

Once again the government comes in and decides to assume the costs for the stowaways who are described in the previous article. This item is reprinted with permission from The New York Times.

INS Shifts Its Policy on Stowaways

By Joseph F. Sullivan

The Immigration and Naturalization Service has decided to take custody of stowaways and parole them while their requests for asylum are being reviewed, agency officials said yesterday.

The new policy represents a significant shift for the Federal agency, which had been requiring the owners of planes and ships that inadvertently brought stowaways to the United States to pay the cost of their detention.

The policy was described by Duke Austin, a spokesman for the immigration service in Washington, as temporary while officials decide how to respond to a June ruling by a Federal appeals court, which struck down the system under which stowaways were the responsibility of the ship or airplane carriers.

The Court of Appeals for the Third Circuit in Philadelphia ruled that the old policy had not been properly adopted by the immigration service, lacked guidelines and made the shipping and airline companies liable for unlimited costs of detention.

Rethinking an Old Policy

Although the court decision only affected cases in New Jersey, Pennsylvania, Delaware and the Virgin Islands, its practical effect had been to force the immigration service to rethink the old policy, Mr. Austin said. The new interim system will be in effect until the immigration service decides what its long-term approach will be and then subjects its proposal to public hearings and formal approvals — a process that could take months.

Unlike illegal aliens who manage to enter the United States and are picked up after they have been in the country for a time, stowaways and other illegal aliens intercepted at ports of entry have been treated as if they never arrived, said Nicholas Rizza, national refugee coordinator for Amnesty International. Owners of ships and airplanes not only had to pay the cost of detaining the stowaways, but were also responsible for their care. The companies and their security contractors were not subjected to Federal supervision or required to adhere to international standards of treatment.

The stowaways were not granted the constitutional rights given an illegal alien picked up on the street, including the right to bail or to be released on their own recognizance, Mr. Rizza said.

In one recent case, through which the immigration service's policy came to national attention, more than

20 stowaways from Romania, who arrived in Boston by hiding in huge metal cargo containers loaded onto a freighter in France, were held for several weeks in April by a shipping company in hotels in Newark, shackled together by leg irons.

The new policy, which allows stowaways seeking asylum to be paroled, brings their treatment closer to that of other illegal aliens, Mr. Rizza said.

"The new policy represents a significant shift for the [INS] which had been requiring the owners of ships and planes... to pay the cost of detention [of stowaways]."

Mr. Austin, the immigration service's spokesman, said the agency lacks the capacity to monitor the stowaways once they are released, so they will essentially be at large while their requests for asylum are being adjudicated, under the new guidelines that were sent to all field offices last week. The new policy was disclosed yesterday by the Journal of Commerce.

"If the stowaways' asylum requests and subsequent appeals are turned down, we will have to round the people up and return them to the carriers for deportation back home," Mr. Austin said. "The carriers are still responsible for the costs from that point on."

Stowaways who do not request asylum will be immediately handed back to the shipping and airline companies for the trip home. The companies have long been held responsible for returning stowaways who are not granted asylum, under a Federal policy designed to assure that transportation companies were vigilant against stowaways.

The court decision in June came on an appeal by Dia, a Cyprus-based corporation that discovered it had brought four Romanian stowaways into United States waters in February 1992 aboard a freighter, the *European Senator*. After the ship arrived in Newark the stowaways requested asylum. Because Dia was responsible for the stowaways detention, it decided to keep them under 24-hour watch at a Holiday Inn on Staten Island.

Eventually, two of the stowaways were granted

asylum and two were deported and flown back to Romania at Dia's expense. The company said it spent \$127,590 on detention-related expenses over 54 days, and it sued the INS in Federal court in Newark.

After the condition of more than 20 shackled Romanian stowaways became known last spring, the company responsible for their detention, SeaLand Service, appealed to the immigration service, which ultimately arranged for them to be transferred to the Snyder County jail in Pennsylvania. This week, the immigration service took charge of them and other stowaways being detained by carriers, and arranged for their parole hearings. ■