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nationality. The memorandum request read in part:

After reviewing this record the Department has decided that the Department cannot meet its burden of proof in Mr. B█████'s case, i.e., that the Department is not able to show by a preponderance of the evidence that Mr. B█████'s naturalization as an Israeli citizen was undertaken with the intent to relinquish United States citizenship. In fact, the evidence in the record . . . supports Mr. B█████'s contention that he lacked the necessary intent to relinquish.

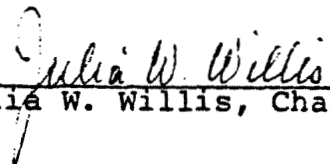
Accordingly, we request that this case be remanded to this office so that the Certificate of Loss of Nationality, approved in Mr. B█████'s name on July 26, 1979, can be vacated. . .

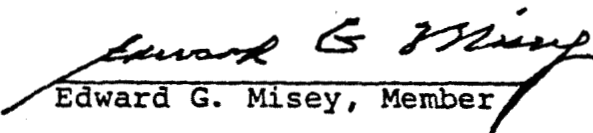
In view of the fact that Passport Services in its memorandum of May 5, 1980, asserted, without explanation, that the Department was unable to sustain the burden of proving Mr. B█████'s intent to relinquish his United States citizenship, the Board, on May 12, 1980, requested Passport Services to state with particularity the points of law and facts, which in the opinion of the Department, warrant a remand of the case. In compliance with the Board's request, Passport Services submitted a further memorandum on June 13, 1980, setting forth the Department's understanding of the facts and a discussion of the applicable law. It concluded again that the evidence of record failed to support a finding of an intent on the part of Mr. B█████ to relinquish his United States citizenship when he became an Israeli citizen and, accordingly, requested that the case be remanded for the purpose of vacating the certificate of loss of nationality.

We do not agree fully with the analysis and interpretation of the applicable law, set forth in the supplementary memorandum of Passport Services, concerning the question of intent to relinquish citizenship. Nonetheless, upon review of the entire record before the Board and in light of Afroyim v. Rusk, 387 U.S. 253 (1967), the Attorney General's Statement of Interpretation, 42 Op. Att'y. Gen. 397 (1969), and Vance v. Terrazas, 44 U.S. --- (No. 78-1143, January 15, 1980), we are unable to conclude that his expatriating act was accompanied by an intent to relinquish his United States citizenship. In such

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circumstances, we are agreeable to the request for remand to vacate the certificate of loss of nationality and hereby remand this case to Passport Services for further proceedings. ^{2/}


Julia W. Willis, Chairman


Edward G. Misey, Member


Warren E. Hewitt, Member

^{2/} Section 7.2, Title 22, Code of Federal Regulations, 22 CFR 7.2, 44 Fed. Reg. 68825 (1979), provides in part:

. . . The Board shall take any action it considers appropriate and necessary to the disposition of the cases appealed to it.