custody of Mrs. Lennon's 9-year-old daughter by her former marriage. The record indicates that the last legal proceeding relating to this custody was an opinion by the United States Court of Appeals for the Third Circuit, (Anthony B. Cox v. Yoko Ono Cox, decided March 30, 1972 Exhibit 15(a)) in which the court affirmed the decision of the District Court of the Virgin Islands modifying the divorce decree between the parties and awarding the care, custody and control to Mrs. Lennon subject to the right of reasonable visitation by the father. There is also a court order in effect issued by the Court of Domestic Relations of Paris County, Texas on March 7, 1972 granting Mrs. Lennon the custody of the child, provided that such custody may be exercised at any place within the territorial limits of the United States of America. Obviously, in order to enjoy such custody, Mrs. Lennon is required to remain in the United States, a requirement which is now made possible of solution by the grant of permanent residence to Mrs. Lennon. On the other hand it can hardly be an entirely satisfactory solution for her if Mr. Lennon is required to depart from the United States. The situation is further compounded by the fact that the respondents have been unable to locate the child and thus although they are legally entitled to her custody the reduction of that theoretical right to practical custody has not been achieved. Thus the "Law" which is enforcing the departure of Mr. Lennon from the United States has been unable to enforce its own edict with regards to the custody of Mrs. Lennon's child.

However, as of May 1972 the situation appeared to be at an indefinite impasse. Mrs. Lennon had not seen the child for over two years, she

claimed that she was unable to locate the child and there is no indication as of now that any progress has been made in that direction. There would appear to be some question as to whether the child, in fact, wants to return to Mrs Lennon. She appears to have called her mother in 1971 and complained that she was being harrassed by detectives. As a result the detectives were replaced by people who were personal friends of the Lennons apparently to continue surveillance. (Page 98 of record). It would appear that if the child is able to telephone the respondents, and the detectives and their replacements are able to be close enough to the child so that she feels harrassed, her whereabouts are not entirely unknown. In any event although the human equities of the situation are apparent, they do not in any way alter the excludability of Mr. Lennon from the United States and his consequent ineligibility for permanent residence. It lies within the power of the enforcement authorities of the Immigration and Naturalization Service to defer enforcing Mr. Lennon's departure from the United States if it could be demonstrated that such postponement is justified by the circumstances. This would however be merely in the nature of a postponement and would not in any way grant him the right of permanent residence in the United States.

It should be noted in this context that the government has not acted without a certain degree of compassion in this matter. If the government had seen fit to lodge an additional charge of deportability based on the conviction of Mr. Lennon in England, a purely clerical detail, the same reasoning which has sustained his excludability would of necessity result

in his deportability from the United States and under the provisions of Section 244(e) of the Act would make his actual enforced deportation mandatory rather than permitting him to request voluntary departure from the United States at his own expense.

Since Mr. Lennon has failed to establish his legal eligibility for admission into the United States and an immigrant visa, the application for adjustment of status under Section 245 of the Immigration and Nationality Act will be denied.

Mr. Lennon requested the privilege of voluntary departure from the United States in lieu of deportation in the event that his application for permanent residence was denied (page 83), He is statutorily eligible for such relief. He has declined to designate any country to which he would prefer to be sent in the event deportation becomes necessary. His deportation will therefore be directed to England, the country of his citizenship.

No claim of persecution has been made as to England in the event deportation to that country becomes necessary. This is contained in stipulation between counsel marked Exhibit 22.

ORDER: IT IS ORDERED that the application of Yoko Ono Lennon for adjustment of status under Section 245 of the Immigration and Nationality Act to that of a permanent resident of the United States be, and the same hereby is, granted.

IT IS FURTHER ORDERED that the application of John Winston Ono Lennon for adjustment of status under Section 245 of the Immigration and Nationality Act be, and the same hereby is, denied.

IT IS FURTHER ORDERED that in lieu of an order of deportation the respondent, John Winston Ono Lennon, be granted voluntary departure without expense to the government on or before sixty days from the date this decision becomes final or any extension beyond such date as may be granted by the District Director and under such conditions as the District Director shall direct.

IT IS FURTHER ORDERED that if the respondent, John Winston Ono Lennon, fails to depart when and as required, the privilege of voluntary departure shall be withdrawn without further notice or proceedings and the following order shall thereupon become immediately effective: the respondent shall be deported from the United States to England on the second charge contained in his Order to Show Cause, to wit: Section 241(a)(2) of the Immigration and Nationality Act.

IRA FIELDSTEEL
Immigration Judge

LEON WILDES
ATTORNEY AT LAW
515 Madison Avenue
New York, N.Y. 10022
PLAZA 3-3468

CABLE ADDRESS
"LEONWILDES," N. Y.

March 14, 1973

Hon. Ira Fieldsteel
Special Inquiry Officer
Immigration and Naturalization Service
20 West Broadway
New York, New York 10007

Re: LENNON, John Winston Ono
LENNON, Yoko Ono
A17 597 321

(b)(6)

Dear Sir:

Enclosed herewith is a request with supporting evidence to further defer and withhold the reaching of a determination in the above-captioned proceedings.

Thank you for your consideration.

Very truly yours,

LEON WILDES

LW/ts
Encls.

U.S. Department of Justice
Immigration and Naturalization Service

In the Matter of the Deportation Prodeedings of JOHN WINSTON ONO LENNON and YOKO ONO LENNON, Respondents	A17 597 321 (b)(6) [redacted] TO: HON.IRA FIELDSTEEL, SPECIAL INQUIRY OFFICER

Honorable Sir:

It is respectfully requested that the Special Inquiry Officer refrain from reaching and defer his determination as to deportability and the various requests made for discretionary relief in the above matters pending the outcome of two important new developments which, upon information and belief, will effect the determination of the instant cases. This request is based upon new evidence not previously available and submitted herewith.

As is known to the Special Inquiry Officer, the sole legal impediment to the granting of permanent residence in the case of John Lennon is his conviction, upon a guilty plea, of the possession of cannabis resin in a British court in 1968. Two recent developments in England may directly effect the said conviction and lead to its eventual expungement. Since these developments are impending, a full and proper determination in this case would require consideration of the effect of these developments. Respondents know that the Special Inquiry Officer will want to give these matters full consideration to avoid unnecessary post-hearing motions for their consideration at a later date.

POINT I

A PENDING ACT IN THE PARLIAMENT
WILL EFFECTIVELY EXPUNGE THE
CONVICTION

795 There was introduced in the Parliament a bill dated December 20, 1972,

a copy of which is attached as Exhibit A, entitled the "Rehabilitation of Offenders" Act, being an Act "to facilitate the rehabilitation of offenders who have not been reconvicted of any serious offenses for periods of years, to penalize the unauthorized disclosure of their previous convictions, to amend the law of defamation, and for purposes connected therewith".

The bill has already received its second reading and has been consigned to a committee. The procedure for consideration of such bills, being dissimilar to the American Congressional procedure, the consignment to a committee is an advanced state of the processing of the bill, and its meaning is usually that the bill is near to a vote. In the opinion of British counsel, the provision of the bill relating to the removal of judgements of conviction after five years applies to the conviction of John Lennon. Further, in the opinion of British counsel, the bill provides for what amounts to an absolute expungement for all purposes under British law and the conviction could not thereafter be used for any purpose whatsoever. Since a full text of the bill is attached, and the exact text of the bill ultimately to be passed may differ from it, no argument will be made at this time as to its exact effect under the decisions of federal courts which have dealt with the issue of expungement of criminal convictions. It is submitted, however, that the bill provides for an absolute expungement of the conviction under the Immigration and Nationality laws of the United States. Upon the passage of the bill, counsel for Mr. Lennon would wish to file a brief on its legal effect.

POINT II

THE ARRESTING OFFICER HAS BEEN COMMITTED FOR TRIAL ON CRIMINAL CHARGES OF PERJURY AND PERVERTING THE COURSE OF JUSTICE IN ENGLAND

John Lennon was arrested by Detective Sergeant Norman Clement Pilcher and charged with possession of cannabis resin. It was upon information given by Detective Sergeant Pilcher that the charge was made and the plea of guilty entered (See Exhibit 10, memorandum of conviction, wherein the "name of informant" is D.S.Pilcher, described in the memorandum of conviction as "a Constable of the Metropolitan Police Force".). During deportation proceedings and on numerous occasions prior thereto, Mr. Lennon asserted that he was unaware that the substance was in his apartment and that it could have been "planted". (See transcript, page 81). The reasons for entering a guilty plea and the unusual nature of the law existing for a limited period of time in England have been adequately set forth in previous motions filed in these proceedings.

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Attached to the communication dated December 1, 1972 of counsel to the learned Special Inquiry Officer were clippings from newspaper coverage of the charges filed against Detective Sergeant Pilcher and others for perjury and for "perverting the course of justice". Since that submission, a preliminary hearing was scheduled for March 12, 1973 at which time, upon information and belief, Pilcher and the others were held over and committed for trial. This follows the suspension from Scotland Yard of all of the accused police officers, and their indictment and arraignment. We are advised that on March 12, 1973 Pilcher and the other defendants agreed to their committal for trial, waiving their preliminary hearings (see Exhibit B attached, a telegram from British counsel) and we understand that the trial will commence shortly.

It is expected that the proceedings against Detective Sergeant Pilcher and the other s will produce evidence which will likewise enable the British counsel to move to reopen criminal proceedings in respondent John Lennon's behalf, permitting the withdrawal of the guilty plea or the expungement of the entire charge and conviction. Upon information and belief, this may occur in a number of similar cases.

WHEREFORE, in light of the new evidence adduced, the Special Inquiry Officer is respectfully urged, in the interest of justice, to withhold his determination herein pending the outcome of the above mentioned parliamentary and court proceedings.

Respectfully submitted,

DEON WILDES
Attorney for Respondents
John and Yoko Lennon
515 Madison Avenue
New York, New York 10022
212-753-3468

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Rehabilitation of Offenders [H.L.]

A

BILL

INTITULED

An Act to facilitate the rehabilitation of offenders who have not been reconvicted of any serious offence for periods of years, to penalise the unauthorised disclosure of their previous convictions, to amend the law of defamation, and for purposes connected therewith.

The Lord Gardiner

Ordered to be printed 20 December 1972

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B I L L

INTITULED

An Act to facilitate the rehabilitation of offenders who have not been reconvicted of any serious offence for periods of years, to penalise the unauthorised disclosure of their previous convictions, to amend the law of defamation, and for purposes connected therewith. A.D. 1972

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Rehabilitated persons and spent convictions.

1. Subject to the provisions of this Act, where any person

(*a*) has been convicted of one or more offences by any Court; and

(*b*) has had imposed on him in respect of that conviction a sentence for which a rehabilitation period is specified in section 3 of this Act; and

(*c*) has duly served or complied with that sentence; and

(*d*) has not been convicted (whether in Great Britain or elsewhere) of any further offence during the specified rehabilitation period;

then upon the expiry of the specified rehabilitation period that person shall for the purposes of this Act be treated as a rehabilitated person and the conviction shall for the like purposes be treated as spent.

Effect of rehabilitation.

2. Save as provided in section 5(3) of this Act, a rehabilitated person shall after the commencement of this Act be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for

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the offences forming the subject of his spent convictions, and accordingly (and notwithstanding the provisions of any other enactment or any rule of law to the contrary)

(*a*) any statement made by him or by any other person to that effect, whether on oath or otherwise, shall not render the maker guilty of any offence, or liable to any penalties or other adverse consequences in law; and

(*b*) no evidence tending to prove the contrary shall be admissible in any Court or tribunal having jurisdiction in any part of Great Britain.

Rehabilitation periods.

3.—(1) Subject as provided in this section, the rehabilitation periods referred to in section 1 of this Act are the following periods, reckoned from the date of conviction:—

(*a*) five years where the sentence imposed was not a custodial sentence;

(*b*) seven years where the sentence imposed was a custodial sentence for a term not exceeding six months;

(*c*) ten years where the sentence imposed was a custodial sentence for a term exceeding six months but not exceeding two years.

(2) For the purposes of this section,

(*a*) a custodial sentence means any sentence whereby the person sentenced was ordered to be deprived of his liberty, whether immediately or subject to any suspension, but does not include an approved school order, an attendance centre order, an order for punitive detention in a remand home, or an order made pursuant to section 58A of the Children and Young Persons (Scotland) Act 1937;

(*b*) consecutive custodial sentences for specified terms imposed on the same occasion shall be treated as one custodial sentence for a term equal to their sum;

(*c*) an order for detention in a detention centre and a sentence of Borstal training shall each be deemed to be a custodial sentence for a term not exceeding six months;

(*d*) a sentence of death, imprisonment for life, detention during Her Majesty's pleasure, or detention as directed by the Secretary of State shall be treated as a custodial sentence for a term exceeding two years;

(*e*) any sentence imposed by a Court having jurisdiction outside Great Britain shall be treated as if it were a sentence corresponding thereto as nearly as may be and imposed by a Court having jurisdiction in Great Britain.

(3) Where a person convicted was absolutely discharged, or was bound over or conditionally discharged and the condition has been satisfied, or where a probation order was made and the person has not been dealt with for breach of probation in respect of that order, or where an order was made under the Children and Young Persons Acts 1933 to 1969 or the Social Work (Scotland) Act 1968 in respect of a child or young person who was found guilty of an offence, the rehabilitation period shall be

(*a*) six months in the case of an absolute discharge;

(*b*) the period during which the order has effect or the period of one year (whichever is the longer) in all other cases.

(4) Where, by virtue of the provisions of any statute or the order of any Court, a person is subject to any disqualification, disability or prohibition consequent upon his conviction of an offence, any rehabilitation period in respect of that conviction shall (if necessary) be extended until the disqualification, disability or prohibition (as the case may be) ceases to have effect.

(5) Where, on the conviction of any person, an order was made for detention in a hospital pursuant to section 60 of the Mental Health Act 1959 or section 55 of the Mental Health (Scotland) Act 1960 (whether or not accompanied by an order restricting his discharge made pursuant to sections 65 or 60 respectively of the said Acts) the rehabilitation period in respect of that conviction shall not expire until twelve months after the order ceases to have effect, or five years from the date of conviction, whichever is the later.

(6) Where a person has not attained the age of 18 years at the date of any conviction, the rehabilitation period shall be—

(*a*) in the case of a sentence of Borstal training, and in any case where subsections (3), (4) or (5) of this section apply, the period specified by the preceding subsections of this section;

(*b*) in any other case, one half of any period which, but for this subsection, would have been specified by subsections (1) and (2) of this section.

(7) Where, before the date of expiry of a rehabilitation period applicable to any conviction of any person, that person is convicted again, then—

(*a*) if no rehabilitation period is specified in this section for the later conviction, the earlier conviction shall never be treated as spent;

(*b*) if a rehabilitation period is specified in this section for the later conviction, and if the rehabilitation period

applicable either to the earlier or to the later conviction will not expire until after the date on which the rehabilitation period applicable to the other conviction would (but for this subsection) expire, the last mentioned rehabilitation period shall for all the purposes of this Act (including this subsection) be extended until that date.

(8) In determining for any of the purposes of this Act whether a person has been convicted again before the date of expiry of a rehabilitation period, there shall be disregarded any conviction for an offence not triable on indictment or (if the further conviction took place outside Great Britain) which would not have been triable on indictment if it had been committed in Great Britain.

(9) The Secretary of State may by order substitute different periods for any of the periods mentioned in subsections (1), (2), (3) and (5) of this section, and may in like manner substitute a different age for the age mentioned in subsection (6) of this section, and any such order may be varied or revoked by a subsequent order.

(10) Any order pursuant to subsection (9) of this section shall be made by statutory instrument and shall not have effect unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.

Certificates.

4.—(1) Whenever after the commencement of this Act any person is convicted of one or more offences by any court having jurisdiction in any part of Great Britain and there is imposed upon him a sentence for which a rehabilitation period is specified in section 3 of this Act, there shall be delivered to that person a certificate signed by the clerk of that court or his deputy specifying the date after which, subject to the due fulfilment of the conditions therein set out, the conviction will be treated as spent for the purposes of this Act.

(2) Any such certificate shall—

(*a*) be in the form set out in the Schedule to this Act or in such other form as the Secretary of State may from time to time by regulation prescribe;

(*b*) be admissible as evidence of the facts therein stated until the contrary is proved, and without proof of the signature or official character of the person appearing to have signed it.

Evidence of previous convictions.

5.—(1) For the purposes of this Act (but not otherwise), any finding in any criminal proceedings that a person was guilty of an offence, and any order made by a court of summary jurisdiction under section 1 or 2 of the Criminal Justice (Scotland) Act 1949, shall be treated as a conviction of that person of that offence.

(2) No order made by any Court in respect of any person who has not been found guilty of an offence shall, after the commencement of this Act, be given in evidence as a previous conviction of that person upon his subsequent conviction of any offence.

(3) Notwithstanding the provisions of section 2 of this Act, evidence of all spent convictions of a rehabilitated person shall be admissible at any time

(*a*) in any Court having jurisdiction in any part of Great Britain before which he appears for sentence consequent upon his conviction on indictment or upon his committal pursuant to section 29 of the Magistrates Courts Act 1952;

(*b*) where by the provisions of any enactment or any rule of law such evidence is made admissible during his trial on indictment before any such court;

(*c*) in any proceedings under section 1 of the Adoption Act 1958 or the Adoption Act 1968;

(*d*) with his consent, in any proceedings in which he is a party or a witness.

Defamation actions.

6.—(1) In any action for defamation begun after the commencement of this Act by a rehabilitated person and founded upon the publication of any words tending to show that the plaintiff has committed, or been charged with, or been prosecuted for, or been convicted of, or been sentenced for, an offence which was the subject of a spent conviction, it shall continue to be open to any defendant, (but without prejudice to the provisions of section 2 of this Act), to rely on any defence of absolute or qualified privilege which is available to him.

(2) In any such action it shall further be open to any defendant to rely (notwithstanding the provisions of section 2 of this Act) on all other defences which would have been available to him but for the passing of this Act if, and only if,

(*a*) the words were published either before the commencement of this Act or before the conviction became spent; or

(*b*) the defendant proves either:—

(i) that the words were published in the ordinary course of the publication or use of a bona fide text book or article published for educational, scientific or professional purposes; or

(ii) that he did no more than to republish innocently a document first published either before the commencement of this Act or before the conviction became spent.

(3) For the purpose of subsection (2) of this section, a person shall be treated as having republished a document innocently if, and only if,

(*a*) neither he nor any of his servants or agents who were concerned with the republication knew

(i) that the document contained words defamatory of the plaintiff; or

(ii) that the conviction had become spent before the republication took place; and in either case

(*b*) he and such servants or agents exercised all reasonable care in relation to such republication.

Unauthorised disclosure of spent convictions.

7.—(1) In this section

(*a*) " official record " means a record kept by any Court or police force or public authority in Great Britain containing information about persons convicted of offences;

(*b*) " specified information " means information tending to show that a named or identifiable rehabilitated person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence forming the subject of a spent conviction.

(2) Any person who has, or at any time has had, custody of or direct or indirect access to any official record or the information contained therein shall be guilty of an offence if, after the commencement of this Act, he knowingly discloses any specified information to any other person.

(3) Any person who, after the commencement of this Act, obtains any specified information by means of any fraud, dishonesty or bribe shall be guilty of an offence.

(4) In any proceedings under subsection (2) of this section, it shall be a defence to prove that the accused disclosed the specified information in the course of his official duty

(*a*) to a Court having jurisdiction in any part of Great Britain for purposes relating to the administration of justice; or

(*b*) to a chief officer of police or a person duly authorised by him who requested the information in the course of his official duties; or

(*c*) to the Secretary of State or a person duly authorised by him for purposes relating to the security of the State or the maintenance of law and order; or

(*d*) to the rehabilitated person or to another person at his express request; or

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(*e*) to the Keeper of the Public Records by virtue of the transfer of the official record concerned.

(5) Any person guilty of an offence under subsection (2) of this section shall be liable on summary conviction to a fine not exceeding £200.

(6) Any person guilty of an offence under subsection (3) of this section shall be liable on summary conviction to a fine not exceeding £400 or to imprisonment for a term not exceeding six months, or both.

Citation, commencement and extent.

8.—(1) This Act may be cited as the Rehabilitation of Offenders Act 1973.

(2) This Act shall come into force on the first day of January 1974.

(3) This Act shall not apply to Northern Ireland.

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SCHEDULE

FORM OF CERTIFICATE

.....Court

To (full names).....

of (address).....

.....

age (if under 18):.....

(Date).....19.....

1. You have today been convicted by this court of an offence or offences.

2. The sentence of the court was.....

.....

3. For the purposes of the Rehabilitation of Offenders Act 1973, you will become a rehabilitated person, and your conviction today will be treated as spent, after (date) ..... 19....., *but only if you fulfil the conditions set out in the next paragraph.* (See also paragraphs 6, 7 and 8, which may change this date if they apply to you).

4. These conditions are:—

(Delete as required)

(*a*) that you are not dealt with for any breach of the probation order;

(*b*) that you do not commit any other offence on or before the date given in paragraph 3;

(*c*) that you pay the fine within the time limited by the court;

(*d*) that you make the payment(s) ordered within the time limited by the court;

(*e*) that you serve the sentence which has been imposed upon you; and

(*f*) that you are not convicted of any other offence on or before the date given in paragraph 3 (but conviction of a minor offence, i.e. on which is not triable on indictment, will not count for this purpose).

5. IF YOU DO NOT FULFIL THESE CONDITIONS, YOU WILL NOT BECOME A REHABILITATED PERSON ON THE DATE GIVEN IN PARAGRAPH 3, AND YOU MAY NEVER BECOME ONE AT ALL.

6. If you have been convicted before, and a similar certificate was given to you then, you will become a rehabilitated person both in respect of that other conviction and your conviction today on the *later* of the two dates given in paragraph 3 of the two certificates, *but only if you fulfil the conditions set out in* BOTH *certificates.*

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7. If you have another conviction dating from before 1st January 1974, you *may* not become a rehabilitated person until a date later than the one given in paragraph 3 above. If this applies to you, ask the court office to help you to find out the right date.

8. If you have ever been sentenced to more than two years' imprisonment (in a single sentence, or in sentences ordered to run consecutively), to to imprisonment for life, or to detention during Her Majesty's pleasure, or as directed by the Secretary of State, or to death, you cannot under the present law ever become a rehabilitated person, and paragraph 3 above does not apply to you.

9. IF AND WHEN YOU DO BECOME A REHABILITATED PERSON, YOU WILL BE TREATED FOR MOST PURPOSES IN LAW AS A PERSON WHO HAS NOT COMMITTED, OR BEEN CHARGED WITH, OR PROSECUTED FOR, OR CONVICTED OF, OR SENTENCED FOR THE OFFENCE(S) OF WHICH YOU HAVE BEEN CONVICTED TODAY. The principal exception is that your record will still be available to the Courts if you commit a serious offence at any time after you have become a rehabilitated person.

(Signed).....
(*Deputy*) *Clerk.*

If there is anything in this certificate which you do not understand, please ask the court office to help you.

western union

telegram

RE LENNON
COMMITTAL PROCEEDINGS IN GUILDHALL COURT COMMENCE 12
MARCH CONTINUING UNTIL 26 MARCH STRONG POSSIBILITY
DEFENDANTS WILL AGREE TO THEIR COMMITTAL FOR TRIAL IN WHICH
CASE PROCEEDINGS 12 MARCH WILL BE VERY BRIEF. WILL ATTEND
HEARING 12 MARCH AND REPORT TO YOU. TELEPHONE OR
2/3LC272 2/6 LEONWILDES NYK
TELEX IF FURTHER INFORMATION NEEDED
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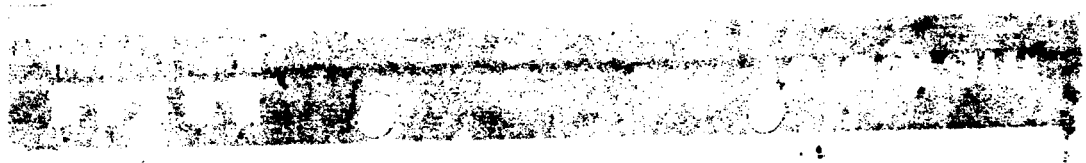

western union

Telegram

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WILDES LEON
515 MADISON AVE
NY
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GLC272 TLX044
UWNY CO GWLH 056
LONDON 56 9 1422P
LEONWILDES
NEWYORK
ATTN MR WILDES

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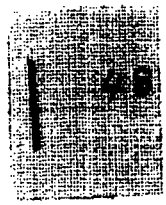

LEON WILDES
ATTORNEY AT LAW
515 Madison Avenue
New York, N.Y. 10022
PLAZA 3-3468

CABLE ADDRESS
"LEONWILDES," N. Y.

December 19, 1972

Honorable Ira Fieldsteel,
Special Inquiry Officer
Immigration and Naturalization Service
20 West Broadway
New York, New York 10007

RE: LENNON, John Winston Ono
LENNON, Yoko Ono
A17 597 321

(b)(6) [redacted]

Dear Sir:

I must object vigorously to your ruling contained in your letter dated December 11, 1972, denying my request for further time in which to file a reply brief. Granting that the filing of briefs at this time is within your administrative discretion, I must submit that your denial under the circumstance of this case amounts to an abuse of that discretion. When taken together with the other rulings in the case relating to the production of government witnesses and data, it may constitute a serious denial of due process by preventing counsel from properly presenting several important aspects of his case. Conspicuous by its absence in the ruling is any mention of the fact that the Special Inquiry Officer granted the government two weeks to file its brief, but took no action at all while the government took four and a half months to file its brief; made the transcript available to the government for that purpose and specifically withheld it from counsel for the respondents during three and one half months of such period despite counsel's requests that he likewise be furnished a copy. The government was permitted

to violate the ruling of the Special Inquiry Officer made at the hearing (transcript page 113.) with impunity and without comment from the learned Special Inquiry Officer; on the other hand, a request by counsel to expand the period of time granted to him is summarily rejected with no explanation, excuse or justification, resulting in the patently uneven handling of the case, particularly in view of the fact that the "government" has raised no objection to the granting of additional time to counsel to properly prepare a brief. One wonders just who represents the "government" in these proceedings, in that the Special Inquiry Officer, an employee of the Immigration Service, has taken a view more restrictive of respondent's procedural and substantive rights than the Trial Attorney, another employee of the Immigration Service.

As you know my office is engaged in the active handling of a substantial number of immigration cases, some of which are extremely complex. As explained, the pressure of other work rendered it an impossibility to properly reply to the government's brief in the time allotted.

Surely counsel is to be given some latitude in the presentation of his case, particularly with respect to legal arguments, in a case of such complex and novel legal issues as are raised in the instant case.

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Your ruling notes that whether briefs will be allowed and the time within which they may be filed depends upon the Special Inquiry Officer's view of the complexity and novelty of the issues involved and the degree to which he feels that "preliminary" briefs may be helpful. It likewise notes that the government's answering brief was "quite short" and "did not seem to require a reply". This view

merely begs the question. The complexity and novelty of the issues of law are to be determined, it is submitted, only after reading briefs on the legal issues. It is to be assumed that the issues <u>are</u> novel, since there is no case defining the terms of the statute involved in this case. It should become quite apparent to the reader that the fact is that the government's brief requires a <u>thorough</u> reply, because it misstates a number of legal propositions and contains misleading and erroneous interpretations of statutory provisions and legislative history.

I am submitting for your consideration, because your ruling gives me no alternative, as a part of this letter, a brief resume of the subject matter which my reply would have contained in more detailed form and with greater substantiation from case law and legislative history. I must note, however regrettably, that it has been abundantly clear to me that from the date I was served with a copy of the government's brief and the transcript of the proceedings, the "government" has concluded that "the matter was ripe for decision". It was to be hoped, however, that the Special Inquiry Officer, out of a consideration for conducting a fair hearing which would not deny the respondents due process of law, would have accorded their counsel a fair period of time within which to reply to the government's brief in proper form.

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THE GOVERNMENT DID NOT PROVE DEPORTABILITY BY CLEAR CONVINCING AND UNEQUIVOCAL EVIDENCE

(1) The government's brief asserts that respondents were given until March 15, 1972 to depart "because of an alleged promise to leave accordingly". Nowhere in the transcript, nor in the documentation of record is there any evidence of any such alleged promise; indeed, there could be no such evidence, as the period was an arbitrary one chosen by the District Director to accord the respondents to leave, when he found on March 1st that they had not left on February 29, 1972. Plainly, no one ever stated to the District Director or to any other officer of the Immigration and Naturalization Service that the respondents intended to leave on March 15, 1972. The date was never mentioned at all.

(2) The government's brief further asserts that the respondents "abandoned that intent" and "decided to remain and apply for adjustment of status". No such abandonment took place, the respondents always having had a temporary purpose in the United States, nor was any decision made by the respondents to remain at the time. It was clear that the respondents merely wished additional time within which to continue the search for their child, Kyoko. At no time did respondents do other than to request additional periods of time to remain temporarily in the U.S. to continue this search. There is no evidence in the record to the contrary nor was this allegation admitted by respondents (See transcript pages 23 and 26). The government therefore failed to prove its case on the disputed issue of fact relating to respondents intention by the degree of proof required by law.

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Deportability, 2.

(3) On the issue of burden of proof, the government's brief is conspicuously devoid of any legal argument contrary to the established law (see pages 23-25 of counsel's brief) that the requirements of due process necessitate that the Service prove all of the facts warranting deportation at the hearing. This must be more than the mere surmise of a District Director or a government trial attorney, and more than testimony at a deportation hearing which is completely equivocal with respect to the issue. Woodby and other cases cited at pages 23-25, Brief.

RESPONDENT JOHN LENNON IS ELIGIBLE FOR ADJUSTMENT OF STATUS UNDER SECTION 245.

(1) The government presents a completely erroneous and misleading explanation of the legislative history in order to bolster its argument that Mr. Lennon is not eligible for permanent residance. The thrust of its argument is that the definition of the term "marijuana" as contained in the 1954 Internal Revenue Code was incorporated into the Immigration and Nationality Act in 1956 and that the amendments of 1960 were intended to reincorporate that definition with respect to convictions for simple possession of marijuana.

The legislative history belies this misleading explanation. The Narcotics Control Act of 1956 did not place the term "marijuana" in the Immigration law. Narcotics violators were subject to exclusion by provisions of law which were first incorporated into the Immigration and Nationality Act in 1952. See Gordon and Rosenfield, Immigration Law and Procedure, Section 2.45. The 1952 Act barred any alien who had been convicted of a violation relating to the illicit traffic in narcotics. The

applicable provision (Section 212 (a) (23) 8 USC 1182 (a) (23) referred specifically to marijuana in the second portion of the section and, as early as 1952, made a conviction of the possession of marijuana for one of the stated purposes having to do with drug traffic an excludable offense, contrary to the government assertion in its brief (page 2) that "an alien convicted of possession of marijuana was not comprehended within the scope of Sections 212 (a)(23) and 241 (a)(11) (as amended by the Narcotics Control Act of 1956)". Plainly, the term marijuana was in Section 212 (a)(23) and 241 (a)(11) before the enactment of the 1954 Internal Revenue Code and its meaning could not conceivably have been influenced by that separate and different code, enacted two years later.

(2) The sole innovations of the Act of 1956 were to amend Sections 212 (a)(23) and 241 (a)(11) by including (a) conspiracy to violate a narcotic law, and (b) the illicit possession of narcotics as additional grounds for excluding an alien from this country, and (c) to amend Section 241 (b) of the Immigration and Nationality Act to state clearly that judicial recommendations against deportation would not be permitted in cases of aliens convicted of narcotics offenses. As a matter of fact, the 1956 House Bill contained no amendments to the Immigration and Nationality Act at all; the provisions adopted to amend the Immigration and Nationality Act were in substance those contained in the Senate amendment and made no mention of marijuana whatsoever. In short the 1956 act did not in any way affect the term "marijuana" in the Immigration and Nationality Act.

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(3) For the government to assert that "the definition of "marijuana", which under the Narcotics Control Act of 1956, was defined as follows:

> "Marijuana... the term "marijuana means all parts of the plant Cannabis Sativex 1, et seq....." (page 2, Government's Brief)

is plainly untrue and misleading. The definition stated is not at all part of the Narcotics Control Act of 1956, but is the definition (cited in Exhibit 3 to the government's brief) of the Internal Revenue Code of 1954. The Narcotics Control Act of 1956 not only contained no definition of the term "marijuana", but indeed there was no need to contain such a definition. In those areas of the law affected which were to make use of the broad Internal Revenue Code definition, specific mention was made incorporating the definition by reference. As illustrated by Exhibit 2 of the government's brief, Section 176(a) of the Food and Drug Law provides specifically, with respect to the smuggling of marijuana, that:

> "as used in this Section the term 'marijuana' has the meaning given such term by Section 4761 of the Internal Revenue Code of 1954."

It is quite clear that Congress knew how to make explicit reference from one statute to another where its intention was to incorporate a specific definition of a particular term. Its failure to do so in the Immigration and Nationality Act is therefore all the more significant.

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(4) As to the 1960 legislation, what was done was simply to add the words "or marijuana" to the first part of Section 212 (a)(23) and 241 (a)(11). The legislative history cited at page 3 of the government's brief explains that the addition of the term "marijuana" to the first part of each of the relevant sections

of law was to bring it in line with the existing second part of each of the sections, which had specified since 1952 that a conviction for possession of marijuana in certain special circumstances was an excludable and a deportable offense. The 1960 amendment therefore specifically referred to the 1952 Act, and not to the 1956 Amendment, as claimed. The government's conclusion that it "could not be more clear that when Congress enacted the 1960 Amendment by inserting the word "marijuana"... Congress was explicitly providing the definition of marijuana in accordance with the 1956 ... Act definitions" is thus clearly erroneous and misleading.

(5) If it is the government's contention that the term "marijuana, as used in both parts of the relevant sections, should have exactly the same meaning, the argument has essential logic. However, any argument to sustain the use of a definition in the Internal Revenue Code to define a term used in the Immigration and Nationality Act is specious and without foundation. The term was without doubt first used in the 1952 (Walter-McCarran) Act and a review of the voluminous reports relating to the legislative history of that monumental piece of legislation shows no evidence whatsoever of a specific definition or intent of Congress with respect to the use of the term. Furthermore, there could have been no intention to incorporate a term in 1952 which was used in the 1954 Internal Revenue Code, a law passed two years after the Immigration Act.

(6) The only accurate reference to the legislative history of the government's brief is its assertion that the purpose of the 1960 legislative amendment was to overcome the effect of two specific federal court decisions, Hoy v. Rojas Gutierrez, 161 F. Supp. 448 (1958) aff'd. 267 F.2d 490 (1959) and Mendoza-Rivera v. Del Guercio,

161 F. Supp. 473, (1958) aff'd. 267 F. 2d 451 (1959). These decisions, because they held specifically that convictions for simple possession of marijuana were not grounds for deportation, were the actual reasons for the 1960 legislation. Their contents, accordingly are most vital to the instant case, if the true statutory meaning of the term "marijuan", added at that time, is to be understood, for it was the specific evil in those cases which Congress chose to remove by legislation. Both cases involved convictions for possession of "flowering tops and leaves of Indian Hemp" (see decisions cited above). If Congress had any specific intention in 1960 it was to make convictions of possessing the flowering tops and leaves (Cannabis) and not hashish, (Cannabis resin) or the resinous part of the species. No broader purpose can be ascribed to the Congress than overcoming these decisions. (See the Congressional history appended as "Exhibit A" to the government's brief, p. 3135, U.S. Code and Adm. News, 1960).

(7) The government's final argument with respect to the legislative history is the alleged necessity that through logic alone we must conclude that Congress must have intended to use the term marijuana in the popular sense and that this is the borad, Internal Revenue Code definition. If this be so, the government's argument must fail. No teen-ager would be fooled by an attempt to claim that marijuana("pot") and hashish ("hash") are one and the same, or that one might obtain hashish by asking for marijuana. The argument that the 'street-use' of the term renders all drugs acceptable as marijuana is fallacious; its error is at once apparent and does not require that one be hit on the head by a tall plant, no matter what its biological derivation, for it to be understood. Principles of statutory

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interpretation amply cited in counsel's brief require that the term be restricted to its narrowest meaning.

RESPONDENT'S CONVICTION SHOULD NOT BAR HIM FROM PERMANENT RESIDENCE

(1) The government acknowledges that not every conviction must be accepted at face value for purposes of exclusion. It acknowledges that cases of racial or political "railroading", of confessions obtained by torture, or "some other circumstances which would shock the conscience of an American judge", could properly be considered by the Special Inquiry Officer in determining its effect upon an application for permanent residence. The government, however, apparently believes that a conviction which does not require criminal intent would not shock an American judge. This is a severe miscalculation of the 'shock' level of American judges, who have held that less serious, even wholly procedural inadequacies of a proceeding would not suffice to warrant deportation. In Gubbels v. Hoy, 261 F. 2d 952 (Ninth Cir. 1958) an alien who was convicted of larceny and robbery, crimes which would ordinarily be fully sufficient to support deportation, was not held deportable because his conviction took place in a military tribunal which may not have had the same safeguards deemed essential to fair trials of civilians as those held in our Federal courts. Thus the standard of our Federal courts was imposed upon a deportation proceeding to determine whether a conviction should be used as a ground for deportation. Considering that the law of all 50 states, and Federal law all require proof of mens rea, the conviction should not

be recognized in this case as a ground for exclusion. If a procedural inadequacy was found sufficient, how much more serious a failing in the proceeding is the very lack of the essence of guilt required for a conviction: the knowledge, and hence the intention of performing an act which is illegal under local law. The writer has researched the laws of all fifty states, U.S. Federal law and those of Canada and Mexico to find not a single statute which would enable a conviction for possession of marijuana to have taken place without such knowledge and proof of criminal intent. How much more shocking can a failing in a law be, than that in the instant case? Even the British law has subsequently been amended to include this essential element, based on universal severe criticism.

(2) The government's brief (page 5, final paragraph) implies that respondents have claimed that there must be a finding or moral turpitude in addition to the fact of conviction. No such claim has been made. The thrust of respondents' argument is that the statute must be narrowly contrued.

(3) The government makes no attempt to refute the argument in respondents' brief that there has never been a foreign conviction used as a basis for such a proceeding as this, nor does it claim that the principles of strict statutory construction (see page 58 of respondents' brief) which would require that the government adopt the "narrowest of several possible meanings" (id. at page 59) should not apply in this case. It would be interesting to know the government's position with respect to whether the Internal Revenue Code definition of such terms as "transfer", "possession", etc., should also be incorporated by reference into the Immigration and Nationality Act. Certainly the courts have never

so held, witness the Varga decision and the line of cases cited as to the meaning of the term "possession".

(4) The government's brief also conspicuoulsy fails to discuss the meaning of the term "possession" in the relevant sections of law, Section 212 (a)(23). Even assuming that the Special Inquiry Officer finds that the lack of an essential element in the British conviction does not, in the words of the government's counsel "shock" his "conscience", he must nevertheless find that the conviction does not constitute one for "possession" of marijuana within the immigration law, according to the reasoning of the official Immigration and Naturalization Service view (as described in the Varga decision, in Matter of Sum and the other cases cited in counsel's brief, page 43) which necessarily requires a type of dominion or control in which there is a power to traffic in or dispose of the substance. Respondent never had such "possession" of cannabis resin,

IT WOULD BE A GROSS ABUSE OF DISCRETION TO DENY THE FEMALE RESPONDENT PERMANENT RESIDENCE

(1) The government has apparently, without any foundation in the record or the transcript proceedings whatsoever, determined that it prefers that the female respondent not be granted permanent residence. It cites no factual evidence or allegations as a basis for its position, disregards the substantial testimony and evidence of her good moral character, the third preference finding of prospective cultural benefit to the United States, the fact that she has

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spent most of her life in this country and has established strong family, professional and social ties here, a citizen child to raise here and makes the astounding assertion, again without any foundation, that "given this opportunity she would be content to depart and return to England" (page 6, Government's Brief.) As the Special Inquiry Officer knows, permanent residence must be granted in the exercise of discretion in the absence of adverse factors. Matter of Arai, Int. Dec. 2027 (1970). Indeed, it is the established policy of the Immigration and Naturalization Service, as expressed by its General Counsel, that the respondent need establish no special equities so long as there are no adverse factors. It is obvious that even if the male respondent is denied residence, the presence of the female respondent who will continue the search for the child and conduct business affairs for the couple in the United States will be an absolute necessity, and lack of residence status on her part would constitute an extreme hardship.

(2) It is to be further noted that the government's brief makes no justification whatsoever for the institution of deportation proceedings against Mrs. Lennon. Although the government claims that Mr. Lennon was not an "otherwise eligible alien" and that is was not improper to commence deportation proceedings against him, it makes no argument whatsoever with respect to Mrs. Lennon. Indeed, it could not, and at the very least, these proceedings should have been terminated with respect to Mrs. Lennon particularly when it appeared that she has been and possibly has remained a permanent resident of the U.S. throughout these proceedings.

(3) Even more difficult to understand is the government's assertion that respondents made a

"feeble attempt" to show that Mrs. Lennon may indeed be a permanent resident of the United States. The assertion is completely improper, considering the fact that counsel has stipulated with the government's attorney that since we expressed no preference as to whether her residence ought to be confirmed or granted anew, we would rely in the first instance upon the application to adjust status which was filed during these proceedings. In the event that the application should be denied for any reason, it has been stipulated between the attorneys for the parties that the proceedings be reopened to determine whether Mrs. Lennon has continued to be a resident since the time she was originally granted that status by her prior marriage.

(4) The government's brief, (page 5) contains a reference to a case Lamargue vs. Inns (without citation) to the purported effect that these respondents have not been damaged in any legal sense by the institution of unwarranted deportation proceedings; it is asserted that they had no right to rely upon the invariable humanitarian administrative practice which, if applied to this case, would not have permitted the institution of deportation proceedings at all. No further legal authority is stated nor has the government complied with the request for information regarding its usual practices under the Freedom of Information Act. The Special Inquiry Officer has likewise refused to allow the respondents to examine knowledgeable government witnesses as to what their unpublished practice consists of, thus frustrating the presentation of a complete case which would have demonstrated the discriminatory action taken in this matter. The motion to permit examination of government witnesses dated June 28, 1972 should have been

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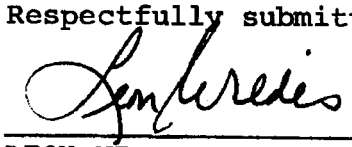
granted (see pages 15-16 of respondents' brief). Its denial, taken together with the other rulings in this case, deny respondents due process in failing to afford them an opportunity to state and prove their complete defense to these proceedings and their entitlement to permanent residence.

WHEREFORE, it is respectfully requested that the proceedings herein be terminated and/or the respondents granted permanent residence.

Respectfully submitted,



LEON WILDES
Attorney for Respondents
JOHN WINSTON ONO LENNON
and
YOKO ONO LENNON
515 Madison Avenue
New York, New York 10022

LW:ba
by hand

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December 11, 1972

Leon Wildes, Esq.
515 Madison Avenue
New York, N. Y. 10022

Re: LENNON, John Winston Ono
LENNON, Yoko Ono
A17 597 321
[redacted]

(b)(6)

Dear Mr. Wildes:

As you know, the privilege of submitting briefs prior to the rendering of a decision of the Special Inquiry Officer is entirely discretionary with that officer and depends on his view of the complexity and novelty of the issues involved and the degree to which he feels that preliminary briefs may be helpful.

Accordingly you were permitted to and did submit an initial brief of considerable length. The government answering brief was quite short and although it did not seem to require a reply, I indicated at the close of the hearing that you would be given opportunity for reply.

The period of three weeks for such reply was more than adequate at this point and I consider the matter now ripe for decision. Your request for further time is denied.

Very truly yours,

IRA FIELDSTEEL
Special Inquiry Officer

LEON WILDES
ATTORNEY AT LAW
515 Madison Avenue
New York, N.Y. 10022
PLAZA 3-3468

CABLE ADDRESS
"LEONWILDES," N. Y.

December 1, 1972

Hon. Ira Fieldsteel, Special Inquiry Officer
U.S. Immigration and Naturalization Service
20 West Broadway
New York, New York 10007

RE: LENNON, John Winston Ono
LENNON, Yoko Ono
A17 597 321
[redacted]

(b)(6)

Dear Sir:

Thanking you for the opportunity afforded to do so, I respectfully request that I be granted an additional period of time within which to file my brief in response to the government's brief, which raises substantial issues of law.

As you recall, I was granted until July 1, 1972 (about 5 weeks) within which to file Respondents' brief with respect to the legal issues in this case. When it appeared that the brief might be tardily filed because July 1st fell on a Saturday, the S.I.O. took special care to advise the undersigned in writing that the brief would not be accepted after Monday, July 3, 1972. The government was not requested to file its brief, at the same time, and although it indicated that it "will require only 1 or 2 days to respond" (transcript, page 113) to Responsents' brief and was granted a period of "2 weeks thereafter" (Ibid.) to reply. The Government's Trial Attorney thereafter stated that he would take only "1 or 2 days. I would limit myself." (Ibid.) Nonetheless, its brief was not filed until November 13, 1972, and a copy was served the undersigned by the Special Inquiry Officer on November 14, 1972. The government thus

took approximately 4½ months to file its brief, and to my knowledge, the Special Inquiry Officer made no written request that the government's brief be filed more promptly.

A transcript of proceedings was prepared on or before July 27, 1972, since it was on that date that it was certified by the Special Inquiry Officer as "complete and accurate" (sic). Although I requested that a copy of the transcript be made available to me on several occasions since that date, it was not made available until November 14, 1972 together with the government's brief. No reason was given for this less-than-evenhanded treatment of the parties. The transcript contains a large number of errors despite its certification as to accuracy and the delay in its transmittal makes it more difficult to correct these errors.

Counsel for respondents has made diligent effort to study the transcript and the government's brief and to research and brief the important legal issues raised therein but cannot do so, with due regard to other legal matters for which he is responsible, within the period of three weeks accorded him by the Special Inquiry Officer. The issues of law raised in this proceeding are largely matters of first instance requiring a great deal of time for research, often in libraries outside New York City. The completion of this brief will take, at minimum, an additional period of time until March 15, 1973.

Considering the extended period of time afforded the government to file its brief, the additional period of time requested is not unreasonable. Moreover, it is submitted that a shorter period of time directly effects the fairness of these proceedings and may well deny respondents due process, since this case uniquely rests upon disputed issues of law, the interpretation of statutory and regulatory provisions and upon the decisions cited and to be cited. 765

The government can claim no hardship by the instant request for additional time. Indeed, new developments have occurred in England which may directly effect the eligibility of the male respondent to apply for an expungement of his conviction in a British court and hence require additional proceedings before the S.I.O. The respondent

has throughout these proceedings stated that the substance allegedly found in his possession was "planted" by police officers. The police officer who conducted the search in question Sergeant Pilcher, having been under investigation, has now been officially indicted for conspiracy to pervert justice in connection with narcotics cases and a trial has been set in his case, which will take place, on or about January 22, 1973. Attached hereto are newspaper clippings detailing the progress of that case as reported by the British press which directly effects the possible reopening of the male respondent's case in England in the opinion of British counsel. Since the government's position is that it only reluctantly opposes respondent's case in that the male respondent's conviction renders him statutorily ineligible for residence, it cannot reasonably oppose the granting of additional time requested when it may lead to the result of the dismissal of the conviciton. The respondents' presence here continues to have a beneficial economic and cultural effect upon the United States and enables their search of their child to continue, all of which is in the public interest.

I am quite certain that before reaching his decision the Special Inquiry Officer will wish to have before him the fullest and best exposition of the relevant law and the best thoughts which counsel can bring to bear on the subject. In view of the above, it is respectfully requested that the time within which counsel may file his reply brief be extended to March 15, 1973.

Very truly yours,

Leon Wildes

LEON WILDES

LW:ba
BY HAND

DAILY EXPRESS Price 3p
WEDNESDAY NOVEMBER 8 1972 Weather: Cloudy, bright spells

EX-YARD CHIEF ACCUSED

5 detectives are named after probe

Express Chief Crime R[illegible]ter: PERCY HOSKINS

CHIEF INSPECTOR VICTOR KELAHER

SUMMONSES alleging conspiracy to pervert the course of justice were issued yesterday against the former chief of Scotland Yard's Drug Squad, Detective Chief Inspector Victor Kelaher, and four other detectives, including a woman.

The four others also face perjury charges. A warrant is out for the arrest of another man, a detective sergeant said to have left the country.

The case follows an Old Bailey trial a year ago in which a man and his son were jailed for drug smuggling.

Both have now been freed on bail.

The accused detectives were called before Assistant Commissioner Colin Woods yesterday and suspended.

MOVED

The summonses were issued at Guildhall, London, in the afternoon after an application by the Director of Public Prosecutions.

Detective Chief Inspector Kelaher, aged 42, married with three children, was moved last April from the Drug Squad where he was operational chief. He joined the force in [illegible].

The others accused are: Detective Sergeant George Nicholas Pritchard, of "Q" Division, Wembley Area; Detective Constable Nigel Patrick Lilley, Harrow Road police station; Detective Constable Adam Acworth and Woman Detective Constable Morag McDonald McGibbon, both of Scotland Yard's Central Detective Pool.

An investigation began some months ago.

The Director of Public Prosecutions then decided to order an independent inquiry. This was undertaken by a team of Lancashire detectives headed by the Assistant Chief Constable.

Later a second inquiry was conducted by specially-selected Scotland Yard team.

This resulted in the freeing from jail of [illegible] Mohammed Salah, formerly of Kierpark House, [illegible], and his son John, 27, of [illegible] Green Road, Slough.

At their trial, which [illegible] in October last year, both [illegible] pleaded not guilty to conspiracy to import, possess and supply cannabis.

JAILED

They were convicted. The father was jailed for five years and his son to three years.

John Salah's wife, Kathleen, was also found guilty and sentenced to nine months suspended for three years.

Father and son were in jail nearly a year before they were released. They are now on bail pending their appeals.

The summonses issued yesterday are returnable at the Guildhall on January 2[illegible].

A warrant was issued for the arrest of Detective Sergeant Norman Clement Pilcher, who is understood to have left the country last July.

He was among several Drugs Squad officers who raided the flat of Beatle John Lennon in 1968.

Lennon, with his wife Yoko Ono, were charged with being in possession of 219 grains of cannabis resin, and obstructing Detective Sergeant Pilcher.

Both charges against Yoko Ono were dropped. Lennon, who pleaded guilty to having drugs, was fined £150, and found not guilty of obstruction.

In 1967 Detective Sergeant Pilcher led a 10-man squad which seized materials and equipment sufficient to produce LSD worth £5 million in a [illegible] of raids on houses in [illegible] London.

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The Daily Telegraph
No. 36540. LONDON, WEDNESDAY, NOVEMBER 8, 1972. Printed in LONDON and MANCHESTER 4p

Ex-drugs squad men accused of perjury

By T. A. SANDROCK, Crime Correspondent

FIVE detectives—including a woman—all former members of Scotland Yard's drugs squad, were suspended from duty yesterday after being served with summonses.

Det. Chief Insp. Victor Kelaher, 42, once operational head of the drugs squad, and the four others have been accused of perjury and conspiracy to pervert the course of justice.

A warrant has been issued for the arrest of a sixth former drugs squad officer who is abroad. He is Norman Clement Pilcher who was a detective sergeant until he left the force in July.

The other officers are Det. Sgt George Nicholas Pritchard, at present serving in the Wembley area, Det. Con. Nigel Patrick Sturgess Lilley, attached to Harrow Road police station, Det. Con. Adam Buzzard Acworth and Woman Det. Con. Morag McDonald McGibbon who are attached to the central pool of detectives at Scotland Yard.

Scotland Yard said last night that the proceedings arose from investigations into allegations made during a trial at the Old Bailey in September and October last year.

Hidden cannabis

The inquiries stem from allegations concerning drug charges against three people, Mohammed Salah, 60, his son John, 27, and the son's wife Kathleen, 22.

At the Old Bailey on Oct. 13, 1971, they were found guilty of conspiring to illegally import cannabis into Britain. It was stated that the cannabis, worth £800,000 on the black market, had been brought in, hidden in a trailer.

Mohammed Salah was sentenced to five years' imprisonment, his son to three years and Kathleen Salah to nine months which was suspended for three years.

The inquiry into the allegations against the officers have been going on for some months. In October this year Mohammed Salah and his son John were both granted bail pending an appeal against conviction.

Two other women are due to appear at the Old Bailey on charges arising from the Salah case.

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THE TIMES
Wednesday November 8 1972
No 58,626 Price 5p

Five detectives are accused of conspiring

Summonses alleging conspiracy to pervert the course of justice at the trial at the Central Criminal Court last year of members of a family named Salah have been served on five Metropolitan Police officers, including a woman detective.

Four summonses relating to the same case and alleging perjury have also been served on four of the officers. All the summonses are returnable at Guildhall Justice-room on January 22. The accused are:

Det Chief Inspector Victor Richard Kelaher, aged 42, of the Metropolitan Police management services; Det Sergeant George Nicholas Pritchard, of Q Division, Wembley area; Det Constable Nigel Patrick Lilley, Harrow Road police station; Det Constable Adam Acworth and Woman Det Constable Morag McDonald McGibbon, both of Scotland Yard's central detective pool. Mr Kelaher is not accused of perjury but the others are.

In addition, a warrant dealing with the same alleged offences has been issued for the arrest of former Det Sergeant Norman Clement Pilcher, who left the Metropolitan Police in July last.

All the serving officers have been suspended from duty.

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November 13, 1972

Leon Wildes
Attorney at Law
515 Madison Avenue
New York, N. Y. 10022

Re: LENNON, John Winston Ono
A17 597 321
LENNON, Yoko Ono
[redacted]

(b)(6)

Dear Sir:

I am furnishing you herewith by hand delivery a copy of the government's brief in the above named matter together with a copy of the transcript of hearing in such matter consisting of 123 pages. Pursuant to your request that you be given an opportunity to reply to the government's brief, you are hereby given until December 4, 1972 to submit such reply.

Very truly yours,

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IRA FIELDSTEEL
Special Inquiry Officer

HAND DELIVERY

IF:sk

11/14/72
Received brief of TA + copy of record
[illegible] for Leon Wildes

(b)(6)

A17 597 321

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

- -x

In the Matter of Deportation Proceedings

of

JOHN WINSTON ONO LENNON and
YOKO ONO LENNON

Respondents

- x

GOVERNMENT'S BRIEF

VINCENT A. SCHIANO
Chief Trial Attorney
New York, New York

POINT 1

RESPONDENTS ARE CLEARLY DEPORTABLE AS SET FORTH IN THE ORDERS TO SHOW CAUSE.

A. As to John Lennon

Mr. Lennon last entered the United States on August 13, 1971. He was admitted on that occasion, as well as on prior occasions, as a visitor with a waiver of excludability. His time to depart expired on February 29, 1972. This was substantially admitted at the deportation hearings. On March 1, 1972 Respondent was granted voluntary departure (prior to the institution of deportation proceedings) permitting him to leave on or before March 15, 1972. This privilege was extended because of an alleged promise to leave accordingly. The Respondent abandoned that "intent" and decided to remain and apply for adjustment of status. Therefore, on March 6, 1972 (see Exh.6) that grant of voluntary departure was revoked. Deportation proceedings were commenced on March 7, 1972 and hearings held starting March 16, 1972. Respondent John Lennon through counsel admitted all allegations of fact except Item 6.

He is clearly deportable for having overstayed his allotted time as a temporary visitor. Whether District Director should have given him additional time is obviously not reviewable by the Special Inquiry Officer.

B. As to Yonko Ono. (Mrs. John Lennon).

Respondent Yoko Ono is similarly deportable for the reasons set forth above. She did not intend to depart upon the expiration of her authorized stay. A feeble claim of continuance of prior residence as an immigrant was feebly offered without adequate proof as may have been required. Documents relating to the court proceedings in the Virgin Islands (Exh.) show that she claimed England as her home and did not claim residence in the United States, clearly evidencing (if further evidence were needed) that that prior residence was abandoned. Those proceedings involved the custody of her daughter, and were in an American court - all the more reason to have claimed American residence if she had not felt she had given it up.

POINT II

RESPONDENT JOHN LENNON IS INELIGIBLE FOR THE BENEFITS OF SECTION 245 OF THE ACT (ADJUSTMENT OF STATUS) BY REASON OF HIS INADMISSIBILITY UNDER SECTION 212(a)(23) OF THE ACT.

The respondent was convicted in England for possession of "Cannabis Resin" as shown by his relating criminal record (Exhibit). His attorney contends that that conviction is not for possession of "marihuana" within the meaning of Section 212(a)(23). The legislative history clearly demonstrates his error in that regard.

Appendix A, taken from the U. S.Congressional and Administrative News, contains the relevant legislative history. Sections 212(a)(23) and 241(a)(11) of the Immigration & Nationality Act were amended in 1956 by the Narcotics Control Act of 1956 (see last complete paragraph, page 3134, of Appendix A).

As the legislative report makes clear (page 3135 of Appendix A), there were judicial holdings that possession of "marihuana" was not equivalent to possession of a "narcotic drug", and that hence, an alien convicted of possession of marihuana was not comprehended within the scope of Sections 212(a)(23) and 241(a)(11) (as amended by the Narcotics Control Act of 1956). The judicial interpretation did not concern the definition of "marihuana", which under the Narcotics Control Act of 1956, was defined as follows:

> "Marihuana. -- The term "marihuana" means all parts of the plant Cannabis Sativa L, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin ..." (Underlining added).

Congressional displeasure with the 1959 court decisions was expressed by the 1960 amendments which were designed to include "marihuana" in the Narcotics Control Act of 1956, with the same force and effect as if the term "marihuana" had been in there originally, and therefore, marihuana as used in the 1960 amendment to the Immigration & Nationality Act, has

precisely the meaning given to it in the Narcotics Control Act of 1956. This is seen from the following language of the legislative history, second full paragraph, page 3135 of Appendix A.

> "The amendments proposed herein are designed to overcome the effect of the above-outlined judicial decisions so that a person who has been convicted at any time of a violation of a law relating to the illicit possession of marihuana shall be subject to exclusion or deportation as if the violation was for possession of "narcotic drugs." Both amendments will bring the opening clause of the two pertinent provisions of the law in line with other clauses thereof which specify marihuana in the enumeration of the various types of drugs which bring the statute now into play in special circumstances. The instant proposal carries out, and is fully in line with the original intent of Congress expressed in several enactments clearly indicating that its concern with violations of laws relating to marihuana was as great as its concern with violations of laws relating to other narcotic drugs." (Underlining added)

It could not be more clear that when Congress enacted the 1960 amendments by inserting the word "marihuana" into Sections 212(a)(23) and 241(a)(11), Congress was explicitly providing the defining of marihuana in accordance with the 1956 Narcotics Control Act definitions.

Even without this precise legislative history, logic alone would bring us to the same result. Marihuana has become the universal term in the United States, for the plant known as Cannabis Sativa L. To say that, therefore, Congress intended to bar only possession of the plant Cannabis Sativa L (and not its parts or extracts) is to say that Congress intended only to bar possession of a plant which grows four to sixteen feet in height, and which, by itself, causes injury only by hitting someone with it. Since it is a cardinal statutory principle that we ascribe meaning to Acts of Congress, we must therefore assume that Congress intended a common-sense definition, and that is, that Congress intended to make possession illegal, whenever a person was possessed of any part of this very large plant which have a hallucinagenic effect. Various parts of the plant have different intensities of hallucinatory effects from given quantities, and the most

potent of all the parts of such a plant, is the resin (Cannabis Resin). Are we to take seriously Mr. Lennon's argument that Congress intended that there be no immigration consequence of possession of the most potent extract of this plant (the resin), whereas there would be immigration consequences for being found with a huge tree in his possession? Nobody derives hallucinatory effects from the tree, as a whole, but only from one or another of its parts.

Mr. Lennon's expert witness testified and his book (Exh.) indicates that the female of the marijuana species is more potent than the male. Resin is extracted from the female plant. The plant "marijuana"[1]; botanically known as Cannabis Sativa L. contains an hallucinagenic agent (male and female species). This agent is present in the plant in various intensity in its various parts. It is most potently contained in the resin extact. "Marijuana" became a contraband item and included within the interdict of 212(a)(23) because of this hallucinagenic agent. It hardly seems likely that Congress intended to penalize the illicit possessor of the less potent portion and condone the illicit possession of the more intensified content of this agent.[2]

POINT IIA

Respondent's British conviction makes him ineligible under section 212 (a)(23) whatever might be the requirement of intent under English law.

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(1) See also

State v. Toplin, Me. 247 A2d 919, 924
State v. Curry, 398 Ped 899, 902
97 Ariz. 191
U.S. v. Moore, C.A. Pa 446 F2d 468, 450
Davis v. State Miss., 219 So. 2d 678, 679
State v. Romero 397 Ped 26, 29, 74, M. 642
State v. Navarro, 26 Ped 955, 83 Utah 6

(2) Note: Attached hereto as App. B is an article by counsel in the New York Wall Street Journal which his reading of the law appears to agree with that urged by the Government, however unfortunate its consequences upon his client.

A substantial number of pages of respondent's brief deals with English decisions on the question of intent as a necessary ingredient of the crime of possession. This is a straw issue, wholly irrelevant to this immigration case.

Mr. Lennon pleaded guilty to the charge of possession. He was represented by counsel. Administrative notice can be taken that he was then at the height of his spectacular career, and that he could well have afforded to engage the best counsel available, to have asked for a trial, and to have appealed an adverse result to the highest levels. He chose instead to plead guilty, to accept the consequence of a judicial conviction, and cannot now be heard to ask the Special Inquiry Officer to disregard the judicial record.

Respondent's argument, which seeks a new trial of his English case before the Special Inquiry Officer, would open up every foreign conviction for retrial before the Special Inquiry Officer, on one or another issue. Without saying that a collateral attack could never be made on a foreign conviction (e.g., if a prima facie case were made of a racial or political "railroading", a confession obtained by torture, or some other circumstances which would shock the conscience of an American judge), the circumstances here are hardly of that kind. If there is something faulty with the conviction surely respondent should be required to ask the British court which rendered it, to vacate it. The writ of CORAM NOBIS originated, after all, in England. Indeed, we are informed that he has sought to make such an application, apparently without success thus far. In default of any action by the British courts to modify the conviction, we submit that it is binding in this proceeding.

(3)

Finally, we do not deal here with a statute requiring a finding of moral turpitude in addition to the fact of conviction, which allows, under immigration precedent decisions, an analysis whether the statute may be equally violated with or without moral turpitude. Moral turpitude might not inhere in a charge of possession of marijuana at all, yet possession is a criminal offense almost everywhere, and Congress has decreed that an alien [illegible] such a law cannot become a resident of the United

As respondent's counsel points out in his article in the Wall Street Journal, the remedy lies in changing the statute--and only Congress can do that.

POINT II B

(1) Yoko Ono Lennon. Application for Adjustment of Status should be denied as a matter of discretion.

The female respondent Yoko Ono has stated that she does not desire to remain in the United States as a resident unless her husband enjoyed the same status. Hence, a denial of the male Respondent's application should warrant a denial of Yoko Ono's application. Further, she testified her chief interest in becoming a resident (again) is to gain time to look for her absent child. Given this opportunity she would be content to depart and return to England - her home and the home of her husband. This might be a substantial reason for the District Director to extend any period of voluntary departure which the Special Inquiry Officer might grant her, but it hardly justifies, as a discretionary matter, assigning a permanent visa number to her. Residence status should be more than a convenient tool.

POINT III

Deportation proceedings were properly and justifiably instituted, and the Special Inquiry Officer's ruling to that effect was correct.

A. In Point I of his brief, respondent claims that the Service violated its own rules by instituting deportation proceedings. He quotes Operations Instruction 245.1, in support of his position. Assuming that an unqualified Operations Instruction has the effect of a Regulation, and binds the District Director, the Operations Instruction quoted by the respondent shows that it did not have any such effect in this case. The O.I. states that an "otherwise eligible alien" who has not heretofore filed an application "shall normally" be afforded an opportunity to file under Section 245 prior to the institution of deportation proceedings.

The District Director is thus granted latitude to institute a deportation proceeding whenever it doesn't appear that the alien is eligible under