

Y 4
. J 89/1
90/16

1020

91/06
1168/1
74

IMMIGRATION

GOVERNMENT

Storage

HEARING

BEFORE

SUBCOMMITTEE NO. 1

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 15450

A BILL TO AMEND SECTION 101(a)(27)(D) OF THE
IMMIGRATION AND NATIONALITY ACT TO EXEMPT
FROM NUMERICAL LIMITATION MEMBERS OF CERTAIN
RELIGIOUS DENOMINATIONS

MARCH 27, 1968

Serial No. 16

Printed for the use of the Committee on the Judiciary

KANSAS STATE UNIVERSITY LIBRARIES



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1968



1/28/10
2/1/10

COMMITTEE ON THE JUDICIARY

EMANUEL CELLER, New York, *Chairman*

- MICHAEL A. FEIGHAN, Ohio
- EDWIN E. WILLIS, Louisiana
- PETER W. RODINO, JR., New Jersey
- BYRON G. ROGERS, Colorado
- HAROLD D. DONOHUE, Massachusetts
- JACK B. BROOKS, Texas
- WILLIAM-M. TUCK, Virginia
- ROBERT T. ASHMORE, South Carolina
- JOHN DOWDY, Texas
- BASIL L. WHITENER, North Carolina
- ROBERT W. KASTENMEIER, Wisconsin
- JAMES C. CORMAN, California
- WILLIAM L. ST. ONGE, Connecticut
- DON EDWARDS, California
- WILLIAM L. HUNGATE, Missouri
- HERBERT TENZER, New York
- JOHN CONYERS, JR., Michigan
- ANDREW JACOBS, JR., Indiana
- JOSHUA EILBERG, Pennsylvania
- WILLIAM M. McCULLOCH, Ohio
- RICHARD H. POFF, Virginia
- ARCH A. MOORE, JR., West Virginia
- WILLIAM T. CAHILL, New Jersey
- CLARK MACGREGOR, Minnesota
- CHARLES McC. MATHIAS, JR., Maryland
- EDWARD HUTCHINSON, Michigan
- ROBERT MCCLORY, Illinois
- HENRY P. SMITH III, New York
- WILLIAM V. ROTH, JR., Delaware
- THOMAS J. MESKILL, Connecticut
- CHARLES W. SANDMAN, JR., New Jersey
- TOM RAILSBACK, Illinois
- EDWARD G. BIESTER, JR., Pennsylvania
- CHARLES E. WIGGINS, California

Bess E. Dick, *Staff Director*

WILLIAM R. FOLEY, *General Counsel*

GARNER J. CLINE, *Counsel*

HERBERT FUCHS, *Counsel*

WILLIAM P. SHATTUCK, *Counsel*

JEROME M. ZEIFMAN, *Counsel*

BENJAMIN L. ZELENKO, *Counsel*

CHARLES J. ZINN, *Law Revision Counsel*

DONALD G. BENN, *Associate Counsel*

DONALD E. SANTARELLI, *Associate Counsel*

FRANKLIN G. POLK, *Associate Counsel*

SUBCOMMITTEE No. 1

GENERAL JURISDICTION OVER JUDICIARY BILLS AS ASSIGNED.
SPECIAL JURISDICTION OVER IMMIGRATION AND NATIONALITY

MICHAEL A. FEIGHAN, Ohio, *Chairman*

- PETER W. RODINO, JR., New Jersey
- HAROLD D. DONOHUE, Massachusetts
- JOHN DOWDY, Texas
- ARCH A. MOORE, JR., West Virginia
- WILLIAM T. CAHILL, New Jersey
- CLARK MACGREGOR, Minnesota

GARNER J. CLINE, *Counsel*

DONALD G. BENN, *Associate Counsel*

(II)



CONTENTS

Testimony of—	
Miss Barbara M. Watson, Acting Administrator, Bureau of Security and Consular Affairs, Department of State, accompanied by Mr. Frederick Smith, Jr., Assistant Legal Adviser	Page 2
Mr. James L. Hennessy, Executive Assistant to the Commissioner, Immigration and Naturalization Service, Department of Justice, accompanied by Mr. Cornelius J. Leary, Supervisory Deportation Officer	9
Statement received from Hon. Edna F. Kelly, Representative in Congress from the State of New York	11
Letter received from Christian Science Committee on Publication	11

CONTENTS

1	Introduction
2	Chapter I. The History of the Department of the Interior
3	Chapter II. The Department of the Interior in the Nineteenth Century
4	Chapter III. The Department of the Interior in the Twentieth Century
5	Chapter IV. The Department of the Interior in the Future
6	Appendix A. List of Secretaries of the Department of the Interior
7	Appendix B. List of Assistant Secretaries of the Department of the Interior
8	Appendix C. List of Deputies of the Department of the Interior
9	Appendix D. List of Commissioners of the Bureau of Land Management
10	Appendix E. List of Commissioners of the Bureau of Reclamation
11	Appendix F. List of Commissioners of the Bureau of Indian Affairs
12	Appendix G. List of Commissioners of the Bureau of Geographical Names
13	Appendix H. List of Commissioners of the Bureau of Fish and Wildlife
14	Appendix I. List of Commissioners of the Bureau of Mines
15	Appendix J. List of Commissioners of the Bureau of Plant Industry
16	Appendix K. List of Commissioners of the Bureau of Soils
17	Appendix L. List of Commissioners of the Bureau of Entomology and Plant Quarantine
18	Appendix M. List of Commissioners of the Bureau of Plant Industry and Horticulture
19	Appendix N. List of Commissioners of the Bureau of Plant Industry and Horticulture
20	Appendix O. List of Commissioners of the Bureau of Plant Industry and Horticulture

AMENDING SECTION 101(a)(27)(D) OF THE IMMIGRATION AND NATIONALITY ACT

WEDNESDAY, MARCH 27, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 1 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 2237, Rayburn House Office Building, Hon. Michael A. Feighan presiding. Present: Representatives Feighan, Rodino, and Donohue. Staff members present: Garner J. Cline, counsel, and Donald G. Benn, associate counsel.
(The proposed legislation follows:)

[H.R. 15450, 90th Cong., second sess.]

A BILL To amend section 101 (a) (27) (D) of the Immigration and Nationality Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(a) (27) (D) of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by inserting after the language "vocation of minister of a religious denomination" the language "or serving as a missionary, brother, nun, or sister of a religious denomination".

Mr. FEIGHAN. The subcommittee will come to order.

The purpose of the hearing today is to receive testimony on H.R. 15450, a bill to exempt from the numerical limitations on immigration any immigrant who continuously, for at least 2 years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of serving as a missionary, brother, nun, or sister of a religious denomination, and whose services are needed by such religious denomination having a bona fide organization in the United States, and the spouse or child of any such immigrant if accompanying or following to join him.

Section 101(a)(27)(D) of the Immigration and Nationality Act describes one of the classes of "special immigrant" as a person who is carrying on the vocation of a minister of a religious denomination.

The legislation under consideration today would add to that class of "special immigrant" by making the provisions applicable to a person who is serving as a missionary, brother, nun, or sister of a religious denomination.

The first witness today whom we are grateful to have with us is Miss Barbara M. Watson, Acting Administrator, Bureau of Security and Consular Affairs, who, I understand, will be accompanied by Mr. Frederick Smith, Jr., Assistant Legal Adviser.

On behalf of the subcommittee, Miss Watson and Mr. Smith, we are very happy to have you with us. We look forward to hearing your testimony which in the past has been so helpful to us on the committee.

You may proceed.

STATEMENT OF MISS BARBARA M. WATSON, ACTING ADMINISTRATOR, BUREAU OF SECURITY AND CONSULAR AFFAIRS, DEPARTMENT OF STATE, ACCOMPANIED BY FREDERICK SMITH, JR., ASSISTANT LEGAL ADVISER

Miss WATSON. Thank you very much, Mr. Chairman.

I am pleased to appear before this subcommittee to testify on H.R. 15450, which would amend section 101(a)(27)(D) of the Immigration and Nationality Act to extend to missionaries, brothers, nuns, and sisters of a religious denomination the same nonquota or special immigrant status now enjoyed by ministers of religion.

The special nonquota classification for ministers of religion originated in section 4(d) of the Immigration Act of 1924, which provided nonquota immigrant status for "an immigrant who continuously for at least 2 years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of, carrying on the vocation of minister of any religious denomination * * *".

The 1924 Act also provided nonquota immigrant status for such minister's wife and unmarried children under 18 years of age, if accompanying or following to join him.

Section 101(a)(27)(F) of the Immigration and Nationality Act of 1952 re-enacted the provision of the 1924 Act in substantially the same form except that it added a requirement that the minister's "services are needed by such religious denomination having a bona fide organization¹ in the United States."

The 1952 Act also brought such immigrants under the petition procedure by requiring, in section 204(a), a petition approved by the Immigration and Naturalization Service for classification under 101(a)(27)(F).

The Act of October 3, 1965, re-enacted the provision as 101(a)(27)(D) without change except for the elimination of the requirement of an approved petition.

Since that time, the Department of State has had the responsibility for making determinations as to whether an individual applicant qualifies for nonquota or special immigrant status under this section.

Under the 1965 Act and its predecessors, "missionaries, brothers, nuns, and sisters" have not qualified for special immigrant status because they are not considered "ministers" of their religious denominations.

H.R. 15450 would extend the benefits of such classification to these full-time religious workers. Their qualifications for such status would, as in the case of ministers under the existing law, depend primarily on whether they could meet the three principal criteria for such classification: (1) that the organization to which they are destined

¹ In the Matter of N ———, in Visa Petition Proceedings, Decided by Central Office, Immigration and Naturalization Service, Mar. 16, 1953.

Nonquota immigrant—Minister of religious denomination—Salvation Army, Section 101(a)(27)(F) Immigration and Nationality Act.

The evidence of record fully establishes that the Salvation Army has been incorporated under the laws of many of the States in this country; is a worldwide religious organization having a distinct legal existence; a recognized creed and form of worship; a definite and distinct ecclesiastical government; a formal code of doctrine and discipline; a distinct religious history; a membership, not associated with any other church or denomination; officers ministering to their congregation, ordained by a system of selection after completing prescribed courses of training; a literature of its own; established places of religious worship; religious congregations and religious services; a Sunday school for the religious instruction of the young; schools for the preparation of its ministers, who in addition to conducting religious services, perform marriage ceremonies, bury the dead, christen children, and advise and instruct the members of their congregations.

is a bona fide religious denomination; (2) that there is a need for their services; and (3) that they are indeed coming "solely" to pursue their religious vocation without engaging in outside employment.

In this connection, the subcommittee may wish to consider reinstating the petition requirement in view of the determinations that must be made in the United States, and the fact that the Immigration and Naturalization Service has more investigative facilities available to it than the Department of State.

It seems to us fair and reasonable that special immigrant status be extended to such full-time religious workers as missionaries, brothers, nuns and sisters. As with ministers, their work, and the benefits that it can bring to this country would seem deserving of special consideration in the form of the proposed legislation. Moreover, after June 30 and the phasing out of the country quotas, many such religious workers will experience great difficulty in coming to this country.

Heretofore, such members of religious organizations coming from undersubscribed countries in Western Europe have been able to enter as nonpreference immigrants or, most recently, have been able to qualify for third or sixth preference.

It is now apparent, in view of the oversubscription of both these preferences, that many such persons will encounter difficulties in obtaining immigrant visas.

In the case of those coming within sixth preference who are from countries such as Italy, Portugal, and Greece, the wait may well be indefinite inasmuch as the demand in the first five preferences will exceed the foreign state limitation of 20,000.

If these religious workers are granted special immigrant status, they would be exempt from labor certification under section 212(a) (14) of the Act. It is pertinent to note, nevertheless, that the Secretary of Labor has exempted from the requirement of an individual certification persons with religious commitments entering the United States to pursue their work in religious institutions, under criteria set forth in schedule A, group III (29 C.F.R. sec. 60)¹ which includes workers beyond the scope of this bill.

¹ TITLE 29—LABOR:

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 60—IMMIGRATION: AVAILABILITY OF, AND ADVERSE EFFECT UPON, AMERICAN WORKERS

60.2 Certification and noncertification schedules:

(a) DETERMINATION. To reduce the delay in processing an alien's request for visa, the determination has been made by the Secretary of Labor pursuant to section 212(a)(14) that:

(1) For the categories of employment described in Schedule A and in the geographic areas therein set forth, there are not sufficient workers who are able, willing, qualified and available for employment in such categories, and the employment of aliens in such categories and in such areas will not adversely affect the wages and working conditions of workers in the United States similarly employed.

The schedules at the end of 29 CFR Part 60 are revised to read as follows:

"SCHEDULE A

"Group III: (a) Any person of any religious denomination whose regular profession or occupation is to conduct religious services, which he is authorized by his denomination to perform, and who is seeking admission to the United States in order to engage principally in such work.

"(b) Any person of any religious denomination having a religious commitment, such as a Monk, Nun, Brother, Missionary and others, who is seeking admission to the United States to perform the duties required of him by virtue of such commitment.

"(c) Any other person seeking admission to the United States to perform duties related to the non-profit operation of a religious organization, (1) if the duties which he will perform involve special skills, training and experience which the alien possesses and which are related to the religious objectives of the organization and, (2) if he intends to be engaged principally (more than 50 percent of his working time) in such duties. Examples of persons coming within this subgroup are cantors and translators of religious tracts or texts who have the special capability of conveying through the translation the spiritual message to which such tracts or texts are directed and who will be engaged in such endeavors."

An operation may be considered nonprofit for purposes of Group III if the receipts from the operation will be used exclusively in furtherance of the philanthropic or religious purposes of the organization.

For these reasons, we support the enactment of H.R. 15450. Questions will, of course, arise as to the scope of the terms which would be added to section 101(a)(27)(D) by this bill. However, we do not contemplate substantial difficulties in resolving them. We anticipate that the principal questions that would arise under the proposed amendment would be the same as those which have arisen under the present law with respect to ministers; that is, whether the applicant meets the three principal criteria as to whether the organization is a bona fide religious denomination, whether there is a need for the applicant's services, and whether the applicant is coming solely to engage in the religious work of the denomination.

We would be glad to try to answer any questions which the subcommittee may have on the operation of this provision of the law as it would be amended by H.R. 15450.

Mr. FEIGHAN. Thank you very much, Miss Watson, for your very splendid and explicit statement.

I would like to ask you to define the terms "missionaries, brothers, nuns, or sisters of a religious denomination," and discuss the extent of application of this terminology with respect to various religious denominations.

Miss WATSON. Sir, missionaries are usually described as members of a religious denomination who propagate a religious faith. Usually brothers, nuns, or sisters would be under certain vows to continue the propagation of the faith.

With respect to many religious organizations, we would not be in the position at this point to determine the applicability of this terminology until we know the organization of the religion under question and the structure; whether for example, they have brothers, nuns, or sisters.

Mr. FEIGHAN. Miss Watson, what experience has the Department had in issuing visas to missionaries, brothers, nuns, or sisters, and what regulations or operating instructions do you propose to issue to define these categories?

Miss WATSON. Sir, with respect to the first part of your question, we haven't had a great deal of experience with respect to nuns, missionaries, brothers or sisters—not in the context of 101(a)(27)(D).

This is principally because they have been otherwise eligible, either under the nonpreference category or under one of the preference categories—the third or the sixth, or even perhaps the fifth.

There have been a number who have come in. They have been exempt from labor certification under schedule A. Should this bill be enacted as it is presently proposed, then we would certainly define more explicitly the terms missionary, nun, brother, and sister. Of course, we would correlate them with the other provisions of the bill which would require that they are coming here solely to perform these religious services, that they are coming to a bona fide religious organization, and that they have indeed performed this kind of work for 2 years prior to the application for the visa.

Mr. FEIGHAN. Miss Watson, how would the proposed amendment affect nursing homes and retirement homes operated by various denominations?

Miss WATSON. We would not really think that it would particularly affect them. Again, under the terms of the bill, these people would

have to have been involved in the religious organization's duties for the 2 years prior thereto, they would certainly have to come to a specific retirement home which is connected with the denomination, which is involved in nonprofit work.

I don't anticipate that there would be any great effect on such homes.

Mr. FEIGHAN. How many persons do you feel would be affected by this proposed amendment, and what countries do you think would be affected?

Miss WATSON. Sir, we don't have a great deal of experience as to be able to judge how many people. I should imagine a great many more people would certainly be affected than now come under the present 101(a)(27)(D). Largely, it would certainly affect, for example, those who are coming from the northern areas of Western Europe, such as Ireland, England, Scandinavia, and Germany.

This would certainly open up many more visas.

From now on they will be required to wait for a number under the third or sixth preference. It would certainly affect those who are coming from Italy and other oversubscribed areas where they will have to wait a very long time, as I mentioned in my statement.

We have some figures from the Immigration and Naturalization Service. The religious workers admitted in 1967 came up to 1,013. This was across the board. They were persons who were exempted from the individual labor certifications under the Department of Labor Schedule A.

If they are included in this bill, I anticipate that there would certainly be an increase.

Mr. FEIGHAN. Miss Watson, would you anticipate any difficulty in the administration of this proposed amendment to the Act? In other words, are there any possible loopholes which probably might go beyond the intent of this proposed bill?

Miss WATSON. No, sir. I don't anticipate any particular difficulty in administration. The bill is rather specific in that the three criteria are spelled out.

It would, of course, as I mentioned in my statement, be helpful if the petition procedure were reintroduced largely because so many determinations have to be made here in the United States such as, "Is this person coming to a bona fide organization here in the States? Are his services needed?"

Our consular officers in the field are perfectly capable of determining whether he has pursued this vocation for 2 years prior to the application for the visa.

However, it would sort of extend the procedure if each time he had to go back to the Department to have an investigation as to whether or not this person's services are needed, if this particular organization is a bona fide organization, and would he be coming here solely to perform those services.

The petition procedure would be desirable since the Immigration and Naturalization Service does have the investigative services plus the fact that they have had much more experience with respect to dealing with the categories of missionaries, nuns, and brothers and sisters.

Mr. FEIGHAN. I think your point is well taken, Miss Watson.

Are these terms used in other sections of the law and, if so, have there been any difficulties in administering such section?

Miss WATSON. Sir, I am aware of the fact that these terms are used in section 317 of the Act. This section has to do with the naturalization. It has to do specifically with the question of temporary absence from the United States during the time that a person is performing religious duties and that this was not to be charged against the resident alien who is planning to become a citizen.

Again, you see, this does come within the purview of the duties of the Immigration and Naturalization Service.

Mr. FEIGHAN. It may be for lack of another word when I say "fringe" categories such as cantors, readers, Byzantine artists, might possibly qualify under a broad interpretation of this language.

Would you care to comment?

Miss WATSON. This has given me a little trouble. As I mentioned, cantors are under Schedule A (which does not require labor certification) as are others who are seeking admission to the United States to perform duties related to the operation of a religious organization if: (1) the duties which they will perform involve special skills, training, and experience and which are related to the religious objectives of the organization; and (2) if he intends to be engaged principally—in other words, more than 50 percent of his working time—in such duties.

Examples of persons coming within this group are cantors, translators of religious texts who have special capabilities of conveyance, through the translation, of the spiritual message to which facts or texts are directed and who will be engaged in such endeavors.

If you construe the law, as you propose to amend it, strictly, it would be rather difficult to include such persons.

It would seem to me, if I may make a proposal, to give a fair-minded application, that you may care to insert an amendment which would include religious teachers and functionaries of a religious denomination. This, then, would bring in cantors or the Byzantine artists.

You would again still have the control in that they would be subject to the three criteria. They would have to be coming here solely to perform this type of work, to have done this for 2 years prior to the application of the visa and the bona fide organization to which he is coming must have need for his services.

So this, then, would cover all possible religious denominations.

Mr. FEIGHAN. Mr. Rodino?

Mr. RODINO. Thank you, Mr. Chairman.

First of all, may I also express my personal gratitude for Miss Watson's appearance before this committee in explaining this piece of legislation, which I think is of considerable importance, and her clarity in bringing to us the purpose and meaning of this legislation.

I would like to address to Miss Watson, however, this question: Since this seems to be really an intent at an enlargement of the word "ministers" to include missionaries, sisters, nuns, and others, would it not have been possible by administrative interpretation to have come to the same conclusion in view of the fact that in my understanding of ministers of religion or the vocation of the ministers of any religious denomination, we contemplate within that understanding missionaries, sisters, nuns, their religion, or those who are also ministers of a religious denomination.

Why is there such a specific need for this legislation? Why could it not have been done by an administrative interpretation?

Miss WATSON. Sir, the definition—we have had it in our regulations, which I believe has been coordinated with the Immigration and Naturalization Services—is that the minister is the leader or the propagator of a religious denomination; a missionary, a nun, or a brother or sister, is not in the same category at all.

The minister is the person who is the leader of the religion and who is propagating the faith, whereas, the nuns and sisters, although under vows and dedicated to the propagation of the faith, do not have the same category or the same level of importance of leadership.

Mr. RODINO. In other words, missionaries, brothers, nuns, and sisters of a religious denomination really do not have the same authorities as are contemplated by ministers of a religion like what I read in a discussion before the Board of Immigration Appeals. Something is very pertinent and, of course, it is, which clearly establishes in my mind why the difference exists.

A minister would also include one who is able to conduct religious services, perform marriage ceremonies, bury the dead, christen children, advise and instruct the members of their congregation.

So I can see the very basic differences and why it would be necessary. I think that makes it very clear for me.

Miss Watson, has there been much pressure for this legislation? Has there been a demonstrated need for this legislation?

Miss WATSON. I can only say, sir, that I think that in light of the proposed date of the full implementation of the Immigration Act of 1965 on July 1, there is a good deal of concern that religious workers from various parts of the world who are not under the present law covering ministers would not be in a position to come to the United States as freely as they have in the past because there would be no numbers available and there is concern that the religious denominations here in the States would be deprived of the services of such persons who could come over to help.

As you know, there are oversubscribed areas in southern Europe, and in the Far East, and the undersubscribed areas which had the recourse to nonpreference numbers will no longer have this.

There is the concern that these people will have to wait many years, because now they will have to come under some preference category. As we know, the third and the sixth preferences will be very much oversubscribed.

I think most of these people would be coming under the sixth preference. That is under very heavy demand at the moment.

So, as of July 1, there will be so much competition for the numbers that I am afraid that the nuns, missionaries, and brothers and sisters will come at the very end of the line.

Mr. RODINO. Thank you very much, Miss Watson.

Mr. FEIGHAN. Miss Watson, how would teachers be covered under your suggested amendment to this bill to expand the definition to include religious teachers and functionaries of a religious denomination?

Miss WATSON. Under my proposal?

Mr. FEIGHAN. Would this result in no labor certification requirement for teachers in parochial schools while requiring certification for public and nondenominational schools?

In other words, if a person would be coming here to teach a non-religious subject, would there be a differentiation between one coming to a parochial school and one coming to a public school?

As far as I am concerned, it seems to me to be a very clear line of demarcation, because one would be strictly a member of a religious body.

I am wondering for the purposes of the record.

Miss WATSON. For the purposes of the record, I should feel that those who are coming to teach in a parochial school—it might be a Hebrew teacher for a Hebrew school—would probably come under this proposed amendment.

They are coming for the needs of this religious denomination. They are solely going to perform in these areas, and they would have to have the skills that would be required for that particular teaching.

I think if they were just coming to go to, say, a nondenominational school, then they would have to qualify under the third preference. But you do have people with special skills.

They are coming to work, as you say, for bona fide religious organizations, denominations and for the purpose of the propagation of that faith.

If it is solely for the carrying on of the work of religious denominations, this, therefore, would now keep it within the confines of the religious application.

Mr. FEIGHAN. Miss Watson, do I understand your interpretation that if a person would come to a religious school to teach a non-religious subject, that person would not be required to have a certification?

Whereas, a person coming to teach a nonreligious subject in a nonparochial school would have to have it?

Miss WATSON. Yes, sir. For example, you have many parochial schools in which their curriculum is divided. There is the religious instruction and the catechisms and so forth.

But then they also have the regular courses of mathematics—the three R's, so to speak. But it is all within the context of propagating the faith of that particular denomination.

Mr. FEIGHAN. I suppose to qualify for the exemption from the labor certification, a person would have to be a member of the particular denomination.

Miss WATSON. There is no question about it, and would have had to have been, under the law, an active member of this denomination for the 2 years prior to the application.

His duties would have to be solely denominational and the needs for his services would have to be established by the bona fide organization.

Mr. FEIGHAN. Mr. Donohue?

Mr. DONOHUE. I have no questions.

Mr. FEIGHAN. Thank you very much, Miss Watson. We are very appreciative and happy to hear from you. You have been extremely helpful to us.

Miss WATSON. Thank you very much.

Mr. FEIGHAN. Our next witness is an old friend or a young but old friend of ours. He is Mr. James L. Hennessy, Executive Assistant to the Commissioner of Immigration and Naturalization Service of the Department of Justice.

I might add that you are accompanied by another very dear and close, esteemed friend of the subcommittee, Mr. Neil Leary.

STATEMENT OF JAMES L. HENNESSY, EXECUTIVE ASSISTANT TO THE COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE, ACCOMPANIED BY CORNELIUS J. LEARY, SUPERVISORY DEPORTATION OFFICER

Mr. LEARY. Thank you.

Mr. HENNESSY. Thank you, Mr. Chairman.

In the original presentation of the Department of Justice, we deferred this particular case to the Department of State.

I would suggest having heard Miss Watson's presentation and her responses to your questions, our deference was well warranted.

I would have no additional statement to make other than to make myself available to whatever questions you would wish to ask that would be within the purview of the Immigration Service.

Mr. FEIGHAN. Mr. Hennessy, do you feel that a petition procedure is necessary?

Mr. HENNESSY. I am not aware of the reasons why the petition procedure was dropped out in 1965. I venture to suggest that possibly the investigation in the United States in most of these cases was minimal.

The bona fide organization was usually sustained. Whether the person was coming solely to engage in what purpose would be determined by an interview of him rather than anything available in this country. Whether he had been engaged for 2 years prior to the application in carrying on ministerial duties would be information available solely from him and from abroad.

That was possibly the reason it was dropped. We could, of course, assume it again. I would have no reason either to advocate its resumption in the law or to have any opposition should it be sought to be reinserted.

Mr. FEIGHAN. Mr. Rodino?

Mr. RODINO. I don't have any questions.

Mr. FEIGHAN. Mr. Donohue?

Mr. DONOHUE. Do I understand that prior to the enactment of the 1965 law, there was a provision that would take care of those people that would be cared for by this proposed legislation?

Mr. HENNESSY. No, Mr. Congressman. The provision in the law prior to 1965 related solely to the visa petition that was required before the minister of religion would come in. But even prior to the 1965 law, brothers, nuns, sisters and missionaries, missionaries per se, were not embraced within the term "ministers of religion."

This has been interpreted in volume 5 of our administrative decision by the Board of Immigration Appeals. I think it is the decision Mr. Rodino referred to in his question. This would be a new concept as far as exempting these people from the numerical limitations.

Mr. DONOHUE. You mentioned something in your previous comments that the individual applying would have to show that they had been in the particular religious order for at least 2 years. That applied to the ministers?

Mr. HENNESSY. Yes, that applied to the ministers.

Mr. DONOHUE. Don't you think that something like that should be made part of either the regulations or part of the basic law?

Mr. HENNESSY. It will be applicable under this new law to this new class.

Mr. DONOHUE. That is, anybody applying must show that they have been in the particular religious order for at least 2 years before applying?

Mr. HENNESSY. They have been performing that function, yes, Mr. Congressman, that is correct.

Mr. FEIGHAN. Mr. Hennessy, if a qualified person comes to perform nonreligious teaching in a religious school, would the law include him in exemption from the labor certification?

Mr. HENNESSY. Most of the time most of these people came from nonpreference. I think Miss Watson gave you a figure of 1,013 religious workers who came under the prior law.

Now that number, 754, came under the nonpreference. They are required as all nonpreference people are to obtain a labor certification. But the labor certification in that particular class was done by a regulation, en masse, exempting persons who are members of religious organizations who are coming to the United States as a result of the request of the superiors of that religious organization and consequently were coming to a job that was noncompetitive in nature.

The Department of Labor was then not in a position to assess whether or not there were persons available in the United States to perform that task sine qua non of a person's entry was that he had to be a member of the religious organization.

So I think a religious certification was required but the certification was issued by regulation.

In Schedule A, it applied to any person who was coming here as a member of a religious organization, following out the orders or directives of the head of that religious organization regardless of the immediate purpose in the United States, whether it was to be equivalent of domestic services, whether it was to teach religious subjects or whether it was to teach nonreligious subjects.

I think essentially the discipline of the religious organization was the controlling factor.

Mr. DONOHUE. Or whether they were to perform domestic work?

Mr. HENNESSY. That is correct.

Mr. DONOHUE. Thereby eliminating the necessity of obtaining a labor certificate?

Mr. HENNESSY. Of obtaining an individual labor certification, yes, Mr. Congressman.

Mr. FEIGHAN. Thank you very much, Mr. Hennessy, and Mr. Leary. We are very pleased that we had this opportunity to have you with us.

Mr. HENNESSY. Thank you, Mr. Chairman.

Mr. LEARY. Thank you, Mr. Chairman.

(Whereupon, at 10:48 a.m., the subcommittee adjourned, to reconvene at the call of the Chair.)

(The statement of Hon. Edna F. Kelly follows:)

STATEMENT BY HON. EDNA F. KELLY, NEW YORK, BEFORE SUBCOMMITTEE NO. 1
OF THE HOUSE COMMITTEE ON THE JUDICIARY

Mr. Chairman, I welcome and am most grateful for this opportunity you have accorded me to submit a statement to you and the members of your Subcommittee on Immigration and Nationality, in which I urge immediate action on my bill, H.R. 15274, "to amend section 101(a)(27)(D) of the Immigration and Nationality Act (8 U.S.C. 1101) by inserting after the language, 'vocation of minister of a religious denomination' the language 'or serving as a missionary, brother, nun, or sister of a religious denomination.'"

I am most pleased that you, Mr. Chairman, have introduced a bill which is similar to mine, H.R. 15450 and that this bill is being considered by the Subcommittee today. Therefore, it is my earnest and sincere desire that this Committee expedite action on this legislation by favorably reporting any bill which will accomplish the same purpose.

This legislation, if enacted, will place any person of any religious denomination having a religious commitment such as missionaries, brothers, nuns, or sisters in the "special immigrant category," and they will then enjoy the same immigrant status as ministers of religious denominations who are now admitted to the United States outside of any numerical limitation.

At the present time, all nuns are now eligible for the third or sixth preference and labor certification is automatically granted, since the Secretary of Labor has determined that categories described in schedule A are in short supply in the United States. However, after July 1, 1968, in compliance with the Immigration and Nationality Act Amendments of 1965, all immigrants will compete on a worldwide basis for visa issuance and visa applications will be processed on a first-come, first-served international basis on a preference category.

This portion of the immigration laws which will be fully effective on July 1 of this year will adversely affect Irish nuns. Nuns, brothers, sisters, and missionaries will be required to compete with other countries which have built up long waiting lists; whereas ministers will continue to easily and expediently enter the country as special immigrants.

However, Mr. Chairman, by enacting this legislation before you today, which would provide that the same conditions and privileges be made applicable to a person serving as a missionary, brother, nun, or sister of a religious denomination by classifying such persons as special immigrants, they will be excluded from the computation of the numerical annual limitation. This result will overcome the lack of nonpreference visa numbers after July 1, 1968, when the system described in the 1965 Amendments becomes effective.

Mr. Chairman, I firmly believe that all persons of a religious order enter the United States with a firm conviction to God and themselves to help other people. Nuns, brothers, sisters, and missionaries who are teachers, doctors, nurses, and who do charitable work will certainly be of great assistance to every person with whom they come in touch. Because of their selfless religious missions, I respectfully ask that the Committee consider the necessity and the urgency of their entrance into the United States as "special immigrants," by reporting my bill, H.R. 15274, or similar legislation.

Thank you.

(The following letter was submitted for the record:)

CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION
OF THE FIRST CHURCH OF CHRIST, SCIENTIST,
IN BOSTON, MASS.,
Washington, D.C., April 4, 1968.

Re H.R. 15450 Immigration.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CELLER: The Subcommittee on Immigration of the House Judiciary Committee, under the chairmanship of Congressman Feighan, has recently held a hearing on H.R. 15450 to assist certain religious workers in entering the United States. This bill would provide much-needed assistance to churches, which by their nature are international organizations, where their work in this country needs the services of a foreign "missionary, nun, brother or sister." We wish to register

our support of the broad principles of H.R. 15450, but we believe the bill as drafted may be too restrictive.

In limiting the special immigrant status to missionaries, nuns, brothers and sisters the bill may unintentionally benefit certain denominations more than others. Accordingly, we are suggesting an amendment which would seem to accomplish the intent of the bill for all religions equally. We suggest the addition of the words "or religious worker or functionary" after "sister" in line 7.

The Christian Science Church has its headquarters in Boston, Massachusetts, with branches in fifty-four countries throughout the world. The Church's activities require from time to time bona fide, full-time religious workers from these countries, such as lecturers, translators, nurses whose service is so basically religious in nature that they cannot be provided from the domestic labor market. The immigrants who would seek entry into the United States to perform these services would not be members of any religious order, but their function would nevertheless be exclusively religious.

Again let us state our support of H. R. 15450 and our hope that the amendment suggested above will be acceptable. We would be very glad to confer with Committee Counsel at any time on this matter, and would be pleased to testify if public hearings are scheduled.

Sincerely,

J. BURGESS STOKES,
Manager, Washington, D.C. Office.

