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19701/43

April 12, 1945

Mr. Carusi, Commissioner

Mr. Winings, General Counsel

Re racial eligibility for naturalization of Afghans

You have requested my opinion as to whether Afghans are racially eligible to become naturalized citizens of the United States. The question arose because of the determination by the Board of Immigration Appeals in the case of Morhed Tahm, file 56065/802, that an Afghan was eligible for naturalization and that he therefore could be granted suspension of deportation under Section 19(c) of the Act of February 5, 1917, 8 U.S.C. 155(c), as added by Section 20 of the Act of June 28, 1940, 54 Stat. 673. While the Board's decision was unanimous, the case was certified to the Attorney General for review for two reasons: (1) suspension of deportation was involved; (2) the Board stated that a question of difficulty was presented. The Assistant Solicitor General, in turn, asked for an expression of your views solely on the issue of racial eligibility.

In conformity with the suggestion of the Assistant Solicitor General, I have not limited my consideration to the facts of the specific case before the Attorney General, but rather have attempted to explore the broad question of whether Afghans as a national group are eligible for naturalization. Of course, the naturalization process is judicial (Tutun v. United States, 270 U.S. 568 - 1926), and the ultimate decision on this question will be made by the courts. However, the courts look to the Service for guidance in naturalization cases, and our views generally are given great weight. In addition, an administrative determination as to racial eligibility for naturalization is required by statute when application is made for suspension of deportation (under the statutory authority cited above), or, in cases of continuous residence since prior to July 1, 1924, for creation of a record of registry. Section 328(b), Nationality Act of 1940, 8 U.S.C. 728(b).

The present statutory provisions defining racial eligibility for naturalization are contained in Section 303 of the Nationality Act of 1940, 8 U.S.C. 703, which provides as follows:

> "The right to become a naturalized citizen under the provisions of this Act shall apply only to white persons, persons of African nativity or descent, descendants of races indigenous to the Western Hemisphere, and Chinese persons or persons of Chinese descent."

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The Nationality Act provisions are a restatement and extension of Section 2169 of the Revised Statutes and now govern all questions relating to racial eligibility for naturalization. See Operations Instructions, Section 353.1-1.1/

The Afghan is neither Chinese nor African, and, being Asiatic, cannot be described as indigenous to the Western Hemisphere. Therefore he is eligible for naturalization only if he comes within the rather ambiguous designation of "white persons."

There have been two decisions of the Supreme Court which throw some light on who are considered "white persons" within the contemplation of the naturalization statutes.

The first case in which this issue was raised before the highest court was Ozawa v. United States, 260 U.S. 178 (1922), which involved an application for naturalization of a Japanese who claimed that he qualified as a "white person" under the naturalization laws. The court rejected this contention and declared that the words "white persons":

> "import a racial and not an individual test . . . Manifestly the test afforded by the mere color of the skin of each individual is impracticable as that differs greatly among persons of the same race, even among Anglo-Saxons, ranging by imperceptible gradations from the fair blonde to the swarthy brunette, the latter being darker than many of the lighter hued persons of the brown or yellow races. Hence to adopt a color test alone would result in a confusion overlapping of races and a gradual merging of one into the other, without any practical line of separation . . . . The words 'white person' were meant to indicate only a person of what is popularly known as the Caucasian race . . . The determination that the words 'white person' are synonymous with the words 'a person of the Caucasian race' simplifies the problem, though it does not entirely dispose of it. Controversies have arisen and will no doubt arise again in respect of the proper classification of individuals in border line cases.

1/. Although Section 2169 of the Revised Statutes was not specifically repealed by the Nationality Act of 1940 it has been superseded by the much broader provisions of Section 303 of the latter statute, quoted above.

> The effect of the conclusion that the words 'white persons' means a Caucasian is not to establish a sharp line of demarcation between those who are entitled and those who are not entitled to naturalization, but rather a zone of more or less debatable ground outside of which, upon the one hand, are those clearly eligible, and outside of which, upon the other hand, are those clearly ineligible for citizenship. Individual cases falling within this zone must be determined as they arise from time to time by what this Court has called, in another connection, 'the gradual process of judicial inclusion and exclusion.'
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> The appellant, in the case now under consideration, however, is clearly of a race which is not Caucasian and therefore belongs outside of the zone on the negative side."

One year later the Supreme Court was called upon to pass upon the eligibility of a high caste Hindu, born in India, who concededly was a member of the Caucasian race. The applicant was ruled ineligible for naturalization in United States v. Thind, 261 U.S. 204 (1923), in which the court pointed out that the word "Caucasian" has by common usage acquired a popular meaning,2/ and that:

> "It is in the popular sense of the word, therefore, that we employ it as an aid to the construction of the statute. . . . . The words of the statute are to be interpreted in accordance with the understanding of the common man from whose vocabulary they were taken. They imply, as we have said, a racial test; but the term 'race' is one which, for the practical purposes of the statute, must be applied to a group of living persons now possessing in common the requisite characteristics . . . . It may be true that the blond Scandinavian and the brown Hindu have a common ancestor in the dim recesses of antiquity, but the average man knows perfectly well that there are unmistakable and profound differences between them today; and it is not impossible, if the common ancestor could be materialized in the flesh, we should discover that he was himself sufficiently differentiated from both of his descendants to preclude his racial classification with either. The question for determina-

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2/. The Caucasian classification has been abandoned by most modern scientists. See In re Saderni, 176 Fed. 449 (Dist. Col. 1910); Columbia Encyclopedia (1942), page 316. However, it is retained by the Courts as a convenient guide in determining who are "white persons."

> tion is not, therefore, whether by the speculative processes of ethnological reasoning we may present a probability to the scientific mind that they have the same origin, but whether we can satisfy the common understanding that they are now the same or sufficiently the same to justify the interpreters of a statute - written in the words of common speech, for common understanding to unscientific men - in classifying them together in the statutory category as white persons."

These decisions of the Supreme Court supply no positive clue as to the racial classification of Afghans. It may prove helpful, therefore, to consider at this point the available scientific knowledge concerning Afghanistan and its people.

Afghanistan is a small country in Eastern Asia with a population of approximately twelve millions. It is bounded on the north by Soviet Russia (Russian Turkestan); on the West by Iran (Persia); and on the East and South by India. The people of Afghanistan are light skinned and of fair complexion. In physical appearance they resemble the Hebrews and the Persians - it is said that they are lighter in skin than the people of Persia. Their official language is Persian and the prevailing religion is Mohammedan. Encyclopedia Britannica (11th Ed.) Vol. I, page 282 et seq.

Scientific authorities who have written about the people of Afghanistan are definite in describing them as European in appearance. For example, one author asserts that "to most observers the Afghan has a remarkably Jewish cast of features." Pennell, Among the Wild Tribes of the Afghan Frontier (1909), pages 31-3). Another source contributes the following report:

> "As a race the Afghans are exceedingly attractive to the Western traveler. They are handsome and athletic. They have fair complexions with equiline features and long flowing beards. The women are exceedingly fair and handsome, and more intellectual than the average women of the East."

Encyclopedia Americana (1918 Ed.), Vol. I, page 208. Insofar as their physical appearance is concerned, it seems likely that Afghans can readily assimilate among the American people.

The racial origins of the Afghan people are somewhat obscure. Afghanistan has been referred to as the cockpit of the world, since it has been a favorite avenue for invading armies in quest of the riches of India. The most notable of such invasions was that of the 13th Century, when the country was conquered by the Mongol hordes of Genghis Khan. When the Mongols retired they left a garrison of their fighting men, whose descendants still comprise a small segment of the population of Afghanistan. Encyclo-

pedia Britannica (14th Ed.), Vol. 1, page 258.

In order to ascertain the conclusions of ethnologists and anthropologists concerning the racial composition of the people of Afghanistan, I requested the Director of Research and Educational Services of the Service to survey the scientific authorities in this field. His findings are set forth in an exhaustive memorandum which I am submitting together with this opinion.

According to the authorities cited in the Director's memorandum, there are five or six major ethnic groups in Afghanistan. The predominant strain is that of the Afghans or Durani who claim to be of Jewish origin. There is some dispute among the authorities as to whether this claim, which appears to be supported by a strong physical resemblance, is a valid one. Those who dissent from the theory of Hebrew origin classify the Afghans as descendants of Iranian or Persian stock. The next group is the Tajiks who definitely appear to be descendants of Persian or Arabian ancestors. Then there are the Kaffirs, who are said to be descended from Greek settlers brought in by Alexander of Macedonia. Another small group is the Hazara, who appear to be descendants of the Mongolian garrison left 700 years ago by Genghis Khan. Among the more numerous elements in the population are groups of Turkish origin. Finally there are the Pathans, of doubtful antecedents, sometimes believed to have originated in India.

A good statement concerning the racial composition of Afghanistan's people is found in Webster's New International Dictionary (2nd Ed. 1941):

> "Afghan - a native of Afghanistan; specifically a person of the dominant race, the Afghans proper, regarded by ethnologists as of mixed Semitic and Iranian stock.... The chief other peoples of Afghanistan are: The Pushtun or Pathans of Indian affinities; the Chilzai, believed to be of Turanian origin; the Tajik, representing aboriginal Persians; the Hazara, a Persian speaking Mongoloid race; and the Kaffirs whose claims to Greek descent is considered not improbable."

I do not propose to review the scientific authorities discussed in the Director's very complete memorandum.1/ It is signifi-

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1/. These included Buxton, The Peoples of Asia (1925); Coon, The Races of Europe (1939); Keane, The Races of Man (1912); Dixon, Racial History of Man (1923); Eickstedt, Rassenkunde und Rassengeschichte der Menschheit (1934); Haddon, The Races of Man and Their Distribution (1925); Johnston, Peoples of Asiatic Russia (1920); as well as a number of works of historians and travelers.

cent that every one of those authorities has concluded that the people of Afghanistan, with the exception of the small groups of Hazara said to have descended from the Mongol invaders of the 13th Century, are members of the white race. A similar finding is reported by the authorities cited in the opinion of the Board of Immigration Appeals.1/. This impressive unanimity of scientific opinion, in a field notorious for its disagreements, should not lightly be disregarded. And under the holding of the Thind case, as explained in Mudia v. United States, 101 F. 2d 7 (C.C.A. 2, 1939), even the Hazara minority may be deemed eligible for naturalization. They have been identified with the Caucasian inhabitants of Afghanistan for hundreds of years and in legal contemplation they now may be regarded as white persons. The same would be true of the slight Hindu strains in the population. Additionally, the Mongol forbears of the Hazara originated in China and they now might take advantage of the recent legislation extending eligibility to naturalization to persons of Chinese descent. Act of December 17, 1943, 57 Stat. 600.

I am aware that the Supreme Court in the Thind case rejected ethnological findings in concluding that a Hindu was not a white person. However, it seems to me that the Thind case is clearly distinguishable. That case involved a country which now has almost four hundred million inhabitants, whose physical characteristics are very familiar to a great many of the American people. Under the common understanding in the United States the people of India were not considered white. Since scientific theory conflicted with the common understanding in the case of the Hindus, the Court rejected the scientific evidence and accepted a test based on the popular understanding that Hindus were not 'white persons.' The Supreme Court's determination undoubtedly conformed with the intent of the legislators who drafted the immigration and naturalization laws.

But an entirely different situation is presented with respect to the Afghans. There is no common understanding in the United States concerning the physical or racial characteristics of the people of Afghanistan. According to the records of alien registration maintained by the Service, there are approximately 191 Afghans in the United States as of June 30, 1943. Certainly only a very few Americans have any knowledge about the people of Afghanistan. Hardly any of our people ever have been a native of Afghanistan and a great many of us would not know where Afghanistan is located without consulting a map. Under these conditions it can hardly be said that there is any widespread popular belief which conflicts with the ethnological finding that Afghans are members of the white race.

1/. The Board's opinion cites most of the scientific authorities mentioned above, and relies also on the Encyclopedia Britannica (11th Ed.); The New International Encyclopedia (2d Ed.); and The Encyclopedia Americana (1940 Ed.).

I am confident that the Supreme Court did not intend to preclude the acceptance of scientific guidance in a case such as this. Indeed, there does not appear to be any reasonable alternative to adherence to the verdict of science in this case. Certainly we would not be justified in denying the application of an Afghan merely because he is a member of a national group that is strange to us. That does not impress me as a sound basis for adjudication. A comparable attitude in the early years of our national existence would have required the rejection of applicants from southeastern Europe whose people were strange to the founders of the American nation. The United States has welcomed many peoples whose appearance, customs, and language at first were unfamiliar to us but who later became assimilated in our national life.

It might be contended that because an Afghan is Asiatic he may not be considered a white person under the naturalization laws. While it is true that the Supreme Court's opinion in the Thind case suggested the possibility that Asiatics might not be eligible, the question was specifically left open. The Court's dictum was stated (at 261 U.S. 214) in the following language:

> "What, if any, people of primarily Asiatic stock come within the words of the section we do not deem it necessary now to decide. There is much in the origin and historic development of the statutes to suggest that no Asiatic whatever was included. . . The question, however, may well be left for final determination until the details have been more completely disclosed by the consideration of particular cases, as they from time to time arise. The words of the statute, it must be conceded, do not readily yield to exact interpretation, and it is probably better to leave them as they are than to risk undue extension or undue limitation of their meaning by any general paraphrase at this time."

Later cases which have confronted the courts have demonstrated that the Supreme Court's suggestion in the Thind case was unwarranted and that many persons of Asiatic origin properly might be considered white persons. A good statement of the applicable principle may be found in Ex parte Mohan, 201 F. 2d 7 (C.C.A. 2, 1953), where the Court said, in denying the petition for naturalization of a Parsee, whose ancestors had migrated from Persia and had lived in India for 1200 years:

> "Accordingly, it is not altogether safe to generalize, yet it may fairly be said that members of a race inhabiting Europe or living along the shores of the Mediterranean are ordinarily to be classed as white persons. The same thing may be true of some Asiatics whose long contiguity to European nations and assimilation with their culture has caused them to be thought as of the same general characteristics."

In keeping with these precepts the courts have awarded naturalization to various groups of Asiatic origin, including Armenians (U.S. v. Cartozian, 6 F. 2d 919 (Oregon 1925); In re Halladjian, 174 Fed. 834 (Mass. 1909); Koreans (see In re Halladjian, supra; U.S. v. Balsara, 180 Fed. 694 (C.C.A. 2, 1910); In re Po Heh Lau, 47 F. Supp. 961 (Mass. 1942); Turks (see Hackworth, Digest of International Law, Vol. III, page 47); Syrians (In re Najour, 174 Fed. 735 (Ga. 1909); In re Dumarri, 176 Fed. 885 (Mass. 1910); Ex parte Dow, 211 Fed. 486 (C.C.A. 4, 1913); Cf. Ex parte Shahid, 205 Fed. 812 (S.D. 1913); Feraiore (See Hackworth, Board of Review, 245 - C - 1, Jan. 24, 1935); and Arabians (In re Hassian, 47 F. Supp. 961 (Mass. 1942); In re Ahmed, (D.C. Ga. 1941), unreported, Service File 2775-B. 1792; contra: In re Ellis, 43 F. Supp. 883 (Mich. 1942); U.S. v. Ali, 7 F. 2d 728 (Mich. 1925), rev'g. denied 20 F. 2d 990 (1927)).

The Service has supported the grant of naturalization to all of these categories of applicants. It is clear that the Afghans are closely identified with each of the Asiatic groups which has been found racially eligible for naturalization. Since these classes of Asiatics have been recognized as eligible for naturalization, it would not seem an unwarranted extension of the definition to include Afghans too.

I am familiar with the reported decision of In re Yin, 27 F. 2d 568 (Cal. 1928) which announced a conclusion contrary to that I have suggested. District Judge Bourquin's opinion in that case is very brief and I am quoting it in full:

> "This applicant for citizenship is a typical Afghan and a native of Afghanistan. He is readily distinguishable from 'white' persons of this country, and approximates to Hindus. The conclusion is that he is not a white person, nor of African nativity or descent, to whom naturalization is presently limited by Section 359, Title 8, U.S.C. (8 U.S.C.A. 359). Accordingly his petition is denied. This action is required by the principle of United States v. Thind, 261 U.S. 204, 43 S. Ct. 338, 67 L. Ed. 616, and much of the comment in that case is applicable to this. Most ethnologists, anthropologists, and other so-called scientists may speculate and conjecture in respect to races and origins may interest the curious and convince the credulous, but is of no moment in arriving at the intent of Congress in the statute aforesaid."

In addition, there have been several unreported court decisions which followed the Yin case and which were mentioned in a letter of the Assistant Secretary of Labor to the Secretary of State, dated July 13, 1939, under file 29/1. An excerpt from that letter is set forth in Hackworth, Digest of International Law, Vol. III, page 41. The files of the Service have no reference to any court

decisions on the eligibility of Afghans since that time.

The Ali case and the unreported decisions that followed it do not impress me as well considered and, for the reasons I have already mentioned, I do not believe they represent a correct statement of the law. Therefore, in my opinion we are not bound to follow their conclusions. I believe that if the issue were again presented to the courts, in the light of the findings submitted in this opinion, the result would be favorable to the eligibility of Afghans. This assumption is supported by our recent experience in cases involving Arabians. Originally Arabians were deemed ineligible for naturalization and a number of court decisions rejected petitions for naturalization filed by persons of Arabian origin. In re Hassan, 48 F. Supp. 843 (Mich. 1942); United States v. Ali, 7 F. 2d 728 (Mich. 1925), rearg. denied 25 F. 2d 950 (1927). Thereafter, the Board of Immigration Appeals, in the well considered opinion in the case of Najib Hassey Sharif, file 56071/165, decided on October 18, 1941 that a person of Arabian blood was eligible for naturalization. This view was adopted by the Service on September 9, 1943 and incorporated in Instruction No. 107 of that date (now Operations Instructions, Sec. 350.1 (1); see also Monthly Review, October 1943, Vol. 1 No. 4, page 12). Since that time the courts have been following the revised view of the Service and have granted petitions for naturalization filed by persons of Arabian race. See In parte Mohrlon, 54 F. Supp. 941 (Conn. 1944); In re Ahmed (D.C. Va., 1944), unreported, Service file 2775-17752.

One final factor requires consideration. Section 3 of the Act of February 5, 1917, 39 Stat. 874-898, 8 U.S.C. 136, prohibited the admission of immigrants from a geographical area in Asia which generally is referred to as the "Asiatic barred zone." About three-quarters of Afghanistan lies within the proscribed area. See map opposite page 4, Immigration Laws and Regulations as of March 1, 1944. It might be contended that since aliens who come from the "barred zone" are now excluded as immigrants, they also are precluded from becoming naturalized. It is noted that such a contention might be based upon a dictum of the Supreme Court in the last paragraph of its opinion in the Thind case and a similar dictum by Judge Kyanard in In parte Mohrlon, supra.

It seems to me that the fact that a person originated in the "barred zone" does not have any necessary relationship to a determination as to whether he is eligible for naturalization. The "barred zone" restriction did not purport to amend the naturalization laws. The statutory test of eligibility for naturalization in this case, involving inquiry whether the applicant is a "white person," has remained substantially unchanged since the inclusion in the original naturalization law, enacted by the first Congress on March 26, 1790, 1 Stat. 103. Since the "barred zone" limitations were enacted on February 5, 1917, there have been two changes in the statutory provisions relating to eligibility for naturalization (Sec. 303 of the Nationality Act of 1940, approved October 14, 1940, 54 Stat. 1140; and the Act

of December 17, 1943, 57 Stat. 600 - relating to Chinese). It is significant that in neither case did Congress make any essential alteration in the language relating to the eligibility of "white persons."5/.

Even a cursory glance at the map outlining the limits of the barred zone is sufficient to establish conclusively that it is an arbitrary zone of exclusion which does not coincide with the area covered by the racial restrictions in the naturalization law. In the first place, the barred zone does not include countries whose nationals indisputably are precluded under the present statutory scheme from obtaining naturalization, such as Japan (Ozawa v. United States, 260 U.S. 178-1922); Korea (In re Song, 271 Fed. 23 - Cal. 1921; Petition of Charr, 273 Fed. 207 - Wn. 1921); and the Philippine Islands (Toyota v. United States, 268 U.S. 402 - 1925; De la Ysla v. United States, 77 Fed. 918 - S.C.A. 9, 1935, Cert. denied 296 U.S. 575 - 1935). In addition, the "barred zone" encompasses only parts of various regions, such as Arabia, Afghanistan, China, Asiatic Russia, and the Pacific Islands. Among the Pacific areas not included are about half of the Solomon Islands, and all of the Marshalls and the Gilberts. Since naturalization eligibility is determined on a racial rather than an individual basis (Ozawa v. United States supra), it cannot be said that the inhabitants of part of the nation or region are eligible while the rest, situated beyond an arbitrarily fixed line, are not. Nor can there be any rational differentiation as to racial eligibility for naturalization between those excluded under the "barred zone" restriction and their countrymen who, under the express exemptions of the statute, are admissible because they are members of the following groups:- Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, students, authors, artists, merchants, travelers for curiosity or pleasure, and the wives and children under 16 years of age of such persons.

It seems evident that the "barred zone" was devised principally to prohibit the admission into the United States of East Indians. See Carr, Immigration Restriction (1928) page 30. At the time the Immigration Act of 1917 was being considered Congress was concerned about a possible influx of immigrants from the teeming millions of India. See Senate Report 352, 64th Cong. 1st Session. In fact that statute as originally drafted specifically

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5/. The original version of the statute restricted eligibility to "free white persons." This phrase, which was designed primarily to exclude chattel slaves and savage Indians from the benefits of citizenship (Ozawa v. U.S., 260 U.S. 178 - 1922), was carried over into Sec. 2169 of the Revised Statutes. The Nationality Act simply refers to "white persons."

excluded from admission to the United States Hindus and persons not eligible for naturalization. House Report 95, 68th Cong., 1st Sess. This provision was eliminated by the Conference Committee, which substituted "a provision excluding aliens who are natives of certain islands and mainland territory of Asia defined by longitudinal and latitudinal lines." House Report 1291, 68th Cong., 2d Sess.

Not until the enactment of Section 13(c) of the Act of May 26, 1924, 8 U.S.C. 213(c), did Congress finally adopt a requirement that precluded the immigration of aliens ineligible to citizenship, although every General Immigration Act since 1911 had proposed such a clause which always had been eliminated prior to 1924. See Carlin, Immigration Restriction (1929), page 130. If the "barred zone" provisions of the 1917 Act referred to the classes ineligible to naturalization it would hardly have been necessary for Congress to have adopted legislation 7 years later specifically excluding, without any reference to the "barred zone" provisions of the 1917 Act, the immigration of persons ineligible to citizenship. Section 13(c), Act of May 26, 1924, 8 U.S.C. 213.

The following excerpt from the report of the Committee which drafted the Immigration Act of 1924, House Report 350, 68th Cong., 1st Sess., is illuminating in this connection.

> "The Committee feels justified in offering a provision that persons ineligible to citizenship shall not be admitted as immigrants. All agree that nothing can be gained by permitting to be built up in the United States colonies of those who cannot, under the law, become naturalized citizens, and must therefore, owe allegiance to another government.
>
> A majority of the Committee has been favorably disposed to such a policy for two years and careful investigation has strengthened that sentiment until it has become the settled conviction of practically the entire Committee."

While it is entirely within the discretion of Congress to determine which aliens may be admitted to the United States and which may be naturalized, it is desirable, of course, that the classes of persons eligible to be naturalized should coincide with those who may lawfully be admitted to the United States. Indeed, naturalization generally can be granted only to persons who have been lawfully admitted for permanent residence. 8 C.F.R. 322.1(b); U.S. v. Goldsberg, 30 F. Supp. 771 (E.D. N.Y. 1939); U.S. v. Shapiro, 13 F. Supp. 727 (Del. 1936); U.S. v. Ferris, 24 F. Supp. 111 (Md. 1938). But even though most of Afghanistan is located within the "Asiatic barred zone," it should be noted that many Afghans could establish lawful residence for naturalization purposes if it is determined that they are "white persons" under the naturalization laws. These would include persons who arrived properly prior to the effective date of the Immigration Act of February 5, 1917,

those included within the exempt groups specifically mentioned in section 3 of that statute, those who originated in the region outside the "barred zone," and those whose residence in the United States might be liquidated by suspension of deportation or regulatory proceedings. It is worthy of note also that the statutory provisions authorizing suspension of deportation (Sec. 19(c), Act of February 5, 1917, as added by section 20, Act of June 28, 1940, 54 Stat. 672, 8 U.S.C.A. 155), and regulary (Sec. 328(c), Nationality Act of 1940, 8 U.S.C. 728(b)), disqualify only persons ineligible for citizenship and do not exclude those who fall within the "barred zone" restrictions.

It seems clear that the exclusion of immigrants from the "barred zone" area does not affect the right to apply for citizenship in the cases of persons already here who can establish legal residence and who can meet the other qualifications fixed by the naturalization laws.

Upon consideration of the applicable statutes, Court decisions and scientific evidence, it is my conclusion that Afghans are racially eligible for naturalization as citizens of the United States.

Opinion approved by the Commissioner 4/20/45

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Approved by:

Commissioner