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OGC Issues Roundtable

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OGC ISSUES ROUNDTABLE

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I will comment on four of the more important areas that I have worked with during this past year.

Topic One: The legalization program which was created as part of the Immigration Reform and Control Act of 1986¹ is scheduled to end on May 4, 1988. There have been congressional efforts to extend the program for six months. The House Judiciary Committee approved that extension; however, it is uncertain whether the Senate Judiciary Committee will also approve the extension. It is my understanding that the Reagan Administration is staunchly opposed to any extension of the program, thus a Presidential veto is likely to occur should Congress pass extension legislation. An estimated two million people have applied for legalization nationally. Of those two million, approximately 100,000 have been processed through the Conference's network of QDEs (Qualified Designated Entities), which were established in order to assist amnesty eligible persons.

Topic Two: Another important area has been working with diocesan clergy and religious workers regarding entry visas. During the past year OGC prepared two memoranda in this area. The first covers temporary visas used by diocesan clergy and religious workers who want to enter the United States for a variety of reasons. In particular, I would like to note that in the memorandum there is a discussion on the H-visa category. Without getting into the specifics of that visa category, you should be aware that the only discussion in the memo is of the H-1 and the H-3 visa. There is also an H-2 visa category. I did not include a discussion of the H-2 visa in the memorandum because in conversations I had with INS they informed me that regulations would be published soon covering the H-2 category. Unfortunately, those regulations have not yet been published. The second memorandum discusses permanent residency for diocesan clergy and religious workers in the United States. This is an important part of the discussion because it covers some of the recurring problems that many foreign-born diocesan clergy and religious workers

¹ Immigration Reform & Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3359 (codified as amended in scattered sections of 7, 8, 18, 20, 29, and 42 U.S.C.).

confront when they arrive in the United States on temporary visas and then subsequently want to remain in the United States permanently. It is a recurring problem and I hope that the discussion will, at least, give you some knowledge of possible problems and how to avoid them.

One last point on this topic. The INS has published a notice of advance rulemaking which would extend the B-1 visa category for substantially longer periods of time than are presently allowed under the law. This would benefit those religious workers that come in as missionaries because it would allow them to stay in the United States for possibly up to five years. As it stands now, most of them can only stay for about a year.

Topic Three: OGC has been helping Migration and Refugee Services, a department within the Conference, to either reorganize itself or to set up a subsidiary legal services type corporation which has the primary purpose of providing immigration service to low and moderate income persons, many of whom are Catholics.

Topic Four: This important subject involves compliance with the employer sanctions law established under the Immigration Reform and Control Act of 1986.² Bill Hopkins will later discuss the nuts and bolts of the verification requirements under this law. Some of you might remember that Sam Bernsen set out the law for you last year. In May 1987, OGC sent you a comprehensive memorandum which discussed the mechanics of the law. In June of 1987, OGC sent a short update with more specific applicability to Catholic Church organizations. As Sam stated last year, the federal government has decided to make the seven million or so United States employers junior immigration inspectors. Some of these employers have apparently rejected the appointment. In particular, certain Catholic organizations have informed church authorities that they will not comply with the verification requirements of the law. They state both moral and legal grounds as the basis for their call to civil disobedience. As a response to this situation, the Conference has issued a statement which was mailed to all of you last month. The statement asserts that the Conference itself plans to comply with the law. It also recognizes that the law has provided some with an excuse to discriminate.

The employer sanctions law has a so-called "sunset" provision, which means that if the Congress can be convinced through annual reports by the Government Accounting Office (GAO) that employer sanctions cause an undue hardship on employers or cause widespread discrimination, then sometime in 1989 Congress may terminate the law. Thus, I urge all of you, if you come across areas of discrimination in your dioceses, to report this information to both the Conference and the federal

² *Id.*

government.

The interface between immigration laws and discrimination is nothing new. For example, in 1924 Congress passed what was called the National Origins Act. The purpose of the Act was to limit immigration quotas based upon the prevailing ethnic groups in the United States at that time. The practical effect was to discriminate against the new immigrants who were overwhelmingly from eastern and southern Europe. The Immigration Commissioner, one year after the law was in full effect, stated that it had successfully made all new immigrants look exactly like Americans. Other commentators have stated that Abraham Lincoln's fear came true that when the "nativists" gained control of United States immigration policy they would rewrite the Declaration of Independence to read: "All men are created equal except negroes, foreigners and Catholics." Fortunately, Congress has come a long way and now passes laws prohibiting discrimination. Such was the case when Congress passed the Immigration Reform and Control Act. As part of that legislative package, and as a response to the apprehension that many people felt that employer sanctions would indeed cause discrimination, Congress passed a law prohibiting unfair immigration-related employment practices. The final regulations were published by the Department of Justice and an explanation of the final rule was included in the October issue of *Law Briefs*.