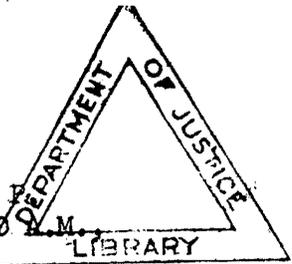


668
117



Opening Statement to be Delivered by the Honorable James P. McGranery, the Attorney General of the United States, at 10:00 A. M. Monday, October 27, before the Commission on Immigration and Naturalization at the Hearings to be held in the Archives Auditorium, Washington, D. C., October 27 and 28, 1952.

Gentlemen, I am honored by the invitation of your distinguished Commission to appear before you this morning. As the Attorney General of the United States, entrusted with the administration and the enforcement of the Immigration and Nationality Act which becomes effective December twenty-fourth, I shall comment briefly only on the problems of administration and enforcement.

Your commission has already received testimony as to policies both from individual citizens and from organizations in various parts of the United States. In the present hearings that you are conducting at the seat of government, you will avail yourselves of the opinions of highly qualified representatives possessing specialized knowledge covering the different phases of Immigration and Naturalization policies which you have been commissioned to study and to evaluate.

The President's executive order, creating you as a Commission, also authorizes and directs you to consider the administration of our immigration laws with respect to the admission, naturalization and denaturalization of aliens, and their exclusion and deportation.

Hence, it should be stated to you that, since the Congress recently enacted the Immigration and Nationality Act, the department has become aware that a number of provisions demand change or clarification.

First, it is my opinion that the new act does not achieve the simplicity of arrangement to be expected of an exhaustive codification. It may even bring about further complications of administration. Section 101, for example, was intended merely to cover the necessary definition of terms employed in the act. Unfortunately, it contains substantive and procedural requirements which better could have been set in separate sections. The result is that the act contains unnecessary and intricate cross-references. In addition, references and cross-references are further complicated by the use of an unwieldy numbering system.

This criticism goes to the act as a whole. I could discuss extensively the ambiguities and defects of numerous specific sections, but I shall confine myself to a discussion of two or three sections which I consider to be more seriously inadequate.

Section 274 is substantially a reenactment of Public Law 283 of the 82nd Congress. That law fixed criminal penalties for transporting into or harboring within the United States certain aliens. Such a law is of great potential assistance in dealing with smugglers and racketeers in human contraband. In Section 274(a) of the act, the second clause reproduces exactly a section of Public Law 283 which already has been construed by one United States District Court as unconstitutionally void for vagueness. Another United States District Court, in acquitting a defendant indicted under the same paragraph, commented upon the vagueness of the language and construed it narrowly. Thus, the provision of Section 274 must be clarified if it is to be effective in achieving its very desirable ends.

The policy of this nation always has been to exclude an alien on the ground of a past criminal offense only if the offense involved moral turpitude. This historical policy is changed by Section 212, subsection (a), clause (10) of the act. It requires the exclusion of any alien who has been convicted of two or more offenses (other than purely political offenses) whether or not moral turpitude was involved, so long as the total of sentences imposed was five years or more.

Practical difficulties of enforcement result from this provision when it is realized that totalitarian countries consistently mask religious, racial and political persecutions as criminal prosecutions. The conference committee when considering the final version of the act had this thought in mind. It said:

"It is the opinion of the conferees that those convictions which were obviously based on trumped-up charges or predicated upon repressive measures against racial, religious or political minorities, should be regarded as purely political in nature and should not result in the exclusion of the alien."

The practical problem of enforcement is that many aliens from Iron-Curtain countries undoubtedly contend they were convicted of "crimes" when no crime had been committed and their sole offense was being politically opposed to those in power.

It will be impossible to determine the truth or falsity of such claims. Trustworthy investigation to establish the truth or falsity cannot be made in the countries involved. Hence, I believe, there should be some clarification by statute of the nebulous middle ground between crimes and political offenses.

I will now take up Section 290(a) of the act which requires a master index of all aliens hereafter admitted to the United States or excluded from this country. It requires that such a master index be maintained in the central office of the Immigration and Naturalization Service.

A great many aliens in Canada and Mexico legally cross our borders at frequent intervals, some, several times a day. A very heavy burden is placed on the Service if it is to maintain a record of all such admissions, and the law as it now stands would require it.

Surprisingly this section does not require inclusion in the central index of those aliens who are not admitted or excluded - but who are apprehended after illegally entering the United States. This class of aliens certainly is of much greater concern to security and enforcement officers.

We might multiply instances wherein the new act gives the Department of Justice serious problems of administration and enforcement. However, I will confine myself to these few criticisms. I have drawn your attention only to those few sections which, in my judgment, present the most serious problems. My associates will detail other criticisms of the act. I am certain that what they have to say will be of great interest and assistance to you in your study.