84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1362

AMENDING THE ACT OF SEPTEMBER 3, 1954

JULY 25, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 6888]

The Committee on the Judiciary, to whom was referred the bill (H. R. 6888), having considered the same, report favorably thereon with amendments, and recommend that the bill do pass.

The amendments are as follows:

1. On page 2, after line 5, insert the following:

SEC. 2. Section 4 of the Act of September 3, 1954 (68 Stat. 1145) is hereby amended to read as follows:

"SEC. 4. An alien shall not be ineligible to receive a visa and excludable from admission into the United States under the provisions of section 212 (a) (9) of the Immigration and Nationality Act (66 Stat. 182) (a) solely by reason of a single conviction of an offense or offenses each of which, if committed in the United States, would be a misdemeanor punishable by imprisonment not to exceed one year, and for which the aggregate penalty actually imposed was imprisonment not to exceed six months or a fine not to exceed $500, or both; or (b) solely by reason of the admission of the commission of an offense or offenses or the commission of acts constituting the essential elements of an offense or offenses each of which, if committed in the United States, would be a misdemeanor punishable by imprisonment not to exceed one year: *Provided*, That the determination whether an offense or offenses committed outside the United States would, if committed in the United States, be classifiable as a misdemeanor or misdemeanors punishable by imprisonment not to exceed one year shall be based, not on the applicable foreign law but on the provisions of the United States Code, and whenever such code fails to define an offense or offenses comparable to those committed, on the provisions of the Criminal Code of the District of Columbia."

2. On page 2, line 6, strike out "SEC. 2." and substitute in lieu thereof "SEC. 3.".

3. On page 2, at the end of the bill, add the following:

SEC. 4. New sections 6 and 7 are hereby added to the Act of September 3, 1954, in (68 Stat. 1145) to read as follows:

"SEC. 6. The word 'Spain' is hereby added to subsection 4 (a) (3) of the Refugee Relief Act of 1953, as amended (67 Stat. 401; 68 Stat. 1044), to follow the word 'Sweden' as it appears in the said subsection.

"SEC. 7. The provisions of law relating to the deportation of aliens on the ground that they were excludable at the time of entry shall not apply to an otherwise admissible alien, admitted to the United States between December 22, 1945, and November 1, 1954, both dates inclusive, who misrepresented his place of birth, identity, or residence in applying for a visa if such alien shall establish to the satisfaction of the Attorney General that the misrepresentation (a) was predicated upon the fact that the alien had reasonable grounds to fear repatriation to his former residence or homeland where he would be persecuted because of race, religion, or political opinions, and (b) was not committed for the purpose of evading the quota restrictions of the immigration laws or an investigation of the alien at the place of his former residence or elsewhere."

4. Amend the title so as to read:

A bill to amend the Act of September 3, 1954.

PURPOSE OF THE BILL

The purpose of the bill as amended is first of all to facilitate the admission of the wives and minor children of certain Basque sheepherders whose entry to the United States was authorized under the act of September 3, 1954, or either of the earlier acts of Congress relating to such sheepherders, to wit: acts of June 30, 1950, and April 9, 1952, respectively. The bill further provides for release of the quota numbers preempted by the two acts last mentioned, with stipulated priority in the allocation of these numbers.

An amendment to section 4 of the act of September 3, 1954, is designed to extend the waiver of excludability therein provided to include the alien convicted on one occasion only, of offenses which in the aggregate would constitute no more than a petty offense as defined in title 8 of the United States Code, and to provide a proper criterion to determine foreign judgments.

A further amendment by the committee will make it possible for the escapees from Communist-controlled countries who have found temporary refuge in Spain to qualify for visas under the Refugee Relief Act of 1953, as amended. An additional committee amendment is designed to correct a situation involving a number of aliens admitted under the Displaced Persons Act who misrepresented their nationality or country of birth to avoid forced repatriation to Communist-controlled countries.

GENERAL INFORMATION

On September 3, 1954, the third of a series of bills authorizing the admission of a number of aliens skilled in sheepherding was enacted. A total of 385 nonquota visas were made available under this law. Two bills enacted in the 81st and 82d Congresses, respectively, authorized the issuance of 750 quota visas, with a provision for deduction of the quota numbers in the years following.

In making a study of immigration problems in Spain earlier this year, a special subcommittee of the Committee on the Judiciary of the House learned that the wives and children of a number of these sheepherders were in distressed condition because of their inability to get visas under the annual Spanish quota of 250, which is heavily oversubscribed. In an effort to relieve this situation in an equitable manner, provision is made in the bill for a nonquota status for the wives and children of the sheepherders whose admission was authorized by the act of September 3, 1954, or under either of the preceding acts aforementioned.

The committee is of the opinion that since the purpose of the legislation enacted for the admission of skilled sheepherders was to serve the interests of American agriculture and industry, the maintaining of the "mortgage" on the Spanish quota is unjustifiable and it therefore proposes that the "mortgage" be lifted.

The cancellation of the quota charges required by the acts of June 20, 1950, and April 9, 1952, with the stipulation that in the allocation of the numbers so restored, priority be given to the "preference relatives" as defined by the Immigration and Nationality Act, should further alleviate the difficulties of Spanish immigrants involved in the separation of families.

The following communication addressed to the chairman of a subcommittee of the Committee of the Judiciary by the Department of State, sets forth the views of that Department on the bill, H. R. 6888, and gives information in detail on the status of the Spanish quota:

JULY 12, 1955.

Hon. FRANCIS E. WALTER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. WALTER: Reference is made to your letter of June 17, 1955, requesting the Department's views concerning H. R. 6888, to amend the act of September 3, 1954, and to facilitate the entry of skilled specialists chargeable to the quota for Spain. Reference is also made to the Department's interim acknowledgment of June 21, 1955.

Section 1 of H. R. 6888 would amend the act of September 3, 1954, which authorized the issuance of 385 special nonquota immigrant visas to sheepherders by providing that special nonquota immigrant visas amy also be issued to the wives and minor unmarried children of these sheepherders who are accompanying or following to join them. There is no numerical limitation on the number of special nonquota visas authorized for these wives and minor children.

Consistent with its policy of not separating families in migration, the Department is in favor of this amendment.

Section 2 of H. R. 6888 would add a new section 5 to the act of September 3, 1954, which would cancel charges made against future quotas, primarily the Spanish quota, under the sheepherders acts of June 30, 1950, and April 9, 1952. This provision would have the effect of making available an additional 490 quota numbers under the Spanish quota during a 5-year period beginning July 1, 1955 and distributed as follows:

45 Spanish quota numbers in fiscal year 1956
125 Spanish quota numbers in fiscal year 1957
125 Spanish quota numbers in fiscal year 1958
112 Spanish quota numbers in fiscal year 1959
83 Spanish quota numbers in fiscal year 1960

The new section 5 would further provide that in allocating quota numbers so restored, priority should be given to aliens entitled to preference by reason of relationship and to skilled aliens accorded first preference quota status who are destined to the Commonwealth of Puerto Rico.

Inasmuch as the Department is in favor of a cancellation of all existing charges against future quotas, it endorses that portion of section 5 which would cancel charges against future quotas required under the acts of June 20, 1950, and April 9, 1952. It recommends that the Congress give favorable consideration to an elimination of all charges against future quotas in the case of all quotas.

The Department is of the opinion that the purpose to be achieved by the proposed formula for the reallocation of quota numbers restored by section 5 can be achieved administratively and without legislation. As will be noted from the table listed below, there are on file in the Visa Office only 25 first preference quota cases under the Spanish quota for which quota numbers are not immediately available. If the interested employers in Puerto Rico can be encouraged to file promptly petitions for the persons whose skills are urgently needed, they will acquire a priority of registration governed by the filing date of each petition. Consequently, 50 percent of the Spanish quota would become available to them as soon as the demand by beneficiaries of the petitions with an earlier filing date has been met. In view of this consideration, the Department would prefer if

the proposed formula for the reallocation of quota numbers be omitted inasmuch as it appears undesirable as a matter of principle to single out a particular group of immigrants destined to a specific part of the United States to be beneficiaries of general legislation.

The unmet demand on the four preference portions of the Spanish quota is as follows:

	Qualified	Unqualified	Total
I preference	4	21	25
II preference	33	110	143
III preference	20	78	98
IV preference	2	449	451
Total	59	658	717

There is also attached a table containing a breakdown of charges against future years under the Spanish quota.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

THRUSTON B. MORTON,
Assistant Secretary
(For the Secretary of State).

Attachment: As stated above.

Breakdown of Spanish quota mortgages

	Fiscal years							Total
	1956	1957	1958	1959	1960	1961	1962	
Displaced Persons Act, as amended, Public Law 555, 81st Cong	15							15
Sheepherders' Act, Public Law 587, 81st Cong	41							41
Sheepherders' Act, Public Law 307, 82d Cong	4	125	125	112	83			449
Private laws	31				1	4	6	42
Sec. 19 (c) adjustments	34			13	41	121	77	286
Total	125	125	125	125	125	125	83	833

Although the Department of State indicates a preference for an unrestricted reallocation of the quota numbers restored by this bill, it nevertheless appears desirable for the purpose of insuring the uniting of families, as well as contributing to the economic development of Puerto Rico, to maintain the priority formula devised by the committee. This formula is not rigid. It provides for priority only, and any of the quota numbers not in demand would automatically be restored for allocation under the provisions of section 203 of the Immigration and Nationality Act with 50 percent immediately set aside for aliens qualifying as skilled specialists, including sheepherders.

The special subcommittee of the Committee on the Judiciary, while in Spain, made specific inquiry concerning the status of the escapees who had found temporary refuge in that country. The following tabulation indicates the number of registrants on the quota waiting lists as of February 1, 1955, who would probably qualify as escapees under the Refugee Relief Act of 1953, as amended:

Natives of—	Number
Albania	1
Czechoslovakia	27
Germany	37
Hungary	24
Latvia	8
Lithuania	2
Poland	67
Rumania	24
Union of Soviet Socialist Republics	16
Yugoslavia	46
Total	252

Among these are 19 Polish orphans (over 10 years of age) who have been in Barcelona, Spain, for some years and who are being assisted by American Relief for Poland, Inc., of Chicago, Ill.

While the number of aliens involved is not large, it would appear that the amendment proposed in the bill to enable these escapees to file their applications for visas under section 4 (a) (3) of the Refugee Relief Act of 1953, as amended, would serve a twofold purpose in that it would relieve Spain of any potential economic responsibility in these cases and would offer the aliens an opportunity to seek self-support in the United States.

The attention of the committee has been called to some inconsistencies which have developed in connection with the administration of section 4 of the act of September 3, 1954 (68 Stat. 1145), specifically in the case of an alien convicted of several offenses which in the aggregate would constitute no more than a petty offense, and which were merged in one conviction. The following cases are illustrative of the problem presented:

1. A., the husband of an American citizen, and a Korean war veteran, was convicted of embezzling 11.50 Dutch guilders, the equivalent of $2.80 in United States currency. He received small sums of money from other soldiers to send packages by air express. He sent the packages by sea post for which there was no charge and retained the money. He received a 4-month suspended sentence and was later pardoned.

2. B., stole 20 pounds of corn from the cargo of a vessel and later assisted another individual in the theft of an additional 7 hundredweight of corn. He was fined 20 deutschemarks, the equivalent of $5 in United States currency in lieu of 4 days' imprisonment in Germany.

3. C., between the months of September and December 1944, in Jamaica, British West Indies, stole 3 bicycle wheels, 1 pair of bicycle pedals, 1 bicycle sprocket, and 1 bicycle chain of the value of £4.11 the equivalent of $18.38 in United States currency. He was fined $20.20 or, in the alternative, 30 days imprisonment.

4. D. stole two pieces of pine wood from the State forest, of the value of 3 deutschemarks, and at a later date prepared wood for use in wines at a value of 10 deutschemarks. The German court sentenced D. to a fine of 3 deutschemarks or 1 day's imprisonment for the first offense, and a fine of 25 deutschemarks, or 1 day's imprisonment in lieu of each 5 deutschemarks for the second offense. The deutschemark was worth 4.65 to the dollar at the time.

5. E. upon the occasion of her first marriage, assisted by a girl friend, entered the cellar of a neighbor on two occasions and both stole from the open wine cupboard approximately 20 bottles of wine, besides 2 bottles of champagne, 2 bottles of fruit juice, 10 or 12 eggs and an empty milk can. The alien was 19 years old at the time. The German court sentenced E. to the minimum penalty of 3 months which was suspended in accordance with an amnesty decree.

The committee is of the opinion that the type of case herein described should appropriately be brought within the purview of section 4 of the act of September 3, 1954 (68 Stat. 1145). The requirement that the aggregate penalty actually imposed shall be "imprisonment not to exceed 6 months or a fine not to exceed $500 or both" is designed to clearly preclude aliens who have committed more serious offenses from these benefits.

The committee amendment set forth in the proposed new section 7 gives legislative sanction to the mandate of the conferees on the Immigration and Nationality Act (H. Rept. No. 2096 of the 82d Cong.) with regard to the aliens admitted to the United States under the Displaced Persons Act, who misrepresented their nationality or country of birth to avoid forced repatriation to Communist countries.

After giving careful consideration to this legislation, the committee is of the opinion that the bill, H. R. 6888, as amended, should be enacted.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by this bill are shown as follows (existing law in which no change is made is printed in roman; omitted matter is printed within black brackets; the new matter is printed in italics):

ACT OF SEPTEMBER 3, 1954 (68 STAT. 1145)

SEC. 3. (a) There shall not be issued more than three hundred and eighty-five special nonquota immigrant visas under this Act: *Provided, That special nonquota immigrant visas, without regard to the numerical limitations of this section, shall be issued to the wives and minor, unmarried children of the aliens who are found eligible for special nonquota immigrant visas under the provisions of this Act, if they are accompanying or following to join such aliens, and are otherwise eligible to receive immigrant visas under the Immigration and Nationality Act: Provided further, That the marriage is found to have occurred prior to July 1, 1955.*

SEC. 4. [Any alien, who is excludable because of the conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1 (3) of title 18, United States Code, by reason of the punishment actually imposed, or who is excludable as one who admits the commission of such misdemeanor, may hereafter be granted a visa and admitted to the United States, if otherwise admissible: *Provided,* That the alien has committed only one such offense.] *An alien shall not be ineligible to receive a visa and excludable from admission into the United States under the provisions of section 212 (a) (9) of the Immigration and Nationality Act (66 Stat. 182) (a) solely by reason of a single conviction of an offense or offenses each of which, if committed in the United States, would be a misdemeanor punishable by imprisonment not to exceed one year, and for which the aggregate penalty actually imposed was imprisonment not to exceed six months or a fine not to exceed $500, or both; or (b) solely by reason of the admission of the commission of an offense or offenses or the commission of acts constituting the essential elements of an offense or offenses each of which, if committed in the United States, would be a misdemeanor punishable by imprisonment not to exceed one year: Provided, That the determination whether an offense or offenses committed outside the United States would, if committed in the United States, be classifiable as a misdemeanor or misdemeanors punishable by imprisonment not to exceed one year shall be based not on the applicable foreign law but on the provisions of the United States Code, and whenever such code fails to define an offense or offenses comparable to those committed, on the provisions of the Criminal Code of the District of Columbia.*

AMENDING THE ACT OF SEPTEMBER 3, 1954

SECTION 4 (a) (3) OF THE REFUGEE RELIEF ACT OF 1953, AS AMENDED (67 STAT. 401; 68 STAT. 1044)

SEC. 4 (a) (3) Not to exceed ten thousand visas to escapees residing within the European continental limits of the member nations of the North Atlantic Treaty Organization or in Turkey, Sweden, *Spain*, Iran or in the Free Territory of Trieste and who are not nationals of the area in which they reside: *Provided*, That such visas shall be issued only in the area or areas mentioned in this paragraph.

The remainder of the bill is new law.

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