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Violating Nazi Law No Bar to Entry Into U. S.

Cummings Rules Jew Who Tried to Smuggle Money Out Incurs No 'Turpitude'

From the Herald Tribune Bureau

WASHINGTON, Jan. 12.—A Jew convicted in Germany of making a false statement in an attempt to take his own money out of the country in violation of an "unjust" law is not guilty of "moral turpitude" in the United States, the State Department was advised today in a Department of Justice opinion signed by Homer S. Cummings just before his resignation as Attorney General became effective.

Taking cognizance of the "conditions other than normal" existing in Germany, Mr. Cummings advised the State Department that the United States immigration law's provisions barring aliens guilty of "moral turpitude" did not apply in the case of "one A. R., a German citizen, who desires to obtain an immigration visa for use in coming to this country to reside."

The question arose because "A. R." was convicted in Bavaria, under the German criminal code, of "knowingly making a false statement before an official" in an attempt to remove 30,000 reichsmarks from Germany while planning to leave the country with his dependent family. He was sentenced to one year and two months' imprisonment.

While ordinarily the individual's motive would not be open to consideration in deciding such an issue, Mr. Cummings said he viewed this visa applicant's violation of the German statute as a "political offense," and continued:

"There are in the United States no statutes comparable to the economic decrees of the Reich. It is well known, indeed, that the concepts of law presently existing in Germany are alien to those which prevail in this country.

"The State Department had occasion to observe during December, 1938, that the recent policy pursued in Germany shocked and confounded public opinion in the United States more profoundly than anything that had taken place in many decades, and that references here in public utterances to this state of public indignation represented the feeling of the overwhelming majority of the people of the United States.

"Under such conditions the terror and desperation extant among hundreds of thousands of Jews now living in Germany cannot be other than acute. It was apparently under such conditions and in connection with the enforcement of the decrees which brought them about that conviction was had of the crime here charged; I cannot bring myself to believe that in determining any moral or political attributes of that crime the courts of this country would close their eyes to those factors.

"I do not believe that the term 'moral turpitude,' as it is generally understood, can properly be ascribed to the conduct of this alien."