

PROCEDURE IN "SECTION 6" AND  
OTHER CHINESE IMMIGRATION  
MATTERS

FOR THE USE OF CONSULAR OFFICERS

By

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## NOTE

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The texts of the treaty and laws referred to herein have been omitted because they may conveniently be consulted in the Consular Regulations of 1896 or in the pamphlet published by the Bureau of Immigration, entitled "Treaty, Laws, and Rules Governing the Admission of Chinese."

# PROCEDURE IN "SECTION 6" AND OTHER CHINESE IMMIGRATION MATTERS

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## Part I

### CHINESE EXCLUSION LAW IN GENERAL

#### I. TERRITORY TO WHICH EXCLUSION LAW APPLIES

The act of July 5, 1884, mentions "the United States" as the territory from which Chinese are to be excluded. The joint resolution of July 7, 1898, excludes Chinese from the Hawaiian Islands under the same conditions. The act of April 29, 1902, as amended by the act of April 27, 1904, makes the Chinese exclusion laws apply "to the island territory under the jurisdiction of the United States."

Accordingly, the Chinese exclusion laws apply to all the mainland and insular territory of the United States, excepting the Panama Canal Zone.

The Chinese exclusion laws are administered in the Philippine Islands by officers of the general government thereof. (Act of February 6, 1905.)

In the mainland and insular territory of the United States, with the exception of the Philippine Islands, the administration of these laws is placed in the hands of the Commissioner General of Immigration, under the supervision and direction of the Secretary of Labor. (Act of June 6, 1900.)

#### II. PERSONS SUBJECT TO EXCLUSION LAW

The exclusion laws apply to all persons of Chinese nationality and also to all persons of the Chinese race who are nationals of other foreign governments. (Sec. 15, act of July 5, 1884; C. R., par. 374.)

#### PERSONS OF CHINESE NATIONALITY

The exclusion laws are applicable to persons naturalized as Chinese citizens, without regard to race, as well as to

persons of the Chinese race. (Dept. to Peking Legn. August 5, 1920; Peking Legn. Circ. 11, August 10, 1920.)

Numbers of Koreans have become naturalized as Chinese citizens and have thus become subject to these laws.

Women not of the Chinese race who acquire Chinese nationality through marriage to Chinese citizens are subject to the provisions of these laws to the same extent as are women of the Chinese race. (Dept. to Tientsin November 15, 1920; Tientsin to Shanghai February 16, 1921.)

#### PERSONS OF CHINESE RACE

The exclusion laws apply to all persons who are wholly or chiefly of Chinese blood.

Persons should be regarded as other than of Chinese descent if the admixture of Chinese blood is less than one-half. (Dept. of Labor to Dept. January 28, 1914; Dept. to Hongkong February 21, 1914.)

In cases where there is an equal admixture of European and Chinese blood, the racial stock of the male parent controls in the enforcement of these laws. (Dept. to Shanghai June 18, 1923.)

## Part II

### SECTION 6 PROCEDURE

#### I. THE FOUR SECTION 6 CLASSES IN GENERAL

The exempt classes of Chinese, admissible under Section 6 procedure, are the following four classes and no others: Teachers, students, merchants, and travelers for curiosity or pleasure. (Art. II, treaty of November 17, 1880; sec. 6, act of July 5, 1884; rule 2, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

The treaty of November 17, 1880, in specifying the exempt classes, uses the words, "whether proceeding to the United States as teachers, students, merchants, or from curiosity." Accordingly, persons claiming an exempt status are classified according to their purpose in proceeding to the United States rather than according to their occupation prior to leaving China. Thus, a teacher going to the United States for further study is classed as a student and receives his Section 6 Certificate and visa as such. Similarly, a merchant going to the United States for curiosity and pleasure receives his certificate as a traveler.

In order for a Chinese to be admissible as a member of one of the four Section 6 classes, it is not sufficient for him to demonstrate that he is a teacher, student, merchant, or traveler before leaving China, but he must show that he intends in good faith to engage in one of those pursuits in the United States. In other words, what constitutes a member of a Section 6 class is principally the vocation which he purposes to follow in the United States. If an applicant is not actually following one of the specified pursuits, but shows convincingly an intention to engage in one of them in the United States, and his present status is thoroughly consistent with such intention, he is considered admissible. It has been considered, for example, that the following were admissible: A draftsman and a bank apprentice who desired to take advanced studies in the United States; a retired

official who was engaged to teach in a school in the United States; an insurance agent and a building contractor who had arranged to enter into business in the United States as merchants; a physician and an engineer who were going to the United States for recreation.

The purely economic nature of the Chinese exclusion legislation must be constantly kept in the foreground. (Dept. Circ. March 25, 1907.)

## II. NATURE OF SECTION 6 CERTIFICATES

Section 6 of the act of July 5, 1884, prescribes a certificate necessary to show an admissible status under the exclusion laws. Such certificates are commonly called Section 6 Certificates.

A form of Section 6 Certificate has been prescribed and is shown in the appendix hereof. (Dept. Circ. April 15, 1905.)

This certificate, while it may be controverted by the immigration authorities and is to be taken by them only as prima facie evidence, constitutes the only evidence permissible on the part of the person producing the same to establish his right to enter the United States. (Sec. 6, act of July 5, 1884; C. R., par. 371.)

The Chinese Government, when issuing these certificates, generally furnishes a printed form bearing a Chinese version on the reverse side.

The law requires that the certificate shall be in the English language. (Sec. 6, act of July 5, 1884.)

The Chinese version, when given, is surplusage, and may be disregarded. (Dept. to Hongkong June 27, 1911.)

## III. OFFICERS AUTHORIZED TO ISSUE SECTION 6 CERTIFICATES.

In every case, a Section 6 Certificate must be issued by the government of which the holder is a citizen or subject.

A Chinese person who is a subject, by birth or naturalization, of a country other than China, must obtain his certificate from that government to which he owes his allegiance. (Dept. Circ. April 15, 1905.)

The official signing the certificate must be known to have authority from the foreign government. (A list of authorized

officials is given in rule 10, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

Consular officers whether representing Chinese interests or not have no authority in any case to issue certificates entitling Chinese persons of any character to land in the United States, and they are forbidden to give any such certificates. (C. R., par. 373.)

#### CHINESE CITIZENS

The great majority of cases dealt with are those of persons of Chinese nationality. Generally speaking, if they reside in China, they obtain certificates from the nearest Bureau of Foreign Affairs, or, if they reside in countries foreign to China, from designated diplomatic or consular officials of China in these countries. At times of revolution, when the Bureau of Foreign Affairs in Canton has ceased to function for the central Chinese Government, it has still been possible for Chinese residing in that part of China to obtain certificates from the Commissioner of Customs for Kowloon and District, located in Hongkong, who has continued to function for the central Government.

#### BRITISH, PORTUGUESE, AND DUTCH SUBJECTS

At consular offices in China it occasionally happens that a Chinese person who is, for example, a British subject by birth in Hongkong, or a Portuguese subject by birth in Macao, or less frequently a Dutch subject by birth in the Dutch East Indies, will apply for visa for travel to the United States, presenting a regular passport issued by his own Government. In every case of this kind it is necessary to advise the applicant that he must obtain a Section 6 Certificate, and to refer him for this purpose to his own consul. Since the British, Portuguese, and Dutch consular officers in China are not empowered to issue Section 6 Certificates, they take up such cases by correspondence with the nearest official of their Governments having the necessary authority. For British subjects, the nearest official is the Secretary for Chinese Affairs at Hongkong; for Portuguese subjects, the Secretary General, Macao; for Dutch subjects, the Director of Justice, Batavia, Java.

#### IV. OFFICERS AUTHORIZED TO VISA SECTION 6 CERTIFICATES

The law provides for visa by the diplomatic representative of the United States in the foreign country from which the certificate issues, or by the consular representative of the United States at the port or place from which the person named in the certificate is about to depart. (Sec. 6, act of July 5, 1884; C. R., par. 371; Dept. Circ. March 16, 1898.)

Visa may be granted by the American consul within whose territory the applicant resides. (Dept. Circ. April 15, 1905.)

Consular agents will submit all the facts in a case to the principal officer for examination and await his approval before granting visa. (Dept. Circ. July 10, 1909.)

The American consuls at Swatow and Foochow should receive applications and make investigations, but the application and all papers in each case should be forwarded to the American consul at the port of embarkation, who will grant or refuse visa according to the evidence. (Dept. to Foochow May 11, 1917; Foochow to Shanghai August 21, 1917.)

Certificates visaed at Canton, Hongkong, Shanghai, or Yokohama, are accepted at ports of entry into the United States without further investigation by the immigration officials. (Rule 4, subd. 1, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

#### V. DETAILED HANDLING OF SECTION 6 CASE

##### APPLICATION FOR VISA

At preliminary interviews, applicants are given such information as they may desire regarding the laws and published rules and the routine of obtaining certificates and visas, and are advised that the consulate will require at least three unmounted and unretouched photographs and positive identification and convincing personal or documentary evidence of the claimed status. However, care is exercised not to give out any unnecessary information regarding the nature of the consular investigation, which might be used to prepare a fraudulent case.

No form of application has been prescribed, but a form which has been used and has given satisfaction is shown in the Appendix hereof.

With each application there are filed all papers pertaining thereto, including letters of recommendation, copies or translations of documents, memoranda of examination of witnesses, and final report or précis of the investigation.

At some of the larger consular offices, every application is recorded in a large bound volume, which shows the following items in vertical ruled columns: Date of application; case number; name of applicant (surname first); claimed status; address of firm, school, or home; action taken; date of action; visa number; port of entry; remarks.

#### INVESTIGATION

Consular officers will require conclusive proof of the identity and character of Chinese presenting certificates before visaing the same. (C. R., par. 373.)

It is the duty of the visaing officer, before indorsing a Section 6 Certificate, to examine into the truth of the statements set forth in said certificate, and if he shall find upon examination that said or any of the statements contained therein are untrue, it shall be his duty to refuse to indorse the same. (Sec. 6, act of July 5, 1884; C. R., par. 371.)

This duty must never be performed in a perfunctory manner. Consular officers must understand that this is one of their most important official functions. Unless fully satisfied that the person for whom the certificate was issued was really entitled to receive it, they must withhold their visa as they will be held to rigid accountability. If there is reason to believe that the certificate has been issued or is held improperly, the matter must be thoroughly investigated. (Dept. Circ. June 26, 1905.)

The visaing officer must himself be convinced of bona fides of the case and that the person desiring visa is really entitled to enter the United States. His responsibility can be shifted neither by confidence in the authorities issuing the certificate nor by delegation of the work of investigation to a subordinate. (Dept. Circ. March 25, 1907.)

Officers with special training have been appointed vice consuls to make the investigations at some of the consulates general where this line of work is of special volume and importance. (See Dept. to Hongkong September 7, 1911.)

Importance urged of acting with great tact, kindness, and consideration, and with full regard to Chinese susceptibilities. (Dept. Circ. March 25, 1907.)

The Department has instructed that it can not prescribe precisely the evidence which must be required in order to pass favorably upon a particular case. Some consulates have attempted to systematize investigations by the use of printed questions or reports of their investigations printed in blank form. This formalism, however, has merely tended to reduce what should be a thorough investigation of each case to a perfunctory, superficial, and general mode of dealing with Section 6 Certificates. (Dept. Circ. March 25, 1907.)

In many cases, particularly those of students of high-school and college grade, the investigation may be completed with the filing of the application and suitable identification and the presentation of documents and letters of recommendation. In doubtful cases, private and separate examination is made of the applicant and one or more witnesses. This examination is varied as much as possible in different cases and is depended upon as the only satisfactory means of uncovering fraud.

In many cases the investigation can not be completed satisfactorily without paying a visit to the applicant's alleged home or school or place of business, but in many cases this is neither necessary nor possible. Even if the applicant resides in an interior city or village, if he is a genuine member of an exempt class, he is frequently so connected with persons or firms in the city where the consulate is located that a careful examination of witnesses at the consulate is found to be sufficient.

#### APPLICANTS WHO COME FROM OTHER CONSULAR DISTRICTS

If the district of the officer to whom a certificate is presented for visa is not the same as that where the applicant resides or his business is located, the officer asked to give visa will examine the applicant and refer full report to the

appropriate officer for completion of investigation. (Dept. Circ. March 25, 1907.)

Cases are not infrequent where students of regular and bona fide character have been attending school in an interior city where no American consul is located and proceed to the port of embarkation without certificates, expecting to obtain certificates and visas during their necessary stay at that port, while they attend to the purchase of steamship passage and equipment and similar matters. Consular officers at seaports should show as much consideration as possible to applicants of this character and not delay action by reference to other consular offices, provided conclusive evidence of standing is offered. This applies particularly to students of university grade. However, every effort is made to induce applicants to apply for visa to the American consul nearest to their place of schooling or residence because that officer is best situated to ascertain at first hand all the material facts. Extreme caution should be exercised whenever visa is granted to an applicant from another consular district.

Experience shows that a considerable number of Cantonese annually leave South China and proceed to northern ports and endeavor to obtain visas there rather than in the districts of their residence. Such cases should be guarded against with special care, and visas should be granted only in cases of unusual emergency and after obtaining a favorable report from the consul in whose district the applicant previously resided.

#### RELATIONS WITH OFFICIALS OF THE IMMIGRATION SERVICE

Consular officers are instructed that in cases where it is deemed necessary to obtain information from persons in the United States before visaing Section 6 Certificates, such information should be obtained through the immigration officers. Direct correspondence with such officers is authorized. (Dept. Circ. December 21, 1911.)

The practice of obtaining information from the United States through the immigration officials is to be followed in all cases where the circumstances render it practicable. (Dept. to Hongkong January 11, 1912.)

## RELATIONS WITH OFFICIALS OF THE CHINESE GOVERNMENT

Theoretically and ordinarily, each Section 6 case arises with the officials of the applicant's own government, who receive the application and issue the certificate before the case is brought to the attention of the American consulate.

In practice there is some variation from this rule. Thus, it may be the practice for the applicant to go first to the American consul, who receives his application and conducts the necessary investigation. If the consul approves the case, he indicates such approval either by letter to the appropriate official of the applicant's government or by handing to the applicant a Section 6 Certificate form with the details filled in and bearing the applicant's photograph appropriately initialled by the consular officer. The officials of the applicant's government then execute the certificate largely as a matter of course. This method has been followed at Hongkong and at some other consulates.

A slightly different arrangement prevails at Shanghai, where the Chinese officials make the initial investigation and, upon approval, hand a blank certificate to the applicant with instructions to take it to the American consulate for endorsement. The consul then investigates and, if he approves the case, indicates his approval by filling in the blank spaces in the certificate form and initialling the photograph thereon. Thereafter the Chinese official signs the certificate as a matter of course.

Both systems, that followed at Hongkong and that followed at Shanghai, enable the consular officers to see that the certificates are made out correctly, legibly, uniformly, and in good English, and enable the Chinese officials to avoid formal issuance of a certificate to any person who will be rejected by the American consular officers. Either of these systems is adopted only upon the request of the officials issuing the certificates.

## VISA

Visas are signed by the principal consular officer. This is done after the certificate has been initialled by the vice consul especially appointed to investigate Chinese immigration cases, when there is such officer stationed at the post. (Dept. to Hongkong September 7, 1911.)

The consular seal is impressed on the certificate in such a way as to cover a portion of the photograph.

Visas are numbered consecutively in annual series. (Dept. Circ. June 28, 1906.)

A visa should not be considered as valid for more than one trip of the holder to the United States. If the certificate is not surrendered and cancelled on the occasion of the first visit to the United States, a second visa of the same certificate is allowable if special circumstances suggest advisability. (Dept. of Labor to Dept. January 23, 1922; Dept. to Shanghai January 28, 1922.)

The visa reads as follows:

I, the undersigned duly authorized diplomatic (or consular) officer of the American Government for the territory within which the person named in the above certificate resides, have made a thorough investigation of the statements contained in the foregoing certificate and have found them to be in all respects true, and accordingly attach my signature and official seal in order that the bearer may be admitted to the United States upon identification as the person represented by the attached photograph, over which I have partly placed my official seal. (Dept. Circ. April 15, 1905.)

In cases where the person named in the certificate is not a resident of the consular district of the visaing officer, it is necessary to strike out the words "for the territory within which the person named in the above certificate resides" and to substitute the words "at the port from which the person named in the above certificate is about to depart." This latter wording fits the terms of the law, which confers the power to grant visa upon "the consular representative of the United States at the port or place from which the person named in the certificate is about to depart." (See sec. 6, act of July 5, 1884.)

#### FEES

A fee of \$9 is collected for the visa of a Section 6 Certificate. (G. I. C. 731, June 5, 1920.)

Fee stamps for this service are attached to the certificate.

In the absence of any regulation or practice requiring an application from the Chinese person as a prerequisite to the visa of his certificate, the Department's instructions and the law are not to be construed as justifying the collection of

the one-dollar fee prescribed for executing an application for visa of an alien passport. (Dept. to Shanghai, December 24, 1920.)

Certain classes are exempt from payment of visa fee, as follows: Officers of a foreign government and members of their immediate families, officers of its armed forces, and officers of any State, district, or municipality of a foreign country traveling to or through the United States. (G. I. C. 731, June 5, 1920.)

#### PRÉCIS

In each case in which visa is granted a report or précis is prepared in quadruplicate outlining the evidence offered and the investigation conducted, the original copy bearing a photograph of the applicant. The précis is signed by the principal consular officer.

The précis should be initialed by the vice consul specially appointed for immigration work, when there is such officer stationed at the post. (Dept. to Hongkong, September 11, 1911.)

The précis should be accompanied by copies of the correspondence and information obtained by the consular officer in the case, or a detailed and accurate outline of the evidence. A mere statement in the précis to the effect that the consular officer has investigated and is satisfied with the evidence is not sufficient. (See Dept. Circ. June 28, 1906.)

The original copy of the précis is forwarded to the immigration official in charge at the port of intended arrival, so as to be in the hands of that official not later than the date of the applicant's arrival. (Dept. Circ. June 19, 1907.)

It is the practice to deliver the original copy to the purser of the steamship by which the applicant is to travel to the United States, for delivery to the boarding officer of the Immigration Service at the port of entry. (Dept. to Hongkong, January 19, 1912.)

Two copies of the précis are promptly forwarded to the Department of State. (C. R., par. 373; Dept. Circ. March 25, 1907.)

Before delivering the visaed Section 6 Certificate to the applicant, it is customary at some consular offices to hand him a note addressed to the steamship company by which he

proposes to travel, stating that the Section 6 Certificate is ready and will be delivered to the applicant on presentation of evidence that his passage to the United States has been secured for a definite steamer and date. This is done to insure that the original copy of the précis may be forwarded to the immigration officer at the correct port of entry.

Consulates which are not located at ports of embarkation frequently find it advantageous for similar reasons to forward the Section 6 Certificate with the précis to the consulate at the port of embarkation, with request that the certificate be delivered to the applicant when he calls with definite information as to his steamer and sailing date, and that the précis be then completed in these particulars and appropriately forwarded.

A form of précis for student cases, which has been used and found satisfactory, is shown in the Appendix hereof. In the cases of merchants, teachers, and travelers, similar forms have been found useful, omitting the three items, "Review of bearer's education," "Plans for education in the United States," and "Provision for financial support," and substituting the items shown below. In merchant cases the following items are inserted: "Business standing and experience" and "Plans for engaging in business in the United States." In teacher cases the following items are inserted: "Education and teaching experience" and "Arrangements for employment as teacher in the United States." In traveler cases the following items are inserted: "Standing of applicant" and "Plans for travel in the United States."

#### PORTS OF ENTRY

In order that consular officers may forward their Section 6 précis to the correct offices, it is important to note the ports at which Chinese are permitted to enter the United States. For the list of ports of entry as established by law, see Section 7 of the act of September 13, 1888, and rule 1 of the Rules Governing the Admission of Chinese, Rules of May 1, 1917.

On the west coast of the United States, Chinese holding Section 6 Certificates enter practically without exception at San Francisco and Seattle. The Canadian border ports

are closed to Chinese coming from the Orient and therefore Chinese traveling by Canadian Pacific steamships must enter at Seattle unless special authority is obtained from the Department of Labor to enter across the Canadian boundary.

#### REFUSALS

In the case of a rejected applicant, a report thereon should be sent to neighboring American officials to whom the rejected applicant might apply. (Dept. Circ. March 25, 1907.)

The refusal report should bear the applicant's photograph and show his name and description. Without the photograph, such notice is of little value. Ordinarily the name alone will not identify a rejected applicant, since experience shows that such applicants seldom apply a second time under the same name if their cases involve fraud.

There is no need of sending refusal notices to consulates located where the rejected applicant would be unfamiliar with the local dialect. The language barrier is found to be sufficient protection in such matters, assuming that all consular officers exercise reasonable care where an applicant's speech betrays the fact that he comes from some other district.

#### PHOTOGRAPH ALBUMS

At consular offices where there is a large volume of Section 6 work, it has been found useful to keep an album of the photographs of all applicants to whom visas have been granted, and another album for the photographs of rejected applicants, including photographs received from other consulates of applicants rejected by them.

#### ADMISSIBILITY UNDER GENERAL IMMIGRATION LAW

Chinese aliens are subject to the provisions of the general immigration law, and holders of Section 6 Certificates will be examined thereunder by the immigration authorities at ports of entry. (Rule 3, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

Care should be exercised to make it clear to Section 6 applicants that the medical examination which they undergo in connection with the purchase of steamship tickets is not

a requirement of the consulate and does not exempt them from further medical examination by government officials at ports of entry.

#### VI. TEACHERS

Applicants for Section 6 visa as teachers should be required to prove their definite engagement to fill positions as teachers in the United States, and suitable qualifications by education and experience to fill such positions.

Editors are to be regarded as teachers. (Footnote 1, p. 32, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

#### VII. STUDENTS

Student applications are to be encouraged in every way possible. (Dept. to Hongkong May 11, 1908.)

#### DEFINITION

A student, within the meaning of the treaty and laws of the United States relating to the admission and exclusion of Chinese, is a person who pursues some regular course of study, including the higher branches of learning but not excluding the elementary or preparatory branches, if undertaken in good faith, and for whose maintenance and support as a student in the United States adequate financial provision has been made or satisfactorily assured, and who, upon the conclusion of his studies, departs from the United States unless then found to be qualified to remain under rules of the Immigration Service. (Rule 8, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

#### EDUCATIONAL QUALIFICATIONS

Educational progress is generally established by documentary evidence—diplomas or school certificates. When an applicant, at the time of applying for visa, is a regular student of high school or college grade, little doubt need be entertained as to his genuine purpose to study the higher branches of learning in the United States. Those going to study elementary subjects, such as may be taken in the elementary schools of their own country, can not be considered bona fide students except under unusual or peculiar circumstances.

It is believed that the preparatory training necessary to fit students for entrance into American colleges and universities may very well be left to the missionary and public schools in China. (Dept. to Hongkong November 3, 1914.)

Visa should be refused to all students who have not completed their elementary English course, except such as are vouched for by persons in the United States whose standing and responsibility for the applicant's pursuit of a higher education have first been investigated and favorably reported upon by officers of the Immigration Service. (Dept. to Shanghai June 13, 1917, file 151.10/437.)

In the case of an elementary or grammar school student, where peculiar circumstances warrant consideration, the consular officer should forward an outline of the evidence to the appropriate immigration officer in the United States with a request that he investigate the person to whom the applicant is destined and render a report as to his occupation, financial standing, education, and such other points as will shed light on his motives in seeking the applicant's admission.

#### ARRANGEMENTS FOR SCHOOLING IN THE UNITED STATES

Care shall be exercised by consular officers to ascertain that proper arrangements have been perfected for applicant's schooling, that some particular school or college has been selected, or that he is going to some responsible person who will select a proper school for him. Immigration officers are instructed to cooperate fully and promptly with consular officers whenever requested to conduct in the United States an investigation with respect to the character of a school or upon any other point. (Rule 8, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

#### PROVISION FOR FINANCIAL SUPPORT

Care shall be exercised by consular officers to ascertain that adequate financial provision has been made for maintenance and tuition. (Rule 8, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

Applicants commonly present written guaranties of support. These call for inquiry into the financial standing and reliability of the person signing the guaranty.

Chinese alleged students are not admissible into the United States where the evidence shows that they intend, even though it be in connection with their studies, to pursue a laboring occupation for which they are to be paid a salary or wage. (Peking Legn. Circ. 56, May 10, 1922.)

The Attorney General, under date of February 27, 1922, advised that where the labor performed is only in connection with or in furtherance of the maintenance of the status of student, there is no provision of law for the exclusion or deportation of such Chinese person. (Peking Legn. Circ. 86, July 1, 1922.)

The Attorney General's opinion of February 27, 1922, relates to Chinese students already within the United States and does not go so far as to expressly hold that Chinese who confessedly come to the United States with the purpose in view of combining their theoretical studies with labor for hire, in competition with American workmen, would be entitled to admission, in the first instance, as members of a class excepted from the operation of the Chinese exclusion laws. Therefore the opinion is expressed that no additional instructions are necessary to govern in the matter of granting visas to Chinese intending to come to the United States as students. (Dept. of Labor to Dept. July 29, 1922; Dept. to Shanghai August 5, 1922; Peking Legn. Circ. 111, September 19, 1922.)

#### PRACTICAL TRAINING IN FACTORIES, HOSPITALS, BANKS, ETC.

Chinese who come to the United States with the intention of entering mechanic schools which after a short course turn their pupils on the labor market of the United States are not students within the meaning of the rules governing. (Dept. Circ. January 26, 1923.)

The Department of Labor has permitted the admission of certain Chinese employed in branch houses of American electrical machinery manufacturers whom the manufacturers have desired to bring to the United States for a course of training in their electrical plants there so as to better fit them for their duties in the foreign branch houses, all expenses incident to the maintenance of the aliens while serving in the companies' plants being borne by the companies, and the latter also guaranteeing the return of the

students to China immediately upon completion of their special course of study and experimental practice. (Dept. of Labor to Office of Bureau of Foreign and Domestic Commerce, New York, November 9, 1915.)

The Department of Labor has held that a violation of the alien contract labor law is not involved in the cases of student nurses who enter the country after arrangement has been made for their pursuing a line of study in an institution in the United States, even though a slight compensation is allowed, because of services rendered, for the purpose of purchasing textbooks, uniforms, etc. And that department has expressed the belief that there would be no violation of the spirit at least of the Chinese exclusion law on account of the receipt of a slight compensation such as is given to student nurses by the various hospitals or training schools in the United States. (Dept. of Labor to Dept. November 20, 1917; Dept. to Shanghai November 28, 1917.)

The Department of Labor has approved the admission of Chinese students intending to take a university course combined with practical training, provided they were not to receive a remunerative wage from the industrial organizations by which they were to be employed while receiving their industrial training, and that they proposed to leave the United States upon completion of their courses in the university. (Dept. of Labor to commercial attaché, Peking, January 3, 1921.)

In view of the danger of violation of the contract labor provisions of the general immigration law, great caution should be exercised in cases of this kind, and all doubtful cases should be referred to the Department of State with request for an opinion by the Department of Labor.

Little doubt of admissibility need be entertained when the following factors are present in a case: (1) Applicant going to the United States primarily for studies in a college or university; (2) his practical training to be of a character supplemental to his college studies; (3) no remunerative wage to be received by him from the concern in which he pursues his course of practical training; (4) an intention on his part to leave the United States upon completion of his course in college.

## PROMOTION OF IMMIGRATION OF STUDENT GROUPS

There have been a number of instances of Americans endeavoring to collect groups of Chinese for the avowed purpose of educating them in the United States. Their representations included assurances by the promoter and the school or other organizations backing him that the students would be supervised and controlled by them during the period of the students' higher education. These promoters readily collected numbers of young Chinese boys of little education, who would doubtless have been refused visas if applying individually and without these supposed safeguards. These operations were all conducted in South China among the Cantonese. Many and probably the great majority of boys who joined the groups did so with no genuine intention of remaining under control of the promoters or of pursuing their education longer than necessary to insure freedom from molestation by the authorities in the United States. The chief result of such operations has apparently been the entry of numbers of Cantonese boys who have in a very brief period left the student groups and joined their Cantonese relatives in various parts of the United States to engage in nonexempt pursuits.

The advisability of inducing the immigration of young Chinese boys into the United States is questioned, and extreme care should be exercised to prevent group importations of the character indicated above. (Dept. to Hong-kong January 9, 1913, and November 3, 1914; Dept. to Shanghai June 13, 1917.)

If circumstances indicate that any element of commercialism or promotion of immigration is involved in a case, consular officers shall bring the facts to the attention of the Department of Labor through the Department of State before visaing the certificate. (Rule 8, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

## VIII. MERCHANTS

## DEFINITION

A merchant is a person engaged in buying and selling merchandise, at a fixed place of business, which business is conducted in his name, and who, during the time he claims

to be engaged as a merchant, does not engage in the performance of any manual labor, except such as is necessary in the conduct of his business as such merchant. (Sec. 2, act of November 3, 1893; C. R., par. 370.)

His name need not appear in the firm name, but must appear in books and partnership articles. (Footnote 4, p. 16, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

Bankers are to be regarded as merchants. (Footnote 1, p. 32, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

The purely economic aspect of legislation should be constantly kept in the foreground. An applicant may have business on so small a scale that in coming to the United States he would readily become a laborer. Such small tradesmen are not merchants according to the spirit of the treaty and laws. (Dept. Circ. March 25, 1907.)

No rule is prescribed as to the amount of a firm's capital nor the extent of an applicant's share therein in order for him to qualify as a merchant. However, Chinese firms in the United States are generally established on a basis of shares of \$500 gold or more, and it is believed that great caution should be exercised before granting visa to an applicant who has been doing business on a smaller scale than this in his foreign place of residence.

What constitutes a merchant is not the interest which he may own in business concerns alone, but also, and principally, the vocation which he follows and which he purposes to follow in the United States. (Dept. to Hongkong April 12, 1916.)

A certificate may be visaed for any Chinese of standing and substance who has a mercantile establishment in the United States and desires to proceed there to look after his mercantile interests. (Dept. to Hongkong March 20, 1915.)

#### INVESTIGATION

The books of the applicant's firm should be inspected and the place of business should be visited and it should be established that he is really a merchant of fairly responsible and substantial status and not merely a petty tradesman or superfluous partner with a fictitious or insignificant interest. (Dept. Circ. March 25, 1907.)

It has happened in a great many cases that a bank draft issued in the name of the applicant and payable in the United States has been exhibited as evidence of an intention to invest in business in the United States. Experience has shown that such drafts have often been colorably acquired by fraudulent applicants, and therefore care must be exercised not to give undue weight to such evidence.

The manager or other responsible member of the applicant's firm should identify him and give evidence in support of his claims. It should be ascertained that the applicant's name appears on the partnership record of the firm.

In cases where the applicant is not engaged personally in a mercantile business, but claims to have an interest in a firm situated in the United States, it is not believed that a consular officer would be justified in granting visa unless he should be satisfied on the basis of practically conclusive evidence, not only that the applicant owns an interest and is carried on the books or partnership articles of the American concern as a silent partner, but also that in coming to the United States it is his intention to become an active partner. (Dept. of Labor to Dept. March 31, 1916; Peking Legn. Circ. 81, May 23, 1916.)

In this last class of merchant cases, it becomes necessary to have an investigation conducted in the United States and this is accomplished by correspondence with the appropriate immigration officials there.

Most of the fraud encountered in Section 6 work has been experienced in connection with the cases of alleged merchants, because of the ease with which such claims can be set up and the difficulty of disproving them. Various tests have been found useful in uncovering such frauds and some of these are mentioned here, but with a reminder that they are not prescribed and that a consular officer should pursue his investigation in any case no further than is necessary to show clearly and convincingly that the application is made in good faith and that the applicant belongs to the merchant class exempted by law.

One of these tests is to require the applicant to work an ordinary arithmetical problem by the use of the abacus or counting board, the problem being based on a typical transaction in the applicant's line of business.

It is frequently useful to go over the firm's records of purchases and sales, selecting at random some of the more important transactions with specific firms or individuals, and then to examine separately the applicant, and his alleged partner who is offered as a witness, upon these transactions.

A surprise visit may be made to the applicant's place of business to determine his presence there and to observe his conduct and test his familiarity with the stock. The consular officer should first ascertain from the firm's books the kind of goods handled and the buying and selling prices.

The examination of the applicant and his witness may be directed also to such questions as have to do with the formation and history of the firm, the various duties of the partners and employees, market conditions, et cetera. Every effort should be made to vary the examinations and to avoid asking stereotyped questions.

#### IX. TRAVELERS

An applicant for visa as a traveler for curiosity or pleasure is required to show convincingly that his proposed visit to the United States will be of a temporary nature and that his financial and business or social standing are such as to make the proposed trip seem reasonable. As a rule, genuine travelers have no difficulty in establishing their claims by testimonials of well-known and responsible persons.

The Department of Labor has approved the visa of a Section 6 Certificate in the case of a representative or agent of a Chinese merchant coming to the United States for a brief period of time only. (Dept. to Shanghai January 25, 1916.)

If a Chinese person desires to pass through the United States in transit to a foreign point and intends to spend less than 20 days in transit, he is advised that there is no necessity of his securing a Section 6 Certificate, since the privilege of transit is granted by the immigration authorities at ports of entry. However, if the person can readily establish his exempt status, it is considered preferable for him to obtain a Section 6 Certificate and visa, since this obviates the necessity of putting up a bond at the port of entry and of leaving the United States within the brief period allowed for transit.

### **Part III**

## **CHINESE IMMIGRATION PROCEDURE OTHER THAN SECTION 6**

### **I. OFFICIALS**

The act of July 5, 1884, does not apply to diplomatic and other officers of the Chinese or other Governments traveling upon the business of that Government, whose credentials shall be taken as equivalent to the certificate in that act mentioned, and shall exempt them and their body and household servants from the provisions of that act as to other Chinese persons. Therefore Section 6 Certificates are not necessary. (Sec. 13, act of July 5, 1884.)

Chinese persons claiming to be officials of a foreign government, and by reason of that fact exempt from the operation of the exclusion laws, are required to have in their possession authentic credentials from their own government setting forth their exact status. In the case of such officials no consular visa is required. (G. I. C. 731 June 5, 1920.)

Diplomatic visas are granted by the American Legation at Peking to officials and delegates sent by various Ministries of the Chinese Government, their suites, secretaries, servants, and members of their families. (Peking Legn. Circ. 93 April 22, 1921.)

Chinese who apply to consular officers for visas and who hold credentials issued by provincial officers should be advised to procure either official credentials from the Ministry of Foreign Affairs at Peking or Section 6 Certificates. (Dept. to Shanghai September 15, 1922; Peking Legn. Circ. 129 November 3, 1922.)

### **II. BOXER INDEMNITY STUDENTS**

The Chinese Government has annually sent to the United States a group of students supported by the money refunded to China by the United States out of the Boxer indemnity. These Boxer indemnity students may be admitted to the

United States as wards of China, upon credentials issued by the Chinese Government, like those issued to Chinese diplomatic and consular officers. (Dept. teleg. to Shanghai July 22, 1911.)

Boxer indemnity students need not be provided with Section 6 Certificates. (Peking Legn. Circ. 108 June 13, 1921.)

Government-supported students, other than Boxer indemnity students, are not to be granted diplomatic visas, but require Section 6 Certificates. (Peking Legn. Circ. 93 April 22, 1921.)

### III. EXEMPT CLASSES DOMICILED IN THE UNITED STATES

Chinese of the exempt classes, who have acquired a domicile in the United States but have left the country temporarily, do not require Section 6 Certificates for re-admission. They are covered by the provisions of rule 15 of the Rules Governing the Admission of Chinese, Rules of May 1, 1917, according to which their right to reentry is determined by the immigration authorities in the United States.

It would probably be an inadvisable policy for consular officers to take any action in cases of this character. (Dept. to Hongkong April 12, 1916.)

After a Chinese of an exempt class has left the United States without a return certificate and has resided abroad for one year or more, it is appropriate to entertain his application for visa of a Section 6 Certificate, if he so desires, in preference to returning under the provisions of rule 15 mentioned above.

### TRAVEL OF EXEMPT CHINESE FROM THE UNITED STATES TO THE PHILIPPINE ISLANDS

There is no legal provision whereby Chinese of the exempt classes may secure Section 6 Certificates in the United States for the purpose of proceeding to the Philippine Islands. However, if such person secures from the immigration authorities in the United States a return certificate as a domiciled Chinese of an exempt class, this will enable him to secure admission into the Philippine Islands, provided he travels thereto by a reasonably direct route, but

not otherwise. (Philippine Islands Chinese and Immigration Circulars 71, 98, 106.)

If, in such cases, the journey is broken outside of the United States, it becomes necessary to secure a Section 6 Certificate or else apply for landing under bond. (Collector of Customs, Manila, to Hongkong, January 13, 1913.)

#### SPECIAL CERTIFICATES ISSUED IN THE PHILIPPINE ISLANDS

The office of the Insular Collector of Customs issues "Special certificates" to Chinese persons who are not in a position to qualify as merchants, but who are otherwise members of an exempt class as, for example, the minor son of a merchant, to permit them to make temporary visits to China. It is not intended to extend the time specified in the certificate, and any person failing to comply with the requirements of his certificate will be expected to prove his right to admission to the Philippine Islands upon his return in the manner provided by law. (Collector of customs, Manila, to Hongkong, February 18, 1914.) There is no authority whereby a consular officer may grant an extension of time in such cases.

#### IV. LABORERS DOMICILED IN THE UNITED STATES

Chinese laborers domiciled in the United States are not entitled to return to the United States after departure, unless provided with return certificates—Immigration Service Form No. 431. No action by consular officers is required in their behalf under the Chinese exclusion laws, unless the one-year limit allowed by the return certificate has been unavoidably exceeded, in which case consular officers are required to investigate and certify to the cause of delay. (Sec. 7, act of September 13, 1888; rules 13 and 14, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

Whenever a Chinese laborer holding a return certificate is detained by his sickness or by other disability beyond his control for a time in excess of one year after the date of his departure from the United States, the facts shall be fully reported to and investigated by the consular representative of the United States at the port or place from

which such laborer departs for the United States, and such consular representative shall certify to the satisfaction of the officer at the port of return, which must be the port from which such laborer departed, that he has fully investigated the statements of such laborer and believes that he was unavoidably detained for the time specified and for the reason stated, such certificate to be delivered by such consular representative to the master of the vessel on which the Chinese laborer departs for the United States, and by the master delivered to the officer in charge at the port of return. (Sec. 7, act of September 13, 1888; rule 14, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

A form of Overtime Certificate which has been used and found satisfactory is shown in the Appendix hereof.

No fee is prescribed for the issuance of an Overtime Certificate.

#### V. CHINESE CLAIMING AMERICAN CITIZENSHIP

Chinese claiming American citizenship, whether by American birth or by collective naturalization in Hawaii, are not amenable to the provisions of the Chinese exclusion laws. They are subject to some special treatment, however, which calls for comment herein.

#### ISSUANCE OF PASSPORTS

A Chinese person claiming American citizenship and applying for a passport should be required to produce affidavits of two credible witnesses, preferably not Chinese, having personal knowledge of the applicant's birth in the United States, or a certified copy of an official record showing that his birth has already been established before an officer of the United States. Great care should be exercised to guard against fraud. When an emergency passport is issued, consular officers should send to the Department two copies of the application and of the evidence accepted and of the applicant's photograph, and the name of the port of intended arrival. (Dept. Circ. November 20, 1905.)

American citizens are no longer required to possess passports in order to enter the United States, under the act of March 3, 1921. Chinese claiming American citizenship may proceed to the United States without passports or visas

and their admissibility will be determined by the immigration officials. Those holding return certificates may be furnished with passports if they apply. (Dept. teleg. to Hongkong June 2, 1921; Peking Legn. Circ. 108, June 13, 1921.)

#### FORFEITURE OF RIGHT TO PROTECTION

The Chinese Government regards as citizens of China persons born in the United States whose fathers were Chinese citizens at the time of their birth. Such persons have the right of electing United States or Chinese citizenship on reaching their majority. There is no such right of election if the parents were United States citizens, and such can lose their United States citizenship only by expatriating themselves under Section 2 of the act of March 2, 1907. Whether protection should be withheld on the ground of election of Chinese nationality or because of long residence in the interior and assimilation with Chinese politics and customs must depend on the facts in particular cases. (Peking Legn. Circ. 518, January 22, 1920.)

#### EXPATRIATION OF CHINESE NATURALIZED BY ANNEXATION OF HAWAII

A person of Chinese birth and race who, through former acquisition of Hawaiian citizenship during Hawaiian independence, became a naturalized citizen of the United States on the annexation of Hawaii, and who returns to China and there resides for a period of two years, will be presumed to have ceased to be an American citizen. This presumption may be overcome in the usual manner. (Dept. Circ. May 13, 1908.)

### VI. MEMBERS OF FAMILIES OF EXEMPT PERSONS

#### WIVES AND MINOR CHILDREN

The wives and minor children of Chinese of the exempt classes do not require Section 6 Certificates for admission into the United States. Their cases are covered by the provisions of rule 9 of the Rules Governing the Admission of Chinese, Rules of May 1, 1917, according to which their right of entry is determined by the immigration authorities

in the United States. For such persons to be admitted, the husband or father must already reside in the United States or must accompany them.

The Chinese wife of an American citizen does not require a Section 6 Certificate nor is she entitled to an American passport. Such cases are covered by the provisions of rule 9-A of the Rules Governing the Admission of Chinese, Rules of May 1, 1917, according to which the right of entry is determined by the immigration authorities in the United States. Her admission must be for the purpose of accompanying or joining her husband.

The Chinese children of an American citizen, who partake of his citizenship, have been dealt with under Part III, Section V.

The court, in *U. S. v. Mrs. Gue Lim* (176 U. S., p. 459) expressed the view that the wives and minor children of Chinese of the exempt classes, who are domiciled in the United States, are not entitled to receive Section 6 Certificates. (Dept. of Labor to Dept. Dec. 14, 1918; Peking Legn. Circ. 443, March 27, 1919.)

It is not believed that under the law consular officers are required to, or should, take any action in connection with the cases of the wives or minor children of domiciled Chinese of the exempt classes. (Dept. to Hongkong Aug. 3, 1908.)

The regular procedure in cases of this character is for the relative in the case to execute an affidavit setting forth his own exempt status and the applicant's relationship to him and identifying the applicant by photograph attached thereto. This affidavit is placed in the hands of the applicant to serve as an identification document for presentation to the immigration officers upon arrival at the American port, and no other document is necessary.

#### NATURE OF ASSISTANCE WHICH CONSULAR OFFICERS MAY GIVE

Consular officers are frequently approached for advice and assistance in connection with the desire of Chinese women and children to proceed to the United States to join or accompany a husband or father who belongs to an exempt class.

Consular officers are instructed to decline to perform legal services except in cases where a different course is rendered absolutely necessary by reason of there being no lawyer available, or where delay would work hardship on an American citizen. No responsibility is assumed by the Government for the work done in such cases. (Dept. Circ. Dec. 17, 1906.)

There is no objection to consular officers advising applicants with regard to the general character of the evidence which might be useful in helping to establish the identity of the applicants, and affidavits supporting such evidence may be signed in the usual manner in a notarial capacity. Where the consular officer has personal knowledge of the applicant's status, there would be no objection to his addressing an informal letter to the Commissioner of Immigration at the port of arrival, with the understanding that such letter can not be regarded in any way as a permit. Such letter should be sent direct to the immigration official and not handed to the applicant, and should contain date of departure and name of steamer. Consular officers should exercise the strictest precaution in such matters, endeavoring at the same time to assist worthy persons in any way which may be consistent with their duties. (Dept. to Canton May 3, 1909.)

#### ADOPTED CHILDREN

The courts have held that the adopted child of a Chinese merchant has the same right to admission as the natural children of such merchant. (Ex parte Fond Yim et al., 134 Fed. 938.)

It is understood that the Department of Labor requires very convincing proof of bona fides and evidence that the adopted child has lived as a member of the merchant's family and has been supported by him.

The adopted children of Chinese of American birth can not be permitted to enter the United States unless provided with Section 6 Certificates. (G. I. C. 263, January 12, 1914.)

Chinese children who have been regularly adopted by Americans are admissible according to an opinion of the Department of Commerce and Labor dated October 14, 1907. (Frederick D. Cloud's Digest, 1908.)

This ruling covers such cases as those of American missionaries residing in China, who have legally adopted Chinese children in the United States Court for China and take such children to the United States for residence or furlough. Such children are not citizens of the United States, since adoption does not confer citizenship, but they are admitted by the immigration authorities if the parent resides in the United States or accompanies the child.

#### MOTHER OF AMERICAN-BORN CHILDREN

There is no provision in the law or regulations for the admission of a Chinese woman accompanying her American-born children to the United States, but special permission has been granted in a few cases of this character. (Dept. to Hongkong July 16, 1913, in case of Mrs. A. L. Knight; Dept. to Hongkong July 1, 1916, in case of Wong Goon Shee.)

#### VII. TRANSITS AND OTHERS LANDED TEMPORARILY

Chinese who desire temporary landing in the United States for the purpose of transit through the country do not require Section 6 Certificates. The privilege of temporary landing under bond may be granted by the immigration authorities in the United States under the provisions of rules 17 and 18 of the Rules Governing the Admission of Chinese, Rules of May 1, 1917. It is preferable, however, that Chinese persons who can establish an exempt status should obtain Section 6 Certificates as travelers, even when their purpose is merely transit through the country.

#### SERVANTS

The Department of Labor in special cases authorizes the temporary entry into the United States of Chinese who are bona fide employees of visitors or tourists, under a bond conditioned for their departure within a reasonable time. The time is fixed to accommodate the plans of the employer, and the amount of the bond, never less than \$500, is arranged to suit the circumstances of each particular case. (Dept. of Labor to Dept. February 4, 1914; Dept. to Hongkong.)

It is understood that the amount of the bond is usually \$500, although this may be exceeded in particular cases, and that a six-months' period is commonly allowed, which may be renewed or extended if the circumstances warrant.

The Department of Labor does not encourage the bringing of servants. (Dept. to Tientsin June 18, 1920; Tientsin to Shanghai August 3, 1920.)

Application for the landing of a Chinese servant under bond should be made upon arrival at the port of entry. The Department of Labor does not grant permission in advance of arrival. (Dept. to Shanghai Feb. 15, 1923.)

The employer should be advised to furnish to the immigration officer in charge at the port of entry affidavits and other evidence of his responsibility and ability to furnish bond, together with information as to the approximate date of arrival, the name of the steamer if possible, and special need of the privilege. Such evidence is sometimes presented in advance of arrival and sometimes after arrival. (Dept. to Tientsin June 18, 1920; Tientsin to Shanghai August 3, 1920.)

In addition to the foregoing, it is believed that the employer's affidavit should show the following items: His own right to enter the United States, the nature of his occupation and residence in China, the purpose and length of the proposed visit to the United States, the name and description of the servant, and identification of the servant by photograph.

Whenever possible, the application and evidence should reach the immigration officer in charge at the port of entry some time in advance of the servant's arrival there, in order to facilitate prompt action.

It is advisable that arrangements be made for the giving of the required bond immediately upon arrival of the servant at the port of entry. Advance arrangements for the filing of the bond are sometimes made through steamship or tourist agencies or a bank or through friends of the employer who reside at the port of entry.

Ordinarily consular officers can do nothing in cases of this character except to advise the employer of the requirements and to execute the employer's affidavit. However, in exceptional cases, where the employer's standing and responsibility are well known to the consular officer, it is considered proper for him to address a letter to the immigration officer in charge

at the port of entry, recommending the employer for the desired privilege.

The immigration officials are glad to be informed by a consular officer that a Chinese person is a bona fide servant of a person whose intention it is to tour the United States or to visit there temporarily; this information to be by direct communication or by placing a certificate in the hands of the employer when that course is considered proper. (Dept. of Labor to Dept. February 4, 1914.)

Consular officers should distinguish carefully between Chinese nurses for children, commonly called baby-amahs, on the one hand, and such servants as valets and ladies' maids, on the other hand, because of their different status under the provisions of the contract labor law.

Ordinary domestic servants fall within one of the express exceptions to the alien contract labor provisions of the immigration laws, but persons whose work is not immediately connected with the conducting of a family establishment, such as valets and ladies' maids, do not come within this exception. (G. I. C. 697, December 15, 1919; Immigration Rule 27, subd. 2 (i), Rules of May 1, 1917.)

It is believed that consular officers should give special consideration to the cases of baby-amahs, while exercising extreme caution not to give encouragement nor to furnish letters of recommendation in cases where the servants are not, strictly speaking, domestic servants.

#### THEATRICAL TROUPES

Permission for Chinese members of theatrical troupes to land temporarily for a tour of the United States should be applied for direct to the Department of Labor by the interested parties. When consular officers are advised by the Department of State that the desired permission has been granted, they may so advise the local steamship agent to whom the troupe has applied for passage. The immigration authorities require a bond in every landing of this kind.

Chinese actors are not to be understood as comprised within any of the Section 6 classes. (G. I. C. 395, March 21, 1915.)

## EXHIBITORS AT EXPOSITIONS

Temporary admission of exhibitors and their employees at expositions has been allowed in the past, but for this purpose special regulations of the Department of Labor are necessary.

## CONTESTANTS IN ATHLETIC GAMES

Chinese athletic teams sent to Manila to compete in the Far Eastern Olympic games have been granted the privilege of temporary and conditional landing under bond without presentation of Section 6 Certificates. By previous arrangement consular officers have issued letters of recommendation setting forth the personal description of each contestant and his standing as a member of the athletic team. Action of this character should not be taken by consular officers until approval of the procedure has been given by the immigration authorities in the Philippines.

## SHORE LEAVE AT MANILA

First-class through passengers are usually permitted to enjoy shore leave from vessels stopping at Manila. (Collector of Customs, Manila, to Shanghai December 5, 1916.)

Where the Chinese traveler's standing is known to the consular officer it is considered appropriate for the latter to address a letter to the Insular Collector of Customs, recommending the traveler for the privilege of shore leave. Such letter should reach the customs authorities in advance of the traveler's arrival.

## SHORE LEAVE AT HONOLULU

Permission to go ashore in Honolulu is granted to holders of Section 6 Certificates if proceeding to the United States by vessels stopping at Honolulu. Section 6 précis of such cases need not be sent to the immigration officer in charge at Honolulu. (Immigration Service, Honolulu, to Hong-kong February 4, 1913.)

## VIII. SEAMEN

Aliens employed as seamen on vessels of American registry are entitled under the navigation laws to certain privileges, including that of being returned to the United States

when discharged in a foreign port on account of injury or illness or when they become destitute under certain circumstances in foreign countries. Even though such seamen arrive as passengers or as workaways, their cases shall be disposed of in accordance with the provisions of the Immigration Rule regarding seamen. (Rule 10, subd. 9, Immigration Rules of May 1, 1917.)

The cases of seamen of all races are handled in the same manner. (Footnote 1, rule 7, Rules Governing the Admission of Chinese, Rules of May 1, 1917.)

Accordingly, Chinese proceeding to the United States in the pursuit of their calling as seamen do not require any official action by consular officers so far as the Chinese exclusion laws and regulations are concerned.

It has been held that Chinese who have departed from the United States as seamen and who may be returned as passengers would be refused admission upon arrival in the United States. If application should be made for the visa of the passport of a Chinese laborer or for the discharge of a Chinese seaman from an American vessel, consular officers should inform the applicant that he will be refused admission to the United States in the same manner as if he were an immigrant. (Dept. Circ. August 22, 1921.)

#### IX. ALIEN VISA CONTROL

Generally, the instructions relating to alien visa control do not apply to persons of the Chinese race, whose entrance into or transit through American territory is governed by the provisions set forth in the acts mentioned on page 1 of this publication and by the rules and regulations of the Department of Labor (see the pamphlet entitled "Treaty, Laws, and Rules Governing the Admission of Chinese," third edition, October, 1920). Therefore, consular officers are not required to visa the passports of Chinese persons, except those held by members of the class referred to in section 13 of the act of May 6, 1882, as amended by the act of July 5, 1884, nor to issue any kind of transit certificates to Chinese not members of that class.

## APPENDIX

### FORMS REFERRED TO IN THE TEXT FORM OF SECTION 6 CERTIFICATE AND VISA

(See under Part II, Sec. II)

#### FORM OF CHINESE CERTIFICATE

In compliance with the provisions of Section 6 of an Act of the Congress of the United States, approved July 5, 1884, entitled "An Act to amend an Act entitled 'An Act to execute certain treaty stipulations relating to Chinese, approved May 6, 1882,'"

This certificate is issued by the undersigned, who has been designated for that purpose by the Government of \_\_\_\_\_, to show that the person named hereinafter is a member of one of the exempt classes described in said Act and as such has the permission of said Government to go to and reside within the territory of the United States, after an investigation and verification of the statements contained herein by the lawfully constituted agent of the United States in this country.

The following description is submitted for the identification of the person to whom the certificate relates:

Name in full, in proper signature of bearer: \_\_\_\_\_

Title or official rank, if any: \_\_\_\_\_

Physical peculiarities: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Height: \_\_\_\_\_ feet \_\_\_\_\_ inches.

Former occupation: \_\_\_\_\_

When pursued: \_\_\_\_\_

Where pursued: \_\_\_\_\_

How long pursued: \_\_\_\_\_

Present occupation: \_\_\_\_\_

When pursued: \_\_\_\_\_

Where pursued: \_\_\_\_\_

How long pursued: \_\_\_\_\_

Last place of actual residence: \_\_\_\_\_

(NOTE.—If a merchant the following blanks should be filled out:)

Title of present mercantile business: \_\_\_\_\_

Location of said mercantile business: \_\_\_\_\_

How long said business has been pursued: \_\_\_\_\_

Amount invested (gold) in said business: \_\_\_\_\_

Present estimated value of said business: \_\_\_\_\_

Specific character of merchandise handled in said business: \_\_\_\_\_

(NOTE.—If bearer is a traveler the following blanks should be filled out.)

Financial standing of bearer in his own country: -----

Probable duration of his stay in the United States: -----

Issued at ----- on this ----- day of ----- 19 ..

-----  
(Signature of competent official.)

(Visa)

I, the undersigned duly authorized diplomatic (or consular) officer of the United States Government for the territory within which the person named in the above certificate resides, have made a thorough investigation of the statements contained in the foregoing certificate and have found them to be in all respects true, and accordingly attach my signature and seal in order that the bearer may be admitted to the United States upon identification as the person represented by the attached photograph, over which I have partly placed my official seal.

[Photograph]

-----  
(Signature of United States official).

#### FORM OF APPLICATION FOR VISA OF SECTION 6 CERTIFICATE

(See under Part II, Sec. V, Application for visa)

#### APPLICATION FOR VISA OF SECTION 6 CERTIFICATE

Number -----

Class -----

Filed -----

Action -----

Date -----

Visa No. -----

Name in Chinese characters: -----

(Signed in full by applicant)

Romanization: -----

(Surname first)

Physical peculiarities: -----

Date of birth: ----- Age: -----

Birthplace: -----

Height: ----- feet ----- inches.

Former occupation: -----

When pursued: -----

Where pursued: -----

How long pursued: -----

Present occupation: -----

When pursued: -----

Where pursued: -----

How long pursued: -----

Last place of actual residence: -----

Family—names, whereabouts, and ages by Chinese (or Western) reckoning: -----

-----

-----

Reference in the United States: -----  
-----

Office issuing Section 6 Certificate: -----

Intended departure: -----

(Steamship and date)

Port of arrival in the United States: -----

IN CASE OF A MERCHANT FILL IN THE FOLLOWING:

Firm name: -----

Location: -----

When established: -----

Character of business: -----

Amount invested (gold) in said business: -----

Present estimated value of said business: -----

Applicant's interest: -----

Applicant's position: -----

Plans for engaging in business in the United States: -----  
-----  
-----

IN CASE OF A TRAVELER FILL IN THE FOLLOWING:

Financial standing: -----

Principal sources of income: -----  
-----

Probable duration of stay in the United States: -----

Outline and purpose of travel: -----  
-----  
-----

IN CASE OF A STUDENT FILL IN THE FOLLOWING:

Diplomas or certificates held: -----

Review of education: -----  
-----

Plans for further education, and schools selected: -----

Provision for financial support: -----

IN CASE OF A TEACHER FILL IN THE FOLLOWING:

Diplomas or certificates held: -----  
-----

Review of education: -----

Teaching experience: -----  
-----

Arrangements for teaching in the United States: -----  
-----  
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**FORM OF PRÉCIS IN CASE OF A SECTION 6 STUDENT**

(See under Part II, Sec. V, Précis)

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## SECTION 6 PRÉCIS

Name:

Class:

Visa No.:

Section 6 Certificate issued by the  
at \_\_\_\_\_ on \_\_\_\_\_

Visa granted by this Consulate (General) on:

Holder's birthplace:

Holder's family (ages by \_\_\_\_\_ reckoning):

Review of holder's education:

Plans for education in the United States:

Provision for financial support:

Reference in the United States:

Consular investigation and remarks:

Intended departure:

Steamship:

Sailing date:

Port of entry: \_\_\_\_\_

*American Consul (General).***FORM OF OVERTIME CERTIFICATE OF DOMICILED LABORER**

(See under Part III, Sec. IV)

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## CHINESE OVERTIME CERTIFICATE

I, \_\_\_\_\_, American Consul (General) at \_\_\_\_\_, hereby certify that \_\_\_\_\_, holder of Laborer's Return Certificate on Immigration Service Form 432, dated \_\_\_\_\_, No. \_\_\_\_\_, issued by the Immigration Service at \_\_\_\_\_, who departed from the said port on \_\_\_\_\_, was unable to return to the said port within the period of one year allowed by the Return Certificate mentioned, by reason of sickness or other cause of disability beyond his control, namely:

I further certify that his departure on the return passage to -----  
----- from this port by the Steamship ----- on  
-----, is a return by him at the earliest practicable  
date after the removal of the disability above mentioned. He has  
offered in addition to his own statements the following proof of the  
disability:

*Consul (General) of the  
United States of America.*



