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entry requirements

(15), (20), (21), (25), and (32) of section 1182(a) of any alien seeking adjustment of status under this may waive any other provision of such section (33) and other than so much of paragraph (23) as with respect to such an alien for humanitarian or when it is otherwise in the public interest.

209, as added Mar. 17, 1980, Pub.L. 96-212, Title II,

Code of Federal Regulations

Adjustment of status of alien to permanent residence status. see 8 CFR 245.1 et seq.

Aliens granted asylum and refugees, general procedures, see 8 CFR 209.1 et seq.

Library References

Aliens 39.

C.J.S. Aliens §§ 53 et seq., 75, 76, 135, 249.

OR ALIENS: TRAVEL CONTROL OF CITIZENS AND ALIENS

into the United States

under quotas before June 30, 1968

(b) and subsection (c) of this section no immigrant States unless at the time of application for immigrant visa or was born subsequent to the any parent, and (2) presents a valid unexpired document, or document of identity and nationality, the regulations issued by the Attorney General. admitted under quotas of quota areas prior to June deemed valid unless the immigrant is properly the quota of which the visa is issued.

ments; Attorney General's discretion

of section 1182(a)(20) of this title in such cases or such conditions as may be by regulations grants, defined in section 1101(a)(27)(A) of this may be readmitted to the United States by the without being required to obtain a passport, other documentation.

as refugees

this section shall not apply to an alien whom the United States under section 1157 of this title.

1, § 7(c), 90 Stat. 2706; Mar. 17, 1980, Pub.L. 96-212,

first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub.L. 94-571, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 94-571, see 1976 U.S. Code Cong. and Adm. News, p. 6073. See, also, Pub.L. 96-212, 1980 U.S. Code Cong. and Adm. News, p. 141.

West's Federal Practice Manual

Immigrants, passport exemptions, see § 6589.

Code of Federal Regulations

Documentary requirements, see 8 CFR 211.1 et seq., 223a.1 et seq., 245.6; 22 CFR 42.1 et seq.

Notes of Decisions

Alien commuters 4a

1. Rules and regulations

Partnership, which was engaged in lettuce and melon growing and which historically relied heavily on labor force composed of Mexican citizens who commuted daily to United States from Mexico using "green cards" in lieu of immigrant visas, had standing to attack constitutionality of regulation prohibiting use of green cards when user comes into country with intention of accepting employment at place where Secretary of Labor has determined that a labor dispute exists, where partnership asserted that enforcement of such regulation compelled the hiring of less experienced personnel to replace those lost with resulting higher costs. *Sam Andrews' Sons v. Mitchell*, D.C. Cal. 1971, 326 F.Supp. 35, reversed on other grounds 457 F.2d 745.

2. Discretion of administrative officials

Portion of regulation providing for use of "green cards" by immigrant aliens returning to the United States in lieu of immigrant visa or reentry permit which further provides that such cards may not be used when immigrant alien reenters with intention of accepting or continuing employment at place of business where the Secretary of Labor has determined that a labor dispute

exists, and as applied to compel commuters to choose between quitting jobs or facing loss of cards, was abuse of the discretion committed to the Attorney General in that it makes distinctions not rationally related to the administration of this chapter. *Sam Andrews' Sons v. Mitchell*, C.A. Cal. 1972, 457 F.2d 745.

4a. Alien commuters

Alien commuters, who have been admitted into the United States for permanent residence, but who choose to keep a home in Canada or Mexico and to cross daily or seasonally into the United States to work, are "immigrants", as respects issue whether such commuters are entitled to classification which would entitle Attorney General to admit them under informal documentation requirements and which would exempt commuters from labor certification provisions. *Gooch v. Clark*, C.A. Cal. 1970, 433 F.2d 74, certiorari denied 91 S.Ct. 2170, 402 U.S. 995, 29 L.Ed.2d 160.

6. Re-entry of alien

Where government withdrew its cross-appeal and conceded propriety of admitting permanent resident alien into country and he had already returned, appeal from so much of opinion as denied alien relief against Immigration and Naturalization Service was moot and was dismissed. *Izco v. Selective Service Local Bd. No. 6*, New York, N.Y., C.A.N.Y. 1970, 422 F.2d 828.

§ 1182. Excludable aliens

(a) General classes

Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

[See main volume for text of (1) to (13)]

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 1153(a)(3) and (6) of this title, and to non-preference immigrant aliens described in section 1153(a)(7) of this title;

[See main volume for text of (15) and (16)]

(17) Aliens who have been arrested and deported, or who have fallen into distress and have been removed pursuant to this chapter or any prior act, or who have been removed as alien enemies, or who have been removed at Government expense in lieu of deportation pursuant to section 1252(b) of this title, and who seek admission within five years of the date of such deportation or removal, unless prior to their embarkation or reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their applying or reapplying for admission;

[See main volume for text of (18) to (23)]

(24) Aliens (other than aliens described in section 1101(a)(27)(A) of this title and aliens born in the Western Hemisphere) who seek admission from foreign contiguous

territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory line, or if signatory, a noncomplying transportation line under section 1228(a) of this title and who have not resided for at least two years subsequent to such arrival in such territory or adjacent islands;

[See main volume for text of (25) to (30)]

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(32) Aliens who are graduates of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 1153(a)(3) and (6) of this title and to non-preference immigrant aliens described in section 1153(a)(7) of this title. For the purposes of this paragraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date;

(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government in Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany. ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

[See main volume for text of (b) and (c)]

(d) Nonapplicability of subsection (a)(11), (25), and (28); temporary admission of nonimmigrants; waiver of subsection (a)(26) requirements; parole; bond and conditions for temporary admissions; applicability to aliens leaving territories; reciprocal admission of officials of foreign governments, etc.

[See main volume for text of (1) and (2)]

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27), (29), and (33)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27), (29), and (33)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

[See main volume for text of (4)]

(5)(A) The Attorney General may, except as provided in subparagraph (B), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and

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**NEW DOCUMENTS ABOUT WALDHEIM**

NEW YORK, May 28 (JTA) -- The World Jewish Congress released captured German war documents Wednesday showing that Kurt Waldheim personally gave intelligence briefings to the chief of the General Staff of Army Group E in the Balkans during World War II on the "effective" use of hostages and civilian slave labor and on the notorious "Operation Viper," the wholesale execution of partisans and destruction

Waldheim

of villages that was the subject of a lengthy presentation by the U.S. prosecutor at the Nuremberg war crimes trials in 1947.

The documents, discovered at the National Archives in Washington and stamped "secret" are the latest in the growing body of evidence produced by the WJC linking the Austrian Presidential candidate and former United Nations Secretary General to war crimes when he was a Wehrmacht intelligence officer.

According to the WJC, they demonstrate Waldheim's importance at Army Group E's headquarters. He is identified by name as one of only three men present at the high level briefings. The others were Gen. Erich Schmidt-Richberg, Chief of the General Staff and a First Lieutenant identified as Frey.

The documents dated between May and August, 1944, show that Waldheim briefed Schmidt-Richberg on the use of Greek civilian hostages to discourage resistance fighters from attacking or sabotaging German trains. The civilians would be placed in large cages attached to the front of the trains, thereby exposing them to gunfire and explosives aimed at the trains by anti-Nazi partisans. Waldheim also gave briefings on the use of slave labor in Greece, the documents show. The WJC observed that they have "a shattering effect on his oft-repeated assertions that he was simply a low-level soldier."

Waldheim: Portrait of a Skilled Opportunist

When Kurt Waldheim began his campaign for the Austrian presidency, his posters for the May 4 election had him standing before the World Trade Center in New York with the legend, "A Man the World Trusts." That amused his acquaintances in New York, for if there was one thing on which everyone agreed, from Iranian mullahs to the Chinese foreign ministry (which had arranged his ouster as secretary general of the United Nations) to the cleaning help at the U.N., it was that this fellow couldn't be trusted. Whenever anything he did at the U.N. was

Europe

by Martin Mayer

not obviously motivated by self-interest, there was a kind of parlor game played to find out how Mr. Waldheim was helping himself by this decision or action or speech, because there never was any other motive involved.

The mounting attack on Mr. Waldheim for his failure to ever mention, until recently, his 30 months of service with the German army in Yugoslavia and Greece has been marked by the failure of anyone who worked closely with him in the post-war years to speak up in his defense. He has been able to push forward some former colleagues from military service to testify that they had worked with Lt. Waldheim and that they also didn't know anything about this business of massacring villages to punish partisans or shipping Jews out of Salonika, Greece, to death camps, but that's a different kettle of stinking fish. The real question is: Where are the colleagues of Mr. Waldheim in the Austrian foreign ministry or the U.N. who have risen to proclaim that the man they knew would have been incapable of participating even peripherally in such horrors?

I met Mr. Waldheim when he was still

Austrian ambassador to the U.N., and I was working with Rudolf Bing, then general manager of the Metropolitan Opera, on the first volume of his memoirs. Mr. Waldheim liked to come to the Met and sit in the general manager's box, where he was a dour and self-important presence. Mr. Bing, who was originally Viennese himself, spoke of him scornfully. So did the senior members of the U.N. Secretariat whom I met while serving on the board of the U.N. International School, and while working on my 1983 book, "The Diplomats." I wrote of Mr. Waldheim in the book that he was "universally loathed—an unprincipled trimmer who made his associates' lives a special hell late each fall when he was on pins and needles about his upcoming Nobel peace prize and early each winter when he was in a state of fury about not getting it."

My favorite example of professional diplomatic comment from my research for "The Diplomats" came at the end of a long interview I had in Vienna with a senior member of the Austrian foreign ministry. We had talked with less than total discretion about this and that, and finally I was emboldened to ask him what Austrian diplomats thought of their former colleague. He looked at me very carefully, nodded, and said, "Of course, every Austrian is proud to have an Austrian in such an important position."

This is not to say that any of these people consider Mr. Waldheim to have been a Nazi, or that I do. He was transparently a man with an unerring instinct for what would be good and useful for him, and that instinct, rather than any principles of anti-

Semitism, doubtless also steered him in the years after the Anschluss.

One group has rallied to Mr. Waldheim's defense, however: the ordinary people of Austria. They don't really know him (he was out of the country from 1962 to 1982), but they don't like the idea that 40 years after World War II Austrians are still being blamed for what they did to help the Germans. After all, in 1945 the Allied powers declared Austria to be not a defeated enemy but a "liberated" country, the first victim of Hitler's aggression. This came as a great surprise to everyone who had been in Vienna in 1938, when Hitler's tanks were pelted with roses as they unified the two German-speaking states, but even the cynical saw something in the argument that the Austrians were more likely to behave well if they were allowed to wipe the slate clean.

Mr. Waldheim's new campaign poster says, "We Austrians Will Vote for Whom We Want." That's right. Austria is a sovereign state and minds its own affairs. Having elected and reelected as president a man as morally obtuse as Richard Nixon (who helped pick Mr. Waldheim to be secretary-general of the U.N.), the U.S. has no high ground to stand on. The Austrian presidency is in any event a ceremonial matter, of no great practical consequence. But much of great value to Austrians stems from that first decision by the Allied powers that their country was more sinned against than sinning in the Hitler era. They should expect that if Mr. Waldheim is elected, his presence at various ceremonies will greatly diminish both the desire of performing groups from the once Allied nations to join in cultural exchanges with Austria, and the quality of official representation other countries send to Austrian national events.

Mr. Mayer is the author of several books, the most recent being "The Money Bazaars" (Dutton, 1984).





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