that there is no justification in this action of our Government for an assumption of authority to admit refugees outside of the regular immigration procedure.

Title 8, section 144, relating to the "bringing in or harboring or concealing certain aliens" expressly prohibits any person from bringing in or even landing in the United States any aliens not duly admitted by an immigration inspector or not lawfully entitled to enter or to reside within the United States. In order that there may be no doubt as to the meaning of this section, it is here set forth in full:

Section 144. Any person, including the master, agent, owner, or consignee of any vessel who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor or attempt to conceal or harbor or assist or abet another to conceal or harbor, in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigration inspector or not lawfully entitled to enter or to reside within the United States, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$2,000 and by imprisonment for a term not exceeding five years for each and every alien so landed or brought in or attempted to be landed or brought in. (February 5, 1917, ch. 29.)

It should be observed that the use of the words "any person" is all inclusive, and standing by itself this section clearly prohibits the admission of aliens "outside of the regular immigration procedure" by any official of the United States. This section of the immigration laws, however, does not stand by itself. It is fortified by the provisions of Title 8, Section 136, of the United States Code which enumerates the classes of aliens excluded from admission into the United States. Subsection (b) of this section enumerates paupers and similar indigent aliens, but even more important and decisive, is the mandatory provision of subsection (i) that "persons likely to become a public charge" are excluded. Obviously refugees imported by the United States on United States ships and maintained in a camp at the expense of the American

taxpayer are not merely likely to become public charges, but they are ipso facto public charges.

The fact that the refugees whose admission is specifically ordered by the President must be definitely classified as public charges is established by the following excerpts from a memorandum sent by the President, on June 8, to the Secretaries of War, Navy, and Interior, the Director of the Budget, and the Executive Director of the War Refugee Board. "These refugees will be brought into this country outside of the regular immigration procedure and placed in Fort Ontario near Oswego, New York."

"(4) Until U.N.R.R.A. is in a position to assume the financial responsibilities involved, the Bureau of the Budget shall make arrangements for financing the project, using to the extent possible any available funds of the War Department, the War Relocation Authority, and the War Refugee Board, and from the Foreign War Relief Appropriation, and if necessary drawing upon the President's Emergency Fund."

Subsection (i) of Section 136 of Title 8 of the U. S. Code is further fortified by the succeeding subsection of this section which provides that "persons whose tickets or passage is paid for with the money of another, or who are assisted by others to come, unless it is affirmatively and satisfactorily shown that such persons do not belong to one of the foregoing excluded classes; . . . It is indisputable, as has already been pointed out, that refugees belong to one of the excluded classes, that is to say, as persons likely to become a public charge (subsection (i), and possibly also as paupers or vagrants (subsection (b)). All persons mandatorily excluded from admission into the United States by Title 8, Section 136, are, therefore, "not lawfully entitled to enter or to reside within the United States" within the meaning of Title 8, Section 144 of the United States Code, to which reference has already been made. These provisions of law are conclusive against the admission of refugees "outside of the regular immigration procedure," as contemplated in the President's order.

It may, perhaps, be well to add that "any alien who at the time of entry was a member of one or more of the classes excluded by law" is mandatorily deportable if found within the United States at any time within five years after entry. (cf. Title 8, Sec. 155, United States Code.) Furthermore if an alien happens to belong to one of the subversive groups, he is deportable at any time after entry. (cf. Title 8, Sec. 137, sub-section (g).)

It is wholly erroneous to suppose that there is any provision of the immigration laws which authorizes the admission for temporary residence

in the United States of any of the classes of aliens who are mandatorily excluded by law. It is evident that the refugees who have been ordered to be admitted by the President "outside the regular immigration procedure" are also mandatorily excluded by the provisions of the Immigration Act of 1924. That is to say, not only because of the probable exhaustion of the quotas applicable to the countries of which they are citizens, but also because Title 8, Section 202, Subsection (f) prohibits a consular officer from issuing an immigration visa to any alien whom he knows or has reason to believe is inadmissible to the United States under the immigration laws and subsection (g) which provides that "nothing in this chapter shall be construed to entitle an immigrant, to whom an immigration visa has been issued, to enter the United States, if, upon arrival in the United States, he is found to be inadmissible to the United States under the immigration laws. . . ."

As has already been pointed out, the refugees are unquestionably mandatorily excluded from entering into the United States by Title 8, Section 136, subsection (i) and Title 8, Section 144. Be it noted in connection with the various provisions of the Immigration Act of 1924, that under Section 223, the provisions of that law are in addition to and not in substitution for the provisions of the immigration laws, and shall be enforced as a part of such laws, and all the penal or other provisions of such laws, not inapplicable, shall apply to and be enforced in connection with the provisions of this law. Attention is particularly directed to the fact that an alien, although admissible under the provisions of this law, shall not be admitted into the United States if he is excluded by any provision of the immigration laws other than this law, and an alien admissible under the provisions of the immigration laws other than this law, shall not be admitted into the United States if he is excluded by any provision of the Immigration Act of 1924.

In accordance with the terms of Section 223, it is perfectly clear that refugees for reasons repeatedly set forth above are not admissible as non-immigrants as defined in Section 203.

At the beginning of this discussion of the legal aspects of the President's order to admit 1,000 refugees, it was pointed out that from the President's effort to secure a delegation of power from Congress to annul the immigration laws in whole or in part, it is fair to assume that he not only had no such power but also that he did not believe he had such authority. There has been an erroneous assumption by some people that because the Constitution designates the President as Commander-in-Chief of the Army and of the Navy, he has acquired an extension of civil powers not specifically conferred upon him by law. The fact is that the President has no power by

virtue of his position of Commander-in-Chief of the Army and Navy to set aside an act of Congress. Indeed, an examination of the Constitution shows that the Congress is specifically authorized "to make rules for the government and regulation of the land and naval forces" (Article 1, Section 8). The President, therefore, as Commander-in-Chief of the Army and Navy is definitely subjected to the rules laid down by the Congress for the government and regulation of the armed forces that he commands. Any other interpretation of the President's powers would imply that we have now existing in the United States the same evils which we are combatting in Europe and Asia.

At the moment, there is before the Committee on Immigration and Naturalization, in the House of Representatives, a series of resolutions identical in purpose. These resolutions are numbered as follows: H. Res. 576, introduced by Mr. Dickstein of New York, Chairman of the House Committee on Immigration and Naturalization; H. Res. 581 introduced by Mr. Lane of Massachusetts; H. Res. 583, introduced by Mr. Rowan of Illinois; H. Res. 584, introduced by Mr. Marcantonio of New York; H. Res. 585, introduced by Mr. Scanlon of Pennsylvania; H. Res. 587, introduced by Mr. Celler of New York; H. Res. 588, introduced by Mr. Torrens of New York; H. Res. 594, introduced by Mr. Byrne of New York.

With the exception of the resolution introduced by Mr. Celler, H. Res. 587, who uses a different phraseology to express the same purpose as those of his colleagues, the text of these resolutions appears to be identical and as they seem to follow the phraseology used by Mr. Dickstein, a copy of his resolution, H. Res. 576, follows:

Whereas it is common knowledge that countless thousands of innocent persons, of all racial groups and religious beliefs, in many of the countries of continental Europe have been murdered or otherwise ruthlessly persecuted by the Axis Nations; and

Whereas it is accepted by well-informed people that unless something is done in the immediate future, countless more thousands will be murdered or otherwise ruthlessly persecuted, and

Whereas under the present existing immigration laws, unlike the limitation on the number of persons who may come to the United States permanently as immigrants, there is no such limitation on the number of those who may come temporarily; and

Whereas the United States can and should contribute its facilities for the temporary relief of such persons by admitting some of these distressed people temporarily to specified areas to be known as free ports for refugees: Therefore be it

Resolved, That it is hereby declared to be the sense of the House of Representatives that the President should take such action as is necessary, within Executive powers under existing law, to admit temporarily into designated areas

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within the United States, to be known as free ports for refugees, aliens who can establish satisfactorily that they are bona fide political or religious refugees from countries in continental Europe, such temporary admission to be conditioned that such aliens will remain in the prescribed areas, will be admitted for a period not to exceed six months after hostilities have ceased, and shall not thereby be considered as having acquired any rights to be or remain in the United States: Provided, however, That it is further the sense of the Congress that no persons should be admitted, in accordance with the spirit of this resolution, if they are afflicted with any loathsome, dangerous, or contagious diseases.

It is further urged as being within the spirit of this resolution that as time is strictly of the essence in the success of the purpose of the resolution, the President is urged to act as soon as possible.

An analysis of this resolution which, as has already been said, is in substance identical with those enumerated in a preceding paragraph demonstrates a curious misapprehension both of the facts of the situation and of the law. Obviously the passage of a resolution by the Congress recommending to the President that he should take such action as is necessary to admit refugees on a temporary basis can have no effect whatsoever in preventing the murder in the immediate future of countless thousands of unfortunates who have incurred Hitler's enmity and are still within the reach of his ruthless minions.

In an earlier section of this memorandum a practical and reasonable solution for the rescue and rehabilitation of refugees who have escaped from Axis territory is clearly set forth without a reversal of our immigration policy or the necessity of any amendment of our immigration laws.

As Mr. Pegler well said in one of his recent columns: "Past performances in many fields instinctively suggest that the promise that these refugees will be repatriated after the war and meanwhile restricted will not be kept. Past performances suggest also that once a principle has been conceded by importation of 1,000 European aliens with no pretense that they are eligible or suitable for permanent residents here, the number that will be brought in later will be limited by shipping facilities, individual pull exerted through personal friends and organizations in the United States and public tolerance." (Washington Daily News, June 14, 1944.) That is the undiluted truth.

Of course, it will be understood by any one who has carefully followed the analysis of our immigration laws set forth in the course of this memorandum that the assertion in paragraph 3 of House Resolution No. 576, and its counterparts, that there is no limitation on the number of aliens who may come in temporarily is utterly without foundation. The prohibition in the law against the admission of aliens liable to become a public charge is absolute. Even if it were not

for the provisions of the Act of 1917 forbidding the entry of various classes of aliens under any conditions, as has been set forth previously in detail, a careful reading of Title 8, Section 203, which enumerates the classes of aliens who are not classified as immigrants and therefore eligible for temporary admission indicates that upon the broadest interpretation a refugee cannot constructively be brought within its provision. Here is how Section 203 reads:

"When used in this chapter the term 'immigrant' means any alien departing from any place outside the United States destined for the United States except—(1) an accredited official of a foreign government recognized by the government of the United States, (2) an alien visiting the United States temporarily as a tourist or temporarily for business or pleasure, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, (5) a bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman, and (6) an alien entitled to enter the United States solely to carry on trade between the United States and the foreign state of which he is a national under and in pursuance of the provisions of a treaty of commerce and navigation, and his wife, and his unmarried children under twenty-one years of age, if accompanying or following to join him."

Bearing in mind always that refugees are barred by other provisions of law than those referred to above, they nevertheless could not truthfully be classified as tourists or as visitors entering the United States temporarily for business or pleasure. A refugee who has abandoned his residence in an enemy state and forfeited his allegiance is definitely debarred from return. Indeed, the possibility of his eventual return is wholly problematical. In this connection note that under the provisions of Section 220 of the Immigration Act of 1924, of which Section 203 is a part, that any person who obtains, accepts, or receives any immigration visa or permit knowing it to have been procured by means of any false claim or statement is guilty of a grave offense for which he can be fined up to \$10,000, or imprisoned for not more than five years or both. Any person who connived or assisted an alien to violate this provision would, of course, be liable to prosecution for a conspiracy to commit an offense against the United States.

Finally, it may be said, that there are provisions in the immigration laws which prohibit the admission of criminals or persons who admit having committed a crime or misdemeanor involving moral turpitude, prostitutes, procurors, or pimps; also aliens belonging to subversive groups or who believe in or advocate the duty, necessity or propriety of the unlawful assaulting

or killing of any officer or officers (either of specific individuals or of officers generally) or of any organized government, because of his or their official character. If refugees are admitted outside of the regular immigration procedure, no information as to whether or not any of them might be so classified, would be elicited.

Mr. Chairman, under the terms of the Resolutions before the Committee, any anarchist or communist may be admitted upon establishing the fact that he is a bona fide political or religious refugee. The refugee may also be a white slaver, a narcotic peddler or even an habitual criminal and yet secure admission within the spirit of the Resolutions, providing only that he has not a loathsome or contagious disease.

To be sure, I recognize the fact that these persons are to be kept under restraint but if the experience of the past twenty years teaches us anything, I venture to suggest it will not be long before organizations sponsoring these Resolutions will be coming before your Committee to lament the confinement of aliens on American soil in concentration camps because of their political or religious beliefs.

To sum up, Mr. Chairman, I and my associates feel that the Congress and the American people are faced with another and most serious drive to undermine and ultimately destroy the whole policy of restriction upon immigration into the United States. It has been shown that upon humanitarian grounds it is infinitely preferable that all refugees from Axis territory be cared for temporarily in North Africa, and that the probability is that not only will these refugees not return to the land of their birth but also that there are millions in Europe who will probably be forced to migrate elsewhere on the conclusion of hostilities. Any refugees admitted into the United States now who have children born on United States soil will raise the question that they should not be deported because to do so would involve either the separation of the family or the deportation of an American citizen.

If additional legislation is necessary to establish more refugee camps in North Africa, I will urge my associates to support it. However, I think it is very clear that U.N.R.R.A. has ample authority to expand the existing camps now in the middle East and North Africa, indefinitely.

As the matter stands, therefore, the American Coalition is opposed to the passage of any one of the Resolutions whose numbers are set forth in this statement. Our organization is on record in its annual convention of this year in behalf of total exclusion of all immigration into the United States.

Respectfully submitted,

July 12, 1944. JOHN B. TREVOR.

Southern Building,  
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