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The Trends in Legal Arrangements Regarding Importation of Mexican Agricultural Workers to the United States

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CASELLA III: LEGAL ARRANGEMENTS

THE TRENDS IN LEGAL ARRANGEMENTS REGARDING IMPORTATION OF MEXICAN AGRICULTURAL WORKERS TO THE UNITED STATES

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CHAPTER I

INTRODUCTION

The object of the following study is to trace the trends in, and the forces behind, United States immigration legislation, and International Agreements between the United States and Mexico, as regards temporary Mexican migratory agricultural labor. The specific trend with which the study will be concerned will be that of the direction in which the immigration legislation and the subsequent agreements have progressed, by changes and additions, in regard to the working and welfare conditions afforded the Mexican national who legally temporarily migrated to the United States to accept employment and thereby alleviated the farm labor shortages which have existed periodically in the United States from 1917 through 1950. This trend will, by necessity, reflect a phase in the relations between the countries of the United States of America and the Republic of Mexico.

The issues of the non-agricultural agreements between the two countries; the illegal aliens or the "wetback problem"; the domestic political implications; the immediate effects of each agreement; the sociological implications of either the legal or illegal entry of the migrants; the migrants effect on domestic labor; and the number of migrants admitted under the terms of the agreements will be of no particular

concern to this study except when these issues are directly involved in the negotiations between the two countries, or when the omission of brief incidental references or occasional allusions to these issues seem inescapable, or when their omission would detract from the general interest of the text.

Many of the preceding issues to which brief reference will be made have already become subjects for separate studies, and those which have not seem worthy as topics for research. As a matter of record, in recent years, much attention has been directed toward all phases of the entry of Mexican agricultural workers into the United States. More recently, the major attention and concentration has been on the sociological problems which arise as a result of the illegal entry of the laborers. A study by Saunders and Leonard[1] deals rather extensively with this particular problem as do a combination of various magazine articles appearing in Commonweal, The Southwestern Social Science Quarterly, The Pan American Union Bulletin, The Nation, The New Republic, Survey, Newsweek, Time, The Saturday Evening Post, and others for the years 1942 through 1950. The various labor organizations have also become interested in both the legal and illegal entry of the workers and their effect on the American workers' wage level. Articles appearing in The International Labour Review,

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[1] Lyle Saunders and Olen E. Leonard, The Wetback in the Lower Rio Grande Valley of Texas, Inter-American Education Occasional Papers VII (Austin: The University of Texas, July, 1951), 92 pp.

The American Federationist, and The Monthly Labor Review from the years 1942 to 1950 have been concerned with this particular issue. In the majority of these articles the concentration is on the particular problem under study and reference to the agreements is incidental only insofar as they relate to the problem under consideration.

Perhaps the most all embracing treatment of the question of migratory labor as a whole is the Report of the President's Commission on Migratory Labor.[2] However, the report is merely a survey of the economic, political, and social implications of migratory labor in general, the purpose of which was to arrive at recommendations for the solution of the problems which arise from these implications. The development of negotiations between the United States and Mexico are only treated incidentally. In fact, the author found no single source which brought together the various legislation, arrangements, and agreements dealing with the temporary migration of Mexican agricultural workers.

The fact that the major concentration has been on the illegal entry of Mexican workers has relegated the issue of legal entry to a minor position in the eyes of many. In fact, laymen are inclined to confuse the legal and illegal aspects of the entry of Mexican migratory labor and include them all

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[2] Migratory Labor in American Agriculture, Report of the President's Commission on Migratory Labor (Washington: United States Government Printing Office, 1951), 188 pp.

under the general heading of "wetbacks". This suggests that few are aware that the illegal and legal are two separate issues. For the most part, illegal entry causes more of a sociological than an internationally political problem. On the other hand, legal entry is more concerned with international relations, but the fact that the legal migrants are intermingled with the illegals or "wetbacks" contributes rather substantially to the domestic sociological problems which arise as a result of their entry.

In view of this situation, it is believed that the study which follows brings together all the legal arrangements regarding the entry of Mexican migratory labor in convenient form, and serves to separate the legal from the illegal aspects. At the same time, it illustrates the trend and changes in the legislation governing this activity. This trend and these changes reflect an important part of United States-Mexican relations and appear to have become the basis for better and stronger friendship between the two countries. It is quite possible that a study of this kind may be used in conjunction with, or as a point of departure for, both political and sociological studies.

The introductory material, and that which is not directly concerned with the legal arrangements for the importation of Mexican agricultural workers, has been gathered from the facilities of the University of New Mexico libraries

and the University of New Mexico Inter-Library Loan Service. The source material which deals specifically with the arrangements between the United States and Mexico has been gathered, for the most part, from primary sources. Among these are direct correspondence with Senator Dennis Chavez of New Mexico and Secretary of Labor Maurice Tobin, the result of which led to the use of official publications of the U. S. Department of Labor, the U. S. Department of State, the United States Employment Security Commission, the United States Employment Service, the United States Immigration and Naturalization Service, the Superintendent of Documents, and reports from the various Federal Government bureaus and departments which participated in the arrangements and agreements from 1917 to 1950.

The material gathered from these sources was examined in chronological order from 1917 through 1950, and each arrangement and agreement was compared with the preceding one. The changes and additions were noted and recorded after which a trend was established and assembled into the study which follows. Except when indicated, the observations and conclusions are those of the author.

Due to its basic relevance to the subject to be discussed, a brief resumé of the evolution of United States immigration legislation leading to the passage of the Immigration Act of 1917 seems necessary if one is to clearly trace

the trends in temporary immigration legislation and agreements as regards migratory agricultural labor from Mexico. The Act of 1917, as it is commonly called, possesses major significance in that it is on the basis of this law that legislation and agreements were and are effected with respect to the entrance of Mexican migratory labor into the United States.

Except for the Alien Law (1798-1801) which was passed to prevent foreign influence on the government of the United States, and the law of 1819 which provided for the keeping of statistics relative to immigration to the United States, prior to 1882, immigration laws were administered by the individual states.[3] Restriction of immigration by the coast states brought protests from both the West and the manufacturing interests. In addition to this friction, there existed a growing general recognition of the need for Federal regulation of immigration, especially in regard to excluding the so-called undesirable classes. As a result, Congress passed the Act of 1882 which was, in some respects, a compromise in that it provided for the exclusion of convicts, lunatics, idiots, and persons likely to become public charges, and in this manner it yielded to the restrictionist policies of the

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[3] Edith M. Phelps, compiler, Selected Articles on Immigration (New York: H. W. Wilson Company, 1920), pp. 3, 77. Cf. Sidney Kansas, United States Immigration Exclusion and Deportation (Washington: Washington Publishing Company, 1927), pp. 2-3.

coast states. By levying the more or less negligible fifty cent head tax, it conceded to the Western states and industrial interests who were opposed to anything resembling a property qualification.[4]

In the period between 1882 and World War I, certain provisions of the Federal immigration law were made more rigid by modifications and amendments.[5] In 1891, the administration of the law was changed from joint management of immigration affairs by State and Federal officials to administration by the centralized Federal Bureau of Immigration. After this change in administration, the immigration laws of 1885, 1891, 1893, 1901, and 1903 extended the exclusions to include diseased persons, polygamists, anarchists, contract laborers, and Chinese,[6] as well as provisions for deportation and increasing the head tax to four dollars.[7] The exclusion of the Chinese and contract laborers were the only changes which constituted a major departure from the policy of the Act of 1882.

The exclusion of contract laborers, a provision with which we will be concerned later, was effected by the Alien

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[4] Charles P. Howland, director, Survey of American Foreign Relations (New Haven: Yale University Press, 1929), p. 421. Cf., Kansas, op. cit., pp. 3-5.

[5] Phelps, op. cit., pp. 78-80. Cf. Kansas, op. cit., pp. 5-14.

[6] Phelps, op. cit., pp. 4, 78-9. Cf. Kansas, op. cit., pp. 8-10.

[7] Howland, op. cit., p. 431. Cf. Phelps, op. cit., p. 78 and Kansas, op. cit., pp. 8-10.

Contract Labor Law of 1885 and its amendments which, due to pressure from trade unions, was designed to restrict the recruitment of cheap immigrant labor. In practice, the law was easily evaded by numerous loopholes and laxity in enforcement. Actually, the effect of the Act of 1882 and its amendments, additions, and modifications, was limited by difficulties in administration and court interpretations of its provisions.[8] In spite of improved immigration service under the centralized administration of the Bureau of Immigration, a trained staff of inspectors, and the revision of provisions which culminated in the amendments in the law of 1907,[9] the United States was regarded as a country of free entry with immigration reaching an annual average of one million for the ten years prior to World War I. Justification for the failure of the legislation to do what it was designed to accomplish can perhaps be found in the fact that the pressure and demand for settlers and laborers, at that time, was far greater than the natural increase in population could supply.[10]

Objections to unrestricted immigration appeared at all stages of economic development in the United States, but after the disappearance of the frontier, the objections grew stronger

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[8] Howland, op. cit., Cf. Kansas, op. cit., pp. 5-14.

[9] Phelps, op. cit., pp. 79-80. Cf. Kansas, op. cit., pp. 12-13.

[10] Howland, op. cit., p. 421.

and became national in scope. No doubt this was due to the lack of free lands, and the immigrants' effect on wages and on the density and quality of the population.[11] Largely through the efforts and pressure of the Immigration Restriction League which was organized in 1894 and represented the official agitation for restriction, the literacy test was proposed to Congress in 1897 and a law was passed providing for the test to be given immigrants as a basis for admission to the United States. However, the law was immediately vetoed by President Cleveland. Again in 1911, the bill was re-introduced in Congress, passed by its members, and again vetoed, but this time by President Taft. On two later occasions, in 1915 and 1917, the bill was re-introduced and passed, only to be vetoed in each case by President Wilson. Nevertheless, the bill was finally passed over Wilson's second veto and became law on February 5, 1917.[12]

It is this law, the Act of February 5, 1917, Regulating Immigration of Aliens to, and Residence of Aliens in, the United States, which embodies all the previous laws on immigration plus the literacy test provision and marks the establishment of rigid administrative laws of exclusion. Nevertheless, soon after its establishment, it became the basis, first for

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[11] Ibid., p. 437.

[12] Phelps, op. cit., pp. 5, 79-80. Cf. Kansas, op. cit., pp. 13-14.

temporary legislation, and later for international agreements between the United States and Mexico, regarding the entry of Mexican migratory agricultural workers into the United States of America. The chapters which follow will deal with the specific temporary immigration legislation and the agreements reached between the two countries in regard to this matter dating from the Act of 1917 to 1950 with the purpose of establishing a trend which will be evident in these arrangements.

CHAPTER II

FIRST WORLD WAR PERIOD

Prior to 1910 the immigration from Mexico to the United States was due almost entirely to economic causes. To supply urgently needed labor in the cotton fields of the Southwest, it had been the practice of many farmers from this area to form a group and send an agent into Northern Mexico and have him bring back the number of laborers needed to harvest the crop.[1] In many cases the same Mexicans would return year after year for each harvest, and except for a very few who would acquire land, they would return to their homeland after the harvest to spend their wages. Since little attention was paid to this source of immigration, public records give only a faint idea of the number that crossed the United States-Mexican border before 1910.[2]

At the beginning of the Mexican Revolution of 1910, the increase in migration to the United States from Mexico was, to a great degree, due primarily to revolutionary rather than economic causes. The majority of these immigrants remained in the United States until about 1915, after which there began a steady stream of both laborers and refugees

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[1] James L. Slayden, "Some Observations on Mexican Immigration," The Annals, 93:121-22, January, 1921.

[2] J. Blaine Gwin, "Immigration Along Our Southwestern Border," The Annals, 93:126, January, 1921.

returning to Mexico.[3] According to the report of the Supervising Inspector of Immigration at El Paso, Texas, the exodus at this time was due to: the high cost of living in the United States; generally improved conditions in Mexico coupled with the fear of confiscation of property owned in that country; the promise of free land in Mexico; industrial disturbances in the United States; and the fear of being conscripted for military service in the United States' armed forces.[4]

In the light of these developments, it seems reasonable to conclude that previous to the passage and enactment of the Immigration Act of 1917, there had been comparatively free movement across the United States-Mexican border.[5] However, in spite of the inadequacy of previous immigration laws and the laxity and difficulty in enforcing them, in comparison with the immigration from the countries which contributed the major portions of immigrants, Mexican migration to the United States during this period was not very great. In fact, it reached an annual average of only about 10,000 for the

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[3] Ibid.

[4] Report of the Secretary of Labor and Reports of Bureaus, Reports of the Department of Labor, 1917 (Washington: United States Government Printing Office, 1918), p. 419.

[5] Migratory Labor in American Agriculture, Report of the President's Commission on Migratory Labor, 1951 (Washington: United States Government Printing Office, 1951), p. 37.

years 1899 to 1917.[6]

Nevertheless, soon after the Immigration Act of February 5, 1917 had become effective, in April, 1917, the United States entered World War I. It then became apparent that the calling of men into the military service, and the nearly simultaneous operation of the Act of 1917, would reduce the supply of labor for the farms of the Southwest since the farmers in that area were accustomed to importing seasonal labor from Mexico under the more lenient provisions of the old immigration laws, and the induction of men into military service would create a general labor shortage which would eventually affect the farm labor supply. As a result, the farmers exerted pressure on the Federal Government to provide against the apparently probable shortage in farm labor.

The Department of Labor investigated the claims of the Southwestern farmers and concluded that while much of the fear among the farmers was hysteria, there did exist considerable basis for alarm.[7] Accordingly, on May 23, 1917, Secretary of Labor Wilson acted[8] under the authority granted him in the ninth proviso in Section 3 of the Immigration Act of February 5,

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[6] Edith M. Phelps, compiler, Selected Articles on Immigration (New York: H. W. Wilson Company, 1920), p. 62.

[7] Report of the Secretary of Labor and Reports of Bureaus, Reports of the Department of Labor, 1918 (Washington: United States Government Printing Office, 1919), p. 173.

[8] News item in the New York Times, May 24, 1917, p. 12.

1917, which provided:

> . . . That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions. . . to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission. . . .[9]

Taking advantage of this proviso, Secretary Wilson issued a departmental circular, the first of its kind, instructing immigration officials that the contract labor clause,[10] the literacy test provisions,[11] and the head tax,[12] may be waived in the case of aliens from Mexico who were otherwise excluded by these provisions. To amplify the order, and no doubt to pacify the proponents of immigration restriction, the Secretary of Labor, in a letter to immigration officials, wrote:

> Aliens admitted under the provisions hereof are allowed to enter temporarily upon the understanding that they will engage in no other than agricultural labor; and any who fail to accept, or after acceptance abandon, employment of that kind and engage in the performance of labor in connection with other industries shall be promptly arrested and deported to the country whence they came. In cases arising under this circular the aliens involved shall be admitted without the payment of the head tax.[13]

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[9] Regulating Immigration of Aliens to, and Residence of Aliens in, the United States, Act of February 5, 1917, in Sidney Kansas, United States Immigration Exclusion and Deportation (Washington: Washington Publishing Company, 1927), p. 24. Cf. Appendix A, p.

[10] Appendix A, p. 81.

[11] Ibid., p. 81.

[12] Ibid., p. 81.

[13] New York Times, op. cit.

Actually, there was no legal need to specifically waive the head tax provision of the law since the aliens were to be admitted temporarily, and Section 2 of the Act of 1917 provides: ". . . That the said tax shall not be levied on account of aliens who enter the United States after an uninterrupted residence of at least one year immediately preceding such entrance in . . . the Republic of Mexico, for a temporary stay. . . ."[14] It seems, however, that the head tax was included among the waivers solely to avoid confusion in interpretation.

This action temporarily admitting migratory agricultural laborers from Mexico set the pattern for immediately subsequent departmental orders, for on June 6, 1917, an amended circular issued by the Secretary of Labor limited the period of admission to six months with an added provision that extensions of an additional six months might be granted if the employer of the aliens could prove that releasing the workers would be detrimental to his farm crop. The circular further provided that the employer must either send for, or go to the border in order to have the alien admitted. He was further obliged to disclose his plans in regard to employment, and these plans were to include the wages to be paid and the duration of employment. In addition, the employer was required to promise, in writing, to disclose any changes in

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[14] Appendix A, p. 81.

plans regarding the workers, and if the occasion arose, he was required to notify the immigration authorities of any alien's intent to leave his employment, or, if the alien left without the employer's knowledge, the employer was required to cooperate in apprehending him.[15]

Due, perhaps, to the fact that the machinery for legal importation had been in operation only a relatively short time, plus the possibility that the difficulties in operation had not yet been resolved, under the preceding departmental circulars which covered the latter half of the year 1917, only 475 migrant Mexican agricultural workers were admitted to the United States for the period.[16] The figure, of course, does not reveal the number of workers who crossed the border illegally.

When the number of requests for imported laborers increased as it became apparent that the farm labor shortage still existed,[17] and because the amended circular of June 6, 1917, limited the period of admission to six months plus an additional six months in cases of necessity, subsequent renewals of the order were issued on April 12, 1918, and

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[15] "Contract Labor Admitted for Farmers," Survey, 38:295, June 20, 1917.

[16] Gwin, op. cit., p. 129.

[17] Reports of the Department of Labor, 1918, op. cit., p. 174.

May 10, 1918.[18]

The departmental orders and circulars of May 23, 1917, through May 10, 1918, seem to have been of an extremely temporary nature; that is, they were issued as the immediate need arose and revised and amended to meet each developing situation with little semblance of order or semi-long range prespective. However, with the experience gained during the one year of their operation, the Immigration Bureau was able to improve its regulations and arrangements for making and maintaining a record of all laborers admitted, and thereby insure their return to their homes at the end of the emergency.[19] To this end, a sweeping measure was taken on June 12, 1918, when Secretary Wilson issued an order which superseded all previous orders,[20] and at the same time included the major provisions of each order plus additions and amendments.

In addition to being interesting with respect to its being the continuation of the first order of its kind, Secretary Wilson's order of June 12, 1918, set a pattern which was to be followed in recent years as regards the importation of Mexican migratory agricultural laborers.

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[18] "Text of Secretary Wilson's Order Suspending Sections of the Immigration Act to Permit Laborers to Enter U.S.," The Official Bulletin, 2:10, June 24, 1918. Cf. Appendix B, p. 83.

[19] Reports of the Department of Labor, 1918, op. cit.

[20] Appendix B, p. 83. Cf. "Text of Secretary Wilson's Order, . . ," op. cit., p. 10.

In issuing the order, the Secretary of Labor was cognizant of the fact that prior to the passage of the Immigration Act of 1917 with its restrictive provisions, it was the custom of the Southwestern farmers to import and employ Mexican laborers to cultivate and harvest their crops, and that exceptions to the provisions of the immigration law should only be resorted to under emergency conditions such as existed at the time the order was issued.[21]

The first section of the Departmental Order of June 12, 1918, repeated the provisions of the immigration law to be waived in order to admit the workers: namely, the literacy test, the contract labor clause, and the head tax provision. The waiving of the latter provision, as previously reported, was unnecessary since Section 2 of the Act of 1917 provided that the tax need not be levied in the case of aliens from Mexico who are to enter the United States temporarily. This section also stipulated that the periods of admission were not to exceed the duration of World War I.[22]

Section II of the order specified the terms under which the worker would be admitted; that is, "for the purpose of accepting employment." It continued by setting forth the preliminary obligations of the farmer-employer in making arrangements for hiring the incoming aliens. Among these

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[21] Appendix B, p. 83.

[22] Appendix B., p. 83.

obligations were: a preliminary conference with the alien prior to his admission; the filing of an application with a United States Immigration or a United States Employment Official stipulating the number of workers desired, the class of work and wages offered, the place of employment; and the submission of a statement of his will to comply with the provisions of the order. Upon approval of the application by the United States Employment official, the immigration officer at the Mexican border was to admit the aliens under the terms of the circular.

The third section of the order simply emphasized the fact that the admissions under the order were to be temporary, and that all the other conditions of the Immigration Act of 1917 were to be satisfied before the illiteracy, contract labor, and head tax features could be waived. Section IV merely provided generally for the return of alien violators.[23]

The fifth section of the order covered the provisions for the records which were to be kept for the admitted workers. Each applicant for admission was to furnish two unmounted photographs of himself, and a complete personal description of the applicant and the accompanying members of his family over sixteen years of age was to be taken for use in preparing duplicate identification cards. One of these was to

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[23] Appendix B, p. 83.

be retained by the worker and the other was to be kept on file by the Immigration Bureau. Members of the worker's family under sixteen years of age were not issued cards, but a record of their name, age, and description was kept on file. Under this section, provisions were also made for the deportation of the alien's family members when the worker departs or is deported.

The conditions under which a temporarily admitted alien may be arrested and deported were set forth in Section VI. In summary, these were:

1. If the alien did not accept the employment for which he was admitted.

2. If, after acceptance, the alien abandons the agreed employment to accept employment of any other nature.

3. If the alien accepted employment with an employer who did not comply with the terms of the order.

4. If the alien discontinued working and remained idle for a period of two weeks, unless the idleness was caused by the illness or disability of himself or of some member of his family.

Additional provisions of Section VI were covered in sub-paragraphs which laid down the rules governing the non-importing employers, or those who hired the alien workers after they had worked for the employer who had initiated their entry and the first to employ them. The non-importing employer was bound by the same rules as the importing employer with the additional provision that he was to notify the Immigration Service, within ten days of employing the alien, of his and

the alien's name and address, and the intended place of employment. When the alien worker ceased employment with the non-importing employer, notification was to be made similar to that required of the importing employer.

The final provisions of the sixth section renewed the status of alien workers who had been admitted to the United States under previous circulars and orders; outlined the procedure to be followed in the event an alien worker was without employment; and provided for deportation of the worker in the event that the employer failed to abide by the provisions outlined in this particular section.

Section VII of Secretary Wilson's order of June 12, 1918, was devoted to the obligations of the prospective employers of the migratory laborers with respect to plans of employment, wages, frequency of payment, housing conditions, and duration of employment with respect to the workers to be employed. In addition, the employer was required to promise, in writing, to comply with all the terms of the order, to pay the prevailing wage of the community in which the alien was to be employed, and to abide by the housing and sanitation laws and rules of the State in which the alien was to be employed, or in the case of no law existing, to comply with housing and sanitary conditions satisfactory to the Secretary of Labor. However, except for the housing and sanitation conditions which were to be in accordance with State laws and

rules, there were no minimum standards provided by law which might protect the migrant worker. In fact, the provisions for working and welfare conditions were somewhat vague and appeared to be an easy prey for evasion.

Further requirements of the seventh section of the order obliged the employer to advise the Immigration Service of any change in plans with respect to place, duration or character of employment, wages, and frequency of payment. Other obligations included: notification of the employer's desire to retain the alien after the expiration of the period for which he was admitted; and notification of the alien's intent to leave, or if the alien leaves without the employer's knowledge, the employer was to cooperate in furnishing all possible information that might aid in apprehending the fugitive alien. A final provision of this particular section required the employer to incur the expense of the removal, from the place apprehended to the boundary, of any alien worker who was being deported for violation of the provisions contained in the order.

Section VIII dealt with the means of insuring that the worker would eventually leave the United States. To this end it was provided that the worker, with the aid of immigration and employment officers, would open an account in the postal savings bank at the port of entry. The employer was then required to withhold twenty-five cents from the worker's

wages for each day's service and deposit it with the immigration authorities who would, in turn, deposit the money in a local postal savings bank to the credit of the worker. After the sum of money in the worker's account totaled $100, only one dollar per month would be withheld and handled in the same manner as the daily twenty-five cent deductions. This arrangement was to remain in effect as long as the worker remained in the United States, and the funds deposited, in both cases, were to remain "in the postal savings bank until the alien leaves the United States, whereupon said officer shall arrange for the delivery to the alien of the money so saved and the interest, if any, accrued thereon."[24]

Authorization to extend the period of admission in cases of necessity was also included in this section but in no case were the extensions of time permitted to exceed the duration of the war.

Sections IX and X were dedicated to the cooperation of the United States Immigration Service and the United States Employment Service in carrying out the program under the provisions of the order while Section XI simply provided for the order to become effective on and after June 20, 1918.[25]

It will be noted that the provisions of Secretary Wilson's order of June 12, 1918, seem to have been designed

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[24] Appendix B, p. 83.

[25] Ibid.

primarily to conform with the provisions of the Immigration Act of 1917 excepting, of course, the three provisions which were waived so that the workers were able to enter the United States. The primary objective of the order seemed to be the return of the workers to their homeland after completing their work in the United States. On the other hand, the protection of the workers while in the United States was given a minimum of attention. In fact, only part of one section of the order was concerned with this matter.[26]

In compliance with the provisions of the order which stipulated that the periods of temporary admission were not to exceed the duration of the war, the Department of Labor, early in December 1918, after the cessation of hostilities, issued instructions to vacate the departmental order of June 12, 1918.[27] However, in so doing, the Department of Labor also specifically ordered that the Mexican laborers would continue to be admitted provided they arrived at a port of entry before January 15, 1919.[28]

Relative to this order, the Secretary of Labor wrote:

> As the department had knowledge that the cotton and sugar beet growers, . . . had caused notice to be sent broadcast in this country and in Mexico in order to secure a supply of labor, it did not desire to act hastily in the matter, and for that reason it provided that upon

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[26] Appendix B, p. 83.

[27] United States Department of Labor, Committee on Public Information, "No Deportation of Mexican Laborers Says Secretary, Correcting Reports," Official U.S. Bulletin, 3:5, December 27, 1918.

[28] Ibid.

> all permits made prior to December 18 [1918] the laborers contracted for could enter the United States provided they did so on or before January 15, 1919. It also permitted all Mexican laborers now in the United States by virtue of departmental orders, . . . as agricultural laborers . . . to remain; . . . throughout the coming agricultural season, in the border states (Texas, New Mexico, Arizona, and California) until such time as may, hereafter be fixed by the department; . . .
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> It will be seen that the department has considered the questions involved from all standpoints, and has endeavored to proceed in such a way as to give no just cause for complaint, either for lack of notice to the laborers at the border awaiting entry, or those on the way there, or those already in the country.
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> . . . All such departmental orders, since the 18th day of December, have been vacated, and no further admissions thereunder from and after January 15, 1919, will be permissible.[29]

After the suspension of orders had run its course, pressure was again brought to bear by the agricultural interests on the responsible officials, and the order providing temporary admission of alien Mexican workers was extended to the end of the fiscal year and continued in force until June 30, 1919. However, on July 9th of that year, the order was again renewed with the arrangements therein due to expire by limitation on January 1, 1920.[30]

On February 12, 1920, "after consideration of earnest representations made to it by agricultural interests," the Department of Labor instructed the Immigration Bureau to

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[29] Ibid., p. 6.

[30] Department of Labor, Annual Report of the Commissioner General of Immigration to the Secretary of Labor, 1919-1920 (Washington: United States Government Printing Office, 1920), p. 7.

all permits were issued to [illegible] (1919) [illegible] laborers contracted [illegible] could enter the [illegible] provided [illegible] before January 15, 1919. It also permitted all [illegible] laborers [illegible] in the United States [illegible] . . . as agricultural laborers . . . to remain . . . [illegible] out the coming agricultural season, [illegible] (Texas, New Mexico, Arizona, and California) until such time as [illegible]. . . .
It will be seen [illegible] questions involved [illegible] to proceed in such a way as [illegible] complaint, . . . [illegible] the border [illegible] those already in [illegible] country . . .
. . . [illegible] of December, [illegible] sions thereunder [illegible] January 15, 1919, [illegible] be permissible.

After the [illegible] was [illegible] pressure was again [illegible] ects on the responsible [illegible] temporary admission of [illegible] the end of the [illegible] year [illegible] 1919. However, on July [illegible] renewed with [illegible] tation on January 1, 1920.[30]

On [illegible] 1920, [illegible] representations [illegible] Department of Labor [illegible]

29 Ibid., . . .

30 Department of Labor, Annual Report of the Commissioner General of [illegible] 1919-1920 (Washington: United States Government Printing Office, 1920), p. 7.

resume the orders existing January 1, 1920, with the understanding that at the close of the agricultural season, the subject would again be investigated and a future course of action determined.[31]

Finally, on March 2, 1921, the special "war-time" provisions under which migrant agricultural laborers from Mexico were permitted to enter the United States by waiving, temporarily, the literacy test, contract labor, and head tax provisions of the Immigration Act of February 5, 1917, was rescinded. In addition, the employers of the laborers were instructed to return all the aliens in their employ to Mexico except for employers granted extensions in "particularly meritorious cases."[32]

The order of March 2, 1921, rescinding the special "war-time" waivers of certain provisions of the Immigration Act of 1917 ended the temporary admission of Mexican agricultural laborers for that time. From the time of the first order waiving the provisions on May 23, 1917, and its subsequent renewals including the last order which terminated on March 2, 1921, a total of 72,862 aliens were admitted. By June 20th of that year, 34,922 of this number had already returned to Mexico through proper legal channels, 414 had

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[31] Ibid., pp. 7-8.

[32] Department of Labor, Ninth Annual Report of the Secretary of Labor, 1921 (Washington: United States Government Printing Office, 1921), pp. 25-26.

died in the United States, and 494 were found eligible for permanent residence and admitted to this country after examination. On the other hand, 21,400 deserted their employment and disappeared, and 15,632 were still employed by the original importing employers, many of whom were in the "certain particularly meritorious cases" category, or the laborers were in the process of being returned to Mexico. In view of the somewhat depressed conditions in the farm labor market at that time, it was the opinion of the Department of Labor that a "considerable percentage" of those who "disappeared" had found their way back to their homeland.[33]

It has therefore been shown that prior to the passage of the Immigration Act of 1917, the farmers in Southwestern United States were accustomed to importing seasonal labor from Mexico to fill their farm labor needs. Under this kind of arrangement, it seems logical to assume that the working conditions offered the workers were, for the most part, on the employers' terms, since there were no minimum standards for agricultural workers set by either the Government of the United States or the Republic of Mexico at this time. However, in order to attract any workers at all under this arrangement, the employers were obligated to offer conditions somewhat better than those the workers were enduring in their native Mexico.

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[33] Ibid., p. 26.

The enactment of the 1917 immigration law coupled with the outbreak of World War I created a considerable farm labor shortage in the Southwest. This situation motivated the farmers in that region to appeal to the National Government to provide against the probable labor shortage which might result from the restrictions on migrant labor from Mexico, and the manpower shortage created by the induction of men into the armed forces. In passing, it might be well to note that the Immigration Act of 1917 was not specifically aimed at restricting the labor supply from Mexico, but was instead, a part of the new over-all immigration policy of the United States which happened to include restrictions on this type of activity.

After apparently careful investigation and consideration of the farmers' claims and grievances, the Department of Labor saw fit to waive the certain provisions which closed the doors on the Southwest's main source of farm labor, namely, the Mexican migratory agricultural workers. This action, which began in 1917 and ended in 1921, alleviated the farm labor shortage rather effectively, which was the purpose for which the action was intended. However, in so doing, little attention was paid to the protection of the migrant workers while employed in the United States. On the other hand, the action marked the beginning of a new kind of activity which was destined to become a basis for bilateral agreements

in later years, which emphasized the rights and protection of the migrant workers.

CHAPTER III

SECOND WORLD WAR PERIOD

The special "war-time" provisions of the years 1917 to 1921 temporarily admitting Mexican migratory agricultural workers were rescinded on March 2, 1921, and during the 1920's and the 1930's, immigration from Mexico was governed by the laws of 1917, 1924, and subsequent legislation,[1] which included acts, joint resolutions, and executive orders,[2] none of which were concerned with "temporary admission" as such, and therefore beyond the scope of this study. However, in passing, it might be well to point out that during the 1920's these laws were administered rather leniently and this state of affairs resulted in considerable legal and illegal traffic. In fact, about one million Mexicans were absorbed by the United States population during the twenties, only to have about half that number becoming unemployed during the thirties and return to their native Mexico.[3]

In the early 1940's, this situation was destined to change, for even before the United States' official entry into World War II in December, 1941, the farmer-employers of

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[1] Migratory Labor in American Agriculture, Report of the President's Commission on Migratory Labor (Washington: United States Government Printing Office, 1951), p. 37.

[2] Arthur E. Cook, John J. Hagerty, Immigration Laws of the United States (Chicago: Callahan and Company, 1929), pp. 167-360.

[3] Migratory Labor in American Agriculture, op. cit.

the Southwest and Southern California began demanding that the immigration laws be adjusted so that they would allow the entry of Mexican farm workers to replace the diminishing sources of domestic farm labor which were, according to some reports, being attracted to the north by higher farm wages and to other types of employment for the same reason.[4] No doubt the conscription policy of the National Government was also a contributing factor to the shortage. As the domestic source of labor became more scarce, the demands for foreign labor became more urgent, and finally, these demands were satisfied by the signing of an agreement, solicited by the United States, between the United States Government and the Republic of Mexico, which provided for emergency importation of Mexican nationals to the United States as agricultural workers.[5]

Here again was a situation similar to that which prevailed in 1917; that is, pressure was again exerted by the farmers in an effort to provide against a farm labor shortage, and the basic authority for the arrangements which were made

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[4] Lyle Saunders, "Sociological Study of the Wet Backs in the Lower Rio Grande Valley," Proceedings, Fifth Annual Conference, Southwest Council on the Education of Spanish-Speaking People (Los Angeles: George Pepperdine College, 1951), p. 32.

[5] Migratory Labor in American Agriculture, op. cit., pp. 37-38. Cf. Executive Agreement Series 278, Temporary Migration of Mexican Agricultural Workers, Agreement Between the United States of America and Mexico (Washington: United States Government Printing Office, 1943), pp. 1-13.

was found in the ninth proviso of Section 3 of the 1917 immigration law.[6] Another similarity will be found in the fact that this first international agreement sets a precedent, as did the first special "war-time" provisions of 1917, which becomes the basis for renewals of, and additions to subsequent arrangements which provide for the admission of Mexican migratory agricultural workers.

On the other hand there did exist notable exceptions and basic differences between the arrangements of 1917 and the international agreement of August, 1942. In the first place, the farmers in 1917 were accustomed to importing seasonal labor from Mexico before the provisions of the Immigration Act of 1917 erected barriers to the practice. In effect, the Act of 1917, while not enacted specifically to limit immigration from Mexico, did serve to restrict the supply of labor depended upon by the farmers who practiced importation, and thereby contributed to the scarcity of labor which existed at that time. The farmers in the early forties were faced with a totally different situation since they had not been dependent on foreign sources for their farm labor supply. Instead, their shortage was due, to a great degree, to the fact that the domestic farm labor supply migrated northward from the border for higher wages in either farm or other types

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[6] Appendix A, p. 81.

of employment,[7] and, no doubt, to the induction of men into the armed forces, which was also a contributing factor to the farm labor shortage in the World War I period.

In the second place, and perhaps the most significant difference, is the fact that the special "war-time" provisions of 1917 through 1921 were the product of a strictly unilateral arrangement with the United States as the sole legislator without the consent or cooperation of the Mexican Government, in spite of the fact that the subjects of the arrangements were Mexican nationals. Obviously, this kind of arrangement put the United States and the farmer-employers in an advantageous position in regard to the working conditions and protection afforded the workers. However, the agreement of August 4, 1942, and those which followed, were bilateral agreements solicited by the United States in a period of apparent dire need and required the cooperation of both governments. The changes which were wrought in the World War II agreements can be traced, as will be noted, to a change in attitude by both governments toward the question of migratory labor, and adequate provisions in the Mexican Federal Labor Law regarding this matter.

The tentative recommendations and provisions of the first international agreement regarding the entry of Mexican

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[7] Lyle Saunders, "Sociological Study of the Wetbacks in the Lower Rio Grande Valley," op. cit.

agricultural workers were reached on July 23, 1942, in Mexico City by a group of Mexican and United States experts who were charged with the task of examining the proposition in all its aspects. Upon completing their assignment, the experts submitted their recommendations to each government for approval. Approval was formalized by an exchange of notes between the Mexican Department of Foreign Relations and the United States Embassy in Mexico City on August 4, 1942, and as provided in the agreement, the terms became effective as of that date.[8]

The notes which formalized the provisions of the agreement afforded considerable insight to the problems confronting both nations. For instance, the Mexican Minister of Foreign Affairs, in his note to the American Ambassador, pointed out that the Mexican Government agreed to the provisions and recommendations that Mexican nationals be allowed to emigrate temporarily in spite of Mexico's need to conserve its human material for developing the "program of continental defense" in which "agricultural production takes first rank."[9]

On the other hand, in his note to the Mexican Minister of Foreign Affairs, the American Ambassador, George S.

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[8] Executive Agreement Series 278, op. cit., pp. 1-13.

[9] Ibid., p. 1.

Messersmith, acknowledged the existence of the problem which confronted the Mexican nation, and expressed gratitude that Mexico had seen fit to allow as many workers to migrate as would not endanger the Continental Defense Program.[10] The contents of these notes exhibit, from the very beginning, that the issue under consideration was one which was due the most careful diplomatic handling, and also one which required joint cooperation and bargaining if each country was to receive the benefits to which it felt it was entitled.

The international agreement of August 4, 1942, began with the following introductory paragraph:

> In order to effect a satisfactory arrangement whereby Mexican agricultural labor may be made available for use in the United States and at the same time provide means whereby this labor will be adequately protected while out of Mexico, the following general provisions are suggested: . . .[11]

Among these provisions was an understanding that the migrants would not be engaged in any military service or be subjected to any discrimination. Also provided were guarantees of transportation, living expenses, as established in Article 29 of the Mexican Federal Labor Law,[12] and a clause prohibiting the employment of the migrants "to displace other workers or for the purpose of reducing rates of pay

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[10] Ibid., pp. 8-9.

[11] Ibid., pp. 3, 10.

[12] For text of Article 29, See Appendix C.

previously established."[13]

Specific subheadings were included to fulfill the preceding general provisions along with definitions of the terms used in the clauses. The term "employer" was to mean the Farm Security Administration of the Department of Agriculture, and "sub-employer" referred to the owner or operator of the farm or farms. The word "worker" referred to the migrant entering the United States under the agreement.

In regard to contracts between the employer and worker, the agreement provided that they be written in Spanish, and in accordance with Article 29 of the Mexican Federal Labor Law, that it be made under the supervision of the Mexican Government. The contracts between the employer and sub-employer were to be made in accordance with the principles provided in the agreement.

The necessary physical qualifications for admission was left to the Mexican health authorities, and the transportation of the worker and his belongings, and his living expenses en route to the place of employment were to be met by the employer with the stipulation that they were to be collected from the sub-employer.[14] This latter provision was designed to meet with the specifications of Article 29 of the Mexican Federal Labor Law.

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[13] Executive Agreement Series 278, op. cit., p. 10.

[14] Ibid., pp. 10-11.

The provisions under the heading of Wages and Employment were rather detailed and extensive. The first provided a minimum wage in line with the prevailing wage in the area in which the worker was to be employed. This particular provision offers an interesting point for examination. The domestic farm workers, it will be recalled, had migrated to farm employment in the north, or had accepted other kinds of employment, rather than accept the "prevailing wage" of the area in which they had previously worked. Apparently, this provision was a frank admission on the part of the United States and the farm employers that the "prevailing wage" in that area was not on a level with the wages being offered in other farm areas for similar work. It also amplifies the fact that the Mexican workers were being admitted to accept labor and wages that the domestic farm workers were unwilling to accept. In turn, this accentuates the nearly desperate predicament which faced the farm employers near the border and may well account for the advantageous position of the Mexican Government in arriving at the terms of the agreement.

Other provisions under the heading of Wages and Employment included a limitation on the type of work to be done by the worker; prohibition of employing minors; no restriction of schooling opportunities for the workers' children; freedom of the worker to purchase his goods at places of his own choosing; equal housing, medical, and sanitary

conditions with those afforded agricultural workers in the same area; equal guarantees in regard to occupational accidents and diseases; freedom of the workers to elect their own representative from their own group, guarantees of pay during unemployment periods; and rise in cost of living adjustments.[15]

Under separate headings were provisions for a savings fund conducted jointly by the United States and Mexican Governments; a statement which frankly admitted that, at the time, it would be impossible to determine the number of workers to be admitted under the agreement; and a series of general provisions dealing with non-farm labor, the cooperation of employers in effecting the agreement, and the conditions under which ratification and renunciation may have been effected.[16]

Upon reviewing the provisions of the international agreement, it is interesting to note additional instances of similarity between it and the arrangements of 1917 through 1921. At least, there seems to be some evidence that the departmental orders of 1917-1921 were used as a point of departure in framing this first international agreement regarding the temporary migration of Mexican agricultural workers.

It will be noted that a similarity of provisions existed in regard to the type of labor to be admitted; in

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[15] Ibid., pp. 11-12.

[16] Ibid., pp. 12-13.

both cases agricultural labor was specified. Both arrangements included provisions with respect to the prevailing wage, equal housing and sanitary conditions, and a type of savings fund for the worker. However, in the bilateral agreement the provisions dealing with these issues were more thorough and, on the whole, seemed to be designed for a different purpose. Under the unilateral arrangements of 1917-1921, only the equal housing and sanitary conditions provision seemed to be designed for the benefit of the worker while the prevailing wage provision seemed to be aimed at protecting the wage level of the domestic worker, and the savings fund provision was used as a means to insure the return of the Mexican worker to his homeland while in the bilateral agreement the general atmosphere of these same provisions seem to have been directed toward the welfare of the worker. No doubt this change in attitude was due to the fact that the departmental orders were a unilateral action and the agreement of August, 1942, was a bilateral action.

Except for the provisions relating to the prevailing wage, equal housing and sanitary conditions, and the savings fund, none of the terms of the August, 1942, agreement appeared in the departmental orders of 1917-1921. By comparison the the 1942 arrangement was heavily in favor of the Mexican worker; no doubt due to the change in attitude by both governments and the fact that the new arrangement was a joint

action. Also, the position of the United States Government was somewhat changed in regard to the administration of each of these arrangements. In the period of 1917-1921, the government agencies involved merely directed the machinery for importation and the farmers themselves were the actual employers. However, under the 1942 agreement, the United States Government was, in effect, a labor contractor and assumed the role of employer and the obligations demanded of that role. Of course, the workers were sub-contracted to the farmers who in turn became sub-employers. For all practical purposes, it seems that this kind of arrangement was made in order to hold the Federal Government of the United States responsible for meeting the terms in the event that the sub-employers did not live up to the letter of the agreement.

The agreement of August 4, 1942, was followed by the agreement of April 26, 1943, which revised the former one.[17] It is interesting to note that, according to the exchange of notes which effected the revision, it was the Mexican Government which advanced the proposals.[18]

The first revision was the inclusion of the text of Article 29 of the Mexican Federal Labor Law in the opening

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[17] Executive Agreement Series 351, Temporary Migration of Mexican Agricultural Workers, Agreement Between the United States of America and Mexico, Revising the Agreement of August 4, 1942 (Washington: United States Government Printing Office, 1944), pp. 1-13.

[18] Ibid., pp. 1, 6-7.

general provisions. These were concerned with the guarantees of transportation, living expenses, and repatriation as established in the said Article 29. However, in the former agreement the text of the article had been omitted and only reference was made to it. The inclusion of this article seems to have been for the sake of clarification and the guidance of the sub-employers since an additional provision exempted the United States Government from the stipulations of one section of the article since an equal and more workable arrangement had been agreed upon under a separate heading dealing with transportation.[19]

The provisions for housing conditions, medical and sanitary services were also extended and made more specific under the new agreement since the original agreement of August, 1942, was somewhat vague in providing these services. The new agreement specified that these should be furnished without cost and that they be identical with those furnished to other agricultural workers.

The clause providing for the workers to choose their own representatives from their own group was expanded by the inclusion of protection from the Mexican Government in carrying out the provision. Additional assistance and protection for the worker by the Mexican Government was provided in a clause which specifically designated that the Mexican Consuls

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[19] Ibid., pp. 8-9.

and Labor Inspectors were "to take all possible measures of protection in the interests of Mexican workers in all questions affecting them. . . ."[20] The United States Government was to insure that these representatives of the Mexican Government were afforded the facilities to carry out the obligations specified in the agreement.

Under the new agreement the workers were also granted free lodging in addition to the original subsistence allowance during periods of unemployment. Minor changes were also made in the handling of savings fund deposits by having the responsible agencies of the United States Government transfer the deposits to the Wells-Fargo Bank and Union Trust Company of San Francisco for the Bank of Mexico and then to the Mexican Agricultural Credit Bank, instead of transferring the funds directly to the Mexican Agricultural Credit Bank as had been the procedure in the original agreement.

Except for minor changes in wording and sentence structure, the questions of contracts, physical qualifications, numbers, and general considerations were included virtually unchanged in the new agreement.[21]

This was the extent of the April 26, 1943, revisions to the original August 4, 1942, agreement, and from these

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[20] Ibid., p. 11.

[21] Ibid., pp. 8-13.

changes it seems reasonable to assume that they were initiated primarily to make the original agreement more workable. However, the nature of the changes suggests that there had been some dissatisfaction on the part of the Mexican Government as regards the protection of its workers since the revisions were proposed by the Mexican Government and seemed to be directed toward the amelioration of the conditions and terms under which the migrants were working.

Supplementing these earlier agreements was Public Law 45 of April 29, 1943,[22] which was amended and extended by Public Law 229 of February 14, 1944.[23] These laws were concerned with both the domestic and foreign aspects of the war emergency farm labor program, and since they were not a direct product of direct negotiations between the governments of the United States and Mexico, and therefore beyond the aim of this study, it may be said that the laws determined general policies of importation and authorized the expenditure of public funds for recruitment, transportation, placement, and supervision of foreign workers in general.

Although not an integral part of the program under discussion due to its having been a development apart from the

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[22] United States Statutes at Large, 1943, Volume 57, Part 1, Public Laws (Washington: United States Government Printing Office, 1944), pp. 70-73.

[23] United States Statutes at Large, 1944, Volume 58, Part 1, Public Laws (Washington: United States Government Printing Office, 1945), pp. 11-17.

program initiated by the Department of Agriculture[24] and consequently beyond the immediate scope of this study, the agreement legalizing the "wetbacks" merits attention on the strength of its close relationship to the developments in United States-Mexican relations regarding migratory agricultural labor.

During the World War II farm labor emergency program discussed above, Mexico, in accordance with existing agreements, refused to allow its workers to be employed in any State in which there was discremination. As a result the state of Texas was excluded from the program on these grounds. As a further result, a great number of illegal aliens or "wetbacks" had gathered in Texas in place of legally contracted aliens.[25]

In the light of these developments, the Mexican Government requested that, instead of recruiting and importing additional labor, the "wetbacks" or illegals be contracted and thereby satisfy both the Mexican employers who were reluctant to have still more of their labor supply taken away, and the United States farm employers who could utilize the experienced labor supply already within the borders of the United States, and at the same time, save the transportation

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[24] Migratory Labor in American Agriculture, op. cit., p. 39.

[25] Ibid., p. 39.

costs which would be involved in importing new labor.[26]

Consequently, on March 10, 1947, the United States and Mexico entered into an agreement to legalize the "wetbacks." Under this agreement, the Mexican farm workers who were in the United States on an illegal immigration status were to be taken to Mexico by their employers for contracting at the border recruitment points and were readmitted,[27] under the authority of Public Law 229 and subject to the arrangements reached in regard to other Mexican agricultural workers. In this program, which was separate from those of the Department of Agriculture, 55,000 "wetbacks" were legalized in the summer of 1947.[28]

During the World War II program, final supplementation to the agreement of August 4, 1942, as revised April 26, 1943, was effected by another exchange of notes between the United States Ambassador to Mexico and the Mexican Secretary of Foreign Relations, which resulted in the acceptance of the terms of the April 2, 1947, agreement. It provided a series of supplementary provisions to the former actions, the purpose

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[26] Ibid., p. 52.

[27] Agreement Between the United States of America and Mexico Respecting Mexican Agricultural Workers, Effected by an Exchange of Notes Signed at Mexico City, March 10, 1947, in United States Statutes at Large, 1947, Volume 61, Part 4, (Washington: United States Government Printing Office, 1948), pp. 4097-4110.

[28] Migratory Labor in American Agriculture, op. cit. p. 39.

of which seems to have been to further clarify the terms already agreed upon in the previous arrangements. The concentration centered on extensions on the type of agricultural employment, procedures in contracting, repatriation provisions, food costs to the worker, savings funds revisions, minimum wages, and revisions in subsistence allowances.[29]

Soon after this arrangement was effected, the Congress of the United States passed Public Law 40 on April 28, 1947. This measure amended and extended Public Laws 45 of April 29, 1943, and 229 of Febraury 14, 1944, but more significant was the fact that it designated that the agreements between the United States and Mexico, and the legislation enacted to facilitate the temporary admission of aliens to the United States to engage in prearranged employment were to expire on December 31, 1947.[30]

The expiration of agreements and legislation on December 31, 1947, in accordance with the dictates of Public Law 40 of April 28, 1947, ended another phase in the program by the United States to import temporary migratory agricultural workers from Mexico. This particular phase extended from 1942 through 1947, and during this period, in carrying

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[29] Appendix E, p. 98.

[30] United States Statutes at Large, 1947, Volume 61, Part 1, Public Laws (Washington: United States Government Printing Office, 1948), pp. 55-56.

out the terms of the intergovernmental agreements, 219,000 Mexican farm workers were recruited, transported, and placed in twenty-four states with their primary employment in fruits, vegetables, sugar beets, and cotton farming.[31]

The workers involved in the preceding agreements were largely unprotected by any standards set by United States federal law. This situation, to a great degree, prompted the Mexican Government to seek out any injustices which it felt were being suffered by its nationals and correct them in the successive agreements which have been under discussion. The bargaining position of the Mexican Government appeared to have been somewhat stronger than that of the United States since Mexico prescribes, by law, minimum standards for her nationals who leave the country for employment abroad. Consequently, the World War II farm labor agreements between these two countries show an increasing amelioration of conditions for the temporarily imported Mexican migratory agricultural worker.

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[31] Migratory Labor in American Agriculture, op. cit., pp. 38-40.

CHAPTER IV

PEACETIME DEVELOPMENTS

The expiration of the World War II agreements and legislation regarding alien migratory agricultural labor on December 31, 1947, and the return of the Farm Placement Bureau to a peacetime basis in 1948 marked the end of Federal subsidies for transportation and welfare measures for foreign workers under the emergency provisions administered by the Department of Agriculture.[1] However, unlike the alien labor program for other industries, the alien farm labor program did not end with the termination of the war,[2] nor did it remain closed for any length of time under the stipulation in Public Law 40 of April 28, 1947, which provided for the termination, on December 31st of that year, of appropriations to carry out existing agreements.

On February 21, 1948, after several weeks of negotiations between the representatives of the United States and

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[1] Labor Recruitment for Agriculture, the Farm Placement Service in 1948, United States Employment Service, (Washington: United States Government Printing Office, 1949), p. 28.

[2] Migratory Labor in American Agriculture, Report of the President's Commission on Migratory Labor (Washington: United States Government Printing Office, 1951), p. 41.

Mexico,[3] an agreement covering the importation of Mexican agricultural laborers for temporary employment in the United States was approved by the governments of both countries in the usual manner of an exchange of notes between the United States Embassy in Mexico City and the Mexican Ministry of Foreign Relations.[4]

The basic authority for this agreement, and those which followed in the peacetime period, was again found in the ninth proviso of Section 3 of the 1917 immigration law. However, the importation of foreign labor, in this case, was contingent of two provisions set forth in a bulletin issued jointly by the Commissioner of Immigration and the Director of the United States Employment Service. These provisions state:

> . . . Mexican nationals will be admitted . . . to the United States to engage in employment as agricultural workers for temporary periods when
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> (a) the need for their services is conclusively established following investigation and certification by the Immigration and Naturalization Service and the United States Employment Service, respectively, and
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> (b) the admission of such Mexican nationals will not result in the displacement of American farm workers or otherwise detrimentally affect such labor in this

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[3] United States Statutes at Large, 1948, Volume 62, Part 3, (Washington: United States Government Printing Office, 1949), p. 3888.

[4] United States Statutes at Large, 1948, Part 3, op. cit., pp. 3887-3903.

country.[5]

Nevertheless, the agreement of February 21, 1948, began:

> In view of the termination on December 31, 1947, of the joint administration of the Agreement of April 26, 1943, under which Mexican agricultural workers temporarily migrated to the United States to cooperate in agricultural production in that country, and in view of the continued need for additional agricultural workers in certain regions of the United States, the Embassy of the United States in Mexico City, in a note to the Mexican Foreign Office dated November 10, [1947], proposed conversations between representatives of the two Governments to formulate recommendations as to conditions and terms to govern future employment of Mexican agricultural workers in the United States. . . .[6]

The document continued by relating the Mexican Government's agreement to the above proposal, and by naming the designated delegates to the joint session, after which it enumerated the terms reached by the conference which, in turn, became the terms of the agreement of February 21, 1948.[7]

The terms of this first agreement in the peacetime phase of importation of Mexican agricultural workers followed the trends established in the agreements of August 4, 1942, April 26, 1943, March 10, 1947, and April 2, 1947. These

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[5] Information Relative to Temporary Admission of Nationals of Mexico to the United States to Engage in Agricultural Employment Under the Agreement of February 21, 1948 Governing the Migration of Mexican Agricultural Workers. Issued jointly by Commissioner of Immigration and Naturalization, Director of United States Employment Service, April 8, 1948, p. 1.

[6] United States Statutes at Large, 1948, Part 3, op. cit., p. 3997.

[7] Ibid., pp. 3887-3901.

terms illustrate the increasingly better bargaining position of the Mexican Government with respect to obtaining increasingly better working conditions for the legal alien Mexican worker, as well as basic changes in former procedure for obtaining the services of the worker.

For all practical purposes, the provisions regarding discrimination, military service, contract supervision and recontracting, transportation expenses, transferring the worker, deductions from wages, displacement of other workers, occupational diseases and accidents, workers' representatives, savings funds, purchases by the worker, medical care, housing, unemployment, and repatriation were, except for minor changes in wording, very similar to those agreed upon in the World War II agreements. However, in the agreement under discussion, the United States Government was no longer the "employer" or contractor of the Mexican worker as it had been under the previous agreements. Instead, the owner or operator of the agricultural property became the "employer" and was obliged to contract the worker directly from Mexico with both the United States and Mexican Governments intervening and observing the enforcement of the terms of the contract and the agreement.

The written contract between the worker and employer known as the Individual Work Contract became an integral part of the negotiated agreement between the two countries, and

any changes in it were to be a matter of consultation and agreement through diplomatic channels. The Individual Work Contract will be dealt with more fully in relation to a more recent over-all agreement.

The employer, who used to be the United States Government, was now the farm owner or operator, and, in accordance with the provisions laid down by the Immigration Service and the United States Employment Service, he must have had certification by the United States Employment Service that the workers were needed and domestic workers were not available at the prevailing wage for agricultural labor. This more or less bears out the contention that domestic labor would not accept the prevailing wage and moved northward to better wages in both farm and other types of employment.

The employer was further required to furnish complete information at the contracting centers so that the worker would have knowledge of the nature of employment offered and the area in which he was to be employed. Three months advance notice was to be given the Mexican Government by the United States Government as to the number of Mexican workers needed for a given period with the number allowed to migrate from Mexico dependent on the labor needs of that country. In other words, regardless of the number of workers requested by the United States, Mexico was not bound to allow that number to leave the country if she felt that their leaving would jeopardize her own labor supply.

Under the terms of this agreement, the migrant worker from Mexico was afforded extensive protection by both governments. In addition to those already included in the previous agreements already cited and incorporated into the one here under discussion, the United States Employment Service was to use its good offices in effecting full compliance with the terms of the agreement with the worker free to request the service whenever required. The Mexican consuls were also to be given access to places of employment to assure protection of the worker and to maintain good worker-employer relations. The Mexican Government also had the right to change the status of any worker involved in labor difficulties.[8]

Included among the protective measures for the worker was a clear case of international law taking preference over municipal law, for among the provisions were terms providing for the application of Article IX of the Consular Convention of August 12, 1942, between the United States and Mexico,[9] which provided for consular intervention in legal matters relating to deceased persons and guaranteed the fair execution of these matters regardless of local laws.[10]

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[8] Ibid., pp. 3888-3801.

[9] Ibid., p. 3890.

[10] United States Statutes at Large, 1943, Volume 57, Part 2 (Washington: United States Government Printing Office, 1944), pp. 811-812.

Considerable attention was directed toward the problems of both illegal and legal immigration in general. Among the provisions dealing with these questions were the prohibition of contracting workers accompanied by their families as well as the legal residents of Mexican border towns. In addition, it was recommended that the United States Government continue abstaining "from documenting as permanent residents of the United States, persons whose passports do not categorically so specify, with the exception of those who have family ties in that country."[11] The two countries also agreed to take all possible necessary measures to prevent illegal migration, to insure prompt repatriation of those found to be illegally in the United States, and to consider those workers who failed to return to Mexico at the expiration of their contracts as being illegally in the United States.[12]

Previous agreements had authorized the Mexican health authorities to be the sole judge of the physical qualifications necessary for admitting the worker, but the new agreement provided for joint cooperation with the United States Public Health Service in this matter with a further provision that a final examination be made at the border and if the

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[11] United States Statutes at Large, 1948, op. cit., p. 3890.

[12] Ibid., p. 3891.

worker did not meet the standards, he be sent to his point of origin at the employer's expense. This latter provision, those relating to controlling immigration, and one which allowed a percentage of workers to remain in the United States longer than the agreed two six months periods in order that they might train the new arrivals[13] were, perhaps, the only terms of the agreement which vaguely resemble concessions in favor of the United States. Even these are subject to controversy depending on the point of view; that is, whether the person be a farmer-employer, a domestic farm worker, a government official, or a private citizen. On the other hand, as in the agreements previously discussed, the concessions favoring the Mexican worker and the Mexican Government are obvious.

The preceding agreement had been in effect less than nine months when, in accordance with a provision in the agreement which enabled either government to withdraw from the terms upon giving thirty days advance notice,[14] in October, 1948, the Mexican Government declared the agreement to be no longer in effect.[15] Nevertheless, authorized representatives of

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[13] Ibid., pp. 3889-3890.

[14] Ibid., p. 3891.

[15] Information Relative to Temporary Admission of Nationals of Mexico to the United States to Engage in Agricultural Employment under the Agreement of August 1, 1949 Governing the Migration of Mexican Agricultural Workers. Commissioner of Immigration and Naturalization, Directof of United States Employment Service, August, 1949, p. 1.

the United States and Mexico met in Mexico City in January, 1949, and held a series of conferences in which they discussed and analyzed the terms of a new agreement to temporarily admit Mexican agricultural workers to the United States. The result of these conferences was the signing of the Agreement of August 1, 1949, effected in the usual manner of an exchange of diplomatic notes.[16]

The agreement of August 1, 1949, was, as was the case with its predecessors, solicited by the United States. It began:

> The Government of the United States of America, having expressed a desire to effectuate arrangements under which the assistance of Mexican agricultural workers might continue to be availed of in that country for the cultivation and harvesting of some of its products, and the Government of Mexico desiring to assist as much as possible in the satisfaction of that request within the limitations imposed by its own economy as regards manpower, . . .
>
> The representatives of both Governments agreed that future contracting of Mexican workers, when necessary, should be conducted under conditions better suited to the present requirements of the two countries. . . .[17]

Comparatively speaking, this agreement, which also governed the 1950 Mexican farm labor program,[18] was more detailed, extensive, and inclusive than any of those previously reached and already taken into consideration. In addition to the agreement itself and the Individual Work Contract

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[16] Ibid., p. 1. Cf. p. 7.

[17] Ibid., p. 7.

[18] Migratory Labor in American Agriculture, op. cit. p. 41.

which had become a matter for joint agreement in the February 21, 1949, Agreement, the two governments saw fit to render joint interpretations of both documents;[19] no doubt to remedy past difficulties and injustices, and to be prepared for any foreseeable difficulties which might arise.

Perhaps due to the attention given the "wetback problem" by both governments and by other interested parties, the Agreement of August 1, 1949, devoted three separate articles to controlling illegal traffic. The first of these recognized the existence of the problem and its disturbing effect on the effective application of the legal terms of the agreements which had been reached by the two countries. The second reiterated the stand taken in Article 29 of the February 21, 1948, Agreement which required both governments to take all measures possible to suppress illegal traffic.

The third article dealing with the illegal traffic was reminiscent of the special agreement of March 10, 1947, which legalized the illegals, for this article gave preference of contracting for employment to those illegals who were in the United States at the time of the agreement over the legal migrants who were waiting at contracting centers.[20]

Article 4 merely emphasized the fact that the terms of the agreement and the Individual Work Contract were

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[19] Information Relative to Temporary Admission, August 1949, op. cit., pp. 15-25.

[20] Ibid., p. 7.

binding on all parties concerned and that no deviation would be tolerated unless reached by agreement between the two governments.

In other articles, emphasis was also placed on the issue of racial discrimination. Again, as in previous agreements, it was provided that the workers would not be assigned to work in places in which discrimination, either by the community or by individuals, was practiced. Added to this provision were extensive qualifications in the form of procedure to be followed in determining if discrimination existed and the measures available to correct discrepancies.

For instance, the Mexican Government was authorized to refuse to allocate workers to areas which it considers to be discriminatory to its people. In cases of disagreement from the United States authorities as to whether discrimination exists, pledges were to be sought by the Mexican Government from the authorities of the community in question to the effect that no discriminatory acts would be perpetrated, and in the event that evidence of such acts existed, prompt measures were to be undertaken by the local authorities to correct any discrimination. Detailed provisions were also made for investigating claims of discrimination, and if, after investigation, the Mexican Government still suspected it to exist, the contracts of the workers involved would be terminated. In effect, in acts of alleged

discrimination, the worker would be given the benefit of the doubt.

Racial discrimination was not the only type of discrimination dealt with in the agreement of August 1, 1949. Provision was made for non-discrimination in employment; that is, the employers were required to give the Mexican workers wages and working conditions not less favorable than those given to domestic workers doing the same type of work in the same area and in full compliance with the terms agreed upon in the Individual Work Contract and the general agreement.

Periods of contracts were given their share of attention also. Except in cases involving certain types of agriculture which did not require the minimum time for contracts, such as cotton and sugar beets, they were to be made for periods of not less than four and not more than six months with the added provision that no worker would be allowed to remain in the United States longer than one year in spite of recontracting provisions. It will be noted that the provision for a percentage of workers to remain longer for the purpose of training the new arrivals was omitted from this agreement.

Employers who satisfied the terms of the agreement were allowed to employ the workers in any agricultural region of the United States except when specific designations were

made by the representatives of both governments. He was also allowed to transfer the worker to another employer subject to the consent of the worker himself, the United States Employment Service, the Mexican Consulate, and in compliance with certain procedures dealing with transfer as stipulated in the agreement.

The new agreement included a considerable number of provisions which had not appeared in any form in any of the previous arrangements. Among these was one which again resembled a concession in favor of the United States and the employer. It provided that the Mexican Government would make available only those workers who were considered to be qualified agricultural workers, and reserved to the employer or the United States Employment Service the right to reject any worker at the contracting center whom it felt could not adequately perform the required duties of an agricultural worker. Another specified that both governments would "discourage or rectify any erroneous propaganda with respect to the interpretation of" the agreement, while in another article, the United States agreed "to exercise special vigilance and its moral influence. . . to the end that Mexican Workers may enjoy impartially and expeditiously the rights which American laws grant to them." Still another entirely new provision prohibited private employment or labor

contracting agencies from taking part in the contracting of workers.[21]

It will be remembered that the contract between the worker and employer or the Individual Work Contract had become a matter for agreement between the two countries similar to the international agreement itself, and was subject to the provisions of the said agreement. Actually, the provisions of the agreement relating to the worker's rights were incorporated into the Individual Work Contract; however, the agreement itself, in many cases, referred rather generally to these rights while the contract was somewhat more specific in dealing with these questions. In addition, the contract included many provisions which were included in the text of previous agreements, but omitted from the text of the agreement now under consideration. Summarized and in the order of their appearance, the following were the provisions of the Individual Work Contract:

1. Employer to furnish hygienic lodgings for the worker taking into consideration the climate and lodgings furnished domestic agricultural workers.

2. Employer to assume responsibility for occupational accidents and diseases in the absence of legislation in accordance with the scale of minimum compensation coverage which was included in the contract.

3. Employer to pay prevailing wage, and higher wages for specialized tasks such as operation of machinery. Wage scales were to be in accordance with both United States custom and the Mexican Federal Labor Law.

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[21] Ibid., pp. 7-14.

4. Employer allowed to deduct from worker's pay only under the conditions stipulated and under no other.

5. Transportation expenses and expenses directly connected with moving the worker to his work were to be borne by the employer.

6. Adequate fuel and water were to be furnished free of charge by the employer.

7. Employer may retain worker only two weeks after expiration of the contract, after which he was to return the worker to the contracting point, or recontract him. In any case, the period between contracts or repatriation must not have exceeded 15 days.

8. Employer was to guarantee the worker employment for at least three-quarters of the contracted period.

9. The termination of contracts before their expiration was to be in accordance with the provisions of the International Agreement dealing with this question.

10. The employer was to furnish the worker meals at cost.

11. The employer was not to practice economic or social discrimination against the worker.

12. The worker's responsibility was limited to doing the agricultural work required of him.

13. Renewals of contracts and the transfer of workers was to be accomplished under the provisions of the International Agreement.

14. Both governments' representatives were to have free access to places of employment in order to investigate violations and to carry out responsibilities under the various laws and agreements which applied to the importation and employment of the workers.

15. Beneficiaries of the workers were assured compensation under laws and agreements.

16. The employer was charged with the responsibility to make all the necessary arrangements for the entry and exit of the worker at his own expense.

17. The worker and employer were bound by the joint

determinations of the United States Employment Service and the Mexican Consul General in accordance with the provisions of the agreement and the contract.

18. The employer was to pay the costs of any litigation which might arise out of contract violations.

19. The employer was to undertake all possible measures to exclude professional gamblers and liquor vendors from the work centers.[22]

The final and most outstanding entirely new provision of the agreement itself was one which outlined the methods to be adopted to in order to obtain full compliance with the terms of the Individual Work Contract outlined above and the International Agreement proper. To accomplish this, the agreement provided for the governments of the United States and Mexico to draft joint interpretations of both the contract and the agreement. In effect, this amounted to a third agreement since both countries cooperated in the interpretation and by so doing extended the coverage of some of the articles and provisions on the one hand, and limited coverage on the other. Also provided were periodic inspections by the United States Employment Service and the Immigration and Naturalization Service with the purpose of ascertaining that compliance was being fulfilled.[23]

Under this provision, violations of the Individual Work Contract were to be investigated on official initiative,

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[22] Individual Work Contract, attached to Information Relative to Admission. . . , op. cit.

[23] Ibid., p. 11.

on the worker's complaint, and on the employer's complaint. In each of these instances, detailed procedures were outlined with the final judgement lying in the hands of the representatives of both governments. For instance, if a complaint by the United States Employment Service was not adjusted, the Mexican Consulate was consulted for joint investigation,[24] and a decision would be made from the information discovered by both agencies.

Complaints from the workers were to be received by the United States Employment Service or the Mexican Consulate and those by the employers were to be received only by the United States Employment Service. Under this arrangement, the workers normally initiated their complaints to the Mexican Consulate rather than the United States Employment Service since the procedure for conciliation is contained in the International Agreement in English and is only referred to in the Individual Work Contract which is written in both English and Spanish and is readily available to the worker. By inference we can conclude that the complaint procedure is more adequate for the employer than for the worker because of the language barrier. The President's Commission of Migratory Labor discovered that, in practice, the complaint and concilation procedure is rarely used; instead,

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[24] Ibid., pp. 18-19.

the worker simply leaves the place of employment for his homeland when he finds an unsatisfactory situation.[25]

Except for more extensive treatment and minor changes in wording, no doubt for the sake of clarification, the following issues in the new agreement were treated similarly to those dealing with them in the previous arrangements between the two countries. These were:

1. Notification by the United States for the number of workers needed.
2. Certification of the need for workers.
3. Prohibition of military service for the workers.
4. Displacement of domestic workers by the Mexican workers.
5. Physical qualifications necessary for the workers' entry.
6. The "prevailing wage."
7. Election of workers' representatives.
8. Workers' choice of places to make purchases.
9. Restriction on contracting of workers' families.
10. Restriction on contracting Mexican nationals of border towns.
11. Transportation expenses.
12. Workers' abandonment of contracts.
13. Labor disputes in places of employment.[26]

In accordance with the provisions of the International Executive Agreement of August 1, 1949, the Individual Work Contract, and the joint interpretations of both, all of which were also effective and applicable in 1950, the following procedure was used in determining if a labor shortage existed and in obtaining the needed workers from Mexico.

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[25] Migratory Labor in American Agriculture, op. cit., pp. 44-45.

[26] Information Relative to Temporary Admission, August 1949, op. cit., pp. 7-25.

The employer applied specifically for Mexican agricultural workers at the local office of the United States Employment Service, and if this office was unable to furnish domestic labor to fill the employers needs, the employer was referred to the State Employment Service. If the State office also found that domestic workers were not available, the application was then referred to the United States Employment Service regional office. Upon sending the application from the State to the regional office, the employer was advised to file an "Application for Permission to Retain and/or Import Mexican Agricultural Laborers" with the District Director of the Immigration and Naturalization Service.

When and if the request for workers was approved by the United States Employment Service regional and national offices, further approval by the Immigration and Naturalization Service and the Mexican government was required. Upon approval by all these agencies, and provided all the necessary arrangements for recruiting the workers had been made with Mexico, the workers were selected and contracted at points designated by the Mexican Government as recruiting centers.

Very often these centers were in the interior of Mexico, and it was necessary to have a number of representatives from various United States and Mexican agencies on hand in order to fulfill the terms of the agreement, the Individual

Work Contract, and the joint interpretations of each of these documents. Among the necessary participants were: the employer or his representative who chose the laborers; Mexican Government officials who observed the procedure of recruiting and contracting; Mexican health officers, aided by representatives of the United States Public Health Service, who examined the physical fitness of the worker; representatives of the United States Employment Service who helped select and recruit the workers and in signing the Individual Work Contract; and representatives of the United States Immigration and Naturalization Service who carried out the requirements of the immigration laws and regulations.

The workers who were selected and contracted then proceeded to the United States-Mexican border by transportation approved by the Mexican Government and supplied at the expense of the employer. Upon arrival at the border, the workers were again examined by the Immigration and Naturalization Service and the United States Public Health Service, their contracts examined and noted by the Mexican Consulate who was also charged with the responsibility of inspecting the means and condition of the transportation equipment the employer intended to furnish the worker from the border to his place of employment in the United States. Upon approval of the equipment and mode of transportation by the Mexican Consulate, the worker was taken to the place of employment

at the employer's expense and under the other conditions of the agreements between the United States and Mexico.[27]

These were the peacetime agreements reached by the governments of the United States and Mexico for the years 1948, 1949, and 1950. It will be noted, as with both wartime arrangements, that with each successive agreement, revision, or amendment, the provisions become more and more detailed and complicated, but at the same time, the trend continued toward increasingly better conditions for the Mexican worker.

The concluding chapter will be concerned with a summary of the overall trend from 1917 through 1950 and the problems which arise as a result of the trend.

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[27] Migratory Labor in American Agriculture, op. cit., pp. 42-43.

CHAPTER V

SUMMARY AND CONCLUSIONS

The Immigration Act of February 5, 1917, was not designed to specifically restrict Mexican immigration to the United States. However, its passage did serve to restrict the labor supply of the Southwestern farmers who, prior to its passage, were accustomed to importing seasonal labor from Mexico.

The nearly simultaneous operation of the Act of 1917 and the outbreak of World War I were heavily contributing factors to the farm labor shortage which existed at that time, and the Government of the United States was called upon to alleviate the shortage. The interested agencies of the government responded by waiving certain provisions of the law so the farm labor supply from Mexico would again be available.

In so doing, the United States Government initiated a process which was to be the pattern to be followed up to the present time. However, the arrangement during World War I was an action initiated solely by the United States on its own terms. Apparently, the practice of importing seasonal labor from Mexico had become so customary for both the workers and the Southwestern farmers that there seemed to be no need to consult or ask the cooperation of

the Mexican Government in carrying out the program. This, and the fact that neither country had any federal legislation to govern this particular kind of activity, resulted in an extremely one-sided arrangement whereby the welfare of the worker was left entirely to the discretion of the United States whose main concern during that period seemed to have been the return of the worker to Mexico after he had completed his tour of duty in the United States.

The World War II arrangements, and those which followed, were an entirely different matter since they were reached by intergovernmental negotiation, and the terms of the agreements reached reflected a change of attitude on the part of both governments. No doubt due to the fact that the United States solicited the agreements whereby the workers were admitted, and that the Mexican Federal Labor Law provided minimum standards for her nationals who leave the country to accept employment abroad, the agreements of 1942 through 1950 illustrate a progessive amelioration of working and welfare conditions for the Mexican worker.

The President's Commission on Migratory Labor reports that certain problems arose in the negotiation of the international agreements between the two countries. Under the authority granted in the ninth proviso of Section 3 of the 1917 immigration law, the United States Government was willing to admit Mexican agricultural workers under the terms

of the various agreements providing for this activity. The Mexican Government demanded minimum protection of the workers under the agreements and the Department of State saw fit to negotiate an agreement under those terms.

As previously reported, the worker was, for the most part, virtually unprotected by any United States Government standards governing this kind of situation, but is afforded considerable protection under the Mexican Federal Labor Law. The Commission reported that this kind of activity amounts to unequal treatment of neighbor countries and is a hazard "to the spirit and purpose of our immigration laws."[1]

Severe criticism of the Department of State has come from many spokesmen for the employers who utilize the Mexican laborers admitted under the agreements. They contend that the Department of State was "out-negotiated" in arriving at the agreements since the agreements, in their opinion, are discriminatory. The spokesmen claim that the agreements provide better conditions for the Mexican laborers than those afforded the domestic farm workers. The President of the Imperial Valley Farmers' Association has suggested that:

> . . . If Mexico's demands are untenable they should be told so and left without an agreement until we can have a fair arrangement, even though our State Department feels such conditions would be worse than a bad

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[1] Migratory Labor in American Agriculture, Report of the President's Commission on Migratory Labor (Washington: United States Government Printing Office, 1951), p. 50.

> contract for the American farmer and even if such a contract does cause the present "Wet Mexican" problem and continued evasion by American farmers of a program that is unsatisfactory to them.[2]

The farmers, in this case, seem to forget it was they who pressed for the adjustment in immigration laws to permit the entry of Mexican laborers. They also fail to realize that during the World War I period, the workers were admitted without the protection of intergovernmentally negotiated agreements and that now the Mexican government is aware of the need for their workers in the United States and are determined to bargain for the best conditions possible.

Perhaps more important is the fact that the Department of State is confronted with a conflict which is rather difficult to resolve. If it were to negotiate the agreements in the interest of the United States in general as well as in the interest of sound international relations, one can hardly expect the private vested interests of the farm employers to be satisfied. On the other hand, if the employers' interests were represented exclusively in the agreements, the interests of the Nation as well as sound international relations might well be jeopardized.

It is interesting to note the recommendations of the President's Commission on Migratory Labor in regard to the problem. They recommend that more effective use be made of

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[2] Ibid.

the domestic labor force; that the number of alien contract laborers not be increased beyond the number admitted in 1950; that preference be given to citizens of Puerto Rico and Hawaii; that an effort be made to eliminate dependence on foreign labor; and that agreements between the United States and Mexico be made in terms that will promote the enforcement of immigration laws, free from the competition of illegal migration.[3]

Whether these recommendations will be implemented remains a question; however, it appears highly unlikely that all of them can be met under the circumstances which prevail. The legal migration of Mexican agricultural workers to the United States is destined to become a semi-permanent arrangement and it appears very likely that the trend which was established from 1917 to 1950 in the course of the arrangements dealing with this activity will continue with respect to any new agreements which might be reached. It is the United States employers who need the labor and not the Mexican laborers who need employment in the United States. Furthermore, the trend also seems to be indicative of a sincere desire on the part of both nations to cooperate and strengthen their relations in general. What appears to be simple agreements regarding agricultural workers may well have its roots deep in the scheme of international politics.

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[3] Ibid., pp. 178-79.

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APPENDICES

APPENDIX A

REGULATING IMMIGRATION OF ALIENS TO, AND RESIDENCE OF ALIENS IN, THE UNITED STATES

(Act of February 5, 1917)*

Section 2. That there shall be levied, collected, and paid a tax of $8 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States: Provided, That children under sixteen years of age who accompany their father or their mother shall not be subject to said tax. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by vessel, transportation line, or other conveyance or vehicle or when collection from the master, agent owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States is impracticable. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who enter the United States after an uninterrupted residence of at least one year immediately preceding such entrance in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, for a temporary stay, nor on account of otherwise admissible residents or citizens of any possession of the United States, nor on account of aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory, and the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall issue rules and regulations and prescribe the conditions necessary to prevent abuse of these exceptions: Provided, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor, by agreement with transportation, lines, as provided in section twenty-three of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission

from foreign contiguous territory:...Provided further, That in cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall, upon application, upon a blank which shall be furnished and explained to him, be refunded to him.

Section 3. That the following classes of aliens shall be excluded from admission into the United States:...persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country;...persons whose tickets or passage is paid for with the money of another, or who are assisted by others to come, unless it is satisfactorily shown that such persons do not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly;...all children under sixteen years of age, unaccompanied by or not coming to one or both of their parents, except that any such children may, in the discretion of the Secretary of Labor, be admitted if in his opinion they are not likely to become a public charge and are otherwise eligible;...

That after three months from the passage of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

All aliens over sixteen years of age, physically capable of reading, who cannot read the English language, or some other language or dialect, including Hebrew or Yiddish: ...Provided further, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, nurses, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed as domestic servants: ...Provided further, That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions, including the exaction of such bonds as may be necessary, to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission:...

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* Source: Sidney Korsos, United States Immigration Exclusion and Deportation (Washington: Washington Publishing Company, 1927), pp. 23-24.

APPENDIX B

Department of Labor,
Office of the Secretary
Washington, June 12, 1918.

DEPARTMENTAL ORDER*

Whereas the ninth proviso to section 3 of the immigration act of February 5, 1917, provides "That the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall issue rules and prescribe conditions, including exactions of bonds as may be necessary to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission"; and

Whereas in agricultural pursuits, in the maintenance of way on railroads and in certain lignite coal mining enterprises in which Mexican laborers have heretofore been customarily employed, an emergent condition, caused by the war, now exists in the United States, and while obviously said special exceptions to general provisions of law should be construed strictly and should not be resorted to except with the object of meeting extraordinary situations or conditions, it can be and should be availed of whenever an emergent condition arises:

Therefore, the following circular providing for the temporary admission of certain alien laborers from Mexico is hereby promulgated by the department to supersede department circular of April 12, 1918, and regulations of the Bureau of Immigration issued thereunder on the same date, as amended May 10, 1918:

SECTION I

Notwithstanding the provisions of section 3 of the Immigration Act excluding aliens who being over 16 years of age and physically capable of reading "can not read the English language or some other language or dialect" (the "illiteracy test"), or aliens "who have been induced, assisted, encouraged or solicited to migrate to this country by offers or promises of employment * * * or in consequence of agreements, oral, written, or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled" (the "contract labor clause"), and notwithstanding the provisions of section 2 of said act assessing a head tax on account of aliens entering permanently, aliens residing in Mexico who in all other than the respects above mentioned are admissible under the

laws of the United States and who are shown to be coming from Mexico to the United States for the purpose of accepting employment, may be temporarily admitted without exacting head tax, upon the conditions hereinafter specified, for periods in no instance exceeding the duration of the war.

SECTION II

(a) As to be admissible under the terms of this circular the alien must be coming "for the purpose of accepting employment" (for which reason the "contract-labor" as well as the "illiteracy test" provisions are mentioned above), those who desire to avail themselves of this opportunity, afforded to meet emergent conditions in the United States, may come to or be represented at the boundary to confer with any alien, and such alien must not be temporarily admitted until arrangements for his employment have been perfected.

(b) A prospective employer may initiate an application for permission to import laborers under the provisions hereof by filing such application with either a United States immigration or a United States employment official, setting forth the number of laborers desired, class of work, wages offered, and place of proposed employment, and stating that he will comply with all provisions of this circular with respect to any alien admitted to him. Upon the approval in writing of any such application by a United States employment officer detailed to a Mexican border port in accordance with Section X hereof or by the United States employment officer stationed in the vicinity of the place of proposed employment, the immigration officer in charge at such port shall proceed to admit the alien involved in accordance with the provisions hereof.

SECTION III

Emphasis is placed upon the fact that this circular provides for the temporary admission, under the circumstances stated and the conditions prescribed, of an alien who in all other respects would be admissible under the laws of the United States if he were entering for permanent purposes. The indulgence extends only to the illiteracy, contract, labor, and head tax features of the Immigration Act, and then only if the other conditions are satisfactorily established.

SECTION IV

As admission is to be temporary only and as it is provided that an alien who violates the conditions exacted shall be immediately deported, of course, none should be admitted who can not be returned immediately that necessity arises.

SECTION V

(a) Two unmounted photographs of each applicant for admission under the provisions hereof shall be furnished. A complete personal description of such applicant, and of accompanying members of his family over 16 years of age, if any, shall be taken. These shall be used in preparing, in duplicate an identification card corresponding in general to that prescribed by subdivision 9 of rule 12 of the immigration regulations for the use of an alien who habitually crosses and recrosses the land boundaries.

(b) The blank form of said card (Form 687) may be adapted to this purpose until a more suitable card is devised and printed, an appropriate notation being placed thereon to show that the holder is temporarily admitted to the United States under the terms of this circular to engage in labor of one of the three kinds herein specified. The original of the card shall be delivered to the admitted alien; the duplicate, on which a record will be kept of changes of employment, of employers, or of address, as hereinafter provided, shall be properly filed and indexed. When any alien admitted hereunder is deported or departs the card shall be taken up.

(c) All members of families 16 years of age and over shall be given such cards; those under 16 shall be recorded, giving name, age, and description.

(d) On the departure or deportation of an alien accompanied by members of his family when admitted, such accompanying members must also depart or be deported, as the case may be.

SECTION VI

(a) An alien admitted under the provisions hereof is allowed to enter temporarily upon the understanding that he has secured employment in the United States and that he will work only in agricultural pursuits, maintenance of way on railroads, or lignite coal mining, as herein described. Therefore, if alienfails, after admission, to accept such agreed employment,

or, after acceptance and entry thereon, abandons same to accept employment of any other nature, or to accept any employment with an employer who has not complied with the conditions of this circular, or discontinues and remains idle for as long as two weeks unless by reason of illness of himself or a member of his family or other disability, such alien shall be immediately arrested and deported under the regular warrant procedure.

(b) An employer of such an alien other than the importing employer must, on hiring any such alien, comply with the terms of this circular in the same manner substantially and with the same effect as an importing employer. Not later than 10 days after the day of such employment he must notify the inspector in charge of the Immigration Service at the place where alien entered of the fact of such employment, giving name, place of intended employment, and name and postoffice address of himself and of his employee.

(c) An employer who, having hired such alien, desires to relinquish his services, shall notify the inspector in charge of the Immigration Service at the place of entry of such intention. Such notice shall specify the name of the alien, probable date of cessation of work, and postoffice address of employer and of such alien.

(d) An alien admitted under the provisions of this circular, or whose admission under the circulars superceded hereby is renewed under this circular, must follow none but laboring pursuits of the nature prescribed herein. When any such alien is without employment, unless he immediately returns to Mexico through the port of entry, he shall apply to the inspector in charge of the Immigration Service at the place where he was admitted or to the nearest United States immigration or United States employment officer, advising him that he no longer has work, and asking for employment and for the privilege of remaining in the United States for an additional period. Thereupon, if the application is to the immigration officer, the said officer shall communicate with the appropriate director of the United States Employment Service and ascertain whether or not work can be secured for such alien; if to an employment officer, such officer shall forward the application to the nearest immigration officer for decision. If work is secured, in either manner indicated, an extension of time may be granted the alien on condition that he accept the reemployment. If the alien fail or refuse to accept reemployment under these conditions, deportation shall immediately be effected.

(e) Failure on the part of the employer or alien to give any notice required by this section shall subject such alien to deportation.

SECTION VII

A prospective employer shall be required, as a condition precedent to the temporary admission hereunder of any alien, fully to disclose to the immigration officer in charge at the port of entry of his plans with respect to the employment of such alien, including wages, how often paid (giving dates), housing conditions, duration of employment; also to give his written promise and stipulation to the following effect, viz:

(a) That the employer will abide by and comply with all the terms of this circular.

(b) That the employer will pay the current rate of wages for similar labor in the community in which the admitted alien is to be employed.

(c) That with respect to housing and sanitation, the laws and rules of the State in which the laborer is to be employed will be observed by the employer. If employed in a State that has no law on said subject, such conditions must be satisfactory to the Secretary of Labor.

(d) That the employer will keep the officer in charge at the port of entry advised promptly of any change made in his plans as originally disclosed with respect to the place, duration, or character of employment of the alien by him, and wages and times of payment thereof.

(e) That the employer will notify such officer immediately upon learning that any alien admitted to him purposes to leave his employ and furnish such information as he can secure with respect to the place to which the alien is going and the name of the party for whom such alien is to work.

(f) That the employer will promptly notify such officer whenever any alien admitted to him has left his employ (without his previous knowledge of the alien's intent to do so) and will furnish all possible information to assist immigration officers in ascertaining whether or not the alien has entered other employment, or whether or not the conditions of this circular are being observed.

(g) That 15 days before the expiration of the period for which the alien is admitted to him the employer will advise the inspector in charge at the port of entry whether or not it is his and the aliens desire that the latter shall remain with the former for an additional period of employment.

(h) That if it becomes necessary to deport any alien (or any alien family) admitted in pursuance of this circular because of a violation of, or failure to observe, the conditions specified herein, the expense of removal of the alien from the place where apprehended to the boundary shall be borne by the importer, provided that when the cause of deportation arises while alien is employed by a person other than the importer without the consent of the latter, then such expense shall be borne by such subsequent employer.

(i) That the employer shall retain from the admitted alien's wages the sums named in section VIII hereof and transmit same for deposit in the postal savings bank in the manner therein specified.

SECTION VIII

As additional means of insuring that an alien admitted under the provisions of this circular will eventually leave the United States the following conditions shall be observed:

(a) Each such alien at the time of admission (with assistance of United States immigration or United States employment officers) apply for permission to open an account in the postal savings bank at the port of entry, on which deposist to such alien's credit will later be made in the manner hereinafter provided.

(b) The employer shall withhold from the alien's wages 25 cents for each day's service such alien renders while he continues in the employ of such employer until the money so withheld aggregates $100. If the alien changes employers in accordance with the provisions of this circular before the money so retained aggregates $100 those employing him subsequently to the original importer shall continue withholding 25 cents per day from his wages until the amount withheld, added to that withheld by previous employer or employers, aggregates $100. The same arrangement shall apply in cases in which the original admission was for a period not sufficient to produce the $100 and in which a renewal of the period of admission is granted by the immigration officers.

(c) On each pay day the employer shall transmit to the inspector in charge of the Immigration Service at the place of the alien's entry the money withheld from the alien's wages in pursuance of the preceding paragraph. Postal money orders payable to such officer, purchased at the employer's cost, shall be used in making these remittances. Said officer shall deposit the money order in the local postal savings bank to the credit of the alien from whose wages the sum represented has been withheld, retaining in his possession the receipt for such deposit. The funds so deposited will remain in the postal savings bank until the alien leaves the United States, whereupon said officer shall arrange for the delivery to the alien of the money so saved and the interest, if any, accrued thereon. If the alien leaves the United States before he had worked a sufficient period for the amounts retained to aggregate $100 the total amount so retained, with accrued interest, if any, shall be returned to him in a like manner.

(d) After the sums withheld, transmitted, and deposited in accordance with the preceding two paragraphs have aggregated

$100 the sum of $1 per month shall be withheld from the laborer's wages, transmitted to the inspector in charge at the port of entry, and deposited in similar manner; the withholding of this amount monthly to continue so long as the alien remains in the United States, and the funds so accumulated to be withdrawn from the postal savings bank and returned to alien at the time of his departure, under the supervision of the inspector in charge at port of entry. This provision shall be applied to both original and subsequent employers.

(e) If the emergent conditions mentioned herein still exist at the end of any period of admission under the terms of this circular then, upon the joint application of any such alien and his employer showing the necessity for alien's service for a further term, the immigration office at the port of admission is authorized to extend the temporary admission of such alien for a period not exceeding the duration of the war. If the sums withheld have not aggregated $100 the withholding thereof shall continue until such amount has accumulated to alien's credit. The withholding of $1 per month as provided in paragraph (c) above will thereafter be commenced or continued as circumstance require.

(f) If such emergent conditions still exist at the end of any such period of admission under the circulars superseded hereby, then, upon the joint application of any such alien and his employer showing the necessity for alien's service for a further term, the immigration office at the port of admission is authorized to extend the temporary admission of such alien for a period not exceeding the duration of the war; provided the alien (with the assistance of his employer, or if he is simultaneously changing his place of employment, of the nearest United States immigration or United States employment officer) shall apply to the local postmaster for permission to open an account in the postal savings bank at the border port through which he entered the United States, and both the alien and his employer shall agree to comply then and thereafter with all applicable provisions of this circular, it being entended that such cases shall, to the fullest extend practicable, be placed upon the same basis as those arising under this circular. Failure or refusal to observe this requirement will result in alien's deportation.

(g) All information reaching the border ports of entry, as the result of the making of deposits or otherwise, with respect to changes in the location or employment of any laborer admitted hereunder, shall be noted on the duplicate of such laborer's identification card.

SECTION IX

The supervising inspector at El Paso shall designate such officers as may be necessary at each station to give attention

to the details of keeping in touch with aliens temporarily admitted under the provisions of this circular or of those superseded hereby; and it shall be the special duty of the officers so designated to see that the temporarily admitted aliens do not remain permanently in the United States and do not violate the terms of this circular by engaging in other than the specified laboring pursuits, or otherwise. Officers will be designated to follow up aliens admitted hereunder, and employers to whom such aliens have been admitted, or for whom they may be laboring, will be expected and called upon to assist such officers in enforcing this circular, including arrest and deportation of aliens in proper cases. Officers of the United States Employment Service shall cooperate with officers of the Immigration Service in the enforcement of this section; also in supplying information to the inspector in charge at port of entry regarding changes in location or employment of aliens admitted hereunder.

SECTION X

At each of the principal Mexican border ports of entry officers of the United States Employment Service shall be detailed to assist the immigration officers in the administration of this circular. In the event that the employer is represented by an agent, or by an association through its agent, or by an officer detailed as hereinafter provided, in securing laborers, the authority of the agent or association to act for such employer should be fully established in writing, and in every instance the employer shall be required to execute and forward as soon as possible to the officer in charge at the port of entry the agreement specified in Section VII of this circular. It shall be competent for the officers of the Immigration Service to act with any officer detailed by the National Council of Defense, the United States Employment Service, or any State organization of either, or any other organization, public or private, authoritatively representing the industries herein specified.

SECTION XI

The Commissioner General of Immigration is hereby directed to enforce and administer the provisions of this circular, which

shall become effective on and after June 20, 1918.

W. B. Wilson
Secretary of Labor

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*Source: Text of Secretary Wilson's Order Suspending Sections of the Immigration Act to Permit Laborers to Enter U. S," The Official Bulletin, 2:10-12, June 24, 1918.

APPENDIX C

FEDERAL LABOR LAW*

Part 2. The Labor Contract

Chapter 1. The Individual Labor Contract

Art. 29. Every labor contract entered into by Mexican workers for services outside the country must be in writing and must be authorized by the municipal authority of the place where it is made and viseed by the consul of the country where the serviess are to be rendered. The following stipulations are also necessary for its validity, without which it may not be authorized:

(1) The expenses of transportation and food of the worker and his family, if he has one, and any other expenses that are incurred when leaving the country and in complying with the provisions on migration and any others of a similar nature, shall be paid exclusively by the employer or contractor;

(2) The worker shall receive the wage agreed on in full and no deduction therein may be made for the expenses referred to in the preceding paragraph; and

(3) The manager or contractor shall give a bond or place on deposit in the Labor Bank (Banco del Trabajo), or, in default thereof, in the Bank of Mexico (Banco de Mexico), a sum equal to all the expenses of repatriation of the worker and his family and of transportation to the place where the contract was drawn. The amount must satisfy the labor authority.

When the contractor proves that he has paid said expenses or that the worker refuses to return to the country, and that he does not owe the worker any sum for wages or compensation to which he may be entitled, the labor authority shall order the return of the deposit or cancel the bond.

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* Source: Bulletin of the United States Bureau of Labor Statistics, No. 569, Foreign Labor Laws Series, U.S. Department of Labor, Labor Legislation of Mexico, October, 1932 (Washington: U. S. Government Printing Office, 1932), pp. 14-15. (87 pp.)

APPENDIX D

TEMPORARY MIGRATION OF MEXICAN AGRICULTURAL WORKERS*

AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA AND MEXICO

Effected by Exchange of Notes Signed August 4, 1942

In order to effect a satisfactory arrangement whereby Mexican agricultural labor may be made available for use in the United States and at the same time provide means whereby this labor will be adequately protected while out of Mexico, the following general provisions are suggested:

(1) It is understood that Mexican contracting to work in the United States shall not be engaged in any military service.

(2) Mexicans entering the United States as a result of this understanding shall not suffer discriminatory acts of any kind in accordance with the Executive Order No. 8802 issued at the White House June 25, 1941.

(3) Mexicans entering the United States under this understanding shall enjoy the guarantees of transportation, living expenses and repatriation established in Article 29 of the Mexican Labor Law.

(4) Mexicans entering the United States under this understanding shall not be employed to displace other workers, or for the purpose of reducing rates of pay previously established.

In order to implement the application of the general principles mentioned above the following specific clauses are established.

(When the word "employer" is used hereinafter it shall be understood to mean the Farm Security Administration of the Department of Agriculture of the United States of America; the word "sub-employer" shall mean the owner or operator of the farm or farms in the United States on which the Mexican will be employed; the word "worker" hereinafter used shall refer to the Mexican farm laborer entering the United States under this understanding.)

CONTRACTS

a. Contracts will be made between the employer and the worker under the supervision of the Mexican Government. (Contracts must be written in Spanish.)/

b. The employer shall enter into a contract with the sub-employer, with a view to proper observance of the principles embodied in this understanding.

ADMISSION

a. The Mexican health authorities will, at the place whence the workers come, see that he meets the necessary physical conditions.

TRANSPORTATION

a. All transportation and living expenses from the place of origin to destination, and return, as well as expenses incurred in the fulfillment of any requirements of a migratory nature shall be met by the employer.

b. Personal belongings of the workers up to a maximum of 35 kilos per person shall be transported at the expense of the employer.

c. In accord with the intent of Article 29 of the Mexican Federal Labor Law, it is expected that the employer will collect all or part of the cost accruing under (a) and (b) of transportation from the sub-employer.

WAGES AND EMPLOYMENT

a. (1) Wages to be paid the worker shall be the same as those paid for similar work to other agricultural laborers in the respective regions of destination; but in no case shall this wage be less than 30 cents per hour (U. S. currency); piece rates shall be so set as to enable the worker of average ability to earn the prevailing wage.

a. (2) On the basis of prior authorization from the Mexican Government salaries lower than those established in the previous clause may be paid those emigrants admitted into the United States as members of the family of the worker under contract and who, when they are in the field, are able also to become agricultural laborers but who, by their condition of age or sex cannot carry out the average amount of ordinary work.

b. The worker shall be exclusively employed as an agricultural laborer for which he has been engaged; any change from such type of employment shall be made with the express approval of the worker and with the authority of the Mexican Government.

c. There shall be considered illegal any collection by reason of commission or for any other concept demanded of the worker.

d. Work for minors under 14 years shall be strictly prohibited, and they shall have the same schooling opportunities as those enjoyed by children of other agricultural laborers.

e. Workers domiciled in the migratory labor camps or at any other place of employment under this understanding shall be free to obtain articles for their personal consumption, or that of their families, wherever it is most convenient for them.

f. Housing conditions, sanitary and medical services enjoyed by workers admitted under this understanding shall be identical to those enjoyed by the other agricultural workers in the same localities.

g. Workers admitted under this understanding shall enjoy as regards occupational diseases and accidents the same guarantees enjoyed by other agricultural workers under the United States legislation.

h. Groups of workers admitted under this understanding shall elect their own representatives to deal with the employer, but it is understood that all such representatives shall be working members of the group. The Mexican consuls in the respective jurisdiction shall make every effort to extend all possible protection to all these workers on any questions affecting them.

i. For such time as they are unemployed under a period equal to 75% of the period (exclusive of Sundays) for which the workers have been contracted they shall receive a subsistence allowance at the rate of $3.00 per day.

For the remaining 25% of the period for which the workers have been contracted during which the workers may be unemployed they shall receive subsistence on the same basis that are established for farm laborers in the United States.

Should the cost of living rise this will be a matter for reconsideration.

The master contracts for workers submitted to the Mexican Government shall contain definite provisions for computation of subsistence and payments under this understanding.

j. The term of the contract shall be made in accordance with the authorities of the respective countries.

k. At the expiration of the contract under this understanding, and if the same is not renewed, the authorities of the United States shall consider illegal, from an immigration point of view, the continued stay of the worker in the territory of the United States, exception made of cases of physical impossibility.

SAVINGS FUND

a. The respective agency of the Government of the United

States shall be responsible for the safekeeping of the sums contributed by the Mexican workers toward the formation of their Rural Savings Fund, until such sums are transferred to the Mexican Agricultural Credit Bank which shall assume responsibilities for the deposit, for their safekeeping and for their application, or, in the absence of these, for their return.

b. The Mexican Government through the Banco de Credito Agricola will take care of the security of the savings of the workers to be used for payment of the agricultural implements, which may be made available to the Banco de Creditor Agricola in accordance with exportation permits for shipment to Mexico with the understanding that the Farm Security Administration will recommend priority treatment for such implements.

NUMBERS

As it is impossible to determine at this time the number of workers who may be needed in the United States for Agricultural labor employment, the employer shall advise the Mexican Government from time to time as to the number needed. The Government of Mexico shall determine in each case the number of workers who may leave the country without detriment to its national economy.

GENERAL PROVISIONS

It is understood that, with reference to the departure from Mexico of Mexican workers, who are not farm laborers, there shall govern in understandings reached by agencies of the respective Governments the same fundamental principles which have been applied here to the departure of farm labor.

It is understood that the employers will co-operate with such other agencies of the Government of the United States in carrying this understanding into effect whose authority under the laws of the United States are such as to contribute to the effectuation of the understanding.

Either government shall have the right to renounce this understanding, giving appropriate notification to the other Government 90 days in advance.

This understanding may be formilized by an exchange of notes between the Ministry of Foreign Affairs of the Republic of Mexico and the Embassy of the United States of America in Mexico.

Stop

MEXICO CITY, the 23rd of July 1942.

MEXICAN COMMISSIONERS

E. HIDALGO
acting as representative of the
Foreign Office

ABRAHAM J. NAVAS
Acting as representative of
the Department of Labor
and Social Privision.

AMERICAN COMMISSIONERS

J. F. McGurk
Counselor of the American Embassy in Mexico

John O. Walker
Assistant Administrator Farm
Security Administration.
(Department of Agriculture).

David Meeker
Assistant Director Officer
of Agricultural War
Relations
(Department of Agriculture).

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* Source: Executive Agreement Series 278, Temporary Migration of Mexican Agricultural Workers, Agreement Between the United States of America and Mexico (Washington: United States Government Printing Office, 1943), pp. 3-9, 10-13.

APPENDIX E

Agreement between the United States of America and Mexico respecting the temporary migration of Mexican agricultural workers, supplementing the agreement of August 4, 1942, as revised April 26, 1943. Effected by exchange of notes signed at Mexico City, March 25 and April 2, 1947; entered into force April 2, 1947.

The American Ambassador to the Mexican Secretary of Foreign Relations

EMBASSY OF THE
UNITED STATES OF AMERICA
Mexico, D.F., March 25, 1947.

No. 697.

EXCELLENCY:

In have the honor to refer to the recent negotiations which have taken place between the intersecretarial Commmttee of Your Excellency's Government and Messrs. Wilson R. Buie and Durrell L. Lord, representing the United States Department of Agriculture, regarding the continued employment of Mexican agricultural workers in the United States, and to request that Your Excellency be good enough to inform the Intersecretarial Committee that my Government agrees to the following supplementary provisions in relation to the program being carried out under the terms of the agreement between the United States of America and Mexico, which was signed on August 4, 1942, and revised April 26, 1943:

1. It is agreed that no change in the present wording of the Work Agreement form now in use need be made, but specific understandings hereinafter suggested are to be given effect by appropriate administrative action.
2. It is understood that workers who are to be employed any part of the time in work on the sugar beet crops will be informed of that fact and that much of such work is arduous.
3. It is agreed that when implementing Paragraph 2 of the Work Agreements, the location meant by the words "area" and "region" will be considered to be the County in which the Mexican worker is employed.
4. It is understood that in each worker's contract there will be inserted, by rubber stamp and upon the dotted line, the name of the place where the worker was first

interviewed in connection with his contract, and that place can be considered his "point of origin" for all purposes under his contract.

5. It is agreed that in the event it becomes necessary to repatriate Mexican workers before the expiration of their contracts as a result of a determination that their services are no longer necessary, the United States Department of Agriculture will use every means available to avoid terminating the contracts of Mexican workers who have recently arrived in the United States, repatriating instead, if necessary, those Mexican workers who have been employed in the United States over longer periods of time.
6. It is understood that, except for days in which the worker works more than four hours, and except for Sundays occurring before the worker's contract has been terminated, there shall be paid to any worker who is physically able to perform his work, the cost of feeding during the period of time in which he has not been utilized for reasons beyond his control.
7. It is agreed that the food provided on the farms or by the commissaries controlled by the farmers must be provided to the workers at cost, and must not exceed $1.50 U. S. currency per day.
8. It is understood that farmers will be notified that the Consuls of Mexico or the delegates which the Intersecretarial Committee assigns will have power to review the workers' contracts, study the sanitary system and the cost and class of food in those cases where they may consider it necessary.
9. It is agreed that it is to be recommended to the farmers that the balance amounts which remain due the workers from salaries and savings-fund deductions be paid by one check payable to the Banco Nacional de Credito Agricola, to which is attached a list of the workers involved and their respective interests therein.
10. It is agreed that, particularly in view of the increased minimum wage rates to be paid for work in connection with the 1947 sugar beet crop by producers who apply for payments under the Sugar Act of 1937, as amended, the provision of 37 cents per hour minimum wage in provision 2 of the Work Agreements remain unchanged, but that the United States Department of Agriculture undertakes, exactly as the Work Agreements provide, that the treatment in respect to salaries which is given Mexican workers, shall in no way be inferior to that accorded United States domestic labor.
11. It is agreed that if, at the termination of the contract, the worker is not returned to Mexico for

reasons beyond his control, commencing on the 15th day following the date of the termination of the contract, the worker will be paid by the United States Department of Agriculture, 50 cents U. S. Currency for each day up to the date of embarkation of the worker for Mexico, this sum being in addition to the subsistence and other benefits heretofore Provided.

It is understood that this note, together with Your Excellency's reply in the same terms, shall constitute an agreement between the Government of the United States of America and the Government of the United Mexican States on the supplementary provisions cited above.

Please accept, Excellency, the renewed assurances of my highest and most distinguished consideration.

WALTER THURSTON

His Excellency
Senor Don Jaime Torres Bodet
Secretary of Foreigh Relations,
Mexico, D. F.

. . . . . .

In due reply, I am pleased to inform Your Excellency that, recognizing the friendly desire on the part of representatives of the United States Department of Agriculture to co-ordinate their points of view with those of the Mexican Interdepartmental Committee, my Government expressed its agreement with the terms of the above-inserted note, considering those terms as supplementary to the Agreement of April 26, 1943, with the understanding that if, in practice, differences of interpretation should be encountered as to whether the above-mentioned Agreement of 1943 or the above-cited additional clauses should be applied, my Government hopes that the text which is more favorable to the worker will be applied.

I take pleasure in renewing to Your Excellency the assurance of my highest consideration.

J. T. BODET
Jaime Torres Bodet

His Excellency
Walter Thurston
Ambassador of the United States of America
Mexico, D.F.

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* Source: United States Statutes at Large, 1947, Volume 61, Part 4, (Washington: United States Government Printing Office, 1948), pp. 3738-3744.

IMPORTANT!

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