

STATEMENT OF RAY MARSHALL
SECRETARY OF LABOR
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

May 11, 1978

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear here today to express my strong support for the Alien Adjustment and Employment Act of 1977, which would implement the Administration's proposals for reform of the laws which apply to undocumented aliens. Accompanying me today is Charles Knapp, my Special Assistant.

Mr. Chairman, perhaps the most revealing test of any society is the manner in which it deals with those who lack the political or economic power to achieve their just aspirations. This Nation can be properly proud of the immense progress it has made to achieve equality of opportunity.

Much, of course, remains to be done. In the past year, the Administration and the Congress have devoted considerable energies to the needs of those who do not share equitably in our national life. Legislation has been enacted to curb our unacceptably high level of unemployment, and there are indications that this effort is achieving positive results. Programs have been created to deal with the special

problems faced by younger workers in obtaining meaningful jobs. A major overhaul of the welfare system has been proposed to better serve the needs of those who are among our most disadvantaged. Minimum wage levels have been raised to provide a better standard of living for our most disadvantaged workers. Reform of our labor laws has been proposed to guarantee more effectively the right of each worker to choose freely whether he or she wishes to be represented by a union.

The Administration's proposals to reform our immigration programs must be seen as a part of this continuing effort to bring those who are disadvantaged into the economic mainstream. The presence in this country of large and growing numbers of undocumented workers has led to widespread exploitation of these workers. It has also complicated our efforts to assure that all our citizens are afforded job opportunities which will provide them with an acceptable living standard. In dealing with these difficult problems, we must select a course of action which is realistic, effective and humane.

Before discussing these proposals, I would like to briefly explore with you some of the historical, economic, and social realities which lie at the heart of this issue.

The large influx of undocumented workers into the United States is a relatively recent phenomenon, occurring primarily within the last decade. Although there is no certain accounting of the number of people involved, we do know that the Immigration and Naturalization Service apprehends and repatriates approximately 1.2 million undocumented aliens per year. This figure is illustrative of the magnitude of the problem we are dealing with. We are certain there are millions of people living and working illegally in the United States today. There is no indication of a reversal in this trend, and it would be a serious mistake to believe that we are dealing with a temporary problem. The implications of this ongoing process are very significant from both short-range and long-range perspectives.

There is a vigorous market for, and in some instances active recruitment of, undocumented workers. They make desirable employees and normally have no difficulty in finding the work they seek.

Apart from his or her willingness to work, one of the reasons the undocumented alien is so desirable to some employers, is the fact that these individuals work both scared and hard. They are understandably afraid to complain when violations of their rights occur. They are reluctant to assert the rights extended by law to all workers. It should not

be surprising, therefore, that investigations often reveal that undocumented workers are not paid the minimum wages prescribed by the Fair Labor Standards Act, that many work under unsafe or hazardous conditions, or are the victims of illegal discrimination. Few have been able to organize or establish any collective bargaining relationships capable of pursuing guaranteed rights. These laws make no exception for the undocumented worker, but so long as these workers are, for practical purposes, afraid to assert their rights, acceptable enforcement cannot take place. The presence of this large and growing number of workers employed at substandard pay, working conditions, and frequently in violation of this Nation's labor laws has serious implications for the rest of the Nation.

We have all worked long and hard to ensure a guaranteed minimum wage, a safe and healthful work environment, to banish unacceptable forms of discrimination based upon race, religion, sex, age, and national origin from the workplace, and to extend meaningful organizational rights to all employees. However, in order for the laws which establish these guarantees and rights to function effectively, there must be respect for the law by all persons who are subject to its obligations. We simply cannot tolerate a situation in which certain individuals feel free to ignore these fundamental rights because their victims are afraid to complain to the authorities.

Of equal importance is the impact of the undocumented worker population on our efforts to reduce unemployment. The unemployment problem in the United States is not ascribable to a stagnant economy. Employment in the United States grew during 1977 by more than three million jobs and yet the unemployment rate continues at unacceptably high levels showing a decline of only 1.3 percent during that year. Although many factors contribute to the increase in the labor force, the influx of undocumented workers into our labor market is, I believe, an important element in this process.

Undocumented workers are employed most often in low-wage jobs. Some employers claim that they can get only undocumented workers to do these jobs. Accordingly, they argue that the influx of undocumented workers has little impact on our domestic unemployment problems. I believe these claims are, in many cases, a self-fulfilling prophecy which can and should be undone. There have been instances where employers have structured jobs that are so demeaning that only the frightened and desperately poor undocumented worker will take them.

The presence of large numbers of jobs of this sort in the labor market has a generally depressing effect on labor markets and on the low-wage labor markets in particular. Although it is not true that there is a one-to-one displacement of domestic workers by undocumented workers in jobs filled by the latter, it is certain that there are many such jobs which could be filled without resort to the undocumented workers and that the quality of many additional jobs in low-wage labor markets is affected by the availability of undocumented aliens. The continued availability of undocumented workers throughout low-wage job markets acts as a force which perpetuates the level of wages in these job markets, poor working conditions, and inefficiently structured employment. These circumstances adversely affect all low-wage workers alike, whether they are undocumented workers or not, and accordingly, depress labor markets.

Another major problem resulting from the influx of undocumented workers is the additional stress the process places on the social fabric of our Nation. It is possible to argue that the undocumented aliens who settle in this country will be satisfied with what is often a substandard existence because they use as a reference point the even less satisfactory conditions in their native country. But

it would take a strong theory of human nature to conceive that their children will have the same attitude. I believe that ignoring this problem may consequently result in another civil rights struggle in our Nation ten or fifteen years hence. This is a price the United States can ill-afford to pay.

It is this Administration's view that the problems which we address today are very much an integral part of efforts now being made to stimulate the economy, bring down unemployment, and promote social justice. In attempting to solve these difficult problems, keep clearly in mind the following realities:

- The flow of undocumented aliens into the United States is considerable and may be growing.
- There is no effective sanction against employers who hire undocumented workers and because of the factors already discussed, these workers are often much sought after in certain types of employment.
- Undocumented workers are frequently exploited by employers and as a practical matter, are often outside the protection of our labor laws.
- Some undocumented workers have been in the United States for many years and have built equity in our system.
- For all these reasons, the population of undocumented aliens forms a socio-economic underclass which affects the lives of all of us and over which there is very little control.

There are, of course, a number of deceptively simple responses which might be discussed. Some have called for mass roundups and deportations. Others suggest that the question be left to the States. Some employers want nothing done on the theory that undocumented workers fill a void that cannot otherwise be filled. It is our belief that none of these are acceptable or practical, and that uniform, decisive, and humane action at the Federal level is the only approach which can begin to remedy both the long- and short-range difficulties presented by the presence and continued influx of large numbers of undocumented workers in the United States.

Other Administration witnesses have discussed or will discuss in some detail the specific Administration proposals to deal with the problems of undocumented workers. These officials are in a better position to respond in depth to questions you might have about those portions of the program which would be within their areas of responsibility. I would, however, like to make a few observations about the way in which this program would impact upon the problems that I have been discussing.

1. More Effective Enforcement of Existing Laws

As I have indicated, many undocumented workers are now being denied the protections which our laws already provide. This is true because they are reluctant to complain about any mistreatment which they receive. Enforcement of these laws and other existing provisions designed to discourage hiring of undocumented workers will always be difficult. Nevertheless, I am convinced that substantial gains can be achieved through increased effort, and we have already begun to carry out our commitment in this regard.

We are significantly increasing the enforcement of existing labor laws, including, in particular, the wage and hour provisions of the Fair Labor Standards Act and the prohibitions of the Farm Labor Contractor Registration Act against supplying undocumented workers for agricultural labor. Under the Farm Labor Contractor Registration Act, farm labor contractors cannot knowingly utilize the services of undocumented workers. Violations of this Act may result in loss of registration, civil money penalties, and civil or criminal action in the courts.

The Congress has recently approved and we are now in the process of hiring 225 new Wage and Hour compliance officers to launch a concentrated nationwide investigative program targeted at employers in industries with a history

or high likelihood of hiring undocumented workers. These investigators would be assigned primarily to concentrate on areas where there are likely to be both violations of the Fair Labor Standards Act and heavy concentrations of undocumented workers. We will have carried out about 1000 investigations under this program by the end of Fiscal Year 1978. The program will be fully operational by Fiscal Year 1979, with 13,000 investigations to be carried out in that year and each year thereafter. We believe that this effort will help to remove the economic incentive for employers to exploit undocumented workers. When we conduct an investigation and find fair labor standards or other violations within our jurisdiction, we will proceed against the employer. Stepped up enforcement of other laws such as to Occupational Safety and Health Act will also be undertaken.

2. Employer Sanctions

These increased enforcement efforts alone will not be sufficient to substantially reduce the employment of undocumented workers. Adequate progress in curbing the large influx of these workers can only be made if we impose strong additional sanctions against the employer who recruits or hires the undocumented worker. In response, we propose that employers who engage in "a pattern or practice" of

hiring undocumented aliens be subject to civil penalties in a maximum amount of \$1,000 for each such individual hired. Those employers who repeatedly violate the law would be subject to injunctive action to stop future hirings, which would carry with it the potential of criminal contempt citations and imprisonment.

It is proposed to allow an employer to defend against a charge of hiring an undocumented alien if documentation of legal residence is presented prior to employment. The Attorney General would have the authority to prescribe what constitutes proper documentation by regulation. It is recognized that this facet of the package presents some difficult but not insolvable problems. It is relatively easy for undocumented aliens who have sufficient resources to obtain forged documents. We believe that this problem can be greatly alleviated if efforts are made to make the social security card more difficult to forge, and if issuance procedures are changed, to require a personal interview. The Department of Health, Education and Welfare will comment in its testimony on the steps being taken to tighten up the process for issuance of Social Security numbers. This Administration has no intention of making the social security card or any other document into a national identification card.

We are concerned that the employer sanctions components of this bill might lead to discrimination against legal residents of the United States who are seeking employment. We are particularly concerned about the effect this provision may have on Hispanic residents. We do, however, feel that the Administration's program provides adequate safeguards against this problem. To further ensure against any growth in civil rights violations on this account, President Carter has said that he will instruct Federal civil rights agencies to make greater efforts to guarantee that existing antidiscrimination laws are fully enforced.

As an adjunct to our effort to create disincentives to hire undocumented workers, we proposed that those individuals who receive compensation for and knowingly assist an undocumented worker to find or retain employment or who broker jobs for or assist alien smugglers would be subject to criminal penalties and imprisonment. These criminal provisions would not encompass organizations such as hiring halls or employment agencies which inadvertently refer undocumented workers for employment.

3. Adjustment of Status

Of the millions of undocumented workers living in the United States today, many have become productive and contributing members of the communities in which they live. These individuals have built equity in our system, have

established families and homes here, and are generally law abiding. Yet, these individuals under existing law are rapidly developing into a permanent underclass, outside the protection of our laws -- who live in fear of our laws -- which may in the future present serious problems for both our economy and our communities. Any effort to round up and deport these individuals would be both impractical and inhumane.

The Administration program includes provisions for the readjustment of the status of undocumented workers, depending on their period of residence in this country. The Attorney General has discussed the specifics of the proposals. I wish, however, to make the following observations.

I believe the approach taken by the Administration proposal is both realistic and fair to the undocumented worker. The updating of the registry date has historical precedent, having occurred in different forms three times since 1929, and its use is once again appropriate along the lines suggested.

In addition, the program will have the following important consequences. First, it will make it considerably easier to enforce applicable provisions of our labor laws with respect to these individuals. Once the fear of deportation has been removed, we can anticipate a greater willingness to report instances of violation.

Secondly, the program will greatly increase our ability to deal with the Nation's unemployment problems generally. As I have indicated, it is my view that the presence in this country of large numbers of undocumented workers is contributing in a major way to our unemployment situation. We lack the information necessary to assess its specific impact. If we are to develop effective strategies for dealing with unemployment, we simply must have the best available information about its causes. The adjustment of status program will permit us to learn about our present population of undocumented workers, where they are located, and how they affect the unemployment situation in particular localities.

4. Border Enforcement

The Administration program also includes other direct approaches for curtailing the supply of undocumented workers.

We are, I believe, justifiably proud of our "open" borders to both the North and South, and it would be a mistake to attempt to close these borders to prevent illegal entry. However, we recognize that improved border enforcement is necessary if our proposals are to be as effective as we would like.

While other Administration witnesses will testify on this aspect of the problem in more detail in general we propose to increase the number of border enforcement personnel and reassign others already employed to those areas where illegal entry is most prevalent. This effort will be combined with the creation of an anti-smuggling task force which will investigate and implement methods to reduce the effectiveness of smuggling operations. Additional criminal sanctions will be sought against those who knowingly attempt to use fraudulent information and documents to obtain legitimate entry documents.

We cannot hope to end all illegal entry by these means, but I believe that congressional approval of the increased resources requested by the President and the expedited deployment of these resources can and will significantly reduce the ease with which undocumented aliens enter the United States today.

5. Cooperation with Source Countries

As a long-term measure, continued and increased cooperation with source countries is essential to an overall effort to solve the problems posed by illegal immigration. In many instances, these countries suffer from similar types of difficulties -- insufficient jobs for an ever increasing population. We can and should assist these countries in their effort to create jobs and increase the production and consumption of goods. Deputy Secretary Christopher has addressed this in greater detail. I have met personally with Mexican officials and can vouch for their desire and willingness to seek both bilateral and multilateral solutions.

6. Immigration Policy

As a necessary complement to the plans I have discussed with you today, the President has directed me to work in conjunction with the Attorney General and the Secretary of State to review existing immigration laws and policies and recommend or implement changes where appropriate. Our existing policies are not now tied to the real needs of the various labor markets in this country. It is likely that there are or will be jobs available which cannot be filled by those who are legally in the United States, but alien labor cannot be recruited because of existing policies,

quotas, and similar restrictions. Our immigration policy should be developed in direct relationship to current and anticipated future labor needs. As an example of such a program the Department of Labor has, after a comprehensive review, just issued a new set of regulations governing the temporary importation of agricultural workers into the United States (The H-2 program). We feel that we have structured this program to respond to the legitimate needs of both employers and employees and are hopeful that this program can now function without the misunderstandings that have existed in the past. I stand ready to discuss our effort in this area to the extent you feel it would be helpful.

The proposals which I have presented here today are both modest and realistic. A great deal of effort has gone into our effort to understand the problems presented by the large undocumented alien population in the United States, and although I believe there is a great deal more to learn, the time has come to begin to act on the basis of the results obtained. We cannot expect to solve these problems overnight, and, in fact, a more precipitous solution would be inconsistent with the humanitarian and economic goals we seek to achieve.

I strongly support the proposals set forth on behalf of the Carter Administration, and I urge their early consideration and adoption by the Congress. I look forward to working closely with the Congress in this effort.

This concludes my prepared statement. I would be pleased to respond to any questions you may have.

May 16, 1978

TESTIMONY OF
SENATOR HARRISON SCHMITT
BEFORE THE
JUDICIARY COMMITTEE
ON S. 2252

MR. CHAIRMAN, I WELCOME THE OPPORTUNITY TO TESTIFY ON ONE OF THE MOST SERIOUS SOCIAL AND ECONOMIC PROBLEMS FACING OUR COUNTRY AT THE PRESENT TIME. NEW MEXICO IS AS CLOSE TO THIS PROBLEM AS ANY STATE. ECONOMICALLY AND CULTURALLY, WE HAVE A MAJOR STAKE IN WHAT IS DONE TO SOLVE THIS PROBLEM.

THERE HAVE BEEN NUMEROUS PROPOSALS DESIGNED TO PROVIDE SOLUTIONS TO THE TREMENDOUS INFLUX OF IMMIGRANTS WHO ENTER THE UNITED STATES UNLAWFULLY, BUT BECAUSE OF THE COMPLEXITY AND DELICATE NATURE OF THIS PROBLEM, ENACTMENT OF ANY MEANINGFUL LEGISLATION HAS BEEN THWARTED. ONE OF OUR BIGGEST DIFFICULTIES HAS BEEN THE LACK OF ACCURATE DATA ON THE SCOPE AND NATURE OF THE PROBLEM. THIS IS CHANGING, FORTUNATELY.

IT IS A WIDELY KNOWN FACT, SUPPORTED BY ALL RECENT STUDIES ON ILLEGAL IMMIGRATION, THAT PEOPLE ARE COMING TO THE UNITED STATES FOR ECONOMIC REASONS. THE GAP BETWEEN THE STANDARDS OF LIVING OF THE DEVELOPING COUNTRIES AND THE UNITED STATES CREATES A SITUATION THAT ATTRACTS PEOPLE FROM IMPOVERISHED NATIONS TO AMERICA TO SEEK OPPORTUNITIES WHICH WILL ENABLE THEM TO HAVE A BETTER STANDARD OF LIVING.

IN THIS REGARD, WE HAVE A VERY UNIQUE SITUATION WITH OUR CLOSEST NEIGHBOR TO THE SOUTH. IN NO OTHER PART OF THE WORLD DOES A DEVELOPING COUNTRY, WITH SEVERE ECONOMIC PROBLEMS, BORDER SUCH A TECHNOLOGICALLY AND ECONOMICALLY ADVANCED COUNTRY. THIS IS THE KEY FACTOR INVOLVED IN THE LARGE INFLUX OF ILLEGAL MEXICAN MIGRATION. THEREFORE, THE ONLY

TRULY EFFECTIVE, LONG-TERM SOLUTION TO THIS PROBLEM CAN ONLY BE ACHIEVED THROUGH CONCERTED, BILATERAL AND INTERNATIONAL EFFORTS THAT WILL CREATE STABLE EMPLOYMENT OPPORTUNITIES IN MEXICO.

THE SOUTHWESTERN UNITED STATES, ESPECIALLY THE U.S.-MEXICAN BORDER STATES, ARE AFFECTED IN A SPECIAL WAY BY ILLEGAL MEXICAN MIGRATION. THEREFORE I OBJECT TO MANY PROVISIONS IN S. 2252 BECAUSE OF THE DRASTIC IMPACT THIS LEGISLATION WILL HAVE ON THE NATION AND ITS PEOPLE--PARTICULARLY IN THE SOUTHWESTERN BORDER STATES.

ALTHOUGH I SUPPORT THE HUMANITARIAN PROVISIONS CONTAINED IN S. 2252, I FEEL THAT THE ADMINISTRATION'S PROPOSAL IS GENERALLY SHORT-SIGHTED, BASED ON LIMITED FACTUAL DATA REGARDING THE NATURE OF THIS PROBLEM, AND ONLY SUGGESTS SNAKE-OIL TREATMENTS, NOT SOLUTIONS TO THE PROBLEM.

S. 2252 ADDRESSES THE ISSUE OF UNDOCUMENTED ALIENS AS A WHOLE, BUT PROVISIONS OF THIS BILL ARE AIMED PRIMARILY AT THE MEXICAN IMMIGRANTS. BEFORE I PROCEED, I FEEL THAT IT IS NECESSARY TO DISTINGUISH BETWEEN IMMIGRANTS FROM MEXICO AND THOSE IMMIGRANTS WHO COME FROM OTHER PARTS OF THE WORLD. THIS DISTINCTION IS VITAL BECAUSE OF THE UNIQUE GEOGRAPHICAL RELATIONSHIP BETWEEN THE UNITED STATES AND MEXICO AND BECAUSE OF THE SUBSTANTIAL DIFFERENCES IN NUMBERS AND CHARACTERISTICS OF IMMIGRANTS FROM MEXICO.

THE MOST WIDELY ACCEPTED ESTIMATE OF UNDOCUMENTED WORKERS (PROVIDED TO THE IMMIGRATION AND NATURALIZATION SERVICE BY LESKO AND ASSOCIATES) IS 8.2 MILLION ILLEGALS (1975) OF WHOM 5.2 MILLION ARE FROM MEXICO. IN FY'74, 90 PERCENT OF THE NUMBER OF APPREHENDED ILLEGALS WERE FROM MEXICO (SEE TABLE I). MANY RECENT STUDIES CORROBORATE THE FACT THAT AT LEAST 70 PERCENT OF THE MEXICAN NATIONALS COME TO THE UNITED STATES FOR SHORT PERIODS OF TIME AND THEN RETURN TO MEXICO WITHOUT INTENTION OF PERMANENTLY

RESIDING IN THE UNITED STATES. THE MAJORITY OF MEXICAN NATIONALS WHO COME TO THE U.S. ARE YOUNG (AVERAGE AGE 22-29), PROUD, HARD-WORKING INDIVIDUALS WHO COME TO THIS COUNTRY TO TEMPORARILY INCREASE THEIR INCOME BECAUSE OF A TEMPORARY PERSONAL ECONOMIC CRISIS. THESE PEOPLE ARE LIVING IN A MARGINAL ECONOMIC SITUATION AND DURING TIMES OF HARDSHIP, THEY ARE FORCED TO COME TO THE U.S. TO TEMPORARILY INCREASE THEIR INCOME. BECAUSE OF THE NATURE OF THESE UNDOCUMENTED WORKERS, THEY OFTEN ENCOUNTER WAGE EXPLOITATION BY U.S. EMPLOYERS AND, CONTRARY TO POPULAR BELIEF, ARE ALSO BEING EXPLOITED BY "THE SYSTEM". I WOULD LIKE TO QUOTE FROM WHAT I BELIEVE TO BE ONE OF THE MOST COMPREHENSIVE ONGOING STUDIES ON ILLEGAL ALIENS. THIS STUDY IS CURRENTLY BEING CONDUCTED BY DR. WAYNE CORNELIUS OF THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY.¹

"THERE IS UNIFORM AGREEMENT AMONG RESEARCHERS THAT MEXICAN ILLEGALS MAKE AMAZINGLY LITTLE USE OF SOCIAL WELFARE SERVICES WHILE PRESENT IN THE U.S., AND THAT THE COST OF THE SERVICES THEY DO USE IS FAR OUTWEIGHED BY THEIR CONTRIBUTIONS TO SOCIAL SECURITY AND TAX REVENUES. ILLEGAL ALIENS MUST, OF COURSE, PAY STATE AND LOCAL SALES TAXES. MOREOVER, AT LEAST TWO-THIRDS OF THEM ALSO HAVE SOCIAL SECURITY AND FEDERAL INCOME TAXES DEDUCTED FROM THEIR WAGES, AS WELL AS PAYROLL TAXES FOR UNEMPLOYMENT AND DISABILITY INSURANCE (NORTH, 1976; VILLAPANDO, 1977; CORNELIUS, 1977). AT THE SAME TIME, ONLY ABOUT 4% HAVE EVER RECEIVED WELFARE BENEFITS...

¹DR. CORNELIUS' PROJECT IS BEING FUNDED BY THE NATIONAL INSTITUTE OF HEALTH AND HAS BEEN UNDERWAY SINCE 1975. DURING THE PAST THREE YEARS, DR. CORNELIUS HAS BEEN INVOLVED IN EXTENSIVE INTERVIEWS WITH UNDOCUMENTED ALIENS BOTH HERE IN THE UNITED STATES AND IN THEIR HOME COMMUNITIES. DR. CORNELIUS HAS ALSO CONSULTED SEVERAL MEMBERS OF THE MEXICAN ADMINISTRATION AND WAS HIGHLY RECOMMENDED TO ME BY AMBASSADOR HUGO MARGAIN DURING A RECENT MEETING WITH HIM.

THE SOCIAL SERVICES CONSUMED BY ILLEGAL ALIENS COST APPROXIMATELY \$2 MILLION PER YEAR; HOWEVER, THE VILLAPANDO STUDY ALSO CALCULATES THAT ILLEGAL ALIENS CONTRIBUTE ABOUT \$48.8 MILLION IN TAXES ON WAGES EARNED LOCALLY EACH YEAR."

FURTHERMORE, MR. CHAIRMAN, I WOULD LIKE TO QUOTE FROM THE SEPTEMBER 7, 1977 ISSUE OF THE WALL STREET JOURNAL, "WHAT ABOUT THE STATE AND FEDERAL TAXES WITHHELD FROM PAYCHECKS OF ILLEGALS WORKING HERE, TAXES THAT PAY FOR BENEFITS MOST NEVER RECEIVE? WHAT ABOUT THEIR PRODUCTIVITY AND ITS IMPACT ON KEEPING PRICES DOWN AND BUSINESSES HEALTHY? IS THE ALIEN A HUGE FINANCIAL DRAIN OR DOES HE ACTUALLY PAY HIS OWN WAY? 'NO ONE KNOWS,' CONCEDES LEONEL CASTILLO, THE NEW CHIEF OF THE INS."

MR. CHAIRMAN, I FEEL THAT THESE REPORTS MUST BE TAKEN INTO ACCOUNT DURING CONSIDERATION OF PROPOSALS ON ILLEGAL ALIENS--THE ADMINISTRATION'S PROPOSAL DOES NOT DO SO. EVEN IF THESE REPORTS ARE DISPUTED, THE FACT REMAINS THAT THERE IS INCONCLUSIVE EVIDENCE ON THE NATURE OF UNDOCUMENTED ALIENS OR THEIR IMPACT ON OUR SOCIETY. THEREFORE, I FEEL THAT WE WOULD BE ACTING IN A MANNER CONTRARY TO THE BASIC PRINCIPLES OF THIS LEGISLATIVE BODY, SHOULD WE ENACT THE LEGISLATION PROPOSED BY THE CURRENT ADMINISTRATION WHICH IS BASED ON INSUFFICIENT AND INCONCLUSIVE DATA.

IN A PRESS BRIEFING SHORTLY AFTER ANNOUNCEMENT OF THE PRESIDENT'S PROPOSAL LAST AUGUST, THE ATTORNEY GENERAL ADMITTED THAT "WE CAN'T KNOW HOW MANY PEOPLE WE ARE DEALING WITH, DON'T KNOW THE COSTS, DON'T KNOW THE IMPACT OF FUNDS ON THE COUNTRY OR ANYTHING ELSE. IT IS JUST SOMETHING THAT HAS NEVER BEEN ASSESSED."

IT APPEARS TO ME, MR. CHAIRMAN, THAT THE PRESIDENT'S PROPOSAL IS A GOOD EXAMPLE OF PUTTING THE CART BEFORE THE HORSE.

I WOULD LIKE TO COMMENT BRIEFLY ON THE PROVISIONS CONTAINED IN THE PRESIDENT'S BILL. IN SUMMARY, THE PRESIDENT'S PROPOSAL WOULD: (1) PROVIDE FOR AN ADJUSTMENT OF STATUS OF UNDOCUMENTED ALIENS WHO HAVE RESIDED IN THE U. S. CONTINUOUSLY FROM BEFORE JANUARY 1, 1970, AND CREATE A NEW IMMIGRATION CATEGORY OF RESIDENT ALIENS FOR UNDOCUMENTED ALIENS WHO HAVE RESIDED IN THE U. S. CONTINUOUSLY PRIOR TO JANUARY 1, 1977; (2) MAKE IT UNLAWFUL TO HIRE UNDOCUMENTED ALIENS BY ENFORCING CIVIL PENALTIES AGAINST EMPLOYERS WHO ENGAGE IN A "PATTERN OR PRACTICE" OF SUCH HIRING; (3) SIGNIFICANTLY INCREASE RESOURCES AVAILABLE TO CONTROL THE SOUTHWESTERN BORDER; AND (4) PROMOTE CONTINUED COOPERATION WITH THE GOVERNMENTS OF UNDOCUMENTED ALIENS.

I AGREE WITH THE ADMINISTRATION THAT ENFORCEMENT OF OUR PRESENT IMMIGRATION LAWS THROUGH MASSIVE DEPORTATIONS SUCH AS WE HAD DURING THE "REPATRIATION" CAMPAIGN OF 1929-1930 AND DURING "OPERATION WETBACK" IN 1953 ARE INHUMAN AND IMPOSSIBLE TO ACCOMPLISH. HOWEVER, PROVIDING AN ADJUSTMENT OF STATUS IS NOT A VIABLE ALTERNATIVE.

THE ADJUSTMENT OF STATUS PROVISION IN THE ADMINISTRATION'S PROPOSAL ONLY TREATS A SYMPTOM OF THE DISEASE. THE COST OF THE ADJUSTMENT OF STATUS PROVISION, ALONE, IMPOSES A GREAT TAX BURDEN ON U.S. TAXPAYERS AND DOES NOTHING TO ADDRESS THE ROOT OF THE PROBLEM. ACCORDING TO THE CONGRESSIONAL RESEARCH SERVICE, THE ESTIMATED COST FOR ADMINISTERING THIS PROVISION IS ESTIMATED AT \$49.5 MILLION FOR THE FIRST TWO YEARS. THIS IS A COSTLY MEASURE WHICH DOES NOTHING TO SOLVE THE REAL PROBLEM OF ILLEGAL IMMIGRATION. ALTHOUGH SPECIAL CONSIDERATION SHOULD BE GIVEN TO THOSE PERSONS WHO HAVE ACQUIRED CONSIDERABLE EQUITY IN THE UNITED STATES, THE ARBITRARY CUT-OFF DATE OF JANUARY 1, 1970, FOR PERMANENT RESIDENT STATUS APPLICATIONS IS IMMENSELY UNFAIR TO THOSE IMMIGRANTS WHO HAVE WAITED PATIENTLY TO ENTER THE UNITED STATES LEGALLY. IT IS ALSO UNFAIR TO THOSE ALIENS WHO ARE ONLY ELIGIBLE

FOR TEMPORARY RESIDENT STATUS. IN ADDITION, THE AMNESTY PROVISION CONDONES BREAKING THE IMMIGRATION LAWS OF THE UNITED STATES AS WELL AS THE IMMIGRATION LAWS OF SOURCE COUNTRIES AND SETS A COSTLY PRECEDENT WHICH MAY HAVE TO BE PURSUED EVERY FIVE YEARS.

THE ADMINISTRATION'S PROPOSAL WOULD MAKE IT UNLAWFUL TO HIRE UNDOCUMENTED ALIENS AND PROVIDE CIVIL PENALTIES AGAINST EMPLOYERS WHO ARE ENGAGED IN A PATTERN OR PRACTICE OF HIRING THE UNDOCUMENTED WORKER. I VERY STRONGLY OBJECT TO THIS PROVISION BECAUSE IT WILL LEAD TO EMPLOYMENT DISCRIMINATION AGAINST AMERICANS WHOM SOME EMPLOYERS MAY SUSPECT TO BE AN UNDOCUMENTED WORKER. IN THE SOUTHWEST, THIS WOULD MEAN ANYONE WHO HAS A SPANISH SURNAME OR APPEARS TO BE OF SPANISH DESCENT MIGHT BE DENIED A JOB TO AVOID THE RISK OF POSSIBLE PENALTIES. SINCE THIS PROVISION DOES NOT, AND COULD NOT, REQUIRE THE EMPLOYER TO REQUEST IDENTIFICATION FROM ALL PROSPECTIVE EMPLOYEES, THE EMPLOYER MAY REQUEST IDENTIFICATION FROM ONLY THOSE PERSONS WHOM, BECAUSE OF PERSONAL CHARACTERISTICS, MAY BE SUSPECT OF BEING AN UNDOCUMENTED WORKER. THE COSTS OF THIS PROVISION TO OUR SPANISH-SPEAKING CITIZENS FAR OUTWEIGH ANY POSSIBLE BENEFITS THAT MAY BE OBTAINED.

I DO NOT FEEL THAT EMPHASIS SHOULD BE PLACED ON EMPLOYER PENALTIES, BUT ON CRIMINAL PENALTIES FOR PROFESSIONAL SMUGGLERS. THE FEES CHARGED BY THESE SMUGGLERS HAVE RANGED FROM ABOUT \$150-\$400 PER WORKER, AND THE ABUSES TO THE UNDOCUMENTED WORKER ARE NUMEROUS AND WILL INCREASE AS ENFORCEMENT OF LAWS INCREASES. ALTHOUGH THE PRESIDENT PLANS TO ESTABLISH AN ANTI-SMUGGLING TASK-FORCE, WE CANNOT POSSIBLY ELIMINATE THESE SMUGGLING RINGS WITHOUT JOINT EFFORTS BETWEEN THE UNITED STATES AND MEXICO SINCE THE MAJORITY OF THESE SMUGGLING RINGS ARE BASED IN MEXICO.

INCREASED BORDER PATROLS MAY HELP IF THESE MEASURES ARE TAKEN IN

CONJUNCTION WITH OTHER MEASURES--POLICE ACTIONS ONLY TREAT THE SYMPTOMS OF THE REAL PROBLEM. FURTHERMORE, INCREASED BORDER ENFORCEMENT WILL BE FUTILE WITHOUT COOPERATION WITH MEXICO AND JOINT U.S.-MEXICAN EFFORTS TOWARD MORE ADVANCED BORDER PATROL MECHANISMS. COMPLETE INSULATION OF OUR 1,945 MILE BORDER IS IMPOSSIBLE DUE TO THE LENGTH, TERRAIN AND COST.

THE PRESIDENT'S PROGRAM INCLUDES A PROVISION TO THOROUGHLY REVIEW THE PRESENT TEMPORARY FOREIGN WORKER CERTIFICATION PROGRAM TO GUARANTEE THAT EMPLOYERS ALWAYS HAVE AVAILABLE LABOR SUPPLY. ALTHOUGH THIS AREA DESERVES CAREFUL CONSIDERATION, THE RULES AND REGULATIONS PUBLISHED BY THE DEPARTMENT OF LABOR ON MARCH 10, 1978, DO NOT ADDRESS THE LONG-STANDING CRITICISMS OF THIS PROGRAM--THAT IT IS CUMBERSOME AND TIME-CONSUMING AND, THEREFORE, UNWORKABLE. IN ADDITION, THESE NEW REGULATIONS DO LITTLE TO ADDRESS THE SORT OF PROBLEM ENCOUNTERED BY FARMERS IN PRESIDIO, TEXAS LAST YEAR WHEN AN ENTIRE ONION CROP WOULD HAVE ROTTED IN THE GROUND IF TEMPORARY FOREIGN WORKERS WERE NOT ALLOWED TO HARVEST THE CROP.

I DO FEEL THAT A TEMPORARY MEXICAN LABOR PROGRAM DESERVES CAREFUL STUDY AS A SHORT-TERM ALTERNATIVE TO THE PRESIDENT'S AMNESTY PROPOSAL.

AS A FACT-FINDING DEVICE TO DETERMINE HOW NEW MEXICANS FEEL ABOUT THE POSSIBILITY OF PROVIDING A LEGAL MEANS BY WHICH MEXICAN IMMIGRANTS MAY COME TO WORK TEMPORARILY IN CERTAIN AREAS WHERE THERE IS A SHORTAGE OF AMERICAN WORKERS, I DISTRIBUTED A QUESTIONNAIRE TO A CROSS-SECTION OF MY CONSTITUENTS REGARDING A MODIFIED FOREIGN WORKER PROGRAM.

PRELIMINARY RESULTS OF THESE QUESTIONNAIRES INDICATE THAT 65 ████████ OF THE 90 RESPONDENTS, TO DATE, ARE IN FAVOR OF SUCH A PROGRAM. THE MAJORITY OF RESPONDENTS STRESS THE FACT THAT FOREIGN WORKERS ARE ESSENTIAL TO MANY

BUSINESSES AND INDUSTRIES IN THE SOUTHWEST BECAUSE MOST AMERICANS ARE UNWILLING TO DO THE LOW-SKILL JOBS THAT ARE REQUIRED IN MANY BUSINESSES REGARDLESS OF PAY OR OTHER INCENTIVES OFFERED. THIS IS PARTICULARLY TRUE IN MANY SMALL BUSINESSES AND INDUSTRIES WHICH ARE FINANCIALLY UNABLE TO USE ADVANCED AUTOMATION. IN ADDITION, RESPONDENTS STATE THAT SINCE MANY OF THE LOW-SKILL JOBS ARE TEMPORARY IN NATURE, AMERICAN CITIZENS FIND IT MORE PROFITABLE AND SECURE TO COLLECT UNEMPLOYMENT OR PUBLIC ASSISTANCE.

OTHER ARGUMENTS IN FAVOR OF CONSIDERATION OF A FOREIGN WORKER PROGRAM INCLUDE:

- THIS TYPE OF PROGRAM WOULD REDUCE THE PHYSICAL DANGERS OF UN-ASSISTED BORDER CROSSINGS, AS WELL AS EXPLOITATION BY COMMERCIAL SMUGGLERS AND OTHERS WHO PROFIT BY THE EXISTING SITUATION.
- A MEXICAN LABOR PROGRAM WOULD BENEFIT U.S. WORKERS AS WELL AS ALIENS SINCE THE USE OF LEGAL ALIEN LABOR HAS LESS DEPRESSING EFFECTS ON WAGE SCALES AND WORKING CONDITIONS THAN THE CURRENT UNDOCUMENTED ALIEN LABOR.
- A STRUCTURED FOREIGN LABOR PROGRAM WOULD REDUCE THE RISK OF ECONOMIC EXPLOITATION AND OTHER ABUSIVE PRACTICES BY U.S. EMPLOYERS (E.G. REPORTING UNDOCUMENTED ALIEN EMPLOYEES TO THE INS TO AVOID PAYING THEM AT THE END OF THE JOB.)
- MOST OF THE ILLEGAL ALIENS FROM MEXICO COME TO THE UNITED STATES FOR A TEMPORARY BASIS ANYWAY. THE OVERWHELMING MAJORITY OF ILLEGALS COME TO THE U.S. DURING A TEMPORARY ACUTE ECONOMIC CRISES (I.E., ILLNESS; CROP FAILAURE, MARRIAGE, DEATH) AND RETURN TO MEXICO WITH EARNINGS WHICH WILL HELP THEM SURVIVE THEIR TEMPORARY HARDSHIP. THE AVERAGE PERIOD OF TIME THE MEXICAN NATIONALS REMAIN IN THE U.S. IS APPROXIMATELY 5 AND 1/2 MONTHS.

AGAIN, I WANT TO STRESS THE FACT THAT A MODIFIED WORKER PROGRAM SHOULD ONLY BE CONSIDERED IN CONJUNCTION WITH OTHER LONG-TERM SOLUTIONS TO THE PROBLEMS THROUGH COOPERATION BETWEEN THE UNITED STATES AND MEXICO. IN ADDITION, ANY FOREIGN WORKER PROGRAM WOULD HAVE TO BE DIFFERENT FROM

THE OLD "BRACERO" PROGRAM AND THE PRESENT "H-2" PROGRAM, BECAUSE OF THE INADEQUACIES OF BOTH PROGRAMS. IN ADDITION, NEITHER ONE OF THESE PROGRAMS WERE DESIGNED TO PROVIDE SHORT-TERM SOLUTIONS TO THE PROBLEM WE ARE NOW FACING.

THE FINAL PROVISION OF THE PRESIDENT'S PROPOSAL IS THE ONE WHICH I FEEL PROVIDES THE ONLY WORKABLE SOLUTION TO THE ILLEGAL ALIEN PROBLEM. THE ADMINISTRATION PROPOSES TO PROMOTE CONTINUED COOPERATION WITH THE GOVERNMENTS WHICH ARE MAJOR SOURCES OF UNDOCUMENTED ALIENS. THIS TYPE OF COOPERATION IS THE ONLY REAL LONG-TERM SOLUTION TO THE PROBLEM. HOWEVER, MORE THAN RHETORIC IS REQUIRED.

AN EXCESS OF POPULATION--RELATIVE TO THE AMOUNT OF PRODUCTIVE LAND AND THE NUMBER OF NON-AGRICUTURAL EMPLOYMENT OPPORTUNITIES--IS ONE OF THE MOST BASIC FACTORS PROMOTING MIGRATION TO THE UNITED STATES. BIRTH CONTROL INFORMATION AND SERVICES REMAIN CONSPICUOUSLY UNAVAILABLE IN MOST RURAL COMMUNITIES, SINCE THE MEXICAN GOVERNMENT'S FAMILY PLANNING PROGRAM HAS BEEN HEAVILY CONCENTRATED IN URBAN CENTERS. I THOROUGHLY AGREE WITH DR. CORNELIUS' ASSESSMENT AND RECOMMENDATIONS FOR LONG-TERM SOLUTIONS TO THIS PROBLEM BY SUGGESTING THAT "THE UNITED STATES SHOULD USE ITS LEVERAGE IN INTERNATIONAL FINANCIAL INSTITUTIONS (PARTICULARLY THE WORLD BANK, AND THE INTER-AMERICAN BANK) TO ENCOURAGE A MUCH GREATER EFFORT BY THE MEXICAN GOVERNMENT IN THE AREA OF RURAL INDUSTRIALIZATION..."

THE EMPHASIS OF THE ADMINISTRATION'S PROPOSAL IS ON PROVIDING PARTIAL SOLUTIONS TO THE "PULL" FACTORS ASSOCIATED WITH ILLEGAL IMMIGRATION, (I.E., EMPLOYMENT OPPORTUNITIES IN THE UNITED STATES) BUT DOES LITTLE MORE THAN VERBALIZE ANY LONG-TERM SOLUTIONS DESIGNED TO SOLVE THE "PUSH" FACTORS INVOLVED.

IT IS MY BELIEF THAT, UNLESS THE UNITED STATES TAKES AFFIRMATIVE STEPS IN COOPERATION WITH MEXICO NOW, WE ARE GOING TO HAVE AN UNCONTROLLABLE SITUATION IN TWENTY YEARS.

MEXICO'S CURRENT ECONOMIC WOES ARE COUPLED WITH ITS EVER INCREASING POPULATION, NOW ABOUT 63 MILLION (THE WORLD'S 10TH LARGEST NATION). THIS POPULATION IS EXPECTED TO DOUBLE IN LESS THAN 25 YEARS. IN ADDITION, ALMOST HALF OF MEXICO'S POPULATION IS UNDER 15 YEARS OF AGE AND WILL SOON FLOOD THE LABOR MARKET.

MOST OBSERVERS AGREE THAT UNLESS MEXICO RENEWS ECONOMIC GROWTH AND TAKES CARE OF ITS POPULATION EXPLOSION, A VERY CHAOTIC SITUATION WILL ARISE IN OUR LIFETIME.

I WOULD LIKE TO QUOTE FROM ANOTHER ARTICLE IN THE WALL STREET JOURNAL WHICH APPEARED ON AUGUST 8TH, 1977:

" MEXICO'S MAJOR HOPE OF WEATHERING THIS ECONOMIC CRISIS IS ITS HUGE RESERVES OF PETROLEUM, NATURAL GAS AND OTHER RESOURCES. PETROLEUM EXPORTS ARE EXPECTED TO REACH \$1.2 BILLION, UP FROM \$460 MILLION TWO YEARS AGO...

MANY BELIEVE THE KEY TO THE TURNAROUND IN THE MEXICAN ECONOMY IS HELD BY THE U.S.--ITS GOVERNMENT, ITS INVESTORS AND ITS TOURISTS. MEXICAN OFFICIALS DREAD THE IMPOSITION OF ANY FURTHER TRADE RESTRICTIONS (SUCH AS THOSE ON TEXTILES), AND THEY FEAR THAT ANY SERIOUS CRACKDOWN ON ILLEGAL IMMIGRANTS WOULD HAVE DISASTROUS CONSEQUENCES IN MEXICO. THEY WOULD ALSO LIKE WASHINGTON TO USE ITS INFLUENCE WITH LENDING AGENCIES SUCH AS THE WORLD BANK, THE IMF, AND WITH U.S. COMPANIES THAT COULD PROVIDE BADLY NEEDED TECHNOLOGY TO MEXICAN INDUSTRY. AND, OF COURSE, THEY WANT U.S. TOURISTS TO VIST THEIR COUNTRY."

MR. CHAIRMAN, AS A MEMBER OF THE SENATE SUBCOMMITTEE ON INTERNATIONAL FINANCE OF THE BANKING, HOUSING AND URBAN AFFAIRS COMMITTEE, I WILL ACTIVELY

PURSUE MEANS BY WHICH THE UNITED STATES CAN, CONCRETELY, RENEW ITS COMMITMENT TO PROVIDING TECHNICAL AND FINANCIAL ASSISTANCE TO MEXICO.

IN ADDITION, WE MUST CONTINUE TO SEEK FINANCIAL ASSISTANCE PROGRAMS BUT MUST DEVELOP A NEW APPROACH IN THE USE OF THIS ASSISTANCE. THE WORLD RESPECTS OUR EDUCATIONAL, TECHNOLOGICAL AND ECONOMIC ACHIEVEMENTS. WE MUST DEVELOP A METHOD OF SHARING THOSE ACHIEVEMENTS. IN OTHER WORDS, TO BE SUCCESSFUL IN ASSISTING THE ECONOMIC DEVELOPMENT OF MEXICO, A PROGRAM OF SHARING OUR KNOW-HOW COMBINED WITH FINANCIAL ASSISTANCE TO SUPPORT THE PROJECTS IS NEEDED. WE MUST SEEK PROGRAMS WHICH INVOLVE VARIOUS DEPARTMENTS AND AGENCIES OF OUR GOVERNMENT AND INTERNATIONAL FINANCIAL INSTITUTIONS. THE INVOLVEMENT OF OUR SOCIETY, ESPECIALLY THE BUSINESS COMMUNITY, WILL BE NEEDED.

THE SOLUTION TO THE LONG-TERM PROBLEM IS THE DEVELOPMENT OF MEXICO AND THE OTHER NATIONS OF LATIN AMERICA. THE UNITED STATES HAS A HISTORIC COMMITMENT TO THESE NATIONS. NOW IS THE TIME TO BEGIN A MAJOR EFFORT OF ASSISTING AND FINANCING THEIR ECONOMIC DEVELOPMENT. THE DIVIDENDS FOR THE UNITED STATES WILL BE GREAT. A RENEWED ERA OF GOODWILL AND SOLUTIONS TO SOME OF OUR OWN PROBLEMS WILL BE JUST SOME OF THESE DIVIDENDS.

TABLE-I

Distribution of Region of Origin of Apprehended Illegal Aliens, for Selected Years, FY 1968-FY 1974

REGION OF ORIGIN	FY 1968		FY 1970		FY 1972		FY 1974	
	No. of Apprehended Illegals	Percent of Total No.	No. of Apprehended Illegals	Percent of Total No.	No. of Apprehended Illegals	Percent of Total No.	No. of Apprehended Illegals	Percent of Total No.
<u>Western Hemisphere</u>								
Mexico	151,705	71.5	277,377	80.3	430,213	85.0	709,959	90.0
Canada	11,056	5.2	11,323	3.3	11,012	2.2	9,262	1.2
Other West. Hemi.	16,186	7.6	23,320	6.8	28,119	5.6	34,948	4.5
Total	178,947	84.3	312,020	90.4	469,344	92.8	754,269	95.7
<u>Eastern Hemisphere</u>								
Europe	15,520	7.3	16,111	4.7	15,462	3.1	15,031	1.9
Asia	15,488	7.3	14,613	4.2	18,733	3.7	14,633	1.9
Other Nations	2,102	1.0	2,609	0.8	2,370	0.5	4,212	0.5
Total	33,109	15.6	33,333	9.7	36,605	7.3	33,876	4.3
TOTAL ¹	212,057	99.9	345,353	100.1	505,949	100.1	788,145	100.0

Source: INS Annual Report, Table 27B, for the years cited.

¹Percentages may not add to 100 due to roundoff.

SOURCE: North/Houstoun study (March 1976), Table III-1, p. 47.



Statement of the
CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA

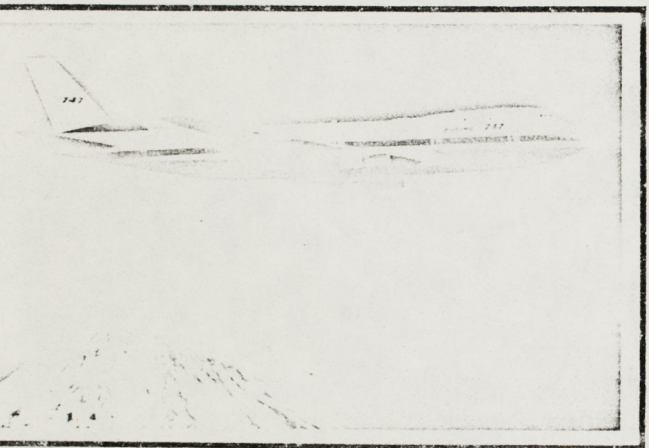
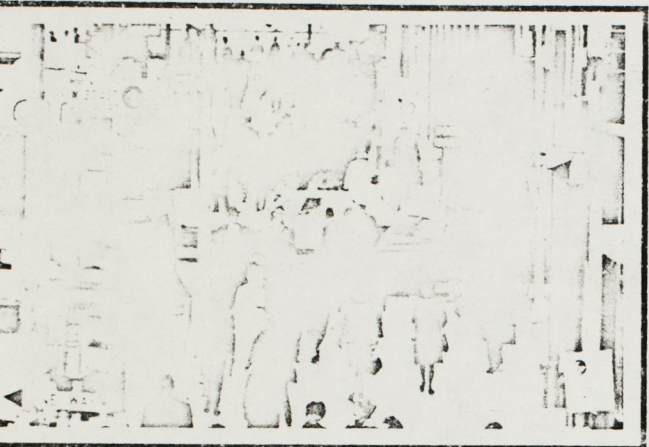


ON: S. 2252, ALIEN ADJUSTMENT
AND EMPLOYMENT ACT

TO: SENATE JUDICIARY COMMITTEE

BY: ROBERT T. THOMPSON

DATE: MAY 18, 1978



STATEMENT
on
S. 2252, ALIEN ADJUSTMENT AND EMPLOYMENT ACT
before the
SENATE JUDICIARY COMMITTEE
for the
CHAMBER OF COMMERCE OF THE UNITED STATES
by
Robert T. Thompson
May 18, 1978

My name is Robert T. Thompson. I am a senior partner in the law firm of Thompson, Mann and Hutson of Greenville, South Carolina. I am the Treasurer of the National Chamber, and I also serve as Chairman of the Chamber's Labor Relations Committee. Accompanying me is William H. Knapp, Labor Law Attorney for the National Chamber.

The National Chamber is the largest federation of business and professional organizations in the United States. It is the principal spokesman for the American business community. It represents over 3,700 trade and professional associations and chamber of commerce and has a direct membership of over 70,000 business firms.

We appreciate this opportunity to present to the Senate Judiciary Committee the comments of the Chamber of Commerce of the United States concerning S. 2252 which involves amendments to the Immigration and Nationality Act. While the National Chamber endorses the proposal to make it unlawful to knowingly and willfully hire illegal aliens, it is opposed to certain provisions of S. 2252 involving employer sanctions. This proposed legislation contains portions of President Carter's proposals to deal with the problem of illegal aliens.

We commend the President, the Chairman, and members of this Committee for their interest in discussing and attempting to find solutions to this complex issue. Members of the National Chamber share the concerns of the President. While we may disagree as to specific proposals, we have as a common goal fair, equitable and effective immigration laws and policies.

Attorney General Bell last week testified that "the Administration's proposals have been offered as a means of opening the dialogue with the Congress and with the public." The National Chamber concurs and supports open and meaningful discussion of the complex issue of illegal immigration.

The problems of illegal immigration into the United States are complex and far-reaching. In a Preliminary Report issued in December 1976, the White House Domestic Council on Illegal Aliens indicated "that the illegal immigration phenomenon is significant and growing." In August 1977, Leonel Castillo, Director of the Immigration and Naturalization Service (INS), announced "last year INS officers made 866,000 apprehensions of undocumented aliens....ten times more than the number just a year ago." Furthermore, the number of illegal aliens in the United States today remains virtually unknown. Estimates vary that there are between two million and twelve million illegal aliens residing in the United States.

The National Chamber does not sanction the knowing and willful hiring of illegal aliens. We are concerned that illegal aliens deprive legal United States residents of jobs and opportunities. However, the National Chamber opposes the imposition of government requirements upon employers which would be unduly burdensome.

Furthermore, we urge that any legislation concerning illegal aliens should not place employers in the role of a governmental enforcement agency.

S. 2252 makes it unlawful to employ illegal aliens. Moreover, it provides for civil penalties of up to \$1,000 for each illegal alien hired by an employer. We have certain objections concerning the provisions of S. 2252 as they relate to employer sanctions.

First, Section 5 of S. 2252 provides in part that the Attorney General shall by regulation designate certain documents that may be used to document an individual's eligibility to work in the United States. One of the authorized identifiers according to Attorney General Bell "would be the Social Security Card." If an employer has seen such a document a rebuttable presumption is raised that the employer has not violated the law. The National Chamber strongly urges that before employer sanctions are imposed, clear guidelines and nonforgeable identification documents should be in existence. Otherwise, additional burdens would be imposed upon employers. The existence of nonforgeable identification documents is a prerequisite before discussion of employer sanctions.

Any required identification documents should be carefully considered and clearly set forth by the Congress. We urge that the procedures for obtaining a Social Security Card be tightened. Without nonduplicative identification documents, it is not fair to subject employers to substantial penalties for inadvertent errors.

Second, employers would have ninety days after the effective date of S. 2252 to verify the status of all persons hired prior to the effective date of the legislation. Penalties could be imposed for the employment of illegal

aliens who did not have the proper documentation. We urge that any penalty provisions should apply only to the employment of illegal aliens after the effective date of the legislation. To require otherwise is to place an enormous investigative burden on employers.

Third, without a nonforgeable identification document there exists the possibility of employment discrimination against foreigners legally within the United States and inter alia, persons with foreign accents. The National Chamber is concerned that such discrimination could take place and that an employer would face a quandary. The employer, pursuant to S. 2252, would have certain responsibilities concerning illegal alien identification. However, without a nonforgeable documentation requirement, the employer could be charged with employment discrimination. It is not right to place employers in such situations or to inadvertently enhance the possibility of employment discrimination. S. 2252 in fact could interfere with existing laws which prohibit discrimination in employment.

CONCLUSION

We thank the Committee for this opportunity to participate in the discussion of a most complex and controversial issue -- illegal immigration. The National Chamber opposes the knowing and willful hiring of illegal aliens. However, it is opposed to legislation that would impose employer sanctions without the existence of nonforgeable documentation. Any legislation which may be enacted should not place employers in the role of a governmental enforcement agency.

STATEMENT
OF THE
NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS
before the
SENATE COMMITTEE ON THE JUDICIARY
regarding
S 2252

presented by
Jerry R. Ellsworth, Executive Vice President
National Council of Agricultural Employers

May 17, 1978

The National Council of Agricultural Employers appreciates the opportunity to appear today to make known its views regarding S 2252 in particular and the subject of undocumented aliens in general.

NCAE is a national, voluntary membership association of those who employ agricultural labor. Its members come from 41 states and the District of Columbia. I appear before you today on behalf of those members, who employ an estimated 75% of the agricultural workers hired in this country and by authorization of the NCAE Board of Directors.

Section 5(c) of S 2252 would make it unlawful for any employer to employ aliens in the United States who have not been lawfully admitted to the United States for permanent residence, unless the employment of such aliens is authorized by the Attorney General. It subjects a violator to a civil penalty of not more than \$1,000 for each alien in the employ of the employer on the effective date of the section or who has thereafter been employed by the employer, with certain exceptions.

First, the word "knowingly" is conspicuously absent from this bill, even though it has been incorporated in nearly every other bill previously introduced to deal with this subject. NCAE urges that "knowingly" be inserted following "to" on line 15, and before "employ" on line 16 on page 17. As Attorney General Bell testified on May 10, the great majority of employers will obey a law if enacted simply because it is

the law, but if an employer accepts, at face value, documentation presented by a worker and that documentation proves false, the employer should not be "hung." The inclusion of "knowingly" will avoid that possible situation.

Second, in agriculture especially, where large numbers of workers are needed and are hired, for all practical purposes, at the same time, each employee must have some document which an employer can examine and, having seen it, be assured that hiring the presenter of the document will not place that employer in jeopardy. NCAE joins with those who have already testified in urging the use of a tamper-proof, unforgeable Social Security card or appropriate INS document. The Social Security Administration should be required to ascertain the legal status of each person prior to issuing a Social Security card.

Under the Farm Labor Contractor Registration Act, a registered farm labor contractor is presently prohibited from recruiting, employing or utilizing, with knowledge, the services of any person who is an alien not lawfully admitted for permanent residence or authorized by the Attorney General to accept employment. Among the documents listed as acceptable evidence of United States citizenship in Section 40.51(p) of the 29 CFR Part 40 regulations implementing the Farm Labor Contractor Registration Act are:

1. Birth certificate.
2. Certificate of citizenship.
3. Certificate of naturalization.
4. INS Forms I-179 or I-197.
5. Passport issued by the U.S. identifying a person as a citizen of the U.S.
6. Consular report of birth.

It is interesting to note that a survey of farmworkers recently conducted in Florida revealed that over half the workers 40 years of age or older did not have and could not obtain a birth certificate, much less a certificate of citizenship. What is a grower to do when a large

number of workers, needed now to harvest a crop, do not have such documentation? Birth certificates are lost in court house fires or are unobtainable for other reasons. A Social Security card, properly designed, should serve ably to establish that a worker is legally employable.

Third, it is NCAE's view that employers should not be required to be policemen, especially absent a way of quickly identifying a worker's status. Here, again, without such an unforgeable, accurate document, and unless "knowingly" is added as suggested, an employer could be subjected to a civil fine because he, in trying to carry out his role as a reluctant law enforcement agent, hired a worker with a forged document.

Fourth, NCAE suggests that the bill also contain a requirement that other organizations dealing with employees whether for gain or not, check their legal status. Among those organizations are the Federal-State Employment Service which refers workers to growers. By "screening" such workers at employment offices, those growers who hire them will have assurances that the workers are indeed authorized to seek employment in the United States. Unions operating hiring halls should be required to "screen" workers, too, before they are sent to jobs. This is especially important in agriculture where a crop will not wait while a grower goes through a lengthy examination process.

Next, it seems only fair and equitable, if legislation such as that being considered by this Committee is enacted, that it take precedence over state laws and any other laws presently on the books so that no employer will have to go through the exercise of complying with two laws which may have differing requirements. Specifically, NCAE urges that Sections 6(f) and 9(c) of the Farm Labor Contractor Registration Act of 1963 as amended (7 U.S.C. 2041 et seq.) be amended to bring them into conformity with S 2252 if enacted into law.

Finally, NCAE, looking ahead several years, asks that S 2252 be amended to include specific language spelling out the implementation of

Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act.

At a recent meeting of the NCAE Executive Committee, Directors from the west coast predicted that if legislation such as S 2252 is enacted into law, those undocumented aliens currently working on farms will no longer be available in three years because they will have moved to other jobs. There will be a tremendous need for farm workers. If there are enough U.S. citizens to fill that need, all well and good, but based on present experience and past history that will not be the case.

Before proceeding further, there are several general points that should be placed on the record.

1. NCAE firmly agrees with those who hold that employers should employ United States citizens and those aliens who are legally authorized to seek employment, provided such workers can be found who are willing, able and qualified to do the work. Historically, however, such workers have not been available in sufficient number at the times and places needed.

2. Agricultural employers need workers who will report at the appointed time and remain to finish seasonal jobs. Employers' records are replete with employees who do not. As a single case in point, an agricultural employer organization in Virginia reported the following statistics at the end of its 1975 harvest season. Its experiences in 1976 and 1977 were similar:

"This past season the Employment Service referred to us 172 people. Of this number 110 showed up and 14 finished the season."

"Of the workers from within Virginia:

- 15% completed the season
- 42% worked less than one week
- 25% worked less than two weeks

6% worked less than three weeks
12% worked more than three weeks, but failed to complete
the season."

"Of the workers referred from other states, mostly
Florida:

9% completed the season
27% worked less than one week
35% worked less than 2 weeks
7% worked less than three weeks
22% worked more than three weeks, but failed to complete
the season."

3. It has been alleged that the removal of all illegal aliens and a prohibition against the use of temporary foreign labor will eliminate the unemployment problem in this country. We have serious doubts that unemployed persons in, say Detroit, will travel to Virginia to harvest fruit, or even spend a full season picking peaches, cherries or apples in Michigan. The unemployment figures have been high for at least two years, but growers still can not find workers, even through the State-Federal Employment Service, and in spite of aggressive local recruiting efforts.
4. The fallacious thinking exists that just anyone can do agricultural labor. Such is not the case. Physical fitness and manual dexterity are most essential. Many persons are afraid to climb ladders to harvest tree fruits. Others do not like stoop labor.
5. It has been alleged that bringing in foreign agricultural labor adversely affects the wages and working conditions of workers similarly employed. Quite the opposite is true. Any agricultural employer who employs one or more foreign workers must pay those workers, plus all his domestic workers doing the same work, "adverse effect rates" which are higher than would be paid if no foreign

workers were employed.

6. When foreign agricultural workers are certified by the Secretary of Labor and the Attorney General, they are brought into this country for a specified period of time to perform specified labor. When that job is completed, all such workers must be returned to the country whence they came. They can not remain to seek work elsewhere. There are significant economic sanctions against employers who use foreign laborers and do not return all of them at the end of the contract period.

NCAE has, through the years, come to the conclusion that the U.S. Department of Labor, is striving mightily to "kill" the specifically spelled out provision of Section (101)(a)(15)(H)(ii) of the Immigration and Nationality Act permitting temporary certification of foreign workers for agricultural harvest. In recent years, this effort by the Department has resulted in great economic loss to growers who must rely on temporary foreign agricultural workers.

Attached to this statement is "Agricultural Labor - A Position Paper" which analyzes in greater detail the problems agricultural employees foresee.

NCAE respectfully suggests and urges that language similar to that contained in Section 2 of S 3074, introduced by Senator Eastland be incorporated into S 2252. Incorporation of such language would not, of itself, mean that temporary foreign agricultural workers would be brought into this country to take jobs away from U.S. citizens. Under the INA and regulations, the U.S. Department of Labor would certify employers for temporary foreign agricultural workers only when there are not enough able, willing and qualified U.S. workers.

The language of Section 2 of S 3074 is as follows:

Sec. 2. Section 101 (a)(15)(H)(ii) of the Immigration and

Nationality Act (8 U.S.C. 1101 (a)(15)(H)(ii)) is amended to read as follows:

"(ii) who is coming temporarily to the United States for a period not in excess of one year to perform other services or labor if the Secretary of Labor under regulations issued after notice and hearing pursuant to section 553 of title 5, United States Code, has determined and certified to the Attorney General that sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed and the employment of such aliens will not adversely affect the wages and working conditions of workers similarly employed: Provided, That within sixty calendar days of the date on which an employer files a request for such certification the Secretary of Labor shall (1) refer to the employer workers in the number desired, able, qualified, and willing to present themselves to commence employment on the date and for the period specified, or (2) make and issue a certification as provided in this subparagraph, except that the period of time shall be twenty calendar days in the case of a request for workers to be employed in agriculture, as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (f)), or to perform agricultural labor, as defined in section 3121 (g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121 (g)): Provided further, That an employer who questions the qualifications of a worker referred to him by the Secretary of Labor shall be entitled to prompt review by the Secretary; such review shall consider written opinions and other evidence submitted by the employer. The Attorney General may, upon receipt of a determination and certification by the Secretary of Labor as provided herein, extend the terms of an alien's admission for a period or periods not exceeding one year in the aggregate."

Thank you for the opportunity to testify on this important legislation.

AGRICULTURAL LABOR - A POSITION PAPER

To whom it may concern:

This paper sets forth a position regarding legislation dealing with or affecting agricultural labor. It is a consensus paper, reflecting the views of numerous national and state organizations whose members employ agricultural labor. Its purpose is to present a position which, it is hoped, will guide Congressional consideration of the agricultural labor matters discussed herein.

In brief -

Numerous bills now pending before the Congress which would prohibit an employer from knowingly hiring an illegal alien fail to include an absolutely essential companion position relating to the use of temporary foreign agricultural workers (legal aliens) in agriculture.

Employers of agricultural labor are at a crossroads. They must, in spite of the degree of farm mechanization, still depend upon manual labor for numerous types of planting, cultivating and harvesting operations. Domestic workers willing to perform such labor are becoming more scarce each year. In addition, those domestic workers who do accept agricultural employment frequently quit before the specific task for which they were hired is finished. Because a farmer's crop is his livelihood, he will take any legal steps to obtain labor with the skills needed and a willingness to see the job to completion. At the present time the agricultural labor force hired in this country undoubtedly includes illegal aliens. It also includes temporary foreign labor. Neither of these categories of labor would be needed were there a sufficient domestic work force.

During the present period of high unemployment, there are moves under way to prohibit, by law, an employer from knowingly hiring an illegal alien. The U.S. Department of Labor has apparently adopted two policies: (1) The transfer of domestic migrant seasonal farm workers (MSFW) from such employment into year-'round jobs either in or out of agriculture, and (2) The elimination of the program whereby it certifies foreign workers for temporary agricultural work when it finds that domestic workers are not available in sufficient numbers. If the above three circumstances come to pass (prohibition against knowingly hiring illegal aliens, transferral of MSFWs into year-'round employment, and cessation of the temporary foreign agricultural worker certification program) those farmers needing seasonal labor will have their backs against the wall.

Agricultural employers will be faced with a serious and insurmountable shortage of farm labor if illegal alien legislation is enacted. The solution to the problem can best be found in legislation setting forth a procedure which will permit the speedy entry of temporary foreign agricultural workers once the Secretary of Labor has found that there are not sufficient domestic workers at the time and place needed who are able, willing, and qualified to perform the work to be done.

BACKGROUND

There are several general points worth noting.

1. This nation's farmers agree with those who hold that employers should employ United States citizens and those aliens in the United States who are legally authorized to seek employment, provided such workers can be found who are willing, able and qualified to do the work. Historically, however, despite the combined efforts of agricultural employers and the State-Federal employment

system, such workers have not been available in sufficient number at the times and places needed.

2. Agricultural employers need workers who will report at the appointed time and remain to finish seasonal jobs. Employers' records are replete with statistics regarding employees who do not. Two case histories will illustrate the problem.

First

An agricultural employer organization in Virginia reported the following statistics at the end of its 1975 harvest season:

"This past season the Employment Service referred to us 172 people. Of this number 110 showed up and 14 finished the season."

"Of the workers from within Virginia:

- 15% completed the season
- 42% worked less than one week
- 25% worked less than two weeks
- 6% worked less than three weeks
- 12% worked more than three weeks, but failed to complete the season."

"Of the workers referred from other states, mostly Florida:

- 9% completed the season
- 27% worked less than one week
- 35% worked less than two weeks
- 7% worked less than three weeks
- 22% worked more than three weeks, but failed to complete the season."

Second

For the 1975-1976 season, an agricultural employer in Florida, in an attempt to obtain sugar cane cutters, listed job openings with the employment service and spent \$20,159 in all-out recruiting by radio and newspapers. It paid \$20,525 in transportation advances to 1,419 domestic workers referred to it by the employment service or responding to the ads. What happened? Not a single worker completed the season! In fact, of the total, only 359 did any work, and the great majority of them worked less than one week. The others were "no-shows," refused to work on arrival, were illegal aliens, were rejected for medical reasons or were under age. The employer lost \$18,048 in monies advanced which were never recouped. Adding advertising costs and monies not recouped, the exercise cost \$38,207 and produced nothing!

3. It has been alleged that the removal of all illegal aliens and a prohibition against the use of temporary foreign labor will eliminate the unemployment problem in this country. We have serious doubts that unemployed persons in, say, Detroit, will travel to Virginia to harvest fruit, or even spend a full season picking peaches, cherries or apples in Michigan. The unemployment figures have been high for at least two years, but growers still can not find workers, even through the State-Federal Employment Service, and in spite of aggressive local recruiting efforts.
4. The fallacious thinking exists that just anyone can do agricultural labor. Such is not the case. Physical fitness and manual dexterity are most essential. Many persons are afraid to climb ladders to harvest tree fruits. Others do not like stoop labor.

5. It has been alleged that if employers would pay higher wages for agricultural labor, they would have no difficulty obtaining workers. While facetious, it is safe to say that farmers would pay \$10 per hour if they could pass the cost on to purchasers of their products, and to consumers, but imagine the howls of anguish! The most potent argument against such thinking is illustrated by factual data from a Florida study.

The average piece rate earnings for farm workers in Florida during the 1975-1976 harvest season was \$3.58 or \$130.67 per five day week. During a fifteen month period in that season, Employment Service offices in the Miami, Orlando and Tampa-St. Petersburg areas, all three of which are surrounded by intensive agricultural enterprises, listed 96,586 non-agricultural job openings. Approximately 65% were listed at under \$3.00 per hour, and approximately 80% were listed at under \$3.50 per hour. If higher pay would draw workers, why were there not long lines waiting to accept farm jobs?

6. It has been alleged that bringing in foreign agricultural labor adversely affects the wages and working conditions of workers similarly employed. Quite the opposite is true. Any agricultural employer who employs one or more foreign workers must pay those workers, plus all his domestic workers doing the same work, "adverse effect" rates which are higher than would be paid if no foreign workers were employed.
7. When foreign agricultural workers are certified by the Secretary of Labor and the Attorney General, they are brought into this country for a specified period of time to perform specified labor. When that job is completed, all such workers must be returned to the country whence they came. They can not remain to seek work elsewhere. There are significant economic sanctions against employers who use foreign laborers when one or more of those workers does not return at the end of the contract period.

Let us assume, for the sake of argument only, that the Immigration and Naturalization Service is correct when it says that there are between 8 and 10 million illegal aliens holding jobs in this country. Let us also assume that 37% (also an INS estimate) are employed in seasonal farm work. That means that, if illegal alien legislation were enacted by the Congress and became law, between 2,960,000 and 3,700,000 farm workers would disappear. Where would this nation's farmers turn for workers?

Parenthetically, if farmers are to be penalized for employing illegal aliens, as all recent legislation has proposed, then a simple method of determining workers' legality should be devised. It should be a method which will neither offend the American citizen of Mexican descent who may apply for work, nor discourage an employer from employing individuals of Mexican descent for fear of mistakenly employing an illegal alien.

The Congress wisely provided, in the Immigration and Nationality Act, for a procedure whereby foreign workers can be brought to this country to perform temporary agricultural labor to assure that farmers' crops will be planted, cared for and harvested. Such workers can not be certified per Section 101(a)(15)(H)(ii) of the Act unless unemployed persons capable of performing such service or labor cannot be found in this country. Before certification can be issued, the Secretary of Labor is charged with certifying to the Attorney General that qualified persons are not available. If certification is approved, it is for a specified number of persons to perform specified labor for a specified employer for a

specified period of time. At the conclusion of the certification period all workers must return to the country whence they came. There are safeguards in the Act and in INS Regulations (8CFR 214.2(h)(2)(ii)) to provide that the employment of temporary foreign agricultural labor will not adversely affect the wages and working conditions of workers in the United States similarly employed.

If illegal alien legislation is enacted, the need for certification of temporary foreign agricultural labor will be greatly increased. Those countries currently furnishing temporary foreign agricultural workers may not be able to meet the demand. It may be necessary to include other countries in the program.

As mentioned earlier, the Immigration and Nationality Act permits certification of temporary foreign agricultural workers if the Secretary of Labor finds that there are no unemployed persons in this country capable of performing such labor. In order to obtain certification under current law and regulations, it has been necessary for farmers to travel to distant locations to interview domestic workers or to agree to hire such workers through the intermediary actions of the U.S. Employment Service's interstate clearance system. It seems rather inequitable that a farmer in Vermont is compelled to travel to Florida, Texas or other states to seek labor if there are insufficient workers in his locality, especially when, historically, such trips frequently prove fruitless. All too often, under such circumstances, the farmer is required to advance travel and subsistence money to get those workers to his farm, only to have the workers fail to show at the time he needs them.

In 1976, Congress amended the Immigration and Nationality Act (Section 212(a)(14)) with regard to aliens who are seeking permanent entry into the United States for the purpose of performing skilled or unskilled labor so that the Secretary of Labor can certify such individuals for entry if there are not sufficient such workers who are able, willing and qualified and available at the time and place needed (PL 94-571). The old wording was "in the United States." If Congress felt that this change was justified for permanent employment of aliens, it would seem logical that in the case of temporary foreign agricultural workers who are entering this country to perform a badly needed service, the words "in this country" as contained in Section 101(a)(15)(H)(ii) of the Act could also be changed to "at the time and place," or certainly "within a radius of _____ miles."

Legislation which affects, either directly or indirectly, the availability of agricultural workers must contain provisions to assure an adequate supply of workers to provide this nation with food and fiber.



MEXICAN-AMERICAN POLITICAL ASSOCIATION

MAPA RESOLUTION ON THE UNDOCUMENTED ALIENS

Approved: January 28, 1978, San Francisco, CA

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WHEREAS, the Mexican-American Political Association (MAPA) views the matter of the undocumented Mexican residing and working in the United States as the issue of the greatest magnitude in relations between the United States and the Republic of Mexico; and

WHEREAS, this issue is highly complex involving matters of history, geopolitics, economics and culture between the people of these two countries and their respective governments; and

WHEREAS, an effective solution in this area will require intelligence, great imagination, foresight, planning, patience and tolerance; and

WHEREAS, President Jimmy Carter has taken the indispensable first step towards a solution by proposing to the United States Congress on August 4, 1977, an "Amnesty Plan" for the undocumented alien; and

WHEREAS, President Carter's pioneering efforts should be applauded, and said "Amnesty Plan" can be used as a catalyst to develop the most equitable and just "Amnesty Plan" possible; and

WHEREAS, the United States Congress has a unique opportunity to assert its creativity and produce a bold, exciting and equitable legislative program in this matter; and

WHEREAS, this issue of the undocumented Mexican residing and working within the United States is of overriding importance to the Mexican-American Political Association (MAPA) and to the nation;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Adjustment of Status to Permanent Residency;

All those undocumented persons who are residing in the United States at the time of the enactment of the pertinent Congressional legislation on this issue, shall be eligible to adjust their status to that of

MAPA RESOLUTION ON THE UNDOCUMENTED ALIEN

permanent residents, within the United States, provided the traditional statutory requirement of good moral character is satisfied.

MAPA feels that amnesty, as of the date of the effective Congressional legislation, is particularly symbolic and appropriate because countless Hispanics, both United States citizens and permanent residents, have fought and suffered fatalities or other casualties in defending the United States and its freedoms in times of declared and undeclared wars with "enemy" nations. Now, other Hispanics, some related by blood to those Hispanics who defended and defend this country, are seeking the freedom to work and live in this country, and, as such, MAPA argues that the latter are, at worst, indirect beneficiaries of the proven Hispanic patriotism to the United States.

2. Immediate Application For United States Citizenship:

Upon receipt of a permanent resident visa, each such recipient shall be permitted to apply for United States citizenship. Thus the present statutory waiting period of five (5) years before a permanent resident can apply for citizenship would be eliminated.

3. Citizenship Examination To Be Conducted In The Spanish Language:

Taking into consideration the history and the present social, cultural and economic development of the Hispanic people in this country, together with the fact that by 1983 the Hispanic community will be the largest minority in the United States, there is no rational or Constitutional justification in not utilizing Spanish language in the manner prescribed.

4. Increase Annual Allocation Of Visas To Mexico To 100,000:

Hand in hand with the recommendations concerning adjustment of status for undocumented persons (see #1 above), is the necessity to augment the annual visa allocation vis-a-vis Mexico.

5. Exemption From Labor Certification:

Parents of United States citizen children and parents of legal permanent residents, in qualifying for permanent resident visas, shall be exempt from labor certification procedures.

6. Rejection Of Five (5) Year Temporary Resident Proposal:

MAPA finds this recommendation unacceptable. While recognizing President Carter's good faith, this proposal is fraught with

MAPA RESOLUTION ON THE UNDOCUMENTED ALIEN

inherent social, political and Constitutional dangers for the intended subject population. On its face, this proposal appears to be violative of the Equal Protection Clause of the United States Constitution. Thus, MAPA is compelled to register its complete disapproval and rejection.

7. Rejection Of Employer Sanctions And Employee Identification Proposals:

MAPA also finds these two proposals unacceptable. Briefly, these respective proposals are an open-ended invitation to employer discrimination against prospective Hispanic employees, both citizens and residents alike, and to the introduction of inspection powers (review of a prospective employee's "proper identification") in the hands of private employers, a practice totally adverse to the American tradition of Constitutional civil liberties. In this context, MAPA adopts the rationale spelled out by the Mexican-American Legal Defense and Education Fund (MALDEF) in its Position Paper of September 23, 1977, pp. 3-17.

8. Establish A Joint United States-Mexico Industrial And Rural Development Fund, Jointly Funded, To Assure Comprehensive Economic Development In Mexico; Trade Concessions:

Indispensable to any plan to remedy the flow of undocumented persons across the United States' southern borders from Mexico, is the issue assuring sound economic development in the source country, Mexico. MAPA recommends the establishment of a \$100 million United States-Mexico Industrial and Rural Development Fund (with equal contributions by both countries) to stimulate and expand labor, intensive industry and rural development in Mexico. It is clear that flow of undocumented people would be significantly reduced by the presence of additional employment opportunities in Mexico.

Further, the United States must develop a program of trade concessions with Mexico, i.e., to buy Mexican made products. As a start, MAPA recommends that the American tourist be allowed to purchase, duty-free, \$500.00 worth of Mexican products.

9. Border Patrol; Affirmative Action:

The President's "Amnesty Plan" will increase the Border Patrol personnel at the Mexican Border by 2,000 additional new hirees. While MAPA sees the issue of increased Border Patrol personnel as a temporary measure, the governmental action to hire 2,000 new Border personnel must meet the requirements of affirmative action relative to the employing and promoting of Mexican-Americans.

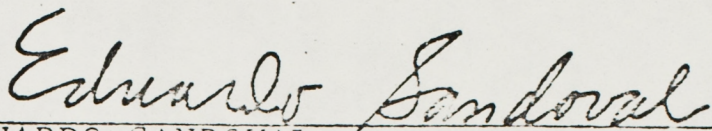
MAPA RESOLUTION ON THE UNDOCUMENTED ALIEN

An integral part of developing a more effective Border Patrol involves an ongoing program of sensitivity training for Border personnel so that they cope, civilly, with those who cross the Mexican Border.

10. Moratorium On All Deportations Pending Congressional Action:

Pending final Congressional action on the undocumented population, the only just thing for the executive branch of the federal government to do is to put an immediate stop to the deportations by the Immigration Service. Otherwise, those undocumented persons who might be eligible for adjustment of status under the ultimate Congressional legislation, might well be prejudiced by having their residence in the United States interrupted by deportation.

DATED: January 28, 1978


EDUARDO SANDOVAL
MAPA STATE PRESIDENT

STATEMENT OF
DEPUTY SECRETARY OF STATE
WARREN CHRISTOPHER
BEFORE THE
SENATE JUDICIARY COMMITTEE

MAY 10, 1978

Mr. Chairman, Members of the Committee:

It is a pleasure to appear before you today to discuss the proposed Alien Adjustment and Employment Act and the other elements in the President's undocumented aliens program.

Other Administration witnesses are testifying on the implications of S. 2252 on domestic law enforcement, on our economy, and for the undocumented aliens already within our borders. I will address myself primarily to the significance of this program for our foreign relations.

Immigration is not a new phenomenon. It has been a constant part of the world's history. It is a complicated matter, the product of basic social and economic forces and an element in the continuing evolution of the world's economy and social order.

Today, new factors have given rise to an increase in uncontrolled immigration. In many countries population growth continues to outstrip economic growth. Industrialization and urbanization lead to migration within nations, and that sets the stage for emigration across national boundaries. A revolution in communications makes people in the most rural areas today aware of disparities in economic opportunities that were less evident in the past. A revolution in the means of transportation makes distant lands more accessible than ever before.

The United States is, of course, a nation of immigrants. And today, as in years past, the United States is the single most favored destination for the world's immigrants. Historically, the U.S. has been, as it continues to be, the beckoning land of freedom and opportunity, where work can be found and where enterprise is rewarded.

Legal immigration now averages about 400,000 persons annually. These legal immigrants are either relatives of U.S. citizens and permanent residents, or workers with needed skills, or refugees.

We are proud of our history as a land of hope and a place of refuge. Yet we recognize our responsibility to our citizens and legal residents to regulate the flow of immigration into our country to ensure that the common good is upheld. We also recognize that our actions in this area can have a major impact on other countries. We must be aware of the interests of other nations and ensure that immigration decisions are taken in the context of our overall foreign policy goals.

The legislation before you today deals with the problem of undocumented aliens entering and residing in the United States. There has been a flow of immigrants to this country outside the legal channels ever since the Congress established controls over immigration. But in recent years the "push" exerted by rising expectations and slow or stagnant economic growth in the poor nations abroad, plus the attraction exerted by the United States as a place to live and work, has markedly increased the flow. Since numerical limitations were imposed on Western Hemisphere immigration in 1968, the size of the problem has grown dramatically. Several million of these people

have come to the United States in the past few years and settled permanently without complying with the immigration laws. The undocumented aliens come from many nations. Mexico has traditionally been and remains the major country of origin. But, the nationals of other countries in Latin America and in Asia are now part of the increased flow of illegal migration.

The countries of origin share key characteristics. All are developing nations. All have relatively young and rapidly growing populations. All have economies with a serious excess labor force. These characteristics create strong forces that impel emigration.

The critical factor for the people who come or stay here illegally is the disparity between the job opportunities and wages in the United States and in less developed nations. Illegal immigrants, once in the United States, are able to melt relatively easily into the population because of our ethnic diversity, the absence of national identification documentation, and the availability of unskilled jobs. Moreover,

most live on the fringes of our society. There they fall easy prey to the employer who refuses to pay the minimum wage, to the foreman who mistreats them and who knows they fear seeking legal recourse, and to the smuggler who extorts a percentage of their wages on threats of turning them over to the authorities.

Effective law enforcement measures are necessary to regulate the entry of people who hope to live in our country. But law enforcement cannot solve the problem of illegal migration. To meet the problem fully, we must find ways to promote the economic development of the countries of origin to enable them to bring population and job opportunities into balance.

Before the President announced his undocumented aliens program on August 4, 1977, officials from the White House, the Department of State, and other departments were in touch with officials of countries of origin concerning the proposed U.S. action. A high-level delegation visited Mexico last July to outline the main features of the President's proposed

plan to the Mexican Government. We informed the Mexican Government that President Carter recognized that the problems of Mexico's economy are directly related to the outward flow of emigrant labor. Mexico was assured that the U.S. would take this into account as we seek a solution to the problem of illegal migration.

We are continuing to work closely with the Mexicans on this issue. In January Vice President Mondale discussed the issues involved with President Lopez-Portillo. Just last week, during Secretary Vance's trip to Mexico, the matter was once again part of wide-ranging discussions with Mexican officials. We have established Social and Economic Working Groups with Mexico to continue our dialogue.

In our discussions, the Mexican Government has recognized this as primarily an internal affair of the United States. At the same time, Mexico has been concerned that we might deport large numbers of undocumented aliens, thus causing a massive disruption of their economy. We agree that this would be seriously disruptive and therefore not in our own best interests. We have assured the Mexicans that mass deportations will not be a part of the President's program.

We are also sensitive to the Mexican Government's concern that, in the short run, a substantial reduction in the flow of undocumented workers will aggravate Mexico's economic and social problems. We are discussing ways we can be helpful. To give the Committee some idea of the magnitude of this problem from Mexico's point of view, I should note here that Mexico's labor force of 18 million suffers a staggering unemployment and underemployment rate of close to 50 percent. A population growth rate of over 3 percent introduces an estimated 800,000 job seekers to the labor market annually -- far more than Mexico's economy has been able to accommodate, even in periods of vigorous growth.

In keeping with our premise that the problem of illegal immigration cannot be solved by unilateral U.S. measures, we are committed to helping the governments of countries of origin in their development programs. To encourage these governments to give special consideration to fostering labor-intensive industry in rural areas, we are funding programs with this objective in the English-speaking Caribbean countries, largely through the Caribbean Development Bank. Also, a number of interested countries have come together under the auspices of the World Bank to form a Group on Economic Development devoted to accelerating the development of participating Caribbean countries. Both the World Bank and the Inter-American Development Bank have assured us that, as a matter of highest priority, they are prepared to significantly expand their efforts to match Mexico's commitment to address the problems of rural development.

Trade is also a tool for promoting development. Last year we signed a Tropical Products Agreement with Mexico that establishes an important precedent for the world trading system. It seeks to achieve trade reciprocity, yet provide special consideration for Mexico as a developing country. We believe this arrangement will help to create new jobs in rural Mexico.

I am optimistic that the economic pressures impelling people to immigrate illegally to the United States can be eased somewhat over the long term. For example, recent discoveries indicate that Mexico may have oil and gas reserves rivaling those of important Middle East producers such as Iran and Kuwait. Mexico has embarked on an ambitious program to increase its production and exports of oil and gas as rapidly as possible, and to channel the revenues from these exports into development.

The legislation before you takes the broad foreign policy context I have outlined into consideration. It is carefully balanced to deal with a serious internal United States problem while remaining aware of the roots of that problem in economic disparities. The program is sensitive to concerns of foreign governments whose friendship, good will, and cooperation are important to us.

When President Carter announced this program he explained that it was designed to meet four major needs:

-- First, to regain greater control over our own borders;

-- second, to limit the employment opportunities of those who are illegally in our own country and who are competing with American workers for scarce jobs;

-- third, to register and regulate the millions of undocumented workers who are already here; and

-- fourth, to improve cooperation with countries from which undocumented workers are coming into our own nation.

We believe we are making notable strides with respect to the President's fourth point. We also support early Congressional passage of the legislation before you.

This legislation will benefit our foreign policy by giving direction, coherence and uniformity to our treatment of undocumented aliens. As the Committee is aware, states, municipalities, and private groups have been acting separately on this issue. Some 13 states and a number of cities have passed statutes to penalize employers who hire undocumented workers. School districts are redefining "residence" and taking other measures to exclude the children of undocumented alines from free public schooling. And private vigilante groups are attempting to police borders. In the absence of a strong and well-coordinated national effort, these local activities can greatly complicate our foreign relations and undermine the international image of the United States.

A second foreign policy benefit of the proposed legislation lies in the extension of protection to aliens now here illegally. Allegations of mistreatment and abuse of undocumented aliens are a continuing irritant between the U.S. and countries of origin. So long as undocumented aliens remain outside the law it is extremely difficult to avoid their exploitation. This problem will only get worse if we fail to act.

Finally, Mr. Chairman, I should mention that we are working to strengthen the State Department's visa issuance function to minimize visa fraud and curb this source of illegal migration. We are using modern technology to improve the screening of applicants and the security of visas issued. We are increasing our training and management assistance programs to improve the efficiency of our Consulates.

Mr. Chairman, the President's program, with S.2252 as its core, will reduce the flow of the undocumented aliens. It is based on a recognition of the close connection between the domestic and international facets of the problem. We believe the program strikes the right balance in providing for cooperation with countries of origin, preservation of the rights of the individuals affected, and promotion of our national interests.

I will be glad to respond to your questions.

CENTRO DE INMIGRACION

GEORGETOWN UNIVERSITY LAW CENTER
600 NEW JERSEY AVENUE, N.W.
WASHINGTON, D.C. 20001
202-624-8374

August 29, 1978

Dear Friends,

The Centro is currently conducting daily legislative monitoring in order to alert you should Congress take swift eleventh-hour action on President Carter's immigration proposal. If Congress decides to take such action before adjourning, only immediate mobilization of our opposition will stop the proposal.

We are therefore requesting that you send us your current telephone number as soon as possible, so that we can begin to organize everyone on our mailing list into regions that can be readily contacted with a minimum of phone calls from Washington, D.C.

We truly suspect that should Congress act with uncharacteristic swiftness on the President's proposal, or any employment sanction legislation this session, we will have only a few days to register effective opposition. If at all possible, it would certainly be desirable if you could make tentative plans to come to Washington on short notice. Our physical presence on Capitol Hill could certainly be a deciding factor in defeating the legislation.

Centro will not be able to assist with transportation costs for travel to Washington, D.C. However, we will be glad to obtain room and board, and local transportation for anyone able to come, if this action becomes necessary.

- OTHER EVENTS -

The Senate Subcommittee on Immigration should have completed their hearings in Tucson, and Nogales, Arizona at this time. As soon as any kind of report is available, we will disseminate it for your review.

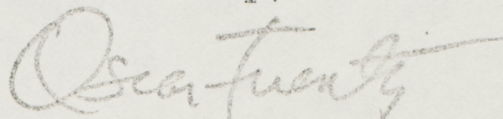
You might also be interested to know that Centro has copies of all the opinions issued by the Supreme Court for the Bakke Case. We will be happy to supply you with these materials.

for a \$10.00 donation to cover part of our mailing and duplication costs.

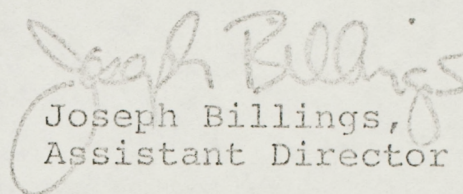
If you are located near another organization or individual also receiving Centro materials, you might arrange to receive one copy of the opinions and duplicate them in your offices instead of us doing it in Washington. The opinions are quite voluminous.

We hope things are going well with you and your work. If Centro can be of any assistance --- please call.

Sincerely,



Oscar Fuentes,
Director



Joseph Billings,
Assistant Director

Materials re Immigration Legislation
proposed in 1978 "Alien Adjustment and
Employment Act of 1977"

- Position papers and statements
before the ^{U.S.} Senate Judiciary
Committee

} MAY ~~1977~~ 1978

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letter from Centro de Inmigración
in Wash., D.C. 8/29/78
regarding mobilization to
oppose above legislation