Calendar No. 1532

86TH CONGRESS, 2d Session } SENATE { REPORT No. 1470

EMIKO NAGAMINE

MAY 25, 1960.—Ordered to be printed

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

REPORT

[To accompany S. 2106]

The Committee on the Judiciary, to which was referred the bill (S. 2106) for the relief of Emiko Nagamine, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

AMENDMENT

Strike all after the enacting clause and insert in lieu thereof the following:

That, for the purposes of the Immigration and Nationality Act, Emiko Nagamine shall be deemed to be within the purview of section 101(a)(27)(B) of that Act.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable Emiko Nagamine to qualify for a nonquota visa as a returning resident alien.

STATEMENT OF FACTS

The beneficiary of the bill is a 21 year old native and citizen of Okinawa, who presently resides there with her mother. The beneficiary was admitted to the United States on March 14, 1956, as a visitor for business, with her U.S. citizen employers, Mr. and Mrs. Esterly C. Page. On August 9, 1958, the beneficiary applied for an adjustment of her status to that of a lawful permanent resident on the belief that she was chargeable to the Asia-Pacific Triangle quota, which

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

was then undersubscribed. Her application was denied on the basis that she was chargeable to the oversubscribed Japanese quota. After reexamination of the problem by the Department of State, it was determined that the beneficiary was, in fact, chargeable to the Asia-Pacific Triangle quota, but by that time that quota had become oversubscribed, and the beneficiary's application under section 245 of the Immigration and Nationality Act could not be approved. The beneficiary departed from the United States on July 13, 1959. Mr. and Mrs. Page are anxious that the beneficiary be permitted to reenter the United States. Through no fault of the beneficiary, only an administrative error prevented the adjustment of her status to that of a lawful permanent resident while she was previously in the United States. Therefore, the committee feels that the beneficiary should be permitted to return to the United States as a returning resident alien.

A letter, with attached memorandum, dated August 24, 1959, to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the case, reads as follows:

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., August 24, 1959.

A–11008676

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 2106) for the relief of Emiko Nagamine, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Washington, D.C. office of this Service, which has custody of those files.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment upon payment of the required visa fee. It would also direct that one number be deducted from the appropriate immigration quota. It is noted that the beneficiary is no longer in the United States.

The beneficiary is chargeable to the quota for the Asia-Pacific Triangle.

Sincerely,

J. M. SWING, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE EMIKO NAGAMINE, BENEFICIARY OF S. 2106

The beneficiary was born April 11, 1938 in Okinawa, Ryukyu Islands, and is a citizen of Okinawa. She completed 6 years of elementary school in Okinawa and she attended the Americanization School in Washington, D.C. The beneficiary is single. Her father is dead. She presently is visiting her mother in Okinawa, where she has a sister and two brothers. For the past 3 years she has been employed as a nursemaid by Mr. Esterly C. Page, president of Page

Communications Engineering, Inc., Washington, D.C. She has been receiving $40 per month, found, and other incidental expenses. An additional $15 per month was sent to her mother. The beneficiary has cash savings of $440 and personal property valued at $800.

The beneficiary was brought to the United States as a nursemaid by her present employer on a temporary visit to the United States and was admitted on March 14, 1956, at Agana, Guam, as a nonimmigrant visitor for business. She later applied for adjustment of her immigration status to that of a permanent resident of the United States under the Asia-Pacific quota. In connection with her application, the question arose as to whether she was chargeable to the Asia-Pacific quota or that for Japan. The Asia-Pacific quota was oversubscribed at the time the Department of State decided that she was chargeable to that quota and her application was denied.

On July 13, 1959, Miss Nagamine departed from the United States for a visit to Okinawa. Her employer expects that she will return to the United States and will pay for her passage. However, in view of her expressed intention to remain in the United States permanently, she does not appear admissible to the United States as a nonimmigrant.

Emiko Nagamine was also the beneficiary of S. 4270, 85th Congress, which was not enacted.

Senator Sam J. Ervin, Jr., the author of the bill, submitted the following information in support of the bill:

MEMORANDUM OF INFORMATION RE EMIKO NAGAMINE

Emiko Nagamine was born on April 11, 1938, in Okinawa, Ryukyu Islands, and is a citizen of Okinawa. She is single and presently resides at 3900 16th Street NW., Apartment 420, Washington, D.C. Her mother resides in Okinawa, and her father is deceased. Her mother is Okinawan and traces her family back 200 years to a time before the Japanese became the sovereign nation in 1876. Emiko held the position of nursemaid with families of U.S. servicemen in Okinawa from 1954 to 1956. In 1956 she became nursemaid to the 3-week-old child of Mr. Esterly C. Page who was in Okinawa on business at that time. Mr. Page is president of Page Communications Engineers, Inc., of Washington, D.C., and his legal residence is Elizabeth City, N.C. Miss Nagamine is presently serving as nursemaid to his two young daughters. Her living expenses in the United States are provided by Mr. Page, the latter having submitted an affidavit to the Immigration authorities guaranteeing her maintenance and welfare so as to prevent her from becoming a ward of the United States or of any State or the District of Columbia.

During her stay in this country Emiko Nagamine has demonstrated distinguished merit and ability of the type and nature that will eventually qualify her and entitle her to become a U.S. citizen. She has carried out her duties as

a nursemaid to the children of Esterly Page in an exceptionally proficient manner and in addition to these duties she has attended the Americanization School in Washington, D.C., in order to prepare herself for permanent residence in this country. She has no criminal record and has not engaged in any activity which would be prejudicial to the public interest.

Miss Nagamine was admitted to the United States on March 14, 1956, as a visitor with nonimmigrant status. Her current visa was to expire August 15, 1958; however, on August 9, 1958, she petitioned the Attorney General for an adjustment of status from that of a nonimmigrant to permanent resident pursuant to section 245 of the Immigration and Nationality Act. In the application she stated that she was chargeable to the Asia-Pacific quota. Her attorneys, Welch, Mott & Morgan of Washington, D.C., submitted a legal brief with the application in support of her chargeability allegation. At the time Miss Nagamine applied for an adjustment of status the nonpreference portion of the quota for the Asia-Pacific triangle was undersubscribed and quota numbers were readily available. A notice of denial based on State Department information was issued by the Immigration and Naturalization Service on December 10, 1958, stating as the reason for the denial that "the nonpreference portion for the quota of Japan is presently oversubscribed." The denial made no mention of the Asia-Pacific quota, nor did it comment on the brief in support of Miss Nagamine's application. Consequently, the question of whether or not she was eligible under the Asia-Pacific quota remained unanswered.

Thereafter, on January 20, 1959, the attorneys for Miss Nagamine asked the Immigration and Naturalization Service to request the Visa Office of the Department of State to render an opinion concerning the allegation by Miss Nagamine that she was chargeable to the Asia-Pacific quota. The regional office of the Immigration and Naturalization Service on February 2, 1959, made such a request to the Director of the Visa Office. In this communication the regional director indicated that he was of the opinion that Miss Nagamine was not chargeable to the Japanese quota but was, as she had alleged, chargeable to the Asia-Pacific quota. For a period of 3 months this request from the regional director remained unanswered. In the interim, Mr. James Hines, the General Counsel of the Visa Section of the Department of State, rendered an opinion to his superiors that Emik Nagamine was in fact chargeable to the Asia-Pacific quota and not to the Japanese quota as had been previously decided. During the time that the State Department was considering this matter, and even after the time Mr. Hines made his findings, the numbers allotted to the Asia-Pacific quota were continually sent by the State Department's quota control section to the field offices. By the time the State Department finally answered the regional director's request for an advisory opinion in May 1959, all of the

quota numbers allotted to the Asia-Pacific quota for the fiscal year were exhausted. A quota number was not reserved for or assigned to Miss Nagamine.

As a result, Emiko Nagamine, the Okinawan who was instrumental in making the Asia-Pacific numbers available to her fellow countrymen, faced deportation because her timely application was overlooked and one of these unused numbers from the Asia-Pacific quota was not assigned to her. Since the Asia-Pacific quota was undersubscribed at the time the Immigration authorities asked the State Department for a quota number for Emiko Nagamine and further since the question of her eligibility for such a number was favorably resolved, the attorneys for Miss Nagamine had numerous conferences with the head personnel of the Visa Section and Quota Control Office of the State Department in an effort to have a quota number assigned to her. The State Department officials, although voicing an awareness of the situation caused by their procrastination in the matter, refused to assign such a number, rejected a suggestion to reserve a quota number from the next fiscal year, and failed to grant Miss Nagamine any form of administrative relief.

In the latter part of May 1959, the District Director of the Immigration and Naturalization Service in Washington, D.C., realizing the inequity suffered by Miss Nagamine, resubmitted a request to the State Department for a number under the Asia-Pacific quota for her, but have recently been advised by the Quota Control Section that the Asia-Pacific quota is now oversubscribed due to the fact that a great number of Ryukyuans that were previously on the Japanese quota list have been transferred to the Asia-Pacific quota list. Without a quota number from the State Department, the District Director of Immigration and Naturalization is unable to adjust Miss Nagamine's status to that of permanent resident.

SUMMARY

For immigration purposes, Okinawans since World War II had been placed on the Japanese quota under the theory that the Japanese Government had "residual sovereignty" over the Ryukyu Islands. Consequently, very few Okinawans were admitted for permanent residence to this country because they were automatically placed on the Japanese quota list which was always oversubscribed. Miss Nagamine, through her attorneys, submitted a legal brief in support of her application for adjustment of status setting forth the facts and legal arguments why she and other Okinawans should be charged not to the Japanese quota but to the Asia-Pacific quota. At the time of this application the Asia-Pacific quota was undersubscribed and numbers thereunder were readily available. Her application was routinely handled and improperly treated by the State Department as a request for a Japanese quota number and was thereby denied. After considerable difficulty Miss Nagamine's attorneys, together with the Immigration and Naturalization

Service, were successful in having the State Department render an opinion reversing its previous determination that Okinawans were chargeable to the Japanese quota and conceding that they were in fact chargeable to the Asia-Pacific quota. This ruling directly benefits numerous Okinawans who previously had little or no chance of immigrating to this country. However, Emiko Nagamine, the very Okinawan who was chiefly responsible for the reversal of State Department policy has been refused administrative relief and now faces deportation unless a private bill admitting her to the United States for permanent residence is enacted by the U.S. Congress. A proposed bill for the relief of Emiko Nagamine is attached hereto.

WELCH, MOTT & MORGAN,
ATTORNEYS AT LAW,
Washington, D.C., June 24, 1959.

Re private bill S. 2106.

Hon. SAM J. ERVIN, Jr.,
U.S. Senate, Washington, D.C.

DEAR SENATOR ERVIN: Inasmuch as you have introduced a private bill for the relief of Miss Emiko Nagamine, you may be interested in the enclosed communication from the District Director of INS sent to this firm as attorneys for Miss Nagamine.

Your attention is particularly directed to the following language of the letter:

"It was likely that favorable action would be taken on the application [for permanent residence status] because you applied under the Asia-Pacific quota and a quota number was then available.

"The control of quotas lies entirely within the jurisdiction of the Department of State, and that Department originally held that you were chargeable to the quota for Japan. When the Department of State amended its decision regarding your quota chargeability, the nonpreference portion of the Asia-Pacific quota had become oversubscribed and it was necessary that this Service deny your application for permanent residence status."

The District Director in rendering a correct summation of the case has laid bare the source of the difficulty. He personally believed Miss Nagamine would be afforded administrative relief. He had no way of knowing that the State Department would misclassify Miss Nagamine and then procrastinate to a time when the quota to which she was chargeable became oversubscribed.

The only method available to correct this administrative injustice is by the private legislation you are sponsoring. As the attorneys who exhausted all possible administrative remedies available to Miss Nagamine, we deeply appreciate your interest and action in this matter.

Sincerely,

HAROLD E. MOTT.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 2106), as amended, should be enacted.

O