

DIVISION OF NATURALIZATION

Washington

March 22, 1913.

The Secretary of Labor.

I have the honor to submit, for your consideration, and for such instructions, if any, you may think necessary to give, the following report in relation to the present course of action in this Bureau, and on the part of its officers in the field, with respect to the enforcement of the provisions of section 2169 U. S. R. S.

The said section, as you are aware, limits the application of the naturalization laws to aliens being free white persons and to aliens of African nativity and African descent. There is also an express provision, declaratory of existing law, in the Chinese Exclusion Act of 1882, which forbids, in terms, the naturalization of Chinese persons.

In view of the said section 2169, immediately upon the organization of the Naturalization Service, there was prepared, and approved by the Secretary of Commerce and Labor, a set of regulations, among which appeared the following:

(Rule) "21. Clerks of courts shall not receive declarations of intention (Form 2202) or file petitions for naturalization (Form 2204) from other aliens than white persons and persons of African nativity or of African descent, nor from persons not residing in the judicial district within which the court is held."

This rule has remained unchanged and in full operation down to the present time, and was approved, with certain modifications of other rules, by Acting Secretary Cable, of the Department of Commerce and Labor, on November 11, 1911.

In view of the said regulation, the course of the officers of this service, from the date of its organization and the beginning of the operation of the law, September 27, 1906, was directed towards an effective enforcement of the said rule. This continued until November 5, 1909, when, in consequence of oral instructions given to me by the Acting Secretary of the Department of Commerce and Labor, Mr. Earl, an office circular (Exhibit 1) was issued by the Assistant Chief of the Division of Naturalization, upon oral instructions from the Chief, transmitted by telephone from the office of the Acting Secretary immediately upon receipt of the said instructions. Subsequently, the Secretary of Commerce and Labor having returned after a temporary absence, the action of Mr. Earl was affirmed. (See Exhibit 2).

The subject was given further consideration, and on December 7th Mr. Earl advised me (see Exhibit 3) that the form of notice to clerks of courts (see Exhibit 4) was approved by the Acting Secretary, and should be sent out. As to the moving cause for this action, there are inclosed two letters from Secretary Nagel, one to Mr. Justin S. Kirreh, and the other to the Secretary to the President, Mr. Fred W. Carpenter.

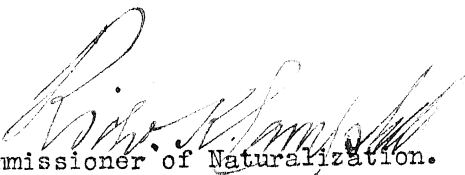
This constitutes all that is of record, but in the several interviews that attended the discussion of the question it was impressed upon me with plain and irresistible clearness that the Department preferred a cessation of the practice of raising the question in any way as to whether aliens applying for citizenship came within the provisions of section 2169. With that clear understanding, I have to report that there has been no action since that time upon the part of this office to question the admissi-

bility of Asiatics, other than Chinese who are plainly forbidden, and Japanese, who had been decided by a number of courts to be not white persons, and, therefore, not entitled to become citizens of the United States.

This matter is brought to your attention now, in accordance with your suggestion to me when we discussed the subject orally, in order that you may determine whether the present system is a sufficient compliance with the obligation resting upon the Department and the Bureau of doing whatever may be necessary to insure the enforcement of all the provisions of the naturalization law, and, further, whether, if the said policy is to be continued, there should not be some modification of rule 21, hereinbefore quoted.

I have the honor to be,

Very respectfully,


Commissioner of Naturalization.

Inclosures 19011.
C-ECW