

7 Mrs. Copeland

4

- 4 William F. Tompkins
- 4 Assistant Attorney General
- 4 Internal Security Division
- 4 W. Wilson White
- 4 Assistant Attorney General
- 4 Office of Legal Counsel
- 4 Admission of Hungarian Refugees.

WWW:BF:egg

To Int Sec
3/26

By memorandum of March 20, 1957, you forwarded to this office a letter to you dated March 15 from Mr. Loyd Wright, Chairman, Commission on Government Security with reference to the admission to the United States of Hungarian refugees. Attached to Mr. Wright's letter is a memorandum dated January 23, 1957, prepared by the Commission General Counsel.

Mr. Wright asks that, "in reference to our understanding of the law that covers mass refugees," he be advised if "we are in error in any particular."

The memorandum from the Commission General Counsel concludes:

- 10 1. "If the requisite conditions prescribed by the statutes have been followed, and if the total number of visas issued did not exceed the quota allowed for escapees, the admission of the 6,322 Hungarian refugees was valid under the terms of the Refugee Relief Act of 1953" (p. 4); and
- 10 2. "I am of the opinion that the admission of the 15,000 or more Hungarian refugees is not validly authorized under the parole provision of the Immigration and Nationality Act of 1952" (p. 7).

By letter of February 12, 1957, Mr. Wright requested that the Attorney General furnish "a copy of any letter, memorandum, or other document prepared in the Department of Justice for the purpose of advising the White House that it would be legally correct to bring Hungarian refugees to the United States under the parole provisions of the Immigration and Nationality Act." Following conference

with this office, your letter of March 12, 1957, advised Mr. Wright that "no memorandum of the character described in your letter had been furnished by this Department to the President."

The present request seeks, in part, legal advisory services by way of review of the General Counsel's memorandum, which relies upon advice said to have been received by a member of the Commission staff from a person "handling the processing of Hungarian refugees" on "behalf of the Immigration Service" in Vienna, as well as White House directives, a letter from the President, an Executive Order, and several statutes. The letter also presumably seeks an official expression by the Department on the validity of the use of the parole provisions of the Immigration and Nationality Act (Sec. 212(d)(5)).

The Attorney General is authorized by law to furnish legal opinions only to the President and the heads of certain executive departments. The Joint Resolution which created the Commission on Government Security (H. J. Res. 157, 84th Cong., 1st Sess.; P.L. 304; 69 Stat. 595) specifies the Commission powers, in pertinent part, as follows:

- 10"(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purposes of this joint resolution, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman" (69 Stat. 597).

The Joint Resolution did not expand upon the circumstances under which departmental legal advice may be given (5 U.S.C. 303 et seq.). We are of the view, therefore, that it would not be appropriate for the Attorney General or for this office to give the opinion requested.

Further, so far as we know, there have been no formal, published opinions or views by this Department on the validity of the use of the parole provisions in the instance of the Hungarian refugees. It would not appear either necessary or appropriate that we enter into a discussion of that character in response to the Commission's letter. In expressing this view, we are mindful of the interests of departments of the executive branch in addition to the Department of Justice who have participated in the program.