

U. S. DEPARTMENT OF LABOR
BUREAU OF IMMIGRATION
WASHINGTON

55266/General

March 29, 1926.

GENERAL ORDER NC. 63.

SUBJECT: AUTHORITY OF IMMIGRATION AND BORDER PATROL OFFICERS
TO ENFORCE LAWS OTHER THAN THE IMMIGRATION LAWS.

Section 26 of the National Prohibition Act provides:

"When the Commissioner, his assistant, inspectors, or any officer of the law shall discover any person in the act of transporting in violation of the law, intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law. Whenever intoxicating liquors transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team or automobile, boat, air or water craft, or any other conveyance, and shall arrest any person in charge thereof."

So far as the National Prohibition Act is concerned, there appears to be no question but that it is the manifest duty of an officer of the Immigration Service to seize any and all intoxicating liquors being transported contrary to law, together with the vehicle or other conveyance, and to arrest any person found engaged in such illegal transportation.

Violations of the Harrison Anti-Narcotic Act of December 14, 1914, and of the act entitled "An act to prohibit the importation and the use of opium for other than medicinal purposes," approved February 9, 1909, are felonies, and it appears to be quite conclusively established that a private person may without warrant arrest any one who is committing a felony in his presence, or whom he has reasonable ground to suspect of having committed it.

As regards the right of search, the Supreme Court in deciding a recent case used the following language:

"On reason and authority the true rule is that if the search and seizure without a warrant are made upon probable cause, that is, upon a belief, reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains that which by law is subject to seizure and destruction, the search and seizure are valid."

The Supreme Court in the same case also used the following language, although it is in the nature of obiter dictum, as the case did not involve the bringing of contraband into the United States but, instead, the transporting of it from one point to another within this country:

" * * Travellers may be so stopped in crossing an international boundary because of national self-protection reasonably requiring one entering the country to identify himself as entitled to come in, and his belongings as effects which may be lawfully brought in * * ."

When persons are apprehended who are found to be engaged in violation of laws herein referred to, and seizures made, they should be turned over to the nearest Federal Law Enforcement Agency primarily engaged in the enforcement of the respective laws for appropriate disposition, as outlined in General Order No. 61

APPROVED:

Robe Carl White
ROBE CARL WHITE,
Assistant Secretary.

Harry E. Hull
Commissioner General.