

U. S. DEPARTMENT OF LABOR

BUREAU OF IMMIGRATION

WASHINGTON

ADDRESS REPLY TO  
COMMISSIONER GENERAL OF IMMIGRATION,  
AND REFER TO

No. 53108/22

August 30, 1924.

Memorandum for the Second Assistant Secretary.

A question has arisen concerning the source of authority, if any, possessed by officers connected with the border patrol service who have been given the designation of Patrol Inspectore.

The only legislation which the Bureau has been able to locate bearing upon this subject is a clause contained in the Appropriation Act, reading as follows:

x x x Provided, That at least \$1,000,000 of this amount (\$4,500,000) shall be expended for additional land-border patrol of which \$100,000 shall be immediately available, x x x

and the official who drafts legislation for the House of Representatives advises orally that he knows of no other legislation bearing upon the subject.

An effort has been made by the Bureau to trace the history of what formerly was the mounted guard service on the Mexican Border, and so far as can be determined, there was no legislation providing for this force, but that upon recommendation of the Bureau made to the Department in November, 1910, the Civil Service Commission was requested to hold a special examination for the position of mounted inspector, such examination to consist of a third grade basis. This met with the approval of the Civil Service Commission, and the officers appointed under the examination which was given were designated as mounted inspectors. Many of the appointees were assigned to places where they were required to watch bridges or roads leading across the Mexican boundary, and having accepted an appointment with the understanding that they were to do mounted duty, they soon became dissatisfied with their positions, it having become apparent that the term "mounted inspector" was a misnomer. Accordingly, the title was changed to junior inspector. An examination to obtain a list of eligibles under that title was held. The Bureau is unable to trace the history of this service up to the time when the designation of these officers was changed to mounted guards, but it has gone into the matter with sufficient thoroughness to justify the conclusion that there has never been any special legislation passed which vests police powers in officers detailed for patrol duty on the borders, or elsewhere.

The only authority in law under which officers of the immigration service can hold up and search vessels, railway cars,



or any other conveyance, is found in the following clause contained in Section 16 of the Immigration Act of February 5, 1917, which reads "Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, or any other conveyance, or vehicle in which they believe aliens are being brought into the United States."

The term "immigrant inspector" is used throughout the act in question, and it is apparent that the clause above quoted was intended to apply to officers who have other powers vested in them by the same act. When the matter of conferring a title upon the patrol force came up, the question of their authority was not under consideration, the title of patrol inspector having been conferred upon them in order that they might legally use passes on railway trains or other public conveyances, and there seems to be no reason why any other title which is appropriate can not be conferred upon them. If the Bureau is right in its understanding of the matter, the border patrols are now without the slightest authority to stop a vehicle crossing the border for the purpose of search, or otherwise, nor can they legally prevent the entry of an alien in violation of law. In other words, they possess no more powers than does the ordinary citizen, who can exercise police powers only at the request of a duly constituted officer of the law, or to prevent the commission of a felony. Should they, in attempting to prevent the violation of the immigration laws, attempt to hold up a person who offers resistance, or even should a person attempting to cross the border, even though he did not offer resistance, bring action for assault against a patrol inspector who placed any restraint upon him, it is believed that the officer would be guilty of assault and called upon to defend his action, as under their present title it is doubted whether the court would consider them as occupying the powers of an immigrant inspector. These officers certainly are entitled to protection if they are expected to perform the duties required of them, and it is accordingly recommended that their title be changed to junior immigrant inspector, which it is believed will take care of the situation, to which designation the Bureau can see no reason for objection.

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Commissioner-General.