MEMORANDUM FOR: Assistant Director for Special Operations

SUBJECT: Exclusion and Deportation of Aliens

Reference is made to your memorandum of 21 November 1950, requesting a list of grounds for exclusion and deportation of aliens. The attached discussion has been prepared in the manner you have suggested.

LAWRENCE R. HOUSTON
General Counsel

Attachment
as above

25X1A9A

[redacted]:mw

cc: Chrono
Subject
Legal Decision
Vital Document

BEST COPY

25X1A8A

MEMORANDUM FOR: Chief, [redacted]

25X1A9A ATTENTION : [redacted]

SUBJECT : Exclusion and Deportation of Aliens

Forwarded herewith is a memorandum requested by the Office of Special Operations concerning grounds for exclusion and deportation of aliens. This copy is for your information.

LAWRENCE R. HOUSTON
General Counsel

25X1A9A

[redacted] tac

cc: Subject
Chrono

MEMORANDUM FOR: Assistant Director for Policy Coordination

25X1A9A ATTENTION : [redacted]

SUBJECT : Exclusion and Deportation of Aliens

Forwarded herewith is a memorandum requested by the Office of Special Operations concerning grounds for exclusion and deportation of aliens. This copy is for your information.

LAWRENCE R. HOUSTON
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EXCLUSION AND DEPORTATION OF ALIENS

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GROUNDS FOR EXCLUSION OF ALIENS

I. ALIENS EXCLUDED BECAUSE OF IMPROPER APPLICATION OR MANNER OF ARRIVAL

A. Those previously excluded and deported, arrested and deported, or removed on own application.

B. Those applying from foreign contiguous territory (Mexico, Canada, including Newfoundland, and the French islands of St. Pierre and Miquelon), having been brought by nonsignatory lines.

C. Stowaways.

D. Assisted aliens, i.e., those whose transportation is paid for with the money of another individual, or by a corporation, association, or government.

E. Accompanying aliens. An alien is excludable if (1) he is accompanying another alien who has been excluded; (2) such other alien is certified by an examining medical officer as being helpless from sickness, mental or physical disability, or infancy; and (3) such other alien as requires his protection or guardianship.

F. Children under 16 years of age and unaccompanied by or not coming to one or both parents.

II. ALIENS EXCLUDED BY EMERGENCY OR WARTIME RESTRICTION (In this connection, see the special reference to the Internal Security Act of 1950).

A. Persons who have departed from the jurisdiction of the United States for the purpose of evading or avoiding training or service in the United States armed forces during time of war or during a period declared by the President to be a national emergency.

III. ALIENS WITH IMPROPER, FRAUDULENT OR NO DOCUMENTS

IV. ALIENS CONVICTED OR ADMITTING COMMISSION OF CRIME

A. Aliens convicted or admitting commission of crime involving moral turpitude.

B. Aliens convicted of narcotic violations.

V. IMMORAL ALIENS

A. Prostitutes, procurers, and like immoral aliens.

B. Polygamists.

VI. ANARCHISTS OR OTHER SUBVERSIVE ALIENS (In this connection, see the special reference to the Internal Security Act of 1950).

VII. ALIENS WITH MENTAL PHYSICAL, ECONOMIC, OR EDUCATIONAL DISQUALIFICATIONS

A. Mental or physical defectives and diseased aliens. An alien is excludable if he is:

1. An idiot, imbecile, feeble-minded, epileptic, or insane person.
2. A person who has had one or more attacks of insanity at any time previously.
3. A person of constitutional psychopathic infirmity.
4. A person with chronic alcoholism.
5. A person afflicted with tuberculosis in any form.
6. A person afflicted with a loathsome or dangerous contagious disease.
7. A person not included in any of the foregoing classes who is found to be and is certified by the examining medical officer as being medically or physically defective, such physical defect being of a nature that may affect the ability of such alien to earn a living.

B. Aliens likely to become public charges. The following may bring an alien within this category:

1. Insufficient funds to afford support until arrival at destination or until employment can be obtained.
2. Advanced age and no friends or relatives legally responsible for alien's support.
3. Crippled condition.
4. Limited earning power and many dependents.
5. Addiction to drinking or gambling.
6. Deaf-mutism when accompanied by evidence of ignorance and poverty.

C. Paupers, professional beggars, and vagrants.

D. Certain contract laborers.

E. Illiterates.

VIII. ALIENS DISQUALIFIED BY RACE OR INELIGIBILITY TO CITIZENSHIP

A. Aliens ineligible to citizenship.

B. Natives of Asiatic barred zone, which includes, roughly, the East Indies, western China, French Indo-China, Siam, Burma, India, Bhutan, Nepal, eastern Afghanistan, Turkistan, the Kirghis Steppe, and the southeastern portion of the Arabian peninsula.

IX. GENERAL EXEMPTIONS

A. Accredited officials of foreign governments, their suites, families and guests, except "aliens with improper, fraudulent, or no documents."

B. Persons claiming United States nationality and in possession of consular certificates of identity stating that their nationality status is pending before United States courts.

C. Former citizens of the United States who were expatriated through the expatriation of one or both parents, who have not acquired the nationality of another country by any affirmative act other than the expatriation of a parent or parents and who seek to return to the United States before reaching the age of 25 years.

X. SPECIFIC EXEMPTIONS

A. Virtually every class of excludable aliens has exemptions other than those listed above. The exemptions for certain classes are so numerous that it is impractical to list them in this document. The Immigration Manual of the Immigration and Naturalization Service contains the specific exemptions.

XI. DISCRETIONARY ACTION IN SPECIAL CASES

A. Even though an alien is found excludable, he may, under certain conditions, be permitted to enter or be paroled.

GROUNDS FOR DEPORTATION OF ALIENS

I. IN GENERAL

A. Violation of status or terms of conditional entry, e.g., abandonment of status or remaining longer than authorized.

B. Entering without inspection or by fraud. Deportation for this reason must take place within three years after entry.

II. DEPORTATION FOR CAUSES EXISTING AT TIME OF ENTRY

A. Improper application for admission. An alien is deportable within five years after entry, if he falls within one of the following categories:

1. Aliens previously excluded, deported or removed.
2. Aliens who entered from foreign contiguous territory, having been brought by nonsignatory lines.
3. Stowaways.
4. Assisted aliens.
5. Accompanying aliens.
6. Children under 16 years of age and unaccompanied by or not coming to one or both parents.

B. Aliens excluded by emergency or wartime conditions. An alien is deportable within five years after entry, if, at time of entry, he was excludable as a member of the following class:

1. Fugitives from training and service in the armed forces of the United States.

C. Aliens with improper, fraudulent or no documents. Such aliens are deportable within five years after entry if, at time of entry, he fell in this category.

D. Aliens convicted, or admitting commission, prior to entry, of crime involving moral turpitude, are deportable at any time.

E. Immoral aliens. An alien is deportable within five years after entry if excludible at the time of entry as a member of one of the following classes:

1. Prostitutes, procurers and like immoral aliens.
2. Polygamists.

F. Anarchists or other subversive aliens. Such aliens are deportable at any time if at time of entry, they were members of such classes. In this connection, see the special reference to the Internal Security Act of 1950.

G. Aliens with mental, physical, economic, or educational disqualifications. An alien is deportable within five years after entry if at time of entry he was a member of one of the following classes:

1. Mental or physical defectives and diseased aliens.
2. Aliens likely to become public charges.
3. Paupers, professional beggars and vagrants.
4. Certain contract laborers.
5. Illiterates.

H. Aliens disqualified by race or ineligibility to citizenship:

1. An alien is deportable at any time after an entry on or after 1 July 1924, if he was inadmissible at time of such entry as an alien ineligible to citizenship.
2. An alien is deportable within five years after entry if he is a native of the Asiatic barred zone.

III. DEPORTATION FOR CAUSES ARISING AFTER ENTRY OTHER THAN VIOLATION OF STATUS OR TERMS OF CONDITIONAL ENTRY

A. Smugglers of aliens:

1. An alien is deportable at any time after entry if he shall, once within five years after entry or more than once at any time after entry, have knowingly and for gain encouraged, induced, assisted, abetted, or aided any other alien to enter or try to enter the United States in violation of law. However, such conduct must have occurred on or after 28 June 1940.

B. Aliens convicted of the following crimes are deportable at any time:

1. Crimes involving moral turpitude, if sentenced for a year or more.
2. Violations of narcotics laws.
3. False registration (if convicted within five years after entry).
4. Importation of prostitute or return after deportation as such.
5. Subversive activity or return after deportation for such.

6. Violations of certain wartime and neutrality acts.
7. Unlawful possession of certain weapons.
8. Violation of Foreign Agents Registration Act.

C. Certain immoral aliens are deportable at any time after entry, e.g.:

1. Prostitutes.
2. Aliens connected with the business of prostitution.

D. Anarchistic or other subversive aliens are deportable at any time. In this connection, see the special reference to the Internal Security Act of 1950.

E. An alien who becomes a public charge within five years after entry is deportable at any time.

IV. GENERAL EXEMPTIONS

A. The following persons are exempt from deportation provisions listed above:

1. Accredited officials of foreign governments, their suites, families, and guests, except those who entered with improper or no documents, abandoned status or remained longer, or were convicted within five years after entry of false registration.

V. SPECIFIC EXEMPTIONS

A. Virtually every class of deportable aliens contains numerous exemptions which are not listed here because of space requirements.

INTERNAL SECURITY ACT OF 1950

This legislation (the so-called Mc Carran Bill) makes numerous and important changes in the laws affecting exclusion and deportation. Section 22 is the most pertinent part of the 1950 Act, and this section completely rewrites a law passed in 1918. It retains portions of the 1918 law, and also includes certain new restrictions. All provisions listed below are presently in effect, but are identified as "old" or "new" for informational purposes.

ALIENS EXCLUDED FROM ADMISSION UNDER THIS ACT:

Primarily New — (1) Aliens who seek to enter the United States whether solely, principally, or incidentally, to engage in activities which would be prejudicial to the public interest, or would endanger the welfare or safety of the United States;

Old — (2) Aliens who, at any time, shall be or shall have been members of any of the following classes:

Old — (A) Aliens who are anarchists;

Old — (B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

New — (C) Aliens who are members of or affiliated with

(i) the Communist Party of the United States;
(ii) any other totalitarian party of the United States;
(iii) the Communist Political Association;
(iv) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state;
(v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or
(vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt;

New — (D) Aliens who advocate the economic, international, and governmental doctrines of any other form of totalitarianism, or who are members of or affiliated with any organization that so advocates;

New

(E) Aliens who are members of or affiliated with any organization which is registered or required to be registered under Section 7 of the 1950 Act, unless they establish that they did not until then have reason to believe that it was a Communist organization;

Old, Except As Italicized

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches the overthrow by force or violence or other unconstitutional means of the United States Government or of all forms of law, the propriety of the unlawful assaulting of any officer of this or any other organized government, the unlawful damage of property, or sabotage;

Old, Except As Italicized

(G) Aliens who write or publish or knowingly circulate, etc., written matter advocating or teaching opposition to all organized government, or any of the four doctrines in (F), or the doctrines in (D); and

Old

(H) Aliens who are members of or affiliated with any organization that publishes or circulates etc., any written matter in (G).

Primarily New

(3) Aliens with respect to whom there is reason to believe would, after entry, be likely to (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security; (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unconstitutional means; or (C) organize, join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under Section 7 of the 1950 Act.

ALIENS DEPORTABLE UNDER THIS ACT:

The 1950 Act also provides for the deportation of virtually all aliens enumerated above.

DIPLOMATIC EXCEPTIONS:

Generally speaking, the 1950 Act is more restrictive upon representatives of foreign governments.

The provisions of Paragraph (2) above (concerning past or present status) do not apply to two classes entering temporarily, viz., a government official, his family, attendants, servants and employees, and a representative of a foreign government to an international organization under the International Organizations Immunities Act or an officer or employee of such organization and his family, etc.

The provisions of Paragraphs (1) and (3) above (concerning exclusion for prospective status) apply to ALL aliens except ambassadors, public ministers, and career diplomatic and consular officials who have been accredited by a foreign government recognized by the United States, and the immediate families of such aliens.

EFFECT OF "INVOLUNTARY" MEMBERSHIP IN TOTALITARIAN PARTY

As pointed out previously, the Internal Security Act of 1950 excludes from admission those aliens who "at any time, shall be or shall have been...members of or affiliated with" the Communist or other totalitarian party or organization.

The enforcement of this provision by immigration authorities caused a great deal of controversy shortly after enactment of the law. For example, a 20-year-old Austrian pianist, Friedrich Gulda, was detained upon arrival at Ellis Island because he belonged to a Hitler Youth organization when he was ten years old. Gulda was finally admitted temporarily to fill a concert engagement, but only after a great deal of unfavorable publicity. In addition, it was necessary for the Attorney General to utilize his discretionary authority (under the ninth proviso) to admit Gulda, which necessitated a finding that Gulda's entrance would not endanger the public safety, and a full report to Congress in justification of the admission.

In addition, numerous "involuntary" aliens faced the possibility of deportation under this law.

The problem has now been clarified, as a result of a law signed by the President on 28 March 1951. Under the provisions of this legislation, before an alien can be excluded or deported for membership in or affiliation with a totalitarian party, the membership or affiliation must be or have been voluntary, and this does not include membership which falls within one of the following classes:

(1) when under 16 years of age;

(2) By operation of law;

(3) For purposes of obtaining employment, food rations, or other essentials of living, and where necessary for such purposes.

In other words, such "involuntary" membership in or affiliation with a totalitarian party neither prevents the entry of an alien nor requires his deportation.

Sponsors of this modification of the law, particularly Senator Mc Carran, maintain that it merely corrects a "misinterpretation" placed on the Internal Security Act by the Justice Department. The Justice Department contended that it had no legal right to admit aliens associated

in any way with totalitarianism. However, after a brief freeze on immigration, the Department began to admit temporarily those regarded as "nominal" totalitarians. Senator Mc Carran estimated that approximately 1500 aliens were admitted on this basis during the period between October 1950 and March 1951. Even this procedure was unsatisfactory, and as a consequence the law was amended so that "involuntary" aliens would not be affected.

USE OF CONFIDENTIAL INFORMATION IN EXCLUSION CASES

In the normal case of an alien seeking to enter the United States, a hearing is held before a board of special inquiry. However, in the case of aliens who seek entry to engage in activities which would be prejudicial to the public interest, or would endanger the welfare or safety of the United States, the Attorney General has the power to suspend the hearing and exclude the alien on the basis of confidential information, provided disclosure of such information would be prejudicial to the public interest, safety or security.

This power to exclude is given the Attorney General by Section 22(5) of the Internal Security Act of 1950. Similar authority was held constitutional prior to passage of this law in the case of Knauff v. Shaughnessy, 338 U. S. 537 (1950). It should be pointed out, however, that this power does not apply in deportation proceedings.

EVIDENCE IN EXCLUSION PROCEEDINGS

BACKGROUND.

As has been mentioned previously, there are times when the Attorney General may exclude an alien on the basis of confidential information. However, in the normal exclusion case, a hearing is held before a board of special inquiry, at which time evidence is introduced. The procedure is rather complicated, and is governed by regulations of the Immigration and Naturalization Service, from which most of the following information has been obtained. It does not pertain, of course, to those cases in which an alien is excluded on the basis of confidential information.

IN GENERAL.

All evidence should be introduced into the record of the hearing before the board of special hearing. The applicant may not be excluded on evidence not presented to him. Questioning should be sufficiently comprehensive to bring out clearly the meaning of the testimony, and the record should disclose that each person has testified as fully and ably as his knowledge of the subject permits. To this end an applicant or witness must be afforded opportunity to clear up or explain any inconsistencies or disagreements between his present testimony and that previously given by the same person and between his testimony and documentary evidence of record relating to or furnished by him. Moreover, when there is a conflict on a major, vital, or important point between testimony or documentary evidence of the applicant and a witness, or between that of one witness and another, good administration requires efforts at clarification whenever it is reasonably due to misunderstanding, or that further examination may resolve the disagreement. However, explanations that appear to reconcile differences should be weighed cautiously in the light of possible connivance.

Boards of special inquiry are not bound by judicial rules of evidence or procedure and may consider evidence incompetent in a judicial hearing, including hearsay evidence, or records in official files, testimony taken before a single inspector notwithstanding a later change in such testimony, or a sabled report from a United States consul, and inquire into collateral matters to test credibility.

Although an admission of the conviction of a crime involving moral turpitude is competent evidence of conviction, certified copies of the information or indictment and of the judgment should be incorporated if the conviction occurred in the United States. And notwithstanding such admission by the applicant, a conviction of such an offense in a foreign country must likewise be verified, if possible.

A certificate from a foreign policy official stating the fact of conviction has been accepted, but when conviction in a foreign jurisdiction is denied, evidence of lesser quality than an authenticated copy of the judgment of conviction has been held insufficient.

If the court records are readily available, the foregoing requirement of incorporating official evidence of conviction also should be observed in the case of an applicant for admission who has been prosecuted for an offense involving moral turpitude and who appears subject to exclusion on the ground that he unequivocally admits its commission. This is so because the question as to whether a crime actually has been committed ought not be left to inference when it is readily susceptible of determination by the introduction of court records that would leave no doubt of the true facts. It is emphasized, however, that failure to obtain the court records will not, in and of itself, require a finding that there is no admission, or conviction, of an offense involving moral turpitude, as other evidence may be sufficient to resolve the issue.

The burden is not on the applicant to prove that his conduct has not violated the laws of a foreign jurisdiction when such conduct would not have constituted an offense had it occurred in the United States. It has been broadly stated, moreover, that an admission by an alien that he has committed a crime is not significant unless the record establishes that a particular statute denounces the admitted conduct as an offense. Thus, when the admission relates to conduct abroad and when it is practicable to do so, it is necessary to include in the record of the hearing before the board the relevant parts of the foreign st tute, together with the complete official citation of its source.

BURDEN OF PROOF.

An alien has no right to enter the United States unless such right has been given to him by the United States; and the burden of proof is upon the alien attempting to enter the United States to establish that he is not subject to exclusion. This burden applies whether on first application or for reentry, or when an applicant claims U. S. citizenship.

However, reliance may not be had to an unreasonable extent on the rule that the burden of proof is on the applicant for admission. Thus, when the issue is whether the alien has committed an offense in a foreign country, and the facts do not establish that the admitted conduct would have amounted to a crime in the United States, the burden is not on the applicant to prove that he has not violated the criminal laws of the foreign jurisdiction.

WITNESSES.

Competent witnesses are to be heard and to refuse to hear them, or to refuse to accept available testimony, renders a hearing unfair. All witnesses on conclusion of their testimony should be asked if they have anything further to state.

Officers in charge may require by subpoena the attendance of witnesses and production of books, papers, or documents, and, if necessary, the authority of United States courts may be invoked to compel testimony or production of evidence.

EVIDENCE IN DEPORTATION PROCEEDINGS

IN GENERAL.

Evidence is the means by which the alleged violations of law may be proved or disproved. The term includes any matter submitted for consideration, whether it is a statement of a witness, the contents of papers, documents, or records. The rules of evidence to be employed must be within reason and fairness, although those applicable in judicial proceedings need not be strictly followed. The administrative authorities are to determine both questions of law and fact, but the former are reviewable by the courts and the latter must be predicated upon the evidence in the record.

ADMISSIBILITY.

(a) In General. Generally, evidence is admissible if it is relevant to the issue and the best obtainable. Evidence used to support the application for a warrant of arrest, and statements, affidavits, etc., taken ex parte, that is in the absence of and without notice to the other party, are generally admissible, unless restricted because of lack of cross-examination, etc.

(b) Oral Testimony. An alien's own testimony may be sufficient to deport him.

The testimony of a witness known as hearsay, that is, what he has heard from others as distinguished from what he knows, may be used if the alien has a chance to explain or rebut it. However, it is not to be employed where better evidence is obtainable.

Expert opinion testimony, such as that of an inspector, medical examiner, or other competent witness, is admissible, when substantial basis for such opinion is shown.

Testimony of insane persons is competent, generally, if they have sufficient understanding to know the obligation of the oath and can give a clear account of the matter involved. The testimony should always be supplemented by a competent witness who can testify to the nature and extent of the insanity. The testimony of the insane person also must be supplemented by such other competent evidence in connection with the case as is obtainable.

Testimony of infants may be considered when they are of such an age that they have sufficient understanding to know the obligation of the oath and can give a clear account of the matters involved. Children of

a more tender age may be permitted to testify although not under oath, within the discretion of the presiding inspector. This testimony is to be supplemented by such other competent evidence as may be available.

The testimony of a spouse may be considered if in behalf of the alien spouse; against the alien spouse, when merely cumulative; against the alien spouse, if it does not relate to a privileged communication.

Testimony of a witness living in unlawful cohabitation with the alien may be admitted and considered.

However, when such testimony is contrary to the interest of the alien, it should be received with great care, and should be supplemented by other testimony or evidence whenever available.

The testimony of prostitutes or persons of questional le truthfulness should not be arbitrarily rejected or denied value as evidence, but should be received with caution.

Parol evidence is admissible to explain or contradict records kept pursuant to a public duty.

(c) Documentary Evidence. The production and introduction of documentary evidence into the record, when pertinent to the determination of an issue or when necessary to justify discretionary action is always desirable. Documentary evidence may not be admitted into the record without making their contents known to the alien or his counsel or representative, if any.

Records, landing certificates, transit lists, and other dat of the Immigration and Naturalization Service may be admitted into evidence.

Reentry permits may be admitted as prima facie evidence of status.

Anonymous or confidential information, or information of a nature that cannot be brought to the attention of the alien is not to be introduced as evidence or brought to the attention of the official presiding at the hearing. It is to be used only as a means of obtaining competent evidence.

Depositions, after due notice to the alien and counsel, may be admitted in evidence.

The officer presiding at the hearing may permit the introduction into the record of any written or recorded statement or satisfactory evidence of any admission made by the alien or any other person during an investigation.

Official communications, such as from United States consuls, are admissible, and may be considered with controlling weight. Other data, such as letters, communications, and identification cards, are admissible but ordinarily are not sufficient in themselves.

Printed matter, such as books and pamphlets, may be admitted and considered.

Medical certificates may be admitted and considered, but they are not binding on the immigration officers, and related oral evidence may be desirable.

Certified copies of court records are competent proof of conviction of crime in the courts of the United States, and oral evidence of innocence or guilt is irrelevant.

WEIGHT AND SUFFICIENCY.

(a) In General. The Immigration authorities determine the weight and sufficiency of the evidence. As they are not restricted in the reception of evidence to only such as would meet the requirements of legal proof, they can determine the question before them on any evidence that appears worthy of credit. Further, they are free within reason and fairness to determine the value of the evidence, the credibility of witnesses, and to resolve conflicting evidence.

(b) Conduct and Silence of Witness. Conduct that forms a basis for inference is evidence, and silence is often evidence of the most persuasive character. Although inference from silence should be cautiously drawn, the weight to be given is for the official conducting the hearing.

(c) Oral Testimony. Evidence of this type is to be distinguished from documentary or written evidence. Generally, oral evidence is secondary and not equivalent to or to be used as a substitute for a document when the latter is required by law. The credibility of witnesses and the weight of their testimony are for the determination of the immigration authorities. Testimony may be rejected or disbelieved, or if preliminary testimony is changed, the prior testimony may be accepted and the latter rejected.

(d) Documents. Certified copies of judgments, certificates of police court clerks, or the admission at any time of the conviction of a crime before entry may be weighed as evidence of conviction in foreign courts. Certificates from foreign police officials may also be considered, and credibility cannot be assailed on rational grounds without some evidence to discredit them. Although alone they may be insufficient evidence, incidental testimony may serve to establish the claimed fact.

Records of arrest are incompetent to prove conviction.

Should the record of a criminal conviction for a crime involving moral turpitude fail to show that the respondent was convicted by a court of competent criminal jurisdiction, such evidence is considered insufficient upon which to base a charge of deportation.

Registers of birth certificates or baptismal records kept by officers or clergymen are generally competent as proof of United States citizenship. However, a birth certificate filed several years subsequent to birth, or one issued by the Territory of Hawaii, or the registration of a voter, or a child's name appearing on a naturalization certificate, or a written statement by a United States Commissioner that a Chinese person of a certain name was brought before him and was adjudged to have the right to remain in the United States by reason of being a citizen, or a discharge certificate of a United States Commissioner, may be considered but not conclusive proof of United States citizenship.

A naturalization certificate or a landing certificate may be evidence of a foreign citizenship.

(c) Evidence Obtained by Illegal Search and Seizure. Such evidence cannot be made the basis of a finding in deportation proceedings. It is not an illegal search or seizure, however, to obtain a statement of an alien in detention, or to purchase at a shop books that may or are to be used as evidence. Further, documents seized by police officers without the cooperation of Federal authorities, or documents obtained by immigration officers from a third party, or such other documents as are admitted to evidence without obligation or proof of being unlawfully obtained, may be considered.

WITNESSES.

(a) In General. The testimony privileges that apply to judicial proceedings govern administrative investigations also, and may be waived. Persons whose testimony is deemed essential to a proper decision of the case are to be required to appear and testify. Generally, the Government has the right to call and examine an alien as a witness against himself. An alien may be directed to answer questions by judicial process, and be punished for contempt if he refuses. A presiding inspector is not to be a witness except in unusual instances.

Government witnesses, in case the right of cross-examination exists, are to be produced if possible, although there is no duty upon the Government to go to the expense of transporting witnesses for a great distance as examination may be conducted by deposition. However, if identification of the alien is of primary importance and identification may not easily or logically be made by deposition, witnesses must be produced, if possible.