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ILLEGAL ALIENS

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 982 and Related Bills

ILLEGAL ALIENS

FEBRUARY 4, 26, MARCH 5, 12, 13, AND 19, 1975

Serial No. 8



Printed for the use of the Committee on the Judiciary

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U.S. GOVERNMENT PRINTING OFFICE

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ILLEGAL ALIENS

FEBRUARY 4, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
CITIZENSHIP, AND INTERNATIONAL LAW
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2141, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Sarbanes, Holtzman, Dodd, Russo, Fish, and Cohen.

Also present: Garner J. Cline and Arthur P. Endres, Jr., counsels; Janice A. Zarro, assistant counsel; and Alexander B. Cook, associate counsel.

Mr. EILBERG. This hearing will come to order.

We are here today to receive an update on the facts concerning proposed legislation which should have become law over 2 years ago.

This bill H.R. 982, the so-called illegal alien bill, was passed overwhelmingly by the House of Representatives in the 92d and 93d Congresses. Had the Senate acted and the President signed this measure, it is entirely possible that 1 million Americans would be working today instead of collecting unemployment compensation.

No one can argue that the plight of the aliens who come to this country illegally is not tragic. In many cases these men and women are separated from their families for long periods of time. They are forced to live under the worst conditions and as a result of their precarious status they must accept any form of abuse and mistreatment their employers choose to hand out.

But, the fact is, they are here because they can or think they can get jobs—jobs which should be held by citizens or aliens who are in this country legally. If there were no jobs they would not come here.

There has been a good deal of misinformation circulated concerning this legislation. H.R. 982 does not discriminate against ethnic and minority groups. It does not impose penalties on the already victimized illegal aliens.

It does not relate to the deportability of aliens and it does not require any affirmative action by any employer—it merely requires every employer to refrain from knowingly hiring illegal aliens.

At the same time, H.R. 982 does not encourage discrimination against aliens; nor does it force the mass deportation of illegal aliens.

It does however, deal with the real culprit, the employer who repeatedly and with impunity hires illegal aliens rather than giving the jobs to citizens and legal residents who could demand a living wage and decent working conditions.

This bill provides for three steps to be taken against the employer. First, there is a warning or citation from the Attorney General. The second offense will bring a fine of $500 per alien, and further repetitions can be penalized by a $1,000 fine per alien and/or a year in prison for each alien.

So it is clear our purpose is to prosecute the people who provide the incentive for aliens to come into this country illegally.

There is no doubt that something must be done.

Hearings were held across the country on this subject. More than 200 witnesses whose testimony fills over 2,000 pages were heard.

The product of these hearings and countless hours of work by the members of the subcommittee and the staff is the legislation now before us.

H.R. 982 has been criticized for being too strong and for being too weak, but no one has put forth a workable alternative which would be as fair to the alien and to the employer who unwittingly hires one or more illegal aliens.

The fact that this legislation presents a workable answer to the problem is borne out by the support it has received in the past. In the 92d Congress it was passed on a voice vote and in the last Congress by a 297–63 margin. On those two occasions the country was in much better shape economically than it is today.

Now we are on the verge of depression and this measure could help to put the Nation back on the road to economic recovery. It would eliminate the drain illegal aliens place on our economy by taking jobs, collecting welfare and unemployment payments, putting their children in our schools, and using all of the other services which citizens and legal residents pay taxes to support. Additionally, illegal aliens send millions of dollars back to their native lands annually, a practice which further damages our economy.

I do not advocate a ban on immigration, for this country was built and its greatness assured by the labor of immigrants. It remains essential, however, that we have the orderly and fair entry of immigrants into the United States.

Back door immigration has no place in this country. We can best serve the interests of lawful residents by a judicious immigration policy.

Illegal immigration is a distortion of our heritage, for instead of enhancing their opportunities it often brings misery and exploitation to the aliens themselves and disadvantages our own lawful residents.

[The bills referred to, H.R. 982, H.R. 3883 and H.R. 6732, follow:]

94TH CONGRESS
1ST SESSION

H. R. 982

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. RODINO (for himself and Mr. EILBERG) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended to read as follows:

"SEC. 245. (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United

States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under section 203 (a) within the class to which the alien is chargeable, or the number of visas authorized to be issued pursuant to the provisions of section 21 (e) of the Act of October 3, 1965, for the fiscal year then current.

"(c) The provisions of this section shall not be applicable to: (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201 (b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; or (3) any alien admitted in transit without visa under section 238 (d)."

SEC. 2. Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by deleting the proviso in paragraph 4 of subsection (a) and by redesignating subsection (b) as subsection (e) and adding new subsections (b), (c), and (d) to read as follows:

"(b) (1) It shall be unlawful for any employer or any person acting as an agent for such an employer, or any person who for a fee, refers an alien for employment by such an employer, knowingly to employ, continue to employ, or refer for employment any alien in the United States who has not been lawfully admitted to the United States for permanent residence, unless the employment of such alien is authorized by the Attorney General: *Provided*, That an employer, referrer, or agent shall not be deemed to have violated this subsection if he has made a bona fide inquiry whether a person hereafter employed or referred by him is a citizen or an alien, and if an alien, whether he is lawfully admitted to the United States for permanent residence or is authorized by the Attorney General to accept employment: *Provided, further*, That evidence establishing that the employer, referrer, or agent has obtained from the person employed or referred by him a signed statement in writing in conformity with regulations which shall be prescribed by the Attorney General that such person is a citizen of the United States or that such person is an alien lawfully admitted for permanent residence or is an alien authorized by the Attorney General to accept employment, shall be deemed prima facie proof that such employer, agent, or referrer has made a bona fide inquiry as provided in this paragraph. The Attorney General of the United States shall prepare forms for the use of employers, agents, and re-

ferrers in obtaining such written statements and shall furnish such forms to employers, agents, and referrers upon request.

"(2) If, on evidence or information he deems persuasive, the Attorney General concludes that an employer, agent, or referrer has violated the provisions of paragraph (1), the Attorney General shall serve a citation on the employer, agent, or referrer informing him of such apparent violation.

"(3) If, in a proceeding initiated within two years after the service of such citation, the Attorney General finds that any employer, agent, or referrer upon whom such citation has been served has thereafter violated the provisions of paragraph (1), the Attorney General shall assess a penalty of not more than $500 for each alien in respect to whom any violation of paragraph (1) is found to have occurred.

"(4) A civil penalty shall be assessed by the Attorney General only after the person charged with a violation under paragraph (3) has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur, and the amount of the penalty which is warranted. The hearing shall be of record and conducted before an immigration officer designated by the Attorney General, individually or by regulation and the proceedings shall be conducted in accordance with the requirements of title 5, section 554 of the United States Code.

"(5) If the person against whom a civil penalty is as-

sessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) Any employer or person who has been assessed a civil penalty under subsection (b) (3) which has become final and thereafter violates subsection (b) (1) shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, for each alien in respect to whom any violation of this subsection occurs.

SEC. 3. The Immigration and Nationality Act is amended by inserting immediately after section 274 the following new section:

"DISCLOSURE OF ILLEGAL ALIENS WHO ARE RECEIVING ASSISTANCE UNDER THE SOCIAL SECURITY ACT

"SEC. 274A. Any officer or employee of the Department of Health, Education, and Welfare shall disclose to the Service the name and most recent address of any alien who such officer or employee knows is not lawfully in the United States

and who is receiving assistance under any State plan under title I, X, XIV, XVI, XIX, or part A of title IV of the Social Security Act."

SEC. 4. The first paragraph of section 1546 of title 18 of the United States Code is amended to read as follows:

"Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or".

SEC. 5. Nothing contained in this Act, unless otherwise specifically provided therein, shall be construed to affect the validity of any document or proceeding which shall be valid at the time this Act shall take effect, or to affect any prosecution, suit, action, or proceeding, civil or criminal, done or existing, at the time this Act shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, con-

ditions, rights, acts, things, liabilities, obligations, or matters, the statutes or parts of statutes repealed by this Act are, unless otherwise specifically provided therein, hereby continued in force and effect.

SEC. 6. This Act shall become effective on the first day of the first month after expiration of ninety days following the date of its enactment.

94TH CONGRESS
1ST SESSION

H. R. 3883

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1975

Mr. RODINO (for himself, Mr. BROOKS, Mr. HUNGATE, Mr. EILBERG, Mr. FLOWERS, Mr. MANN, Mr. SARBANES, Mr. SEIBERLING, Mr. DANIELSON, Ms. JORDAN, Mr. MAZZOLI, Mr. HUGHES, Mr. HUTCHINSON, Mr. MCCLORY, Mr. RAILSBACK, Mr. WIGGINS, Mr. FISH, Mr. COHEN, Mr. DINGELL, Mr. ST GERMAIN, Mr. CLEVELAND, Mr. CARR, Mr. DOWNEY, Ms. MEYNER, and Mr. ZEFERETTI) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended to read as follows:

"SEC. 245. (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien

makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under section 203(a) within the class to which the alien is chargeable, or the number of visas authorized to be issued pursuant to the provisions of section 21(e) of the Act of October 3, 1965, for the fiscal year then current.

"(c) The provisions of this section shall not be applicable to: (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; or (3) any alien admitted in transit without visa under section 238(d)."

SEC. 2. Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by deleting the proviso in paragraph 4 of subsection (a) and by redesignating subsec-

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tion (b) as subsection (d) and adding new subsections (b) and (c) to read as follows:

"(b) (1) It shall be unlawful for any employer or any person acting as an agent for such an employer, or any person who for a fee, refers an alien for employment by such an employer, knowingly to employ, continue to employ, or refer for employment any alien in the United States who has not been lawfully admitted to the United States for permanent residence, unless the employment of such alien is authorized by the Attorney General: *Provided*, That an employer, referrer, or agent shall not be deemed to have violated this subsection if he has made a bona fide inquiry whether a person hereafter employed or referred by him is a citizen or an alien, and if an alien, whether he is lawfully admitted to the United States for permanent residence or is authorized by the Attorney General to accept employment: *Provided, further*, That evidence establishing that the employer, referrer, or agent has obtained from the person employed or referred by him a signed statement in writing in conformity with regulations which shall be prescribed by the Attorney General that such person is a citizen of the United States or that such person is an alien lawfully admitted for permanent residence or is an alien authorized by the Attorney General to accept employment, shall be deemed prima facie proof that such employer, agent, or referrer has made a bona fide inquiry as provided in

this paragraph. The Attorney General of the United States shall prepare forms for the use of employers, agents, and referrers in obtaining such written statements and shall furnish such forms to employers, agents, and referrers upon request.

"(2) If, on evidence or information he deems persuasive, the Attorney General concludes that an employer, agent, or referrer has violated the provisions of paragraph (1), the Attorney General shall serve a citation on the employer, agent, or referrer informing him of such apparent violation.

"(3) If, in a proceeding initiated within two years after the service of such citation, the Attorney General finds that any employer, agent, or referrer upon whom such citation has been served has thereafter violated the provisions of paragraph (1), the Attorney General shall assess a penalty of not more than $500 for each alien in respect to whom any violation of paragraph (1) is found to have occurred.

"(4) A civil penalty shall be assessed by the Attorney General only after the person charged with a violation under paragraph (3) has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur, and the amount of the penalty which is warranted. The hearing shall be of record and conducted before an immigration officer designated by the Attorney General, individually or by regulation and the proceedings shall be conducted in accordance with the requirements of title 5, section 554 of the United States Code.

"(5) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) Any employer or person who has been assessed a civil penalty under subsection (b) (3) which has become final and thereafter violates subsection (b) (1) shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, for each alien in respect to whom any violation of this subsection occurs.

SEC. 3. The Immigration and Nationality Act is amended by inserting immediately after section 274 the following new section:

"DISCLOSURE OF ILLEGAL ALIENS WHO ARE RECEIVING ASSISTANCE UNDER THE SOCIAL SECURITY ACT

"SEC. 274A. Any officer or employee of the Department of Health, Education, and Welfare shall disclose to the Service the name and most recent address of any alien who such

officer or employee knows is not lawfully in the United States and who is receiving assistance under any State plan under title I, X, XIV, XVI, XIX, or part A of title IV of the Social Security Act."

SEC. 4. The first paragraph of section 1546 of title 18 of the United States Code is amended to read as follows:

"Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or".

SEC. 5. Nothing contained in this Act, unless otherwise specifically provided therein, shall be construed to affect the validity of any document or proceeding which shall be valid at the time this Act shall take effect, or to affect any prosecution, suit, action, or proceeding, civil or criminal, done or existing, at the time this Act shall take effect; but as to all

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SEC. 6. This Act shall become effective on the first day of the first month after expiration of ninety days following the date of its enactment.

officer or employee knows is not lawfully in the United States and who is receiving assistance under any State plan under title I, X, XIV, XVI, XIX, or part A of title IV of the Social Security Act."

SEC. 4. The first paragraph of section 1546 of title 18 of the United States Code is amended to read as follows:

"Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or".

SEC. 5. Nothing contained in this Act, unless otherwise specifically provided therein, shall be construed to affect the validity of any document or proceeding which shall be valid at the time this Act shall take effect, or to affect any prosecution, suit, action, or proceeding, civil or criminal, done or existing, at the time this Act shall take effect; but as to all

States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under section 203(a) within the class to which the alien is chargeable, or the number of visas authorized to be issued pursuant to the provisions of section 21(e) of the Act of October 3, 1965, for the fiscal year then current.

"(c) The provisions of this section shall not be applicable to: (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; or (3) any alien admitted in transit without visa under section 238(d)."

SEC. 2. Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by deleting the proviso in paragraph 4 of subsection (a) and by redesignating subsection (b) as subsection (e) and adding new subsections (b), (c), and (d) to read as follows:

"(b) (1) It shall be unlawful for any employer or any person acting as an agent for such an employer, or any person who for a fee, refers an alien for employment by such an employer, knowingly to employ, continue to employ, or refer for employment any alien in the United States who has not been lawfully admitted to the United States for permanent residence, unless the employment of such alien is authorized by the Attorney General: *Provided,* That an employer, referrer, or agent shall not be deemed to have violated this subsection if he has made a bona fide inquiry whether a person hereafter employed or referred by him is a citizen or an alien, and if an alien, whether he is lawfully admitted to the United States for permanent residence or is authorized by the Attorney General to accept employment: *Provided, further,* That evidence establishing that the employer, referrer, or agent has obtained from the person employed or referred by him a signed statement in writing in conformity with regulations which shall be prescribed by the Attorney General that such person is a citizen of the United States or that such person is an alien lawfully admitted for permanent residence or is an alien authorized by the Attorney General to accept employment, shall be deemed prima facie proof that such employer, agent, or referrer has made a bona fide inquiry as provided in this paragraph. The Attorney General of the United States shall prepare forms for the use of employers, agents, and re-

ferrers in obtaining such written statements and shall furnish such forms to employers, agents, and referrers upon request.

"(2) If, on evidence or information he deems persuasive, the Attorney General concludes that an employer, agent, or referrer has violated the provisions of paragraph (1), the Attorney General shall serve a citation on the employer, agent, or referrer informing him of such apparent violation.

"(3) If, in a proceeding initiated within two years after the service of such citation, the Attorney General finds that any employer, agent, or referrer upon whom such citation has been served has thereafter violated the provisions of paragraph (1), the Attorney General shall assess a penalty of not more than $500 for each alien in respect to whom any violation of paragraph (1) is found to have occurred.

"(4) A civil penalty shall be assessed by the Attorney General only after the person charged with a violation under paragraph (3) has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur, and the amount of the penalty which is warranted. The hearing shall be of record and conducted before an immigration officer designated by the Attorney General, individually or by regulation and the proceedings shall be conducted in accordance with the requirements of title 5, section 554 of the United States Code.

"(5) If the person against whom a civil penalty is as-

sessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) Any employer or person who has been assessed a civil penalty under subsection (b) (3) which has become final and thereafter violates subsection (b) (1) shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, for each alien in respect to whom any violation of this subsection occurs.

SEC. 3. The Immigration and Nationality Act is amended by inserting immediately after section 274 the following new section:

"DISCLOSURE OF ILLEGAL ALIENS WHO ARE RECEIVING ASSISTANCE UNDER THE SOCIAL SECURITY ACT

"SEC. 274A. Any officer or employee of the Department of Health, Education, and Welfare shall disclose to the Service the name and most recent address of any alien who such officer or employee knows is not lawfully in the United States

and who is receiving assistance under any State plan under title I, X, XIV, XVI, XIX, or part A of title IV of the Social Security Act."

SEC. 4. The first paragraph of section 1546 of title 18 of the United States Code is amended to read as follows:

"Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or".

SEC. 5. Nothing contained in this Act, unless otherwise specifically provided therein, shall be construed to affect the validity of any document or proceeding which shall be valid at the time this Act shall take effect, or to affect any prosecution, suit, action, or proceeding, civil or criminal, done or existing, at the time this Act shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, con-

ditions, rights, acts, things, liabilities, obligations, or matters, the statutes or parts of statutes repealed by this Act are, unless otherwise specifically provided therein, hereby continued in force and effect.

SEC. 6. This Act shall become effective on the first day of the first month after expiration of ninety days following the date of its enactment.

Mr. EILBERG. At this time I will call on Mr. Fish, the ranking member on the minority side.

Mr. FISH. Thank you, Mr. Chairman.

Could I at the outset introduce to you our latest addition to the minority side as a member of this subcommittee which you chair, Mr. Cohen from the State of Maine?

Mr. COHEN. Mr. Chairman.

Mr. FISH. Mr. Chairman, we meet here today to consider once more the problem of the millions of illegal aliens in our country and to resolve what to do about their presence here. There have been prior occasions as you stated, when this subcommittee met to consider this matter and twice bills have been reported out which went on to be passed by the House, both in the 92d Congress and the 93d Congress. Today, however, the problem of illegal aliens is much more serious than during those prior Congresses.

The number of illegal aliens in our country appears to have increased dramatically in recent years, and we have been told that many of these illegal aliens are employed, often in well paying jobs. This is at a time when our country is experiencing unemployment at a rate of 7.1 percent of the total work force, the highest unemployment figure in almost 14 years.

The Immigration Service has estimated that 1 million jobs could be created in the near future by the removal of that many aliens who now hold such jobs. Our economy needs those jobs and it needs them now. I understand 2 to 3 million jobs may now be held by illegal aliens.

It should be noted that these jobs and the presence of illegal aliens are not confined to the area adjacent to our southwest border. In New York City alone, the Immigration Service has estimated that 106,000 jobs are held by such aliens and could be made available to U.S. citizens and legal resident aliens.

H.R. 982 makes it illegal to knowingly hire an illegal alien. Without such a law, no penalty reaches an employer for employing persons who, by law, cannot work in the United States. The companion effort of this Congress must be to adequately fund the Immigration Service to pay not only the salaries of agents, but the moving expenses, so that those apprehended can be deported.

Mr. Chairman, we are not alone in our concern about this most serious problem. It has received the attention recently in several series of newspaper articles, in such papers as the Washington Star-News, the New York Times, and just this week, in the Washington Post. [See p. 63.] It was recently the subject of an hour-long documentary broadcast by the ABC Television Network, and more importantly, it has been the subject of a discussion between President Ford and the President of Mexico at their recent meeting. As a result of that meeting, President Ford established on January 6 of this year the Domestic Council Committee on Illegal Aliens which is chaired by the Attorney General.

We know our system is not working correctly when the number of aliens who are arrested and deported from the United States annually is double the number of aliens who are annually admitted legally. Estimates of the illegal alien population in the United States range from 4 to 12 million. I commend you and Chairman Rodino for making

this issue our first priority during this Congress, and I look forward to working with you in trying to resolve this most serious problem for our country at this time.

Mr. EILBERG. Before beginning with the testimony, I would like to introduce a new member of the subcommittee, the gentleman from Connecticut, Congressman Christopher Dodd.

And now if we may, I would like to welcome the Acting Attorney General of the United States, Mr. Laurence H. Silberman. We are happy to have you here, Mr. Silberman, and look forward to your testimony.

TESTIMONY OF LAURENCE H. SILBERMAN, ACTING ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, AND LEONARD F. CHAPMAN, JR., COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY SAM BERNSEN, GENERAL COUNSEL

Mr. SILBERMAN. Thank you, Mr. Chairman.

I would like to introduce on my left Leonard Chapman, Commissioner of the Immigration and Naturalization Service, who will also testify, and Sam Bernsen, INS General Counsel.

I shall be brief. I can summarize my testimony and read only those portions which seem to me to go to the heart of the matter before this committee.

I would like to also congratulate the chairman of this committee for making this issue a first priority. It has been for the last year the first priority of the Justice Department of all of the programs we have.

Mr. Chairman and members of the subcommittee, I am pleased to appear before you to discuss H.R. 982. H.R. 982 addresses a critical national problem—the flood of illegal immigration. The principal provision of H.R. 982 aims at the heart of this problem by prohibiting persons from knowingly employing illegal aliens, thus reducing the economic incentive for illegal immigration. The Department of Justice has supported H.R. 982 in the past. We continue to believe that employment of illegal aliens must be prohibited. We believe, however, that Congress should consider enactment of stronger provisions than are presently contained in H.R. 982 to assure that this prohibition is observed and enforced.

Let me make myself quite clear. The Department has always taken the position that we will support the strongest bill in this area that can come out of the Congress, and we of course, defer to the legislative expertise of men like yourself, Mr. Chairman, who have worked on this problem. But we think that with the heightened concern now, with the economic problems that we face, that both you and Mr. Fish referred to, we have a chance of even strengthening H.R. 982 now, and we would hope that you would consider that.

Congress has established a policy of controlled immigration. You have set an annual limit on immigrating, 394,000 in fiscal year 1974. Furthermore, Congress has wisely and humanely established guidelines for admitting immigrants; the reuniting of families and the admission of needed workers are the principal purposes to be promoted. Total immigration, however, bears no relation to the program you have prescribed. Last year the Immigration and Naturalization Serv-

ice located 788,000 deportable aliens—twice the number of aliens admitted as legal immigrants.

We cannot assess with certainty the number of illegal immigrants entering this country each year. As Commissioner Chapman has often said, "If we could count them, we could catch them." In 1973, this subcommittee estimated that there were 1 to 2 million illegal aliens in the United States. However, the dramatic growth of illegal aliens apprehended in each year since 1965 suggests that the number of illegal aliens in the United States is rapidly increasing. We now estimate, and I emphasize, it is an estimate, that the number of illegal aliens in this country may be between 4 and 12 million.

As the House Committee on the Judiciary has noted, the primary reason for the illegal alien problem is the economic imbalance between the United States and the countries from which illegal immigrants come, most notably Mexico. As long as jobs are available for those who enter this country illegally or for those who enter legally as nonimmigrants and illegally obtain employment, the influx of unauthorized immigration will continue. Therefore, Mr. Chairman, this problem must be perceived as a question of economic incentives and disincentives. It is my personal view that we will only successfully deal with this problem when the United States becomes an economic wasteland for any illegal immigrant.

As witnesses have testified before this subcommittee in the past, the adverse economic impact of the illegal alien is dramatic. Illegally employed aliens:

One, take jobs normally filled by American workers; not only agricultural jobs in the Southwest, but high-paying jobs in metropolitan areas where the illegal alien is harder to apprehend;

Two, compete, as low-skilled laborers, most directly with unskilled ethnic or minority group members, many of whom may be Mexican-Americans or lawfully admitted permanent resident aliens;

Three, depress the wages of American workers;

Four, contribute to the balance-of-payments deficit by sending money out of the United States; and

Five, impose costs on the American taxpayer by taking jobs which would otherwise be performed by individuals on welfare.

With 7 percent unemployment, the United States can no longer conceive of itself as a people of plenty with inexhaustible opportunity for all who wish to come here. The congressionally prescribed limits on immigration represent recognition of this reality. The question today is whether we will take effective measures to enforce those limits by prohibiting employment of illegal aliens and raising the penalties for those illegal aliens who seek employment here. If we do not act effectively, the tide of illegal aliens will abate only when we have absorbed so many unauthorized immigrants that the United States is no longer perceived as economically more inviting than the countries from which they come.

This subcommittee has consistently recognized the need to prohibit employment of illegal aliens without abetting job discrimination against American citizens who resemble aliens. H.R. 982 attempts to meet this goal.

Section 2 of H.R. 982 would amend section 274(b) of the Immigration and Nationality Act to make it to be unlawful for any employer,

agent, or person who for a fee refers an alien for employment knowingly to employ, continue to employ, or refer for employment any alien who has not been lawfully admitted for permanent residence, unless such employment is authorized by the Attorney General.

The new section 274(b)(1) would stipulate that an employer, referrer, or agent shall not be deemed to have violated the subsection if he has made a bona fide inquiry as to whether the applicant is a citizen or an alien, and if an alien, whether he is lawfully admitted for permanent residence. That section would also provide that an employer, referrer, or agent can demonstrate prima facie proof of such a bona fide inquiry by securing a signed statement from the person employed or referred that such person is a citizen, a permanent resident alien, or an alien authorized by the Attorney General to accept employment. The signed statement would be in writing and would have to conform with regulations prescribed by the Attorney General.

The three-step penalty structure authorized by the amended section 274 would begin with the Attorney General or his agent serving a citation informing the offending employer, agent, or referrer of an apparent violation. A second offense within 2 years of the service of such a citation would authorize the Attorney General to assess a civil penalty of not more than $500 for each alien with respect to whom a violation occurs. A violation subsequent to the assessment of a civil penalty would expose the offender to a criminal conviction with a maximum punishment of $1,000 fine and 1 year imprisonment for each violation.

The Department of Justice believes that H.R. 982 can and should be strengthened to more effectively (1) prohibit employment of illegal aliens, (2) protect American citizens against discrimination proscribed by title VII of the Civil Rights Act of 1964, and (3) promote enforcement of its provisions.

The Department recommends that in the future each employer, agent, or referrer be required to take affirmative steps to determine whether each applicant for employment is an American citizen or an alien entitled to work. As witnesses have testified before, what troubles us, Mr. Chairman, is under the present provision of the bill an illegal alien is only required to certify that he is a legal alien, and if he is already inclined to violate an American law to get here illegally, we are concerned that his signing of a statement that he is a legal alien will really provide very little deterrent.

Under our approach the Department would promulgate regulations setting forth the steps an employer must take to ascertain if an individual is entitled to work; inspection of a birth certificate or appropriate INS document could be required. An employer of an alien not authorized to work would be held liable if he failed to make the required inquiry. These provisions would be consistent with existing social security regulations which require that an applicant for a social security card prove that he is a citizen or that he has permission from INS to be employed.

Adoption of the Department's recommendation would improve H.R. 982 in several ways. First, it would increase the detection of illegal aliens. H.R. 982, as now drafted, does not require an employer to take affirmative action to ascertain whether an applicant is an American citizen or an alien illegally permitted to work; therefore many illegal aliens are likely to continue to go undetected.

In addition, the recommended approach would assure equal treatment for all Americans. I do not think there is any committee of the Congress that is more concerned about that than this committee.

Under H.R. 982 as presently drafted, an American citizen with a foreign surname or foreign accent might be required to execute an affidavit regarding his citizenship in order to get a job, while other Americans might not be asked for a similar statement. If the Department's recommendation is adopted, all Americans would be subject to the same inquiries in seeking employment.

More important, the Department's proposal would remove the possibility that H.R. 982 will operate to encourage some employers to discriminate against Americans who resemble aliens. H.R. 982 as now drafted recognizes that the risk of hiring an illegal alien may encourage some employers to "play it safe" by hiring only people who clearly appear to be American citizens; thus H.R. 982 may encourage, unwittingly of course, violations of title VII of the Civil Rights Act of 1964, which prohibits discrimination against American citizens on the basis of national origin. The provision now in H.R. 982 immunizing an employer who makes a bona fide inquiry, usually by obtaining a signed statement, may reduce, but not eliminate, the risk that the statute will abet discrimination against American citizens on the basis of national origin. The Department's proposal, however, would require steps to be taken to establish that all applicants are eligible to work. It would eliminate the possibility that an employer will reject American citizens who resemble aliens in order to avoid taking steps to determine their eligibility to work.

The Department's proposal would also make H.R. 982 more enforceable by establishing clear guidelines for employers and objective tests to determine compliance with the law.

The Department supports the three-step penalty structure proposed in H.R. 982. This penalty structure would provide fair and effective sanctions against employers, agents, or referrers who violate this act.

May I parenthetically mention that when the Department originally testified on this legislation some 3 or 4 years ago, the Department's position was that it would be wiser to have a stiffer criminal penalty for the first violation. If you really think about that, and I know you have, the civil penalty, in our judgment, is more effective. A criminal penalty carries with it all sorts of procedural steps, and often, at least in the first instance, it would be less effective in deterring this than a swift civil penalty which would carry with it less of the procedural burden than a criminal process and, of course, for the repeated violator the criminal process is available.

The Department also believes that H.R. 982 should include provisions which increase the sanctions against an alien who illegally finds employment in the United States. The Department is prepared to work with the subcommittee to develop disincentives to influence the illegal alien. Such disincentives could include, and now I am being suggestive only:

One, authorization of summary seizure and forfeiture of vehicles used for smuggling illegal aliens, a provision which was included in H.R. 982 as reported by the House Judiciary Committee last year;

Two, administrative imposition of a substantial civil penalty against illegal aliens who accept employment; such a penalty would be partic-

ularly effective with regard to the many illegal aliens who hold high paying jobs on a permanent basis; and

Three, prohibition of payments of Federal funds to illegal aliens.

The Department of Justice continues to support section 1 of H.R. 982. But that goes on to other more technical amendments which I will defer to Mr. Bernsen and Mr. Chapman in the event that you should have questions on it.

I think that would conclude the thrust of our testimony and what I regard as the crucial provisions of this bill. If you have any questions, Mr. Chairman, I shall be delighted to attempt to answer them.

Mr. EILBERG. Mr. Silberman, according to the schedule we had planned to have Mr. Chapman testify separately. Do I understand that his statement is included within yours?

Mr. SILBERMAN. He has a separate statement. We could submit it for the record as well as the balance of my statement, and we will both be available to answer questions.

Mr. EILBERG. All right. Your statement and Commissioner Chapman's statement then will be included in the record without objection.

[The prepared statements of Acting Attorney General Silberman and Commissioner Chapman follow:]

STATEMENT OF LAURENCE H. SILBERMAN, ACTING ATTORNEY GENERAL

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you to discuss H.R. 982. H.R. 982 addresses a critical national problem—the flood of illegal immigration. The principal provision of H.R. 982 aims at the heart of this problem by prohibiting persons from knowingly employing illegal aliens, thus reducing the economic incentive for illegal immigration. The Department of Justice has supported H.R. 982 in the past. We continue to believe that employment of illegal aliens must be prohibited. We believe, however, that Congress must enact stronger provisions than are presently contained in H.R. 982 to assure that this prohibition is observed and enforced.

Congress has established a policy of controlled immigration. You have set an annual limit on immigration, 394,000 in fiscal year 1974. Furthermore, Congress has wisely and humanely established guidelines for admitting immigrants; the reuniting of families and the admission of needed workers are the principal purposes to be promoted. Total immigration, however, bears no relation to the program you have prescribed. Last year the Immigration and Naturalization Service located 788,000 deportable aliens—twice the number of aliens admitted as legal immigrants.

We cannot assess with certainty the number of illegal immigrants entering this country each year. As Commissioner Chapman has often said, "If we could count them, we could catch them." In 1973, this Subcommittee estimated that there were one to two million illegal aliens in the United States. However, the dramatic growth of illegal aliens apprehended in each year since 1965 suggests that the number of illegal aliens in the U.S. is rapidly increasing. We now believe that the number of illegal aliens in this country may be between four and twelve million.

As the House Committee on the Judiciary has noted, the primary reason for the illegal alien problem is the economic imbalance between the U.S. and the countries from which illegal immigrants come, most notably Mexico. As long as jobs are available for those who enter this country illegally or for those who enter legally as non-immigrants and illegally obtain employment, the influx of unauthorized immigration will continue.

As witnesses have testified before this Subcommittee in the past, the adverse economic impact of the illegal alien is dramatic. Illegally employed aliens:

(1) Take jobs normally filled by American workers; not only agricultural jobs in the Southwest, but high paying jobs in metropolitan areas where the illegal alien is harder to apprehend;

(2) Compete, as low skilled laborers, most directly with unskilled ethnic or minority group members, many of whom may be Mexican-Americans or lawfully admitted permanent resident aliens;

(3) Depress the wages of American workers;

(4) Contribute to the Balance of Payments deficit by sending money out of the United States; and

(5) Impose costs on the American taxpayer by taking jobs which would otherwise be performed by individuals on welfare.

With 7% unemployment, the United States can no longer conceive of itself as a people of plenty with inexhaustible opportunity for all who wish to come here. The Congressionally prescribed limits on immigration represent recognition of this reality. The question today is whether we will take effective measures to enforce those limits by prohibiting employment of illegal aliens and raising the penalties for those illegal aliens who seek employment here. If we do not act effectively, the tide of illegal aliens will abate only when we have absorbed so many unauthorized immigrants that the U.S. is no longer perceived as economically more inviting than the countries from which they come.

This Subcommittee has consistently recognized the need to prohibit employment of illegal aliens, without abetting job discrimination against American citizens who resemble aliens. H.R. 982 attempts to meet this goal.

Section 2 of H.R. 982 would amend Section 274(b) of the Immigration and Nationality Act to make it to be unlawful for any employer, agent, or person who for a fee refers an alien for employment knowingly to employ, continue to employ, or refer for employment any alien who has not been lawfully admitted for permanent residence, unless such employment is authorized by the Attorney General.

The new section 274(b)(1) would stipulate that an employer, referrer, or agent shall not be deemed to have violated the subsection if he has made a *bona fide* inquiry as to whether the applicant is a citizen or an alien, and if an alien, whether he is lawfully admitted for permanent residence. That section would also provide that an employer, referrer, or agent can demonstrate *prima facie proof* of such a *bona fide* inquiry by securing a signed statement from the person employed or referred that such person is a citizen, a permanent resident alien, or an alien authorized by the Attorney General to accept employment. The signed statement would be in writing and would have to conform with regulations prescribed by the Attorney General.

The three-step penalty structure authorized by the amended section 274 would begin with the Attorney General or his agent serving a citation informing the offending employer, agent, or referrer of an apparent violation. A second offense within two years of the service of such a citation would authorize the Attorney General to assess a civil penalty of not more than $500 for each alien with respect to whom a violation occurs. A violation subsequent to the assessment of a civil penalty would expose the offender to a criminal conviction with a maximum punishment of $1000 fine and one year imprisonment for each violation.

The Department of Justice believes that H.R. 982 can and should be strengthened to more effectively (1) prohibit employment of illegal aliens, (2) protect American citizens against discrimination proscribed by Title VII of the Civil Rights Act of 1964 and (3) promote enforcement of its provisions.

The Department recommends that in the future each employer, agent or referrer be required to take affirmative steps to determine whether each applicant for employment is an American citizen or an alien entitled to work. Under this approach the Department would promulgate regulations setting forth the steps an employer must take to ascertain if an individual is entitled to work; inspection of a birth certificate or appropriate INS document could be required. An employer of an alien not authorized to work would be held liable if he failed to make the required inquiry. These provisions would be consistent with existing Social Security regulations which require that an applicant for a Social Security card prove that he is a citizen or that he has permission from INS to be employed.

Adoption of the Department's recommendation would improve H.R. 982 in several ways. First, it would increase the detection of illegal aliens. H.R. 982 as now drafted does not require an employer to take affirmative action to ascertain whether an applicant is an American citizen or an alien legally permitted to work; therefore, many illegal aliens are likely to continue to go undetected.

In addition, the recommended approach would assure equal treatment for all Americans. Under H.R. 982 as presently drafted, an American citizen with a foreign surname or foreign accent might be required to execute an affidavit regarding his citizenship in order to get a job, while other Americans might not be asked for a similar statement. If the Department's recommendation is adopted, all Americans would be subject to the same inquiries in seeking employment.

More important, the Department's proposal would remove the possibility that H.R. 982 will operate to encourage some employers to discriminate against Ameri-

cans who resemble aliens. H.R. 982 as now drafted recognizes that the risk of hiring an illegal alien may encourage some employers to "play it safe," by hiring only people who clearly appear to be American citizens; thus H.R. 982 may encourage violations of Title VII of the Civil Rights Act of 1964, which prohibits discrimination against American citizens on the basis of national origin. The provision now in H.R. 982 immunizing an employer who makes a *bona fide* inquiry, usually by obtaining a signed statement, may reduce, but not eliminate, the risk that the statute will abet discrimination against American citizens on the basis of national origin. The Department's proposal, however, would require steps to be taken to establish that all applicants are eligible to work. It would eliminate the possibility that an employer will reject American citizens who resemble aliens in order to avoid taking steps to determine their eligibility to work.

The Department's proposal would also make H.R. 982 more enforceable by establishing clear guidelines for employers and objective tests to determine compliance with the law.

The Department supports the three-step penalty structure proposed in H.R. 982. This penalty structure would provide fair and effective sanctions against employers, agents or referrers who violate this Act.

The Department also believes that H.R. 982 should include provisions which increase the sanctions against an alien who illegally finds employment in the United States. The Department is prepared to work with the Subcommittee to develop disincentives to influence the illegal alien. Such disincentives could include:

(1) Authorization of summary seizure and forfeiture of vehicles used for smuggling illegal aliens, a provision which was included in H.R. 982 as reported by the House Judiciary Committee last year;

(2) Administrative imposition of a substantial civil penalty against illegal aliens who accept employment; such a penalty would be particularly effective with regard to the many illegal aliens who hold high paying jobs on a permanent basis; and

(3) Prohibition of payments of Federal funds to illegal aliens.

This Department of Justice continues to support section 1 of H.R. 982. It would make several amendments to section 245 of the Act which presently authorizes an Eastern Hemisphere non-immigrant to adjust his status to that of a permanent resident alien without leaving the United States to secure an immigrant visa. The language of existing subsection (a) relating to the ineligibility of alien crewmen would be transferred to subsection (c) which lists the other disqualifications. Subsection (a) would be amended to establish eligibility for an immigrant visa at the time the application is filed rather than at the time it is approved. The Department agrees that the applicant should not be penalized for administrative delays not attributable to him.

Section 1 of the bill would make three amendments to subsection 245(c). First, aliens who are not defined as immediate relatives and who accept unauthorized employment prior to filing an application would be ineligible for an adjustment of status. The Department supports this attempt to limit unauthorized employment by nonimmigrants. The second change in subsection (c) would disqualify from adjustment aliens admitted in transit without visa. Although a Departmental regulation prescribing such ineligibility has been upheld in the Second Circuit, *Mak*, v. *INS*., 435 F. 2d 728 (1970), the Department favors legislative recognition of this disqualification.

The third major change to subsection 245(c) would restore adjustment of status eligibility to Western Hemisphere aliens. The present disqualification, enacted in 1965, has created many hardships and leads to unnecessary expense by requiring the alien to return to his country of origin to apply for an immigrant visa from a consular office. The number of Western Hemisphere aliens granted adjustment would be charged against the Western Hemisphere numerical limitation by subsection 245(b).

The Department continues to support Section 3 of the bill which would require officers and employees of the Department of Health, Education and Welfare to disclose to INS the name and most recent address of any alien not lawfully in the United States who is receiving welfare benefits. However, as we pointed out in 1973, we know of no present procedure under which HEW employees can determine whether a welfare recipient is lawfully in the United States. Since the need for denying social security cards to illegal aliens, and the identification of such aliens through social security records, is a matter of wide-spread public concern, the Department supports efforts in this direction. The Service has con-

tinued to work with the Social Security Administration to implement section 137 of the Social Security Amendments of 1972; P.L. 92-603, 86 Stat. 1329, which requires, *inter alia*, that social security account applicants submit evidence of their citizenship or alien status.

The Department also supports section 4 of H.R. 982 which would impose criminal penalties for falsifying certain immigration documents, or for use of such falsified documents. The amendment would expand the present language to make it applicable to any "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States." This amendment is necessitated by the restrictive reading of the present statute announced in *United States* v. *Campos-Serrano*, 404 U.S. 293 (1971).

The Department also supports sections 5 and 6 of the bill which provide a savings provision and prescribe a delayed effective date.

The Department of Justice believes that our laws must be both humane and enforceable. At first glance some of the recommendations we have made today may appear harsh. We are a nation of immigrants; but we must remember that we are a nation of *legal* immigrants. You, the Congress, have determined that immigration must be limited. We believe the limits you have established must be enforced. H.R. 982 as now drafted attempts to move in the right direction. However, the Department believes that the recommendations it has made must be adopted if H.R. 982 is to effectively assist us in moving toward our common goal.

STATEMENT BY LEONARD F. CHAPMAN, JR., COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Chairman Eilberg, members of the Subcommittee, it is a pleasure to appear here today to present the views of the Immigration Service on H.R. 982—legislation that we consider to be extremely important.

This subcommittee, I know, is well aware of the serious problem that illegal immigration poses to our nation and to our economy. Through hearings that began in 1971, you have heard reams of testimony about the impact of illegal aliens on jobs, on welfare, on taxes, and on public facilities such as schools and hospitals. The problem was serious four years ago when you began looking into it, it was worse in 1972, when this legislation was introduced for the first time, and it has grown significantly since then, as lack of controls has allowed literally millions of persons to pour across our borders almost unimpeded and take jobs.

Last year the Immigration Service apprehended nearly 800,000 illegal aliens—equal to the entire population of the District of Columbia. Though this was 10 times the number we apprehended just a decade ago, it was probably no more than one out of three or four who entered the country illegally—or entered legally as a student or visitor, then simply found a job and stayed here illegally.

We really don't know how many illegal aliens there are in this country. The estimates range from four million to 12 million; the actual number is probably somewhere in between—perhaps about eight million or so. But the lack of an absolute number does not challenge the existence of a problem of great magnitude. We know how many we apprehended, we know how many visas were issued last year, and we know approximately how many vistors failed to depart the country when their visas expired. And it is painfully evident to our investigators and Border Patrol Agents that they are catching only a small percentage of the violators because of the limitations of funds and personnel.

Most aliens enter the United States illegally from Mexico, although there are great numbers who come from Central and South America, the Caribbean, Asia, the Far East and even Europe. Many enter with temporary visas, find a job, are quickly absorbed into the ethnic population in the larger cities and simply disappear from view. Our records fail to account for the departure of 10 percent of the more than 6 million foreign visitors each year. Allowing for imperfections in the system, we believe that five percent are actually overstays, who have remained here to work and live.

That amounts to 300,000 per year, which may not seem like a large number. However, their impact weighs more heavily than the numbers would suggest. Many are students, or well-educated and skilled persons who obtain good paying jobs. One example of this type of illegal alien is an East Indian national whom we apprehended in Houston on January 22. He held a masters degree in electrical engineering from Stanford University, had left the country after earning his

degree, then returned as a visitor in 1970. He had held various jobs since then, and when apprehended he was employed at Texas Instruments as a product development engineer earning over $17,000 per year.

A French baker whom we apprehended here in Washington in January is another good example. His specialty allowed him to earn $8 an hour, which amounts to over $1,400 per month.

We apprehend many in similar situations. The number of overstays and other illegal aliens who are employed at above average pay is substantial. And the jobs they are holding, often without paying adequate tax on their income, could and should be occupied by an American or a legal resident alien.

I have brought documentary evidence of many similar examples with me. For the sake of time, I will not go into each of these in detail, although I would like to briefly mention some others. In Maine, we recently found a computer technician earning $900 a month and a salesman making $30,000 a year; in Boston we found a chemist earning $6 an hour and a welder earning $10 an hour; in Providence we found two painters earning $8.65 an hour; in New York we found a plumber making $12 an hour, and last month here in Washington we apprehended a foreman working on construction of the Metro making $8.44 an hour.

As you can see, the jobs we are talking about are good paying jobs, which thousands of American and legal residents are seeking. They are not, as the old stereotype suggests, simply jobs as field hands toiling in the hot sun for a dollar a day picking tomatoes or cotton.

In three months last fall, our Chicago district investigators apprehended 2,067 illegal aliens, of whom 1,913, or 93 percent, were employed. Of those working, 1,325, or 70 percent, were earning $2.50 to $4.50 per hour; 148 were earning $4.50 to $6.50 per hour and 61 were earning over $6.50 per hour.

No job site is beyond the reach of an illegal alien. In mid-January we arrested two illegal Greeks, one who had remained after his merchant ship called at the port, and the other, his brother, was an overstay visitor. They were working on a project, repainting the Statue of Liberty and earning $9.71 per hour.

The attraction of obtaining a job and earning money is so great that no risk is too large, and seemingly no price is too high to gain entry into the United States. Fees paid to smugglers to slip an alien from the border into cities such as Chicago, Newark, Philadelphia or Washington range from $200 to $700 per alien.

Last fiscal year we apprehended 8,000 such smugglers in the act of bringing in 83,000 aliens. The number of smuggled aliens doubled from the previous year, while smugglers apprehended increased 27 percent. This is an indication, of course, that larger vehicles carrying bigger loads of this human cargo are being employed. In the past decade the number of aliens brought in by the average smuggler has increased from just three to more than 10.

Immigration fraud continues rampant. Last year our limited force, investigated nearly 17,000 fraud cases, triple the number of 10 years ago. The use of counterfeit, altered and fraudulently obtained documents is increasing at an alarming rate, especially in the Southwest Region. Last year we detected 8,400 fraudulent border crossing cards in that area, nearly four times the number we found in 1967.

Sham marriage to gain status under the immigration laws is another common fraudulent practice, which has grown well beyond our capability to control it. Some 80 percent of the investigations in the Southwest border region involved such marriages, and in some areas up to 95 percent of our investigative effort is devoted to looking into these cases.

Organized marriage rings are uncovered regularly, with aliens paying $1,000 to $1,500 to marriage arrangers. In Washington this past fall we exposed an operation in which one U.S. citizen had married 15 Africans for the purpose of facilitating their presence in the country.

Illegal aliens have impact upon our nation well beyond the employment market. In 1973 the California State Social Welfare Board estimated the cost of welfare payments to illegal aliens to be at least $100 million a year. We frequently discover other ways in which illegal aliens drain our economy through the use of public funds, to which they are not entitled.

We currently have under deportation proceedings in the state of Washington an alien who claims to be a citizen of Guatemala. This man was building and had nearly completed a home, which was federally financed under a low-interest loan obtained through a self-help program.

I believe a substantial portion of the nation's more than $3 billion balance of payments deficit could be eliminated if the money earned here and sent out of the country by illegal aliens could be halted.

The loss to the country of unpaid taxes is undoubtedly substantial. We have been working with the Internal Revenue Service, and are continuing discussions with that service to determine how we can best work together to recover some of this money. As an indication of how much may be involved, this past year we cooperated with IRS in a pilot program with these results. Over a three month period we referred to IRS 1,700 illegal aliens whom we had apprehended. From this relatively small sample, taxes assessed were a quarter of a million dollars; the amount actually collected was $168,000.

In the first 10 days of January our Dallas office apprehended 87 illegal aliens. This group was fraudulently claiming a total of 429 dependents for tax withholding purposes. One 18-year-old boy was claiming a total of 18 dependents on the W–4 form.

The influence of illegal aliens touches nearly every element of our society and our economy. Over the past several years these have been brought to the attention of the committee, so I won't dwell on this aspect. However, I do want to emphasize that the problem, which has been studied and discussed for the past several years, is continuing to worsen daily.

I believe there are three alternative courses of action in the face of this growing flood.

One, we can continue to do what we have been doing. That is, as a nation, to stand by, almost helplessly, and watch the flood grow into a torrent. The Immigration Service can continue with its small force to apprehend the relatively few illegals it can handle, and either transport them back to their own countries and await their return, or turn them loose with a letter that tells them they must go home. In the latter case, we have been having to do that with increasing frequency, as funds have not been available to detain or to transport the aliens.

However, if the situation is allowed to continue unchecked there is no question but what many more will come. Populations in Mexico, the Dominican Republic, Colombia and other Latin American countries will double by 1990. Labor forces are growing even more rapidly. Mexico's labor force, which totaled 16 million in 1970, will be 28 million by 1985 and 40 million by 1995.

The push-pull forces of limited opportunity in their own countries and the magnet of economic well being in the United States are driving these people northward. Without an effective deterrent that will continue for the foreseeable future.

The second alternative is to build a massive Immigration Service to deal with the problem. I suppose that with an army of Border Patrolmen and several thousand more investigators working in the cities, we might keep out most of the illegals, and eventually sift through the millions of persons in this country and find all those who don't belong here. But that is obviously not only impractical, it is abhorrent to the American conscience. We are not a police state and no one in the Immigration Service advocates such tactics.

That leaves a third alternative: to turn off the magnet that attracts these millions of persons to our country. That magnet, of course, is jobs. Employment of illegal aliens must be prohibited. H.R. 982 represents a real step in the right direction. I have, on many occasions, as the Committee knows, strongly supported the need for a national policy prohibiting such employment. I believe it is mandatory if we are to make any substantial progress in solving this severe national problem.

In addition, careful study should be given to any ways of strengthening the bill, such as those proposed by Mr. Silberman, in order to assure that the prohibition it would establish is observed and enforced.

We have seen some evidence that such legislation will work. When such a law was in effect for a brief time in California, thousands of illegal aliens began leaving the state, some heading north to Oregon and Washington, others returning to Mexico. Our Immigration officers reported that many came in to our offices and asked to be returned to their own countries, because they believed they could no longer obtain employment. Employers also contacted us seeking advice and assistance.

We have had laws on the Federal books for many years that call for harsh penalties for illegally entering the United States. They have proven to be an ineffective deterrent to illegal entry. With the numbers that we apprehend—800,000 last year—it is obviously impractical to prosecute. Our laws call for, and illegal aliens do receive, all due process, which can stretch out for weeks, months or even years. Most of those we apprehend agree to voluntarily return to their homeland, thereby avoiding prosecution or lengthy formal deportation proceedings. And many come back to this country within days or even hours.

Though the illegal alien is himself in volation of the law, we should not lose sight of the fact that great numbers are the victims of wrong doing more than they are the perpetrators. Living in the country illegally, they are outside the protection of our laws and subject to unfair, unjust and immoral treatment. The laws which have been aimed at the alien, are in some cases used to keep him in virtual bondage, while he works off the payment to a smuggler or the fraudulent marriage arranger.

Yet the employer, who is the beneficiary of an employee who will work long hours at less than the standard wage, is beyond the reach of the law.

This to me seems to be a large void in our Immigration law, and one which thousands of employers are using to advantage to the detriment of our country and our economy.

Some persons have voiced the opinion that passage of H.R. 982 would result in discrimination against all brown-skinned persons, and especially persons of Mexican-American ancestry. However, if H.R. 982 as now drafted, is enacted we will issue regulation that will *encourage* and *make it expedient* for the employer to inquire of everyone as to citizenship or alien status—not just those who appear to be foreign born. And if the modifications recommended by Mr. Silberman are adopted the employer will inquire of everyone *as a matter of law*. Every job applicant will be treated equally, and the law will create no incentive for an employer to discriminate.

Further, anyone attempting to use the law for discriminatory practices will be subject to prosecution under the Civil Rights Act of 1964.

And finally, if the modifications to H.R. 982 recommended by Mr. Silberman are adopted, an employer will inquire of *everyone* as a matter of *law* rather than regulation—not just those who appear to be foreign born. Every job applicant will be treated equally and the law will create no incentive for an employer to discriminate.

I also believe that passage of effective legislation will aid Mexican-American and other minorities in this country, by helping them to overcome one of the major sources of competition for available jobs—the illegal alien. I believe all American and legal resident labor will benefit from this bill becoming law, but I believe that minorities will benefit more than anyone else.

Mr. Chairman, members of this subcommittee, I believe legislation is the only answer to the problem of illegal immigration to this country. Not only will it fill a void in our immigration law and discourage illegal entry of additional persons, it will enable the Immigration Service to improve its current enforcement. Passage of effective legislation would allow our officers to concentrate their efforts on assisting the vast majority of employers who would observe the law and acting against the relatively small number who would violate it. This would obviously be a better use of manpower, and more productive, than pursuing millions of illegal aliens.

I would be remiss if I did not point out that in order for the Immigration Service to enforce a new law will require additional funds and personnel. As I have pointed out in the past, we are currently inundated in nearly every area of responsibility. And to imply that we can assume more responsibility without increases in resources—both personnel and money—is to be less than honest with this committee.

I am confident that with the additional resources and the passage of effective legislation the Immigration Service can quickly make available at least one million desirable jobs for Americans and legal resident aliens. I believe that without such legislation the problem of illegal immigration is insoluble. I also fear that we cannot delay much longer without seriously threatening the future of our economy and our country.

Thank you for giving me the opportunity to present this statement. I will now be pleased to answer your questions.

Mr. EILBERG. Mr. Silberman, the press and the public as well continue to press us regarding the numbers of illegal aliens in this country. And you and Commissioner Chapman use the figures of 4 to 12 million. Would you care to elaborate on that first? How do you arrive at those figures?

Mr. SILBERMAN. Well, as I indicated it is an estimate, and I told General Chapman when we came down here if you asked that question I was going to defer to him. Commissioner.

Mr. CHAPMAN. Thank you, Mr. Chairman. I have often said that we do not know how many illegal aliens there are here. We do make estimates, and they are based on the experience of our investigators, our Border Patrol agents in the field, and upon data that we do know to be accurate. For instance, we know we apprehended about 800,000 illegal aliens the last fiscal year. We know there were more than 6 million visitors to the United States last year and between 5 and 10 percent are not shown to have departed. And we also know that our Border Patrol is able to answer on the average about one-half of the sensor alarms that they get that are set up along the border.

In addition, we have thousands of leads from the public, both letters and phone calls, as to the presence of illegal aliens to which we cannot follow up because of lack of money and manpower. Our investigators are aware of the presence of concentrations of illegal aliens in various areas. So our estimates are based on those factors, and we do estimate that there is at least 4 or 5 million and perhaps as many as 10 or 12 million illegal aliens in the country at this time.

I would like to draw attention also to the fact that I believe we are seeing only the beginning of the tide of illegal aliens entering this country. I believe that if the situation is allowed to continue unchecked that there is no question but that many more will come. The population in Mexico, the Dominican Republic, Colombia, and other Latin American countries will double by 1990. The labor forces are growing even more rapidly. Mexico's labor force totaled 16 million in 1970 and will be 28 million by 1985 and 40 million by 1995. It is interesting to note that about 45 percent of the people in Mexico today are less than 15 years old. And that is typical of many of the Latin American countries.

Mr. EILBERG. Commissioner, for the benefit of the members of the subcommittee perhaps who have not read your statement, and for those in the room, it may be appropriate for you to, if you will, summarize your statement at this point, and then I think it would be more effective for us to ask questions and ask you gentlemen to respond. You do not have to read the statement word for word, but just so we have the basic thrust of your statement.

Mr. CHAPMAN. Thank you, Mr. Chairman. I, of course, will be happy to do so.

And it is a pleasure to appear here today to present the views of the service that I represent on H.R. 982, legislation that we believe to be extremely important.

The subcommittee is, of course, aware of and has heard a great amount of testimony through hearings that began in 1971 on the impact of illegal aliens on jobs, welfare, taxes, public facilities such as schools and hospitals. The problem was serious 4 years ago when you first began to look into it, and we are certain that it has grown significantly since.

Last year we did apprehend about 800,000 illegal aliens. That is equal to the entire population of the District of Columbia. Although it was 10 times more than we apprehended just 10 years ago, we probably located only 1 out of 3 or 4 at the most of those who entered illegally, or entered legally as tourists, or students, and then found a job and went to work.

As I have said, we really do not know the totals that are here, but we know, we are certain, it is a substantial number.

Most aliens enter the United States illegally from Mexico, but great numbers come from Central and South America, the Caribbean, Asia, the Far East, and Europe. Many enter with tourist visas, temporary visas and simply never leave. Our records fail to account for the departure for about 10 percent of the more than 6 million foreign visitors that enter each year, and allowing for imperfections in our system, and there are some there, we think that 5 percent is a realistic figure of the overstay. This amounts to about 300,000 a year which may not seem like a large number, but is it significant because these people are educated, skilled, and they obtain the good paying jobs.

I include in my statement a number of examples of those we have arrested in high paying jobs, and I am prepared to furnish for the record a number of other anecdotes of that kind. The jobs we are talking about here are good paying jobs which thousands of Americans and legal residents are seeking. They are not, as the stereotype suggests, simply jobs as field hands toiling in the hot sun for a dollar or two a day. That may have been true a number of years ago. It is not true today.

The attraction of obtaining a job and earning money is so great that no risk is too large, and apparently no price is too high to get into the United States. Fees paid to smugglers range from $200 to $700 per alien. Last year we apprehended over 8,000 smugglers in the act of smuggling over 83,000 aliens. That is an increase in smugglers of about 27 percent over the previous year.

Immigration fraud continues rampant as a means of getting into the country illegally. Fraudulent marriages, fake birth certificates, fraudulent border crossing cards, organized marriage rings are at work, and we uncover them regularly.

Just this past fall we located one U.S. citizen who had married 15 Africans for the purpose of facilitating entry into the country.

These aliens have an impact on our Nation well beyond the employment market as has been said so many times. In my statement there are a number of examples of impact on welfare payments, the balance of payments abroad, the loss to the country of unpaid taxes and the influence of illegal aliens touching every element of our society. These have been brought many times to the attention of the committee, so I will not dwell on this aspect. I just want to emphasize that the situation is worsening daily.

I think there are three possible general courses of action. The first, of course, would be to continue what we have been doing; that is, as a nation, to stand by and allow the flood to continue, and watch the flood grow into a torrent. We could continue to apprehend the numbers that we can with our limited resources, and the number we are able to remove with our limited resources.

The second alternative would be to build a massive immigration service. I suppose if we had an army of border patrolmen and thousands of investigators, we probably could keep out most of the illegals and sift through the 215 million or so Americans to find the few million illegals, but I do not think that is a practical solution. And I think it is abhorrent to our ethics in this country as well.

So that leaves a third alternative, which we advocate, and that is to turn off the magnet that draws the people here, that attracts the millions of people to our country, and that magnet, of course, is the job, the opportunity to get a job. I believe that employment of illegal aliens must be prohibited. I have on many occasions, as the committee knows, strongly supported the need for a national policy prohibiting such employment, and I believe it is mandatory if we are to make any substantial progress in solving this severe national problem.

I also believe careful study should be given to any ways of strengthening the bill such as those proposed by Mr. Silberman in order to assure the prohibition it would establish is observed and can be enforced.

And in conclusion, Mr. Chairman, I believe that legislation is the only answer to the problem of illegal aliens, and illegal immigration into this country. Not only will it fill a void in our immigration law and discourage illegal entry of additional persons, but it will enable us to improve the current enforcement. Passage of effective legislation would allow officers to concentrate their efforts in assisting the vast majority of employers who would obey the law voluntarily, and acting against the relatively small number who would violate it. This would obviously be a better use of manpower and more productive than what we are doing now, which is pursuing millions of illegal aliens.

I would be remiss, however, if I did not point out that in order for the Immigration Service to enforce the new law, it will require additional funds and personnel. As I pointed out in the past, we are currently inundated and overwhelmed in nearly every area we are responsible for now, and we can do no more. And to fail to say so would be less than honest with the committee.

I also am confident that with the additional resources and the passage of effective legislation we can make available quickly at least a million desirable jobs for unemployed Americans and legal residents.

On the other hand, I believe without good legislation the problem of the illegal immigration is currently insoluble, and I do not think we can delay much longer without seriously threatening the future of our economy and our country.

Mr. Chairman, I will be most happy to attempt to answer any questions you may have.

Mr. EILBERG. Thank you, Commissioner Chapman.

For the benefit of the members of the subcommittee, the chairman proposes to operate by the 5-minute rule so that each member will be given approximately 5 minutes, and then we will continue with that as long as we can. And at the conclusion of these hearings if there are any questions that remain I would hope, Mr. Silberman, that we may submit any questions, additional questions to you for response in writing.

And with that I will just start the questioning.

On page 3 of your prepared statement you referred to raising the penalties for those illegal aliens who seek employment here. There is, of course, at present a criminal penalty for one who illegally enters the country. How has that been working?

Mr. SILBERMAN. Not well. It is not, as a practical matter, as much of a disincentive to the illegal alien as we wish it would be. For one

thing, if we really prosecute them all, it would clog our courts terribly, so our own resources are limited in dealing with it. That is to say, our prosecutorial resources.

Secondly, even a conviction, and indeed a short prison term, is not as much as a disincentive to many illegal aliens as it might be for a legal alien or an American citizen.

Mr. EILBERG. Mr. Silberman, perhaps when you say raising the penalties you do not mean raising the penalty, you mean changing the penalties. That is the meaning that I read into your language.

Mr. SILBERMAN. Yes. I am looking particularly at economic disincentives. In other words, if an illegal alien comes here, works, as General Chapman has described to me just the other day, two people who were working on construction jobs, and who had bank accounts in excess of $10,000 from wages earned as illegal aliens, if fines were imposed, civil fines perhaps, and we can work with the committee on developing that, it would touch directly the economic incentive by creating a counterbalancing economic disincentive. You see, as it stands now the illegal alien can come here, earn a great deal of money, perhaps a tremendous amount of money compared to what his economic position would be in the country he came from, and the worst that happens to him is he is sent back.

Mr. EILBERG. Mr. Silberman, I think that we are somewhat familiar with the general situation since this subcommittee has been working with the question for some 6 years. Therefore, in the interest of saving time, and I know you want to cooperate as much as you can, I think there is little need to repeat the obvious. So if you will kind of limit your answers, I would appreciate it very much.

Now, the thing that concerns me is that having worked on this question for at least 6 years I find that the bulk of illegal aliens are employed in relatively low wages. Now, I do not argue with the fact or point that some go through the economic ladder and obtain good jobs. But can you tell us, give us some idea or any idea of how high up in the economic scale some of these illegal aliens go, and what are the numbers in proportion to the total number of illegal aliens in the country?

Mr. SILBERMAN. We cannot give you any really accurate figure which would divide up the income ranges of illegal aliens because we do not know enough about them. As we admitted at the start, it is sort of an impossible kind of analytical problem, although one we are working on in the new Cabinet Committee. But, it is very difficult because it is also hard to get a fix on them. We do know, we have anecdotes, for instance, and General Chapman informed me just several weeks ago that we apprehended and deported somebody who had been working as a foreman on the Metro construction project as an illegal alien.

Mr. EILBERG. Mr. Silberman, I do not doubt your sincerity, I just question whether this is going to do the job. The criminal penalty is not practical and you are suggesting a civil penalty, and I suggest to you that——

Mr. SILBERMAN. Combined.

Mr. EILBERG. That based upon this subcommittee's experience so far that civil penalties would reach a very small number or percentage of illegals in this country, or those presently employed, and this subcommittee would have to be convinced that the civil penalty would

be useful. And you admit and we agree with you that there is no basis determining how the civil penalty would work, what effect it would have as a deterrent.

Mr. SILBERMAN. Oh, yes there is because we both agree that the civil penalty against the employer in the first instance is a more efficient method of enforcement than the criminal process and combined with the criminal process, I see no reason why that cannot be combined with a criminal penalty, giving the Government an option, so to speak, against the illegal alien. Even the ones who are working in low-paid jobs will often save a great deal of money. And if there is a fine that can be levied, you reach that economic incentive.

Mr. EILBERG. I will be glad to work with your people on developing a civil-fine system, but this member for the present does not have the slightest idea how we could effectively do that and reach the large numbers of illegals that we believe to be employed. And I would like to go to the next question and then give the other members a chance to question you.

You would place affirmative duties on the employer, such as the inspection of a birth certificate, or an appropriate INS document. Mr. Silberman, I am wondering how practical that approach is. Do you have any idea how many employers there are in this country?

Mr. SILBERMAN. I used to have that figure at my fingertips when I was Under Secretary of Labor. It was 46,000. Do you have that?

Mr. CHAPMAN. No, sir.

Mr. SILBERMAN. I think it is 4.6 million. I can certainly get that to you.

Mr. EILBERG. We would like to have the number of employers if you will submit it for the record.

[The information referred to follows:]

According to the most recent information available from the Department of Commerce, there were 3,246,831 employers in the United States in 1972. A breakdown by category of these employers follows:

Agricultural services	31, 250
Mining	16, 239
Construction	302, 638
Manufacturing	243, 765
Transportation and public utilities	105, 230
Wholesale	219, 001
Retail	956, 920
Finance, insurance, and real estate	295, 702
Services	972, 025
Unclassified	104, 061
Total	3, 246, 831

Labor Department estimates present a figure of 4.5 million employers in the United States.

Mr. SILBERMAN. You know, it is a troubling problem. The Government has imposed an awful lot of burdens on employers to effectuate Government policies in the last 30 or 40 years. While some may be an overextension of the demand on them. I am not sure this particular one would be so difficult. Remember, I am proposing that we consider imposing this affirmative duty prospectively for new employees. Now many employers, particularly large employers, get an awful lot of information about prospective applicants, and I do not see that it would be too much of a burden to ask them to get one little bit more

of information; that is to say, whether the applicant is either a legal alien or an American citizen.

Mr. EILBERG. Mr. Silberman, you suggest that this operate prospectively. Do I understand that you would do nothing about the illegal aliens in the country who are already employed?

Mr. SILBERMAN. No. After all, H.R. 982 purports to deal with the employer who knowingly keeps illegal aliens on his payroll, and it is the continuing obligation. But I am talking about the special affirmative duty. I would apply that prospectively.

Mr. EILBERG. All right, let us take a small employer in the State of Wyoming who has a problem of harvesting a crop which is ripe. And I am just picking any State at random, and someone appears, and he was born in South Carolina. Do you seriously suggest that that employer, perhaps a small employer, small farmer, should just politely tell this gentleman I cannot hire you because I have to wait until you get a birth certificate from South Carolina or that he go to the nearest district office of the Immigration Service, which may be 1,000 miles away. Should this farmer just do nothing while his crop deteriorates? Do you seriously suggest that, Mr. Silberman? I find this very hard to understand.

Mr. SILBERMAN. I am very serious, and I have two responses. First of all, your bill deals with the affirmative obligation but it suggests that it can be satisfied simply by a piece of paper. The piece of paper——

Mr. EILBERG. That is not so, Mr. Silberman. A prima facie case is established by that piece of paper, but you would still have the power to rebut that evidence by showing that the employer hired an illegal alien with actual knowledge of the alien's status.

Mr. SILBERMAN. In any event you do approach the affirmative obligation, you require that small farmer in Washington to ask for the piece of paper. I am just asking that he ask for a different piece of paper, and one that is more reliable.

The second point I would make with respect to that is this: I believe that if such a scheme were put into effect, Americans, particularly ones who travel around, would carry with them, like their social security card, some indicia of their citizenship or legal alien status.

Well you know, these are hard choices we have to make. Either we are going to deal with the problem as effectively as we can or we are not. And it is going to be at a price paid.

Mr. EILBERG. Are you suggesting, Mr. Silberman, that every American or every permanent resident alien carry some such document around with him? Is that what you are now suggesting?

Mr. SILBERMAN. No. If he wants to look for a job, I think we could probably in this country, given the threat we are faced with, ask that individual to carry some indicia of his legal status in this country.

Mr. EILBERG. Suppose this fellow from South Carolina is unable to get a birth certificate and was born in this country, then you would preclude his being hired?

Mr. SILBERMAN. No. I think that we ought to consider a provision to expedite that process. We would have an obligation——

Mr. EILBERG. How would you do that? You do not say how you would do it in your statement.

Mr. SILBERMAN. No. Part of the reason is that I want to work with this committee in developing this, but I want to impress upon you our views that I think we can take stronger steps. If you want a full scale legislative proposal put before you, we can do that.

Mr. EILBERG. Mr. Silberman, that is exactly what the subcommittee wants. We have been working with all kinds of programs over the years, and you come in with a recommendation that is entirely different from your predecessors, and you come in, as far as I am concerned, with a purely general statement that has very little specific in it. We want some specifics.

Mr. SILBERMAN. Well first of all, my response is that the general principle could be enacted in legislation leaving regulations to the Justice Department to flesh out. Secondly, I do not think it is as difficult a problem as you suggest.

Mr. EILBERG. Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman.

Mr. Silberman, I am glad that you support the basic structure of H.R. 982, and as I understand it, you really have two suggestions that you think would improve the legislation, one directed at the employer and one at the illegal alien.

Mr. SILBERMAN. Yes.

Mr. FISH. My disposition is to be very sympathetic with what the chairman said in his opening remarks, that this in no way is legislation designed to be punitive against the illegal aliens. That is, we have other laws to reach that problem, and other efforts which this committee and the Congress can undertake. But I am sympathetic to what you are suggesting that we put a greater burden on the employer to ascertain that the person he is offering a job to is here for permanent residence, legally admitted in the United States, or a born American citizen. And I do not mind putting him to this effort except that I have heard of aliens coming to this country who for a price could purchase a social security card, and I expect to take this up with you, Mr. Chairman, fairly soon because this just came to my attention. And it seems to me this just really defeats the purpose and gives another dimension to our problem.

I wonder if social security is the answer. It would be wonderful if everybody carried a social security card, and it would meet your initial problem.

Mr. SILBERMAN. I think that is a legitimate and important question. After all, I believe under recent amendments, HEW is supposed to issue a social security card only to a legal alien or to an American citizen. And it may well be that the best way to deal with that is as an enforcement of that obligation, because everyone has to have a social security number in this country to get employed, and, therefore, a social security card or access to it. I do not mean to be rigid about it. There are several ways we could deal with this.

We have never regarded it as a burden inappropriate with our way of life to require people to have a social security number and card. There are ways to make such a card noncounterfeitable, there are ways to make, to develop, a process in conjunction with the Social Security Administration and the Immigration Service to make it a more reliable indicia of citizenship or legal status.

Mr. EILBERG. Would the gentleman yield for just a moment?

Mr. FISH. Certainly.

Mr. EILBERG. Mr. Silberman, we are familiar with the social security regulations, as I am sure your office is, and our latest information is that that system is not working very well. I wish that you would look into that and give us your appraisal if you would as to how that law is working out, because it is our understanding that it has not been very effective.

Mr. SILBERMAN. It has not been effective. I agree with you, Mr. Chairman, but I think it is part of the, as Congressman Fish mentioned, it is part of what we ought to look at to try to figure out what would be effective, and least obtrusive to Americans.

[The following additional information was submitted:]

Since the basic purpose of the Social Security regulations is to ensure that Social Security cards would not be issued to illegal aliens, we believe that our joint program has been successful. As of January 10, 1975, a total of 39,554 applications for such cards were referred by the Social Security Administration to the Immigration and Naturalization Service. After record checks were completed, 2,564 applications were returned to SSA marked "Employment Authorized" and 25,831 (90 percent) were returned marked "Employment Not Authorized". The balance are awaiting record checks. Also, when manpower becomes available, the applications where employment is not authorized will be referred to our field offices for investigation of the presumably illegal alien applicants.

Mr. FISH. On the other side here, the sanctions against the alien, you mentioned developing disincentives, and one of them is summary seizure and forfeiture of vehicles used for smuggling illegal aliens. We are not talking here about the likelihood of a vehicle belonging to an illegal alien?

Mr. SILBERMAN. No, usually the smuggler.

Mr. FISH. Somebody profiting on the smuggling of illegal aliens into this country?

Mr. SILBERMAN. That is right. We use seizure and forfeiture provisions in the drug enforcement laws.

Mr. FISH. I certainly hope that you go after those fellows separate and apart from any legislation that is yet to get on our books. You mentioned prohibition of payments of Federal funds to illegal aliens. Could you elaborate on that? What Federal funds?

Mr. SILBERMAN. The whole range of income transfer programs and the most obvious is the one that we have just been discussing, social security. But there are all sorts of welfare payments, unemployment insurance payments and other payment programs which the Congress could consider as part of a broad package to make this country not an economic incentive to an illegal alien.

Mr. FISH. Well, I certainly would like to find out more about what Federal funds are being paid to people that can be identified as illegal aliens.

Mr. SILBERMAN. For example, we know that in California a lot of welfare payments, which are partly funded through Federal funds, are going to illegal aliens.

Mr. EILBERG. Mr. Silberman, you are aware, are you not, that relief payments are being paid to illegal aliens, and illegal aliens are getting all kinds of benefits? Would precluding Federal welfare benefits to illegal aliens raise any serious constitutional questions?

Mr. SILBERMAN. I do not think there is a constitutional question with respect to illegal aliens. There is a constitutional question with respect to legal aliens, not illegal.

Mr. EILBERG. All right. I will accept that. But there are some ambiguities insofar as the law is concerned.

Mr. SILBERMAN. I am not sure there are ambiguities with respect to the Federal Government prohibiting Federal transfer payments to illegal aliens. I do not see a constitutional problem.

Mr. EILBERG. Would you supply the subcommittee with a summary of any legal questions or problems there are with regard to this?

Mr. SILBERMAN. I shall be delighted, Mr. Chairman.

[The information referred to follows:]

The Supreme Court has held that distinctions between citizens and aliens are inherently suspect under the Equal Protection Clause of the Fourteenth Amendment. *Graham* v. *Richardson*, 403 U.S. 365 (1971). In holding that certain benefits or licenses made available to citizens must also be made available to aliens, however, the Court has focused on aliens who are lawfully within the United States. Cf. *In re Griffiths*, 413 U.S. 717 (1973).

While the Supreme Court has found that certain aliens lawfully within the United States are entitled to certain benefits conferred on citizens, it has also affirmed the plenary power of Congress to determine, in the first instance, who will be admitted to the United States.

The power of congress to exclude aliens altogether from the United States, or to prescribe the terms and conditions upon which they may come into this country, and to have its declared policy in that regard enforced exclusively through executive officers, without judicial intervention, is settled by our previous adjudications. *Lem Moon Sing* v. *United States*, 158 U.S. 538 at 547 (1895).

The congressional supremacy in this area has been reaffirmed in *Kleindienst* v. *Mandel*, 408 U.S. 753 (1972).

Once in this country, aliens who have entered illegally are entitled to a minimum of procedural due process, but we are not aware of any decision suggesting that it would be a denial of equal protection to deny them government benefits. Indeed, we have no doubt that a benefit statute distinguishing between those who are in this country legally and those who have entered illegally would be upheld as a valid legislative distinction. Congress has no obligation to provide benefits from tax revenues to those it has elected to bar from admission to the country in the exercise of its plenary power over immigration.

Although not constitutionally entitled to federal benefits, illegal aliens may be entitled to particular benefits by statute. The basic social security benefit provisions suggest that illegal aliens are entitled to old age insurance until such time as they are deported. Under the provisions of 42 U.S.C. 402(n) monthly payments are prohibited "for any month occurring (i) after the month in which the Secretary is notified by the Attorney General that [an alien] has been * * * deported, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence." This rather clearly indicates that payments may be made up until the alien is deported either for illegal entry or for some other reason. Eligibility of insured individuals under medicare is governed by this same language. 42 U.S.C. 426(a).

In contrast, the provisions extending medicare to those who have not contributed sufficiently to the social security system to qualify for regular benefits limit eligibility to citizens and "aliens lawfully admitted for permanent residence." 42 U.S.C. 426a, 428. Thus, Congress did not consistently apply a lawful residence requirement to social security benefits. Rather, it distinguished between those benefits that were conditioned upon contributions to the system and those that were not. In the first category, illegal aliens as well as those lawfully admitted may participate since they have contributed to the program; in the second they may not.

A number of federal welfare statutes provide benefits through federal grants to the States. States are required to submit plans meeting basic federal standards. The programs for the disabled, 42 U.S.C. 1352(b)(2), blind, 42 U.S.C. 1202(b)(2), and general medical assistance, 42 U.S.C. 1396a(b)(4), among others, prohibit States from imposing citizenship requirements which exclude any citizen of the United States. The Supreme Court has interpreted such provisions as prohibiting discrimination between citizens and resident aliens as well as between native born and naturalized citizens. *Graham* v. *Richardson*, *supra*. The Court, however, has not discussed the question whether illegal aliens are entitled to the same

benefits. It is at least arguable that on the basis of the "citizenship" requirement of the statute cited above State plans could be required to limit eligibility to those who are in the country lawfully, even under the *Graham* interpretation.

Mr. FISH. Thank you. General, if I could ask you just three specific brief questions. One is what can we do about the problem of Federal Government of the United States being a willing employer of illegal aliens?

Mr. CHAPMAN. We have apprehended and have knowledge of illegal aliens being employed through contractors, labor contractors and other kinds of contractors on projects of various kinds and, of course, I can provide a number of antecdotes.

Mr. Silberman mentioned one, the foreman in the Metro. Another example is provided by two illegal Greeks we arrested a week or two ago that were working on a Federal contract making $9 an hour on a repainting project.

Mr. FISH. Please let me interrupt. I have no criticism whatsoever of the job that the Service is doing in apprehending illegal aliens with the limited personnel and money you have, but it seems to me that you should not have to apprehend illegal aliens who are working for contractors working for the Federal Government. That should be something that in our own family, we could check before it got to that point in terms of the contract itself.

Mr. SILBERMAN. You mean by a Presidential executive order which would impose some obligation? Well I think we really approach that when we deal with the private employer through your bill. I do not see that you would want to impose any greater obligation on an employer who gets some funds.

Mr. FISH. I find it rather an irony that the Federal Government would be paying taxpayers' money to a contractor who is hiring people who are illegally working in this country.

Briefly another question here. Could you tell me of the million illegal aliens holding jobs in the United States to whom you have referred is that an estimate on your part, or are these a million individuals that you have identified?

Mr. CHAPMAN. It is an estimate on the part of my district directors, and Border Patrol sector chiefs, each for his area.

Mr. FISH. Thank you very much.

Mr. CHAPMAN. It is a compilation.

Mr. FISH. Thank you very much, Mr. Chairman.

Mr. EILBERG. Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

Mr. Silberman, I am interested in making sure I understand exactly how what you are sketching out would function, both with respect to the additional provisions you are going to impose on the employer and on the aliens. How would you anticipate that the provision that you have sketched out on page 5, I guess where the Department would promulgate regulations, what is it you would have every employer do in the United States with respect to any applicant? I take it it would be every employer with respect to every applicant for a job, is that correct?

Mr. SILBERMAN. That is right. I would require——

Mr. SARBANES. So that is a total application or coverage by the provision you are suggesting?

Mr. SILBERMAN. Yes, as indeed your bill is.

Mr. SARBANES. Now, what would you suggest be done?

Mr. SILBERMAN. That he simply be required, instead of in effect getting a statement from the applicant he is not an illegal alien, that he actually look to some indicia and that can be worked out in consultation with the committee and by regulation, some reliable indicia that the individual is an American citizen or a legal alien.

Mr. SARBANES. You would impose that requirement with respect to every employee?

Mr. SILBERMAN. I would impose it upon all new applicants which would work itself through the system. The only reason I wouldn't apply it across the board is that it just seems to me it would be an awesome burden if you applied it to all existing employees. You would require every employer to go through a process with employees who may have been employed for 20 years. I think in terms of the cost-benefit analysis, that goes too far. I am reaching for an appropriate compromise that will be effective, but which will not impose too great a burden, so I would impose it with respect to all new applicants after the date of the passage of the act.

Mr. SARBANES. What would the regulation provide for?

Mr. SILBERMAN. It would require the employer, when he hires the employee, as well as getting the Social Security number and other data to simply get some indicia of legal status in this country.

Mr. SARBANES. What would that be?

Mr. SILBERMAN. It could be a birth certificate, it could be some document from the Immigration Service for those who were not born in this country or it could be a number of things.

Mr. SARBANES. What else?

Mr. SILBERMAN. What else?

Mr. SARBANES. I want to get as clear a picture as I can here this morning of what it is you are projecting in terms of this proposal.

Mr. SILBERMAN. A citizenship document or a certificate which is issued by INS, I gather, or a U.S. passport. I am not——

Mr. SARBANES. Now, wait. This requirement is not limited to those who deal with INS; it applies to every applicant for a job in the United States? Is that right?

Mr. SILBERMAN. Of course.

Mr. SARBANES. So, in other words, every applicant would, at a minimum under this proposal, have to produce a birth certificate?

Mr. SILBERMAN. No, because if you were an alien legally admitted in this country, you would not have a birth certificate. You would have to have some other document.

Mr. SARBANES. Let us set the alien category to one side for a moment and take the millions of others who go looking for jobs. What would they have to produce under the regulation that you propose?

Mr. SILBERMAN. A birth certificate, or indeed, if the social security program worked properly, all they would have to do is have a social security card since that in turn is supposed to be dependent on legal status. Congress has passed a law on that already.

Mr. SARBANES. Now, with respect to the additional penalties you would impose on the alien, would you sketch those out? They are set forth on page 8, as I understand it; particularly points 2 and 3.

Mr. SILBERMAN. Yes. I would consider and I would ask you to consider the prospect of civil penalties that would be imposed on an illegal alien which could be collected, indeed, if the illegal alien had sufficient money to satisfy that. We do that with respect to taxing aliens and in a sense the illegal alien, when he comes here and deprives Americans of work, and develops a pool of money, and many of them do, this Government indeed legitimately, morally, has a claim against that.

Mr. SARBANES. Now I take it point 2 suggests that this action could be taken without any recourse at any point to the judicial system, is that correct?

Mr. SILBERMAN. Oh, I doubt that. I do not mean to suggest that at all. But I think a streamlined process could be developed under the Constitution.

Mr. SARBANES. The use of the phrase administrative imposition of substantial civil penalties is only applicable at the first stage of the process, and you anticipate that at some point there would be some recourse to the judicial system, or is that not the case?

Mr. SILBERMAN. No, that is of course true, that there would always have to be some recourse to the judicial process. We do this, do we not in the drug area where we impose administrative sanction and seizures of cars and so forth, and there is review. I will turn to my General Counsel.

Mr. BERNSEN. I am not familiar with the drug area, but we do provide for judicial review of immigration orders in exclusion proceedings and deportation proceedings. A fine is imposed under the immigration laws on carriers, subject to judicial review.

Mr. SARBANES. Mr. Silberman, in responding earlier to the chairman in your discussion of these provisions you prefaced an answer with the phrase, "given the threat we are faced with." And then you went on to discuss something. I was not quite clear in my mind as to what that threat was that you were referring to.

Mr. SILBERMAN. The threat is of massive illegal immigration into the United States.

Mr. SARBANES. You did not connect that to the unemployment situation in particular?

Mr. SILBERMAN. Of course I connect it, as my statement made quite clear.

Mr. SARBANES. Why do you do that? I am interested in the question why it would not be a problem regardless of whether there is high unemployment or low unemployment?

Mr. SILBERMAN. I agree with you, and indeed I am glad you asked that question. There are three parts to that. The first part is the direct impact on employment, and at a time of high unemployment that is obviously exacerbated. The second point is that, after all, the Congress passed immigration laws which set the policy in the United States, with respect to demographic factors, the amount of growth we can accept into the country, a growth now through immigration. I do not mean to suggest that Congress went beyond that. And finally, I think of great importance, but a matter that has not really been focused on, the fact that this law is violated in as widespread a fashion as it is tends in my judgment to breed disrespect for law generally.

Mr. SARBANES. Mr. Chairman, I know my time is running out. I want to ask General Chapman just one question if I might, and it has to do with these figures that we constantly see used with respect to the dimensions of this problem. I am interested in just how you put those figures together. You indicated, I take it, that they are based on estimates which you receive from your people in the field. Well, what are those estimates based on? I mean, are there any rational or scientific principles governing the making of these estimates so that one can at least identify the analytical framework or structure on the basis of which these figures are put together; or are the figures simply one result of intuition, or subjective estimates, or whatever else you might wish on the part of your field people, that really have no tie to any rational standard?

Mr. CHAPMAN. The estimates as to the total number of illegal aliens here are based on the factors I have mentioned. That is, we know how many we apprehended, we know how many sensor alarms we are unable to answer, we know approximately how many tourists and students have failed to go home at the time that their visas expired.

Mr. SARBANES. But the total of those figures are a lot smaller than the other numbers that are being bandied around in the discussion of this question, are they not?

Mr. CHAPMAN. No, sir, Those estimates derive directly from those factors. Now, with respect to the numbers that are working, each district director, based on his knowledge of his area of responsibility, knows how many he has arrested that were at work; he knows known concentrations of illegal aliens. He has thousands of tips and leads from the general public, from concerned citizens as to the location of illegal aliens, and he compiles these factors and makes his estimates as to the number that are in his area and the number that are working. And that is where the million job estimate came from.

There is, however, no scientific census that can be taken.

Mr. SARBANES. Well, Mr. Chairman, could we ask the general to furnish to the subcommittee the framework on the basis of which these estimates are made so that we will have a clearer idea of how soft or hard these estimates are in terms of being related to some scientific factors. The figures that are being thrown around range all over the lot, and either we ought to make them more precise or refrain from using them, or make it very clear exactly what we are doing when we use them.

Mr. EILBERG. Commissioner, can you do that?

Mr. SILBERMAN. We will, Mr. Sarbanes. If I may respond to that, I think the third of the alternatives is the one—we will provide you with the information, of course—but the third alternative is the one that I would choose, and that is to make clear that these are estimates. We do not know, nor do I believe there is any way that we could actually know, how many illegal aliens are in the country.

[The information referred to follows:]

The Service does not have precise data on how many illegal aliens are here. Estimates are based on the experience of Investigators and Border Patrol agents in the field, and upon other data known to be accurate.

For instance, the Service apprehended nearly 800,000 illegal aliens last fiscal year. There were more than six million visitors to the United States last year,

and between five and 10 percent are not shown to have departed. The Border Patrol is able to answer on average about half of the sensor alarms that are set off along the border.

In addition, there are thousands of leads from the public—both letters and phone calls—as to the presence of illegal aliens, which cannot be followed up on because of lack of money and manpower. And Service investigators are aware of the presence of concentrations of illegals in various areas and places of employment.

Because of the lack of precise data, the Service has underway a design study for obtaining a true picture of the illegal alien population, and OMB has approved the funding of the full scale study in FY 1976.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Silberman, this entire legislation is of particular importance to me, because in my State we do have, as a border State, a number of problems with immigration and customs. And last year there was quite a controversy that was stirred by the Office of Management and Budget when they sought to reorganize the Immigration Service and Customs Service by having them combine their efforts in a cost-efficiency move. You may or may not be familiar with that.

Mr. SILBERMAN. Intimately, sir.

Mr. COHEN. In addition to that, there seems to be a situation where there is a reduction in personnel through attrition, the slots are simply not filled, but they are transferred to the Southwest, which reduces the amount of personnel in the northern part of this country, and particularly my State. I notice that the Government Operations Committee is recommending that you hire at least another 2,200 people, and they recommended an additional $34 million for the appropriation. Do you feel that would be sufficient to hire the personnel and equipment necessary?

Mr. SILBERMAN. Well, you have noted, doubtlessly, Congressman Cohen, that in the new budget there is a provision for a substantial increase for the Immigration Service. I must say that I was dreadfully disappointed last year when our appropriation was cut beyond what we requested by the Appropriations Committee, and any support that we can get from this committee to gain greater numbers of border patrolmen when we go over to the Appropriations Committee would be gratefully received.

Mr. COHEN. I would like to follow up on a line of questioning I think by the Chairman in terms of the narrowness of the civil penalty that you seek to either enhance or increase, as it would limit the group of people that would be affected. And I happen to agree with the Chairman. I think we are talking about a very limited group. But it seems to me if we are talking about people who have $10,000 in a savings account, if Congress were to pass such a law, those people are bright enough to simply send their checks or their savings back to whatever country they came from and thereby render themselves judgment proof, so I question whether that would be particularly effective.

Mr. SILBERMAN. I have thought about that and we have thought about that, and you are right, some would. But by the same token, many would not because many would plan to remain here permanently. And those who plan to remain here permanently want their savings with them.

Mr. EILBERG. Would the gentleman yield?

Mr. COHEN. I yield to the Chairman.

Mr. EILBERG. I would say to Mr. Silberman that after having spent a great deal of time in the Rio Grande and after having interviewed so many detainees, hundreds of detainees, very few of them expressed any desire to remain in the United States. They come to the United States simply to make money and go home. And I might say also that the naturalization figures for permanent resident aliens who are natives of Mexico indicate a very small number remain, to become citizens of the United States. So I question the accuracy of the last statement that Mr. Silberman made.

Mr. SILBERMAN. Well I think as General Chapman pointed out earlier, a few years ago that might have been more true than it is today. Many of the illegal aliens here appear to us to have every intention to remain here permanently, as long as they are not apprehended, and their risk of apprehension is relatively small. Beyond that, even if they are apprehended, the potential cost of the apprehension does not serve to deter them from remaining here and earning money. Perhaps General Chapman should elaborate on that. The problem is not limited to the Southwest Border problem, Mr. Chairman.

Mr. EILBERG. Mr. Cohen has the floor.

Mr. COHEN. I would like to ask a few more questions and perhaps we could elaborate a bit later.

I was interested in Congressman Sarbanes' question concerning the exact procedure you envision for employers to follow. As I understand, you would require every person in the future who seeks employment to produce a birth certificate, that does not mean just members of minority groups, but every person?

Mr. SILBERMAN. That is right, a birth certificate or other indicia. One of the things that troubles me about H.R. 982, is the principal criticism which has been made, and it is a troubling criticism, that as it will work it will discriminate against those who are ostensibly of other nationality backgrounds.

Mr. COHEN. But let us assume a Spanish-speaking person in New York were to apply for employment. Simply because he speaks Spanish, would not warrant the employer to conclude that, indeed, he is an alien as opposed to a resident, he could still insist upon some sort of standard other than a birth certificate? Now, I have a birth certificate here which designates my city and State of Maine as my place of birth and so forth. I think that would be a very easy document to duplicate, and I wonder in terms of the practicality of the thought as to how you are going to standardize a birth certificate or something not connected with the alien status? How would you do that?

Mr. SILBERMAN. Well, for one thing we could go back to Congressman Fish's suggestion. We could put the stress on the social security card, and after all, Congress has already said a social security card should not be issued to an illegal alien. We could focus our attention back to that more workable system, and, indeed, the technology exists to make social security cards that are noncounterfeitable.

Mr. COHEN. Has the Justice Department been doing anything in the way of establishing a liaison with the Social Security Administration?

Mr. SILBERMAN. That is the reason that we recommended the Cabinet committee, a recommendation which the President accepted in January, and we intend to move ahead on that as quickly as possible.

Mr. COHEN. Perhaps in your opinion, if we effectively enforce the social security laws which are currently on the books, that would eliminate a need to go through a process which I seriously question the validity of, the workability of.

One final question if I might, Mr. Chairman, and that concerns the notion of seizing property.

Mr. SILBERMAN. Let me say, Mr. Cohen, if that is true there ought to be some kind of cross-reference in your legislation to the Social Security Administration indicating that that is the method that you intend to use to enforce it rather than a document signed by the illegal alien which says he is a legal alien.

Mr. COHEN. On the question of seizing vehicles, you recall last year this provision was struck from the Judiciary Committee's consideration, and I must say I have a considerable question in my own mind that we adhere to the ancient philosophy that an asset itself is culpable, an inherent evil. I can understand the forfeiture of contraband articles, or of those articles which are designed specifically to commit a particular type of crime. But it seems to me we get into areas such as I might lend my car to a person, who in turn might use that car to convey someone across the border, and then suddenly I am deprived of my car, at least until the whole administrative process is completed. I think this is an unnecessary burden, an encumbrance upon my own liberties, so I have serious questions about that. I would ask you, would you be in a position to accept a recommendation or legislation which confined itself to vehicles which are designed specifically to in some way enhance the opportunity to convey people across borders?

Mr. SILBERMAN. I am troubled about the question you raise, and there would have to be some procedure to in effect immunize Congressman Cohen if he lends his car to X, who in turn lends it to Y.

Mr. COHEN. I am not being facetious about it.

Mr. SILBERMAN. And I am not either. It is troubling.

Mr. COHEN. What about Hertz or Avis or some other rental agency?

Mr. SILBERMAN. That is right. We would have to work on that. I think it can be worked out, and I think that is an interesting suggestion you make, that you would focus only on vehicles particularly designed to transport aliens.

Mr. COHEN. That is all I have, Mr. Chairman.

Mr. EILBERG. Ms. Holtzman?

Ms. HOLTZMAN. Thank you, Mr. Chairman.

I am concerned about the problem that Mr. Silberman raised of possible discrimination in H.R. 982. In my congressional district I have people who are recent immigrants from eastern Europe and who speak English with an accent. I have people who have recently immigrated from the West Indies, and in fact people who have immigrated from all parts of the world. Many came here 40 years ago and still speak English with an accent. I am terribly concerned that these people, some of whom are naturalized U.S. citizens and some of

whom are lawful residents, would be put to an intolerable burden under this legislation. Moreover, it is not their fault that these illegal aliens are here.

Mr. SILBERMAN. I agree.

Ms. HOLTZMAN. I am curious about what the Justice Department and the Immigration Service are doing right now with respect to the enforcement of our laws, in particular with respect to the issuance of tourist visas to persons who actually intend to live in the United States. Why can't that process be improved?

Mr. SILBERMAN. What is it specifically that troubles you about that process, Ms. Holtzman?

Ms. HOLTZMAN. Well, I think you cited the figure that there were 6 million tourists who came to the United States and only 5 million who left. What are you doing to prevent that from happening in the next year? What do you do to improve your procedures?

Mr. SILBERMAN. That is, of course, one of the reasons why we have this Cabinet Committee which, of course, it is obvious that greater coordination among departments is necessary. But let me defer to General Chapman, and the State Department is involved in this also to a great extent.

Mr. CHAPMAN. Visas are issued by the State Department, Ms. Holtzman.

Ms. HOLTZMAN. I know that. But I think something could be done to improve the process. This is not the first year that we have had more people come to the United States than leave it.

Mr. CHAPMAN. Our country invites and welcomes tourists from every country in the world, and foreign students as well under certain circumstances. And of the millions of tourists who enter the country each year, at least 90 percent are bona fide tourists who come, stay their allotted time and return. There are 5 or 10 percent who do not, however. And they are the ones that concern us.

I might go on to say with respect to a previous question that——

Ms. HOLTZMAN. Well, I would really like an answer to this question about what can be done to improve the screening process. Is there anything we can learn from the mistakes that we have made in terms of screening potential tourists who come to this country? I mean, for you to say that we are going to enact a bill that is going to require every American to carry a nationality card for the first time in our history without at the same time saying we have done everything in our power to enforce the laws and enforce them properly puzzles me, frankly, because I can see, even under the approach you propose, that an employer might be very nervous about hiring somebody who speaks English with an accent, even though he has a social security card or whatever kind of card you want, and that an employer will say, "Well, I will hire somebody who speaks English without an accent."

Mr. SILBERMAN. No. I think we can protect against that. Your bill seeks to protect against that.

Ms. HOLTZMAN. I understand, but I would like to know what you people are doing to improve your enforcement procedures, whether it involves the State Department, our southwest border guards, or the like? The Immigration Service was the subject of a number of allegations with respect to the southwest border a while ago.

Mr. SILBERMAN. Ms. Holtzman, I think we are trying to do the best we can with limited resources and with an overwhelming problem

that we are faced with. Our honest belief is that without legislation which increases the disincentives that we will really not have a chance.

Mr. EILBERG. Would the gentlelady yield for just a question?

Ms. HOLTZMAN. Yes, I will be delighted to yield to the Chairman.

Mr. EILBERG. Mr. Attorney General, you have repeatedly referred to the Domestic Council Committee on Illegal Aliens appointed by the President. I would like to know what it has done, and I am a little bit concerned, particularly in view of the fact that your service may be ending shortly.

Mr. SILBERMAN. Yes, that is fair.

Mr. EILBERG. And what has happened with this Presidential Cabinet Committee?

Mr. SILBERMAN. It has only been set up in the last month, and it contemplates a meeting in the very near future. But I confess to you, Mr. Chairman, with the turnover in the Justice Department——

Mr. EILBERG. Nothing has been done really.

Mr. SILBERMAN. Wait a minute. Yes. An agenda has been prepared and sent out, and a meeting is scheduled. But I would very much hope that Ed Levy would be confirmed in time to chair that first meeting.

Mr. EILBERG. And is it expected that there will be recommendations coming out of that Presidential Committee?

Mr. SILBERMAN. We are going to try to work on some of the problems which this committee has focused on. I do not mean to suggest for a moment that I would recommend that this committee hold up working on the legislation, which is very much needed, and I cannot contemplate that anything that we would think of, beyond that which we have said today, would be important to this committee's consideration.

Mr. EILBERG. Thank you, Ms. Holtzman.

Ms. HOLTZMAN. Perhaps you can provide for the record some information about what efforts either you, Mr. Attorney General, or you, Mr. Commissioner, are taking with respect to improving the screening process and improving any followup procedures with respect to the issuance of tourist visas to people who are not bona fide tourists? If there is a problem in that area, I am sure it could stand some correction, and I am surprised that I do not hear any concrete answers as to what you are doing about it.

Second——

Mr. SILBERMAN. I am not sure I understand what your criticism is.

Ms. HOLTZMAN. I want to know why only 5 million tourists returned to their home countries, and why there was this error in judgment in the initial issuance of a million visas.

Mr. SILBERMAN. You assume a fact not in evidence, that there was an error in judgment.

Ms. HOLTZMAN. I am just taking the figures that were given to me.

Mr. CHAPMAN. I can only say that those are judgments made by the American consuls abroad with respect to each applicant for a visa to enter this country as a tourist. I happen to know that they are very conscientious about it, and they work very hard at it, but it is a question of determining in advance the intention of the applicant. If the applicant says I want to go to the United States and stay 6 weeks, and see all of the great sights, and I have $1,000 in my pocket to pay my way, and the consul believes him, then the visa is issued. If his intention is otherwise, it is difficult to determine.

[The following additional information was submitted:]

The programs listed below are indicative of the close liaison that I&NS maintains with Visa Issuing Officers.

I&NS furnishes to the Visa Issuing Consular Officer information regarding aldocumented aliens who have been refused admission to the United States. This assists him should the same applicant apply in the future.

I&NS furnishes information to the State Department regarding aliens who have been deported on criminal, immoral, narcotic or subversive grounds.

I&NS checks its records at the request of consular officers where applicants were previously in the United States.

In adjudicating for admission of relatives, I&NS furnishes to the appropriate consular officer possible grounds of inadmissibility of the beneficiary.

There is a proposal to provide that all applicants for admission to Puerto Rico or the Virgin Islands from the West Indies (except from the British Virgin Islands) must be in possession of visas. Presently they are exempted from nonimmigrant visas.

Currently, only nonimmigrant overstay records relating to: (1) Iron Curtain nationals; (2) Parolees; (3) Section 212(d)(3) waiver cases; and, (4) Bond cases are being forwarded to field offices for investigation under a low priority pending the receipt of additional investigative manpower. The efforts of the investigative manpower available to locate all types of illegal aliens is being concentrated on locating illegal aliens occupying high paying jobs that would be most attractive the U.S. citizens and lawful permanent residents. When additional investigative manpower is provided for this purpose, the Service will then forward all nonimmigrant overstay records to field offices for investigation.

Ms. HOLTZMAN. I understand what that process involves, and obviously somebody is making a judgment. But there is some error that is being made, and maybe it is an unintentional error. I am not saying that there is any criminal activity going on in the consulates, but I want to know whether this process can be improved. And what I understand from your testimony here is that you are saying, "Well, we cannot do anything about making it better." I just find that a little bit hard to believe.

Mr. SILBERMAN. I am not so sure there is nothing that can be done, and it is one of the things that the Cabinet committee should focus on. But there is an inherent problem. Short of giving a lie detector test to somebody who wants to come to this country on a tourist visa, I cannot give you any way in which that judgment at the time someone applies for a tourist visa can be made without a subjective appraisal of the intention of the individual, which is necessarily imprecise.

Mr. EILBERG. Mr. Dodd.

Mr. DODD. Yes. First of all, I want to thank both of you gentlemen. I am a new member, and if I ask questions that may have been asked before, I hope I will not be boring to my fellow committee members, or people who have followed these hearings throughout. But I am curious, and I would like to know very briefly if you could tell me exactly what the procedure is in apprehending an illegal alien today? How do you determine who is an illegal alien? There have been several articles written about patrols that have gone into the crop fields of Texas or California. What is the procedure at that point?

Mr. SILBERMAN. Let me defer to the operating head.

Mr. CHAPMAN. Whether in the fields or in urban areas, our investigators and our border patrolmen operate mainly on the basis of intelligence leads, on tips and suggestions or knowledge as to where illegal aliens are working or known to concentrate. Our officers have authority to inquire as to the citizenship of anyone whom they have substantial reason to believe may not be a legal alien or an American

citizen. If the inquiry produces the answer that I am an American citizen, that is it, or if he says I am an American citizen, then that ends the interrogation by that officer. And if he says I am a legal alien, then he must produce his alien identification card or authority to be here.

Mr. DODD. So the investigation ends at the point the person makes the statement that I am an American citizen?

Mr. CHAPMAN. Unless the officer has a solid reason to believe that that may not be a correct statement.

Mr. DODD. All right. Then what happens?

Mr. CHAPMAN. He is entitled to interrogate if he has solid evidence to support him in doing so.

Mr. DODD. What sort of documentation is required at that initial point of investigation, presuming that the officer does not believe the statement that "I am an American citizen?"

Mr. CHAPMAN. If he has solid evidence to support it, yes; he is entitled to dig further, of course. If he is, in fact, an American citizen, there is no requirement of documentation. It only requires the assertion that he is so.

I might go on to point out that our capability to apprehend and remove is only a fraction of the total number that we know of and could apprehend and remove if we had the capability.

Mr. DODD. Maybe I am missing something. I presume that the statement, "I am an American citizen," is enough unless the officer has reason to believe that the person is not telling the truth.

Mr. CHAPMAN. That is correct.

Mr. DODD. And at that point what evidence, what does he use, what documents, a driver's license, a social security card, or whatever? What are they looking for? What do they ask for?

Mr. CHAPMAN. Sam, do you want to answer that?

Mr. BERNSEN. The officer would ask for identification possibly, or the officer might simply be satisfied to drop the inquiry at that point and simply make a separate investigation with regard to the person's citizenship if he had reason to believe that this person falsely claimed U.S. citizenship.

Mr. DODD. I wonder if you have any figures, and again I guess, General Chapman, I would be addressing my remarks to you, of how many false arrests have been made, say last year, of alleged illegal aliens?

Mr. CHAPMAN. Who turned out to be citizens?

Mr. DODD. Do you have any figures on that?

Mr. CHAPMAN. Last year?

Mr. DODD. Just say last year, or over a period of 2 to 5 years.

Mr. CHAPMAN. I think the answer is zero.

Mr. DODD. There were no false arrests?

Mr. CHAPMAN. I will have to verify that for the record, but I believe that is correct.

Mr. BERNSEN. I am told that there were two within the last few years.

Mr. CHAPMAN. A total of two over several years. Last year I am pretty confident that there were none.

Mr. DODD. I would like to get into one other area, and again I hope I am not being ignorant with this, but what we have talked about, the two-pronged effect aimed at the employee and the employer,

what sort of an arrangement at all do we have with, say, Mexico? Is it illegal in Mexico to leave Mexico without a visa, and when we send back a person, what happens in Mexico or what happens in the Dominican Republic or any other nation that we have treaties with?

Mr. BERNSEN. Well, we are not experts on the laws of foreign countries. Various countries have various exit requirements, and we are not familiar with them. We know that we have no difficulty returning illegal Mexican aliens to Mexico. We have worked out an arrangement with the Mexican Government, and they accept the illegal Mexicans back without any problem.

Mr. DODD. Do you know what happens at that point in Mexico to the returnee?

Mr. BERNSEN. As far as I know, the returnee is not subject to any criminal penalties under the Mexican laws.

Mr. SILBERMAN. Not subject to any sanctions at all.

Mr. DODD. Any sanctions at all?

Mr. SILBERMAN. Not that we know of.

Mr. DODD. Earlier, in recent remarks, and I do not know whether it was by Mr. Silberman, or Mr. Chapman, or maybe the chairman made the remarks that really there are not that great a number of returnees, particularly in the southwest area, or are there?

Mr. SILBERMAN. Oh, yes. Yes. There are a great number. What was the number last year?

Mr. CHAPMAN. Nearly 700,000. Six hundred and some odd thousand that we apprehended in the border areas and returned.

Mr. DODD. The 300,000 that were apprehended, more than two-thirds were returnees?

Mr. CHAPMAN. Yes.

Mr. DODD. Is anything being done at all on the international scene to try and work out some kind of a relation or relationship or whatever with Mexico?

Mr. SILBERMAN. Congressman Dodd, that has been a very difficult, tricky problem that the Government of the United States has been dealing with for a number of years, with respect to the Government of Mexico, and perhaps other governments. I cannot say that it would be likely that the Government of Mexico would be agreeable to imposing a sanction on its citizens who leave and come into the United States unlawfully.

Mr. DODD. I have just one last question, Mr. Chairman. I have many more, but I will save your time.

I am a resident of eastern Connecticut, and just recently there were two illegal aliens apprehended at the U.S. Submarine Base where our nuclear powerfleet is harbored. These people were actually employees of a subcontractor on the base itself. Is there no existing system wherein a person who is particularly involved or employed in a security risk area, where the contractor or subcontractor would require basic security checks which would include an immigration check?

Mr. SILBERMAN. Well, there are basic security checks required of Government subcontractors engaged in defense work.

Mr. DODD. Well then, how did this happen?

Mr. SILBERMAN. I am not familiar with that incident. I cannot tell you.

Mr. DODD. But it is required that an immigration check be done on contractors?

Mr. SILBERMAN. No, a security check. A security check.

Mr. DODD. Does that include an immigration check?

Mr. SILBERMAN. Normally if we run a security check on someone and, in fact, he or she is an illegal alien, it will turn up.

Mr. DODD. OK. Thank you very much, Mr. Chairman.

Mr. EILBERG. It is my pleasure to introduce next a new Member of the Congress and our colleague from Illinois, Congressman Martin Russo.

Mr. RUSSO. Thank you, Mr. Chairman.

In looking over Mr. Chapman's report, it is upsetting to me that in 3 months last fall the Chicago District investigator apprehended some 2,000 illegal aliens, 93 percent of which were employed. I would like to know what type of procedure the Chicago office or the Department of Justice is working on to make detection more rapid?

Mr. CHAPMAN. Well Mr. Russo, we are working to the maximum of our capabilities now. It is very limited. Both the number of investigators that we have in Chicago as well as elsewhere is limited, and the amount of money that we have to detain and deport those that we do apprehend is limited. Pursuant to a directive that I put out just at the beginning of this year, we concentrate our limited capability on those that are working at good jobs, that we think an unemployed American would be very happy to have, so that we are selective through necessity.

Mr. RUSSO. Has the problem been money over the years? I notice in the report since 1965 the number has steadily increased in great numbers, and it seems to me something should have been done since 1965 to now to cut down on this. If it has been a money problem and staff problem, it is something that should have been handled over the years instead of at a crisis stage now where we really see the problem because we have high unemployment now, and the welfare roles are swelling, revenues to the Government are down, you know, and has something been going on since 1965?

Mr. SILBERMAN. Well Mr. Russo, this committee has been working on the problem for at least 4 or 5 years in conjunction with the Justice Department, and by and large this committee and the Justice Department have seen very much eye to eye. We do not agree on every specific point, but we have certainly agreed that it is a long-range problem for the country, and we have been doing all that we can to get a bill through the Congress. And it is surely not the fault of this committee.

Mr. CHAPMAN. Then the other half of the problem is the dramatic increases in the number of illegal aliens. We apprehended 12 or 13 years ago 20 some thousand total for the year. Last year it was 800,000, and last year we apprehended only a fraction of those that are here.

Mr. RUSSO. On the fraud matters, are we doing something to make our documents counterfeit proof, or how far along have we come on that?

Mr. CHAPMAN. In conjunction with the visa office and the passport office we have completed the design and are ready for the final test on a new alien documentation system for all. Of course, passports are

for U.S. citizens, and visas are for aliens, and the alien identification card is for the permanent resident and for the various border crossers. It is an excellent system, it is fully counterfeit proof, it is imposter proof, it is tamper proof, and it is machine readable. And there is included in the President's budget which was submitted to the Congress yesterday the first year's funding to implement that new card.

Mr. RUSSO. Can that card in some way be used in the procedure that the Justice Department is talking about, of having some kind of an indicia?

Mr. CHAPMAN. Yes, sir. It would be the indicia for an alien. A permanent resident is now required by law to carry an alien identification card, and he does so. There are some 5 or 6 million of them out now. Those old cards would be replaced by this new card, and the new card would be issued to the new immigrants entering the country.

Mr. RUSSO. I do not have any further questions, Mr. Chairman.

Mr. EILBERG. Mr. Silberman, I would like to go back to something that has been alluded to a couple of times, but I am still not clear on this. The Department recommends that prospectively, when anyone applies for a job, the employer should take an affirmative step to obtain a birth certificate, INS document, or some other document. Now, what about those already employed throughout the country? Would those already employed have to provide some proof of their entitlement to work in this country?

Mr. SILBERMAN. Well, how do you feel about that, Mr. Chairman?

Mr. EILBERG. Well, I think that would present a very chaotic situation.

Mr. SILBERMAN. I guess I would agree with you, and that is why I limited it to new employment.

Mr. EILBERG. You limit it to new employees——

Mr. SILBERMAN. New employment.

Mr. EILBERG. In limiting it to new employment, it seems to me that you have totally ignored those illegal aliens who are presently employed.

Mr. SILBERMAN. No, I would not ignore them. I would apply the same provisions of your bill.

Mr. EILBERG. But you just said a moment ago that anyone who is presently employed would not be checked on, as I understood your answer.

Mr. SILBERMAN. No, No. I think that the conditions of your bill would apply to people presently employed.

Mr. EILBERG. So you are saying, if I understand, that there would be a different technique, a different measure of proof for those presently employed. But for those who might be employed in the future, affirmative steps would be required?

Mr. SILBERMAN. That is right. My theory, our theory is that over time our procedure would prospectively be very effective as people move to new jobs. Certainly over time we would deal with the problem. I am balancing the wrench that would exist if you applied that to all existing employment.

Mr. EILBERG. The problem is, of course, now. We are also concerned with those illegal aliens currently holding jobs.

Mr. SILBERMAN. Oh, but of course the problem is now. But my suggestion is that the provision in your bill is not as effective as it

might be. I am asking that it at least be for new employment toughened up. I am striking the balance slightly differently than you are.

Mr. EILBERG. Would you support a provision which would grant some relief to illegal aliens who have resided in the United States for some period of time?

Mr. SILBERMAN. What do you have in mind?

Mr. EILBERG. Well, I am talking about amnesty and how long an illegal alien would be here before you would grant him any rights, if at all?

Mr. SILBERMAN. That is a very troubling question. I will confess that we have spent a lot of time thinking about that. There are some people who—there is an amnesty provision in present legislation which I think has a grandfather date of 1948. There are some who suggest that that should be brought forward. I am troubled about that. I am troubled about that because of our credibility in enforcing the law, and I am troubled that people in the future will think there will be another grandfather date somewhere further down the line, and thus our efforts will be undercut.

On the other hand, I recognize the difficulty if we passed a bill that was tremendously effective of deporting an individual who had spent 20 years in this country, raised children who are American citizens because they were born here, and insisting that that individual, male or female, would have to go back. I think probably my druthers on that would be to have some flexible system which would build on the present immigration system whereby some panel or board could make equitable determinations rather than to have an arbitrary grandfather clause.

Mr. EILBERG. As a matter of fact, do we not have a suspension of deportation situation now for aliens who are here for 7 years?

Mr. SILBERMAN. Yes, we do, or more.

Mr. EILBERG. Or more.

Mr. SILBERMAN. Yes, we do have such a procedure.

Mr. EILBERG. So there would be that.

Mr. SILBERMAN. That would be available. That is what I meant when I said build on that procedure.

Mr. EILBERG. Now, regarding the smuggling of aliens, we hear a great deal about the increase in the smuggling of illegal aliens. That is currently a felony with a penalty of a fine of $2,000 or 5 years or both. Are stronger penalties required, or is the problem one of effectively prosecuting those who smuggle illegal aliens?

Mr. SILBERMAN. I think it is more of an enforcement problem, a detection and prosecution kind of problem, rather than the size of the penalties, although as you note, I add the summary seizure of vehicles used for smuggling, which I think is an incremental addition which we could make.

Do you have anything to add to that, Sam?

Mr. BERNSEN. No. I think our problem has been that we cannot prosecute all of the smugglers we find now. The courts are just jammed with cases.

Mr. EILBERG. Well, how do you go about selecting? That is my next question. Apparently you are uneven in your prosecution of smugglers, and complaints have been made that you do not prosecute sufficiently.

Mr. SILBERMAN. Well, if the Congress should give us more judges as the President requested in his omnibus judge bill, which has been pending before this Congress lo these many years, that might be a first step.

Mr. EILBERG. Mr. Silberman, I understand what you are saying, but how do you determine which ones you are going to prosecute and which ones you do not prosecute?

Mr. SILBERMAN. Prosecution is handled by the U.S. attorneys, as I am sure you are aware of, Mr. Chairman. And I am sure the priorities in various areas of the country depend on the number of cases that they have and on the number of other cases. But I would be the first to admit the U.S. attorneys are desperately overworked, and they do not have sufficient judges to bring the cases to in the first place.

Mr. EILBERG. The Immigration Service has freqeuntly been criticized for maintaining an ineffective alien documentation system. What are you doing to correct this?

Mr. CHAPMAN. Are you speaking, sir, of the alien documentation methods?

Mr. EILBERG. Yes.

Mr. CHAPMAN. We have designed, as I remarked a moment ago, a new alien documentation system which I think embodies the very latest of techniques and is, in fact, as I mentioned, both counterfeit proof, imposter proof, and tamper proof. And the money to implement that new card, as well as the new visa, and the new passport, which will use the same principles, is contained in the President's budget for 1976. We are very hopeful we get that money.

Mr. EILBERG. Mr. Silberman, I am also concerned with that part of your statement which suggests that your approach provides better protection against discrimination. I would yield to no one in my feeling that I am for equal rights for everyone in this country. And at the same time I feel that title VII of the Civil Rights Act and the Equal Employment Opportunity Commission regulations are specifically designed to prevent employment discrimination based on national origin. And I do not understand how you would suggest that under the legislation that appears before us that there would be the possibility of more discrimination under H.R. 982 than under the approach that you are expressing.

Mr. SILBERMAN. All right. Let me put it to you directly. I am afraid that under your bill, and I know it is not intended to do this, but I am afraid under your bill there will be a greater obligation placed upon the American citizen or legal alien who appears to be alien than there will be upon the American citizen or legal alien who does not appear to be an alien. That is to say, employers will be encouraged to disregard the letter which the applicant would provide indicating his legal status if, in fact, that individual does not appear to be a traditional American citizen. Therefore, it is my concern that the obligation be placed on all.

Mr. EILBERG. In that case, is it not true a complaint could be filed which would be handled by your office or the Commission?

Mr. SILBERMAN. The EEOC. We do not have any jurisdiction under title VII any more. Yes, of course it would. But I am concerned how it would work in practice, and I think that is something we have to be very worried and troubled about.

Mr. EILBERG. And I might say, Mr. Silberman, that I am troubled with your plan because it connotes to me the existence of an internal American passport system.

Mr. SILBERMAN. No, I don't think so.

Mr. EILBERG. Something that might approach that which occurs in Iron Curtain countries.

Mr. SILBERMAN. No. No. No.

Mr. EILBERG. I do not think that citizens should be obligated to be carrying identification papers with them as they travel around the country.

Mr. SILBERMAN. Well, Mr. Chairman, the Congress has already required that of the social security cards.

Mr. EILBERG. But Mr. Silberman, again I ask you, how effective that law is, sir?

Mr. SILBERMAN. You certainly would not suggest, Mr. Chairman, it is justifiable because I have imposed an obligation but it is ineffective?

Mr. EILBERG. I am suggesting that the idea in the social security legislation is good, but apparently there have been problems. It is clear to the staff of this committee, and this member of this committee that the system suggested has not been working. We have got to look at it and perhaps change it or find some other way.

Mr. SILBERMAN. I agree, and my suggestion—and I think we could come together on this—is to cross-reference this bill and the obligations we are imposing with the obligations you have already; you, the Congress, have already imposed on the social security card. I am not suggesting internal passports.

Mr. EILBERG. Finally, Mr. Silberman, it is apparent from this colloquy at least, that you have had very little contact with the Social Security Administration, because I do not sense or feel that you have been working with them. And why has there not been greater cooperation between the Immigration Service and the Social Security Administration?

Mr. SILBERMAN. Well, I think there has been cooperation.

Mr. CHAPMAN. Yes, sir. There has been a considerable amount of cooperation, and it has greatly improved both with HEW, Social Security, and IRS on all our parts.

Mr. EILBERG. Now Mr. Chapman, for at least 2 years or more we have been trying to get information on IRS cooperation with you in terms of this kind of information being supplied on the W–4 form. Now, what is the status of that discussion?

Mr. CHAPMAN. The situation that you refer to has changed, Mr. Chairman, and there is now very close cooperation both nationally and locally. I might run through some of the measures that have been taken. The criteria for an IRS interview with the aliens that we have apprehended has also changed as the result of several tests that have been run. During one 3-month period I referred I believe some 1,700 aliens to IRS, and they assessed about a quarter of a million in taxes, and actually collected about $168,000.

The criteria, the new criteria that they were using, was based on possession of $50 or more by the alien at the time that we arrested him.

Mr. EILBERG. Commissioner, I am asking the question regarding

the illegal alien, the subject we are talking about, what cooperation are you getting from IRS in the area of identification of illegal aliens, and my question specifically is when we last discussed this matter in hearings, and we have done it at several hearings before not only you, sir, but with your predecessor as well, and discussions were underway between the Internal Revenue Service and INS so that the W–4 form would be amended to include questions on citizenship and alien status. Now, what has happened to that idea. Do you know, sir?

Mr. BERNSEN. The Internal Revenue Service has declined to amend the W–4 form to include questions about alien status or citizenship. They feel it would take legislation to authorize them to include such a question on their form, and that is where the matter essentially rests.

Mr. EILBERG. So there is no cooperation in this area at this point, and it is their opinion that legislation is necessary?

Mr. SILBERMAN. It is not a question of cooperation, but a question of legal authority, as I understand Sam's response.

Mr. EILBERG. Commissioner, did you wish to proceed further? I did not mean to cut you off.

Mr. CHAPMAN. I was going to refer to the cooperation between social security and ourselves with respect to the record checks on those who apply for a number. There has been some progress on that since the Social Security Administration implemented the regulation that Congress passed not too long ago last summer. They referred a number of cases to us that had not been shown or proved to be U.S. citizens or legal aliens. We searched our records, and we in effect have denied about 90 or 95 percent of them, and confirmed 5 to 10 percent, so that there is considerable cooperation, and some considerable progress in that area.

Mr. EILBERG. Thank you.

Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman.

Mr. Attorney General, could I ask you in support of your economic analysis of the reason why there has been this large expansion of aliens illegally trying to enter the United States, to supply this committee with current unemployment figures in Mexico, in other Latin American countries that are a source of large numbers of entries, and in Canada, and in Western European nations that contribute to this supply?

Mr. SILBERMAN. I might add for Mexico I think the figure is either 40 percent unemployed or underemployed.

[The following additional information was submitted:]

Most of the countries in Latin America, including Mexico, do not publish official and comprehensive unemployment data on a regular basis. We have, however, been able to obtain some estimates of unemployment developed by the World Bank missions for Latin American countries. The following is a listing of these estimates:

Country:	*Unemployment (percent)*
Mexico	[1] 15
Dominican Republic	17+
El Salvador	20+
Guatemala	15+
Colombia	8–10
Ecuador	7
Peru	[1] 7

[1] Plus extensive underemployment.

Nationals of Great Britain and Italy represent the largest number of apprehensions from Western Europe. The Bureau of Labor Statistics estimates unemployment in Great Britain at 3 percent and in Italy at 3.1 percent. According to the New York Times International Economic Survey, published January 26, 1975, this represents a 30 percent increase in unemployment for Britain. The survey further reports that 10 percent of Italians work outside Italy because of lack of work in Italy. With increasing unemployment in the employing European countries, the repatriation of these workers could have drastic effects for Italy.

The Canadian Statistical Review reports an unemployment rate for Canada in December 1974, of 6.1 percent (seasonally adjusted).

Mr. FISH. Could I ask unanimous consent that at the close of today's hearings there be inserted in the record the newspaper articles on the problem of illegal aliens that have appeared in the last few weeks that I alluded to in my opening remarks?

Mr. EILBERG. Without objection, they will be admitted in the record.

[The articles referred to follow:]

[From the Washington Star-News, Nov. 16, 1974]

HUMAN TIDE CUTS DEEPLY IN AMERICA

(By Michael Satchell)

The golden door of immigration to America has nearly closed. The invitation to the tired, the poor and the wretched refuse of the world, has been withdrawn. The welcome mat that greeted waves of immigrants for more than a century has been pulled. The Statue of Liberty stands mute.

But they still are pouring in. In greater numbers than ever before, millions of illegal aliens sneak across the border each year, drawn by dreams of a better life and dollars to buy it.

The U.S. Immigration and Naturalization Service (INS) estimates that about one in 26 persons now in the United States is here illegally, roughly eight million people in a nation of 210 million. Legal immigrants number about 400,000 annually.

By contrast, close to 800,000 illegals were caught and booted out of America in fiscal 1974, about one in three or four of those who entered illegally without papers or who simply overstayed their visitor's visa.

General Leonard F. Chapman, Jr., close to completing his freshman year as INS commissioner, warns that the country is experiencing the greatest unsanctioned immigration in its history and chafes at public and official indifference.

"We have on our hands right now a serious national problem * * * that the INS is wholly unable to cope with." Chapman told a House subcommittee recently, "Unless adequate resources and legislation are forthcoming almost immediately, the flood of illegal entries will become a torrent."

The presence of about eight million people, most of them poorly educated Latins from Mexico and Central America, who have no legal—and, some argue, moral—right to be here, raises worrisome questions about the illegals' effect on the future quality of life in the United States.

Can a nation that is sliding inexorably into a recession, is battling inflation and rising unemployment, and is faced with shortages of energy, clean water and air and possibly even food, afford to take in millions of extra residents, especially when in this country, zero population growth is close?

Illegals hold jobs that could be filled by citizens. They invariably pay little or no taxes. They send enormous amounts of money out of the country, aggravating the balance of payments problem.

Yet they use public services, including free or subsidized medical care. Their children are educated at public schools, and they often get onto the welfare or, unemployment rolls.

The Washington metropolitan area has between 35,000 and 50,000 aliens, with a large Latin population in the Columbia Road area and people from other parts of the world scattered throughout the District and the suburbs. Illegals here work in a variety of service industries and are heavily employed by restaurants and taxi companies.

No agency, public or private, has yet undertaken a comprehensive review of what illegals cost the country each year, but here are some random examples.

The INS recently completed an employment survey and estimated that one million jobs in heavy and light industry, agriculture and services could be opened up for unemployed citizens with improved enforcement programs. Washington D.C. could gain 11,500 jobs, New York, 106,000; Los Angeles, 135,000, and Chicago, 79,500.

The survey shows clearly that the old "wetback" problem that plagued the rural areas of the Southwest border states is now a full-fledged nationwide urban problem because the illegals have drifted north away from stoop labor and into better paying city jobs.

The AFL–CIO, which has thrown its weight behind tougher legislation aimed at halting the flow of illegals, estimates the annual wage loss to U.S. workers at more than $10 billion and fumes because illegals undermine union strength by working for below-scale salaries. Yet the giant labor organization concedes that not only are many of the illegals performing useful tasks within society and the economy, they have become absolutely essential.

Most illegals mail sums of largely untaxed money home to support their families. If eight million mailed home the nominal sum of $250 a year, this would add up to $2 billion. Many illegals work in agriculture or service industries for small companies or individuals who simply don't bother to deduct taxes or insurance. Those on larger company payrolls claim six or seven dependents, thus avoiding most income tax. Few if any file annual tax returns.

The Los Angeles County board of supervisors recently sued the federal government to recover the $7 million it lost last year in providing free or subsidized medical care to aliens. Two San Diego hospitals reported spending $1.9 million last year between them on treating illegals.

Unauthorized aliens are undeniably having an adverse effect on the American economy, but they also benefit it. They take menial, low-paying jobs that other Americans often shun—migrant farm work, unskilled construction work, dishwashing and busboy labor, domestic work, and dirty, dangerous jobs in industry.

Once here, they present few problems in the community. The vast majority are law-abiding people who want nothing more than a job and salary. Those who take a sympathetic view toward illegals—and there aren't very many—feel that aliens don't sponge as heavily off the welfare, unemployment or charity rolls as many critics believe, because they are afraid of contact with officialdom.

In fact, this fear of officialdom and their constant fugitive existence from the "immigration man" leaves the illegals as vulnerable as shorn lambs, exploited and ripped off by employers and others, such as unscrupulous lawyers and "immigration specialists," who prey on them.

Said Al Piliod, INS's associate commissioner for enforcement: "They're bled by all kinds of people. Landlords overcharge them, knowing they're illegals. Employers pay them low wages, make them work overtime without pay never let them take vacations.

"In Chicago and Gary, Ind., where a lot of them work in small assembly plants or other industries," Piliod said, "we've heard of many cases where illegals have been maimed by electric hammers and saws. The employers simply give them two weeks' wages and send them on their way."

INS investigators describe other abuses. There are employers who find themselves owing accumulated salaries to illegals and then simply call the local immigration office to report their own workers, get them picked up, and thus avoiding paying them. It is not against the law to hire illegal aliens, although pending legislation aims to change that.

Illegal farm workers still labor under atrocious conditions in the Southwest, working long hours for minimal wages. Close to San Clemente, Calif. with the panoply of Southern California wealth in tantalizing view, illegals literally are living in the fields they work.

They exist at little more than subsistance level, eating poor food and living without sanitation in packing-crate lean-to's clustered together on the edges of razor-trim cultivated fields where they work from dawn to dusk for a few dollars.

Those who come north have it better, but not much. For lean-to's, substitute a room in a villa demiserias probably shared with three or four others. For fields, make it small factories, construction sites, restaurants, or even expensive homes. Many illegals are women who find work as domestics and learn that the wealthy suburban matron who hires them can be equally as exploitive as any other unscrupulous employer.

Any community with a large number of illegal aliens attracts crooked lawyers and "immigration specialists" who charge exorbitant fees for routine immigration help.

A typical case:

Goziam Attoh of Washington, a Nigerian student who married an American girl and needed only to fill out a simple form at the local INS office to petition for a change in status from student to permanent resident, thus allowing him to remain in this country.

An alien "consultant" in suburban Maryland persuaded him, Attoh said, that he would have a very difficult time getting his status changed, but with their help, it might be arranged. Attoh paid the company $490, and they dutifully helped him fill out a form that he could have done in a few minutes at the local immigration office.

But Attoh, in a sense, is very lucky. Because he married an American woman, he now has something that money can't buy, something coveted by eight million people already here and uncounted millions overseas—status as a legal immigrant to the United States.

[From the Washington Star-News, Nov. 17, 1974]

Life in Paradise Spent on the Run

(By Michael Satchell)

The pale green car glides onto Columbia Road NW, shortly before dawn, its driver and passenger scanning the sidewalks, slowing down at bus stops, peering into shop doorways, looking for shabby clothes, brown skins and furtive eyes.

Watching them, perfectly aware of their mission, are the quarry, emerging from crowded apartments, waiting in bus queues with brown lunch bags, avoiding direct eye contact with the car and its occupants, trying desperately to appear nonchalant, to look as if they belong.

The car suddenly stops, two men leap out, a figure flees and a footrace begins. Two minutes later a young man is under arrest. Eight hours later he's in the D.C. jail. Three days later, carrying a small brown bag with all his worldly goods, he's stepping off a jetliner in Costa Rica, in Ecuador, in Ethiopia, in Nigeria or wherever.

One more illegal immigrant to the United States, one of the estimated eight million who now call America home, has been deported.

It is a process repeated daily in virtually every big city in the country and along the Southwestern border states as the vastly outnumbered Immigration and Naturalization Service pits its 3,800 investigators, inspectors and naturalizers against eight million hidden fugitives.

It is no contest.

"To put it mildly, it's terribly frustrating, very disheartening and mostly hopeless," bemoans Harry Heard, an investigator with the INS field office in Washington.

"For every one we pick up," he said, "it seems like there are 10 more coming into the city and 100 more already here. But, you just go out and do your best and hope that somebody out there or up on the Hill knows what's happening and what we're trying to do."

The Washington area has between 35,000 and 50,000 illegals, David Drummond, the local INS chief, estimates. Unlike other major urban areas, it has a hodgepodge of peoples.

New York, for example, has mostly Latin Americans among its million illegals and they melt easily into the Puerto Rican and Latino barrios. New England attracts Portuguese. Half of Chicago's estimated 500,000 illegals are Polish nationals. The West Coast cities have a preponderance of Mexicans and Central Americans as illegals.

But cosmopolitan Washington has them all, and a few more besides. The Latins are clustered in the Columbia Road and Mount Pleasant areas, Nigerians on upper 14th Street NW; Koreans in Arlington; Ethiopians, Greeks, Italians, Iraqis, Britons, everywhere.

It is not against the law to hire illegals, although bills before Congress would change that.

In Washington, illegals work in a host of service industries. They drive cabs, work as busboys and waiters, hotel chambermaids and porters, domestics and construction laborers.

Investigators have picked them up typing in Capitol Hill offices, laboring as stewards at the Ft. Myer officers club, preparing food at the Kennedy Center,

wearing hardhats on Metro construction sites, checking baggage at National Airport, parking cars at downtown lots.

Much to the embarrassment of the Immigration Service, four were arrested while working as janitors in the INS headquarters here. But nobody at INS laughed when a study last month concluded that better enforcement, meaning more investigators to pick up illegals, could release one million jobs held by aliens nationwide to the growing ranks of unemployed Americans.

A popular INS joke, probably with more truth than humor, is that if every illegal in Washington was caught and deported, half the city's restaurants would be forced to close and half the cabs would stop running.

"I'm almost afraid to go out to dinner," Gen. Leonard F. Chapman Jr., INS commissioner, said. "I'm a law enforcement officer and I'd be surrounded by illegal aliens."

In early October, this reporter took a Virginia cab from his North Arlington home to National Airport, bound for California to report on illegal aliens along the Mexican border. The cab driver, who spoke broken English, had no idea how to find National Airport from Arlington Boulevard, had to be directed right to the terminal building, and had difficulty figuring out the change when it came time to pay the fare.

"Are you an illegal?" he was asked.

"Don't understand," he muttered.

Unlike the Southwest border states that harbor practically all "wetbacks," those who have slipped into the country without papers, Northern cities also have a share of illegals who come here on tourist or student visas and then remain after their visas expire. The tourists simply scrape up the plane fare, get their visa and disappear from official view as soon as they reach American soil. Students from the Third World countries tend to come with every intention of returning but learn to like the American lifestyle and decide to stay on.

INS officers grumble that consular officials abroad are far too lax in handing out tourist visas. The American officials shudder at the mention of the American Bicentennial celebration two years hence. In June 1973, President Nixon issued a "Bicentennial Invitation to the World," and consular officials were urged to encourage travel to the United States.

"They'll all head for here," groaned an INS official.

Picking up illegals once they are established in the community is a sometimes ticklish, occasionally distasteful task, and INS methods have been criticized by several rights groups, particularly the American Civil Liberties Union.

The New York ACLU has filed suit to try to force INS into halting its so called "street sweeps"—the practice of stopping likely looking suspects on the street and asking for identification, simply because they may be shabbily dressed, ethnic appearing and walking in an area where illegals are known to live.

INS argues that this is an effective way to catch illegals, although investigators sometimes find that even the most tactful approach in asking a man's birthplace and identify can backfire. Recently, the INS's Heard and a rookie investigator named Harry Montville were cruising the Columbia Road area and Heard, who prides himself on being able to call a man's nationality nine times out of ten simply on visual appearance, told Montville to get out and check a young man on the street.

"He's probably a Persian," Heard said confidently.

Montville stepped out and very politely asked the man for some identification.

"What the hell is this?" the man asked. "You can't do anything to me. I haven't done anything. I'll complain to the Justice Department. I'll sue you. I'll . . ."

Montville, much chagrined, jumped back into the car.

"Persian, eh?" he said. "How about hostile U.S.C.?"

A U.S.C. is a U.S. citizen.

The occasionally distasteful part occurs when a father or mother, picked up on the street or at work, refuses to reveal the home address to protect the spouse and children. He or she is deported and it may be weeks, months before the person can return to the country. Meanwhile, the family members are left wondering whether a parent has been caught and deported, has come to harm, or simply deserted them.

The other method of catching illegals is to check places where they are regularly employed or follow up on tips. A number of Washington restaurants regularly hire aliens as busboys or kitchen workers, and investigators know they can go to a given restaurant on any day and be assured of picking up four or five illegals.

When the immigration men hit a restaurant—never during the luncheon or dinner rush, by tacit agreement with restaurant managers—there is always a mad scramble for exits or hiding places.

"They'll go out of second floor windows like birds," investigator Joe Reissig said. "They'll dive into the meat coolers, the bathroom, the boiler room. They'll throw off their uniforms and sit dowh at a table like they're eating. They'll split like rabbits."

Once arrested, an alien can elect to leave the country voluntarily if he has the funds and gets official approval. Investigators have the option of keeping the person in custody and formally deporting him, which usually is done if the alien appears unlikely to go home on his own.

Those given voluntary departure are not liable for criminal penalties if they re-enter the United States and are caught again. Aliens formally deported can be prosecuted if they return and are caught.

There is a sense of futility apparent among investigators. They are so understaffed and funds run so short that they find themselves going out each day, picking up a handful of illegals, and then driving by others walking the streets.

Processing a deportee requires a lot of paperwork, and the alien is allowed to go home escorted if he wishes and gather his things. Investigators who display remarkable tolerance and sometimes affection for those they chase usually try to make sure an alien receives any back wages or benefits before he is put on the plane.

The district office has 17 investigators responsible for the city, Virginia and parts of North Carolina.

Here, as elsewhere, investigators will no longer bother to drive a long distance to bring back one or two illegals who may have been picked up by authorities in downstate Virginia, unless the aliens have committed crimes. The rationale is: Why bother spending half a day driving, plus gasoline, when the officer knows he can drive a few blocks from the downtown office and be assured of picking up up six or eight in an hour.

Given the arithmetic of alien-chasing, most illegals simply lie low and watch out for the tell-tale green INS car as it makes its morning sweep. The odds on not getting caught are overwhelmingly in their favor.

"Getting picked up by the immigration man," Heard said, "is like getting hit by lightning. The odds are about equal."

Tomorrow: The thin green line: stopping aliens crossing the border.

[From the Washington Star-News, Nov. 18, 1974]

The Biggest Hole in the Dike

(By Michael Satchell)

San Ysidro, Calif.—The first wave gathers at dusk. Along a short strip of border separating suburban San Diego and downtown Tijuana, Mex., groups of raggedly dressed men and women begin forming by the jagged holes in the 12-foot cyclone fence that divides Them from Us.

The human tide, which has receded during the daylight hours, has turned. When darkness falls the first waves will crash through the fence and disperse like breakers on a beach, to be followed by more and more in the same relentless cycle.

On this night, as on any, between 1,000 and 1,500 campesinos will pour across this five-mile stretch of border, some carrying clothing and a little money, most with nothing but dust in their pockets.

Three or four hundred will quickly be caught within sight of the border. In a couple of hours they will have been processed, driven back to the border checkpoint crossing and released. But many will be back in the United States before the bus that deported them has returned the two miles to the U.S. Border Patrol headquarters to pick up the next load.

It is a futile, almost ludicrous exercise.

To fly along the border at dusk watching the hordes gather or to view them snaking along well worn trails in the eerie green light of a night vision scope, is startling.

This is the Border Patrol's Chula Vista sector, the biggest hole in the porous dike that passes for a controlled and guarded U.S.-Mexican border.

The border is 1,945 miles long and Chula Vista covers the first 66 miles inland from the Pacific Ocean. Across this stretch comes about one-third of the "wetbacks," illegally entering the U.S.

This year, if the current arrest rate continues, about 200,000 illegals will be captured in the Chula Vista sector—about one in four of those who cross this section of the border. Most of the 800,000 aliens will choose routes that funnel directly out of Tijuana, crossing in an 18-mile section from the ocean to Otay Mountain.

On paper, it should seem easy to stop most of them, but consider:

The Immigration and Naturalization Service has been understaffed for years in trying to stanch the ever increasing flow of illegals into the country. Today, the Chula Vista sector has fewer Border Patrol officers than it had three years ago.

Over the last 10 years, while patrol strength in Chula Vista has increased 20 percent, the number of illegals captured has zoomed 2,000 percent, from 4,377 in 1963 to 156,886 last year.

On an average night, the 18-mile strip of border across from Tijuana will have only 16 patrolmen in the field during an eight-hour shift and some nights will be down to 10 or 12. The usual practice is to station the men along the five-mile stretch bearing the heaviest traffic, and leave the other 13 miles unguarded.

The second principal line of defense along the border consists of highway checkpoints in the Chula Vista sector at San Clemente on Interstate 5 and at Temecula on U.S. 395. But recent California court decisions have severely restricted the Border Patrol's powers to check cars for smuggled aliens, and recently the Temecula checkpoints was forced to close due to an adverse court decision.

Most of the U.S.-Mexican border is open land, although close to population centers. The U.S. has erected fences that in some places are 12 feet high and topped with concertina barbed wire.

The fences are virtually useless. Smugglers cut holes in the wire with clippers and sometimes drive cars or trucks through. An electrified fence might be a more effective deterrent, but a sensitive Mexican government complains even about the barbed wire, stressing that Mexico is a friendly neighbor.

"The border patrol is a very thin green line," complained Richard Batchelor, deputy chief patrol officer at Chula Vista. "The problem is just too big. There are too many coming through the wire. Hell, we're not functioning as policemen or law enforcement officers. We're just picking up bodies and shipping them back."

The old hands like Batchelor in the Border Patrol recall almost wistfully the old methods of dealing with aliens, especially "Operation Wetback" that the Immigration Service conducted in 1954–55.

It was a tough program aimed at discouraging illegals from returning, and it worked like this. An alien, after being picked up, would be held in jail until an FBI check could be run. If he was a returnee or had committed any crimes, he was prosecuted. If not, he was given a slow ride to Brownsville, Tex., held in jail for a week or two, then loaded aboard a steamer operated by a Mexican ship owner who wasn't concerned with the physical comfort of his passengers.

After a long, slow and uncomfortable voyage, the alien was turned loose in Vera Cruz deep in southeast Mexico, and a long way from the American border. Today, given the sheer number of aliens involved and the advent of cheap, speedy bus travel within Mexico, such a program isn't feasible.

The Mexican government's cooperation has been lukewarm at best, knowledgeable sources say, because the flood of poorly educated and underemployed workers into the U.S. is a safety valve for a country whose population is expected to triple in the next 20 years.

The problem was discussed by Presidents Ford and Echeveria recently when they met at the border to discuss the recent Mexican oil discovery. The Mexican government is anxious to get a form of the old Bracero program instituted in which controlled numbers of Mexicans were allowed into the U.S. to work as fieldhands.

This idea has several stumbling blocks, though. Mechanization has sharply cut into the need for stoop labor, and union organizers, particularly Cesar Chavez, see the flood of Mexican nationals into the fields as some sort of farm owners plot inspired by the government to undercut union strength.

The AFL–CIO has also expressed concern at the massive impact illegal aliens are having on jobs, wage losses and other economic consequences that affect American workers already hard hit by rising unemployment and inflation.

With Mexican authorities unwilling to tighten up on their side of the border, it becomes a problem of catching the intruders once they cross the line.

One method is by the sensors, which are Vietnam war surplus devices planted in the major foot trails to detect movement. When the sensor is activated, the operator sees a black ink mark on a graph and can then dispatch an officer to check the particular trail.

At Chula Vista, foot traffic along the trails gets so heavy at night that there aren't enough officers to check out all the warnings. Said Gary Reece, a sensor operator:

"At night, the graphs are solid black. And the hills are solid brown."

Viewed from the air, the dun-colored hills east of Tijuana on the U.S. side are an amazing sight. Scores upon scores of narrow trails worn into the scrub over the years by thousands of aliens twist and turn and intertwine, forming a giant mosaic as intricate as a piece of Belgian lace.

Along them during the day, but mostly at night, come the illegals who are wise to the Border Patrol's rules and regulations and know how to play the "wetback" game to win. For example, a group of maybe a dozen will form up and make the run across.

If they run into a patrolman, a couple will "sacrifice" themselves and be caught. Their companions will scatter, aware that a Border Patrolman is not allowed to use his gun unless his life is threatened.

Those who get by simply head for the International Border crossing and pick up a cab or bus, or thumb a ride north to San Diego or beyond. The one or two caught by the patrolman are simply returned over the border and make another crossing attempt before dawn.

Most of the aliens, in fact, have no choice but to make another try. They usually have traveled long distances to reach Tijuana, and even if they wish to return to the Mexican interior, there is little chance of earning the fare in the Tijuana area. So they are forced to cross the border again and to look for work—if it is only to finance their return home.

An interesting trend is the smuggling of aliens. This traffic in human flesh has turned into a highly profitable business. Smugglers take small risk of being caught and even less of being prosecuted due to clogged courts, harried prosecutors and adverse court decisions.

One of the biggest stumbling blocks to prosecuting alien smugglers was a recent federal court ruling that all of the smuggled aliens involved in a case had to be held and be available as witnesses.

Said Robin Clack, who runs the Border Patrol from the Immigration and Naturalization Service's Washington headquarters: "On smuggling cases we'd keep four or five aliens to testify and send the others back. Now, we have to keep 30 or 40, and it becomes impossible because there just isn't jail space available to hold them.

"Plus the aliens," he continued, "are very, very reluctant to testify against the smuggler, which means the prosecutors are reluctant to try the cases. And when they do and win, the courts let them off lightly. The courts will jump on narcotics traffickers, but not those who deal in aliens."

The smuggling is big business. Just how profitable can be gauged by the action last November of Arcela Robles, a woman with permanent resident status in the U.S. and the ringleader of a smuggling ring believed to be transporting about 1,500 aliens a month across the border and charging each one $225.

She was charged with smuggling aliens and posted a $175,000 cash bond, which she immediately forfeited by skipping across the border.

Said Robert Hodge, head of the Border Patrol's anti-smuggling unit in Chula Vista: "We've always had a certain amount of smuggling, but nothing on the scale or sophistication we see today. It used to be truck drivers—Sunday smugglers—bringing a few "wets" in for $25 a time.

"Now," he said, "there are about 40 highly organized smuggling rings in Tijuana alone, with an average price of $250 a head to get them across the border and to Los Angeles. The bigger ones even will get people from Central or South American and take them all the way to Chicago or New York for $1,000 or thereabouts.

"They have representatives in each city," he explained, "who often guarantee them jobs on arrival, and the usual practice is to collect the fees later when the alien is earning money. They rarely have the money to pay in advance."

The aliens, who initially make contact with smuggling ring representatives in Tijuana bars or street corners, are first taken through the wire by border-wise teen-aged guides, 13 or 14-year-old Mexican boys who themselves have sometimes been caught half a dozen times by the Border Patrol.

Once over, the aliens are picked up and driven to drop houses close to the San Clemente or Temecula checkpoints. When the checkpoints are opened up—in cases of bad weather, fog, smog or heavy traffic—the smugglers simply load up their human cargo and drive north unhindered.

Although the Immigration Service doesn't keep hard statistics on such incidents, their files are packed with stories of brutality.

Aliens have been driven across in cars lying in the engine compartment, tied beneath the chassis or packed like sardines in trunks. Some have suffered burns, and suffocated from carbon monoxide fumes. Their bodies have been found dumped on the side of the highway.

In McAllen, Tex., 22 aliens were found inside a tanker trailer with four inches of flammable fuel oil sloshing around.

Some have been frostbitten in blizzards while being guided across the Canadian border. Others have nearly died after spending days traveling across country in unheated trucks, and with virtually no food or water.

Last August, 58 Ecuadorians were discovered—shivering and hungry—in the hold of a banana ship after it docked in New York. They had spent a week nearly freezing in the 50 degree hold, living on water and green bananas.

After several days, the 58 Ecuadorians were loaded aboard a jetliner to be returned home at a cost of between $60,000 and $70,000 to the U.S. taxpayer.

But as they were being deported, thousands more were coming; slipping through the wire, wading the Rio Grande, marching boldly through border checkpoints with false documents, stepping off commercial jetliners masquerading as tourists, part of the floodtide of desperate humanity seeking a better life here, joining the eight million illegals who are already looking for it.

Tomorrow: Some thoughts on dealing with problems of illegal aliens.

[From the Washington Star-News, Nov. 19, 1974]

SOLUTION 'SIMPLE': CUT OFF JOBS

(By Michael Satchell)

To the casual observer, the revelation that America is now the unwilling host to an estimated eight million illegal aliens usually comes as a surprise. The problem seems to have crept up without warning, a sudden lightning invasion of brown-skinned hordes flocking across the U.S.-Mexican border in the last few months.

Just the opposite is true.

The hordes of popular imagination pouring through the fences are doing just that, but it's been happening with increasing intensity since the old Bracero migrant farm worker program was halted in 1964.

The trickle has turned into a flood.

In a country preoccupied since the middle 1960s with civil disorders, Vietnam, Watergate, the energy crisis and economic woes, illegal aliens have ranked low on the list of national concern.

So low, in fact, that virtually no one outside the U.S. Immigration and Naturalization Service knew what was happening, and those who ran INS during these crucial years did little or nothing to warn Congress, the White House or the public of just how serious things were.

Conversations with deeply frustrated and often angry staffers at INS headquarters, in the Washington field office and in the U.S. Border Patrol in California make it apparent that they knew the extent of the problem and fretted at being unable to do anything about it. The word from the top was: Don't rock the boat and don't talk to the press.

While alien arrest rates zoomed higher than a wetback clearing the barbed wire atop the border fence—2,000 percent in the case of the Border Patrol since 1960—budgets and staff allocations lagged far behind.

INS topsiders universally blame the two men who controlled INS during this period for the current alien problem—Commissioner Raymond Farrell and his management chief Edward A. Loughran, who is widely acknowledged to have been the power behind Farrell's figurehead role.

Farrell retired last year amid criticism from Congress, and Gen. Leonard F. Chapman Jr., former commandant of the Marine Corps and a man identified more with management skills than the martial arts, replaced him with orders to shape up an Immigration Service dispirited and in disarray.

Chapman quickly eased out Loughran, who is now the staff director of the Senate immigration subcommittee. Repeated calls to Loughran by the Star-News seeking an interview on criticism against him went unanswered.

Chapman, diplomatically, will say only that "INS in the past has not reacted vigorously enough to the problem of illegal immigration." Other INS officials were not so kind.

"They went trotting to Congress each year, asking for minimal appropriations telling everyone that there was no real alien problem, that INS has everything under control," one official said. "But we knew different."

Fumed another: "We were always under strict orders never to talk to the news media. They didn't want to rock the boat. The country was facing this massive invasion of illegals and all they were interested in was looking good before Congress. They hid the problem and ignored it and now look at the situation we're in.

"How the hell can we catch and deport eight or ten million aliens or stop them coming in now?" the official asked.

Modest as budget requests were during these years when the alien problem was compounding, Congress and various administrations still chopped heavily into them. An analysis of INS budget requests and appropriations since 1970 shows a clear pattern of moderate trimming by Congress, and some heavy-handed slashing by the White House.

The combined effect of these subsistence, cap-in-hand budget requests since the mid-1960s, coupled with the paring knives of the politicians, have left an obvious legacy: an Immigration Service that today is woefully undermanned.

On September 30, for example, Chapman announced cutbacks on all except high priority programs within the service. He switched 450 agents from their jobs of alien-catching in the interior to help plug the gaping holes in security along the thinly patrolled border.

"Our resources have increased only slightly while our tasks have increased enormously," Chapman said in announcing the moves.

But massive infusions of money and equipment to double or triple the INS force of Border Patrolmen or investigators isn't the solution to the problem. With six, eight, ten or 12 millions already here—take your pick on the estimate—and a projected three or four million entering the country in the 12-month period that began July 1, no amount of INS personnel will be sufficient to halt the flow or scoop up those who get across.

If the flow isn't halted, pessimistic officials say gloomily that the adverse impact on the American economy will continue to worsen. Already, the estimated eight million illegals here were responsible for a $10 billion wage loss to American workers. They hold millions of jobs at a time of rising unemployment. They mail out billions of dollars in untaxed money to their homelands, aggravating the country's balance of payments. And they make use of a wide variety of public services from schools to medical care.

Aliens come to the United States for one reason—jobs. Cut off the lure and ergo: The problem is solved. It sounds simple, but it isn't.

Chapman and others concerned with illegal immigration are banking on passage of a bill introduced by Rep. Peter Rodino, D–N.J., that would make it illegal for any employer to hire an illegal alien.

The Rodino bill has passed the House twice but has been killed once in the Senate Judiciary Committee, a victim of the business lobby anxious to preserve a cheap labor supply. Once again it languishes in the Senate, its toughest provisions already deleted.

To complicate matters, Sen. Edward Kennedy, D-Mass., has introduced a bill with stiffer penalties for employers of illegal aliens but which would grant amnesty to illegals who have lived in the United States for longer than three years.

And Sen. James O. Eastland, D–Miss., chairman of the Senate Judiciary Committee, has draft legislation that would soften still further the proposed penalties against employers that already amount to little more than a rap on the knuckles in the watered-down Rodino version.

Additionally, the Eastland and Rodino proposals contain no amnesty provision as Kennedy wants and observers are not optimistic for any compromise in time for a bill to emerge from the current session of Congress.

INS believes an employment bill is the answer. The California legislature recently passed a state law prohibiting employers from hiring illegals and arrests dropped almost immediately as it quickly took effect. The law was overturned, however, by an appellate court, which ruled that the federal and not state government had jurisdiction over the matter.

Whatever form any future employment bill takes, many feel it faces enforcement problems.

The American Civil Liberties Union worries that employers will simply turn down all Spanish-speaking, Chicano or other ethnic minorities seeking jobs and thus worsen already existing employment discrimination.

The Rev. Sean O'Malley, a priest who deals with illegal aliens in his work as head of the District of Columbia's Spanish Catholic Center, believes it will have even worse results.

Said O'Malley, who favors blanket amnesty: "These people will not turn around and go home. Decent employers will comply with the new law, and the illegals will be forced to go and work for the unscrupulous ones. The Simon Legrees will continue to hire aliens and will exploit them even more. You will have widespread persecution of a lot of innocent people who are simply economic refugees."

There are even skeptics in the immigration service who feel that the Rodino bill as it stands is too weak for effective enforcement.

There are still others convinced that the only lasting solution to the problem of illegals flocking here for jobs is massive economic aid to Mexico, the principal source of the vast human migration.

"If we're smart we'll help industrialize them and raise their standard of living," one INS official said. "I'm just praying that the Mexican oil discovery is big enough to really get them on their way."

A higher standard of living in the adjoining Latin countries may be a long-term answer, but there is the immediate problem of awakening an ambivalent Congress and public to the consequences of millions of unauthorized residents in the United States and their effect on the quality of life here.

"This country is sleeping," said Immigration Court Judge Grace Beatrice Davis, who views the problem from the deportation bench each day. "I think there are 12 million here, not six or eight, and people just don't realize the ramifications.

"We are suffering socially, economically and politically from this problem and it's time to stop," she said. "This country isn't being settled by immigrants anymore, but these people think they have squatters' rights. We've got to start thinking about the people who have a legitimate stake in the United States."

[From the Washington Star-News, Nov. 17, 1974]

Carlos Didn't Last Long in the Promised Land

(By Michael Satchell)

As soon as the cruising car slowed down, Carlos knew they were after him. And he ran like he had never run before, racing north up Connecticut Avenue at 7 o'clock on a golden summer morning, the inbound drivers wondering perhaps who this fleet young sprinter was and why the man in the double-knit blazer was puffing after him.

Carlos Rodis Modesto Hernandez, 24, is married and the provider for his wife, three children, his three brothers and his two sisters. By trade, he is a chauffeur; by necessity, an illegal alien, and now, by bad luck, a hunted fugitive.

Carlos left his home last January, a shy young nobody from San Miguel, El Salvador, the tiniest and most densely populated country in the Central American umbilical joining North and South America.

He had about $200 in his wallet, the money scraped together mostly by his in-laws as a high-risk investment and an expensive gamble on the family's future. Like hundreds of thousands of other campesinos or threadbare refugees from rural poverty who are jamming urban areas throughout Latin American, Carlos joined the migration north to the United States, where a man can earn the princely sum of $10 a day, maybe $15 if he is lucky.

In San Miguel, Carlos drove a wealthy businessman around for $2 a day. But it wasn't enough to provide for so many. So on foot and by bus he made his way to Tijuana, Mex., and paid a smuggler $100 to guide him across the border and deliver him to Oceanside, Calif.

There Carlos became one of eight million illegal immigrants now estimated to be living in the United States.

The illegality of his act never entered his thoughts.

"I had to do it," he said, wondering why anyone would ask such an obvious question. "I want a better life for my family. Here I can earn it. There I cannot. We are a poor country."

Carlos quickly melted into the barrios of Los Angeles, comfortable among other Spanish speaking people. He washed dishes for two months and earned enough to buy a one-way ticket to New York, where once again he was quickly swallowed up in a latino community.

In New York, he worked as a carpenter's helper earning $10 a day and lived with a friend in a $25 a week room. He did not drink or smoke, he ate sparingly, spent nothing on himself. Every spare dollar was mailed to El Salvador toward his goal of saving $2,000. When he reached that sum, he would return and begin a small business, maybe a shop.

Carlos paid no taxes, and his employer, probably aware that he was an illegal alien—there are about one million in New York—certainly wasn't going to the trouble to deduct taxes. Even if he had, there would have been no problem.

Like other illegals, Carlos would simply have invented a Social Security number and claimed six or seven dependents. By the time the computer caught up with him he would have drifted to another job that paid a dollar or two more for a day's work.

In August, Carlos did just that. He moved to Washington and shared a room with two or three other aliens in the Columbia Road area, joining them with the understanding that if caught, none would reveal their address and thus protect the others. It is a common bond between illegals, and many who are deported board the plane with only the clothes they were wearing when captured.

Carlos quickly found work as a bricklayer's helper on a small construction site and at a 50 percent boost in salary—$15 a day. On about the 10th day after arriving in Washington, Carlos was waiting on Connecticut Avenue to be picked up for a ride to work.

He was wearing old clothes and holding a brown paper bag containing his lunch, three tortillas. The green car carrying two immigration investigators spotted him, slowed down to check his identity, and away he went—running to escape his pursuer, running to protect his precious investment, running to assure his family's future.

He was caught and deported.

[From the Washington Star-News, Nov. 16, 1974]

Statistics on Immigration

(By Michael Satchell)

The arithmetic of illegal immigration illustrates the scope and magnitude of the problem.

In the 12-month period that ended June 30, the Immigration and Naturalization Service caught 788,185 illegal aliens. Eighty-eight percent, or, 693,084 of them, crossed the border without papers. They were "wetbacks," although the term is a misnomer because most simply walked across and never came near the Rio Grande.

The remaining 12 percent—95,061 people—were tourists or students who overstayed their visas and just tried to blend into the community.

The Mexican border is 1, 945 miles long, and there are about 1,100 border patrolmen guarding it.

Once the aliens get past the border and find work, the force of INS investigators is much thinner. In the San Joaquin Valley of California, for example, INS estimates that about 120,000 illegals work in the farms, which cover 81,000 square miles. During any given 24 hours, not more than 46 officers are on duty in this area to catch aliens, which means that one investigator has nearly 2,000 square miles to cover.

New York City, which has more than 1 million illegals, many from the Caribbean countries, has a force of 200 investigators. Only 25 men are assigned full time to catching illegals. The 175 others are also involved in various routine tasks connected with legal immigrant applications.

Mexico accounts for about 90 percent of the "wetbacks," and INS officials point with alarm at Mexican population projections that suggest why even more people from the country will sneak into the United States.

Mexico had an estimated population of 56 million in 1973, about half of which live in rural areas. Half of these rural dwellers have no reportable income. The remainder earn about $400 a year. It is estimated that 40 percent of all Mexicans of working age are jobless, underemployed or do only seasonal labor.

At current growth rates, the population will reach 85 million by 1985 and 120 million in 20 years.

"It's a frightening prospect," said Gen. Leonard F. Chapman, commissioner of the INS. "Twenty years is not that far off."

Other countries with sizable numbers of illegal immigrants here are the Central American and Caribbean nations, the Philippines, Greece, Italy, Ethiopia, Great Britain, Nigeria and Poland. There are an estimated 250,000 illegal Poles living in the Chicago area, who enter through Canada to join friends and relatives.

INS budget requests in the last five years have been severely cut by Congress and the White House. The 1975 request for $280,715,000 has been pared down by the Office of Management and Budget and Congress to a pending appropriation of $175,350,000 in the House and $1 million more in the Senate.

As the United States nears zero population growth, the total of illegal immigrants accounts for an estimated 60 to 70 percent of the remaining growth.

In the 81-year period between 1892, when the first regular deportations began, and 1973, the INS caught just over 8 million illegal aliens. Next year alone, it expects to catch 1 million.

[From the Washington Post, Nov. 13, 1974]

ILLEGAL IMMIGRATION: A GLOBAL PROBLEM

It was about a century ago that Emma Lazarus wrote her inscription for the Statute of Liberty, calling on the nations of the world to send "your tired, your poor, your huddled masses yearning to breathe free' and the "wretched refuse of your teeming shore . . ." More recently, Attorney General William Saxbe stated the contemporary reality: "With the manifold problems the nation faces—energy shortages, inflation, scarcity of some foodstuffs, rising unemployment—it is apparent that we are not a limitless horn of plenty." He went on to call for a redoubling of the effort to keep illegal aliens from entering this country in search of work and social services unavailable in many countries of the world.

As the shortages of food and the price of energy continue to exacerbate the plight of the underdeveloped countries, the problem of America's accessibility to the hungry of the world will create an increasing moral and legal dilemma. During the active development of this continent, almost all the people of the world were welcome to pass through "the golden door," as Emma Lazarus chose to call New York harbor. Now, there are at least 8 million illegal immigrants in the United States—the equal of New York City—and more are entering each day. Some come with legal visitor's visas and then, as Mr. Saxbe put it, they "go underground and vanish when their visits officially expire." Others enter with forged documents, are smuggled in at hundreds of points along the Canadian and Mexican borders or just walk across undetected. They come from Mexico and the Philippines, Italy, India and Korea, Greece, Portugal and the Caribbean.

They come, as they always have, in search of a better life. And where once America proudly held that welcome light aloft, the times have changed and no one knows what to do about the "illegals" who now turn up in the cities, although once they were principally seeking work in the fields and on farms. They are said to hold hundreds of thousands of jobs that might otherwise go to the American unemployed or the legally admitted alien. They are estimated to have an annual payroll of $10 billion. Social services that are already overstrained must absorb the added burden. Some "illegals" return to their native lands and collect Social Security on jobs they never legally held.

The problems could be catalogued indefinitely. Only the solutions are scarce. Mr. Saxbe wants to strengthen the Border Patrol and obtain better coordination among federal agencies assigned to cope with various aspects of the problem. The AFL–CIO wants the Senate to pass a bill the House already has passed that makes it illegal for anyone "knowingly" to employ an illegal alien. The AFL–CIO wants the word "knowingly" dropped and thus to place the burden on the employer to establish an alien's credentials before giving him a job. Colleges and universities have agreed with a new regulation that permits the admission of only those students who can prove they have enough money to keep them during their first year and who can demonstrate their ability to finance their educations without additional assistance.

The problem is not unique to the United States. Switzerland recently held a referendum on whether to eject all the southern Europeans in that country as alien labor. Great Britain's political parties are in constant debate about what is the best way to deal with immigrants from the former colonies in Asia and the Caribbean. Germany's guest labor is a matter of constant internal debate and a source of occasional unrest. But those countries have no easy solutions either. If the Swiss were to eject their Italian menial workers, many Swiss wondered who would

handle the garbage, clean the streets and factories and clean off restaurant tables. And so, for those and other reasons, the referendum was defeated.

And there's the rub. The alien workers in the wealthy Western lands are there because they once were needed badly—to till the soil of the American West or to build a railroad that spanned a continent. After World War II, the recovery of the Ruhr Valley industries depended heavily on the labor of Portuguese and Italians, who did work that the Germans either could not provide manpower to do or that Germans did not wish to do. Now the Western countries are facing a different problem. The railroads have been built, the fields have become largely mechanized and much less "labor intensive" and the unemployment figures are climbing. The alien worker is not as badly needed as he once was. But just as the Western countries need alien labor less—and indeed can afford it less—shortages of food and resources are becoming more acute around the world.

And so this problem gets stood on its head: Mr. Saxbe chooses to focus, as does the AFL–CIO, on the problem of the illegal alien; but the real problem is how the countries of the world are going to work out the problem of redistributing the wealth in general and of stabilizing the food supply in particular. The "Green Revolution" showed early promise of assisting with one important aspect of the problem. But the energy shortages have meant a sharp reduction in the availability of cheap chemical fertilizers—something the Green Revolution depended on for its success in raising new and plentiful forms of corn and rice. As long as there are hungry, jobless people in the world, they are bound to head across frontiers in search of better lives. There is no practical way of sealing the Mexican and Canadian borders against illegal entry. And it is hard to get the message back to the "teeming shore" that those who were once welcome are now an intolerable burden.

The legislation to punish those who hire illegal aliens—almost always at depressed wages—should be passed. The legislation against smuggling people and trafficking in human flesh should be strengthened. Those steps will have some effect, but not much. The real solutions, to the extent that there are any, lie with the government of the United States and those nations in a position to help the less developed countries, with economic development and aid and with measures to improve the distribution of food and the means of producing food. That is where the problem of "illegal immigration" begins and is probably the only place it can be solved.

[From the Washington Post, Feb. 2, 1975]

U.S. Illegal Immigration Problem Defies the Numbers Game

ALIENS HARD TO COUNT

(By Lawrence Meyer)

On Jan. 9, Georgios and Athanasios Plessias were plying their trade, painting the Statue of Liberty at the union rate of $9.71 an hour, when they were arrested by federal officials. The Plessias brothers, laboring so diligently under the lamp beside the golden door, were illegal immigrants.

The previous day, Jesus Herrera-Saucedo, a Metro subway construction crew foreman, was picked up by federal immigration officials in downtown Washington. Herrera-Saucedo, a Mexican who earned $8.44 an hour, was also an illegal immigrant.

Every day, somewhere in the United States, thousands of illegal immigrants are apprehended by investigators from the Immigration and Naturalization Service—more than 800,000 last year. But at least that number and perhaps two to three times more slip into the United States without being caught, according to immigration officials.

Although when pressed immigration officials concede that no one can say with any certainty how many illegal immigrants go unapprehended or how many are living in the United States now, they estimate that 4 million to 12 million illegal immigrants already are here.

Immigration officials and members of Congress concerned about the problem variously characterize the influx of illegal immigrants as a "torrent" or a "flood", and express alarm that unless ne legislation is passed and the immigration service's budget is increased, the situtation will get worse.

Local public officials across the country already are complaining that illegal immigrants are straining public services, swelling welfare rolls and taking jobs away from American citizens. Neither federal law nor the laws of most states require that an individual be a citizen or a legal resident in order to receive public assistance.

The problem is so acute and resources so limited, according to immigration officials, that they lack the personnel to respond to all the tips they get concerning the location of illegal immigrants. In some instances, officials said, even when the immigrants are caught, they sometimes have to be released because the immigration service lacks the funds to send them back to their homes.

The problem, according to immigration officials, is simply out of hand. The New York metropolitan area alone, they say, harbors more than 1 million illegal immigrants. In the Los Angeles area, according to estimates, there are at least another 1 million illegal immigrants.

But these estimates are estimates only. When pressed, immigration officials concede that they really do not know how many illegal immigrants are in the United States now, how many enter each year without being apprehended, how much money in federal income taxes goes uncollected, or how much money leaves the country each year to support the families of illegal aliens working here.

During hearings conducted by a House Judiciary subcommittee in July, 1971, the Immigration Service director for the El Paso district testified that possibly a "tremendous amount of money" was being sent to Mexico. Pressed to be more specific, he said the amount was "at least several million dollars."

That same day, the Southwest regional director testified, "I feel that it is in the area of a billion dollars, not millions * * *"

Leonard F. Chapman Jr., commissioner of the Immigration and Naturalization Service, uses a variety of figures on different occasions to describe the problem.

During a recent interview in his office, Chapman said that 1.5 million to 2 million illegal immigrants are not apprehended annually. The figure could be as high as 4 million, Chapman said. He also estimated "conservatively" that about $12 million a day, or about $2.88 billion annually, is leaving the United States.

In a speech in Houston last week, Chapman used a different figure. "Last year," he said, "the Immigration Service apprehended nearly 800,000 illegal aliens—equal to more than half the population of the city of Houston. Though this was 10 times the number we apprehended just a decade earlier, it was probably no more than one out of four who entered the country illegally * * *" Thus, according to Chapman's figures in Houston, the minimum number of illegal immigrants was not 1.5 million to 2 million, but more likely 2.4 million.

These figures, which Chapman conceded are only estimates, have been cited repeatedly in several news stories within the last year on the problem. Last summer U.S. News and World Report carried a four-page interview with Chapman on "How Millions of Illegal Aliens Sneak Into U.S."

The Washington Star-News ran a series last November on the issue. The magazine of the American Legion in December, 1974, carried an article on "Our Illegal Alien Problem." Also in December The New York Times ran a three-part series on illegal aliens in the New York area. ABC News "Closeup" telecast a one-hour program on "Illegal Aliens: the Gate Crashers" Jan. 3.

When asked how the immigration service determines how many illegal aliens are in the United States and how many come in annually, Chapman said in an interview with The Washington Post that these statistics come from estimates for each of the 32 districts in the United States submitted by the district directors. Asked how the district directors get their estimates. Chapman responded that they have a formula, and directed a reporter to call the director for Washington.

The district director, David L. Drummond, said in a telephone interview that he knew of no formula. Drummond later referred his caller to the regional office in Richmond, were more information was available.

Edward T. Sweeney, associate regional commissioner for operations for the Southeast region, said in a telephone interview: "We just went through trying to make an estimate. * * * I don't think any formula existed. I'm at a loss."

S. LaVerne Jervis, public information officer for the Immigration Service, said, "There are formulas and there are formulas. But it sure isn't scientific." The estimates are based on "leads" that immigration investigators are unable to follow up, monitoring of electronic sensors used along the Southwest border with Mexico, where 80 to 90 per cent of the illegal immigration comes from, local police estimates, economic conditions in the countries were the immigrants come from and "street wisdom," according to Jervis and other officials.

"It's based on the base estimates of our people in the field," Jervis said. "It's based on judgment, and how the Miami director decides how many people are in his district and how the Houston director decides just are not the same thing.

"This certainly isn't an attempt to make it seem that it's a much worse problem than it is, because that isn't the commissioner's way of doing things and it wouldn't work," Jervis said.

One source, who has had occasion to examine the immigration service's ways of measuring illegal immigration, said, "I don't think they have any plausible method for gathering statistics."

But, this source continued, "I think there's a problem." He cited the immigration service's statistics on apprehensions, which reflect a steadily and rapidly rising increase, from 201,000 in 1969 to 277,000 in 1970, to 348,000 in 1971 to 430,000 in 1972 to 576,000 in 1973 to 800,000 in 1974. "I suspect that the rise of those apprehension figures is a very real set of statistics and that it reflects something," this source said.

The Law Enforcement Assistance Administration has awarded a $48,000 contract to a private consultant to create a design to study methods that could be used for counting illegal immigrants and to measure their impact. The Immigration Service asked for $2 million in its budget request for the next fiscal year for the study.

Despite the lack of any reliable statistics, Chapman and members of Congress concerned about the problem insist that it is serious. Rep. Peter W. Rodino Jr. (D-N.J.) has introduced legislation, which has passed the House of Representatives twice since it was first introduced in 1972.

The Senate has never had an opportunity to vote on the bill.

Rodino's bill, which would amend present federal law to make it a crime for an employer knowingly to hire an illegal alien, has been referred to the Senate Judiciary Subcommittee on Immigration and Naturalization. The committee's chairman, Sen. James O. Eastland (D-Miss.), has not had a meeting of the subcommittee to consider the Rodino bill.

According to Chapman, Rodino's bill, although not a panacea, is a necessary item to handling the immigration problem. If the legislation passes, Chapman said, "it will result in a majority of American employers faithfully carrying out its provisions. And that will narrow it down to the small percentage of employers who act illegally. * * * It will dramatically reduce the magnitude of the effort required."

In addition to the Rodino bill, Chapman said he needed about $50 million in additional money for the Immigration Service. With that much added to the $180 million authorized in fiscal 1975, Chapman said, 1 million jobs could be opened up for Americans, "attractive jobs, the kind you could get an American to do."

Rodino and Rep. Joshua Eilberg (D-Pa.), chairman of the House Judiciary Subcommittee on Immigration and Nationality, which is to hold hearings on the bill, both cited the 1 million jobs that could be opened up during a press conference called last week to dramatize the need for legislation.

With millions of Americans unemployed, they argued, the need for the legislation, serious in past years, had become critical.

When Eilberg was asked by a reporter after the press conference if he was confident of the statistics supplied by the Immigration Service, he replied, "No one knows for sure." The Immigration Service, he said, "gives us a rule of thumb that for every one that gets caught, five or six get through."

By that calculation, the number of illegal immigrants who came into the United States last year was not the 1.5 million to 2 million or the 2.4 million variously estimated by Chapman but rather 4 million to 4.8 million.

When Eilberg was asked if he was not troubled that the statistics seemed to be soft, he replied, "It doesn't matter whether it's 4 million or 6 or 8 or 12 million" if it is conceded that illegal immigration is a problem.

Then, pointing to the estimates supplied by the Immigration Service, Eilberg again asserted that 1 million jobs could be made quickly available to Americans if the Rodino bill were passed.

In any case, the prospects for the Rodino bill do not seem markedly better in this session of Congress than before. Eastland, who owns a large plantation in Mississippi and who reportedly has close ties with Southern agricultural interests, was not available for an interview. An administration source who has watched the Rodino bill in Congress discounted the prospect that Eastland would act on it.

Rodino, when asked at his press conference about Eastland, said he intended "to take this up with the senator and impress upon him the urgency of this kind of legislation."

In addition to the doubtful prospects for Rodino's bill in the Senate, the Immigration Service's budget request to be submitted to Congress by President Ford will seek only about a $30 million increase and not the $50 million Chapman had hoped for, an informed source said.

[From the Washington Post, Feb. 2, 1975]

Illegal Entrants Flock to U.S.—A New Poverty Class

(By Leroy F. Aarons)

Los Angeles—No one knows how many. But they are here. Tens of tens of thousands. Downtown on Los Angeles Street, thousands of women pedaling away at sewing machines in hundreds of fly-by-night garment sweatshops, no air conditioning, no coffee breaks, usually at less than $2 an hour, the non-farm minimum wage.

In the restaurants, hidden in the kitchens or in unobtrusive presence as busboys; in the washrooms, parking cars, cleaning hotel rooms, washing cars, assembling electronic gear, by the colors, in light industries; in the homes of the well-to-do, minding the children.

They are a new urban poverty class: the illegal immigrants, most of them Mexicans, who, in the last decade, have swarmed in ever-increasing numbers across 2,000 miles of border, through holes in barbed wire, hiding in secret compartments of vans, riding the rails, or flashing counterfeit credentials at border stations.

Mexican immigration—legal or illegal—is not an unknown phenomenon to the Southwest. This land once was part of Mexico, and the ebb and flow of millions of Latins across the new border has been part of American social and economic history.

Mexicans, braceros and wetbacks, helped build the Western railroads, dig the mines, construct the dams and, most important, provided a seemingly endless source of cheap labors. Many stayed, to form the foundation of America's Mexican-American population of about 6.5 million.

The migrants, legal and illegal, continue to work the fields and vineyards from McAllen, Tex., to Sonoma, Calif., increasingly an irritant in the struggle between Cesar Chavez' United Farm Workers Union and the growers, with Chavez charging that the illegals are used as strikebreakers.

But more and more, the illegals are turning from backbreaking stoop labor in the fields to the cities. They have flocked to Los Angeles, peopling the barrios of East Los Angeles and the small suburban communities to the southeast and north.

Constantly fearful of exposure and deportation, the illegal Mexican lives a shadow existence—unserved by most social institutions that help the poor, threatened and exploited by landlords and employers, unprotected by constitutional civil rights.

On the rim of the runway at a regional airport, separated only by a metal fence, sits a collection of old motel rooms and shacks that has become an illegal alien colony. Its white American owners get $45 a week for a typical rundown five-room house and $100 month for each motel unit consisting of a bare bedroom, a kitchen and a shared bathroom.

Amid the frequent scream of jet takeoffs, Isabel lives with her seven children. At 36, she looks 45. She came to the United States two years ago, then sent for her children, one by one, as she was able to raise the money to pay the smugglers, disdainfully known as "coyotes," who make millions of dollars annually trafficking in illegals. All told, it cost her $950.

"My husband came here first, and he persuaded me to come. After I got here, my husband left me five months later," she said through an interpreter. "I got a job in this garment factory at $1.65 an hour. It has gone up to $2 now, but we do not work every day. I make $75 after taxes, and sometimes my oldest daughter, who is 18, helps out babysitting. We are overworked in the garment factory. He is always pressuring us to do more each hour. He threatens to expose us or lay us off if we don't put out enough work."

Food is expensive. Isabel (not her real name) is afraid to appy for welfare because she might be arrested. But an Anglo volunteer worker is trying to arrange to get her food stamps.

In the old refrigerator is some lard, a dozen and a half eggs, ketchup, butter, tortillas, one or two bags of vegetables. "I buy less now. The children who go to school have a free lunch. The rest only have dinner. The kids will normally eat cornflakes when they come home from school, and at night beans and meat, if we have any.

"Sometimes I think I'd be better off back home. But I feel there's more ways of feeding your kids here. And medication is free. I'm still much better here."

Take the guesstimated sum of about 1 million illegals in the Los Angeles area, area, add the number of legal Mexican residents,—nearly 250,000,—place it against the total population of the Los Angeles area—8 million—and you get a measure of the dimensions of the issue.

Until the last few years, the illegals problem was largely ignored in the cities. The illegals are generally good workers; if they were taking work from anyone it was from the least powerful or vocal. Spanish-speaking, with a common cultural history, they blended easily into the urban American Chicano environment.

But now, with the deepening recession, rising unemployment and the increasing numbers, this is changing.

INS has begun to keep job statistics on aliens it picks up or who are picked up by local police.

Of 842 illegal aliens who reported holding jobs in the Los Angeles area in the first three weeks of January, 60 per cent were making $2.50 an hour or less. A total of 96 percent were making roughly $3 an hour or less. About 250 of the total were working in service industries, such as dishwashing, and 375 were in light industry, such as garment work. Only a handful reported jobs in heavy industry or construction.

Fully 85 percent of the illegal aliens apprehended in fiscal 1974 (ended last June 30) were nabbed in or coming into the Southwest (basically Texas, Arizona and California), and nearly 50 percent were in California.

(For the frustrated, undermanned U.S. Immigration and Nationalization Service staff the deportation process is more like a conveyor belt: they run the aliens out, and they turn around and come back in again as soon as they raise the $250 to $350 it takes to pay the coyotes.)

There are perhaps as many as a million illegal aliens in the greater Los Angeles area. For them $2 an hour in a sweatshop is preferable to $4 a day and 50 percent unemployment in their homeland.

If all the aliens were deported, say some employers who hire them, the economy would suffer.

David Tallichet, a restaurant entrepreneur from Texas who runs 40 restaurants nationally, half of them in California, hires Mexicans as dishwashers. Many of them, he admits, are illegal aliens.

"In our industries we get the immigrant mainly because he's the only guy reporting to work," he said.

"These immigrants come here, they work very hard and we're pleased with them. A dishwasher gets $2 an hour less meals. It feels kind of good to see these boys come in and work hard for you."

If the government makes it illegal to hire these aliens, Tallichet says, "we're going to end up having to go down to the missions, or else raise the price of dishwashers to $5 an hour and raise the price to the customers."

On the other side of the coin, the labor unions argue that alien workers are easily exploited, depress wage rates, serve as strikebreakers and take jobs from other workers. At the same time, the unions sign up those aliens who want to join, use them as voters in National Labor Relations Board elections, and as picketers.

The Los Angeles Laborers local, for example, dissident workers have alleged, has had as many as 3,000 illegals among its 10,000 members. (The dissident group of workers complained to the NLRB that illegals were getting preference in hiring-hall assignments and paying kickbacks to union officials.)

Cornelius Wall, western regional director of the International Ladies Garment workers Union, who admits that his union organizes illegal aliens, said: "This union is not going to say pick 'em all up and throw 'em out of the country. Those with roots here, let's put them in a different category. Those who don't, let's ship 'em back. And no new arrivals! Close up the border with machine guns if we have to, and shoot every son-of-a-bitch that puts a foot across the border, and you'll kill less than those that come across in the trunk of a car or in a tank truck."

Los Angeles Street, nine blocks south of city hall, is the Southwest's Seventh Avenue. State industrial welfare agent Salvatore Andriola is showing a reporter around the streets, past rows of monotonously similar lots, office spaces and basements that make up his beat, where he and a handful of others try to enforce state wage and work condition codes within the garment contractor industry.

"Los Angeles County probably has 60,000 people working sewing machines for these contractors," Andriola said. "Most of them are women, and at least half are illegals.

"Union representation is low, maybe 12 per cent. Most of these are marginal operators, undercapitalized. In order to survive they've got to pay less than legal wages. They farm work out to homeworkers (women who sew at home, against state law), who in turn farm it out to friends and relatives. They got 'em over a barrel. They say, 'I'll give you 10 cents a dress, 25 cents a dress, or nothing.' There's always the threat of sending 'em back to Mexico. Usually the bulk are getting $1.50 to $2 an hour . . . They pay in cash, no statement, no deductions. You fight 'em [the contractors] and the next week they're gone. They don't own the lots, they just rent them, so they can split easily.

"At the wages they are working, the illegals are not American citizens out of jobs. Why should an unwed mother with four kids work for 50 cents an hour if she qualifies for welfare? What it does do, is that these people develop a toehold. It provides encouragement for sisters and brothers and cousins to come. They all gather in the rats' nest in the barrio, and eventually these people begin drawing on the economy for welfare and health benefits. It creates a large pool, ready, willing and eager to be exploited."

Inside a basement shop, 40 women are working at 40 sewing machines turning out identical cheap halterskirt combinations. It is grimy and hot, unrelieved by the whirl of a few electric fans. "This place has improved," Andriola said. "In many places you see rats and cockroaches running around the clothes. I find machines blocking exits, elevators not running. The sweatshop concept is very much alive today."

The owner, a Mexican-American, went into business two years ago. He is trying to eke out a living from the $1.25 to $2 an item the manufacturer pays for clothes that will sell for five times as much in the stores.

"If the illegals stopped, I'd go dead," said the contractor. "Because 90 percent of the operators are illegals. They're very hard workers, they'll work extra hours, Saturdays, even Sundays. The ones that do have papers they just don't want to do the work unless they get paid more. If you don't pay, right away they threaten you with Immigration. I'm very wary of legals. They cause me problems."

In the city of San Fernando, for the first time last week, the Chamber of Commerce acknowledged that a large part of the city's population of 18,000 consists of illegal aliens. The chamber agreed to set up a committee with community leaders to find a way to educate the aliens on how to legalize their status.

Short of a huge military-type operations to weed out illegals by house-to-house or factory-to-factory searches, it is clear that many thousands of aliens are here to stay. (An effort to do this occurred in the summer of 1973, during which 11,000 persons were ejected in 25 days. The siege produced a great outcry in the Chicano community about indiscriminate harassment of the Spanish-surnamed and led to a spate of lawsuits.)

Some illegals pay income tax because it is deducted from employer payrolls. However, many claim so many dependents that the deduction is very little.

Illegals are not entitled to food stamps, welfare, unemployment insurance or Social Security. Some receive some benefits, however, either through use of false identification or because their American-born children are eligible. Illegals are given health care by county hospitals, and the schools are technically not supposed to ask students for origin of birth.

The Los Angeles County Health Department recently tried to estimate the cost of treating illegals. But the figure—$8 million for one year—was based on a hodgepodge of assumptions and guesses.

A more accurate figure was provided by the County Welfare Department: of 13,000 welfare applications checked by INS in 1974, 645 were ineligible aliens. Projected, that would mean one in every 200 suspected applications turns out to be ineligible.

But here again, that doesn't account for human error, records lost by INS and the number of applications INS failed to report back on.

But what is to be done? One labor leader offered this observation:

"There are millions in here. How are you going to literally throw what amounts to millions of people out of the country? There's going to have to be an amnesty of some kind for those who are established."

He does not, however, want to see any more illegal aliens allowed into the country.

[From the Washington Post, Feb. 3, 1975]

Patrol Can't Keep Aliens Out

(By Leroy F. Aarons)

Yuma, Ariz.—It is a mildly warm winter afternoon in this desert border town, just 15 miles from Mexico, and the U.S. Border Patrol is making what it calls "ranch checks."

Translated, that means stalking illegal aliens—"wetbacks" or "Mojados"—in the lemon groves.

It is extra sensitive right now since Cesar Chavez's United Farm Workers union has been striking the lemon groves since the harvest began three months ago, and the Chavez people consistently have complained that illegals were being used as strikebreakers.

The border patrolmen—four of them divided into teams of two, each driving a medium-sized van with steel-mesh windows—pull up to one of the groves.

Except for the pistols at their hips, they could be forest rangers: the broad-brim hats, the deep green fatigue shirts and trousers, the waist-length jackets.

They hop out and race stealthily into long rows of lemon trees so dense that they conceal any evidence of human life within. Inside, the trees hide the sun, creating a cathedral-like archway and apse, strangely dark, quiet and cool, thick with the pungent-sweet smell of ripened lemons.

The pickers are there, on ladders, amid the leaves and branches, stripping lemons and dropping them into shoulder bags. Some ignore the patrol—"La Migra" or "immigration" as it is known—with feigned indifference. Others break and run. But there seems to be no hunter-hunted antagonism on either side. They're all doing their jobs. Besides, the illegals know they will be back on the U.S. side of the border soon enough.

Within 20 minutes the patrol has rounded up a dozen illegals and packed them into the back of one of the vans. It is all very civilized: the patrol sometimes allows workers to collect part of their day's pay from the foreman.

The vanload will be brought back to Border Patrol headquarters in Yuma. The aliens will be held in a grimy detention cell, processessed swiftly (most choose voluntary departure rather than deportation proceedings), and bused to Mexico to San Luis, the border station that abuts the Mexican city of San Luis on the other side.

At San Luis the border separation is a 10-foot high metal fence with rolls of barbed wire along the top. A mile to the east and west the fence shrinks to a few strands of barbed wire, and at long intervals along the 2,000-mile border from California to Texas there is no fence at all.

To guard this vast stretch, the Immigration and Naturalization Service now has 1,545 patrol officers—augmented by 1,445 a few months ago, when INS Director Leonard Chapman ordered a shift of emphasis from apprehending illegals in the interior to blocking them at the border.

This represents one patrol agent for every 1.3 miles of border—not counting, of course, different shifts, sickness, vacation and the high turnover rate. Despite all that, the border guards in the Southwest Region managed to catch 611,000 illegals in fiscal 1974, about 400 per agent.

Notwithstanding that effort, the alien shuffle is like pitting a water bucket against a tidal wave.

Funding is part of the problem. The Office of Management and Budget has shaved INS budget requests sharply in recent years. Thus, in Los Angeles and Houston, alien hunting has slowed nearly to a halt. Police in Las Vegas are told to release aliens they apprehend—it is too expensive to come and get them.

But the roots of the issue go deeper, as talks with a number of people in and out of the Immigration Service indicate. It has to do, these sources say, with an entrenched and complacent bureaucracy within the INS who either refused to see or admit there was a problem until the problem was out of control. Estimates of illegal aliens range in the millions.

Austin Fragomen, a New York immigration lawyer who was staff counsel to the House Judiciary Subcommittee on Immigration in the late 1960s, recalls a 1969 committee hearing on the growing illegal traffic across the Mexican border.

"The immigration service told us at the time there was at the most 100,000 illegal aliens in the U.S., not a substantial problem," said Fragomen. "I think they really believed it, and only recently came to grips with the reality of the situation. They never complained about insufficient funds. [Raymond] Farrell [previous INS administrator] used to get what he asked for, and what he asked for was always modest."

According to long-time INS employees in the West, one factor which slowed INS pursuit of illegal aliens was lobbying pressure by Western agribusiness, which, when the "bracero" program of allowing Mexican nationals to commute to work in this country ended 10 years ago, sought to protect its supply of cheap field labor.

"Historically, the agricultural groups have had an impact on the government," said Joseph Sureck, chief of the INS Los Angeles office. "For example, in the federal law against harboring and concealing aliens, hiring an illegal is excepted. That was known as 'The Texas proviso' and it reflects the power of the agriculture-farm bloc in Texas."

The illegal alien influx has spawned another phenomenon—the million-dollar alien smuggling and counterfeit rackets.

The smuggler—or "coyote"—arranges the passage of illegals across the border and provides transportation to the cities or agricultural fields where they find work. For years the system thrived as a group of small businesses. Now, according to federal officials, it has blossomed into sophisticated smuggling syndicates on both sides of the border.

A year ago, for example, federal agents broke up a ring of 25 alien smugglers they said had been netting $9,000 a day over several years. One defendant absconded, leaving behind $175,000 bail—$133,000 of it in cash.

"Probably more deaths occur as a result of alien smuggling than all other federal crimes combined." Assistant U.S. Attorney Harry Kissane of San Diego has said. Aliens are thrown from speeding vehicles and robbed, beaten and raped, said Kissane, and they are suffocated while being smuggled in tiny airtight vehicle compartments.

A trip from Mexico costs about $350 each at the going rate. A counterfeit visa or the treasured green card (the credit-card-size pass denoting legal residency which is actually blue in color) can cost $1,000.

The sordid world of border activity and the prospect of easy money has had its impact within the Immigration Service. In 1972, an immigration inspector named Frank Paul Castro was convicted for selling border-crossing papers at the Tijuana station for $250,000.

The Castro case led to a massive Justice Department probe of the INS called Operation Clean Sweep, which allegedly turned up evidence of corruption at various levels of the INS. At one point, the chief investigator, Alfred Hartman, deputy chief of the Justice Department's general crimes section, told a congressional committee, "There is a liaison of sorts between our American officials and the so-called coyotes . . ." Few others were indicted, however, and the investigation fizzled out.

As for the illegals, every one has his own coyote story.

Reyna is a Central American who made her way to Los Angeles via Mexico.

"Five of us traveled by car into Mexico with this man, who lives in New York," she said. "It cost us $90 each for the trip. But when we arrived in Tijuana, he robbed me. He told us to give him all our money and clothes until he was safely across the border. So, we gave it to him, $300 each, me and my friend. And we never saw him again.

"I stayed a month in Tijuana until I put part of the money together to pay another coyote. I needed $250, but I paid $75 and agreed to pay the rest later. We came across in a car." The coyote was an American citizen.

For the Reynas and hundreds of thousands like her, the promise of America seems worth running the gauntlet of the border patrol, the coyote, the exploitation and the subterfuge.

"I constantly live in fear I may be expelled. I try not to go out of the house," she said. "I always carry my baby for fear that they may send me back and put my baby in a home."

She has lost her job and is living on $300 she managed to save. Still, back in her home country things are worse.

"I want to stay here," she said. "It's a better chance for me."

Chavez Shifts View of Illegals

Cesar Chavez, leader of the embattled United Farm Workers union, had long opposed admission of illegal aliens to the United States. He claimed to have proof that the agricultural industries he has attempted to organize used illegal aliens to break strikes and resist union pressure.

Recently, however, he has modified his position on illegals, reportedly under pressure from urban Hispanic activist groups, who apparently convinced him that he was acting against the best interests of Spanish-speaking and Spanish-surnamed people of both countries.

Chavez now says his union does not oppose aliens coming to this country so long as they are not used as strikebreakers. He favors laws punishing employers who hide strikebreakers and increasing quotas of legal admission of Mexicans and others in the Western Hemisphere.

24 Illegal Aliens Found Hiding in Truck in L.A.

Los Angeles, Feb. 2 (UPI)—A routine check of a large truck today led to the arrest of 24 illegal aliens who had been huddled together without food or water in the bay of the truck for two days.

The driver, Arthur Nusoen, 48, of San Diego, was arrested and charged with suspicion of smuggling aliens.

Officers said when they opened the rear doors of the truck, they found some of the aliens unconscious from lack of food and water. The group included a woman and a 16-year-old youth and 22 male adults.

Members of the group had paid $200 each for the ride across the border from Mexico and into Los Angeles, police said.

The two officers who made the arrests said they stopped the truck because there have been several hijackings in the area.

[From the New York Times, Dec. 29, 1974]

Million Illegal Aliens in Metropolitan Area

silent invasion paralyzes immigration-law enforcers

(By M. A. Farber)

A wave of illegal aliens into the metropolitan region—officially estimated at more than one million—has overwhelmed the Federal Immigration and Naturalization Service here, virtually paralyzing the enforcement of immigration laws.

A 10-week investigation by The New York Times shows that, through individual and organized fraud, counterfeiting, falsification of travel and identification papers and smuggling, illegal aliens have mounted what immigration authorities call a "silent invasion" of New York and northern New Jersey.

Thousands of these mobile aliens—mostly poor, young, marginally skilled Latin Americans who could not qualify for legal immigration—arrive each month, and now seem to outnumber legal resident aliens here.

The illegal aliens come to work illicitly and save money and decide whether to stay permanently. And the vast majority of these men and women, blending into polyglot communities on the Upper West Side and in Queens, Brooklyn and other areas, are going undetected.

"We're at a standstill in terms of our ability to go out and remove aliens who are not entitled to be here," said Henry E. Wagner, investigations chief of District 3 of the immigration service, which includes the city, Long Island and seven other counties in southern New York.

short of funds and staff

"But I'm coming to the conclusion that nobody except us gives a damn," Mr. Wagner said, "and we don't have the money or the men to carry out the law."

Some church, ethnic and civil liberties organizations view illegal aliens as exploited, even persecuted, "economic refugees"—essentially law-abiding people with the same hopes for prosperity and security as regular immigrants. Others, however, argue that illegal aliens are "squatters" who usurp jobs that can be filled by American citizens, engage in crime, including drug trafficking, and sponge on public services while paying little, if any, taxes.

Most of the aliens come here from the Caribbean and elsewhere in Latin America on tourist visas valid for two weeks to six months, having lied about their real intentions to American consuls in such places as Bogotá, Colombia, or Guayaquil, Ecuador, or Santo Domingo, the Dominican Republic.

Interviews with more than 100 people here and in the Caribbean, also reveal a fluorishing, extensive, well-established pattern of organized fraud, illicit dealings in genuine and fake visas and other documents and smuggling of aliens through Puerto Rico, the Bahamas and Canada.

SEEKING GREENER FIELDS

Nothing, it appears, is sufficient to deter the illegal aliens from coming. Not the forms that require tourist visa applicants to certify that they will not work or overstay their visit. Not the expense of buying documents on the black market in Latin America for up to $1,500, or the fear of exposure. Not the clandestine crossings of the Mona channel between the Dominican Republic and Puerto Rico in cramped fishing boats, or the random inspections of crowded flights from San Juan to New York.

They're seeking greener fields, greener pastures," said a leading Jamaican lawyer in his office two blocks from the American Embassy in Kingston. "They know the risk and they're willing to take it because they know it has paid off for many. In this day, you can't tell a young man with good grades or an adventurous spirit to go back to the land and plant bananas."

The weakness of the immigration service here and the impunity with which most illegal aliens are able to flout the laws against them once they arrive are illustrated by the statistics.

There are now one million to 1.5 million illegal aliens in District 3 of the immigration service, with two-thirds of them in the city, according to Maurice F. Kiley, the district director.

To detect this number of aliens—on their jobs, at their homes and elsewhere—in what is known as "area control," the district now has 28 agents. And as the number of agents has dwindled from 50 in recent months with a shift in national work priorities imposed by Leonard F. Chapman Jr., the Commissioner of the Immigration and Naturalization Service the number of illegal aliens seized here has declined by 30 to 50 per cent.

5,300 DEPORTED IN 5 YEARS

In the last five years, District 3 officials have deported about 5,300 persons and verified the departure of 55,000 aliens who were allowed to leave voluntarily after their illegal status was discovered. But the service does not know whether another 48,000 illegal aliens who were ordered to leave actually went home. It has no record of their departure, and it is not trying to find them.

More than 18,000 complaints from the public about persons suspected of being illegal aliens here are piled up awaiting investigation—the figure was 44,000 before "unpromising" leads were pulled from the file in the last two years. Hundreds of new leads, including letters from scorned lovers and from employers who want to reduce their work forces without firings, arrive each week.

Lying dormant in bulging file cabinets at the service's headquarters at 20 West Broadway are thousands of cases of persons who entered the district on student visas but who did not attend their designated schools or who dropped out without an indication of their having gone home.

Hundreds, perhaps thousands, of cases of fraudulent or criminal activity by aliens, ranging from drug trafficking to prostitution to driving without a license, are also unassigned. And "active" caseloads are often enormous. In the criminal unit alone, 13 agents and two supervisors are currently handling more than 800 cases that might result in deportation or voluntary departure of aliens.

CONFLICT OVER REPORTS

According to agents who asked not to be identified, thousands of Police Department reports of arrests of aliens—not all of them illegals—have been thrown out by the service without investigation. Mr. Wagner denied the assertion. He said that many reports of minor crimes by aliens had simply been "laid aside" for lack of agents to review them.

The United States, often described as "a nation of immigrants," has no Federal laws governing the admission of aliens for almost 100 years after its founding.

Immigration was first regulated in 1875, when Congress passed a law preventing the entry of prostitutes and convicts. In 1882, Chinese laborers were excluded and other laws in the next 25 years barred physical "defectives," mental incompetents, polygamists, anarchists, paupers and other special categories of aliens.

A general immigration act in 1917 also excluded aliens from most of Asia and the Pacific islands and required immigrants to be able to read and write in any language.

In 1921, Congress passed a temporary immigration quota act, and a "permament" act followed in 1924. The laws, the first to place a numerical limit on immigration, had a "national origins" basis, typing the number of immigrants of any nationality who might be admitted in any year to the percentage of foreign-born persons of that nationality in this country according to the 1890—and later the 1920—census. The 1924 law also established a class of nonquota immigrants, includiug persons born in the Western Hemisphere and close relatives of United States citizens.

Legislation in 1952 eliminated race as a complete barrier to immigration, but continued to favor aliens from northwestern Europe and to discourage immigration by Asians and blacks.

In 1965, in the last general immigration act, the national origins principle was abolished. A ceiling of 170,000 immigrants annually from the Eastern Hemisphere was set and the first numerical limit on emigration from the Western Hemisphere, 120,000 a year, was imposed.

The plight of the immigration service here in enforcing the law is matched by the problems confronting the American Foreign Service in its efforts to stem the flow of illegal aliens, especially in the last decade.

To persuade American consuls that they have ample reason to return home on time—the critical test in obtaining a non-immigrant visa—many aliens pad bank accounts, forge letters of employment locally, have houses and other property listed under their names temporarily and rent "show" money and clothing to appear affluent. In Kingston, a tailor turned out suits for visa applicants even as they stood in pre-dawn queues at the consulate.

Some applicants attempt to bribe consuls with money or sex—at least two consuls who were mentioned in connection with bribes in recent years in Cali, Colombia, and Santo Domingo are "no longer on the rolls of the Foreign Service," a State Department official confirmed. Other applicants apply pressure by local government officials, including senior ministers, or through friends and relatives here, enlist the aid of American legislators at all levels.

SENATOR'S LETTER SOUGHT

Last month, in a car parked at dusk in front of the casino in Port-au-Prince, a Haitian "entrepreneur" offered an American $500 for every name the American could arrange to have included in a letter from any United States Senator to the consulate, requesting expedition of visas.

"We would never run out of names," said the Haitian, who took from his pockets the passports of 32 persons who had been denied visas. "This would be a start and, with a Senator's letter, it's a sure thing."

In Haiti, anxious applicants for visas may call on the powers of voodoo. In the Dominican Republic self-styled "papa-bocos," or witches, offer to win over the "five senses of the American consul" by blowing cigar smoke in the face of an applicant and anointing him with a sticky mixture of oils, herbs, cologne, white sugar and "holy" water. The cost is $13.13.

Many applicants who cannot obtain visas turn to local travel agents or "consultants" whose package deals often include counterfeit visas or American resident alien cards or genuine documents cut out of passports or otherwise stolen or bought for illegitimate use. In one Caribbean country, a travel agent hired a runner from the foreign ministry who, on official stationery and in the name of the nation's president, requested 100 tourist visas over a period of months.

But, for thousands of aliens, smuggling may be cheaper.

ACROSS CANADIAN BORDER

An increasing number of Latin Americans are flying to Toronto and Montreal and, among Canadians and persons of their own nationalities, finding smugglers who will drive them at night down unguarded back roads into Vermont or New York State—at times to a waiting "guide" near Lake Champlain or to the bus station in Plattsburgh, N.Y., or Burlington, Vt.

Many aliens come through the border checkpoints—hidden in the trunks of cars or jammed in the back seat between smugglers with valid entry papers, or carrying some "proof" of residence in the United States, such as a Social Security or voter registration card. Only last spring the immigration service

arrested a Jamaican who was going from one Board of Elections office to another here, acquiring registration cards and selling them to aliens in Canada for up to $250 apiece.

Edward Wildblood, deputy commissioner for operations of the immigration service's northeast regional office in Burlington, estimated that at least 50 per cent of the 6,012 persons apprehended by the Border Patrol in that region last year were destined for New York.

Until recently, he said, 90 percent of apprehensions involved Canadians who were ineligible to enter the United States because of prior deportations, criminal convictions or other reasons. But more and more citizens of other countries, particularly from the Caribbean, "are using Canada as a stepping stone into the U.S.," he said, and the proportion of Canadians apprehended has dropped to 70 percent.

In the Caribbean itself, a major smuggling route runs between the coves of northern Haiti and Nassau in the Bahamas, where aliens then try to set off for Miami or New York. An even more popular route, however, is the "Puerto Rico Run" from northern and eastern Dominican Republic where, on a clear day, the commonwealth can be sighted 75 miles across the Mona channel.

In the Dominican Republic, it is said that a person who cannot qualify for a visa to the United States should go to see the American consul in Miches.

There is no consul in Miches, a small, ramshackle town on the north coast full of pigs and mud and men on horseback with machetes dangling from their waistbands. But there are beaches shaded by palms and almond trees and, for the emigrant with $150 and no papers, there are fishermen who will make the rough, day-long crossing to the unwatched inlets and villages of Puerto Rico.

The common view in Miches is that Dominican officials will never stop this traffic, and may not even want to. "There is a law of nature that you can't go against the people's will," a wiry, old resident explained.

In a hill-top fort above Miches, the local army commander agreed that it was nearly impossible to halt the smuggling. "Muy dificil, muy dificil," muttered the commander, who was lying in his underwear on a gray iron cot, his pistol under his pillow and a dozen of his men gathered round. "We try to catch them at sea because if we surprise them on land," he said, "the judge lets them go."

JUMBO JETS A PROBLEM

After they arrive in the commonwealth, many of them borrow, buy or make up Puerto Rican birth or baptismal certificates for use at San Juan airport or, later, in the United States. Posing as Puerto Ricans, they book a flight for New York, where passengers of any nationality from the commonwealth are not inspected by immigration.

"We get the last crack at them," said James H. Walker, a senior immigration official in San Juan. Passengers bound for New York, or elsewhere in the United States, are stopped and interrogated on an "as needed" basis at San Juan airport but, Mr. Walker said, "we had better control" before the jumbo jets. "It's become an impossible task now, with our limited manpower," he added.

Nor is it easy for immigration inspectors at Kennedy Airport in Queens.

On Nov. 16, Gloria Moreta-Cueto, a 34-year-old Dominican arriving on a noon flight from Santo Domingo attempted to pass through inspection with a passport in which her photograph and identification had been substituted on two pages. Earlier in the week, three other Dominicans who had purchased tickets from the same travel agency in Santo Domingo as Mrs. Moreta-Cueto were prevented from entering with similarly fraudulent documents.

FIRST CURBS IN 1875

Mrs. Moreta-Cueto toyed with her lacquered black hair and knitted shawl and told immigration officials that she was unaware of the passport having been dummied. But she withdrew her application for admission and left on the next plane for Santo Domingo. She was one of 750 persons who withdrew from Kennedy Airport in the last year (another 125 were barred from entering after hearings before immigration judges), but immigration inspectors have no idea how many fraudulent documents escaped their scrutiny.

However they get here today, illegal aliens are nothing new to New York. This area has had illegal aliens, nearly all of whom were from the Eastern Hemisphere, since Congress began regulating immigration in 1875 and especially since the adoption in 1924 of a controversial national origins quota system for the Eastern Hemisphere.

But only since 1965, when the immigration laws affecting both hemispheres were changed and the first restrictions were placed on the number and kind of emigrants from the Western Hemisphere, has the size of the illegal alien population here grown to the point where it now dwarfs the capacity of the immigration service to enforce the laws.

Before 1965, a citizen of a country in the Western Hemisphere could emigrate to the United States by demonstrating to a consul that he could support himself in this country. But the conditions for emigration now, particularly from the Western Hemisphere, are much more severe and complicated and, it is generally agreed, serve as a stimulus for illegal immigration.

THE LIMITS TODAY

In both hemispheres there is a labor certification requirement in which an applicant for immigration must satisfy the United States Department of Labor that his employment will not adversely affect the job market in the area where he will work. And nearly 50 categories of workers, from bartenders to taxicab drivers, from farm laborers to maids and sales clerks, are automatically disqualified from certification.

In the Eastern Hemisphere there is a ceiling of 170,000 immigrants annually, a per country limit of 20,000 that is rarely filled except for the Philippines, and a preference system based primarily on relationship to United States citizens and resident aliens.

In the Western Hemisphere, there is a ceiling of 120,000 immigrants each year, with no per country limit. However, children and spouses of United States citizens and parents of adult citizens are exempt from both the 120,000 limit and labor certification. Spouses and parents of resident aliens and parents of minor United States citizens are exempt from labor certification, but not from the numerical restriction.

A result of these changes in the laws has been a 2½-year waiting period for emigration from anywhere in the Western Hemisphere and a waiting line that is loaded with persons exempt from labor certification, including Cubans who are "paroled" into this country without initial numerical limit are here and probably work-come resident aliens after two years, when they are counted against the 120,000.

For the non-Cuban citizen in the Western Hemisphere who cannot obtain labor certification and who does not have immediate relatives living legally in the United States, there is virtually no hope of legally emigrating—even if he were willing to wait more than two years.

JOB OFFER NEEDED

It is also very difficult to arrange for labor certification without coming to the United States because an applicant must have a specific job offer, and few employers will offer a position to an alien who is living abroad and whose work they have not seen.

On the other hand, it is possible for an alien to come here on a tourist visa, take a job illegally, obtain labor certification on the basis of that employment, apply by mail for an immigrant visa, continue working until the visa is available in two years, return to his home country for a day to be issued the visa by a consul, and come back as a legal resident entitled to hold any job available to him.

In fact, more than half the 20,000 annual requests for labor certification in the metropolitan area involve aliens who and who are permitted to being illegally, according to the United States Labor Department. And the Labor Department informs the immigration service of that employment only when certification is denied. The approval rate is about 70 per cent.

"Under these conditions you'd have to be some kind of a fool to stay in another country and give up," a prominent immigration lawyer here said. "At worst, if you're caught, they'll send you back."

Yet no one really knows how many aliens are working here illegally, just as no one—not the immigration service or the State Department—is certain of the total number of illegal aliens in this region or elsewhere in the United States.

A CENSUS PROBLEM

John C. Cullinane, regional director of the Census Bureau, said the bureau "would have no way of knowing" whether illegal aliens were counted in the 1970 census, when the city's population was officially put at close to 8 million. Blacks and Hispanics are often said to be undercounted in censuses.

Mr. Kiley, the director of District 3 of the immigration service in southern New York, said his estimate of 1.5 million illegal aliens in the district was based on "what we see in areas and what community leaders and other sources tell us." As much as 80 per cent of the illegal aliens here are from South America and Central America and the Caribbean, he said, with Chinese, Greeks (mostly crew members who have jumped ship), Filipinos and Italians also represented.

Some ethnic organizations assert that Mr. Kiley's 1.5 million figure is grossly inflated, but some priests and community workers who have considerable contact with aliens say the figure is realistic.

NO LIMIT ON SOME VISAS

More than 630,000 legal resident aliens—immigrants who are not naturalized citizens—are registered in the district, of whom 40 per cent are from the Western Hemisphere. And an unknown number of legal aliens are not registered, although it is required by law.

As a measure of the large number of illegal aliens here, Mr. Wagner, the immigration investigations chief here, noted that, while 50,553 Dominicans were registered as legal aliens in the district, most sources placed the number of Dominicans living in the city alone at 200,000 or more. "Illegals make up the difference," he said. "They are not legal aliens who didn't bother to register."

Between 1964 and 1973, the State Department issued 3,190,000 non-immigrant visas in the Western Hemisphere, excluding Canada and Mexico. There is no ceiling on non-immigrant visas.

In the same years, according to the immigration service, 1,464,000 visitors for pleasure or business, excluding students and Mexicans and Canadians, entered New York by air. Immigration officials said they did not know how many of these visitors were en route to other states or how many of the more than 1.7 million Latin Americans who entered the United States through San Juan, Miami or other airports were destined for this area.

Whatever their differences on numbers, almost everyone concerned with illegal aliens agrees that the motivation for this exodus from Latin America is economic. The aliens are coming mainly from countries where per capita income ranges from $100 to $900; where unemployment hovers between 20 and 30 per cent of the labor force; where populations are doubling at current rates, every 25 to 35 years.

Many government officials in Latin America do not want to talk about the subject of illegal aliens, and more than a few regard the emigration as a convenient, if not crucial, "safety value" for their countries. Some even lobby in Washington against tougher laws affecting illegal aliens.

'A MIGRATORY PEOPLE'

"We try to insure that Jamaicans follow scrupulously the laws of other governments," said Hugh Bonnick, a top aide to Prime Minister Michael Manley, "but ours is a migratory people, and we would have a severe domestic problem if we tried to restrict their leaving. The United States, as we all know, has the machinery and the means for tracking down people who don't belong there and seeing they return."

Rarely do Latin American governments prosecute their citizens for attempting to subvert American immigration laws.

For example, on Sept. 6, 1973, a 43-year-old Haitian with an altered visa was refused entry at Kennedy Airport. The Haitian said he bought the visa for $500 from a particular travel agent in Port-au-Prince. Immigration authorities notified the American consulate and the consulate informed the Haitian police and Foreign Ministry.

But the travel agent is still very much in business. The other day he leaned over a desk in the back room of his agency near the National Palace, brushed aside a drawing of the Last Supper mounted on a wooden stand engraved with "New York City" and offered, for $1,000, to help a Haitian come here illegally.

Fraud is not all, however. Many tourists honor the terms of their visas and return home on time. And some illegal aliens obtained their visas with good intentions and decided to overstay and work in this area, if only for a year or two, after they arrived.

ONE CONSUL'S VIEW

Yet in the three or four minutes in which they determine whether to grant a non-immigrant visa, American consuls are having an increasingly hard time distinguishing the bona fide applicant from what they call the "mala fide" and the first-time visa refusal rate—less than one per cent in such cities as Brussels and Osaka—is approaching 50 per cent in some Latin-American cities.

And while some consuls say they are being hustled and are stern with questionable applicants, others are not happy about turning away so many people, even if they might become illegal aliens here.

"I know the illegals make a mockery of the immigration law and put a lot of pressure on the schools and hospitals and other services in the states," a consul in the Caribbean said. "But their lives are miserable down here. Who are we to deny them a chance to better themselves?"

[From the New York Times, Dec. 30, 1974]

Immigration Fraud Case Dropped in 1972

Partly because "unfavorable publicity" might have resulted from an indictment the United States Attorney for the Southern District of New York dropped in 1972 an immigration-fraud case against a former commissioner of the John V. Lindsay administration.

The case involved Earl A. Rawlins, who was the city's Commissioner of Relocation from September 1969, to July 1970.

In a previous case, Mr. Rawlins and seven other persons were indicted on June 10, 1970, by a Federal grand jury in Albany—the Northern District of New York—on a charge of conspiring to bring three Uruguayans into this country illegally from Canada. A month later, when City Investigation Commissioner Robert M. Ruskin learned of the indictment from law-enforcement sources, Mr. Rawlins was suspended from his $35,000-a-year post.

CHARGE DISMISSED IN 1971

Mr. Rawlins, a 39-year-old former assistant city corporation counsel who was working part-time as an immigration lawyer while he was commissioner, said he was innocent of the charge in Albany and, when the Government failed to produce a bill of particulars against him, the charge in the Northern District was dismissed in June 1971. Mr. Rawlins was offered another job in the Housing Development Administration but rejected it.

Nothing more was said publicly about Mr. Rawlins and aliens.

Between 1970 and 1972, however, the Immigration Service here investigated Mr. Rawlins and concluded that while he was a City Commissioner and while he was not, he had helped more than 100 aliens submit fraudulent applications for extensions of their tourist visas and for labor certifications that would allow them to stay here.

In some instances, according to immigration officials, the applicants did not have the job skills they purported to have; in others, they were working in violation of their tourist visas.

The case against Mr. Rawlins was submitted by the United States Attorney for the Southern District to a Federal grand jury, and at least 30 witnesses, including Mr. Rawlins, testified. But on Sept. 26, 1972, the Immigration Service was called by William Gray, an assistant United States attorney, and told that Federal prosecutors would no longer pursue the case.

Mr. Gray, immigration records show, indicated that the "substantial evidence that was gathered would normally suffice to proceed with prosecution," but he cited five reasons why the matter was being dropped. They were as follows:

1. Mr. Rawlins no longer held a position with the city administration.
2. Mr. Rawlins was no longer engaged in an immigration practice.
3. There was a question as to the "credibility" of an important witness.
4. The expense of bringing witnesses from abroad was "prohibitive."

The indictment in Albany, although subsequently dismissed, had cost Mr. Rawlins his city post. "If an indictment is again returned against Mr. Rawlins, unfavorable publicity may result because of his claim that he is being persecuted."

Mr. Rawlins said last week that he had sometimes handled immigration cases in his city office at 100 Gold Street but "never on city time." And he said he had been unaware that any of the information in the aliens' applications was false.

The United States Attorney's office declined to comment on the case last week.

[From the New York Times, Dec. 30, 1974]

UNLAWFUL ALIENS USE COSTLY CITY SERVICES

THOUSANDS COMPETE FOR JOBS AND GET SCHOOL, HOSPITAL AND WELFARE BENEFITS

(By M. A. Farber)

Thousands of illegal aliens here are sending their children to public schools, using municipal hospitals and receiving welfare benefits while often paying minimal taxes and sending large amounts of money abroad. A 10-week investigation by the New York Times also shows that many of the estimated total of 1.5 million illegal aliens in the region, most of whom are young, marginally skilled Latin Americans, are far less exploited at work than is widely believed.

But the full social and economic impact of illegal aliens—who also include Chinese, Greeks, Filipinos, Italians and others—is open to dispute, as is illustrated in the area of employment.

In one recent month, the Immigration and Naturalization Service here apprehended more than 140 illegal aliens who were working in jobs ranging from dishwasher to beautician to accountant. At the same time, the State Employment Service had in its files the names of hundreds, and in some cases thousands, of people seeking identical jobs.

Some people dismiss this sort of comparison, arguing that most illegal aliens do menial, necessary work that citizens and legal resident aliens shun. But to immigration officials, and a growing number of other people, the figures prove only that illegal aliens are taking jobs from legal residents.

"Get these illegals out of this country," one man bellowed at a community board meeting on illegal aliens last month in Queens.

"It's time to protect the Americans," another man shouted to the 300 people in attendance. Before he could go on, applause was wafting across the school auditorium in Elmhurst. Scant attention was given a woman who warned against making illegal aliens "a scapegoat, like in Nazi Germany."

Among the findings of The Times's investigation of illegal aliens are the following:

¶Some illegal aliens are victimized because of their status by employers, landlords, lawyers, merchants and creditors. Some are afraid to call the police when needed or to appear in court, and some continually dread capture by the immigration service. But most who are working earn at least the minimum wage, and many enjoy union benefits. Increasingly surrounded here by thousands of their countrymen and aware that the net of the immigration service is small and erratic, many illegal aliens are leading relatively stable lives.

"What we might define as exploitation, many illegals regard as the greatest opportunities of their lives," said Austin T. Fragomen Jr., an immigration lawyer whose firm sees thousands of illegal aliens a year. "Generally the illegals have become part of the community and are a lot more secure than is commonly thought. They are basically law-abiding people trying to climb out of poverty and, in the truest sense of the American dream, they are willing to work for it."

¶Some illegal aliens are engaged in crime, especially drug trafficking that originates in Latin America and the Far East. For example, half of the 210 persons who were arrested last October in connection with an international cocaine-smuggling operation were officially identified as illegal aliens living and working in this area. And officials of the city's jail system estimate that 6 to 10 percent of the 7,300 inmates in the jails are illegal aliens, many of them posing as Puerto Ricans or Cubans. But there is no evidence that illegal aliens who come here to work commit more crime, proportionally, than other people.

¶Many illegal aliens rarely, if ever, file Federal, state or city tax returns. And many, including a number who come here alone and expect to go home eventually, reduce the amount of taxes withheld from their wages by claiming more dependents than they are entitled to. An Internal Revenue Service spokesman said illegal aliens could usually claim dependents living in this country, however illegally, but were not entitled to claim dependents residing abroad.

¶An unknown number of illegal aliens are receiving welfare and Medicaid benefits. According to the immigration service the number is "undoubtedly in the thousands." But others say that most illegal aliens do not seek welfare for fear that their illegal status will be uncovered.

Until last August, the city was not required to ask the legal status of welfare applicants who were aliens, and it seldom did so. Now illegal aliens are barred by Federal and state laws from receiving aid except for 30 days of "emergency"

assistance. Although some senior welfare officials apparently do not understand the new laws, the city says it is trying to remove illegal aliens from the welfare rolls and prevent others from registering.

One couple dropped from the rolls were Caro and John Roberts (the names of illegal aliens in this article have been changed). They came here from Antigua, Leeward Islands, on tourist visas in mid-1972, with their four children, and Mr. Roberts took a job as a security guard.

On July 17, 1974, after a complaint about Mr. Roberts was lodged with immigration officials, the Roberts family was allowed to leave the country voluntarily. Mrs. Roberts attempted to prove with a baptismal certificate that she was born in the Virgin Islands. However, after a batch of blank certificates were found in the Roberts apartment in the Bronx, she conceded that she had bought the document in Harlem, officials said.

While they were here, according to the city's Department of Social Services, the Robertses received an estimated total of $7,140 in welfare payments; welfare officials did not know Mr. Roberts was working. In addition, Mr. Roberts used his public-assistance card to arrange Medicaid payment for a $328.46 bill at Morrisania Hospital, which he entered on July 12, 1974, with a stab wound.

Illegal aliens, including their children born abroad, use schools, hospitals and other public services at will or with little difficulty, at times avoiding the payment of bills or submitting fraudulent documents to establish eligibility for services. Although the city's Board of Education, according to a spokesman, has no policy that would deny public education to illegal alien children, some schools insist that aliens show "green cards"—proof of legal residency—and turn away those who lack the cards. These children return to their native countries to live with relatives, or remain out of school, or enroll in a school that makes no special demands on aliens.

SCHOOL CITATIONS

On the pink living-room walls of the Sanchez family's fifth-floor walk-up apartment in Washington Heights are three framed certificates from public schools here, citing the model attendance, scholarship and work habits of the three Sanchez boys.

Mrs. Sanchez arrived here from Santo Domingo in the Dominican Republic on a tourist visa in August, 1970. With the help of other Dominicans in Washington Heights, she soon found a job making plastic dolls in a factory in New Jersey. She still works there, rising at 6 A.M. to meet a car pool.

Mr. Sanchez, who was a Dominican soldier, works for a curtain manufacturer in New Jersey. He and the Sanchez children arrived here on tourist visas in April, 1971, and, as he said the other day with a slight smile, "just stayed."

The Sanchezes are "totally delighted" to be living here and want to become citizens. Nothing pleases them more than the educational opportunities opened to their sons. Mr. Sanchez said he had to produce only birth certificates and vaccination records to register the children at Public School 115, 586 West 177th Street.

MOST STUDENTS HISPANIC

Ninety-three per cent of the students at P.S. 115 are Hispanic, with Dominicans accounting for the largest number, then South and Central Americans, then Puerto Ricans.

"I have to assume we have some illegal aliens, but we have no way of knowing how many," Abraham Gross, the school's principal, said in an interview. "If a child lives in this district and wants an education, I have to give it to him. We're not in the immigration business."

Nor are municipal hospitals initially concerned with aliens' status. State law, according to officials of the Health and Hospitals Corporation requires general hospitals to admit any person in need of treatment, whether or not the person is a legal resident.

One person who availed herself of that circumstance was Therese Claire, a 42-year-old Haitian who overstayed her tourist visa and worked as a domestic on the East Side. Between May, 1973, and last February, Mrs. Claire made six "billable" visits to Metropolitan Hospital.

Officials at the municipal hospital said that Mrs. Claire did not pay her bill for $30, that several reminders were sent to her address on the Upper West Side and that the letters were not returned as undeliverable. If Mrs. Claire does not respond, a spokesman for the hospital corporation said, the bill will be "written off as a bad debt."

It will probably be written off.

Unknown to the hospital, Mrs. Claire gave up here 12-foot-square, $25-a-week room some months ago and went back to Haiti with her husband, who was working here illegally as a tailor. She has been denied a visa to return to the United States because she violated the terms of her earlier visa.

There are other debts, of other illegal aliens, and the sums are substantially larger.

Last June a Congressional subcommittee examining the immigration service estimated that the yearly loss of income-tax revenue to the Federal Government from illegal aliens throughout the country was $100 million.

In a pilot project here last spring, the Internal Revenue Service collected $21,456 from a small number of aliens who were apprehended by the immigration service and who had cash reserves. Many of the aliens, a Federal tax official said, had not only failed to file tax returns but also said they were unaware of the need to do so.

"The $21,000 shouldn't be taken as an indication of what could be collected on a regular basis," the tax official said. "We haven't got a solid idea of the compliance gap among illegal aliens in New York, but it's obviously more than $21,000."

$40,000 SENT HOME

However much they pay in taxes, illegal aliens routinely line up at registered-mail windows in the region on Saturday mornings to send money home to relatives, or for safe-keeping in the event of their exposure here. No one knows how much money is "exported" in this fashion but, in the Caribbean, it is said that, next to sugar, American visas generate the most foreign exchange. One ice-cream vender here, immigration officials said, sent home $40,000 and filed only one tax return during the six years he overstayed his tourist visa.

Representative Peter W. Rodino, the New Jersey Democrat who heads the House subcommittee on immigration, has estimated that more than $1-billion is "removed from our economy" yearly by illegal aliens.

Yet Mr. Fragomen, the immigration lawyer, who was formerly a staff counsel of the subcommittee, said that any drain was more than offset by taxation of illegal aliens and by their spending. And the aliens themselves, like Jaime Llorca, tend to share that view.

Mr. Llorca was 55 years old when he arrived here from Buenos Aires on a tourist visa in September, 1970. He quickly got a job as a bicycle builder, rented a room from friends in Queens and was soon sending his family $250 a month. By 1972, his wife and several children had joined him, on tourist visas, and they are now living in a comfortable, well-furnished apartment in the Flatbush section of Brooklyn.

Over a cup of thick, sweet coffee, Mr. Llorca recalled some trying times here. He was once robbed of "everything." A man introduced by a priest took $1,500 to help him obtain a "green card" and did nothing. Mr. Llorca carried a map of the city to avoid asking directions from strangers who might discover his status. He lost weight. For long periods he would "jump" at the sight of a police officer.

But Mr. Llorca gradually concluded that the immigration service "does not bother you if you just go to work and come home." And he found a lawyer who arranged for his entire family to become legal permanent residents. Today, Mr. Llorca said, his son has a car and he has a car and he is saving to buy a house in Queens.

"Who could want more?" he asked, setting down his gold-rimmed glasses near a souvenir plate inscribed with "New York City—City of Wonders."

"Here you do a job and people appreciate it," he said. "It's a great satisfaction to me."

Not everyone, however, is satisfied, especially in middle-class neighborhoods, black or white or mixed, where the Hispanic bodega has become as commonplace in recent years as the delicatessen or the pub or the spaghetti house.

RACISM SEEN

Some supporters of illegal aliens, who prefer to call them "aliens without documents" or "aliens without status," see a racist or bigoted attitude in the criticism of the aliens, not unlike the criticism of American blacks in many predominantly white communities. A ranking immigration official said that, if the population change had been made up of western Europeans, "you wouldn't see all these neighborhoods up in arms—I know, from the remarks made to me."

Yet the conflict is there.

In churches in the Crown Heights section of Brooklyn, priests say that half the foreign parishioners are illegal aliens. Neatly dressed Haitians, who may once have lived in straw shacks with tin roofs, chant French mass on Sunday mornings and their voices carry into the streets.

Meanwhile, the Crown Heights Taxpayers and Civic Association advises its members how to report illegal aliens to the immigration service. In Queens, the Community Planning Board for Corona and Elmhurst declares that "the illegal-alien problem is the first and foremost of all the problems" in the area. And in Jackson Heights, the president of the civic association, Patrick C. Deignan, describes illegal aliens as "an unbearable burden" on the community, "an American tragedy."

WIDE-RANGING ACCUSATIONS

In these areas, long-time residents see graffiti on new homes, auto body "shops" set up in driveways, a half-dozen mailboxes and garbage cans in front of homes zoned for one or two families—and, rightly or wrongly, they blame illegal aliens. Indeed, the accusations against illegal aliens range from double parking to littering to "hanging out on the streets" in summer. But often the talk turns to broader issues—crime, welfare, the job market.

The Police Department, according to a spokesman, notifies the immigration service of the arrest of any alien, legal or illegal, but does not compile its own statistics on aliens and crime.

Max Weinman, chief of the criminal unit of the immigration service here, said 75 per cent of the referrals from the police involved drug use or trafficking, although he said there was also a "growing tendency" among illegal aliens to commit such offenses as holdups, pickpocketing and prostitution.

Immigration officials usually draw a distinction between illegal aliens who come here to work but commit crimes (a number that officials say is increasing but is still "minimal" compared with the illegal-alien population) and aliens whose primary purpose, often after being smuggled into the country, is to engage in crime (a number they say is increasing significantly).

In Chinatown, in particular, immigration officials say, Chinese illegal aliens have helped to make murder, gambling, extortion and other crimes "the rule of the day."

WELFARE LAW CHANGED

With regard to illegal aliens on welfare, lack of data is not the only problem. There is some question whether top officials of the city's Department of Social Services and the Health and Hospitals Corporation, as well as lower-echelon welfare employes, understand or enforce the new laws barring all but "emergency" aid for illegal aliens.

Before last August, according to the state's Department of Social Services, no person in need could be denied welfare or Medicaid because he was an alien, legal or illegal. But last June Governor Wilson signed a bill making the state law conform with new Federal regulations banning welfare or Medicaid to illegal aliens. (Applicants for unemployment insurance are not asked their residency status.)

Yet in interviews in recent weeks, Harold Scharfstein, director of reimbursement plans and programs of the Health and Hospitals Corporation, and James Costantini, deputy director of the City's Bureau of Medical Assistance in the Department of Social Services, both said that aliens were not required to be here legally to qualify for Medicaid.

AID MOSTLY FOR CHILDREN

And Martin Burdick, director of income maintenance for the city's Social Services Department said the department had no obligation to inform the immigration service of illegal aliens, although a state welfare directive issued last summer said the immigration service should be notified immediately of any alien who is unable to verify his legal residency or who presents documents of "questionable validity."

Most welfare assistance is aid to dependent children and now, as before, the American-born, child of an illegal alien is entitled to help. For example, Margarita Oliva arrived here in February, 1968, from the Dominican Republic on a tourist visa and gave birth to a daughter in Brooklyn in April, 1969.

Mrs. Oliva, who worked for a Manhattan pocketbook manufacturer was allowed to leave the United States voluntarily last November when she was found by the immigration service. But in the preceding five years, welfare officials said, she collected $14,105 in aid to dependent children.

Welfare officials did not know that Mrs. Oliva was working. Yet, just as no one really knows how many of the 950,000 welfare recipients in the city are illegal aliens, no one knows how many illegal aliens are employed here.

SOME WORK FOR U.S.

According to the immigration service, most illegal aliens who are employed are unskilled and semiskilled laborers working throughout the region. Some have even been found working as kitchen helpers in Government facilities at the United States Military Academy at West Point and in the cafeteria of the Federal Office Building at 26 Federal Plaza.

But Maurice F. Kiley, the immigration director for southern New York, estimates that more than 100,000 "higher paying" jobs are also being held in this region by illegal aliens. The average salary of illegal aliens apprehended here in the last year was $150 a week, officials said.

Supporters of illegal aliens assert not only that the aliens hold jobs that legal residents scorn but also that many small businesses would have to close without this source of labor. Besides, the supporters say, the aliens are exploited in terms of wages and working conditions. A priest, for example, told of a group of Haitian factory workers in Brooklyn who were dismissed after they complained about a lack of ventilation in the plant.

But immigration officials say there is little merit to these arguments. They say that "exploitation is a relative term" and that, contrary to the plight of many citizens and legal resident aliens, there is little unemployment here among illegal aliens who want to work.

"They've got the greatest grapevine in the world," a senior immigration official here remarked. "A week off the plane they're holding down one or two jobs and working Sundays and nights. You have to remember why they came."

[From the New York Times, Dec. 31, 1974]

Battle Expected on Tighter Laws To Curb Illegal Aliens

(By M. A. Farber)

A major battle over illegal aliens that could have great consequences for this region is shaping up in Congress.

For the first time in a decade, key members of both the House of Representatives and the United States Senate seem eager to pass legislation that would make it more difficult for illegal aliens to work in this country, if not actually to come here.

But influential lobby groups—including agricultural interests that want a ready supply of cheap labor, organized labor that wants to protect its members and church organizations that want "amnesty" for illegal aliens who are presently in the country—differ sharply on how to proceed.

"A real hassle is brewing," a leading immigration lawyer remarked recently. "Everybody is mobilizing."

Immigration officials estimate that there is a total of six to seven million illegal aliens in the United States, with 1.5 million in metropolitan area. Most of these aliens work in jobs that could be held by citizens and legal resident aliens, the officials say, and many of the illegal aliens benefit from such public services as schools, hospitals and welfare.

So far, there is no consensus on Capitol Hill or in the Administration on how to solve the illegal alien problem—a complex issue with economic, moral, political diplomatic and demographic dimensions. And probably the central figure in the looming legislative fight, Senator James O. Eastland, Democrat of Mississippi, is just beginning to stir.

A NATIONAL CRISIS

Senator Eastland, a cotton planter with close ties to southern agricultural interests, is chairman of the Senate Judiciary Committee and of its subcommittee on immigration. The subcommittee, which has a $205,000 staff appropriation this year, has not met for a decade to consider any basic immigration measures, although it received in 1973 a House bill that would impose sanctions on the employers of illegal aliens.

The only real point of agreement on illegal aliens now is that nationally, as well as in this region, the Immigration and Naturalization Service cannot cope with the steady influx of these aliens.

"The immigration service is wholly incapable of handling the illegal alien problem—nationally as well as in New York," Gen. Leonard F. Chapman Jr., the Commissioner of Immigration and Naturalization, told the New York Chamber of Commerce earlier this month.

"I believe it is a national crisis," he said, "and it will certainly grow much worse unless steps are taken almost immediately to check the flood of illegals into this country."

While General Chapman, who became Commissioner in November, 1973, after serving as Commandant of the Marine Corps, said there are at least six or seven million illegal aliens in the country, he also said the figure could be as high as 10 to 12 million.

ALIEN COMMUTERS

The illegal alien population was once almost exclusively made up of Mexicans, who crossed the border to engage in seasonal farm work in Texas, California and other parts of the rural Southwest. Now, however, large numbers of low-to-moderate-income, marginally skilled illegal aliens can be found in many big cities where they hold a variety of industrial and service jobs. And, in addition to Mexico, they come from much of Latin America and the Caribbean and from the Philippines, Italy, Canada, Greece, China (mostly Hong Kong and Taiwan) and elsewhere.

One difficulty in determining the number of illegal aliens in the United States, and particularly in this region, at any time is that many of them virtually commute from countries in the Caribbean, Central America and northern South America. They come for a year or two, make money to buy a house or start a business at home, and leave. Some, too, like Oscar Alvarez, do not like what they call "the steel garden" of New York. (The names of all illegal aliens in this story have been changed.)

Mr. Alvarez, a 24-year-old citizen of the Dominican Republic, obtained a four-year, multiple entry tourist visa in Santo Domingo in 1972. He comes to New York, overstays his visa and works, goes home, comes back again. He last arrived about a month ago and took a job as a tailor in Queens. And this time, he said the other day as he sipped a Dominican beer in Corona, he will stay a year.

BUDGET IS UP

Twice, Mr. Alvarez said, the immigration service has visited him here while looking for another illegal alien. "They didn't ask for my papers, but I'm going to move anyway," he said.

In fiscal 1974 the Immigration and Naturalization Service, including its Border Patrol, apprehended 788,000 illegal aliens—10 times the figure of a decade ago. More than 735,000 of these aliens were returned to their native countries and about 80 per cent of them were Mexicans, according to the service.

Legal immigrants, including aliens who are allowed to become resident aliens after marrying an American citizen or obtaining a labor certification or having an American child, now number about 400,000 a year.

During the last 10 years, the budget of the immigration service increased from $71-million to $175-million. However, the size of the Border Patrol grew by only 20 percent (now 1,700 officers), as did the size of the investigative force (now 925) that apprehends illegal aliens in cities and performs other duties.

"This is a nickel-and-dime organization," said Edward Kavazanjian, former president of the employes council of the service, which is affiliated with the American Federation of Government Employes.

General Chapman finds that characterization too harsh. But last September he declared that the service lacked the money and manpower to do all its tasks well and said it must concentrate on Border Patrol operations in the Southwest at the expense of "substantial reductions" in the apprehension of illegal aliens in cities.

BACKLOG OF CASES HERE

"Until this service has received adequate resources," he said, "we simply must perform certain elements of our mission well and resign ourselves to letting our other responsibilities take a lower priority with the full knowledge that we are performing these tasks badly or not at all."

The Commissioner's statement—in the form of a directive to all district offices—has added to the woes of the immigration service in District 3, which includes New York City, Long Island and seven other counties in southern New York.

The district office here was already groaning under the weight of massive backlogs of cases, or possible cases, against illegal aliens in this area. Now it is able to do even less than it was doing before to catch illegal aliens.

While the number of illegal aliens here was building up in the last decade, the district's budget rose from $8.7-million to $17.6-million. And the number of investigators increased from about 150 to 202. But Maurice F. Kiley, the district director, said the "workloads increased tremendously—probably 10 percent a year in the past 10 years."

In recent years the district has apprehended an average of 10,000 illegal aliens annually.

CURBS ON INVESTIGATIONS

Under General Chapman's directive, investigators no longer go after illegal aliens who have been apprehended but have "absconded"—failed to appear for hearings on deportation or voluntary departure.

Also, illegal aliens who are arrested by local police departments are not to be picked up if long traveling distances are involved, or if there is no space or money for detaining the aliens. Referrals from the Social Security Administration regarding aliens who may be here illegally are "no longer accorded any priority for investigation".

An increasing number of investigators have been switched from "area control" operations in which they go out and try to locate illegal aliens to assignments in which they spend much of their time in the office. And the focus in "area control" is now on crewmen who have deserted ships because, if they are caught within five years, the steamship line must pay for their departure. (Deportation from New York costs the Government an average of $400 per alien.)

PATTERNS OF LEGAL IMMIGRATION TO THE UNITED STATES FROM 1821 TO 1974

Year	Total immigration	Percent			
		Northern and western Europe	Southern and eastern Europe	Western Hemisphere	All other countries
1821 to 1830	143,439	66.7	2.2	8.1	23.0
1831 to 1840	599,125	81.8	1.0	5.6	11.6
1841 to 1850	1,713,251	93.0	.3	3.6	3.1
1851 to 1860	2,598,214	93.6	.8	2.9	2.7
1861 to 1870	2,314,824	87.8	1.4	7.2	3.6
1871 to 1880	2,812,191	73.6	7.2	14.3	4.9
1881 to 1890	5,246,613	72.0	18.3	8.1	1.6
1891 to 1900	3,687,564	44.6	51.9	1.0	2.5
1901 to 1910	8,795,386	21.7	70.8	4.1	3.4
1911 to 1920	5,735,811	17.4	58.9	19.9	3.8
1921 to 1930	4,107,209	31.3	29.0	36.9	2.8
1931 to 1940	528,431	37.6	28.3	30.2	3.9
1941 to 1950	1,035,039	47.2	12.9	34.4	5.5
1951 to 1960	2,515,479	36.8	16.0	39.6	7.6
1961 to 1965	1,450,312	23.8	12.9	54.8	8.5
1966 to 1974	3,421,452	28.0		47.0	25.0

Note: Between 1790 and 1820, it is estimated 250,000 immigrants entered the United States

Source: Immigration and Naturalization Service.

"You can believe the immigration people know where all the illegals are," remarked a Dominican who said he worked with many illegal aliens in an electric cable-making company here. "But they only come out if somebody really complains."

Other difficulties of the immigration service here predate General Chapman's directive, and not all of them are related to finances.

The district office has space for holding only 90 aliens in its detention center at 20 West Broadway, and the center is shared with the district office in Newark. As a result, many illegal aliens are released after apprehension and disappear.

Moreover, few immigration offenses are accepted by United States Attorneys for prosecution, here or elsewhere. Under Federal law, any alien who enters this country without inspection or through fraud or misrepresentation can be charged

with a misdeameanor punishable by up to six months in prison and a $500 fine. A second offense is a felony, punishable by not more than two years' imprisonment and/or a $1,000 fine.

But in the last year, for example, when the immigration service here sought prosecution in 1,672 "selected" cases, only 72 were accepted by the United States Attorneys for the Southern and Eastern Districts of New York.

And in most cases where convictions are obtained or guilty pleas are entered, the sentence is 30 days or it is a suspended sentence with an order to leave the country. Aliens are usually subject to deportation if they violate the terms of their visas, but they are ordinarily offered "voluntary departure," in which they meet the costs of leaving.

ROUNDUPS CHALLENGED

"Going to court hasn't been much of a deterrent to illegal aliens," said Norman Henry, an immigration official who maintains liaison with Federal prosecutors in the city. "But if we don't even try, the whole thing becomes a farce."

The immigration service itself has been taken to court by the American Civil Liberties Union and others over what the service regards as an effective method of apprehending illegal aliens; rounding them up at busy subway stops.

The operations, in 1972, were "highly successful," according to service officials, but the civil liberties union argued that such "dragnets" violate constitutional guarantees against unreasonable searches. The case is pending in Federal court here; meanwhile the raids have been stopped.

All of these problems, and others, have gradually persuaded immigration officials that the flow of illegal aliens into this region and throughout the country cannot be stopped by the service—at least not without important changes in laws affecting the ability of aliens to come to the United States and work illegally.

State Department officials in Washington and abroad seem to have reached the same conclusion. A report for the department this year stated that consuls, in their attempts to stop illegal aliens from getting started, are coming "face to face with the strong possibility of increasing failure in the future."

STATE LAWS VOIDED

"The law really asks us to do two things that are nearly impossible," said Ashley Hewitt, deputy chief of the American Embassy in Kingston, Jamaica. "It asks us to judge a person's intent in a few minutes and prove a negative—that he doesn't mean to overstay and work in the United States."

As immigration is a Federal jurisdiction, states or localities are not in a position to alter laws on aliens. Several states, including California and Connecticut, have passed laws in the last few years banning the employment of illegal aliens, but the laws have been declared unconstitutional. A similar bill in New York was vetoed last June by Governor Wilson.

In Washington, proposals for legislation, and actual bills, have also centered on depriving illegal aliens of the incentive to come to this country by making it more difficult for them to work here.

Some critics, however, argue that the measures would place an unfair burden on employers who would have to inquire about an alien's legal status; would discourage employers from hiring minority persons and would be difficult, if not impossible, to enforce.

RODINO BILL PASSED

A bill sponsored by Representative Peter W. Rodino, Democrat of New Jersey, and passed by the House of Representatives in May, 1973, would impose sanctions and possibly criminal penalties and fines on employers who "knowingly" hire illegal aliens.

Neither this bill nor a measure introduced this year by Senator Edward M. Kennedy, Democrat of Massachusetts, has been considered by the Senate subcommittee on immigration, of which Mr. Kennedy is a member.

The Kennedy bill carries a stiffer civil penalty on employers (up to $2,000 per illegal alien for repeated offenders) than the Rodino measure (up to $1,000). But whereas the Rodino bill carries criminal penalties of up to one-year imprisonment for employers who repeatedly violate the law, the Kennedy measure has no criminal penalties.

Another provision of the Kennedy bill would grant a virtual "amnesty" to illegal aliens who have been "physically present" in this country for at least three years prior to the enactment of the bill.

This provision, which would allow these aliens to adjust their status to legal residency, is supported by many church and ethnic organizations. But it is opposed by the immigration service and other persons who feel that one amnesty would have to lead to another—thus encouraging illegal immigration.

According to Congressional sources, Senator Eastland, who heads the Senate immigration subcommittee, agreed several weeks ago to report out a bill that did not provide any "amnesty" but did impose relatively mild sanctions on employers who knowingly hired illegal aliens.

But importantly, these sources said, the bill would make it easier than it is at present for aliens to come to this country to work legally for up to two years. Now, the United States Labor Department must certify that such employment does not take jobs from legal residents in this country.

Under the Eastland proposal, if the Labor Department refused certification to alien workers sought by employers, it would have to "produce" the legal resident workers it says are available. And the AFL-CIO is strongly opposed to this provision.

Whatever legislation emerges after hearings, there are many persons on all sides of the illegal alien question who believe that illegal aliens already living and working in the United States will not go home, unless it is of their own accord. And there is wide sentiment that they cannot be forced to go home.

"Not Chapman nor the whole Marine Corps could sweep down and get rid of all the illegal aliens living in New York alone," said one immigration lawyer. "And the public would not tolerate it."

[From the New York Times, July 15, 1974]

Detention Centers Last U.S. Stop for Thousands of Mexican Aliens

(By Martin Waldron)

El Paso, Tex.—About 100 aliens sat on the porch of the El Paso detention center's "recreation room" and stared across the Rio Grande toward the Mexican landscape shimmering through heat mirages.

The aliens, most of them in their early 20's, had been caught in the United States illegally and were waiting to be deported home.

Patient as time, they waited for the buses to come for them. Many had mixed feelings. Most were going home empty-handed caught by the police or by the Border patrol before they could save up the $1,000 fortune that would allow them to go home in style. Still, several said there was almost an irresistible tug toward home even though they had been unsuccessful.

"Yes, I am glad to be going home," said a 20-year-old university student who had been arrested near Denver. He said he had been "bumming" around before being caught.

Most of the aliens spoke little or no English, which was one of the reasons they were caught in the first place.

The United States Immigration Service has three detention centers on the Mexican border, the others being at El Centro, Calif. and Port Isabel, Tex. Only men are kept in them; women awaiting deportation are housed in county jails.

The Mexican Government complained about these detention centers recently. Mexico's Foreign Minister, Emilo O. Babasa called for "fair and humane" treatment for the one million or so Mexicans who cross the United States border illegally each year. Many come to this country seeking jobs to support families back in Mexico.

The United States is studying the complaint. But the man who runs the detention center here, Gene Wood, says he is mystified. "I can't figure out what the fuss is about. We think we're doing a good job," he said. "We've got to keep these people somewhere while waiting to send them home."

It is generally believed by the Immigration Service and Border Patrol that the Mexican Government's protest was part of a plan to get the United States to reinstitute a program to allow unemployed Mexicans to come into the United States to seek jobs.

That practice was established by a seasonal workers agreement between Mexico and the United States in 1949, but it was revoked by Congress in 1964 following pressure from American Labor.

A Mexican official who was on duty at the El Paso detention center recently said that he had no complaints about the way aliens were being treated at the El Paso center. "In reality, I think it's magnificent," said Roberto Quevedo.

Mr. Quevedo, an employe of the Mexican consular service, is one of several such officials who regularly meet with the arrested aliens in an office provided at the detention center by the United States Government.

Almost 100,000 Mexican aliens are deported through the detention centers each year, the Immigration Service says. The El Paso center processes about 3,000 a month, the one at El Centro somewhat more, and the one at Port Isabel somewhat less, the service says.

Mr. Wood said that the preponderance of the 800,000 Mexicans arrested for illegally entering the United States during the last year were taken across the border in vans and "dumped."

There is just no place to put them. If the Government tried and convicted all the Mexicans who are arrested for illegally entering the country, the United States would need 40 times as much space as the Bureau of Prisons now has.

"The Border Patrol in El Paso alone arrested 11,000 illegal aliens in May," Mr. Wood said.

Only about 1,000 of these were brought to the detention center. The others were taken across the river to Juarez and released on the streets. Some of those brought to detention centers were to be held for formal deportation hearings because they had been arrested in the United States many times for being here illegally.

Most of the others are from small towns in the interior of Mexico and the Immigration Service has a policy of taking them as close to their homes as possible. If they are taken across the river and released on the streets, they are almost invariably back in the United States within a few hours, looking for work in Los Angeles, Houston, Denver or Chicago.

The daily buses, the last of which leaves at 9 p.m. for Jimenez, more than 300 miles south of El Paso, are operated by the Chihuahuanses Bus Line, a Mexican concern, under a contract with the United States. Aliens with money are charged bus fares; others ride free.

Although the detention centers are not actually prisons, there are many similarities.

Detainees sleep in large dormitories inside compounds surrounded by tall wire fences. Although they are not required to work, not even to clean up their beds, those who volunteer to do so are fed extra treats (flank steak instead of liver) and are given cigarettes.

"They eat pretty good," said Mr. Wood. "Since most of them are Mexicans, the menu calls for dishes with a lot of chili powder."

A recent menu was: breakfast—cornmeal with milk, bread, jelly, coffee and juice; lunch—posole (a sort of stew with pork, hominy, chili and onions), beans, bread and Kool Aid; dinner—fried liver with Spanish sauce, mashed potatoes, buttered green beans, cole slaw, bread and Kool Aid.

"The sleeping dormitories have big fans which completely empty the air in them every three minutes," Mr. Wood said. In addition, the dormitories and the recreation room are air-conditioned.

"Ninety percent of the people who pass through here stay less than one day," said Mr. Wood.

On arrival at the center, the aliens are fingerprinted, interviewed briefly, and photographed for the Mexican authorities.

"We give them soap and towels and razors if they want to bathe and shave," said Mr. Wood.

While waiting for the buses to take them home, the detainees are allowed to play checkers, volleyball, table tennis, soccer, or to watch television.

During a recent visit to the center it was too hot to play volleyball or soccer, and the television set in the recreation room was turned off and locked. "The Spanish-language programs have not started yet," Mr. Wood explained.

"The set is broke," said a university student.

One of the guards confirmed this. "Well, we'll just have to see about getting it fixed," said Mr. Wood.

Since most of the detainees who are going through the center have agreed to voluntary deportation, many can be expected back within a few months. The Immigration Service will usually not formally deport Mexican aliens until they have been caught six or eight times.

An alien formally deported and arrested again is usually brought to court and tried. If convicted, routine offenders are given 179-day jail sentences. Because of

the increasing number of these, the Bureau of Prisons has borrowed part of the El Paso Detention Center to house 165 Mexican aliens serving these six-month sentences.

They are kept apart from the routine detainees and are fed at different times.

Mr. Wood said that the center had contracts with physicians, dentists and a hospital clinic for treatment of aliens who became ill while awaiting deportation.

"In April, we had 20 who required medical treatment, the month before that 25," he said. "A lot of them have venereal diseases, but most of the treatments are for flu or for some minor injury."

[From the U.S. News & World Report, Feb. 3, 1975]

Rising Flood of Illegal Aliens

HOW TO DEAL WITH IT

As recession worsens, concern is mounting over foreigners who slip into the United States undetected and take jobs from citizens. Here is a nationwide, in-depth look at a big and growing worry.

A swelling tide of illegal aliens coming into the United States is stirring alarm nationwide.

This year, says the Immigration and Naturalization Service, 2 to 2.5 million "illegals" will sneak into the country. More than half will go undetected.

Illegal aliens already are filling at least 1 million well-paying jobs at a time when unemployment is rising among U.S. citizens.

Some jobless aliens are turning to crime. Others are illegally siphoning off welfare money, medical aid and unemployment benefits.

INS Commissioner Leonard F. Chapman, Jr., reports that the number of illegal aliens living in the United States has risen to 6 or 7 million, and is still going up.

The number caught has increased nearly 10 times within a decade, to almost 800,000 in 1974. Even so, probably 2 out of 3 escaped detection—and chances are that fewer will be caught and expelled in 1975 than last year, because of a shortage of funds.

Double and redouble.—With unemployment growing abroad, says the Commissioner, the influx—particularly of Europeans—is certain to increase this year. If the present trend continues, he predicts, the present illegal population will double within about five years, then double again shortly thereafter.

To deal with this problem, Mr. Chapman is asking for the addition of about 2,000 more trained investigators and border-patrol officers—about a 25 percent increase in the present INS staff, and a near-doubling of the present number of patrolmen and investigators.

These and other measures to help stem the flow of illegals would mean an increase of about 50 million dollars a year to a budget that now runs at 175 million.

Among the new measures foreseen: a tamper-proof, plastic identity card to be carried by all legal aliens. Such a card, including magnetic imprints that make it almost impossible to counterfeit, would be issued to some 5 million legal aliens. Many illegals in the past have used counterfeit cards to come in.

The biggest need, Commissioner Chapman feels, is for Congress to make it unlawful for an employer to hire an illegal alien. The INS believes this would cut heavily into jobs available to such aliens, thus reducing their incentive to come in illegally. Such a bill has been passed several times by the House, but never by the Senate.

To tell how much of a problem the influx is bringing to metropolitan areas around the country, "U.S. News & World Report" bureaus filed the following accounts:

NEW YORK

The flow of illegal aliens into this city is increasing "almost in direct proportion to the decline in economic conditions abroad—especially in the Western Hemisphere, where most of the illegal immigration comes from."

So reports Maurice F. Kiley, director of District 3 of the Immigration and Naturalization Service, covering New York City's metropolitan area.

Right now, according to Mr. Kiley, more than 100,000 jobs in the New York are are held by aliens who are there illegally—though a majority of the illegals

are employed as unskilled or semiskilled laborers. The average pay of the illegal aliens apprehended in New York last year was about $150 a week.

No one is sure how many live in this city. In recent years, the INS has caught between 12,000 and 15,000 yearly. In the past five years, it has deported 5,300 and verified the voluntary departure of 55,000 others. Even so, officials estimate that from 1 to 1.5 million illegal aliens live in the metropolitan area.

To cope with the growing population of illegals, the local INS is now trying to get a larger detention facility that will hold 1,000 detainees instead of 70 as at present.

Nearly 80 percent of the aliens living illegally here now, officials say, came from Latin America. Most of the rest are Chinese, Filipinos, Italians or Greeks—including many crew members who jumped ship in New York.

Drug traffic is a growing problem among illegals in this city, Director Kiley reports. As an example, 50 percent of the 210 people arrested in October in connection with a cocaine-smuggling operation here were illegal aliens.

Immigration officials report that "many" of the illegals have been drawing welfare payments, particularly aid to dependent children, although the numbers involved are uncertain. Others are said to be collecting unemployment insurance and medicaid benefits.

DETROIT

An increasing number of illegal aliens are entering Michigan, Ohio and Kentucky—and taking more and more jobs sought by Americans. Between 30,000 and 40,000 illegals are holding jobs in Michigan. And the positions they have are mostly union-scale, industrial jobs, according to Armand J. Salturelli, director of Detroit's INS district office.

"To clean the illegal aliens out of our State," he says, "we'd have to double our present staff of 21 investigators."

In the Detroit area, where the auto industry attracts large numbers of these aliens, the mix of nationalities appears to be different than that found in other major centers.

Says Mr. Salturelli; "A wild guess would be that about 15 percent to 20 percent of the illegal aliens here are Canadian; about 40 percent European—largely Polish; 20 percent Asian, 10 percent Latin-American and Mexican, and the other 10 percent African and Caribbean."

Catching the U.S.-bound illegal alien is an especially tough problem, officials point out. There are few cultural barriers, or language barriers, and border relations are on an almost casual basis between Detroit and Windsor, Ont. Many Europeans come in through Canada, too, living there long enough to become landed immigrants and then coming here for jobs.

Elsewhere in this region, immigration officials estimate that there may be as many as 8,000 illegal aliens in Ohio and 2,000 in Kentucky. They often come as crew members of Great Lakes vessels and then jump ship.

Mexican illegals, says Stanley F. Perryman, INS district director in Cleveland, frequently work in agriculture and food processing.

This district is authorized to have 18 immigration investigators, but actually has only 12 on duty.

Says Mr. Perryman:

"We'd probably have to at least double our force in order to make even a substantial inroad into the number of illegal aliens in Ohio and Kentucky."

MIAMI

Illegal aliens from the whole Caribbean are a growing problem here.

An estimated 50,000 illegals live in the Miami area alone. Another 15,000 to 25,000 live elsewhere in Florida. At least 60 to 70 percent are from the Caribbean, reports Louis T. Gidel, acting INS district director.

They come into Florida usually as cruise-ship crewmen, stowaways, temporary visitors who stay on, contract workers who skip out or immigrants with false identifications.

An easy way to get false documents here, says an immigration official, is to obtain a legitimately issued voter-registration card. This official recounts how one Jamaican stowaway used such a card to get a driver's license, then loaned the card to at least four friends to aid in their illegal entry.

Behind the large number of Caribbean entries, officials explain, is the growing unemployment in that area and the relatively high pay available in the U.S.

That also applies to Mexicans, the second largest group of illegal aliens here, who work their way to Florida's citrus and vegetable-growing centers. "Mexicans say they can work one or two months here and even if they get caught, they make more than in a year at home," said an official.

As a result, much money is sent home by these illegals, often without payment of income taxes.

Florida employers, immigration officials say, often are tempted to hire illegal aliens because they are nonunionized, work hard for less, and do not care when Social Security payments are omitted. Says one official:

"I think a lot of aliens are being hired by employers who know they are here illegally. But there is no penalty for the employer so they continue to do it."

CHICAGO

On a typical day, agents from the Chicago office of the INS will enter a local restaurant, motel or factory and emerge with 20 to 30 illegal aliens who have been working for $2 to $6 an hour.

It's a year-round routine, says William Bartley, INS district director, "but we're getting further behind every day." He adds that the agents sometimes receive co-operation from management. But sometimes they are asked to leave, as employers say they are breaking no existing law.

About once a week, a chartered bus from Chicago carries illegal Mexican aliens apprehended here—and in St. Louis and Kansas City—back to the Mexican border.

"Sometimes everyone on the bus is very happy and laughing because they are glad to be getting a free ride back home," Mr. Bartley says. But most are back within a short time, "and sometimes a few will even beat the agents back to Chicago."

In Chicago, with its huge Spanish-speaking population, it is fairly easy for an illegal Mexican to go undetected for months, even years, at a time—especially if he has counterfeit papers or has had an "arranged" marriage in the U.S. Most employers do not deliberately hire illegal aliens, Mr. Bartley believes. Yet some do, and have admitted it to him. "They tell me there is no law against it, and the illegals make better employes."

SAN FRANCISCO

More than 32,000 illegal aliens are thought to be holding various jobs in the San Francisco Bay area. A substantial portion are in high-paying white-collar and manufacturing jobs.

Richard L. Williams, district INS director, says that fewer than 10 percent are ever caught and deported back to their home countries.

These illegals who get to San Francisco and do not find work often manage to get on welfare, receive food stamps and qualify for free medical care.

The trend is for more and more of the illegal aliens, however, to locate and hold down skilled jobs that are sought by unemployed Americans. Examples:

A Canadian behavioral scientist was teaching illegally at a local junior college at $9 an hour when discovered.

A design engineer from India was employed by a Bay area engineering firm at $6.25 an hour when he was reported.

A Mexican was picked up while working as a semiskilled laborer in heavy construction at $6.78, the prevailing union hourly wage.

Few such illegals are caught, however.

Funding cutbacks have all but stopped efforts to arrest and deport aliens who are not causing social or criminal problems in the Bay area.

Illegal aliens, at this point, are thought to comprise most of the 75,000 foreigners now living in the San Francisco area. Many are Chinese, who come from Hong Kong as ships' crewmen and jump ship here. But Mexicans and Central Americans probably make up 80 per cent or more of the illegals.

Others come from all over the globe. Recent deportees, for example, were sent home to Nigeria, Brazil, Ethiopia and the Philippines.

An even greater number of illegal aliens—at least 120,000—are believed to be working in California's lush Central Valley, doing agricultural work. "For every one we catch, we miss four or five," says a U.S. border-patrol official. Last year, his unit was responsible for the apprehension of 46,000 illegal aliens, nearly 80 percent of whom were employed at the time of their arrest.

LOS ANGELES

"We were apprehending 200 illegal aliens a day in Los Angeles and Orange Counties not long ago," says Joseph C. Dernetz, deputy INS director here. "But now we only have funds enough to take in 75 to 100 a day."

The reason: Southern California's budget was cut from its normal $75,000 or more a month down to $32,000, as of January 1.

About 200,000 illegal aliens were caught in the past fiscal year in southern California—about 18,000 of them in the Los Angeles area.

"Illegal aliens are working at everything," the INS official says. "A number of them are hired knowingly by employers. In one factory we surveyed last fall, 108 of the 150 employes were illegal. All went back to Mexico, most of them voluntarily."

An earlier INS survey of fish canneries in this area showed that many illegals were earning $3 to $5 an hour there. But in this industry, at least, the canneries are reported to have begun policing themselves and getting rid of all the illegals that they find.

The Los Angeles area has an estimated 250,000 illegal aliens. And crime is a growing problem in this group. Lt. Dan Cooke, a Los Angeles police-department official, gave this explanation:

"They can't get work as easily as they once did. The recession is hitting them, too. So they are starting to rob and steal in order to get by."

Increased burglaries in the West San Fernando Valley have been attributed largely to illegal aliens. A survey of one precinct of Los Angeles where many aliens live showed that 36 percent of all felony arrests last October involved illegal aliens.

HOUSTON

With unemployment rising south of the border, illegal aliens are swarming into this part of the country in growing numbers—depriving U.S. citizens of jobs, depressing wages, drawing welfare payments and draining millions of dollars from the local economy.

About 90 percent of the illegal entrants come from Mexico, sneaking across a poorly guarded 1,500-mile border and simply overwhelming the Immigration and Naturalization Service. The INS office in Texas recently announced, in fact, that it will no longer arrest illegal aliens and ship them back to Mexico unless they are involved in a serious crime.

"The problem is snowballing," warns B. Warren O'Neal, deputy INS director in El Paso.

No longer are the illegal aliens working mainly at low-paying agriculture jobs in the border region. A growing number earn prevailing wages in manufacturing and construction jobs in such distant cities as Denver, Kansas City and Washington, D.C.

In Texas itself most illegal aliens now are concentrated in service and construction occupations, according to Kelly Sayre, district director of the Texas employment agency in Dallas.

Most of the Mexicans who enter illegally simply walk across the border, then arrange to be transported north. Smugglers currently are charging $250 a head for a trip from El Paso to Chicago. Says one border patrolman:

"You get 50 of them in a U-Haul truck and you can make over $10,000 in a single trip.

"And the penalty for smuggling people into this country is less than for smuggling narcotics, so that many former dope runners have gotten into the alien-running business."

Many aliens escape detection by purchasing counterfeit identificatiou papers in Mexico.

For around $300, a Mexican reportedly can purchase a counterfeit "green card" with an INS stamp, which permits an alien to work legally in the U.S., plus a fake Social Security card and a U.S. driver's license.

Such accounts, across the nation, tell the story of an illegal inflow that is raising problems more troublesome than those created many decades ago by the "huddled masses" waiting docilely on Ellis Island for entry to the promised land.

Americans' traditional sympathy for people driven to the desperation of illegal entry is being tempered because of the jobs they are taking from U.S. citizens in hard times.

Yet it is not certain that countermeasures, even on an all-out scale, can fully stem the flood if worsening economies in poor countries send still bigger hordes of aliens to the U.S. borders.

What immigration authorities are dealing with is a bolder and more sophisticated breed of arrival—willing to take his or her chances on finding anonymity and survival in urbanized and welfare-conscious America. And the concerns such people are creating may be around for a long time.

Mr. FISH. Let me address one further question. General, did I hear you say of the people who come into this country every year as visitors, about 300,000 get lost in the course of each year? Was that the figure? Was that correct?

Mr. CHAPMAN. Five to ten percent of 6 million who enter as tourists are not shown to have left.

Mr. FISH. That would be between 300,000 and 600,000?

Mr. CHAPMAN. Yes, sir. I might point out, sir, in that regard, with regard to those overstayed tourists and students, and with regard to those who entered fraudulently through various means, those who jumped ship, we believe that most of them come to stay permanently.

Mr. FISH. I am just referring to these people who had a visa and came as visitors. Are they mostly Western European?

Mr. CHAPMAN. They are from everywhere, sir. I can provide for the record a breakdown.

Mr. FISH. Would you?

Mr. CHAPMAN. By nationality. We have those figures.

Mr. FISH. Thank you very much.

[The following table was submitted:]

TABLE 17.—NONIMMIGRANTS ADMITTED BY CLASSES UNDER THE IMMIGRATION LAWS AND COUNTRY OR REGION OF LAST PERMANENT RESIDENCE YEAR ENDED JUNE 30, 1974

[Data exclude border crossers, crewmen, and insular travelers. Students and others entering with multiple entry documents are only counted on the 1st admission]

Country or region of last permanent residence	Number admitted	Foreign government officials	Temporary visitors for business	Temporary visitors for pleasure	Transit aliens	Treaty traders and investors	Students	Spouses and children of students	International representatives	Temporary workers and trainees	Spouses and children of temporary workers and trainees	Representatives of foreign information media	Exchange visitors	Spouses and children of exchange visitors	Fiances (ees) of U.S. citizens	Children of fiances (ees) of U.S. citizens	Intracompany transferees	Spouses and children of intracompany transferees	NATO officials	Returning resident aliens
All countries	6,908,708	70,652	543,796	4,782,536	296,483	36,853	109,197	10,721	34,385	60,371	11,373	6,082	50,911	18,322	8,248	1,111	12,478	8,849	4,076	842,264
Europe	1,717,353	19,760	253,972	1,224,317	115,485	13,921	11,026	1,194	13,356	9,354	2,090	3,340	23,326	6,142	1,960	224	6,186	4,398	3,516	3,786
Austria	23,500	172	2,329	18,592	748	78	126	11	370	337	14	52	456	70	15	3	53	42	2	30
Belgium	37,739	602	8,555	25,272	1,022	191	325	49	448	132	43	52	432	205	21	1	155	96	109	29
Bulgaria	671	55	122	335	20	-	2	-	58	34	6	9	18	7	2	-	-	3	-	-
Czechoslovakia	4,153	150	758	2,158	834	1	7	1	73	89	6	12	40	6	6	-	11	-	-	1
Denmark	27,777	296	4,459	19,577	1,255	425	224	20	322	77	28	88	651	162	25	1	49	18	84	16
Finland	14,853	219	1,891	10,561	761	265	208	35	254	44	3	21	431	115	29	-	9	4	1	2
France	196,242	2,742	30,099	140,737	10,535	1,757	1,565	161	2,208	656	165	486	2,539	788	94	6	610	547	447	100
Germany	340,655	2,937	45,536	268,045	7,742	3,166	1,204	58	1,103	618	161	656	3,196	837	468	114	782	520	2,021	1,491
Greece	35,442	331	2,911	18,366	11,178	112	1,272	128	153	197	35	43	267	55	137	-	43	10	65	139
Hungary	6,881	113	442	5,684	99	5	14	-	144	175	8	9	118	41	22	2	-	4	-	1
Iceland	5,220	62	668	3,413	45	6	55	10	83	5	4	-	792	60	6	-	-	4	-	7
Ireland	33,569	141	3,220	25,802	944	692	265	15	136	305	37	30	1,694	99	39	2	70	53	1	24
Italy	120,796	869	19,678	81,742	12,920	1,251	656	39	726	398	104	240	915	254	145	6	250	158	79	366
Luxembourg	2,264	61	363	1,723	23	-	27	2	19	1	1	1	20	14	2	-	4	-	3	-
Malta	1,152	5	48	978	71	-	6	-	18	4	2	1	13	2	4	-	-	-	-	-
Netherlands	76,243	482	13,202	53,569	4,650	357	403	42	649	200	117	119	974	373	61	5	417	423	129	71
Norway	34,522	565	5,332	18,624	7,471	472	527	95	262	186	33	87	443	161	23	2	123	74	21	21
Poland	17,863	407	1,944	13,298	1,181	4	45	93	116	210	7	10	325	99	35	3	10	5	-	71
Portugal	14,600	358	1,606	9,191	2,500	8	104	64	93	153	5	19	109	38	165	6	63	45	28	45
Romania	2,298	189	560	947	226	3	24	1	101	39	1	11	154	37	5	-	-	-	-	-
Spain	49,974	1,373	8,461	31,884	4,393	522	422	48	522	773	130	67	712	315	126	11	117	68	-	30
Sweden	54,948	628	10,558	37,056	2,034	29	587	61	507	232	80	173	1,392	279	45	3	369	296	1	618
Switzerland	70,606	449	10,552	51,714	2,729	1,327	570	62	649	322	117	68	896	448	27	1	235	153	4	283
U.S.S.R.	8,644	1,002	2,283	1,815	1,562	23	3	2	1,213	521	-	66	111	16	1	-	13	11	2	-
United Kingdom	519,537	5,406	76,262	370,884	39,591	2,882	2,214	191	2,933	3,400	976	1,002	6,160	1,556	431	58	2,793	1,861	517	420
Yugoslavia	16,214	139	2,021	11,566	920	340	156	5	179	242	7	17	460	103	26	-	10	2	1	20
Other Europe	990	7	112	784	31	5	15	1	17	4	-	1	8	2	-	-	-	1	1	1

TABLE 17.—NONIMMIGRANTS ADMITTED BY CLASSES UNDER THE IMMIGRATION LAWS AND COUNTRY OR REGION OF LAST PERMANENT RESIDENCE YEAR ENDED JUNE 30, 1974—Continued

[Data exclude border crossers, crewmen, and insular travelers. Students and others entering with multiple entry documents are only counted on the 1st admission]

Country or region of last permanent residence	Number admitted	Foreign government officials	Temporary visitors for business	Temporary visitors for pleasure	Transit aliens	Treaty traders and investors	Students	Spouses and children of students	International representatives	Temporary workers and trainees	Spouses and children of temporary workers and trainees	Representatives of foreign information media	Exchange visitors	Spouses and children of exchange visitors	Fiances (ees) of U.S. citizens	Children of fiances (ees) of U.S. citizens	Intracompany transferees	Spouses and children of intracompany transferees	NATO officials	Returning resident aliens
Asia	1,046,678	21,288	146,869	730,424	35,644	21,696	41,805	4,337	5,783	8,955	1,317	1,577	11,524	5,460	3,894	676	1,275	723	275	3,15
Afghanistan	915	281	136	196	7	-------	65	4	63	1	-------	-------	135	26	1	-------	-------	-------	-------	-------
Cambodia	491	277	22	85	13	-------	51	4	12	1	-------	-------	20	6	-------	-------	-------	-------	-------	-------
China	21,760	1,313	5,457	5,943	2,926	618	3,080	620	377	371	31	20	519	233	151	7	48	40	-------	6
Mainland	401	3	134	7	40	-------	1	-------	213	-------	-------	3	-------	-------	-------	-------	-------	-------	-------	-------
Taiwan	21,359	1,310	5,323	5,936	2,886	618	3,079	620	164	371	31	17	519	233	151	7	48	40	-------	6
Cyprus	1,026	25	66	408	187	2	95	2	43	2	75	-------	97	17	4	-------	2	1	-------	-------
Hong Kong	32,340	12	4,128	15,972	5,758	71	5,689	80	75	116	17	5	159	32	90	1	85	36	12	2
India	37,646	479	4,334	18,961	4,920	20	4,293	969	1,146	244	95	18	1,259	692	22	2	73	46	1	72
Indonesia	5,729	717	967	1,972	873	-------	325	29	226	25	2	-------	435	118	9	-------	10	16	3	1
Iran	24,701	3,681	1,768	9,770	197	83	7,783	575	147	18	6	10	418	166	13	-------	22	15	-------	29
Iraq	985	18	186	508	23	-------	101	34	83	4	-------	-------	18	7	3	-------	-------	-------	-------	-------
Israel	42,230	1,074	5,333	29,051	709	769	2,276	359	228	308	153	53	846	885	94	2	32	15	-------	43
Japan	766,108	4,604	106,266	609,599	9,213	18,323	5,911	614	635	1,395	221	1,255	2,268	2,047	336	36	702	352	2	2,329
Jordan	2,155	201	304	919	50	4	400	32	69	2	-------	2	117	37	11	-------	2	-------	1	4
Korea	19,820	1,293	4,794	4,215	2,894	1,035	964	237	200	1,391	35	150	500	124	1,625	197	80	64	-------	22
Kuwait	1,932	1,062	183	507	10	-------	97	8	23	27	-------	-------	12	-------	1	-------	-------	1	-------	1
Laos	422	122	27	126	5	-------	62	3	20	-------	-------	-------	49	5	1	-------	1	-------	-------	1
Lebanon	7,306	170	1,347	4,020	208	80	947	43	162	28	1	7	195	49	18	-------	9	5	-------	17
Malaysia	3,703	222	424	1,415	258	6	554	105	101	14	8	3	225	100	8	-------	6	1	-------	253
Nepal	312	8	49	79	13	-------	9	-------	65	2	-------	-------	70	16	1	-------	-------	-------	-------	-------
Pakistan	9,494	306	1,428	3,515	822	154	1,759	126	397	96	12	21	709	119	7	1	15	4	-------	3
Philippines	29,494	846	4,543	9,440	4,822	416	931	70	677	4,771	627	5	1,065	312	550	136	135	93	1	54
Ryukyu Islands	43	3	16	16	-------	-------	1	1	3	-------	-------	1	-------	-------	2	-------	-------	-------	-------	-------
Saudi Arabia	3,569	2,258	279	575	11	1	215	34	60	20	1	-------	85	25	-------	-------	3	2	-------	-------
Singapore	3,936	150	887	1,888	213	10	269	16	41	11	8	1	83	44	11	2	9	19	-------	274
Sri Lanka	1,214	39	70	445	136	-------	89	4	166	14	7	-------	160	66	2	-------	11	4	-------	1
Syria	1,347	73	135	642	91	1	114	12	57	2	5	1	139	56	7	-------	5	1	-------	6
Thailand	11,845	1,093	861	3,468	125	54	4,199	238	185	28	3	8	1,043	105	346	60	16	1	-------	12

Turkey	8,049	256	944	4,840	251	20	683	55	214	33	5	14	339	101	17	1	6		255	15
Vietnam	4,422	484	1,623	440	52	7	571	11	58	4		1	381	14	537	228	3	4		4
Other Asia	3,684	221	292	1,409	857	22	272	52	250	27	5	2	177	58	27	3		3		7
Africa	54,958	3,186	9,303	25,120	2,359	33	6,553	1,080	2,942	249	60	53	2,873	836	48	4	115	75	1	68
Algeria	1,278	109	359	386	34	4	118	11	215	2			34	1	3		2			
Congo	387	43	68	132	20		12	6	42	10		10	37	7						
Egypt	4,335	150	446	2,491	431	2	175	52	369	25	3	7	98	58	3		11	2		12
Ethiopia	2,115	188	142	583	54	3	760	22	90				204	42	8	4	10	2		3
Ghana	3,117	130	333	1,541	135	2	392	80	147	52	6	2	240	49	2		2	3		1
Guinea	138	11	15	69	12		2		27	1			1							
Ivory Coast	646	114	122	210	31		40	5	57	4	1	5	49	3			3	2		
Kenya	2,394	36	373	1,212	95	1	327	29	143	10	1		115	38	5		2			7
Liberia	2,342	252	147	1,032	43	1	595	40	62	5			141	16						8
Libya	1,798	37	203	242	18	6	492	230	85	2		1	307	169	1		2	1		2
Morocco	2,065	123	316	1,113	244	1	67	9	93	15	1	1	70	5	4		1		1	1
Nigeria	6,797	595	984	1,604	347	5	2,183	330	211	18	2	1	362	133	1		4	10		7
Senegal	602	46	87	245	93		18	1	64	2		2	35	9						
Sierra Leone	944	47	64	242	52	1	320	77	101	2			31	7						
South Africa, Republic of	16,772	200	4,508	10,456	256	3	376	86	111	75	41	13	352	159	9		62	53		12
Southern Rhodesia	639	2	23	419	24		91	23	12	7	2		27	8			1			
Sudan	509	73	79	102	12		43	23	112				38	27						
Tanzania	1,154	30	89	502	127		109	8	137	1	3	2	117	29						
Tunisia	855	164	113	296	15	1	21	1	90	4			128	17	3			2		
Uganda	562	24	80	138	52	2	75	10	96	1			61	15	1		5			
Zambia	943	57	128	534	30	1	48	6	77	2			47	4	1		2			6
Other Africa	4,566	755	624	1,571	234		289	31	601	11		9	379	40	7		8			7
Oceania	203,082	3,172	20,605	144,437	26,392	79	2,905	236	827	521	187	95	1,274	833	93	3	669	453	6	322
Australia	119,420	2,677	15,767	86,179	10,192	37	622	151	601	311	117	89	844	649	62	3	571	295	1	252
Fiji	3,029	17	142	1,931	690		66	7	28	15	4		17	8	1		6	95		2
French Polynesia	4,474		139	3,518	684	9	71	1		39			1	1					3	8
Gilbert and Ellice Island	428	1	1	111	312		2						1							
New Caledonia	1,099	1	24	933	128	8	3						2							
New Zealand	52,269	389	3,647	35,574	11,459	12	214	39	188	78	38	6	290	141	22		85	62	2	23
Pacific Island (U.S. administration)	20,001	14	586	14,738	2,671	3	1,789	33		52	22		50	7	3		2			31
Tonga	415	7	16	256	51		36	3		9	3		13	18						3
Western Samoa	1,013	33	194	601	79	1	76		6	1			13	3	3					3
Other Oceania	934	33	89	596	126	9	26	2	4	16	3		16	6	2		5	1		

TABLE 17.—NONIMMIGRANTS ADMITTED BY CLASSES UNDER THE IMMIGRATION LAWS AND COUNTRY OR REGION OF LAST PERMANENT RESIDENCE YEAR ENDED JUNE 30, 1974—Continued

[Data exclude border crossers, crewmen, and insular travelers. Students and others entering with multiple entry documents are only counted on the 1st admission]

Country or region of last permanent residence	Number admitted	Foreign government officials	Temporary visitors for business	Temporary visitors for pleasure	Transit aliens	Treaty traders and investors	Students	Spouses and children of students	International representatives	Temporary workers and trainees	Spouses and children of temporary workers and trainees	Representatives of foreign information media	Exchange visitors	Spouses and children of exchange visitors	Fiances (ees) of U.S. citizens	Children of fiances (ees) of U.S. citizens	Intracompany transferees	Spouses and children of intracompany transferees	NATO officials	Returning resident aliens
North America	3,474,238	12,145	78,189	2,351,301	93,608	650	35,541	2,405	4,670	39,633	7,254	631	4,155	2,276	1,990	193	2,843	2,401	252	834,101
Canada	344,883	1,571	10,212	243,954	50,954	212	10,152	1,219	731	14,643	1,776	56	1,532	995	419	46	1,985	1,935	36	2,455
Mexico	1,746,677	4,431	34,340	1,675,408	14,149	59	8,323	565	724	2,792	240	433	981	630	628	107	270	168	48	2,381
United States	827,068					5														827,063
West Indies	405,377	3,460	22,892	316,816	19,383	216	10,705	295	1,887	21,712	5,192	110	634	231	147	20	460	249	23	1,945
Antigua	13,071	41	441	8,306	281	1	249	1	23	2,432	1,267		11		4		5	1	1	7
Bahamas	100,130	406	2,660	92,789	580	11	3,291	26	51	71	5	23	42	7	10	2	79	33	1	43
Barbados	10,118	126	754	6,880	1,103	4	176	12	71	875	17	3	46	6	6		6	9		23
Bermuda	25,042	17	1,300	20,165	2,929	3	450	18	7	2	1		4	3	7		10	7	2	117
British Virgin Islands	5,655	11	280	4,281	235	30	128	1	4	466	87		3	1	3		37	15		23
Cayman Islands	6,781	1	313	5,890	477	4	81		1		2		1	2	2		3	1		3
Cuba	1,382	6	49	776	37		110	1	296	1		5	6	3	13	1	7	2		69
Dominica	3,521	7	88	2,123	81		70	3	1	709	428		6	1			4			
Dominican Republic	70,658	985	2,882	59,757	1,566	47	1,843	74	355	1,072	310	65	189	73	23	4	179	103	1	1,130
Granada	2,139	11	129	1,447	135		132	7	12	168	89		4	2	3					
Guadeloupe	3,127	4	249	2,371	380	1	19		2	73	20		1					1		6
Haiti	17,522	492	1,967	11,104	2,264	3	1,007	18	316	104	2		22	16	8		5		1	19
Jamaica	72,977	825	6,508	49,281	5,228	46	1,406	51	388	8,762	19	4	171	51	39	5	30	16	3	144
Martinique	2,041	4	168	1,496	321	3	34	1	1	1	2	1	6				1			2
Montserrat	1,010	1	52	725	36		21			97	68		1	1	1		1			6

Netherland Antilles	22,370	95	2,646	17,554	1,112	51	384	20	87	140	71	3	15	28	1	.....	33	38	13	79
St. Christopher	13,497	19	233	6,448	252	6	339	7	4	4,275	1,871	2	13	4	5	3	3	.....	11	12
St. Lucia	4,671	8	138	2,238	130	.....	74	1	5	1,335	678	.....	7	.....	1	2	4	1	.....	49
St. Vincent	2,131	11	107	1,045	419	.....	69	1	3	392	70	2	6	2	1	.....	2	.....	.....	.....
Trinidad and Tobago	27,337	390	1,904	21,079	1,676	6	804	52	260	736	185	2	79	31	20	1	51	22	.....	39
Turks and Caicos Island	1,197	.....	24	1,060	91	.....	18	1	.....	.....	.....	.....	1	.....	.....	2	.....	.....	.....	.....
Central America	149,173	2,682	10,740	115,077	9,120	158	6,360	326	1,328	486	45	32	1,008	420	796	20	128	49	145	253
Belize	5,024	66	365	3,800	378	.....	169	3	40	21	1	.....	12	5	4	.....	1	.....	142	17
Canal Zone	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3
Costa Rica	24,364	632	1,254	18,740	2,290	2	697	49	290	105	9	5	189	54	5	1	18	11	.....	13
El Salvador	19,442	508	734	15,698	807	4	1,055	33	213	47	6	12	154	110	27	9	6	3	.....	16
Guatemala	28,807	405	2,141	24,118	649	12	598	33	273	126	2	1	241	128	24	2	41	2	.....	11
Honduras	23,485	233	2,088	16,449	3,054	6	1,075	26	155	76	6	1	100	59	13	4	6	3	3	128
Nicaragua	18,790	387	1,428	14,448	787	124	1,131	53	205	36	12	7	121	38	6	.....	3	2	.....	2
Panama	29,258	451	2,730	21,824	1,155	10	1,635	129	152	75	9	6	191	26	717	4	53	28	.....	63
Other North America	60	1	5	46	2	.....	1	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	4
South America	412,399	11,101	34,858	306,937	22,995	474	11,367	1,469	6,807	1,659	465	386	7,786	2,775	263	11	1,390	799	26	831
Argentina	52,636	837	3,400	42,671	2,229	153	255	39	1,112	228	100	33	707	316	21	.....	266	162	1	106
Bolivia	6,924	222	793	4,080	795	11	384	19	257	9	2	4	276	44	9	.....	3	8	.....	8
Brazil	93,647	4,169	13,380	62,440	6,311	24	1,299	292	748	255	78	258	2,990	660	72	1	420	156	.....	94
Chile	19,258	1,019	2,384	10,970	1,350	8	423	123	1,184	163	149	44	548	615	27	.....	131	102	.....	18
Colombia	68,470	923	5,328	51,502	4,480	225	2,744	172	1,125	282	39	15	832	318	60	5	173	90	2	155
Ecuador	23,854	312	1,637	18,524	1,658	.....	635	33	410	74	12	4	403	65	22	.....	11	7	20	27
Guyana	7,553	85	518	5,273	650	5	523	54	148	160	2	.....	59	12	17	4	18	9	.....	16
Paraguay	2,421	94	227	1,583	111	1	62	3	115	7	2	.....	176	19	3	.....	14	3	.....	1
Peru	39,066	1,094	1,603	31,011	1,612	15	1,226	68	680	196	27	7	1,041	210	22	.....	138	99	3	14
Surinam	1,867	12	226	1,416	125	.....	23	3	24	1	.....	1	18	9	.....	.....	2	7	.....	.....
Uruguay	6,853	63	762	4,187	797	9	113	7	511	30	4	5	227	57	4	1	43	17	.....	16
Venezuela	89,778	2,269	4,595	73,231	2,867	23	3,679	656	491	254	50	15	509	450	6	.....	171	139	.....	373
Other South America	72	2	5	49	10	.....	1	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3

Mr. EILBERG. Does any other member of the subcommittee have a question, just one, so that we can just wrap it up as quickly as we can?

Mr. Sarbanes.

Mr. SARBANES. Commissioner Chapman, did I understand you to say that 12 or 13 years ago the number of illegal aliens apprehended was 20,000?

Mr. CHAPMAN. Twenty some thousand, that is correct.

Mr. SARBANES. Last year it was 800,000?

Mr. CHAPMAN. That is correct.

Mr. SARBANES. That is a factor of 40 in apprehensions. Do you project the same factor in the number of illegal aliens?

Mr. CHAPMAN. We expect to apprehend something up close to a million.

Mr. SARBANES. No, my question is this: Was the 20,000 apprehended 13 years ago roughly the same percentage of illegal aliens then as the 800,000 apprehended was of illegal aliens last year?

Mr. CHAPMAN. No, sir. The 20,000, it was a substantial portion, perhaps nearly all of those who were here 12 or 14 years ago. The 800,000 we apprehended last year was only a fraction of those that are here.

Mr. SARBANES. Now, I just want to say in passing that I appreciate the sort of sensitivity reflected on the top of page 9 in your statement, Commissioner, with respect to the situation in which these illegal aliens find themselves. And I agree with those comments that illegal aliens are in many instances exploited by others in one way or another, and that is something that we must be very sensitive to.

Mr. Silberman, one final question. Would you agree with the statement that in the past we have really been very lax with respect to these laws, both in how seriously we take them and how hard we try to enforce them respecting illegal aliens?

Mr. SILBERMAN. Yes, although I would say it was much less of a problem because the influx 10 or 20 years ago was much less. But you are right.

Mr. SARBANES. Would that laxity argument, to continue an exchange you had with the chairman, argue in behalf of giving some serious thought to accommodations or exceptions with respect to aliens who may have been here for a very long period of time, and also perhaps for those who have been here a shorter period of time but have assumed some permanency? Should there not be an effort to get some perspective in those who came in at a time when the whole attitude was different.

Mr. SILBERMAN. Practically you may have a point. I am not sure morally you do. I have always felt when the Congress passes a law, whether it is laxly enforced or zealously enforced, it, indeed, is the law of the United States of America, and it is very hard for me as Acting Attorney General to give a great deal of deference to illegality and to, indeed, reward those who violate the laws of the United States. But I recognize the problem that you raise, and I think some attention ought to be give to the proper precedure whereby it ought to be handled. I am not particularly of the view that just a flat grandfather clause rewarding all of those who violated the law is the correct way to do it, looking ahead to respect for the law in this country.

Mr. SARBANES. Thank you.

Mr. EILBERG. Ms. Holtzman?

Ms. HOLTZMAN. Thank you, Mr. Chairman.

In connection with the questions I was asking you before, I would like to point out for the record some figures I have from the New York District regarding the apprehension of illegal aliens. I would like to point out that out of 8,717 illegal aliens apprehended since July 1974, 6,050 came here originally as visitors. Thus over 62 percent in the New York District, came here through improperly issued tourist visas, visas that were issued on the basis of the fact that the person was thought to be a tourist, but obviously had every intention of staying in the United States. In view of those figures, I would encourage you to try to see whether or not we could have better screening processes to avoid this problem. I would also like to ask, Mr. Chairman, if in providing figures for the subcommittee we can have the problem broken down on a regional basis in terms of, for example, the percentage that the number of illegal aliens apprehended represents of the total number of illegal aliens estimated to live in that area, whether there is a difference between these figures and those in the Southwest, the Northwest, and the Southeast, and whether there might be different procedures in different areas that could help alleviate the problem until we get this or some other kind of legislation enacted.

Mr. CHAPMAN. We have those figures, and we will furnish them.

[The material referred to follows:]

The ratios of illegal aliens apprehended to the estimated number of illegal aliens in the regions vary greatly. The variance is a reflection, as suggested, of the different enforcement programs that are utilized in the different regions.

The Southwest Region, for example, has the greatest concentration of Border Patrol Agents because the enforcement strategy of the Service is to prevent entry, where possible, and to apprehend illegal entrants as quickly as possible after entry. There were 690,000 aliens apprehended in that region in FY 1974, most of whom were stopped at the line or within 72 hours of entry. Service officers estimate there are at least 2 million illegal aliens in that region.

The three other regions present an entirely different enforcement problem. In these three, there is no great push of entrants over the land border and illegal aliens, tend, in the main, to concentrate in cities where job opportunities are available. The illegal alien population also differs in most respects from the Southwest profile which is preponderantly made up of Mexican males. In the northern and eastern cities, the illegal alien is typically a former temporary visitor who has overstayed his time, or who has violated his visitor status by taking a job. He also assimilates much more easily into the population at large, and is more difficult to detect and more expensive to detain and expel.

The investigative forces are also spread thinly through these regions, as a consequence of the assignment of a limited number of enforcement personnel to tasks that obviously require a greater number. Thus the threat in the Southwest has to be met and continuously contained, while other locations operate with far less effectiveness. The Northeast region, with the same estimated number of illegal aliens as the Southwest, at least 2 million, was only able to apprehend 31,000. The Southeast, with at least one million illegal aliens, and the Northwest, with at least half that number, each apprehended 30,000.

The ratios reflect, if anything, the enormous task of spreading small work forces to contain what is really uncontainable. What is needed is the elimination of the incentive for illegal entry, which H.R. 982 would provide by shutting off job opportunities for illegal aliens.

Mr. EILBERG. And the possibility of different methods of apprehension that might be applicable.

Mr. CHAPMAN. We are employing different methods now.

Mr. EILBERG. I would like to announce to the subcommittee that we will recess until 2 o'clock this afternoon at which time we will have the Under Secretary of the Department of Labor, the Honorable Richard F. Schubert.

And I want to thank you very much, Attorney General Silberman and Commissioner Chapman and your staff for being so very helpful to the subcommittee this morning. I know we will be working together as we evolve some legislation on this matter. Thank you very much.

Mr. SILBERMAN. Thank you, Mr. Chairman. I appreciate the opportunity.

AFTERNOON SESSION

Mr. EILBERG. The committee will come to order and we will continue our hearings on House bill 982.

We have with us this afternoon the Under Secretary of Labor, Richard F. Schubert. We are very happy to have you here, Mr. Schubert, this afternoon, and look forward to your statement and the opportunity to ask you a few questions.

TESTIMONY OF HON. RICHARD F. SCHUBERT, UNDER SECRETARY OF LABOR, ACCOMPANIED BY ALFRED G. ALBERT, DEPUTY SOLICITOR, DEPARTMENT OF LABOR, AND DAVID O. WILLIAMS, DEPUTY DIRECTOR, U.S. EMPLOYMENT SERVICE, DEPARTMENT OF LABOR

Mr. SCHUBERT. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, we are happy to appear before your committee in support of the purpose and objectives of H.R. 982. The Department of Labor believes that a legislative approach involving sanctions against employers, and other persons who participate in the employment of illegal aliens is both sound and absolutely essential.

Twice the House has passed legislation to deal with this problem which, in our view, grows more critical with each passing day. We have supported these efforts in the past and we continue to support them with an even greater sense of urgency.

The principal concern of the Department of Labor necessarily arises from the impact upon the legal work force of this growing problem of job displacement. The Department of Labor is by statute the guardian of the welfare of the wage earners of the Nation. We cannot ignore the impact of illegal entry upon what indeed is a climbing unemployment rate.

As a nation predominately composed of generations of immigrants and their offspring, our historic compassion for the oppressed and needy emigres of other nations has probably helped to produce a certain degree of apathy about the growing proportions of this problem. We are not unmindful of the desires many foreign nationals have to seek a better life for themselves and their families by immigrating to this country.

However, the alien who enters this country illegally cheats not only the American worker, but the person who follows the lawful immigration procedures as well. Fairness dictates that we no longer permit illegal aliens to take jobs of the Americans and aliens who have immigrated here lawfully.

Further, we are also aware that illegal aliens are sometimes exploited by unscrupulous employers who take advantage of the vulnerability of the illegal alien to deportation. This often has the effect of depressing the wages and working conditions not only of the illegal aliens, but also everyone else who is competing for the same job.

Irrespective of the precise number of illegal aliens in our country, there is ample evidence that it is substantial, that it is growing, and that it, unless checked, will overwhelm us with more and more serious labor and economic troubles. The economic state of the Nation compels us to focus our compassion first and foremost upon those who are here legally.

Despite the realization that there are a number of areas of current immigration law which would warrant further review, our sense of urgency moves us to defer any other immigration law proposals which might delay or impede the rapid action needed to deal with the "illegals" problem.

Before commenting specifically upon H.R. 982, let me note that the recently enacted Farm Labor Contractor Registration Act Amendments of 1974 strengthen and broaden those provisions of the act directed against employment of illegal aliens by prohibiting a contractor from knowlingly recruiting, employing, or utilizing the services of such aliens. This bill, the one under consideration, would complement the sanctions under the Farm Labor Contractor Registration Act.

Of course, that act applies only to farm labor contractors dealing with a small part of the problem. However, it does serve as a precedent for establishing broader sanctions applicable to all employers.

The basic provisions of H.R. 982, Mr. Chairman, as you know, would make it illegal for an employer, his agent, or a referrer of workers for employment, to knowingly employ or refer for employment any illegal alien. It imposes a three-step procedure of sanctions against violating employers.

The first violation would result in the issuance of a citation; a subsequent violation within 2 years would result in the imposition of a fine with opportunity for hearing; a third violation would be a criminal violation with fine or imprisonment.

Our Department is eager to assist the committee and has some suggestions for strengthening, and we believe improving, the bill. For example, H.R. 982 provides that an employer may escape liability if such employer obtains a signed statement that the person is a citizen or an alien lawfully admitted.

A person who has already entered the country illegally may very well not be deterred from signing such a false statement. Therefore, we believe that the added requirement, which is contained in the so-called Biaggi bill, H.R. 257, which provides that in order to escape penalty an employer must also sign a statement that he has read a birth certificate or other documentation establishing the legal presence of the person, seems a more effective way of preventing circumvention of the law.

As we understand it, the Department of Health, Education, and Welfare, since the 1972 amendments of the Social Security Act, has been administering substantially the same type of requirements with respect to the issuance of social security cards.

On the degree of the penalty, whether civil or criminal or both, we would defer to the Department of Justice which has, of course, greater expertise and which will be required to enforce the law; but I should note our general support for as strong deterrents as are reasonable and at the same time are expeditiously attainable in the legislature.

We would also favor some clear requirement in the law which would preclude its application on any discriminatory basis, recognizing that no ethnic group has any monopoly on illegal admission.

We therefore urge expeditious action to deal with this growing problem and we pledge ourselves to give whatever assistance is necessary to enact strong and effective legislation designed to prevent the illegal employment of aliens.

Mr. Chairman, I have with me Mr. Alfred Albert, who is Deputy Solicitor of the Department of Labor, and also Mr. David O. Williams, who is Deputy Director, U.S. Employment Service, and both of whom have been involved with the problems of immigration and aliens across a number of years in the Department. I think that they will be in a position to help in this discussion.

[The prepared statement of Hon. Richard F. Schubert follows:]

STATEMENT OF HON. RICHARD F. SCHUBERT, UNDER SECRETARY OF LABOR

Mr. Chairman and Members of the Subcommittee, I am happy to appear before your Committee in support of the purpose and objectives of H.R. 982. The Department of Labor believes that a legislative approach involving sanctions against employers, and other persons who participate in the employment of illegal aliens is both sound and absolutely essential.

Twice the House has passed legislation to deal with this problem which grows more critical with each passing day. We have supported these efforts in the past and continue to support them with an even greater sense of urgency.

The principal concern of the Department of Labor arises from the impact upon the legal workforce of this growing problem of job displacement. The Department of Labor is by statute the guardian of the welfare of the wage earners of the Nation. We cannot ignore the impact of illegal entry upon the climbing unemployment rate.

As a nation, predominately composed of generations of immigrants and their offspring, our historic compassion for the oppressed and needy emigres of other nations has probably helped to produce a certain degree of apathy about the growing proportions of this problem. We are not unmindful of the desires many foreign nationals have to seek a better life for themselves and their families by immigrating to this country. However, the alien who enters this country illegally cheats not only the American worker but the person who follows the lawful immigration procedures as well. Fairness dictates that we no longer permit illegal aliens to take jobs of the Americans and aliens who have immigrated here lawfully.

Further, we are also aware that illegal aliens are sometimes exploited by unscrupulous employers who take advantage of the vulnerability of the illegal alien to deportation. This often has the effect of depressing the wages and working conditions not only of the illegal aliens but also everyone who is competing for the same job.

Irrespective of the precise number of illegal aliens in our country, there is ample evidence that it is substantial; that it is growing; and that unless checked, will overwhelm us with more and more serious labor and economic troubles. The economic state of the Nation compels us to focus our compassion first and foremost upon those who are here legally.

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The basic provision of H.R. 982 would make it illegal for an employer, his agent or a referrer of workers for employment, to knowingly employ or refer for employment any illegal alien. It imposes a three-step procedure of sanctions against violating employers. The first violation would result in the issuance of a citation; a subsequent violation within two years would result in the imposition of a fine with opportunity for hearing; a third violation would be a criminal violation with fine or imprisonment.

The Department is eager to assist the Committee and has some suggestions for strengthening, and we believe improving, the bill. For example, H.R. 982 provides that an employer may escape liability if such employer obtains a signed statement that the person is a citizen or an alien lawfully admitted. A person who has already entered the country illegally may very well not be deterred from signing such a false statement. Therefore, we believe that the added requirement which is contained in the Biaggi bill, H.R. 257, which provides that in order to escape penalty an employer must also sign a statement that he has read a birth certificate or other documentation establishing the legal presence of the person, seems a more effective way of preventing circumvention of the law. The Department of Health, Education, and Welfare, since the 1972 Amendments of the Social Security Act, has been administering substantially the same type of requirements with respect to the issuance of social security cards.

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Mr. EILBERG. Thank you very much, Mr. Schubert. Mr. Schubert, in your statement on page 3, you referred to the Farm Labor Contractor Registration Act Amendments of 1974. I understand that there are very severe penalties provided in this legislation which would be imposed on crew leaders who failed to register under that act, and who knowingly recruit illegal aliens.

I wonder if you know how much money is in the budget to carry out the purposes of that act?

Mr. SCHUBERT. We have in the 1976 submission a doubling of the resources of the Farm Labor Contractor Act enforcement.

As I recall the figures with regard to compliance officers, we are providing for in the vicinity of 20 or so to be used on an "as needed" nationwide enforcement basis, focusing on those areas where we perceive the greatest problems are, and we are doing that in order to effectuate these amendments.

Mr. EILBERG. So what are the total numbers again of personnel?

Mr. SCHUBERT. I think we have provided for—and I will supply this for the record—but, as I recall a budget briefing last week, I think—well, I know we have provided for doubling of the enforcement force.

Mr. EILBERG. All right.

Mr. SCHUBERT. And I think the total is somewhere in the vicinity of a couple of dozen people.

Mr. EILBERG. All right, my question actually, though, was how much money was recommended?

Mr. SCHUBERT. We will submit that for the record.

[The material referred to follows:]

The Department's FY 1976 budget submission included a request for an additional $513,000 for the enforcement of the Farm Labor Contractor Act. We anticipate that the new positions thus created will permit us to double our compliance efforts in FY 1976.

Mr. EILBERG. Well, I am just a little surprised that you don't have that information. And as far as I know, the figure for the next year is $500,000.

Mr. SCHUBERT. That may very well be.

Mr. EILBERG. And that raised the question in my mind, when that figure came to my attention, Mr. Schubert, whether this is adequate to carry out such important legislation?

Mr. SCHUBERT. We believe that we can make a significant incursion into the problem as we perceive the problem. Indeed, the penalties provided in that act are very significant.

Very candidly, they will serve as a real deterrent, it seems to me, for future farm labor contract activities generally. We believe that we have enough of a handle on where and how they operate through our employment service offices also.

And you will note, of course, that we have 2,040 or so employment service officers around the country that are a part of the Federal-State network and they are dealing with them and are specialists in this area, and we believe that we can make a significant dent into the problem of the farm labor contractor area.

Now, that does not prevent employers from going underground per se, in some fashion, to evade the responsibilities of that law.

Mr. EILBERG. So, essentially what you are saying is that with a couple of dozen men to enforce this law, and the psychological impact of the law, that this ought to be sufficient to meet the problem?

Mr. SCHUBERT. Plus the network, again, of 2,040 employment service officers around the country who are geared into the enforcement effort.

Mr. EILBERG. Mr. Schubert, during prior hearings on this subject in other Congresses, we received testimony from various agricultural groups and farmers claiming that they are unable to locate American workers to harvest their crops.

Is it true that this is a definite problem, especially in the Southwestern United States? And if so, if the labor-certification provisions are properly implemented for temporary H–2 workers, shouldn't that take care of the problem?

Mr. SCHUBERT. We believe that the problem in some cases has been exaggerated, Mr. Chairman. We believe that the procedures that are set forth in the law and delegated by the Attorney General to the Department of Labor can be administered in such a fashion as to provide maximum employment opportunities for domestic workers initially and as vacancies remain, not filled by domestic workers, Mr. Chairman, can then be afforded to legal aliens brought into the country for our agricultural needs. And we have been involved in a campaign to modernize and expedite the procedures that are utilized.

We do not perceive this to be any reason for not acting on this illegal alien bill. Dave Williams, who I indicated earlier, is deeply involved in the employment service, I am sure can give you further specifics, if you would like to move in that direction.

Mr. EILBERG. I would like to ask you further what you meant when you said that the problem was "exaggerated"? I did not understand you when you used that word.

Mr. SCHUBERT. Yes, well what we have perceived on occasion is that certain groups of employers made what we perceived to be unwarranted allegations about the unavailability of legal resident workers before they had properly utilized the procedures that were available under the employment service regulations. And we have been waging a campaign to work with them cooperatively so that they utilize the procedures.

After all, our responsibility is to assure that vacancies be afforded to domestic workers first and then, as the need continues unmet, to make them available for legal aliens. We are absolutely intent on doing that.

Very candidly, some of the growers would prefer we avoided that first step, but that is part of our constraints.

Mr. EILBERG. I wonder for the benefit of the subcommittee, would you please define "labor certification" which is what we are talking about now.

Mr. SCHUBERT. I think that labor certification is used in a number of ways and I would like to ask the Deputy Solicitor to address himself to that, both with regard to immigrants and also now to nonimmigrants.

Mr. ALBERT. The Department of Labor's basic responsibility in the labor certification area arises from two provisions of the law. Certainly, I won't presume to advise this committee about the difference between immigrants and nonimmigrants, but the two are: With respect to immigrant workers, section 212(a)(14) of the law, Mr. Chairman, keeps the door closed to admission to the United States until the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that for the particular employment for which the alien seeks admission there are insufficient American workers who are able, willing, and qualified to do that job; and that the admission of that alien will not adversely affect the wages and working conditions of American workers similarly employed. That is the first.

With respect to nonimmigrants who come only for temporary periods, there is a provision in the Immigration Act, section 214(c), which says the Attorney General decides when a nonimmigrant comes in and under what conditions, after consultation with the appropriate agencies of the Government.

It has been, ever since the 1952 Immigration Act, the judgment of the Attorney General that the Labor Department is the appropriate agency of the Government to consult with respect to the same type of criteria that are provided for the administration of immigrants, with respect to the admission of skilled and unskilled nonimmigrants, namely, that there are no American workers available and that the admission of those nonimmigrants for that particular employment would not adversely affect the wages and the working conditions of the American worker similarly employed.

Mr. EILBERG. For the enlightenment of the committee also, would you tell us the extent to which you work with labor union organizations in determining the availability of American workers?

Mr. ALBERT. As the Under Secretary just indicated, the process by which this determination of availability of workers is accomplished is through the utilization of the Federal-State Employment Service system. These 2,040 offices, on the basis of the labor market information—the job applications on file in the local offices—make the determination as to whether American workers, for the particular job for which that alien is coming in, are available, qualified, and willing to go to wherever that job is being offered.

In making that determination, the instructions of the Department to the State Employment Security Agencies are to consult with the labor unions because they are, of course, also a source of supply of labor.

Mr. EILBERG. I have heard many complaints about the administration of the labor certification program. Many have to do with the uneven enforcement of labor certification in different parts of the country.

The program has been attacked by many who maintain that the entire program is ineffective and inefficient and should be eliminated. What are your reactions to those statements?

Mr. SCHUBERT. Do you want to answer?

Mr. ALBERT. Mr. Chairman, my personal view is, first of all, I think it puts the Department of Labor in a rather anomalous position to stand there with its finger in the dyke trying to stop the administration, or rather control the admission of some 40,000 aliens who come to the United States for employment, and are subject to the 212(a)14 labor certification, while right beside them the flood-gates are open to a tremendous number of immigrants coming into the country as relatives, about 300,000 or more every year.

Second, there are some other features about the labor certification process which makes it a rather moot process. As you know, admission to the United States on the day you arrive and are legally admitted, makes you free to accept any and all employment just like any other person in this country. The Labor Department engages in the process in which we try to determine, for that particular job to which the alien is destined, whether or not there is an American available, but the day after that alien arrives, he is free to go wherever he wants to and take whatever job he wants to.

Third, in the process of making this labor certification—there is a tremendous gap between the time the Labor Department tests the job market and the actual admission of that alien. It may take up to roughly 2 years or more in many instances, because of the long waiting period involved in getting visa numbers, so that you are testing the American job market today, and then 2 years from now that alien arrives when that determination may be completely unrealistic.

There are other reasons. It is not a simple process. There has been a growing concern in the courtrooms about the applicability of the Administrative Procedures Act, due process requirements, and hearing requirements. How much of a burden is there upon the Department of Labor to produce a worker as opposed to the employer's obligation to find one himself; when the Labor Department finds that the general labor market information available to the Department suggests that

with a little recruitment effort on his own, the employer might find an American worker?

There is a sharp division in the circuit courts at this time on this question, I suspect shortly the question will go to the Supreme Court.

In short, it is my own feeling that much of the energy and expense and agony that the Department goes through is futile and a waste of effort in this entire area.

Mr. SCHUBERT. Mr. Chairman, if I might add something to that?

That is a view I also share and institutionally we would support, but as a practical matter, this area is fraught with sufficient controversy that if it were opened up at this juncture, it would preclude moving on the illegal portion of the problem, and I think that would be highly undesirable.

Mr. EILBERG. Why does that conclusion follow?

Mr. SCHUBERT. Well, because we know how constitutent groups feel about this matter, and they would perhaps countenance a change in labor certification if the entire immigration concept, including the commuter business, were opened up and were all addressed in one fell swoop. Apart from that, our best sense and judgment is that the illegal issue is the only one that can move expeditiously through the legislature.

We think it is incumbent to move on that one.

Mr. EILBERG. We propose to do so, if we can, but you know that the General Accounting Office is preparing a report on the labor certification program for this subcommittee and that should be coming out very shortly. As a matter of fact, you probably have some of the tentative conclusions now.

How do you react to that study, or have you seen the study?

Mr. SCHUBERT. I think that Dave has had some discussions with the GAO personnel. Dave, do you want to comment on that?

Mr. WILLIAMS. Yes, sir. Mr. Chairman, we have had an opportunity to review the draft report of the General Accounting Office and we can indicate certain recommendations that are made and our State, local, and regional employment service offices to consider the willingness of the resident workers to accept jobs when making determinations. The Department in the past, and in reviewing the reaction to this, has indicated when a resident worker is registered for employment with a public or private employment agency, college or association or similar organization, that we must presume that the person is interested in seeking work in the occupation and it is reasonable to assume, unless proven otherwise, that he is willing to take the job that offers the prevailing wage and working conditions.

When the employer seeking an alien adequately demonstrates that he actively and objectively recruited at the normal sources without success, the Department of Labor does usually grant approval. The high 65- to 70-percent approval rate would indicate this.

We feel that we should, as the regulations are presently administered, continue with this test and administer it in the manner in which we are administering it now.

Mr. EILBERG. Excuse me, I thought that you said that the "willingness" requirement was being ignored by the Department. I thought that that was your statement?

Mr. WILLIAMS. No, that is not what I said, Mr. Chairman. I said that the issue of willingness was raised by the General Accounting Office in their report and in our response to their draft report we

commented that at present registration occurs either through the Employment Security Office, private agencies, or other associations, to which the courts and our own procedures have directed us to look for qualified personnel and that we presume that if a person has registered and indicated an intent to seek employment, that he is willing to take the job.

We do test that, and when we find that an employer cannot find a worker, then we do approve an application if a qualified worker is not available.

Mr. EILBERG. So, you deny that the Department of Labor is ignoring the "willingness" requirement?

Mr. WILLIAMS. Oh, I think as we now proceed, if we are looking at the issue of willingness, but in the context to which I referred earlier.

Mr. EILBERG. Does the Department support revisions to the labor certification provision of the Immigration and Nationality Act?

Mr. SCHUBERT. Again, Mr. Chairman, I think we perceive this to be an area that is deserving of a careful scrutiny. It just does not make a great deal of sense, given the nature of the certification process in view of the overall total problem, it doesn't make a lot of sense but we don't think that this is the time and in the context of this bill, very candidly.

Mr. EILBERG. Mr. Schubert, I don't like to be at all impatient with you or with anyone, for that matter, but I have served on the subcommittee for 6 years and that statement was made 6 years ago and 5 years ago and 4 years ago, and just about every time the Labor Department has sat before the subcommittee.

I am just wondering when will be the right time, because I have been hearing it every year that I have served on the subcommittee.

Are you saying that the right time will be after we have taken action on the illegal alien bill? Is that what you are saying?

Mr. SCHUBERT. Yes, sir.

Mr. EILBERG. Are you working on legislative proposals now?

Mr. SCHUBERT. We have had in process a number of legislative proposals that we are prepared to move with expeditiously, including this one.

Mr. EILBERG. Will you show us the courtesy of keeping in touch with us?

Mr. SCHUBERT. Yes, sir.

Mr. EILBERG. Keeping in touch as that progresses, so that——

Mr. SCHUBERT. We certainly shall.

Mr. EILBERG [continuing]. So that we can give it the most effective attention because this certainly is one of the most important subjects in immigration law as far as this member is concerned.

Mr. SCHUBERT. All right. We won't necessarily make every one happy with our basic conclusion that it doesn't make any sense to have the certification process, but we will be delighted to work with your staff on that basis.

Mr. EILBERG. All right. I have taken too long now.

Mr. Cohen?

Mr. COHEN. Thank you, Mr. Chairman.

Let me echo your concern, Mr. Chairman, about the labor certification program. This is something that occurs quite frequently in Maine, as you are aware, with the apple pickers. The growers, trying to get labor from Canada, are often being held up at the last moment, and

then granted a few more laborers and as a result, the applegrowers are losing crops quite frequently because of the early fall we have and the frost. So that does apply to our State.

I notice in your statement you say that the proposed legislation sort of compliments the Farm Labor Contract Registration Act of 1974, the Amendments of 1974, that is, and I noticed then on page 10 of that report that the Department of Labor has the discretion to formulate or promulgate regulations as far as the enforcement of these provisions upon the employers, you know, the farm contractors.

What regulations have you proposed or promulgated?

Mr. ALBERT. We have not promulgated any in terms of publication. We are about to put out for proposed rulemaking a set of regulations.

Mr. COHEN. What would that entail?

Mr. ALBERT. In connection—well, in the context in which you raised the question, on page 10 of the Senate report that accompanied the Farm Labor Contractor Registration Act it states:

> It is the intention of the committee that all contractors must evidence affirmative showing by making a bona fide inquiry of whether a prospective employee is a U.S. citizen, a lawfully admitted permanent resident, or a nonimmigrant authorized to work in the United States.

Our regulations would carry out that directive from the Congress.

Mr. COHEN. The problem that I have is regarding what sort of action should an employer take. For example, there are several States now that allow voting registration by postcard. This is a matter, you know, that we debated in Congress but did not pass, but several States, it is my understanding, do proceed on that basis on their own now.

It seems to me if one is certified to vote and if he can do so by postcard registration, and he is on the voting list of a community or State, that would imply, at least, that that person is a citizen entitled to vote, would it not? Would that be sufficient for an employer to rely upon the voting rolls of the community?

Mr. ALBERT. Well, we hadn't really entertained the voting card as one of the documents. Roughly what we had in mind is that if you can show a birth certificate that you were born in the United States, then that, of course, ends the matter.

Secondly, if you can show a citizen paper, then that, of course, ends the matter. If you can't show that, there are other documents issued by the Immigration Service. The I–151 Form, for instance, which shows you have been legally admitted to the United States, the Alien Registration form, and perhaps the social security card, to the extent it has been issued after 1972 when that obligation went into effect.

Mr. COHEN. Has the Department of Labor acted in concert with the Social Security Administration in terms of this requirement now?

Mr. ALBERT. With respect to this requirement, yes, we are certainly going to coordinate our efforts with the Department of Health, Education, and Welfare. I just now, last week, spoke to the General Counsel's Office in HEW, and they have fundamentally the same step process that I just outlined for the issuance of the social security card.

Mr. COHEN. Do you really think that you are going to come to grips with the problem by just asking the employer to say if this man wants to come to work, he has to show you a birth certificate? I noticed in your statement that you endorsed the principle that we should not adopt any kind of legislation which would in any way

be applied in a discriminatory fashion, and therefore the only conclusion is that all people who seek work, whether they be white, black, brown, whatever color, that they all have to carry a birth certificate or some means of identification, is that not correct?

So that, in other words, every one who is hired in the future will now have to present that birth certificate or other means of identification before they can be hired, otherwise we would have that problem of discriminating on the basis of race, or creed, or color, or speech, or accent, or whatever. So, we have to move to that level then.

The problem I have is that with respect to most birth certificates like that of my own, you see, the employer has no way of identifying the authenticity of such a certificate that one can carry in a wallet. It seems to me that those people engaged in smuggling aliens into this country, that—well, that it would not be terribly taxing to their imaginations or abilities to devise a system of forging documents like that as well, which then leads you to the conclusion that you can't rely upon local certificates. You may have to have a national certificate.

I think then, Mr. Chairman, we get into the problems of having one national identification card and all of the other problems implicit in that concept. So, I am just wondering about it.

It is important that we move ahead expeditiously, but I don't support movement without any real achievable goal.

Mr. SCHUBERT. Mr. Congressman, this is a slippery slope in the sense that you can go down as far as you want to go toward that ultimate result and say this is an appropriate line to draw and beyond it is inappropriate. I don't think there is anything repugnant about asking an employer to take affirmative action to determine whether an employee—particularly a new employee—has a right to a job in terms of a job in terms of lawful admission to the United States.

I can also share your concern about the extension of this principle to perhaps a logical or illogical extreme, but I think that this problem is serious enough that it warrants taking some relatively extraordinary actions to deal with it, frankly.

Mr. COHEN. And you think that the production of a birth certificate might be sufficient?

Mr. SCHUBERT. I think it is better than asking for a signed statement of affirmation; yes.

Mr. COHEN. One other question, if I might. This morning we heard testimony to the effect that many of the jobs that are now being taken by the aliens are actually in the upper income levels and not at all the low backbreaking and low-paying-type jobs.

Do your statistics confirm that?

Mr. SCHUBERT. Unfortunately, we don't have any statistical measure. This is a terribly frustrating admission. It is not part of BLS's mandated plan, for which it has budgeted funds, to make those kinds of determinations. What we do have, however, is a growing—and I realize this is less than sufficient—but growing anecdotal evidence, particularly with regard to the building trades, and the incursion of illegal aliens into a number of building sites, not only in the Southwest, but into the West.

Mr. COHEN. Part of the difficulty we have is that your Department, and Justice, now come forward and recommend we go the way of imposing very high civil fines or penalties because so much money

is being accumulated in savings accounts. Part of the problem we have there, it seems to me, is that it is important to document the instances and actual facts, as opposed to anecdotal reports that someone has $10,000 in a savings account and therefore we can attach that in a civil process and eliminate going through the criminal process.

So I think it is important we have that before us.

Mr. SCHUBERT. Well, the only way that I can conceive that that could be done under the circumstances is to run some kind of a sample study with regard to people who have been apprehended and the holdings they had and make some kind of a projection beyond that. And I don't know whether you made such a request of Justice or not, and, of course, that is within the confines of the Immigration Service and not our statistical gathering devices, but beyond that, and as a practical matter, Congressman, if we had better information, we would have more apprehensions.

Mr. EILBERG. Will the gentleman yield at this point?

Mr. COHEN. Yes.

Mr. EILBERG. For the benefit of the gentleman, last week I saw a breakdown prepared by the Immigration and Naturalization Service which identifies the various parts of the country and indicates the estimated number of illegal aliens who are employed, and it comes to the figure of 1 million. Perhaps we should have gone into that with Commissioner Chapman this morning.

If such information is available, and I don't know whether or not the staff has it here, but I am going to ask the staff to obtain it and make it a part of the record at this point.

[The information referred to follows:]

INS ESTIMATE OF JOBS WHICH COULD BE CREATED BY ENACTING H.R. 982 AND IMPROVING ENFORCEMENT PROGRAMS

Location	Agriculture	Heavy industry	Light industry	Service	Total
Northeast region	1,000	35,000	58,000	72,000	166,000
Boston, Mass		2,000	2,000	2,500	6,500
Hartford, Conn		750	1,250	3,000	5,000
Newark, N.J		5,000	14,000	6,000	25,000
New York, N.Y		24,000	32,000	50,000	106,000
Other	1,000	3,250	8,750	10,500	23,500
Southeast region	30,000	15,000	26,000	49,000	120,000
Miami, Fla	13,000	6,000	12,000	21,000	52,000
San Juan, P.R		1,500	3,500	8,000	13,000
Philadelphia, Pa		2,000	3,000	4,000	9,000
Washington, D.C		2,500	3,000	6,000	11,500
Other	17,000	3,000	4,500	10,000	34,500
Northwest region	56,000	25,000	30,000	45,000	156,000
Chicago, Ill	8,500	19,000	21,000	31,000	79,500
Detroit, Mich	4,200	2,500	4,000	9,000	19,700
Kansas City, Mo	2,000	1,500	1,500	2,000	7,000
Helena, Mont	9,500		500	1,000	11,000
Havre, Mont	15,000				15,000
Other	16,800	2,000	3,000	2,000	23,800
Southwest region	248,000	75,000	100,000	135,000	558,000
Denver, Colo	15,000	3,000	3,000	7,000	28,000
Livermore, Calif	100,000	2,000	3,000	5,000	110,000
Los Angeles, Calif	6,000	29,000	50,000	50,000	135,000
Dallas, Tex	2,500	10,000	10,000	30,000	52,500
San Francisco, Calif	1,500	1,000	2,000	2,000	6,500
Border cities	100,000	20,000	30,000	40,000	190,000
Other	23,000	10,000	2,000	1,000	36,000
U.S. total	335,000	150,000	206,000	309,000	1,000,000

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Mr. EILBERG. Any further questions?

Mr. COHEN. No.

Mr. EILBERG. Mr. Sarbanes?

Mr. SARBANES. Mr. Schubert, I notice that at the bottom of page 2, you are very careful not to get into this numbers' game, and you start out your paragraph by saying, "Irrespective of the precise number of the illegal aliens in our country." And then you argue that the problem is substantial.

I just wondered whether that represented a very conscious decision on your part that these various figures being bandied about with respect to the dimensions of this problem are, in effect, so devoid of a rational statistical basis that you just are unwilling to make any use of them whatsoever?

Mr. SCHUBERT. Mr. Congressman, as you well know from some discussions we had on other subjects, those figures that we stand behind, we have some problems with on occasion.

And with regard to this area, we really are frustrated very seriously about how to get a handle on it. It is INS's primary responsibility.

We have been observant of the fact that the figures seem to vary a bit and we really don't have any good handle on it, and so we did purposely avoid the subject.

Mr. SARBANES. Now, I am a little interested in what the nature of the working relationship if any, is, between you and INS with respect to the problem of illegal aliens?

Mr. SCHUBERT. Dave, do you want to address that?

Mr. WILLIAMS. Congressman, I would say this, that we meet quite frequently both here and on a regional level where our regional offices are located to discuss problems in terms of certification and to discuss other problems that come up. So, I think, both here at the national level and at the regional level, there are fairly frequent discussions.

In many cases, the offices are located within the same building, so there is discussion of the problems of common interest in terms of certification activity.

Mr. SARBANES. Would you say because of your concerns, that in some areas you have as good an understanding of the nature of the problem as INS may have?

Mr. WILLIAMS. Well, I think certainly in the area of enforcement or compliance, that their knowledge is superior to ours. I do think in areas where the issue of certification comes forward, we can be of help and properly are in terms of the advisory role that we are to maintain.

But, I think in regard to enforcement or compliance—that kind of activity—clearly they have a role to play and they have the expertise in that area.

Mr. SARBANES. I would like to take up the point that Mr. Cohen raised about the proposal to carry the bill even further with regard to the screening process.

I take it that your proposal is that the screening should be univeral with respect to any employee seeking a job—is that correct?

Mr. SCHUBERT. Yes; it seems to me that you could make a break, though, on a couple of levels. You could require a screen on the part of employers of all existing employees. That might be viewed, though,

to be unduly burdensome under all the circumstances, but it seems to us a more appropriate balancing of interests would be at the new employment status.

And necessarily, in order to avoid singling out a particular group in terms of ethnic or racial background, necessarily it would have to be clearly applied across the board.

Mr. SARBANES. Now, that is a position, of course, that was advocated this morning by the Department of Justice, and I wondered whether there was a joint determination of that position on the part of the two Departments or whether you had arrived at your position separately and independently from them, and without consultation?

Mr. SCHUBERT. We have had consultation with them, Congressman, about this problem prior to preparation for this hearing, and in preparation for this hearing. We have also done our homework with regard to touching base and getting reactions from constituent bodies and our sense was that this was a proper place to draw the line and balance it.

Mr. SARBANES. Is the secretary a member of the Domestic Council Committee on Illegal Aliens? Who represents the Labor Department on that council?

Mr. SCHUBERT. The secretary is a member of the committee, and the deputy solicitor, who I have with me, is the working member on that group.

Mr. SARBANES. Well, I would be interested in what, if anything, that committee has done to date with respect to this matter.

Mr. ALBERT. I believe, as the Attorney General mentioned this morning, they have just scheduled their first meeting, and I believe it is this Friday. They have not met yet prior to this.

Mr. SARBANES. Thank you, Mr. Chairman.

Mr. EILBERG. Mr. Dodd.

Mr. DODD. Mr. Chairman, I just have a few questions and many of them have been answered. I was going to raise some questions particularly with regard to the numbers' game.

I just wanted to go back and I would like—in addition to the material that you want to have—I would like to know whether or not the Labor Department has done any studies at all to identify job classifications where illegal aliens have been apprehended and are employed?

Mr. SCHUBERT. Not to the best of my knowledge. I will check, Mr. Congressman, for insertion into the record, to see whether any of the R. & D. efforts in the Manpower Administration may have focused on this, but not to the best of my knowledge.

[The following statement was submitted:]

The Labor Department does not maintain statistics on the wage levels and occupations of jobs held by illegal aliens, a task which would, by definition, be nearly impossible. The Department, however, has funded a research project to secure information on this subject. The Manpower Administration has retained Linton, Mields & Coston, Inc., to study the impact of illegal aliens on the nation's labor markets. In the course of the study, Immigration and Naturalization Service apprehension records, which have been carrying substantial labor market information since the first of the year, will be tabulated to secure information on the wages earned by the illegal, the occupation and employer involved, and the duration of the illegal's stay in the country. Additional data on these subjects will be secured by searching Social Security earnings tax records (on a group basis) and by interviews with a cross-section of the apprehended illegals. In addition the firm will secure labor market information on a small group of non-apprehended illegals.

Mr. DODD. And I would also, of course, be interested in pay scales within those job classifications where apprehensions have occurred, and also labor markets, because the State laws have been changed, and California, I think, in particular, has a pretty stiff State law. There has been a migration of illegal aliens that did reside in California to other parts of the country, and I wonder whether or not the Labor Department is actively following these patterns which may occur throughout the country in order to identify those parts of the country which are more seriously affected than others with the illegal alien problem?

Mr. SCHUBERT. This we would normally view to be the function of INS, but to the extent that some of our research efforts may have highlighted some of this data, we will submit it for the record.

[The following statement was submitted:]

It is our understanding that the Law Enforcement Assistance Administration has retained a consulting firm which is designing a study for the Justice Department which will establish sound methodologies for estimating the numbers of illegal aliens, their characteristics, their movements, and their location in the United States. Although this study has not yet been made, it is the Department's understanding that illegal aliens are not simply a problem in the Southwest, but illegals are now active in a number of labor markets in other parts of the nation, specifically in the Middle West and the Northeast. The Department of Labor looks forward to the completion of this basic Justice Department study, which will complement the Labor Department's ongoing study of the role of illegals in the labor market.

Mr. DODD. The only other question that I have for you is, was it not in your statement that there have been suggestions made which would include in a bill penalties not only for the employer but for the employee? Do you have any feelings about the employee, I mean the illegal alien, do you have any feelings on that at all as to whether or not the illegal alien itself should suffer any penalties at all under this law?

Mr. SCHUBERT. As a practical matter, incarceration doesn't seem to be a practical answer. There is a good question posed, it seems to us, with regard to confiscation of property, as occurs with regard to certain violations under the drug law.

There is also a very legitimate question posed about denial of access to benefit programs. Our philosophic view is that there is nothing whatsoever repugnant about either confiscation or denial of benefits. We would prefer to have a stronger rather than a weaker bill, and that is our view, based on discussions with organized labor as well as unorganized segments of labor.

Our only concern is that we not get bogged down in debating what additionally is to be done, because we need a bill.

Mr. COHEN. Would the gentleman yield?

Mr. DODD. Yes.

Mr. COHEN. Do I understand the Department's position to be that you support the notion that if a person drove his car across a line into this country, that you would endorse the seizure of the automobile as a part of the penalty to be imposed?

Mr. SCHUBERT. Yes, sir.

Mr. COHEN. Do you think that is not incompatible with notions of due process under the law?

Mr. SCHUBERT. I do not. I think it is defensible constitutionally, and I can see——

Mr. COHEN. Do you think it is similar to contraband drugs?

Mr. SCHUBERT. Pardon?

Mr. COHEN. Do you think it is similar to transporting contraband drugs?

Mr. SCHUBERT. Well, one could make an argument that it was an instrument for carrying out illegal activity. But if this is necessary to slow down the flow and return jobs to Americans and legal aliens, I have no problem with it.

Mr. COHEN. You are recommending we do it through an administrative process, but not the judicial?

Mr. SCHUBERT. Well, certainly with judicial review available.

Mr. COHEN. That is all.

Mr. DODD. In conjunction with that, you said, if I am paraphrasing your remarks correctly, that you would support any strengthening of this act which would, of course, improve the situation.

May I fairly assume then that you would prefer to see say step 1 or 2 in fact removed from the bill—and I think the first step is included on page 4 here, where it would be just a notification to the employer, whereas step 2 is a lesser fine and step 3 being the stiffest fine—and would you like to see us eliminate those first two steps and go right at them?

Mr. SCHUBERT. I am not sure that we are prepared, without some very careful consideration and discussion of what can administratively be handled, to subscribe to that, but we are very prepared to make and to subscribe to the notion of stiffer penalties moving down the ladder that you describe with regard to the imposition of civil and criminal penalties, and we don't see anything prohibitive about such a modification.

Again, we are concerned, however, that we not make it so unpalatable that the bill will not move.

Mr. DODD. Fine. Thank you. I am sorry that I took so much time.

Mr. EILBERG. Mr. Russo.

Mr. RUSSO. Just a few questions, Mr. Chairman.

Is there any system that is set up in the Department of Labor in which you can track down the illegal aliens in the labor force today? Is there some system setup?

Mr. SCHUBERT. No; there is not, Mr. Congressman.

Mr. RUSSO. OK. You indicated on page 5 of your statement that you would favor some clear requirements in the law which would preclude the application on any discriminatory basis.

Do you have suggestions at this time?

Mr. SCHUBERT. Well, the only specific portion that I was alluding to is the notion that once we move down this track, you have to do it on an across-the-board nature. That doesn't mean that you have to necessarily apply it to everyone on a payroll as of a particular date, but you must apply it on a color, ethnic background and speech basis to all employees, for example, regardless of the color of their skin or the area of the country in which the facility is located.

Mr. RUSSO. One other question. One question on the labor certification that you referred to earlier where you indicated that after the alien is certified for a specific job, that he comes into the country and chances are he leaves that job in a short period of time.

Do you have any setup where you follow that alien to see where he has gone, and is there any procedure that you use to find out what he is doing after he leaves this job for which he is certified?

Mr. ALBERT. Well, there is no standard operating procedure under which we do that. We have really no authority to do that.

There was a study made several years ago by a gentleman by the name of Dave North, I think, and it was called the North study. As I recall it, he found that 57 percent of the aliens admitted as immigrants changed their occupations within 2 years or less after being admitted.

But, our function under the Immigration Act is over, once we have made that labor certification. The alien then, once we have done that, becomes a part of the American population, and we have no authority or power to follow him in any real fashion.

[The following additional information was submitted:]

Regarding the post-arrival labor market behavior of labor certification beneficiaries, the Department has evidence, based upon a research study, that most of them (about 57%) change occupations—not just jobs but occupations—within two years of their arrival. The study was based upon a review of visa applications of 5,000 members of the 1970 cohort of immigrants, as well as the alien address cards filed by these same immigrants in January 1972. A number of these immigrants, while staying within their original occupation, moved across county lines between 1970 and 1972, suggesting again, an extensive movement away from the jobs for which they had been certified. Of a total of 1,119 labor certification beneficiaries studied, only 313 were in the same occupation and the same county in 1972 as they had been in 1970; many of these 313 undoubtedly changed jobs, but stayed within the same occupation. Another study, of labor certified domestics in New York State, indicated rapid movement away from the jobs to which the beneficiaries had been certified. Some of these alien household workers did not even report to their prospective employer after arrival in the U.S.

Mr. EILBERG. May I interrupt?

Mr. RUSSO. Yes.

Mr. EILBERG. Mr. Russo makes somewhat of a valid criticism. Can we gentlemen agree—that is, can you agree that this is an area where the law should be changed so that you would have some control over the certified alien?

Mr. ALBERT. Mr. Chairman, I think the Canadian law does so provide that when an immigrant comes to Canada for permanent residence, that in effect his admission is conditional for a 2-year period and he has to remain in the particular type of employment for which he is admitted. It is my view, however, that under our Constitution, I don't think we could defend that unless we changed the character of that admission to a temporary admission.

The nonimmigrants clearly can be brought into the country, and their stay conditioned upon remaining in the specific employment for which they were admitted, but I have some doubt about our capacity to do that under the Constitution with respect to an immigrant admission.

Mr. EILBERG. So you are saying that it is probably unconstitutional to follow that certified alien, even though he leaves the job that he was certified to do, is that your conclusion?

Mr. ALBERT. Well, there are some court decisions that say that once an alien is admitted as an immigrant, that he is free to partake of all the benefits of our Constitution, with some very limited exceptions, which are still being adjudicated, including the right to employment and citizenship and so on.

But, it is my view that if you characterized his admission as a nonimmigrant, a temporary one, and after the 2-year period then confirmed him to an immigrant one, I think that would be defensible.

Mr. EILBERG. And would you confirm the system you just alluded to?

Mr. ALBERT. I think that is one of the alternatives.

Mr. SCHUBERT. The only question I have is is whether it is better to get rid of the process because the administrative burdens that would be imposed on top of the initial labor certification process would be found to be unduly burdensome, given the benefit—in terms of just cost/benefit analysis, given the benefits that are provided for the Government and for the society.

It seems to us—it seems to me, and speaking for the Department, that we ought to consider this very carefully before we add another burden onto this process. More appropriately, we ought to consider doing away with the certification process and limit our immigration to numbers that are passed by the Congress.

Mr. EILBERG. That is a very bold statement, Mr. Schubert, and I never thought I would hear an official of the Labor Department say that.

Mr. SCHUBERT. I was very careful at the outset to indicate this is precisely the reason we suggest we not get into this, because there will never be agreement among constituent groups, but having to live with that which Congress passes, I have to be very candid.

Mr. EILBERG. Thank you for your candor. Mr. Russo.

Mr. RUSSO. No further questions.

Mr. EILBERG. I have a few other questions about labor certification.

My understanding is that a large percentage of aliens seeking alien certification are already employed in the United States when certification is requested. Do you consider this to be a real problem? Are there any actions that can be taken to prevent this situation from occurring?

Mr. ALBERT. Mr. Chairman, I think that arises by virtue of the provision and one of the features of your bill, which would legalize the conversion of status in the Western Hemisphere from the nonimmigrant status to the immigrant status. I don't see legally, at least, that that presents any problem, that is, the alien who is legitimately here as a nonimmigrant and who the Congress, in its wisdom, has provided can convert his status to that of an immigrant.

There are certain situations where, as a nonimmigrant, he is permitted to be employed. There are others, however, where he is not.

Of course, there is always the potential that the nonimmigrant admission becomes just a vehicle for serving your waiting period in the United States, rather than in the country of your origin while you get your immigrant status. But, as long as that process is in the law, we really have no choice but to entertain a petition for the labor certification when an alien seeks to convert to the immigrant status.

Mr. EILBERG. Does the Department of Labor take any action when it denies certification to an alien who is already employed in the United States? Is INS notified?

Mr. WILLIAMS. Mr. Chairman, I am advised by our staff that that is done. There is a notice sent where we are aware of it.

Mr. EILBERG. Does the Department of Labor monitor to any extent those temporary workers who receive a labor certification and are admitted to the United States in order to determine whether they are receiving the wages indicated in the job offer accompanying the certification request?

Mr. WILLIAMS. To the extent, Mr. Chairman, that there are resources available, we do attempt to followup to see that wages and working conditions, that are indicated in the order, are adhered to.

Mr. EILBERG. You say "to the extent available"; would you try to explain and expand on that, please?

Mr. WILLIAMS. I guess the best way to explain it is—as the Under Secretary has already explained—there are many, many procedures required both at the local, State and regional office and the national office level with regard to this activity. I think in the past there has probably been, to the extent possible, and to the extent that there are people available to do this, there has been followup and necessarily it has been confined, I believe, rather than to followup on every order, confined to a sampling of orders within a State or within a local area.

Mr. EILBERG. Would you say that 10 percent of these people were followed up, or can you give us any indication of how many?

Mr. WILLIAMS. I am not aware of an exact percentage, Mr. Chairman. We will look at our information and see if we can't furnish some additional information on that for the record.

Mr. EILBERG. Do you check to determine individual- or group-certified temporary workers, to check that they depart when their job is completed?

Mr. WILLIAMS. Again, Mr. Chairman, where we are able to follow up, we do that, but again it is dependent upon the resources available, sir.

Mr. EILBERG. Again, I think the subcommittee would like to know the extent of your efforts in that regard and would like you to supplement the record, if you will.

Mr. WILLIAMS. Yes, sir.

[The following information was submitted in response to Mr. Eilberg's questions:]

In regard to temporary workers in agricultural occupations, we have an established procedure designed to assure that such workers, whether they are citizens, permanent residents or aliens, are provided the proper wages and working conditions. This procedure provides for monitoring the wages and working conditions offered by employers who seek other than individual workers. The process starts with the order placed with the State employment service for U.S. workers. Extensive recruitment is required offering prevailing wages and working conditions such as acceptable housing, transportation, food and other conditions of employment. The State agencies conduct housing inspections, conduct wage surveys, of these employers, and federal representatives conduct post audits to assure that workers on incentive or piece work have been properly paid. Both our regional office and national office staff also conduct spot checks related to conditions of employment. These procedures apply whether the employers are requesting aliens or not and likewise they apply equally to alien workers. In fact, unless the employer meets the criteria, workers are not referred at all.

As stated earlier, the number of people followed up will vary; however, all employers of aliens have been checked at one time or another. In 1974, for example, we audited payroll records of employers of foreign workers in agriculture and logging as follows:

Boston Region—1650 aliens certified; 30% of employers audited; 40% of workers covered.

New York Region—1800 aliens certified; 27% of employers audited; 35% of aliens covered.

Philadelphia Region—1400 aliens certified; 95% of employers audited; 98% of workers covered.

Atlanta Region—8000 aliens certified; 90% of employers audited; 96% of workers covered.

The amount of monitoring is expected to increase significantly as a result of the recently established Monitor-Advocate System whereby each State and each of our regional offices are responsible for checking to see that all employers of migrant or seasonal farm workers in agriculture are complying with all State and Federal laws and regulations.

In addition to the agricultural workers, we processed applications for 18,100 temporary non-ag workers in FY 1974 and approved 15,700. Of those, approximately 65% were monitored or under contract and or employed in highly unionized situations where pay and working conditions are self-monitoring for all practical purposes. For example, 3,750 were in logging occupations which are handled like the agricultural work; 4510 were in the entertainment field; 880 as athletes, most in organized sports; and 1100 in construction skills. The athletic clubs are now required to furnish post-season reports on the number of alien athletes employed as a result of temporary labor certification and other information on wages and working conditions.

Mr. EILBERG. Are there any other questions?

If not, we thank you gentlemen for appearing here today, and for the contribution you have made, and we look forward to a continuing association with you and hope that it will be considerably less than 2 years before we see you again.

Mr. SCHUBERT. Thank you, Mr. Chairman.

We will work to that end.

Mr. EILBERG. This meeting is adjourned.

[Whereupon, at 3:05 p.m., the hearing was adjourned, subject to the call of the Chair.]

ILLEGAL ALIENS

WEDNESDAY, FEBRUARY 26, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
CITIZENSHIP, AND INTERNATIONAL LAW
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m. in room 2141, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Sarbanes, Fish, and Cohen.

Also present: Garner J. Cline and Arthur P. Endres, Jr., counsels; Janice A. Zarro, assistant counsel; and Alexander B. Cook, associate counsel.

Mr. EILBERG. The subcommittee will come to order.

During today's hearing, we will continue our consideration of legislation to combat the serious illegal alien problem in the United States. This hearing has been called in order to accommodate those Members of Congress who have expressed a desire to personally appear before the subcommittee to comment on the illegal alien situation. We certainly look forward to hearing from our colleagues on this important matter and anxiously await their remarks on the illegal alien legislation, H.R. 982, which is currently being considered by this subcommittee, as well as other legislative suggestions or constructive comments they may wish to make on the overall illegal alien situation.

I hope that the Members will understand that Congressman Mario Biaggi has a subcommittee meeting at 10:30, and he has asked to be the leadoff witness this morning. I hope the other Members will be agreeable.

So I would like to introduce then our dear friend and colleague from New York, Congressman Mario Biaggi.

TESTIMONY OF HON. MARIO BIAGGI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. BIAGGI. Thank you, Mr. Chairman. I would like to thank my colleagues for being so generous and accommodating to me, because this is my maiden voyage as a subcommittee chairman, and I do not think it would be very appropriate for me to be tardy.

I am pleased to have this opportunity to testify before this committee on the problem of illegal aliens. Mr. Chairman, you and the committee are to be commended for your diligence in pursuing this issue and for providing a forum for discussion of the various legislative proposals which have been offered, including my bill, H.R. 257.

America is contending with a silent invasion of 4 million to 12 million illegal aliens. This invasion poses a dangerous threat to the economic security of this Nation and her people. It must be dealt with forcefully and quickly.

Illegal aliens are contributing to a myriad of grave social and economic problems which plague the American Nation today. Perhaps the most serious of these is the unemployment situation. Presently, more than 7 million Americans are out of work with the numbers increasing daily. We are working feverishly to restore this Nation to a semblance of economic stability, but this will take time. I have a more immediate solution, one which could provide 1 million permanent jobs for American workers. That solution is to get the million illegal aliens who are now on payrolls off and out of this country. This can be done with the passage of my bill, H.R. 257, which I will discuss shortly.

Illegal aliens contribute to a serious overburdening of State and Federal public assistance rolls. The State of California in 1972 alone spent some $100 million in welfare payments for illegal aliens. In contrast, the entire INS budget for fiscal year 1973 was only $129 million.

Illegal aliens drain the economic resources of this Nation in other ways. Many employed illegal aliens pay no taxes, send large sums of money back to their homeland, and contribute to an overall depression of American workers' wages. These practices combined cost this Nation over $10 billion annually.

The problems are well known. Let us now deal with the solutions. There have been some 47 bills introduced in the 94th Congress on the subject of illegal aliens. I feel my bill, H.R. 257, offers the most realistic approach to solving this grave national problem.

The bill is designed to achieve a twofold objective. The first is the slowing of illegal alien entry into this Nation. The second is the imposition of stiff new penalties to eliminate the primary economic incentive which lures these individuals here, namely employment.

H.R. 257 adds 2,500 new personnel to the Immigration Service Border Patrol and investigations divisions. This will allow the INS to deter new illegals from entering. More importantly, the INS will be able to resume their apprehensions and deportations of illegal aliens which in the past year, due to severe budgetary restraints, have been virtually eliminated. Anything less than an increase of 2,500 personnel will be a meaningless effort.

The INS has been understaffed and funded for much of the last 15 years. This, despite the fact that the number of illegal aliens seeking entry into the United States has increased by more than 2,000 percent in a like period. This discouraging trend is continuing. The administration's fiscal year 1976 budget request for the INS calls for an increase of only 750 personnel. The President even sought to rescind $1.3 million of the moneys appropriated for the INS for this past fiscal year. I was pleased that the Congress yesterday voted down this request.

Despite all of their budgetary and manpower problems, the INS has performed admirably. In fiscal year 1974, they were able to apprehend some 800,000 illegal aliens, a sizable increase over past years. For the past 3 years, the number of deportations increased by 71 percent.

The needs of the INS must be recognized by the Congress and the administration. They are one of our most important law enforcement units and deserved to be funded in a fashion which will allow them to control the illegal alien problem in an effective way. In my hearings in New York, INS District Commissioner Maurice Kiley flatly stated that if he were given sufficient manpower, he could free more than 100,000 jobs for workers in New York City. H.R. 982 does not provide for increased immigration service personnel despite the fact that if its provisions were adopted they could not be implemented without some increase in INS personnel.

The thrust of my legislation is directed at the employers of illegal aliens across this Nation. These unscrupulous individuals are guilty of the most vile forms of exploitation and extortion imaginable. In my New York hearings, I received testimony from actual illegal aliens who related tales of horror regarding their working conditions. These included working 7-day, 84-hour weeks for wages which came out less than $1 an hour. In some cases, illegal aliens working under similar conditions were not even paid. In El Paso, Tex., it is estimated that there are some $250,000 in back wages owed to illegal aliens.

The employment of illegal aliens often results in employers making enormous profits. Due to their greatly reduced labor costs, they are often able to bid lower on big contracts thus driving many honest contractors out of business. This point was also brought out at my hearings in New York when representatives of several major construction companies in the city pointed out that city, State and Federal agencies knowingly and regularly hire contractors who employ illegal aliens. Included among these agencies was the New York City Board of Education, and the U.S. Army which allowed a prime contract at West Point to be awarded to a contractor who had illegal aliens in his employ. I personally found four illegal alien painters employed by the board of education working in Queens, N.Y.

My bill, H.R. 257, will make it an immediate Federal crime to knowingly hire illegal aliens. The first offense would result in a $500 fine and/or 6 months in jail, the second offense, a $1,000 fine and/or 1 year in jail. H.R. 982 imposes considerably weaker sanctions against employers with only a warning served on the first offense within a 2-year period if still in violation would be assessed a civil penalty of $500 per alien. No criminal penalties would be imposed until after a third offense is discovered. This is a deficient approach, for in the time before an employer would be eligible for a criminal penalty under 982, he could continue to make large profits. In addition, for the employer who only has a few illegals in his employ, he might even find it more profitable to pay the fine and continue to employ illegal aliens. There is no deterent factor in citations or even in civil penalties. If we are to put a quick end to the employment of illegal aliens, we must impose hard-hitting and immediate criminal penalties. This is exactly what my bill does.

H.R. 257 also places the burden of proof on the employer regarding the ascertainment of an alien's legal status prior to hiring. Under H.R. 257, an employer must sign a form indicating he has read an alien's birth certificate or other appropriate immigration, naturalization or other document which verifies a claim of legality. H.R. 982 again falls far short of the mark by merely providing that an employer either make a bona fide inquiry or obtain a signed statement from

the alien indicating that he is legally able to work. The weakness of this provision of H.R. 982 and the desirability of this provision of H.R. 257 were noted in testimony before this very committee on February 4 by officials from the Justice and Labor Departments.

We cannot ignore the illegal aliens problem any longer. We cannot apply weak legislation to a problem which has grown in such severity in the past year. We must present the House with the strongest possible legislation which will address itself to solving the problem. I consider H.R. 257 to be such a bill. It is both tough and fair. Its strictest provisions are directed at those most worthy, the employers of illegal aliens whose hiring of 1 million illegals has meant 1 million less jobs for American citizens and legally admitted aliens. The bill is fair to the illegal aliens for it will prevent them from having to endure continued degradation and exploitation by their employers. It is fair to both, for it allows a 90-day grace period for employers to weed out those illegal aliens in their employ.

I maintain that my bill offers the best solution. However, I am not wedded exclusively to all of its provisions. I feel, for example, that we should make efforts to avoid the breaking up of families in deportation action. I know of several legislative proposals which contain this provision and I look with interest on possibly adopting them to my bill. The point is, we need to do something and soon. We must avoid becoming embroiled in emotional rhetoric which can only serve to obscure the real issue. The American working men and women look with great interest on this legislation, for its passage might mean the difference between a job and continued unemployment. The issue is urgent; a solution is more urgent. I offer H.R. 257 as the solution and hope for your support.

Thank you.

Mr. EILBERG. Thank you, Congressman Biaggi. And just a few questions if we may.

In your bill you provide an authorization for 2,500 additional personnel. How do you arrive at the 2,500?

Mr. BIAGGI. We have consulted with officials of the Immigration and Naturalization Service, and in the light of their past experience, as far as personnel increases are concerned, and in the light of the 2,000-percent increase of illegal aliens and of the even more acute nature of the problem, it was determined that the 2,500 would be able to do the job effectively.

Mr. EILBERG. I wonder if I could have your reaction to a bill which I had occasion to introduce January 14, H.R. 1276, which would authorize appropriations for the administration of the Immigration and Naturalization Service. In other words, an authorization bill which does not specify the number of employees, but gives us the authorization power to authorize appropriations, how would you react to that?

Mr. BIAGGI. I think I missed the last few words.

Mr. EILBERG. Would you approve of the Judiciary Committee having the power to authorize appropriations for the activities of the Immigration and Naturalization Service? You do this in effect in your bill which says there shall be an authorization for 2,500, and I am saying that we have introduced a bill which does not specify the number of needed employees, but simply gives us the authorization power to authorize.

Mr. BIAGGI. Yes, I do.

Mr. EILBERG. Whatever sum might be necessary.

Mr. BIAGGI. Yes, I do.

Mr. EILBERG. You do agree with the principle of that bill?

Mr. BIAGGI. Yes, I do. Frankly I think the Judiciary Committee is closer to the problem. There would have to be further testimony that would have to be presented to the Appropriations Committee, but at least they are dealing with a fixed figure, and you and your committee have had extensive hearings on this matter and would be in a better position to estimate the needs.

Mr. EILBERG. Mr. Biaggi, you provide penalties which are, indeed, stiffer than we provide in H.R. 982, and I would call your attention to the circumstances which existed in the 93d Congress. And it was the feeling of the subcommittee then, and I might say that since I was the chairman of the subcommittee during that period, we arrived at something that the 93d Congress would buy. In other words, that we would find support on the floor for such a measure, and we did find adequate support for it. Now, my question to you is whether you think that the mood of the 94th Congress is much different than the 93d Congress?

Mr. BIAGGI. You are probably right, and I agree with you as far as the 93d Congress is concerned. But the economy in the last 2 years had not reached the emergency state that we are subjected to today. The American labor market, the working people of America have reached almost a panic stage. They are concerned about their jobs, every segment of them, they are looking about for remedies. The administration and the Congress as well are looking about for solutions. I do not believe that there will be any single remedy to the employment problem, but this represents one significant one, and it might well be more effective and more immediate in its implementation.

I might suggest, Mr. Chairman, that the enactment of these provisions which have stiffer penalties will serve, in my judgment to do two things. One, to remedy the condition we have today, and two, which might be even more important, is discourage more employers from trafficking in human misery, many of whom make arrangements for the importation of these aliens knowing full well that they are subject them to economic slavery, and knowing full well there is no legal sanction against them. It is ironic at this stage in our history that an employer can do this without being subject to any kind of sanction, and what it will do, in effect, is discourage the alien from even thinking of coming to America for the most part where he thinks of it in terms of an opportunity to earn more money.

Mr. EILBERG. Mr. Biaggi, I would like to keep you longer, and we intend to keep you just a few minutes more. But I am notifying the other members of the subcommittee by this announcement that Congressman Biaggi has to chair another subcommittee meeting, so I am going to ask you one more question and then ask the other members to be as brief as they can so that we can dismiss you.

Mr. Biaggi, I am somewhat concerned with the requirements in your bill that the prospective employer would have to sign a form that he has read an individual's birth certificate or any other appropriate immigration-naturalization or other document. Now, considering the size of our country, the large population of the country, and

the mobility of our population, I can conceive of many, many situations where someone might have been born let us say in South Carolina and he is applying for a job in Nevada, and he may have considerable difficulty getting a birth certificate. It is possible that the job may no longer be available after this period transpires? So I wonder how practical that suggestion is?

Mr. BIAGGI. Well, none of these suggestions are ultimate, but let me respond to that. And let me respond to it in a broader sense. Though some objection has been made to the fact that the employee, prospective employee would be burdened with providing this identification, and they talk in terms of foreign born, why I do not know of any American or any individual who seeks employment today in America that is not required to fill out a form and provide some identification, provide some additional material in their background. You, Mr. Chairman, are required to do it, your assistants, your counsel has been required to do it, I am required to do it. Bank employees are required to do it, construction people are. Across the board it is a common practice. We happen to be focusing attention on it now for a particular purpose, and some people argue that it will inflict a special burden on those who have foreign sounding names or may speak with an accent. I say that is specious. It does not hold water in the light of the universal practice that has been going on in this country.

Mr. EILBERG. Mr. Sarbanes.

Mr. SARBANES. Mr. Chairman, I have no questions, but I do want to thank Congressman Biaggi for his very helpful statement and testimony, and I look forward to the opportunity of discussing this matter with him when we have some more time and at our convenience.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Just one question, Mr. Chairman.

Mr. Biaggi, under your bill, you would make it a Federal crime for an employer to knowingly hire an illegal alien. I assume that with respect to this proof of citizenship, either a birth certificate or some other form of identification, the employer would not be attesting to the validity of the document itself, but merely the fact that he had read some document?

Mr. BIAGGI. That is true.

Mr. COHEN. I assume that there will be a great deal of forgery that will also take place.

Mr. BIAGGI. That is true. I said there is no perfect, no ultimate solution. On the other side of that, currently the social security cards are being sold. We have hearings in New York, and there was testimony given that social security cards are being sold. There are people from South America that come into Puerto Rico, and establish residence in Puerto Rico, and from there they come to America as Puerto Ricans, but while they are in Puerto Rico, there are mills in Puerto Rico that produce and sell documentation to these illegal aliens. It is a very grievous situation, and as I said, I am not wedded to any of these, and we are amenable to any practical solution to deal with this very grievous problem.

Mr. COHEN. Did the Immigration Service take any action against the illegal aliens who testified before you at your hearings in New York?

Mr. BIAGGI. That was quite a very delicate orchestration. The Immigration Service, in deference to their official rank, testified first, and after they testified they left. An hour or so later the illegal aliens came in.

Mr. COHEN. One final point. I got an entirely different impression from your testimony than I did last time we had hearings, Mr. Chairman, where the implication was that many of the foreign aliens or illegal aliens are holding down very high paying jobs, and sort of are stashing away their savings and possibly might ship them back to their own countries. But your impression, at least the impression that you give me is that most of these aliens who enter illegally and are hired really engage in sort of the slave labor type of occupations.

Mr. BIAGGI. Well, if I did, I just cited a few cases. I am sorry about the impression. It was an erroneous one because the fact of the matter is that Americans have been largely laboring under that impression that illegal aliens coming into this country for a job have been subjected to employment at the lower rung of the ladder. But frankly, according to the statistics and the hearings that have already been conducted by this committee in the past, and other surveys, that is not the truth. The fact is they run the range. They are into the building trades, which is quite high pay, and into the service areas, the service areas, which frankly has an adverse impact on the minorities of our Nation. This is an area where the minorities have an opportunity to break into employment and earn some money because of the organized nature of labor, the minorities are being adversely affected by this unfair competition. And they run the range, right up to the top, and they do occupy some high-paying jobs.

I think one-third or one-quarter of those are employed at the lower rung, and the least of them are service jobs, semiskilled, skilled, and that is it.

Mr. COHEN. That is all I have, Mr. Chairman.

Mr. EILBERG. Mr. Biaggi, just one final question. What is your point of view with regards to amnesty for illegal aliens, or some adjustment of status for them as has been suggested and requested by many persons, including some church leaders? What is your answer to that?

Mr. BIAGGI. Well, I would not respond by granting total amnesty. I would talk in terms of the special situation where people have rooted by wedding and children were born. I would talk in terms of that kind of misery, that to avoid any hardship in that area, but to grant a total amnesty at this point is not to alleviate the problem. We should never lose sight of the fact that they are here illegally. There is due process for legal admission in this Nation. We have not turned our backs on immigrants, but we have a prime responsibility to Americans and to the method by which we function, and I am certain that this exodus from their lands into this country may have worked a hardship on those waiting to legally enter into this country. You would be more familiar with that, Mr. Chairman, but what you would be doing, in fact, is rewarding illegal conduct on a wholesale basis. And I would not go along with blanket amnesty. I would think in terms of more humane, and talk in terms of as the standards your committee would utilize, families, breaking up of families, that we would avoid that, and children who are born here, and well, let us at that point make the exception.

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You will find many of those, by the way, will come within that area. But to grant blanket amnesty, I do not think I could support it, and I do not think Americans could, but they would understand a more compassionate view.

Mr. EILBERG. Congressman Biaggi, we want to thank you very much and apologize for holding you past 10:30. I know how anxious you are to get to your subcommittee meeting.

Mr. BIAGGI. I want to thank the chairman of the committee and my colleagues again for permitting me to testify out of order. And I would like for the record, I have a more extensive statement that I have given to each member, and I would like to leave that for the record.

Mr. EILBERG. Without objection, it will be made a part of the record.

[The prepared statement of Hon. Mario Biaggi follows:]

STATEMENT OF HON. MARIO BIAGGI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I am pleased at this opportunity to testify before this Committee on the problem of illegal aliens. Mr. Chairman, you and the Committee are to be commended for your diligence in pursuing this issue, and for providing a forum for discussing the various legislative proposals which have been offered, including my bill, H.R. 257.

America is contending with a silent invasion of four to twelve million illegal aliens. This invasion poses a dangerous threat to the economic security of this nation and her people. It must be dealt with forcefully and quickly.

Illegal aliens are contributing to a myriad of grave social and economic problems which plague the American nation today. Perhaps the most serious of these is the unemployment situation. Presently, more than seven million Americans are out of work with the numbers increasing daily. We are working feverishly to restore this nation to a semblance of economic stability but this will take time. I have a more immediate solution, one which could provide one million permanent jobs for American workers. That solution is to get the million illegal aliens who are now on payrolls, off and out of this country. This can be done with the passage of H.R. 257.

By means of background, an illegal alien is someone who has entered this country by bypassing our inspection stations or who, after entering on say a visitor's visa remains beyond his authorized term.

As mentioned, estimates as to the number of illegal aliens range from four to twelve million. The massive numbers of illegal aliens is a relatively new phenomenon. Net immigration has grown from 365,000 (mostly legal) in 1965 to 1,482,000 (mostly illegal) in 1973. What this latter figure means is for the first time in history the number of immigrants—legal and illegal entering this nation exceeded the number of Americans born. Further, while natural born Americans enter as babies, most immigrants enter as adults seeking immediate employment. A great majority of illegal aliens are now migrating to our major metropolitan areas. In the New York Metropolitan Area alone, there are some 1.3 million illegal aliens.

What effects do illegal aliens have on this nation? Without question it is a decidedly negative one. I would like to discuss some of the areas where illegal aliens are having their most serious effects.

EMPLOYMENT

The illegal alien problem is primarily an economic one. The major impetus behind this illegal migration is the severe economic imbalance which exist between the United States and those nations from where illegal aliens come from. Aliens from Caribbean nations are attempting to escape from the dire poverty which exists in that area. Mexico, which is responsible for more than ¾ of the total illegal alien population in the United States has an unemployment rate of between 25 and 40 percent. Approximately 25 percent of the 1973 Mexican population of 56 million had no reportable income, while another 25 percent had incomes of only $400. Therefore, despite our own problems, the United States still serves as a magnet luring the poor and oppressed with its many job opportunities and overall prospects for a better life.

Illegal aliens occupy more than one million jobs and earn as much as $10 billion yearly according to the Immigration Service and the Labor Department. Specific breakdowns include 135,000 employed in Los Angeles, 106,000 in New York, 79,500 in Chicago and 20,000 in Detroit. Included among the one million jobs held by illegal aliens are 335,000 Agricultural, 315,000 in industry, and 301,000 in services. All these are jobs that could and should be held by American workers who instead are forced to collect unemployment compensation or public assistance.

This is perhaps the most intolerable aspect of the illegal alien problem. When we consider that more than seven million Americans are enduring the agony of unemployment, the fact that one million illegal aliens are employed is disgraceful and the return of these jobs to American workers should be of utmost importance to the Congress.

A related aspect is that the one million illegal aliens employed contribute to an overall depression of American workers wages estimated to be as high as $10 billion.

The illegal alien also suffers. By virtue of their being in violation of the law, they are forced to suffer the most vile forms of exploitation and extortion at the hands of unscrupulous employers. During recent Congressional hearings I held in New York City, I received testimony from actual illegal aliens who related tales of horror regarding their working conditions. These included 7 day, 84 hour weeks for salaries which came to less than $1.00 an hour. There are other illegals working under similar conditions, who are not even paid. A recent investigation by Mr. John Pecoraro, Legislative Director of the Brotherhood of Painters and Allied Trades disclosed that in El Paso, Texas, there were some $250,000 in back wages owed to illegal aliens.

The employment of illegal aliens often result in employers making enormous profits. Due to their greatly reduced labor cost, they are often able to bid lower on big contracts thus driving many honest contractors out of business. This point was also brought out during my hearings in New York when representatives for several major construction companies in the City pointed out that city, state and federal agencies knowingly and regularly hire contractors who employ illegal aliens. Included among these agencies was the New York City Board of Education and the United States Army which allowed a prime contract at West Point to go to a contractor who had illegal aliens in his employ. I personally found four illegal alien painters employed by the Board of Education working in Queens, New York.

ILLEGAL ALIENS AND WELFARE

Illegal aliens contribute to a serious overburdening of Federal, state and local public assistance programs. While there are no accurate estimates as to the number of illegal aliens on welfare, it is safe to say that they number somewhere in the millions. In California, alone for the year 1972, $100 million was spent on welfare benefits to illegal aliens. In contrast, the entire INS budget for FY 1973 was only $129 million.

There are two key causes of this problem. The first are the vague and ineffective state and federal laws governing eligibility for public assistance. According to testimony provided in hearings before this same Committee in 1972, in most states all that must be established to obtain public assistance is need and residency within the States. Further in 1971, the Supreme Court ruled that an alien could not be denied a particular benefit because he was a non-citizen. They did not distinguish between a legal and illegal alien.

The lack of cooperation between INS and local welfare agencies further aggravates the problem. In many instances local welfare agencies fail to provide the INS with sufficient information about known illegal aliens collecting welfare. In some states where the problems are acute such as New York and California, some improvement in cooperation have been noted. The fact remains that much more is needed and additional INS personnel such as are provided for in H.R. 257.

ILLEGAL ALIENS AND TAXES

Similarly, according to Immigration Service Commissioner Leonard Chapman, illegal aliens pay little if any taxes, while receiving all basic public services paid for by American workers. A related aspect of this problem is the fact that illegal aliens by virtue of not paying taxes are able to accumulate large sums of money which is oftentimes mailed out of the country to friends and relatives in the homeland. The General Accounting Office estimates that as much as $8 billion a year is taken from our economy through these practices. Examples were uncovered across the nation. In New York City, in cases where illegal aliens were success-

fully apprehended, of a sample 819 illegal aliens, 113 were found to be in possession of cash totaling some $345,000. One alien had been in the United States illegally for six years earning $259 a week and had sent some $40,000 to his native country.

Again, as in the case of welfare, there is a distinct lack of cooperation between the INS and the IRS in both reporting illegal aliens and in insuring that departing illegal aliens pay overdue federal taxes. What is needed is better organization on the part of the INS and IRS to develop criteria under which those illegal aliens scheduled for deportation are assessed a bill for overdue taxes. Further, when IRS receives word about the presence of illegal aliens, INS should be notified immediately so that deportation actions can begin.

A great number of illegal aliens enter this nation as crewmen on ships. Recent disclosures have uncovered two other areas of concern concerning illegal aliens. There are increasing indications that some of the crewmen on these ships are coming from Red China thus presenting this nation with a new and potentially dangerous subversive element to contend with. In addition a great quantity of illegal drugs from marijuana to heroin are smuggled in on these ships thus contributing to the drug abuse problem and the illegal drug trafficking in this nation.

What is needed to solve the illegal alien problem? There are two fundamental needs, more personnel for the Immigration and Naturalization Service to apprehend and deport illegal aliens, and stiff new penalties to eliminate the incentive for employing illegal aliens.

I have introduced legislation to deal specifically with these two points. My bill, H.R. 257, would increase the Border Patrol and Investigations Branch of the INS by 2500 men. This will practically double the INS strength in these areas and will substantially increase both the apprehensions and deportation of illegal aliens.

The INS is in the midst of a severe budgetary and personnel namely to prevent illegal alien entry, locate and deport illegal aliens already here. Yet due to her present budgetary and personnel problems the INS Commissioner was recently forced to issue an operational directive which stated that the INS would be forced to now place apprehension and deportations on a very low priority, and only by transferring personnel from other offices would the INS be able to deter some new illegal aliens from entering. A specific casualty under this new directive are area control apprehensions which are responsible for locating and deporting illegal aliens in our major cities. The INS has repeatedly stated that were there adequate funding and manpower available for area control operations, the numbers of additional aliens they could locate and deport would number in the millions. In my hearings in New York, District Commissioner, Maurice Kiley, flatly stated that if additional personnel could be provided to him he could free more than 100,000 jobs for New York workers. As mentioned, my legislation, H.R. 257 provides for 2500 additional INS personnel. H.R. 982, has no similar provision.

INS current fiscal problems have been building over the years. In the past 14 years, the Border Patrol, INS's most important enforcement unit has been increased by less than 20 percent while estimates of the number of illegal aliens seeking entry has increased by 2000 percent in the same period. Despite their budgetary problems, the INS has performed admirably. In fiscal year 1974, they were able to apprehend 800,000 illegal aliens. In the past ten years, their apprehensions of illegal aliens has increased by 1380 percent, and in the last three years deportations have increased by 71 percent.

In light of the increasing severity of the illegal alien problem, I consider it imperative that we provide the INS with this additional personnel. It must be provided for the INS to deal with the illegal aliens here today and to deal with projections that the numbers of illegal aliens seeking entry will double by the year 1980.

The trend against the INS continued as reflected in the President's Fiscal Year 1976 budget for the INS which only provides for 750 additional personnel. In fact, the President recently sought to rescind some 1.3 million dollars of the monies appropriated for the INS in FY 1975. I view the Congress' rejection of this rescission as a positive sign that in the future the INS's needs will be better responded to.

The provisions in my bill for the additional INS personnel have been endorsed by former Attorney General Saxbe, INS Commissioner Chapman, as well as the Subcommittee on Legal and Monetary Affairs, and a number of newspapers including the New York Daily News. In the words of your Chairman, Mr. Rodino, "The Immigration and Naturalization Service must be recognized as one of our most important law enforcement agencies and must be accorded sufficient manpower and funding to do an effective job."

The second key provision of my bill, H.R. 257 makes it an immediate federal crime for an employer to knowingly hire an illegal alien. Under my bill a first offense would result in a $500 fine and/or 6 months in prison, the second offense, a $1000 fine and/or 1 year in jail. Only immediate and tough criminal penalties will do if we are to stop employers from hiring and exploiting illegal aliens. H.R. 982, which passed the House each of the last two years, will do little more than say, "TSK, TSK" to the employers of illegal aliens. He would only have to contend with a citation for the first offense and if a second violation is uncovered within two years then a civil fine of $500 per alien could be imposed. Only after a third violation is uncovered would an employer be eligible for a criminal penalty under H.R. 982. This approach is deficient. There is no deterrent factor in a $500 per alien fine for an employer. In the two years he was to correct a violation he can accumulate the necessary money to pay this fine and then some for his employment of illegal aliens at substandard wages. Further in the event that he has only a few illegals in his employ, it would be worth it just to pay the fine and continue to make a profit from their work. The immediate criminal penalities are the only real way to end these practices.

Under my bill an employer must also make a greater effort to accurately determine an alien's legal status. An employer must first obtain and then sign a form which indicates that he has read an alien's birth certificate or other appropriate documents to verify a claim of legality prior to hiring. H.R. 982 only requires that an employer either make a bona fide inquiry or obtain a signed statement from the alien indicating legal status prior to hiring. The weakness of this provision of H.R. 982 and the desirability of the provisions of H.R. 257 as an alternative were noted in hearings before your Subcommittee on February 4th by officials of both the Justice and Labor Departments.

There is little doubt that sanctions must be imposed against employers to prevent the future hiring of illegal aliens. None exist now. However, if we are to impose sanctions let's not have mere window dressing. Without hardhitting and immediate criminal penalties the heinous practices associated with the employment of illegal aliens will continue and expand.

The need for criminal penalties is clear. After a six month investigation of the illegal alien problem a Federal Grand Jury in California they concluded, "Laws making it a crime to knowingly hire illegal aliens would be a major step toward diminishing the magnitude of the problem."

The Southwest Regional Commissioner of INS, Leonard Gilman expressed the opinion in 1972 that if sanctions against the employers were enacted "in my opinion . . . 80 percent of our problem would be over."

We cannot ignore the illegal alien problem any longer. In the words of INS Commissioner Chapman "The Immigration Service is wholly unable to cope with the problem and unless adequate resources and legislation are forthcoming almost immediately, the flood of illegal entries we are now experiencing will become a torrent. I want to emphasize my strong belief that we are poised on the brink of what could become a national crisis unless some actions are taken very soon."

The concept of America being the great melting pot is today being abused. Our nation grew strong and owes a great deal to the millions of legal immigrants who came over in times of need and worked hand in hand with Americans for the betterment of this nation.

Today we are dealing with a new and entirely different entity, the illegal alien, whose entrance into this country has only contributed to the grave economic and social problems we must now confront. It is safe to say that the illegal alien has weakened rather than strengthened our nation.

Let us continue to extend open arms to those from other lands who are willing to become American citizens, abide by our laws and work to improve the quality of life in this nation.

But let us quickly close the door on the millions of illegal aliens who are seeking to gain entry into this nation purely to drain the economic lifeblood of this nation and her people.

[The bill referred to, H.R. 257, follows:]

94TH CONGRESS
1ST SESSION

H. R. 257

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. BIAGGI introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide penalties for certain persons who employ, or who refer for employment, aliens who are in the United States illegally, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended—

(1) by striking out in subsection (a) (4) the following: ": *Provided, however,* That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring";

(2) by redesignating subsection (b) as subsection (c); and

(3) by adding after subsection (a) the following new subsection:

"(b) (1) No person may employ in the United States or refer for employment in the United States any alien who has not been lawfully admitted to the United States for permanent residence. However, a person shall be deemed not to have violated the first sentence of this subsection if, before he employs an individual or refers an individual for employment, he—

"(A) obtains a form signed by the individual to be employed or referred for employment stating that he is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

"(B) signs a form which states that he has read such individual's birth certificate or any other appropriate immigration, naturalization, or other document which validates such individual's statement under subparagraph (A).

The Attorney General shall, by regulation, prescribe the forms to be used under subparagraphs (A) and (B) and he shall provide such forms to any person, upon request, for use under such subparagraphs.

"(2) Any person who employs or refers for employment an alien in violation of paragraph (1) of this subsection (A) shall be fined not more than $500 or imprisoned for not more than six months, or both, for the first such employment or referral, and (B) shall be fined not more than $1,000 or imprisoned for not more than one year, or both, for each such subsequent employment or referral.".

SEC. 2. Before the end of fiscal year 1975, the Immigration and Naturalization Service shall increase its personnel by two thousand five hundred over the level of personnel existing on the date of enactment of this Act. Such increase in personnel shall occur only in the United States Border Patrol and in the Investigations Branch of the Immigration and Naturalization Service. There are authorized to be appropriated whatever sums as may be necessary to carry out this section.

SEC. 3. The amendments made by the first section of this Act shall take effect on the ninetieth day after the date of enactment of this Act, and such amendments shall only apply to any alien who becomes employed or who is referred for employment on or after such ninetieth day.

Mr. BIAGGI. Thank you.

Mr. EILBERG. Next, I would like to welcome our colleague, the Honorable B. F. Sisk. Congressman Sisk, would you kindly come forward.

TESTIMONY OF HON. B. F. SISK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. SISK. Mr. Chairman, I certainly appreciate the opportunity to appear before your committee to discuss the critical illegal alien problem and the various proposals which have been put forth to alleviate it, and particularly your proposal, H.R. 982.

I think there is basic agreement that we will never begin to stop the flow of illegal aliens to this country until we remove the economic incentive which draws him here in the first place. Most employers do not go out and recruit illegal aliens and most do not knowingly hire them, but the fact remains that illegal aliens can be found in every area of the country and in nearly every line of work, regardless of whether or not their illegal status was known at the time they were hired.

The solution to the problem as I see it then, is to stop employers from hiring illegal aliens, whether knowingly or unknowingly, but at the same time insure that in the process we do not subject American citizens and legal resident aliens to discrimination, or impose unreasonable requirements on an employer—requirements which cannot only be more efficiently met by Government agencies, but which, I feel, legally should be handled by the Government.

I do not see how all three of these objectives can be accomplished by H.R. 982 or the stronger proposal offered by the Department of Justice through the testimony before this subcommittee on February 4 of Acting Attorney General, Laurence H. Silberman.

For the life of me I cannot see what is to stop the illegal alien who has already risked a great deal to get into this country, from signing a statement indicating that he or she entered the United States legally, as presumably would be required under H.R. 982. And what happens to that when it is obtained? Is it submitted to an already overburdened Immigration and Naturalization Service? Even if Congress agrees to grant the INS the increased funding recommended by the President in his budget, I see little prospect for any immediate large-scale improvement in the Service's capabilities. Nor can I see the three objectives I have cited being accomplished by asking employers to do the work which should be done by Government authorities—requiring documented proof of U.S. citizenship or legal resident status as the Department of Justice has proposed. Counterfeit birth certificates, voter registration cards, social security cards, drivers licenses and green cards are used all the time by illegal aliens and even our experienced immigration authorities can be fooled by them. Yet, it is proposed that we ask employers, large and small, to become experts in determining the citizenship or alien status of a prospective employee through the examination of a wide variety of documents which might be used for that purpose.

A few months ago a member of my staff applied for a passport and submitted what she thought was the best proof of her citizenship—

her original hospital birth certificate. It was unacceptable, according to officials in the Passport Office, because such certificates could so easily be fraudulently produced. Fortunately, she was readily able to obtain the State certificate, but I mention her experience only to point to the burdens such a requirement would impose on employers and employees alike. What happens if the employer does not like the looks of the documentation presented by the prospective employee? Does he hire the applicant anyway or refuse to do so on the basis that he suspects fraudulent documentation has been presented? Can the employer use the excuse of suspected fraudulent documentation to cover his own racial or ethnic prejudice?

As you know, Mr. Chairman, for several years now I have favored an approach to this problem which would utilize the social security system. Public Law 92–603 requires, in effect, that no alien be furnished a social security account number unless he has first submitted documentary evidence to establish his lawful admission to the United States for permanent residence or under conditions permitting him to engage in employment in the United States. I understand that the Immigration and Naturalization Service has developed a tamper-proof, plastic identity card to be carried by all legal aliens and that it plans to test it in the near future. I see no reason why such a card cannot be adapted for use by the Social Security Administration, with special markings, if necessary, to designate those persons not legally entitled to work in this country.

Employers would be required to check the prospective employee's social security card and perhaps some other evidence of identity, not his citizenship or alien status. If you or I wish to cash a personal check at some business establishment, we are usually asked for some identification. An employer could simply ask to see the individual's social security card and some other evidence of identity to insure that the holder of the card is the person he says he is. Not only would the employer be spared the time and effort of inspecting various documents, most of which may be easily altered, but the prospective employee would be spared needless questions about his citizenship or lack thereof.

Yesterday I introduced legislation to implement this proposal, H.R. 3737, but since it amends the Social Security Act, it was referred to the Ways and Means Committee. While I realize that your subcommittee is unable to deal with that bill directly, I would hope that you would weigh the proposal carefully in your deliberations here and perhaps recommend that we move toward such a procedure as the most acceptable and equitable long-range solution.

I realize that the social security approach cannot be implemented immediately, particularly since the Social Security Administration is having such difficulty keeping up with the responsibilities it already has. But I urge this subcommittee to use its influence to give this proposal the serious consideration I feel it deserves.

In the meantime, of course, we are faced with an ever-rising flood of illegal aliens. We in the Southwest have been all too aware for many, many years now of the economic and social burdens of coping with illegal aliens. As you know, I represent a portion of the vast, fertile San Joaquin Valley of California which at one time brought in vast numbers of braceros to harvest its many crops. When the pro-

gram was terminated, more and more illegal aliens began flooding the valley, and in recent years I have received an ever-increasing number of complaints from American citizen and legal-resident alien farmworkers who cannot find work. I have a letter here from the Acting Chief Patrol Agent from the Libermore Border Patrol sector in California which indicates that the Fresno Station, whose area of responsibility covers the counties of Tulare, Kings, Fresno, Mariposa, Madera, and Merced, has an authorized strength of 13 officers. During fiscal year 1974, Fresno officers located 11,424 deportable aliens. Although the greatest portion were employed in agriculture (10,176), this may very well be attributed to the fact that with its limited capabilities, the Border Patrol must concentrate its efforts on those locations where it expects to find large groups of illegal aliens.

And departing from my statement briefly, Mr. Chairman, in discussing this particular matter with the Department last year, they frankly said to me we simply are so limited in manpower, and the demands are so great because of the vast number of illegal aliens that we must go where there are large groups in order to get as many out as possible. And we cannot go into the business establishments because of the problems we have with a lack of manpower. And this just indicates some of the problems.

Getting back to my statement now, however, just last year the head of the Immigration Office in Fresno told me he estimated that 90 percent of the business establishments in the city of Fresno had illegal aliens in their employ. And again, Mr. Chairman, departing from the statement, they simply did not have the manpower to go in and check these people. They went to where they had the large groups.

Crime attributed to the illegal alien is increasing. The Border Patrol tells me that it is receiving continuing complaints and requests for assistance from local law enforcement officials throughout the San Joaquin Valley. Above and beyond the illegal aliens apprehended by the Border Patrol, the two investigators working out of the Fresno INS Office last year located a total of 1,398 deportable aliens. Of that total, more than half were taken from the Fresno County Jail, and the majority of those had been arrested for vehicle driving violations.

This brings me to another subject, the tremendous burden imposed on local governments in furnishing essential medical care to illegal aliens. As you know, in the 92d, 93d, and again in this Congress, I introduced legislation which would require the Federal Government to reimburse local governments and hospitals for the costs incurred in providing just emergency medical care to illegal aliens, provided the cost could not be recovered from the alien or from some public assistance program.

The problem first came to my attention several years ago when the small county hospital in Merced, Calif., came to me for help in getting an illegal alien, who had been critically injured in a automobile accident, transferred to a hospital in Mexico or to a Public Health Service Hospital. We discovered that the Public Health Service would accept the patient if a request were made by an interested Federal Government agency. In this case the request would have to come from the Immigration and Naturalization Service. The INS took the position

that it would not accept jurisdiction over the alien until he was well enough to return to his own country, and it would not request the Public Health Service to treat the alien because it did not have jurisdiction over him. Not unless the illegal alien is injured or otherwise in need of emergency medical care while actually in the custody of the INS will that agency utilize the provisions of the Public Health Service Act to provide for treatment in PHS public health facilities. In the end, the county of Merced paid approximately $76,000 for medical care for the above-mentioned illegal alien, almost its entire medical budget for the year.

We checked with other California counties and found that the problem was widespread. Over $2 million was spent last year in providing emergency medical care to illegal aliens by San Joaquin Valley hospitals, and the county of Los Angeles alone spent over $8 million on this one problem.

It is my hope, Mr. Chairman, that your subcommittee will give my bill, H.R. 2159, serious consideration once the necessary legislation has been passed to stop employment of illegal aliens, so that hard-pressed local governments can obtain some measure of relief from the tremendous financial burden they now must morally and legally carry in treating indigent illegal aliens.

Finally, I would like to call your attention to an article which recently appeared in the Los Angeles Times, "Illegal Aliens Target of Union Organizers." For years I have heard rumors, some verified, some not, that the Border Patrol was apprehending illegal aliens who held UFW and Teamster ID cards. And the UFW, by the way, is the Caesar Chavez union, as you know. But this is the first indication I have seen that union organizers are actually engaged in an all-out effort to organize illegal aliens. According to this report, and I have copies of the story, the headlines out of the L.A. Times, "Officials of the International Ladies Garment Workers Union decided to start unionizing aliens because garment manufacturers persist in hiring them and U.S. Immigratation authorities claim they do have the manpower to deport most of them." The Assistant District Director of the INS in Los Angeles noted that it is no more illegal for unions to organize illegal aliens than for employers to employ them, but he also said: "I can't say that we condone either practice."

[The article and letter referred to above follow:]

[From the Los Angeles Times, Jan. 30, 1975]

ILLEGAL ALIENS TARGET OF UNION ORGANIZERS

GARMENT WORKERS BREAK LABOR RANKS, BLAME IMMIGRATION AND HIRING POLICIES

(By Frank Del Olmo)

For the first time, the garment workers union is publicly campaigning to organize illegal aliens in Los Angeles' garment industry.

Officials of the International Ladies Garment Workers Union said Wednesday they decided to start unionizing aliens because garment manufacturers persist in hiring them and U.S. immigration authorities claim they do not have the manpower to deport most of them.

The new ILGWU policy marks one of the first breaks in the heretofore united stand U.S. labor unions have taken against the employment of illegal aliens by American industry.

"If the immigration service is not going to do anything (about illegal immigrants), then we have no choice but to try to organize them," said Cornelius Wall, regional director of the ILGWU.

Wall said the first test of the new organizing policy is a relatively small ILGWU strike at High Tide Swimwear, 3131 S. Broadway.

The labor dispute at High Tide, a subsidiary of Warnaco, Inc., which also manufactures Puritan sportswear, Hathaway shirts and White Stag womens wear, began Jan. 20.

Although the swimwear manufacturer is not officially unionized, ILGWU supporters walked out of the plant, charging the company with 2 unfair labor practices.

ILGWU officials claim union sympathizers had been threatened by supervisors with dismissal unless they ended their organizing activities.

The company employs about 150 garment workers at the peak of its nine-month manufacturing season. ILGWU claims to have signed authorization cards from more than 90 of the striking employes.

The union has petitioned the National Labor Relations Board to order a union representation election. A hearing on the petition has been set for Feb. 14.

In the meantime, union officials charge, the strike is being broken mostly by illegal aliens who have filled the jobs left by the workers who walked out.

Ironically, ILGWU officials readily admit that the majority of the workers they were organizing inside the plant before the strike started, and who signed union authorization cards, also are illegal aliens.

"This is the type of company that exists on undocumented workers," said Danny Perez, ILGWU's chief organizer at the High Tide, "90% of the workers in there were undocumented."

("Undocumented workers" is the phrase used by Mexican-American activists to refer to illegal aliens. They claim the term "illegal alien" carries negative connotations.)

"Most of the strikebreakers in there are also undocumented," Perez added.

No company officials would comment Wednesday on the labor dispute or the union's charges that High Tide regularly employs illegal aliens. A secretary said company executives authorized to comment publicly were out of town and not available.

Joseph Dernetz, assistant district director in Los Angeles for the U.S. Immigration and Naturalization Service, confirmed Wednesday that ILGWU officials had asked INS to investigate the alleged use of illegal aliens as strikebreakers at High Tide.

He said the local INS office does "not have the manpower to survey the place and determine how many aliens might be in there."

Dernetz added that if INS investigated High Tide, "we would also survey the picket lines outside to see how many illegal aliens might be there."

It is no more illegal for unions to organize illegal aliens than for employers to employ them," Dernetz said. "But I can't say that we condone either practice."

INS officials have pressed Congress for the last two years to pass a federal law that would make it illegal to employ illegal aliens. Labor lobbyists have been among the strongest supporters of the proposed legislation.

Historically, labor unions have favored tough immigration laws, arguing that alien workers take jobs that might otherwise go to U.S. citizens and depress wages and working conditions because they demand less than U.S. workers.

However, the ILGWU's Wall said this condition may be changing, and illegal aliens may now be "organizable."

"Many aliens have lived here for a while, and as they get used to our standard of living, they start making demands for higher wages," he said.

In addition, he said, many illegal aliens may be less fearful—and less subject to intimidation by employers—because of a new immigration service policy on arresting aliens.

Late last year, INS officials announced that the agency would concentrate most of its manpower in border areas to intercept illegal aliens before they can establish themselves in the country.

This has resulted in a downgrading of effort to track down illegal aliens in urban areas like Los Angeles. Manpower has been reduced and budgets have been cut back in many INS offices away from border areas.

U.S. Department of Justice
Immigration and Naturalization Service
U.S. Border Patrol
Pleasanton, Calif., January 28, 1975.

Mrs. Betty Cornelious,
District Representative,
Congressman B. F. Sisk
Federal Building,
Fresno, Calif.

Dear Betty: Reference our telephone conversation of January, 27 1975, the following is statistical data from the Livermore Border Patrol Sector which hopefully will be helpful to Congressman Sisk in his upcoming testimony before the Immigration subcommittee.

First, I would like to outline our area of responsibility. The Livermore Border Patrol Sector is responsible for immigration violations in the 49 counties of Northern California commencing with Kern County and going north to the Oregon border. We have officers stationed at Bakersfield, Fresno, Salinas, Stockton, Livermore and Sacramento. All immigration violators in this area are our responsibility except for those in the cities of Fresno, Sacramento, San Francisco and Oakland. These cities are under the jurisdiction of the District Director and Officers in Charge.

In this area during fiscal year 1974, the Border Patrol located 39,640 illegal aliens. 29,105 of these illegals were employed in agriculture. 2,476 were employed in industry. Of the total 79.60% were employed at time of arrest. In calendar year 1974, 46,717 illegal aliens were located in our Sector. (See attached charts.) The authorized officer force of the Livermore Sector is 71 officers; half of what is needed to do an efficient job.

The Fresno Station's area of responsibility, which takes in most of Congressman Sisk's Congressional District, has the responsibility for immigration enforcement in the counties of Tulare, Kings, Fresno, Madera, Merced and Mariposa. This station has an authorized strength of 13 officers. During fiscal year 1974, Fresno officers located 11,424 deportable aliens. 10,716 were employed in agriculture. 451 were employed in industry. 319 were seeking employment. 417 were found in institutions (jails, hospitals, etc.) and 61 were in travel. The 1974 calendar year figures for the Fresno Station's area of responsibility were 14,433, an increase of 3,409 over calendar year 1973. (See attached charts.)

These large numbers of illegal aliens in your Congressional District and throughout San Joaquin Valley are creating serious problems for our local communities. Crime attributed to the illegal alien is increasing. We are receiving continuing complaints and requests for assistance from local law enforcement officials throughout the San Joaquin Valley. Income tax unpaid by these illegals without a doubt runs into millions of dollars yearly. As an example, our Service last year over a 3-month period conducted a pilot program with the Internal Revenue Service during which time we referred to IRS 1,700 illegal aliens whom we suspected as tax dodgers. From this small number of aliens, IRS assessed total taxes of a quarter-of-a-million dollars and was able to collect $168,000 of the amount due. This evasion of income tax payment is possible by the claiming of large numbers of dependents. One 18-year-old boy was arrested recently who had claimed a total of 18 dependents on his W–4 form.

Medical care for illegal aliens in the valley was estimated by Ron Taylor, staff writer of the Fresno Bee, in a recent article as costing the San Joaquin Valley taxpayers $2,000,000 a year. The County Administrative Officer, Fresno County, estimated that it cost the county of Fresno $800,000 out of their 1974–75 budget to care for illegal aliens. The cost in other valley counties is also running high. (See attachments.)

As you know, in 1973 the California State Social Welfare Board estimated the cost of welfare payments to illegal aliens to be at least $1,000,000 a year. On December 24, a Superior Court judge in California ruled that aliens may receive welfare in the State without proving they are legally in this country, unless they have been ordered deported. We estimate there are in excess of 1,000,000 illegal aliens in California and that 120,000 of these illegals are in our area of responsibility, so you can readily judge what impact this decision will have on welfare costs in our State. One could add to these costs the cost of services, including schools and other municipal functions, which are utilized by the illegal alien without paying a share of the expense and you begin to see the seriousness of the situation.

I hope the above statistics and comments will be helpful to Congressman Sisk and would like you to express our appreciation to the Congressman for his continuing interest in our problems of immigration law enforcement in Northern California.

Sincerely,

HERBERT E. WALSH,
Acting Chief Patrol Agent.

1974	Bakersfield	Fresno	Livermore	Sacramento	Salinas	Stockton
January	485	752	223	289	235	280
February	440	521	153	180	202	315
March	835	933	316	336	333	494
April	610	1,650	252	539	501	554
May	1,149	1,222	434	563	450	853
June	1,092	1,293	243	559	428	780
July	1,064	1,534	402	679	511	887
August	920	1,888	309	930	560	857
September	952	1,502	330	537	527	846
October	962	1,047	334	519	602	881
November	809	1,056	340	466	518	585
December	688	935	182	303	354	407
Total	10,006	14,333	3,518	5,900	5,221	7,739

	Sector					
	1969	1970	1971	1972	1973	1974
January	973	1,105	1,146	1;575	2,512	2,264
February	871	995	1,189	1,382	2,288	1,811
March	1,010	1,305	1,684	1,411	2,648	3,247
April	1,232	1,479	2,039	1,471	2,541	4,106
May	1,302	1,588	2,246	1,818	3,074	4,671
June	1,640	1,520	2,508	2,573	3,316	4,395
July	1,633	2,029	4,371	2,881	3,225	5,077
August	1,815	3,231	3,180	3,614	4,029	5,464
September	1,747	2,784	2,585	3,354	3,532	4,694
October	1,457	2,173	2,675	3,084	3,401	4,345
November	1,288	1,611	2,429	2,616	3,005	3,774
December	964	1,221	1,685	1,777	1,954	2,869
Total	15,932	21,041	27,737	27,556	35,525	46,717

	Bakersfield			Fresno			Livermore			Sacramento			Salinas			Stockton	
	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972
January	283	292	322	190	565	1, 190	148	149	177	198	132	248	135	168	202	192	269
February	272	259	455	223	450	746	181	153	206	165	129	248	163	184	291	185	207
March	409	240	524	382	517	858	195	147	230	282	138	287	180	184	327	236	185
April	372	216	427	536	478	1, 013	187	134	155	357	181	330	223	201	231	364	261
May	362	290	602	557	471	859	251	148	271	321	241	392	248	301	400	507	367
June	434	441	491	438	799	1, 205	216	266	221	414	330	406	412	288	364	594	449
July	623	456	404	1, 640	774	912	203	260	330	604	570	497	441	307	486	860	514
August	403	465	774	918	1, 024	947	233	274	362	526	683	559	438	464	600	662	704
September	486	581	599	505	782	807	301	201	233	284	514	395	456	422	443	553	854
October	525	561	652	502	802	906	203	165	213	342	340	412	417	443	443	686	773
November	463	553	835	594	737	851	220	227	195	303	352	399	307	268	300	542	479
December	332	308	536	559	650	630	190	169	136	133	178	214	184	180	191	287	292
Total	4, 964	4, 662	6, 621	7, 044	8, 049	10, 924	2, 528	2, 293	2, 729	3, 929	3, 788	4, 387	3, 604	3, 410	4, 278	5, 668	5, 354

	Sector						
	1962	1963	1964	1965	1966	1967	1968
January	166	135	135	315	371	527	693
February	80	97	127	214	397	593	725
March	125	139	171	335	655	869	935
April	128	158	205	392	613	1, 202	1, 132
May	211	197	262	478	751	1, 520	1, 630
June	127	226	386	700	944	1, 097	2, 286
July	166	250	363	859	1, 175	1, 270	2, 806
August	270	261	373	817	1, 329	1, 903	3, 762
September	230	254	473	1, 444	1, 328	2, 503	3, 171
October	325	304	894	1, 008	1, 690	1, 940	2, 758
November	192	204	324	355	722	750	1, 094
December	933	153	182	198	475	597	812
Total	2, 113	2, 378	3, 895	7, 115	10, 450	14, 771	21, 804

COUNTY ADMINISTRATIVE OFFICE,
Fresno, Calif., July 23, 1974.

To: Board of Supervisors.

Subject: Report on HR 5307—Reimbursement for Medical Services to Aliens.

House of Representatives Bill 5307 has been introduced by Congressman Sisk, which would reimburse hospitals and other medical treatment facilities for emergency medical treatment rendered to aliens unlawfully in the United States. Currently, county hospitals rendering medical care to illegal aliens are not reimbursed by either the Medicare or Medi-Cal Programs, and their costs in the case of county hospitals become a charge against the local county general fund.

A recent study conducted by Valley Medical Center and the County Supervisors Association of California of the inpatients at Valley Medical Center indicated that approximately 3½% of the total inpatients during the months of December and January were known to be illegal aliens. This equates to over $800,000 in the Medical Center's 1974–75 budget. In addition to the care rendered on an inpatient basis, it is estimated that there is a substantial portion of patients treated on an outpatient basis who are illegal aliens.

HR 5307 is currently in the House Committee on the Judiciary awaiting reports on the bill from involved Federal agencies. The proposed bill has been endorsed by the National Association of Counties.

Recommendation: It is recommended that your Board endorse HR 5307 and authorize your Chairman to forward letters outlining your Board's position to Congressman B. F. Sisk, Congressman Robert Mathias, and Congressman Peter W. Rodino, Jr., Chairman of the House Committee on the Judiciary.

M. G. WINGETT,
County Administrative Officer.

MADERA COMMUNITY HOSPITAL,
Madera, Calif., July 9, 1974.

U.S. BORDER PATROL
Fresno, Calif.

(Attention of Mr. Bartlet).

Madera Community Hospital (not County Hospital) cost of illegal aliens since January 1, 1974:

Illegal alien hospital emergency admissions

	Amount
Jan. 1, 1974 to June 18, 1974	$10, 568. 80
June 18, 1974 to July 9, 1974	18, 699. 10
(Mario Alvarez and Yolanda Alcola) illegal alien O.B. admissions	7, 244. 54
Total	36, 512. 44

JAY M. AKIN,
Hospital Administrator.

ILLEGAL ALIEN INPATIENTS, MERCED GENERAL HOSPITAL, JAN. 1, 1972–DEC. 31, 1972

PFN	Patient	Why admitted	Cost
8692	Castaneda, Ma Del	OB	$374.80
98684	Carillo, Francisco	Rash	326.45
98733	Morfin, Maria	OB	360.90
90088	Garcia, Rosa Maria	OB	700.60
99635	Villegas, Lucio	Pneumonia	622.35
99753	Neufeld, Gerhard	Auto accident	2,997.55
99811	Alfaro, Rosalia	OB	1,067.30
98878	Castillo, Frances	OB	377.80
82272	Sandoval, Loretta	OB	460.15
100722	Alvarez, Evangelina	OB	371.20
96881	Monteon, Espectacion	OB	440.20
100912	Prado, Alfonso	Auto accident	76,732.31
100909	Nava, Leonel	do	725.00
100908	Godoy, Efrain	do	3,330.95
100911	Ceja, Agapito	do	410.00
102087	Leon, Guadalupe	Appendicitis	1,480.35
101838	Muniz, Luis	Auto accident	1,798.95
75333	Bautista, Antonia	OB	850.00
102751	Espinosa, Basilio	Perforated ulcer	2,073.00
101618	Aguilar, Agripina	OB	263.63
102955	Gamino, Maria	OB	648.60
91913	Barragan, Maria	OB	421.00
101650	Becerra, Oliva	OB	217.00
103226	Morales, Elijo	Stab wound	1,658.00
103227	Granados, Manuel	do	1,445.00
103102	Garcia, Ysidro	Burns—2d degree	2,403.00
103311	Vasquez, Jose	CVA	1,783.95
103935	Gonzales, Solomon	Stab wound	2,060.65
102626	Ayala, Maria	OB	183.20
104603	Quesada, Jesus	Auto accident—expired	86.00
104517	Gutierrez, Martha	Miscarriage	576.80
74885	"Ernesto Trevino" (imposter)	Stab wound—eye	2,471.00
102549	Orozco, Amelia	OB	281.15
105259	Rodriquez, Pedro	Appendicitis	1,234.52
105204	Alvarez, Elivier	OB	381.55
39582	Aguilar, Esperanza	OB	350.65
106247	Castillo, Josefina	Miscarriage	488.30
106340	Gonzalez, Fransisca	Cellulitis	940.11
Total			113,393.97

[The prepared statement of Hon. B. F. Sisk follows:]

STATEMENT OF HON. B. F. SISK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to appear before you to discuss the critical illegal alien problem and the various proposals which have been put forth to alleviate it, in particular, the Chairman's proposal, H.R. 982.

I think there is basic agreement that we will never begin to stop the flow of illegal aliens to this country until we remove the economic incentive which draws him here in the first place. Most employers do not go out and recruit illegal aliens and most do not knowingly hire them, but the fact remains that illegal aliens can be found in every area of the country and in nearly every line of work, regardless of whether or not their illegal status was known at the time they were hired.

The solution to the problem as I see it then, is to stop employers from hiring illegal aliens, whether knowingly or unknowingly, but at the same time insure that in the process we do not subject American citizens and legal resident aliens to discrimination, or impose unreasonable requirements on an employer—requirements which can not only be more efficiently met by government agencies, but which I feel legally should be handled by the government.

I do not see how all three of these objectives can be accomplished by H.R. 982 or the stronger proposal offered by the Department of Justice through the testimony before this subcommittee on February 4th of Acting Attorney General, Laurence H. Silberman.

For the life of me I cannot see what is to stop the illegal alien who has already risked a great deal to get into this country, from signing a statement indicating that he or she entered the United States legally, as presumably would be required under H.R. 982. And what happens to that when it is obtained? It is submitted

to an already overburdened Immigration and Naturalization Service? Even if Congress agrees to grant the INS the increased funding recommended by the President in his budget, I see little prospect for any immediate large-scale improvement in the Service's capabilities. Nor can I see the three objectives I have cited being accomplished by asking employers to do the work which should be done by government authorities—requiring documented proof of U.S. citizenship or legal resident status as the Department of Justice has proposed. Counterfeit birth certificates, voter registration cards, social security cards, drivers licenses and green cards are used all the time by illegal aliens and even our experienced immigration authorities can be fooled by them. Yet, it is proposed that we ask employers, large and small, to become experts in determining the citizenship or alien status of a prospective employee through the examination of a wide variety of documents which might be used for that purpose.

A few months ago a member of my staff applied for a passport and submitted what she thought was the best proof of her citizenship—her original hospital birth certificate. It was unacceptable, according to officials in the Passport Office, because such certificates could so easily be fraudulently produced. Fortunately, she was readily able to obtain the State certificate, but I mention her experience only to point to the burdens such a requirement would impose on employers and employees alike. What happens if the employer does not like the looks of the documentation presented by the prospective employee? Does he hire the applicant anyway or refuse to do so on the basis that he suspects fraudulent documentation has been presented? Can the employer use the excuse of suspected fraudulent documentation to cover his own racial or ethnic prejudice?

As you know, Mr. Chairman, for several years now I have favored an approach to this problem which would utilize the social security system, Public Law 92-603 requires, in effect, that no alien be furnished a social security account number unless he has first submitted documentary evidence to establish his lawful admission to the United States for permanent residence or under conditions permitting him to engage in employment in the United States. I understand that the Immigration and Naturalization Service has developed a tamper-proof, plastic identity card to be carried by all legal aliens and that it plans to test it in the near future. I see no reason why such a card cannot be adopted for use by the social security administration, with special markings, if necessary, to designate those persons not legally entitled to work in this country. Employers would be required to check the prospective employee's social security card and perhaps some other evidence of identity, not his citizenship or alien status. If you or I wish to cash a personal check at some business establishment, we are usually asked for some identification. An employer could simply ask to see the individual's social security card and some other evidence of identity to insure that the holder of the card is the person he says he is. Not only would the employer be spared the time and effort of inspecting various documents, most of which may be easily altered, but the prospective employee would be spared needless questions about his citizenship or lack thereof.

Yesterday I introduced legislation to implement this proposal, H.R. 3737 but since it amends the Social Security Act, it was referred to the Ways and Means Committee. While I realize that your Subcommittee is unable to deal with that bill directly, I would hope that you would weigh the proposal carefully in your deliberations here and perhaps recommend that we move toward such a procedure as the most acceptable and equitable long-range solution.

I realize that the social security approach cannot be implemented immediately, particularly since the Social Security Administration is having such difficulty keeping up with the responsibilities it already has. But I urge this Subcommittee to use its influence to get this proposal the serious consideration I feel it deserves.

In the meantime, of course, we are faced with an ever-rising flood of illegal aliens. We in the Southwest have been too aware for many, many years now of the economic and social burdens of coping with illegal aliens. As you know, I represent a portion of the vast, fertile, San Joaquin Valley of California which at one time brought in vast numbers of braceros to harvest its many crops. When the program was terminated, more and more illegal aliens began flooding the valley, and in recent years I have received an ever-increasing number of complaints from American citizen and legal resident alien farm workers who cannot find work. I have a letter here from the Acting Chief Patrol Agent from the Livermore Border Patrol Sector in California which indicates that the Fresno Station, whose area of responsibility covers the counties of Tulare, Kings, Fresno, Mariposa, Madera and Merced, has an authorized strength of 13 officers. During fiscal year 1974,

Fresno officers located 11,424 deportable aliens. Although the greatest portion were employed in agriculture (10,176) this may very well be attributed to the fact that with its limited capabilities the Border Patrol must concentrate its efforts on those locations where it expects to find large groups of illegal aliens.

However, just last year the head of the Immigration Office in Fresno told me he estimated that 90% of the business establishments in the City of Fresno had illegal aliens in their employ.

Crime attributed to the illegal alien is increasing. The Border Patrol tells me that it is receiving continuing complaints and requests for assistance from local law enforcement officials throughout the San Joaquin Valley. Above and beyond the illegal aliens apprehended by the Border Patrol, the 2 investigators working out of the Fresno INS Office last year located a total of 1,398 deportable aliens last year. Of that total, more than half were taken from the Fresno County Jail, and the majority of those had been arrested for vehicle driving violations.

This brings me to another subject, the tremendous burden imposed on local governments in furnishing essential medical care to illegal aliens. As you know, in the 92nd, 93rd and again in this Congress I introduced legislation which would require the Federal Government to reimburse local governments and hospitals for the costs incurred in providing just emergency medical care to illegal aliens, provided the cost could not be recovered from the alien or from some public assistance program. The problem first came to my attention several years ago when the small county hospital in Merced, California came to me for help in getting an illegal alien, who had been critically injured in an automobile accident, transferred to a hospital in Mexico or to a Public Health Service Hospital. We discovered that the Public Health Service would accept the patient if a request were made by an interested federal government agency. In this case the request would have to come from the Immigration and Naturalization Service. The INS took the position that it would not accept jurisdiction over the alien until he was well enough to return to his own country, and it would not request the Public Health Service to treat the alien because it did not have jurisdiction over him. Not unless the illegal alien is injured or otherwise in need of emergency medical care while actually in the custody of the INS will that agency utilize the provisions of the Public Health Service Act to provide for treatment in PHS facilities. In the end, the County of Merced paid approximately $76,000 for medical care for the above mentioned illegal alien, almost its entire medical budget for the year.

We checked with other California counties and found that the problem was widespread. Over $2,000,000 was spent last year in providing emergency medical care to illegal aliens by San Joaquin Valley hospitals, and the County of Los Angeles alone spent $8,000,000.

It is my hope, Mr. Chairman, that your Subcommittee will give my bill, H.R. 2159, serious consideration once the necessary legislation has been passed to stop employment of illegal aliens, so that hard-pressed local governments can obtain some measure of relief from the tremendous financial burden they now must morally and legally carry in treating indigent illegal aliens.

Finally, I would like to call your attention to an article which recently appeared in the Los Angeles Times, "Illegal Aliens Target of Union Organizers." For Years I have heard rumors, some verified, some not, that the Border Patrol was apprending illegal aliens who held UFW and Teamster ID cards. But this is the first indication I have seen that union organizers are actually engaged in an all-out effort to organize illegal aliens. According to this report, "Officials of the International Ladies Garment Workers Union," decided to start unionizing aliens because garment manufacturers persist in hiring them and U.S. immigration authorities claim they do not have the manpower to deport most of them." The Assistant District Director of the INS in Los Angeles noted that it is no more illegal for unions to organize illegal aliens than for employers to employ them, but he also said: "I can't say that we condone either practice."

In closing, Mr. Chairman, let me say that I support in principle your bill, H.R. 982, but I am not sure it will be effective in stopping illegal aliens from taking jobs in some areas, and in others, I am afraid it will only have a discriminatory effect. But any proposal to prohibit employment of illegal aliens must be accompanied by sufficient manpower and funding for the Immigration and Naturalization Service and Border Patrol. Unless we give the INS the funds it needs, enforcement of H.R. 982 or any other proposal will be ineffective, if not impossible.

Mr. SISK. In closing, Mr. Chairman, let me say that I support in principle your bill, H.R. 982, but I am not sure it will be effective in stopping illegal aliens from taking jobs in some areas. In other areas, I am afraid it will only have a discriminatory effect. But any proposal to prohibit employment of illegal aliens must be accompanied by sufficient manpower and funding for the Immigration and Naturalization Service and Border Patrol. Unless we give the INS the funds it needs, enforcement of H.R. 982 or any other proposal will be ineffective, if not impossible.

Mr. Chairman, that concludes my statement. There are many other things that I could cite. This is a matter that not only do I feel deeply about because of the terrible problems right within my own area and State, but this represents a growing concern on the part of my constituents. The illegal alien situation is totally and completely out of control in California today with the possibility of between a million and 2 million illegals in California right now.

Thank you, Mr. Chairman.

Mr. EILBERG. Thank you very much for a very enlightening statement, Mr. Sisk. I have just a few questions.

As far as I can observe, you have not addressed yourself to the penalty provisions of H.R. 982. I wonder if you have examined them, and whether you have a reaction to them—whether you would say they are too weak or too strong. What is your observation?

Mr. SISK. I do not find any substantial criticism, Mr. Chairman, with your bill as I understand it in connection with the penalties. I suppose we could make them tougher. I noted the remarks of my good friend and colleague from New York, who just preceded me, in connection with making the penalties somewhat stronger. Here again, I think it gets down to a matter of what we really can consider to be acceptable by the Congress and by the people generally. I am inclined to think that so far as a penalty that 982 is probably about as good a balance as we could come to on that basis.

Mr. EILBERG. Would you support stronger penalties than appear in H.R. 982?

Mr. SISK. I think now with the very serious problem we have in California, and the increasing problems it is causing that I would be so inclined. I might very well personally be able to support stronger penalties, but again I recognize that this is a very controversial area, and because of the concern of a great many employers across the country there is a question as to how far we can go.

Mr. EILBERG. This subcommittee in other sessions of Congress has received testimony from various agricultural groups and farmers complaining that they are unable to locate American workers to harvest their crops. I wonder what your reaction to that statement would be?

Mr. SISK. Well let me say, and I come from an area, Mr. Chairman, as you know, where we use a vast amount of agricultural workers. We deal in specialty crops, and at certain times of the year we have in the valley several hundred thousand agricultural employees doing special types of work in connection with the grape harvest, fruit harvesting, vegetable harvest, and so on. Frankly, as the chairman may know, many years ago I supported, and at one time authored,

one of the extensions of Public Law 78. That has been and finally was referred to as the so-called bracero program. It was my frank conviction at the time that some kind of an orderly treaty with Mexico on the basis of legitimate contracts was the best way to handle the situation. And we predicted at the time that Public Law 78 ended, that we would be overwhelmed by illegal aliens—and that is exactly what happened—that the wetbacks would pour across that border in vast numbers. And I do not like to say I told you so, but there is no question but what that has come true.

Now, I am not here advocating a return basically to the bracero program. Many people charge that that is indentured labor, or slave labor. They use all kinds of terms because basically a contract is involved. But Lord knows, Mr. Chairman, we all live under contract. We make a contract to do a given job and we are penalized if we do not live up to our contract. And I personally do not agree with the people who oppose that.

Mexico is interested in some kind of a treaty relationship again along this line. I think that it is an area that should very definitely be explored. I know, of course, that as Secretary Kissinger and others have discussed this matter in the last year or so with the Mexican Government. And, as you probably know, they have a pilot program now with Canada in which they are trying out a new type of contract. I would wish that we might explore this. I am opposed to slave labor; I am opposed to indentured labor; but I frankly think that if, in fact—and there must be very strict provisions—there is not labor available, and that is essential before permitting the importation, even under contract, of foreign labor, that to me is a much better way of handling it than the impossible situation we are faced with today.

Mr. EILBERG. Mr. Sisk, I am not sure you have answered the question that I was primarily concerned with. That is, is there a shortage of American labor, and bearing in mind——

Mr. SISK. No.

Mr. EILBERG. The economic situation today, I think that perhaps you might consider the answer to that question very carefully.

Mr. SISK. Well in my opinion, no, there is no shortage of labor at present, today. I am sorry if I may have misunderstood your question exactly.

Mr. EILBERG. I might say in response to your idea about the use of the social security that you will be interested to know, and the members of the subcommittee, we are arranging to have the appearance of a representative of the Social Security Administration to testify directly on the operation of that law. But our preliminary studies so far indicate that the system has not been working well, and that it takes some 6 to 8 hours to check out a single case. It seems the Social Security Administration simply does not have the personnel or system set up to do this adequately. But we will find out directly from the Social Security Administration about what they are doing and what their capacities are.

I might also say that with regard to your concern about the employer not accepting a document, or feeling that there might be some discrimination, I want to make perfectly clear for the record that in the last Congress when we passed H.R. 982 we made clear and em-

phasized that civil rights laws and the regulations of the Equal Employment Opportunity Commission were in effect and should be effectively utilized. And we expected that if there were any legitimate complaints by any prospective employee that that complaint would be taken to the appropriate Federal authority under existing laws, so that there would be a mechanism for countering or preventing employment discrimination.

I might also say while we are not wedded to H.R. 982, and no doubt there will be changes in 982 hopefully before it comes to the floor, there were several reasons for the statement that was to be signed, or the statement by the prospective employee. In the first place, Mr. Sisk, was that there was no obligation for the employer to obtain a signature to such a statement, but he could do that, and it would be held in his own personal possession, and it could be used by him as an affirmative defense in the event he were to be prosecuted under the H.R. 982, as we have introduced it. So it was not a matter of transferring the burden, or starting any flow of correspondence, but providing an easy mechanism where people in good faith could establish something for the record.

I have talked a bit long. Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

I want to thank Congressman Sisk for a very helpful statement. Let me ask you this: H.R. 982 has graduated provisions for punishment of employers who engage in the hiring of illegal aliens. It goes from a citation to a civil penalty, and then to a criminal penalty. Would the citation of an employer—if it were made public that he is employing illegal aliens—would that in itself have a deterrent effect on employers? In other words, would it be something they would not want to happen, to be cited publicly as employing illegal aliens? Or in your area, let me ask, is the practice so widespread that they would simply shrug it off, and the only deterrent would be the fact that it then takes them to the next step of the penalties? Or is the publicity itself something of a deterrent?

Mr. SISK. Well, I think I would have to admit to my colleague from Maryland that the situation has become so out of hand in the Southwest, and I am speaking basically now of California, Arizona, New Mexico, and the Texas area, that I question that the fact that a person has been certified as having employed illegal aliens would have a great deal of bearing. I think that any employer might prefer not to be cited, but I question that it would have a great deal of bearing in view of the broad based situation today; whereas I cited, and I am not sure it is correct, but 90 percent of the industry, manufacturing plants and industrial plants, in my hometown are employing illegals. I am not saying that a single one of them is doing it knowingly, but yet, when we consider that much abuse going on, whether knowingly or unknowingly, I am not sure that a citation means very much.

Mr. SARBANES. Well, do you think we need it then as a way to indicate to employers that, in fact, this law is going to be applied and not simply put on the books, and that the citation is a clear indication that the first step of the process is underway, or should we just drop it and start out with a stiffer penalty?

Mr. SISK. Well, I would agree, I think we ought to give serious consideration possibly to what action we take in that first instance

of a conviction. There would have to be some kind of hearing or something to determine, in fact, that a man knowingly employed, knowingly is the key to it, and any person in this country today that knowingly employs an illegal alien, in my opinion, should be punished.

Something of significance, something that is going to make it unprofitable for him to repeat that crime. Now again, I realize that we go in degrees and for the repeater we always, of course, whether it is in a felony or what it is, the penalty becomes greater, and as it should. But, as I said, I guess I live so close to the problem, I see so much of it going on until there is just no question in my mind but what an industry that is knowingly employing illegal aliens today should definitely be punished, and should be hit very hard in the pocketbook in the initial phases. That is my feeling, if he is doing it knowingly. Again, knowingly is the key word.

Mr. SARBANES. Now, let me just ask one other question.

The laws with respect to illegal aliens have really not been enforced well for a number of reasons. But that is simply the fact of the matter. In consequence, some illegals have established roots in this country and have established a family situation. Now, in your view is this a problem of sufficient merit that in trying to frame a remedy for the overall problem we should seek to make some adjustments to meet that kind of situation?

Mr. SISK. I think, Mr. Sarbanes, that we should let each case stand on its own. I would be totally opposed to any blanket amnesty of any kind. Well, it would just create an impossible situation. So, I think, these people should be deported, except and unless on the basis of equity, a morality, we as a generous people considering the hardships that might be involved, that were those to exist, and Lord knows I have them in my own district where connections have developed where for example, children have been born, fathered by an illegal, and a situation possibly where the mother is illegal, all kinds of combinations of really tragic situations, and I think in those areas we are simply going to have to judge it on an individual basis and try to deal with it. But no, I am totally opposed to any kind of blanket amnesty let us say for the large numbers of illegals.

Again, we are dealing, and I hope that I am thoroughly understood, I am not anti-Mexican, or anti-South American, or anti-Spanish or anything else. I have very wonderful friends of Mexican descent, and we have lots of American citizens, very fine citizens of Mexican descent, but we have a problem on that border. And with the economic conditions in Mexico, and that is what I tried to stress in the beginning, we are faced with almost an impossible task of the motivation of human beings. And we are all human beings desiring to better our situation, or try to take better care of our families, and when he stands there across the border, and he spends all day making a dollar and a half or $2, and he can go across the border in America and make that in an hour or less, that motivation is there, and until there is some way we can take the profit motive out of it, and stop it, they are going to continue to come. They are just human. I feel sorry for them.

I'm sorry, Mr. Chairman, I did not mean to make a speech on this. This is something we see every day, we are living with out there.

Mr. EILBERG. Mr. Fish.

Mr. FISH. Thank you very much, Mr. Chairman, and welcome, Mr. Sisk. When you refer to profit motive, as you did in the beginning of your statement, you say remove the economic incentive, you are talking about the thrust of the bill before us which is to prevent their lawful employment in the United States.

Mr. SISK. That is right, yes, sir. Mr. Fish.

Mr. FISH. I think that having given this a great deal of thought myself that your idea of a social security card is the answer. As I understand it, the precedent that you refer to is the Immigration and Naturalization Service tamper-proof plastic identity card which could be carried by lawfully admitted aliens or permanent residents which has a photograph on it?

Mr. SISK. Yes; that is right.

Mr. FISH. Which, of course, if that was incorporated in a similar social security card, this would go a long way, I think, toward having the one document.

Let us go over this. The law presently is that a social security card should only be issued to an American natural born citizen, a naturalized citizen or an alien admitted to the United States for permanent residence and, therefore, eligible to work, is that correct?

Mr. SISK. That is my understanding of the law. He must be a legal alien admitted for work and qualified to work, and of course, any naturalized American or native born American.

Mr. FISH. So the affirmative responsibility that we would be placing on the employer here would be to just simply ascertain that individual's social security card, assuming that we could get that fool-proof, tamper-proof card, and that would be the case right there, would it not, just the fact of the ownership and the possession of such a card, either with the photograph on it or some other identity that says that it is your card? That would take care of the burden, the affirmative burden on the employer?

Mr. SISK. Well, that is, of course, the intent. Now, we refer, if you note in the statement, to the fact that, of course, if we go to cash a check, or we know every day many times we are requested to have, for example, or to submit a driver's license in addition to other documention, and of course this so-called tamper-proof card is really right now under test. They are proposing to work on that, and we have been talking to those people, and that is to go out shortly. It depends, of course, I guess, on how this test works out. You take apparently the forger's ability to create, recreate fraudulent documents, and you have a very tough situation, and that is what we are facing here. Hopefully though, these could be so documented, so handled, so indexed, computerized, and have the use of the pictures to make them as nearly foolproof as possible. That seems to be the best way to identify them.

Mr. FISH. It seems to me this would protect the lawfully admitted alien, it would protect the American citizen of Hispanic origin who otherwise may be discriminated against, and I think it does meet the fundamental problem most of us have with this, and that is that the most difficult person to prove citizenship is going to be the native born American citizen who simply does not carry around such documentation, and does not feel he needs it. Of course, this all looks to the future, to make it economically unworthwhile to come to this country. It does not really go to the problem of the illegal aliens who are already here.

Can you draw a minute from your California experience where you have indicated that California simply is overrun with illegal aliens and has a very difficult problem? I am interested if there is another way that we can get at it in the Southwest area, and that is through those that are presently encouraging illegal aliens to come in. Can we identify smugglers, can we identify groups that are helping people with fraudulent documents, with promises of employment? Is there this kind of a traffic?

Mr. SISK. Yes; there very definitely is. We have professional smugglers by air, by truck, and by rail. There is no question but what there are those people, both Americans and non-Americans that are involved in the traffic here, which I think is almost as deplorable as the drug traffic, that are trafficking and handling these people. And they are bringing these people over. For example, we found them in tank trucks, and there have been people who died under very bad circumstances. There is that situation.

Mr. FISH. Are you satisfied with the prosecution of these smugglers in your State?

Mr. SISK. No; I am not. I think very frankly we need much tougher prosecution. I think we need more law enforcement, more agents, more people. That border down there is a sieve, and I honestly believe sometimes if you had Border Patrolmen standing shoulder to shoulder from California to Texas that these people would still be coming in over you, under you, around you or some other way. It is a very difficult situation, and as long as the profit motive is there it will remain. There are some very serious law violations going on by those who traffic in this business of bringing illegals in, and really what I think we need is tougher sentences. I think, I hope, the judges would—and I do not want here to get into a fight with the judiciary—but frankly, I do not think they have been tough enough in sentencing these people who are caught trafficking. I think they ought to be treated, as I say, as criminals as, in fact, they are.

Mr. FISH. I do not want to take up much more time, but to do you justice, Congressman, to meet the problem of illegal aliens presently in the United States I assume you are proposing that all of us would turn in our existing social security cards for the new type that you envisage? It is not just something for future cards, but everybody would get a new card that was entitled to it?

Mr. SISK. Of necessity, this would be required I think ultimately. Now, let me say in connection with this we have for now some 6 or 8 years been looking at the use of the Social Security Administration and the use of the card, because of a greater and greater number of Americans carrying them. And I am not certain we have the perfect answer here yet. The bill that I have introduced went to the Ways and Means Committee because it does amend the Social Security Act, and I recognize the problem the chairman raised of the Social Security and the problems they are having right now, that it is overburdened, understaffed, and they will tell you. But it is one area, in view of the broad use of social security cards today to every American, it seems to me that combining it with as foolproof a system as possible is the best way to approach it. Now again, I am not saying this is the perfect answer.

Mr. FISH. Finally, if I could have one more question, Mr. Chairman, are you suggesting in your testimony that in addition to going after the employer and putting an affirmative burden on him with sanctions, including criminal penalties, that we should likewise make and provide sanctions for unions who knowingly organize illegal aliens?

Mr. SISK. Yes; I very frankly think that there is going to have to be some real consideration given here to what extent organizing efforts by a union or unions on a broad base tend to induce these people to come. I think this is a matter that is going to have to be considered.

Let me say in fairness to the unions, generally I think they have not encouraged it, and they have fought against it, and they have opposed, of course, these people coming in. What I cited here, of course, from the Los Angeles County area, the statement of the district attorney down there and so on is what really has come to pass now and it is well, we have a fact here, it is there in fact, whether we like it or not, and therefore, if they are going to employ them, we are going to organize them. And so I can have some sympathy with that. But on the other hand, I think again this is something that has to be looked at. If we intend to begin to put penalties on the employer, and begin to really crack down, we have to do the same thing with the unions, and we are all going to have to get in harness together on this.

Mr. FISH. Thank you very much, Mr. Chairman.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Just a couple of questions.

I assume, Mr. Sisk, on page 1 of your statement that the use of the word "unknowingly" was used in a very idealistic sense, that the solution to the problem is to prevent the hiring of illegal aliens knowingly or unknowingly? I do not really think you mean unknowingly.

Mr. SISK. Well, I suppose you are correct. I am sure that there are illegal aliens working for people in California who frankly think they are legal. I am positive that there are. In fact, we have had actual cases that we have gotten involved in where, in fact, the person submitted a social security card, submitted a green card, submitted a union card, and in some cases an I.D. card with the Teamsters Union because both of them are organizing. In some instances we have caught them with all of these cards in their pockets, and all of the identification in the world and come to find out that the whole thing was forged. So there are people who are employing illegals today who are innocent of knowingly employing or knowingly seeking out illegals.

Mr. COHEN. We certainly could, you know, pass a law drawing a distinction between malum prohibitum and malum in laws, where by merely hiring someone who turned out to be an illegal alien would subject you to criminal penalties. We do that in many instances in the law, unrelated to aliens, of course, but I assume you would find that far, far too prohibitive to employers who would oppose that kind of penalty.

Mr. SISK. We have, of course, and that is why I have always said that I could never support a bill unless the word "knowingly" employing becomes the keyword, which it is to me. No. 1, I have a great deal of problem accepting the idea of making every employer a policeman or making him an officer of the court, so to speak. In fact, I voted against the original bill coming out of this committee, authored

by the distinguished chairman, Mr. Rodino. But really this situation has gotten so far out of hand now that I have become convinced that we are all going to have to share a burden here, we are all going to have to assume some responsibility, and that the employer is going to have to get in there and share his part of it. And keeping in mind that it has to be proven before he can be prosecuted, that in fact, he knowingly employed a person.

Mr. COHEN. The only other question I have pertains to the question of amnesty. I believe you referred to this in response to a question from the chairman or Mr. Sarbanes, on the question of taking into account equities, or standards of morality. Frankly, I have a great deal of difficulty when we try to phrase statutory language to encompass an individual situation which might warrant some relief. For example, if we pass such a bill which prohibits employers employing illegal aliens, and we require that each American, everyone in this country, carry a social security card to present to their employer, first of all the illegal alien would not be able to be employed under this law; therefore, not entitled to social security. Then comes the question that they are in this country and we have, as Mr. Biaggi testified before, a tremendous problem of welfare benefits. Now, several States have tried to pass laws, and I believe Arizona and Pennsylvania passed laws to restrict the payments of welfare payments to illegal aliens as such and they were struck down in the *Graham* case back in 1971. So we now have a situation if the person who comes here illegally has a family, that might be a consideration which would warrant, or would not warrant him not being sent back to his country because it would tear up the family structure. It seems to me we run into the problem of welfare payments. What do we do with those individuals who are here in this country, who cannot work because we are prohibiting that, and yet are just drawing on the public welfare benefits? What do we do in that situation? Do we send the entire family back, or allow the entire family to stay and collect public welfare?

Mr. SISK. Well, I am happy that you people have the responsibility of drawing the law and I do not have it. I appreciate the problem that you are speaking of. I am concerned with it. I have great confidence in the Judiciary Committee and your staff and your ability to do it. I have those very kinds of problems the gentleman has cited that we have actually had to deal with, and we had a case in California where the judges have ruled that we cannot prohibit an illegal alien from drawing welfare. In other words, there again it gets down to which comes first, the chicken or the egg. Unless the man is deportable, and is in a position of being deported technically then he can draw welfare. And it gets into a very difficult situation.

I have had every conceivable, and I do not want to take a lot of the committee's time, every conceivable kind of a problem in connection with this. Recently I had a call. You talk about some of the problems of illegals taking over jobs from legals, you know, from citizens, or legal aliens in this country, I had a hurry-up call, I mean a very serious call from one of the smaller communities in my district recently from a young lady, and under questioning as to her problem, and the fact that her business was being destroyed by virtue of the illegal aliens, she happened to be a "lady of the evening," and I will use that term. You can use whatever term you want. But she and some of her associ-

ates in this particular community were finding their income substantially depleted by virtue of the fact that ladies of the evening illegally were coming into this country. This is again just an aside, and I do not mean to be facetious, Mr. Chairman, and take a lot of time. But we have got a very tough situation. I am seeking some answers, I know this committee is, and I want to support you in your efforts to try to solve some of them.

Mr. COHEN. Was she complaining about unfair foreign competition?

Mr. SISK. Yes, she was very definite and very serious, too.

Mr. COHEN. I will not get into the question of whether the quality of the goods were superior or inferior. I will yield back, Mr. Chairman.

Mr. EILBERG. Mr. Sisk, do you believe the enactment of H.R. 981 which would create a preference system for the Western Hemisphere, should be considered along with legislation affecting illegal aliens?

Mr. SISK. Basically, we support that. And I think we did in the last Congress. It is a change in our consideration of Western Hemisphere immigrants and their treatment, being treated the same as Eastern Hemisphere?

Mr. EILBERG. That is right.

Mr. SISK. Yes, I very much support that. And in fact I think in the last Congress we had legislation in on that. I have, unfortunately, not studied 891 in this particular case, though, Mr. Chairman.

Mr. EILBERG. Mr. Sisk, we are very grateful to you for appearing here today and we thank you for your contribution.

Mr. SISK. Thank you very much.

Mr. EILBERG. Our next witness is Mr. Richard White, a Congressman from Texas.

TESTIMONY OF HON. RICHARD C. WHITE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. WHITE. Mr. Chairman and distinguished members of the committee. First, may I commend this committee for recognizing through your actions that the illegal alien problem is very significantly contributing to the economic troubles this country is presently attempting to overcome. It is needless to take the committee's time by describing the gravity and the national dimensions of the problem. This has already been clearly spelled out and validated in a continuing series of reports from the Immigration and Naturalization Service and through research and hearings by this committee. I would only briefly reiterate the increasingly recognizable consequences of the very telling financial strain this problem is causing to this country—unemployment due to illegal aliens holding jobs, education costs, welfare and public health costs, and even an effect on our international balance-of-payments posture. My purpose, rather, is to offer sincere and what I feel are well-predicated suggestions for meaningful and workable solutions.

First, I should like to mention to the committee that I represent the 16th District of Texas, a district which enjoys a 352.2-mile common boundary with the Republic of Mexico. Further, I am a native born resident of the city of El Paso, the principal city in my district, and a city which joins with Juarez, Mexico, to form the largest metropolitan complex on the United States-Mexico border. Prior to coming to

Congress I practiced law in El Paso, including some immigration law. I, therefore, have a longstanding familiarity with the problem of illegal aliens, a problem which only in recent years has achieved nationwide recognition.

I want to stress to the committee that I am not here to oppose any attempt for solution to this growing problem, nor to condemn any particular bill; rather, I want to suggest refinements to H.R. 982 and possible inclusion of additional features which I feel would strengthen the bill and make it more effective toward rectifying and ultimately solving the illegal alien problem. I address myself to H.R. 982, since this is the vehicle the committee has chosen to help solve the present dilemma. I am not going to dwell on the obvious discrimination that will result against any prospective employee who might be suspected to be an alien because of appearance or spoken accent. This is a very real objection voiced by several who know the border.

As an alternative, the Commissioner of the Immigration and Naturalization Service and the Under Secretary of Labor suggested in previous testimony before your committee than an improved social security card system could be considered. May I interject at this point, Mr. Chairman. I believe that the present H.R. 982 would work at cross purposes to civil rights legislation previously passed by this committee, even though the committee has made the caveat that the civil rights legislation should be observed in employment practices.

Designation of citizenship or alien status on a social security card was part of a plan I had devised along with many others I am sure—which I now only briefly mention—to provide that employers check all social security cards, report alien designees to the INS, who could in turn utilize computers to sift through such designees for illegal aliens. Failure to notify the Immigration Service of employees whose social security card designates them as aliens would be a penalty.

As I read H.R. 982, and as I have discussed it with Federal prosecutors, the penalty provisions as now constructed are unenforceable against a calculating employer. Further, these provisions directly violate some of the basic principles of civil and criminal law, and the American jurisprudence system. First, why is the bill as now proposed unenforceable against a willful violator? Because, as the Commissioner of the Immigration and Naturalization Service and the Acting Attorney General inferred in previous testimony before this committee, a clear loophole is provided by the following language:

> An employer shall not be deemed to have violated this subsection if he has made a bona fide inquiry, a signed statement in writing in conformity with regulations which shall be prescribed by the Attorney General, shall be deemed prima facie proof that such employer, has made a bona fide inquiry.

You can be sure that under this language anyone who desires to hire illegal aliens knowingly and with impunity will secure the proper forms and have the alien sign one. This in effect shifts the burden of proof to the United States, and under the realities of evidence, it would be an impossible and highly expensive burden to meet.

Regarding the violation of the basic American principles of fair hearing, confrontation of witnesses, and the opportunity to present new evidence, I point to the provisions commencing on page 4 of the bill. Subsection (b)(2) states:

If, on evidence or information he deems persuasive, the Attorney General concludes that an employer, agent or referrer has violated the provisions of paragraph (1), the Attorney General shall serve a citation on the employer, agent or referrer informing him of such apparent violation.

The idea of establishing guilt on information for an apparent violation smacks of star chamber proceedings, and, if challenged in court, the act could be vulnerable to a constitutional question. Equally important is the fact that there is no provision here for input on the part of the accused individual. You can say that no fine flows immediately from the citation, but I call your attention to the structure of the sanctions which make the citation a predicate for the civil fine on a second charge and a criminal fine and/or imprisonment on a third charge.

Pyramid structuring of the sanctions demands that the accused be afforded a clear opportunity to present his evidence from the onset, or first step. If you wish to have an administrative step that will allow the accused an opportunity to present his evidence, I suggest that the bill be rewritten to allow the alleged violator the chance of refuting the allegations of the citation by presenting a sworn statement, which would negate the citation. If he submits a false sworn statement, then he is subject to the legal proceedings applicable to such an offense—false swearing is a criminal offense. It is this sworn statement which should be regarded in terms of prima facie evidence.

Now, I will mention one thing that Mr. Sarbanes spoke of with the previous witness. He stated that this would be a public citation. Now, this in a sense offends me, because I cannot see the U.S. Government official with the immunity surrounding his office, and the powers that are given to him, libeling or slandering on information, on an apparent violation. Now, the citation, if you have contemplated a citation, should go directly to the offender, or the alleged offender, and not be a matter of public statement, because then we would be doing an injustice to the American public and to individuals who may be otherwise innocent.

Subparagraphs (b) (3) and (4) in reference to the second phase of the sanctions provide:

If, in a proceeding initiated within two years after the service of such citation, the Attorney General finds that any employer, thereafter violated the provisions of paragraph (1), the Attorney General shall assess a penalty of not more than $500 for each alien. A civil penalty shall be assessed, only after the person charged, has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur. The hearing shall be of record and conducted before an immigration officer, in accordance with the requirements of title 5, section 554 of the United States Code.

The bill does not specifically state that a full hearing based on evidence take place for the $500 fine by the Attorney General. In subjecting the employer to a civil penalty, an opportunity for hearing is provided, but it is before an immigration officer and not a court of law. If an accused person is assessed a penalty by the Attorney General and for some reason fails to respond, the finding stands. Furthermore, the conspicuous absence of an opportunity for the accused to present his evidence before a court of law, under the rules of evidence is extremely material, particularly because these first and second phases are the predicate for a prison sentence in the

event there is a third charge. I also point out that "opportunity" for sharing could mean a fine could be levied without an actual hearing. What other fines are levied without the actual presence of the accused?

Now, there may be some, but I am not aware of them.

Subparagraph (b)(5) states:

> In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

This means the findings by an immigration officer who may or may not be trained in law. In addition, there is no opportunity to present evidence. Suppose the person was given the opportunity for hearing and for some reason failed to appear. The immigration officer could levy the assessment and develop the administrative record from the information—which could be hearsay—on hand. It's possible. According to the bill, this administrative record is conclusive and again would be a basis for the fine and the criminal sanctions provided for a third violation charge. Assume that a person in fact was not guilty of the first violation nor the second charge, but failed to respond. On the third charge of a violation, though it may have actually been his first, he could be sent to the penitentiary and fined up to $1,000.

The right of appeal to a Federal court should definitely be given to one upon whom an assessment has been made, with an opportunity to present his evidence de novo.

Subparagraph (c) states:

> Any employer or person who has been assessed a civil penalty under subsection (b)(3) which has become final and thereafter violates subsection (b)(1) shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, for each alien.

But there is no time limitation. There was in the first finding, it said within 2 years, but not on the third. Suppose a man has been cited and fined on two violations, and after 20 years is accused of another violation. Can the previous two findings be used as a basis for a third charge 20 years later and therefore make him subject to a criminal proceeding? Or should there be a time limit written into the bill between the first two violations and the third charge of a violation?

Can we say we have done justice to the American public when in our haste and need to find a solution to a serious problem, we violate some basic precepts of jurisprudence which have taken centuries and the refinements of several civilizations to develop?

Having been raised on the border, I have lived with the realities of border culture and coexistence and I know that Federal laws do not always fit the local situation. That is why we have a federated system of government and we theoretically leave to the States those matters which should not be legislated by the Federal Government. Now, I am not suggesting this be left to the States, however.

My district relies heavily upon farming and ranching. Farming is one of the mainstays of our balance of payments and has helped to sustain a high standard of living for the people of this country. In my area farming is done by irrigation, which requires an additional number

of man hours to develop a productive crop. Cotton, alfalfa, livestock, and other produce are grown in my district. In order to produce a crop of minimal profit and to help furnish this country with the food and fiber it needs, it is necessary to have a labor source available for what is often referred to as stoop labor. The realities of the present indicate there is very little unskilled labor available in this country. Now, there is skilled labor, there is labor, you might say, but I will go further.

A higher minimum wage for agricultural workers has been enacted, but other programs such as welfare and food stamps—as important and useful as they are for those who need them—have helped to create a group of indolent persons who are able, but not willing, to accept certain types of employment. They are not the ones this program was intended to reach.

I am not saying there are not people in our communities who could not do this needed unskilled labor, but in developing programs which we in Congress found necessary to help sustain those who are unable to earn a decent living, we are seeing that many of those who were previously employed on ranches and farms can receive as much compensation to sustain themselves by doing no work and drawing food stamps, welfare payments, or unemployment payments. In certain parts of the country, where the cost of living is lower, we can find even fewer people who will accept agricultural labor. Such is the situation all along the United States-Mexico border. You can go to communities, small rural communities in my district and go to the town square. You will see people sitting around there, people who appear to be able bodied, and you will ask them if they would like to do some of this type of work, agricultural work, and they will say no, no, because they are drawing enough to sustain themselves in their standard of living at that time. They do not want to go to that work and they will not, as long as the loopholes exist in the present law that allow people to draw even though they are able bodied. This program needs to be reviewed.

The farmers and ranchers must consequently look elsewhere for the unskilled work force necessary for such a livelihood. The available labor source has been from Mexico, from workers who are eager to accept such employment. H.R. 982 has been stalled in the Senate for several sessions and the reasons, as you well know, were partly because, as you know, no provision was contained to furnish a source of agricultural and unskilled labor—alien or otherwise—which is absolutely imperative to the southern and southwest regions. I do not propose a reinstitution of the bracero program, although it succeeded in slowing down the number of illegal aliens. I understand and realize that there were abuses of that program. But what I have proposed in the past, and propose to you now—with revisions to meet the objections raised at the times I have tried to amend the Rodino bills on the floor—will help solve this very real dilemma. I suggest—and have copies if you desire to study it in more detail—I suggest an amendment to H.R. 982 which will merely expand and define an existing program of admission of aliens under the temporary category.

I propose to spell out the procedures by which an individual employer can contract with an individual alien for specific terms of employment. I propose that an employer can hire an alien for up to

1 year at a time, renewable for up to 3 aggregate years, for a particular job under terms stipulated by the Secretary of Labor, and carefully controlled by the Secretary—particularly to ascertain that there is no domestic labor source of able and willing workers. The terms would also insure no exploitation of the alien.

Unlike my previous bill, I propose to allow lateral transfer of employment. To obviate any charge of involuntary servitude, my amendment would allow the alien to obtain other jobs with other employers in the United States without having to return to his native country, as long as the alien goes through the same process of certification by the Labor Department, and still be subject to the ceiling of 3 aggregate years of contracted employment in the United States. Unskilled labor is not domestically available and if no such provision of law is made to provide timely access to such labor, there is no way that you are going to succeed, I don't believe, in preventing or dissuading employers from hiring illegal aliens who want to work in jobs that must be done.

I am convinced U.S. employers do not want to hire illegal aliens. If they could find legal labor in the U.S. labor market, citizens or legal aliens, they would hire them. Employers are under the fiat of the minimum wage law and they are not desirous of violating it. It becomes then, incumbent upon us to provide that labor because I cannot see how in the near future that we can force unemployed U.S. workers to take jobs they don't want as long as these other programs will sustain them.

I ask you as Americans to give the farmers and ranchers the relief they need, to live and let live, because what you do in this bill will also affect your area of the country—in the food and fiber that your constituents enjoy and in our continued high standard of living.

In closing, Mr. Chairman and honorable members of the committee, I would like to stress that I, as much as any legislator in the Congress, would like to see the accomplishment of operative and effective amendments to the immigration and nationality laws—probably more than many of the Members of Congress considering the geographical location of my district. In this context, I want to inform you that I have had a series of very productive meetings with the Commissioner of the Immigration and Naturalization Service. General Chapman has stressed to me that he needs the realization of three considerations in order to cope effectively with this monumental problem—namely: a penalty title to discourage the open hiring of illegal aliens; a sizable increase in his manning tables; and the institution of a new, secure alien identification card system.

You are in the process of providing a penalty title, and I strongly urge your attention to and consideration of the suggestions I have made in this area. In addition, I would suggest the advisability of this committee to statutorily provide for the increase in the INS manning tables and for funding of the proposed new alien identification card system, rather than leaving these integral parts of the overall program to the discretion of the budget and appropriation procedures.

Thank you very much for this opportunity to present this testimony which, I assure you, has been offered constructively and hopefully will receive favorable consideration from this committee.

Mr. EILBERG. Thank you, Mr. White.

of man hours to develop a productive crop. Cotton, alfalfa, livestock, and other produce are grown in my district. In order to produce a crop of minimal profit and to help furnish this country with the food and fiber it needs, it is necessary to have a labor source available for what is often referred to as stoop labor. The realities of the present indicate there is very little unskilled labor available in this country. Now, there is skilled labor, there is labor, you might say, but I will go further.

A higher minimum wage for agricultural workers has been enacted, but other programs such as welfare and food stamps—as important and useful as they are for those who need them—have helped to create a group of indolent persons who are able, but not willing, to accept certain types of employment. They are not the ones this program was intended to reach.

I am not saying there are not people in our communities who could not do this needed unskilled labor, but in developing programs which we in Congress found necessary to help sustain those who are unable to earn a decent living, we are seeing that many of those who were previously employed on ranches and farms can receive as much compensation to sustain themselves by doing no work and drawing food stamps, welfare payments, or unemployment payments. In certain parts of the country, where the cost of living is lower, we can find even fewer people who will accept agricultural labor. Such is the situation all along the United States-Mexico border. You can go to communities, small rural communities in my district and go to the town square. You will see people sitting around there, people who appear to be able bodied, and you will ask them if they would like to do some of this type of work, agricultural work, and they will say no, no, because they are drawing enough to sustain themselves in their standard of living at that time. They do not want to go to that work and they will not, as long as the loopholes exist in the present law that allow people to draw even though they are able bodied. This program needs to be reviewed.

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I propose to spell out the procedures by which an individual employer can contract with an individual alien for specific terms of employment. I propose that an employer can hire an alien for up to

Mr. WHITE. Yes, sir, they are.

Mr. EILBERG. In view of the enormous national employment situation.

Mr. WHITE. They are up to date, sir.

Mr. EILBERG. I find it difficult to understand with such a large unemployed labor force that some of the labor could not be directed——

Mr. WHITE. Well, you cannot transport labor throughout the country, but I am talking about what I know in my district, and I would invite your staff or anybody to go through the district, to talk to the many employers, and to talk to the people that you find in the square and see if they will take this type of job. It is a reality. It is not a theory.

Mr. EILBERG. Mr. White, you are familiar with the H–2 program?

Mr. WHITE. Yes, sir.

Mr. EILBERG. It is not clear to me from your statement why you would change the H–2 system? Why can we not use the H–2 system rather than the device that you are suggesting?

Mr. WHITE. I am talking about expanding the H–2 system, because in the H–2 system, there is no procedure spelled out. As I read the bill, the act, it merely makes a provision in it that has not been honored by the Secretary of Labor in most instances. The Secretary of Labor apparently has not liked this program, and has, therefore, not instituted it. But I would hope that the committee would lay out procedures, and put some teeth into it so that the Secretary of Labor will help obtain the labor that is necessary through this procedure. And you know, this is why, as I understand it, the Rodino bill stalled in the Senate.

Mr. EILBERG. So you maintain that under your system that the Labor Department would cooperate and provide labor certification?

Mr. WHITE. If this committee provides the procedures that trigger the program, the Secretary of Labor will fulfill the law. He will be obliged to. That would be his duty.

Mr. EILBERG. Mr. White, that is his duty today, as we understand H–2, and we have had considerable difficulty with the Labor Department's administration of the program.

Mr. WHITE. Have you——

Mr. EILBERG. And I fail to see how your system will place any higher burden on the Labor Department. It seems to me that same shortcoming would still be there. They simply would refuse to issue the labor certifications.

Mr. WHITE. They have refused to issue them, and that is why I suggest that you put some teeth in it that will trigger an issuance of those certificates. Now, I am not talking about theory, I am talking about field experience, and farmers and ranchers and other employers who have attempted to utilize this particular program and have found it virtually impossible.

Mr. EILBERG. Well, where are the teeth in your proposal that would make the Labor Department issue a certification?

Mr. WHITE. In my proposal?

Mr. EILBERG. Yes.

Mr. WHITE. Well, in the first place it sets out the procedures, and I think you could mandate the Secretary of Labor under the procedures to fulfill them, because you set out the basis, and you also give—and

if they have not sufficient teeth in what I propose, then I urge, if you like this provision, that you put more teeth into it, whatever it takes.

Mr. EILBERG. Well, we are for more teeth in providing labor certification. But——

Mr. WHITE. I would suggest for one thing, Mr. Chairman, that you get some statistics from the Bureau of Labor to find out how many they have issued under this section, and I think you will see that this section has not been honored. And it has not been honored for the purposes for which it was devised.

Mr. EILBERG. Well, Mr. White, I have the 1973 report of the Immigration Service here and it indicates during 1973 that there were 9,268 temporary workers under H–2.

Mr. WHITE. How many?

Mr. EILBERG. 9,268.

Mr. WHITE. In the entire country?

Mr. EILBERG. Yes.

Mr. WHITE. Well, that is a pretty pitiful amount.

Mr. EILBERG. Well, I do not know what the needs are.

Mr. WHITE. What are they? Are they broken down? That would be a question too, because a lot of people have not had success with this particular program.

Mr. EILBERG. They are broken down into foreman, laborers who are designated as wage workers, laborers designated as unpaid family workers, and sheep herders.

Mr. WHITE. Furthermore, my suggestion will put a time limit, and it is not in this particular bill or act I do not believe.

Mr. EILBERG. Well, under H.R. 981 we provide for 1 year.

Mr. WHITE. It is 1 year?

Mr. EILBERG. Yes.

Mr. WHITE. Then I suggest 1 year with an aggregate of 3 total.

Mr. EILBERG. Now, you have not commented, and I would like you to comment, if possible, on the penalties in H.R. 982; what your reaction is to those penalties, or whether you would recommend any other penalties.

Mr. WHITE. My complaint about the bill is not necessarily the penalties, but the right of review, and the right for hearings on the part of those who are accused. If you put in the American style opportunities for presentation of evidence, and to be confronted by witnesses, I think then an employer could not complain. But unfortunately, in the bill as it presently stands you do not have those protections. So I am here not complaining about the penalties, I am complaining about the procedures.

Mr. EILBERG. Mr. White, I just would like to state for your benefit and for the record that on page H3311 of the Congressional Record of May 3, 1973, a colloquy took place on this bill between Ms. Holtzman, a member of the subcommittee and myself in which it was made perfectly clear that that additional hearing was under the Administrative Procedure Act, that there was an absolute right to a hearing, and that the employer was completely protected; so I think you are wrong in your statement.

Mr. WHITE. Well, I read the bill, sir, and the bill calls for the first time for a citation on information, on an apparent violation. The second time is before an immigration officer who may or may not

have law training, and his finding will be conclusive and on the substantial evidence rule. And these are the predicates for going to prison on the third violation. That is my complaint.

Mr. EILBERG. I would have no objection if the subcommittee or the committee felt it necessary to write that into the bill, but I assure you once again that that was our intent as spelled out in the colloquy that took place between Ms. Holtzman and myself. So I really do not think we have a difference on that point.

Mr. Sarbanes.

Mr. SARBANES. Mr. White, what is the unemployment rate in Texas?

Mr. WHITE. It varies from area to area.

Mr. SARBANES. Well, I mean what is the statewide unemployment rate today?

Mr. WHITE. I really do not know, sir, but I would take a wild guess that it is something in the area of 6 or 7 percent.

Mr. SARBANES. And what is it in your district?

Mr. WHITE. It is probably higher.

Mr. SARBANES. In your district higher than that?

Mr. WHITE. I would think so; yes.

Mr. SARBANES. Now, what would be your view——

Mr. WHITE. It depends again on the part of the district. There is one area where there is no unemployment, but there are other parts where there is some unemployment.

Mr. SARBANES. Would you say that in your district there is widespread employment of illegal aliens by the farmers and the ranchers to which you refer?

Mr. WHITE. I would think there would be; yes.

Mr. SARBANES. That there is widespread employment?

Mr. WHITE. I would judge so.

Mr. SARBANES. Are they paying the illegal aliens the minimum wage applicable to that employment?

Mr. WHITE. I think they would because they would be under a violation of law if they do not with penalties.

Mr. SARBANES. Well, I understand that they would be violating the law if they were not paying the minimum wage, but that was not my question. I merely was asking——

Mr. WHITE. Obviously, I could not have personal knowledge, but I would judge that they would.

Mr. SARBANES. Because it is a violation of the law or because you know for a fact that most of them do pay the minimum wage?

Mr. WHITE. Because it is the law. I do not think that they were paying minimum wage before, but now that the law has changed, I believe that they would be paying the minimum wage.

Mr. SARBANES. Now, if the law were changed so that it was a violation by them to employ illegal aliens, would you assume that they would conform with that law in the same manner as you believe they are conforming with the minimum wage law?

Mr. WHITE. I think in some instances. I do not think that they would ask, and they would hope that the man did not say, because they are faced with the realities of their crops. I think that once if a man was to identify himself as an illegal alien, I think most of them would comply.

Mr. SARBANES. Now, the payment of these benefits that you refer to and to which you attribute the inability to obtain, I think, what you called——

Mr. WHITE. Stoop labor?

Mr. SARBANES. No; you called it willing and——

Mr. WHITE. Willing and able.

Mr. SARBANES [continuing]. Willing and able, I think, is the way you referred to it, the payment of benefits is governed, is it not, by the State of Texas?

Mr. WHITE. Yes. But of course, there are some problems as far as the ability to inquire, and to go in and to follow up. And this is a problem. I think it is a problem that you probably would find all over the country, there are persons who may be on the margin, or even who are quite able who are drawing, and this is food stamps. This is our problem nationwide, it is not just located in my district, and that is why I think the whole program needs to be reexamined and redefined.

Mr. SARBANES. Well, there are a number of areas in the country in which you cannot draw these benefits if you are able to take work and do not take it. Is that not the case in the State of Texas?

Mr. WHITE. I could not say that it is or not, sir. I do not know. And I would——

Mr. SARBANES. Would you feel——

Mr. WHITE. What you stated is theory, and probably not fact.

Mr. SARBANES. Would you feel that rather than addressing this particular aspect of what you perceive the difficulty to be in obtaining workers, a solution lies in setting up a process for bringing in people from outside of the country and employing them instead of employing our own people?

Mr. WHITE. Well, I have recommended, myself, to the Ways and Means Committee a program whereby a man who does not take a position, does not get aid if he is able bodied, but that at the present time has not been instituted, and they have only gone so far as public service jobs. Now, I am talking about the private sector as well. But I say facing the realities of what we have now, and the fact that these men live from year to year and have to have the labor, now if you cut off the illegal aliens without providing some other, faster way to obtain labor, then you have chaos among the border areas. I think Mr. Sisk probably was trying to infer this as well.

Mr. SARBANES. Now, as for the observations you make about the penalty provisions of the bill, we could, of course, impose a criminal penalty first time out; could we not?

Mr. WHITE. Yes.

Mr. SARBANES. As a matter of power?

Mr. WHITE. Yes. If you had hearings.

Mr. SARBANES. Oh, yes. Yes, indeed.

Mr. WHITE. With de novo evidence.

Mr. SARBANES. That is right. We could impose a criminal penalty first time out.

Mr. WHITE. Yes, sir. Yes, sir.

Mr. SARBANES. Do you think we should do that?

Mr. WHITE. That is up to the committee. I am not going to suggest a position such as that.

Mr. SARBANES. Of course, if we did that, it would eliminate the problems you find with the use of the citation and the civil fine, with respect to both stages I gather you wish to attach all of the procedural aspects?

Mr. WHITE. Yes, sir.

Mr. SARBANES. All of the procedural aspects that run with the criminal penalty; is that right?

Mr. WHITE. I suggest the first time the opportunity for a sworn statement to negate the citation, in the first instance, if you are going to keep this system. That would make the person then vulnerable to a charge of false swearing, and that is a very simple procedure that you could use. If the person failed to present such statement then, of course, he has had his opportunity. I am talking about an opportunity now. The second time I suggest a hearing, if you are going to keep the present structure that you have got in the bill, and the third time with the——

Mr. SARBANES. Well, there is a hearing provided in the bill in the second stage.

Mr. WHITE. No. There is an opportunity for a hearing. You did not say a hearing, you said an opportunity for a hearing which is different. That is the difference. And you also have it before an immigration officer who may or not be a law officer, I mean a man trained in the law, and you also do not provide de novo hearings, presentation of fresh evidence on an appeal. You provide for the appeal, but you do not give him the chance to present evidence.

Mr. SARBANES. It would seem to me probably the way to solve your problem is to go to the criminal penalty at the first stage, with all of the procedures that run with a criminal penalty.

Mr. WHITE. If you do that, then I do not know that anyone can complain. But you have got to give them the full hearing.

Mr. SARBANES. You would not complain on the procedural side if we did that, if we went to that stage immediately?

Mr. WHITE. I am not recommending it, but I would not complain.

Mr. SARBANES. Would you complain on the substantive side; that is, going to that penalty right away as too severe a penalty?

Mr. WHITE. I think that most of the people in my district would regard it as too severe.

Mr. SARBANES. Would you so regard it?

Mr. WHITE. Yes, I think probably so.

Mr. SARBANES. Or have some complaint if that were done?

Mr. WHITE. I probably would. I had another system of my own which I felt was better, and it provided something like this—but it is not very popular—would provide that if you went to this identification system, that anyone who hires an illegal alien, who is designated on a card—social security card—as an alien, would then be obliged to notify the Immigration Service immediately. Through a computer system, if he was an illegal alien, and then the Immigration Service would pick him up. I said then that the employer would then have to pay assertive administrative costs and the cost of transporting him back to the point of debarkation, which is precisely the cost the taxpayer would have to pay. That is not a penalty. That is a reimbursement to the taxpayers. That is what I suggest instead.

Mr. SARBANES. And that is the extent of the penalty you propose to provide?

Mr. WHITE. Well, under that system, you could get the repeaters.

Mr. SARBANES. Would you regard the penalty you provided as a deterrent to the employment of illegal aliens?

Mr. WHITE. I think it would.

Mr. SARBANES. Or simply as a fee for their use?

Mr. WHITE. It would be a deterrent. I did not catch your last word. It would be a deterrent; but to do this and really stop hiring of illegal aliens in any instance you still have to provide the outlet that I am talking about for contract visas. You cannot take away without also making a provision. That is what I am saying, under the realities of the need for labor. If you did the other, I do not think that you are going to find complaints. If you provide penalties, immediate penalties, let us say criminal penalties, and do not also provide at the same time the opportunity to hire, with procedures to hire individual labor, I do not think you would find the people in my district would be for that.

Mr. SARBANES. There is the H–2 procedure now for obtaining labor. The Secretary of Labor is unwilling to make the certification apparently in light of domestic employment conditions. Now, would you go so far as to require the Secretary to make a certification in those instances in which the employer had entered into a contract with an alien?

Mr. WHITE. I would if certain predicates could be proved—if the predicates could be proved—a proving of no available domestic labor for that purpose. But presently the discretion is entirely in the hands of the Secretary of Labor who has constantly and insistently not allowed the implementation of this section.

Mr. SARBANES. Thank you, Mr. Chairman.

Mr. EILBERG. Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman.

Mr. White, I thank you for your testimony. And as regards the recommendations for procedural due process, I think we should, the committee and staff, study your suggestions very carefully.

I just want to draw your attention to the top of page 2 of your testimony where you are referring to the social security card system. You recall, and perhaps you do because you were in the room here, the colloquy I had with the previous witness, Congressman Sisk. That was that the social security card is authorized only for a native-born American citizen, a naturalized American citizen, or an alien lawfully admitted and entitled to work. That being the case I do not quite understand the purpose of your proposal that the designation of citizenship or alien status on a social security card should be implemented. What purpose is that going to serve?

Mr. WHITE. Well, this would be partially to obviate forgery. Now, whatever system you use or the Government institutes is going to be duplicated or attempted to be duplicated by those who make money out of it.

Mr. FISH. Can I interrupt at this point? We are even contemplating a social security card that is foolproof, tamperproof, that everybody would surrender their present card to get. It would be modeled after the alien registration card the Immigration Service is presently

working on, and presumably it would have a picture on it. Under those circumstances, do you not think it would be unnecessary to have a designation of citizenship or alien status, particularly since alien status might change to that of citizenship status?

Mr. WHITE. If the alien status changes, then the man or woman would be issued a new card.

Mr. FISH. But if it is foolproof, why do you want to designate alien status?

Mr. WHITE. Well, it is foolproof only when it goes through the process of the computers. If you have General Chapman—and I am sure perhaps you have, perhaps you have already done it—if you could have him to show you how these present systems are duplicated, you would see they are very artful. The only way you are going to ferret out those who have forged a card is by running it through the process.

Mr. FISH. The purpose of this designation of citizenship or alien status on a social security card is to uncover illegal aliens?

Mr. WHITE. Yes.

Mr. FISH. Thank you very much, Mr. Chairman.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. White, earlier today we had, and I believe you were in the audience, testimony from Mr. Biaggi who pointed out that illegal aliens are exploited in his area. Some came before his ad hoc committee to testify that they had received less than a dollar per hour, that they had worked as long as 84 hours a week. I believe that Mr. Sisk could cite similar examples in California. Yet I gather from your testimony that the people—and there are a great many people employed in your district who are illegal aliens—yet the employers, notwithstanding their illegal status, pay them a minimum wage?

Mr. WHITE. I say I am sure the great majority do. I am sure there are violators, anywhere in the country.

Mr. COHEN. Well, in view of the history of this whole problem of illegal aliens, and the exploitation of illegal aliens, it seems to me hard to really accept that the majority of the employers do, in fact, pay the minimum wage and abide by all of the existing laws. But I also have difficulty in accepting the fact that if we were to pass such a law, which would make it a crime eventually to employ illegal aliens, you indicate that a number of people are still going to violate such a law because it will be in their interest to do so.

Mr. WHITE. They will probably not knowingly violate it. Some of them I think, anywhere in the country, would probably not ask. I am thinking that most of them, once asked, if they asked and find the man is, indeed, an illegal alien, probably would not hire them. But there would be some who will hire him. But the thing is that under the present bill you have there is a dodge. All the man has to do is to have some forms printed to conform to the Attorney General's specifications, and then the employer has prima facie proof that he has made the bona fide inquiry.

Mr. COHEN. But they would not ask because they really do not want to know?

Mr. WHITE. Probably.

Mr. COHEN. I just wondered if that same attitude exists that since it serves their own financial interest, they do not pay the minimum wage because they do not have to?

Mr. WHITE. No, because they have to make a report. They have to make a report presently on their W-2 forms, and I think they would be caught up somewhere along the line. They are very respectful of the law. If they are respectful ab initio, they are respectful as to what can happen to them.

Mr. COHEN. Another point you raise about the procedural aspects of the notice requirement and so forth, I believe during the course of your testimony you indicated that it was procedurally violative of the notion of due process because an employer might not attend the first hearing?

Mr. WHITE. It's possible.

Mr. COHEN. Or the second hearing?

Mr. WHITE. Well, it is possible too. Not probable, but possible.

Mr. COHEN. It seems to me that under this proposal it would behoove any employer to open his mail.

Mr. WHITE. Well, I am saying it is possible.

Mr. COHEN. I mean if an employer who employs legal or illegal aliens were to get a letter from the Attorney General of the United States, I assume return receipt requested, he would probably come.

Mr. WHITE. If the postal service directed the letter rightly, and if he was in residence where his farm is, yes.

Mr. COHEN. But in any event, what if that were to be made prima facie evidence of a violation, a failure to appear at the first hearing or appear at the second hearing, would that offend your notion of fair-play or due process if we were to make that prima facie evidence of his violation on previous occasions?

Mr. WHITE. I do not know any other law that says that that is prima facie in itself.

Mr. COHEN. Or presumptive?

Mr. WHITE. Well, the presumption could be used against him, perhaps, yes.

Mr. COHEN. That is all I have, Mr. Chairman.

Mr. EILBERG. Mr. White, we thank you very much.

Mr. WHITE. Thank you very much, Mr. Chairman.

Mr. EILBERG. Next and finally, and we thank him for his patience, the gentleman from California, the Honorable Leo J. Ryan. And Mr. Ryan, do you have a statement which you wish to make?

TESTIMONY OF HON. LEO J. RYAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RYAN. Mr. Chairman, I do not have a written statement. I would rather depend on some pictures that I have taken myself.

Mr. EILBERG. Please proceed.

Mr. RYAN. And simply make some explanation here. I would like to explain to the members of this subcommittee that the origin of my interest is my status as a member of the Government Operations Committee and the Subcommittee on Legal and Monetary Affairs where in the last 2 years we began to examine into certain violations

which had occurred, and which were alleged to have occurred in the misuse by immigration officers of their responsibilities, and in some cases their conviction for violation of the law in connection with their responsibilities at the border.

Once you get to this question, as you must realize yourself from much longer experience, it is a much more complicated problem than it first appears. The other reason for my interest is because I live in and represent an area which is suburban San Francisco, and like most other metropolitan areas we face a relatively high rate of unemployment. In the bay area I believe today the unemployment rate runs over 11 percent. You have heard the figures before. But, they may bear some use here in repeating.

More than half of the estimated 2 to 3 million jobs presently being held by illegal aliens in this country according to INS are at the rate of $4.50 to $6.50 an hour. And as a consequence, they tend to depress the employment rate and to cause a substantial part of the present unemployment problem in this country. Another 30 percent are employed at the minimum wage level, somewhere between $2, $3 or $3.50 an hour, and there are about 20 percent or less who are involved in farm labor as such.

You have already heard and know, I think, well enough the problem that relates to the cost to local, State, and Federal Governments for schools, for welfare, for hospitals, for even the balance of payments. If we estimate say $250 each sent home by illegal aliens employed here, it amounts to several billion dollars in a deficit balance of payments, to say nothing of the public health problems, or the housing problems, crime and the rest that have been referred to by other witnesses this morning, and I am sure before now.

Another element that I discovered in going into this myself had to do with what I call a kind of modern day slave traffic. It is not a minor business. It is a major business in this country, and certainly in the State of California. And I think that the pictures that I have here, some of which I will show you in a minute bear on that.

If that were not bad enough today, it is important to remember that whatever problem we have, it is estimated by the Immigration and Naturalization Service that the number will double at least by 1980. The rate of population increase in Mexico alone guarantees that estimation to be correct.

Now, there are some perhaps assumptions about this problem which I think are slightly inaccurate, out of focus, and I would like to address myself to those particular assumptions because I believe they will help the committee in its deliberations.

In the first few days after the election last fall, during that hiatus when nothing much was happening, I took several days off, and at the invitation of Caesar Chavez and the Farm Workers Union, I was taken by some of his staff members to look at the problem from the farmworkers point of view. I went to two places, in particular down along the Arizona border, outside of Yuma in a town called San Luis. I believe you are familiar with the city, as a matter of fact, and also to Fresno County in what is mostly Congressman Krebs' district, and partly in Congressman Sisk's district. Along the border there was a particular problem which I think relates to the farmworkers themselves, and in Fresno County the problem was somewhat different.

Perhaps the most mistaken assumption we make in regard to this particular problem has to do with the border itself. I have been over the border between Mexico and the United States on a number of occasions. As you know, Tijuana is almost directly south of San Diego, and very easy to go there. It is a tourist town, and there are the bullfights and so on. I had assumed that the border was at least to some extent patrolled, and that there was some degree of security involved. I would like to show you here a picture which I took myself. All of these were taken by me with my own camera. And this picture is a picture taken approximately 2 miles west of the border station at San Luis, Ariz. You will notice in the picture this is the end of the fence. This is a paved road on one side. Now, if you have the money, you can go by cab to the end of the fence. It is about 2 miles, and you can cross the border with impunity. This is water here, and it is part of the Colorado River. Just outside of the picture, and it shows in the smaller photograph here, there is some border patrol. It is the farmworkers themselves who have 23 tents, surface-type tents, which they man continually because they are on strike against the growers in the area, the lemon growers and grapefruit growers in the area, trying to protect the integrity of their wages. The growers themselves advertise over a Mexican radio and say come across and work for us and make money and go home. The farmworkers themselves are the only patrol there is, and it is the farmworkers who find Mexicans coming across the border, they intercept them, and try to talk them into going back home. In most cases, they tell me they are successful. But the point is, the border is unpatrolled.

If that picture is not unpatrolled enough, here is another picture. In the background here with the American flag flying, the building you see here, this is the Border Patrol station and the Immigration at San Luis, Ariz. This is one of my guides, this young lady, and she has her legs through the hole in the fence in Mexico, and this hole in the fence is visible from the building. It is one of many holes in the fence that are cut regularly and repaired not by the Immigration Service or by the Border Patrol, but by the farmworkers, who in some attempt to maintain the integrity for their own purposes, presently patrol this area. I think this to me was a rather dramatic illustration of the fact that the border itself, as far as the integrity of the border is concerned, is nonexistent, and there is no patrol whatever.

During my 2 days along the border, walking that border in various places, I was not apprehended by any agents of the Federal Government, nor was I questioned, nor did anybody attempt to stop me. It is simply wide open.

I do not mean to imply that they were not here at the station taking people coming through legally across the road. They were certainly there. But it was possible to walk outside of the station, walk around behind, and go through the fence and be in Mexico, if you cared to do so.

So when the Immigration Service asks for an additional 2,500 officers, and you figure that it takes about 4½ officers to man the border around the clock—that is, 7 days a week, 24 hours a day—you are talking about a net number somewhere about 550 to 600 additional places along the border that can be patroled, and if you figure that the national boundaries are such as they are, it is simply inadequate

under the present conditions. And the reason I say that is if we are going to talk about how to resolve the problem, it will not be under present conditions by simply putting more people along that border and stopping people from coming in that way. It would have to be some better solution.

There has been some reference made also to the aliens themselves and the question about amnesty, questions about living conditions, how they are taken care of, what they do, where they live, and so on. In California, and I am not sure what the rest of the country does, we have what we call licensed labor contractors. I am sure you are familiar with the term. They are essentially agents who act for the grower in hiring people to pick his particular field when his crop is ripe. He is licensed by the State. He maintains a labor camp where people can live, assuming that those conditions are humane, that they are safe, that they are the kind of conditions which a State can supervise and take care of.

This picture was taken by me in a licensed labor contractor's camp in Fresno. There was someone living in that bunk at the time I was there. This is a licensed labor contractor's camp. Now, if conditions are that bad there, you can imagine what they are elsewhere if the living conditions are not on a permanent basis, such as this, also taken nearby in the county of Fresno. These are essentially for the illegal aliens who are there on a seasonal basis and who are hired by growers through either legal labor contractors or in many cases illegally brought up there by Coyotes, and I am sure you have heard of them. Incidentally, in the pictures I have here I can show a picture that I took of a Coyote in the front seat. The back seat and the front seat of his Chevrolet were full of illegal aliens who were on their way to a job.

This particular picture shows all of the comforts of home. You have the bed, you have the refrigerator, you have the heat, and of course, we do not say anything about the fire hazard or whatever, and here is the stove. This particular bunk is worth $30 a month, just a bunk for one illegal alien while he works at this particular place. One of the practices engaged in by many growers in California, and I suppose elsewhere, is to pay the illegal alien some kind of wage, perhaps $2 an hour, $3 an hour, as much as the American farmworkers who are U.S. citizens demand, or try to demand in their labor negotiations, but then, with the conditions like these, they charge them room and board, and get back most of the money that they pay them. So the illegal alien oftentimes very commonly gets in his paycheck a net of somewhere between $20 and $30 for a two-week period.

It is not as if the growers themselves do not realize the problem and simply pass it by. This is a picture where you can see the house in the distance. It reminds me very much of conditions 150 years ago in the South where the owner of the plantation lives very close by the slave quarters. If you look in the right-hand corner there, you can see the toilet which was used at the top of the season by 40 to 50 illegal aliens. That is the only toilet they had. Incidentally, it drains out into the field, one of the fields that is right outside of the picture where they were growing at the time I took the picture some kind of low plant, probably some kind of squash or melon.

These pictures and others I think illustrate that the comments made about American farmworkers not being willing to work, it seems to

me in many cases is because the wages are so depressed that it is impossible for an American farmworker to get a decent wage, and try to pay his taxes, and educate his kids, and try and live in this country at the kind of standard of living which is approached by almost anyone else who is employed in any other industry in the country. So I think that where we talk about the farmworkers as such being unwilling to do the kind of work that is available and, therefore, the grower must resort to some other means in order to pick his crop, we talk about a situation which would not exist were there to be legitimate labor negotiations between a union and the employer as such regarding the conditions under which they will work.

In California we recently finally got rid of the short-handled hoe, for example. I did not know what a short-handled hoe was until I tried to use one. If you have ever seen a hoe with a handle about 2 feet long, and realize that a human being can use that hoe all day long to cut lettuce, or to chop weeds, and recognize that in a very short period of time a young man in his twenties can become a very old man, and perhaps even die of the accumulated dibilitating process in his body over a period of years, you begin to get an idea of what the conditions are in which they try to force workers to live. All of this, I think, would be done away with were there some kind of negative penalty placed upon growers as such, or upon employers themselves in regard to how they employ alien workers in jobs which they say Americans will not fill. The reasons the Americans will not fill them are that conditions are such that no one else would accept them and go to work.

Now, in regard to the Rodino bill itself, it is really a very commendable bill, and I think it goes a long way to resolving the particular problem that is faced by this country in trying to handle the flood that exists today of illegal aliens who have taken so many American jobs. I would point out to you, however, that the 20 percent of the problem which is farm workers, I think, can be resolved by creating some kind of mechanism; and I am talking now to members of the labor movement who are somewhat ambivalent themselves, at least until now, about how to resolve the problem, but if we can put into the bill, or you can put into the bill, something which will allow for workers and growers or unions and growers to make a determination in fact in a given area as to whether or not there is a labor shortage, and if there is truly a labor shortage then allow for some kind of legal means by which aliens are allowed to work for a time in American fields, you would have no probleim from labor, and of course, labor was the primary source of oppos tion to the bracero program, and the reason it was done away with. If we can have some means by which both growers and unions can agree, or farm workers, however they are organized, can agree on a labor shortage in a given area, I think we could resolve the opposition or the questions that there are from members of labor unions, and from labor unions themselves, as to reinstituting some kind of a program of alien assistance.

One final point which has to do with amnesty, and I am very intrigued that the question came up as often as it did here, because it troubles me too. This Nation, I think, is composed of immigrants, and the sons and daughters of immigrants, the grandsons and so on in generations, and for that very specific and very obvious reason we

are reluctant I suppose to close off others from coming here to find the same kind of relief that our ancestors found in coming to this country in the first place. There was a professor of philosophy, I believe, at the University of California at Santa Barbara, and his name escapes me, but I must at least refer to him this much, who coined the phrase "the lifeboat epic." And I think we approach that point now of how many do you put in the lifeboat before the lifeboat itself sinks. That is the problem we face, and it is a rather agonizing case. If we grant amnesty to all of those here on the face of it, it is a very humanitarian idea. The effect that it has is what concerns me. If we encourage by granting amnesty, others to come the same way, the flood that we have now is minor by comparison with those who will come later, because they will be encouraged to break the law, they will be encouraged to violate the border, and a border which I have tried to show you is too permeable now so as to be nonexistent. And I reluctantly then am forced to say that there must some kind of limitation placed upon those who come later. I can show you pictures that I have got here of a woman.

I took a picture of a woman and her child born in Fresno County last November or last October, I guess. She walked from Mexico to Fresno County. She could have ridden but she was afraid. She and her husband, leaving five children behind, walked into this country in order to have that baby, in conditions that are indescribably poor. Incidentally, they were just around the corner from that building. And the reason that she came, of course, is because now she has one American citizen and that does two things, she told me. One, that child hopefully, some way can be kept in this country, and since he was born here, he is an American citizen; and the second thing is a very practical thing that if the child is here, the mother and father should be here to raise him. And they have a better hold on remaining here, if they are caught.

Now, that is the nature of the problem as it relates to amnesty in trying to resolve this terrible dilemma that we face now. If then we are to write a bill trying to control illegal aliens, it seems to me we have to address the labor problem, and especially in the farmworker area, and if we do that, and can resolve that particular question, as was pointed out by the previous witness, we can probably get that bill through both Houses, because presently the strongest opposition I can see is from the farm area.

Incidentally, in closing let me just point out to you that you cannot go to dinner here in Washington in the evening without having yourself directly or indirectly served by an illegal alien. I bought a car last week, a small car, my contribution to the energy problem, from a dealer here in town. The man that washed it and got it ready could not speak English, he spoke only Spanish, and I had to restrain myself with some difficulty from asking him if he was legal, and asking his employer if he was legal, and I have a hunch that were an immigration official to come in the back door of any restaurant where perhaps your State delegation is having a dinner, if they were to come there, say, an hour before dinner was to be put on the table, you would not get your dinner. Now, there are so many examples of jobs today being held everywhere in the country by illegal aliens that we must, I think, as soon as possible begin to stem the tide that exists and

find some way to resolve this problem in as humanitarian a sense as possible, but with the greatest emphasis upon those American citizens in this country who today sit at home for the first time in their lives unable to find work, desperate, looking around to try and find something that will enable them to live as they thought they were guaranteed when they grew up.

And I thank you, Mr. Chairman, for this chance to talk to you.

Mr. EILBERG. Mr. Ryan, I want to thank you on behalf of the subcommittee for your very fine presentation. Let me tell you that in the 92d Congress, this subcommittee visited the Southwestern border on the Rio Grande and saw some of the conditions that you referred to today. And you made this information available to this new subcommittee and those of us that are here, and I am grateful for that. Also for your views on a lot of the various points that were raised by the other guests this morning.

There are one or two more points that I would like to get your reaction on, and that is, do you think that we need to strengthen that part of the bill with respect to the obligation of the employer; that is, should we require him to get a birth certificate or some other evidence, should we insist that the employer not hire unless some such evidence is presented? Would you go so far as to require some other device other than that which appears in H.R. 982, which places the minimum burden on both parties?

Mr. RYAN. I think that the answer lies in two parts. One is to provide for some better means of policing our present employment procedures. I back off from and would resist at least as much as I can until we have tried every other means, some kind of national identity cards, or some kind of a paper that we must carry at all times in order to be legal in this country, whether we are born here or whatever. But I do think that employers could be much more careful about the manner in which they question prospective employees. The precedent is set in many areas of employment already. If you are hired as a banking official, it is presumed that you do not have any kind, or have never defaulted on a bond, for example, and there are some checks made as to your background. I think we need to go further than that now and make some further check and require employers to make some more careful checks than they do today because they make none at all in many cases. I know from my own experience in moving around in Fresno County, and I did a great deal of digging in that particular area, there is not only tacit acceptance of these illegal aliens, but an encouragement. And it is not as if they do not know. It is that they encourage the illegal because he is cheaper.

I had the experience last September in my own district in San Mateo County, which is primarily suburban, but has some agriculture on the coast, of having a delegation of European parliamentarians taken over to a brussels sprouts field, and as we got out of the bus, the county agricultural agent came over and he said, Leo, he said, now listen. I know what you have been doing, and I think probably you are right about illegal aliens, but for God's sake don't ask any questions about who's working here in this field. He said, you see that machine over there, 9 of the 11 on that machine are illegals.

Mr. EILBERG. All right now, Mr. Ryan. I understand your position. But you said we should do something more, but you do not say what.

Mr. RYAN. I think it comes in two areas. One is to require the employer to take more responsibility for what he has than he has previously in regard to who he employs. It may be simply his certification that—you use the word "knowingly" in your bill—and I think that may be enough, and providing on page 3, I believe it is where you say he has made a bona fide inquiry. But what does that constitute? I think perhaps that should be spelled out in more detail.

The other is, and the Social Security Agency may resist this, but the Social Security Board and its system is so much a part of the fabric and structure of this country that it could easily become without too much effort, by tightening the procedures, and perhaps by this card that has been suggested already this morning, the means by which you could obtain some certification as to the origin of a person who is involved who has the identification.

Mr. EILBERG. The other question or area that I would like to get your opinion on would be the penalty provisions of the bill. Would you support stronger penalties than those provided in H.R. 982?

Mr. RYAN. I think that depends on the economic attraction of violating the bill. I think it is not in the employer's interest to pay the $500 for the first offense. Does he make that judgment on the basis of dollars and cents, and try to keep it so that it becomes a matter of trying to live within the cost of the violation, and in that sense perhaps it is not high enough. But I think that the determination should be made on the basis of economics. Is it too expensive for him to hire illegal aliens? If it is, I do not think he will hire them. I think the committee itself and the staff could make that determination more carefully than I could here, and in that sense I think I just guess that the first penalty may be too low, but otherwise I would think it was proper.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. I really do not have any questions, Mr. Chairman. I thank you for your testimony.

I would only make one observation. I believe you refer to the fact that you just purchased a new car, and because the gentleman who happened to be working on your car, or washing it, spoke Spanish, that that at least raised your suspicions that the person is probably illegal, has illegally entered into this country. I cannot say that I share that sentiment. I suppose it depends on where you go. If you go into New York City, they have a very sizable Spanish——

Mr. RYAN. Puerto Rican.

Mr. COHEN [continuing]. Puerto Rican population, many of whom were probably admitted legally, and still speak Spanish. And in the State of Maine, if you were to go into certain parts of Maine, you might even encounter some young people speaking French.

Mr. RYAN. Having gone to school at Bates College, I know what you mean.

Mr. COHEN. And you would not necessarily assume that they are illegal, would you?

Mr. RYAN. No. And I do not solely—perhaps I said too little about that particular incident. After you have done the digging that I did, there was suggestiveness about his manner while I was there, and I attempted to talk to him, just simply to pass the time of day, and he simply tried to move out of earshot or involve himself in

something else. His manner, his whole appearance, I think, seemed to indicate to me that there would be some reason to question him whether or not he was at ease with himself and his job and his surroundings. I did not mean to imply—I have in my own district 17 percent of the population which is of Mexican or Spanish descent, and they are American citizens. Many of them, especially older citizens, speak no English, which is not very uncommon. We have people who have lived in San Mateo county for 50 years who speak only Italian, who came here as young children, and this in and of itself does not indicate illegality. I think this is in itself, the question you raise, something which requires some degree of sensitivity to the particular problems faced by American citizens who are of Spanish descent or any other descent and who have become Americans the legal way. But if we weigh that against the problem, and I cannot help but measure the problem that would be faced by those who have linguistic difficulties with the problems faced by tens of thousands of people in my own district who do not work and cannot find work, whether they are teenagers just out of school or people who have worked for 20 or 30 years and suddenly find themselves laid off. The dilemma we face is a difficult one, but it has to be faced, and it cannot be faced by simply giving in to the one because the others are not organized yet.

Mr. COHEN. You do express some reservations about going to any sort of national identification card, whether it is social security or whatever, but of course this presents a problem with this committee in designing any sort of legislation that would not simply issue a card or require the issuance of that card to those of minorities and non-English speaking groups.

Mr. RYAN. Well, if a card is issued, the problem I face as an individual in trying to solve this problem, if there is a national identification card issued, then that national identity card can be withheld, and for whatever reason, and by whomever, if you do not have your identity card, then who are you? And that in itself to me, as I think a rather confirmed civil libertarian, causes me some real problems. And how do you balance these? I think perhaps at this point I take the same cop-out route that my dear friend, Congressman Sisk, took, and I leave it to the wisdom of this committee.

Mr. COHEN. Thank you. That is all I have, Mr. Chairman.

Mr. EILBERG. Mr. Ryan, we are very grateful to you for bringing all of these photographs, and hopefully we will bring a bill to the floor. And I look forward to you participating in the debate which will take place.

Mr. RYAN. I look forward to it too. Thank you, Mr. Chairman.

Mr. EILBERG. The subcommittee is now adjourned and will meet again on next Tuesday.

[Whereupon, at 12:40 p.m., the hearing was recessed subject to the call of the Chair.]

ILLEGAL ALIENS

WEDNESDAY, MARCH 5, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
CITIZENSHIP, AND INTERNATIONAL LAW
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:13 a.m., in room 2226, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Sarbanes, Dodd, Russo, Fish, and Cohen.

Also present: Garner J. Cline and Arthur P. Endres, Jr., counsels; Janice A. Zarro, assistant counsel; and Alexander B. Cook, associate counsel.

Mr. EILBERG. The subcommittee will come to order.

I am very happy to invite Mr. Andrew J. Biemiller to the witness stand, and if Mr. Meiklejohn cares to join him, it is perfectly all right. I apologize to you for being late. We had another obligation uptown and traffic delayed us, and we welcome you very much, Mr. Biemiller.

It is indeed a pleasure to welcome you to this subcommittee, and we are most anxious to receive your testimony concerning the illegal alien problem in this country.

This subcommittee has benefited greatly by the advice and cooperation of the AFL–CIO over the years, and once again we enlist your suggestions and recommendations in solving this very difficult problem.

We await your comments on the illegal alien legislation, and you may proceed in any manner you so desire.

TESTIMONY OF ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, ACCOMPANIED BY KENNETH A. MEIKLEJOHN, LEGISLATIVE COUNSEL

Mr. BIEMILLER. Thank you.

Mr. Chairman, for the record, I am director of the legislative department of the American Federation of Labor and Congress of Industrial Organizations. I appreciate the opportunity to appear before this committee on the Rodino illegal alien bill, H.R. 982.

This bill is the result of lengthy and detailed study of the problem of illegal aliens working in the United States by the House Committee on the Judiciary. Of special importance in this connection has been the work put in on the problem by this subcommittee.

As a result of your hard work, the House of Representatives in both 1972 and 1973 overwhelmingly passed legislation basically similar to H.R. 982. Although the AFL–CIO and other groups supported that legislation, the bill foundered both times in the Senate Subcommittee on Immigration which has thus far taken no action whatsoever to deal with the illegal alien problem.

H.R. 982 would remove from section 274(a) of the Immigration and Nationality Act providing criminal penalties for harboring illegal aliens, a proviso that exempts employers from the operation of this provision and would impose penalties upon employers who knowingly employ aliens who have not been admitted for permanent residence in the United States or who have not been authorized by the Attorney General to accept employment. We believe this bill should be promptly reported favorably by this subcommittee with two amendments, which we will discuss later in this statement.

In view of the fact that the House has twice acted favorably on legislation like H.R. 982, it hardly seems necessary to discuss here in any detail our reasons for believing that there is an urgent need for the enactment of legislation along the lines of this bill. The AFL–CIO has long felt that this need was clear. At the recent meetings of the AFL–CIO Executive Council in Miami, Fla., a statement issued by the council pointed out:

> With more than 7,500,000 Americans unemployed and joblessness rising, the presence of millions of illegal aliens in this country is an acute and growing problem.
>
> The Immigration and Naturalization Service estimates that there are six to seven million illegal aliens in the United States. While the number apprehended and deported annually reached 800,000 in 1974, the net increase in the number of illegals continues to grow. This year, because fewer immigration inspections are provided for under available appropriation, fewer illegals are expected to be caught and expelled.

I would like to ask, Mr. Chairman, that a copy of the full statement issued by the AFL–CIO Executive Council on February 18, 1974, and of a statement on illegal immigrants adopted by the Ninth Constitutional Convention of the AFL–CIO in November 1971 be included in the record of these hearings.

Mr. EILBERG. Without objection, those statements will be included.

[The statements referred to follow:]

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON ILLEGAL ALIENS

With more than 7,500,000 Americans unemployed and joblessness rising the presence of millions of illegal aliens in this country is an acute and growing problem.

The Immigration and Naturalization Service estimates that there are six to seven million illegal aliens in the United States. While the number apprehended and deported annually reached nearly 800,000 in 1974 the net increase in the number of "illegals" continues to grow. This year, because fewer immigration inspections are provided for under available appropriation, fewer "illegals" are expected to be caught and expelled.

Legislation to deal with the illegal alien problem has long been an urgent objective of the AFL–CIO. Efforts to pass legislation that would make it a crime for an employer to have illegal aliens on his payroll, however, have been blocked by Senator James O. Eastland, Chairman of the Senate Immigration Subcommittee. He refuses to consider any illegal alien bill that does not provide authority for importation of foreign farm workers when domestic workers are not available at the low wages set by employers—in other words, a new "bracero" program such as the one killed by Congress in 1962.

In 1972 and 1973 the House of Representatives passed legislation sponsored by House Judiciary Committee Chairman Peter W. Rodino, Jr., that would have repealed a proviso contained in the Immigration and Nationality Act that exempts employers from the Act's prohibition against the "harboring" of illegal aliens and would have established a three stage enforcement procedure for dealing with violations of the law. Under the bill's provisions, an employer would be subject to a warning citation for a first violation, a civil penalty for a second violation of not more than $500 for each illegal alien, and a criminal penalty in the case of a third violation of a fine of not more than $1,000 or imprisonment for not more than one year, or both. No penalty is provided if the employer has a signed statement from the worker saying he is a citizen or a legal alien.

The AFL–CIO supported the Rodino bill both times it was before the House, even though we seriously questioned the effectiveness of the weak enforcement provisions.

Despite favorable action by the House, the bill became stalemated both times in the Senate as a result of Senator Eastland's adamant refusal to allow his Immigration Subcommittee even to meet to consider the bill. His intransigence has blocked all efforts to erect barriers to importation and employment of low-paid foreign workers at the expense of American workers.

The AFL–CIO demands that Senator Eastland abandon his effort to impose a new "bracero" program. We urge the Congress to strengthen the bill by placing responsibility for compliance clearly and directly on the employer, not on self-serving statements by employees; by strengthening the penalties for violations, and by giving the Federal courts jurisdiction to restrain and enjoin violations of the law. We call for prompt, final Congressional action.

We believe the illegal alien problem clearly calls for substantial increases in the funds needed by the Immigration and Naturalization Service to enforce the law and that these should be promptly provided by Congress.

POLICY RESOLUTION—ADOPTED NOVEMBER 1971 BY THE NINTH CONSTITUTIONAL CONVENTION, AFL–CIO

ILLEGAL IMMIGRANTS

Whereas, America is proud of its historic role as a haven of liberty for the persecuted and the oppressed. Our country has grown great thanks to the spirit and the talents of immigrants from every part of the world, and

Whereas, Yet the opportunity for the United States to continue this policy of welcoming immigrants to our shores is threatened by the rising number of persons who illegally enter this country to work at substandard wages paid by exploiting employers. This intolerable process is robbing large numbers of American citizens and legal immigrants of their jobs, and it threatens an indirect undermining of fair wage levels in other industries. The U.S. Immigration and Naturalization Service apprehended over 317,000 of these illegal immigrants in 1970, and it is estimated the total number of illegal immigrants may be as great as one million, and

Whereas, Because of their illegal status, these immigrants are easy subjects for blackmail, exploitation and intimidation by unscrupulous employers, who can turn the illegal immigrants in to the authorities whenever they protest their sweatshop conditions. The heavy need of these illegal immigrants for free medical care, unemployment compensation, welfare and social services puts heavy burdens on government at every level and on the taxpayers of the nation; therefore, be it

Resolved: AFL–CIO calls for the following program to correct this problem of illegal immigration:

1. Congress should authorize a study of illegal immigration, so that we may have greater access to the facts and may better determine the economic and social impact of exploitation of illegal immigrants by unscrupulous employers and their agents.

2. Congress should provide additional funds to give the U.S. Immigration and Naturalization Service more adequate staff to handle its many responsibilities, including more effective patrolling of our borders.

3. Steps should be taken by the involved government agencies—particularly the State Department and the Immigration Service of the Justice Department—to develop more effective procedures for excluding illegal immigrants and for enforcing existing laws and regulations more effectively.

4. Federal legislation should be adopted to provide criminal penalties for employers and their agents in industry, commerce and agriculture who knowingly and wilfully hire illegal immigrants, thus robbing legal immigrants and American citizens of employment opportunities at decent wages.

Mr. BIEMILLER. Our convention resolution calls for action, in addition to passage of legislation along the lines of H.R. 982, which would provide the INS sufficient funds and staff to enable the Service to perform efficiently and effectively its services for legal immigrants, as well as its enforcement responsibilities. Provision of adequate funds may well be as important as additional enforcement authority in enabling the Service to cope with the illegal alien problem.

Of course, in addition to recognizing that the number of illegal aliens working in the United States is large and continues to grow, it is important, also, to all industry and commerce as well, that it is not restricted to States along our southern border but extends to all parts of the country and to most metropolitan areas.

It is also important to bear in mind that the alien who comes to the United States, legally or illegally, does so because of the work he can find here, work which is more satisfactory than anything he can get at home even if the pay for the work he gets here is at the lowest end of our wage and salary levels. Both the jobs and the pay he receives are better than he can get at home. Unfortunately, this makes him an easy prey for the unscrupulous employer looking for cheap labor.

We have maintained, and we believe that the record makes clear, that the illegal alien's need for the work he obtains and his liability to be deported at any time upon discovery results in serious discrimination and exploitation, both at his expense and indirectly at the expense of other workers. The illegal alien is in constant danger of loss of job and deportation if he is discovered or his presence is made known to the Immigration and Naturalization Service. If he entered in violation of law, he may also be subject to fines and imprisonment. In these circumstances, he is in no position to complain when his employer pays him poorly or treats him unfairly. As a result, his employment is characterized by substandard wages and denial of rights and benefits normally associated with employment in America. The net effect of the illegal's presence in the job market has been to depress and maintain low wage levels and substandard living conditions for American citizens, permanent residents and illegal aliens alike, in areas where they are employed in large numbers.

In addition, of course, the availability of a substantial supply of illegal aliens able and willing to work for substandard wages and working conditions also results in loss of jobs and employment opportunities for American workers. Obviously too, the effectiveness of the rights of union organization and collective bargaining are seriously undermined. At the same time, all too many illegal aliens who are unable to find jobs or who lose jobs end up on relief and become a burden on the community in terms of medical care and other social services.

It is not necessary, I believe, to discuss in detail the various provisions of H.R. 982. We have provided the subcommittee with our views on these provisions a number of times in recent years. Suffice it to say that, on the whole, with the changes which we are suggesting, the

bill would, we believe, provide reasonable, fair, and effective means of dealing with the illegal alien problem. The heart of the bill is its repeal of the employer exemption from the prohibition against the harboring of illegal aliens which is contained in section 274(a) of the Immigration and Nationality Act. Repeal of this exemption, we believe, is essential.

We have reservations, however, with respect to the sanctions and the procedures for applying them which are provided for in the bill.

H.R. 982 would make it unlawful for an employer or any person acting as an agent for an employer, or any person who for a fee, refers an alien for employment by such employer, "knowingly" to employ, continue to employ, or refer for employment any alien in the United States who has not been lawfully admitted for permanent residence, unless such employment is authorized by the Attorney General. It would be a defense in any action to enforce this provision, however, that the employer had made bona fide inquiry whether the employee is a citizen or an alien, and if an alien, whether he is lawfully admitted to the United States for permanent residence or is authorized by the Attorney General to accept employment. The obtaining by the employer of a signed statement in writing from the employee that he is a citizen or that he is otherwise qualified to accept employment would be deemed to be "prima facie proof" that the employer had made a bona fide inquiry as required by the bill.

Under the proposed legislation, a three-stage enforcement procedure would be established for dealing with violations of the law. For a first violation, an employer would be served with a warning citation by the Attorney General. For a second offense, by the same employer, a civil penalty of not more than $500 for each illegal alien found working in violation of the bill and could be imposed by the Attorney General. Subsequent offenses by the same employer would subject him to a fine of up to $1,000 or a year in prison, or both, for each alien illegally employed by the employer.

The bill should also provide for seizure and forfeiture of any vessel, vehicle, or aircraft used in furtherance of a violation of the law's prohibition against the harboring of illegal aliens or which is used by any person for a fee in referring or transporting any alien for employment in furtherance of a violation of the provisions of the bill.

Finally, the bill should require any officer or employee of the Department of Health, Education, and Welfare to disclose to the Immigration and Naturalization Service the name and most recent address of any alien whom he knows is not lawfully in the United States and who is receiving assistance under certain titles of the Social Security Act.

There are a number of comments that I would like to make with regard to these provisions. The bill specifically repeals the proviso contained in paragraph 4 of section 274(a). The effect of this provision is to eliminate the protection that employers enjoy when the employee is an illegal alien and the presence of such illegal alien on the farm or in his plant or store is discovered by the Immigration and Naturalization Service. When this happens, the employee is, of course, subject to deportation under existing law. The proviso, however, relieves the employer from any penalty under paragraph 4 of section 274(a).

Paragraph 4 of section 274(a) of the Immigration and Nationality Act expressly provides that any person, other than an employer,

who "willingly or knowlingly encourages or induces, or attempts to encourage or induce, either directly or indirectly the entry into the United States of any alien, including an alien crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or reside within the United States," is guilty of a felony and, upon conviction, is subject to a fine or imprisonment, or both. The employer, however, is expressly exempt from the operation of this provision by the proviso to section 274(a) quoted above. The employee if found by an immigration officer can be deported forthwith; the employer is free to hire another alien in his place.

The repeal of the proviso would itself correct this obvious discriminatory treatment as between the employer and the employee. The provisions of H.R. 982, however, stipulate that only "knowing" employment of an illegal alien by an employer shall be grounds for prosecution, and the cumbersome procedure for holding the employer responsible goes a long way in effect to restore the exemption for the employer.

We seriously question the need for specifying that only "knowing" employment of an illegal alien shall be grounds for prosecution of an employer for hiring an illegal alien. Criminal statutes, we believe, could be drastically diminished in effectiveness if an affirmative showing has to be made in all cases that the violation of law must be specific and deliberate. The criminal law, of course, requires that intent be shown to commit the act prohibited, but this is very different from requiring that specific intent to violate the law be shown. We believe that the employer should be held responsible for making sure that the persons he employs and the terms and conditions of such employment are in accordance with the law. To require specific intent to violate the law seems to us to vitiate the effectiveness of the bill.

The three-stage enforcement provisions are, as I have said, cumbersome and largely ineffective in coping with the illegal alien problem. These provisions, we believe, are basically unfair and will necessarily be discriminatory in their application.

We strongly urge that the penalties for violations be substantially strengthened. The provisions for civil penalties and fines are not adequate under present conditions to assure effective enforcement. We suggest that enforcement could be strengthened by providing that after a citation has been served and civil proceedings have been initiated, the Federal courts should be given jurisdiction to restrain and enjoin further violations of the law. Injunctive remedies, we believe, are necessary in order to provide effective enforcement.

We also suggest that the bill be amended by placing responsibility for compliance clearly and directly on the employer, not on self-serving statements by employees. There is considerable justification, we believe, for the contention that the bill in its present form discriminates unfairly against the foreign born and particularly against Mexican Americans. This is the result of the obligation the bill places on the employee to furnish the employer as a condition of his employment a signed statement in writing that he has been lawfully admitted to the United States for permanent residence or is authorized by the Attorney General to accept employment in the United States.

This amendment would reduce the possibility of unnecessary and discriminatory harassment of particular groups of employees seeking

employment in the United States. Whether such persons are citizens or noncitizens the obligation to comply should rest on the employer and should not put a premium on deals between employers and employees to evade the law through self-serving statements in violation of the law.

The amendments we have suggested will, we believe, strengthen the bill and make it a far more effective instrument for dealing with the illegal alien problem.

There is, Mr. Chairman, one other question which I should like to mention and that is the matter of so-called amnesty for aliens who have been here a specified period of time. As I am sure the subcommittee is aware, the present law contains a provision which permits adjustment of status for any alien who came to the United States prior to 1948. We would be opposed to setting any later date which would sweep into legalization for employment large numbers of aliens who came here illegally in the first place. We recognize, however, a strong case can be made for permitting aliens with family and employment ties going back over a reasonable period of years to become eligible for permanent residency. We recognize that the committee may wish to deal with this problem in order to enable the legislation to operate in an atmosphere of concern, not only for native American workers and their families, but also for those from other lands who have sought to come here as a land of freedom and opportunity.

It is important to bear in mind, as we pointed out in our testimony before the subcommittee in 1973 that any program of remedial action to reduce the economic and social impact of exploitation of illegal aliens by unscrupulous employers and their agents must take account of the fact that in a very real sense America is a country of immigrants. As we pointed out in our resolution of November 1971, our people have come from every part of the world, and to a very great extent the strength and vitality of our country have been molded by the skill and aspirations of those who have come here. We are proud to be, and we must continue to be a haven of liberty for the persecuted and the oppressed.

At the same time, we must be aware that the opportunity of the United States to continue the policy of welcoming immigrants to our country is threatened by the increasing number of persons who enter this country illegally, take jobs needed by our own unemployed, and undermine domestic labor standards by working at low wages paid by exploiting employers. Failure to correct this situation helps neither the citizen, the permanent resident, nor the alien allowed to work in the United States under existing law.

Mr. EILBERG. Mr. Biemiller, we are very grateful to you for your valuable contribution this morning. Now the subcommittee will ask some questions. We will try to adhere to the 5-minute rule so that everyone has as much an opportunity as possible to benefit by your research and experience.

Beginning the questioning, on page 5, Mr. Biemiller, you state that we strongly urge that the penalties for violations be substantially strengthened. Can you advise us more specifically how you would strengthen the penalties for violations?

Mr. BIEMILLER. Let me call on my counsel, Mr. Meiklejohn, on that.

Mr. MEIKLEJOHN. The principal way in which we have urged that the penalties be strengthened is through the provision for adding to the present citation, civil penalty and criminal penalty, a provision for injunctive relief at the point where the second violation occurs.

Mr. EILBERG. After the second violation?

Mr. MEIKLEJOHN. At the point where the second violation occurs. This would be accompanied by a temporary restraining order, or a temporary or permanent injunction.

Mr. EILBERG. Would you retain the three-step procedure?

Mr. MEIKLEJOHN. We would not eliminate the criminal penalty, but we believe that to a very considerable extent if injunctive relief were available criminal penalties would not be so essential. But we would not eliminate them.

Mr. EILBERG. Would you retain the three-step procedure and provide for the citation, civil proceeding, and then criminal penalty?

Mr. MEIKLEJOHN. We are perfectly willing to accept the citation part of it. I believe the rest of it becomes somewhat moot.

Mr. EILBERG. You think the injunction would do the job after that?

Mr. MEIKLEJOHN. We think that the injunction would do the job more effectively than a criminal penalty.

Mr. EILBERG. But you have no objection to retaining the criminal penalty?

Mr. MEIKLEJOHN. No.

Mr. EILBERG. Next, I will ask from the same page, page 5, you also suggest that the bill be amended by placing responsibility for compliance clearly and directly on the employer. I hope that you realize that. I am for as strong a bill as we can get, but I want it to be clear and specific and practical—one we can get through the House and Senate. Can you be more specific in terms of what you would require the employer to do beyond the approach suggested in H.R. 982?

Mr. MEIKLEJOHN. Well, I think——

Mr. EILBERG. What do you mean by clearly and directly, or how would you implement that language?

Mr. MEIKLEJOHN. I think that we have in mind that the obligation here should be on the employer. The obligation here should be to make inquiry as to the status of the people whom the employer employs, and there should not be an out for the employer if he simply goes through getting a statement from somebody else, an employee or somebody else, that the person, the potential employee is qualified and permitted under the law to work for him. The responsibility should be on the employer to make the inquiry.

Mr. EILBERG. All right now, I do not want to appear argumentative or quarrelsome with you, but I am sure that you can imagine as I can with the millions of employers that exist in the country, that at the time of employment, it might be very difficult if not impossible for the employer to secure any clear evidence of the the status of the prospective employee. I am thinking of the remote areas of the United States, remote from the offices of Immigration and Naturalization Service and perhaps other governmental agencies. How do we make it possible for the employer to do that in remote areas, for example?

Mr. MEIKLEJOHN. Well, Mr. Chairman, I think to some extent that problem is exaggerated. I think it was General Chapman who made the point that if it is made illegal for employers to employ illegal

aliens, most employers—by far the great majority of employers—are going to obey that requirement of law. That has been true as we have certainly found in respect to other laws that impose responsibilities on employers as such, That problem is nowhere near as great as might appear to be the case. In any case, it seems to us that this should not excuse the employer—not allow the employer—to escape his own responsibility by putting the responsibility off on somebody else.

Mr. EILBERG. I can visualize the situation where a crop is about to be harvested, and the need is immediate. And I can realize the difficulty the employer might have in immediately trying to get proof of citizenship, or permanent status, and it could take days, it could take weeks.

Mr. MEIKLEJOHN. You see, I think we have fallen into patterns here. We have fallen into patterns where employers rely on this kind of labor being available at the last minute, and that is one of the problems that very much needs to be dealt with in this area. I do not think that it is necessarily true that in all cases the employer has to wait until the very last minute to find out whether the crew that he is going to get contains illegal aliens or does not contain illegal aliens. We have, of course, the Farm Labor Contractor Registration Act regulating farm labor contractors who provide assistance to the employer as far as recruitment of labor is concerned. That act which makes the farm labor contractor responsible for referring only legal aliens to the employer. If the farm labor contractor, of course, is referring illegal aliens, he may lose his license to function as a contractor, and is subject to criminal penalties.

Mr. EILBERG. Many witnesses who have appeared before the subcommittee have expressed the need for a culpability requirement and have indicated that only the knowing employment of an illegal alien should be prohibited. In your statement, Mr. Biemiller, you take issue with that position. However, I can imagine that several problems would arise if the knowing requirement were deleted. Would you envision any particular problems that would result in the event that a responsible and conscientious employer unknowingly hired an illegal alien when such employer had no reason to believe nor actual knowledge that the person was, in fact, an illegal alien?

Mr. BIEMILLER. I want my counsel to continue, but may I just inject something for the new members here. Mr. Meiklejohn is the former Assistant Solicitor for the Labor Department and has worked in this area for many years.

Mr. EILBERG. Yes; and I might add that Mr. Meiklejohn has appeared before the subcommittee many times, and is very knowledgeable, and we are glad to have him here.

Mr. MEIKLEJOHN. Thank you very much, Mr. Chairman.

I think we feel—well, let me say first that when this bill first came before the Congress, and first came out of this committee, there was no provision, there was no requirement, in the bill at that time that the employment must be "knowing employment." This was a provision that was added, that was inserted in the bill, as I recall it, when the bill was reported 2 years ago.

Mr. EILBERG. Yes, but if I may interrupt, what I am concerned about is whether there are any legal or constitutional problems arising by the deletion of "knowingly"?

Mr. MEIKLEJOHN. No, I believe not, Mr. Chairman. Many statutes, many criminal statutes, do not require or contain language such as this in their substantive provisions.

Mr. EILBERG. All right. Mr. Fish.

Mr. FISH. Thank you very much, Mr. Chairman and Mr. Biemiller. I appreciate very much your being here and speaking on behalf of the AFL–CIO, because it is primarily an employment problem that we are facing today and is the reason why I believe there is urgency in this legislation. And we do need the support of the AFL–CIO in our endeavor.

I also am quite sympathetic of your suggestion that there be more of an affirmative duty on the part of the employer than is currently in the legislation, and this has been brought to our attention by other witnesses. Now, I would ask you to explore with me if you would for a moment what might be the union's responsibility as a companion to the employer's responsibility that the bill deals with where, for example, the International Garment Workers Union in Los Angeles has been recently reported to have been moving toward organizing illegal aliens. And do you feel that that is proper for a union to refer illegal aliens to employers for employment, or should constraints be in this legislation or in other legislation to prohibit this practice?

Mr. BIEMILLER. The problem that you raise, Congressman, is not really a union problem. What the unions are trying to do is to organize plants, and if they organize those plants and sign a union shop contract, the employment still is in the hands of the employer. He is the person that provides the employment. The union has no control over who goes to work. A normal provision under a union contract would be that after 30 days anyone going to work for that employer under a union shop provision must become a member of the union. If the employer hires an illegal alien, there is no way the union can refuse to take him in under the existing NLRA procedures.

Now on the other hand, where you have a situation where the unions furnish employees—let me give you a concrete case from your own State. The painters' union, for example, has been policing jobs and getting illegal aliens thrown off the job by picketing them and knocking them out. Certainly where you have a referral system, as you do in the building trades, the union will be very, very careful in not admitting any illegal aliens or referring them. To the contrary, I repeat I know that the painters in New York have been picketing jobs where illegal aliens have been at work and have gotten them thrown off the job. And I regret to say, in many instances the employer comes back with another crew of illegals that he has picked up.

Mr. FISH. I appreciate what you just said, and I should think it would be an almost intolerable position for the union to be in under the terms that you describe in the plant where they know fully well that the plant they have organized has people in there that are taking jobs away from either American citizens or those admitted to this country for permanent residence. Do you have any suggestion, or would you and your counsel like to think about legislation that may be helpful. Maybe it is not in the immigration field but in the labor field that would enable the union to take a firmer hand in such matters. Well, I would just leave that with you because it was raised in this committee before.

One other point that you raise is a matter of great sensitivity with myself, and I am sure with all of the members of this committee, is in your testimony you say that there is considerable justification we believe that the contention of the bill in its present form discriminates unfairly against the foreign born, and particularly against Mexican-Americans. And I am not sure what follows really clarifies that to me. I can see where any effort to put a burden on an employer might result in this, and I wonder if you just care to elaborate on that. Particularly you might think in terms of documentation which is, I think, a subject that other witnesses have talked about and you have not in your prepared testimony.

Mr. MEIKLEJOHN. I think it primarily grows out of the provision of the bill which in effect relieves the employer from any responsibility, if he has obtained a statement from the employee that he is qualified to work. The principal objection that certain groups have made to this provision is that such a statement would be required by many employers of certain people and not of others, largely based upon appearance, or language or whatever the criteria may be that the employer might use, and that this in effect would mean that Mexican-Americans, many of whom have been long-time citizens, would be required to file statements while other persons would not.

Mr. FISH. Who are the others? I do not understand who the other persons are.

Mr. MEIKLEJOHN. Persons with Anglo-Saxon surnames, for example, to be very specific.

Mr. FISH. Well, I think we will agree that if you are an illegal alien and you make a false statement to the employer, or you have documentation that is false, which you can buy apparently in this country, you are still subject to deportation, and you are subject to other sanctions in the law; so we are not really talking about that person; are we?

Mr. MEIKLEJOHN. But this is not a statement which is required by the employer of all employees. This is a statement which can be required of some employees and not of others, which is where the discrimination comes in.

Mr. BIEMILLER. Congressman, if you want, I can give you an example. It is not a question only of Anglo-Saxon names, but in certain parts of the country, like Milwaukee where I come from, the name Schimmelpfennig for example, would be accepted as a good American name, and nobody would question probably whether a man named Schimmelpfennig was illegal; but if somebody named Sanchez came along, "wait a minute," you know, "who are you," and so on. This is the kind of thing that we are talking about here, pure and simple. I am not saying we know any simple solution to it.

Mr. FISH. My time is up unfortunately, but I wish you would give some thought to an easy documentary form of identification. I agree with you, I think, the worst problem is going to be for the American citizen to go around and prove that he is a native-born American citizen.

Mr. MEIKLEJOHN. We have been giving a good deal of thought to the matter of documentation, but I do not think anyone has come up with a very good answer to it.

Mr. FISH. Thank you.

Mr. EILBERG. Mr. Sarbanes.

Mr. SARBANES. I am not very clear how it would work in practice, given the suggestion at the bottom of page 5 where you say, "we also suggest that the bill be amended by placing responsibility for compliance clearly and directly on the employer, not on the self-serving statements by employees." How do you envision that such compliance would work out or take effect?

Mr. MEIKLEJOHN. The change that we would make here would be very simply to say that this statement from the employee would not be sufficient by itself, as the bill now provides. It might be relevant evidence for the employer, but it would not be sufficient by itself.

Mr. SARBANES. Of course, the bill says it is prima facie evidence. That does not make it sufficient in and of itself, it only establishes an initial basis which subsequently has to be undone.

Mr. MEIKLEJOHN. And we would not change that provision.

Mr. EILBERG. Would the gentleman yield?

Mr. SARBANES. I take it you would change that provision?

Mr. MEIKLEJOHN. Not the prima facie evidence provision.

Mr. SARBANES. On the statement, on the signed statement?

Mr. MEIKLEJOHN. That is correct; yes. I beg your pardon.

Mr. SARBANES. You would or would not?

Mr. MEIKLEJOHN. No; we would not change the prima facie evidence provision.

Mr. SARBANES. Then I do not understand the thrust of the suggestion. And I will yield.

Mr. EILBERG. Would the gentleman yield? And I will not take the time away from him. I simply want to supplement that. Mr. Meiklejohn, what affirmative requirements or responsibilities in your opinion should be placed on the employer? In other words, what specifically should he do under your idea that is not provided for in the bill? And I am trying to follow up on Mr. Sarbanes question.

Mr. MEIKLEJOHN. I think, maybe I did not answer Mr. Sarbanes completely. The responsibility we would put on the employer would be the affirmative responsibility of making inquiry.

Mr. SARBANES. Of what?

Mr. MEIKLEJOHN. Of making inquiry, whatever kinds of inquiries he would be able to make.

Mr. SARBANES. What kind of inquiry are you thinking about?

Mr. MEIKLEJOHN. Well, this is the kind of inquiry that he would check with various agencies like the Social Security Administration, or he might check with the Immigration Service or he might check with various other governmental organizations.

Mr. SARBANES. Now, do you believe that the kind of inquiry you are going to require of him is going to ease the problems set out in sentence 2 of the last paragraph on page 5, or rather exacerbate it?

Mr. MEIKLEJOHN. I do not believe it would exacerbate it, Congressman; no.

Mr. SARBANES. It would not ease it.

Mr. MEIKLEJOHN. Well, I think it would. I think it would ease it.

Mr. SARBANES. Well, you criticize the approach in the bill requiring that you get a signed statement, which then only serves as prima facie evidence, so that if the employer tries to play fast and loose

with this thing, he will be subject to citation, civil penalties and criminal penalties. First you say that this requirement is not enough, that you want more than that, and then you say in the next sentence regarding the signed statement that there is considerable justification for the contention that the bill in its present form discriminates unfairly against the foreign born, particularly against Mexican-Americans. And then you suggest a process that goes well beyond that set out in the legislation. And as far as I can perceive how it would work. This process would only intensify this feared discrimination.

Mr. MEIKLEJOHN. Well, the recommendations that we made here are based upon discussions that we have had with representatives of the organization of the foreign born, and one of the principal features of this bill that they have objected to goes to the statement that would be required of the prospective employee.

Mr. SARBANES. Well I understand that. But you go further in saying not only that you want that statement from the employer but that you do not think the statement is an adequate check on his part.

Mr. MEIKLEJOHN. That is correct.

Mr. SARBANES. In order to comply with the law, therefore, you want him to do not only the statement but other things as well. And I am asking you whether, if he does other things as well with respect to the people upon whom he feels he has to make a check, it will not intensify the problem which the organizations representing the foreign born are concerned about?

Mr. MEIKLEJOHN. The only way I can answer you——

Mr. SARBANES. I mean I recognize the problem, I just see your approach as only intensifying it rather than ameliorating it.

Mr. MEIKLEJOHN. In our discussions with those organizations they have indicated that that is not the case, that they do not feel that it would have that result.

Mr. SARBANES. Would you require the employer to do this with respect to every employee?

Mr. MEIKLEJOHN. I think to a great extent employers do do this with regard to their employees. They do make inquiry as to their qualifications in some way or another. Most employers do not hire people just on the basis of a guy walking in off the street.

Mr. SARBANES. Well, do you think they should be——

Mr. MEIKLEJOHN. That is most responsible employers do not.

Mr. SARBANES. You heard the testimony I assume of the Justice Department and the Labor Department before?

Mr. MEIKLEJOHN. I did hear part of it, yes.

Mr. SARBANES. Do you support their proposal that a citizenship check should be required and run on every prospective employee?

Mr. MEIKLEJOHN. A citizenship check?

Mr. SARBANES. Yes.

Mr. MEIKLEJOHN. Essentially.

Mr. SARBANES. Do you support that?

Mr. MEIKLEJOHN. Uh huh.

Mr. SARBANES. You think that every employee seeking a job ought to have to prove his citizenship, or that there ought to be a check of citizenship?

Mr. MEIKLEJOHN. I think if you are going to say that it is illegal for an employer to hire an illegal alien, you are going to have to, you will probably have to do that. And I do not believe you can escape it if you are going to make employment of illegal aliens illegal.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Meiklejohn, I would like to just direct a couple of questions to you. I believe you stated earlier in response to a question from the chairman that if the law prohibits the employment of illegal aliens that most employers would automatically comply. And I ask you this question: Is this true from your experience with the minimum wage law?

Mr. MEIKLEJOHN. Yes it is.

Mr. COHEN. We have received testimony that most, if not all of the illegal aliens who are working, let us say, in a State like Texas are, in fact, receiving a minimum wage as a result of the passage of that law?

Mr. MEIKLEJOHN. It does not follow that they are all receiving a minimum wage. It does not follow. What I said was that most employers endeavor to comply with the law.

Mr. COHEN. Has that been true of the minimum wage law with regard to employment of illegal aliens in Texas, for example?

Mr. MEIKLEJOHN. No. No.

Mr. COHEN. You would contradict the testimony given to us last time?

Mr. MEIKLEJOHN. I would say that in certain occupations there is a greater degree of violation than there is in others.

Mr. COHEN. So it does not necessarily follow simply because the law prohibits——

Mr. MEIKLEJOHN. I did not mean to imply that this would be an automatic matter, that it would apply equally everywhere.

Mr. COHEN. Your experience has been, notwithstanding the fact that Congress passes an act such as the minimum wage law does not necessarily mean that there is going to be compliance?

Mr. MEIKLEJOHN. I guess, Congressman, if everybody had complied there would not be any need to pass the law in the first place.

Mr. COHEN. Then your statement is not quite as categorical as you made it to the chairman, that it automatically followed that there would be compliance?

Mr. BIEMILLER. In most instances.

Mr. MEIKLEJOHN. In most instances, yes.

Mr. COHEN. That does not apply, however, to minimum wage law, right, from your experience?

Mr. BIEMILLER. Well Congressman, under the minimum wage law there are violations, and the inspectors of the Labor Department have to check constantly. Every year millions of dollars are collected from unscrupulous employers who have not met their standards. Now, on the other hand, we do have evidence that minimum wage law or no, many illegals are hired below the minimum wage. They are not paid the minimum wage, they are simply given money under the table, it is not ever registered, there is no social security involved, there is nothing involved. This is the kind of thing that we are concerned about. And it is that kind of employer that we certainly feel should

not be allowed, if an inspector from Immigration comes in and says you have X, Y, Z on your payroll here, to say, "No, wait a minute, they said they were legals." This is what we are trying to get at.

Mr. COHEN. I would like to follow up on the line of questioning by Mr. Fish and Mr. Sarbanes. And I am a bit confused about your statement on page 5 that back in 1973—and I will direct it to you, Mr. Meiklejohn. I am referring to our subcommittee hearings on illegal aliens, page 69, and let me quote to you. It says:

> An argument has been made against H.R. 982 that the bill discriminates unfairly against the foreign born and particularly against Mexican Americans. This is based on the obligations that the bill places on an employer to obtain prima facie proof that he has made bona fide inquiry to the employee to obtain as to whether he is an alien, and if an alien, whether he is lawfully admitted to the United States. We believe this requirement is not unfair, but on the contrary is necessary to enable the bill to operate effectively. It seems to us no more discriminatory than the inquiry as to citizenship to determine the right to register and to vote.

Mr. MEIKLEJOHN. I think I recognize that statement.

Mr. COHEN. You recognize that statement? Is that your statement?

Mr. MEIKLEJOHN. Yes, sir. I think I recognize that statement.

Mr. COHEN. It seems somewhat in contradiction to the statement on page 5.

Mr. MEIKLEJOHN. Well, I would say that it is now 2 years later.

Mr. COHEN. The passage of time vitiates——

Mr. MEIKLEJOHN. With the passage of time, you know, you can do a little thinking in the meantime.

Mr. COHEN. I will come back to the question Mr. Biemiller mentioned earlier that it may in many instances make a difference as to what one's name might be, so you would support the notion that if we are to put the burden upon an employer he has to require identification of every citizen for citizenship or alien status, on everyone, not just based upon white Americans?

Mr. MEIKLEJOHN. Basically that is right.

Mr. COHEN. I have to come back to the question about the elimination of the word knowingly. Would your organization support the elimination of the word knowingly and arrive at a conclusion, for example, that any employer who employs an alien, who is determined to have illegally entered into this country would be guilty of a crime?

Mr. MEIKLEJOHN. Yes.

Mr. COHEN. So, notwithstanding whatever inquiries he might have made, he would be guilty of a violation? So you would reduce this law to what we call, in legal jargon, malum prohibitum instead of malum in se? It would be like a speeding violation. If I were to rent a car at an agency, notwithstanding the defectiveness of the speedometer, if I would be found violating the speeding law by let us say going 35 in a 30-mile-an-hour zone, notwithstanding the fact that I did not intend it and took the precaution to see that my speedometer was registering at 30, I would still be in violation and subject to criminal penalties?

Mr. MEIKLEJOHN. Well, I do not think that we would elimina te entirely the matter of intent, and I do not believe that the matter of intent would be eliminated in its entirety in those laws that you a re referring to either.

Mr. COHEN. How could we structure a law that says any employer who employs an illegal alien is guilty of a crime if we do not rely upon good faith, or inquiry or intent?

Mr. MEIKLEJOHN. It is my contention here, Congressman, that the inclusion of the word knowingly has for its purpose the adding of an additional limitation on the extent of responsibility of the employer, that it is primarily designed to make it very, very difficult to—or, it is not so designed but the effect is—to make it very difficult to hold an employer responsible.

Mr. COHEN. Would it be helpful if we said any employer who in bad faith employs an illegal alien?

Mr. MEIKLEJOHN. Something of that kind would perhaps help, but it is our feeling that the word knowingly here—because there is a specific requirement that the violation be "knowing"—provides a very large loophole. If that loophole can be closed by some such phrase as you suggest, that might be very helpful.

Mr. COHEN. I guess my time is up, Mr. Chairman.

Mr. EILBERG. Mr. Dodd.

Mr. DODD. Thank you, Mr. Chairman. It is nice to see both of you here.

I guess that most of my questions have been asked but I do have a concern, on page 5 of your testimony, dealing with the word knowingly and the intent of the employer at the time the illegal alien is hired. I would like to get back to a point that Mr. Biemiller made earlier with regard to the union activities, not so much in the closed shop, but where under the union constitution certain articles require that members of the union be U.S. citizens. Can you foresee any possibility where the union itself in its hiring practices might also be subject to this same kind of legislation, where again, knowingly hiring or taking into union membership an illegal alien would be subject to this same kind of penalty?

Mr. MEIKLEJOHN. Well, I am afraid I am not quite clear about your question.

Mr. DODD. Well, assume you are soliciting membership in a plant, and the constitution required that a member of that union be a U.S. citizen, and you unknowingly accepted the membership of a person who was an illegal alien within the union.

Mr. MEIKLEJOHN. Very few of our constitutions I believe would limit membership to citizens, because our unions are international unions. Many of them have members in Canada and function as, in effect, international unions. It would be a very serious matter to impose on unions a requirement that only citizens could be their members.

Mr. DODD. All right. Assuming in this country, in an effort to try to solve this problem which plagues the labor market tremendously, and in an effort to protect the American worker from job loss as a result of hiring illegal aliens, using that as our premise, can you foresee a situation wherein the union in its hiring should also be subject basically to the tenets of this law?

Mr. MEIKLEJOHN. Well, we had some discussion of this earlier, and we indicated that we did not see that this was an obligation that should be put upon unions, but that if you want us to look into it more we could do that.

Mr. DODD. I recognize you are not the employer.

Mr. EILBERG. Would the gentleman yield at that point?

Mr. DODD. Certainly.

Mr. EILBERG. We have nothing but sympathy and understanding for the position of labor. But the same question occurs to me. What obligation, if any, should the unions undertake to require proof of legal status? Should any obligation be placed upon labor unions?

Mr. MEIKLEJOHN. I think Mr. Biemiller indicated to that, that you have a very different situation so far as the unions are concerned than you do with the employer.

Mr. EILBERG. He differentiated the construction trade and the other unions, and I am asking the general question whether it should be routine when application is made for union membership that some inquiry should be made of the legal status of that individual by the union? Can you respond or do you want to think about that?

Mr. BIEMILLER. We would be glad to furnish you with a statement on that.

Mr. EILBERG. All right. We would appreciate that.

Mr. DODD. Mr. Chairman, I want to make clear that it is merely an inquiry on my part as well in an effort to try to satisfy some very strong reservations that I have about requirements that people carry identification cards. I have some real serious constitutional questions on that. But I would like to sound you out on something that just strikes me, and it revolves around that very point. As a practical matter I am tremendously concerned about the fact that people who may have a so-called foreign last name, or who may speak with an accent are going to be avoided like the plague by an employer because of this very problem, particularly if we eliminate language such as knowingly without intent. I can visualize where there would be a situation where the employer is just not going to want to jeopardize and place himself in a situation where civil suits may be initiated against him or possibly criminal penalties. So in order to protect himself, he will say that I am just not going to take the chance, the guy may be all right, he may not be lying to me, but why put myself in that position? And I do not know. Do you see that kind of a problem without getting into that massive identification system? That is what the alternative seems to be.

Mr. MEIKLEJOHN. I think there is probably danger of that. If you are going to make it an offense for the employer to employ an illegal alien, there is some danger of that.

Mr. DODD. Do you see the danger increased by eliminating the——

Mr. MEIKLEJOHN. No.

Mr. DODD. The language of knowingly?

Mr. MEIKLEJOHN. No; we do not.

Mr. EILBERG. Would the gentleman yield again on that point?

Mr. DODD. Sure.

Mr. EILBERG. I do not want you to feel that I have a fixed point of view, and we are just trying to structure a bill that is practical and will work and be effective, but if we are talking about the southwest area, is it not true that people say applying for a job to pick a harvest, generally all the names would have a Spanish-American sounding name? I mean, it would be rare to have a name like Smith or Chesterfield. Most likely they would all have similar sounding Spanish names. Is that a fair generalization?

Mr. MEIKLEJOHN. I would think that is probably true.

Mr. EILBERG. Do you have anything else?

Mr. DODD. No. That is fine, Mr. Chairman.

Mr. EILBERG. Mr. Russo.

Mr. RUSSO. Thank you, Mr. Chairman. I have a problem with my voice today, but I do have some questions that I would like to present.

First of all, you suggest that we use injunctive relief after the citation has been issued, and I assume after the second proceeding. I wonder why we should not use it in the first case? We may be able to give the employer the contempt of court citation the first time around rather than doing it the second time and spinning our wheels by just issuing a citation. I say this because I am for slightly stronger penalties than are contained in the provision myself, and I see the injunctive relief step probably as something to be used initially.

Mr. BIEMILLER. We have no quarrel with putting in an injunctive proceeding immediately. We have done that with various kinds of civil rights legislation and I think it has been effective.

Mr. RUSSO. Throughout the testimony we have had before this committee everyone seems to indicate that the bill should be stronger, and that we should require the employer to do something more. And I think one of the things that we have to bear in mind is something that the chairman said earlier, that it is something we have to get through the House of Representatives and then the Senate and finally signed by the President, and hopefully the end results will be an effective answer to the illegal alien problem. If we accept strong measures as suggested by some of the previous witnesses that have testified, then we may lead to a requirement under this law that could be very troublesome. For example, Mr. Dodd referred to, some type of documentary identification, a record of citizenship for all employees, whether they are Americans or illegal aliens, and it is going to open up, I think, a Pandora's box for all of us. We are going to have to develop a national passport or visa, and I fear that if we make things so stringent we are going to have more problems with this bill than we anticipate at the present time. How do you feel about the documentation for all employees to eliminate the discrimination against ethnic groups and people who have accents?

Mr. MEIKLEJOHN. We would have the same reservations with regard to a general work permit that I guess many of the members of the committee would have, because that is what you seem to be talking about. Such documentation would amount to a general work permit. If it were the social security card it would convert that card into an entirely different kind of a document from what it is now.

Mr. RUSSO. Well, the problem you would have with discrimination—

Mr. MEIKLEJOHN. The social security card is not meant to be an identification card now.

Mr. RUSSO. When would the employer be required to take some affirmative steps? It would seem to me that if somebody walked in who had a name like Miller or Smith and had no accent you would not ask him for anything. Yet if he walked in with a name like Russo or something else and had a foreign accent, they would request identification. How would you eliminate the discrimination? That is the problem I see in having a very, strong measure in this bill.

Mr. MEIKLEJOHN. I do not think you can eliminate it entirely.

Mr. BIEMILLER. What worries us, and I am sure you can understand, Mr. Congressman, is the kind of employer who just repeatedly goes ahead and hires illegals. We had this horrible example a few years ago that some of you will remember of an individual who became Treasurer of the United States who was at least twice—if I am not mistaken, three times—found guilty of hiring illegal aliens, and yet nothing happened. This is the kind of problem that we are worried about. I mean, I agree that you do not want to make life miserable for the scrupulous employer, but unfortunately, there are a lot of unscrupulous employers in the United States who do hire, and rehire and rehire illegal aliens.

Mr. RUSSO. That is why I think it is important that we provide stronger measures for penalties in the initial step rather than giving them a citation.

Mr. BIEMILLER. That is why we think the injunctive process would be very helpful.

Mr. RUSSO. I have no further questions, Mr. Chairman.

Mr. EILBERG. One or two more questions, if I may.

Mr. Meiklejohn mentioned before the use of the Social Security Administration as a place for the employer to check. Possibly that might be a way. There are some thousand offices, I understand, in the United States. I am not that familiar with the internal structure sufficiently to know how much trouble it would be to check with the Social Security Administration, but I want to get clearly on the record that you are opposed to any national identification card, or the establishment of a national work permit system through the use of the Social Security; is that a correct statement?

Mr. MEIKLEJOHN. I think that is a correct statement; yes.

Mr. EILBERG. Is that correct?

Mr. BIEMILLER. Right, Mr. Chairman. May I inject something here?

Mr. EILBERG. Yes, sir.

Mr. BIEMILLER. If my memory serves me right, we still have an annual registration of aliens in the United States. Now, a legal alien will go and register, and the Immigration Service has those records. And if somebody shows up who is not on the list, but who is an alien, then you have got a real suspicion. And I think that is another way you have got for at least a kind of a check to make.

Mr. EILBERG. Mr. Biemiller, it will distress you as it distresses me to know that perhaps the responsibility rests more with us, but to my knowledge there has not been a single prosecution by the U.S. Government under the alien registration system.

Mr. BIEMILLER. This may be a phase of this problem that is worth looking into.

Mr. EILBERG. We thank you for that.

You suggest the deletion of the provision that states that employers will be determined to have made a bona fide inquiry, if they obtain a signed statement in writing from the employee that he is authorized to work. Do you have any particular problems with the first proviso which exempts the employers who have made a bona fide inquiry?

Mr. MEIKLEJOHN. I think we answered Congressman Sarbanes that we did not.

Mr. EILBERG. And one more question. We heard a good deal in the last Congress about the shortage of agricultural labor in the Southwest, or alleged shortage. Does the current H–2 program provide adequate procedures for admitting aliens for temporary labor when American workers are unavailable?

Mr. BIEMILLER. This raises a very fundamental question that has been thrashed out by the Congress many times. There is still in the law a provision whereby contract workers can be brought in under a showing that there is no local labor available. In Florida, for example, Jamaicans and other West Indians come in to work on the sugar crop, but it is a very carefully regulated program with adequate wages.

Now, in the Southwest, you will find most of the difficulty there is simply a question of wages. Where the wages have been raised substantially, the problem is not nearly as acute. And I think part of the answer here rests with the question of decent wages being paid.

There was a program for many years, which started during the Korean war, called the bracero program, involving the importing of Mexican labor. We managed to do away with that program about 10 years ago, and we are in no mood to see the thing revived. This is essentially what Senator Eastland has been trying to do over in the other body. This is the price he wants to exact for passing a bill; namely, to revive in effect the bracero program.

Now, the difficulty with the bracero program was that in the first place there was no real policing of it. Allegedly there was, but practically there was not. And many of the illegal aliens that we are now confronted with in this country were people who came in under the bracero program and then rapidly left the farms and beat it off to whatever job they could find.

Mr. EILBERG. Are you saying if there were a carefully regulated system, that you might be for it?

Mr. BIEMILLER. Only if there could be a good provision to show that there was not any adequate labor available at decent wages. This is the other side of the thing. The kind of thing that we suspect some of the plantation owners and large ranch operators are really trying to do, is to drive down wages. That is what they are after.

Mr. EILBERG. I think that basically your position is that H–2 is available and could be used and used more?

Mr. BIEMILLER. Exactly. Exactly.

Mr. EILBERG. All right. Are there any other questions?

Mr. COHEN. Just one other question.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. What would be your organization's position on the question of amnesty for illegal aliens?

Mr. BIEMILLER. Well, that raises, of course, a very fundamental question. You have to be careful that you do not get such an amnesty pension that you are in effect saying all right, anybody that is here, it is fine, lovely. There is, as I understand it, in existence now a provision that involves the stopping of deportation proceedings against anyone who has been here for 7 years and can show hardship. I think that that provision possibly might be revamped a bit and worked into this situation.

Mr. COHEN. Worked up or worked down?

Mr. BIEMILLER. I would leave that to the good judgment of the Justice Department in consultation with you good people, because frankly, I do not see——

Mr. EILBERG. If the gentleman will yield, Mr. Biemiller's statement said that he would go back from 1948, and he is not making a concession.

Mr. BIEMILLER. No. I said I would also take this more recent 7-year provision and see if it can be adapted.

Mr. EILBERG. Which did not appear in your statement.

Mr. BIEMILLER. But I do not want the blanket thing of 1948 date extended forward. By a curious coincidence, I had something to do with passing that law in 1948, and I suppose maybe it is because I have a certain pride in the thing, but that is another matter.

Mr. EILBERG. Would you be kind enough, Mr. Biemiller, to think about how that 7-year suspension, how that might more properly work and how we might include it?

Mr. BIEMILLER. We will be glad to. In fact, we are in the process now of talking with some of our affiliates who have this problem.

Mr. EILBERG. Mr. Sarbanes, I think I cut you off before.

Mr. SARBANES. No.

Mr. EILBERG. Are there any other questions from any other members?

Well, gentlemen, we thank you very much.

Mr. BIEMILLER. May I just add that I did not quite finish, I wanted to say that we have great faith in the members of this panel to be fair and honest people. I think that we have never had any real quarrels with any of you, and I am delighted with that, and I think between yourselves and the Justice Department you ought to be able to work out an intelligent provision here. This does not mean we are not willing to give you the benefit of our views too, but I want to repeat that we think that in good faith we can trust this panel to do what is honest and fair.

Mr. EILBERG. Mr. Biemiller, we appreciate that very much.

May I also say that this subcommittee feels, as I am sure the Congress feels, that the general problem is a very serious one and one that has got to be dealt with, so that in getting your continuing support I hope you will give us the benefit of your thoughts as quickly as you can so that we have as much input as we possibly can get.

Mr. BIEMILLER. We will be happy to, Mr. Chairman.

Mr. EILBERG. Thank you very much.

Our next witness is Mr. Arthur E. Hess, Deputy Commissioner, Social Security Administration.

Certainly the most difficult and sensitive issue that has confronted us during the course of our hearings on the illegal alien problem is the matter of identification. In fact, the inability of employers to identify illegal aliens or to determine who is and who is not eligible to work in the United States goes to the very heart of the entire illegal alien problem. In the past, the Subcommittee has resisted suggestions that the employer be charged with the responsibility of determining the citizenship and alien status of prospective employees.

At the same time, many have suggested that the identification responsibility should be placed entirely on the federal government, and over the years this Subcommittee has enlisted the assistance of the

Social Security Administration in considering this very troublesome issue. While the social security account number was not originally set up to be used as an identification tool by employers, it has been so used by most employers as well as by some government agencies. In addition, there is the common misconception on the part of many that such cards are the equivalent of work permits.

Legislative provisions to restrict the issuance of social security account numbers were contained in the Social Security amendments of 1972—Public Law 92-603. Specifically, section 137 of this law requires the Secretary of Health, Education, and Welfare to assure that social security account numbers are: "Assigned to all members of appropriate groups or categories of individuals by assigning such number * * *. (I) to aliens at the time of their lawful admission into the United States, either for permitting residence or under authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment."

It is evident that the primary purpose of this provision is to restrict the issuance of social security account numbers to noncitizens (that is, aliens) who are authorized to work in the United States. In order to accomplish this objective, section 137 empowers the Secretary of Health, Education, and Welfare "to require of all applicants for social security account numbers such evidence as may be necessary, to establish the age, citizenship, or alien status, and the true identity of such applicants".

In order to implement this provision of law, extensive regulations have been issued by the Social Security Administration, and we would now like to welcome Mr. Arthur Hess to the Subcommittee so that he might describe the operation of this program as well as to respond to various suggestions that the Social Security Administration assume a much greater role in stemming the illegal alien probem.

Before we hear from the witness, I would like to insert into the record copies of the pertinent section of P.L. 92-603 as well as the regulations which have been promulgated to implement that section of law. I would also like to insert a copy of a statement prepared by INS with respect to the cooperation by the Service and the Social Security Administration concerning this matter.

SECTION 137 OF PUBLIC LAW 92-603 RELATING TO ISSUANCE OF SOCIAL SECURITY NUMBERS

METHOD OF ISSUANCE OF SOCIAL SECURITY ACCOUNT NUMBERS

SEC. 137. Section 205(c)(2) of the Social Security Act is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) In carrying out his duties under subparagraph (A), the Secretary shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned):

"(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment;

"(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; and

"(III) to any other individual when it appears that he could have been but was not assigned an account number under the provisions of subclauses (I) or (II) but only after such investigation as is necessary to establish to the satisfaction of the Secretary, the identity of such individual, the fact that an account number has not already been assigned to such individual, and, the fact that such individual is a citizen or a noncitizen who is not, because of his alien status, prohibited from engaging in employment; and, in carrying out such duties, the Secretary is authorized to take affirmative measures to assure the issuance of social security numbers;

"(IV) to or on behalf of children who are below school age at the request of their parents or guardians; and

"(V) to children of school age at the time of their first enrollment in school.

"(ii) The Secretary shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual.

"(iii) In carrying out the requirements of this subparagraph, the Secretary shall enter into such agreements as may be necessary with the Attorney General and other officials and with State and local welfare agencies and school authorities (including nonpublic school authorities)."

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§ *422.104 Assignment of social security numbers*

Social security numbers may be assigned to the following:

(a) U.S. citizens, upon request;

(b) Aliens lawfully admitted to the United States for permanent residence or under other authority of law permitting them to engage in employment in the United States (see § 422.104a regarding presumption of authority of nonimmigrant alien to engage in employment); and

(c) Aliens who are legally in the United States but not under authority of law permitting them to engage in employment, but only for a nonwork purpose (see § 422.107(d) (1) and (2)).

[39 F.R. 10241, Mar. 19, 1974]

§ *422.104a Presumption of authority of nonimmigrant alien to accept employment*

The nonimmigrant visa classifications assigned by the Department of State shall be used to determine whether a nonimmigrant alien is authorized to engage in employment. (See 22 CFR 41.12 for these classifications.) Permission to engage in employment shall not be presumed in the case of an alien who has not been issued a visa or whose visa shows any one of the following classification symbols: B–1, B–2, B–1 and B–2, C–1, C–2, C–3, F–2, H–4, and L–2. Holders of visas bearing other classifications will be presumed to have authorization to work.

§ *422.105 Obtaining applications from immigrants and certain nonimmigrant classes*

As a part of the visa process, United States consular offices throughout the world obtain applications for social security numbers from immigrants entering the United States for permanent residence, from fiances or fiancees of U.S. citizens and children of these fiances or fiancees. The consular office also verifies the age, identity, and alien status of these individuals. After verification of the age, identity, and alien status of the individual, the consular office forwards the application to the Central Office of the Social Security Administration. If investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards a social security number card to the applicant at the United States address given on the application. The Immigration and Naturalization Service performs a similar function with respect to aliens who entered this country without immigration visas and who, subsequent to entry, acquired status as lawful permanent residents of the United States. The Immigration and Naturalization Service obtains from each such alien an application for a social security number and, after verifying the aliens' age and identity, forwards the application to the Central Office of the Social Security Administration. If investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards a social security number card to the applicant.

§ *122.107 Evidence requirements*

Applicants for social security numbers are required to submit such evidence as the Secretary may regard as convincing of their age, citizenship, or alien status, and true identity. An applicant is also required to submit evidence to assist the

Administration in determining the existence and identity of any previously assigned number(s). In the case of a noncitizen, evidence is also required to establish whether the applicant, because of his alien status, is prohibited from engaging in employment in the United States. A social security number will not be assigned unless all of the evidence requirements are met. (For verification of age, identity, and alien status of immigrants and certain nonimmigrant classes entering the United States, see § 422.105.)

(a) *Evidence of age.* Upon request, all applicants for a social security number are required to submit evidence of age to support the date of birth alleged. Examples of the types of evidence which may be submitted are birth or baptismal certificates, school and church records, census records, insurance policies, marriage records, employment records, and passports.

(b) *Evidence of identity.* Upon request, all applicants for a social security number are required to submit corroborative evidence of their identity. Corroborative evidence of identity may consist of a driver's license, a voter registration card, a birth certificate, a passport, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his signature on the application for a social security number.

(c) *Evidence of U.S. citizenship.* Generally, an allegation of U.S. citizenship by birth will be supported by the evidence of age and identity described in paragraphs (a) and (b) of this section. Additional evidence must be supplied when the evidence of age or identity does not show place of birth or where such evidence of age or identity does not agree with the applicant's allegation of birth in the United States. Where an applicant indicates that he is foreign born and that he is a U.S. citizen, he is required to present documentary evidence of U.S. citizenship. Any of the following is acceptable evidence of U.S. citizenship:

(1) Certificate of naturalization;
(2) Certificate of citizenship;
(3) U.S. passport;
(4) U.S. citizen identification card (INS form I–179 or I–197); or
(5) Consular report of birth (State Department form FS–240). If such required evidence is not available, and court records do not confirm the allegation of U.S. citizenship, the Immigration and Naturalization Service will be contacted. If the Service has no record of the applicant's citizenship, a social security number will not be assigned until satisfactory evidence of U.S. citizenship is furnished.

(d) *Evidence of alien status*—(1) *Citizen of country other than Canada or Mexico.* Where the applicant is a foreign citizen (of a country other than Canada or Mexico), such applicant is required to have an Alien Registration Receipt Card (I–151) or an Arrival-Departure Record (I–94) and will be asked to produce such document. If the applicant fails to do so, a social security number will not be issued and the Immigration and Naturalization Service will be notified of these circumstances. If the applicant produces an Alien Registration Receipt Card, or produces an Arrival-Departure Record which contains an authorization to work, a social security number card will be issued. However, if the Arrival-Departure Record does not contain authorization to work and the social security number is for a work purpose, it will not be issued and the Immigration and Naturalization Service will be notified of the circumstances. If the applicant requests the number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the number will be issued and the record will be annotated. In the latter case, if earnings are later reported to the Administration, the Immigration and Naturalization Service will be notified of such report.

(2) *Mexican or Canadian citizen.* If a Canadian or Mexican citizen has an Alien Registration Receipt Card or an Arrival-Departure Record, the rules in paragraph (d)(1) of this section apply. If a Canadian or Mexican citizen is legally in the United States with a border crossing card, a border visitor's permit (or, in the case of a Canadian citizen, without documentation), but does not have an Alien Registration Receipt Card or an Arrival-Departure Record, and wishes a social security number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the Administration will assign a number to the applicant and issue a number card, except that the record will be annotated and, in addition, the Immigration and Naturalization Service will be notified if earnings are reported to the earnings record.

(3) *Failure to submit evidence.* If the applicant does not comply with a request for evidence or other information regarding alien status within a reasonable time, the Administration will again attempt to contact him. If there is still no response, the Immigration and Naturalization Service will be notified.

(4) *Invalid or expired documents.* The Administration will immediately notify the Immigration and Naturalization Service when an applicant presents invalid or expired Immigration and Naturalization Service documents. Invalid documents are forged documents purportedly issued by the Immigration and Naturalization Service or properly issued documents which were altered subsequent to issue. An expired document is one whose term of validity has expired.

(5) *Notice to alien applicant.* An alien who applies for a social security number will be advised that information obtained by the Social Security Administration in connection with his application for, and issuance of, a social security number might be transmitted to the Immigration and Naturalization Service. If a number is to be issued for nonwork purposes, the applicant will be advised that the Immigration and Naturalization Service will be notified should earnings be reported to his earnings record.

§ 422.108 Criminal penalties

A person may be subject to criminal penalties for furnishing false information in connection with earnings records or for wrongful use or misrepresentation in connection with social security numbers, pursuant to section 208 of the Social Security Act and sections of Title 18 of the United States Code (42 U.S.C. 408; 18 U.S.C. 1001 and 1546).

[39 F.R. 10242, Mar. 19, 1974]

§ 422.110 Individual's request for change in records

Form OAAN–7003, "Request for Change in Social Security Records" should be completed by any person who wishes to change the name or other personal identifying information previously submitted. This form may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any office of the Social Security Administration, or, if the individual is in the Philippines, to the Veterans' Administration Regional Office, Manila, Philippines. If the request is for a change in name, a new social security number card will be issued to the person making the request bearing the same number previously assigned.

§ 422.112 Employer identification numbers

(a) *State and local governments.* (1) In the case of a State which enters into an agreement with the Secretary of Health, Education, and Welfare under section 218 of the Social Security Act, the Bureau of Data Processing and Accounts, in conformance with § 404.1240 of this chapter, will assign an identification number to the State (if State employees are covered under the agreement) and to each political subdivision included in the agreement. Similarly, in the case of such an agreement with an instrumentality of two or more States (interstate instrumentality), the Bureau of Data Processing and Accounts will assign an identification number to such interstate instrumentality. The Bureau of Data Processing and Accounts sends to the appropriate official of the State or instrumentality a Form OAR–S14, "Notice of Identifying Number Assigned Under Agreement Made Pursuant to Section 218 of the Social Security Act," for each number assigned.

(2) If wages for covered transportation service (as determined under section 210(k) of the Social Security Act, as amended) are paid by a State or political subdivision of a State, which are subject to tax under the Federal Insurance Contributions Act, the Internal Revenue Service Center will assign an identification number to such State or political subdivision for the purpose of reporting such wages. In these cases the procedures for issuance of identification numbers by Internal Revenue Service Centers to State or political subdivisions are the same as the procedures for issuing identification numbers to employers other than State and local governments. See paragraph (b) of this section for the reference to such procedures.

(b) *Employers other than State and local governments.* In the case of all employers and other entities who are required to have an identification number, other than States, political subdivisions, or interstate instrumentalities, such numbers are issued by Internal Revenue Service Centers. The appropriate procedures for issuance of identification numbers may be found in 26 CFR 31.6011(b)–1.

§ 422.115 Earnings reported without a number

If an employer reports an employee's wages without a social security number, the Bureau of Data Processing and Accounts writes to the employer regarding each of the incompletely reported wage items. The employer is asked to furnish

the missing number or other identifying information. When an employer is unable to furnish the employee's number or satisfactory identifying information and does furnish an address for the employee, the Bureau of Data Processing and Accounts writes to the employee and requests him to furnish the necessary information so that the earnings reported may be properly posted to his account. If self-employment income is reported without a number, the Bureau of Data Processing and Accounts writes to the self-employed individual to obtain the missing number. In some cases, at the request of the Bureau of Data Processing and Accounts, the district office or branch office contacts the employer or self-employed person to obtain the account number or other identifying information and to inform him of the importance of using the number when reporting wages or self-employment income. Where wages are involved the district office or branch office may also need to contact the employee. Earnings items which are not identified are maintained in file and are available for crediting to the proper accounts upon receipt of correct identifying information.

§ *422.120 Earnings reported under incorrect name or number*

If an employer reports an employee's wages under a social security number or name different from that shown on the employee's social security card and the Bureau of Data Processing and Accounts is unable to identify the employee from its records, the Bureau of Data Processing and Accounts writes to the employer regarding such unidentified wage items. Where an employer is unable to furnish the correct information but does furnish an address for the employee, the Bureau of Data Processing and Accounts writes to the employee requesting him to furnish the necessary information so that the earnings reported may be properly posted to his account. Where a self-employed individual reports his self-employment income under an incorrect name or number and the Bureau of Data Processing and Accounts is unable to associate such report with an account in its records, the Bureau of Data Processing and Accounts writes to the self-employed individual to obtain the necessary identifying information. In some cases, at the request of the Bureau of Data Processing and Accounts, the district office or branch office contacts the employer or self-employed person to obtain the correct name or number and to inform him of the importance of using the correct name or number when reporting wages or self-employment income. Where wages are involved the district office or branch office may also need to contact the employee. Earnings items which are not identified are maintained in file and are available for crediting to the proper accounts upon receipt of correct identifying information.

§ *422.125 Statements of earnings: resolving earnings discrepancies*

(a) *Requesting a statement of earnings.* An individual may obtain a statement of earnings recorded in his social security account by mailing to the Social Security Administration, Post Office Box 57, Baltimore, Md. 21203, a completed Form OAR–7004, "Request for Statement of Earnings," or in lieu of a Form OAR–7004, a signed written request showing his social security number and date of birth.

(b) *Statement of earnings, Form OAR–7014.* Upon receipt of such request or Form OAR–7004, the Administration will forward to the individual, without charge, a Form OAR–7014, "Statement of Earnings Recorded in Your Old-Age and Survivors Insurance Account," containing the requested information. The Form OAR–7014 will show the total of earnings credited to date, the total for each of the last 3 complete calendar years, the total credited since the last complete year, and the total credited for each of the periods of 1937 through 1950, and 1951 through the year preceding the first year for which an annual total is shown. See paragraph (c) of this section for information regarding a more detailed earnings statement.

(c) *Insured Status Reply, Form OAR–7014a.* Where the individual asks for a statement as to his insured status, the Administration will forward a Form OAR 7014a, "Insured Status Reply." The Form OAR–7014a shows the same earnings information as the Form OAR–7014 and, in addition, contains a statement as to the insured status of the individual based on the earnings information recorded in his account. Where the individual is not fully insured for retirement benefits, according to such information, the Form OAR–7014a shows the number of quarters of coverage he requires and the number of quarters of coverage he has required.

(d) *Earnings information for recent periods.* Because of the time it takes to receive and record reports, and because earnings are reported quarterly, semi-annually, or annually, pursuant to the reporting procedures governing the par-

ticular reporting entities, the total earnings credited to an individual's account may not include all he has earned in recent months or, in some cases, in the current and preceding calendar years.

(e) *Detailed earnings statements.* (1) A more detailed statement of earnings will be furnished upon request, without charge, where it is required for a purpose related to title II of the Social Security Act.

(2) If the more detailed statement of earnings is requested for a purpose not related to title II of the Social Security Act, there will be a charge according to the following schedule of fees:

Type I—Earnings, period of employment or self-employment, and the names and addresses of reporting employers:	
First calendar year or any part thereof requested	$3.25
Each additional calendar year or any part thereof requested	2.25
Type II—Yearly totals only:	
First calendar year requested	2.50
Each additional year requested	.25
Type III—Calendar quarters of employment:	
Calendar quarter of first employment with a specified employer	3.25
Calendar quarter of last employment with a specified employer	3.25
Calendar quarter of first and last employment with a specified employer	6.50

If the individual requests that the information be certified by the custodian of the records there will be an additional charge of $5.

(f) *Request for revision of earnings records.* If an individual disagrees with a statement of earnings credited to his social security account, he may request a revision by writing to the Bureau of Data Processing and Accounts, Social Security Administration, Baltimore, Md. 21235, or by calling at or writing to any social security district office or branch office or, if the individual is in the Philippines, by calling at or writing to the Veterans' Administration Regional Office, Manila, Philippines. Upon receipt of a request for revision, the Social Security Administration will initiate an investigation of the individual's record of earnings. Form OAR–7008, "Statement of Employment for Wages and Self-Employment," is used by the Social Security Administration for obtaining information from the individual requesting a revision to aid the Administration in the investigation. These forms are available at any of the sources listed in this paragraph. If an individual receives a form OAR–7008 from the Bureau of Data Processing and Accounts, the completed form should be returned to that office. In the course of the investigation the district office or branch office, where appropriate, contacts the employer and the employee or the self-employed individual, whichever is applicable, for the purpose of obtaining the information and evidence necessary to reconcile any discrepancy between the allegations of the individual and the records of the Administration. See Subpart I of Part 404 of this chapter for requirements for filing requests for revision, and for limitation on the revision of records of earnings.

(g) *Notice to individual of determination.* After the investigation has been completed and a determination affecting the individual's earnings record has been made, the Social Security Administration will notify the individual in writing of the status of his earnings record and inform him at the same time of the determination made in his case and of his right to a reconsideration if he is dissatisfied with such determination (see § 422.140).

(h) *Notice to individual of adverse adjustment of his account.* Written notice is given to an individual or his survivor in any case where the Social Security Administration adversely adjusts the individual's self-employment income. Where, subsequent to the issuance of a statement of earnings to an individual, an adverse adjustment is made of an amount of wages included in the statement, written notice of the adverse adjustment is given to the individual or his survivor. Written notice of the adverse adjustment is also given to the survivor if the statement of earnings had been given to such survivor. The individual or his survivor is requested to notify the Social Security Administration promptly if he disagrees, and he is informed that the adjustment will become final unless he notifies the Administration of his disagreement (if any) within 6 months from the date of the letter, or within 3 years, 3 months, and 15 days after the year to which the adjustment relates, whichever is later.

[32 F.R. 13653, Sept. 29, 1967, as amended at 35 F.R. 7891, May 22, 1970; 35 F.R. 8426, May 29, 1970]

§ 422.130 Claim procedure

(a) *General.* The Social Security Administration provides facilities for the public to file claims and to obtain assistance in completing them. An appropriate application form and related forms for use in filing a claim for monthly benefits, the establishment of a period of disability, a lump-sum death payment, or entitlement to hospital insurance benefits or supplementary medical insurance benefits can be obtained from any district office, branch office, contact station, or resident station of the Social Security Administration, from the Division of Foreign Claims, Post Office Box 1756, Baltimore, Md. 21203, or from the Veterans' Administration Regional Office, Manila, Philippines. See § 404.608 of this chapter for offices at which applications may be filed. See § 405.102 of this chapter for conditions for entitlement to hospital insurance benefits and § 405.202 et seq. of this chapter for information relating to enrollment under the supplementary medical insurance benefits program.

(b) *Submission of evidence.* An individual who files an application for monthly benefits, the establishment of a period of disability, a lump-sum death payment, or entitlement to hospital insurance benefits or supplementary medical insurance benefits, either on his own behalf or on behalf of another, must establish by satisfactory evidence the material allegations in his application, except as to earnings shown in the Social Security Administration's records (see Subpart H of Part 404 of this chapter for evidence requirements in nondisability cases and Subpart P of Part 404 of this chapter for evidence requirements in disability cases). Instructions, report forms, and forms for the various proofs necessary are available to the public in district offices, branch offices, contact stations, and resident stations of the Social Security Administration, and the Veterans' Administration Regional Office, Manila, Philippines. These offices assist individuals in preparing their applications and in obtaining the proofs required in support of their applications.

(c) *Determinations and notice to individuals.* In the case of an application for benefits, the establishment of a period of disability, a lump-sum death payment, a recomputation of a primary insurance amount, or entitlement to hospital insurance benefits or supplementary medical insurance benefits, the Social Security Administration, after obtaining the necessary evidence, will make a determination as to the entitlement of the individual claiming or for whom is claimed such benefits, and will notify the applicant of the determination and of his right to a reconsideration if he is dissatisfied with the determination (see § 422.140). Also see § 404.1520 of this chapter for a discussion of the respective roles of State agencies and the Administration in the making of disability determinations and § 404.1521 of this chapter for information regarding initial determinations as to entitlement or termination of entitlement in disability cases. See section 1869(a) of the Social Security Act for determinations under the health insurance for the aged program and sections 1816 and 1842 of the Act for the role of intermediaries, carriers, and State agencies in performing certain functions under such program, e.g., payment of claims pursuant to an agreement with the Social Security Administration.

§ 422.135 Reports by beneficiaries

(a) A recipient of monthly benefits and a person for whom a period of disability has been established are obligated to report to the Social Security Administration the occurrence of certain events which may suspend or terminate benefits of which may cause a cessation of a period of disability. (See §§ 404.419 et seq. and 404.1531 of this chapter.)

(b) A person who files an application for benefits receives oral and written instructions about events which may cause a suspension or termination, and also appropriate forms and instruction cards for reporting such events. Pursuant to section 203(h)(1)(A) of the Act, under certain conditions a beneficiary must, within 3 months and 15 days after the close of a taxable year, submit to the Social Security Administration an annual report of his earnings and of any substantial services in self-employment performed during such taxable year. The purpose of the annual report is to furnish the Social Security Administration with information for making final adjustments in the payment of benefits for that year. An individual may also be requested to submit other reports to the Social Security Administration from time to time.

§ 422.140 Reconsideration of initial determination

Any party who is dissatisfied with an initial determination with respect to entitlement to monthly benefits, a lump-sum death payment, a period of disability, a revision of an earnings record, with respect to any other right under title II

of the Social Security Act, or with respect to entitlement to hospital insurance benefits or supplementary medical insurance benefits, or the amount of hospital insurance benefits, may request that the Social Security Administration reconsider such determination. The information in § 404.1520 of this chapter as to the respective roles of State agencies and the Social Security Administration in the making of disability determinations is also applicable to the reconsideration of initial determinations involving disability. After such initial determination has been reconsidered, the Social Security Administration will mail to each of the parties written notice of the reconsidered determination and inform him of his right to a hearing (see § 422.210). Regulations relating to the details of reconsideration of initial determinations with respect to rights under title II of the Act or with respect to entitlement to hospital insurance benefits or supplementary medical insurance benefits may be found in §§ 404.909–404.916 of this chapter.

SUBPART C—PROCEDURES OF THE BUREAU OF HEARINGS AND APPEALS

§ *422.201 Material included in this subpart.*

This subpart describes in general the procedures relating to hearings before an Administrative Law Judge of the Bureau of Hearings and Appeals, review by the Appeals Council of the Administrative Law Judge's decision or dismissal, and court review. It also describes the procedures for requesting such hearing or Appeals Council review, and for instituting a civil action for court review. For regulations relating to hearings under Part B of title XVIII where an individual enrolled under the supplementary medical insurance plan is dissatisfied with the carrier's determination denying a request for payment, or with the amount of payment, or when he believes that the request for payment is not being acted upon with reasonable promptness, see Subpart H of Part 405 of this chapter.
[36 F.R. 18948, Sept. 24, 1971]

§ *422.203 Hearing before Administrative Law Judge*

(a) *Right to request a hearing.* (1) After (i) a reconsidered or a revised determination of a claim for benefits or any other right under title II of the Social Security Act, or (ii) a reconsidered or a revised determination as to entitlement to benefits under Part A or Part B of title XVIII of the Act, or (where the amount in controversy is $100 or more) as to the amount of benefits under Part A of such title XVIII, any party to such a determination may, pursuant to section 205, 221, or 1869 of the Act, as applicable, file a written request for a hearing on the determination. After a reconsidered determination of a claim for benefits under Part B of title IV (Black Lung benefits) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C.)

LIAISON WITH SOCIAL SECURITY ADMINISTRATION—PREPARED BY INS

Representatives of this Service (INS) and the Social Security Administration (SSA) have had many consultations in an effort to effectively implement PL 92–603 relating to the Social Security amendments of 1972, enacted on October 30, 1972. On March 19, 1974, SSA issued its final regulations implementing Section 137 of the aforementioned Act. These regulations prohibit the issuance of Social Security Account Numbers to foreign-born applicants unless there is a clear showing that the foreign-born applicant is a United States citizen or an alien who is entitled to work in the United States. Such applicants are required to present suitable documentation in support of their applications and doubtful cases are now being referred to INS for resolution. The following procedures were placed into effect:

A. Local Social Security office will screen Form SS–5 and, if applicant is foreign born without documentary evidence that he is a citizen or an alien authorized by INS to be employed in the United States, forward copy to Central Office (RA&I).

B. RA&I will search master index and immigrant and nonimmigrant records and SS–5 cases resolved will be forwarded to Social Security Administration headquarters in Baltimore.

SS–5 cases not resolved will be forwarded to INS field office.

C. Field office will search local records and if resolved return SS–5 to Central Office RA&I for forwarding to Social Security Administration headquarters. If no record is located SS–5 case will be referred for investigation.

Investigations will accord a high priority and endorse results of investigation on SS–5 and return to Central Office RA&I for forwarding to Social Security Administration headquarters.

D. SS–5 cases with undocumented claims made to U.S. citizenship will be handled expeditiously. If not resolved by checks of Central Office and Department of State records, information will be phoned to INS field office with results to be called back within one day. If U.S. citizenship is verified, no response is made to Social Security, since an account number will be issued if an adverse reply is not received from INS within five working days.

Based upon a pilot study conducted jointly by SSA and INS in a four-month period in 1973, it was predicted that 55,000 applications out of the estimated total of 137,150 referred for screening would become investigative cases. The average general investigation case requires 8.3 hours to complete. As these referral cases are somewhat easier to complete, it was estimated that it would require six hours to complete each case. One investigator works an average of 202 hours per month and can complete approximately 34 cases each month. Therefore, to stay current with the expected monthly referrals would require the full-time efforts of 134 investigators. As of August 30, 1974, a total of 1549 investigations were completed with the following results: 333 applicants were found to be in a lawful status, 266 illegal aliens were located and 950 presumably illegal aliens had absconded and were not located at the addresses given. These results were not unanticipated as SSA procedures require that the applicants be informed that their cases were being referred to INS for resolution.

It became obvious that this caseload could not be absorbed without serious impairment to other vital investigative programs and a consequent overall diminution of the INS enforcement mission. Additional investigative positions were requested in the 75 and 76 Budget requests, but to date no additional investigative positions have been authorized.

The SS–5 program was not accorded a priority in the Service's Operational Priorities, which became effective September 30, 1974, and at the present time the applications are not being forwarded to our field offices. However, a search continues to be made of the INS Central Office indices and the results are returned to SSA. As of January 10, 1975, a total of 39,544 applications were referred by SSA to INS. After record checks were completed, 2,564 applications were returned to SSA marked "Employment Authorized" and 25,831 were returned marked "Employment Not Authorized." The balance are awaiting record searches.

If additional manpower is provided, we will again resume the full procedures including investigations of all applicants where record checks reflect that the applicants are not authorized to be employed or where no record is located.

TESTIMONY OF ARTHUR E. HESS, DEPUTY COMMISSIONER, SOCIAL SECURITY ADMINISTRATION, ACCOMPANIED BY WALTER D. RUBENSTEIN, DEPUTY ASSISTANT DIRECTOR FOR BUREAU OF RETIREMENT AND SURVIVORS INSURANCE

Mr. HESS. Thank you, Mr. Chairman. I am accompanied, as I was last time, by Mr. Walter D. Rubenstein, Deputy Assistant Director of the Bureau of Retirement and Survivors Insurance.

I have a very brief statement, and if it is all right with you I will read it verbatim.

Mr. Chairman and members of the subcommittee, I am pleased to have been invited here again today concerning the issuance of social security numbers to aliens. During the testimony before your committee 2 years ago, we proposed, and have since implemented, many of the cooperative procedures needed to carry out our commitments.

As you will recall, the Department of State's consular offices were to have an alien immigrant complete our application for an SSN (social security number) at the same time he applies for his visa and the Department of State would check evidence of age, identity and alien status at that time. It was anticipated that this would result in a large number of aliens having SSN's issued to them when they enter the United States, based upon good evidence presented during the visa process.

Since July 1, 1973, the State Department has been having individuals complete applications for an SSN during the visa process, thus receiving the evidence for both the SSN and visa all at the same time. This process is limited, however, to those individuals coming to the United States for permanent residency, thereby excluding such categories as students, exchange visitors, political refugees and others who come here for other than permanent residency. To give you an idea of the volume of these cases, I might say, as an aside, that for the fiscal year 1974 there were 321,000 immigrant visas with accompanying social security account number applications plus 8,900 fiance visas, so we are dealing with just about a third of a million number that were issued in the fiscal year in that new way.

During previous testimony we proposed, and have since implemented, a procedure whereby referrals to INS are made (1) when the alien applicant for an SSN can provide no evidence, (2) when the alien wants the SSN for work but is not permitted to work, (3) when the evidence provided is obviously altered or phony, and (4) when the alien who is not permitted to work secures a number for a reason other than work and subsequently earnings are reported to his earnings record. These procedures were intended to permit the issuance of SSN's to aliens for valid reasons beyond work, that is, bank accounts, student registration, driver's licenses, and so forth, while keeping within the intent of the statute. As stated earlier, these procedures were on an interim basis and subject to later evaluation and review.

The regulations, imposing evidentiary requirements for SSN's and which implemented section 137 of Public Law 92–603, were published first under "Notice of Proposed Rulemaking" in 1973 and in final in the Federal Register on March 19, 1974. We have found that the foreign-born individual who is not totally familiar with the American language was often disadvantaged when attempting to obtain an SSN. Either because of difficulty in communication, or simply because of nonpreparedness, such individual could get confused and simply abandon the SS–5 out of despair, or unintentionally give erroneous information; both situations resulting in referral to INS.

From March 19, to September 1, 1974, the Social Security Administration referred over 20,000 abandoned alien applications to INS. Of the first 2,916—14 percent—which INS investigated, they found that employment was authorized in 1,545—53 percent—of the cases. In addition, INS informed us soon thereafter that in less than one-third of the cases was the information furnished of any value to them. The "abandoned" category was the largest and least fruitful category of referrals from INS standpoint.

Several months ago, we were notified of significant shifts in INS priorities, including a deemphasis on the SS–5 referral program, because of manpower and budgetary restrictions. The Social Security Administration staff had subsequent contact with INS staff concerning the impact of the shift of priorities on our joint agreement. As a result of the contact, the Social Security Administration proceeded to implement procedural changes we already had under active consideration as the result of our survey of the abandoned applications. The procedure would involve those situations where an individual applying for an SSN does not have the appropriate evidence with him at the time. Instead of SSA offices holding the application pending submission of the evidence, the application would be returned to the

applicant, and thereafter instead of having it turn out to be one of these abandoned cases that was not fruitfully referred, the applicant would be advised to resubmit the application together with the evidence if he wished to pursue his request for a number.

Since INS was not able to followup on the information which we formerly provided and because of the futility of pursuing the abandoneds, INS was in complete accord with our change. This change has since been implemented and has significantly reduced a fruitless time-consuming workload for both INS and SSA, while still preventing the issuance of SSN's to those aliens who do not produce valid evidence of their immigration status. Other categories will continue to be referred to INS.

Since 1952—you will recall we went over this in my previous testimony—under section 290(c) of the Immigration and Nationality Act, we have, upon request, provided information to the Attorney General about aliens who have been issued SSN's. Since implementation of section 137 of Public Law 92–603, we have worked even more closely with INS to establish the best possible procedures to effectuate the law. As an aside, that runs about 50,000 a year. When an individual who is foreign-born alleges U.S. citizenship or alien status in applying for an SSN—after entry into the United States—cannot present corroborating evidence and where none is available, we have verified his allegation with INS. When a negative reply was received from INS, no SSN was issued until his status could be established. I'm sorry that all of my text here is in the past tense. Actually it should be in the present tense because this procedure continues to be in effect.

If the individual is an alien, he is required to present his Alien Registration Receipt Card, his Arrival-Departure Record, or other INS documentation before his SS–5 is processed. Where an alien is not eligible to work, but needs an SSN for other reasons, our records are annotated. If earnings are later reported to his record, we promptly notify INS. I should point out though there is approximately a 9-month lag between the time that earnings are first earned by the individual and the time that they are finally posted to his record, so even though I say we promptly notify INS, I do not mean to imply that that is a concurrent notification with the payment of the wages by the employer. Thus, while we have been assisting the INS in its efforts to identify illegal aliens, we want to avoid imposing any undue hardships on legally admitted aliens. We must also adhere to the legal requirements that social security records be kept confidential.

In addition to the pledge of confidentiality to which we have always tried to adhere, and which is founded on provisions of the Social Security Act and our regulations, we now have the Privacy Act of 1974, Public Law 93–579, recently enacted to insure even greater confidentiality of records. The purpose of the act is to provide certain safeguards for an individual against an invasion of personal privacy. We are currently evaluating our exchanges of data with other Federal agencies in addition to other disclosures, to determine how implementation of Public Law 93–579 will impact on our furnishing of information to INS, both under our procedures implementing section 137 of Public Law 92–603 and under section 290(c) of the Immigration and Naturalization Act.

And I might mention here, having taken up the subject of our regulations on confidentiality and the intent and impact of other

privacy legislation, the testimony of the previous witness inferred that one possibility would be that an employer could check with social security to secure corroborating information that he would need. And the chairman pursued this question and pointed out, as I emphasize here too, an employer just cannot call up social security and get information about anyone. This is confidential information. Moreover in many of these instances we would not have corroborating information anyway as to citizenship because we have issued in the neighborhood of 200 million social security account numbers over the lifetime of the program, and we have never had occasion to ask in connection with the application for account number what the individual's citizenship is. We ask for his place of birth as part of the identifying information, but of course, there are literally tens of millions of American citizens who were born abroad and hence have given a foreign place of birth on their application for the social security number, which is not indicative at all of their citizenship status.

In conclusion, since the procedures and requirements for evidence of age, identity, and citizenship or alien status were implemented, it is considerably more difficult than it has been in the past for aliens who are not permitted to work in this country to obtain an SSN. However, the general issue of the employment of illegal aliens remains a matter of concern, as evidenced by the recent creation of a new Domestic Council Committee on Illegal Aliens. The President established this Cabinet level committee on January 6, with participation by HEW, Labor, State, the INS, Justice, Treasury, Agriculture, Commerce, OMB, and White House staff to develop, coordinate, and present to the President, policy issues that cut across agency lines so that better programs can be developed for dealing with the national problem of illegal aliens. This committee is just beginning its consideration of various issues and approaches and will be conducting an in-depth analysis on the basis of information which will be gathered by staff of its member agencies and departments.

Mr. Chairman, this concludes my prepared testimony. I will be happy to answer any questions you still may have. Thank you.

[The prepared testimony of Mr. Hess follows:]

STATEMENT BY ARTHUR E. HESS, DEPUTY COMMISSIONER OF SOCIAL SECURITY, SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. Chairman and Members of the Subcommittee: I am pleased to have been invited here again today concerning the issuance of social security numbers (SSN's) to aliens. During the testimony before your committee two years ago, we proposed, and have since implemented, many of the cooperative procedures needed to carry out our commitments.

As you will recall, the Department of State's consular offices were to have an alien immigrant complete our application for an SSN at the same time he applies for his visa and the Department of State would check evidence of age, identity and alien status at that time. It was anticipated that this would result in a large number of aliens having SSN's issued to them when they enter the United States, based upon good evidence presented during the visa process.

Since July 1, 1973, the State Department has been having individuals complete applications for an SSN during the visa process, thus receiving the evidence for both the SSN and visa all at the same time. This process is limited, however, to those individuals coming to the United States for permanent residency, thereby excluding such categories as students, exchange visitors, political refugees and others who come here for other than permanent residency.

During previous testimony we proposed, and have since implemented a procedure whereby referrals to INS are made (1) when the alien applicant for an SSN can provide no evidence, (2) when the alien wants the SSN for work but is not permitted to work, (3) when the evidence provided is obviously altered or phony, and (4) when the alien who is not permitted to work secures a number for a reason other than work and subsequently earnings are reported to his earnings record. These procedures were intended to permit the issuance of SSN's to aliens for valid reasons beyond work, i.e., bank accounts, student registration, driver's licenses, etc., while keeping within the intent of the statute. As stated earlier, these procedures were on an interim basis and subject to later evaluation and review.

The Regulations, imposing evidentiary requirements for SSN's and which implemented section 137 of P.L. 92-603, were published in the Federal Register on March 19, 1974. We have found that the foreign-born individual who is not totally familiar with the American language was often disadvantaged when attempting to obtain an SSN. Either because of difficulty in communication or simply because of nonpreparedness, such individual could get confused and simply abandon the SS-5 out of despair, or unintentionally give erroneous information; both situations resulting in referral to INS.

From March 19 to September 1, 1974, the Social Security Administration referred over 20,000 abandoned alien applications to INS. Of the first 2,916 (14 percent) which INS investigated, they found that employment was authorized in 1,545 (53 percent) of the cases. In addition, INS informed us soon thereafter that in less than one-third of the cases was the information furnished of any value to them. The "abandoned" category was the largest and least fruitful category of referrals from INS' standpoint.

Several months ago, we were notified of significant shifts in INS priorities, including a deemphasis on the SS-5 referral program, because of manpower and budgetary restrictions. The Social Security Administration staff had subsequent contact with INS staff concerning the impact of the shift of priorities on our joint agreement. As a result of the contact, the Social Security Administration proceeded to implement procedural changes we already had under active consideration as the result of our survey of the abandoned applications. The procedure would involve those situations where an individual applying for an SSN does not have the appropriate evidence with him at the time. Instead of SSA offices holding the application pending submission of the evidence, the application would be returned to the applicant. He would be advised to resubmit the application together with the evidence.

Since INS was not able to followup on the information which we formerly provided and because of the futility of pursuing the "abandoneds," INS was in complete accord with our change. This change has since been implemented and has significantly reduced a fruitless time-consuming workload for both INS and SSA, while still preventing the issuance of SSN's to those aliens who do not produce valid evidence of their immigration status. Other categories will continue to be referred to INS.

Since 1952, under section 290(c) of the Immigration and Nationality Act, we have, upon request, provided information to the Attorney General about aliens who have been issued SSN's. Since implementation of section 137 of P.L. 92-603, we have worked even more closely with INS to establish the best possible procedures to effectuate the law. When an individual who is foreign-born alleges United States citizenship or alien status in applying for an SSN (after entry into the United States) cannot present corroborating evidence and where none is available, we have verified his allegation with INS. When a negative reply was received from INS, no SSN was issued until his status could be established. If the individual is an alien, he was required to present his Alien Registration Receipt Card, his Arrival-Departure Record, or other INS documentation before his SS-5 is processed. Where an alien was not eligible to work, but needed an SSN for other reasons, our records, were annotated. If earnings were later reported to his record, we would promptly notify INS. Thus, while we have been assisting the INS in its efforts to identify illegal aliens, we want to avoid imposing any undue hardships on legally admitted aliens. We must also adhere to the legal requirements that social security records be kept confidential.

In addition to the pledge of confidentiality to which we have always tried to adhere, the Privacy Act of 1974, P.L. 93-579, was recently enacted to ensure even greater confidentiality of records. The purpose of the Act is "to provide certain safeguards for an individual against an invasion of personal privacy . . ." We are currently evaluating our exchanges of data with other Federal agencies

in addition to other disclosures, to determine how implementation of P.L. 93-579 will impact on our furnishing of information to INS, both under our procedures implementing section 137 of P.L. 92-603 and under Section 290(c) of the I&N Act.

Since the procedures and requirements for evidence of age, identity, and citizenship or alien status were implemented, it is considerably more difficult than it has been in the past for aliens who are not permitted to work in this country to obtain an SSN. However, the general issue of the employment of illegal aliens remains a matter of concern, as evidenced by the recent creation of a new Domestic Council Committee on Illegal Aliens. The President established this Cabinet level committee on January 6 with participation by HEW, Labor, State, the INS, Justice, Treasury, Agriculture, Commerce, OMB and White House staff to "develop, coordinate and present to the President policy issues that cut across agency lines so that better programs can be developed for dealing with the national problem of illegal aliens." This Committee is just beginning its consideration of various issues and approaches and will be conducting an in-depth analysis on the basis of information which will be gathered by staff of its member agencies and departments.

Mr. Chairman, this concludes my prepared testimony. I will be happy to answer any questions you may still have.

Thank you.

Mr. EILBERG. Mr. Hess, we thank you for a very enlightening statement, and we are very happy to have had it.

Your statement does not touch as I recall on what has happened to your exercise of the provision of the law on the registration of schoolchildren. It does not touch on that subject at all. I think we discussed at our last meeting the eventuality of everybody having a social security card.

Mr. HESS. We have not proceeded with the registration of schoolchildren beyond what our current practice has been for many years, and that is beginning at the ninth grade, from the ninth grade on in high school. If there is a request by the school to enumerate, we will cooperate with that. We will, of course, also provide on an individual request basis a social security number to a child of any age who asks for the number, either for purposes of work, for purposes of a bank account, or whatever the reasons may be.

The authority we have in Public Law 92-603 was permission to proceed with the enumeration of all schoolchildren, but we have not done that for two reasons. One, there have been in the last 2 years serious questions of policy raised as to the matter of privacy and general public policy dealing with the issue of universal enumeration; and two, it has also been a question of resources. We are engaged in new and extensive enumeration efforts with the State welfare departments, also pursuant to this law, and we have completed the categories of the aged, blind, and disabled in connection with the ESSI program and we are starting with the AFDC enumeration, but we do not have the manpower nor do we have as a policy matter the ability to go ahead with the systematic enumeration of schoolchildren.

Mr. EILBERG. So we are in no way——

Mr. HESS. We are nowhere close to that.

Mr. EILBERG. At the present time we are not close to universal identification of all persons by social security card number?

Mr. HESS. That is correct. I would say though I think because of the fact that so many young people by the time they reach about 9th or 10th grade seek part-time employment, or have other reasons to want to have the social security card, that we have most of the population over the age of about 15 or 16 enumerated. But there is a very large group of younger people who are not in our records.

Mr. EILBERG. Now, Mr. Hess, I would like to go back at this moment to your previous testimony and read you two statements or two parts from it. Referring to your testimony of March 7, page 63, do you happen to have that?

Mr. HESS. Yes, I do.

Mr. EILBERG. Well, it is on page 63 of that, and I would call your attention to the bottom of the page in which you say:

> No matter how stringently the social security number issuance processes are controlled, unless an employer insists on seeing evidence of identity and citizenship, in addition to the social security number, there is no way for the employer to know that the social security number that he is shown is the number assigned to the person presenting it, and is not a bogus, borrowed or stolen one.

Do you recall that statement?

Mr. HESS. Yes I do.

Mr. EILBERG. Do you still believe that is a correct statement today?

Mr. HESS. Yes, I think that is correct. We have always in our informational literature suggested that the employer ask to see the card, but that was largely because we had lots of problems with transposition of numbers and incorrect earnings reports. Our experience I think over the years is that many people have memorized their social security numbers, many of them, some of them have even had them tattooed on their arms, but many of them simply present the number to the employers. Unless they have an organized policy in their employment of wanting to see the primary documentation, they have gotten in the habit of simply taking the person's number and accepting it.

I would say also even if they see the card, if it is a situation where an individual has established a false identity, there is no way of knowing that the card that the individual is carrying and presents actually was issued to him, or that our record backup for that card necessarily has the correct personal identifying information that relates to his true status. We have whatever he gave us or whatever the person gave us to whom that number was issued.

Mr. EILBERG. And also you went on to say 2 years ago, and I would like to get your present reaction to your statement immediately following that, which I will just read.

> The social security number is not a reliable mechanism to use as a work permit or identification card, nor was it ever so intended and, therefore, should not be relied on as an indication that the job applicant is employable under Federal and State law.

Mr. HESS. Yes. That still continues to be my view.

Mr. EILBERG. Mr. Hess, we are under—pressure perhaps is not the correct word—but many people are pressing upon us the idea that we should adopt legislation which would restrict the issuance of social security cards or numbers only to those who are authorized to work and penalize employers who hire an individual who is not in possession of such a card. Would the Social Security Administration vigorously oppose such a national work permit system or national identification system?

Mr. HESS. Well, I would like to defer to the testimony of the Acting Attorney General who was before you, Deputy Attorney General Silberman and the administration position with respect to any issues that have to do with the desirability of the bill or the provisions of the bill. We do not have a position independent of the administration point of view on this.

I would say that personally I would, and on behalf of the Social Security Administration, we would, be very reluctant to see a numbering system which was designed essentially for recordkeeping purposes converted into a documentation system that would, in effect, mean that the carrier of this document or the holder of this number is bearing prima facie evidence of some status under law. It would, I suppose, in the last analysis, if that were to be taken seriously, it would drive us to having to recontact everybody who has a social security number and perhaps adjudicate certain evidence with respect to that number. Or if one did not want to go back and review all existing numbers, it would certainly require us to do things with respect to future enumeration which I think would be technically feasible, but which might cause people to go underground. It would increase the counterfeiting of numbers and cause people to go underground to get false identities, and to that extent degrade the number system for the purposes for which it was really created, and that is for us to keep the earnings records of the individual straight in connection with his potential benefit rights.

Mr. EILBERG. Mr. Hess, you mentioned a position of Acting Attorney General Silberman as expressed before this subcommittee. I have had occasion since to be in the presence of Attorney General Levi who takes another point of view, and we are inviting him to put his views on the record. So I thought that would be interesting to you as well as to the members of the committee.

Mr. HESS. All right. Good.

Mr. EILBERG. Now, I have taken more time than I should.

Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman. And thank you, Mr. Hess.

You know, Mr. Hess, we are advised by the Immigration Service that there are between 4 and 12 million people presently in the United States who are not here legally. So for the sake of argument, let us split the difference and assume it is about halfway between 4 and 12 million. If we could identify these people we would not need to have this legislation or these hearings, so the problem is one of identification.

Now, on the last page of your testimony you say that since the procedures and requirements for evidence of age, identity or citizenship or alien status were implemented it is considerably more difficult than it has been in the past for aliens who are not permitted to work in this country to obtain a social security number, and that is very good news. And of course, it makes the Social Security card a prime target for identification. As we are approaching this from an employment point of view, we have four categories of people. We have the native-born American, the naturalized American, and the alien admitted for permanent residence, or otherwise, entitled to work in this country, and the individual that we are trying to identify, the illegal alien. Now, the testimony by General Chapman was to the effect that they are now experimenting with a tamper proof alien registration card. And there was some speculation among committee members as to whether or not the Social Security Administration, if this proves successful, could follow suit and also devise a social security card that would be tamper proof, that would perhaps contain a photograph. This could go a long way toward meeting the problems you raised regarding people, just borrowing each other's card or having two cards.

I think that we all agree that the biggest problem of identification is by the native born American citizen. With respect to the legal alien lawfully admitted for permanent residence. They have an alien registration card. I am sure they carry around with them much the same as many of us did with our draft cards at different times in our history. So I wonder what you think of the possibility? You did not address yourself in the testimony to this, but you must be familiar with General Chapman's endeavors in this field of a tamper proof card, of adopting this procedure yourself. Inasmuch as the social security card is issued only to the citizens of the United States or an alien lawfully entitled to work except for those few categories you enumerated where a card is used for some other purpose than working, it would leave only the category of the illegal aliens that we are trying to identify. Would you care to comment on that?

Mr. HESS. Well, of course, it is technically feasible, although it would be quite expensive to produce a tamper proof social security card of more durable and more definitive characteristics.

Mr. FISH. May I interrupt at this point and say that General Chapman has identified the first million of illegal aliens holding jobs in the United States, and the legislation has been introduced into the Congress recently to create public service employment for a million people at the cost of well over $7 billion. So I think when we talk about costs, we have got to remember it is relative to the problem we face of a very high rate of unemployment in the United States.

Mr. HESS. As I say, it is technically feasible to produce a social security or other identification card of this kind. I think the main problem is a major policy question which the Congress and the administration have to address, and that is whether to convert the social security numbering system, which was not designed to be a work permit or identification type of system, to convert this as a matter of public policy to something else. The attendant consequences would be both costly and involve Social Security in many activities that it is not now formally involved in, including adjudication, or at least the flagging of the identification and potential adjudication of individuals who claim to have a status other than they have, and also the whole problem that I spoke of before of aggravating the issue of counterfeiting or false identity. The social security card is now often issued on the basis of secondary evidence of the citizenship and status the individual may have. And we would have the problem, then, I think which anyone would be faced with in this kind of a situation of having to be responsible for some surveillance, some inspection and surveillance of the documents from which this tamper proof card is to be produced.

As I say it is a matter of public policy, obviously, but my inclination is to say that there ought to be a lot more attempt at this point to focus right on the immigration card itself, the presence or the absence of that card for any individual particularly in the areas where this type of employment is very prominent.

Mr. FISH. If I can interrupt here, I am sure you were here previously when the previous witness testified, and many members of the committee raised the question of the problem of the native born American who has a foreign name and an accent.

Mr. HESS. Which then leads you to say that in the last analysis you have to ask the employer to be responsible for determining the citizenship of every person he hires.

Mr. FISH. Right. And when you think in terms of a single document, that every native born and every naturalized citizen in the United States is entitled to, what else is there other than a social security card? What else is there that would be customary to carry around, and it would avoid all of the problems of having another national identification instrument. I do not know of any other one myself.

Mr. HESS. All I can say is I would be reluctant to see social security have to undertake not only the administrative problems that are involved in this kind of a tightening up of the enumeration system to the point where it constitutes prima facie evidence of the right to work, but also the public relations and privacy burdens that become associated with the fact that the social security card takes on a new characteristic. It becomes in effect a universal number.

Mr. FISH. Of course, that is what we are talking about.

Mr. EILBERG. A universal what?

Mr. HESS. A universal identifier, which then for purposes of protection of the privacy of the individual and many other factors has a lot of additional consequences. It becomes something that the Federal Government and State governments and many other people want to latch onto, in locking the individual into various kinds of checks and cross checks.

Mr. FISH. You know what disturbs me, Mr. Hess, when you say I hate to have the social security card be prima facie evidence of the right to work, you know the requirements in applying for a social security number are such matters as one would assume would be just contrary to what you just said, that you do go into the question of the person's legal status by requiring certain documents.

Mr. HESS. Of applying for the number?

Mr. FISH. Yes.

Mr. HESS. We go into, yes, we do that.

Mr. FISH. I gather from what you said earlier you would hate to have the number prima facie evidence of legal status to hold employment in the United States, but surely you go into that at the time the card is requested, do you not?

Mr. HESS. We go into that for the purposes in the first instance of proper identification of the individual for our own records, and then because of the recent provisions of law which require us to establish with respect to an alien whether he has a work purpose or not, yes. But we have not had to undertake the burden with respect to the vast majority of persons who are American citizens of having them bring forth their evidence to us and of establishing social security records for those purposes.

Mr. FISH. Thank you.

Mr. EILBERG. Mr. Sarbanes.

Mr. SARBANES. Mr. Hess, I want to thank you for your very helpful statement. I guess I ought to start by saying, and I know it is not a question that you are going to answer because it really is a matter of policy, that I really have two questions. One is, following up on the previous questions, should we even have an internal passport system?

Should we have such a system and what are its implications? Of course, they are rather far reaching. And second—even if that question were answered yes—should such a system be premised on the social security card or some other form of documentation constructed under some other system? That is a major question. It would seem to me to pose difficult problems for the Social Security Administration in terms of the nature of the relationship it seeks to develop with the people holding social security numbers, which is in a sense the relationship of an ally and not in any sense of a policeman; it would pose some rather difficult problems for the purposes of the Social Security Administration in trying to help people develop their benefit program if the Social Security Administration were also tied into being a screening or policing mechanism in the society.

Mr. HESS. Yes.

Mr. SARBANES. Now, let me ask you these questions, I am interested in why, as set out on page 8 of your statement, you would issue a social security card to an alien not permitted to work under any circumstances? That is point 4 in the first full paragraph of your statement.

Mr. HESS. Mr. Sarbanes, we went through some soul searching on the policy front and discussed to some extent with this committee when we were here before the dilemma that exists for an individual, whether he is a student, a visitor, or someone who goes back and forth across the border as part of the normal relations with Canada and Mexico, and who for bank account purposes, for purposes of meeting other requirements of law, including the Internal Revenue regulations for tax purposes, or in order to register as a student in the school system or in the university in some State or locality has to have a social security number.

Mr. SARBANES. Wait a second. Are you not, by doing that, in two respects going down the very same path that you refrained from moving down this morning?

First of all, you yourself stated that the purpose for which the system was created and the cards are given is to keep earnings records.

Mr. HESS. That is right.

Mr. SARBANES. And to determine what benefits are going to be paid. And second, you backed off at every point this morning from the use of the social security number as an enumerator that follows the individual in everything else.

Mr. HESS. Right. Right.

Mr. SARBANES. And yet you yourself in a situation in which I take it you are obviously not required to do so, issue numbers to aliens who you know at the time you issue the number are not eligible to work, and, therefore, do not have a basis for getting a number under the rationale of the social security system, which is tied into the earnings records.

Mr. HESS. It could.

Mr. SARBANES. That is geared to the immigration, to the Immigration Service number?

Mr. RUBENSTEIN. They could.

Mr. SARBANES. Now, I want to make sure that I understand this. There are instances in which an alien seeks a social security card from you and in which you know that the alien is not eligible to work, you know that, and yet you issue the card, is that correct?

Mr. HESS. Yes. And we tell him——

Mr. RUBENSTEIN. That is the application and data. It simply varies depending upon what you put on your SS–5, your application.

Mr. DODD. There is no additional information?

Mr. RUBENSTEIN. No, no additional information.

Mr. DODD. You mentioned earlier you had a problem where aliens were applying for visas, that the application was being filled out at their point of departure.

Mr. HESS. Right.

Mr. SARBANES. I understand that, and I am raising the question with you in a limited area here. But, I am quite prepared to extend it into other areas that have nothing to do with the subject matter before this committee, as to whether or not the Social Security Administration, by virtue of its accommodating and cooperating, is not itself the biggest motivating force for developing a number that follows every American around in all aspects of his life?

Mr. HESS. That is a legitimate question, and one on which the executive branch is focusing right now. We have drafted legislation which may be presented to the Congress which addresses itself to the proper uses of the social security number and the Department, together with the OMB and the White House, is in the process right now of reviewing the whole question. And we may have lapsed in a number of areas into practices that tend to encourage this to become the universal identifier.

Mr. SARBANES. One final question. Do you have any idea how much counterfeiting of social security cards takes place?

Mr. HESS. I would like to ask Mr. Rubenstein.

Mr. RUBENSTEIN. We do not know in terms of an actual figure. We are aware, and there are several investigations going on right now, of what are purported to be counterfeiting rings in several areas throughout the country. We have San Antonio, where there is one conceivably, and Denver and Indianapolis. We are working with the Secret Service in an investigation to find out the extent of all of these, and these things have arisen, I might indicate, to our knowledge relatively recently. And whether there is a tie-in between the tightened requirements for social security numbers, whether it is because there has been a lot of publicity about false identity that has hit the newspapers in the past year or so, it is hard to tell. But, we are certainly aware that there are activities of this sort that are being looked into.

Mr. HESS. Might I just add, and it is not necessarily in full extenuation of the circumstances, but as we have looked at the problem, we have felt that if we had a low-key attitude toward, and reaction to, the situation of one who approaches us for a number, and apparently has a strong and valid motivation to have that number. If he has a strong motivation to have the number and is going to use it for illegal purposes, counterfeiting is not only the problem we will have. If we drive him underground, he can very easily procure false documentation and present himself at another one of our offices and get a number issued to him on the basis of a different identity.

And so what we have been trying to do up to this point is to keep the enumeration process simple—that is encouraging to the individual to deal above board with us. If he has a problem, or if we are going to have to check his application against INS records, we inform him, put him on notice that sometimes causes him to withdraw from the

process, and that is part of the reason for the abandonment cases. I think word has gotten around, especially along the border, that we are conducting fairly stringent interviews in these cases, because we are hearing of fewer cases where the individual comes in and leaves the office in an abandonment.

Apparently, the word is getting out that if you go in for a number, you will have to go through the works.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman. Just a couple of questions.

Mr. Hess, I also thank you for your testimony. Mr. Sarbanes raised the question of the policy and the practice on the part of the Social Security Administration of issuing a card to an alien who is not entitled to have it to work under any circumstances.

Mr. HESS. Who is not entitled to work.

Mr. COHEN. Do you issue cards to individuals at their request and then keep records as far as their work is concerned?

I raise the question because you commented earlier that in regard to the recommendation of your advisory committee to undertake a "positive action program" to issue cards to the ninth graders, that through the force of other business and other burden, that you have, that the Administration really has not implemented that.

But, I am wondering what the pressures are that might be building in terms of requesting the social security card for purposes other than work and what your statistics might reveal on the number of cards that are issued compared to the number of people actually using them for purposes of earnings or for other purposes?

Mr. HESS. Well, I am sorry to say we do not have any statistics on that. Mr. Rubenstein may want to amplify this.

But, we have over the years had a good many duplicate accounts issued, and a good many accounts issued that are inactive, and this has frequently been by inadvertence. We have tried to cross-reference all of those through identification methods, but they can be issued at times through inadvertence on the part of employers, or the individual himself if he says he never had a number.

Mr. COHEN. What sort of information do you collect and put on a person's record that is maintained by the Social Security Administration? What would it include?

Mr. HESS. Personal identifying information, when he applies for his account number, his name, date, place of birth, mother's maiden name, father's name? What else is there?

And then the employment information, of course, quarterly earnings and employer's name and sometimes employer's establishment. But until the claim's process, when the person proves his right to a claim, at which time we have to ask for other identifying information, that is essentially all we have on record with respect to the individual.

Mr. COHEN. Other identifying information? Would that include references to bank accounts and——

Mr. HESS. No.

Mr. COHEN. Master charges, and so on?

Mr. HESS. No, no. Not at all. I should have said we have sex and race on the card, and that is for statistical purposes.

Mr. COHEN. Well, I raise this question, because you have indicated that you were somewhat frightened by the implications of the specter

of the Government issuing a social security card, or an enumerator, to follow people throughout their lives.

Mr. HESS. It is not that the card gives access to personal information in our records that might be harmfully disclosed. First of all, we have a minimum of information and secondly, it is possible to protect that information through statutory and regulatory means.

When you get the situation that you now have, that many individuals cannot do business with other public and private organizations unless they grant their number to that organization in order to transact business, then the next question is what are the standards, legal and other standards, of privacy that affect the trafficking of information among those organizations where the social security number is simply the key to exchange of information among organizations, and does not involve us at all.

Mr. COHEN. I notice on page 175 of this report that we just received that UWR task force found with respect to Canada, that there was a great deal more interchange of information and data among the systems than the public was ever aware and more inaccuracies in the files than were generally realized, although there have not been a great proliferation of abuses. And it just raises serious questions in my mind as each of us watch the daily newspapers and to see the kind of revelations that have been taking place. In agencies like the FBI, they are gathering information on Congressmen, on the pretext or the false rationale that they are accumulating this information for the protection of the Congressmen or, if at some future time, one of us might become appointed or named to the executive branch, they would certainly want to have this information or some recollection effort available.

I am just wondering in terms of whether this system already reached the frightening implications that you are talking about in terms of this accumulation of data and the interchange between various systems?

Mr. HESS. Well, of course, the problem of protecting privacy really involves legislation and policy that imposes upon each and every organization that collects data, a set of standards that have to do with what is collected, what is retained, and under what circumstances it is disclosed. As far as the data that social security holds, we have a fairly good fence built around our data from a disclosure point of view.

My concern is that the social security number has not already become the key that unlocks or permits the traffic among a lot of data organizations, as Mr. Sarbanes pointed out, but if we then are required to tighten up on the issuance, and assure the adjudication and the continuing maintenance of the number to the point where we become the custodians of a national identifier, we undertake a lot of burdens that we do not now have at all. It is not just a question of determining for one time and issuing a number to an individual. We become responsible for the maintenance of that identification over the years, and as the individual may attempt to change his identity, may on occasion legitimately change his identity, marries, moves, dies—it is the whole question of the potential implication of having to be able to service that number—not just that we issued this number to this person 20 years ago.

People are going to want to know: Is this a valid number with respect to this particular individual today? And that leads you into demands for fingerprinting and photographic identification and all of these other things.

Mr. EILBERG. Let me just interrupt by asking a couple of questions. We are running out of time and we want to cover the other members as well. But, there are a couple of important points, I think, should be made.

If an employer were to come to the Social Security Administration today and ask what information do you have on so and so, and I want to find out if he is an illegal alien, I understand from you, under the privacy law, that you would not provide that?

Mr. HESS. Even before the privacy law, under our own regulations, we would not.

Mr. EILBERG. All right. Now, suppose we passed legislation, suppose we passed legislation in the field of illegal aliens directing employers to do that and using your administration as one of those to which he might go. What would your legal position be at that point? What would you do? Would you consider that as superceding existing law?

Mr. HESS. That would be entirely a question of how the legislation is drafted. If it is intended by the Congress to supercede existing law, and it did supercede, then of course, the situation would be different.

Mr. EILBERG. Mr. Dodd.

Mr. DODD. Just a couple of questions, Mr. Chairman.

And I thank you for your testimony, Mr. Hess.

On page 2, the first paragraph, during previous testimony, it was indicated that you had proposed and had since implemented a system of referrals to the INS which is made number one, an alien applicant for an SSN can provide no evidence. Evidence of what?

Mr. RUBENSTEIN. Each applicant for a social security card, under our regulations today, must provide evidence of his age, that he is the person who is identified in the age, and citizenship evidence.

Mr. DODD. What do you use for that?

Mr. RUBENSTEIN. For the person born in the United States, we would ask for a birth certificate, or a baptismal certificate. Not born in the United States, we would say, give us your evidence of age, which would again be your birth certificate or a baptismal certificate or whatever records you have from your foreign country.

Mr. RUBENSTEIN. These are for permanent residents, for immigrant status, and that is done overseas at the State Department, at the Consulate, at the time he applies for his visa.

Mr. DODD. But, in fact, anyone could do it? You would give them the Social Security card, but you just would flag it?

Mr. RUBENSTEIN. Well, in that partiuclar case, it is done by a Consular office.

Mr. DODD. OK.

Mr. RUBENSTEIN. In the United States, the person needs that identification.

Mr. DODD. But a tourist, he goes and takes a tourist card, and he could apply for a social security number and he would get one?

Mr. RUBENSTEIN. And he would get one if—you see, we would question him if his documentation says he is a tourist.

Mr. DODD. I understand, but normally, assuming he can show you a birth certificate that he is a French citizen or a Mexican, he would get a social security card?

Mr. RUBENSTEIN. Right, right. Yes.

Mr. DODD. So, in effect, tourists, anyone, and I am taking too much time, and I did not mean to, Mr. Chairman.

The other point is on page 3 you quoted some figures of the 2,000 some which INS investigated, they found employment was authorized in 1,500 cases. Is that to say in the other 47 percent, they were not authorized?

Mr. RUBENSTEIN. No. I have a complete breakdown. In some of the cases they could find no reason for their referral. That is, as for as they were concerned, this was not even an alien.

And in some cases, as I said, there were no recordations and in roughly 27 percent of the cases, they found a hit, they found an alien who should not be working in this country.

Mr. DODD. They are broken down in there?

Mr. RUBENSTEIN. Yes.

Mr. DODD. I just was not clear. And the last point I have, just on the whole use of the social security card, of course, in the military now, I was in the service when the changeover occurred and we went from a service number to the social security number.

Is there a problem with interchange of information? For instance, my 201 file, as a former serviceman, which now has my Social Security number on it, what relationship does the Social Security Administration have other than having a common number with my military file?

Mr. HESS. No relationship.

Mr. RUBENSTEIN. None. In 1943, during World War II, an Executive order was promulgated which said for efficiency, getting this war effort marshaled, because everbody has got different kinds of numbers, why don't we standardize, and why does not every agency start using the same number, essentially the social security number. Nothing much was done during the war, but that was one impetus that led subsequently to the Armed Forces devising this and then to the Veterans' Administration moving over and the Civil Service Commission and eventually to the Internal Revenue Service saying that we ought to get into this too, because it is almost universal.

But, that does not mean that there is any interchange.

Mr. DODD. You do not have any access to those files?

Mr. HESS. No. Of course, with the individual's consent we may get data from another agency that is pertinent to his social security claim.

Mr. RUBENSTEIN. What we do, however, is simply provide the service, any agency using the social security number under the Executive order, information to be sure they have the right number on the right individual.

Mr. DODD. But that is the extent?

Mr. RUBENSTEIN. That is the extent.

Mr. DODD. Thank you, Mr. Chairman. I apologize for taking so long.

Mr. EILBERG. That is all right.

Mr. Russo.

Mr. RUSSO. It seems that the social security system has grown to proportions that nobody anticipated initially, and I think that we ought to review the issuance of the social security card, which originally was applied to employment practices where the social security card was used to identify somebody eventually seeking a job and to report the earnings against that number, and it should not be used for any other reason.

And if it is going to be used for any other reason, I think that we should come up with a card which cannot be duplicated. I can vizualize somebody going to Texas and asking for a card and then going to New York and asking for another card, and basically, you do not have any identification process to see that the person in Texas is the same person who applied for the card in New York.

And then that brings us into the area of photographs and the fingerprints, since the social security card is such an important criteria in establishing employment perhaps we ought to implement a system requiring such items.

Mr. HESS. Well, we have no definitive identifying procedure. Providing the individual does not give us false documentation, if he gives us the correct documentation each time, then no matter how many places he takes that birth certificate to apply we will not issue duplicate numbers. We can check against the master file before we issue any number.

Mr. RUSSO. But he could get a different number, and it seems without much difficulty.

Mr. HESS. No; he should not, unless he presents different documentation, which in effect causes him to allege that he is a different person than the person who presented himself in another place.

Mr. RUSSO. The reason I referred to it here is that the Acting Attorney General Silberman was talking about some type of document. The item most mentioned is the Social Security card, and if it is going to be a main source of identification, maybe you ought to do something further to limit the possibility of it being counterfeited.

Mr. RUBENSTEIN. I would indicate in reacting to it, Mr. Hess said earlier, we have something like 225 million cards out there. Now, either you say we are giving amnesty to everybody up to a certain date, or you, in effect, reregister practically the United States in order to validate, in effect, everything you have.

Now, that is the kind of a measure I think you would have to take.

Mr. RUSSO. Thank you.

Mr. EILBERG. Thank you very much, Mr. Hess. I have a number of other questions, but we have a quorum call, and so rather than take up the time of the Committee I would like to submit them to you and I would ask you respond to them in writing.

Mr. HESS. Yes. We will be very glad to. Thank you.

[Subsequent to the hearing, the following letter was submitted for the record:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., March 28, 1975.

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW,
Committee on Judiciary, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the Subcommittee's request for information concerning the following questions:

(1) Would you please describe the procedures that have been established by the Social Security Administration (SSA) in order to determine the true identity of the person applying for a social security account number?

An applicant for a social security number is routinely asked to provide proof of age, such as birth certificate or baptismal certificate. In addition, he/she is required to submit corroborative evidence of identity. This may consist of a driver's license, a voter registration card, a passport, a State identity card, a school identification card, a work badge or building pass, a draft card or military identification card, a credit card (if the applicant's signature is shown), a library card (if the applicant's signature is shown), or any other documents which show the applicant's picture or signature. Evidence containing the applicant's picture or signature is preferred.

(2) Have there been any instances in which false documentation or information has been submitted in order to obtain an account number and card?

The Social Security Administration annually receives a substantial number of cases in which false documentation has been submitted to get a social security number. Although no specific figures are available at this time, we are developing these statistics and will provide them to the Subcommittee as soon as they are available.

(3) Have there been any prosecutions under the stiffer criminal penalties established under Public Law 92-603 for furnishing false information in order to obtain a social security account number and card?

No, but we are developing some cases for possible prosecution. To date, SSA has decided not to prosecute in seven cases because of insufficient evidence, and the U.S. Attorney has declined prosecution in all the cases he has reviewed. We will provide you with more specific figures as soon as they are available.

(4) What happens when an illegal alien is apprehended and is in possession of a social security card? Is the account number cancelled and the card reclaimed from the illegal alien? Is the illegal alien entitled to social security benefits for which he has paid after his deportation or removal from the United States?

Once a social security number has been assigned to an individual, that number remains his/hers. So long as the individual being deported or removed from the United States has a social security card which belongs to him/her, we know of no authority vested in either SSA or the Immigration and Naturalization Service (INS) that would allow the card to be taken from the alien. However, SSA and INS have agreed that when INS comes into possession of bogus or stolen social security cards, they will refer them to SSA.

An illegal alien can collect social security benefits after deportation under two circumstances:

1. SSA does not have a Form I-157 (Notice of Deportation) associated with the SS-5. Since this form is SSA's only way of knowing that an alien has been deported, benefits cannot be suspended.

2. SSA has received a form I-157 from INS showing that the alien was deported under Section 24(a), paragraphs (3), (8), (9), or (13) of the Immigration and Nationality Act, and the alien meets one of the exceptions to the alien nonpayment provisions found in Section 202(t) of the Social Security Act.

Benefits will not be suspended because of deportation unless and until SSA receives a form I-157 from INS.

If an alien is deported and his benefits are suspended, the benefits may be reinstated if the alien is ever lawfully admitted to the United States for permanent residence.

(5) It is my understanding that social security account numbers and cards are issued to nonimmigrant aliens who are not authorized to work if they can establish a valid nonwork purpose for the number. What evidence is required in order to establish a valid nonwork purpose? Is a self-servicing statement that they need it for a bank account or for school purposes sufficient?

A social security number and card will be issued to such an alien in the United States based on the applicant's statement that he needs it for what SSA considers to be a valid nonwork purpose. His/her SS-5 will be annotated, however, to enable SSA to notify INS if earnings are ever posted to that social security number. If an alien with a foreign address applies for a social security number, we ask that he/she supply a letter from the bank, school, etc., verifying the need.

(6) During your last appearance before this Subcommittee, you indicated that efforts were being made to establish a compatible computerized system between INS and SSA. What progress has been made in this regard?

Discussion of policy issues involved in computerized data exchanges between SSA and INS have been underway for quite some time. To date, however, the participants have not entered into discussions of the technical aspects of such exchanges, and it may well be a matter of years before the details can be worked out.

(7) A. Mr. Hess, when you last appeared before the Subcommittee, you indicated that an Advisory Council on Automated Personal Data Systems was studying a number of issues relating to the use of computers and possible invasions of privacy. What were the results of the report issued by that Advisory Council?

The report of the Advisory Council on Automated Personal Data Systems was published as *Records, Computers, and the Rights of Citizens*. A summary of the report and of the council's recommendations is enclosed (Enclosure 1). The major results of the report were that the Department of Health, Education, and Welfare (DHEW) set up a Fair Information Practices Staff under the Office of Management Planning and Technology to direct the Department's Freedom of Information and Privacy activities. In addition to the Department's activities, it should be noted that Congress recently passed the Privacy Act which imposes strict restraints on the exchange or disclosure of personal information.

B. In addition, it is my understanding that a Federal Advisory Commission on False Identification has been studying some of the very problems we are today considering. Are you aware of the work of the commission? And, if so, can you advise us as to the status of their study?

The Advisory Commission on False Identification has developed a questionnaire which was sent to SSA, to all of the welfare agencies in the 50 States, and to the Department of Agriculture.

A copy of the questionnaire is enclosed. All questionnaires were to be completed and returned to the Office of the Secretary of Health, Education, and Welfare by March 5, 1975, and the Commission will be meeting again soon to compile and evaluate the feedback.

(8) Finally, Mr. Hess, in response to a question that I propounded to you during your last appearance with respect to a national work permit system, you indicated that "it would be a long way down the road before we get everybody enumerated and enumerated under circumstances where their identities have checked and our records are tight." In your opinion, how far down the road have we proceeded at this time, and should we continue further down that road?

As I mentioned in my testimony, SSA has issued over 200 million social security cards. During the 1 year in which we have enforced strict identification procedures we issued less than 10 million cards. Extensive efforts are underway to enumerate young people, and we foresee that, in the near future, most young people who are in the work force will have been enumerated under our provisions requiring evidence of identity. Because of fiscal constraints, the volume of the potential workload, and a possible public relations problem, no efforts are underway to validate the bulk of current social security number (SSN) holders. I do feel that we should continue our evidence requirements, however.

Prior experience with INS has shown that use of the social security card as a work permit does not appear to work. Thus, considering the impact that such a system would have on the public, I seriously question the desirability of taking greater steps to assure that the bearer of a social security card is the true SSN holder and is permitted to work. I do not feel that social security cards should be used as work permits.

Sincerely yours,

ARTHUR E. HESS,
Deputy Commissioner of Social Security.

Mr. EILBERG. And we want to thank you very much for a very enlightening morning.

This meeting is adjourned.

[Whereupon, at 12:19 p.m., the hearing was recessed, subject to the call of the Chair.]

ILLEGAL ALIENS

WEDNESDAY, MARCH 12, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
CITIZENSHIP, AND INTERNATIONAL LAW
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:05 p.m. in room 2237, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Sarbanes, Holtzman, Russo, and Fish.

Also present: Garner J. Cline, and Arthur P. Endres, Jr., counsels; Janice A. Zarro, assistant counsel; and Alexander B. Cook, associate counsel.

Mr. EILBERG. The subcommittee will come to order, and we welcome our colleague from California and member of the Judiciary Committee, the Honorable George Danielson.

TESTIMONY OF HON. GEORGE E. DANIELSON, A REPRESENTATIVE IN CONGRESS FOR THE STATE OF CALIFORNIA

Mr. DANIELSON. Mr. Chairman, may I have my intern, Miss Carol Munroe, sit with me; she has been of great assistance in putting together my work today?

I believe that my statement has already been distributed to the committee.

Mr. EILBERG. It has been distributed.

Mr. DANIELSON. With your permission, I would like to make my presentation ad lib. I will be bound by the written word; that will make it quicker and easier.

Mr. EILBERG. Without objection, it will be made a part of the record.

Mr. DANIELSON. Fine and dandy.

I know, Mr. Chairman, that this committee, as well as our full committee, has spent a good deal of time and has given a great deal of effort to studying and trying to work out a satisfactory, or at least acceptable solution to the problems presented by the fact that we have among us an extremely large number of aliens who are not here legally, or at least who are not here under a status which would permit their employment.

I know that the problem of illegal aliens is manifested in many different respects, but in our current economic situation of high unemployment, I submit that the impact of the illegal alien population upon our work force and available jobs is one of our greater problems.

I make that statement from a fairly substantial personal acquaintance with the problem. The district that I represent has some 470,000 inhabitants, according to the census. I feel it safe to say that I have another 100,000 illegals. The district that I represent has a population of 42-percent Spanish surnamed. I would say that among my illegals we have probably 80-percent Spanish surnamed. The impact is obvious.

The people within my district who complain to me, and this happens almost constantly, that they or their husband, or their father, is unable to obtain a job, or unable to retain a job once had because of competition from illegals. Nearly all of these complaints come to me from my constituents who are persons with Spanish surnames.

I have found that the competition for jobs in my district which is impacted by illegal aliens is largely with the unskilled or the low-skilled worker; the workers in a packing plant, the workers in other less skilled industries, day labor. The laborers union, for example, is one of the primary examples, constantly complaining to me of competition from illegals.

Now, if I have had one, I have had several hundreds—and I am sure so have others—letters from constituents who complain that their husband—this is usually the case, the wife and mother write—has lost his job at such-and-such a plant, he was unable to become reemployed because they are hiring illegals down there. When I get reports of large numbers of illegals working at a given plant, or large numbers of them living in a given housing accommodation, it has been my policy simply to write a letter to the Los Angeles Office of the Immigration and Naturalization Service and give them the facts that I have received for their information. Very frequently they have conducted a raid, if you want to call it that, at such industrial plant or such living accommodation, and they pick up all the way from 25 to 75 illegals at the plants, and oftentimes as many as 15 living in one apartment.

This illustrates only some of the magnitude of the problem. I shall not impose upon this committee's time to go in depth into the problem of the numbers of illegals. I am sure you already have that information, I don't know what your guesstimate is of the number in the United States; if you want another I am going to say, there must be about 5 million; we only have about 8 million unemployed, and we have about 5 million illegals. Not all of them would be employed, but they are here, and therefore we begin to get a little bit of a perspective of the nature of the problem.

You have that information, however, and I want to tell you this I supported the Rodino bill last year, during the last Congress; I shall support it again. But my main purpose in being here today is to give you another little idea which I think might help in your deliberations, and hopefully may help in drafting your legislation.

In my opinion, we may be making a mistake when we tend to rely upon making crimes out of hiring the illegals, making it a criminal offense for an employer so to do; and to rely upon criminal sanctions as a means of enforcing our immigration laws.

I have spent most of my professional life in law enforcement. I was an investigator, I was a prosecutor, I was a private practitioner; and I have served on legislative judiciary committees, this is the 13th year. And although I have worked in criminal law much of my life, I'm

totally convinced that using the criminal law, the criminal sanction, as a lever to enforce a public policy is almost doomed to defeat.

Criminal sanctions carry with them the stigma of a criminal conviction. Prosecutors are reluctant to prosecute unless you have a massive case, not just an individual case, but a commercial case. A prosecutor is reluctant to prosecute one person on an illegal situation. If you name an alien smuggling case or something like that yes, they will prosecute. But they are not going to prosecute a one-, or two-, or three-person case. And when they do prosecute, juries are reluctant to convict; they hate to impose a criminal conviction and a criminal sanction on a person who is doing something that is jalum prohibitum rather than malum per se.

And even if there is a conviction, the judges are loathe to impose criminal punishment. How often have you seen courts impose criminal sanctions on proforma type crimes, technical crimes? They are crimes all right because the law says that they are; but the persons who are convicted are not criminals within the traditional concept of criminology, and therefore they are never sentenced to jail, or if so, as a token, they're given 10 days in jail, the sentence is suspended, and they are put on probation for 1 year; and you know what that amounts to, they have had their wrist slapped rather gently. If there is a fine, it's nominal, minimal.

I think I have a better system, and as I told you before, I have supported the Rodino bill, I will support it again. But I would like to have you consider an approach that I have set forth, attached to the statement. I have put this bill in the 92d Congress, again in the last Congress, the 93d and it went under the number H.R. 5841 in the 93d Congress.

I use a different approach which I think would be more effective, more easily applied, and something acceptable to the communities, the law enforcement officers, the judges, the courts, to everybody, and I think it might reach our objective. In the world of commerce, I'm convinced, there is no greater incentive than money, that is the name of the game; that's what commerce is all about.

Under our current revenue laws we provide that any person engaged in commerce may deduct from his gross receipts the expenses of doing business. The expenses of doing business, of course, include wages and salaries paid to, or for the benefit of employees.

In my H.R. 5841 in the 93d Congress—which I will introduce again either today or tomorrow—I simply provide that no compensation otherwise allowable—I'll paraphrase here—may be deducted if the payment is made by the employer to persons known by him to be illegal aliens. That would mean if the meat packing plant in my district, which is hiring illegals, would decide to hire illegals, the first thing you know is, they will no longer be able to deduct the wages paid to those illegals from their gross receipts in arriving at their adjusted gross income. In other words, there is no deduction, it is not available to them.

This is enough, I can assure you, to slow down most employers who are hiring illegals. I think most of us have tried enough law suits, and have been in the tax court and other courts often enough, to know that one of the last things a businessman wants to do is to claim a deduction that is not legally his.

Second, as a matter of routine and tradition, established practice, the Internal Revenue Service conducts audits of business concerns quite frequently, it's periodic, you might say, and they are at least going to check the payroll which is alleged, at least, to go to illegals. Under the Rodino bill we have a provision that a prospective employer is exculpated if he goes far enough to at least make an inquiry and have the prospective employee sign a paper that he is legally entitled to work; and that's all that would be necessary under my approach.

I don't think we should go so far as have the prospective employer become sort of a court to determine the legality of a person's presence in the United States. But at least the employer should go far enough so that he has made some kind of a good faith effort to determine whether or not a prospective employee is entitled to be employed.

I want to urge that you consider this as a supplementary amendment to your bill. I think that this would be far more effective in reaching our goal than having penal sanctions employed to a prospective employer. I will be willing to answer questions on that.

I am bringing up only two other things. I live in an area in southern California where the illegal alien problem is very critical. Some of you Members do not live in such an area. I am sure you are all acquainted with the fact that there are illegals, but you can't feel it in the depth that I do.

I know we have illegals in the Detroit area, we've got them on the east coast, we get some from Canada, we get some from the Antilles, we get them from South America, Belgium, Japan, the Philippines, wherever. But in the area that I represent, the bulk of them come across the Mexican border, just as in Detroit the bulk probably come across from Canada; but it's a big problem where I am.

Let me give you a little bit of a picture of the scale. In 1972 I asked the Los Angeles County Superintendent of Schools who was complaining to me about his problem. Could he please give me some figures as to what it is costing to educate illegals in the Los Angeles County schools. He took the assignment seriously and did come back after some time with a letter which incidentally was included in this committee's report, for the 93d Congress, the Rodino bill, and was also in the record at that time. It's fairly well worked out, it's a responsible report based upon the fiscal year ending June 30, 1971. In that fiscal year the Los Angeles County Superintendent of Schools told me that the cost to that school district—it's more than one district, the cost to those school districts in Los Angeles County was at least $100 million in 1 year. Now, those of you who have to raise taxes on a local level to support schools and police, and streets, and fire departments, and all the other community services can realize what a tremendous burden it is to put another $100 million on the taxpayers within one county, even though it is a metropolitan county.

Now, that was 1971. I respectfully submit that with the increase in the magnitude of the problem since that time, and with inflation and increased costs, that $100 million in this current fiscal year must be at least $150 million. We can't afford it, you can't afford it, nobody can afford it. This is a problem that must be brought to some kind of an end.

You know, there is a certain amount of timidity within the Congress as to, "Golly, we don't want to be beastly to those poor illegals,"

well, I don't want to be beastly to them either, but that's not the point. We must not be beastly to our own people, to our own work force, our own American citizens, and to those aliens who are here as permanent residents, legally, and are entitled to work; they also are entitled to consideration.

Along with this timidity I have often heard voices on the floor comment, "Golly, what does labor think about this?" Well, Mr. Chairman, I have in my hand here a letter from Mr. Sigmund Arywitz who is the executive secretary-treasurer of the Los Angeles County Federation of Labor. He sent it to me in connection with an entirely different matter, but it's current, February 13, 1975. It came in connection with some other information and I just happened to make a copy because I thought it pertinent to this presentation.

In this letter he makes it eminently clear that the Los Angeles County Federation of Labor feels that the illegal immigrant, illegal alien, work problem must be solved, it is having too adverse an impact upon our own work force. I would like permission to file this as an illustration, along with my testimony.

Mr. EILBERG. Without objection, it will be admitted.

Mr. DANIELSON. Lastly, and I allude to this in my statement, I have told a few people, I would like to tell this committee again that not only is it labor, but the aliens compete with others, legally in our community, for other community services, fire protection, police protection, streets, social services, and one that's very pertinent is the county hospitals. The county hospitals are supplying medical and hospital care to illegals who are found here. Now, thank God our country has a big enough heart so that if a person is found within our communities who needs medical or hospital care, without asking whether they are illegal or not, we take them off to the hospital and we give them that care, it's the humanitarian thing to do and I'm all for it.

But there comes a day of reckoning. The Los Angeles County Board of Supervisors has come to the conclusion, after a very careful audit, that the care and treatment of illegals in the Los Angeles County Hospital exceeded $8 million last year. They have filed petitions with the Congress, they have contacted HEW, they have done everything they can to see if they can get some reimbursement for this $8 million. They feel that they have discharged the humanitarian responsibility of providing the medical and hospital care, but they didn't invite the illegals here, and if the Federal Government were enforcing its laws effectively, the taxpayers of Los Angeles County wouldn't have this problem, so therefore, "Would you please send us our $8 million?"

Now, I do know, I have been informed, that the Los Angeles County Board of Supervisors has instructed the county counsel to see if he can't file a lawsuit against the Federal Government to recover that money. Much to my amazement—I don't know what the jurisdiction is going to be, you and I have tried a lot of lawsuits, they will probably find a way around that—but to my amazement this morning, I went to a meeting of my own delegation, the California delegation, and here is a memorandum which I would likewise submit in support of my statement.

This is a memorandum to one of our members, Mr. Bernie Sisk, in which he is seeking the support of our delegation to sponsor legislation—a copy of which I have attached to my statement, H.R. 3609

of the 94th Congress, a current bill, which I have cosponsored, and we are going to have more. But the purpose of that bill is to change our public health laws to require the Federal Government to reimburse local counties and so on when they are compelled to put out money for medical and hospital care for illegals.

Now, along with the bill came a memorandum, as I say, to Mr. Sisk. He lists here the support of the boards of supervisors of, I would guess, about 23 or 24 of our counties; they are listed on this memorandum dated March 11, 1975, which is yesterday, together with a letter to him from the Regional Council of Rural Counties, requesting the same sort of action. If I have not already, I request that be attached.

Mr. EILBERG. Without objection, it will be included in the record.

Mr. DANIELSON. That's about the substance of my comments. I'm ready and willing, and hope able, to answer any questions that you might have. Oh, one more, if I may, and it is in my statement.

During the recent Lincoln's Birthday recess, I made a special point of meeting at one time or another with the city councils of each of my 12 cities; we had a lot of meetings, a lot of conversation. Without exception, from each of those cities the council members informed me that the problem of the illegal alien is becoming what is probably their most urgent social problem within the communities, and they asked me, "Please, do something about it."

One little point that may not have been brought to your attention here, the criminal problems of illegals. I am not complaining of crimes committed by the illegals, though they do commit some now and then. I am commenting on the fact that they are the unwilling victims of an increasing number of crimes being committed against them, at least within my district. They are easily identified. My district has its fair share of artful dodgers, just as yours have, and they are victimizing these illegals through various schemes of theft, and fraud, and loan sharking, high interest rates, almost anything you can think of; even physical crimes of rape and other types of violence, simply because the illegals are apparently afraid to come in and complain to the police because of the very fact that by lodging a complaint with the police they identify themselves and then are subject to deportation.

I have been told by members of the city council of one of my cities that this has become so aggravated that it is now one of their major criminal law problems. In other words, the illegals are victimized because they dare not complain to the police. Along with that, not only in violent and dishonest crimes, but in housing. Sometimes there are 14, 15, 16 living in a one-bedroom apartment. The conditions are not sanitary; they are not safe from the fire hazard point of view; sometimes they are not fit for human habitation, yet this is going on, and the illegals dare not complain for fear of being deported.

I will at this time respect my previous statement and discontinue, subject to any questions you may have.

Mr. EILBERG. Mr. Danielson, we appreciate your coming here today; it is a very generous act on your part. We know how busy you are, but realize you are testifying in order to make your contribution to this most serious problem.

I have a few questions, but first let me say that the idea of 5841 is not a novel one, at least as far as this Member is concerned, and one that the subcommittee might consider. We run, however, immediately into problems which all of us are familiar with as Members.

First, this subcommittee regards the problem as so serious that it has made this legislation its first major bill that we are to consider and study.

But your bill is referred to the Committee on Ways and Means, and while it certainly seems to be a very brilliant idea, and one that we might look at, it's not within our subject matter jurisidiction. Trying to deal with it would cause serious jurisdictional problems, in my opinion. And while I am sympathetic to H.R. 3609, which Mr. Sisk and others have introduced, we have the same problem there; that bill has been referred to Interstate and Foreign Commerce. Now, you want to react to that?

Mr. DANIELSON. I appreciate your bringing them up, and I am not unmindful of the jurisdictional problems, believe me. On Mr. Sisk's bill, my purpose in bringing it to your attention was not to usurp the jurisdiction of the proper legislative committee, but only to illustrate that the ripple, or side effects, of the illegal alien problems are now branching out into far more things than just passing laws on illegal aliens. This is having an economic impact and a social impact far greater than just the fact that some of them are here.

Mr. EILBERG. I understand.

Mr. DANIELSON. I just want to illustrate the point. On the income tax matter, I don't think you could conceivably put that in your bill; you could put it in, but it would be stricken.

I am just trying to a little good-faith agitating to work up a little interest, a little enthusiasm, so that when I beard those who have the jurisdiction and the primary responsibility, I won't be the only voice in the wilderness. I think I have a good point here, and if I can infect your minds with this approach, it might spread the disease a little bit; that's what I'm after.

Mr. EILBERG. I know this subcommittee will consider those ideas, and I would urge you to try to excite others.

Mr. DANIELSON. You might even, Mr. Chairman, you might even say, "I sure like that idea, but unfortunately we can't do anything about it," that will give me one leg up, you know, and that's all I'm after. I'm being as sneaky as I possibly can to accomplish what I consider a very worthwhile legislative purpose.

Mr. EILBERG. Mr. Danielson, you indicated your lack of enthusiasm for the use of criminal penalties. I listened very carefully, and I among others have had some experience in criminal law, some experience with human nature; and I think that most people want to obey the law if they know what the law is.

Mr. DANIELSON. Right.

Mr. EILBERG. But you ignored the psychological factor. There are laws on the books, and if 982 became law, it seems to me it would create a psychological factor because so many people are law abiding and want to be law abiding that H.R. 982 would act as a deterrent. I don't think you menioned that aspect.

Mr. DANIELSON. Mr. Chairman, thank you for making that clear. I did support the bill in the last Congress, and I shall support it again this Congress; I think it is far better than what we have today. I'm just not optimistic that it will achieve the ends that we seek.

As you probably know in income tax cases—you have all probably had a few criminal cases on income tax evasion—and you know very

well that it is most difficult to get a prosecution started, and most difficult to get a conviction; if you do the penalty is usually a slap on the wrist. I'll bring it right home, today the press carried a story that former Secretary Stans is probably turning in a plea of guilty on five misdemeanor counts. Why five misdemeanor counts? I can tell you why, they probably feel that the burden of trying to get a criminal prosecution, a conviction on felony counts makes it nowhere within reason, so they settled on a slap on the wrist.

Mr. EILBERG. We understand that.

Mr. DANIELSON. All right. My point is, you just can't get a criminal prosecution except in a commercial type case; but civil penalties if you can get them, why, they are excellent. In the income tax field, why, you oftentimes can't get a fraud prosecution, or conviction, or penalty. But in a civil tax case, why, for heaven's sake, in a civil tax case the court usually will support you all the way down the line and you can get something down; it's the same thing.

I remember years ago when the white slave Traffic Act was an important law, in the so-called personal escapade cases. One or two people crossing a State line, they just never got prosecuted. In commercial violations, that was a different case.

Mr. EILBERG. I just want to turn to one other aspect of the bill, and then rotate to other members.

Mr. DANIELSON. Right.

Mr. EILBERG. One problem that we face in this legislation which the subcommittee has to examine very carefully is the possibility of amnesty for illegal aliens. If we get into this area, do you have any particular views as to what amnesty should be granted to illegal aliens?

Mr. DANIELSON. Well, I think on that point the committee would have to do a tremendous amount of soul searching. Obviously the length of time that the illegal has been in the country is one factor you have to consider. There are many situations with illegals in which it would be inequitable to deport them at this time, at least it would be burdensome to my conscience to do so, but there are also a lot of them who came in last night. Where are you going to have the breakoff point, what are the ancillary considerations; has there been employment; has there been a responsible discharge of family relationships; has there been a pattern of good citizen-type conduct, has there been criminal conduct? There are so many factors here, Mr. Chairman, that I don't want to give you a curbstone opinion. I do think that there should be an area, a combination of circumstances in which amnesty should be considered. But, that's going to be a very difficult, Solomon-like line to draw. Like everything else that has a cutoff date, if you cut somebody off on March 12, the next person could say, "For heaven's sake, why make it March 12, what is wrong with March 11?" We run into this all the time.

I don't envy your burden if you are going to try to arrive at a fair solution on amnesty. I think it is an objective that you should study, and if I can help, I will. I'm not prepared at this time to give you any firm recommendation, but I am prepared to tell you that I recognize that there are many cases in which amnesty should be considered.

Mr. EILBERG. It has been our practice to recognize members of the subcommittee based on seniority. I think today we will vary that,

by the time we get to Mr. Russo all the questions would be used up. So, Mr. Russo, the floor is yours.

Mr. RUSSO. Thank you, Mr. Chairman.

I do have some questions, and like the chairman has indicated, I think it is a novel idea, and something that I personally would consider. I just wonder how you are going to enforce it, and how are we going to determine whether an employee knowingly hires an illegal alien, which is one of the problems we have with the present bill. What action would you require on the part of the employer?

Mr. DANIELSON. Frankly, I like the provision in the—you know, I have not read the Rodino bill this year, is it the same as last year?

Mr. RUSSO. It is the same as last year.

Mr. DANIELSON. I think the provision in last year's Rodino bill, which is in this year's Rodino bill, is adequate for my purpose. I think the very fact that you put up some kind of a threshold that has to be crossed is enough to bring 85 percent compliance. You don't need much, as the chairman says, almost everybody wants to be a law-abiding type of person.

I know a lot of these illegals, that is, I have met a lot of them, and most of them are really, your heart goes out to them, they are sympathy-arousing type people. Most of them aren't going to lie. If you put them to the point of certifying that they are legally here, I think you are going to weed out 85 percent with that hurdle.

Mr. RUSSO. Mr. Danielson, you are aware of the three steps we have under the bill 982, the citation, and the $500 fine, which is a civil penalty.

Mr. DANIELSON. Right.

Mr. RUSSO. And then the criminal penalty, which is the last step.

Mr. DANIELSON. Right.

Mr. RUSSO. How would you fit your particular penalty in that three-step program, and where would you like to see it used?

Mr. DANIELSON. Well, I think it should be in the beginning, but if it didn't, certainly at the second stage. I think it ought to be right at the beginning, the first step.

Mr. RUSSO. Don't you feel that on a first offense by an employer, we should first issue a warning citation; and then, if it happens again, hit him with a stronger penalty?

Mr. DANIELSON. Well, my opinion is, I don't think you should need to. But if in the wisdom of the committee, or the Congress you decide to put it in the second step, I won't have any fight with it. I don't think it's that big a problem. I think putting it in the first step will do the work, and I don't think it is an unfair burden on the employer.

Mr. RUSSO. What steps would you want the employer to take so that he would be safeguarded against any type of penalties that would be imposed?

Mr. DANIELSON. If I recall, in the Rodino bill, you have a proviso in there, the signing of a littie certificate saying that a person is legally entitled to be employed.

Mr. RUSSO. That's prima facie evidence.

Mr. DANIELSON. Right. That's enough. You don't need a big hurdle, but you need something to trigger it, but not much. I would accept that as being enough.

Mr. RUSSO. Thank you, Mr. Chairman.

Mr. EILBERG. Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman.

Thank you, Mr. Danielson, for your contribution this afternoon, and I hope that you will vigorously pursue this with the Ways and Means Committee, directing your thoughts, as most of the witnesses have, on how you reach employers and make them responsive.

I would like to ask your advice about a suggestion that was made to us in the testimony a few days ago in the same area where we are dealing with the employer, and trying to make him respond. And in the testimony of Mr. Biemiller of the AFL–CIO, he suggests that enforcement could be strengthened by providing that after a citation has been served, a civil proceeding should be initiated, and the Federal court should be given jurisdiction to restrain and enjoin further violations of the law.

So, in addition to the citation and civil proceedings in the very first stage in the Rodino three-step, the suggestion was made that injunctive provisions be included right from the start. What is your view of that?

Mr. DANIELSON. Well, I am thinking of my answer as I am giving it to you, you are getting fresh meat, Mr. Fish.

I am not adverse to the idea of the injunction, but let's carry it a step further. Suppose you have an injunction, and then you have a subsequent violation. The remedy then, the only remedy, is to issue a contempt citation, and you are bringing it back into the criminal law again. It would probably have the effect of discouraging the employment of illegals by the enjoined employer. He doesn't want to come back to court, even to get his wrist slapped. He doesn't want to come back to court. First, he has to pay out some good money to pay his ever-loving counsel—while that may be good for lawyers, it's not good for employers.

I think it would have a good effect. I'm not prepared to give you a full answer, Mr. Fish, but I would not be adverse to it. As a curbstone opinion, I think I could support that.

Mr. FISH. Thank you very much.

Mr. DANIELSON. Have you thought about—I don't think it's too important—the workload impact on the courts? It wouldn't be that much; I don't think that would be too difficult.

Mr. FISH. Well, as the chairman pointed out, the value of the bill is to have it in the statute, and presumably corporate counsel would be advising employers what they would run into.

Mr. DANIELSON. Right, and these would be one-shot cases to prove. The injunction, if it were provided for by law, would be so easy to obtain; all you would have to prove is that he has done it; it would sort of follow the citation stage. Yes; it would be a very good idea.

Mr. FISH. Thank you.

Mr. EILBERG. Mr. Sarbanes?

Mr. SARBANES. I don't have any questions. I want to thank Congressman Danielson for his very, very helpful statement. I was particularly struck by your point that the illegal aliens are exposed and vulnerable with respect to things done to them. and therefore in absolutely no position to seek any protection. I know he has chosen to come here because he seeks the work opportunity, but nevertheless, he is exposed to exploitation and to some awfully severe mistreatment, as you pointed out in your statement.

Mr. DANIELSON. Thank you, Mr. Sarbanes, he really is. I have so many in my district, I see them so often and talk to them, people in business and employment, and I know that is true; it is terribly true.

You know, an illegal who has a job someplace. Of course, he is getting paid minimum wage because, you know, if he isn't, the minimum wage people come in and audit the books, and if no check went out to Juan Rodriguez for the proper amount, the employer is in trouble. But if he is entitled to some kind of a break in working conditions, he is not going to get it; if he is entitled to time off, he doesn't get it; if he is entitled to any type of a fringe benefit that doesn't reflect on the books of account, he is probably not going to get it. Why? Because if he complains, he is fired and kicked out of the country. And that kind of competition is a grave burden for citizens and legal aliens.

These people are unable to resist the pressures of unconscionable practice foisted upon them from time to time, let alone standard criminal conduct. You know, if we are going to indulge ourselves in feeling sorry—and thank God, we still do in this country, we identify with humanity—we shouldn't blind ourselves to the fact that sometimes we are making a mistake in our zeal to protect some people's human rights, we sometimes expose them to dangers that we don't even think about. And don't forget our own citizens, they are entitled to protection, too.

Mr. EILBERG. Thank you very much.

Mr. DANIELSON. If I did not leave these timeless documents, may I do so now?

[The prepared statement with attachments of Hon. George E. Danielson follows:]

STATEMENT OF HON. GEORGE E. DANIELSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman and members of the subcommittee, I am pleased to present my testimony today concerning illegal aliens and H.R. 982.

I will not duplicate the information you have received from other witnesses. I am sure you realize that the problem of illegal aliens is a great one. On my most recent district trip, I met with the city councils and civic groups of all of the cities in my District, and I was told at each meeting that the illegal alien problem requires a prompt solution, because of the vast number of illegal aliens, because of the competition they provide to American citizens and legal aliens for jobs and public municipal services, and because of the law enforcement problems which have developed.

The hard fact of nearly 9 percent national unemployment makes it self-evident that we must not have unlawful competition with our own work force. Unfortunately, the segment of the population with whom illegal aliens traditionally compete for jobs is that segment suffering most severely from an inflated degree of unemployment. These are low-skilled or unskilled laborers in the lower economic strata where unemployment reaches 20 percent and higher.

It is difficult accurately to measure the costs expended for municipal and other government services going to illegal aliens. A letter from the Los Angeles County Superintendent of Schools pointed out that in fiscal year 1971 the cost of education to that school area, due to illegal aliens, was $100 million. It is reasonable to assume that in the nearly four years since that time the increased number of illegal aliens coupled with inflation and accelerated costs has raised that figure to perhaps as high as $150 million per year. This presents an intolerable cost to the local community, already strained by taxation.

Examining community services futher, the Los Angeles County Board of Supervisors has estimated that the cost of care to illegal aliens at the Los Angeles County General Hospital exceeded $8 million in fiscal year 1974. Within the past two weeks I have learned that the County of Los Angeles is considering the filing of a lawsuit against the Federal government to recover the amount this hospital care is now costing taxpayers of the County. The legal theory is that since the Federal government seemingly allows the entrance of illegal aliens and does not coordinate its enforcement forces to stem the flow, the Federal government must then be responsible for the cost of services provided for illegal aliens.

As to the law enforcement problem, I want to make it clear that I am not necessarily referring to crimes committed by illegal aliens, who probably are less involved in criminal offenses than legals. The fact that they are vulnerable to deportation deters them from illegal activity more than any other influence. The municipal offices of my cities, however, say illegal aliens are often victimized by criminal conduct because they are reluctant to file complaints with the police for fear of detection and subsequent deportation by the authorities. This fact is well known to skillful artists of criminal practices such as the charging of usurious interest and loan sharking. There are illegal aliens living in places which are too crowded, unsanitary, fire hazardous and generally not fit for human habitation. And they are the silent victims of violent crimes and the like. The officials of my cities consider this a major police problem, and also a shocking and unconscionable practice of inhumane treatment.

I am aware of the provisions of Mr. Rodino's bill, H.R. 982, which is the main vehicle being studied by this Subcommittee for illegal alien legislation. I supported and voted for that bill in the last Congress, and I will continue my support in this session. However I feel that I have a more effective approach to the illegal alien problem than that contained in H.R. 982.

My approach differs from H.R. 982 in that it does not seek to impose criminal penalties on employers. In fact, there are no criminal sanctions at all in my bill. I seek to achieve the same purpose through the more socially acceptable and readily enforceable means of imposing economic sanctions. Under my proposal employers would not be permitted to deduct from gross income, as a business expense, any compensation knowingly paid to or for the benefit of illegal aliens.

In September, 1971 and March, 1973, I introduced H.R. 10777 and H.R. 5841, respectively, and I will reintroduce the bill in this Congress. Copies of the bill introduced in the 93rd Congress have been provided to the Members of the Subcommittee for their information and consideration.

I have worked in law enforcement in one capacity or another during the major part of my professional life, and in my opinion it is naive for us to continue to believe we can modify or establish public policy by making undesirable behavior a criminal offense. Our reliance on criminal law and criminal penalties as a lever to implement public policy is unrealistic. It has never worked satisfactorily and it never will. Criminal penalties and classifications should be carefully reserved for violent or fraudulent conduct, and not for the purpose of establishing public policy. Juries are reluctant to convict of crime, and when they do the Courts are reluctant to impose penalties of confinement for offenses not inherently or traditionally criminal—offenses *malum prohibitum* but not *malum per se*.

Every Committee in Congress continually hears criticism of the Courts for not imposing the criminal sanctions provided by our laws. I submit we would be wise to recognize that we are wasting time, energy and breath on such criticism when we can obtain more effective enforcement through non-criminal sanctions. Courts and administrative agencies would be more willing to enforce civil sanctions, which would accomplish the same purposes more efficiently and more effectively. I submit that if any employer cannot deduct as a business expense the compensation he knowingly pays to an illegal alien, he will then exercise reasonable efforts to avoid that sanction by making a good faith inquiry as to the legal status of the alien. In the world of business there is no greater incentive than money.

ENFORCEMENT

One of the beauties and benefits of my bill is that enforcement would be reatively simpler than that necessary for the enforcement of H.R. 982. Without the criminal sanctions, an employer would be more willing to answer interrogation, the number and extent of investigations already overburdening the Border patrol of the Immigration and Naturalization Service would not be increased, and police forces and other law enforcement agencies would not need to increase their personnel in order to implement the law. Since the payment of wages to

known illegals would not be tax deductable under my proposal, the employer would deduct such payments only at his peril, and, as a practical matter, would not even *make* them. Periodic Internal Revenue Service audits, already a common practice, would bring many of these instances to light. Since self-interests and self-preservation are paramount to corporate and individual employers, a real motive, a real incentive, to refuse to hire illegal aliens would exist. The problem would be much closer to a solution.

I welcome any questions from the Members of the Subcommittee, and I thank you.

[H.R. 5841, 93d Cong., 1st sess.]

A BILL To amend the Internal Revenue Code of 1954 to disallow deductions from gross income for salary paid to aliens illegally employed in the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 380. SALARY OF CERTAIN ALIENS.

"No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred to any alien individual as salary (or other compensation) for personal services performed in the United States if such alien individual was known by the taxpayer (at the time such salary or other compensation was paid or incurred) to be in the United States in violation of the immigration laws of the United States or in an immigration status under such laws in which employment is not authorized."

(b) The table of sections for such part IX is amended by adding below the last item thereof the following:

"Sec. 280. Salary of certain aliens."

SEC. 2. The amendments made by this Act shall apply only to taxable years ending after the date of the enactment of this Act, and only with respect to amounts paid or incurred after such date.

[H.R. 3609, 94th Cong., 1st sess.]

A BILL To amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part C of title III of the Public Health Service Act is amended by adding at the end the following new section:

"MEDICAL TREATMENT OF ALIENS

"SEC. 330. (a) If—

"(1) any alien unlawfully in the United States is provided emergency medical treatment and is unable to pay the cost of such treatment or can pay only a portion of such cost; and

"(2) the alien or the medical facility which provided such treatment is not eligible under any public assistance program for payment of or reimbursement for such cost or is eligible under such a program for payment of or reimbursement for only a portion of such cost,

the medical facility which provided such treatment may apply to the Secretary for reimbursement for that portion of such cost which is not paid.

"(b) An application for reimbursement under this section shall be submitted in such form, and contain such information, as the Secretary may prescribe. The Secretary may not approve such an application unless (1) Attorney General has determined that the alien with respect to which the application is submitted is unlawfully in the United States, and (2) the Secretary finds (A) the treatment for which reimbursement is sought was given for a medical emergency, and (B) the medical facility which provided such treatment is unable to recover from the alien or any public assistance program its costs in providing such treatment for the alien.

"(c) The amount of any payment under this section for the cost of emergency medical treatment shall be determined by the Secretary, except that no payment may exceed the value of such treatment as determined under regulations of the Secretary.

"(d) The Secretary shall take such action as may be necessary to make an alien for whom a payment is made under this section eligible for treatment and care as authorized by section 322(c).".

MARCH 11, 1975.

Memo to Mr. Sisk.
From: Gwen.
Re: Delegation sponsorship of legislation to reimburse hospitals for medical care rendered to indigent illegal aliens.

As you know, we introduced bills on this subject in the 92nd, 93rd and 94th Congresses, which were referred to the House Judiciary Committee.

The revised bill, H.R. 3609, was referred to the House Interstate and Foreign Commerce Committee and presumably it will be sent to the Subcommittee on Health and the Environment. A copy of the bill is attached and as you will note, the following California members are co-sponsors: Krebs, Bob Wilson, McFall, Van Deerlin and Anderson. Other California members, Hawkins, Rees, Ketchum and Mrs. Burke, have indicated that they would like to be added to the bill, but we have held up action pending the results of your request to the delegation.

You have received formal resolutions of support for H.R. 5307 (the 93rd Congress bill) from the Boards of Supervisors of the following California counties:

Butte	Mendocino	San Diego
Colusa	Modesto	San Joaquin
Contra Costa	Orange	Santa Clara
Fresno	Placer	Sonoma
Kings	Riverside	Tulare
Lassen	Sacramento	Tuolumne
Los Angeles	San Benito	Yolo
Madera	San Bernardino	

Also, a resolution of support was received from the Regional Council of Rural Counties (copy attached) covering the counties of Alpine, Amador, Butte, Calaveras, El Dorado, Madera, Mariposa, Modoc, Mono, Nevada, Placer, Sierra Siskiyou, Tehama, Trinity and Tuolumne.

REGIONAL COUNCIL OF RURAL COUNTIES,
Sacramento, Calif., October 30, 1974.

Congressman B. F. SISK,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN SISK: At a regular meeting of the Regional Council of Rural Counties held on October 23, 1974 the Council voted unanimously to go on record in support of H.R. 5307 "To provide for the reimbursement of medical treatment facilities for emergency treatment given to aliens unlawfully in the United States." Provision of these services has been an ever increasing tax burden to local government.

Sincerely,

ROBERT P. MAHAN,
President.

LOS ANGELES COUNTY FEDERATION OF LABOR, AFL-CIO,
Los Angeles, Calif., February 13, 1975.

Mr. LEONARD CHAPMAN,
Commissioner, U.S. Immigration and Naturalization,
Washington, D.C.

DEAR COMMISSIONER CHAPMAN: I am writing to you on behalf of the Los Angeles County Federation of Labor, AFL-CIO, to express our shock and amazement at the apparent practice of the Los Angeles office of Immigration and Naturalization Service, in giving employers advance information of impending raids to discover illegal aliens employed on those premises.

A specific incident deals with the High Tide Swimwear Company at 3131 South Broadway in Los Angeles. There had been a strike at this establishment and a large number of illegal aliens were employed as strike breakers. The union involved in the strike, the International Ladies Garment Workers Union, protested, and asked that action be taken. The strike was ended and the union members returned to work. Some time later the employer was notified that a raid would be made so the employer could cooperate. The employer cooperated very well. No illegal aliens could be located on the premises, except seventeen union members who had been on strike. This is an appalling situation.

In fairness I whould say that my office has had a good relationship with the Los Angeles office of the Service, and Mr. Joseph Sureck, the District Director has tried to be helpful within the limitations of his budget.

I am concerned that if the employers are told when there will be a raid no useful purpose could possibly be served. I am asking on behalf of more than 400 AFL–CIO unions in Los Angeles County, affiliated with this organization, that there be a very clear policy determination that employers are *not* to be given advance warnings that the Immigration Service will be visiting them. I would also urge that every effort be made to provide adequate staffing in your local offices so that your Service's mission could be carried out.

I am sure we agree on the economic evils entailed in the employment of illegal aliens in this country and are in accord that strong efforts must be made to eliminate this threat to our economic standards.

Very truly yours,

SIBMUND ARYWITZ,
Executive Secretary-Treasurer.

Mr. EILBERG. We have a witness list, and I wish to thank Mr. David Carliner, Esq., for allowing an out-of-town witness to testify. We appreciate that, Mr. Carliner.

Our next witness will be Dr. John H. Tanton, chairman of the Immigration Study Committee for Zero Population Growth.

TESTIMONY OF DR. JOHN H. TANTON, CHAIRMAN, IMMIGRATION STUDY COMMITTEE FOR ZERO POPULATION GROWTH

Dr. TANTON. Mr. Chairman, members of the committee, I have with me today Melanie Wirken, the political director for Zero Population Growth.

I certainly appreciate the chance to appear before you this afternoon. My interest in population problems dates back about 15 years, and my interest in immigration about 5 years. I am a physician and practice in a small town in northern Michigan.

If I may, I would like to submit our statement for the record, and only highlight some of its points.

Mr. EILBERG. Without objection, the statement will be admitted into the record.

Dr. TANTON. The main point we would like to call to the committee's attention today is the demographic effect of immigration on the United States. Demographic factors, questions of population growth, have perhaps not entered very importantly into the establishment of migration policies of the United States in the past.

We recognize from other witnesses that illegal immigration has important job impacts on the United States, and that minorities and teens in particular bear the brunt of those impacts because that is where competition is the greatest and our current level of unemployment the highest.

I would like to talk a little bit about the demographic impact of illegal immigration on the United States. It is of interest that this

subject is receiving attention elsewhere, too. Canada has just published their four-volume study on immigration and the impact on population growth in that country. They are looking at immigration, looking at the question of how large they want Canada to get, and where immigration fits into future growth. This is the green paper stage; this has been for years the subject of debate, and it is becoming now more intense.

Two days ago I received the two-volume study from Australia in the mail, the population study of Australia; once again, another country looking at its population growth, both from native sources and immigration, and trying to make decisions as to what the future holds, and what actions they should take to perhaps change the direction in which they are going.

That is necessary because the leadtime in dealing with population problems is extremely long. Once a growing population reaches replacement levels of fertility, where the births roughly equal deaths, it takes about 70 years for a population to stop growing. A country must plan that far ahead if they have a certain population growth they want to achieve.

Now, it has been commonly said that the United States has reached zero population growth, but that is a misinterpretation. We have arrived at what has been called replacement fertility, where the average family size is about two children per woman. If replacement fertility is retained for 50 years or so, we will eventually reach the point of zero population growth where births equal deaths; and during that period we will experience an estimated 30- to 40-percent increase in our population.

Mr. FISH. Dr. Tanton, inasmuch as you are stating this fact, something on which we have been led to believe the contrary from previous reports, let me see if I can understand you.

In your testimony you point out that the total fertility rate has gradually declined to the present rate of 1.8.

Dr. TANTON. Correct.

Mr. FISH. Meaning the average American couple is having less than the 2.1 children necessary to replace themselves.

Dr. TANTON. That's correct.

Mr. FISH. So, the 1.9 means we have reached zero growth.

Dr. TANTON. That is a very important point, that is not correct, I would like to clarify that, if I can.

We have in the United States at the present time a very large number of young people who were born after the second World War, the so-called baby boom. The peak year for births was 1957, 18 years ago. So, those 18-year-old youngsters now are just coming into their reproductive years. And even if they all limit themselves to, say, two children per family, the population will continue to expand for 50 to 70 years and grow 30 to 40 percent during that period of time; that is the fundamental demographic fact called the phenomenon of momentum. Just like driving a car 70 miles an hour and you put on the brakes, you are going to go quite a way before you finally stop.

The Bureau of the Census has worked out these projections, they have census projections which assume, first of all replacement fertility, two children per family, and zero net immigration; and the figures show that between 1975 and 2000 under those conditions the

U.S. population will grow by 38 million people; by the year 2020 it will grow by 58 million people, a point that I really want to try and bring across to this committee.

Mr. FISH. And that is all due because of the large percentage of population in the early 20's?

Dr. TANTON. That is due to the age structure of the population, the many young people, even if they only have two children, will keep the population growing for many years.

So, here are the figures, 38 million additional Americans by the year 2000 if we have replacement fertility and zero net immigration. OK.

Now, as a sidelight to this large number of teens we have coming along, the average age of immigrants, illegal immigrants, too, is in the early 20's. We have a high unemployment rate amongst teens at the present time; we have a very large group of teenagers who will be coming into the job market each year for the next 10 years or so because 1957 was the peak year for births. So, we are going to have a very big problem in this country trying to provide large numbers of jobs for teens, the very group that is impacted most by illegal immigration.

Mr. FISH. Thank you very much.

Dr. TANTON. Legal immigration brings about 400,000 persons a year into the United States. The Commission of Population Growth and the American Future projected that legal immigration would add 16 million persons to our numbers by the year 2000, and there are reasons to think that is a low estimate. So, here we have 38 million that are going to be added from native population growth or natural increase, and 16 million from legal immigration; a total of 54 million more people in the United States over the next 25 years.

And those are not speculative changes, those are inevitable additions at replacement fertility and our present immigration policy. In 25 years we will increase the population of the United States by 25 percent.

Now, maybe 3 or 4 years ago Americans would have looked at that situation and said, "It looks like a boundless increase, but we are the horn of plenty and can take care of it," but I think the experience of the last year or two is beginning to make many of us look at the limitations of how many people we can provide for. We are already locked in to providing for 25 percent more than we have now with our current replacement fertility and current levels of legal migration.

Now, if you take 800,000 as a figure for illegal migrants per year, and take into account the fact that illegal persons from the less-developed countries have higher birth rates than the persons from developed countries; and if you project 800,000 persons per year to the turn of the century, it comes out to at least an additional 40 million persons.

The AFL–CIO has an even larger estimate than that. They project that by 1985 we could have 35 million illegal persons in this country if present trends continue.

So, let's sum those figures up, 38 million from natural increase; 16 million legal immigration; and 40 million from illegal immigration.

We are talking about 94 million additional people in a country that now has a population of about 220 million.

The potential of illegal immigration is one of the "sleepers," in this whole question, of adding to the population growth of this country. I think that we are going to have a very significant problem providing for the growth of 54 million persons natural increase and from legal migration, and to provide for additional persons of an illegal source. I think it is going to stretch things beyond the tolerance point. Now, that is the demography of developed countries, the United States in particular.

Now, let's talk a little bit about the demography of less-developed countries for which we might take Mexico, as an example.

Mexico has about 58 million persons at the present time. It has an annual average increase of about 3.3 percent a year. It has roughly 46 percent of their populace under 15 years of age—as compared to 24 percent in the United States—46 percent, represents a tremendous number of young persons coming into the job market there in the next few years. In the face of this, it has an unemployment rate estimated from 20 to 40 percent.

The rate of natural increase of Mexico last year was 1.8 million persons, as opposed to 1.2 in the United States. Mexico had a 50-percent larger increase in its population than the United States did, and yet there is only a quarter of people.

Now, these same type figures could be repeated throughout Latin America and the Caribbean, and this brings us to the point I want to make, that we are just beginning to see the tip of the iceberg at the present time. The changes that are going to take place in the population level in Latin America and the Caribbean, just to mention one region in the world, are going to make the problem of illegal migration we face today seem mild in comparison to the future. And we believe it follows from that that this committee should be legislating not for the problem as it exists today, but as it is very shortly going to become.

The measures that are proposed, are not going to be sufficient to deal with the problem as it is going to exist 4 or 5 years down the line.

Another perception that we have come to is that it is probably through illegal migration that the citizens of developed countries are most directly going to experience the population growth of the less-developed countries. Why is that? Some of the types of measures that are being talked about here, the use of social security number, the universal ID card; greater restriction on the issuance of visas; greater policing of the borders; more INS personnel to protect us against illegal aliens; these are all measures which I think all of us loathe to think about and propose; but as we look at the magnitude of the situation, what's down the line, we can see there is very few alternatives. And the necessity of adopting such measures in the developed countries is going to be the way we are going to most directly experience what is happening in the less-developed countries as a result of their population growth.

The concerns of groups like the American Civil Liberties Union, which we share, are valid and real, and they must be addressed. We have to ask ourselves, what are the alternatives to what is proposed, and also, what will be the social and the human liberty cost, the civil

liberty cost of not adequately addressing the situation, and letting it continue.

There are basically three types of measures that could be contemplated to deal with the illegal immigration problem. The first, and the one we think we have to emphasize in the long run is to prevent admission. Once the illegal enters the country you encounter all the civil liberty type problems, resulting from searching for and trying to remove illegals from the country. Preventing admission, better policing, or better patrolling of the border, means better control of visas, an updating and upgrading of the quality of the documents, and computerized IRS files, where demographic checks can be made on whether a person is entitled to be employed in this country.

The second general category of measures that could be taken includes trying to reduce the incentives, and that is basically what the Rodino bill is about, trying to make jobs less available. But we emphasize also our responsibility from the standpoint of self-interest, if nothing else, to try to improve the conditions in the less-developed countries, and we will touch on that more in a moment.

Mr. EILBERG. I would just caution you again, please recognize the fact that this subcommittee has limited jurisdiction; and as much as we would like to think of these other subjects, it would be most helpful if you would try to confine yourself to the subjects within the subcommittee's jurisdiction.

Dr. TANTON. The third general area is the question of detection of illegal aliens once they are here, which becomes necessary because they were admitted in the first place.

To deal with the specifics of the proposal before us, we support the Rodino bill which adopts criminal penalties for persons who knowingly employ illegal aliens, and are attracted to the suggestion of injunctive relief which was made before this committee several days ago. It would not address the problem of self-employed illegals, I don't know where that fits in, in terms of the quantity of the problem, but perhaps it is something that deserves some thought.

Now, as mentioned earlier today, we agree that most employers operate in accordance with the law, which is probably a strong deterrent for the hiring of illegal aliens. We wonder, though, if the method for determining the alien, asking an illegal person to sign a document that says he is entitled to work is sufficient. If his drive to migrate to this country was so strong to cause him to make the trip, one wonders if he would not take the additional step to sign the paper that says he is entitled to work, as opposed to the obvious alternative, which is to go back home again, to conditions he just left.

I find it difficult to see how requiring the illegal alien himself to come forth and in essence sign a document saying, "Yes, I am an illegal alien, I am not entitled to work, therefore you shouldn't give me a job" will not solve the problem. I think it stretches credibility to think that under the circumstances these persons would be in a position to do that because that must negate the very thing they came to the country for, which is to find a job.

And that brings us to the terribly difficult problem of some sort of universal ID card, social security number as the way to identify the person; or having computer-readable border documents, or some sort

of document that the employer can call, or send to his local Immigration and Naturalization Office and have it verified that the person is entitled to be in this country and to work.

In our statement we discuss at some length the whole question of the social security card, and I won't get into that. You will perhaps have some questions that you want to ask about that.

We feel that the existing border documents, such things as the Green Card, and visas, and passports should be made computer readable. The size of the problem of processing these documents at the border is very large, as you know, there are 250 million border crossings a year in the United States. If you miss on one-tenth of 1 percent, that is what, 250,000 persons. If you miss on 1 percent, it's 2.5 million people.

To think that we could have a system that is based on mechanical shuffling of papers at a border and process 250 million documents a year, and come up with anything better than one-tenth of 1 percent error, I think, is visionary; and that is obviously not good enough in view of the illegal immigration problem that we have.

If one looks at the load which consular offices around the world are having, something needs to be done there; but again, that is outside the purview of this committee.

We feel that INS is going to need additional personnel and have raised the question in terms of the INS budget, whether or not this committee perhaps might have some oversight function for the INS budget, so that you people, being the ones that know the most about the INS operations could give some insight to the budgetary process, rather than having it totally removed from your area of interest.

One related factor to this question of improving the prospects of the less-developed countries does fall under the jurisdiction of this committee, and that is the whole question of the "brain drain." I am aware that it has been around for two decades, and it has been discussed, perhaps, to death on both sides of the issue; but ZPG has studied this, and in particular taken notice of some recent studies that were done by other committees in the House, and we have come to believe that the drain of personnel, especially from the lesser developed countries, is one which is markedly reducing their prospects for development and advancement.

When the "brain drain" was first started after the Second World War it was a transition from the developed nations of Europe to Canada and the United States. It has now changed so that the major portion of this flow comes from less-developed countries of the world. And if we are going to do anything about trying to help these countries address their population problems, help them do anything about getting some economic development, it is probably essential to do something about population growth. We have to make some improvement in the lives of people.

I think we should start to reevaluate this whole question of brain drain and the dilatory effect it is having on less developed countries, and try to decide where the United States true interests lie in this matter. Do they lie in bringing talented people into this country so that we can develop further and so the gap between the developed and less developed countries increases even further; or are our best interests perhaps served in the longer run to help these nations

develop both through foreign aid, but also to enable them to keep their talented people at home so that they can help in the basic efforts toward development; and this in turn would lessen population problems, it would increase their economic capacity so that there would be more jobs and more attraction for their people to stay home. As long as this disparity exists between the developed and less developed countries, there is a tremendous drive for people to migrate, and it's not going to be enough of a measure for this Nation to say, "Stay out." We have to address the problem and try to do something to help these people solve the very dire conditions that have brought them to such a sad state of affairs that they are willing to leave their homes and families, and their associates, and move to another nation to try and find employment.

Well, in conclusion I would like to just stress that I think this committee must begin to take the demographic factors into account in addressing the problem of migration, both legal and illegal. I think there is a real sleeper in this thing, and in the long run demographic factors may be some of the most important factors that must be considered.

And secondly, I would urge you strongly to legislate not just for the problems as they exist today, but for the problem it is going to become, obviously, a very few years down the future as the inevitable demographic changes in the less developed countries come to the fore.

I thank you for your time. I will be glad to answer any questions that you might have.

Mr. EILBERG. Thank you very much, Dr. Tanton, for your view from another point of view.

Keeping with the practice we are engaged in today, giving members a chance of asking questions, I would like to start with Ms. Holtzman, if I may.

Ms. HOLTZMAN. Thank you, Mr. Chairman.

You said we had to address the human liberty costs of not instituting a universal identification system for all residents of this country.

Would you identify those human liberty costs?

Dr. TANTON. I am of the opinion that one of the major prices being paid for population growth in the United States today is further constrictions on our individual liberties. I see that in my own daily life. And I think if we don't adequately address the illegal alien problem, we are going to have many tens of millions of persons added to this country, mostly in the urban areas.

Ms. HOLTZMAN. Well, I understand you are making that argument. But when you say that human liberty is going to be at stake if we don't issue these identification cards, I want to know if you are talking about anything besides having more traffic on the streets. What civil liberties do you think will be affected by an increase in our population here in the United States?

Dr. TANTON. Well, my statement was that I felt if we didn't address the illegal alien problem that this would be one factor that would lead to constriction of our civil liberties. I didn't relate that specifically to the use of an ID card, that would be one measure, I think, that should be considered.

Ms. HOLTZMAN. So, in other words, what you are saying is there aren't really any civil liberties costs that we will suffer if we do not institute a universal identification system; is that correct?

Dr. TANTON. No; I think that there will be——

Ms. HOLTZMAN. Would you identify one to this committee, please—just one civil liberty that will be affected if we do not issue identification cards?

Dr. TANTON. I don't know that I would attach it so much to specific civil liberties as I do to the prospect of the country as a whole if we do not adequately address the illegal immigration problem.

Ms. HOLTZMAN. That is a separate question.

Do you think that we ought to exclude all immigrants from the United States, legal or illegal?

Dr. TANTON. No, I do not. The position we have adopted calls for a number of changes in the immigration law, basically reducing the level of immigration to the level of emigration, and would hope to delve into that point at the time your committee considers it.

Ms. HOLTZMAN. I was pleased to see that you felt it important to improve the procedures for preventing admission of illegal aliens in this country as a first priority. I happen to feel that is an area in which a great deal needs to be done, and in which improvements are certainly warranted.

I would like some substantiation for your figure of 16 million projected population growth from illegal aliens as compared to a population growth of 38 million from our own population in this country. That seems very difficult to believe.

Dr. TANTON. There are three figures.

Ms. HOLTZMAN. According to your testimony, our present population of over 200 million only produces an additional population of 38 million, whereas the 300,000 illegal aliens we have produce an additional population—that is almost half of that—16 million.

Dr. TANTON. Let me review the figures, if I may. The 38 million is the figure for growth from the native population at replacement fertility, with no immigration; this is worked out by the Census.

The 16 million is from 400,000 persons per year for the last 25 years of the century, that is 400,000 immigrants for 25 years, that is 12 million persons, and they will reproduce themselves during that time. So, the figure is for immigrants and their survivors; and it is data that is worked out by the Commission of Population and the American Future.

Ms. HOLTZMAN. And what are your projections for emigration in this period of time?

Dr. TANTON. The Census Bureau uses the figure of 37,000 persons a year, they have no data, basically, on emigration; it was last collected in 1957. That is another area that is in need of some attention if we are going to try to develop policies that have some population basis. We certainly need to know how many people are leaving, as well as how many people are coming in.

Ms. HOLTZMAN. I have no further questions.

Ms. WIRKEN. I would like to interject a word for Ms. Holtzman. We know that in the past she has expressed some problem with what the process is in foreign countries when people are applying for their tourist visas, or for papers to come to this country. She has expressed

concern that maybe that process should be reviewed to minimize our margin of error.

I know it's probably typical for you to invite someone from the State Department to come and give you the State Department policy on how they work things down in the consul offices. But I would like to suggest that you instead bring some of the young consul officers who have been serving in Latin American countries to explain to you how they have seen it.

We have talked to several in the State Department who have just returned from countries such as Argentina, they are very concerned. They share our concern, share Ms. Holtzman's concern, and believe that the State Department should, in fact, make adjustments in their policies. I think they will tell a different story than their superiors within the State Department would tell.

Ms. HOLTZMAN. Would you elaborate, please, in terms of what procedures you think might be improved for screening tourist applications from Latin America?

Ms. WIRKEN. What I can tell you will only be secondhand from what these gentlemen have told us, and it would probably be much more effective for them to tell you firsthand.

But in our discussions they have talked about how they may be trained in this country about immigration law. Then they are sent to a country like Argentina and put on the job almost immediately and met with a line that goes around the block of Argentine citizens who want to come. First of all, the workload is excessive; and second of all, the amount of material that they can require to make those decisions is insufficient. They have to assess within a very short amount of time why a person wants to leave Argentina to come to the United States. They say they want to go on a vacation, so they can take into consideration how much money this person has, is it really enough to get him to the United States and back again; what is he leaving behind; is he leaving behind a family, or a job, or a home.

They believe that much of the information that they get is inadequate to make a good judgment on the intent of the parties that they are interviewing; and then also the time limit involved is insufficient to be able to investigate further. And many times, as you have pointed out, it's just a snap judgment on the part of the young consul officer who is at his desk and has another hundred people waiting for him.

Dr. TANTON. On the average it would be a 10- to 15-minute process. So, that is not much time to spend on these applications.

Ms. WIRKEN. The people we have talked about have problems, and once these same people enter the country, there is no ability by the INS to follow up when their visas are up.

They have more concrete suggestions than we do because they have just spent the last couple of years down there. As I say, they are concerned, they don't feel that the United States is approaching it correctly, they are junior Foreign Service officers. You are in a better position to change it than they are, and they would very much like to talk to you.

Ms. HOLTZMAN. Do you have any concrete suggestions? I certainly would like to hear them, and I am sure the members of the subcommittee would.

Mr. Chairman. I yield back whatever time I have.

Mr. EILBERG. Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman.

I would like to thank our witness for addressing this question of admission because I think that is the most fruitful area where we can begin to stem the tide of illegal aliens coming to the United States, although it doesn't address the problem of the 4 to 12 million who are currently here.

Also, it seems to me that those coming in visiting, students, businessmen, these people able to pay their own way, are probably a very employable group and disappear. And disappear they do to the tune of 300,000 to 600,000 a year, I think, according to the testimony of General Chapman.

I would like to say this is a figure of 5 to 10 percent of the nonimmigrants coming into this country. There are 6 million visitors per year; and part of the pressure that you mentioned on the vice consuls comes from our own Government. The Commerce Department is encouraging visitors.

And, Mr. Chairman, having been vice consul myself, I doubt very much that the pressure—the line was backed up, and I never felt any pressure just because there was a line. I never felt just because they were in line they were entitled to documentation. I wouldn't be surprised if we put staff in the field—documentation is contributing to this problem.

Just so we have the complete record, Doctor, you have testified that you anticipate in the next 25 years the population increase of 94 million. Do you see that as a calamity, or perhaps just a very serious problem?

Dr. TANTON. Well, ZPG has looked at this in considerable length, and we believe that the United States has already more people than it is going to be able to care for in the long run with its resource base.

Now, this is admittedly a very difficult area in which to try to arrive—there are questions such as, what is the carrying capacity of the United States and people; it depends on how much flow of resources cross international borders; it depends on such things as the oil supply in the United States. Looking at the prospects for growth and consumption in resources in the less developed countries in the world now, and their expanding population which will want to consume more resources and increase their standards of living; resource supplies across the world.

We believe it is going to be very difficult for the United States to maintain its present standard of living with present population figures, much less with further increases of 94 million, that is 40 to 45 percent.

This is a very large subject area—what is the carrying capacity of the United States, how many people we can take care of. I think very few people would say our limit is infinite, that's obvious today. But this area needs more study, and it is one that should not be left until there is general agreement that we have too many people in the United States. We would still have a great deal of population growth that we would have to go through, so you have to plan many years ahead, and you have to do what Canada is doing, which is to say, by the year 2000, or 2020, how many Canadians are we going to be able to support, realizing that if they are going to achieve the population level at that time, they have to make the decisions now.

Mr. FISH. Dr. Tanton, these figures I haven't got in front of me, there are just a few in my head, and I am sure they are much better known to you. I am now addressing myself to worldwide population growth, outside of the United States.

I understand the figures are something like this: It took us from the beginning of time to 1830 to reach population of 1 billion; it took us then only 100 years to reach the second billion; and the third billion is with us now, after how many years?

Dr. TANTON. 30 years.

Mr. FISH. 30 years. So, by 1960 we were at the third billion.

Dr. TANTON. We are pretty near 4 billion.

Mr. FISH. 4 billion, and what do you see after that?

Dr. TANTON. Trouble.

Mr. FISH. Doctor, when do we get to five?

Dr. TANTON. Well, the world population supposedly is growing about 2 percent a year, you divide the precent in the growth rate with the number 70, and that would give you a doubling time of 35 years.

Mr. FISH. So, you say that we go from four to eight in 35 years?

Dr. TANTON. That's right. That is where the present trends, if they don't collapse, will take you.

Mr. FISH. The way you described the population of our neighboring countries, it doesn't look like it is going to collapse soon.

How are we going to meet this problem outside our own borders? It seems to me we are talking about a high rate of unemployment here right now, and you are talking about doubling of the population of these countries. It's not just employment, it is food supplies, an issue we have not gotten into yet. It seems to me that is going to put more pressures on the borders of the United States and Canada, it's almost a question of isolation of these two nations.

Dr. TANTON. That is the very point that I am trying to make. The magnitude of that problem of population growth in less developed countries is hard to appreciate; and the problem is going to be as bad as you can envision with the pressures of migrating to countries such as the United States being as large as you have just indicated, and as difficult to deal with.

As a physician I see patients with incurable eye diseases, who are going to lose their vision. And the patient always says, "What can you do to keep me from losing my vision," and sometimes the answer is, nothing can be done for your condition. And unfortunately that is to some degree going to be the problem in particular portions of the world.

Mr. FISH. You don't see any possibility of arresting that doubling from 4 to 8 billion people.

Dr. TANTON. Not only myself, but the people who have spent the most time thinking and talking about this. Look at the tremendous number of young people in the world that are now having from four to six children. Even if you could reduce their family size down to two which would in itself be a fantastic accomplishment, you then have 50 years of population growth before it stops, which is another 30 to 40 percent increase in the levels of people.

So, even if we could achieve replacement fertility in the world today, which is far beyond the wildest dreams; the whole world population is going to increase by another 30 to 40 percent and keep

growing well into the next century. This is the magnitude of this problem, and this is why you have to look so many years in advance, you can't wait until it's on your doorstep before you do something about it, or else it's too late.

Mr. FISH. Thank you very much.

Mr. EILBERG. Mr. Sarbanes?

Mr. SARBANES. Doctor, I want to be certain I understand the import of pages 7 to 11 of your statement. I take it that you do favor a national ID card.

Dr. TANTON. Yes. I personally do but ZPG has not taken an organizational stand on this issue.

Mr. SARBANES. Secondly, I take it that, favoring a national ID card, you favor the use of a Social Security card as such a national identification card?

Dr. TANTON. I think that is probably the best method as it is currently widely used.

Mr. SARBANES. I am interested to know what benefits you see growing out of the use of a national identification card that makes it worth taking the risk which you seem to recognize, or at least you prefaced your remarks about such a card with some acknowledgement of the risk. Then you go ahead and get us to the national ID card in any event. It is not quite clear to me what gets you there.

Dr. TANTON. I see the illegal alien problem being as large as I indicated it is going to become, and do not feel the measures presently considered, as much as they are needed, are going to be sufficient to address the problem. I think we are going to get to the point where individuals are going to have to verify whether or not they have the right to work in the country.

Problems like the ones that have been talked about in the Southwest with Mexican-Americans being discriminated against could be addressed by a person having a card that says he has the right to work.

Mr. SARBANES. In other words, you would move the entire country and all of its people to a national identification card in order to deal with the illegal aliens problem?

Dr. TANTON. Well, I think that the country is going in that direction, as we have indicated, for many other reasons.

Mr. SARBANES. And you approve that tendency?

Dr. TANTON. I am sorry to see that tendency.

Mr. SARBANES. Inasfar as you are sorry to see it, why do you propose to advance it?

Dr. TANTON. To use in other areas, you mean?

Mr. SARBANES. Well, I don't understand. On the one hand you say, "We are sorry to see that developing, and it's undesirable and we have problems with it"—a view I probably share; and the next thing I discover, you are plunging right ahead and end up with a national identification card and all its implications and consequences. I'm not quite clear what gets you on down that path.

Dr. TANTON. Well, first of all, I think we are a long ways down the path, and this is one more area in which a national card of some sort would be a useful tool.

Secondly, you have to look at this question, can you adequately address the problem of illegal immigration without it.

The job problem is going to be so great that you are going to have to be able to positively identify whether a person is entitled to be in the country and work, rather than relying on a statement that he signs and says, "Yes, I am legally here."

Mr. SARBANES. Well, let's take that in two steps. First of all you say that we may be able to do something about the illegal alien problem without using national identification cards. But I take it that you reject that view, you don't think it's feasible and you think that we must use the national identification card in order to be able to do something significant about the illegal alien problem.

Dr. TANTON. No. I think that is one step that you can take. As I mentioned, you take the primary step of prevention of admission in the first place; that would solve the problem before it arises, and that involves such things as better staffing and policing——

Mr. SARBANES. Well, are you ready to go to the national identification card in order to do something about the illegal alien problem? Are we there fresh out of the starting gate or not?

Dr. TANTON. I feel that the illegal alien problem is large enough that if something like a national identification card is not adopted we will be back here in several years, starting to consider it.

Mr. SARBANES. So, then at the second step, feeling that other measures are not sufficient, you have concluded that the benefits of doing something about the illegal alien problem are so significant that they outweigh any drawbacks that would flow from a national identification system. Is that correct?

Dr. TANTON. On balance, yes.

Mr. SARBANES. Well, let me ask you this question, and it relates to a question that Ms. Holtzman asked you. Do you have any basis for asserting that the amount of freedom or liberty that the people enjoy in their society is directly correlated to the density of population?

Dr. TANTON. I think density is a poor measure of population pressure. A better measure is the relationship between people and resources. The Sahelin Zone of Africa, for instance, has two or three people per square mile, and the liberties they enjoy are certainly different from the Netherlands where there are over a thousand people per square mile. So, concentrations of people are a poor measure of population pressure.

Mr. SARBANES. When you say the "resources," what are you thinking of?

Dr. TANTON. The physical resources in terms of food, minerals, and energy in a society.

Mr. SARBANES. With reference to Great Britain, for example, how do you relate the extent of personal freedom and liberty in that country with respect to its physical resources for supporting its population?

Dr. TANTON. Well, Great Britain in fact is a country that has sort of a national identification card. I have not studied the situation in Great Britain specifically, but I have not heard of any complaints.

Mr. SARBANES. What card are you talking about?

Dr. TANTON. They have a card to present to their national health insurance. Every person in the country, in that country, when they go to a physician, if they have national health insurance care, they have to present their card that identifies them positively as the person that is entitled to the card.

Mr. SARBANES. Well, that is used for the health system, just as we have a social security card in order to obtain retirement benefits. I don't think you ought to escalate from that card to the "national identification system".

As I understand your testimony on pages 7 to 11, we would end up with every American having a card with a number on it, and that number would then be the pertinent identifier for every one in the country—not only every American, but every American and alien in the country. His number would then become the pertinent identifier for each individual for every purpose in a system that would be totally intermeshed and computerized. You did point out that one-tenth of 1 percent error rate on admissions would give you large numbers. Of course, I don't quite share your confidence in computers being errorless. It has been my experience that sometimes mechanical systems work even better.

I take it what you envision, eventually, is a society in which there is a number for each person, and that number is plugged in to every recordkeeping system that may pertain to him—at least that is where I am being led to as I read through pages 9, 10, and 11; is that right?

Ms. WIRKEN. There has been much discussion in the subcommittee about the advantages and disadvantages of a national ID card. And there was some testimony on the use of the social security card.

The main purpose of the facts I wanted to give you about regarding the social security card was that it was in fact being used much more extensively for identification, both within the Federal Government, State governments, and private organizations than anyone had so far testified.

Mr. SARBANES. I understand that, but then you use the fact that that is being done as the next step to arguing that it should be done, at least as I understand both the statement, and the doctor's response, to my question.

Dr. TANTON. The social security number is now used as an identification number for employment. The problem is, these are easily counterfeitable and not accurate.

Mr. EILBERG. Dr. Tanton, we could spend a great deal more time discussing the questions you have raised. I want to pursue the subject that you emphasized on pages 7–11, as Mr. Sarbanes just did, the national ID card.

I am going to hand you a list of questions, if I may, and I recognize that some of these are not within our competence. If you want to think about them and write to us after you thought about them, and we will also be directing the staff to try to get the answers to these questions.

But, it is my impression that you have not thought the subject out thoroughly with the national ID card. I am going to read a series of questions, and you may respond either now, or later, if you wish, but I really don't want to take too much more time of the committee this afternoon.

How do you suggest that the 200 million persons now holding cards get the new cards?

Dr. TANTON. Well——

Mr. EILBERG. Let me finish.

Should social security offices be kept open at night and on weekends? What would be the cost of this additional service?

Should employers be forced to pay employees while they are at the social security office getting a new card?

If the answer to the above question is "no," how would you compensate the workers for the time lost from their jobs while they are getting the new cards? Certainly, there will be long lines and long waiting times.

Would you have the social security people go to the places of employment? If "yes," does this include all small businesses, including one- or two-man operations? If they go to one place, wouldn't they have to go to every place of business?

If the offices are not kept open extra hours, how long a period of time would people have to get their new cards?

During the interim, how would people without the new cards prove they have a right to be in this country and hold a job?

What would be the cost of issuing new tamperproof cards to all of the people who now have them?

What would be the cost of the new system compared to what is presently in use?

What happens if a person loses his or her card while looking for a job? If there is a delay in getting a new card—and bureaucracies are notorious for unexplained delays—how does this person prove he or she has a right to work?

Have you seen a tamperproof card?

Do you know for a fact that one has been developed or that one is even close to perfection?

How would you prevent persons who now hold cards fraudulently from getting the new cards?

What safeguards would you suggest to prevent the new card from becoming a national identification card?

Wouldn't police officers automatically assume that this card must be shown for proof of identity?

These are just some of the problems, Dr. Tanton; you may respond if you wish.

[Similar questions were presented to the Social Security Administration and their responses are found in app. 4 at p. 448.]

Dr. TANTON. I would just as soon respond in writing.

Mr. EILBERG. What was that?

Dr. TANTON. I would just as soon respond in writing.

[Subsequent to the hearings, the following information was received from zero population growth:]

ZERO POPULATION GROWTH,
Washington, D.C., March 27, 1975.

Hon. JOSHUA EILBERG,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE EILBERG: I got in over my head on the issue of a national ID card at the Immigration and Naturalization Subcommittee hearings on March 12. The subject has come up several times in ZPG's consideration of the illegal alien question, chiefly in relation to the need for better documents, and the likelihood under the Equal Protection Clause that any document required for aliens would have to be required of citizens as well, to be constitutional. ZPG has taken no position on this topic. Our written testimony on the current uses of the Social Security number for identification purposes was intended to shed further light on a question that had previously been discussed before your Committee.

We seem to have four general possibilities for dealing with illegal immigration, each of them only partially satisfactory, each with their unpleasant or uncomfortable features:

(1) Do nothing, which we believe is clearly unacceptable.

(2) Prevent illegal entry. This means more policing of borders, erection of physical barriers at particularly troublesome points (as where the border runs through urban areas), more scrutiny of visitor and other visas (when few other countries require them at all), and computerization of some documents to aid in the processing of the 250 million yearly border crossings.

Such activity runs counter to ideals about open borders, and probably would not help our foreign image or relations.

(3) Decrease incentives to migrate by:

(*a*) Drying up the job supply. We think the Rodino Bill helps on the employer side of the question, but believe the bulk of illegal aliens would be willing to represent themselves as legal in an attempt to get a job. This brings up the whole unhappy question of having some secure document that establishes one's right to work of control of birth certificates (now a state responsibility), etc.

(*b*) Improving the conditions in the less developed countries. A monumental task at which the U.S. has already exerted itself, with mixed success at best.

It seems unlikely that decreasing incentives will address the illegal alien problem completely.

(4) Detection once in the country. This involves increased internal policing, the civil liberties problems that go along with searches for illegals, and the problems of adjudicating their deportation.

Of these options, prevention (No. 2) is clearly the least objectionable, and ZPG believes this should be the main focus of any new program. We need efforts in the other two areas as well, as none of them alone will be sufficient. If these measures do not solve the problem, then I think we will see some sort of work card/national ID card/citizenship card—the illegal alien problem will likely become that bad, for the demographic reasons cited in our testimony. All the more reason for trying to address the illegal immigration problem in its infancy, and for legislating now for what the problem will likely become in the years ahead, rather than what it is at present. Doing a good job now will help obviate the need for more stringent measures later on.

I have long viewed ZPG's program of limiting population growth as one of the main avenues toward *maintaining* our civil and other liberties—those rights and privileges which I believe will be eroded if our numbers rise beyond what our resources and social systems can stand. I believe in acting in anticipation of problems, in hope of avoiding such measures as a universal ID card.

Enclosed are the documents from which the data were drawn on the expected growth of the U.S. population from:

(1) Natural increase (births minus deaths) at replacement fertility (2 children/family) with zero net immigration (38 million by 2000, and 58 million by 2020). (Census Bureau Series "X".)

(2) The growth to be expected from a net immigration of 400,000 yearly (15 million from 1970 to 2000). (This estimate is likely low, since we now have more legal immigrants from the less developed countries, where higher birthrates prevail. There is evidence that this higher fertility is retained in the U.S.)

I suggest your Committee ask the Census Bureau to prepare estimates of population growth from various assumed levels of illegal migration, based on the best available knowledge of fertility rates for these persons. Using our estimate of 800,000 illegals per year, and figuring a somewhat higher fertility than that for native Americans, it works out to an astonishing 40 million by 2000.

Thank you for the chance to appear before your Committee.

Sincerely yours,

JOHN H. TANTON, M.D.,
Chairman, Immigration Study Committee.

Enclosures.

ZERO
POPULATION
GROWTH

Recommendations for a NEW IMMIGRATION POLICY for the United States

summary

major ZPG immigration recommendations

Illegal Immigration

1. Economic development assistance to foreign countries which are potential sources of illegal aliens.

2. Protection of the civil and Constitutional rights of legal residents, particularly minority groups.

3. Criminal penalties against knowing employers of illegal aliens.

4. Increased funding for the Immigration & Naturalization Service.

5. Issuance of Social Security cards only to legal residents.

6. Increased penalties for forging or altering immigration documents or Social Security cards.

7. Discontinuance of migrant worker programs.

8. No amnesty for illegal aliens presently in the United States.

Legal Immigration

1. Unlimited immigration of immediate families of United States citizens.

2. Establishment of a world-wide quota for all other immigrants, at a level such that total immigration does not exceed emigration from the United States.

3. Creation of preference categories only for: immediate families of resident aliens; refugees and orphans; and workers with needed skills.

4. Labor certification requirement for all worker immigrants, both as to the need for their skills in the United States and the absence of a need for their skills in their country of origin.

5. A transition period during which the new law is phased into effect.

Temporary Entrants

1. More careful scrutiny of applicants for temporary visas to attempt to detect those who will overstay their visas.

2. Required return to their country of origin for five years before temporary entrants can apply to immigrate to the United States.

3. Educational assistance to foreign countries in preference to bringing students to the United States, and encouragement of training in skills appropriate to the needs of each country.

General

1. Adoption by Congress of a policy statement on immigration, which relates immigration to national population, resources, employment, and education policies.

2. Consideration of consolidating all immigration functions in one government agency.

ZERO POPULATION GROWTH has set forth its concerns about current U.S. immigration policy in its discussion paper, *ZPG and Immigration.* Based on this analysis, ZPG now offers recommendations for a new immigration policy for the United States. For emphasis, we repeat here from the earlier paper our:

general principles for an immigration policy

1. Every nation has both the right and the obligation to adopt a policy to stabilize, by voluntary means, its population at a level it determines to be appropriate.

2. Since immigration can significantly affect population growth, an immigration policy must be integrated into any such population stabilization policy.

3. Every nation has an obligation to provide for the social and economic needs of its inhabitants, and must give these needs precedence in developing its immigration policy.

4. In developing its immigration policy, every nation must take into account not only its own welfare and that of the immigrant, but also that of other nations and their citizens, particularly the donor nation.

5. The role of immigration policy in providing a sanctuary for victims of racial, religious, or political persecution is a desirable one. Consequently, an immigration policy should provide for accepting such refugees.

6. While family reunification is a desirable goal, an immigration policy cannot reasonably be expected to carry this beyond the reuniting of immediate families (parents, spouses, minor children, and dependent minor brothers and sisters) of legal residents.

7. All immigrants must be admitted under a numeric limitation, except for immediate families.

8. Immigration laws must be fairly and consistently drawn. In particular, the method used for selecting immigrants for admission should be reasonable and equitable to all potential immigrants. No loopholes allowing circumvention of the law should exist.

9. Accurate and comprehensive statistics on both immigration and emigration are essential to the evaluation of the demographic and other impacts of an immigration policy, and such data must be made public.

10. Illegal immigration must be eliminated. Illegal immigrants should be denied by law the benefits of legal residency, including the right to employment, public assistance, social security, and public services.

11. Immigration laws must be fairly and firmly enforced. Every reasonable precaution must be taken, however, to protect the civil rights and liberties of legal residents. Illegal entrants must be treated humanely while they are being processed to leave the country.

Although freedom of individual movement is a widely accepted and commendable ideal, it is not absolute, and is unlikely to be achieved in a world of constantly expanding human population. The age of mass international migrations, and of emigration as a population control technique, is at an end.

to eliminate illegal immigration

ZPG believes that illegal immigration will become an increasingly difficult problem throughout the world. Inevitable population increases in the developing countries in the coming years can only increase pressure for migration far beyond legally allowed limits. If this problem is not promptly and adequately addressed, the illegal resident population may grow to proportions that will make workable solutions difficult to find.[1]

First, the United States must recognize that the main impetus for illegal immigration is the poor economic conditions of most countries, including many in this hemisphere. We should make a continuing commitment to foreign aid, including population programs, which is carefully structured to help alleviate these conditions and thus reduce the economic motivation to illegally immigrate to the United States. Particular attention must be paid to Mexico, which presents the main problem of illegal entry. Elimination of the "brain drain," as discussed below, would be another step toward improving the prospects of the developing countries.

Second, there is justified concern that stringent enforcement of illegal alien laws will infringe on the civil rights of U.S. citizens and legal resident aliens, particularly those from minority groups. But the "roundup" measures for which the Immigration and Naturalization Service (INS) has been criticized are necessary only because aliens have entered the country in the first place. The main thrust of any illegal alien policy must be towards preventing entry, thus minimizing the need for detection procedures within the country. Every effort must be made to avoid harassment of legal U.S. residents during detection procedures.

Third, since the prospect of employment is the magnet that draws illegal aliens, employers should be effectively prohibited from knowingly hiring illegal aliens. The provisions in the Immigration and Naturalization Act which exempt employers from penalties for the harboring of illegal aliens should be repealed.[2] Criminal penalties should be imposed against employers after an initial warning, without an intervening civil penalty. INS files should be automated to enable employers to quickly confirm the status of prospective employees. Salaries and other expenses of hiring illegal aliens should not be tax deductible as a business expense. The value-added tariff should be abolished altogether, or be made inapplicable to goods manufactured within 150 miles of our borders. This will help reduce the concentration of people on the Mexican border, which the "twin factories" system has engendered.

Fourth, documents must be improved in quality and their use clarified. Social Security cards should be issued only to U.S. citizens and legal resident aliens. Others needing Social Security numbers, such as foreign students or visitors, should be issued a physically distinctive card, or a new type of card designed for this purpose. Use of Social Security documents for identification purposes should be discontinued. The Department of Health, Education and Welfare (HEW) should be required to notify the INS of illegal aliens receiving assistance under the Social Security Act.

All visas, passports, and border crossing cards should be made computer readable, as an aid to processing the large volume of border crossers, the detection of forgeries, and verification of eligibility for employment.[3] Provisions dealing with the forging or counterfeiting of documents used for immigration should be strengthened.[4] All entries and exits, whether by sea, land, or air, should be documented and inspected. Better systems for recording the births and deaths of individuals are needed to help prevent fraudulent use of birth certificates of deceased persons.

Fifth, the size, effectiveness, powers, and funding of the INS in general, and of the Border Patrol in particular, must be substantially increased, for even if job opportunities are dried up, there will still be strong pressures to enter the country illegally. Penalties for smuggling aliens should be increased.

The screening of visitor's visas must be tightened up, to reduce the incidence of persons who use this means to enter the country permanently. This may require

[1] The AFL-CIO estimates our illegal population could reach 32 million by 1985, if the present situation continues uncorrected. See "Illegal Aliens: A Story of Human Misery," *AFL-CIO American Federationist*, August 1974.

[2] U.S. Immigration and Nationality Act, Section 274 (a)(4).

[3] In fiscal year 1973, over a quarter billion persons were inspected and admitted to the United States, at over 1,100 points of entry. See 1973 *Annual Report of the Immigration and Naturalization Service*, U.S. Government Printing Office, Washington, D.C.

[4] 18 U.S.C. 1546.

stationing INS personnel in U.S. consulates abroad, as discussed in the final section of this paper.

Illegal aliens currently in the United States must not be given legal status, owing to the large size of the illegal population, the large amount of relative preference migration legalizing them would engender, and the encouragement that such a move would give to further illegal immigration. Illegal aliens should be provided with free transportation to the border during a one-year grace period, after which they would be subject to deportation, and barred from future entry. The INS should be funded for studies of illegal aliens, to better document their numbers and characteristics.

On the difficult problem of migrant workers, the current policy of relying mainly on domestic labor should be retained. The few remaining programs for the importation of unskilled labor should be discontinued. Americans should decide between going without the products and services of society's poorly paid jobs, mechanizing them, or raising the pay and conditions sufficiently to attract U.S. residents to these jobs. The latter course will have beneficial effects on efforts to reduce poverty in the U.S.

These are stringent measures, but if the problem of illegal immigration is not adequately dealt with today, a worsening situation will surely demand even more stringent measures in the near future.

to substantially reduce legal immigration

ZPG strongly believes that the era of demographically significant immigration into the U.S. must be brought to a close, for the reasons set forth in *ZPG and Immigration*. To this end, alien immigration should be reduced to approximately the level of emigration, so that it makes no net addition to our population. Emigration is estimated to be about 40,000 per year in 1974.[a] Mechanisms for enumerating emigration as accurately as possible should be established, for emigration levels will change over time. A clear definition of what constitutes emigration must be adopted.

Within these limits, ZPG recommends that American immigration policy continue to provide for the reunification of immediate families, the provision of asylum for refugees, and the protection of American labor from foreign competition. In addition, it should now emphasize (for the first time) the protection of the developing countries from the "brain drain," and (also for the first time) the role of immigration in the continuing growth of the U.S. population.[a]

We propose the following worldwide preference system, covering both the Western and Eastern Hemispheres:

TABLE I

Proposed Preference Categories	*Ceiling–Worldwide*[b]
1. Immediate family of U.S. citizens.[a]	No Limitation
2. Immediate family of resident aliens.	34,000
3. Refugees, orphans, and children fathered by U.S. servicemen abroad.	10,000
4. Workers with needed skills and their immediate families.	34,000[c]

[a]Immediate family includes spouse, minor children, parents, and dependent minor brothers and sisters. This expands on the current definition of immediate family by adding dependent minor brothers and sisters. The age of majority should be set at 18.

[b]The numbers in this column are the current legal limitations on the comparable categories for the Eastern Hemisphere alone.

[c]Decreasing 6,000 per year for four years, to 10,000/year.

[a]Data on emigration are no longer collected. The Census Bureau uses an estimate of 37,000 emigrants yearly.

[a]For the year ending June 30, 1974, the U.S. grew in population by 1,162,000 from the excess of births over deaths, received 400,000 legal immigrants, and an unknown number of illegal immigrants, variously estimated at from 650,000 to 1 million or more. From this must be subtracted emigration (see footnote [a]).

This new system of preference categories adopts some of the categories currently used for the Eastern Hemisphere. (There is currently no preference system for the Western Hemisphere.) It includes the current first preference in the new first preference. The second preference remains the immediate family, as redefined, of resident aliens. Workers with needed skills, and their immediate families, will initially be admitted at the same level currently used for the Eastern Hemisphere, with a phase-down provision to provide time to adjust education priorities both in the U.S. and other countries. Refugees are continued at the present level. Special refugee bills, as were passed in the Cuban situation, would still be possible. The concept of "filling up the quota" with non-preference immigrants is discontinued.

Married sons and daughters of U.S. citizens, the current fourth preference, and brothers and sisters of U.S. citizens, the current fifth preference, are discontinued. These two current categories open up whole new family lineages to the immigration preference system, through the spouses of the married children and siblings. They thus perpetuate the need for immigration for family reunification. The alternative of leaving immigration open to unmarried adult children and unmarried siblings would invite "divorces of convenience," much as we now see marriages of convenience to qualify for U.S. citizenship.

All workers should be subject to a more stringent certification by the Secretary of Labor that their skills are needed in the United States. In addition, no person should be admitted whose job category is on the State Department's Exchange-Visitor Skills List. This is a country-by-country listing of skills which the other countries "clearly require," prepared in consultation with the countries involved.[1] It currently applies only to exchange visitors who decide they want to remain in the U.S.

Adapted to this new and broader purpose, it should help mitigate the damaging effects of the brain drain. The list should be expanded to include the developed countries of the world as well, for their loss of skilled persons to other developed nations often engenders "musical chairs migration" from the developing countries to replace these lost skills. The migration of skilled persons (the proposed preference category four) should be restricted to those persons with exceptional talent who require special facilities available in the U.S. to make their contribution to mankind. It should not be looked upon as a "manpower" program to provide the U.S. with skills at the expense of other countries.

Refugees should continue to be defined as victims of racial, religious, or political persecution. The definition cannot be expanded to include those seeking to improve their economic status, or victims of natural disasters, because such "refugees" number in the billions. Their numbers preclude accommodating any significant segment of them.

The solicitation of immigrants should be prohibited.

The overall effect of these changes would be a gradual reduction of immigration, which, over a decade or so, would decline to approximately the estimated level of emigration. In the course of this transition, established relative preferences would be honored, the problems caused by the brain drain would be addressed, labor would be protected, and our tradition of admitting refugees would be continued. In addition, the growth of the U.S. population would be slowed.

As the new program reached equilibrium, there would be far less immediate family immigration, because few new lineages would have been opened up to immigration. Fewer families would need reuniting, because fewer would have been torn asunder in the first place. Ceilings for workers would total 10,000 per year, which, when combined with refugees, would give a yearly total of 20,000 immigrant visas, plus those for immediate families of U.S. citizens and resident aliens. In about ten years, we estimate that legal immigration would stabilize at approximately 25,000 per year. This number is likely to approximate emigration at that time, which may well fall with immigration. (Some immigrants to the U.S. subsequently re-emigrate. With fewer immigrants, emigration may decline.)

Gradual transition from the old practices to the new is provided for in the phasing down of the worker immigration. The present preference category for married sons and daughters of U.S. citizens should

[1] Public Law 91-225. Quoted language is from the Department of State Public Notice 356, the Exchange-Visitors Skills List.

be continued for relatives of those who already have resident alien or citizen status under the present law, but should be discontinued for the relatives of those who become legal aliens after the effective date of the new measure.

concerning temporary entrants

Temporary entrants include, among others, visitors of many kinds and students. Persons in the former category not uncommonly "jump" their visas and remain in the U.S. to become illegal aliens. Students who take part of their training in the U.S. frequently become a component of the brain drain. Hence temporary entrants must be considered as part of the immigration equation.

Visa applicants should be held to the original purpose which they declared when entering the country. The adjustment of status from a nonimmigrant to an immigrant visa should be sharply curtailed to valid and exceptional humanitarian cases. As mentioned in the section on illegal immigration, the screening of visitor's visas must be appreciably tightened up to detect potential illegal immigrants. Additional consular personnel will be needed, as discussed below.

Student visas should be issued only to aliens who have been accepted for full-time study in an established nonprofit college, conservatory, seminary, advanced technical institute or university that has been approved by the Office of Education and authorized by the Attorney General. This will eliminate a current practice of unqualified institutions taking on foreign students to fulfill their need for enrollment, or workers, as in the case of many graduate medical programs. Foreign students should be prohibited from working, but be given adequate scholarship aid, provided they are learning skills which are needed in their home lands. Those apprehended working in violation of their visas shbuld be deported and barred from future entry.

Private and governmental U.S. educational aid programs for the less developed countries should be redirected to assure the production of skills relevant to the needs of the country being assisted. The emphasis should be on developing training facilities in the home country, training native instructors, and education in skills at levels appropriate to the country's stage of development. Students selected for U.S. study should be those most likely to return home.

Students and other temporary visitors should uniformly be required to return home (as distinguished from some other country) for a five year period before becoming eligible for immigration under the proposed preference category four (workers with needed skills). Student programs should largely be confined to the graduate level, or higher. Undergraduate programs should be de-emphasized. Vocational training should largely be abandoned.

In the medical manpower field in particular, and other skilled fields in general, the U.S. should undertake programs to provide training opportunities for sufficient numbers of its own citizens to fulfill skilled manpower needs.

As called for under the section on illegal immigration, much better procedures are needed to screen applicants for visitor and other temporary visas, to end the practice of entering the country permanently by using these visas as a subterfuge.

general

The administration of immigration law is divided between the Department of State (which issues visas overseas), the Labor Department (which certifies labor requirements), the Department of HEW (which certifies educational institutions), and the Immigration and Naturalization Service, located in the Justice Department (which must again screen entrants when they arrive in the U.S. and enforce immigration law). Consideration should be given to combining these functions in a single department.

Congress should adopt a policy statement on immigration to guide the Immigration and Naturalization Service and other federal agencies in their administration of the law. It should set forth guiding principles, the purposes which immigra-

tion is to serve, explain why the levels and categories of immigration have been selected, and relate immigration policy to other domestic and foreign policies, including those for labor, population, education, and resources.

Increased staffing is needed for the State Department consular offices, where personnel is not adequate for today's much increased workload. Tourism to the U.S. alone is projected to increase to 8 million persons yearly by 1976. This would give our current 600 U.S. consular officers an average visa load of 13,000 per year, or one every ten minutes, in addition to immigrant and other visas, plus their other duties.* This is clearly inadequate for the important job of screening for potential illegal aliens or visa-jumpers. An expenditure for additional personnel would have a high cost/benefit ratio, considering the expenses associated with illegal aliens once they gain entry to the country.

The INS also needs increased funding and staff. The Border Patrol in the Southwest, in particular, needs significantly more personnel to deal with the illegal immigration problem in that area. Additional agents for the interior of the country are also needed, as many illegals now enter by air, or are smuggled to interior locations.

Better statistics, in more available form, are also needed, particularly concerning emigration, to aid in the evaluation of immigration policy.

Much speedier adjudication of immigration court cases must be provided for, to reduce the time persons in violation of their status can remain in the U.S.

Consultations should be held with Canada and Mexico in an effort to develop mutually supportive migration and border policies, and to minimize problems.

*According to the INS, during the 18 months ending December 31, 1974, approximately 6,000,000 visitor's visas were issued, but only about 4,000,000 were turned in as required on exit from the country. Some of the 2,000,000 gap is due to the visitor failing to turn the visa in, but the INS estimates that 1,000,000 of it represents illegal immigration. (Personal communication.)

conclusion

ZPG believes that the time has come to phase out demographically significant immigration into the United States. The control of illegal immigration is a necessary first step, required before current or new laws regulating legal immigration can be meaningful. Control of illegal immigration is also a precondition to stabilizing U.S. population, for it is futile to reduce U.S. births if they are simply supplanted by illegal entrants. The ZPG program accomplishes this reduction equitably, while honoring our established commitments and traditions. It also addresses a number of related problems of the present system.

We urge full consideration of the issues discussed in this paper and its predecessor, *ZPG and Immigration*, and prompt adoption of the revised immigration policy outlined here.

ZPG

Researched and written by **Immigration Study Committee**
Zero Population Growth
1346 Connecticut Avenue, N.W.
Washington, D.C. 20036
John H. Tanton, *Chairman*

Adopted by the
Executive Committee
Zero Population Growth
19 January 1975
Washington, D.C.

Suggestions or comments concerning these recommendations are welcome, and should be sent to the ZPG Immigration Committee.

Additional copies: 1-9, 15¢ each; 10-99, 12¢ each; 100 or more, 10¢ each.

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ZERO POPULATION GROWTH,
Washington, D.C., April 3, 1975.

Hon. JOSHUA EILBERG,
Chairman, Judiciary Subcommittee on Immigration, Naturalization, and International Laws, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Zero Population Growth was pleased to have the opportunity to appear before your subcommittee March 19 to discuss our views on illegal immigration and possible ways of strengthening H.R. 982.

In the past two years, the ZPG Immigration Study Committee has done a commendable job of researching the immigration issue and exploring its impact on continued U.S. population growth. A summary of our findings and recommendations have been published in two papers entitled "Immigration: A Discussion Paper" and "Recommendations for a New Immigration Policy."

We would like to specifically point out, however, that the organization has not taken a stand endorsing the concept of a national identification card. Rather than endorsing such a concept, we would prefer to have the Social Security Administration restricted in making Social Security cards (which are often mistaken to be work permits) available to aliens for identification purposes when the alien is, in fact, not legally entitled to work in the U.S.

We look forward to working with you and the subcommittee on potential solutions for stopping the flow of illegal immigration into the U.S. and commend you for the leadership you have demonstrated on this extremely complex and controversial issue.

Respectfully,

ROBERT T. DENNIS,
Executive Director.

Mr. EILBERG. But you understand a little bit now some of our concern.

Dr. Tanton, notwithstanding the colloquies we have had that may have appeared critical, we are grateful for your contribution here today.

Dr. TANTON. If I may, I would like to leave these papers that we published on immigration.

Mr. EILBERG. We will be glad to have them for our files. Thank you very much.

[The prepared statement of Dr. John H. Tanton follows:]

STATEMENT OF JOHN H. TANTON, CHAIRMAN, IMMIGRATION STUDY COMMITTEE, ZERO POPULATION GROWTH, INC.

I am John Tanton of Petoskey, Michigan, an ophthalmologist and Vice President of Zero Population Growth, Inc.

Mr. Chairman, members of the Subcommittee, Zero Population Growth, Inc., has spent considerable time over the past two years studying the effects of immigration on U.S. population and is pleased to have this opportunity to discuss our views with you.

Though the House of Representatives has conscientioulsy passed legislation similar to H.R. 982 in each of the past two Congresses, the subject of illegal immigration has only begun to be widely discussed in the past few months. As our economy has worsened and our unemployment has increased, it has become increasingly popular to relate the rate of illegal immigration to our economic woes. ZPG agrees a reduction in illegal immigration may, in fact, bring some economic relief especially to our minority groups and teenagers who frequently compete with illegal aliens for employment. But we encourage the subcommittee to also consider the other equally valid reasons for taking immediate and decisive action to eliminate illegal immigration. As an organization focusing on the problems of unrestrained population growth, we see mushrooming illegal immigration as a serious obstacle to stabilizing population growth in the U.S.

It is worth noting that Canada has just released its "green paper" that seeks to delineate the role of immigration in its population growth and that Australia has also just completed a study of immigration and population growth.

It is not true that we have reached ZPG (zero population growth, where the number of births equals the number of deaths annually), as has been widely misinterpreted in the press. What is true is that fertility rates are declining as a result

of increased availability to contraceptive information and service, liberalized abortion laws, changing status of women, and an increasing awareness of the consequences of unrestrained population growth.

In recent years the U.S. total fertility rate has gradually declined to its present rate of 1.8, meaning that the average American couple is having less than the 2.11 children necessary to replace themselves demographically. Even with this low fertility rate, however, the U.S. population had a natural increase (births over deaths) of 1,300,000 persons in 1974. Even at replacement fertility (an average of two children per family), our numbers will continue to grow for some fifty years, during which time they will increase by nearly 30 percent. This is due to the large number of post-World War II babies who are just now coming into their peak reproductive years, giving much "momentum" to our still-growing population. Applied to our present population base of about 213 million, this built-in assured growth, allowing for no net immigration, will give us an additional 38 million people to provide for by the year 2000.

But this is not the whole population growth story. Our numbers also increase from legal and illegal immigration. Legal immigration is currently running at 400,000 annually. At this rate, according to the Commission on Population Growth and the American Future, legal immigration will add some 16 million persons to our numbers by 2000.

Levels of illegal immigration are not accurately known, but estimates run from 800,000 to several millions yearly. If the evidence presented to the subcommittee is correct and one million illegal aliens are entering the country annually, our population increase is in effect being doubled as a result of illegal immigration.

An indirect effect of immigration on population growth is the fertility of immigrant women. Insofar as they come from under-developed countries, their fertility is high compared with that of native women. In the U.S. in 1970 the number of children born to women aged 40 to 44 was 4.4 per women for those of Mexican origin and 2.9 for all women. Taking into account the higher birth rate of persons from the less developed countries, we conservately estimate that illegal immigration of 800,000 persons yearly would contribute some 40 million additional persons to the U.S. by the year 2000. The AFL–CIO's higher estimate is that our illegal alien population could reach 32 million by 1985. And the pressure for illegal immigration is certain to increase in the decades ahead, as the conditions in many of the less developed countries worsen. The incentive for entering this country illegally far outweigh the disincentives that now exist. Unemployment rates in most Latin American countries are high and soar even higher when underemployment is taken into consideration. Private estimates of unemployment rates in Mexico range from 10–14% (in the urban areas only), in El Salvador from 20–30%, in Brazil from 8–10%, in Colombia from 12–16% and in Dominican Republic from 15–20%. When underemployment is taken into consideration the rates jump to 15–30% in Mexico, 30–50% in El Salvador, 40% in Brazil, 17–30% in Colombia and 60% in the Dominican Republic.

The prospect for improved employment opportunities in these countries is doubtful. One case in point is Mexico. Mexico, which is reported to be a major source of illegal immigrants, now has a total population of 57.9 million, 46% of which are under 15 years of age. With a growth rate of 3.3%, the Mexican population is doubling every 21 years. In 1973 Mexico had a natural increase of 1.8 million persons meaning that it had a nearly 50% greater increase than the U.S. even though it has only one quarter of our population. Similar statistics are applicable to other Latin American countries.

Congress must be careful not to legislate for the situation that exists today but in its wisdom must foresee what inevitably will follow. A continuing combination of high growth rates and massive unemployment will only increase the pressure to enter the U.S. illegally.

A Latin American willing to risk entering the U.S. illegally has an excellent opportunity for finding work. Willing to work for minimum wages or less, the illegal can still fare better than in his native country. Once in the U.S., he has the opportunity of sending his children to American schools and should he have difficulty in finding work, he can benefit from the many social welfare programs available to he and his family. The biggest danger facing these people is the threat of being apprehended by the Immigration and Naturalization Service and sent back to their native lands. Even this threat is diminishing as inadequate INS budgets continue to restrict INS agents from apprehending and deporting the many illegals they know are here. In some instances foreign women will come to this country to have a baby or will attempt to become pregnant once they arrive knowing that giving birth to a U.S. citizen child will enable them to remain in the U.S.

The magnitude of the illegal immigration problem is unique to the U.S. as a result of our prosperity, our poorly patrolled 2,040 mile border with Mexico, our close proximity to other Latin American countries, the ease of transportation and the prevailing poverty in those countries. After a close examination of the issue one can only conclude the problem will worsen in the years ahead and hope that the U.S. can solve it before it becomes too large to be solvable.

ZPG commends the subcommittee for assigning priority to the passage of legislation dealing with this problem. To refrain from dealing with the issue swiftly and effectively will only insure that the increasing flood of illegal aliens will further strain our economy, burden our social services and add to our metropolitan crowding and environmental degradation.

Though ZPG supports the concept of H.R. 982 we believe that if passed in its present form it will be inadequate to resolve the problem it addresses. We, therefore, recommend the following changes be incorporated into law.

First, criminal penalties should be imposed against employers after an initial warning, without an intervening civil penalty, thus making it unprofitable for unscrupulous employers to hire illegal aliens. These criminal penalties coupled with injunctive relief at the time of the first citation will greatly enhance the enforcement capabilities of the bill.

Second. The size, effectiveness, powers and funding of the INS must be substantially increased. An increased budget would allow the INS to automate its master index file thereby allowing an employer to check on the status of a job applicant by making one telephone call to his local INS office. Increased manpower would strengthen INS's ability to apprehend illegal aliens thereby serving as a deterrent to aliens and would allow the INS to station these additional personnel not only at the border but also in the metropolitan areas where most aliens congregate.

Third. Action should be taken to make all visas, passports, and border crossing cards computerreadable as an aid to processing the large volume of border crossers (250 million annually), the detection of forgeries, and verification of eligibility for employment. Better systems for recording and cross-indexing the births and deaths of individuals are also needed to help prevent fraudulent use of birth certificates of deceased persons.

Fourth. Recognizing the main impetus for illegal immigration is the poor economic conditions of most countries, including many in this hemisphere, ZPG supports making a continuing commitment to foreign aid, including population programs, which is carefully structured to help alleviate these conditions and thus reduce the economic motivation to illegally immigrate to the U.S. Particular attention must be paid to Mexico which presents the main problem of illegal entry.

Elimination of the "brain drain" is still another step which must be taken toward improving the prospects of the developing countries and relieving the need to enter the U.S. illegally. The House Committee on Government Operations, in their report "Scientific Brain Drain from the Developing Countries" concluded that "the immigration of scientists, engineers, and physicians from the developing countries into the U.S.—a part of the so-called brain drain—though welcomed in this country as evidence of return to a nondiscriminatory immigration policy, has aroused public concern on other grounds."

"The root of the concern is the inadequacy of trained manpower in the developing countries despite pressing needs for a great variety of skills, talents, and capacities for taking the initiative which development requires. The loss by these countries of scientists and other professionals to the U.S. reduces trained manpower where it is scarcest and most needed and augments it where it is most abundant. This can only widen the technological and economic gap between the richest country in the world and the poorest ones."

"On the one hand, Federal programs in research and development, initiated and expanded in pursuit of important national objectives, have greatly increased demand for domestic scientific manpower in the U.S. They may also be providing incentives for immigration of scarce scientific talent from the poorer countries of the world."

"On the other hand, the long-sustained U.S. foreign aid program has devoted substantial sums and given high priority to the education and training of professional manpower in the developing countries as an essential ingredient of development. To the extent that these countries suffer an emigration drain of the very skills and talents they are attempting to increase, an important part of the foreign aid program is undermined."

"The number involved in the immigration from developing countries appear at first to be small in scale—thousands, not tens or hundreds of thousands. But thousands are significant in the highly specialized fields of science, engineering and medicine. Because of the length and rigor of the education and training involved, as well as the scarcity of people having the native talent required, the stock of individuals in these fields is small and grows slowly."

"The loss of even a small number of scientific professionals by some countries can be very significant in relation to the numbers educated and trained each year in those countries. According to information for 1962 assembled in the subcommittee staff study, the Dominican Republic sent the U.S. only 78 physicians, but they were more than a third of the country's supply of new physician graduates. Chile's 18 engineers emigrating to the U.S. were the equivalent of a fifth of its graduating engineers. Israel's 30 emigrating physicians were more than 40 percent of its supply of new M.D.'s."

"Second, all developing countries exporting highly educated manpower lose the necessarily costly investment in their education and training. If an average cost figure of $20,000 (an estimate cited in the subcommittee staff study) is used, the 1967 scientific emigration to the U.S. of 7,913 persons represents an investment loss in 1 year of more than $150 million by the developing countries."

"Moreover, continued emigration of any country's most gifted has effects which go beyond the transfer and use of specific skills. It can damage morale on the part of those who remain. It can encourage bright young people to look toward emigration instead of national development as a personal goal. It can prevent the formation of leadership clusters—in the universities, in business, and in government—without whom the essential structural reforms necessary for progress in modern industrial societies will never gain momentum."

Fifth. Documents must be improved in quality and their use clarified. Social Security cards should be issued only to U.S. citizens and legal resident aliens. Others needing Social Security numbers, such as foreign students or visitors, should be issued a physically distinctive card, or a new type of card designed for this purpose. The use of Social Security numbers for identification purposes should be discontinued or a new tamper proof card, carrying the person's photograph, should be adopted preventing the fraudulent duplication and use of Social Security cards by individuals not legally entitled to work in this country.

Mr. Chairman, there has been much discussion in this subcommittee regarding the possible need for and resulting dangers of a national ID card. But I would like the members of the subcommittee to reflect on the possibility that we may unofficially already have or be on the verge of having a national ID card in the form of our Social Security card. Though Social Security numbers were originally assigned to American workers for the purpose of assisting the government in recording workers' earnings, the use of Social Security numbers has become much more pervasive.

In the past few years, according to the Social Security Number Task Force, the number has come into increasingly wide use as a numerical identifier throughout society, to the point where the adult American citizen is beginning to need a number to function effectively even if he is among the very small minority of people who never work in covered employment. The SSN may be demanded of him when he pays taxes, when he banks, and when he invests. Each year, the probability becomes greater that it will be demanded of him when and if he applies for various Federal or Federal/State benefit payment programs, for a driver's license, for a credit card, for enrollment in a medical insurance program. It may even be demanded of him when he applies for a library card, when he registers for school, when he donates blood, or when he registers to vote.

In their report to the Commissioner, the Task Force stated that the growth of the SSN as a non-program identifier is linked to the growing use of the computer in recordkeeping about individuals. Any large-scale computerized recordkeeping system needs a way to identify each individual or account in the system uniquely, so as to avoid confusing individuals with the same or similar names. This can best be done by assigning a number to the individual or account; the computer can then make a number-name match for positive identification. And with the growing use of the computer to exchange personal data between various organizations there is a movement toward the adoption of a standard unique identification code, so as to permit the systems of different organizations to "interface" with maximum efficiency. Because the SSN is more widely held by adult Americans today than any other identification number, it is becoming the standard identification code of choice in the computer systems of more and more organizations, public and private.

Within the Federal Government, the use of the SSN as nonsocial security identifier has its basis in Executive Order 9397, issued on November 30, 1943. That Order, which is still in effect, directed all Federal components to use the SSN "exclusively" whenever the component head found it advisable to establish a new numerical identification system for individuals. It also directed SSA's predecessor agency, the Social Security Board, to cooperate with non-social security Federal uses of the number by issuing and validating numbers for other Federal agencies, on a reimbursable basis if appropriate. The rationale for the Order was that "it is desirable in the interests of economy and orderly administration that the Federal Government move towards the use of a single, unduplicated numerical identification system of accounts and avoid the unnecessary establishment of additional systems."

The publication of the Order marked a very significant change in the Executive Branch's conception of the role of the SSN; when the number was devised, it was intended to serve the specific, limited purpose of keeping track of the earnings of people whose work was covered by the Social Security Act. But while an expanded role for the SSN within the Federal community was sanctioned more than 27 years ago, the number did not come into extensive use as an identifier until the 1960's, when the Federal agencies began to develop computer-based recordkeeping systems sophisticated enough to make the use of a pre-established numerical identifier worthwhile.

Since 1961, for example, the Internal Revenue Service has been using the social security number to identify and process the returns of the millions of taxpayers in the U.S. In addition, the Civil Service Commission controls personnel records with the number, the Federal Aviation Agency identifies pilot records with it; and the Veterans Administration uses it as a hospital admission number. The Treasury Department has requested all intermediaries issuing savings bonds (Federal agencies, banks, etc.) to obtain the social security number of owners and co-owners of bonds. In July 1967, the Department of Defense began using the social security number in lieu of the military service number for identifying personnel in the Armed Forces.

The Public Health Service, Division of Indian Health, is using the social security number as an identification number in maintaining comprehensive health histories for Navajo Indians living on Federal reservations.

While the use of the SSN as a Federal identifier is sanctioned by EO 9397, the law and regulations are silent regarding the use of the SSN outside of the Federal sector. The present framework of law places no restrictions or limitations on such use, and any public or private organization is free to use the number for record-keeping without receiving authorization from SSA. For this reason, it is impossible to estimate with accuracy the true dimensions of the number's use by State and local governments and private organizations. All evidence indicates, however, that such use is widespread and growing rapidly.

For State and local government agencies, the use of the SSN as an identifier is logical—not only because the vast majority of adult Americans have an SSN, but also because the use of the SSN as a standard identifier makes it easier and more efficient to exchange records between various State and local agencies, and between State/local and Federal agencies (many of which, as noted above, are using the SSN as sanctioned under EO 9397).

For instance, many State and local agencies are required by law or regulation to coordinate their programs with Federal programs or to report to the Federal Government about the scope of their programs and the effectiveness of their use of Federal grant money. This has helped to contribute to widespread and growing use of the SSN in State/Federal benefit payment programs such as public assistance, in State and local income tax collections, in health and mental health agencies and programs, etc.

In the educational field, the SSN is being used by an increasing number of colleges, universities, and school systems; two States, Florida and Utah, have built Statewide educational recordkeeping systems for high school students around the SSN. (Further, possession of the SSN is a prerequisite for entering most institutions of higher education today, since the number is required for participation in the "college board" battery of aptitude and achievement tests.)

Other known uses of the number by State, local and non-profit agencies and organizations include identification of public library card holders, blood donors, etc. And we understand that in at least one State—Virginia—the State Board of Elections is constructing a central voter registration based on the SSN.

With the precedent of using the Social Security card as identification so firmly established, it only makes sense to give the Social Security Administration the resources necessary to switch to a tamper proof Social Security card which can be used as evidence of a person's eligibility to work in the U.S.

Mr. Chairman, the problem of illegal immigration is a complex one which has no simple solution as the hearing record demonstrates. To effectively tackle the problem will require more than making a single change in our current policy and our focus must continually be on preventing the problem from growing so that we may avoid possible infringement of personal liberties. We commend you for your dedication and determination in starting Congress on its way to reducing illegal immigration and urge the swift passage of legislation to remove the economic incentives that lure aliens to this country. But we also urge you to consider what we believe are the other aspects of the solution. Some fall within the jurisdiction of the committee and others do not but we are hopeful you and the other members of the subcommittee will encourage your colleagues to carry on this investigation you have so ably started.

Thank you.

Mr. EILBERG. Our next witness is Mr. David Carliner from the American Civil Liberties Union. Mr. Gordon, would you care to join him at the desk?

Mr. GORDON. I would be glad to.

Mr. EILBERG. We're delighted having the former general counsel of the Immigration and Naturalization Service, somehow these hearings are not the same without having you here.

Mr. GORDON. Thank you, Mr. Chairman.

TESTIMONY OF DAVID CARLINER, AMERICAN CIVIL LIBERTIES UNION

Mr. CARLINER. I'm especially pleased to have Mr. Gordon sit at my side, since I think he testified on the other side of the issue the last time he was here.

Mr. Chairman and members of the committee, my name is David Carliner. I am appearing here on behalf of the American Civil Liberties Union. The ACLU has watched this legislation over a number of years since it was originally introduced in Congress.

Previously the American Civil Liberties Union felt not compelled to testify on this legislation, because we like to think we stick to our last in dealing solely with civil liberties issues. We did not believe, and do not now believe that any civil liberty is involved in imposing sanctions on employers who employ aliens who are illegally in the United States. The illegal alien has certain rights under the fifth amendment and the provisions of the Constitution, but he may not necessarily have a constitutional right to be employed. Perhaps even less does the employer have a constitutional right to employ an illegal alien.

We are brought here today, members of the committee, because we are much concerned regarding the means which have been suggested to implement this legislation. As we have learned from recent history, means are sometimes much worse than the ends and may pervert the goals that we are seeking in implementing the legislation. I trust that I don't have to elaborate on the discussion the committee had with the last witness on the question of a national identity card. That is my point of departure.

Mr. EILBERG. May I ask if it is your intention to read your statement?

Mr. CARLINER. No, Your Honor—Mr. Chairman. You see what I do for a living most of the time.

[Laughter.]

Mr. EILBERG. We will accept the statement in its entirety.

Mr. CARLINER. On behalf of the American Civil Liberties Union I will address my remarks to the specific problems which this bill raises insofar as it deals with identifying citizens, identifying aliens, and identifying unlawful aliens in the United States.

If I may, I will identify myself also as an attorney who has specialized in the field of immigration law for a period of some 25 years. And I see, not in wholesale numbers as Mr. Danielson does, but I do see aliens in the United States. A great many of them are here illegally and wish to adjust their status in the United States.

So, I believe I have some experience, not on a wide scale, perhaps, but nonetheless some specific experience with the problems that this committee is concerned with.

First, with regard to the question of the implementation of the bill, and identifying aliens and citizens in the United States the committee, of course, does not want to have a bill which is going to be ineffective. It is concerned to have an effective piece of legislation. Before an employer can be prosecuted for the purpose of a citation, a fine, or an ultimate criminal penalty, as we know he must be guilty, of willful conduct and the only way in which willful conduct can be established on his part is to have some kind of mechanism whereby the employer knows that the alien he is about to employ is here illegally.

One document which is proposed to be used for this purpose is a birth certificate to show the alien's place of birth to be exhibited to an employer. If this is to be the method implementing the bill, I respectfully submit that this bill will be a license for counterfeiting. The committee, perhaps not with the identical membership sitting here today, but since it has held hearings in various parts of the United States it is aware, officially at least, of the major counterfeiting industry which has developed on the Mexican side of the border; and for all we know, on the U.S. side of the border also, counterfeiting border-crossing cards and various other kinds of documents which permit aliens to come into the United States, ostensibly legally, but not persons entitled to come, who therefore enter illegally.

Perhaps Mr. Eilberg who is from Philadelphia may have heard the famous story about the Chinese who were "born" in Philadelphia in the 1920's. An employee in the Bureau of Vital Statistics there, in addition to recording the people really born in Philadelphia, was selling birth certificates on the side. It developed that there were more Chinese born——

Mr. EILBERG. That was before the change in the administration, Mr. Carliner.

Mr. CARLINER. There were more Chinese born in Philadelphia than there could possibly have been parents in the United States. The Immigration Service came across all these American-born persons of Chinese ethnic origins and discovered that the registrar had interlined between the lines where he had recorded births contemporaneously. Every half line had a Chinese name. There were official certificates, mind you, issued by the authorities there.

The Immigration Service is aware that false birth certificates have been produced in various parts of the United States, perhaps most prolifically in Puerto Rico, since they are primarily Spanish-speaking. I suggest to the members of the committee that if a birth certificate is going to be the document to exculpate the alien who is in the United States, illegally, and who is going to seek employment from an employer who is unscrupulous and who wants to employ him, it is a simple enough matter for those aliens now coming across the Rio Grande River to buy a birth certificate for relatively little money; the people who are not deterred by legislation, and not by fraud, are not going to be deterred from obtaining false documents .The requirement of a birth certificate will not be particularly useful.

The bill provides also that the Attorney General may prescribe under his regulations a form which people will swear to in order to establish that an employee is entitled under 274(b), to work in the United States.

It seems to me that the sole purpose of this provision—I don't know it for certain—is to lure the alien into a situation where he may be prosecutable for filing a false statement under 18 U.S.C., title 1001, signing a statement for a governmental purpose, on a Department of Justice form.

This may very well have a deterrent effect to the extent that this document authorized under a Government regulation, is to be used as a means of getting employment. However, it becomes another identification card which an alien—and not only aliens—would be required to obtain. Mr. Silberman as acting Attorney General, testifying before this committee urged this proposal to provide "equal protection for all Americans" because not only aliens would be required to produce this document in order to get a job, but native-born citizens, naturalized citizens, aliens and illegal aliens would all be required to obtain such a document.

So, this leaves us with some lack of enthusiasm. Obviously we are not prepared to have a society in the United States where in order to have a job you need to have a document issued by the Department of Justice. Without drawing a parallel to the societies which we have opposed, it is the kind of society we abhor when we see it in the Eastern European countries.

If, as the previous witness indicated the number of aliens is a major problem in the United States, the more effective way of keeping them out of the United States and prohibiting them from working would be to keep them from getting food. Could we therefore require a national identity card when a person goes to the grocery store to buy groceries, or goes to a restaurant to buy food? Or, as they do in Eastern European countries, if you want to have a place to spend the night to show that you are in that country legally?

This committee has not taken an official position, but the committee in hearings on this legislation earlier has been repelled by the notion of an identity card. I commend the previous members of the committee—not that they need my commendation—but obviously we all share that revulsion, every one of us, the revulsion of having some kind of identity card as a condition for employment.

In this connection, I don't think it should be ignored, that on January 20, 1975, I think, the Attorney General published in the

Federal Register a new regulation, whether by coincidence or not I don't know, relating to citizens' identification cards. This is a document that has been used for some time rather quietly along the borders of the United States to make it easier for American citizens who perhaps live in Canada or Mexico and want to go back and forth without having a passport, something to show to make certain that they are not confused with the Mexicans, or Canadians, or other aliens.

The proposal was expanded somewhat 3 or 4 years ago. There was somewhat of a public reaction and it was buried then. Commissioner Farrell said then that he had no idea at all that it would be a mandatory identification card that people would have to carry with them at all times.

However, here it is again. It has been announced as a final decision on January 20 in the Federal Register, and is available to any citizen of the United States who can prove he is a citizen for $10, along with his photograph. I wonder—this is a question I am raising out loud—whether, coupled with this legislation, if it becomes law, this citizen's identification card becomes the document whereby a person who is a citizen will show to an employer that he is eligible to work in the United States.

Now, that is very good for citizens. But it doesn't do much good for aliens who are permanently and lawfully in the United States. There is no intention on the part of this committee—and it is unconstitutional, of course—to bar an alien from working in this country if he is here lawfully. What does he have to prove that he can work? All he has is a document called an alien registration receipt card, Immigration Form I–151; what does it say? It certifies that the person has been lawfully admitted to the United States for permanent residence. There is nothing on that document, as a lay person would read it—and by lay person, I mean anyone who is not an official of the Immigration and Naturalization Service or not specifically knowledgeable about the rights of aliens in the United States—there is nothing in that document, on its face, that tells an employer that that alien has the right to work in the United States. All that it says is that he is a permanent resident of the United States. The employer must not rely on his common sense, or whatever knowledge he has, to infer that that document gives an alien the right to work.

Although the overwhelming number of people who have those alien registration receipt cards have come here for the purpose of employment, or are members of families where the breadwinner comes here for the purpose of employment, there is a significant number of poeple, an increasing number who have obtained those alien registration receipt cards by representing to the Immigration and Naturalization Service that they will not work. These are people who are the mothers and fathers, adults generally, who are out of the labor force. They are exempted from the requirement that they obtain permission from the U.S. Manpower Administration to obtain an alien employment certification. In order for these people to obtain permanent residence, they must prove to the satisfaction of the Immigration and Naturalization Service that they will not go into the labor force. They thereupon receive their status as permanent residents and their alien registration receipt cards.

If they thereafter go to work a fair question could be raised by the Immigration and Naturalization Service whether they obtained their permanent residence fraudulently. Not everyone who has an alien registration receipt card is therefore necessarily entitled to work, as the Immigration and Naturalization Service would view it.

We believe that these documents would serve to be an identification card of a reprehensible nature; or—and the Committee recognizes this, and former Acting Attorney General Silverman recognizes this—that they would act to deter employers who don't want any trouble by employing aliens. To put it very simply, if two people apply for a job and one man comes to the employer with a valid birth certificate, or citizen's identification card, or impeccable English and satisfies the employer that he is truly someone born in the United States; and the other person comes to him with an alien registration receipt card, showing that he is an alien, the employer's inevitable tendency, I suggest, would be to employ the citizen, although it may be discriminatory, and may even be a violation of the Equal Opportunity Employment Law to discriminate against people because of nationality.

Mr. EILBERG. Are you satisfied with the operation of the Equal Employment Opportunity Commission? You mentioned it, and I wonder if you have a comment on their work.

Mr. CARLINER. Well, I'm aware of the problem there because the Equal Opportunity Employment Act refers to discrimination based on national origin. The one case that went to the Supreme Court on that issue, the *Farrah* case, involving a plant in El Paso where 98 percent of the people were of Mexican origin but were U.S. citizens, the Court held on the facts that it could not be shown that the employees were being discriminated against because of their national origin. They were being discriminated because of their lack of citizenship.

Mr. EILBERG. I understand that, but you didn't answer my question. We have had reference to a case before. I am wondering about your judgment, having experience with the Equal Employment Opportunity Commission, as to their handling of cases of alleged discrimination.

Mr. CARLINER. No, I have not had any specific personal experience. However, in connection with preparing my testimony here I took a quick look at the equal opportunity employment laws. In many States there are specific laws which forbid an employer from requiring a prospective employee to produce his birth certificate. To the extent that this legislation would require that, you would have a conflict between the two. Of course, the Federal law would supersede perhaps, but that is a difficult question. Nonetheless, it raises the issue of what it does to employees who are required to produce birth certificates to show that they are legally in the United States, and what it does with regard to their rights as employees under equal opportunity employment laws.

In any event, I am suggesting that the inevitable effect of legislation which has the implementation that this bill has, will be either to deter the employment of aliens of whatever nature, as well as citizens who cannot prove their citizenship in the United States.

The committee is, of course, aware there are many people who are citizens in the United States, who were not born in this country,

because their parents were U.S. citizens. They have no documents unless they received a certificate of citizenship issued by the Immigration and Naturalization Service—some do, and some don't—to prove their citizenship. The citizenship of people is a very complex question if they were not born in the United States.

So, given the unfortunate assumption that people who speak with an accent are not American citizens; and the just-as-unfortunate assumption that if you are somewhat darker than other people, you might not be an American citizen, there will be this inevitable tendency on the part of people to avoid the troublesome prospective employee, and to hire the trouble-free employee.

I think there is no question whatever if this bill is to be "effective," that the means raise considerable problems which obviously disturb the committee and disturb all of us.

Now, at this point, members of the committee, I am going to stop talking for the American Civil Liberties Union and address myself to the larger range immigration problems. There is no doubt whatever that the number of aliens in the United States, number of illegal aliens in the United States poses a question. There are obviously people out of work who were born and bred here, they paid their taxes all their lives, they have identity with this country, and they see an illegal alien working in their job. That is a substantial problem and something should be done about it. I am not challenging that at all. The thrust of my remarks is not intended to suggest that it is not a problem which does not require attention.

I will say, though, that despite the very voluminous testimony that the committee has received over the number of years that it has been conducting hearings on it, the evidence is described to me by the Under Secretary of Labor, Mr. Schubert, as "anecdotal"—he was not using the word "anecdotal" in a storytelling way—but anecdotal in the sense that there is no comprehensive economic, or statistical material related to the problem.

It is somewhat incredulous to me to read in the testimony by Mr. Brown of the Manpower Administration who testified 2 years ago, in March 1972 at page 65 of the hearings, when the chairman of the committee, then Mr. Rodino, asked Mr. Brown:

> Does the Labor Department know, or does it have any means of determining with some degree of fact how many illegal aliens are presently in the U.S. labor market?
>
> Mr. BROWN. We have no idea, Mr. Chairman. We have immigration figures in terms of the numbers turned out of the country every year, but that is really the only figure that we have a handle on.

Well, 3 years have passed since Mr. Brown said that, and the situation is the same. They still don't have a handle on what those figures are. You have heard ranges of illegal aliens in the United States totaling from 1 million to 12 million, but it is admitted by everyone who makes a guess that he really doesn't know.

I think it is interesting at this somewhat late date in the legislative history of this bill, that the Law Enforcement Assistance Administration of the Department of Justice has commissioned a study by a local firm, Linton-Neil, research consultants, to do a feasibility study on how the Department of Justice could establish the number of aliens illegally in the United States.

It is my understanding that the report is to be furnished to the Department of Justice by the end of this month, March; and that thereafter the Immigration Service is confident enough that it can do something on that, and is coming to Congress, the Appropriations Committee—perhaps your committee hasn't been officially notified of this, or perhaps so—to ask for a million dollars in order to conduct this survey.

When General Chapman appeared before this committee, I believe, or it has been said that, he said, "if we could count them, we could catch them". That is a very clever phrase and quite obviously, the investigators of the Immigration and Naturalization Service should count them. That is their job. But there are other ways, obviously———

Mr. EILBERG. Mr. Carliner, we have been over much of this and we will be voting very shortly. I don't want, however, to cut short your testimony.

You have been a close observer of this subject, but you have not yet suggested any proposal that interests this member at least. What would you do if you were sitting up here?

Mr. CARLINER. Well, the first thing I would do, I suggest respectfully and humbly, Mr. Chairman, before this committee adopts any legislation, it should get more information.

In the Post this morning was an article about Oliver Wendell Holmes, whom we all revere. He was describing an experience in the Civil War and he said, "Men of action act without much information."

That may be very good in the heat of battle in the Civil War, perhaps—not today—but I think that in an area as sensitive at this, before the committee adopts any legislation, even legislation that has been studied before, much more information is needed than the committee now has. I think that the number of aliens illegally in the United States is something that one should know more precisely than whether it's 1 million, or whether it's 12 million.

The largest aspect of the problem as the committee is aware. are Mexicans who are in the United States illegally. We are told that the proportions are from 85 to 95 percent. This is a problem of great sensitivity between the United States and Mexico. The President of the United States has recently appointed a commission to deal with this problem. I would suggest that sometimes inaction is the best action, and that the committee defer any legislation on this question until there is a result—if there is going to be one—from the studies and reports of that commission. That is particularly sensitive. One of the proposals—it is not a matter under the jurisdiction of this committee—but one of the proposals which has been offered to solve the problem, and that "solve" should be put in quotation marks, suggests that there has to be something done to bring the Mexican economy to a further starting-off point.

Mr. Dennis, Congressman Dennis who formerly sat on this committee said, in El Paso, that the more he listened to the witnesses who gave testimony before this committee, the more he was convinced that all that would come out of the committee was a mud plaster. There is no real solution unless the economic differential between the United States and Mexico were resolved.

So, what I am suggesting, and I suggest timorously, it is not my field, that the best way of solving this problem is to bring the Mexican

economy to such a level where the people don't want to come to the United States.

Mr. EILBERG. Mr. Carliner, as I have told the other witnesses, we have narrow subject matter jurisdiction, and there is not much of anything this subcommittee could do about raising the level of the economy of Mexico.

Mr. CARLINER. I realize this committee cannot do that, and it may even be very difficult for the United States.

But what I am suggesting is related to the problem here because if truly this piece of legislation is a mud plaster; if it isn't really going to solve anything; it has all the dreadful implications of the mode of life we are going to have in the United States. I would suggest it is better to do nothing than to do something that isn't going to solve the problem, but that will disturb the liberties of other people.

I would suggest then, in summary, that the committee defer the action until the reports are in, not only from the commission on United States-Mexican problems, but also from the council which the President has appointed—a council on the problem of illegal aliens in the United States.

If I may, Mr. Chairman, I would like to touch briefly on the overall problem of illegal aliens because there is an important issue for the aliens who come here, as distinguished from the Mexicans. Most of the illegal Mexicans come here, as you know, by sneaking across the border without inspection. The Immigration Service doesn't know how many there are until they have caught them, and no one else seems to know how many are here.

The other aliens who are bundled into this category of illegal aliens—I think it is unfortunate that they are called illegal aliens because it has an insidious sound—are many students, many thousands of students. Students who come here by and large come from countries where they have less money than students do by and large in the United States. When they come here they realize that they don't have enough money to maintain themselves in this country without working. They seek to get the permission from the Immigration Service to work, but that permission ebbs and flows with economic cycles.

If they are turned down—these students need the money for the tuition—they have to pay for their room and board, they work anyway. By working they violate their nonimmigrant status, but they are still full-time students. I think they are different type of alien from the ones who have snuck across the border. And I think to handle them in the gross, wholesale way that we handle the other aliens does that student a disservice. It does our foreign relations a disservice. Most of these students go back to their native country.

The reason we bring them to the United States, encourage them to come, is to promote international relationships and a friendlier attitude, and to enhance their cultural level. The bill as drafted will hit them as heavily as it does everyone else. The Immigration Service has a record of everyone who comes into the United States, he gets an arrival and departure card, form I–94. Unfortunately they don't have a record——

Mr. EILBERG. Mr. Carliner, isn't it true that all these students that enter the country come with the full knowledge that they have to have sufficient funds to support themselves?

Mr. CARLINER. They make the representation to the American consul when they get there, that they have enough money to carry themselves, generally they do it for 1 year. But, particularly in the last 2 to 3 years the cost of living has gone up for everybody. They just haven't appreciated the impact of that. They may well have represented it, and the statement may have been false and they may have intended all along to come here to work. Those people of course are in a different category. But some people have been given permission by the Immigration and Naturalization Service to work part time, but they can work no more than 20 hours a week.

In Washington, D.C., for example, many of them are taxicab drivers, and there is no way of controlling the number of hours a cabdriver works. He can work 80 hours a week, there is nobody there to control him.

But I would suggest, Mr. Chairman, legislation which treats in what I call the "meat ax" way all kinds of people is not desirable. I am not saying the legislation does this, the perception of the need is what is leading the Congress to adopt the legislation. I think the real need arises from the problem of the Mexican aliens who come here as visitors and overstay their permission to remain in the United States, stay here and work temporarily and then go back home because they want to make a little bit of money before they return back home; the others, who want to become assimilated into our population, ultimately turn up at the Immigration Service anyway to change their status. And what I am saying is that we have a problem that derives primarily because of the Mexican immigration, which is going to have a great impact on a relatively small number of people who want to stay here as nonimmigrants. I think that some descreet approach should be made to distinguish between them.

Mr. EILBERG. Thank you, Mr. Carliner.

Mr. Gordon, with respect to your experience in the field, we are glad to have you with us at the witness table; are there any comments you would like to make?

Mr. GORDON. I will help in any way I can.

Mr. EILBERG. Ms. Holtzman?

Ms. HOLTZMAN. Thank you, Mr. Chairman. I have some questions I would like to ask Mr. Carliner.

It is the thrust of your testimony that since the only way one can deal with deportation of illegal aliens is through the creation of a national identification system and since that is not a desirable means in your judgment, there is, therefore, no method we can use to identify and deport people who are here illegally?

Mr. CARLINER. Well, one method which has been urged on the committee many times is to enlarge the staff of the Immigration and Naturalization Service. I can give personal witness that it is a tremendously overworked organization; that the people are very conscientious and dedicated. There are just not enough of them to handle the problem.

In Washington, D.C., for example, there are nine or 10 investigators, and considering the number of aliens in Washington who are working here without permission, they are just unable to run down their leads.

Mr. EILBERG. Will the gentlelady yield at that point?

I am pleased to tell her, Mr. Carliner, that we are contemplating an immediate study of the INS authorization bill. I have introduced it so that we can act on that bill at the same time we act on the illegal alien bill; this is another approach.

Ms. HOLTZMAN. I am very pleased by the Chairman's statement in that regard.

So, if I understand you correctly, you are saying there are ways of dealing with the illegal alien problem short of requiring a national identification system—which you would oppose, and I personally oppose—is that correct?

Mr. CARLINER. I believe so. I think what the bill seeks to do is to shift to the private sector, to the employer in the United States the responsibility for eliminating the economic incentive, and responsibility for locating aliens, in a way. I think he is an inappropriate person to do it for the reasons mentioned by Mr. Danielson and by others.

Ms. HOLTZMAN. I just want to say that I agree with your concern about the use of birth certificates as a means of identification, not only because of the problems that you mentioned—of fraudulently making them, of counterfeiting them—but because in my district there are many people who are naturalized citizens, who do not walk around with their naturalization papers, and who do not have birth certificates because they may have been destroyed during the war in Europe, or for other reasons. To require identification by birth certificate would be very discriminatory against these naturalized citizens.

I think it would be important for the record, if you would state some of the risks that you think are inherent in the national identification system.

Mr. CARLINER. Well, the way in which the social security card has been used to get social security benefits, no one complains about. I'm not sure you need a card to get anything. But if it becomes a condition for whatever benefits society has, if it means you can't get a job unless you have a national identification card, then you are deprived of employment, which obviously is a fundamental right.

To the extent that it is used for that purpose, it can be used for all kinds of other purposes, when you are seeking whatever rights you want to have. If you need it, if a policeman stops you when you are going down the street—that is just how it would be used, incidentally, by the Immigration and Naturalization Service, whose investigators could stop people who appear to them to be aliens. If they don't have some kind of a document to prove who they are, then it becomes a basis on which they are to be arrested. That is how the alien registration card is used.

I, myself believe it is insiduous. It makes a distinction between people who look like aliens, and people who don't look like aliens.

If one wants to go to register in a hotel; if a person is required to carry some national identity card, the hotelkeeper, the roominghouse keeper would tend to inquire; it would become the kind of document that would require people to carry labels with them. It just boggles my imagination to think that you would have to carry a piece of paper around that says who you are, in order to get something.

Mr. EILBERG. Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman.

Mr. Carliner, in your prepared statement you are speaking for the ACLU, and you specifically urge that this committee delete that part of section 2 of H.R. 982 that authorizes the Attorney General to prescribe and prepare forms for identifying persons.

But listening to you further, I'm not sure if we took that recommendation and deleted that part of the bill, whether the ACLU would support 982.

Mr. CARLINER. We wouldn't take any position on it because we are not competent to say as the American Civil Liberties Union whether there is need for the legislation; and we have no particular views as to whether it would be effective.

My personel view is that it would not be very effective. I don't think it would be very effective even with that in there; it would have a deterrent effect, but it would not be ultimately effective.

Mr. FISH. You are expressing your personal view when you say this was shifting to the private sector Government responsibility.

Mr. CARLINER. Yes. But since it's a bill which would, as I indicated earlier, prohibit an employer from giving work to an alien who is illegally in the United States, the American Civil Liberties Union would not say that that bill violates civil liberties.

Mr. FISH. Most witnesses have urged us to strengthen sanctions against the employer, that there is not a sufficient affirmative duty on an employer to find that this person is legally entitled to work.

Mr. CARLINER. Well, it's not unusual that we appear in the minority.

Mr. FISH. Now, you heard the last two witnesses, and both of them commented on the fact that the employment of illegal aliens is adversely affecting the youths and minorities in the United States who are competing with these people, The witnesses have actually drawn our attention to employers taking advantage of illegal aliens. They are paid less, which has a detrimental effect on the standard of living of the rest of them.

Mr. CARLINER. Well, I have no doubt, Mr. Fish, that the problem exists. To the extent that the aliens are taken advantage of, I think that the remedy there is to see to it that they are not taken advantage of, not to send them back to Mexico, or Guatemala, or wherever they come from; they would rather be here than to be there. If our concern is for them, rather than for us, then it seems to me the solution is to protect their rights. I wonder about the labor movement when it supports the bill and talks about the illegal aliens jeopardizing people's rights in the United States, why the labor movements fail to organize these people. They would like to make more money, just as others do.

In Washington, D.C., which I am most familiar with, most of the restaurants have bus boys and dishwashers, all of whom can belong to the Hotel Restaurant Workers Union. And in most of the restaurants in Washington these people are aliens; and many of them are here illegally.

Mr. EILBERG. I think we will recess and come right back.

[Whereupon, at 3:15 p.m. a recess was taken until 3:40 p.m.]

Mr. EILBERG. Mr. Carliner, we apologize to you, but you understand, of course, that the bells rang for a quorum call of the House. The subcommittee members had to go to the floor of the House to vote.

Just a few questions remain. Mr. Russo, do you have any questions?

Mr. RUSSO. I don't have any questions, Mr. Chairman.

Mr. EILBERG. Under the name of Mr. Fish, would you answer these questions?

Mr. COOK. Mr. Carliner, you heard the previous witness project numbers of illegal aliens in the country by the end of the century, and he said they might reach 40 million.

And your testimony indicates that you are opposed to a system of national identification cards as such. But, have you any alternative to ID cards to control the great number of illegal aliens in the country?

Mr. CARLINER. As I indicated in response to Ms. Holtzman's question, I think, on the same subject, that the enforcement capability of the Immigration and Naturalization Service should be greatly strengthened. One aspect of it has to do with controls over the Mexican border where 95 percent of the aliens reach the United States. I know that General Chapman is greatly accelerating the efforts of the Immigration and Naturalization Service in that area.

So far as the function of the Judiciary Committee, its function would have to be through the controls of the Immigration and Naturalization Service on the border areas.

But in regard to aliens who come to the United States with inspection, that is people who have arrival and departure records, the Immigration Service's method on that is grossly inadequate. The annual figures indicate that in 1973 some 6 million nonimmigrants came to the United States, and 4½ million left. This seems to suggest that 1½ million people remained. But the fact is that most people did leave, but the Immigration Service has not developed an efficient way of knowing, of learning who has left the United States.

I think it would be a relatively simple matter to resolve because no one leaves from our airports without going on an airplane, and there should be some way of getting records of people leaving that way; no one leaves from our seaports without leaving on a vessel, and there should be some way of getting records; and no one can leave on land unless he goes through a port of entry. So, there are ways of achieving the information on who is still in the United States.

Mr. COOK. Would you impose any sanctions against the illegal aliens that are presently in the country—once the borders are made more secure?

Mr. CARLINER. I believe that raises a rather substantial constitutional question. When the Immigration Nationality Act of 1952 was under consideration, I think there was a proposal to make it illegal for an alien to be illegally within the United States. And there was great concern by Congress whether that kind of law itself would meet due process considerations.

The only language in the statute that bears on this makes it illegal for an alien who has previously been ordered deported from the United States, to return to this country without permission from the Immigration and Naturalization Service. He can be prosecuted for being found in the United States. But that has to be joined together with having been ordered deported previously, and having come back without permission.

I answered your question in this rather complicated way because I think there would be considerable doubt regarding a law that made

it illegal for an alien to be illegally in the United States—made it criminal for an alien to be illegally in the United States, to be here, and then put him in jail for it.

Mr. COOK. Thank you.

Mr. EILBERG. Mr. Carliner, along the same lines, in the event that we move on H.R. 982, or any other illegal alien bill, what would your position be with regard to amnesty for aliens illegally in the United States; would you have a position on amnesty?

Mr. CARLINER. Yes, sir, Mr. Chairman. Immigration bills from time to time have had in them a forgiveness clause of one kind or another. I believe myself, and the Civil Liberties Union believes also, and I testified to that previously, there should be a statute of limitation.

For virtually every offense that is committed, except for capital offenses, there is a statute of limitation. The traditional one is 3 years, sometimes it's 5 years. I know the Cramton Commission, which was appointed to study this subject has recommended in effect anyone who has been in the United States for 5 years should be able to adjust his status.

I would support that, and the American Civil Liberties Union would too. This would have the effect to encourage the Immigration and Naturalization Service to do more promptly what it is supposed to do.

Mr. EILBERG. What is the Cramton Commission?

Mr. CARLINER. Mr. Roger Cramton was previously with the Department of Justice. The Commission studies the problem of illegal aliens. I can get a copy of that report and furnish it to the committee.

Mr. EILBERG. We would like to have that.

Mr. CARLINER. There is also section 249 of the Immigration Act which has a provision that people who were in the United States as of 1948, could adjust their status. That should be brought up to date, to say, 1965.

Mr. EILBERG. What would you think of the possibility of a 7-year statute, based on the fact that there could not be suspension, deportation for those, generally, who have been here for 7 years?

Mr. CARLINER. Yes, although 5 years is more generous. I think 7 years would surely be a typical number. I think 7 years would certainly be an acceptable period of time.

Mr. EILBERG. Mr. Carliner, I am sorry, but we are a bit rushed. We may have other questions for you.

Mr. CARLINER. I will be happy to submit any further written statement, and I will obtain the Cramton Report for the committee.

[A copy of the Cramton Report is retained in the committee files.]

Mr. EILBERG. Thank you very much.

[The prepared statement of David Carliner follows:]

STATEMENT OF DAVID CARLINER ON BEHALF OF AMERICAN CIVIL LIBERTIES UNION

The American Civil Liberties Union has not been stirred previously to react to the proposals to impose sanctions upon employers who hire aliens illegally in the United States. Although, we were concerned with the effect which the legislation would have upon the employment opportunities of persons lawfully in the United States as aliens, and even as citizens, our judgment was that we could not oppose the proposals upon the grounds that they violated the civil liberties of the aliens targeted or of the employers who were to be sanctioned.

But when we heard high government officials say that to be effective the legislation requires a piece of paper to be "prescribed by the Attorney General", a work permit for every one living in the United States, we became aware that the means have become worse than the end.

We are aghast that a former Acting Attorney General could urge this Subcommittee to adopt a proposal to make all persons seeking work in the United States produce their birth certificates, or an "appropriate Immigration and Naturalization Service document" and say in its support that this "approach would assure equal treatment for all Americans".

From the beginning this Subcommittee, although with other members, has indicated its opposition to citizens' identification cards and to other trappings of a police state as a means for deterring the employment of aliens illegally in the United States.

The American Civil Liberties Union urges that this Committee continue to oppose such methods. We specifically urge that it delete that part of section 2 of H.R. 982 which authorizes the Attorney General to prescribe and prepare forms for identifying persons in the United States for the purpose of securing employment.

Moreover, the American Civil Liberties Union believes that despite the hearings which have been held by this Committee over the past 4 years, not sufficient evidence has been produced to warrant such a drastic change in the mode of life in the United States.

No statistics, reliable or unreliable, on the number of aliens in the work force have ever been furnished to this Committee, only impressionistic guesses. Before adopting legislation in an area which would have sensitive impact, not only in the so-called illegal aliens but on all aliens and on citizens who have Spanish surnames, or names which are associated with Asian and African countries, the least that Congress should do is to obtain information as to the number of aliens in the labor force.

There should also be an awareness of the differences among the types of aliens who are described as "illegal aliens". The largest proportion are those aliens who enter the United States without inspection across the Mexican border. The nature of that problem is intermeshed with United States-Mexican relations and the nature of the economy on each side of the border. The dispute whether there are sufficient persons within the United States to perform the work which has been undertaken by Mexican Nationals has never been resolved.

The smaller proportions of aliens who are described as "illegal aliens" are those who have entered the United States lawfully as students, pleasure visitors, business visitors or in various categories. Many of these persons, students in particular, may be "illegal" because they have worked without permission, worked full-time rather than part-time, or have failed to maintain a full course of studies. Other aliens are regarded as illegal even though they may have pending applications to become permanent residents of the United States.

H.R. 982 makes no distinctions among these categories of aliens.

As written, H.R. 982 will be a license for counterfeiting because the requirement that an applicant for employment produce a born in American birth certificate, as experience with various Immigration documents has shown, will start printing presses rolling to produce birth certificates.

The proposal that the Department of Justice issue a government form to establish proof of citizenship or an alien authority to work is, in effect, another government identification card. It is the trapping of a police state.

Despite the hearings held on this bill, there is no showing that the economy of the United States requires this type of police control over the employment of aliens.

Mr. EILBERG. This hearing is adjourned.

[Whereupon, at 3:50 p.m. the subcommittee adjourned, subject to the call of the Chair.]

ILLEGAL ALIENS

THURSDAY, MARCH 13, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
CITIZENSHIP, AND INTERNATIONAL LAW
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:13 a.m., in room 2226, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Sarbanes, Holtzman, Russo, Fish, and Cohen.

Also present: Garner J. Cline and Arthur P. Endres Jr., counsels; Janice A. Zarro, assistant counsel; and Alexander B. Cook, associate counsel.

Mr. EILBERG. The subcommittee will come to order.

I would like to welcome Msgr. George G. Higgins, secretary for research of the U.S. Catholic Conference and his associates at the table.

Monsignor, for the record, would you care to identify your associates?

TESTIMONY OF MSGR. GEORGE G. HIGGINS, SECRETARY FOR RESEARCH, U.S. CATHOLIC CONFERENCE, ACCOMPANIED BY JOHN E. McCARTHY, DIRECTOR; DONALD G. HOHL, ASSOCIATE DIRECTOR, MIGRATION AND REFUGEE SERVICES; AND STEPHEN SOLIS, MIGRANT SPECIALIST, SECRETARIAT FOR THE SPANISH SPEAKING

Monsignor HIGGINS. Thank you, Mr. Chairman, and committee members. My name is George G. Higgins. I am the secretary for research of the U.S. Catholic Conference, the coordinating body of the Catholic Bishops of the United States. Present with me are three other members of the Conference staff—John E. McCarthy, director, and Donald G. Hohl, at my right, associate director, Migration and Refugee Services, and Stephen Solis, migrant specialist, Secretariat for the Spanish Speaking. We appear here today to present the views of the U.S. Catholic Conference on the problem of the alien who is in this country without proper documentation, the so-called "illegal alien."

This House Subcommittee which has studied this matter in depth over the past few years and has twice reported out bills which have passed the House, need not be subjected to still another summation of the problems facing the aliens themselves and our Nation as a whole because of the fact that the number of illegals has increased so

dramatically in recent years. The Church, of course, is vitally interested in knowing who the illegal alien is, why he has come to this country and, now that he is here, what can be done for him and his family by enacting legislative reforms which will be equitable and humane and will also be effective in preventing a recurrence of the problem under consideration.

The alien may be of any nationality and may come from any country in either hemisphere. When he comes from the Western Hemisphere his motivation is predominantly economic in nature. On the other hand, he may have a family in this country whose laws, as they are now written, force him to be separated from that family for 2½ years or more. He may also be a political refugee, but unless he comes from certain defined areas of the Eastern Hemisphere, he can be granted at most a haven in "limbo" but cannot be given permanent sanctuary in this country. In short, he is the victim of an oppressive political and/or economic system in his home country and a victim of discriminatory U.S. immigration laws and practices which foster family separation (should he be from the Western Hemisphere) rather than promoting family reunification.

Mr. EILBERG. Monsignor, may I just interrupt by telling you that the subcommittee has made a high priority of H.R. 981, the bill concerning Western Hemisphere immigration to this country, and we intend to act promptly. I just wanted to give you that information.

Monsignor HIGGINS. Thank you very much, Mr. Chairman.

He may also be the victim of a shortsighted, narrowly conceived definition of the term "refugee" as it is currently interpreted under our laws. All illegal aliens, however, share one thing in common—they soon become victims of discrimination and exploitation in the very country where they have sought a normal life in an atmosphere of freedom.

In an effort to find a solution to this problem, the sponsors of the legislative proposal before us today have, as a first priority, moved to penalize the employer of the illegal alien so as to remove the economic motive for aliens to take up unauthorized employment. We feel that the sick society of the illegal alien must be treated in many ways, not merely one, for as outlined above, he suffers from a variety of ills, not merely an economic one.

We therefore recommend a comprehensive package of legislative steps, to be taken concurrently, which will:

(1) institute an equitable preference system applicable to both the Eastern and Western Hemisphere based primarily on family reunification and the admission of refugees;

(2) grant adjustment of status for all persons regardless of their country of birth;

(I realize, Mr. Chairman, this does not fall within the purview of your subcommittee.)

(3) increase foreign aid and economic assistance to the countries of Latin America in general and Mexico in particular;

(4) create an across-the-board grant of amnesty with the necessary residency cutoff date for eligibility and adjustment of status, without chargeability against the numerical ceilings.

What is the rationale behind this recommendation in favor of amnesty?

First of all, I think it must be recognized that because of deficiencies over a span of many years in our foreign aid and economic assistance policies with regard to Mexico and other Latin American countries, because of our failure to prevent the mass influx of illegal aliens and our failure to enforce existing laws—a practice which makes it economically attractive for both the illegal alien and the employer to enter into working relationships—the Government of the United States bears a heavy share of responsibility for the chaotic situation which exists today.

Second, without a meaningful amnesty program, it is entirely possible that the members of this illegal alien society will be driven further underground and that a permanent subculture will be created in the United States. In such a situation it is doubtful that even massive expenditures of time, money, and effort on the part of the Immigration Service would ever lead to adequate controls. Would it not be more effective for the Immigration Service to expend its energy and funds in the area of prevention rather than in the area of apprehension and deportation?

Finally, should an across-the-board type of amnesty be granted, the extremely serious and troublesome suggestion that every American citizen be issued a common identification card or "internal passport" so called need no longer be considered.

Mr. Chairman, as you and the other members of the subcommittee are aware, Public Law 92–603, which was enacted on October 30, 1972, requires the Social Security Administration to screen all applicants for social security cards as to their eligibility to take up employment. If the card is sought for other lawful purposes and it is not used for such purposes, the name and address of the cardholder is reported to the Immigration Service for investigation. Thus if amnesty were granted, for example, to all who are in the United States today or as of January 1, 1973, the effective date of Public Law 92–603, then the social security card would become the proof of the right to take up employment, regardless of the date of issuance. It would become the control factor, and there would be no need to recall or reissue a single card.

Through a tightening up of the regulations promulgated under Public Law 92–603 and through the expansion of social security benefits to those occupational categories not yet covered, unauthorized employment would be minimized. As in the case of any law, of course—the Fair Labor Standards Act, for example, or the Internal Revenue Code—the degree of enforcement is the gage of the law's effectiveness.

The grant of amnesty in conjunction with the other above-mentioned steps becomes the key to solving the problem of those aliens who are here now and preventing the recurrence of this problem in the future.

As regards the specific proposals contained in H.R. 982, should it be agreed that sanctions against employers are a necessary adjunct to our proposals, we feel that such sanctions should be applied only prospectively. To accomplish this end, the suggested wording in section 274(b)(I) "* * * employ, continue to employ * * *" should be changed to read "* * * to hire and employ after the effective date of this Act. * * *"

The effect of the present wording of H.R. 982 would be a screening by the employer of all the employees within 90 days after the law was enacted. The dismissal of untold numbers of workers from their jobs in such a short period of time would cause, we believe, unbelievable havoc among their families and in the communities where they live. It would be physically impossible for the Immigration Service to move such large numbers of people. Moreover, in our judgment, it is unconscionable that our Government should even consider separating families by forcing a mass exodus or deportation of literally millions of men, women, and children.

In the process of screening the new employee, it should be mandatory, not optional, that the employer inquire of every applicant as to his legal right to take up employment. Such a requirement is essential to avoid any possible discrimination in the screening and hiring process.

We oppose in the strongest terms the requirement in section 274A that any officer or employee of the Department of Health, Education, and Welfare disclose the names and addresses of aliens "who such officer and employee knows" are unlawfully in the United States and are receiving certain welfare benefits. The very idea that the Department of Health, Education, and Welfare might be turned into an investigative or enforcement type agency is, in our judgment, thoroughly repugnant.

Lastly, as regards the proposed amendments to section 245, the adjustment of status provision, we do not feel that the restriction as to unauthorized employment should be included. A somewhat similar provision was contained in the 1952 act but was deleted as undesirable in the act of 1965. Since the grant of adjustment under this section is at the discretion of the Attorney General, abuses can be controlled by the sound exercise of that discretion. We further suggest that adjustment be made available to bona fide refugees regardless of the manner of their entry into the United States.

Mr. Chairman and members of the committee, as we approach the Bicentennial celebration of the founding of our country, let us adopt as our theme, in seeking a fair and humanitarian solution to this very serious problem, the familiar motto "Liberty and Justice For All."

Thank you, Mr. Chairman and members of the committee.

Mr. EILBERG. Thank you, Monsignor Higgins.

I have a few questions that I would like to ask you, Monsignor. Do you have any idea as to the number of individuals who would benefit by either of the amnesty provisions you have suggested—those in the United States today or those here as of January 1, 1973?

Monsignor HIGGINS. I do not. But I will ask Mr. Hohl of our Migration and Refugee Services, if he cares to make what I assume can be only an educated guess. I have heard the widest variations of figures in that area.

Mr. HOHL. It would be difficult to say, the two areas we can look at are: No. 1, is perhaps the number of people who are registered on the Western Hemisphere waiting list, certainly a proportion, whether it is a big or a small proportion, a certain proportion of those people are in the country right now awaiting the availability of visas. The other one, of course, gets us into the problem of how many illegal aliens are in the United States and we certainly are in no better position than the Immigration Service or other branch of the Government to make an estimate on that. It would be difficult to say.

Mr. EILBERG. All right. Now, you advocate across-the-board amnesty. Do you take into account, or to what extent do you take into account the amount of unemployment in this country? Do you also consider the numbers of jobs that are filled by illegal aliens which have been estimated by Immigration to be in the neighborhood of 1 million?

Monsignor HIGGINS. I might, Mr. Chairman, if you will permit a personal note, I might say that my whole background and training is in the field of labor and labor economics. I am extremely sensitive to the position of the labor movement on the issue which you have raised. My own instincts are definitely in the direction of protecting the rights of our own citizens and of legal aliens in this country, but I weigh against that the point raised in our testimony and that is what I consider to be the horrendous possibility of our Government on very short notice deporting what could be literally millions of people. And it seems to me that what we are trying to do, however successfully or unsuccessfully, is to look for a way to resolve the present crisis, and then find whatever ways are necessary to keep it from recurring.

But I have to depart from all of my friends in the labor movement, those of my friends in the labor movement, if there are any, who would take a stand against amnesty on the grounds that it would hurt our own workers because I cannot in my own mind live with the thought of our own Government just carrying on a massive deportation of people who have deep ties in this country today.

Mr. EILBERG. Monsignor Higgins, are you thoughtful of the following considerations. Many people, millions perhaps, have entered this country illegally, without thought of, or in violation of, our immigration laws, while many, many other people respectful of our laws, have made applications for immigration to this country and are waiting respectfully in line, let's say, in the Western Hemisphere, to the extent that the backlog is in the neighborhood of 2 years now? Do you agree with me that there is some injustice to those people who have tried to abide by our law? Those who are waiting their turn and are respectful of our immigration policy as distinguished from many who wantonly have ignored our immigration laws?

Monsignor HIGGINS. Well, I think I would have to say that, yes, I am aware of that. I would be forced in honesty, to say I do not know the answer to it and I will not attempt a logical argument to defend my position on it. I just am trying to weigh, in the balance, elements which perhaps cannot be reconciled. But many of these people who came in illegally—you have used the word, Mr. Chairman "wantonly"—I suppose that would accurately describe the position of some, but they are people with grave economic problems at home. Many of them, I suspect, although I would not attempt to prove it, were enticed into the country by employers who for their own reasons, wanted a large group of illegals here so that they could hire them at lower wages, et cetera.

We are dealing with what seems to me to be a terribly human problem, and while I would be—and I think my colleagues would join me in this—in favor of very effective efforts to prevent a recurrence of this problem, we are struggling with the human problem of what to do about it now, that is before us.

Mr. EILBERG. Monsignor, you are, I believe, suggesting an across-the-board amnesty proposal. As we look at this question, I wonder if you would support a case-by-case approach to amnesty which would consider not only the length of residence, but also family situations, employment records, police records, and so forth, a selective system of amnesty?

Monsignor HIGGINS. I wonder if I could ask Mr. Hohl again to speak to that, Mr. Chairman.

Mr. HOHL. We had hoped by the suggestion of an across-the-board type of amnesty, as it were, to kill two birds with one stone, solve two problems. First of all, we feel very strongly and have always felt very strongly that we need amnesty, and that we need amnesty especially, but not solely, for the purposes of family reunion.

This is the primary basic concern of the Church. If we go into the matter of a case-by-case study, by virtue of relationship, by virtue of residence, of perhaps refugee status, et cetera, it probably would take care of the vast majority of the people with whom we are primarily concerned. This does not mean that we are not concerned about other categories. However, the subcommittee has been faced with the very, very difficult problem of a sanction which has imposed a penalty against the employer, and the problem of how that employer is going to identify the prospective applicant for the job.

I think it also has been at least a recent concern of the subcommittee that there not be discrimination in this process of screening out the applicants for the jobs, so that the employer would not be in violation of the law.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman. I would like to follow up on a question the Chairman asked on the selective approach to the granting of amnesty because Monsignor Higgins has testified that there are deep ties that would be disturbed and that millions of people might be deported.

What if the ties are not very deep and what if the person happens to be single?

Mr. HOHL. If we get into the matter of selectivity—this is the reference I was making previously—if we say a primary concern is not to separate immediate members of families, we put it this way.

Mr. COHEN. Suppose he does not have——

Mr. HOHL. Then we get down to whether he has been here x number of years.

Mr. COHEN. In other words, we find his family is in Mexico and he is here.

Mr. HOHL. If we take a selective approach, of course, there are certainly going to be lower priorities given the fellow here who is single with no relatives in this country, as opposed to one with relatives.

Mr. COHEN. Would not that be a more equitable approach?

Mr. HOHL. It could be that way could take care of perhaps those with highest priorities—with which we are concerned. The problem of administration certainly has to be taken into consideration.

The adjudication of these people, having them come forward, I understand from the Immigration Service that there might be extreme difficulties in the selective approach if you give a definition of each person who has to qualify by virtue of relationship or as to resi-

dence, etc. From the standpoint of adjudication, this would be more difficult than if we had an across-the-board type of thing.

Mr. COHEN. Thank you, Mr. Chairman.

Monsignor HIGGINS. Mr. Chairman, Mr. McCarthy, the Director of Migration Services, would like to add a word on that point.

Mr. MCCARTHY. I just want to eliminate one little innuendo.

We do not, and are not, in this way condoning illegal immigration. We have the problem of people actually here now. It is our feeling that on the selective process, if H.R. 981 was passed, we would then have a workable structure built in and give the Immigration Service an area where to work because we would have the family, and relatives to identify.

Mr. COHEN. How does it prevent future abuses?

Mr. MCCARTHY. Well, no, no. If we can break the two things down, if we are talking about future abuses, we agree that it is all economic, that if the people were forbidden to work here—and I think Monsignor Higgins will go along with this—if people did not have jobs, they would not come. These are not tourists. They are people who need a "piece of the action" dollarwise. It is all an economic problem. The problem here is an economic problem and our feeling is, if H.R. 981 were enacted, as far as internally is concerned if it was a package proposition, 981, to have these people identified, learn who they are.

And you say about selection, every individual, presumably, would have to go before an Immigration Officer, as is the case now, and be checked out police-wise, public welfare-wise. This is done today in all our adjudications.

Mr. COHEN. If I could just respond, Mr. Chairman, according to Monsignor's testimony, it is not an economic problem but these are people who have come to this country because of being victims (on page 2 of his statement)—"victims of an oppressive political and/or economic system in his own country." It is not simply economics.

Monsignor HIGGINS. No, there are others. Obviously the refugees, most of them, are here for political reasons. The greater number that we are talking about are people who came here for economic reasons.

Mr. EILBERG. Monsignor, it appears to me that you place greater emphasis on family reunification—and I can't quarrel with that—yet you prefer to have an across-the-board amnesty.

Looking at the comprehensive package which you describe on page 2, talking about "an equitable preference system applicable to both the Eastern and Western Hemisphere", this subcommittee will give serious consideration to that and, hopefully, pass a bill similar to 981, as we did in the last Congress, "grant adjustment status to all persons regardless of their country of birth" and three and four, "increase foreign aid" and "create an across-the-board grant of amnesty."

Suppose we were to meet these steps basically—of course, this subcommittee cannot affect the foreign aid situation.

Monsignor HIGGINS. I understand that.

Mr. EILBERG. But if we were to provide some amnesty which would take care of real family relationships and substantially meet these other items or legislative steps, would you then approve 982?

Monsignor HIGGINS. Yes, then I think I would. What we have attempted to do was to suggest, without having any final answer to the problem, of course, that one single approach is not going to do it, that sanctions alone touch upon only one aspect of the problem, and we have tried to put it in a larger setting.

I am very, very conscious of the concern of people who are advocating sanctions. I have spent a great deal of time working on the farm labor problem. I am fully convinced in my own mind that many employers have deliberately enticed or recruited illegals to this country for their own purposes. I am quite sympathetic to the position of those who say there has to be a crackdown on that to remove economic motives; but are we trying to put that in the broader context.

Mr. EILBERG. This is a technical question which perhaps one of your assistants might want to address.

Page 4 of your statement. At the top you suggest a deletion of the language in section 274(b)(I), "continue to employ * * *". Since this legislation does not in any way affect the deportability of the illegal alien, what impact or what purpose would be served by the deletion of that language?

Monsignor HIGGINS. Mr. Hohl, would you speak to that?

Mr. HOHL. Your question, Mr. Chairman, was, inasmuch as this does not affect the deportability of the alien—was that it?

Mr. EILBERG. Yes.

Mr. HOHL. All right. The assumption here is that the alien—of course we are talking about the illegal alien, an illegal alien who is employed—therefore is deportable for one reason or another, not simply because he is taking up employment. So he would be deportable. And if the employer were required—not required now; we understand the language—but the effect of that language is, he is going to check, he is going to look over his payroll and if he finds the illegal on there he is going to dismiss him from his work. Whether this action is brought to the attention of the Immigration Service that an illegal has been on the payroll and that he has been dismissed or whether this person is just now without means of livelihood and no means of obtaining another job, the effect means that he is going to be out of work and he is going to be walking the streets or going to be leaving the country.

Mr. EILBERG. One more question, Monsignor, and then I will pass to the others.

On page 4 of your statement, you state that the employer should be required to make inquiry of every job applicant as to his legal right to take up employment. What specific affirmative obligations would you impose upon the employer?

Would a simple inquiry be sufficient, or would he be required to obtain and record documentation which is submitted by the applicant or would he be required to make actual determinations as to citizenship or legal alien status of his prospective employee?

Monsignor HIGGINS. I suppose you might say we deliberately avoided that issue. I will be glad to speak to it, but the main purpose of inserting that particular paragraph in the testimony was to try to reduce to the bare minimum any possibility of the employer using this for discriminatory purposes. As you know, Mr. Chairman, I am sure there has been a great deal of testimony before your committee on this. It is of great concern to many of the Spanish-speaking groups

in this country. They are concerned that all Spanish-speaking citizens, legal aliens, and illegal, will be treated alike because of the color of their skin and this will redound to the harm of the whole community.

I am not technically equipped to argue strongly one way or another on specific ways of doing this. I am familiar with the testimony that has been given before this subcommittee on the issue and I would be willing myself, to leave that to the judgment of the subcommittee because I do not claim to have the competence to know precisely how you would do it. But we are concerned about the principle of making sure that the employer does not use this as a dodge in some way which will hurt a whole category of people by reason of their color or language or national origin.

Mr. EILBERG. Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman. Monsignor, thank you for a very helpful statement.

Let me ask you whether you agree with the perception that failure to do something about the illegal alien problem will begin to, or will, jeopardize the possibility of taking some constructive action with respect to legal aliens, including, for example, points one and two on page 2 of your testimony and, in fact, will jeopardize the continued development of a sensitive and humane legal immigration policy in accordance with which I think we took enormous steps in 1965 when we changed the nature of those laws.

Do you perceive that interaction which I am talking about and which I have seen commented about in one place and another?

Monsignor HIGGINS. I am not working professionally in the immigration field. I can give you only my strong hunch that this will work against an improvement, if we allow the illegal alien problem to go unresolved. If it gets worse, as it may well get worse without adequate legislation, then I am sure it will hurt our chance of improving the situation in other areas.

But Mr. McCarthy and Mr. Hohl are professionals in the field. Do you wish to speak to it, Mr. Hohl?

Mr. MCCARTHY. We can't agree with you more. We want to solve this illegal immigration problem. We want to solve it as quickly and as permanently as it can be done. We are saying, how can we do it without a complete disruption of millions of families—the Commissioner says 10 million people? That is probably not including their dependents. We are in a crisis! We agree with you. But we are saying, action against the illegal per se, should be tied in with other nondiscriminatory administrative remedies, to wit the equality on the preference system, the permission for adjustment of status—once you have these two items, you then develop a manageable level of the real illegal, we say, a person without any ties. You then know what you are talking about.

These people will come up and whatever the judgment of the committee is, and whatever administrative remedies or relief they are going to provide to this known factor, can be determined. Then, there is no question, I do not think, against action, against the illegals who do not enjoy any benefits that this committee will not confer upon them. But as to the illegals in the future, there should be the strictest controls and the controls should relate to economic factors to eliminate the problem.

And we are looking at a crisis for years to come. The average age in Mexico is 15 years, the average salary is $650 a year, with 50 percent unemployment. Across a muddy stream, $12,000 a year—8 percent unemployment going down or up, it does not mean very much. But you've got $2.20 an hour minimum wage. The top is going to blow off the cooker if we do not do something about it.

The thing is economic. But you have to do it with a normal consciousness of taking care of two separate items. The people are here because, number 1, our immigration laws were not enforced. The problem is here today on your hands, and you cannot deport 10 million people. Let's be honest with ourselves. We've got to figure some way to divide the package up in manageable sizes.

Mr. SARBANES. Which package?

Mr. MCCARTHY. We are relating now to those who would enjoy a preference status if we just equated our laws.

Mr. SARBANES. You divide those covered by point number 4 in two different categories, I assume by that statement?

Mr. MCCARTHY. I see this is the point for the discretion of your committee. This is the committee's problem. We are saying, we have major problems here, and the major problem is family reunity, and the problem descends in a downward course as it relates to the single individual who has been here 7 years and can adjust under our existing laws, the suspension of deportation. Those who have been here less than 7 years, I assume the committee in their judgment which one of these single areas they can find within their willingness and God-given honesty to determine what relief should be provided. But a major interest, our major interest is on families. These are people who in any other country outside the Western Hemisphere would enjoy this preference. A person born in China, Italy, or Greece comes into this country and marries and there is no problem. He has all kinds of preferences for him. A person comes from Mexico, Panama, Central America, and there is no preference for him.

Mr. EILBERG. Mr. FISH.

Mr. FISH. Thank you very much, Mr. Chairman.

Monsignor, thank you for being with us today.

I think we all agree on the issue of family reunification, how important it is. Your stress is very understandable. We have had testimony however, from the INS to the effect that from 5 to 10 percent of the visitors to the United States each year get "lost." If you have 6 million visitors, this is a sizable number of people and I think that it is really a problem, to which we should address ourselves.

These people are either students or businessmen or at least they have the money to come to this country, the passage money. I would guess that they are largely adults, young and middle-aged adults, and highly employable. I do not think we really address that problem because they are also more than likely single, or at least they do not have ties in the United States. And I just wondered if that is a proper assumption. We have not yet gotten the figures from General Chapman that I asked for at the time that he testified. Does your concept of the amnesty extend to this group as well?

Monsignor HIGGINS. Well, I will address, or try to answer the question and throw it out to the professional staff people if they care to comment on it.

From a realistic point of view I think I would be inclined to say yes, I would like as much amnesty as is feasible and I have been around long enough to know that that is a very flexible term, for the reason I believe it would be a monumental job to try to find and deport all these people. On the other hand, I do not want to leave the impression for the moment that I am unconcerned with the problem of the man who deliberately overstays his visa and is a single man or woman and who takes advantages of that situation.

Whether it can be controlled or not, I do not know. General Chapman would have to answer that question. It seems to have been going on for a long time. This is one of the reasons we indicated in our summary that we think our Government has some responsibility for this. We helped to create this problem, I think. But we let it get out of hand, and then in the process, lots of human problems were created.

I was here the day General Chapman testified to that point in response to a question from one of the members of the committee and I just would not want to have his job to try to stop that. He did not seem to me to give any indication that they were in any position really to control it. I remember one of the members of the committee pushed him hard on that. But since we have let it go on for such a long time because apparently not only in the case of those who overstayed their visas, but the whole border problem, etc., now we are faced with a crisis and we are concerned about the terrible human problems that are involved in that crisis.

We are also concerned about stopping it or controlling it. I do not have any answer; I would have, obviously much less sympathy for one who deliberately overstayed his visa, who was not coming over here for sheer economic necessity the way many other illegal aliens have.

But whether it is a practical solution for our Government, once the crisis is upon us in such a large scale, to try to find all these people and to deport them, I would not know. I get the impression that the Immigration Service is already over its head.

Mr. Fish. Monsignor, at the bottom of page 3 in your testimony, you start a paragraph stating "The grant of amnesty in conjunction with the other above-mentioned steps becomes the key to solving the problem of those aliens who are here now and preventing the recurrence of this problem in the future."

May I ask you how amnesty would prevent the recurrence of the problem in the future. How would you treat the argument that, the very fact that amnesty was granted to all those here illegally would encourage others to expect amnesty a few years later again; if they come in would we be encouraging more people to forge documents, to falsify the bona fides to their intent to be here for a temporary stay?

Monsignor Higgins. There are two questions here. The first question is, our statement says, amnesty in conjunction with the other proposals. I think what we are suggesting there is, amnesty plus controls, whether it is through the use of a non-negotiable social security card, or some other means, sanctions to control a situation, we are not talking about amnesty alone.

Your second question is a question that I do not think anyone can answer. The only answer I would attempt is that we would have to get

very serious about it, and I do not think we have been serious up to now. We have allowed a pretty free and easy approach to the entry of illegals. I know cases myself which I could not prove in a court but which I am satisfied in my own mind about, where employers in California on the farms have brought in illegals to break strikes. We have let that go on over a long period of time. Maybe we could not control it at the time. I don't know. Maybe the Immigration Service was not equipped to do it, but for whatever reasons, it has happened. I assume if this current crisis can somehow be humanely resolved, that there will be widespread support for a much more serious type of control on the situation, because I do not think myself, as Mr. McCarthy has indicated, that we can let this thing go on. I think we would have endless crises in this country if we did not bring this under some proper control.

But the committee is taking what we would like to think, perhaps wrongly, is the humane approach to it. But the problem is here, to a large extent, because we, either through negligence or because we turned the other way and let it get out of hand, and now we are faced suddenly with a crisis.

But if I may interrupt for a moment on this very point, I wonder if we can perhaps come back to that a little later. Mr. Fish——

Mr. FISH. I have one more question.

Monsignor HIGGINS. Yes, surely.

Mr. FISH. You used the word "humane" as far as the approach is concerned. I think you could, in justification, use "moral" also. I want to ask you also, because you must have considered this, the morality of illegal aliens holding down jobs in the United States and through the amnesty being permitted to continue to do so, jobs of a category, we are told by witnessess, in direct competition with minorities and youths who are either American citizens by birth or naturalization, or aliens, lawfully admitted and entitled to work. Somebody is going to get hurt.

Presently we are told that there are millions of illegal aliens holding jobs here that would otherwise be available to those legally entitled to work.

Monsignor HIGGINS. I said, I think before you entered the room, Mr. Fish, in response to a very early question, that because of my own background over a period of 35 years here in Washington in the labor field, in the general field of labor relations, and allied areas, I am extremely conscious of this problem and I have great, great sympathy for the position taken, for example, by the labor unions on this matter. But I am finding it difficult to reconcile the two things. What do we do about the problem which has snowballed and has faced us with the crisis?

I just find it hard to conceive of our country solving it by expelling great masses of these people. I would think that once we can work out some resolution of the status of the people who are now here, it would be far easier for the labor movement people to do what they have not been able to do until now, to my knowledge, and that is to organize these people. That is one of the problems that the trade unions are faced with.

I rather imagine that before your hearings are concluded you may hear testimony in this form from some unions who are attempting to do this and are leaning towards amnesty as a solution to their problem.

But, speaking to that point, I wonder if I could raise the point which I did not put in the testimony but which I feel very strongly about. On the one hand, Mr. Chairman, or Mr. Fish, you have indicated and correctly, this enormous problem of the possibility and maybe the reality of jobs being taken by illegals, and at the same time we hear of groups—I will not mention any; but you are familiar with them—who are saying that we must have a Bracero program or we must have special visas for areas in which there is not sufficient labor; and I suspect that if it were not for that, the insistence on that, that this problem would have been acted on legislatively by now.

Very powerful groups in this country are saying, with 8 percent unemployment, 20 percent unemployment in some areas, that we have to have a Bracero program, or special visas, to take care of shortages of labor. I have just been amazed that that proposal would come up in a time of recession. Very serious, deep recession.

Our position would be very strongly against the restoration of any Bracero program or any addition to the use of special visas for special categories.

In Florida they are still using special visas for certain cane workers. Two or three weeks ago I was in Florida, and read dramatic stories in the local papers saying that there are twice as many farm workers available in Florida as there were a year or two ago, and as a result, wages have gone down almost 50 percent. There is a great oversupply of farm workers because of the recession. People who left the farm labor market and went into the city to take low-paying jobs, lost those jobs in the recession and now are back on the farms.

The same thing is happening in California, so we would take a strong position against the restoration of anything like the Bracero program or against the visas.

Mr. EILBERG. Mr. Russo?

Mr. RUSSO. Thank you, Mr. Chairman.

Monsignor, I am sorry I was late but I have reviewed the testimony.

Monsignor HIGGINS. Since you are from Illinois and I am too, Mr. Russo, we will forgive you.

Mr. RUSSO. I have a couple of comments, and then some questions.

It is not the subcommittee's feeling that we have all the answers to the illegal alien question, we are trying to find as many solutions as we possibly can. You are aware of all the work that they have done in the last two Congresses to get this passed, and it seems to me one of the problems of our Government—being a Freshman Congressman—is that we only react when there is a crisis confronting this country.

The illegal alien problem has a tremendous effect on unemployment, revenues to the Government, schools, and social security benefits.

It seems to me that we need all the help we can get, especially from a Government agency. I just don't quite understand why you would not want the Health, Education and Welfare Department to help us.

On page 4, you indicated your displeasure with the terminology we use in section 274A, where we would have an officer/employee let us know the names and addresses of illegal aliens that he knows of. Why wouldn't you want that additional help?

Monsignor HIGGINS. It strikes me, Mr. Russo, as being a rather heartless turn of events to turn a humanitarian agency, the one overall

agency in the Government that is supposed to be concerned with helping people, welfare and health services, or whatever, to turn them, in a time of crisis, into an investigative agency. It is like making the social worker an agent of the Internal Revenue Service or whatever.

I cannot prove it, I cannot argue it even logically, but it just strikes me that it would be a bad turn in the affairs of our Government to turn that particular agency into an investigative agency.

Mr. RUSSO. But you are aware of the problem facing the Immigration Service, that it does not have at this point, enough manpower to do the job? I imagine that in time, we will address ourselves to that problem. Until we do, we will seek whatever help we can get.

It is not that we want to deport everybody, but our first obligation is to the American people and then we can consider the illegal aliens.

Also, just one question on why you feel the restriction as to unauthorized employment should not be included in section 245.

Monsignor HIGGINS. I will ask Mr. Hohl to speak to that, if he would.

Mr. HOHL. This particular section of the law, while certain statutory requirements are spelled out, is a provision of the law which is left to the discretion of the Attorney General which means delegation to the officers of the Immigration Service. Flexibility is needed. This is the whole point. Flexibility is needed in this type of provision.

We have had extreme difficulties with this section of the law prior to 1965—this is in the administration of it—as to who would qualify and not qualify, and under what conditions and so on. We just feel that by leaving the present flexibility in the law, that it would be far easier for the Immigration Service to administer it on a case-by-case basis, and since it is discretionary that any abuses that may arise in an individual case can certainly be taken care of through the just exercise of the Attorney General's discretion.

But to tie their hands with this additional restriction, I just do not think that it is a good move. That's all.

Mr. RUSSO. Monsignor, how do you feel about a 5- to 7-year period for amnesty rather than outright amnesty as of 1973?

Monsignor HIGGINS. Our suggestion gives two alternatives, either as of the date of the law, the enactment of the law, or going back to the other law which would probably bring about a period of 3 years. Three years would strike me as being a flexible, reasonable arrangement, going back to the date of the law referred to.

Mr. RUSSO. January, 1973, I believe it is.

Monsignor HIGGINS. Yes, I realize, of course, that your subcommittee, if at some time it wants to respond to this issue of amnesty, it is going to have to struggle with the question of the cutoff date, but we have suggested that as a possible alternative.

Mr. RUSSO. I have no further questions. Thank you, Monsignor.

Monsignor HIGGINS. Thank you, Mr. Russo.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Just a couple of questions, Mr. Chairman.

Perhaps preempting the next witness, I will read anyway from a statement that he will offer. It says,

> As long as the United States continues to offer wages which are generally higher than those in other countries, or at least as long as aliens continue to believe that to be true, the poverty in countries like Mexico will continue to push aliens to the United States and there is little the government can do to stem the flow.

And then the witness will testify as to how we can at least stem the pull force of the employer in this country because I guess the thrust of his testimony will be that you will always have illegal aliens pushing to get into this country because of the poverty in other countries.

This is what troubled me a little bit about the so-called "blanket amnesty" approach that you advocate. On the one hand you suggest a lack of enforcement of our laws is the principle for the crisis we are now confronted with, and yet at the same time, you would adamantly oppose an agency such as HEW from reporting to lawful authorities that someone who is here illegally is taking advantage of the welfare benefits paid for by the taxpayers of this country for those who are supposed to legally receive them.

So I think they are inconsistent positions, on the one hand, that the lack of enforcement of our laws creates a problem, and yet we suggest another means of trying to control the problem and you advocate a strong position against it. I simply feel that "blanket amnesty" is about as inequitable as blanket deportation, and one which I, frankly, could not support.

Monsignor HIGGINS. Could I respond to your first observation? On HEW, as I said in response to another question, I am not prepared to argue the thing logically. I have a deep feeling that that is not the right agency to use as a policeman. That's all. Our Government obviously has to have enforcement police and officers.

Mr. COHEN. How about Social Security?

Monsignor HIGGINS. Through the use of the card system, yes. We are playing around with that idea. Your committee has heard a great deal of testimony, I know. I think that is an accepted practice in the United States. The social security card is not thought of as an internal passport so to speak. We have become accustomed to it as a normal way of doing business in the United States, and it seems to me there is an area in which improvements could be made and that there is a potential there. But the internal passport frightens me—I won't say "frightens" me, but I do not like it. HEW just strikes me, as being, of all the agencies of Government the one that we just should not ask to turn them out, while it is mainly concerned with giving service to people, to turn around and be the one that——

Mr. COHEN. There are people who are lawfully entitled to it.

Monsignor HIGGINS. Yes, but I have no answer to it. As you say, it is inconsistent. I said as much myself when I said that I could not argue it logically.

Mr. COHEN. Thank you. That's all I have, Mr. Chairman.

Mr. EILBERG. A couple more questions, Monsignor.

We are concerned with fairness and doing the right thing. On page 4 of your statement, you object to the provisions of H.R. 982 which would prohibit adjustment of status of those aliens who accept employment in violation of their status.

This provision, as you know, was added specifically to deter nonimmigrants from accepting authorized employment. Should such individuals be permitted to adjust their status when they have totally disregarded the conditions placed on their nonimmigrant admission?

In other words, I am talking about fellows who are admitted as visitors who know they are not allowed to work, who overstay deliber-

ately, violating the provisions of our law. Do you think that this is morally right, Monsignor, to grant them amnesty?

Monsignor HIGGINS. Could I ask Mr. McCarthy to speak to that?

Mr. MCCARTHY. What is actually happening today, the Immigration Service is acting the way you suggest they act. They are acting the way I suggest they act. They are denying the application for adjustment of status where people are malingering, stretching out things, finding angles, they are denying them.

The only question we have, by putting it in the law this way, when a case comes up with family and something else, the guy's hands are tied. Where it is an equitable case he cannot do it and we are saying if you want to strengthen it in the idea of the committee in its report, fine. As far as putting it right into the law, you are tying the Immigration Service's hands in what we consider equitable cases.

Mr. EILBERG. You are saying, two wrongs make a right.

Mr. MCCARTHY. No, no. I am not saying——

Mr. EILBERG. And you are not really answering my question.

Mr. MCCARTHY. I am answering——

Mr. EILBERG. I am asking you whether this is morally right, someone entering our country with bad faith, knowing full well he does not intend to stay on a visit and yet he——

Mr. MCCARTHY. I cannot agree with you more.

Mr. EILBERG. What did you say?

Mr. MCCARTHY. I cannot agree with you more.

Mr. EILBERG. I think you have answered my question. I would also be interested in knowing whether your organization supports the idea or the concept of imposing penalties on those employers who "knowingly" hire illegal aliens?

As you may know, the AFL–CIO suggested removal of the work "knowingly."

Monsignor HIGGINS. I am familiar with the debate and have heard some of the testimony and read other parts of it. My own disposition would be to be very strict with the employer on this issue, but I don't know the legalities of it. I am told there are sound legal opinions that raise questions as to how it should be worded.

I must bow out at this point because I do not know enough about the law to know how it should be worded. But I have no compunction myself, as a matter of principle, about being very strict with the employer who is deliberately using illegals, and my own impression is, and I suspect in this area most of us—I am not saying members of the committee—but most of us outside the committee, are working on strong hunches because there is so little hard information.

My own impression is that a good many employers not only have knowingly used them but have deliberately used them.

And I know of cases where I would be quite prepared to believe that this is the case.

Mr. EILBERG. Mr. Fish.

Mr. FISH. Monsignor, if you propose being strict with employers, how would you handle the case of a union which knowingly is accepting as members persons they suspect or know to be illegal aliens?

Monsignor HIGGINS. They are already hired?

Mr. FISH. Not necessarily. It could be a closed shop situation. I am thinking of the other cases, going out to organize, knowing that they are illegal aliens.

Monsignor HIGGINS. I would think if they would do that, a good part of our problem would be over. They have not done it. If they had done it, we would be further ahead. I do not consider using the unions as a means of stopping this, as a feasible way of doing it. Unions only organize people who are already hired. They cannot go out and organize unemployed masses of people hiding as illegals.

Again, that may be an inconsistency on my part but it does not seem to get to the crux of the problem. If they are here and hired, then it seems to me that by definition that is what the union ought to be doing. That's organizing. I think they can hold themselves responsible for not having done as much of it as they should have over the years. Some are doing it now.

Mr. EILBERG. As I said, Monsignor, the AFL-CIO has suggested the removal of the word "knowingly" from its legislation. It occurs to me that by doing so it might increase employment discrimination. The employer may feel, "I don't know whether this fellow is an illegal or not. If he looks like an alien * * * I am not going to hire him. There is no guilty knowledge required on my part so I am not going to take a chance, I am not going to hire him."

How do you feel about what I just said? Do you have any response to their recommendation and would it increase the possibility of employment discrimination against ethnic and minority groups?

Monsignor HIGGINS. I assume much would depend, Mr. Chairman, on whether the employer was required to ask the same questions of all new employees. If he had to go through the same process to eliminate any danger of discriminating because of color or race or national origin, that might eliminate it.

If I thought that by going the route that has been suggested, by tightening it up, that this would lead more or less, inevitably, to discrimination among certain groups, then I would more or less be opposed to it.

But it seems that it is possible to combine fairly strict requirements with nondiscrimination and I assume others have testified on this and will—the Spanish-speaking groups feel very strongly on this.

Mr. EILBERG. Thank you, Monsignor.

Ms. Holtzman?

Ms. HOLTZMAN. Thank you, Mr. Chairman. I just wanted to ask you whether you favor, in your amnesty proposal, permitting everyone who is in this country illegally to be granted amnesty—every immigrant that is here illegally?

Monsignor HIGGINS. That's what we're advocating, across-the-board amnesty, as of whatever the cutoff date is. And there has been much discussion as to whether or not that is fair and consistent.

My position is that whatever unfairness would be involved in this general amnesty has to be weighed against what we do about getting these people out in great, great numbers.

Since the situation is here at a crisis stage, I am a little more concerned about where we go from here, rather than weighing all of the, of the difficult niceties, in the question of unfairness.

I just happen to think, and I think our committee does, that in weighing it in the balance, there is more to be said for getting this problem behind us and then working up whatever strict requirements are needed to control the problem in the future.

There is a problem of the cut-off date, and I am sure—well, one of my colleagues has just said, we would naturally exclude such classes as criminals, narcotic law violators, subversives, et cetera. I assume that is not the question to which you are referring.

Ms. HOLTZMAN. I was concerned about whether you would have any exceptions. I am pleased to see you recognize the need for some.

I have no further questions, Mr. Chairman.

Mr. EILBERG. I do not want to prolong this unduly, but this subcommittee, in previous Congresses, has had the opportunity to go down to the Mexican border and visit a detention center and speak to illegal aliens who had been seized and were about to be returned.

I recall one visit when I was present with about 100 detainees who were about to be returned to Mexico. I might say I was much impressed with their appearance and their character.

These were not criminals and they were obviously looking for work but had been caught.

But, Monsignor, I questioned them—we questioned them, Chairman Rodino and myself—as to what their intentions were had they not been caught. And almost every man—and this may surprise you—indicated that he did not wish to stay in the United States. Their intention was to stay here for a limited time, make some money and go home. So I say to you, sir, here you would grant amnesty to all these people when, in our limited experience, but experience nevertheless, most of those people do not wish to remain.

Monsignor HIGGINS. I can only respond again by hunch. Off the top of my head.

Number one, I would say, Mr. Chairman, if amnesty were granted to them, they could still go home, but I tend, from my limited experience in dealing with this problem, to question people when they say they intend to go home. It is like the Irish who came here, my people being of Irish descent, they came here after the potato famine. I am sure many of them thought they were going home. Very few of them did. Most of the Italians who came from little farms in southern Italy thought that they were going over only to work on the railroads for a few years, but were certainly going to go back and buy a farm.

Very few did. I just question it. But that is just a hunch on my part. I do not think our history bears it out that they do that.

Mr. EILBERG. Monsignor Higgins, the subcommittee really wants to thank you very much for your valuable contribution——

Monsignor HIGGINS. Thank you, Mr. Chairman.

Mr. EILBERG [continuing]. And bringing those knowledgeable people together to work with us year after year and who have been very helpful. We certainly appreciate the guidance, friendship and assistance of your organization over the years.

We will take your views and give them our consideration.

Monsignor HIGGINS. Thank you, Mr. Eilberg, and members of the committee. Thank you.

Mr. EILBERG. Mr. Manuel Fierro, President of the National Congress of Hispanic-American Citizens.

Mr. Fierro, we welcome you, and I think it would be helpful before you begin your testimony if you would identify the membership or groups that you represent. I understand you represent a number of groups. You may not have a listing of names and addresses of your membership, but it would be helpful to give this subcommittee some information on whatever organizations you represent.

TESTIMONY OF MANUEL FIERRO, PRESIDENT, NATIONAL CONGRESS OF HISPANIC-AMERICAN CITIZENS

Mr. FIERRO. Very good. Mr. Chairman, I submitted the list of the board of trustees because most of those on the board of trustees are representatives of national organizations or local organizations who represent such groups as the Latin-American Manufacturers Association, LULAC, League of Latin-American Citizens, Puerto Rican organizations, the American G.I. Forum, Image, National Association of Spanish-Speaking Government Employees, SER, and so forth.

There is a member of all the major groups on the board of trustees, but I can additionally submit to you the actual representation on the board and also the affiliations of the numerous organizations throughout the country that are affiliated with us.

Mr. EILBERG. We would like to have that. Also—and this may be difficult for you to answer—but how many Spanish-American citizens would you say you represented here this morning?

Mr. FIERRO. I would approximate around 3 to 4 million Spanish-speaking individuals.

Mr. Chairman and members of the committee, my name is Manuel D. Fierro. I am the president of the National Congress of Hispanic American Citizens, a national, nonpartisan citizens lobby for the Spanish speaking.

On behalf of our 25-member national board of trustees and the 95 national and local participating Spanish-speaking organizations, I want to thank you for the opportunity to appear before you to express our concerns and to make some recommendations regarding the Rodino "illegal alien" bill (H.R. 982).

It is clear to us that the only group that profits from the influx of illegal aliens into this country and the group which is the major stimulus for the illegals' movement across the border are the big farmers, industrialists, and businessmen who employ them. Exploitation of this vast supply of cheap labor is a time-honored practice in the Southwest. As a result, employers of illegal aliens have been able to maintain low wages and poor working conditions, break strikes and labor organizations among citizen employees, discharge workers with impunity, and manipulate the immigration laws to bilk both the illegals and the domestic work force. These employers are not just innocent beneficiaries of the illegal immigration, they are habitual exploiters of illegal aliens.

As long as the United States continues to offer wages which are generally higher than those in most other countries, or at least as long as aliens continue to believe that to be true, the poverty in countries like Mexico will continue to "push" aliens into the United States, and there is little that the Government can do to stem the flow. Efforts to reduce the influx of illegals have not proven successful. While the number of apprehensions has gone up sharply recently, this probably reflects an increase in the number of illegal entrants rather than an improved enforcement of the immigration laws. The Government can, however, control the forces in the United States which act as a "pull" on the illegal aliens. The most effective means would be to crack down on the employers who induce the illegals to enter and who profit from their presence.

The three-step employer penalty provisions in the H.R. 982 are cumbersome and ineffective in dealing with the illegal alien problem. The most effective way to discourage employers from hiring illegal aliens is to make them liable for criminal penalties for hiring illegals. If the purpose of immigration laws is to protect the domestic work force, it is logical to exercise the most stringent control at the place of work. Therefore, we strongly urge that penalties for violations be substantially strengthened by providing for criminal penalties, following a hearing, for the first violations as well as subsequent ones. We further recommend that once criminal proceedings have been initiated, that the Federal courts be given jurisdiction to restrain and enjoin further violations of the law.

These recommendations are not without failings. Stringent penalties on employers will force them to carry out part of the INS's function, at the expense of fairness and objectivity, compound the problems of discrimination.

Under the proposed legislation, employers will be able to require prospective employees to sign papers indicating that they are either American citizens or aliens permitted to work in the United States. The forms will be provided by the Attorney General and will constitute "prima facie" proof of the employers' good faith efforts to comply with the statute. It is easy to see, however, that unless the INS keeps a closer surveillance of employers than it has in the past, such a procedure could degenerate into a mere formality. The employers could simply require their employees to sign these papers before they start to work—the way most employees have to sign withholding statements or give their social security numbers—without explaining the significance of the forms, or without making any effort to determine whether their employees are being truthful when they sign.

The illegals, often illiterate in both English and Spanish and badly in need of work, would probably sign the forms anyway, even if they knew what they meant. Unless the employers are forced to look beyond the signature and determine whether or not the employee is being truthful, the signed statement might simply become a way for the employer to evade the impact of this law.

On the other hand, to require the employers to obtain some kind of proof of citizenship or permission to work in the United States would undoubtedly work a hardship on citizens, particularly people who do not have drivers' licenses, passports, or birth certificates. If an employer weren't sure that a prospective employer was telling the truth, he might not hire that person for fear of prosecution. This would have a detrimental, adverse effect on the employment of Mexican Americans as well as those labeled as foreign-born. H.R. 982 in its present form abets discrimination against Mexican Americans and foreign-born persons, and will encourage employers to deny Mexican Americans an equal employment opportunity on the basis of national origin.

Mr. Chairman and members of the committee, I cannot overemphasize the seriousness of this fact, particularly in light of the long and well-documented history of job discrimination and other forms of exclusion experienced by Mexican Americans, and other Spanish-speaking groups in this country.

A feasible alternative to this dilemma, which we strongly recommend to this committee, is to include specific language in H.R. 982:

(1) that would prohibit an employer from discriminating on the basis of national origin;

(2) and where discrimination on the basis of citizenship has the effect of discrimination on the basis of national origin, a lawful immigrant admitted for permanent residence who is domiciled in or residing in this country may not be discriminated against on the basis of citizenship.

Testimony presented before this committee by the Department of Justice and other organizations and individuals have pointed out that in its present form, H.R. 982 will lead to violations of title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of national origin.

Testimony presented before this committee by the Department of Justice and other organizations and individuals has repeatedly pointed out that H.R. 982 will abet discrimination against American citizens on the basis of national origin, a clear violation of title VII of the Civil Rights Act of 1964. Our proposal, however, would guarantee that the rights of American citizens are protected and that they would provide for equal opportunity in employment.

In order to provide for effective enforcement and policing of our laws, we strongly urge the committee to consider a provision in this legislation that would allow interested third parties to bring suit against employers who hire illegal aliens. It is the unskilled Mexican-American and unions who are hurt the most severely by the entry of illegal aliens. Allowing such parties to bring suit would be effective in checking abuses by the INS which might otherwise continue its policy of lax enforcement of the immigration laws.

Additionally, we urge the committee to deal with the problem of green card commuters, as well as aliens entering on tourist visas. H.R. 982 fails to deal with the controversial problem of commuter aliens. These aliens, usually from Mexico or Canada, were once issued an immigration visa for permanent residence in the United States, but they continue to live in their native country while entering the United States daily or seasonally to work, using the so-called green card (Form I–151) to cross the border.

The special status accorded these aliens has aroused considerable criticism in some parts of our community. Critic's maintain that this special status subverts the labor certification program begun in 1965, and that it is contrary to the spirit of congressional policy of providing equitable treatment of all potential immigrants. In a recent Supreme Court decision, the Court upheld the INS's handling of commuters on the grounds that Congress has tacitly accepted the present status of commuters by failing to legislate against the INS's questionable interpretation of the immigration laws. This decision essentially throws the commuter problem back into the hands of Congress.

Therefore, we urge this committee to seriously consider another provision that would prohibit green card commuters from working in a place of employment when a management/labor dispute and/or strike is in progress.

A related problem is the 72-hour tourist visa (I–186). Aliens seeking employment often use this visa to gain entry into the United States,

but stay for many days or weeks beyond the 72 hours. The INS has been extremely lax in policing the use of these visas, and should revise its procedures for regulating their use. One solution would be to date the visas and require that they be turned in at the border when the visitor leaves. Appropriate action could be taken if a person tries to leave after overstaying the permitted period.

Mr. Chairman and members of the committee, one other area of deep concern to us and which we strongly support and recommend to the committee, is to include in H.R. 982 provisions that will provide that certain aliens illegally in the United States may have their status adjusted to those of permanent residence. Many of these illegal aliens have established their roots in this country, contributed to the growth of many of our communities, and established themselves as law-abiding residents in this country. It would be an injustice to uproot and disrupt the lives of these families and their children. Let us not repeat the same mistakes we have made in the past.

We recommend that similar language as contained in S. 3827 be included in H.R. 982 that would provide aliens who are in the United States illegally with the opportunity to apply for adjustments of status to that of an alien lawfully admitted for permanent residence. The requirements and conditions should be:

1. That the alien be eligible to receive an immigrant visa and that he be admissible to the United States for permanent residence.
2. That the alien has been physically present in the United States for 3 years on the date of enactment.
3. That he be physically present in the United States on the date of enactment.

Adjustment should be made without regard to numerical limitations and should not affect the number of available visas to the country. Adjustment should be available for 2 full fiscal years following the enactment, and that provisions should be included to permit those adjusting their status to accept or continue their employment. Consideration should be also given to an illegal alien who applies for adjustment of status unsuccessfully.

Mr. EILBERG. Excuse me, sir, your prepared statement said 1 full fiscal year.

Mr. FIERRO. That was changed from 1 to 2 years because of the regulations; it would take a considerable length of time before they would be put in the Federal Register.

Mr. EILBERG. All right.

Mr. FIERRO. So, that was the reason for the change.

Provisions which should also be considered for inclusion in the amendment are: preapplication counseling, clear acceptance criteria, a 2-week postponement of notice of deportation to allow alien established in the community, time to arrange his affairs before leaving, legal counsel, and reasonable shelter pending deportation for unsuccessful applicants.

I would like to make one final recommendation regarding section 5 of H.R. 982. Because the act will not become effective until at least 90 days after its enactment, this interim period could be used by INS to initiate a crackdown as the Operation Wetback-type operation designed to clear out aliens who would be eligible for adjustment under our proposed amendment. There should be a specific exemption from

this provision of deportation hearings, or actions resulting in voluntary departure, where the alien involved makes a claim that he or she would be eligible for adjustment of status.

The amendments we have proposed, we believe, strengthen the bill and make it a far more effective instrument for dealing with the illegal alien problem and will lessen much of the chilling effect this legislation would have on equal employment and establish a more universal and equitable application of its provisions. Without these revisions that we have suggested, this organization and those whose views we represent cannot justify its support for H.R. 982. Thank you, Mr. Chairman.

Mr. EILBERG. Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman. I thank the witness.

If I understood the part of the thrust of your testimony it was that to overcome the possible increase in discrimination by employers in view of this legislation, you would ask us to include specific language in H.R. 982 that would prohibit employers from discriminating on the basis of national origin?

Mr. FIERRO. Yes

Mr. FISH. And what would be the sanctions there? Does this anticipate a——

Mr. FIERRO. The employers' sanctions?

Mr. FISH. Yes, against the employer, should he discriminate. Many people have testified on the issue that I'm sure concerns you, and that is the employer, faced with our bill, would simply, you know, just not hire people who might raise a question because of the way they spoke English or because of their name.

Mr. FIERRO. Yes.

Mr. FISH. How would you reach him, just by putting in a statement saying——

Mr. FIERRO. Well, I think——

Mr. Fish [continuing]. You cannot discriminate on the basis of origin?

Mr. FIERRO. The employer comes under the jurisdiction of the Civil Rights Act, specifically title 7.

Mr. FISH. Wouldn't he anyway?

Mr. FIERRO. Well, I think to a degree he does, but we want specific language in the bill to strengthen this provision, because right now because of the *Espinoza* v. *Farah* case that was heard in the Supreme Court, it upheld that an employer could discriminate based on citizenship. What we are trying to do is to build in some protective devices for us.

On the other hand, in a given situtation, the employer could go out and hire all illegal aliens and not hire any American citizens, which again, he can do that, according to the Supreme Court decision. The employer can discriminate based on citizenship. But being under the protective cover of title 7 and the recommendations that we made, if employee has been discriminated on the basis of national origin or citizenship, the employer is subjected to penalties or, you know, wages or loss of wages, or even assuring an employee of a job as a result of that.

Mr. FISH. One other question: What you're really proposing here is a form of limited amnesty, isn't it?

Mr. FIERRO. In terms of the adjustment of status, yes. I would rather use adjustment of status than amnesty, for that matter. One of the concerns that our board and organizations specifically wanted me to express to this committee is that we are concerned basically with the families who are in this country, not necessarily the individual persons that have come into this country illegally, but the families.

You and the chairman have indicated there are some people that are single and who have come here simply to get a job and go back. What we are concerned about is the uprooting of families that have been here over 3 years and have established roots in the community, who have their children in schools, and so forth, and who are contributing to this country.

Mr. FISH. Well, I sympathize with that point of view myself, sir, but when you describe the aliens that you would permit to have an adjustment of status, on the top of the second-to-last page you list, and the first requirement is—

> (1) That the alien be eligible to receive an immigrant visa and that he be admissible to the United States for permanent residence;

So, you would have to look back to his country of origin and be sure there is no backlog, no waiting list?

Mr. FIERRO. No, no.

Mr. FISH. No?

Mr. FIERRO. No. At the bottom of that statement it says that—

> . . . this adjustment of status should be made without regard to numerical limitations and should not effect the number of available visas.

Mr. FISH. Then, you narrow yourself down to things like medical or security or other grounds for exclusion. An alien would have to be free from the statutory grounds for exclusion?

Mr. FIERRO. No. That's why we indicated there that they would be admissible to the United States for permanent residence.

Right now, the immigration laws do state, who are "desirable aliens" versus "undesirable aliens."

What we're saying here is that there are provisions that provide for that, in terms of being admissible to the United States.

Mr. FISH. That's what I understood.

Mr. FIERRO. Obviously, if a person has a criminal record in his country, country of origin, I think there would be a question of his admission to the United States.

Mr. EILBERG. Mr. Sarbanes.

Mr. SARBANES. I want to thank the witness for some very thoughtful suggestions in the statement, to which I think we are going to have to give some very careful attention.

I take it you do perceive that the illegal alien problem is of a dimension that it poses some rather serious threats to the status of the legal aliens with respect to employment opportunities or public services?

Mr. FIERRO. Yes.

Mr. SARBANES. And I would guess also from your testimony to at least some American citizens, is that correct?

Mr. FIERRO. That is correct. I think that even in your previous bill, H.R. 981, and H.R. 982, there are strong possibilities of in-

fringing one way or another on the civil rights and civil liberties of our American citizens. I think that's been indicated previously, even by the Department of Justice, and what we are concerned about are the violations against our civil rights and our civil liberties that this bill poses, so that what I am proposing are protective measures that will protect our community and our American citizens from the misuse of this law on us, because there aren't any provisions in the present bill that would protect us.

Mr. SARBANES. I understand that point, but I guess you also, from the thrust of your testimony, perceive that the number of illegal aliens is, in itself, posing a problem for legal aliens.

Mr. FIERRO. It works a hardship on our community because of the poverty that currently exists in many of our communities in the Southwest and the fact that the wages are quite depressed already many employers do prefer to hire illegal aliens in order to reduce the wages——

Mr. SARBANES. I take it those employers in effect, bypass persons who are legally in this country either as American citizens——

Mr. FIERRO. Yes.

Mr. SARBANES (continuing). Or as legal resident aliens, and the employer goes to illegal aliens because it serves his economic purposes.

Mr. FIERRO. That's right.

Mr. SARBANES. Therefore, it leaves those other groups as it were, "out in the cold" with respect to employment opportunities.

Mr. FIERRO. That's correct. I didn't point out in our testimony, but I think one of the problems we have to overcome is the lack of enforcement on the part of the Immigration Office. If this law, for example, would be implemented in 90 days, or whatever, I think that the Immigration knows those employers who have in the past hired illegal aliens, they know who they are, so in most cases they should focus on those who have been habitual employers of illegal aliens, there would be a tremendous effect for carrying out some of the provisions of this law.

But again, INS has contributed also to the illegal alien of this country, to a great extent.

Mr. SARBANES. Thank you. That's all, Mr. Chairman.

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman. I just have one question, I guess.

You were referring to the *Espinoza* case. What is your feeling about the holding of that case? What do you feel that case does or says?

Mr. FIERRO. Well, I disagree with the decision. I'm not a lawyer in terms of giving you a legal opinion on that, but what it does do, to my understanding, is that it does permit an employer, to discriminate on the basis of citizenship.

Mr. COHEN. Do you feel that that is wrong?

Mr. FIERRO. Yes.

Mr. COHEN. That if a person is not a citizen, the employer should not be allowed to discriminate in hiring practices?

Mr. FIERRO. I think it has to go farther than that, Mr. Cohen. On the other hand, let's reverse the situation and you only hire illegal aliens out in the field or legal aliens who are not citizens.

Mr. COHEN. What if we pass a law prohibiting that? Isn't that the purpose of this act here, to pass a law prohibiting the hiring of illegal aliens?

Mr. FIERRO. Right.

Mr. COHEN. And penalize employers for doing so?

Mr. FIERRO. Right.

Mr. COHEN. Why do you have to go beyond that to say that to pass a law which, in essence, would overrule the holding of the Supreme Court, which says that an employer can, in fact, discriminate in his hiring practices on the basis of citizenship?

Mr. FIERRO. What I'm saying is that an employer discriminating on the basis of citizenship can get out of the impact of the law because of the confusion that he has created, because he is discriminating on the basis of citizenship, you are discriminating on the basis of natural origin; and if you're discriminating because you don't want——

Mr. COHEN. That's not what the Supreme Court says in that case.

Mr. FIERRO. For example, if you're in the Southwest, and all they want to do is hire "Anglos," because of the fact they are citizens and there is not going to be any bother in filling out the forms and or getting caught if they hire illegal aliens, so you're only hiring American citizens there.

These legal aliens who are here on a permanent basis, the United States did give them a permission, by issuing that permanent residence card, you know, so that they are entitled to the same protections under the law.

Mr. COHEN. The Court was saying you could draw a distinction between national origin, the employer was not to discriminate based upon national origins since 96 percent of the employees were Mexican Americans.

Mr. FIERRO. That's correct.

Mr. COHEN. He was not discriminating on the basis of national origin. They distinguish between that and citizenship.

Mr. FIERRO. The ruling of the Court did not go far enough because it left the meaning of an employer that could discriminate on the basis of citizenship. It doesn't cover the whole impact of that law.

Mr. COHEN. Let me come back to your testimony, then. You are, I guess, opposed to any sort of requirement that individuals, illegal aliens be required to show or demonstrate some identification of their origin or citizenship?

Mr. FIERRO. It is my understanding that what is proposed in the law right now is, there would be forms issued by the Attorney General, but that if the question were asked of everyone, whether they are citizens, or aliens permitted to work in this country, if they were asked the question, everyone, we would have no problem with that. But I think there are problems with the social security card that we can visualize and problems with issuing a work permit—civil libertarians will tell you that.

Mr. COHEN. What would your recommendation be to this committee in terms of requiring everybody across the board to present some sort of identification? What would your recommendation be?

Mr. FIERRO. I don't think it's a matter of just identification.

Mr. COHEN. Not identification, but of legal status in this country, either as an American citizen or as a legal alien. How would he do that?

Mr. FIERRO. I think by issuing standardized employment forms, that would require everyone to fill them out.

Mr. COHEN. Isn't that just the same thing as having employees signing a statement saying, "Yes, I am an American citizen" or a legal alien? Can you point out how really ephemeral the effect of that law would be?

Mr. FIERRO. If you were to come back to social security cards, for example, one of the opinions of our members was, "Let's recommend the use of the social security card" and the reason for that is, it's being used all over the place for bank accounts and every conceivable thing, even though and in spite of the fact that on the card it says, that this "shall not be used for identification purposes." In some States, they use it even for you to vote.

I think the concern of our members was that the Social Security Administration right now has been so lax in the administration of their policies and regulations and there has been so much fraud in the use of those cards, that it would take a considerable amount of time before, everybody is issued one.

Mr. COHEN. What do we do in the meantime? I guess I'm looking for a recommendation from the people you represent. What's their recommendation? We're going to impose a penalty on employers the first time. We know the bill provides a three-step penalty structure, but the first violation would result in a warning. What is it in your judgment that the employer should have to do? And what is it the person seeking employment should have to do?

Mr. FIERRO. If we're going to impose these penalties on employers on the employer through regulations, by INS, in terms of an employer, you know, what would be the considered proof of citizenship, whether it be birth certificates or the social security card? I think that through regulations issued by the INS, in terms of the employer as to what would be required of him, or at least the minimum in terms of citizenship or permission to work, I think that I would much rather leave it up to the regulations to deal with that, versus subjecting it to the committee in terms of approval versus a recommendation that we use the social security card or any other kind of formal work permit, and I think that administratively, it can better be worked out than through legislative concerns.

Mr. SARBANES. May I ask?

Mr. COHEN. I yield.

Mr. SARBANES. You may not have to go that far. If we accept the premise that there are bad-faith employers at work—and I accept that premise——

Mr. FIERRO. Yes, sure.

Mr. SARBANES [continuing]. Who are knowingly engaging in that practice because there is no penalty, you may develop some kind of requirement of a simple bona fide effort by the employer which, in effect, would let a lot of people go through because they weren't really acting in bad faith. The bad faith types are the ones who are knowingly engaged in these practices as a constant course of conduct——

Mr. FIERRO. Yes.

Mr. SARBANES. They don't do it unintentionally or by accident, or once in a while, it is the pattern in their way of doing business; and

those are the ones, as I understand your testimony, who are really creating the problem.

Mr. FIERRO. Exactly. I think we're not advocating here that we're trying to set out or regulate some laws that are going to affect everybody in this country. What you're really trying to hit at are those people who are really the habitual exploiters of illegal aliens. That's where the impact should be, those that hire 10, 20, or 100 in their plants or factories. I think that's the crux of the problem. I don't think we ought to make our whole community or country subjected to these kinds of procedures when we know and INS knows who these habitual employers are of illegal aliens. That's where this law should impact, and not to subject everybody to a situation that is going to cause a hardship on the Government and on a lot of other people.

Mr. EILBERG. Ms. Holtzman.

Ms. HOLTZMAN. Just to follow up that point. I represent a district in New York which has a somewhat different kind of problem from that in the Southwest. I am concerned that in an effort to deal with those people who are persistently engaging in the practice of hiring illegal aliens, encouraging and perhaps working with people to bring illegal aliens into this country, that in an effort to deal with those people we are going to subject every citizen of this country and every lawful alien in this country to an intolerable burden. That troubles me enormously because, while the percentage of illegal, Spanish-speaking aliens in the Southwest may be fairly high, in New York most of the Spanish-speaking people are U.S. citizens.

Mr. FIERRO. Right.

Ms. HOLTZMAN. And to impose immediate criminal penalties might make an employer very reluctant to hire anybody who speaks English with an accent.

Mr. FIERRO. Yes.

Ms. HOLTZMAN. And I'm very troubled about that, not only with respect to Spanish-speaking people in New York, but also with respect to all of the various people of foreign origin who are naturalized citizens or are otherwise here lawfully. I'm very concerned about discrimination against them. I am very concerned, of course, about a system that's going to require a national identity card.

Mr. FIERRO. Yes. We're recommending that those two provisions in terms of prohibiting the employer from discriminating on the basis of national origin and the other, in terms of citizenship. I think that those two protective devices would lessen the impact that this law is going to have on them.

No matter how you look at it, this law will discriminate unfairly on national-origin people, no matter how you look at it. But if you are going to pass a law that is going to deal with illegal aliens, we want some protective measures in the law that will at least lessen the impact that this law will have on us and on foreign-born citizens.

Ms. HOLTZMAN. Then, the question is, which is the greater burden to bear? Is the cost of having illegal aliens here greater than the cost of discriminating against American citizens and residents?

Mr. FIERRO. Let me say this: I think illegal aliens are good for the United States; it's good for business—it's always been good, you know, and they have encouraged it. Administration after administration has

encouraged it. When they had the Bracero program and was cut, they increased the amount of tourist visas and the visas on permanent residents. The INS came in and did that. They gave out more commuter cards. So here it is, administration after administration, when there have been restrictions to allowing this cheap labor in our country, they have gone through administrative procedures to increase it one way or another.

Ms. HOLTZMAN. What troubles me, though, is I don't think that simply inserting a nondiscrimination provision such as the one you suggest is going to be an adeq iate bar against discrimination by an employer who is faced with the immediate imposition of criminal penalties if he makes a mistake.

Mr. FIERRO. You can go back and deal with the supply theory of H.R. 981, you can deal with a supply theory in terms of curtailing or having more quotas lowered, restricting some of the quotas and what-have-you. What we're talking about here is stopping-the-demand kind of strategy, the employer who is demanding that supply. So that you have two theories that you're working under, the supply and demand theories and you either use one or the other, or you continue to let the problem as it is today.

Our community today, is very devisive about this issue. It has split our community wide open because there are a lot of relationships, a lot of blood lines that are affected by this.

At the same time, you have the problem compounded by, "Do I get a job or do I continue to sit here and allow this preposterous problem to continue and live in poverty?" That's our decision, and it's a very critical and deep-rooted decision that has to be made and has been made.

Ms. HOLTZMAN. My point is that an American citizen might face that problem of unemployment now because of competition with illegal aliens who are getting lower wages. If the bill is passed, through, an American citizen with an accent is going to face the same problem of unemployment because of discrimination arising from this act.

Mr. FIERRO. Let me tell you: Discrimination is nothing new to us at all, in the Southwest or in any other part of this country—it's nothing new to us. What we're saying here is that if this law is going to pass, we want at least some protective measures that will cushion the effect that such a law will have on us, so the impact on discrimination is not going to be any different. It's not going to change the discrimination patterns and practices that we have experienced for so long. It might make it a little easier for a guy to discriminate, but it's no different.

Mr. SARBANES. I want just to repeat what I said at the outset: I think your testimony here today has been extremely thoughtful because it recognizes the extremely difficult posture in which the community you're representing is placed, and I sympathize and understand the problem.

On the one hand, American citizens and legal aliens are losing job opportunities because employers are exploiting the availability of the illegal aliens.

Mr. FIERRO. Right.

Mr. SARBANES. They are just being bypassed entirely. On the other hand, an effort to do something about that situation and open up employment opportunities raises the specter of discrimination by

employers against those citizens and legal aliens, and I understand that problem, too. I think you are trying to make some very constructive suggestions and I appreciate it very much.

Mr. EILBERG. Mr. Russo.

Mr. RUSSO. Thank you, Mr. Chairman.

I have a problem with some of the statements that you make in here. I can appreciate the problem that you like harsh penalties, and when I first got into this act, I felt the same way as you do, that we should not give the employer too much of a chance because he probably knows he is hiring illegal aliens, and we should "sock it to him" the first time around; but as you get into it, you find that the laws of this country require that we protect everybody, that you protect the most culpable and you cover the least culpable, and that's the person who really doesn't know that he has hired an illegal alien, or has been duped by an illegal alien by saying that he is a citizen. We have to take that into consideration.

So, if you have very harsh penalties the first time around, you are going to encourage discrimination, which is what you don't want to do. In your statement there, on page 2, you realize yourself in your statement that "stringent penalties on employers will force them to carry out part of the INS's function, at the expense of fairness and objectivity * * *" which is going to happen when you have criminal felonies, as Ms. Holtzman indicated. Somebody who is looking at the possible jail time for his first offense, anybody who has a foreign name or who has an accent, whether he is Spanish, Italian, or whatever, he is probably very, very careful about hiring. He probably won't even hire him if there is any way he can avoid it. The way the job market is today, he can hire anybody, so why take a chance. So, you can't have strong penalties and not have discrimination.

And on page 3, you talk about 982 in its present form as being very discriminatory against Mexican-Americans, and really, I don't know how you can say that if you understand 982. It's probably set up in a way to give the employer the least amount of opportunity to discriminate by saying, first we are going to warn you; second, we are going to fine you, and then if you are one of these types of individuals who has the practice of hiring illegal aliens, then we're going to give you the criminal penalty.

Based on that system, I don't think it's a cumbersome system; I think it's a system that we have to use to knock out the discrimination problem that we're all faced with up here.

Mr. FIERRO. I think the dilemma that you're seeing here and the dilemma that this committee has is no different from the dilemma as I pointed out in terms of our own community having to make a decision. A person in the community in El Paso or any other place, is having to make a decision whether to make a decent living, or to support the passage in laws that are going to protect him in terms of what's happening today.

I think as you pointed out and as I have indicated, there are flaws in the law. I think if you have sanctions or not, you are either taking responsibility for the enactment of some legislation that will get at the root of the problem or begin to get at the problem or do we have a three-step procedure that really allows employers to get under that. INS isn't going to be enforcing those laws—they never have in the

past. That's why we recommend in there the provisions for a third-party suit, because we have encountered problem after problem with the INS in their operation wetback-type of practices that they have conducted periodically in the Southwest, in California and Texas.

Mr. RUSSO. I really appreciate a lot of the comments you have in there, like Mr. Sarbanes, but the problem we have as a committee is, how do we avoid discrimination against legal aliens in this country?

Mr. FIERRO. There is no way you can avoid it.

Mr. RUSSO. But you can minimize it.

Mr. FIERRO. That's what I'm trying to do—minimize that discrimination.

Mr. RUSSO. I have no further questions.

Thank you very much.

Mr. EILBERG. Mr. Fierro, your statement here today has indeed been most thoughtful, and I think you have made a significant contribution today.

I have a few questions which I would like to ask until the bells ring. I'll ask your permission to excuse us and submit the balance of the questions to you for your written response.

Mr. FIERRO. Very well.

Mr. EILBERG. With regard to title VII of the Civil Rights Act, would you advise the subcommittee why, in your opinion, title VII of the Civil Rights Act will not be able to effectively deal with the national origins employment discrimination that you suggest will flow from the enactment of H.R. 982. Has EEOC failed in its efforts to ban employment discrimination based on national origin?

Mr. FIERRO. I think it has, to a great extent because of their backlog; their cases are so backlogged right now it is difficult to get relief for any person who files a national origin complaint to EEOC. One thing that I should have recommended is, there should be some temporary or immediate relief to a person who files a suit based on the basis of national origin, because right now it is very difficult to get any relief to a person having to wait 6 months or a year, or 18 months, to get relief from an employer who continues his policies and practices of discrimination based on national origin. That's the dilemma that we find ourselves in also, that there is no way out, really: No matter what way we turn, there are obstacles in the way. We're trying to minimize these. And I would recommend some temporary relief, or immediate relief, a restraining order, or whatever, restraining that individual from continuing to violate title VII.

Mr. EILBERG. Now, this subcommittee doesn't have jurisdiction over that legislation. Can you think of anything else that we might do in this legislation?

Mr. FIERRO. You can amend the legislation, can't you?

Mr. EILBERG. No; we can't. The Congress can amend it, but the appropriate committee has to deal with it and that's not this committee.

Mr. FIERRO. Well, if you get this on the floor, why can't it be done on the floor? I'm just saying that I'm trying to give you some suggestions that will protect us, because again, there are a lot of loopholes in this legislation that you are proposing. We are favorably inclined to this legislation, but we want some of those suggestions to be included.

Mr. EILBERG. Mr. Fierro, would you check your records to see how many of your people have been discriminated against? How many have been filed and how much delay has there been? What are the charges?

Mr. FIERRO. I would be delighted to do that.

Mr. EILBERG. The subcommittee would like very much to know the answer to that question.

The bells have rung, and I am going to submit a list of questions to you. If you could respond to them at your earliest convenience, we would very much appreciate it.

Mr. FIERRO. Thank you.

[The prepared statement of Mr. Fierro follows:]

STATEMENT OF MANUEL D. FIERRO, PRESIDENT, NATIONAL CONGRESS OF HISPANIC AMERICAN CITIZENS

Mr. Chairman and members of the committee, my name is Manuel D. Fierro, I am the President of the National Congress of Hispanic American Citizens, a national, non-partisan citizens lobby for the Spanish-speaking.

On behalf of our 25 member national board of trustees and the 95 national and local participating Spanish-speaking organizations, I want to thank you for the opportunity to appear before you to express our concerns and to make some recommendations regarding the Rodino "illegal alien" bill (H.R. 982).

It is clear to us that the only group that profits from the influx of illegal aliens into this country and the group which is the major stimulus for the illegals' movement across the border are the bid farmers, industrialists, and businessmen who employ them. Exploitation of this vast supply of cheap labor is a time-honored practice in the Southwest. As a result, employers of illegal aliens have been able to maintain low wages and poor working conditions, break strikes and labor organizations among citizen employees, discharged workers with impunity, and manipulated the immigration laws to bilk both the illegals and the domestic work force. These employers are not just innocent beneficiaries of the illegal immigration, they are habitual exploiters of illegal aliens.

As long as the United States continues to offer wages which are generally higher than those in most other countries, or at least as long as aliens continue to believe that to be true, the poverty in countries like Mexico will continue to "push" aliens into the United States, and there is little that the government can do to stem the flow. Efforts to reduce the influx of illegals have not proven successful. While the number of apprehensions has gone up sharply recently this probably reflects an increase in the number of illegal entrants rather than an improved enforcement of the immigration laws. The government can, however, control the forces in the United States which act as a "pull" on the illegal aliens. The most effective means would be to crackdown on the employers who induce the illegals to enter and who profit from their presence.

The three-step employer penalty provisions in the H.R. 982 are cumbersome and ineffective in dealing with the illegal alien problem. The most effective way to discourage employers from hiring illegal aliens is to make them liable for criminal penalities for hiring illegals. If the purpose of immigration laws is to protect the domestic work force, it is logical to exercise the most stringent control at the place of work. Therefore, we strongly urge that penalties for violations be substantially strengthened by providing for criminal penalties, following a hearing, for the first violations as well as subsequent ones. We further recommend that once criminal proceedings have been initiated that the federal courts be given jurisdiction to restrain and enjoin further violations of the law.

These recommendations are not without failings. Stringent penalties on employers will force them to carry out part of the INS's function, at the expense of fairness and objectivity, and compound the problems of discrimination.

Under the proposed legislation, employers will be able to require prospective employees to sign papers indicating that they are either American citizens or aliens permitted to work in the United States. The forms will be provided by the Attorney General and will constitute "Prima Facie" proof of the employers good faith efforts to comply with the statute. It is easy to see however, that unless the INS keeps a closer surveillance of employers than it has in the past,

such a procedure could degenerate into a mere formality. The employers could simply require their employees to sign these papers before they start to work—the way most employees have to sign withholding statements or give their social security numbers—without explaining the significance of the forms, or without making any effort to determine whether their employees are being truthful when they sign. The illegals, often illiterate in both English and Spanish and badly in need of work, would probably sign the forms anyway, even if they knew what they meant. Unless the employers are forced to look beyond the signature and determine whether or not the employee is being truthful, the signed statement might simply become a way for the employer to evade the impact of the law. On the other hand, to require the employers to obtain some kind of proof of citizenship or permission to work in the United States would undoubtedly work a hardship on citizens, particularly people who do not have driver's licenses, passports, or birth certificates. If an employer were not sure that a prospective employer was telling the truth, he might not hire that person for fear of prosecution. This would have a detrimental, adverse effect on the employment of Mexican Americans as well as those labeled as foreign born. H.R. 982 in its present form abets discrimination against Mexican Americans and foreign-born persons and will encourage employers to deny Mexican Americans an equal employment opportunity on the basis of national origin. Mr. Chairman and members of the Committee, I cannot overemphasise the seriousness of this fact, particularly in light of the long and well-documented history of job discrimination and other forms of exclusion experienced by Mexican Americans, and other Spanish speaking groups in this country.

A feasible alternative to this dilemma, which we strongly recommend to this committee, is to include specific language in H.R. 982:

(1) That would prohibit an employer from discriminating on the basis of national origin.

(2) And where discrimination on the basis of citizensaip has the effect of discrimination on the basis of national origin, a lawful immigrant admitted for permanent residence who is domicile in or residing in this country may not be discriminated against on the basis of citizenship.

Testimony presented before this Committee by the Department of Justice and other organizations and individuals have pointed out that in its present form, H.R. 982 will lead to violations of Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of national origin.

Testimony presented before this Committee by the Department of Justice and other organizations and individuals have repeatedly pointed out that H.R. 982 will abet discrimination against American citizens on the basis of national origin, a clear violation of Title VII of the Civil Rights Act of 1964. Our proposal, however, would guarantee that the rights of American citizens are protected and provide for equal opportunity in employment.

In order to provide for effective enforcement and policing of our laws, we strongly urge the Committee to consider a provision in this legislation that would allow interested third parties to bring suit against employers who hire illegal aliens. It is the unskilled Mexican American and unions who are hurt the most severely by the entry of illegal aliens. Allowing such parties to bring suit would be effective in checking abuses by the INS which might otherwise continue its policy of lax enforcement of the immigration laws.

Additionally, we urge the Committee to deal with the problem of green card commuters, as well as aliens entering on tourist visas. H.R. 982 fails to deal with the controversial problem of commuter aliens. These aliens, usually from Mexico Canada, were once issued on immigration visa for permanent residence in the United States, but they continue to live in their native country while entering the United States daily or seasonally to work, using the so-called green card (Form I-151) to cross the border.

The special status accorded these aliens has aroused considerable criticism in some parts of our community. Critic's maintain that this special status subverts the labor certification program begun in 1965, and that it is contrary to the spirit of Congressional policy of providing equitable treatment of all potential immigrants. In a recent Supreme Court decision, the Court upheld the INS's handling of commuters on the grounds that Congress has tacitly accepted the present status of commuters by failing to legislate against the INS's questionable interpretation of the immigration laws. This decision essentially throws the commuter problem back into the hands of Congress.

Therefore, we urge this committee to seriously consider provisions that would prohibit green card commuters from working in a place of employment when a management/labor dispute and/or strike is in progress.

A related problem is the 72 hour tourist visa (I–186). Aliens seeking employment often use this visa to gain entry into the United States, but stay for many days or weeks beyond the 72 hours. The INS has been extremely lax in policing the use of these visas, and should revise its procedures for regulating their use. One solution would be to date the visas and require that they be turned in at the border when the visitor leaves. Appropriate action could be taken if a person tries to leave after overstaying the permitted period.

Mr. Chairman and members of the Committee, one other area of deep concern to us and which we strongly support and recommend to the committee, is to include in H.R. 982 provisions that will provide that certain aliens illegally in the United States may have their status adjusted to those of permanent residence. Many of these illegal aliens have established their roots in this country, contributed to the growth of many of our communities and established themselves as law abiding residents in this country. It would be an injustice to uproot, and disrupt the lives of these families and their children. Let us not repeat the same mistakes we have made in the past.

We recommend that similar language as contained in S. 3827 be included in H.R. 982, that would provide aliens who are in the United States illegally with the opportunity to apply for adjustments of status to that of an alien lawfully admitted for permanent residence. The requirements and conditions should be:

1. That the alien be eligible to receive an immigrant visa and that he be admissible to the United States for permanent residence.

2. That the alien has been physically present in the United States for three years on the date of enactment.

3. That he be physically present in the United States on the date of enactment.

Adjustment should be made without regard to numerical limitations and should not effect the number of available visas. Adjustment should be available for one full fiscal year following the enactment and that provisions should be included to permit those adjusting their status to accept or continue their employment. Consideration should also be given to an illegal alien who applies for adjustment of status unsuccessfully. Provisions which should also be considered for inclusion in the amendment are: pre-application counseling, clear acceptance criteria, a two week postponement of notice of departation to allow alien established in the community time to arrange his affairs before leaving, legal counsel, and reasonable shelter pending departation for unsuccessful applicants.

I would like to make one final recommendation regarding Section 5 of H.R. 982. Because the Act will not become effective until at least 90 days after its enactment, this interim period could be used by INS to initiate a crackdown as Operation Wetback type operation designed to clear out aliens who would be eligible for adjustment under our proposed amendment. There should be a specific exemption from this provision of departation hearings, or actions resulting in voluntary departure, where the alien involved makes a claim that he or she would be eligible for adjustment of status.

The amendments we have proposed, we believe, strengthen the Bill and make it a far more effective instrument for dealing with the illegal alien problem and will lessen much of the chilling effect this legislation would have on equal employment and establish a more universal and equitable application of its provisions. Without these revisions that we have suggested, this organization and those whose views we represent cannot justify its support for H.R. 982.

Thank you.

Mr. EILBERG. The subcommittee stands adjourned.

[Whereupon, the subcommittee adjourned at 12 o'clock subject to the call of the Chair.]

ILLEGAL ALIENS

WEDNESDAY, MARCH 19, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
CITIZENSHIP, AND INTERNATIONAL LAW
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2226, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Holtzman, Dodd, Fish, and Cohen.

Also present: Garner J. Cline and Arthur P. Endres, Jr., counsels; Janice A. Zarro, assistant counsel; and Alexander B. Cook, associate counsel.

Mr. EILBERG. The subcommittee will come to order.

It has been almost 4 years now since this subcommittee undertook its investigation of the illegal alien situation in the United States.

On two occasions the committee and the House of Representatives have overwhelmingly approved legislation to combat this serious national problem. At the same time, it has been my firm belief that legislation alone is not the complete answer and that additional funds must be provided to the Immigration and Naturalization Service in order to stem the problem.

Over the years, we have witnessed an increase in funds appropriated to the Service, but they are certainly far short of that which is needed to prevent the surreptitious entry of untold numbers of aliens in the Southwest and to remove those illegal aliens who are currently working in our major cities.

Each year the Service's request for additional personnel and equipment is drastically reduced by the Department of Justice and the Office of Management and Budget prior to the submission of INS's budget request to the Congress.

In sending these emasculated requests to Congress, the administration has consistently failed to recognize that the inadequate funding of the Service has intensified the illegal alien problem over the years. Apparently, it is OMB's belief that the illegal alien legislation is the total answer to the problem.

In addition, I should note that the American taxpayer would receive a good return on his tax dollars when we realize that illegal aliens are having a substantial impact on the American economy, including: the taking of jobs, the drain on welfare and public services, and the effect on our balance of payments deficit. Indeed, additional INS funds would be a small price to pay when we consider the tremendous costs

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incurred by Federal, State and local governments as the result of the illegal alien problem.

Likewise, in addition to its law enforcement functions, INS is responsible for providing fast and efficient service to the public. Understandably, this task becomes increasingly difficult as a result of the manpower which must be devoted to controlling the illegal alien problem, but certainly U.S. citizens and legal residents alien should not receive inadequate service as the result of the illegal alien problem in this country.

When I assumed the chairmanship of this subcommittee, one of my priority concerns was to insure the close and careful oversight of those agencies responsible for administering the Immigration and Nationality Act. In order to accomplish this objective, we held numerous hearings during the last Congress to receive testimony from officials of the Departments of State and Justice as to the discharge of their respective functions under this act.

However, in order to effectively meet our oversight responsibilities, we must be provided with the proper tools—that is—authorization authority over the Immigration and Naturalization Service. In fact, following a year-long investigation of the law enforcement problems on the Southwest border, the House Committee on Government Operations specifically recommended that:

> The Committee on the Judiciary should consider the development of legislation to require annual and other periodic authorizations for programs of the Immigration and Naturalization Service to the end that legislative oversight will be maintained and adequate resources will be made available for control of illegal alien traffic.

This authorization would enable this committee—which is the committee primarily concerned with the operation of the Immigration and Nationality Act—to recommend the appropriate funding levels of the Service. In addition, it would establish a mechanism for communicating the various priorities which this committee attaches to the different activities of, and functions performed by, the Service.

Consequently, I have introduced H.R. 1276, a bill which would require specific authorizations of appropriations for the Service. If this legislation is adopted, a procedure would be created whereby the Appropriations Committee, in determining the Service's needs, would consider not only the administration's request but also the funding targets set by this committee.

In my judgment, such an approach would assist this subcommittee in considering remedial legislation and would greatly enhance our oversight capacity.

I might summarize by saying that in one sense this hearing this morning is a continuation of our oversight authority over the Immigration and Naturalization Service and is pointed in the direction of the illegal alien problem and the legislation we are now considering. It is obvious from this hearing and the number of members here that there are many members of this subcommittee who feel that one tool that is necessary is authorization over the INS. I just wanted to set the tone, so to speak, of the hearing this morning.

It is our pleasure this morning to have with us the Commissioner of the Immigration and Naturalization Service. We are delighted to have you with us. We welcome you, General Chapman, and any members of your staff that you would like to have with you

[A copy of H.R. 1276 follows:]

94TH CONGRESS
1ST SESSION

H. R. 1276

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. EILBERG introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require that all authorization of appropriations for the Departments of Justice and Labor for administering the Immigration and Nationality Act, with respect to any fiscal year beginning after June 30, 1975, shall be specifically made by Act of Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Immigration and Nationality Authorization Act of 1975".

SEC. 2. Section 404 of the Immigration and Nationality Act, as amended, (8 U.S.C. 1101, note) is amended to read as follows:

"SEC. 404. There are authorized to be appropriated to

the Department of State such sums as may be necessary to carry out its functions under this Act. No appropriation shall be made to either the Department of Justice or the Department of Labor to carry out any function under this Act for any fiscal year beginning after June 30, 1975, unless such appropriation is specifically authorized by Act of Congress which is approved after the date of enactment of the Immigration and Nationality Authorization Act of 1975.".

TESTIMONY OF HON. LEONARD F. CHAPMAN, JR., COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY JAMES GREENE, DEPUTY COMMISSIONER, AND SAMUEL BERNSEN, GENERAL COUNSEL

Mr. CHAPMAN. Thank you, Mr. Chairman. It is a great pleasure to be here and to provide you and the members of the committee with an up-to-date report on the Immigration and Naturalization Service.

I am accompanied by Mr. James Greene, who is the Deputy Commissioner of the INS and Mr. Sam Bernsen, who is the General Counsel of the Service.

It has been just about a year since I appeared before your committee to give a similar report. And it has certainly been a very eventful year.

I have continued my inspection trips to INS field offices, and during the year visited nearly all of the more than 30 district offices in the United States, plus our European offices. There are just a few districts and Border Patrol Sectors I have not been to yet, and these will be covered in the next 2 to 3 months.

And, I should say that I continue to be impressed with the dedication and the loyalty of the hard-working INS employees I have met. And I met several thousand of them. I am convinced that they are doing an excellent job in the face of staggering workloads with the resources available to them.

During my little more than 1 year as Commissioner, we have been taking a hard look at the management and organizational structure of the Service, with an eye toward strengthening it. As you know, just over a year ago, we reorganized our Central Office, the management structure, resulting in the streamlining of operational procedures and improved communications with our field offices.

Last month we announced the proposed appointment of three new regional commissioners, with two incumbent regional commissioners moving to the Central Office to head the enforcement and examinations functions. The third is moving to a new and enlarged region.

And this month, we have announced the realinement of regional boundaries to equalize more nearly the personnel and workloads and to bring them into comformity with the standard regional boundaries for other Federal agencies.

We are also restructuring the regional management organization along the lines of the Central Office. Each will have a regional commissioner, a deputy regional commissioner and three associate commissioners, responsible for enforcement, examinations, and management, as we do here in the Central Office.

In addition, each region has been instructed to staff a small planning and evaluation group to aid them in long-range planning and to seek ways to improve performance through better efficiency.

I believe that the proposed changes in the senior officials will benefit our management. Fresh ideas and methods of operation will be introduced into key positions of INS, and this new thinking should help to revitalize our approach to accomplishing our many objectives.

The regional realinement is also expected to improve overall management. Each of the regions will be more manageable entities enabling regional officers to implement closer controls and to monitor all activities more closely.

I am sure the committee is aware that the Immigration and Naturalization Service is almost literally overwhelmed by the responsibilities assigned to it.

The illegal alien problem certainly illustrates the worst and most glaring deficiency in our capabilities. And I would like to repeat for this committee, that given some means of turning off the magnet that draws people here—that is the passage of legislation such as the Rodino bill together with increases in the Service—we can open up jobs for unemployed Americans and legal resident aliens.

I believe there are signs that the contribution we can make to alleviating unemployment is becoming recognized. We have been granted some very welcome increases for fiscal 1976.

In the budget that Congress is now considering, the President has requested 750 additional positions and $29.7 million in increased funding. Some $22.9 million of this represents money for new programs, while the balance will be eaten up by unavoidable cost increases—or just plain inflation.

Included in this increase is $5 million for alien detention and travel, which will result in more apprehensions by enabling us to hold temporarily and then remove from the country those illegal aliens we locate. Included in the 750 positions are 213 Border Patrol personnel.

I believe we are making progress, but there is a great deal more that is needed if we are to begin to fulfill our responsibilities to the public and to this committee.

It is quite evident that over the past several years, the Service has been attempting to carry at least an 8-ton load in a 5-ton truck. The results have been about what could be expected.

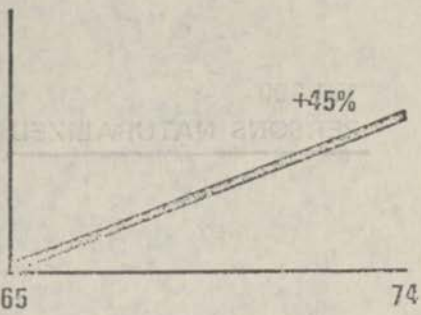
So this past year, we have attempted to fit our load onto the truck, through a system of priorities. Whenever we have added a ton, we have had to take one off. And we have instructed our field offices as to what areas of responsibility they should direct their major efforts to, and those that must be sacrificed.

Mr. Chairman, I will now briefly cover each of the major functions of the Immigration and Naturalization Service, and attempt to give the committee a rundown on our accomplishments, our objectives, and our problems in each of these areas and set forth the benefits that will result from the requested increases in the fiscal year 1976 budget.

With your permission, sir, we will use some charts to better illuminate the test.

[The charts referred to follow:]

INSPECTIONS

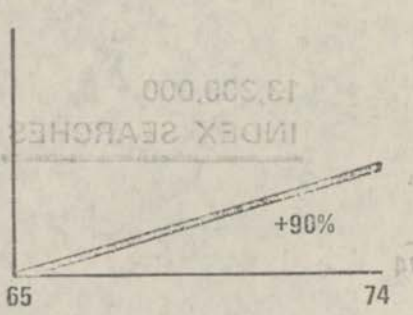


270,000,000
PERSONS INSPECTED

530,000
ALIENS EXCLUDED

- NEW, SECURE DOCUMENTATION
- R&D ANTI-SMUGGLING DEVICE
- PRIORITIES – AIRPORT INSPECTION

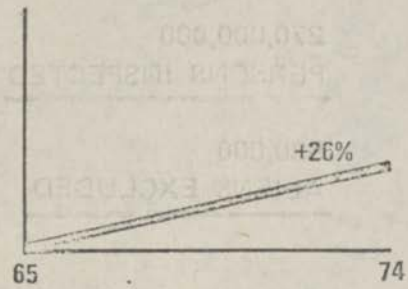
ADJUDICATIONS



1,450,000
APPLICATIONS RECEIVED

- PRIORITIES – ELIMINATE BACKLOGS
- B-2 VISITOR EXTENSIONS

NATURALIZATION

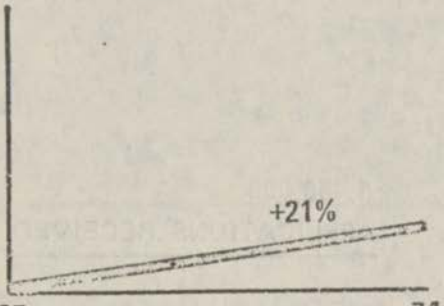


104,000

131,000
PERSONS NATURALIZED

- REDUCTION IN TRAVEL NEEDS
- ELIMINATION OF UNNECESSARY COURTS

RECORDS PROGRAM

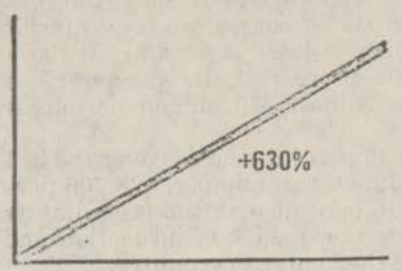


11,000,000

13,300,000
INDEX SEARCHES

- INQUIRIES FROM PUBLIC
- ALIEN ADDRESS REPORTS
- AUTOMATION OF INDEX

APPREHENSIONS

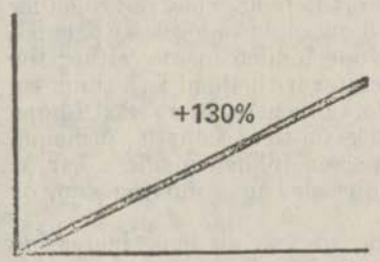


110,000

800,000
ILLEGAL ALIENS
APPREHENDED

- PRIORITIES – HIGHER PAY JOBS
- BORDER PATROL LINE WATCH
- R&D – SENSOR SYSTEMS

INVESTIGATIONS



87,000

198,000
INVESTIGATIONS COMPLETED

- MARRIAGE FRAUD
- INTER-AGENCY COOPERATION

Mr. CHAPMAN. To begin with, our Service functions, which are composed of inspections, adjudications, naturalization and information and records, and first taking inspections, Mr. Chairman, the purpose of this function is to determine the eligibility of persons who present themselves for entry into our country. Of course, we try to facilitate the entry as expeditiously and courteously as is possible. We accomplish these duties by an inspection process at the various airports, seaports, and land ports of entry. Almost 270 million persons were inspected in fiscal year 1974.

The total inspected represents a 45 percent increase over the last 10 years and a small increase over 1973. Of this number, 528,706 persons were denied entry, an increase of 40 percent over the preceding year. This reflects our efforts to improve the quality of inspection and to deter the potential violators before they enter the country.

Our proposed budget for fiscal year 1976 does not include any personnel increases for this inspection activity. However, it is our position that an effective immigration inspection on our Southwest border where the problem is the greatest requires a 50-percent immigration presence. And, to move toward this goal, we have redeployed some inspectors to that border already.

To aid in our inspection effort, the fiscal year 1976 budget includes $4.7 million and 215 personnel to begin implementing a secure alien documentation system. The budget also provides for a research and development fund. These budgetary items will help us in utilizing the present work force in a more effective and efficient manner.

I might divert here to show the committee one of our research and development projects that we are working on. Actually, it is a little black box that incorporates technology already developed by the Army Engineer Development Center at Fort Belvoir. They put together for us this little box, which can be placed on an automobile or a truck and it will reveal whether there is anyone hidden inside, either the car or in the truck, under the hay or whatever the load is. I think we can illustrate by putting our hands on the table here, or at least I hope so. There, the little light went on. It works on the accoustics principle and it will detect the heartbeat of a person hidden inside a car or hidden under the load of a truck or concealed in a moving van, or whatever.

I should add that we are continuing to find an ever increasing number of fraudulent, counterfeit, and altered documents for entry into the country. As a matter of fact, counterfeit documents are so available now and easy to get that the bottom has fallen out of the market and the price has fallen some 50 percent in the last year for a counterfeit document. Hence, I believe it is imperative that we continue to tighten our inspections so as to turn away the growing number of illegal aliens attempting entry in this manner.

I turn now to adjudications, our examinations process, and there are over 25 different types of applications and petitions for benefits received for Service adjudication under the immigration and nationality statutes. These applications are of varying complexity and therefore require significantly different periods of time for completion.

Factors such as agency checks, interviews, and investigations affect the time necessary for a prudent adjudication—however, the maximum time required for the disposition of any adjudicative matter should be 3 months.

Receipts of applications and petitions neared 1.5 million in fiscal year 1974, an almost 90-percent increase for the 10-year period. At the end of fiscal year 1974, our adjudications backlog reached the level of 155,000. This represents an increase of 25 percent over the previous year.

What we are particularly concerned about is the increase in the incidence of fraud. Without adequate personnel and without timely review of cases, there is a high likelihood that fraud will increase. We are requesting 25 additional personnel in fiscal year 1976. This will enable us to interview 25 percent of the applicants applying for benefits where such interviews are now not mandatory, and will allow us to discover fraud that we believe is now occurring.

Our priority, then, is to reduce our backlogs. Some of the actions that we have taken during fiscal year 1975 such as eliminating extensions of stay for B–2 visitors will help us move in that direction.

Now, as to naturalization, we are the agency responsible for encouraging and facilitating the naturalization of applicants who meet the statutory requirements. Our duties include examining and investigating the applicants for naturalization and making a recommendation to a naturalization court as to their eligibility for naturalization. There were 131,655 aliens naturalized in fiscal year 1974, which represented a 13-year high and an increase of 26 percent over the last decade.

In line with the continued increases in the number of applications submitted and petitions filed, there was a pending backlog of 47,533 petitions at the end of fiscal year 1974, which was up some 17 percent over the previous year. In this area, there is the matter of issuance of certificates of citizenship to eligible persons, which is also rising steadily. For fiscal year 1976, our budget contains an increase of 30 personnel for these functions, which should help in reducing backlogs and providing better service to the public.

We have taken a number of steps to improve our efficiency for this activity: for instance, 82 low-volume courts have agreed to relinquish their naturalization function; we are training paralegals, reducing the travel of our own naturalization examiners, and have suspended special procedures. These actions in conjunction with our proposed increases in personnel should enable us to prevent arrearages from developing any further.

Now as to records and information, among our duties under the law is the responsibility for maintaining various records of entry, departure, and naturalization of aliens as well as a registration record of all aliens who are residing in the United States.

Our records capability is crucial to both our enforcement and service efforts. The total number of items requiring an index search reached 13,300,000 in fiscal year 1974, an increase of 21 percent over fiscal year 1965. By the end of fiscal year 1974, our field offices had almost 7 million active files.

Last year, there were over 7,700,000 information inquiries received, almost 700,000 new files prepared and 4,500,000 alien address reports received.

Our problem is that we are unable to provide fast and effective responses to requests for files. For file requests from our field offices

to the central office, delays of up to 3 months for location of a file were not uncommon. Our adjudication and naturalization examiners had to wait an average of 3 weeks for another office to locate a requested file.

A program to complete the automation of our master index is continued in the fiscal year 1976 budget. The completion of this project will immediately assure rapid and accurate search of our 7 million active immigration files. We hope that with our proposed increase of 90 records personnel that our response time will be improved appreciably. What we are sure of is that these additional personnel will enable our central office to respond to requests for records checks on a 24-hour-a-day, 7-day-a-week basis.

This concludes my review, sir, of the service aspects of our Agency. Just as significant—perhaps more so, considering the current state of the economy—is the enforcement responsibility charged to INS.

This is especially important now because between 60 and 80 percent of the apprehensions of illegal aliens away from the immediate border results in the availability of a job for an unemployed American or legal immigrant.

It should be stressed that we are not talking about menial jobs at below-minimum wages. We find aliens working regularly at highly paid jobs requiring skills and often college education.

Some recent apprehensions of this type which we have made in major cities include in New York a Greek plumber earning $12 an hour, and two Greek painters making $9.71 an hour; in Chicago 41 Polish women earning $3.75 an hour on a cleaning crew; an East Indian electronic engineer in Houston making $17,000 a year; a Mexican plant manager in Laredo making $20,000 a year and a Jamaican welder in Boston earning $10 an hour; and an agricultural field foreman, a citizen of Jamaica in Mississippi, earning $16,640 a year; in Florida, a citizen of Mexico earning $12,480 a year; in Florida, a veterinarian and a citizen of India who was a Florida Department of Agriculture meat inspector earning $1,950 a month and he is an over-stayed student; and again in Florida, a citizen of India earning $17,500 a year; at the University of Maryland; a doctor, a citizen of Paraguay, who is the resident obstetrician in a hospital earning $30,000 a year; in Pennsylvania, a doctor, a citizen of Venezuela, earning $50,000 a year. These are examples and they are typical.

In Chicago last month 77 percent of the 559 illegal aliens we apprehended were employed; 92 percent were earning over $2.50 per hour and 20 percent were earning over $4.50 per hour.

So enforcement of immigation laws and removal of illegal aliens after they are apprehended is extremely important. The two operations primarly concerned with the location and apprehension of illegal aliens are the Border Patrol and our investigations unit.

And I will discuss each of these as follows, starting with the Border Patrol, Mr. Chairman, this is the principal uniform force guarding our land borders. Its goal is to prevent the illegal entry of persons into the United States and to apprehend them if they do enter. This mission is accomplished through a variety of techniques including: the physical presence of officers on the border, otherwise known as line-watch; by traffic check; by farm and ranch check; and city patrol.

To support these personnel, we have installed a number of sensor systems along the southwest border to enable our officers to quickly

identify intrusions and thus apprehend illegal entrants as soon after the surreptitious entry as is possible.

The Border Patrol is confronted by an enormous task and overwhelming odds on our southern boundary. On a border that is 1,900 miles long, we have only 1,600 patrolmen. The number deployed in the immediate border area at any one time is only about 200, or 1 agent for every 10 miles. Last year, the Border Patrol apprehended about 635,000 of the almost 800,000 illegal aliens we located. This is a 630-percent increase since fiscal year 1965, and a 27-percent increase over fiscal 1973.

In achieving this level, we responded on the average to only 69 percent of our sensor alarms. One indication of the effectiveness of our patrol efforts is the dramatic increase in smuggling of aliens.

Our Border Patrol agents arrested 8,073 smugglers of aliens in fiscal year 1974 in the act of smuggling 83,000 aliens. The fiscal year 1976 budget requests an additional 213 personnel for the Border Patrol. This is one of the largest increases we have ever received, amounting to about 12 percent additional to the authorized force, and it is very welcome.

Once these agents are effectively deployed, we know from past workload statistics that each agent averages some 500 apprehensions in the course of a year.

This, coupled with the deterrent effect created by their presence on the border, will substantially improve our enforcement posture. However, the great difficulty in assessing the effectiveness of our enforcement is that we are dealing with a large unknown factor which appears to be growing each year.

Now as to investigations: The investigations' activities consist of the gathering of facts about a wide variety of cases ranging from immigration fraud to the criminal immoral, narcotic or racketeer elements for the initiation of both criminal and administrative prosecutions.

In addition to this "fact gathering" role, the Investigations Division is charged with apprehension of illegal aliens in urban areas by use of the "Area Control Illegal Status" program. Although some 198,000 investigative units were completed during fiscal year 1974, the backlog of investigative cases grew 22 percent to some 65,000 cases.

In addition, there are more than 65,000 pending complaints and other cases relating to 123,600 illegal aliens. The fiscal year 1974 completions represented an increase of 130 percent for the decade. There were nearly 17,000 fraud cases completed during fiscal year 1974, an increase of 13 percent over last year. About 14,000 fraud cases are still pending investigation and an undetermined number could be added to that if the manpower were available to pursue them. Our proposed budget for fiscal year 1976 does not include any increases for this activity.

Mr. EILBERG. Mr. Commissioner, I wonder if you could comment on that point, why there has been no request for additional investigators to conduct these activities?

Mr. CHAPMAN. I will comment on it in a moment. There is a substantial request for funds to support detention and deportation and travel of aliens that we do apprehend, and those funds will enable us to exploit the full apprehension capability of our investiagtive force.

Mr. EILBERG. So, these funds will also be used for investigators?

Mr. CHAPMAN. Yes, sir; well, they will be used to detain and move the aliens that the investigators are now capable of apprehending and will continue to be in 1976.

Mr. EILBERG. But, you don't feel that we need additional money for investigators right now?

Mr. CHAPMAN. If we had additional investigators and additional alien travel and detention money over and above that that is included n the budget request, we would definitely be able to do more investigating and more apprehending because the number of aliens that are there that could be apprehended is very large.

Mr. EILBERG. I just have one final question. Why have you not requested additional money for investigators?

Mr. CHAPMAN. The Service has so requested, but the requests were not approved. I believe I should go on to point out, as well, that the real problem, as I see it, is to turn off the magnet, the attraction that brings these millions of aliens here and that is the opportunity to get a job. And Mr. Rodino's legislation, which we, of course, are sponsoring and supporting, we believe it would, or something like it, would do that. And until such time as there is a means of turning off that attraction, that magnet, we are running a sort of a revolving door, so that no matter how many we apprehend, whether at or near the borders or in the cities, others come in or the same ones come back.

So, we believe that both things are necessary; both that kind of legislation and increased capability to enforce it.

Mr. FISH. Would the chairman yield?

Mr. EILBERG. Yes.

Mr. FISH. General Chapman, while we are on the subject of the additional positions requested here, I understand that fiscal year 1976, your budget request is for 750 additional positions?

Mr. CHAPMAN. Total, yes.

Mr. FISH. Total? Well, I would like to just break that down, if I might, with you. 213 Border Patrol, is that correct?

Mr. CHAPMAN. 188 of them are actually Border Patrolmen and the other 38 are clerical and some maintenance and radio operators.

Mr. FISH. 188?

Mr. CHAPMAN. 188 are actually Border Patrolmen.

Mr. FISH. What is the clerical figure?

Mr. CHAPMAN. The difference between that and 213, which is 25.

Mr. FISH. 25 clerical?

Mr. CHAPMAN. Clerical and maintenance and support.

Mr. FISH. And then I believe you said 215 personnel to begin implementing a secure alien documentation system?

Mr. CHAPMAN. That is correct, sir, plus or including some $4.7 for the expenses involved.

Mr. FISH. No, I am just talking about personnel at this point. I will get to the funding later on at another time.

Mr. CHAPMAN. That is 215 personnel.

Mr. FISH. And under your adjudication responsibility, you are requesting 25 additional personnel?

Mr. CHAPMAN. Yes, sir.

Mr. FISH. And under naturalization, it was 30?

Mr. CHAPMAN. It is 30.

Mr. FISH. And records, you have 90?

Mr. CHAPMAN. That is correct.

Mr. FISH. I get a total of 573.

Mr. CHAPMAN. Well, there are 177 in the detention and deportation program.

Mr. FISH. 177 in detention? That is new personnel?

Mr. CHAPMAN. These are all new personnel, additional personnel, 750 of them total.

Mr. FISH. Well, that final figure of 177 then gets us into the heart of the matter of the need for personnel to move illegal aliens that you can apprehend, is that not so, sir?

Mr. Chapman, Yes, sir; that plus the increased moving funds.

Mr. FISH. So, really the only thing we are short of then is additional people in the Investigative Division, which I understand it the division charged with the apprehension of illegal aliens in urban areas?

Mr. CHAPMAN. In the cities. We have a force of approximately 900 who are responsible for conducting thorough investigations as well as apprehending illegal aliens. They are charged with covering virtually the entire nation away from the borders, including the major cities where most illegal aliens are now residing and working at desirable jobs.

With the increased funds for alien detention and travel, requested in the 1976 budget, they will devote a greater part of their time to apprehending and removing these aliens.

In an effort to create a more effective investigation program, we created task forces in major cities to concentrate on the evergrowing marriage fraud business. And it is a substantial and lucrative business. We are investigating marriage fraud rings and individual marriage fraud cases every day. I might remark to the committee about a lady we arrested in Miami not long ago, who had married fraudulently six husbands and each of her daughters had married three husbands. She had a common-law husband with two children for which she was drawing Aid-to-Dependent-Children benefits. And for each of the 12 marriages they had registered for and were drawing welfare. In addition, she had been given a rent-free public housing apartment, which she had sublet and on which she was collecting rent. That is an extreme example, and I must give her high marks for enterprise, but it is an example of the many marriage frauds that are now being used as a means to gain entry into this country on a permanent basis.

We are also emphasizing programs concentrating on interagency cooperation such as with the Social Security Administration, IRS and elements of the Justice Department. Our New York City Office has been designated as Project Control Office, as you know, Mr. Chairman, to coordinate Service investigations relating to Nazi War Criminals.

And now, with respect to detention and deportation, which we already briefly touched on, the Detention and Deportation Division

is charged with the detention, transportation and removal of deportable aliens located in the United States.

In fiscal year 1974, approximately 740,000 aliens were expelled. This represented an increase of 26 percent over fiscal year 1973 and 611 percent since fiscal year 1965.

In the course of apprehending and removing these aliens, over 286,000 were admitted to custody in Service and non-Service facilities, that is a decrease of 2 percent over fiscal year 1973. There is a direct link between the amount of money available for alien travel and detention and the level of investigations "area control" operations which are aimed at removing employed illegal aliens in the urban areas.

When funds for detention and removal are not available, "area control" activities must be trimmed back so we don't pick up more illegal aliens than we can afford to remove. The increase of 177 positions requested for this function in the fiscal year 1976 budget will allow for a significantly increased removal program. We are estimating it to be 952,000 expulsions or almost 200,000 more aliens expelled in 1976 than in fiscal year 1975.

In addition to increases in personnel, our budget request provides for new detention space and funds for "interior repatriation." Interior repatriation provides for the effective removal of Mexicans to the vicinity of their homes in the interior of Mexico far from the immediate border so as to combat the so-called "revolving door" phenomenon.

Mr. Chairman, in the past 14 months we have taken several steps to improve and strengthen our overall management of the Service, as I mentioned in my opening comments. Some are noted on this chart, Mr. Chairman.

To review briefly, these include: Central Office reorganization; Regional Office reorganization; and Realignment of regional boundaries.

Our Central Office reorganization included the establishment of an Office of Planning and Evaluation. Its functions, among others, are to provide for the evaluation of Service policies, to plan for the long-range needs of the Service as well as to assess the current utilization of resources, and to conduct special studies to better integrate mission objectives with our activities. This group has also acted as a liaison for monitoring new developmental efforts such as the alien documentation project, the design of an illegal alien study, and a proposed research and development endeavor.

In addition, we have implemented a management by objectives system, Mr. Chairman, in accordance with Department of Justice directives to establish goals for various INS programs. This system will enable us to evaluate performance in respect to stated goals each fiscal year, and allow regional and district offices to become more intimately involved in the development of resource requests.

Next, as to the regional geographical reorganization, the shift of our boundaries conform with the Federal regions and to better equalize the workloads and span-of-control in our four regions, we have divided and have had approved the new geographical boundaries that the committee will see on this chart. The spacing there indicates the new regions and the colors indicate the old regions.

Now, this arrangement equalizes the number of employees in each region and equalizes the span-of-control arrangements in our regions in a way to cope with today's problems that are facing our four regional commissions. We expect to put this new arrangement into effect early in fiscal year 1976.

We have also taken action over the past year to inform the American public and the Congress as to the scope, characteristics and economic impact of the illegal alien population on the American society. This has been done in the hope that public knowledge of the seriousness of this problem will result in action taken to resolve it.

As you can see from the review of our activities, we have some strengths and many weaknesses in our capability to perform our duties and carry out our responsibilities.

Certainly one of the great strengths in the Immigration Service is the dedication of the more than 8,000 employees. In conclusion, I can promise this committee that all of us in INS will continue to do our very best to carry out all of our tasks to the limit of our capabilities.

Mr. Chairman, that completes our statement, and we will be more than pleased to attempt to answer any questions you have.

Mr. EILBERG. Thank you very much for a very full and complete statement. I alert the other members of the committee that we have a rather ambitious program of speakers this morning and I am hopeful that we can limit our questions and, hopefully, if there are additional questions, that we can submit them to the Commissioner for answer in writing, otherwise we will have to have another meeting.

General, I am going to ask you a few questions, if I may and then give additional questions, if I may, for your written reply.

Mr. CHAPMAN. Certainly.

Mr. EILBERG. First, I have a letter dated January 27 to you, sir, signed by some 40 odd organizations, starting with The American Baptist Home Mission Society, The American Council for Immigration and Naturalization, The U.S. Committee of Refugees, and so on, dealing with the Service's present operational priorities, and indicating the distress of these organizations because of the great emphasis placed upon enforcement functions of the Service and the deemphasis of the Service functions.

We are told in this letter, which I will make a part of the record, that the average visitor has contact with the Service in one of our primary contacts: inspection at the airport, adjudication of applications, requesting of information, applying for naturalization. I might add in those connections, that in my own city of Philadelphia and my own district, I have had substantial complaints from people in my district and in the city of Philadelphia, so I know whereof this group speaks.

The letter suggests your operational priorities curtail these functions and the letter goes on to say:

> Your Operational Priorities will curtail each of these functions. We deplore the 50% reduction in manpower in the Public Information Section, which is the primary source of information to the public. With a 50% reduction in personnel, service which, in our opinion, is already inadequate will be further reduced.

The letter goes on to talk about the reduced ratio of inspectors to passengers at airports, which will result in enormous backlogs and certainly result in a negative first impression of the United States.

As I said, I will place this in the record.
[The letter referred to follows:]

JANUARY 27, 1975.

Re Operational Priorities.

Hon. LEONARD F. CHAPMAN, Jr.,
U.S. Commissioner of Immigration and Naturalization,
Washington, D.C.

DEAR COMMISSIONER CHAPMAN: We, the undersigned agencies, note that on September 24, 1974, you announced the establishment of Operational Priorities for fiscal year 1975. We have read this document with interest and concern. We appreciate the financial situation confronting the Service, but feel compelled to express our dissatisfaction with the priorities.

We are particularly distressed by the great emphasis placed upon enforcement functions of the Service and the de-emphasis of the Service functions. The average visitor or immigrant to the United States has contact with the Immigration and Naturalization Service in one of four primary contexts:

(a) Inspection at the airport.

(b) Adjudication of an application through which he is applying for a benefit under the Immigration and Nationality Act.

(c) Requesting information from the Immigration & Naturalization Service.

(d) Applying for naturalization.

Your Operational Priorities will curtail each of these functions. We deplore the 50 percent reduction in manpower in the Public Information Section, which is the primary source of information to the public. With a 50 percent reduction in personnel, service which, in our opinion, is already inadequate will be further reduced.

We have been told that the reduction in the number of contact representatives has already shown beneficial results, that the lines in your Information Offices have become shorter, and that the contact representatives who could be eliminated from the floor can be used to answer the backlog of mail and telephone calls.

Our interpretation of the shorter lines is different. There is a point of no return waiting for information. When the public enters an information area and notes the inadequate staffing, the reaction is a withdrawal which may give a superficial impression of reduction of demand, but in reality is an expression of frustration.

Only through personal encounter can various alternatives to solve any particular problem be adequately and fully explored. The information given telephonically and in correspondence will necessarily be inadequate since it will not deal with the full range of possible alternatives.

The reduced ratio of Inspectors to passengers, at airports, will result in enormous backlogs and will certainly result in a negative first impression of the United States.

In the explanation of the changed priorities which is distributed by your office, it is of this change stated that one of the purposes is to make it clear to the public that the Service needs more funds in order to give adequate service.

Among the low operational priorities are applications for adjustment of status under Sec. 245. In some districts adjudication of these applications has fallen far behind and there is a waiting period of a year or more. This is especially unfair to the applicants whose application is based on a labor certification because during the waiting period they must remain in the position for which the certification was obtained and they are in a vitrual state of peonage during the long waiting period. They cannot leave for cause and in the present state of the economy, their employment may be terminated and they may find themselves confronted with immigration problems which could have been avoided if their application had been acted upon within a normal period of time.

The inadequate number of inspectors abroad slows down the processing of prospective immigrants and refugees.

Since only through naturalization do persons become fully assimilated into the mainstream of American life, naturalization should be made as easy and rapid as possible. Citizenship education textbooks, visits to military installations and other such public relations efforts should be increased rather than eliminated. The current backlog in processing naturalization applications is highly undesirable, and a further de-emphasis of naturalization would only worsen the present situation.

We believe that the Immigration and Naturalization Service is both a public service and a law enforcement agency. To over-emphasize the law enforcement aspect imposes a burden upon those person who seek entry into the United States, lawful benefits under the Immigration and Nationality Act, and naturalization. The priorities demonstrate that the Service is not concerned with the law abiding alien, but only with the evader of the law.

We urge you to re-evaluate operational priorities and to effect a more balanced policy.

Sincerely yours,

American Baptist Home Mission Societies; Amercian Civil Liberties Union; American Committee on Italian Migration; American Council for Emigres in the Professions; American Council for Judaism Philanthropic Fund; American Council for Nationalities Service; American Federation of Jews from Central Europe; American Federation of Musicians; American Irish Immigration Committee; American Jewish Committee; American Jewish Joint Distribution Committee; Board of Global Ministries of the United Methodist Church; Christian Church (Disciples of Christ); Church World Service, National Council of Churches of Christ; Dominican American Civic Association; Hias and Council Migration Service of Philadelphia; Hot Adoption Program; Immigration Council of Southern California; International Institute of Boston; International Institute of Buffalo; International Institute of Connecticut; International Institute of Milwaukee County; International Union of Electrical Radio and Machine Workers, AFL–CIO; Italian Welfare League; Iuliu Maniu American Romanian Relief Foundation; Japanese American Citizens League; Jewish Counseling and Service Agency of Metropolitan New Jersey; Lutheran Immigration and Refugee Service; National Chinese Welfare Council; National Council of Jewish Women; Nationalities Service Center, Philadelphia; New York Association for New Americans; Order of AHEPA; Polish American Immigration and Relief Committee; Polish National Alliance of the U.S. of N.A.; Tolstoy Foundation; Travelers Aid International Social Service of America; Travelers Aid Society of Metropolitan Chicago/Immigrants' Service League; United HIAS Service; United States Catholic Conference, Migration and Refugee Services; United States Committee for Refugees.

Mr. EILBERG. Sir, this is not offered to you in a manner of criticism, but we have a drastic situation which has developed and is developing at this moment in this sphere, which is under your jurisdiction, and I wonder if you can give us any reactions to this letter at this time? I assume you are aware of the letter?

Mr. CHAPMAN. Oh, yes, I am certainly familiar with the problem. It goes back to the remarks I made in my statement concerning the 8 tons of load on a 5-ton truck. We are simply overwhelmed with the magnitude of our task and we have some 8,000 dedicated employees that are just stretched too thin trying to do too many things and not able to do hardly any of them well.

So, I came to the conclusion that we had to take drastic actions to reduce the task to the most important ones that could be done properly and well, and that was our priority program, in doing so; however, it is not correct that we have deemphasized service in order to improve law enforcement.

On the contrary, most of our steps are along the line of improving service to the most Americans and legal alien visitors that we cuold. For example, with respect to the inspection at airports, the previous procedure was to detail our adjudicators to the airports to conduct

inspections along with the inspectors, with the result that our adjudications were not being done and the backlogs were getting larger and larger.

So, it is true that we have removed the adjudicators from airport inspections and directed them to concentrate on adjudications, which is their primary function, with the result that it is taking longer for the average passenger load of airplane passengers to move through our inspections. But the time required is not excessive, Mr. Chairman. It amounts on the average now to less than an hour for a full planeload and considerably less than that if they are all U.S. citizens.

Mr. EILBERG. General, you have indicated that the primary problem is the economic incentive and the draw that the United States has for the citizens or residents of other countries to come to the United States, you suggest an excellent solution to this problem would be the passage of 982, or some form of it. Is it not also true that the Service, and I am not blaming you, sir, has not exercised foresight and that you might say that in years past there has been a lack of resources for the Service, and perhaps inefficiency in some areas? How did this develop and how do you look back upon the problem now?

Mr. CHAPMAN. Well, I really can't second-guess what has gone on or not gone on in the past, Mr. Chairman. I would just say it is quite clear that the capabilities of the Service have not kept abreast of the dramatic increase in the magnitude of the task with respect to illegal aliens, with respect to services.

Mr. EILBERG. Now, is it not so that the Service did present the OMB and the Appropriations Committee with major increase requests and this is not only a relatively recent request, but under prior administrations?

Mr. CHAPMAN. Yes; it is true that the Service has requested major increases over the years that have not been approved, and last year, for the first time, Congress did not approve the requested budget increase.

Mr. EILBERG. So that at least part of the blame here, aside from the Congress, should rest with OMB is that not correct?

Mr. CHAPMAN. Well, sir, I wouldn't use the word "blame". That is where the decisions are made, of course.

Mr. EILBERG. You would agree that this committee and the Immigration Subcommittee of the House Judiciary Committee works every day with immigration and refugees and was and is in the best position to know and appreciate the problems the Service faces? Do you agree?

Mr. CHAPMAN. Yes, sir.

Mr. EILBERG. With world economic problems as they are, isn't it conceivable there will be an even greater desire of aliens to come to the United States in one way or another? Isn't that the current situation? Isn't it true the situation will grow worse unless we take some drastic steps.

Mr. CHAPMAN. I am certain that is true, sir. If we had a problem today of a magnitude of perhaps 6 million to 8 million illegal aliens in the country, of whom probably 1 million are working, and if we

don't find a means of turning off this flow, this attraction that brings them here, and the means of increasing our capability of dealing with it, I am sure we are going to have twice that many in another few years and three times that many shortly thereafter.

The opportunities in the United States and the pull of the U.S. opportunities on the one hand and the push of the poor conditions in their homelands is just overwhelming; it is just an inexorable influence.

Mr. EILBERG. Commissioner, it is my feeling that we cannot necessarily put all our eggs in one basket. I don't think, while 982 offers what may be a very viable solution, it is not the total solution. We should look to all possible ways to combat the problem.

It is therefore, and for that reason, that I introduced H.R. 1276, which would confer authorization power on this subcommittee, namely, a subcommittee which deals with your problems, sir, on a daily basis. I am going to put the question to you this way, General, if I may.

This bill, 1276, which seeks to confer line-item authorization on this committee for your budget, would this bill, assuming it is passed, be helpful to the Service?

Mr. CHAPMAN. Well, of course, sir, the committee sponsors, originates, and supervises the immigration and naturalization laws and our Agency exists to administer, implement, and enforce those laws in our country. And it is always helpful, and it must be helpful for the committee to review and detail our capabilities and limitations in doing that.

Now, whether, as in this oversight to this committee, and I can assure the chairman to continue to cooperate at these oversight hearings or any other hearings to the best of our capabilities and limitations and as to our duties——

Mr. EILBERG. General, may I ask you——

Mr. CHAPMAN [continuing]. But as to whether the additional steps should be taken of enacting the line-item authorization procedure, that is a matter for the Congress.

Mr. EILBERG. All right. My question was, and I am fully aware of the chain of command, and I do not wish to put you on the spot or embarrass you in any way—but, my question was, in your personal opinion, if we at this committee had this power, do you think it would be helpful to your Service?

Mr. CHAPMAN. Based on my Defense experience, I would have to say, yes; I do think it would be helpful.

Mr. EILBERG. I thank you for that answer, General. I have one more subject and then I will yield to my colleages.

In my opening statement I indicated my interest in maintaining close oversight of the Immigration and Naturalization Service. One of my priority oversight concerns is the investigation of alleged Nazi war criminals by the Service, which is receiving increased public attention lately. Has this matter ever been discussed before the Appropriations Committee and do you propose to bring it to the attention of that committee?

Mr. CHAPMAN. To my knowledge, it has never been discussed before Appropriations. I would have to turn to Mr. Greene and ask him.

Mr. GREENE. I do not believe it has ever been discussed at all there.

Mr. EILBERG. I am concerned with the possibility that there might not be enough attention or personnel or time being focused on those problems, Mr. Greene, and I for one would be very hopeful that this time, that this year, very shortly, as you testify before the Appropriations Committee, that you would demonstrate your need for additional help, if you feel you need additional help, to get this problem behind us.

Mr. GREENE. Mr. Chairman, we are going to and have been according this Nazi war criminal program the highest priority. And what we will have to do is siphon off investigators from other functions, because it is going to get the attention it requires, and necessarily it will decrease our efforts in other areas. So, to carry our full responsibility, we should have more people.

Mr. EILBERG. Mr. Greene, wouldn't it be better if you got more help rather than siphon off some from other areas, which are very short handed?

Mr. GREENE. Yes, sir.

Mr. EILBERG. Commissioner, we have been following your investigation into the matter of alleged Nazi war criminals presently in this country. It seems to me that very little has been accomplished in the past several years. We consider this to be a very important issue.

Would you advise this subcommittee as to what progress has been made since your last appearance on June 25, 1974, last year, with regard to these investigations? How many people do you have currently working on these investigations?

Mr. CHAPMAN. I should say, Mr. Chairman, that those are allegations.

Mr. EILBERG. All right.

Mr. CHAPMAN. With respect to Nazi war criminals, we, as Mr. Greene has said, conducted and will continue to conduct a major investigative effort on this subject. There are allegations against some 89 total alleged Nazi war criminals. Of them, we have determined that 17 are, in fact, deceased, and 17 we cannot identify and 11 we found absolutely no proof other than an unsupported original allegation and 2 are not in the United States and 1 has been granted political asylum.

That leaves 41 that are now being actively investigated. Of them, 41 are either naturalized citizens or legal permanent residents. In eight cases we have tracked down every lead that we have and found no substantive evidence to support the allegations, so we have laid eight cases aside as currently inactive.

The remaining 33 are under active investigation, both here in this country and throughout the country, and in collaboration with the State Department overseas.

Mr. EILBERG. General, can you tell us how many of your personnel are assigned to these 33 cases at the present time?

Mr. CHAPMAN. There are two full-time investigators in charge of the overall project in our New York office, and they are actively

supervised by our Chief Investigator there and by the District Director. And in all of our districts around the country, wherever there is a lead that turns up, it is given the top priority for the investigative section of that district.

Mr. EILBERG. But, you do agree that more help is needed in order to clean this job up.

Mr. CHAPMAN. I think we need to put more people on it, sir, and we are going to do so.

Mr. EILBERG. Finally. General, Congresswoman Holtzman was unable to stay. She had a number of questions in this same area of Nazi war criminals. I am going to submit these to you on her behalf so that you may answer them for the record.

[The questions of Hon. Elizabeth Holtzman are in app. 2 at p. 427.]

Mr. EILBERG. I yield to Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman.

At the outset, I would like to concur with your opening remarks of the need for authorizing authority in this committee, and I commend you for introducing H.R. 1276. I am confident, that it would be helpful to the Service if we had this authority.

An answer to a question almost parenthetically raised by the chairman interests me. You stated that there are probably 1 million illegal aliens working here. It is my impression that the 1 million jobs that were identified in a single page entitled "INS Estimate of Jobs Which Could be Created by Enacting H.R. 982," my opinion was that only the first million jobs had been so identified by the Service.

Is my recollection not correct?

Mr. CHAPMAN. Mr. Fish, we really don't know. We are confident that there are that many at least. That estimate was compiled by my district directors, who are on the scene in 30-some urban areas, districts, throughout the country. We are confident that there are that many in those kinds of occupations.

Now, how many more there are, we just don't know. We believe there well may be more, but we simply don't know.

Mr. FISH. One of the categories you discussed this morning in your responsibility, was recordkeeping. I wonder if you would care to comment on a recommendation by the Government Operations Committee in the last Congress in the interim report on INS regional operations dated December 18, 1974, which referring to the alien reporting system, the annual reporting, said:

"The ultimate value of the annual reporting requirement is questionable, since such a large effort is required for sorting and storing the cards and INS makes little use of the information."

And the recommendation is made:

"The annual reporting requirements should be reassessed for its value and the use of the information obtained."

Would you care to comment on that?

Mr. CHAPMAN. That refers to the requirement in January of each year for aliens in this country, aliens with permanent residencies or tourists aliens, to turn in a postcard of their current address. Those cards do come in. They are used for a number of good purposes, both

by ourselves and other government agencies, who use the information for research and statistical and other purposes.

If we can progress with our automation projects, as we would like to, we would be able to handle those cards with greater speed and with much more effect thereafter. So, it is my overall opinion that the requirement to report on the part of all aliens is a sound principle and should be continued, and I think it is up to us to make better use of them largely through automation.

Mr. FISH. I would like to address myself to two areas. One has to do with the fact that no additional investigators are included in the 750 additional positions in fiscal 1976. Our Chairman alluded to this, and has alluded on many occasions to this fact, including the issue of siphoning off investigators you presently have for any special assignments.

I understand there are presently 900 in the Investigative Division, is that correct?

Mr. CHAPMAN. That is correct.

Mr. FISH. Would you tell us what your request was, either originally to the Department of Justice or to OMB that was not responded to in the fiscal 1976 budget?

In other words, how many would you really like to have to do the job?

Mr. CHAPMAN. Mr. Fish, I am sure you appreciate that I support the President's budget. The President's budget did not request any more investigators. It did request, however, substantial alien travel and detention funds to enable the investigators that we do have to exercise their maximum apprehension capability.

Mr. FISH. Well, I will get on to that in a minute. I understand that figure is $5 million, which I don't find very impressive either. But, we are examining the President's budget now, Mr. Chapman. I understand you support it, but we plan to rewrite it, and I would like to know for the good of the Service and for the good of the people of this country, how many investigators you need to do that job that you and I know needs to be done, and which I know you want to do.

So, I want to know how many more investigators would you like?

Mr. EILBERG. I am asked whether this is not a fair question by Mr. Fish. It is, in the Chairman's opinion, a fair question, although it might be somewhat embarrassing to the witness.

Mr. Fish. Well, let me pursue this a bit further—

Mr. COHEN. Would the gentleman yield?

Mr. FISH. Just a minute. We have now spoken about the fact that there are 1 million jobs being held and over 50 percent of them are light and heavy industry jobs, held by people not entitled to them, yet on page 15 of your report, in talking about the detention and deportation program, you say that: "Next year you anticipate 200,000 more aliens will be expelled than there were this year."

Well, now, I was hoping to read 1 million; 200,000; with the revolving door policy may mean you are standing still.

Mr. CHAPMAN. Well, sir; of course each time we apprehend an alien working in a good job, we immediately call the local State or

city employment service and in most cases, they find an American immediately to take over that job. So, it is no longer available to the alien.

Mr. FISH. Can I yield to the gentlemen from Maine a minute and then I still have an answer I hope I am going to get.

Mr. COHEN. Well, I thank the gentleman for yielding. I was simply going to point out that while many of us recently signed a loyalty oath to the Republican President, but we still feel that we have to express our own disagreements from time to time when we feel it is in the best interest of the country. I certainly appreciate your delicate position of wanting to support the President, but what Mr. Fish was saying was in addition to supporting the President, do you feel that more money is necessary to really achieve the goals, rather than simply just stating your reaffirmation for the President's budget?

Mr. FISH. Well, thank you. So, we have a state of fact here, where it is my understanding that last fall you sought $50 million for personnel and moving money to get about the job of the problem of illegal aliens holding jobs in this country. It is my understanding now your testimony is that $5 million has been added for alien detention and travel.

So, we are doing to one-tenth of the job we hope to do, then, and in addition we are not going to have any of the very necessary people who are charged with doing this job. And getting this job done has always been a question of personnel and money, right?

And so, we need the investigators and you are not going to get any more of them, right?

Mr. CHAPMAN. It is personnel, money and legislation, Mr. Fish. I referred in the statement to the Rodino bill or some means of turning off the opportunity of getting a job in this country, which is what attracts those millions of people here, and I would add that——

Mr. FISH. Well, it is also a much healthier economic climate than Mexico?

Mr. CHAPMAN. Yes, sir, and than many other countries.

Mr. FISH. But, that really isn't what we are considering here.

Mr. CHAPMAN. The $50 million that I referred to last fall had to do with enforcement of Mr. Rodino's legislation, as well as increasing our capabilities. There is nothing in this budget to implement and enforce the provisions of that legislation, should it become law.

And my statement last year was, if we did have that legislation and had something on the order of $50 million and a couple of thousand additional officers to implement and enforce that bill as well as giving us some other capabilities, that we could open up to 1 million jobs. And I am confident that is so.

Mr. FISH. A couple of thousand more officers, you say?

Mr. CHAPMAN. That related primarily to enforcing that bill as well as other capabilities.

Mr. FISH. Well, you say it seems apparent that if there was more than $5 million in the detention and deportation side of the budget and an increase in investigators, the probabilities would be that a greater increase than 200,000 would be your forecast for next year in deportations?

Mr. CHAPMAN. Yes, sir.

Mr. FISH. Thank you.

Mr. CHAPMAN. On that order of magnitude, sir.

Mr. FISH. Thank you.

Mr. CHAPMAN. Not all of them, as I point out, will be apprehended at work. Some of the 200,000, of course, we will try to find them looking for jobs, or they may be families, women and children.

Mr. EILBERG. Mr. Dodd.

Mr. DODD. I just have a couple of questions. I realize, Mr. Chairman, you want to move this along.

Mr. Commissioner, on page 11 of your testimony you talked about the Border Patrol apprehensions and you make reference to the sensor system. It is my understanding, and correct me if I am wrong, from information I have received, that in addition to the sensor system, the observors are still using a rather old and maybe rather good system of detection as well, namely, dragging barbed wire or fencing along the border and then flying a plane over it at a later date to check for tracks. It is an old Indian system, is that accurate and does it work well.

Mr. CHAPMAN. It is both. We have Border Patrolmen that are the world's leading tracking experts. It is called "sign cutting" in the Service. They follow tracks as well through smoothed-out bands over or across the favorite entry routes, watching for tracks. They do that both from the ground and from the air.

And I might say, parenthetically, that there is included in the 1976 budget a request for one helicopter.

Mr. DODD. To be used in this?

Mr. CHAPMAN. For us to experiment, yes, in this regard. The helicopter has several advantages and one of which we think will be that since it will carry five or six people and a pilot, that we will be able to move in with one or two Border Patrolmen, who can then land and pick up two or three aliens that they spot from tracks or by sight out in the middle of the desert somewhere.

Mr. DODD. In addition to the sensor system, and that system, is there any other systems at all that you use at these Border Patrol points where you do have a heavy previous instance of heavy immigration?

Mr. CHAPMAN. There is some fencing in place now, which has been in place for years, at the cities, and then in addition, there is the project that is included in the budget to begin the issuance of the new counterfeitproof, alterproof and impostorproof, and machine readable border crossing card, which is an alien identification card, which will be of immense help to us. The money is in the budget for the first year for that new card.

Mr. DODD. Also referring here to the inspections, I guess it is under inspections that the fraudulent documents that you mention in your testimony are reviewed. You have a tremendous problem in detecting fraudulent documents.

What would you suggest in addition to the border crossing guards? What sort of documents would you suggest to alleviate this problem? Do you suggest the Social Security cards are being fraudulently manufactured, or is it passports or is it what?

What are the documents you are having the difficulty with?

Mr. CHAPMAN. Passports, visas, birth certificates, marriage licenses, alien identification cards, border-crossing cards, the use of nonexistent or fraudulent social security numbers, and the like. Our alien identification card project will, if the Congress approves the funds, will solve over about a 3 year period the whole problem of the counterfeit border-crossing card and the alien identification card.

Consequently, the Visa Office—and we developed this new card in conjunction with the Visa Office—and they will begin in 1976 to issue the new visa which uses all the same technology as our new card here, and works slightly the same way. So you drop it in the same slot for a machine reading and the like. And that should solve the visa fraud aspect.

There still remains then fraudulent documents of all kinds that are used to support entry into the country or support a request for a social security number or whatever. It is in that area that our investigators work and there is also the marriage frauds, too.

Mr. DODD. I brought this up, I think, once before when you were testifying earlier, but what is being done in the international community? Obviously, there is a problem that we are suffering from probably more so than any other country in the world, a problem of illegal aliens here, but is any effort being made at all in the international community with the United Nations, or whatever, to work out some kind of a system of use of passports or birth certificates that would alleviate a lot of this problem?

Are we in close contact with the Mexican Government, for example, and what are they doing? Is anything being done to the aliens to deter him? Is there any punishment at all for the illegal alien coming back to Mexico?

Mr. CHAPMAN. Well, sir, there are two different questions there.

Mr. DODD. I realize that. I just wanted to get a general response.

Mr. CHAPMAN. The first one falls within the province of the Passport Office of the State Department, and there is an active international effort in this regard. Mr. Greene may be able to elaborate on that.

Mr. GREENE. Yes, the ICAO group, which is a subsidiary of the United Nations, with regard to international air transportation, has a card and has been studying this problem for a number of years. Mrs. Knight has presented her card and she has a newly designed passport which is almost counterfeitproof.

And the Inter-Pol organization took cognizance of this two years ago when I presented a paper to them that there should be a tightening up of the control of international travel documents to frustrate criminals traveling abroad. They did take it under consideration and it was submitted to apparently all the members of that organization.

Mr. CHAPMAN. As to Mexico, I don't believe I know the answer to that. Do you?

Mr. GREENE. Well, there truly hasn't been too much done with regard to fraudulent documents in Mexico. Fraudulent documents are quite prevalent. And a number of our documents are issued in Mexico. They have a ruling of their courts down there that the issuance

and counterfeiting of American documents is not a violation of Mexican laws. We have asked them on numerous occasions to help us control this.

Mr. DODD. What about illegals leaving this country and returning to Mexico?

Mr. GREENE. I understand, under their most recently passed immigration law, that it is a technicality, a legal technicality, to leave the country, but they do not enforce it. Every Mexican returned to Mexico is turned over to the Mexican Government. He is turned over and they get the data as to how they left the country. They are supposed to go through a court with a document in possession.

Mr. DODD. And is this also an activity our State Department is pursuing, namely, communication and conversation with the Mexican Government?

Mr. GREENE. There is and has been a group set up recently to zero in on the relations with Mexico on all of these problems of illegal entry and movement of migrants and the cooperation of the two governments to stop this.

Mr. CHAPMAN. The committee, Mr. Chairman, may be interested in seeing some examples of our new card here. Could I pass them around?

And I emphasize that this card is actually counterfeitproof. It is impostorproof, that is, one individual cannot use somebody else's card.

It is a card that identifies definitely the person to whom it was issued. It is tamperproof or alterproof and it is machine readable. You drop it in a slot and it is machine readable.

Mr. DODD. Mr. Chairman, I have additional questions that I will submit in writing.

Mr. EILBERG. I appreciate that very much, and without objection they will be submitted for the record. [See app. 2 at p. 427.]

Mr. EILBERG. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Thank you, too, General. I notice from the first two rows of the audience today that you had a good proportion of the INS Service with you, or at least that is what it appears to be from here.

I noticed in your statement that you indicated that you have been deploying inspectors to the southwest border. I add a rueful note that I surmise those are taken from the northeast border to fill those particular slots?

Mr. CHAPMAN. No, we did have a plan to move 90 inspectors from the northern border, the entire northern border for the obvious reason that people are entering fraudulently with counterfeit or other kinds of documents through the southern border by the tens of thousands of numbers a year, and we know that. They admit that when we apprehend them, whereas, Congressman, the number coming through the northern border is very small in comparison.

Despite that fact, though, two-thirds of our border inspectors are on the northern border and one-third on the southern border, which is a situation that has grown up historically through the years.

So, our proposal was to move about 90 from the northern border to the southern border. The Congress mandated that we not carry out that plan, and we have not done so this year.

Mr. COHEN. With respect to mandates, I would not ask you to respond to this now, but there have been two reports issued to the Government Operations Committee with recommendations and I have them here, but I don't want to take the time now. But, I would like you in writing to furnish the committee with what your response has been to those recommendations and what you propose to do.

Mr. CHAPMAN. Fine. [See app. 2 at p. 427.]

Mr. COHEN. Going to the question previously about the Nazi war criminals, and I am not being facetious when I ask this question, but I would like to know does your Agency have any cooperation either with the CIA or FBI in years past in connection with investigating war criminals? Because it certainly seems to me that if we can spend money for the CIA to be dredging up submarines from the bottom of the ocean, we would certainly want to utilize their services as well when it comes to determining whether the Nazi war criminals are still at large.

I would also raise the question that since we have been finding out that there have been activities carried on by the FBI and CIA during the past 15 years concerning dissident groups, I would certainly suggest that the American Nazi Party might fall within that category, which would warrant the FBI investigating them as well.

Mr. CHAPMAN. As to whether we have been in touch with and asked the FBI or CIA to help us in the Nazi war criminal allegations, I will have to turn to Mr. Greene.

Mr. GREENE. We do check with the FBI and the CIA with regard to what information they might have concerning someone we have under investigation.

Mr. COHEN. Have you made——

Mr. GREENE. We have not asked them to make investigations for us. We would go through the Department of State, which we are doing in these cases.

Mr. COHEN. Have you called upon the FBI or CIA with reference to the 41 people that are currently under investigation?

Mr. GREENE. For information?

Mr. COHEN. Yes.

Mr. GREENE. Yes, sir.

Mr. CHAPMAN. That is for information, but not for active investigation.

Mr. GREENE. That is correct.

Mr. CHAPMAN. Not active investigation on their part.

Mr. EILBERG. Would you yield?

Mr. COHEN. Yes.

Mr. EILBERG. At an informal meeting yesterday, attended by the Commissioner, Mr. Greene, Mr. Bernsen, Mr. Fish, and myself, we explored this subject. One conclusion that came out of that meeting was an indication that the Service would intensify its efforts with the State Department, which has perhaps been dragging its feet in this area. Greater help by the State Department would help perhaps solve some of these problems.

Mr. COHEN. I was just inquiring to determine whether the FBI or CIA had branched off into this as well.

Mr. CHAPMAN. Just last night, Mr. Chairman, after that meeting, I did contact the new head of security——

Mr. GREENE. The Bureau of Consular Affairs.

Mr. CHAPMAN. Yes, in the State Department and he expressed his complete and energetic cooperation.

Mr. EILBERG. I appreciate that very much.

Mr. CHAPMAN. And, to my knowledge, I am confident that he will exercise energy on that.

Mr. COHEN. With respect to the interagency cooperation that you touched upon, you make reference to the Social Security Administration, to the Internal Revenue Service, but what about HEW?

Mr. CHAPMAN. With respect to welfare and aid to education and the like?

Mr. COHEN. Right.

Mr. CHAPMAN. We have been in touch with them on that general subject, but mainly we have been working with the Social Security Administration, which is, of course, in HEW. The welfare, as you well know, is administered by the States employing a good deal of Federal money, obviously.

Mr. COHEN. Well, we have had people testifying before this committee who have raised objection to the notion of calling upon the HEW to report illegal aliens who might be receiving welfare payments, and I am just wondering what has been your experience with HEW?

Do you intend to call upon it in the future?

Mr. CHAPMAN. We do bring the subject to their attention, yes, but it is worth noting that in California——

Mr. COHEN. Do they bring it to your's, that is what I am asking?

Mr. CHAPMAN. Well, it is worth noting that in California in December the California Superior Court Judge rendered a decision that an alien was entitled to welfare payments unless he was known to be deportable.

Mr. COHEN. Not to take this matter up too long, but there was an article that appeared in the Washington Star, I believe, Monday, dealing with the payment received by certain Customs officers, the overtime payment, and perhaps you could provide us something later on in writing concerning that whole issue?

Mr. CHAPMAN. Customs and Immigration officers? That is right, sir. Those payments are made according to law.

Mr. COHEN. Well, the question is as to a possible revision of the law. I don't want to get into it now, but I would like to receive something on that. [See app. 2 at p. 427.]

Finally, with reference to the Rodino bill, Mr. Chapman, you used the phrase quite often this morning that "We've got to turn off the magnet that draws people here."

One way would be to strictly enforce this law and have employees penalized for hiring illegal aliens. The question I ask is do you feel it is really strong enough? You know, an employer goes through a three-step provision before he actually can receive any serious criminal penalities. Is that going to be enough to discourage the habitual offenders?

I assume that your Service is aware of some of the more habitual offenders who intentionally employ illegal aliens, knowing them to

be illegal aliens, as opposed to the person acting in good faith. Do you feel that the three-step procedure is really going to be a turning-off of the magnet that is drawing the people here?

Mr. CHAPMAN. I think it is going to have a major effect all right. I won't say that it is going to remove 100 percent and remove all the illegal aliens in this country who are working, but we believe that it will constitute a statement of national policy, which most employers will voluntarily and automatically enforce.

We will be able to then work on those who knowingly do not do so, which will dramatically reduce the scope of the parameters of our problem. Instead of our investigators trying to find an unknown number of individual illegal aliens, then our investigators and our judges and our examiners will be able to use the terms of the bill with respect to some tens of thousands, perhaps, of employers. So we think it will have a major effect, yes.

Mr. COHEN. Thank you, that is all I have, Mr. Chairman.

Mr. EILBERG. Commissioner, we are deeply grateful for your appearance today with your knowing and able assistants, and for your dedication and candor under some rather rigorous examination.

Thank you very much for your appearance. We look forward to continuing to work with you.

Mr. CHAPMAN. Thank you, Mr. Chairman and members of the committee.

STATEMENT BY LEONARD F. CHAPMAN, JR., COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Mr. Chairman, members of the Subcommittee, it is a pleasure for me to be here today to provide you with an up to date report on the Immigration and Naturalization Service. I am accompanied today by Mr. James Greene, Deputy Commissioner, and Mr. Sam Bernsen, General Counsel.

It has been just about a year since I appeared before your committee to give a similar report. And it has certainly been a very eventful year.

I have continued my inspection trips to I&NS field offices, and during the year visited nearly all of the more than 30 district offices in the United States, plus our European offices. There are just a few districts and Border Patrol Sectors I have not yet been to, and these will be covered in the next two to three months.

And, I should say that I continue to be impressed with the dedication and the loyalty of the hard-working I&NS employees I have met. I am convinced that they are doing an excellent job in the face of staggering workloads with the resources available to them.

During my little more than one year as Commissioner, we have been taking a hrad look at the management and organizational structure of the Service, with an eye toward strengthening it. As you know, just over a year ago, we re-organized the Central Office management structure, resulting in the streamlining of operational procedures and improved communications with field offices.

Last month we announced the proposed appointment of three new regional commissioners, with two incumbent regional commissioners moving to the Central Office to head the enforcement and the examinations functions. The third is moving to a new region.

And this month, we have announced a realignment of regional boundaries to equalize more nearly the personnel and workloads and to bring them into conformity with standard regional boundaries for other Federal agencies.

We are also restructuring the regional management organization along the lines of the Central Office. Each will have a regional commissioner, responsible for enforcement, examinations and management, as we do at headquarters. In addition, each region has been instructed to staff a small planning and evaluation group to aid them in long range planning and to seek ways to improve performance through better efficiency.

I believe the proposed changes in the senior officials will benefit our management. Fresh ideas and methods of operations will be introduced into key positions of INS, and this new thinking should help to revitalize our approach to accomplishing objectives.

The regional realignment is also expected to improve overall management. Each of the regions will be a more manageable entity enabling regional officers to implement closer controls and to monitor all activities more closely.

I am sure the committee is aware that the Immigration and Naturalization Service is almost literally overwhelmed by the responsibilities assigned to it.

The illegal alien problem certainly illustrates the worst and most glaring deficiency in our capabilities. And I would like to repeat for this committee, that given some means of turning off the magnet that draws people here—that is passage of legislation such as the Rodino Bill together with increases in the Service—we can open up jobs for unemployed Americans and legal resident aliens.

I believe there are signs that the contribution we can make to alleviating unemployment is becoming recognized. We have been granted some very welcome increases for fiscal 1976. In the budget that Congress is now considering, the President has requested 750 additional positions and $29.7 million in increased funding. Some $22.9 million of this represents money for new programs, while the balance will be eaten up by unavoidable cost increases—or just plain inflation.

Included in this increase is $5 million for alien detention and travel, which will result in more apprehensions by enabling us to hold temporarily and then remove from the country those illegal aliens we locate. Included in the 750 positions are 213 Border Patrol personnel.

I believe we are making progress, but there is still a great deal more that is needed if we are to begin to fulfill our responsibilities to the public and this committee.

It is quite evident that over the past several years, the Service has been attempting to carry at least an eight-ton load in a five-ton truck. The results have been about what could be expected. So this past year, we have attempted to fit our load onto the truck, through a system of priorities. Whenever we have added a ton, we have had to take one off. And we have instructed our field offices as to what areas of responsibility they should direct their major efforts, and those that must be sacrificed.

Mr. Chairman, I will now cover briefly each of the major functions of the Immigration and Naturalization Service, and give the committee a run-down on our accomplishments, our objectives and our problems in each of these areas and set forth the benefits that will result from the requested increases in the fiscal year 1976 budget.

INSPECTIONS

The purpose of this function is to determine the eligibility of persons who present themselves for entry into our country. Of course, we try to facilitate the entry as expeditiously as is possible. We accomplish these duties by an inspection process at the various airports, seaports and land ports-of-entry. Almost 270 million persons were inspected in FY 1974.

The total inspected represents a 45 percent increase over the last 10 years and a small increase over 1973. Of this number, 529,706 persons were denied entry, an increase of 40 percent over the preceding year. This reflects our effect to improve the quality of inspection and to deter the potential violators before they enter the country.

Our proposed budget for FY 1976 does not include any personnel increases for this inspection activity. However, it is our position that an effective immigration inspection on our Southwest Border where the problem is the greatest requires a 50 percent immigration presence. To move toward this goal, we have redeployed some inspectors to the border already.

To aid in our inspection effort, the FY 1976 budget inlcudes $4.7 million and 215 personnel to begin implementing a secure alien documentation system. The budget also provides for a research and development fund. These budgetary items will help us in utilizing the present workforce in a more effective and efficient manner.

I should add that we are continuing to find an ever increasing number of fraudulent, counterfeit and altered documents for entry into the country. Hence I believe it is imperative that we continue to tighten our inspections so as to turn away the growing number of illegal aliens attempting entry in this manner.

There are over 25 different types of applications and petitions for benefits received for Service adjudication under the Immigration and Nationality statutes. These applications are of varying complexity and therefore require significantly different periods of time for completion. Factors such as agency checks, interviews, and investigations affect the time necessary for a prudent adjudication—however, the maximum time required for the disposition of any adjudicative matter should be 3 months.

Receipts of applications and petitions neared 1.5 million in FY 1974, an almost 90 percent increase for the ten year period. At the end of FY 1974, our adjudications backlog reached the level of 155,000. This represents an increase of 25 percent over the previous year.

What we are particularly concerned about is the increase in the incidence of fraud. Without adequate personnel and without timely review of cases, there is a high likelihood that fraud will increase. We are requesting 25 additional personnel in FY 1976. This will enable us to interview 25 percent of the applicants applying for benefits where such interviews are not mandatory, and will allow us to discover fraud that we believe is now occurring.

Our priority, then, is to reduce our backlogs. Some of the actions we have taken during FY 1975 such as eliminating extensions of stay for B–2 visitors will help move us in that direction.

NATURALIZATION

We are the agency responsible for encouraging and facilitating the naturalization of applicants who meet the statutory requirements. Our duties include examining and investigating the applicants for naturalization and making a recommendation to a naturalization court as to their eligibility for naturalization. There were 131,655 aliens naturalized in FY 1974 which represented a 13 year high and an increase of 26 percent over the last decade.

In line with the continued increases in the number of applications submitted and petitions filed, there was a pending backlog of 6,402 petitions at the end of FY 1974, up some 17 percent over the previous year. In this area, there is the matter of issuance of certificates of citizenship to eligible persons which is rising steadily, also. For FY 1976, our budget contains an increase of 30 personnel for these functions, which should help in reducing backlogs and providing better service to the public.

We have taken a number of steps to improve our efficiency for this activity: for instance, 82 low volume courts have agreed to relinquish their naturalization function; we are training para-legals, reducing the travel of our naturalization examiners, and have suspended special procedures. These actions in conjunction with our proposed increases in personnel should enable us to prevent arrearages from developing any further.

RECORDS

Among our duties under the law is the responsibility for maintaining various records of entry, departure and naturalization of aliens as well as a registration record of all aliens who are residing in the United States. Our records capability is crucial to both our enforcement and service efforts. The total number of items requiring an index search reached 13,300,000 in FY 1974, an increase of 21 percent over FY 1965. By the end of FY 1974, our field offices had almost 7 million active files. Last year, there were over 7,700,000 information inquiries received, almost 700,000 new files prepared and 4,500,000 alien address reports received. Our problem is that we are unable to provide fast and effective responses to requests for files. For file requests from our field offices to the Central Office, delays of up to three months for location of a file were not uncommon. Our adjudication and naturalization examiners had to wait on an average of three weeks for another office to locate a requested file. A program to complete the automation of our master index is contained in the FY 1976 budget. The completion of this project will immediately assure rapid and accurate search of our 7 million active immigration files. We hope with our proposed increase of 90 records personnel that our response time will be improved appreciably. What we are sure of is that these additional personnel will enable our Central Office to respond to requests for records checks on a 24-hours-a-day, 7-days-a-week basis.

That concludes my review of the service aspects of our agency. Just as significant—perhaps more so considering the current state of the economy—is the enforcement responsibility charged to INS.

That is especially important now because between 60 and 80 percent of the apprehensions of illegal aliens away from the immediate border results in the availability of a job for an unemployed American or legal immigrant.

It should be stressed that we are not talking about menial jobs at below minimum wage. We find aliens regularly working at highly-paid jobs requiring skills and often a college education.

Some recent apprehensions of this type which we have made in major cities include in New York a Greek plumber earning $12 an hour, and two Greek painters making $9.71 an hour; in Chicago 41 Polish women earning $3.75 an hour on a cleaning crew; an East Indian electronics engineer in Houston making $17,000 per year; a Mexican plant manager in Laredo making $20,000 a year and a Jamaican welder in Boston earning $10 an hour. These are examples, but they are typical.

In Chicago last month 77 percent of the 559 illegal aliens we apprehended were employed; 92 percent were earning over $2.50 per hour and 20 percent were earning over $4.50 an hour.

So enforcement of immigration laws and removal of illegal aliens after they are apprehended is extremely important. The two operations primarily concerned with the location and apprehension of illegal aliens are the Border Patrol and our Investigations unit.

BORDER PATROL (APPREHENSIONS)

Starting with the Border Patrol, this is the principal uniform force guarding our land borders. Its goal is to prevent the illegal entry of persons into the United States and to apprehend them if they do enter. This mission is accomplished through a variety of techniques including: the physical presence of officers on the border, otherwise known as linewatch; traffic check; farm and ranch check; and city patrol.

To support these personnel, we have installed a number of sensor systems along the Southwest Border to enable our agents to quickly identify intrusions and thus apprehend illegal entrants as soon after the surreptitious entry as is possible.

The Border Patrol is confronted by an enormous task and overwhelming odds on our Southern boundary. On a border that is 1,900 miles long, we have only 1,600 patrolmen. The number deployed in the immediate border area at any one time is only about 200, or 1 agent for every ten miles. Last year, the Border Patrol apprehended about 635,000 of the almost 800,000 illegal aliens we located This is a 630 percent increase since FY 1965, and a 27 percent increase over 1973.

In achieving this level, we responded to only 69 percent of our sensor alarms. One indication of the effectiveness of our patrol efforts is the dramatic increase in smuggling of aliens. Our Border Patrol Agents arrested 8,073 smugglers of aliens in FY 1974 in the act of smuggling 83,000 aliens. The FY 1976 budget requests an additional 213 personnel for the Border Patrol. This is one of the largest increases we have ever received, amounting to about a 12 percent addition to the authorized force.

Once these agents are effectively deployed, we know from past workload statistics that each agent averages some 500 apprehensions over a year.

This coupled with the deterrent effect created by their presence on the border will substantially improve our enforcement posture. However, the great difficulty in assessing the effectiveness of our enforcement is that we are dealing with a large unknown factor which appears to be growing each year.

INVESTIGATIONS

Investigations' activities consist of the gathering of facts about a wide variety of cases ranging from immigration fraud to the criminal immoral, narcotic or racketeer elements for the initiation of both criminal and administrative prosecutions. In addition to this "fact-gathering" role, the Investigations Division is charged with the apprehension of illegal aliens in urban areas by use of the "Area Control Illegal Status" program. Although some 198,000 investigative units were completed during fiscal year 1974, the backlog of investigative cases grew 22 percent to 65,000 cases. In addition, there are more than 65,000 gending complaints and other cases relating to 123,600 illegal aliens. The FY 1974 completions represented an increase of 130 percent for the decade. There were nearly 17,000 fraud cases completed during fiscal year 1974, an increase of 13 percent over last year. About 14,000 fraud cases are still pending investigation and an undetermined number could be added to that if the manpower were available to pursue them. Our proposed budget for FY 1976 does not include any increases for this activity.

We have a force of 900 who are responsible for conducting thorough investigations as well as apprehending illegal aliens. They are charged with covering virtu-

ally the entire nation away from the borders, including the major cities where most illegal aliens are now residing and working at desirable jobs. With the increased funds for alien detention and travel, requested in the 1976 budget, they will devote a greater part of their time to apprehending and removing these aliens.

In an effort to create a more effective investigation program, we created task forces in major cities to concentrate on the evergrowing marriage fraud business. We also are emphasizing programs concentrating on inter-agency cooperation such as with the Social Security Administration, IRS and elements of the Department of Justice. Our New York City Office has been designated as a Project Control Office to coordinate Service investigations relating to Nazi War Criminals.

DETENTION AND DEPORTATION (EXPULSIONS)

The Detention and Deportation Division is charged with the detention, transportation and removal of deportable aliens located in the United States. In fiscal year 1974, approximately 740,000 aliens were expelled. This represented an increase of 26 percent over fiscal year 1973 and 611 percent since fiscal year 1965. In the course of apprehending and removing these aliens, over 286,000 were admitted to custody in Service and non-Service facilities, a decrease of 2 percent over fiscal year 1973. There is a direct link between the amount of money available for alien travel and detention and the level of investigations "area control" operations which are aimed at removing employed illegal aliens in urban areas. When funds for detention and removal are not available, "area control" activities must be trimmed back so we don't pick up more illegal aliens than we can afford to remove.

The increase of 177 positions requested for this function in the fiscal year 1976 budget will allow for a significantly increased removal program which we are estimating to be 952,000 expulsions or almost 200,000 more aliens expelled than in FY 1975. In addition to increases in personnel, our budget provides for new detention space and funds for "interior repatriation." Interior repatriation provides for the effective removal of Mexicans to the vicinity of their homes in the interior of Mexico far from the immediate border so as to combat the so called "revolving door" phenomenon.

Mr. Chairman, in the past 14 months we have taken several steps to improve and strengthen our overall management of the Service, as I mentioned in my opening comments. To review briefly, these include: Central office reorganization; Regional office reorganization; and Realignment of regional boundaries.

Our Central Office reorganization included the establishment of an Office of Planning and Evaluation. Its functions, among others, are to provide for the evaluation of Service policies, to plan for the long-range needs of the Service as well as to assess the current utilization of resources, and to conduct special studies to better integrate mission objectives with activities. This group has also acted as a liaison for monitoring new developmental efforts such as the alien documentation project, the design of an illegal alien study, and a proposed research and development endeavor.

In addition, we have implemented a management by objectives system to establish goals for various I&NS programs. This system will enable us to evaluate performance in respect to stated goals each fiscal year, and allow regional and district offices to become more intimately involved in the development of resource requests.

We have also taken action over the past year to inform the American public and the Congress as to the scope, characteristics and economic impact of the illegal alien population on the American society. This has been done in the hope that public knowledge of the seriousness of this problem will result in action to resolve it.

As you can see from the review of our activities, we have some strengths and many weaknesses in our capability to perform our duties and carry out our responsibilities.

Certainly one of the great strengths in the Immigration Service is the dedication of the more than 8,000 employees. In conclusion, I can promise this committee that all of us in INS will continue to do our very best to carry out all of our tasks to the limit of our capabilities.

Thank you, Mr. Chairman. I will be pleased to answer your questions.

Mr. EILBERG. Our next witness is Mr. Edward W. Scott, Jr., representing the Attorney General's Office, and he is Deputy Assistant Attorney General for Administration.

Mr. Scott, we welcome you to the subcommittee.

TESTIMONY OF EDWARD W. SCOTT, JR., DEPUTY ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. SCOTT. Mr. Chairman, I had a prepared statement, but it is not necessary for me to read it. I would be prepared to answer any questions.

Before I do, and as you correctly noted, I am the Deputy Assistant Attorney General for Administration, a position I have held for the last 5 weeks. Prior to that, however, I was the Associate Deputy Commissioner for Planning and Evalution of the Immigration and Naturalization Service, where I worked for General Chapman. I want to say that it was a great privilege to work for General Chapman. I think he is an excellent public official and has done a tremendous job putting the Immigration Service on the right track. I find myself in the curious position of somewhat representing a different perspective on the administrative needs of the Department of Justice than I did when I was in the Immigration Service.

Having made these introductory remarks, I would be prepared to make my statement or respond to any questions you may have.

Mr. EILBERG. I think the members of the subcommittee have your statement. Do you have any additional copies?

Mr. SCOTT. Yes, I have other copies here.

Mr. EILBERG. Let me say we also share a great deal of respect for General Chapman and the vigor he has applied to his job. It is our sincere desire, as members of this subcommittee, to do more, though, and we feel a capacity to do a great deal more than we have been able to do in the past about this situation of illegal aliens, since it has grown progressively worse.

I take it you are appearing here as a representative of the Attorney General here today?

Mr. SCOTT. Yes, sir.

Mr. EILBERG. And you state the position of the Department?

Mr. SCOTT. That is correct, sir.

Mr. EILBERG. And your statement appears before us now, and without objection, it will be made a part of the record.

[The prepared statement of Edward W. Scott, Jr., follows:]

STATEMENT OF EDWARD W. SCOTT, JR., DEPUTY ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you to address the matter of H.R. 1276, the Immigration and Nationality Authorization Act of 1975. I wish to express opposition to this bill.

The Department generally does not favor the application of authorization requirements to its programs. We have operated for many years with permanent authorizations for most of our programs and have always been responsive to Congressional concerns by supplying materials and witnesses when asked, a practice which we fully intend to continue. We feel that such authorizations bills would unnecessarily duplicate rights and authorities that the Congress already has. It would also make more complex the review process which Department programs now undergo in appropriations hearings and in other special hearings. In addition, authorization legislation would cause an increase in the procedural requirements and workload of the Department because of the necessity to prepare for multiple sets of hearings.

The issue of budget authorization legislation is clearly a matter of Congressional prerogative. If the Congress ultimately enacts this or similar legislation, you may be assured that we in the Department will continue to cooperate with this com-

mittee and with any other substantive committee. And although we do not favor authorization legislation, we would do our very best to make such a process work effectively even though it would create a substantial additional workload for us.

This concludes my statement, Mr. Chairman. I shall be happy to respond to any questions.

Mr. EILBERG. I might say first that you talk about duplication of work in your statement. And of course the situation is quite familiar to you that in a great many areas we have precisely the same procedure, that is, an Authorization Act and an Appropriations Act.

Mr. SCOTT. Yes, sir.

Mr. EILBERG. Why do you find such a procedure, which is common to the Congress in so many areas, suddenly duplicative as far as this area is concerned?

Mr. SCOTT. Well, the matter of authorization and legislation is clearly a matter which is the prerogative of the Congress and we certainly respect that. I am here to represent the position of the Department, and that is that we oppose such legislation generally because we feel that we have been for years and certainly intend to continue to appear before any committee at any time, which has substantive legislative responsibilities, in order to answer any questions that committee might have.

The duplication referred to in my statement is simply in the matter of preparing the testimony and the materials for two sets of hearings when that situation occurs. It is a matter of preference. I do not consider it to be a problem posing overwhelming difficulties for the Department, but if the Department had its preferences, its preference would be that such authorization legislation not be enacted.

However, let me assure you that regardless of what this committee and the Congress should choose to enact, and whether it chooses to enact such legislation, in either event we will cooperate with you in every respect to provide you with whatever information you need to discharge your responsibilities.

Mr. EILBERG. I am sure that you understand the theory behind the concept of authorization legislation and appropriation legislation?

Mr. SCOTT. Yes, sir.

Mr. EILBERG. In that under authorization legislation, the authorizing committee has an opportunity and usually is closer to the subject, so that it can explore matters in greater depth and experience and provide a more meaningful background and basis for appropriation legislation.

Is that not so, Mr. Scott?

Mr. SCOTT. Yes, sir, that is my understanding.

Mr. EILBERG. Mr. Scott, this committee daily is confronted with a variety of immigration problems, for example, worldwide refugees, increasingly marriage fraud schemes, the need for remedial legislation, a review of a suspension of deportation cases, as well as other administrative remedies.

Also, you might keep in mind that many immigration issues before the committee come within the appropriations functions of several different Subcommittees of the Appropriations Committee. Would you agree that this committee is the best qualified to understand the needs of the Immigration and Naturalization Service?

Mr. SCOTT. I would say that this committee had done a very good and commendable job over the years bringing to the public's attention

the problems created by the presence of large numbers of illegal aliens in this country and the problems the Immigration Service itself faces in administering its responsibilities under the Immigration and Nationality Act. And I think if this committee continues to be as active in that regard as it has been in the past, it will be doing a great public service.

Mr. EILBERG. That is a very kind statement of you, Mr. Scott. I might also mention that this committee is interested not only in the number of employees in the Service—oh, and I may be accused of casting aspersions on the Appropriations Committee, which I certainly do not intend to do.

Mr. SCOTT. Nor I.

Mr. EILBERG. But, as I said, our committee is not just interested in the number of employees in the Service, but in the quality of work performance and the efficiency of the administration of the Immigration Act, the processing of petitions, future planning, and so on.

Doesn't this type of input—well, isn't that desirable, if not necessary, for the preparation of a meaningful INS budget? In other words, we are dealing with the every day activities of INS, not simply grades and numbers of employees in the INS.

Mr. SCOTT. I think detailed discussion of the immigration program by your subcommittee is very useful in planning where they ought to go, and I think it would be useful to the Department in understanding your views and the Congress' views as to its programs.

Whether that type review ought to extend to finally the issue of enacting authorizing legislation, that is a matter which the Congress will have to decide. As I say, the Department generally does not favor such legislation, but if you feel it is necessary and if that is what the Congress requires to properly discharge its responsibilities, we will cooperate with you in every respect on that.

Mr. EILBERG. Finally, Mr. Scott, if this bill is passed by Congress, I take it you will not use your influence to attempt to have the President veto the legislation?

Mr. SCOTT. The President doesn't normally consult me, in which case I think that is a fairly safe statement.

Mr. EILBERG. What was that again?

Mr. SCOTT. The President does not normally consult me on vetoes, so——

Mr. EILBERG. I know that you are being very modest, but since you represent the Department, I take it from your statement that your opposition is not so strong that this bill would be opposed by the White House?

Mr. SCOTT. I am afraid I just haven't asked the Attorney General his view on that. I just can't respond to that.

Mr. FISH. Thank you, Mr. Chairman.

Mr. Scott, thank you for your restrained objections to this legislation, I would just like to add one more point to what the chairman said, and that is, of course, that unlike appropriations measures, it is possible to legislate in authorizing legislation, which I think is one more reason why this authority vested in this committee, which is thoroughly knowledgeable and a friend to the Service, would be beneficial to the Service.

Thank you, Mr. Chairman.

Mr. EILBERG. Mr. Dodd.
Mr. DODD. I have no questions.
Mr. EILBERG. Mr. Cohen.
Mr. COHEN. No questions.
Mr. EILBERG. Mr. Scott, that wasn't so tough.
Perhaps we can get started with the American Federation of Government Employees. Mr. Sadler, would you come forward with your associates? We apologize for keeping you waiting so long.

TESTIMONY OF LOU M. PELLERZI, GENERAL COUNSEL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY STEPHEN KOCZAK, DIRECTOR OF RESEARCH; RICHARD BRANNICK, PRESIDENT, NATIONAL BORDER PATROL COUNCIL; MICHAEL HARPOLD, LEGISLATIVE REPRESENTATIVE, NATIONAL COUNCIL OF IMMIGRATION AND NATURALIZATION SERVICE LOCALS; AND CARL SADLER, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. PELLERZI. Mr. Chairman, I am Lou Pellerzi, and am appearing here in lieu of Mr. Webber. Mr. Webber had an 11 o'clock previous appointment in the Senate.
Mr. EILBERG. Would you give us your full name and position, please?
Mr. PELLERZI. Lou M. Pellerzi, general counsel, American Federation of Government Employees. Mr. Chairman, I will be here giving Mr. Webber's statement for him.
I am accompanied by Mr. Stephen Koczak, director of research, who is on my left; and Mr. Michael Harpold, legislative representative is on my far left; and to my right is Mr. Richard Brannick, president, National Border Patrol Council of the American Federation of Government Employees.
They each have supplemental individual statements which they would give with your permission.
Mr. EILBERG. May I suggest, and I know you have an active interest in the illegal alien situation and H.R. 982, but I understand there are prepared statements on that bill as such. Do you wish to make those a part of the record and then perhaps discuss this authorization bill that we have before us this morning?
Of course you may proceed in any way you wish.
Mr. PELLERZI. Well, we do have a reference, I believe, to H.R. 982, and we have a prior statement with respect to an earlier hearing in connection with the Immigration and Naturalization Service and the alien control problem, and we do have a reference to H.R. 2918, Mr. Chairman, but I would like, with your permission, and that of the committee, to read Mr. Webber's statement. I will be as quick as possible in doing so.
Mr. EILBERG. Fine, then the reference material will, without objection, be placed in the record.
[The statement referred to follows:]

STATEMENT OF CLYDE M. WEBBER, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, MARCH 12, 1975

The American Federation of Government Employees, AFL-CIO, representing 650,000 employees in exclusive recognition units, including all employees of the Immigration and Naturalization Service, is grateful to Congressman Rodino, Chairman Eilberg, and this Subcommittee for their determination in once again addressing the problem of illegal aliens. We appreciate the opportunity to make our views known on this issue which is not only of vital concern to our members, but also affects the general well-being of our country.

At a time when unemployment is so high, the adverse effects of the presence of illegal aliens in the labor market have greatly increased. These aliens hold jobs which would otherwise be filled by American citizens or legally admitted aliens. Furthermore, unscrupulous employers exploit the "illegal's" fear of deportation, and are able to maintain substandard wages and working conditions. The alien with illegal status cannot rely on employee organizations to better his working conditions, and the effectiveness of these organizations acting in behalf of the American workers is impaired.

As employment in the United States is the major attraction to the illegal alien, we believe legislation is needed to dry up this waterhole or to at least make it considerably less accessible. H.R. 982, the Bill currently before this Subcommittee for consideration, takes a giant step toward accomplishment of this goal. Section 2 (b) provides a penalty of not more than $500 for a second offense for anyone employing illegal aliens. Subsequent violations of the Act would be a misdemeanor and punishable by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both. We believe that these civil and criminal penalties would make it more difficult for aliens to obtain illegal employment here.

Since we have presented our views on H.R. 982 to the Subcommittee before, we believe it unnecessary to discuss in detail all the provisions of the Bill. Along with AFL-CIO, we strongly endorse the main thrust of H.R. 982, which is the repeal of the employer exemption from the prohibition against the harboring of illegal aliens under section 274 (a) of the Immigration and Nationality Act. The repeal of that proviso would immediately correct the discriminatory treatment between the employer and the employee that exists at present under that section of the Act.

We are hopeful that the three-stage enforcement procedure will prove effective. Under Sec. 2(b)(2) of H.R. 982, the Attorney General shall serve a citation upon the violator if "on evidence or information he deems persuasive, the Attorney General concludes . . ." There has been a violation committed. The second violation, if it occurs within two years after the issuing of a citation under the first phase of the process, allows for a hearing and a penalty of $500 if the employer is once again found to be employing illegal aliens. A third violation would result in a misdemeanor charge which, upon conviction, would be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

We are certain only criminal sanctions will be ultimately effective in reducing the traffic in illegal aliens. We do, however, have strong reservations about the three-stage enforcement procedure just discussed. We are concerned that since a hearing is not made optional at the first stage, and such an "apparent violation" is the foundation for an ultimate criminal conviction, questions of due process and constitutionality might be raised. We propose that a hearing of record should be optional from the beginning of the process so we can be assured of a strong and airtight legal procedure. We also propose that, under Section 2(c) of H.R. 982, the jurisdiction be articulated. Although not presently specified, we assume jurisdiction to be given to the district court of the United States for the judicial district wherein the violation of this Act occurs. Further, we suggest that effective enforcement can only be achieved by providing the federal courts jurisdiction for injunctive relief. We also urge that the penalties for violators be substantially strengthened.

In regard to the grounds for prosecution of an employer for hiring an illegal alien, we feel the specification of "knowing" employment markedly weakens the effectiveness of the Bill. We are concerned that self-serving statements, obtained from an employee freely or through coercion by an employer, can exculpate the employer from the provisions of this law. We urge that H.R. 982 be amended by removing the "knowing" requirement, thereby holding the employer clearly responsible for his acts.

Lastly, we want to discuss an area which is in urgent need of remedy—the Immigration and Naturalization Service itself. The Service lacks both the money and manpower to function efficiently and effectively. Since 1960, the work of the I&NS has tripled in volume, cost and complexity. However, the Service has not received the necessary appropriations to keep pace with its increasing burden.

There are numerous examples of backlogs and other problems which exist throughtout I&NS offices of which we know the subcommittee is aware. Besides drastically reducing the effectiveness of the Service in administering the law, such limitations result in the demoralization of dedicated employees who are frustrated in their efforts to conscientiously perform their duties. We know you agree that these employees should have the supportive staff and facilities to enable them to carry out laws such as H.R. 982. We therefore urge that the I&NS be provided with funds sufficient to allow it to stringently enforce the laws regarding alien entry into the United States.

In conclusion, we would like to quote from the recent AFL-CIO Executive Council Statement on Illegal Aliens:

"We urge the Congress to strengthen the Bill by placing responsibility for compliance clearly and directly on the employer, not on self-serving statements by employees; by strengthening the penalties for violations, and by giving the Federal courts jurisdiction to restrain and enjoin violations of the law. We call for prompt, final Congressional action.

"We believe the illegal alien problem clearly calls for substantial increases in the funds needed by the Immigration and Naturalization Service to enforce the law and that these should be promptly provided by Congress."

Thank you for this opportunity to present our testimony which we hope will be favorably received by the subcommittee.

Mr. EILBERG. Do you have copies of the statement you are going to read for the members of the committee?

Mr. PELLERZI. Yes, I believe they have been distributed to the members of the committee and the reporter has been given a copy.

Mr. FISH. Would the chairman yield. Is this the statement of Mr. Clyde Webber, dated March 19, 1975?

Mr. PELLERZI. Yes, it is, Mr. Fish.

Mr. FISH. Thank you.

Mr. EILBERG. Would you proceed, then?

Mr. PELLERZI. We are most grateful to appear before your subcommittee to express our endorsement of H.R. 1276, whose purpose is to require that after June 30, 1975 all authorizations and appropriations for the Departments of Justice and Labor for administering the Immigration and Naturalization Act shall be specifically made by act of Congress.

Parenthetically, before presenting our reasons for supporting this bill, I should like to observe that we are also in favor of H.R. 2918 introduced by Congressman Rodino and cosponsored by seven members of the Judiciary Committee requiring that all authorizations of appropriations for all functions of the Department of Justice "shall be specifically made by act of Congress". It is with great gratification that we have taken note of the fact that you, Mr. Chairman, are one of the cosponsors of that bill.

As you know, the AFGE, representing over 650,000 Federal employees in exclusive recognition units, speaks for all employees of the Immigration Service in labor-management relations under Executive Order 11491. Consequently, Mr. Chairman, we have expertise on the Immigration and Nationality Act, both from the standpoint of its impact on the general public as well as to the particular specialized concerns of the Federal employees entrusted with the enforcement of its provisions.

If I may interject a personal note here, Mr. Chairman, I for 5 years was the Assistant Attorney General for Administration in the Department of Justice and resigned that position in February of 1973. I think I understand fairly thoroughly the purpose and purport of what this subcommittee is trying to do and I may have a comment, with your permission, at the end of my statement on behalf of the union.

There has been emerging a consensus that the presence of large numbers of illegal aliens in the U.S. now presents a serious problem awaiting legislative remedies. This problem is exacerbated by the inability of the Immigration and Naturalization Service, with its current limited staff, to prevent further massive incursions of illegal aliens in the United States. The magnitude of the problem can be easily and graphically illustrated by comparing the number of apprehensions in 1964 with the situation in 1975.

Ten years ago, in 1964, the INS apprehended 85,000 illegal aliens. Last year that number rose to 800,000, approximately a tenfold increase, or 1,000 percent. Yet, during that decade the staff of the INS increased only 9 percent, rising by 624 positions from 7,028 to 7,682. It is manifest that while the workload has multiplied algebraically, the workforce has grown only arithmetically. The ratio of percentile changes is on the order of 100 to 1 (1,000 percent versus 9 percent.)

The issue of the structure, functions, mission and staffing of the Immigration and Naturalization Service was first debated in recent years in the House Government Operations Committee as a consequence of the submission by the Administration of Reorganization Plan No. 2 of 1973. Both the AFGE and the AFL–CIO opposed section 2 of this Reorganization Plan out of concern that the personnel changes and the legal consequences would destroy the ability of the INS to fulfill, even at a minimum level, its obligations to enforce the Immigration and Naturalization Act.

Eventually, we were able to convince the majority on the full Government Operations Committee of the dangers in the passage of Reorganization Plan No. 2 unless section 2 of that plan were rendered inoperative. At this juncture, the administration, represented by the Office of Management and Budget, reached an agreement with our union and the AFL–CIO to the effect that section 2 of that plan would be proposed for repeal and, in any case, would not be implemented administratively until the Congress had acted to set it aside.

The objectionable section 2 of that plan provided for the absorption of the bulk of the inspection force of the Immigration Service into the Customs Service in the Treasury Department. That involved about 1,000 positions.

On July 22, 1974, we testified further on the subject of the status of the Immigration and Naturalization Service and the Customs Service. The issues we raised are, I believe, valid today. For this reason, I request your permission to incorporate the full test of that statement as an appendix to my testimony today.

Mr. EILBERG. It will be admitted into the record, without objection.

[The statement dated July 22, 1974, follows:]

STATEMENT OF CLYDE M. WEBBER, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ON THE CONSEQUENCES OF REORGANIZATION PLAN NO. 2 OF 1973, AS SEEN IN THE LIGHT OF THE OMB LETTER OF JUNE 5, 1974; PRESENTED TO THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS, JULY 22, 1974

[Annex to statement of March 19, 1975]

It is with concern and disappointment that I appear before you for the third time, Mr. Chairman and honored members of the House Government Operations Committee, to review once again the problems facing both the Immigration and Nationalization Service and the Customs Service as a consequence of Reorganization Plan No. 2 of 1973.

It is with concern for the national interest, which continues to be harmed both by the continuing growth of illegal alien entries and by the delay in the implementation of a genuinely unified and coordinated narcotics control program.

It is with disappointment that the lives, the welfare and the careers of the Federal employees involved continue to be exposed to harassments from managerial uncertainties and bickerings within the Executive Branch.

As the largest union representing over 650,000 Federal employees under exclusive recognition, we have the privilege to be able to speak for all organized employees of the Immigration and Naturalization Service, including its Border Patrol, and for approximately forty percent of all organized employees in the Customs Service. Consequently, we are fully cognizant of the travail, the insecurity and the turmoil to which these employees have been subjected during the last fifteen months, since the submission on March 28, 1973 of Reorganization Plan No. 2.

THE ESSENTIAL PRINCIPLES WHICH ARE INVOLVED

Our union maintains that there are essential principles of agency missions incorporated in the statutes establishing both the Customs and the Immigration Services which must be observed if the nation is to receive the proper protections and the essential services with which these two institutions are charged.

The first principle is that they are essentially distinct services, as different in their missions as, for example, the Foreign Service is different from the Public Health Service. Any enterprise or undertaking to combine the functions of these two services into "one stop" or "one agency" control can only result in the detriment to both services and to the national interest. The statutes properly look upon them as two services and we beseech your Committee to protect the integrity and the independence of both services.

The paramount function of the Customs Service is to inspect all merchandise, cargoes, baggage, vessels, aircraft and other vehicles and goods entering the United States. This function has two purposes—to interdict or deny entry to illegal or harmful goods; and to provide revenues and protect our industries and agricultural products through tariffs and quotas. Established by Congress on July 4, 1789, the Customs Service for a long time provided the revenues for maintaining all the Federal armies, navies, and civil service of the United States. Currently, it collects approximately $3.8 billion a year, which is fifteen times the amount of the total appropriations it receives to carry out its complex mission. And it must carry out this task, so important to the vital interests of our nation, with only approximately 14,000 employees.

The paramount function of the Immigration and Naturalization Service, on the other hand, is to supervise the transiting by persons of all international borders of the United States; to interdict the passage of aliens seeking to enter illegally and of citizens seeking to exit illegally; and to supervise the presence in the United States of all aliens legally admitted until the date of their naturalization. Further, a prime mission is to expel apprehended illegal aliens, with the current explusion rate this year estimated at approximately 800,000. The magnitude of this task can be grasped only if one realizes that in fiscal year 1973, approximately 252 million persons crossed the international borders of the United States—put into other terms, this would be equivalent to the assignment given to an agency to examine the documentation and papers of every person residing in the United States plus the country of Mexico, to determine proper nationality and status. And the Immigration and Naturalization Service must carry out this function with an appropriated work force of approximately only 8,032 personnel.

THE BITTER QUARREL OVER THE NARCOTICS CONTROL PROGRAM

I shall not review here the bitter dispute which has long attended the narcotics control programs of the Federal government. Unquestionably, narcotics and drugs are goods and products and, normally, in the appropriate missions of these two services, control over harmful drugs and narcotics would have fallen within the purview of the Customs Service. However, the President and Congress, in their wisdom, have decided to establish a specialized agency, the Drug Enforcement Administration, within the Department of Justice to unify national operational control over these harmful drugs. Incidentally, control over the importation of non-harmful drugs is still vested with the Customs Service.

To compensate the Customs Service for the loss of this normal function, involving approximately 900 highly specialized employees transferred to the Drug Enforcement Administration, Reorganization Plan No. 2, Section 2, proposed to transfer 900 Immigration and Naturalization Service personnel to the Customs Service, in fact making all immigration control services at Ports of Entry and Airports a function of the Customs Service. You will recall that, in his letter of May 22, 1973 to Chairman Holifield, Mr. Frederic V. Malek indicated that 581 primary immigration inspection positions and 125 secondary immigration inspection positions would be transferred to Customs outright, leaving the Immigration and Naturalization Service with only 203 secondary inspection positions at Ports of Entry and Airports. Mr. Malek wrote further (Tab A, numbered pg. 6, May 21, 1973):

"After reorganization, the Immigration and Naturalization Service will have approximately 6,400 personnel to provide continuing services of immigration presence at ports of entry, adjudication, operation of the Border Patrol, investigation, naturalization, deportation and maintenance of records."

Fortunately for our nation, this Section 2 did not actualize because of the refusal of your Committee and the House of Representatives to agree to the decimation of the Immigration Service.

But the problem of narcotic drugs interdiction continued to trouble the relations between the Treasury and Justice Departments, especially regarding the interception of these drugs at points of entry, whether at official ports or along the national borders of the United States. The Customs Service, confronted with a highly unwelcome change in its previous operations, had to go through a serious and somewhat disruptive reorganization, closing down 17 foreign offices and 18 domestic offices in its Office of Investigations field structure. Further complicating the personnel problems of the Customs Service was the termination of the Sky Marshall program, confronting approximately 350 employees of that program with termination of positions.

At this juncture, the Customs Service decided to re-activate its own Customs Border Patrol, which the Customs Service (then known as the Bureau of Customs) itself voluntarily terminated twenty-five years earlier in 1948. For the sake of comprehensiveness I request your permission to insert into the record, as Annex 1 to my statement, a copy of the history of "The Customs Patrol Service", as distributed by the Bureau of Customs in a paper dated April 2, 1954. The last paragraph of that paper reads as follows:

"Following World War II, the Bureau of Customs undertook an extensive review of its operations in all fields as booming United States foreign trade created greatly increased demands upon manpower and available funds for administering the Service. In the enforcement field, it was recognized that the character of much of the border country had changed as the economy had expanded westward. It was felt that development of highspeed transportation by motorcars over improved roads, and by air, called for a reevaluation of the efficiency of routine patrolling over long streches of border by the relatively few men that could be assigned. After extensive study it was concluded that more effective enforcement of customs laws could be obtained through reliance upon modern investigative techniques carried out by customs agents. The Patrol was therefore discontinued along the Canadian Border in 1947, and the Southwest Patrol was abolished a year later. Permanent employees of the Patrol were reassigned to other customs duties in line with their qualifications, many of them as customs agents."

The reactivation of the Customs Patrol in October 1973 was made possible, we understand from information supplied us by the Customs Service, by the availability of large numbers of former Sky Marshalls and by the generous grant by the House Appropriations Subcommittee of $2.7 million more than originally requested for the Customs Service. Through an intensive recruitment program,

the Customs Patrol was able to place within nine months a uniformed service of approximately 400 personnel on the Southwest Border and approximately 200 additional uniformed personnel on other land borders. These included, among others, seven Papago Indians, speaking Spanish, English and several Indian dialects; large numbers of former Sky Marshalls; and a significant number of experienced personnel who had been, up to that time, GS–9 journeymen members of the INS Border Patrol but who were offered supervisory positions with the Customs Patrol at GS–11.

(Incidentally, it should be noted that Supervisory Personnel at the Immigration Border Partol are rated by the Civil Service Commission only at the GS–10 position, causing a great deal of bitterness and demoralization.)

The arrival of large numbers of reactivated Customs Patrol personnel in the midst of the Immigration Border Patrol was totally unanticipated by the latter, especially in light of the understandings reached with the Office of Management and Budget during the debate on Reorganization Plan No. 2. As you will recall, the original plan called for the strengthening of the Immigration Border Patrol; in fact, initially it made the Border Partrol the only organization with primary immigration interception functions left with the Immigration Service. Ultimately, however, in the agreement reached between OMB, AFGE, and the AFL–CIO, the Executive Branch undertook most of all in Sections III through VI, to strengthen the illegal alien interception program. For example, Section III states explicitly the Executive Branch's undertaking "to honor OMB Director Ash's Commitment of May 17, 1973, to Chairman Holifield with respect to strengthening the country's illegal alien control capability". For the information of your Committee, I should like permission to include in the record as Annex II a copy of the Agreement of May 29, 1973.

Yet the arrival of 400 Customs Patrol officers on the Southwest Border does not seem to be designed to alleviate the problem of illegal alien entry into the United States. Rather, the official statements of top officers of the Customs Service suggest that its main function is narcotic drug interception.

At this point, I should like to make as forthright a statement as I can. We do not have any position, as a labor union, as to what role the Customs Service should have in this narcotics control program. I had stated earlier that, in its normal mission, the Customs Service should and would have had a major role, because narcotics are commodities, goods, and merchandise. Control over commodities, goods, and merchandise are the proper prime mission of the Customs Service.

I should like to make a second forthright statement. Our union holds that both the Customs Service and the Immigration and Naturalization Service have their own statutory mandates, which cover the entire territory of the United States. Each Service should have the right to send its law enforcement officers, whether in uniform or not, to any place in the United States, whether along the borders, in ports of entry or within the interior as its statutory mission requires and as its own senior officials decide. We see no other way to maintain the separate integrity of the two services. One service should not have the right of veto or supervisory control over the other.

What we see in the issue of the Customs Patrol, therefore, is not a dispute between the Immigration and Naturalization Service and the Customs Service but a sharp difference or interpretation between the Office of Management and Budget and the Drug Enforcement Agency on the one hand and the Customs Service on the other hand as to whether the Customs Patrol has any proper role in the interdiction of narcotics along the land borders of the United States.

Let me reiterate. In our view, there is no dispute between the INS and the Customs Service on the issues of principle and of mission in the matter of the Customs Patrol. What is involved is a decision of the present Administration (a decision with which we do not necessarily agree but to which we may have to be reconciled if OMB prevails) that the Customs Service will not organize its border control functions for the primary purpose of drug interdiction. Instead, the Administration has decided that the Customs Service shall discharge its own border control functions primarily through what it promises will be an expanded air interception program. As we understand its position, the Administration regards air interception also as patrol operation excepting that, unlike the Immigration Border Patrol, the Customs Patrol would specialize in the interception of contraband being brought into the country via long-range aircraft or transferred between aircraft. We are told, for example, that the situation now exists where pilots bring contraband, including drugs, into the United States, landing

at pre-designated places where other aircraft await the transfer of the contraband. The original pilot and aircraft then immediately flies out of the territory of the United States, eluding law enforcement officers, while the second aircraft conveys the contraband further.

If our understanding is correct, the Customs Patrol would not be necessarily disbanded under the OMB proposals but would be transformed into a specialized air interception border patrol with responsibility for safeguarding the entire land borders of the United States from deep penetration by aircraft engaged in illicit commerce, including narcotics.

Should the OMB plan prevail, we believe that those personnel, who in good faith took jobs with that Patrol, and who do not qualify for, or might be surplus to, the air interception program should be given priority right of transfer to the INS Border Patrol. We would urge the INS Border Patrol to be especially generous to its own former members who took positions with the Customs Patrol.

At this point, I should like to introduce the question of the proper General Schedule Classification for both the Customs and Immigration Services. There now exists a discrimination and a discrepancy that cannot be justified. "Senior" Customs Inspectors are now classified by the Civil Service Commission as GS–11; but other Customs Inspectors doing similar work are only GS–9. Journeymen Immigration Inspectors, performing functions analagous to "Senior" Customs Inspectors are still classified at GS–9; moreover, Journeymen Immigration Border Patrol Officers and Journeymen Customs Patrol Officers are also classified at GS–9. All of these positions should be properly classified as GS–11 and all first-line Supervisors should be classified as GS–12.

I most sincerely request your making representations with the Civil Service Commission to explain to your Committee as to why the Commission continues to justify these improper discriminatory distinctions between positions which entail the same levels of difficulty of work. We believe this action seriously disregards the Classification Act and we hope that your Committee, in its oversight functions, will be prepared to perform a great service to these Federal employees in having these inequities eliminated.

Returning to the proposal of OMB regarding the Customs Patrol and the air interception program, we see no issue of necessary conflict between the missions of the Customs and Immigration Services, though we recognize a serious difference of opinion between OMB/DEA and the Customs Service regarding the narcotics control program.

But, it appears that this is not the whole purpose of OMB, which appears still to be preoccupied with the "single agency" control concepts at the port of entry in the Southwest. This brings us immediately to two major unresolved problems—the issue of illegal alien control and the philosophical and legal concepts which permeate the communication of June 5, 1974 from OMB Director Roy L. Ash to the Attorney General and the Secretary of the Treasury. I shall discuss these two fundamental issues at some length hereafter.

THE CONTROL OF ILLEGAL ALIENS

It is our firm belief that the control of illegal aliens will not be effective until the Immigration Border Patrol is brought to proper strength. The best estimates which we have indicate that this would require approximately 3,000 members in the Immigration Border Patrol. Currently, the Border Patrol has only 1,770 personnel, of whom approximately 1,600 are on the Southwest Border where the illegal alien problem is of acute proportions. These 1,600 employees work out of a total of 68 stations, of which 35 are directly on the U.S./Mexican border, and 33 further inland where the uniformed Border Patrol uses "spotter planes" to locate and identify illegal aliens working in the fields. Even so, the illegal alien problem does not abate, and we are now convinced that it will not be controlled until the Border Patrol has between 2,500 and 2,750 persons located in the Southwest. Given this number of Border Patrol personnel, with the eventual enactment of H.R. 982, the illegal alien problem on the Southwest Border can be solved at last.

As to the magnitude of the illegal alien program, I should like to recall the testimony presented to your Committee by the AFL–CIO on May 8, 1973 in connection with Reorganization Plan No. 2. Among other statements, Mr. Andrew J. Biemeiller, Director, Department of Legislation for the AFL–CIO said the following:

"The problems created by the presence of large numbers of illegal immigrants-whose entry was primarily to obtain employment in the United States, has be,

come so serious that the House has just passed H.R. 982, to amend the Immigration and Nationality Act to help alleviate the U.S. unemployment crisis created by illegal immigrants holding American jobs. Because employers will need to depend on documents presented by aliens as proof of their legal entry, it is expected that illegal aliens will seek to obtain even better forged documents or fraudulently obtained documents, passports, visas or identity cards. The greatest expertise in the detection of fraudulent identity and travel documents resides today in the Immigration and Naturalization Service. This expertise should not be dissipated at this time.

"As to the magnitude of the documentation problem, it is important to realize that there are as many passports as there are countries in the world; that the United States Code contains at least 50 different visa categories, both immigrant and non-immigrant; that several kinds of documents can be legally presented to immigration officers as evidence of U.S. citizenship; that the law makes provision for several categories of international border crossers for whom no entry document need be presented and for other categories for whom documents can be waived; and that even when an alien is legally admissable, the Immigration Inspector must decide for how long the alien is to be permitted to remain in the United States; whether an alien should post a bond to guarantee maintenance of his status; and whether an alien is wanted, either as a witness by, or a fugitive from, some U.S. Federal, State or local authority or by some friendly foreign state."

In light of these needs of the INS, we were doubly disappointed this year. First, we are unhappy that H.R. 982 is still in the Senate Judiciary Committee, which has not held hearings. Secondly, we are distressed that the Department of Justice did not approve the full budget request of the INS for $210,000,000 adding 2,610 new positions, but recommended only $198.5 million with 1,604 new positions; OMB for its part recommended a lower figure of $180.4 million with 350 new positions but the House approved only $175.0 million with 50 new positions.

Fortunately, the House did agree to annualize the 300 new positions which OMB conceded on the basis of its May 29, 1973 agreement with us and the AFL–CIO "to honor OMB Director Ash's commitment of May 17, 1973 to Chairman Holifield with respect to strengthening the country's illegal alien control capability."

However, of those 300 positions, only 66 were assigned to the Southwest Border Patrol. Of the 350 positions approved by OMB for the 1975 fiscal year budget, 200 would have been assigned to the Border Patrol, with 167 being emplaced on the Southwest border. Consequently, as affairs now stand, unless the Senate is more generous, the Border Patrol will receive 50 positions instead of 167 and the INS as a whole will be 300 positions under the strength approved by OMB.

"SINGLE AGENCY MANAGEMENT OF MEXICAN BORDER PORTS"

We are adamantly opposed on principle to the philosophy and the administrative precepts which permeate the June 5, 1974 communication from OMB Director Roy L. Ash to the Attorney General and the Secretary of Treasury regarding "law enforcement along the southwest land border" and the "conclusions of the study and the strategy of the principle border agencies."

That communication is a restatement of the fundamental legal concepts of Reorganization Plan No. 2 which were abjured, and we thought permanently renounced, when OMB made its commitments to Chairman Holifield last and signed subsequently its May 29 agreements with us and the AFL–CIO.

This philosophy, as baldly as language can convey, disregards the essential separateness and uniqueness of each of the two Services. It seeks again to reestablish, we fear, the hegemony of the Customs Service over Immigration Inspectors at ports of entry, in compensation for the loss of the narcotics control function by the Treasury Department's Customs Service to the Drug Enforcement Administration of the Department of Justice. This is nothing more than a managerial swapping of human beings along with positions and slots to preserve the overall relative budgets of the various affected powerful Departments. It keeps GS–18 and Executive Level managers happy because it gives them subordinates to justify their positions. But it does not really save any money and it harms the national interest by rendering more difficult the tasks of both the Customs Service and the Immigration Service.

We are appalled to discover that, less than one year after we reached fundamental agreement with OMB, we find that that office is not prepared to stand by its commitment on principles.

For your part, we believe sincerely that it is in the national interest that all immigration inspections be carried out by Immigration Inspectors and all inspections for customs be carried out by Customs Inspectors. We believe that their strength in numbers at the ports of entry for travelers and at airports for passengers should be equal to the tasks they have to perform, with seasonal fluctuations if these are needed to conform to changes in travel patterns. Only through a system of parity can the nation be assured that its statutes are being properly administered.

Secondly, we believe that "parity" means that each Service should control its own personnel and that the classification systems and grades of the two Services should be identical. Journeyman customs inspectors are now GS–11, or at least are supposed to be; first-line customs supervisors are now GS–12, or at least are supposed to be. On the other hand, journeyman Immigration Inspectors are still only GS–9, as are journeyman Border Patrol officers. This is an improper distinction and the Civil Service Commission and the Immigration and Naturalization Service should remedy this disparity as rapidly as possible properly reclassifying these positions. I am pleased to note for the record, that the Commissioner of INS, General Chapman, is in agreement.

"Parity" also means the genuine independence of the two Services; neither OMB, nor anyone else shoud inhibit them from carrying out their own proper functions wherever they need to do so; and there should be no more efforts to undermine their professional integrity by managerial distortions of their prime functions. The officers of both Services are carrying out extremely complex functions on behalf of our nation, affecting the health, the employment rate, the standard of living, the revenues, and the public law and safety of every citizen. We do not have enough of them; we do not pay them enough; and repeatedly we find that OMB seeks to handle them as if they were expendable items in transfers of budgets between powerful Executive Departments.

SUMMARY AND CONCLUSION

In summarizing, we wish to express our gratitude to the Chairman and to the Members of the House Government Operations Committee for their continued interest in the welfare of employees of the Customs and Immigrations Services affected by Reorganization Plan No. 2.

With respect to the June 5, 1974 communications of OMB Director, Roy L. Ash, to the Attorney General and the Secretary of Treasury, we are adamantly opposed to the introduction of a test of "single agency" operation on the Southwest Border. We believe such a test subverts the integrity and independence of both the Customs and the Immigration Services.

At ports of entry, we believe that the only way the illegal alien program, the narcotics control laws, and the tariff and fair trade practices acts can be properly administered is by the introduction of parity between Customs and Immigration Inspectors. Only Immigration Inspectors should deal with immigration matters involving human beings; only Customs Inspectors should deal with the admission of, and the levying of duties and fees on goods.

Parity also means the maintenance of the integrity and independence of both services. Each should be free to send its Officers and personnel wherever needed, without veto or interference from the other.

As to the OMB decision to have the Customs Patrol withdrawn from the international borders, we interpret this decision as related to the transfer of narcotics control functions from the Customs Service to the Drug Enforcement Administration. Normally, the Customs Service would have jurisdiction over narcotics, as part of its mission of control over goods. However, the Administration with the acquiescence of Congress has transferred this function to the specialized Drug Enforcement Administration, which now together with OMB appears to have decided that the established Immigration Border Patrol can discharge the drug interdiction program on the international borders as a secondary function without additional personnel. Should Congress acquiesce in this part of the OMB proposal, we trust that the personnel now in the Customs Patrol will be absorbed into the Air Interdiction functions of the Customs Service; those who are not qualified for such a role, or those who are surplus to such a program, would be offered the opportunity of joining the expanded Immigration Border Patrol on a priority basis.

We regret deeply the failure of the Senate Judiciary Committee to hold hearings on H.R. 982, whose enactment, together with an expanded Immigration Border

Patrol and an enlarged Immigration inspection service at ports of entry, would solve the currently damaging illegal alien situation.

We request your assistance with the Civil Service Commission for the proper classification of all members of the Customs and Immigration Services. Customs Inspectors have now been classified as GS–11 where the yare senior inspectors; first line supervisors are GS–12. But Immigration Inspectors, performing analogous duties, are only GS–9, the first-line supervisors are only GS–10. A similar situation exists in the Immigration Border Patrol; as for the Customs Patrol, journeymen level officers are GS–9, but first-line supervisors are GS–11. We believe that all officers holding analogous journeyman positions should be GS–11 in all branches of these two Services. And let me stress that Customs Inspectors should all have the GS–11 journeyman grade, not just those who are regarded as senior inspectors. Moreover, as regards both services, they are essentially, law enforcement positions and should for that reason, also be classified at the journeyman grade of GS–11, without exception.

Finally, we again request your Committee to protect the national interest by requiring OMB, as well as the Departments of Justice and Treasury, to comply with the statutes establishing the Customs Service and the Immigration and Naturalization Service as independent entities. We request your help especially to forestall the introduction of the so-called test of the "single agency" operation on the Southwest Border as contrary to law and harmful both to illegal alien and to contraband control.

In conclusion, we pledge you our entire effort to sustain the rights and independence of both of these Services. We invite your attention particularly to the fact that the AFL–CIO has supported our position in the past and is endorsing our statement today. Consequently, it is clear that it is in the interest of all of organized labor, whether in private enterprise or in the Federal government, to assure the passage of H.R. 982 and to maintain the integrity and independence of both the Customs Service and the Immigration and Naturalization Service.

Annex I: The Customs Patrol Service

[April 2, 1954]

The best available sources indicate that the Customs Patrol Service had its origin in the year 1853, when the Secretary of the Treasury first authorized the appointment of mounted inspectors for the newly created Customs District of Paso del Norte. The mounted inspectors who were the enforcement officers of the Customs Service during that era retained the same title until 1933, when they were renamed patrol inspectors by action of the Bureau of Customs. These man were the original patrol officers of the Customs Service who were sworn to "enforce the tariff laws, detect and prevent smuggling and other frauds against the customs revenue."

The background of the Southwest customs patrol therefore may be traced back in border history about 100 years and involves the colorful and hazardous days of the pioneers and Indians long before the coming of the railroads.

Prior to 1853 the Border territory was administered by the Customs office of Galveston. This Customs district as established at that time took in West Texas, New Mexico, and Arizona with a frontier of approximately nine hundred miles. The main office was located at Frontera, Texas, which was about ten miles above the present site of El Paso and was located on the Rio Grande river. There are few, if any, traces left today of the early town of Frontera.

Caleb Sherman was appointed the first collector of customs for the District of Paso del Norte and his Oath of Office was dated August 3, 1854. Existing records indicate that although the collector was authorized to appoint mounted inspectors for Customs field work, few, if any, were actually appointed until the 1860's. These mounted inspectors were stationed at what were considered strategic points throughout the Border country. Their duties included responsibility for the enforcement of the Immigration Laws until July 1, 1903, when the Immigration Bureau established an office in El Paso and took over all immigration matters.

Customs records show that in the year 1886 there were twenty-five employees in the Paso del Norte District and of this number eleven were mounted inspectors. In the year 1894 all customs employees in the district were blanketed into the classified civil service. By an executive order in 1906 the mounted inspectors were

again allowed to be appointed by collectors of customs without regard to civil service. It was during this period that numbers of the First U.S. Volunteer Cavalry, better known as Roosevelt's "Rough Riders," were appointed as mounted inspectors, followed by numerous appointments of former Texas Rangers, ex-sheriffs and other peace officers who were known and respected for their knowledge of the Border and their able performance of duty.

The mounted inspectors then remained the collector's appointees until the Executive Order of June 21, 1932, which order restored them to the competitive classified service. Mounted inspectors on duty at that time were blanketed into the civil service, but all subsequent appointments have been made subject to civil service examinations. On May 8, 1933, the customs enforcement officer's title was changed by the Bureau from mounted inspector to customs patrol inspector.

During the early period of border lawlessness a number of officers lost their lives in the performance of their duties. Patrol inspectors, throughout the history of the Service, distinguished themselves by their valor, loyality and devotion to duty.

In 1936, the Customs Agency Service assumed jurisdiction over the Customs Patrol by order of the Secretary of the Treasury and created at that time four Patrol Districts with headquarters at Buffalo, New York, Jacksonville, Florida (this unit was later abolished), El Paso, Texas, and Havre, Montana. The combined units were known as the Customs Patrol Service, which was administered by the Commissioner of Customs in Washington, D.C., through a Deputy Commissioner of Customs, in charge of the Division of Investigations and Patrol.

The Southwest Patrol District as created extended from the Gulf of Mexico, on the east, to the Pacific Ocean, on the west, covering the entire United States-Mexico boundary line. Operating out of its centrally located headquarters at El Paso, Texas, the District had an international frontier of 1935.2 miles, broken down as follows: Texas, 1241.4 miles; New Mexico, 179.7 miles; Arizona 373.4 miles; and California, 140.7 miles. The district personnel in modern times averaged about 165.

The Patrol District was administered and supervised by the District Superintendent with the aid of the Assistant Superintendent, the Administrative Assistant and a staff of highly trained employees, each of whom was assigned to and responsible for, a specific department of the District's administrative functions.

Following World War II the Bureau of Customs undertook an extensive review of its operations in all fields as booming United States foreign trade created greatly increased demands upon manpower and available funds for administering the Service. In the enforcement field, it was recognized that the character of much of the border country had changed as the economy had expanded westward. It was felt that development of highspeed transportation by motorcars over improved roads, and by air, called for a reevaluation of the efficiency of routine patrolling over long stretches of border by the relatively few men that could be assigned. After extensive study it was concluded that more effective enforcement of customs laws could be obtained through reliance upon modern investigative techniques carried out by customs agents. The Patrol was therefore discontinued along the Canadian Border in 1947, and the Southwest Patrol was abolished a year later. Permanent employees of the Patrol were reassigned to other customs duties in line with their qualifications, many of them as customs agents.

AGREEMENT RE REORGANIZATION PLAN NO. 2 OF 1973 [MAY 29, 1973]

The Administration Agrees:

1. To make Section 2 of the plan inoperative.

A. We will have introduced and will work with the AFL-CIO to secure passage of a separate bill prospectively repealing Section 2.

B. If this approach does not yield results by July 1, 1973, we well postpone implementation of the transfers mandated by the plan by having Customs contract immigration primary inspection to INS until such time as Section 2 is repealed by statute.

II. To avoid public discussion of "featherbedding" or labor being "against better drug enforcement" in conjunction with organized labor's position on Reorganization Plan No. 2 of 1973.

III. To honor OMB Director Ash's commitment of May 17, 1973, to Chairman Holifield with respect to strengthening the country's illegal alien control capability.

IV. To give careful study to those other problems and suggestions for more effective Customs and illegal alien control and for better labor/management relations in INS and the Customs Service which have been advanced by the labor representatives in the course of discussions to date.

V. To review seriously and sympathetically any other proposals for more effective illegal alien control.

VI. To continue to support H.R. 982 (Rodino bill) restricting employment of illegal aliens within the United States.

The AFL–CIO and AFGE Agree:

I. To cease all lobbying and other activities designed to defeat Reorganization Plan No. 2 in the Congress.

II. Accompanied by an Administration representative to visit personally before Thursday with the Speaker of the House, and key supporters of the Waldie Resolution in the House informing them that the AFL–CIO and AFGE have withdrawn their oppostion to the reorganization plan. Similar steps will be taken in the Senate.

III. To inform member unions and affected membership immediately of the withdrawal of labor opposition to the plan.

IV. To assist actively and publicly in securing passage of legislation prospectively repealing Section 2 of the plan.

Signed by:

FRED V. MALEK,
Deputy Director, OMB.

CLYDE M. WEBBER,
President, American Federation of Government Employees.

KENNETH A. MEIKELJOHN,
Legislative Representative, AFL–CIO.

Mr. PELLERZI. Thank you.

I should like, nevertheless, to explicitly comment on two matters which are of paramount concern to our organization, that is, the problem of the control of illegal aliens and the administration plan for single agency management of the Mexican border posts.

It is our firm belief that the control of illegal aliens will not be effective until the Immigration Border Patrol is brought up to proper strength. The best estimates which we have indicate that this would require approximately 3,000 members in the Immigration Border Patrol alone.

Currently, the Border Patrol has only 1,770 personnel, of whom approximately 1,600 are on the southwest border where the illegal alien problem is of acute proportions. These 1,600 employees work out of a total of 68 stations, of which 35 are directly on the United States/Mexican border, and 33 further inland where the uniformed Border Patrol uses "spotter planes" to locate and identify illegal aliens working in the fields.

Even so, the illegal alien problem does not abate, and we are now convinced that it cannot be seriously attacked until the Border Patrol has between 2,500 and 2,750 persons located in the Southwest. Given this number of Border Patrol personnel, with the eventual enactment of H.S. 982, the illegal alien problem on the southwest border can be brought under reasonable control.

And I hasten to add, Mr. Chairman, we proposed amendments to H.R. 982 to make it effective in connection with the presumptions of innocence and so on and to make it a more effective bill.

Mr. EILBERG. When will you submit those?

Mr. PELLERZI. I think they have been submitted in testimony in the hearings last year and were submitted March 12 of this year on the present bill.

As to the magnitude of the illegal alien problem, I should like to recall the testimony presented to your committee by the AFL–CIO on May 8, 1973 in connection with Reorganization Plan No. 2. Among other statements, Mr. Andrew J. Beimeiller, director, Department of Legislation for the AFL–CIO said the following:

> The problems created by the presence of large numbers of illegal immigrants, whose entry was primarily to obtain employment in the United States, has become so serious that the House has just passed H.R. 982, to amend the Immigration and Nationality Act to help alleviate the U.S. unemployment crisis created by illegal immigrants holding American jobs. Because employers will need to depend on documents presented by aliens as proof of their legal entry, it is expected that illegal aliens will seek to obtain even better forged documents or fraudulently obtained documents, passports, visas, or identity cards. The greatest expertise in the detection of fraudulent identity and travel documents resides today in the Immigration and Naturalization Service. This expertise should not be dissipated at this time.
>
> As to the magnitude of the documentation problem, it is important to realize that there are as many passports as there are countries in the world; that the United States Code contains at least 50 different visa categories, both immigrant and nonimmigrant; that several kinds of documents can be legally presented to the immigration officers as evidence of U.S. citizenship; that the law makes provision for several categories of international border crossers for whom no entry document need be presented and for other categories for whom documents can be waived; and that even when an alien is legally admissible, the Immigration Inspector must decide for how long the alien is to be permitted to remain in the United States; whether an alien should post a bond to guarantee maintenance of his status; and whether an alien is wanted, either as a witness by, or a fugitive from, some U.S. Federal, state or local authority or be some friendly foreign state.

It is in light of these needs of the INS that we were doubly disappointed this year. First, we are unhappy that last year H.R. 982 never got out of the Senate Judiciary Committee, and that no hearings were held in the Senate.

Second, we are distressed that last year the Department of Justice did not approve the full budget request of the INS for $210 million adding 2,610 new positions, but recommended only $198.5 million with 1,604 new positions; OMB for its part recommended a lower figure of $180.4 million with 350 new positions, but the House approved only $175 million with 50 new positions.

Fortunately, the House did agree to annualize the 300 new positions which OMB conceded on the basis of its May 29, 1973 agreement with us and the AFL–CIO "to honor OMB Director Ash's commitment of May 17, 1973 to Chairman Holifield with respect to strengthening the country's illegal alien control capability."

I might inject, Mr. Chairman, that we reviewed that matter with members of the Appropriations Committee and the problem from their point of view, and it is one that I am familiar with, and that is the recruiting of the number of people authorized. They had a number of vacancies which the Appropriations Committee felt were such that it didn't warrant them authorizing further positions.

Mr. EILBERG. I might say at this point that as we looked into it, this member discovered that there were many applications on file and they were in the process of processing those applications. It was not just a matter of those jobs not being filled; it was just that they had not been able mechanically to go through the hiring process.

Mr. PELLERZI. I think, Mr. Chairman, the result of what the subcommittee is here proposing, namely, authorization hearings with oversight, that as a result of that, that these matters could be gone into quite thoroughly, and it would be very beneficial to the administration of that Service.

However, of those 300 positions, only 66 were assigned to the Southwest Border Patrol. Of the 350 positions approved by OMB for the 1975 fiscal year budget, 200 would have been assigned to the Border Patrol, with 167 being emplaced on the southwest border. Consequently, as affairs now stand, unless the Senate is more generous, the Border Patrol will receive 50 positions instead of 167 and the INS as a whole will be 300 positions under the strength approved by OMB.

We are adamantly opposed on principle to the philosophy and the administrative precepts which permeate the June 5, 1974 communication from OMB Director Roy L. Ash to the Attorney General and the Secretary of the Treasury regarding "law enforcement along the southwest land border" and the "conlusions of the study and the strategy of the principle border agencies."

That communication is a restatement of the fundamental legal concepts of Reorganization Plan No. 2 which were abjured, and we thought permanently renounced, when OMB made its commitments to Chairman Holifield in the last Congress and signed subsequently its May 29, 1973 agreements with us and with the AFL-CIO.

This philosophy, as baldly as language can convey, disregards the essential separateness and uniqueness of each of the two Services. What we are talking about here, Mr. Chairman, is the so-called single agency management of the Immigration and Customs Service.

It seeks to reestablish, we fear, the hegemony of the Customs Service over Immigration Inspectors at ports of entry, in compensation for the loss of the narcotics control function by the Treasury Department's Customs Service to the Drug Enforcement Administration of the Department of Justice. This is nothing more than a managerial swapping of human beings along with positions and slots to preserve the overall relative budgets of the various affected powerful departments.

It may keep executive-level managers happy because it gives them subordinates to justify their positions, but it does not really save any money and it harms the national interest by rendering more difficult the tasks of both the Customs Service and the Immigration Service.

We are appalled to discover that, less than 1 year after we reached fundamental agreement with OMB, we find that that Office is not prepared to stand by its commitment on principles.

For our part, we believe sincerely that it is in the national interest that all immigration inspections be carried out by Immigration inspectors and all inspections for customs be carried out by Customs inspectors. We believe that their strength in numbers at the ports of entry for travelers and at airports for passengers should be equal to the task they have to perform, with seasonal fluctuations, if these are needed to conform to changes in travel patterns. Only through a system of parity of allocated resources can the Nation be assured that its statutes are being properly administered.

Secondly, we believe that "parity" means that each Service should control its own personnel and that the classification systems and grades

of the two Services should be identical. Journeyman Customs inspectors are now GS–11, or at least are supposed to be; first-line Customs supervisors are now GS–12, or at least are supposed to be.

On the other hand, journeymen Immigration inspectors, who do substantially the same thing with respect to people as the Customs inspector does with respect to property are still only GS–9, as are journeymen Border Patrol officers. This is an improper distinction and the Civil Service Commission and the Immigration and Naturalization Service should remedy this disparity as rapidly as possible by properly reclassifying these positions. I am pleased to note for the record that the Commissioner of INS, General Chapman, is in agreement with this position.

"Parity" also means the genuine independence of the two Services; neither OMB, nor anyone else should inhibit them from carrying out their own proper functions wherever they need to do so; and there should be no more efforts to undermine their professional integrity by managerial distortions of their prime functions.

Mr. Chairman, if I may inject again here, I think a great benefit from the authorization hearings of this subcommittee to see that what Congress has enacted is administered and carried out in the way that Congress intends it and in light of what Congress expects.

Mr. EILBERG. Sir, may I say that we have oversight authority. We are now contemplating authorization authority.

Mr. PELLERZI. I understand, I understand.

The officers of both Services are carrying out extremely complex functions on behalf of our Nation, affecting the health, the employment rate, the standard of living, the revenues, and the public law and safety of every citizen. We do not have enough of them; we do not pay them enough; and repeatedly we find that OMB seeks to handle them as if they were expendable items in transfers of personnel and budget between powerful Executive Departments.

Next with respect to H.R. 2918, we appreciate that this bill is not before your subcommittee and that the hearings on it may well be reserved for the full committee. Neverthless, I should like to take this occasion to comment to you, Mr. Chairman and members of the committee, and particularly to you, Mr. Chairman, as one of its cosponsors, that we endorse the purpose and provisions on H.R. 2918. As to whether the authorization hearings should be on an annual basis or on the basis of periodic reviews of 4 or 5 years, we defer to the wisdom of your committee and have no preference. We are concerned with the principle of congressional oversight involved in these authorization processes rather than with the schedule of these hearings.

I should like to state that we believe that the entire system of law enforcement, including the relationships among the law enforcement officers, the prosecutors and the Judiciary, are of crucial importance. The revelations of the last several years indicate that subtle and gradual changes may have taken place in the last two decades, which cumulatively appear to have reached proportions in some areas altering the sense of duty of some persons entrusted with administering the law and upholding its integrity. These several changes, affecting the legal and law enforcement professions, may have had consequences of a fundamental nature which need to be corrected through careful congressional review by way of authorization hearings.

Recently, the functions, staff and files of the House Internal Security Committee were transferred to the House Committee on the Judiciary. Consequently, at this time, your full committee has jurisdiction over both the issues of the legal rights of the Executive branch in providing for internal security as well as the constitutional rights of individual citizens for the protection of their individual freedoms. Among these issues are matters of immigration and nationality, involving the gaining and the losing of citizenship and the acquisition of legal status by resident aliens.

These issues, it appears, now call for careful review both from the standpoint of national policy and from the standpoint of administration. Both the programs and the missions involved should, in our opinion, be authorized on the basis of that review.

Mr. EILBERG. Do you wish to have the other statements offered at this time, or do you wish to submit to some questions at this time.

Mr. PELLERZI. I would prefer to have the other statements offered, and then submit to questions but we will defer to the Chairman's view.

Mr. EILBERG. All right. May I suggest that there is a quorum call now and that the members should answer the quorum call. I am hopeful that we can come back and work until approximately 1 o'clock.

I would ask the members to come back right after the quorum call and let's proceed as far as we can. I understand there is no room available tomorrow morning so we would have to go over until next week in the event that we didn't finish today.

Mr. PELLERZI. We will await your return, Mr. Chairman.

[Short recess.]

Mr. EILBERG. Mr. Pellerzi, you have concluded your statement. Who wishes to present his statement next?

Mr. PELLERZI. I think, with your permission, Mr. Chairman, Mr. Harpold would make a brief statement, to be followed by Mr. Brannick.

Mr. EILBERG. And you know that time is very limited. I hope that we can conclude today. If we do not, we may have to go over until next week.

Mr. HARPOLD. First of all, Mr. Chairman, I am an Immigration Examiner from the San Francisco area and am appearing here today as a representative to the Immigration Service Employees.

Mr. Chairman, we are pleased to appear before this committee today as representatives of the employees of the U.S. Immigration and Naturalization Service, and urge passage of H.R. 1276. This bill would require that all authorizations of appropriations for the Departments of Justice and Labor for administering the Immigration and Nationality Act shall be specifically made by Act of Congress. We feel that such a bill is long overdue.

Today, the resources of the Immigration and Naturalization Service have been stretched far beyond the point where any meaningful administration or enforcement of our immigration and nationality laws can occur. Certainly, this committee has been well aware of the overwhelming shortcomings that exist; the millions of illegal aliens passing our borders at will, the staggering adjudications backlogs that make the most simple contact with our Service a long and exasperating

ordeal and the antiquated records system, the cause of frequent and equally exasperating error.

In bitter truth, an alien or a citizen petitioner frequently faces far greater difficulty if he deals within the framework of the law than if he simply acts without it. Certainly the will of the Congress is not being carried out either in the administration of benefits or in the enforcement of the law.

The roots of the problem go back over ten years, to 1964. In the decade that followed, apprehensions of illegal aliens rose tenfold, or 1,000 percent from 85,000 in 1964 to 800,000 in 1974. Yet, during that same period of time, the staffing of the Service was increased only 9 percent rising by 624 positions from 7,058 to 7,682. No new legislation was passed to help us cope with the situation.

More recently, the two Subcommittees of the Government Operations Committee of the House have become deeply involved in the study of the problems concerning the illegal alien situation and shortcomings within the Immigration Service. Both of these Subcommittees, Legal and Monetary Affairs in House Report No. 93–1623 and Legislation and Military Operations in House Report No. 93–1630 recommended massive increases in the funding and staffing of the Immigration Service.

However, the Government Operations Committee does not have authorization authority over the I&NS budget. To correct this, however, Chairman Holifield recommended that "The Committee on the Judiciary should consider the development of legislation to require annual or other periodic authorizations for programs of the Immigration and Naturalization Service to the end that legislative oversight will be maintained and adequate resources will be made available for control of illegal alien traffic."

We would welcome the assumption of this responsibility by your Committee. No law can be effective without the trained manpower and funding necessary for its enforcement. The House Committee of the Judiciary is in the best position to determine what those manpower and funding needs may be.

I would like to discuss some of those considerations in the following paragraphs excerpted from my testimony submitted to this Subcommittee on March 12, 1975, concerning H.R. 982.

The Immigration and Naturalization Service has endured a perennial problem with its budget and staffing. The following table illustrates the problem, and I will refer to the points in there.

In fiscal year 1971, the Immigration and Naturalization Service requested $122 million and 969 positions. The administration cut that request down to $111 million and 310 positions. They cut it to one-third and the Congress gave us essentially that.

In 1972, the request was for $134 million and 960 positions and the administration cut it down to 452 positions and $124 million. The Congress passed that amount.

In 1973, the Immigration Service requested $150 million and 1,065 positions. The administration cut it down to $129 million with no positions.

In 1974, the Immigration Service requested $167 million and 1,468 positions. The administration again cut it down to $139 million and no positions.

In 1974, including a massive supplement, the Immigration Service requested $210 million with 2,610 positions. The administration cut it down to $180 million and 350 positions.

Mr. EILBERG. Mr. Harpold, do you happen to have in your records here or elsewhere a record of the last submissions as to the number of jobs requested for the current fiscal year?

Mr. HARPOLD. For the current fiscal year?

Mr. EILBERG. Yes.

Mr. HARPOLD. I do not have it, although I know what that request was.

Mr. EILBERG. I was under the impression that you had these records.

Mr. HARPOLD. I have the records for last year. For fiscal year 1976, I don't have the records, but for fiscal year 1975 and before that I do have the records.

Mr. PELLERZI. There was a large supplemental request, Mr. Chairman, that was never transmitted to the Congress. I think we have those records. They were made by General Chapman.

Mr. EILBERG. I wonder if we could—I wonder if you would supply that for the record and the 1975 request by INS for the record. May we get that for the record?

Mr. HARPOLD. Yes, sir, I will get it for you.

[The document entitled "Immigration and Naturalization Service—Critical Needs, a Budget Amendment FY 1975" is retained in the Committee files.]

Mr. HARPOLD. As the table indicates, there has been considerable difficulty obtaining administration backing for I&NS budget requests. Nor has the administration championed an enforceable law.

Why the administration has not done so in the face of such rapidly developing problems is for the administration to answer. The employees who have been left to "take up the slack," however, cannot help but, with some bitterness, ask if it is not the administration's policy to permit the existence of a large pool of cheap and quiescent labor within this country.

Do we have a bracero program by default? To the domestic farm worker there is no perceptible difference nor does there appear to be a difference to the employers.

It would be difficult to gage the needs of the Service in terms of manpower and money saved to turn to that person who is in the best position to know.

Our present Commissioner has a reputation as an administrator undoubtedly second to no other person in Government. From 4 years as Commandant of the Marine Corps he took what he called a public service job. General Chapman became Commissioner in December 1974.

In the view of the people of this Service, no man has ever set about his task with such rapidity and dedication. Certainly, he had no self-interest but his own view of our needs. In the spring of 1975 he prepared, substantiated and submitted to the Department of Justice a budget amendment calling for 3,227 new positions and $70,653,000 additional dollars.

Mr. EILBERG. You are going to give us a copy of that?

Mr. HARPOLD. Yes, I will.

[The document entitled, "Immigration and Naturalization Service—Critical Needs, a Budget Amendment fiscal year 1975" is retained in the comittee files.]

Mr. HARPOLD. He wound up with 100 additional positions and an additional $3.5 million out of that massive request.

Mr. FISH. If I may, Mr. Chairman?

Mr. EILBERG. Proceed.

Mr. FISH. I understand the chairman's questions, in fiscal year 1975, when the request was for 3,227 additional positions——

Mr. HARPOLD. That is what INS sent over to Justice.

Mr. PELLERZI. That was a supplemental, Mr. Fish.

Mr. FISH. That was supplemental?

Mr. PELLERZI. Supplemental.

Mr. FISH. But, that figure appears on page 4 and then on page 3, the table there says that in 1975, including the supplemental, there were 2,610——

Mr. HARPOLD. The 1975 figure I am referring to there was the basic 1975 budget request, plus a small initial supplemental that was asked for. This was a basic fiscal 1975 budgetary cycle, which failed.

Mr. FISH. So, the larger figure includes a second supplemental?

Mr. HARPOLD. The larger figure includes the second supplemental, including everything that he didn't get in the normal fiscal 1975 budget cycle.

Mr. FISH. Let me ask once again that I hope you will break down the INS requests for positions into what kind of positions they are and whether they are inspectors and so forth.

Mr. EILBERG. Yes, or investigators.

Mr. HARPOLD. The document I will submit to you, sir, is over 1½ inches thick. It is very detailed. It was prepared by the gentleman who sat here at this table this morning, Mr. Scott.

Mr. EILBERG. Okay.

Mr. HARPOLD. Much needs to be done in the Service in the area of just plain basic building. Save for our Border Patrol Agents, many of the Service's officers, such as Inspectors, Detention Officers and some Criminal Investigators have received inadequate and often no formal training.

Our records system has never been automated and exists today in much the same state as it did in the 1940's. We no longer have the capability of removing aliens from the Mexican border area to points near their homes in the interior.

Most positions are graded below comparable positions in other agencies, causing a continual loss of trained officers to other agencies and an inordinately high turnover rate among our clerical employees. Also, due to retirements and our inability to properly train and develop managers, we are suffering a real shortage of higher level managerial talent. Commissioner Chapman's assessment and proposed fiscal year 1975 budget amendment, which I referred to, was pretty realistic and remains so today.

A broad-based enforcement effort will have to be conducted at our borders to prevent illegal entry and fraudulent entry through our ports of entry. Once the "job magnet" has been turned off, the flow should diminish to a manageable level, but it will require the utmost cooperation between our officers on the line, the Border Patrol, our

Inspectors at the ports of entry and our Investigators and Border Patrol Agents at inland points.

Our enforcement problem will turn from the simple undocumented illegal entrant to the illegal alien making a false claim to U.S. citizenship or presenting other fraudulent documents. Investigative efforts will turn to the employer of illegal aliens.

Commissioner Chapman, in testimony before Congress, has stated that the optimum size of the Service should be 10,200 employees. That was before the Government Operations Committee last summer, Mr. Chairman.

Of that, in order to provide the coordinated effort called for by H.R. 981 and H.R. 982, substantial increases of our present investigator force as well as our inspector force at Mexican border ports, will have to occur.

The administration's answer to the illegal alien problem has been to ignore it, asking for mere token increases in appropriations and proposing no remedial legislation. In answer to heavy pressure placed on the administration, the President has appointed a commission to study a problem that has already been studied to death.

Mr. EILBERG. Do you know if they have done anything since that?

Mr. HARPOLD. They certainly haven't asked us.

Mr. EILBERG. You don't know?

Mr. HARPOLD. Other than that, I don't know. I know of no action that they have taken.

It seems to us that it is time for the Congress to take charge of the situation and pass the laws and authorize the money it deems necessary to carry out its legislation. This Nation can no longer tolerate a policy of what could be charitably called "no policy", but what from all appearances appears to be a policy of abrogating a law by failing to provide the funding necessary and manpower necessary to implement it.

Mr. Chairman, I do have this statement dated March 12, 1975, I would like it in the record——

Mr. EILBERG. Without objection, that will be placed in the record.

[The prepared statement of Michael G. Harpold follows:]

STATEMENT OF MICHAEL G. HARPOLD, LEGISLATIVE REPRESENTATIVE, NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, MARCH 12, 1975

Mr. Chairman, the employees of the Immigration and Naturalization Service are pleased that you have undertaken so rapidly, a review of crucial legislation which is so important to the nation and important to us in our work. We are pleased and heartened by the determination you have shown in bringing back before the Congress for the third time, H.R. 982 and H.R. 981. Your determination gives us heart and makes our frustration easier to bear.

And we are frustrated, Mr. Chairman—and angry. We feel that we are being deprived of a basic human right—the right to go home after duty, warm in the knowledge that we have served our country well. The ache that we carry instead, Mr. Chairman, is the greatest single factor adversely affecting our working conditions today.

Therefore, we are concerned about immigration legislation as citizens and as those who bear the responsibility of administering the laws that you give us.

We are here today to ask you most humbly: Give us a law we can enforce; allow us the pride of a job well done.

In 1962, my family and I made the long trek from my native State of Wisconsin to the little border town of Calexico, California so that I could become a Border

Patrolman. I worked hard and I studied hard. There was a lot to learn—law, the Spanish language, a new culture and environment. I did a good job. We all did a good job; we were proud of ourselves, and it felt good.

However, there were some nagging questions about things—things that most of my companions and I were not accustomed to and didn't comprehend. Here were people—Americans—stooped over in the hot valley sun, making at most $1.15 an hour chopping with a short hoe called "El Cortito." Here were people, families, moving eight and nine times during the year in order to earn an annual average income of $3,000. Here were children doing men's work, families living in unbelievably squalid, often municipal-run labor camps. Here in this most wealthy and blessed of lands, existed a whole class of people denied education, health, security; instead, they had only the most meager table scraps of the dream that is America.

These were Americans—competing for jobs at wage levels and conditions kept unrealistically low by competition with imported foreign labor—Braceros.

The Congress chose wisely not to extend the Bracero program. We were glad to see it go and were pleased with the resultant gains for domestic farm workers. The farm wage in California quickly went to $1.25, then $1.35 and to $1.65. The growth of agricultural worker unions helped to improve working conditions, and for a few short seasons, farm laborers in a number of areas of the country were able to find sufficient year round work in their own locality to enable them to settle and educate their children. For the first time, growers had to consider domestic labor availability before planting a crop. And, since the incentive was there for them to do so, the growers were able to make that transition.

But the dream was short lived. Year after year our arrest figures grew, reflecting a greater and greater illegal migration to the United States. Finally, once again, we had a Bracero program; not through legislation but through the lack of it. Again, all the heartbreak, all the misery, and all the disruption of home life was upon us as if it had never departed.

For those of us in the Service, our heartache grew with each passing year. I have heard old hands talk about the early 1950s when illegal immigration was also unchecked. They told of two and three-men teams who apprehended up to 200 illegal aliens in a single day. They removed them across the border, only to return the next day and the next, having to repeat the same process with the same people over and over again. I doubted then that I would have the endurance to remain steadfast in such a frustrating job. Mr. Chairman, this very day—and the day after—and all the days until the Congress can provide viable immigration legislation, the 8,000 people of the Immigration Service will patiently persevere in this most frustrating job.

Spurred on by our hurt, we ask if we do not have a special obligation to promote workable legislation in an area where we have special knowledge. We have answered the question with our actions. We successfully fought two battles to keep the Immigration Service intact. We have constantly sought to bring Congressional and public attention not just to our problem, but to a problem which faces our nation. We have fought and are continuing to fight for better funding and staffing; now, we feel that we are sophisticated enough to recommend to you the passage of better laws.

On February 14th and 15th of this year at the National Border Patrol Convention in San Antonio, Texas, we sat down with Congressman McFall and developed what we believe to be a viable and comprehensive approach to the problem of illegal immigration.

First, there must be a restriction on the employment of illegal aliens. We support H.R. 982 and along with AFL–CIO, we feel that the civil penalties should be backed up by criminal sanctions. We suggest that it be the employer who bears the burden of showing that he has made a bona fide enquiry of *every* job applicant and that enquiry should include viewing an alien registration card, birth or naturalization certificate and social security card. With recent changes in procedures for issuance of social security cards plus the Immigration Service's intent to replace the many existing varieties of the alien registration card with a sole, secure document, we see no reason why such a program cannot be effective.

Second, we support an equitable system of Western Hemisphere immigration. The basic inequities built into the 1965 amendments to the Act, and the over-long waiting period now endured have served to exacerbate an already bad illegal alien situation. Because of a visa backlog of over two years, families of immigrants often enter illegally. Or, conversely, a new immigrant—particularly from Canada or Mexico—may become a "commuter," using the United States only as a place

of employment while he maintains his true residence with his family abroad. A bill now also pending before your committee, H.R. 981, would do much to alleviate this portion of the problem.

Further, we realize the inequities that could be caused by sudden and massive enforcement of the law. In keeping with the deep respect we have for the family unit, we would recommend that aliens who are the immediate relatives of U.S. citizens and lawful resident aliens be permitted to remain in the United States, until such time as they can be accorded the benefits contemplated by H.R. 981 and H.R. 982. It is for this reason that we urge that H.R. 981 and H.R. 982 be considered as a package.

Fourth, and finally, no law can be effective without the trained manpower and funding necessary for its enforcement.

The Immigration and Naturalization Service has endured a perennial problem with its budget and staffing. The following Table illustrates the problem:

	I. & N.S. request	Administration request	Congress appropriated
Fiscal year:			
1971	$122,002,000, 969 positions	$111,980,000, 310 positions	$111,480,000, 310 positions.
1972	$134,123,000, 960 positions	$124,300,000, 452 positions	$124,300,000, 452 positions.
1973	$150,324,000, 1,065 positions	$129,000,000, no positions	$129,000,000, no positions.
1974 (including supplemental).	$167,150,000, 1,468 positions	$139,698,000, no positions	$143,298,000, 300 positions.
1975 (including supplemental).	$210,062,000, 2,610 positions	$180,400,000, 350 positions	$183,000,000 (approximate), 100 positions.

As the table indicates, there has been considerable difficulty obtaining administration backing for I&NS budget requests. Nor has the administration championed an enforceable law. Why the administration has not done so in the face of such a rapidly developing problem is for the administration to answer. The employees who have been left to "take up the slack," however, cannot help but with some bitterness ask if it is not the administration's policy to permit the existence of a large pool of cheap and quiescent labor within this country. Do we have a Bracero Program by default? To the domestic farm worker there is no perceptible difference nor does there appear to be a difference to the employer.

It would be difficult to gauge the needs of the Service in terms of manpower and money saved to turn to that person who is in the best position to know.

Our present Commissioner has a reputation as an administrator undoubtedly second to no other person in Government. From a decade as Commandant of the Marine Corps he took what he called a public service job. General Chapman became Commissioner in December of 1974.

In the view of the people of this Service, no man has ever set about his task with such rapidity and dedication. Certainly, he had no self-interest but upon his review of our needs, in the Spring of 1975 he prepared, substantiated and submitted to the Department of Justice a budget amendment calling for 3,227 additional positions and $70,653,000 additional dollars. He wound up with 100 additional positions and an additional $3,500,000.

True, the passage of H.R. 981 and H.R. 982 will serve to reduce the magnitude of the problem confronting the Service but much needs to be done in the area of just plain basic building before we can start. Save for our Border Patrol Agents, many of the Service's officers, such as Inspectors, Detention Officers and some Criminal Investigators have received inadequate and often no formal training. Our records system has never been automated and exists today in much the same state as it did in the 1940s. We no longer have the capability of removing aliens from the Mexican border area to points near their homes in the interior. Most positions are graded below comparable positions in other agencies causing a continual loss of trained officers to other agencies and an inordinately high turnover rate among our clerical employees. Also, due to retirements and our inability to properly train and develop managers, we are suffering a real shortage of higher level managerial talent. Commissioner Chapman's assessment and proposed FY '75 Budget Amendment was pretty realistic and remains so today.

In addition to basic building, H.R. 981 and H.R. 982 will place certain new burdens on the Service that will have to be taken into account by fiscal planning. A first step is already being undertaken by the administration request in the FY '76 budget for 215 positions and $4.7 million to implement the alien documentation

project. At present there are 4.5 million Alien Registration cards ("Green Cards") in existence in seventeen different versions. The number of counterfeit and altered documents in use can only be a guess, but about 10% of our apprehensions involve such documents. In 1973, over 100,000 excellent counterfeits were recovered from a bus station locker in Los Angeles. The Service proposes to reissue all Alien Registration Cards, using but one standard and "secure" edition. Such a step will be essential if H.R. 982 is passed.

However, a broad-based enforcement effort will have to be conducted at our borders to prevent illegal entry and fraudulent entry through our ports of entry. Once the "job magnet" has been turned off, the flow should diminish to a manageable level, but it will require the utmost cooperation between our officers on the line, the Border Patrol, our Inspectors at the ports of entry and our Investigators and Border Patrol Agents at inland points. Our enforcement problem will turn from the simple undocumented illegal entrant to the illegal alien making a false claim to U.S. citizenship or presenting other fraudulent documents. Investigative efforts will turn to the employer of illegal aliens. Commissioner Chapman in testimony before Congress has stated that the optimum size of the Service should be 10,200 employees. Of that, in order to provide the coordinated enforcement effort called for by H.R. 981 and H.R. 982, a doubling of our present investigator force as well as our inspector force at Mexican border ports, will have to occur.

Mr. Biaggi in his bill has called for an increase of 2,500 enforcement personnel. While the distribution of such personnel could be better stated, the principal is well enunciated. The Committee Report of the 93rd Congress on H.R. 982 estimated the annual cost at $298,400. Such a figure would seem to bear no relation to reality.

The Committee Report of the 93rd Congress on H.R. 981 estimated the cost of that bill at $1,368,000 annually. We do not have access to the data used to arrive at this figure. In that the many administrative features of this bill and H.R. 982 would significantly increase the adjudicative workload of the service, this figure would again appear to be low.

In addition to funding, other issues must be addressed. Undergrading and poor morale, for example. Two House committees recently issued reports after lengthy investigations of the Service and its operations. The first, entitled, "Interim Report on Immigration and Naturalization Service Regional Office Operations" (House Report No. 93-1623), was the result of several years of study conducted by the Legal and Monetary Affairs Subcommittee of the Government Operations Committee. The second, entitled "Law Enforcement of the Southern Border," (House Report No. 93-1630), came as a result of the perennial struggle the Service has had just to hold its own. Both reports strongly urge increasing the effectiveness of the Service. The first, among other items, recommended substantial increases in all categories of personnel and funding. The second recommended an overall increase of 2,200 persons including 1,000 additional Border Patrol Agents. Both reports are recommended to you for reading.

Mr. Chairman, given the legislation now pending before this committee, and I am referring to H.R. 981 and H.R. 982, and the funding to carry through the Congress' intent, we can and will use them wisely and well. You will at least have given us the tools and we will in turn be proud to serve the American people. And that, Mr. Chairman, is all we ask.

Mr. EILBERG. Mr. Brannick, I believe you go next?

Mr. BRANNICK. Yes, sir. My name is Richard Brannick, and in addition to being a Border Patrol Agent, I am president of the National Border Patrol Council. I represent Border Patrol employees of the INS.

Before I make my statement, I would like to comment on a few things that have been said. I would like to say, too, that I am not bound by the administration as the General is. I also am not as capable of speaking to the subject, but I will speak to it.

As to how often the hearings should be held, I will speak to that after my statement. Mention has been made numerous times that over a 10-year period apprehensions of the Immigration Service increased 10 times or 1,000 percent while manpower increased 9 percent, Mr. Chairman. That is a very deceiving figure, because in 1965 we had a much better control of the situation.

And in addition to reaching the saturation point, if you will, we were falling behind at an ever increasing rate though, so that 1,000 percent increase might very well be 10,000 percent of an increase if we knew the figures.

In addition, there is going to be a timelag, Mr. Chairman, if somebody doesn't get with the program right now and do something about this Immigration Service to make us fully capable. So, the time before we can really have an impact upon the economy of this country is going to stretch out, because you can't just throw a Border Patrolman or Border Patrolmen out on the street and say, "Go to work" because it is a very complex job. It requires a lot of training and it is a very sensitive job. You've got to do it carefully and you've got to know what you are doing. It isn't going to be today or tomorrow, therefore.

And a lot of these people that we are talking about, if we put them on the job today, it is still going to be a year, at least, before they can really do the job right. So there is a timelag.

Mr. Chairman, and Congressman, the National Border Patrol Council is pleased to be here today to testify concerning the need for line item authorization of funds for the Immigration and Naturalization Service.

Often, in the course of events, luck or happenstance seems to intervene to restrict a pending disaster to a crisis situation. Such is the case with the illegal alien problem this Nation faces today.

Between 1960 and 1970, the Immigration and Naturalization Service was steadily losing control of the illegal alien situation in the United States. And the problem was worsened at an ever-increasing rate.

Only two groups of people were aware of the magnitude of the problem and the potential effects on the U.S. economy; the employees of the INS and the management of the INS. The management of INS, for whatever reason, was hiding or minimizing the extent of the problem to Congress and to the Nation. Meanwhile, the ability of the field employees to perform their mission was being allowed to drop farther and farther behind the snowballing task.

In 1970 and 1971 the INS employees, the only other group who knew the situation, began to bring the problem to view.

To highlight that here is a kind of beat-up old piece of document that we put together in 1971, the fall of 1971, when we started to do something about our Service. I would like to give that to you for your records.

[The document entitled, "Immigration and Naturalization Service—Critical Needs, a Budget Amendment fiscal year 1975" is retained in the committee files.]

Mr. BRANNICK. In 1971, the employee unions went to Chairman Rodino, then chairman of the Judiciary Subcommittee on Immigration. He told us that he had been assured by INS officials that the situation was under control. Newspaper articles of that period carried the same assurances to the Nation. We assured Chairman Rodino that the situation had been out of control for at least 6 years.

Subsequent investigations by Congress proved our statements to be true. Not too long after that both the INS and Congress were aware of the problem and moving to correct it. The administration began moving in the right direction, from time to time.

Today we have a few more officers, we have a Commissioner dedicated to the mission, we have a Congress which is vastly more aware and we have a recession or depression snarling at our heels. We are at least 6 years late and desperately playing catchup.

Our Service has an administrator in charge who has a good grasp on the situation and is moving to act rather than react.

I guess I could summarize by saying I really firmly believe that this Service would be in worse shape than it is right now, and we would still be walking around giving what Commissioner Farrell called the "desired level of enforcement," whatever that was, if the employee unions had not come forward and fought for the improvement of the Service and is it a hell of a way to run a railroad.

Mr. EILBERG. Thank you. Mr. Pellerzi, we have a few questions we would like to ask and maybe you or one of the others would care to answer, but you are Chairman of this group, so I will address the questions to you.

Mr. PELLERZI. We will do the best we can to answer.

Mr. EILBERG. What is your organization doing within the organized labor unions to bring attention to the executive branch as well as to the public the need for proper and adequate funding or INS?

Mr. PELLERZI. I think we have taken just about every resource at our command and put it into this task. We have attended and submitted testimony in support of congressional action in this area before every committee of the Congress that is concerned with it.

And, as I outlined in my earlier statement, we have been concerned with the proper funding all along. We have tried to enlist public understanding of it through our own publications. We have addressed communication after communication to the OMB and to the President and to the Justice Department and to the Commissioner of Immigration concerning the problems attendant to understaffing of this agency.

And, of course, the AFL–CIO is on record in support of this. And it, too, has conducted a number of public hearings and has asked for Congressional action to rectify the problem.

Mr. EILBERG. We hope that you will continue to do this and more during the coming weeks as we move along. You know, of course, the problem we have had in the last two Congresses where the Senate failed to act. So, we call upon you for your assistance to help us.

We hope that we will get an illegal alien bill and possibly an authorization bill and hopefully, it will be with the assistance of the Congress and the Senators as well.

Mr. PELLERZI. I think you will have our full support, Mr. Chairman.

Mr. EILBERG. Many people agree that the Department of Justice and particularly the OMB is pound foolish and penny wise. Where, in your experience or opinion, does the need of INS run into the greatest barrier because of improper funding?

Mr. PELLERZI. In my experience, Mr. Chairman, I think the whole area of the Justice Department's program and accomplishing its mission responsibilities along with the Judiciary in this country has been under-funded and I think that the reason for that is in large part due to really the lack of substantive oversight with authority; oversight that can do something about whether a given program is going

to continue or what level it is going to continue at, and I am referring specifically to oversight by the Congress.

I think all of us realize that within the last decade that perhaps the strongest institution of society has been the Judiciary. It seems to have provided most of the mortar that held the bricks together and yet in the process of rationalizing national priorities in the executive branch, Mr. Congressman, you don't have anyone outside of that branch, like you do in the area of defense and in your defense committees and your defense authorization committees, and as you do in the area of atomic energy, where the Congress plays an authorization role and has hearings and says that "we are going to develop this kind of a defense program" or "we are going to authorize it for five years."

And so, we don't have that kind of oversight in this one institution that has done more to keep the couutry together than any other, the Judiciary, and in the law enforcement institution.

I think anything you do in the area of the administration of justice, and this is part of the administration of justice that we are talking about today, namely, the Immigration Service, can only be beneficial and can only be helpful. I think it would help to signal the Congress' evaluation of priorities to the Executive in making the budget, because that is what I think overwhelms the allocation of resources by the Executive to these particular programs, you see, when they are trading off that entire pot of money to determine what revenues and expenditures are going to be, and where the Justice Department's budget is going to be in connection with the budget of the Defense Department and some of the social agencies and so on.

Mr. EILBERG. Would you comment on INS's budget request, which does not provide for additional investigators? I am referring now to the Administration's budget.

Mr. PELLERZI. As I understood General Chapman's testimony this morning, he indicated that the investigative staff—and I know this to be a fact—had been deployed in other mission areas within the Service and that if he gets these increments of manpower—and he gave a breakdown of the 750 positions that are in his current budget—he will redeploy his investigators to their primary mission area and therefore he is not asking for any more. I think that our position would be that the entire allocation of manpower to this Service is out of line with the magnitude of the task.

We have General Chapman's own late submitted second supplemental budget last year, where he asked for 3,000 positions. I don't recall off the top of my head, what the allocation in the budget was to positions to the investigator's staffs, but I do recall the enumeration being in there and there were some positions to that staff.

My personal experience with it is that that staff has been terribly demoralized by understaffing and by the inability to follow the leads that they have. They have a number of unworked loads, and it just seems to be piling up a tremendous backlog.

Mr. FISH. Mr. Chairman?

Mr. EILBERG. Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman.

I thank the witnesses representing the employees of the Service for their testimony. Your testimony has been very helpful.

I have noted happily the optimism that the job could be done if you were properly funded and properly staffed. Your suggestions are all very good, and to me, Mr. Chairman, have underscored the need for your legislation to give authorizing authority to this committee.

I just have one comment for Mr. Harpold, I want to thank you for your very valuable chart on page 3 of your prepared testimony, but I think your criticism of the past administrations was directed solely at them and not at the Congress. I think that may have let us off the hook a bit, because it is clear that the Congress once again, lacking authority, has simply followed the position that came out of the administration, even when that position called for no new positions.

I would also like the record to show that in 1970, in an omnibus immigration bill, presented by that administration to the Congress, but never acted upon by the Congress, there was in there a provision calling for penalties for employers harboring illegal aliens.

Thank you, Mr. Chairman.

Mr. EILBERG. Ms. Holtzman?

Ms. HOLTZMAN. I have no questions at this time.

Mr. EILBERG. Mr. Dodd?

Mr. DODD. I have no questions.

Mr. EILBERG. Well, we thank you very much for coming here. The meeting is adjourned.

[Whereupon, at 1:05 p.m., the subcommittee recessed, subject to the call of the Chair.]

APPENDIXES

Appendix 1

Statement by Hon. William S. Broomfield, a Representative in Congress From the State of Michigan

Mr. Chairman, the Subcommittee on Immigration, Citizenship, and International Law should be commended for once again holding hearings on legislation to deal with the serious illegal alien problem in our country. I would especially like to pay tribute to Chairman Rodino for his tireless efforts in this area in the past, and for once again taking the lead in this Congress. As a sponsor or cosponsor of several illegal alien bills, I appreciate this opportunity to comment on the situation.

This is not a new problem, as the subcommittee members are well aware. Bills were passed by the House in the last two Congresses concerning this problem, but died in the other body. I hope that pattern does not continue with the bills before the subcommittee today, because the need for this legislation in the 94th Congress is truly more critical than ever before.

One can hardly pick up a newspaper or magazine or turn on the television without being confronted with the startling enormity of the illegal alien problem. The trickle of the 60's, when Immigration and Naturalization officials claimed there were only 100,000 illegal aliens in the United States, has in the 70's become an invasion force, depriving American workers of jobs and clogging government machinery at all levels.

Last year, INS apprehended 800,000 illegal aliens, over 2,000 a day. But officials readily admit that two to three times that many may have been smuggled into the country undetected.

Although estimates on how many illegal aliens are in the U.S. vary from four to twelve million, observers of the problem generally agree that illegal aliens are holding over one million American jobs. Considering our present economic conditions, this is an intolerable situation. Americans are having enough trouble finding and keeping jobs without having to compete with an illegal work force. The one million jobs held by illegal aliens represent almost 20 percent of our nation's total unemployed.

In the metropolitan Detroit area, where recession and unemployment have had a terrible impact, INS authorities estimate at least 20,000 jobs are being held by illegal aliens. Contrary to popular belief, they are not "stoop labor" jobs, either. Illegal aliens have been apprehended working in Detroit's auto plants, steel factories, and forge plants, earning between four and six dollars an hour.

Mr. Chairman, not only do these illegal aliens deprive American workers of jobs, they place a tremendous burden on the government at all levels. They pay no taxes, yet their children attend public schools. When they cannot find work, they receive government welfare assistance.

Los Angeles County claims its welfare rolls are so clogged with illegal aliens it is costing the county over $7 million annually. That is in addition to the $100 million the county estimates it costs to subsidize those illegal aliens whose children attend public schools.

Clearly, this situation is out of hand, and demands prompt and decisive action. The best place to start is the source of all this illegal alien activity—jobs. As long as jobs are readily available for these people they will continue to enter this country. And as long as employers face no penalties for employing illegal aliens, the jobs will be available. The logical answer to this dilemma is enacting the provisions for penalties for employing illegal aliens called for in Chairman Rodino's bill.

I believe the Rodino bill provides a fair approach to the problem, calling for a warning for a first offense, a fine of $500 per alien for a second offense, and a one

year jail term and a fine of $1,000 per alien for subsequent offenses. Certainly such sanctions will force employers to make sure they are hiring American citizens. Indeed, this is the very bill passed overwhelmingly by the House last Congress.

I would, however, urge the subcommittee not to stop with this measure. Penalties for transporting and harboring illegal aliens should be increased to deter those who are profiting from this business. Presently, offenders face a fine of not more than $2,000 or five years imprisonment, or both. But all too often the fines and sentences are considerably less than the maximum, and the offender is back in business before long. I suggest the subcommittee consider raising penalties for this crime to a fine of not less than $1,000 nor more than $2,000 and imprisonment for a term of not less than three years nor more than five years.

Secondly, I ask the subcommittee to consider authorizing a doubling of the patrol force guarding our borders. Many of these illegal aliens could be apprehended at the border of our country had an adequate patrol force. The present force level of 1,500 officers is simply too small to handle the massive problem confronting it. The Detroit office has indicated it would need to at least double its 21-member staff of clean up the situation in Michigan and keep it clean.

These proposals are contained in two bills I have introduced, H.R. 136 and H.R. 137, and I hope the subcommittee will consider acting on both of them.

It is time for an all out attack on illegal aliens and those who smuggle them into this country and knowingly employ them. I am glad to see the subcommittee is once again taking the first step in that direction. Congress has an obligation to the American workers to protect their job security, and to the American taxpayers to protect their tax dollars.

Statement of Hon. Abraham Kazen, Jr., A Representative in Congress From the State of Texas

Mr. Chairman, I recognize that this bill faces an old issue in an improved way. The question of illegal aliens is not new to me; it has faced the people of south Texas for years and since the southern border of my district is the Rio Grande, I have special interest in this problem.

As you consider this proposed legislation, I have one general observation and one that is specific.

My first point is that one of the basic concepts, which grows in importance in this time of high unemployment, is that while our country continues to receive aliens into citizenship, we are told that illegal aliens are taking jobs away from those who are citizens by heritage or individual acts of choice. I can report to you, however, that in south Texas and other border areas, some employers are virtually compelled to hire illegal aliens.

It is a characteristic of persons of Mexican stock—and those who know me realize I do not have to explain that I've known them as life-long friends and neighbors—it is a characteristic that they place great value on family life. In many ways, this is an admirable quality, but it sometimes impels them to refuse to leave their homes and their families to seek employment. They simply do not want to go an appreciable distance from home to work on farms or ranches.

To the operator of a farm or ranch, the need for hired help is absolutely essential. A crop may be lost if it can't be harvested at the proper time, and I know farmers and ranchers who have tried very hard to hire citizens only to have to accept aliens as the only help available. I don't think I have to say to this committee that the Department of Labor may provide statistics showing an abundance of employable people, but charts and graphs and tables of figures do not deliver a labor force to the place where it is needed.

I urgently suggest that you should not consider all employers of illegal aliens as exploiters of these employes. Often the illegal aliens must be hired or major losses sustained from lack of help.

My specific question in H.R. 982 concerns Section 2(b)(1) appearing on Page 3 of the print. My examination shows that the bill now contains a provision that an employer shall not be in violation of the law if he can produce proof that he made a bona fide offer to comply. More specifically, if he has obtained a signed statement from the employe that he is legally qualified for employment, then the employer is not liable to prosecution.

I see merit in the idea here, but I believe you face a serious question in the area of discrimination. Let me explain by these questions: Is the employer to demand this statement from every employe? Or is he going to accept a blond Anglo-Saxon type or a black whose family has probably been here for generations,

but pick and choose which employes he challenges? I suggest that almost any stranger might be questioned in a rural community of Pennsylvania or Iowa, but that the situation is quite different in the part of the country I represent, where a majority of citizens are of Latin heritage—and proximity to the Mexican border means illegal aliens may be hunting work. My question goes to this point: is every man or woman of Latin heritage, in appearance or vocal accents, to be challenged? Are we to realize that this is discrimination, and encourage it by legislation?

Many members of this Committee, as well as others in the House, have fought the battle against discrimination. We did it because we knew we were right. I therefore urge that the House not write new legislation that would add fuels to the fires of discrimination. At this point, the legislation before you creates this discrimination. For these reasons, I oppose H.R. 982.

STATEMENT BY HON. WILLIAM LEHMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman, your Subcommittee is to be commended for expediting its consideration of H.R. 982 which would make it unlawful for any employer to knowingly hire illegal aliens.

Twice the House has considered and passed this legislation to protect the American worker against encroachment in the job market by illegal aliens. Realizing that unemployment is hovering close to 8% of the work force, I believe it is incumbent upon Congress to move quickly.

Mr. Chairman, it is increasingly evident that the number of illegal aliens is growing at an alarming rate and that the existing statutes are an ineffective deterrent to such surreptitious entries.

However, today I wish to bring to the attention of the Subcommittee a corollary problem. Not every illegal resident is of working age. Many are enrolled in the State's school systems. This is particulary true in the school systems of Dade and Broward Counties where it is estimated that between 7 and 9 thousand students categorized as unlawful aliens are attending classes. I emphasize that these are strictly ballpark figures and do not represent an actual count. These figures were arrived at by a process of elimination using the most recent and reasonably accurate estimates of the Immigration Service. The INS estimates that of the total 50,000 illegal aliens residing in the area, over two-thirds are working. Of the remaining one-third, about 7,500 are either too old or young to be in the system. The remaining 7–9 thousand are of school age. This would encompass ages 6 through 19 years, or, K–12 grades. The expense to the various school districts is staggering. Since the expense of education is $1,347.00 per pupil, the annual cost for educating 9,000 illegal alien pupils is in excess of $12 million.

STATEMENT BY HON. EDWARD R. ROYBAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I appear here today to oppose H.R. 982. I take this position because it is clear that this legislation will lead to discrimination based on race and therefore violates Constitutional protections. H.R. 982 is similar to the law passed in the State of California that was ruled unconstitutional in the state courts. A suit was filed on the grounds it violated the equal protection and due process clauses of the 14th amendment and various civil rights statutes passed by the Congress.

The court took the unprecedented action of acting immediately, before the effective date of the law. The court rested its decision on dual grounds, that the law violated the equal protection and due process clauses because it led directly to the hiring on the basis of race.

That is exactly what this law now before us would do.

As one goes into the entire matter as it really rests, this legislation is really directed as just a certain ethnic group in the United States, and no one else, because if it were directed at everyone, at every resident, then every employer would have to have in his possession the form recommended by the committee, one that would be given to every employer by the Attorney General, and would require certain information of each and every employee in the United States.

If that is done, then everyone is treated equally, and the information then can be gathered by employers throughout the United States.

Mr. Chairman, I believe that no matter how conscientious or fair-minded an employer will be, he will try to minimize his encounter with the law simply because it is not good business. As a consequence, the employer will be reluctant to accept the applicant's statement or his documents as true and he will base this decision on color or ethnics and not on his qualifications.

We all agree that there is a problem with regard to illegal immigrants in the country. No one disagrees with that argument.

One must also agree with the fact that it is not the employer's responsibility to make a determination or to do the job of the Department of Immigration. I think we can all agree that we have a good department; I think we can all agree that the men who run the department are competent and that they can do the job, but I think we must all agree that the reason they have not been effective is because this congress has not given them enough money to effectively enforce the laws already enacted, and I believe this is our responsibility. We should give the necessary funds, not a law which is clearly discriminatory.

Mr. Chairman, we already have the necessary legislation on the books to deal with a large part of the problem posed by illegal aliens. In 1972 we passed the famous H.R. 1, which contained a provision requiring anyone applying for a social security card to show evidence that he is a citizen or a legally admitted resident of this country. I have great faith that the SSA can devise a workable system if Congress provided them with the necessary funds.

Further, we should provide enough money for a vigorous enforcement of minimum wage and wage and hour laws to insure that illegals are not being used as cheap labor to take jobs away from Americans. If we had a more vigorous enforcement of these laws we could handle a large share of the illegal problems without creating the discrimination that would surely follow the passage of H.R. 982.

There is a part of the illegal alien problem that does need a legislative solution. We must make provision for those illegal aliens who are already in the country and who have established roots in this country. I have introduced a bill, H.R. 1015, to allow certain aliens who have already been living in this country for some time to adjust their status to permanent residents.

The thrust of this legislation is to regularize status of those illegal aliens who have been working in the United States, have married, raised a family and have become part of the community in which they live. These otherwise law-abiding, working people live in constant fear of being detected, deported and separated from their American families. I see no justifiable reason to continue this inhuman situation for these individuals and their families. I believe it would be in the best interest of this country to adjust their status and allow them to become lawful.

My bill would offer this opportunity only for those aliens who could meet two separate sets of criteria.

The first set deals with procedural requirements that all aliens must meet before being considered. First, the alien must make an application for adjustment of status within one year of the bill's date of enactment. Second, the alien must show that he or she has been continuously present in this country from September 16, 1972 to the date of application. The alien would still be subject to the 31 exclusions currently in the law which prohibit the entry of "undesirable aliens."

The purpose of these three requirements is to set a fixed cutoff date, discourage illegal aliens from entering the United States after the bill's introduction for the sole purpose of adjusting their status, and prevent undesirables from qualifying under the bill.

If the alien meets these preliminary standards, he or she must show a close family or long-residence tie to this country. This can be done in either of three ways. First, as a spouse, parent, son or daughter of a U.S. citizen or of a lawful permanent resident. Second, as an alien entitled to a preference status under one of the existing family or work preference categories in the Immigration and Nationality Act. Or third, as an alien who entered the United States before June 30, 1948, and has been continuously present here since that date. The purpose of this provision is to protect the person who has established actual residence for nearly 25 years, but who does not qualify under the family category. Mr. Chairman, I believe that both of these bills will help end the existing inequities in our Western Hemisphere immigration system, as well as afford an opportunity for adjustment of status for those aliens who have been in this country for years and have families. Both bills will advance our goal of reuniting families and establishing a more humane and just immigration system.

STATEMENT OF HON. BURT L. TALCOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, thank you for the opportunity to present my views to your Committee. I commend you for holding these timely hearings.

The illegal alien presents a large, complicated, troublesome problem which has been developing over a period of many years. The long neglect of this matter has exacerbated the problem, and made your responsibility of providing a legislative solution more difficult; but a decisive answer is urgently needed. I recognize, and appreciate, the disparate interests involved, and the diverse views and the differing solutions that have been proposed.

The magnet of America, of course, is better jobs. After the foreign nationals arrive, they quickly learn to envy our freedoms and our affluence. The thrust of H.R. 982 is to discourage the employer from employing those illegally in this country. Hopefully, if the alien has no job, he and his family will go back to their native land and stay there.

Mr. Chairman, I can support H.R. 982, but believe it does not go far enough. It should be amended to take into account the real problems that could be created by enactment of this bill.

H.R. 982 places the burden for solving an international governmental problem of long duration almost solely upon the employer, who is not now equipped or capable of fully complying with any such law. Although the vast majority of employers in my Congressional District are now in conformity with the intent of H.R. 982, and all of them would, I am sure, attempt to comply with such a law, H.R. 982 would raise serious problems for employers who were seeking in good faith to comply with the new law.

This bill will require an extraordinary volume of litigation. What is the legal interpretation of "knowingly"? Most employers delegate employment to personnel managers, foremen or recruiters. They admonish and expect their agents to comply with the law. But how can we assume guilt to the principal in such cases.

Illegal aliens who are desperate for jobs will use many ruses and aliases in their effort to obtain employment. In our area, as well as others, it is understandably considered demeaning and discriminating to question one's citizenship simply on the basis of personal appearance. The American of Mexican descent is often called upon to provide proof of his citizenship when Anglo Americans or Anglican aliens are not harassed or questioned.

Therefore, Mr. Chairman, if the government is going to impose a fine or imprisonment upon an employer for "knowingly" employing an illegal alien, which I believe it should, then the government should provide a document upon which the employer can "knowingly" rely.

Anything less is unfair and will lead to untold consternation, confusion, litigation, demeaning discrimination, unnecessary embarrassment and administrative problems. The matter cries out for simplification, not confusion and litigation.

The simplest solution known to me is adapting the Social Security card as an employee identification card. Social Security directly relates to employment and nothing else. The card need only show a photograph, name, number and date and place of birth. This would discourage duplicate Social Security cards which now defraud and burden the Social Security system. The public accepts similar data on automobile operators licenses.

After the initial issuance, the costs would be minimal and probably more than recouped by improvement in administration. Of course the card would have to be reviewed periodically, such as every five years and after name changes.

I am advised by Kodak Company and Xerox that systems for issuing such cards can be devised and implemented economically and efficiently. Again, I reiterate that the total costs would be more than recouped by providing a better management tool for the Social Security system, without even considering the enormous savings of having a single non-counterfeitable, non-forgeable, simple employee identification card.

Of course the card would be used solely for employment purposes. The personal data would be limited strictly to information that all employers require of potential employees. There would be no invasion of personal privacy.

The Social Security Administration might worry about paying the costs of such cards from the already shaky trust funds. There would probably be a net savings if they used trust funds because of the elimination of fraud, duplicate cards, etc. The funding would also permit a tremendous savings to the Justice Department in litigation avoidance. And most of all, such an investment in providing an employee identification card would enable H.R. 982 to work.

If H.R. 982 works, over a million jobs—many of them highly skilled, and all of them sorely needed—can be opened for United States citizens and legal immigrants. If this bill is enacted without some fair means for easily knowing whether the prospective employee is employable or not, the law will not only be unfair to employers, especially the innocent ones, but it will increase litigation and never solve the problem.

There are those who are far more culpable in encouraging, abetting and participating in illegal immigration than employers. The smugglers of human beings should be punished by heavy fines, long prison terms and confiscation of their vehicles and equipment.

The "human coyotes" who harbor illegal aliens and steal from them, abuse them and rip them off in other ways should likewise be subject to heavy fines, imprisonment and the confiscation of their equipment used in their evil, inhuman pursuits. Without provisions dealing with these gross evils, H.R. 982 would be inequitable and incomplete.

I strongly urge amendments to H.R. 982 to incorporate the provisions I have briefly mentioned

Again, thank you for the opportunity to present my views.

STATEMENT OF HON. LIONEL VAN DEERLIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, members of the subcommittee, in recent years, the flow of illegal aliens into this country has swelled from a trickle to a torrent. As one of nine members with a district fronting on the Mexican border, I can attest firsthand to the gravity of the problem; illegals—driven across the border by a perfectly understandable desire for a better life for themselves and their loved ones—are taking thousands of jobs that could and should be filled by my constituents.

I commend this subcommittee and Chairman Rodino for assigning such high priority to HR 982, as evidenced by the scheduling of these hearings so early in the session. Frankly, I do not think HR 982 goes far enough, in the penalties it prescribes for employers who knowingly hire illegal aliens. But even these provisions, mild as they are, have seemed more than the Senate is willing to accept.

Without HR 982, or something approximating it, nothing else we can do is going to make much difference. We can stem this tide only if we turn off the magnet, the lure of jobs. If the jobs are here, the aliens are going to come across, no matter how many agents we can deploy to try to stop them. But without prospect of employment, most aliens would have no reason to seek entry.

Our lax existing laws make it possible for U.S. employers to hire illegal aliens without fear of punishment. Not only farmers, but hotel and restaurant owners, manufacturers and processors—even the construction industry—are utilizing this illicit source of semi-skilled labor.

Twice, the House has passed bills similar to HR 982. The bill falls short, in my view, in that it would permit an employer three offenses before imposing criminal sanctions. But it is at least a start—something we have yet to make—and I hope it is enacted as expeditiously as possible. I know in my own border district, which is suffering from very high unemployment, HR 982 has tremendous support, probably as much as any proposal now pending in this Congress.

Of course, I am heartened by the moves which the Immigration and Naturalization Service is making to bolster its forces; the additional help is urgently needed. But any funding increase to be effective must be coupled with enactment of a punitive measure such as HR 982. I am optimistic that the Senate will now take a more positive view of the legislation, considering the dimensions of the crisis and the attention it has been receiving lately in the national news media. The spectre of rising unemployment in the country also is bound to make the bill look better to the doubters; it's hard to forget that by most estimates more than one million jobs are now held by foreigners illegally in the country.

You may be assured of my full and continued support for HR 982.

STATEMENT BY HON. BOB WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I appreciate the opportunity to appear today before this Subcommittee on behalf of H.R. 1163—a bill I have introduced aimed at taking the profit out of smuggling illegal aliens into the United States.

I thank all concerned for holding this hearing which concerns itself with an important aspect of the illegal alien smuggling problem.

According to estimates made by Immigration and Naturalization Service officials, there are between 4 and 12 million illegal aliens in the United States. Most of them find their way into this country by way of an underground railroad. Smuggling is a big business with lots of money to be made. It is safe to assume that many illegal aliens would not be in the United States today if there were no profit in it for the smuggler who charges what he can and promises the illegal alien a new life in a new land.

The legislation I am proposing would do much to take the profit out of alien smuggling. It would allow for the confiscation of vehicles and vessels used in smuggling aliens and forfeiture of those vehicles upon conviction of the smuggler. Many of you might be saying to yourselves, at this minute, "isn't that what's done under law now?" The answer is no.

True, the Justice Department has the power to permanently confiscate the means of transportation in smuggling cases involving narcotics and dangerous drugs, but not in the case of smuggling aliens.

It's reasonable to believe that the smuggling operations would be at least partially curtailed if the equipment used in running the operation is taken away. Information provided by the Border Patrol and other agencies shows that many illegal aliens are transported in groups aboard busses, trucks, boats, airplanes and autos which are being used repeatedly on illegal runs across the Mexican and Canadian borders.

As a matter of fact, the Border Patrol in the San Diego area has pictures of expensive mobile campers, panel trucks, airplanes and boats that have been used in "running aliens" across the border. However, once the smuggling cases are disposed of in the Federal Courts, the boats, planes, campers and cars are returned to the owner and usually re-enter the smuggling operation under the command or ownership of a different person.

Illegal aliens in this country cost American citizens and local governments plenty.

In emergency medical care, alone, for illegal aliens, San Diego County spent $578,307 last year with the cost expected to be more than $600,000 this fiscal year. Last year in Los Angeles County, $8,153,804 was expended and I understand that Boston, Chicago, and New York were hit with similar staggering costs.

The job market has also been affected. According to estimates provided by members of the House Judiciary Committee, more than 300,000 jobs are being held by persons in this country illegally. Nationwide, the estimate is said to be one million. And those are just rough estimates.

The facts and figures relating to illegal aliens are startling. And there appears to be no let-up in sight. That is why I feel it is imperative to enact legislation that would discourage the smuggling of illegal aliens into this country.

Mr. Chairman, I believe that we have a responsibility and duty to protect the interests of our constituency. None of us in Congress would want the people we represent to think that we are unresponsive to their problems and concerns. Therefore, I would urge favorable and swift action on H.R. 1163, and I thank you for your kind consideration and attention to my testimony.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 26, 1975.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration,
Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your announcement in the Congressional Record, I have prepared the enclosed testimony for submission to your committee.

Thank you for your courtesy

Sincerely,

LESTER L. WOLFF,
Member of Congress.

Enclosure.

STATEMENT BY HON. LESTER L. WOLFF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I submit this testimony firmly convinced that there is a great need for fast action by the Congress to counter the problem of illegal aliens but uncertain whether H.R. 982 is the best bill to accomplish this goal.

First permit me to briefly discuss the problem, particularly as it pertains to the New York Metropolitan area.

Immigration officials estimate that there are six to seven million illegal aliens in the United States and, according to the Commissioner of the Immigration and Naturalization, the figure could be as high as ten to twelve million. In the New York Metropolitan area alone there are estimated to be between one to one and a half million illegal aliens.

These illegals present us with several distinct problems. First, they hold jobs that are vitally needed by the increasing number of unemployed citizens. Former Attorney General Saxbe estimated that approximately one million jobs nationwide are held by illegal aliens. In the New York region, there are estimated to be 100,000 aliens holding "higher paying" jobs and the average salary of illegals apprehended last year was $150 per week.

Second, these aliens, and especially those that are unemployed, pose a distinct drain on civic services. An unknown number receive welfare and Medicaid benefits. Schools, hospitals and other public services are used with little difficulty.

In many cases, these aliens use these services without filing Federal, state or local tax returns. They use our services without paying for them. Last June, a Congressional committee estimated that $100 million in income tax revenue to the Federal government was lost because of illegal aliens.

In addition, there is a drain on our balance of payments. Many illegal aliens routinely send money to their relatives in their native lands, either for safe keeping or to assist their relatives. Congressman Rodino has estimated that more than $1 billion is "removed from our economy" yearly by illegal aliens.

This is the nature of our serious problem. Perhaps the best way for us to come to grips with this problem is to deal with the principal reason we have such a large number of illegal aliens. For the most part, these people come to the U.S. lured by the promise of jobs. If we can make it more difficult for illegals to obtain jobs, we will reduce the incentive for them to enter our nation in the first place.

H.R. 982 deals with this by making it a Federal crime to knowingly hire an illegal alien. However, this measure has no real "teeth" in it as no penalities are set forth for the first offense. It is only after a second offense, if it occurs within two years of the first, that a penalty can be administered.

On the other hand, H.R. 257, legislation introduced by Congressman Mario Biaggi, would make it an immediate Federal offense for an employer to knowingly hire illegal aliens. The first offense would not be punished by a mere warning, but by a $500 fine or six months in jail. The second offense would be punishable by a $1000 fine or one year in jail. This measure contains significantly more meaningful sanctions and, consequently, will act as a greater deterrent. It will be more effective in convincing employers not to hire illegals.

H.R. 257 has an additional benefit, not included in H.R. 982. It provides for an additional 2500 personnel for the Immigration and Naturalization Service.

One of the principal problems confronted by the Service is its attempt to prevent illegals from entering the country and apprehending and deporting those that are already here, is the lack of manpower and funds. As Henry E. Wagner, the investigations chief of the New York region said ". . . we don't have the money or manpower to carry out the law." Because of this money and manpower squeeze, the Immigration and Naturalization Service has had to revise its policies. It no longer pursues illegal aliens who have been apprehended but fail to appear for deportation hearings. Inquiries from the Social Security Administration are no longer handled with any priority, which means that illegals are easily issued Social Security cards, often used as proof of citizenship, and are eligible for benefits. As a result of these cutbacks, brought about by increasing work load and constant personnel, the number of illegal aliens seized in the Metropolitan area of New York has declined by 30 to 50%.

It is imperative for us to increase the Services staffing so that it can become a viable force in controlling the illegal alien problem. H.R. 982 does not do this. H.R. 257 does.

In conclusion, I urge the Committee to take meaningful action on the problem of illegal aliens. While H.R. 982 is an important step in the right direction, I feel that H.R. 257 would be a much more meaningful measure and I urge its adoption.

Thank you.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., February 21, 1975.

Re H.R. 982, concerning the employment of illegal aliens.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN EILBERG: Farm Bureau is a voluntary association of 2,393,731 families in forty-nine states and Puerto Rico, constituting the largest general farm organization in this country and thus representing more employers of farm labor than any other organization.

At the annual meeting of the American Farm Bureau Federation, held last month in New Orleans, the voting delegates of the member State Farm Bureaus unanimously adopted the following policy on alien workers:

"We commend the majority of the U.S. Supreme Court for its recent decision upholding the regulations of the Immigration Service in the issuance of so-called green cards to alien workers who commute to this country on a seasonal basis to work on farms and at other places of employment. We call upon the Immigration Service to resume the issuance of such permits.

"We continue to oppose legislation that would put the burden of proof on employers as to whether a person is an illegal alien. We feel that the enforcement of such a law would place an unwarranted burden for law enforcement on employers, would lead to discriminatory practices against minority groups, and would prove to be unworkable and ineffective in solving the problem of illegal aliens entering this country.

"This is no longer a farm employment problem. Most illegal aliens in almost every area of this country are working in non-farm occupations. The truth is that many of these people are performing work that American citizens are not willing to perform for a variety of reasons.

"Instead of shifting the burden of enforcement to employers, we favor legislation that would make it illegal for any public agency or public official to approve or provide public services to illegal aliens. Tightening up the procedures involved in the issuance of social security cards and requiring that those who apply for welfare, food stamps, and other such social services show proof of their legal status as citizens or legal aliens would be more effective in locating such aliens and in discouraging their entry than other plans that have been advanced.

"We favor reconsideration of a contract labor program under agreements between the United States and other countries, which would provide for a legal and orderly entry of needed workers with due safeguards to the rights and welfare of the workers."

In furtherance of this policy, we would like to raise the following points as you give consideration to H.R. 982:

(1) We recognize the seriousness of the problem and agree that so long as the present disparity between wages and working and living in this country and in nearby foreign countries continues to exist, the tide of illegal immigration is likely to continue and to increase in intensity.

(2) We agree that the Congress needs to address itself to this serious problem, but we do not agree that H.R. 982 offers a satisfactory solution. We urge your Committee to give careful consideration to other approaches that might offer a more effective means of curbing this wave of illegal immigration.

(3) Before shifting the burden of enforcement onto the shoulders of farmers and other employers, it would seem to us to be reasonable to expect that the government would utilize all feasible alternatives within its own domain. We suggest the following possibilities:

Enact legislation that would (a) make it illegal for any public agency utilizing federal funds to provide social services to illegal aliens and (b) require public officials to determine the legal status of the applicants for such services.

Investigate the procedures involved in the issuance of social security cards and enact legislation that would (a) tighten up the issuance of these cards to prevent their issuance to illegal aliens and (b) make the counterfeiting and altering of social security cards difficult.

Take steps to tighten the process of issuing visas and tourist permits, student permits, and other such temporary entry permits. Testimony before your Committee indicates that about 300,000 aliens enter this country legally every year, but fail to leave and thus become illegal aliens.

Explore ways of requiring the Internal Revenue Service to change its regulations so as to require an indication of citizenship status on the W–4 form. This would provide a universal basis for checking on citizenship in the case of all new employees.

(4) The penalties on smugglers of illegal aliens should be greatly increased and should include confiscation of vehicles used in such activities.

(5) Legislation may be needed to increase the penalties that can be imposed on illegal aliens before deportation.

(6) We do not agree with the Immigration and Naturalization Service that prohibition of the employment of illegal aliens "with knowledge", will prove to be an effective means of coping with the situation. We know how easy it has been to provide counterfeit documents in the past.

We urge the Committee to give these points careful consideration. We oppose the passage of H.R. 982 and urge you to explore other approaches to the illegal alien problem.

Yours sincerely,

JOHN C. DATT,
Director, Congressional Relations.

ASSOCIATION OF IMMIGRATION AND NATIONALITY LAWYERS,
Philadelphia, Pa., March 6, 1975.

Re: H. R. 982

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration,
Committee on Judiciary,
Washington, D.C.

DEAR CONGRESSMAN EILBERG: As you know, this Association continues to be concerned with the problem of "illegal aliens." We are writing to request that an additional public hearing be had and that this Association be given the opportunity to testify before the Sub-Committee to consider currently available and alternative remedies which are unaffected by the technical, political and constitutional difficulties which appear to be inherent in H. R. 982. Particularly as we share the frequently expressed desire for effective enforcement of our immigration laws, we should like to assist the Sub-Committee in its formulation of appropriate legislation.

BACKGROUND

Our earlier objections to H. R. 982 have already been detailed in testimony and statements to your Sub-Committee. Certain recent developments should also claim your attention. One of these is the strong and beneficial impact of the 1973 Amendments to the Social Security Act. By denying social security cards to tourists, the recent procedures have already become a significant deterrent to unauthorized unemployment. Another development is increased sensitivity to the possible misuse of H.R. 982 by an irresponsible administration. Budgetary limitations, if not policy, will inevitably lead to "selective enforcement" and attempts to secure compliance through compulsory use of citizenship cards. We are already pointed in that direction by recent statements of the Director of the Passport Office, regulations of the Immigration Service, and Administration testimony before your Sub-Committee. Our country's confidence in the Executive Branch has only recently been shaken by repressive government measures, particularly those which permit selective misuse.

OUR PROPOSALS

We propose:

(1) Increased appropriations to all of the agencies responsible for the administration of our Immigration Laws.

(2) Revision in the fiscal and budgetary processes, including credits to the Immigration Service for the user fees it earns.

(3) Enforcement of the requirements for the use of social security numbers and related provisions.

(4) "Tightening" of the administration of the Medicare and Welfare programs to eliminate those not authorized to be in the United States.

(5) The development of a manpower policy of training Americans and giving them the skills for the skilled jobs filled by illegal aliens and funding relocation costs to transfer unskilled American workers to places where their services are needed.

(6) Relieving the visa pressures on intended immigrants from the Western Hemisphere through the integration of visa allotments on numbers similar to those proposed and pending before your Sub-Committee.

(7) Mitigating the root economic causes through bilateral and multi-national arrangements with Mexico and other countries.

We respectfully urge the continuation of the Sub-Committee hearings for careful consideration of the remedies needed. We would appreciate the opportunity to elaborate on our proposals.

Very respectfully,

JAMES J. ORLOW, *President.*

ASSOCIATION OF IMMIGRATION AND NATIONALITY LAWYERS,
Philadelphia, Pa., April 11, 1975.

HON. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, Washington, D.C.

DEAR CONGRESSMAN EILBERG: I thank you for your letter of April 1st. Please take this letter as a supplementary statement for the Record.

I fully understand the detail into which the Subcommittee has gone in the consideration of H.R. 982. However, this Association would believe that the premises of the Subcommittee's actions and, indeed, the approval of those actions by the Committee and the full House in the last two Sessions, is not appropriate or necessarily designed to attack the problem which purports to be presented.

The essence of the problem purports to be that the illegal aliens in the United States are depriving Americans of necessary jobs. There has been extensive testimony in this regard, but I cannot find at any place in the previous Record any facts verifying the economic effect purported to be created in this job market.

The only economic assessment I have seen is an article in the New Republic of February 22, 1975, a copy of which I attach. I am also trying to acquire a copy of a recent independent survey by a consulting firm in New York City indicating the existence of 1,000,000 unfilled jobs, notwithstanding our current unemployment rate.

There are, of course, other effects of illegal aliens in the United States, the principal one being a disintegration of the Immigration Service's ability to enforce the existing laws, a very serious detriment to the integrity of the Department of Justice and the law enforcement in general. This Association is on record as favoring substantial improvements in that situation. We cannot, however, believe that H.R. 982 is the appropriate measure.

Our continued opposition to H.R. 982 rests on Constitutional grounds in part. We believe that the complicated mixed criminal and civil system of sanctions will not be able to be sustained in a Court of Law as against the requirements for "due process of law", particularly because the initial aspects of the process contemplated are without any substantial procedural safeguards. Nevertheless, they become the essential prerequisite for substantial criminal prosecution. More important, we would understand the Immigration Service is not budgeted for the costs of uniform enforcement. Therefore, there would be the problem of discretionary enforcement in a situation in which employers are making allegedly substantial profits. Your Subcommittee is more familiar than most Subcommittees to the problems of discretionary law enforcement in the hands of given administration. Unfortunately, we cannot depend upon having a Commissioner of General Chapman's integrity in office forever.

We would respectfully suggest that the proper solution of the problem involves spending the funds necessary to give the Immigration Service the adequate manpower and to give the other agencies of the government charged with the responsibility the adequate manpower from forcing those sanctions against employers which are presently on the books and do not appear to be enforced. In previous testimony my predecessors had pointed to a long list of statutes, criminal in nature, now not being enforced, which would have the effects of reducing the illegal alien population incentive to enter the United States. In particular, I have in mind the prosecution of crewmen who jump ship, now more noted in its absence than in its presence. I would also have in mind the prosecution of aliens for illegal entry, such that their entry into the United States not be so attractive. Witnesses in Chicago and elsewhere pointed out that they could not hope to enforce existing law on their current staff.

More significantly, to the extent that aliens are being employed in the United States in violation of the law, there are criminal proceedings under the Wage and

Hour Law, Social Security Law and Internal Revenue Law, all of which have far more effect, indeed, speak more closely to the defects of the present problem, none of which require any statutory changes.

As pointed out previously, this Association believes that a principal source of the breakdown in the system has to do with the breakdown in the fiscal arrangements for funding of the Immigration Service, the Consular Service and other agencies connected with the enforcement of the law. There is no credit to the Immigration Service, for instance, for the user costs which it earns. There is no jurisdiction in your Subcommittee to get into the cost of programs, and "program authorization", such that an appropriate program can be designed with the cost objective in mind, at least in part. Finally, it appears that the Immigration Service is really inadequately staffed for the job. It should come as no secret, for instance, to the Subcommittee that there are very substantial delays in most Districts during which period of time legal aliens become illegal, that is, out of status, while awaiting for adjudication of pending applications. It should also come as no particular surprise that the substantial bulk of the problem of illegal aliens is numerically accounted for in illegal border crossers across the Mexican-U.S. Border. It would appear in this case, in particular, that a rigid enforcement of the Wage and Hour, Social Security, and Internal Revenue Laws against employers would be a significant step toward not only improving the situation as far as making it unattractive for employers to employ such aliens, but also providing direct and immediate relief to American workers who do not receive the protection from the Department of Labor which might otherwise be afforded.

The present Bill would propose to render the employer as adjudicator of the alien's ability to earn a living. I know you are familiar with the intricacies of Title III, and yet a substantial number of aliens coming from Mexico have valid and complex claims to derivative nationality, such that they might be very well entitled to remain in the United States as U.S. citizens. To place the burden on the employer of such adjudication at the risk of criminal penalty, would, as your Subcommittee recognizes, place a substantial roadblock in the face of citizens of Latin extraction.

This Association believes that insofar as illegal aliens are working in the United States their significant effect is to provide skills not available in the work force, and/or not available at the place of intended employment. We therefore welcome the proposals in H.R. 367 and H.R. 981 which would have the effect of revising the labor certification program, such that it should be possible to legitimate those needed workers. In this regard the Association would appreciate the opportunity of presenting its views and proposed statutory language on the subject of temporary and permanent labor certification. Additionally, we would suggest that the proposed revision for Western Hemisphere aliens contained in H.R. 367 and H.R. 981 would provide a way for uniting families and would also contribute substantially to the object of legitimating aliens otherwise illegally in the United States. We do not minimize the very real severe need which the Immigration Service has to meet its budgetary and fiscal posture, notwithstanding the Administration's economic drive. We do not however accept an Immigration Service sponsored publicity campaign with its concomitant xenophobic hysteria as an alternative for facts and figures based on facts. Sound Immigration policy cannot be based on Immigration Service publicity or public hysteria generated by that publicity. We therefore believe that H.R. 982 not be reported favorably but rather that the proposals of H.R. 367 and H.R. 981 should be considered and that certain amendments enacted.

We very really appreciate the opportunity of presenting our views to the Subcommittee, and we stand ready to cooperate with the members of the Subcommittee and the staff in these matters.

Very respectfully,

JAMES J. ORLOW,
President.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK,
COMMITTEE ON IMMIGRATION AND NATIONALITY LAW,
New York, N.Y., April 9, 1975.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN EILBERG: On behalf of the Association of the Bar of the City of New York, the Committee on Immigration and Nationality Law wishes

to submit for the consideration of your subcommittee, and to the Congress, a statement on our Association's position with respect to H.R. 982, and other areas critically in need of Immigration Law reform.

The enclosed statement represents a considerable effort on the part of each member of our committee, which consists of immigration specialists and non-immigration specialists alike. We are very much concerned that a vast area of much needed legislation has been totally ignored by the Congress. Our statement covers a number of important areas of crucial significance to the rights of all—citizen or alien.

We strongly urge that you consider the substance of the enclosed statement before final conclusions are reached with regard to pending legislation, and that our recommendations concerning other vital areas be recommended to the House for appropriate and expeditious legislative action.

Very truly yours,

ANGELO T. COMETA,
Chairman.

STATEMENT OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK ON H.R. 982 AND OTHER AREAS CRITICALLY IN NEED OF IMMIGRATION LAW REFORM

The 93rd Congress adjourned with four major bills pending before the Senate Judiciary Committee without action having been taken. Two of the bills (H.R. 981, Equalized Eastern and Western Hemisphere Immigration Systems, and H.R. 982, the Employers Sanction Bill) had passed the House of Representatives and the other two (S. 2643, To Equalize Eastern and Western Hemisphere Immigration Systems, and S. 3827, Employers Sanction and Amnesty Bill) had been introduced in the Senate in the first instance. With the adjournment of Congress, these proposals died, but all four were reintroduced in the initial period of the 94th Congress. With the opening of the 94th Congress, H.R. 981 and 982 were reintroduced in identical form (bearing the same numbers) and the Subcommittee on Immigration, Citizenship and International Law has held hearings to consider H.R. 982 and, it is our understanding, plans to commence hearings on H.R. 981 within the near future. Senator Kennedy has combined equalization of the Hemispheric Immigration Systems, Employer Sanctions and Amnesty in one bill, S. 561.

Contained in these bills are numerous significant provisions where legislative action is imperative, but, significantly, other areas equally in need of reform are not encompassed by any of these legislative proposals.

Our comments and observations are made beginning with the premise that we will examine and elaborate upon the law in a context of the basic format for revision laid forth by Congress. Specifically, there are differences of opinion within the Association on fundamental issues such as what are appropriate numerical limitations, whether the labor certification provisions of the law in their present form serve a useful function, whether immigration policy is adequately geared to population concerns, whether immigration should be in part related to emigrations, what is the total effect of legal immigration upon the employment market, and other such broad policy questions. The Committee has not attempted to resolve these matters but rather has taken the basic structure as presently set forth in the law as a point of departure to analyze equitable and humane amendment. We would strongly urge that in the future, Congress explore the more fundamental aspects of immigration policy in depth.

1. *Sanctions upon Employers.*—The Association opposes the concept of imposing criminal penalties upon employers as a punishment for the employment of aliens not legally authorized to work, except in those cases where employers are exploiting aliens. In the exploitation situations, possibly legislation should be contained in labor laws rather than in the Immigration and Nationality Act. However, the Association has no objection to such a provision being placed with the Immigration and Nationality Act.

It should first be observed that the Congress lacks hard evidence as to the impact of aliens who are working without proper authorization. In public statements, the Commissioner of the Immigration and Naturalization Service alleges that "illegal aliens" take millions of jobs from Americans. This statement has been contradicted by economists who believe that these aliens are not taking jobs from Americans but rather are providing necessary services in jobs where there are insufficient Americans willing to provide such services. This fundamental issue should be properly scientifically evaluated before penal legislation is enacted.

As a constructive approach to the problem, the Association favors vigorous enforcement of immigration laws, social security, internal revenue, state and federal labor, welfare fraud, and other relevant laws where currently existing, and as appropriate to that end the aliens will be employed only if in lawful status.

Since March, 1974, when the Social Security Administration adopted new regulations which prohibit the issuance of social security cards to aliens not legally authorized to work, it has become increasingly difficult for aliens to seek employment in the United States. Commencing with that date and proceeding backwards in chronological order, social security card holders could be screened and cards revoked where the holder can not comply with the regulation. If persons who can not legally work are denied social security cards, then an employer who employs an alien without withholding social security and income tax has violated both social security and internal revenue laws, far more severe in consequence. If the employer does withhold but gives no social security number for the employee, this information can be given to the Immigration and Naturalization Service, which can then apprehend that alien.

Where an employer is paying below the minimum wage or is forcing the alien to work inordinate hours or under unsanitary conditions he is violating state and federal labor laws and should be prosecuted.

Through additional manpower, the Immigration and Naturalization Service could increase border patrol functions, apprehension, deportation and forced departure.

Until a concerted effort is made to enforce existing laws and to analyze the real impact of these aliens upon the labor market and other social structures, the enactment of penalties upon employers would be premature.

H.R. 982 makes unlawful the knowing employment of aliens not legally authorized to work under the establishment of a three tier penalty process which is as follows:

A. For the first violation, the Attorney General is directed to serve a citation on the employer informing him of such apparent violation.

B. To an employer who commits a subsequent violation within two years after receiving a citation, the Attorney General is directed to impose a fine of not more than five hundred dollars for each alien.

C. Following the imposition of such a fine, if the employer commits an additional violation, he would be subject to a fine of a thousand dollars and/or one year imprisonment for each alien.

The Bill would further provide that the receipt by the employer of a signed statement by the employee that he is a citizen, or permanent resident, who is authorized to work shall be deemed prima facie evidence of bona fide inquiry.

S. 561 introduced by Senator Kennedy, also prescribes a three tier penalty process with the first violation resulting in a citation, the second violation a civil penalty of not less than a thousand dollars fine for each alien, and the third penalty is a suit brought against the employer and a penalty of two thousand dollars for each alien. The Bill would also revoke the "Texas Proviso" which states that employment does not constitute harboring, and, thus, through employment, one could fall within the definition of harboring an alien which is a federal felony. A signed statement from the employee that the alien is a permanent resident or is authorized to accept employment would be prima facie proof of bona fide inquiry.

In summation criminal penalties are undesirable because:

(1) They will not be effective in deterring aliens from employment.

(2) The burden of law enforcement properly should be placed upon the Government not the private sector.

(3) Enactment of penalties will result in discrimination against persons with foreign appearance, foreign sounding names, and persons who do not speak English (this was the experience when the Dixon-Arnet Law which was in effect in the State of California before being declared unconstitutional as being solely within the Federal prerogative. This is further acerbated by the ruling of the Supreme Court in *Espinoza* v. *The Farah Manufacturing Company* which permits employers to discriminate against non-U.S. citizens in employment).

(4) Congress should go to the base of the problem and analyze why there are so many persons in the United States working unlawfully and attempt to determine to what extent they are being employed because their services are needed, how many are union members, how many are actually taking jobs away from Americans, and the extent to which they are exploited.

(5) Exploitation, fraud, and other criminal conducts would become more prevalent as employment itself is driven underground.

(6) More aliens will be forced to avoid complying with the letter and spirit of the law and, thus, will be more inclined to avoid income taxes and avoid social security payments.

(7) The penalty provisions of at least H.R. 982 are unconstitutional since in the initial stages the criminal process, namely the serving of a citation, there are not adequate procedural due process safeguards.

If sanctions are adopted, they should apply to unions as well as to employers who accept for membership aliens not legally authorized to work, and further, that the penalties should apply per place of employment for employers who have different locations.

2. *Regularization of Status.*—Coupled with criminal penalties, the Senate Bill would also provide for the regularization of status of any alien who has been in the United States in unlawful status in excess of a three year period, would encourage additional aliens to come to the United States after the termination of a regularization program since they could well be of the opinion that a new regularization program affecting them will take place in the future. Therefore, the Association opposes this concept.

3. *Equalizing the Eastern and Western Hemisphere Immigration Systems.*—The preference system now in effect for the Eastern Hemisphere should be applied to the Western Hemisphere, essentially in its present form, with an overall numerical limitation for the world of 290,000 numbers. Within one consolidated preference system the present system for the Eastern Hemisphere contains seven preference categories and a non-preference category, with a ceiling of 170,000 numbers, whereas the immigration system for the Western Hemisphere does not contain a preference system but rather two subcategories: (a) those persons subject to the labor certification requirements and (b) those exempted therefrom and a ceiling of 120,000 numbers.

Equalizing the Eastern and Western Hemisphere immigration systems would make eligible for immigrant status numerous categories of relatives of citizens and permanent residents who are natives of the Western Hemisphere who are not now entitled to any benefit under the Immigration and Nationality Act. Most significantly, at the present time, qualified applicants from the Western Hemisphere must wait in excess of two years on the same waiting list regardless of whether the applicant is the spouse of a permanent resident or someone with no relatives but an approved labor certification. With regard to the issue of whether Canada and Mexico should be given a higher per country limitation than the 20,000 maximum limitation for all other countries of the world, it was resolved that no country, regardless of its propinquity to the United States, should be given priority or preferential treatment over any other country in the world. There were serious questions about the basic fairness of any per country limitation if the purpose of abolition of the national origins quota system was to treat all persons equally regardless of place of birth. Any per country limitation prejudices the individual applicant from an oversubscribed country in relation to his counterpart from an undersubscribed country. In this sense, the former is discriminated against under the system notwithstanding the fact that he has no control over the incident of his birth. If the 20,000 limitation is felt to be inadequate, and abolition of the limitation is not favored, perhaps Congress should consider raising the limitation for every country. The door should not be again opened for disparity of treatment of persons based on country of origin.

The numerical limitation for sub-quota areas (colonial possessions) should be abolished since it is intrinsically discriminatory against persons from oversubscribed areas. At least it should be increased from 200 to 1000, since, even at that level immigration from the mother country in no instance would be adversely affected.

4. *Exemption from Labor Certification of Parents with Minor U.S. Citizen Children.*—Under the present Western Hemisphere immigration system, the parents of minor United States children are exempt from the Labor certification provisions of the law and are entitled to be registered as intending immigrants. Natives of the Eastern Hemisphere receive no such benefit. In equalizing the Eastern and Western Hemispheres, the exemption from labor certification for parents of minor U.S. citizen children and their entitlement to automatic registration as intending immigrants would be terminated for natives of the Western Hemisphere, by both the House and Senate proposals. It is argued that a benefit to parents of minor U.S. citizen children is undesirable since any child born in the United States is by virtue of its birth a United States citizen, and by conferring the benefit upon his parents, there are anti-social incentives in the law for aliens to attempt to enter the United States to give birth to children in the United States.

The Association is generally in agreement with the above statement of policy. However, the Association recognizes that by not conferring any benefit upon the parents of United States citizen children and forcing the parents to leave the United States, the United States citizen child is constructively deported from the country. Therefore, the competing considerations are forcing of a U.S. citizen to leave the United States verses placing a premium on the location of birth of the child. Since both were considered significant considerations, it was concluded that on the day of birth of the child within the United States at least one parent must be in the United States with valid immigration status in order for the exemption from labor certification and registration to apply. In this matter, parents of United States citizen children who are here legally and properly would receive a benefit whereas the vast majority of those in the United States without valid immigration status or those who have violated the terms of their admission into the United States would receive no benefit based on the birth of the child. This benefit should be applied to natives of both the Eastern and Western Hemispheres.

5. *Labor Certifications.*—The labor certification provision under the various bills would be maintained in its present form. The Association urges Congress to thoroughly review the concept of labor certification and its efficacy. Moreover, the Association expresses deep concern over the lack of due process which pervades actions of the Department of Labor. Hopefully, through the implementation of new regulations, through a centralized appellate process on a Washington, Department of Labor level, and through implementation of the mandate of the Courts, the Department of Labor can more effectively assure all parties concerned fair treatment and consideration.

6. *Cuban Refugees.*—Cuban refugees adjusting status in the United States should be exempt from numerical limitations since Cuban refugees, at present, utilize a disproportionate share of the total Western Hemisphere visa numbers available, which is to the disadvantage of natives of other countries within the Western Hemisphere. It is hoped that in the future the broad powers contained in Section 212(d)(5) will be exercised only in emergent circumstances towards persons who are in reality refugees. Cubans coming into the United States for the last several years of the airlift in the refugee program were not, for the most part, refugees but rather were persons seeking economic betterment.

7. *Definition of the term "Refugee".*—The definition of "refugee" in the seventh preference should be amended and broadened to reflect the definition contained in the United Nations Convention Relating to the Status of Refugees. Moreover, this broadened definition should also be employed in Section 243(h), Section 212(e) for waivers of the two year foreign residency requirement, and Section 212(d)(5), in order that the definition of the term "refugee" can be consistently applied throughout the Immigration and Nationality Act. Further, groups of refugees who are paroled into the United States by the Attorney General in the national interest pursuant to the authority in Section 212(d)(5) as well as persons within the United States whose deportation has been withheld pursuant to Section 243(h) or persons who are permitted to remain in the United States by virtue of Treaty obligation of the United States under the United Nations Protocol Relating to the Status of Refugees should also be permitted to adjust status after two years in the United States, regardless of the method of entry into the country.

8. *Temporary Workers.*—Section 101(a)(15)(H)(ii), the non-immigrant category which permits the temporary entry of aliens to perform labor which is temporary in nature should be amended to allow such aliens to enter the United States temporarily to perform labor which is permanent in nature with the approval of the Department of Labor through a temporary labor certification. It is observed that this would substantially change the immigration philosophy of the United States by greatly broadening the temporary work category and, as a result, allow there to arise a great number of aliens in the United States for labor purposes whereas, under the present law the temporary working categories are more narrowly drawn. Through such a provision, the number of aliens without legal status would be substantially reduced since many such aliens are performing needed services for which an approval from the Department of Labor could be obtained. In the absence of such a provision, it would be extremely difficult for the Immigration and Naturalization Service to prevent the buildup of illegal aliens particularly in those occupations where critical shortages of qualified Americans exist. Moreover, under the H.R. 982 admission of such aliens would be permitted for only a period of two years which would greatly lessen the anti-social consequences of their presence. However, we strongly urge the Congress to carefully oversee the administration of this section of the law in order that unscrupulous practices may not be occasioned upon aliens by their employers.

9. *Adjustment of Status.*—Under proposed bills, adjustment of status would be permitted for all aliens who enter the United States lawfully except crewmen or aliens in transit without visas, or aliens who continue in or have accepted unauthorized employment other than immediate relatives. Under the present law, all natives of the Western Hemisphere are prohibited from adjusting status whereas natives of the Eastern Hemisphere can adjust status except crewmen and aliens in transit without visas. Denial of adjustment of status to any alien who has accepted or continues in unauthorized employment would greatly reduce the number of aliens eligible for adjustment of status and, presumably, greatly increase the amount of fraud confronting the Immigration and Naturalization Service. Further, it is the belief of the Association that this type of penalty would probably fail to deter unauthorized employment since it would merely force the applicant to obtain his immigrant visa abroad. It should be observed that natives of the Western Hemisphere are presently prohibited from adjusting status, and they constitute the bulk of aliens in the United States without lawful status. Historically, adjustment of status was prohibited to certain classes of aliens who did not comply with the mandate of the law. Eventually, they were permitted to apply for immigrant visas in Canada since it served no useful purpose to require them to return to their country of last residence.

The burden on the Consular posts in Canada became so great and the utility of the program so questionable, the adjustment of status was greatly broadened. The lesson of the failure of this program to force aliens to comply with the law should not be forgotten.

Moreover, since Consular decisions are unreviewable on questions of fact, the shifting of the bulk of applicants for residency status to Consular posts will effectively preclude reviewability of decisions as well as legal representation which is critical in many cases which are not routine.

Finally, the effort necessary to determine whether unauthorized employment had, in fact, been accepted, would be extremely difficult, and would consume endless hours of investigative inquiry and confirmation, with little or no effect upon deterring unauthorized employment.

It is suggested that it is not necessary to amend the law to accomplish the desired result. Adjustment of status is discretionary with the Immigration and Naturalization Service and accepting unauthorized employment, excepting cases where there are compelling equities, could be considered to be adequate reason to deny adjustment of status as a matter of discretion because of the great increase of the number of aliens unlawfully in the United States and their adverse effect upon the employment market. This would give the Immigration and Naturalization Service flexibility to deny adjustment of status in cases where no benefit was warranted but yet to a grant of adjustment of status in those cases where compelling reasons existed.

10. *The Statute of Limitations on Deportation.*—The Association favors the establishment of a statute of limitations on deportation for permanent resident aliens who have been in the United States and who have committed an offense giving a ground of deportation in excess of twenty years ago, or, in the case of fraud, twenty years from the date of discovery of the fraud. Under the present law there is no provision which provides a statute of limitations on deportation so that an alien who has been in the United States for an extended period of time would be immune from deportation. At present, an alien who is a permanent resident may be deported from the United States although he may have been a permanent resident from the time he was two years old and the ground of deportation may have arisen when he was twenty years old and the deportation may take place when he is sixty years old.

11. *Board of Immigration Appeals & Board of Visa Appeals.*—The Board of Immigration Appeals should be made statutory rather than being a creature of regulation. There should be established a Board of Visa Appeals to review decisions of American consular officers on both questions of law and fact. At present, decisions of American consular officers on questions of fact are not reviewable by any higher authority. Questions on matter of law, are, by regulation, reviewable by the Central Office of the Department of State. In matters of fact the nonreviewability of decisions has led to many inconsistencies and unjustifiable determinations by American consuls. A Board of Visa Appeals could either be a separate entity or could be integrated with the Board of Immigration Appeals in order to assure consistency in the application of the law between the Immigration and Naturalization Service and the Department of State. Traditionally, there has been no such review since consuls are outside the jurisdiction of the United States and,

thus, to hold their decisions reviewable would be to extend the jurisdiction extraterritorily. It must be emphasized however, that there is no problem concerning the enforceability of such decisions since consular officers are employees of the Department of State and the consular employee would be charged with implementation of the decision.

12. *Grounds of Exclusion & Ineligibility for Visas.*—It was unanimously agreed that all grounds of exclusion and ineligibility for a visa should be made subject to waiver where the alien has a spouse, parent, or child who is a United States citizen or permanent resident alien. At present, there are many grounds of exclusion or ineligibility for visas which are nonwaivable regardless of the closeness of family ties in the United States and regardless of the leniency with which the offense was treated by the Judiciary. Thus, at present, we have the anomaly that what is viewed as a serious crime by society as a whole, for instance, a crime of violence, can be excused by waiver whereas a crime such as the mere possession of marijuana, for which the offender might have only received a small fine, or helping provide false immigration documentation to aliens, once again, for which the offender might only have received a suspended sentence, are nonwaivable. Inconsistency in enforcement of the laws could be eliminated by making all offenses waivable.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Los Angeles, Calif., March 13, 1975.

Hon. GEORGE E. DANIELSON,
Monterey Park, Calif.

DEAR GEORGE: Los Angeles County, because of its proximity to the international border between Mexico and the United States, is experiencing a major fiscal impact in the provision of medical and social services to aliens unlawfully entering the Country.

I have no quarrel with the motives of those who seek a better life in our Country, and I recognize a moral obligation and a humanitarian responsibility to provide medical and social services for these individuals.

I am concerned, however, with the question of who has the ultimate responsibility of paying for those services. I believe it belongs to the Federal government, which is also responsible for controlling the flow of immigrants, legal or illegal, into California.

In recent meetings with White House officials, I agreed to develop a comprehensive report on the fiscal impact of illegal aliens on the County of Los Angeles. Previously, however, we estimated that the County provided $8.2 million in non-reimbursed medical services to illegal aliens for the 1973–74 fiscal year.

I recently met with Congressman B. F. Sisk, who has authored legislation (HR 3609) which provides that a medical facility which provides non-reimbursed medical care to any alien, residing unlawfully in the United States, may apply to the Secretary of Health, Education and Welfare for payment.

This legislation is of vital interest to the County of Los Angeles. As a member of our County Congressional delegation, your support of this Bill would be appreciated. In addition, I hope you might give favorable consideration to acting as a co-author for HR 3609.

Sincerely yours,

PETER F. SCHABARUM,
Supervisor, First District.

STATEMENT ON H.R. 982 BY GEORGE FRAIN, SECRETARY, BUSINESSMEN AFFECTED SEVERELY BY THE YEARLY ACTION PLANS, INC., (BASYAP), MARCH 13, 1975

Mr. Chairman and Members of the Subcommittee, my name is George Frain. I am a retired Congressional aide; I worked for nearly twenty years on Capitol Hill for both Democrats and Republicans, and I was the first secretary of the Democratic Study Group which has become quite powerful in the present Congress. I testify today on behalf of BASYAP, or Businessmen Affected Severely by the Yearly Action Plans, Inc. a non-profit small business group organized in 1970.

During my 20 years as a Congressional aide, I worked for such Democrats as Arthur G. Klein (D–N.Y.), Charles R. Howell (D–N.J.), Frank Thompson, Jr.

(D–N.J.), and Harris McDowell (D–Del.), and for such Republican Members of Congress as Carroll D. Kearns (R–Pa.), John Kyl (R–Iowa), and William B. Widnall (R–N.J.).

I am credited by Senator J. William Fulbright, and Representative Frank Thompson Jr., co-sponsors of the legislation to establish the John F. Kennedy Presidential Memorial Center for the Performing Arts, with doing the basic, pioneer work, to create that Presidential Memorial, and I call your attention to the statement in the Congressional Record of July 28, 1971, Pages E8429–53 by Senator Fulbright and Congressman Frank Thompson Jr.

One further word about this Presidential Memorial—I also worked on the Memorial to President Franklin Delano Roosevelt, and the Congressional Library Memorial to President James Madison—it was designed to give a stage to our great American artists, without regard to race or politics or color, so that the Marian Andersons of the future could not be denied a stage, or an audience, such as had happened at Constitution Hall, an incident which came to world attention.

I would like to begin my remarks with regard to H.R. 982 by opposing that bill completely and unreservedly, and whole-heartedly endorsing instead of it the views expressed to this Subcommittee on March 13, 1975 by the Rev. Msgr. George G. Higgins, Secretary for Research of the United States Catholic Conference.

Along with most of the people of this country—who are concerned with upholding its proud traditions of being a haven for the oppressed—I think these words from Monsignor George G. Higgins cannot be stressed too much. He told your Subcommittee in words that ably expressed the conscience of this nation, that—

"This House Subcommittee which has studied this matter in depth over the past few years and has twice reported out bills which have passed the House, need not be subjected to still another summation of the problems facing the aliens themselves and our nation as a whole because of the fact that the number of illegals has increased so dramatically in recent years. The Church, of course, is vitally interested in knowing who the illegal alien is, why he has come to this country and, now that he is here, what can be done for him and his family by enacting legislative reforms which will be equitable and humane and will also be effective in preventing a recurrence of the problem under consideration.

"The alien may be of any nationality and may come from any country in either hemisphere. When he comes from the Western Hemisphere his motivation is predominantly economic in nature. On the other hand, he may have a family in this country whose laws, as they are now written, force him to be separated from that family for two and one-half years or more. He may also be a political refugee, but unless he comes from certain defined areas of the Eastern Hemisphere, he can be granted at most a haven in 'limbo' but cannot be given permanent sanctuary in this country. In short, he is the victim of an oppressive political and/or economic system in his home country and a victim of discriminatory U.S. immigration laws and practices which foster family separation (should he be from the Western Hemisphere) rather than promoting family reunification. He may also be the victim of a short-sighted, narrowly conceived definition of the term 'refugee' as it is currently interpreted under our laws. All aliens, however, share one thing in common—they soon become victims of discrimination and exploitation in the very country where they have sought a normal life in an atmosphere of freedom."

These are the words which evoke our deepest convictions and our noblest thoughts and historical positions as a nation and as a people, and they are the noblest refinement of our great religious traditions whether they be Catholic, Protestant, Jewish, or whatever.

They are not evoked by H.R. 982, or the backers of that most unwise bill which are so completely at odds with all that this nation has stood for. This is made clear by the following opening paragraph to a four-part series on the illegal immigrants published in the Washington Star-News on March 16, 1974—

"The golden door of immigration to America has nearly closed. The invitation to the tired, the poor and the wretched refuse of the world has been withdrawn. The welcome mat that greeted waves of immigrants for more than a century has been pulled. The Statue of Liberty stands mute."

If the Republican Administration and the sponsors of H.R. 982 have brought our nation to such a pass, then the Congress, the President, and the U.S. Courts must be mobilized to protect all that is noble and humane in our tradition. The

churches of all denominations must be mobilized. The people, most of whom have origins in other nations, must be mobilized also, and this includes the Ethnics of European origin, and the Chinese and Japanese Americans.

The nation cannot permit, and must not condone, a situation where the proud invitation on the Statue of Liberty has been stilled, the door of immigration has been nearly closed, and the Statue of Liberty "stands mute."

Who is doing this to the Statue of Liberty and all that it stands for? The Washington Star-News made this clear in its series, when it said that—and this was on November 16, 1974:

"The AFL–CIO, which has thrown its weight behind tougher legislation aimed at halting the flow of illegals, estimates the annual wage loss to US workers at more than $10 billion and fumes because illegals undermine union strength by working for below-scale salaries. Yet the giant labor organization concedes that not only are many of the illegals performing useful tasks within society and the economy, they have become absolutely essential.

"Unauthorized aliens are undeniably having an adverse effect on the American economy, but they also benefit it. They take menial low-paying jobs that other Americans often shun—migrant farm work, unskilled construction work, dishwashing and busboy labor, domestic work, and dirty, dangerous jobs in industry.

"Once here, they present few problems in the community. The vast majority are law-abiding people who want nothing more than a job and salary. Those who take a sympathetic view toward illegals feel that aliens don't sponge off the welfare, unemployment or charity rolls as many critics believe, because they are afraid of contact with officialdom.

"In fact, this fear of officialdom and their constant fugitive existence from the 'immigration man' leaves the illegals as vulnerable as shorn lambs, exploited and ripped off by employers and others, such as unscrupulous lawyers and 'immigration specialists' who prey on them."

There is more, much more, of this sad and terrible tale—of what happens to these harried human beings in the Land of Liberty, under this Republican Administration.

But the Congress, The President, and the Courts, and the Churches, and the the whole people must arise at last to protect the basic rights and liberties which distinguish us, and have distinguished us as a people.

When the Statue of Liberty "stands mute" then all of our liberties and, indeed, all that we stand for as a nation and as a people also "stands mute."

Where is the Paul Revere which will awake us from the domination of the old and tired leaders of the AFL–CIO who, safe in their Sixteenth Street ivory tower overlooking the White House, have forgotten their own promises long ago, on which they rose to such power, to the poor and depressed of this nation, and have now chosen to force shut the golden door of immigration, and put out the light, which the Statue of Liberty for over a century has guided the poor and oppressed through, and has stood there to light their way and protect these sacred portals.

I believe the Rev. Msgr. George G. Higgins and the United States Catholic Conference may be, and indeed are, the latter-day Paul Reveres who can awaken in all of us the spirit of liberty and conscience which has slumbered while the illegals have been harried and apprehended and deported to their dark and well-known fate at the hands of dictators armed by us, in many cases.

We must remember, we dare not forget, that what separates this nation from the tyrannies of the dictatorships which have stained and blotted out the lives and liberties of peoples around the world, consigning millions to the gas-chambers, is our religious beliefs, and our belief, stated in the Declaration of Independence, that—

"all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends it is the Right of the People to alter or to abolish it. . . ."

On Sunday, November 17, 1974, as tens of thousands of citizens in the Nation's Capital and the adjacent suburbs were preparing for church, the Washington Star-News gave a graphic description of the hunters and the hunted, and I quote from the lead paragraphs of the Star-News report:

"The pale green car glides onto Columbia Road NW shortly before dawn, its driver and passenger scanning the sidewalks, slowing down at bus stops, peering into shop doorways, looking for shabby clothes, brown skins and furtive eyes.

"Watching them, perfectly aware of their mission, are the quarry, emerging from crowded apartments, waiting in bus queues with brown lunch bags, avoiding direct eye contact with the car and its occupants, trying desperately to appear nonchalant, to look as if they belong.

"The car suddenly stops, two men leap out, a figure flees and a footrace begins. Two minutes later a young man is under arrest. Eight hours later he's in the D.C. jail. Three days later, carrying a small brown bag with all his worldly goods, he's stepping off a jetliner in Costa Rica, in Ecuador, in Ethiopia, in Nigeria or wherever.

"It is a process repeated daily in virtually every big city in the country."

The Rev. Sean O'Malley, Director, Centro Catolico Hispano, had this to say in a letter published in the Washington Star-News on December 8, 1974:

"In times of crisis people tend to seek a scapegoat, some weaker group to pay the price. In other times it was the Indians or the Jews—not so many years ago Japanese Americans were also herded into concentration camps in response to mass hysteria. It is my fear that an alarmist attitude such as betrayed in the series on the immigrants could result in a virulent persecution of the poor."

A well-known Spanish-speaking leader, Jose G. Roig, said in a letter to the Washington Star-News on December 8, 1974 that:

"I wish to take exception to your series with respect to Latin Americans. You should also present to readers the irregularities and injustices to which illegal aliens are subjected by the Immigration and Naturalization Service.

"(1) Entering and searching apartments and houses without any warrants.

"(2) Keeping detained aliens (both legal and illegal) in isolated quarters and not allowing relatives and friends to see or talk to them, as if they were dangerous criminals.

"(3) Holding deportation hearings in which aliens to be deported do not understand a word of what has been said and done.

"(4) Harassing legal aliens unnecessarily. In at least several instances, INS inspectors have stationed themselves at the door of the Ontario Theatre, 17th and Columbia Rd. N.W., and practically detained everybody inside until the documents of those leaving the place were checked one at a time.

"I could go on 'ad infinitum' listing abuses and wrongdoings on the part of the INS. Those in charge of enforcing laws should be the first ones to abide by them."

The Washington Star-News has contributed importantly to the public weal by its reports on the manhunt that goes on daily in the Columbia Road NW area of the Nation's Capital and in other cities.

The manhunt has some terrifying overtones reminiscent of the Berlin Wall, which U.S. leaders, The President, and Members of the Congress have been denouncing so insistently for years. With the daily manhunt conducted in the Columbia Road NW area of the Nation's Capital a great wall very similar to the Berlin Wall has been established and is still under construction in this Spanish Ghetto area.

Distinguished Catholic leaders have deplored these Federal manhunts, but they go on daily, under this Republican President and Administration with AFL-CIO support.

And the Statue of Liberty "stands mute". Once upon a time it stood for something, which inspired people throughout the world who were oppressed at home. That time is gone.

Congressional leaders and the AFL-CIO who have launched and who support this terrible manhunt in the Nation's Capital and other cities should look abroad to see what other countries do. While this goes on, the President meets with the leaders of dictatorships around the world.

Recently, Switzerland was faced with a similar problem; and a proposal to bar, and, in fact, force out of that country many of the immigrants who are doing the hard, dirty, dangerous and low-paid work, was advanced by some Know-Nothings there.

The Swiss had the good sense to turn that effort back at the polls.

Now, this Administration, not elected by the American people, has launched an all out effort to dismantle the Statue of Liberty and substitute a new and un-American program in place of the historic welcome accorded to the oppressed and the poor. And this program is confirmed by H.R. 982 and approved by the AFL-CIO.

I would like to suggest that the most fitting anti-Statue of Liberty memorial for the new America, the new United States, might include a 1975 version of Simon Legree with his whips and his tortures, and a conglomerate of AFL–CIO leaders preparing a 1975 version of the Japanese American concentration camps surrounded by a Berlin-type Wall.

The *New Republic* (Feb. 22, 1975) is very critical of the Rodino Bill, H.R. 982, and it says this in the excellent article by Michael Piore, Associate Professor of Economics at the Massachusetts Institute of Technology:

"The failure to recognize the full implications of what is happening and why, is reflected in current thinking about immigration reform. The major reform measure now before Congress is the Rodino bill. This bill would for the first time penalize the employer for hiring aliens. The measure has the support of both the INS and the AFL–CIO. Pressure for passage has suddenly received a new impetus by the recession and the belief that the aliens hold jobs that would otherwise be filled by Americans—a proposition that is dubious even under depression conditions and that will certainly not hold if we return to reasonably full employment.

"But the thrust of proposals to penalize the employer for hiring aliens will shift the balance of risk in favor of ignoring all federal labor regulations. Over time the pursuit of this policy will regenerate, in the low-income labor market, a world we have not seen in this country for 50 years. Legal and social sanctions used to enforce minimum standards will no longer be effective. We will be tempted by new patterns of life offered at the cut-rate price that an illicit labor market permits. Once we become accustomed to these patterns, a new, lower floor will be set upon labor conditions. The process will then become irreversible.

"None of this is to argue in favor of our existing immigration system. But the solution does not lie in enforcing restrictions that have become untenable. It lies instead in an effort to regulate a process that has become irresistible. The failure to do so will lead to a world that will make the social conditions against which the war on poverty was waged in the '60s seem genuinely benign. Moreover, if we are not moved to this position by compassion, we should be persuaded at least by a narrower concern for preserving the social order. The history of the '60s may be read as a rebellion of second generation migrants in urban areas against the conditions to which their parents migrated willingly out of rural poverty and depression. How much greater will be the wrath of the children of the new immigrants, born into the American citizenship, rebelling against an underground labor market in which their parents have been trapped—lured first by a desire for a better life and later held in place by the threat of deportation."

In opposing H.R. 982 it is, of course, incumbent upon us to recommend a better way, one more in keeping with our traditional and historical ways of approaching the immigration problem. We think that the several recommendations made to this Subcommittee on March 13, 1975, by the Rev. Msgr. George G. Higgins, Secretary for Research of the United States Catholic Conference, offers such a far better and more humane and more traditional approach, and one which will greatly benefit this nation as well as the refugee and the migrant. The comprehensive package of the United States Catholic Conference is one which all Americans, and all religious faiths, should rally behind, and it is briefly stated as follows—and we invite such an ecumenical gathering of supportive forces:

(1) Institute an equitable preference system applicable to both the Eastern and Western Hemisphere based primarily on family reunification and the admission of refugees.

(2) Grant adjustment of status to all persons regardless of their country of birth.

(3) Increase foreign aid and economic assistance to the countries of Latin America in general and Mexico in particular.

(4) Create and provide an across-the-board grant of amnesty with the necessary residency cut-off date for eligibility and adjustment of status, without chargeability against the numerical ceilings.

(5) Recognize that because of deficiencies over a span of many years in our foreign aid and economic assistance policies with regard to Mexico and other Latin American countries, and because of our failure to prevent the mass influx of illegal aliens and our failure to enforce existing laws (a practice which has made it economically attractive for both the illegal alien and the employer to enter into working relationships), the Government of the United States bears a heavy share of responsibility for the chaotic situation which exists today.

(6) Recognize that, without a meaningful amnesty program, it is entirely possible that the members of this illegal alien society will be driven further underground and that a permanent sub-culture will be created in the United States.

In such an eventuality, it is doubtful that even massive expenditures of time, money and effort on the part of the Immigration Service would ever lead to adequate controls. It would be more effective for the Immigration Service to expend its energy and funds to prevent such a situation coming about rather than spend its funds, as proposed in H.R. 982, in the area of apprehension and control.

(7) The effect of the present wording of H.R. 982 would be a screening by the employer of all the employees within ninety days after the proposed law is adopted. The dismissal of untold numbers of workers from their jobs in such a short period would cause unbelievable havoc among their families and in the communities where they live. It would be physically impossible for the Immigration Service to move such large numbers of people. Moreover, it is unconscionable that our government should even consider separating families by forcing a mass exodus or deportation of literally millions of men, women and children.

The displacement of the American Indians, and the enforced relocation of Japanese Americans into concentration camps would be minor compared to the new displacements contemplated by H.R. 982.

(8) Recognize that the requirement in Section 274A that any officer or employee of the Department of Health, Education and Welfare disclose the names and addresses of aliens "who such officer and employee knows" are unlawfully in the United States and are receiving certain welfare benefits would turn the Department of Health, Education and Welfare into an investigative or enforcement type agency which is thoroughly repugnant and should not be approved by the Congress in any form.

(9) As to the proposed amendments to Section 245, the adjustment of status provision, the restriction as to unauthorized employment should *not* be included. A somewhat similar provision was contained in the 1952 Act but was deleted as undesirable in the Act of 1965. Since the grant of adjustment under this section is at the discretion of the Attorney General, abuses can be controlled best by the sound exercise of the discretion which he already has. Further, that adjustment of status should be made available to all bona fide refugees regardless of the manner of their entry into the United States.

In conclusion, we want to state our complete support of the view of the United States Catholic Conference, which represents millions of American families, that with the approach of the Bicentennial celebration of the founding of our country, Congress should adopt the theme, in seeking a fair and humanitarian solution to this very serious problem, which is expressed in the motto "Liberty and Justice for all."

Thank you.

STATEMENT OF MICHAEL G. HARPOLD

Mr. Chairman, we are pleased to appear before this committee today as representatives of the employees of the U.S. Immigration & Naturalization Service and urge passage of H.R. 1276. This bill would require that all authorizations of appropriations for the Departments of Justice and Labor for administering the Immigration and Nationality Act shall be specifically made by Act of Congress. We feel that such a bill is long overdue.

Today, the resources of the Immigration and Naturalization Service have been stretched far beyond the point where any meaningful administration or enforcement of our Immigration and Nationality laws can occur. Certainly, this committee has been made well aware of the overwhelming shortcomings that exist; the millions of illegal aliens passing our borders at will, the staggering adjudications backlogs that make the most simple contact with our Service a long and exasperating ordeal and the antiquated records system, the cause of frequent and equally exasperating error. In bitter truth, an alien or a citizen petitioner frequently faces far greater difficulty if he deals within the framework of the law than if he simply acts with out it. Certainly the will of the Congress is not being carried out either in the administration of benefits or in the enforcement of the law.

The roots of the problem go back over ten years, to 1964. In the decade that followed, apprehensions of illegal aliens rose tenfold, or 1,000 percent from 85,000 in 1964 to 800,000 in 1974. Yet during that same period of time, the staffing of the Service was increased only 9 percent rising by 624 positions from 7,058 to 7,682. No new legislation was passed to help us cope with the situation.

More recently, two sub-committees of the Government Operations Committee of the House have become deeply involved in the study of problems concerning

the illegal alien situation and shortcomings within the Immigration Service. Both of these sub-committees, Legal and Monetary Affairs in House Report No. 93-1623 and Legislation and Military Operations in House Report No. 93-1630 recommended massive increases in the funding and staffing of the Immigration Service. However, the Government Operations Committee does not have authorization authority over the I&NS budget. To correct this, however, Chairman Holifield recommended that "The Committee on the Judiciary should consider the development of legislation to require annual or other periodic authorizations for programs of the Immigration and Naturalization Service to the end that legislative oversight will be maintained and adequate resources will be made available for control of illegal alien traffic."

We would welcome the assumption of this responsibility by your committee. No law can be effective without the trained manpower and funding necessary for its enforcement. The House Committee of the Judiciary is in the best position to determine what those manpower and funding needs may be. I would like to discuss some of those considerations in the following paragraphs excerpted from my testimony submitted to this sub-committee on March 12, 1975, concerning H.R. 982.

The Immigration and Naturalization Service has endured a perennial problem with its budget and staffing. The following Table illustrates the problem:

Fiscal year	I. & N.S. request		Administration request		Congress appropriated	
	Amount	Positions	Amount	Positions	Amount	Positions
1971	$122,002,000	969	$111,980,000	310	$111,480,000	310
1972	134,123,000	960	124,300,000	452	124,300,000	452
1973	150,324,000	1,065	129,000,000	0	129,000,000	0
1974 (includes supplement)	167,150,000	1,468	139,698,000	0	143,298,000	300
1975 (includes supplement)	210,062,000	2,610	180,400,000	350	[1] 183,000,000	100

[1] Approximate.

As the table indicates, there has been considerable difficulty obtaining administration backing for I&NS budget requests. Nor has the administration championed an enforceable law. Why the administration has not done so in the face of such rapidly developing problem is for the administration to answer. The employees who have been left to "take up the slack", however, cannot help but with some bitterness ask if it is not the administration's policy to permit the existence of a large pool of cheap and quiescent labor within this country. Do we have a Bracero Program by default? To the domestic farm worker there is no perceptible difference nor does there appear to be a difference to the employer.

It would be difficult to gauge the needs of the Service in terms of manpower and money save to turn to that person who is in the best position to know.

Our present Commissioner has a reputation as an administrator undoubtedly second to no other person in Government. From four years as Commandant of the Marine Corps he took what he called a public service job. General Chapman became Commissioner in December of 1974.

In the view of the people of this Service, no man has ever set about his task with such rapidity and dedication. Certainly, he had no self-interest but upon his review of our needs, in the Spring of 1975 he prepared, substantiated and submitted to the Department of Justice a budget amendment calling for 3,227 additional positions and $70,653,000 additional dollars. He wound up with 100 additional positions and an additional $3,500,000.

Much needs to be done in the Service in the area of just plain basic building. Save for our Border Patrol Agents, many of the Service's officers, such as Inspectors, Detention Officers and some Criminal Investigators have received inadequate and often no formal training. Our records system has never been automated and exists today in much the same state as it did in the 1940s. We no longer have the capability of removing aliens from the Mexican border area to points near their homes in the interior. Most positions are graded below comparable positions in other agencies causing a continual loss of trained officers to other agencies and an inordinately high turnover rate among our clerical employees. Also, due to retirements and our inability to properly train and develop managers, we are suffering a real shortage of higher level managerial talent. Commissioner Chapman's assessment and proposed FY '75 Budget Amendment was pretty realistic and remains so today.

A broad-based enforcement effort will have to be conducted at our borders to prevent illegal entry and fradulent entry through our ports of entry. Once the "job magnet" has been turned off, the flow should diminish to a manageable level, but it will require the utmost cooperation between our officers on the line, the Border Patrol, our Inspectors at the ports of entry and our Investigators and Border Patrol Agents at inland points. Our enforcement problem will turn from the simple undocumented illegal entrant to the illegal alien making a false claim to U.S. citizenship or presenting other fradulent documents. Investigative efforts will turn to the employer of illegal aliens. Commissioner Chapman in testimony before Congress has stated that the optimum size of the Service should be 10,200 employees. Of that, in order to provide the coordinated enforcement effort called for by H.R. 981 and H.R. 982, substantial increases of our present investigator force as well as our inspector force at Mexican border ports, will have to occur.

The Administration's answer to the illegal alien problem has been to ignore it, asking for mere token increases in appropriations and proposing no remedial legislation. In answer to heavy pressure placed on the Administration, the President has appointed a commission to "study" a problem that has been studied to death. It seems to us that it is time for the Congress to take charge of the situation and pass the laws and authorize the money it deems necessary to carry out it's legislation. This nation can no longer tolerate a policy of what could be charitably called "no policy", but what from all appearances appears to be a policy of abrogating a law by failure to provide the funding and manpower necessary to implement it.

JAMAICA NATIONAL GUILD U.S.A.,
Brooklyn, N.Y., February 12, 1975.

THE HOUSE JUDICIARY COMMITTEE,
SUBCOMMITTEE ON IMMIGRATION,
Rayburn House Office Building,
Washington D.C.

DEAR SIRS: This letter is a reaction to the present House Hearings on the Employment of Illegal Aliens in the United States.

We would like to take this opportunity to point out that the effect of the Hearings and the Legislation being proposed by the Honorable Peter Rodino will be to stifle the ability of those individuals who have immigrated to this country in a perfectly legal manner to obtain and maintain employment. Every alien has now become a legal risk. We believe that the huge number of aliens who have overstayed their visas is a result of laws which were passed to prohibit the free entry of people from the Western Hemisphere into this country.

The situation will not be corrected by punishing those who were forced to evade these statutes. Only when the immigration laws are adjusted to deal with the reality of Western Hemisphere migration will the problem be solved. This can easily be done by equalizing the quotas between the Western and Eastern Hemisphere.

Lastly large numbers of hard working, diligent and highly motivated individuals have been forced to stay in this country without the proper immigration papers. Every year they go through the same spasms of fear as these type of hearings are held. The sensible solution is to adjust their status so that they can remain in this country legally. They are not responsible for all the economic problems that have recently befallen this country and should not be used as scapegoats.

We further request that this letter be read and made part of the record of your committee hearing on H.R. 981 and 982.

Sincerely,

OSWALD SILVERA,
Chairman of the Immigration Committee.

STATEMENT OF FRED T. KUSZMAUL, DIRECTOR, NATIONAL AMERICANISM AND CHILDREN AND YOUTH DIVISION, FEBRUARY 5, 1975

Mr. Chairman and members of the subcommittee, the American Legion appreciates the opportunity to present its views on legislation aimed at reducing the social and economic problems created by the ever-increasing influx of illegal aliens into the United States.

As you know, the American Legion was chartered by the United States Congress nearly 56 years ago. It is comprised of two million seven hundred thousand American veterans who have served their country during time of war and are now joined together in our organization to provide continued service to their communities, states and the nation. I speak also for the American Legion Auxiliary, an organization of approximately one million equally dedicated wives, daughters and sisters of those who served our country during wartime or national emergencies. Our membership, organized in some 16,000 Posts throughout the United States and overseas, presents a cross-section of American citizenry.

The American Legion since its organization in 1919 has taken an active interest in the immigration and naturalization policies of our country and has appeared before Congressional Committees on several occasions to present its views on specific legislation.

Our initial concern for the problem created by mushrooming numbers of illegal aliens is based upon problems encountered by Vietnam Veterans, particularly those without skills, who have met with serious difficulties in locating employment. The news media reports that many unskilled jobs are being filled by illegal aliens because they work for wages lower than prevailing rates, and under working conditions that most American citizens would not tolerate. The recession of recent months has heightened the problem of unemployment for the unskilled Vietnam veteran.

In consideration of this situation The American Legion unanimously approved a resolution at its most recent National Convention calling upon the Congress to enact legislation providing penalties for employers who knowingly hire illegal aliens. A copy of the resolution is attached.

There are a number of other problems directly attributable to the large numbers of illegal aliens.

The majority of the millions of illegal aliens reside in our big city slums. They live with our citizens who are at the bottom of our economic ladder and this situation intensifies the miserable housing conditions facing our low income minorities.

Children of illegal aliens create an additional burden to the overloaded and under financed school systems in many of our metropolitan areas.

No one is certain as to the number of illegal aliens on our welfare rolls and the amount of payments they receive. Estimates have been made that such payments run into the hundreds of millions since most states do not require citizenship as a condition to receive welfare assistance. Compounding the welfare problem is the fact that they take jobs away from Americans forcing them on to the welfare and unemployment rolls.

The Internal Revenue Service has estimated that while illegal aliens partake of public benefits, a substantial number fail to file income tax returns on their earnings or underpay their taxes resulting in a loss of $100 million to the Federal government and $15 million to the states.

Mr. Chairman, I believe it is generally agreed that the principal reason for the increased flood of illegal aliens is prompted by the hope of obtaining an improved standard of living in the United States. Eliminating easy accessibility to employment will not eliminate the problems created by illegal aliens but hopefully will reduce their magnitude where they become manageable.

The Legion recommends that any legislation enacted include a provision making it an immediate crime for an employer to knowingly hire an illegal alien, punishable by imprisonment and/or fine.

We also recommend the Department of Immigration be authorized to hire additional personnel in its Border Patrol and Investigations Branch to assure that the provisions of this legislation is carried out.

The opportunity to make our recommendation known to the subcommittee on this much needed legislation is appreciated.

FIFTY-SIXTH ANNUAL NATIONAL CONVENTION, THE AMERICAN LEGION,
AUGUST 20, 21, 22, 1974

Resolution: No. 566.
Committee: Americanism.
Subject: Employment of Illegal Aliens.

Whereas, The number of illegal aliens in the United States has been increasing rapidly since 1965 and the Commissioner of the U.S. Immigration and Naturalization Service estimates there are currently 5,000,000 to 7,000,000 such individuals in the United States; and

Whereas, The increasing number of illegal aliens in the United States is creating problems of serious economic impact which include increased welfare costs, adverse effects on the American labor market and the expense of deportation of apprehended illegal aliens; and

Whereas, Present Federal law makes no prohibition on the employment of illegal aliens allowing some employers who have little regard for employment of American citizens to hire illegal aliens at depressed wage levels and under poor working conditions; and

Whereas, Many veterans, particularly Vietnam Veterans, are unable to locate employment because of the employment of illegal aliens; and

Whereas, Legislation has been approved by the House of Representatives prohibiting the employment of illegal aliens with appropriate penalties for employers who knowingly engage in such practice; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Miami Beach, Florida, August 20, 21, 22, 1974, That The American Legion urge the adoption of legislation which will prohibit the employment of illegal aliens, by providing penalties for the employer thereof.

STATEMENT OF THE NATIONAL BORDER PATROL COUNCIL

Mr. Chairman, Congressmen, the National Border Patrol Council is pleased to be here today to testify concerning the need for line item authorization of funds for the Immigration and Naturalization Service.

Often, in the course of events, luck or happenstance seems to intervene to restrict a pending disaster to a crisis situation. Such is the case with the illegal alien problem this nation faces today.

Between 1960 and 1970 the Immigration and Naturalization Service was steadily losing control of the illegal alien situation in the United States. And the problem was worsening at an ever increasing rate. Only two groups of people were aware of the magnitude of the problem and potential effects on the U.S. economy; the employees of the INS and the management of INS. The management of INS, for whatever reason, was hiding or minimizing the extent of the problem to Congress and to the nation. Meanwhile the ability of the field employees to perform their mission was being allowed to drop farther and farther behind the snowballing task.

In 1970 and 1971 the INS employees, the only other group who knew the situation, began to bring the problem to view.

In 1971 the employee unions went to Chairman Rodino, then Chairman of the Judiciary Sub-Committee on Immigration. He told us that he had been assured by INS officials that the situation was under control. Newspaper articles of that period carried the same assurances to the nation. We assured Chairman Rodino that the situation had been *out of control* for at least six years.

Subsequent investigations by Congress proved our statements to be true. Not too long after that both the INS and Congress were aware of the problem and moving to correct it. The administration began moving in the right direction also, from time to time.

Today we have a few more officers, we have a Commissioner dedicated to the mission, we have a Congress which is vastly more aware and we have a recession or depression snarling at our heels. We are at least six years late and desperately playing catch-up.

Our Service has an administrator in charge who has a good grasp on the situation and is moving to act rather than re-act. We are in a far better position to meet our responsibilities to this nation than we were three years ago. We have even fought off attacks which would have further eroded our capabilities.

These improved conditions would not exist today had it not been for active, aggressive, concerned and dedicated employee unions. Unions which rose up and used their funds and energies and those of their parent organizations, AFGE and and AFL–CIO to fight for their Service.

I say this not to evoke praise or to brag, though we are proud of our efforts. I say it in order to return to my original statement, that luck and happenstance intervened in the form of dedicated union employees to avert disaster.

Should it be expected that employees would be so dedicated to their mission that they would defy their top officials to bring a problem to national attention?

We believe it was an unprecedented stroke of luck, one which can not be expected to happen with regularity. If so, should Congress depend on *luck* to help it avoid disasters? Should it always expect a concerned union to foresee problems and attempt to prepare the nation?

We believe a much better way would be for Congress to keep a watchful eye on the situation and not depend on luck or political appointees as your failsafe.

Our Service can greatly relieve the worsening unemployment situation. Because we were neglected for so many years; we can not accomplish the dramatic relief we should be able to. Because the union cried "Wolf" when we did and fought a good fight we are in a position to *begin* and certainly in a better position to help than we would have been had we not started running five years ago.

General Chapman says, if given what we need, we can free one Million jobs for U.S. Citizens and legal resident aliens within the next year. We firmly believe this is true.

But to go on and give the relief which could be given by this Service, we need the help of an alert and watchful Congress.

Line item authorization was urged for our Service by a wise and concerned Congressional leader, former Chairman Chet Holifield, after extensive and careful study of the problems.

We need your attention and help. We believe the national economic conditions demand it. Please move quickly to establish line item authorization for our Immigration and Naturalization Service.

Restrictions Aren't the Answer—The Illegals

(By Michael Piore, Associate Professor of Economics, Massachusetts Institute of Technology)

The United States is in the grip of a new wave of foreign immigration, the bulk of it "illegal." The Immigration and Naturalization Service (INS) estimates that there are over seven million illegal aliens in the country today. Virtually all of these people are here to work. The INS estimates thus imply that illegal aliens constitute eight percent of the labor force, that they are almost three-fourths of the black labor force and one-third of the black population. The alien population is, moreover, growing at a phenomenal rate. The rate of increase is indicated by the numbers apprehended by the INS: more than 600,000 in fiscal 1973, 800,000 in fiscal 1974 and a projected one million in the current fiscal year. The best estimates suggest that this population has grown from almost nothing 10 years ago; that it has doubled in the last two or three years. The comments of employers, community organizers, social workers and others with contacts in low-income areas confirm the impression these figures convey.

The population of illegal immigrants in the past several decades has been concentrated along the Mexican border and in agriculture. This is *not* true today. The recent growth of the alien population appears to be in industrialized urban areas. Even in the Southwest, the bulk of the growth seems to have occurred in the urban areas of California, and a large portion of the new Mexican migrants are going directly to Midwestern cities. Throughout the industrial Northeast the Latin American population is growing. The INS estimates that there are one million illegal aliens in the New York metropolitan area, equivalent to roughly 10 percent of the labor force. The official estimate for Massachusetts is 6000 illegals, but my own work on the labor market for Puerto Ricans and aliens suggests that this grossly underestimates the numbers in the city of Boston alone. In New England this is something new. The urban Puerto Rican settlements date mostly after 1966; the alien population became noticeable only after 1968. The largest alien population on the East Coast comes from Haiti and the Dominican Republic, accounting for over half the aliens in New York. But there are many people from all the countries bordering on the Caribbean, and some from virtually every Latin American nation.

Why did this massive migration suddenly begin in the late 1960s and early 1970s and not two or three decades earlier? My own answer to this question derives from a study begun in 1971 of jobs held by Puerto Rican workers in Massachusetts, a study recently expanded to include the total alien labor force. The findings are consistent with more impressionistic evidence from other parts of the country, suggesting that the new immigration is a response to what employers perceive as a vacuum at the bottom of the labor market, a shortage, that began in the middle '60s, of workers to fill the menial, low-wage, unstable, dead end jobs in industries like textiles, shoes and tanning, at sewing machines in the garment factories, in restaurants, hotels, laundries and hospitals. Faced with this shortage, employers began active recruitment abroad. The recruitment was open for Puerto

Ricans who are US citizens. It is more surreptitious for aliens. The alien work force seems built around a nucleus of workers, who enter on legal visas, often arranged by their employer. These pioneers then recruit relatives and friends who enter as "tourists" but come to work.

The labor shortage, to which this recruitment is a response, is attributed by employers to the growing reluctance of black workers to accept the kinds of low-level jobs that blacks traditionally filled. The change of attitude may, in turn, be attributed to a shift in the composition of the black work force from a first generation recently arrived from the rural South to a second generation raised in Northern cities.

This shift in attitude from one generation to the next is characteristic of industrial societies. Rural workers who migrate to urban areas generally expect to stay temporarily and therefore are not primarily interested in career opportunity or job security. This makes them an attractive source of labor for the worst jobs, and they are recruited for that purpose. Whatever their original intentions, however, many migrants remain and raise their children in the city. But the children share the attitudes of the native population; they reject jobs with a low social status, little security and little opportunity for advancement. This intergenerational shift makes it necessary to have a constant supply of new immigrants to fill jobs at the bottom of the ladder. The arrival of new illegal aliens should be viewed as the latest manifestation of this process.

The new immigration has many implications, but the most important is that it points to a complete reversal of the assumptions of social policy developed in the '60s. Social policy then was aggressive: we tried to *improve* education, *raise* welfare benefits, *expand* medical services to the poor, *increase* the quality of jobs and *speed* the process of upward mobility. In light of the new situation developing in our cities, these efforts may prove futile. The new immigrants are illegal; they are afraid to register with any authority. They are afraid to send their children to schools, afraid to apply for public assistance, afraid to use the emergency rooms of city hospitals or to complain about substandard working conditions. The uneducated children of the next generation will not be dropouts; they will be too afraid to attend school in the first place. Current policies of school reform won't reach them. A guaranteed minimum income program won't help them because they will never enroll. Their medical problems will be beyond reach of community health facilities, improved emergency room care, increased medical insurance, Medicaid or Medicare because they will not seek help until driven to it by injury and disease more threatening than the risk of apprehension by the INS.

The failure to recognize the full implications of what is happening and why, is reflected in current thinking about immigration reform. The major reform measure now before Congress is the Rodino bill. This bill would for the first time penalize the employer for hiring aliens. The measure has the support of both the INS and the AFL–CIO. Pressure for passage has suddenly received a new impetus by the recession and the belief that the aliens hold jobs that would otherwise be filled by Americans—a proposition that is dubious even under depression conditions and that will certainly not hold if we return to reasonably full employment.

I am less concerned about this particular bill (as I think it will not be effective) than about the logic that underlies it. The pursuit of this logic will push the alien labor market underground. There are already tremendous incentives for an underground labor market. The existing wage rate does not balance the supply of workers with the demand for employees. Aliens are willing to work for less than the minimum wage, and their illegal status makes them powerless to complain about violations of labor statutes. The employer can clearly profit from paying less than the minimum wage and by ignoring legal health and safety standards. Both employer and employee can gain by avoiding federal income tax withholding, social security taxes, unemployment insurance and workmen's compensation. Soon federal health insurance may join the list. Just to mention these possibilities is to recall the labor market of 1900, the world of the sweat shop, the Triangle fire and child labor. We are in danger of returning to that world.

Although there already is an underground market in the *transport* of alien labor, there is little evidence that the labor market *itself* has gone underground. The reason for this is that the penalties for violating the Fair Labor Standards Act and evading federal taxes are substantial, while the penalties for hiring alien workers are nonexistent. Given this, employers find it prudent to comply with tax and labor law on the one hand, and profitable to ignore immigration law on the other. But the thrust of proposals to penalize the employer for hiring aliens will shift the balance of risk in favor of ignoring *all* federal labor regulations. Over time

the pursuits of this policy will regenerate, in the low-income labor market, a world we have not seen in this country for 50 years. Legal and social sanctions used to enforce minimum standards will no longer be effective. We will be tempted by new patterns of life offered at the cut-rate price that an illicit labor market permits. Once we become accustomed to these patterns, a new, lower floor will be set upon labor conditions. The process will then become irreversible.

None of this is to argue in favor of our existing immigration system. But the solution does *not* lie in enforcing restrictions that have become untenable. It lies instead in an effort to regulate a process that has become irresistible. The failure to do so will lead to a world that will make the social conditions against which the war on poverty was waged in the '60s seem genuinely benign. Moreover, if we are not moved to this position by compassion, we should be persuaded at least by a narrower concern for preserving social order. The history of the '60s may be read as a rebellion of second generation migrants in urban areas against the conditions to which their parents migrated willingly out of rural poverty and depression. How much greater will be the wrath of the children of the new immigrants, born into the American citizenship, rebelling against an underground labor market in which their parents have been trapped—lured first by a desire for a better life and later held in place by the threat of deportation.

APPENDIX 2

Responses to Questions Submitted to the Department of Justice by the Subcommittee on Immigration, Citizenship, and International Law

SIZE OF SERVICE

Question 1. Last year you testified to this Subcommittee that as a result of a detailed study you had instituted when you became Commissioner, you estimated that 10,200 people were needed to adequately enforce the law and provide the necessary services. How many people are provided in the fiscal year 1976 budget request and does this mean that you will remain understaffed for some time in the future? What was the I&NS request to the Department of Justice? Justice request to the OMB?

Answer. What must be emphasized is that a balanced enforcement program must be mounted. Aliens seek illegal entry across the borders, through the ports, and by falsely claiming or subsequently violating a temporary visitor status. Patchwork programs offer little in the long run. If we shore up the Border Patrol presence but neglect the ports, the potential illegal entrant is quickly aware of this, and his energies are then directed to seeking entry by false claims to citizenship, fraudulent documents, or deceptive statements of intent. If investigative forces are neglected, our inability to pursue individual overstay cases become common knowledge in the alien community, and this lower risk avenue of entry is then exploited. If insufficient funds are available to detain, escort, and remove apprehended aliens, the incidence of abscondees threatens to make a mockery of our enforcement program.

Our public service programs also require a balanced effort. If our information counters and telephone lines become obstacles rather than remedies to the real immigration concerns and problems of the public, a disrespect for governmental processes is engendered and frustration sets in on both sides. If a lack of personnel in our records system causes an inadequate support of the adjudicative process, petitions and applications will continue to accumulate in backlogs that translate into inordinate delays for the public.

While innovation, management improvements, and new technology have their place and are being actively applied, the attraction of the United States, the relative ease of obtaining employment, and the sheer growth of the alien population, legal and illegal, all pose problems of scale that must be met by corresponding increases in resources: both manpower and money.

There are 8,832 positions provided for in the 1976 budget, an increase of 750 positions, which means that we will remain under-staffed for some time. Our request to the Department of Justice was 11,162, an increase of 3,080 positions, while the Department's request to the OMB was 9,517, an increase of 1,435 positions over 1975.

The following manpower increases requested by the Service for fiscal year 1976 were to cover the following critical needs.

Border Patrol.—1,203 positions composed of 1,080 patrol agents and 71 support personnel were requested of the Department. These positions were to create an effective deterrent presence on our Southern Border and to enable our agents to respond to our system of sensors at a rate approaching 90 percent. Of this total, the Department approved 413 positions of which OMB sustained only 213 positions.

Investigations.—422 positions composed of 350 investigators and 72 clerical personnel were requested. These positions were for an expanded level of "overstay" enforcement and for the Social Security Enforcement Program mandated by the Congress. Our visitor control system indicates that approximately 5 percent of our arrival records are not matched by a corresponding departure record each year, and this translates into 300,000 visitor "overstay" cases. This increase would have enabled us to considerably increase our level of enforcement targeted at "overstays", particularly those in better paying jobs. The Department denied the 288 positions for "overstays" while approving 134 positions for Social Security Enforcement. OMB did not approve the increase for Social Security Enforcement.

A more detailed description of these investigative program needs is contained in the answer to question 3, following.

In addition to the request for personnel, we requested a $2.6 million increase for improvement of our communications systems for investigations. The Department approved $1.6 and this was denied by OMB.

Detention and Deportation.—290 positions composed of 112 officers and 178 support personnel were requested. This personnel increase was augmented by a request of almost $14 million in increases for the additional costs of detaining and removing illegal aliens from the country. Some $4 million was earmarked for "interior repatriation" or the return of illegal Mexican aliens to the vicinity of their homes, thereby discouraging repeated attempts at illegal entry in the near future. The amount of the other alien detention and travel monies available to the Service dictates the level of effective enforcement which the Service can pursue. The Department of OMB approved 177 additional personnel. The Department approved the $3.9 million increase or interior repatriation, but this was trimmed to $2 million by OMB. The Department approved a $4 million increase in AT&D funds which was reduced to $3 million by OMB. The net increase, however, is only $1.7 million, since $1.3 million was removed from the budget base as a result of the fiscal year 1975 recision.

Inspections.—388 positions composed of 362 inspector positions and 26 clerical personnel were requested. 289 of these positions were requested to revitalize our border port inspection. Our studies indicate that tens of thousands enter illegally through our land border ports and that this number is increasing each year. This is directly attributable to insufficient numbers of immigration inspectors on the primary inspection lines. Over the years, the Service did not receive the number of inspectors required to man new primary lanes created by increases in travel or by the withdrawal of the Public Health Service function. Thus, one study shows that with a 30 percent presence at primary, Immigration produces 65 percent of the fraudulent intercepts, while the other inspection agencies, with a 70 percent presence, account for only 35 percent of the intercepts.

In addition to the border needs, 99 inspectors are required to man an expanded number of inspection slots at international airports, due to increases in international travel.

The Department denied the 289 positions for revitalization of port inspection and approved the 99 positions for staffing the new facilities. OMB provided for no increase at all.

Public Service Areas.—562 positions composed of 122 for adjudications, 258 for records and information programs, 92 for administrative and general support activities, and 90 personnel for the naturalization functions were requested. These positions are to reduce the serious backlogs which have developed in the areas of naturalization, and the adjudication of petitions and applications for the various benefits accorded under the immigration and nationality act, as well as enabling us to respond efficiently to a growing volume of public inquiries. Of the total requested, the Department approved 407 positions and OMB approved 145 positions.

The following chart contains a recapitulation of the detail of the requested positions as they advanced through the budget process.

FISCAL YEAR 1976 INCREASES

[In number of positions]

	I. & N.S. request to Department	Department request to OMB	OMB allowance for Congressional request
Border patrol	1,203	413	213
Investigations:			
Social security enforcement	134	134	
Overstay enforcement	288		
Inspections	388	99	
Detention and deportation	290	177	177
Public service areas:			
Adjudications	122	122	25
Naturalization	90	51	30
Records	258	180	90
Support	92	44	
Alien documentation program	215	215	215
Total	3,080	1,435	750

Question 2. What are you doing within the Department of Justice to make your needs known? Does OMB appreciate the serious budgetary problems confronting I&NS? Do you have any plans how to meet this particular problem?

Answer. Beginning with an amendment to the fiscal year 1975 budget developed in the Spring of 1974, the Service began actively pursuing a policy of informing the Department of Justice of the serious workload problems confronting the Service and our inability to cope with the illegal alien situation given our present level of resources. In planning for additional resources, I&NS developed a comprehensive statement of the immediate and long-range resource requirements needed to bring the illegal alien situation under control and reduce the massive backlogs in public service functions. Moreover, the Service suggested a strategy which includes legislation to reduce the incentive for illegal entry, program initiatives aimed at improved management of the Service, and prioritization of current workload. All of this activity has been brought to the attention of the Department and has undergone rigorous scrutiny by management review levels of the Department.

We are optimistic that OMB is beginning to recognize the serious budgetary limitations that the Service has been operating under during the past five years. The budget approved by OMB for fiscal year 1976 included one of the largest program increases ever received by the Service. We are appreciative of the increase of 750 positions, but the Service critically needs substantive increases in Border Patrol Agents, Investigators, Immigration Inspectors, Deportation Officers, Naturalization Examiners and relating support personnel, if we are to perform the missions assigned to us under the law. In both the area of enforcement and service to the public, workloads, which are uncontrollable by the government, have mounted in such degrees that an austere system of priorities was necessarily imposed to permit the Service to perform its most important tasks in an adequate manner. The alternative was to continue an attempt to cope with all of its responsibilities in an inadequate manner. Such a system of priorities, of course, should be an emergency measure and limited in duration: for the long term solution, an increase in resources is mandated.

Our plans to meet this problem follow the strategy that is outlined above: rigorous justification of our resource needs; active development of legislative alternatives which provide disincentives to illegal entry, and continued prioritization of current workloads including the reluctant elimination of some low priority tasks.

Question 3. In your statement you indicate that no additional investigators are provided in the budget. How will this affect Service operations in the cities? Do you have any plans to meet this particular problem?

Answer. We initially requested 422 additional positions for the investigation function. 288 positions were for an expansion of "overstay" enforcement. Individuals in this group pose a more difficult enforcement problem than that presented by a Mexican national who has entered over the land border without inspection. The "overstay" alien has passed a screening before a consular officer overseas, and established to that official's satisfaction that he has the wherewithal to maintain himself during his temporary visit and that he intends to return to his native country. Whether or not his violation of status stemmed from prior design or happenstance after entry, he represents a fairly sophisticated individual who can merge into the community at large and who therefore is a more costly target to detect and remove. If he enters the workforce, it will probably be at a fairly high skill level with a matching displacement of legal skilled labor. The lack of a major effort at overstay enforcement will encourage those now deterred from violation of status to remain longer with the knowledge that there is no follow-up by Federal authorities and little risk that they will be detected or punished for violation of our immigration laws. Without additional positions, we cannot mount this effort.

134 positions were for Social Security enforcement. One factor compounding the problem of detecting and removing illegal aliens has been the relative ease with which they have been able to obtain Social Security Cards and thereby enter the workforce. By working, the illegal alien can maintain himself and gradually assimilate into the society and become less and less conspicuous. The working illegal alien who has thus burrowed into the mainstream of society becomes a burden not only as a costly target for detection and removal, but also as an economic drain by displacing legal workers, siphoning earnings out of the country, and adding to the costs of local government services. New regulations prohibit the issuance of Social Security Cards to foreign-born applicants unless there is a clear showing that the foreign born applicant is a United States citizen or an alien who is entitled to work. Such applicants must present suitable documentation in

support of their applications, and doubtful cases are now being referred to the Immigration and Naturalization Service for resolution. Based upon a pilot study, it was anticipated that 55,000 applications out of the total referred for screening will become investigative cases. This caseload could not be absorbed without serious impairment to other vital investigative programs and a consequent overall diminution of the I&NS enforcement mission.

A $10 million increase in Alien Travel and Detention funds was also requested. The net increase in AT&D funds will be $1.7 million, since $1.3 million was removed from the base as a result of the fiscal year 1975 recision.

With the $1.7 million increase in removal funds, we will be able to intensify our area control operations by shifting investigators from other activities and concentrating more effort on apprehending illegal aliens holding jobs that are attractive to U.S. citizens and permanent resident aliens, but, of course, not at a level that the greater amount of money would permit.

Question 4. What percentage of illegal aliens expelled last year were the result of investigative efforts and what percentage were the result of apprehensions by the Border Patrol?

Answer. I&NS does not keep statistics on the percentages of expelled illegal aliens apprehended by the Border Patrol or investigations. However, statistics are kept on apprehensions.

In fiscal year 1974, I&NS apprehended 788,145 illegal aliens. Of that total, 153,368 or 19 percent were apprehended by I&NS investigators. 81 percent (634,777) were located by the Border Patrol.

Question 5. We are all aware of the continuing manpower problems concerning the Service. In order to meet this problem, what particular measures have been taken or plans adopted to more efficiently utilize the personnel that you now have so that you may (1) better control the illegal alien problem; and (2) provide better services to the public?

Answer. During fiscal year 1975 the Service recognized that with its limited resources, its overburdened field personnel could not possibly perform all of its responsibilities adequately. Therefore, on September 30, 1974, program priorities were established to allow field personnel to perform high priority functions effectively at the expense of lower priority functions.

To more efficiently and effectively utilize enforcement personnel Border Patrolmen were shifted to "line watch" activities along the Southwest Border. This move was designed to accomplish two major objectives: (1) creation of a deterrent effect on those individuals contemplating illegal entry by greatly reducing their chance of successful entry, and (2) apprehension of a greater number of illegal aliens at the border. This action was necessary because the Service simply does not have adequate resources to detain and remove large numbers of aliens once they have penetrated the border, and therefore it is more efficient to direct Border Patrolmen toward enforcement activities which create a deterrent effect and result in removals.

Because of insufficient funds and facilities for detention and removal of illegal aliens located in the interior of the United States, it was not productive to use large numbers of investigators in area control operations. In order to more efficiently utilize investigative personnel subversive, criminal, fraud, narcotic and fraud cases were accorded priority over area control operations.

The priorities also attempted to temporarily transfer inspectional positions from the Northern border to the Southwestern border to increase our enforcement efforts in that area, but this action met with congressional opposition and was not implemented.

The priorities program included several actions designed to improve services to the public. These actions included:

Terminating the practice of furnishing "extra" staffing from district offices at airports for inspectional purposes. The additional manpower generated from this action has been utilized to reduce the massive backlogs of adjudications facing the Service and has resulted in shorter waiting periods for those who submit applications or petitions.

Reducing the number of contact representatives at information counters so that this personnel can be utilized to answer telephone and letter inquiries This action has enabled the Service to respond to more inquiries within a reasonable time period.

Efficiently using our Naturalization personnel so that more persons can be naturalized within a shorter waiting period. This was accomplished at the expense of the other important but lower priority services to specialized groups.

The priority program will remain in effect until the Service has sufficient resources to effectively perform all the duties for which it is responsible.

FRAUD

Question 6. Has there been any significant increase in recent months in the number of fraudulent marriages or the use of fraudulent documents to obtain entry into the United States? Is sufficient priority being given to prosecution of these types of fraud by the various U.S attorneys? Should there be greater prosecution, particularly in aggravated cases?

Answer. In fiscal year 1973, 2,959 relative petitions of all types were denied; in fiscal year 1974, during which the present emphasis was placed on detecting fraudulent marriages, 7,744 petitions were denied. Since the beginning of fiscal year 1975, 6,425 have been denied. At this rate, the total denials could reach 10,000 for this fiscal year ending June 30, 1975. Fraudulent marriage detection has obviously been the greatest contributing factor in this increase of well over 200 percent since 1973. It should be noted that the number of petitions received during the same periods has increased at a normal level, about 10 percent.

There is every reason to believe that the fraudulent spouse detection program could be even more productive if more manpower were available. The percentage of spouse petition interviews conducted ranges from about 25 to 50 percent of those received, because of lack of personnel. It is felt that at least 50 percent should be interviewed for peak efficiency in this program.

The question of sufficient priority being given to prosecution of such cases varies from office to office. Generally, the cooperation of the U.S. attorneys has been good. Acceptance of cases by U.S. attorneys, aggravated or otherwise, could be increased considerably, however. Many U.S. attorneys, while cooperating to the extent possible, must refuse cases due to already overburdened staffs.

Question 7. In your statement you indicated that 17,000 fraud cases were completed during fiscal year 1974. What were the results of these investigations? What were the number of successful prosecutions? How many deportations resulted from these fraud investigations?

Answer. During fiscal year 1974 I&NS referred 6,429 fraud cases to the United States Attorneys for possible prosecution. Prosecution was initiated in 692 cases (174 of these cases were pending from fiscal year 1973), and resulted in 322 convictions, 4 acquittals, and 155 dismissals. At the close of fiscal year 1974, 204 cases were pending.

I&NS deportation data does not reflect the number of deportations resulting from fraud investigations because aliens involved in these cases are deportable for other reasons, e.g., failing to comply with conditions of nonimmigrant status or entering without inspection or proper documents, and for economical and expeditious reasons are deported for these other violations.

Question 8. You indicate that the budget does not include any increases for fraud investigations and at the same time it is my understanding that marriage fraud cases are greatly increasing in number. Will you be able to stem this increase and do you have any special plans to meet this problem?

Answer. Although there are no additional investigators requested in the fiscal year 1976 budget, fraud investigations are receiving increasing emphasis by the Service as it becomes more and more apparent that larger numbers of persons are turning to fraudulent means as a way of entering or remaining in this country.

On March 7, 1974, joint Examinations—Investigations efforts were implemented on a nation wide basis. This program envisions careful efforts by adjudicators to identify visa petitions in which a question exists as to the bona fides of the marriage, followed by investigation, not only to establish a "sham" marriage but to identify arrangers and members of organized rings. During the fiscal year 1974, task forces were established in major urban areas to combat marriage fraud.

Operational Priorities for Fiscal Year 1975 were established effective September 30, 1974. Because of insufficient alien travel and detention funds, I&NS was forced to reduce the number of Investigators engaged in area control operations. These investigators were assigned to other activities with the number of investigators assigned to fraud investigations increasing to 23 percent. Immigrant Fraud Rings and Marriage Fraud Rings are accorded first and second priority, respectively, within the fraud program.

During the first half of fiscal year 1975, the manhours devoted to fraud constituted a little over 20 percent of the total investigative effort. Thus, with fraud investigations being accorded a higher priority, we will be able to better combat the increase in this activity, but this will be accomplished at the expense of other important investigative activities.

Question 9. What actual steps are taken to investigate marriage fraud cases? Does the Service have a program which instructs investigators in the investigation and preparation of marriage fraud cases?

Answer. Adjudicators carefully review visa petitions and supporting documentation filed in behalf of claimed spouses. If a question exists as to the bona fides of a marriage, the case is referred for investigation. The petitioner and the beneficiary alien are then interviewed separately under oath; many "sham" marriages are confessed during these interviews. If fraud is still suspected, but is not established, a full investigation is initiated. Our efforts are aimed not only at disclosure of a specific "sham" marriage but also at identifying arrangers and members of rings, in order to obtain sufficient evidence so that the principals may be prosecuted.

We periodically conduct a Journeyman Investigator's course at our training facility near Port Isabel, Texas. This course includes instruction on immigration frauds, including, of course, marriage frauds. Our Investigator's Handbook contains a chapter devoted solely to immigration frauds and is available to all investigators. In addition, our newer and most inexperienced investigators are provided on-the-job instruction under the supervision of senior and well qualified journeyman investigators.

Question 10. Is there a need to strengthen the criminal laws in this area?

Answer. Regarding marriage frauds, there is no need for legislation. Participants, including any fixer, are prosecutable for conspiracy to defraud the United States by obtaining the alien's illegal entry into this country, *Litwak* v. *United States*, 344 U.S. 604 (1953); also they may be prosecuted for false statements, *United States* v. *Diogo*, 320 F. 2d 898, 2d Cir., 1963.

As for frauds generally, the Service has one serious legislative need. In 1971 the Supreme Court ruled that possession of a counterfeit alien registration receipt card is not a violation of 18 U.S.C. 1546, which forbids fraudulent misuse of visas, permits or other entry documents. Section 4 of H.R. 982 94th Congress, satisfactorily amends section 1546 in order to overcome this law enforcement gap. The Service strongly recommends enactment of this legislation.

REFUGEES

Question 11. What has been the Immigration Service's experience with the various refugee portions of the Immigration and Nationality Act and do you support the continuation of the Service's role regarding refugees?

Answer. Because refugee situations fluctuate between peaks and valleys, the occurrence of a peak, such as the buildup of Soviet refugees in Rome in early 1975, causes a strain on manpower assignments and difficulties arise in the availability of sufficient conditional entry numbers. The movement of these Soviet refugees was finally accomplished through the cooperation of voluntary agency personnel and a procedure worked out with the Dpeartment of Statement whereby conditional entry visas were issued to the principal applicants and nonpreference visas were issued to spouses and dependent children.

The Viet Nam orphan movement is a prime example of a fast developing situation requiring a coordinated response from the affected agencies, both federal and private.

Overall, we view our role regarding refugees as a necessary and beneficial one, and we feel it should continue as such.

Question 12. Will you keep the Committee fully informed on a recurring basis as to refugee problems which develop around the world, and will you make it a policy to consult this Committee prior to utilization under the parole authority with respect to groups or classes of regugees?

Answer. Yes—we will do so.

NATURALIZATION PROCESS

13. Question. In your statement you presented statistics as to those aliens naturalized in fiscal year 1974 representing a thirteen year high. What process is involved in determining the eligibility of persons seeking naturalization? How does I&NS substantiate the bona fides of the petition? Are there investigations conducted here and abroad?

Answer. Section 332(a) of the Immigration and Nationality Act (8 U.S.C. 1443) provides that the Attorney General shall make rules and regulations prescribing the scope and nature of the examination of petitioners for naturalization as to their admissibility to citizenship for the purpose of making appropriate recommendations to the naturalization courts.

The examination is limited by statute to inquire concerning the applicant's residence, physical presence in the United States, good moral character, understanding and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English, and other qualifications to become a naturalized citizen as required by law.

Pursuant to the statutory mandate, 8 CFR 332 was promulgated. This regulation provides for the preliminary investigation of applicants for naturalization and witnesses. Each applicant for naturalization and his witnesses must appear in person before an officer of the Service and give testimony under oath concerning the applicant's and witnesses' qualifications. During the interrogation of the applicant and his witnesses, his attorney or representative, if he has one, may be permitted to be present and observe the interrogation. The applicant and witnesses are questioned under oath separately and apart from the public. The witnesses are questioned to develop their own credibility and competency as well as the extent of their personal knowledge of the applicant's qualifications to become a naturalized citizen.

As prescribed by 8 CFR 335.11, the record of this preliminary investigation, including the executed and corrected application form, affidavits or transcripts of testimony, if any, are used by the examiner designated under section 335(b) of the Immigration and Nationality Act (8 U.S.C. 1446(b)) to conduct the preliminary examination of the petitioner and witnesses. This portion of the naturalization process is open to the public. The officer conducting the preliminary examination is known as the "Designated Examiner." All testimony taken at the examination is under oath administered by the designated examiner. He questions the petitioner and witnesses to elicit evidence touching upon the petitioner's admissibility to citizenship.

Section 335(a) of the Immigration and Nationality Act (8 U.S.C. 1446(a)) requires that prior to holding the final hearing on a petition for naturalization, an employee of the Service shall conduct a personal investigation of the person petitioning for naturalization in the vicinities in which he has maintained his residence and employment for three or five years, depending upon the section of law under which the petition was filed, immediately preceeding the filing of the petition for naturalization. The Attorney General has the authority to waive the investigation in such cases as he deems appropriate. The fact that the case of an individual petitioner for naturalization does not come within those classes of cases requiring a personal investigation does not limit the authority of the naturalization examiner to institute an investigation if, in his judgement, the petitioner's demeanor, actions, evasiveness, or other characteristics or circumstances of the case suggest the need for an investigation. Furthermore, national agency checks are made in the case of every petitioner for naturalization regardless of whether a field investigation is conducted. Also, in those cases where the petitioner has served in the armed forces of the United States, the military records of that service are checked.

Upon the conclusion of the preliminary examination and the field investigation, if one was requested, the designated examiner prepares an appropriate recommendation to the court. If the recommendation is for denial of the petition or for granting it with the facts to be presented to the court, he prepares a written memorandum summarizing the evidence and setting forth findings of fact and conclusions of law.

As indicated above, investigations on petitioners for naturalization are conducted in the vicinities of their places of residence and employment. Investigations are conducted abroad only where there has been a substantial absence during the statutory period, and from information available, it appears that the petitioner may be a member of a criminal, immoral, or subversive class and his background or other circumstances in the case are such that an investigation abroad is not only appropriate but necessary to make a responsible determination as to his eligibility for naturalization. Where overseas investigations are deemed necessary, whenever possible, they are conducted by Service officers abroad.

COST OF IMPLEMENTING H.R. 982

Question 14. Will additional investigators be required in order to adequately enforce the provisions of H.R. 982?

Answer. Provided H.R. 982 is enacted we estimate that during fiscal year 1976, Service investigators will complete approximately 96,500 investigations covering the three step penalties, including the 2nd and 3rd violations located by Border Patrol Agents. On the basis of 34 investigations completed monthly by each investigator, it is estimated that 235 investigators would be required to adequately enforce the provisions of this act. However, considering our present force assigned to area-control illegal status investigations, we believe we could absorb approximately 50 percent of this additional responsibility with our current force.

In addition to investigative personnel, the Service will also need Border Patrol (the Border Patrol estimates it will issue 35,000 citations), Hearing Officer, Trial

Attorney and Clerical personnel to investigate, prepare and process H.R. 982 violations.

Enactment of H.R. 982 will remove certain restrictions on eligibility for adjustment of status to permanent resident. It will place Western Hemisphere natives on an equal footing with natives of the Eastern Hemisphere as candidates for such adjustment, thus greatly expanding the number of applications. An additional 20,000 adjustment cases are expected annually and the Service will need additional examiners and clerical support to handle this workload increase.

The Service will also need funds for a publicity campaign to properly advise employers of their obligations under H.R. 982. (See attached chart for the estimated first year costs of H.R. 982.)

TOTAL ESTIMATED 1ST YEAR COSTS OF H.R. 982

Personnel	Number	Cost
Investigators	120	$2,758,080
Border patrolmen	87	1,521,282
Immigration examiners	27	460,053
Hearing officers	10	327,990
Trial attorneys	10	281,390
Clerical support	54	504,900
Total personnel	308	5,853,695
Detention of Witnesses		40,000
Publicity program		500,000
Total		540,000
Total estimated 1st-cost		6,393,695

COUNTERFEIT-PROOF CARD

Question 15. I understand that the Service is in the final stages of producing a counterfeit-proof, tamper-proof resident alien documentation system. Can you summarize the Service's efforts in this regard and how much money is provided in the budget request for this purpose?

Answer. During the past year we have completed an analysis of the requirements and developed a preliminary design. Our present effort is directed toward experimental verification of the preliminary design. This includes examination of alternatives for high volume card production and refinement of the design specifications.

Our plan is to implement the new system in three phases. Phase I involves development and production of secure alien identification cards. Phase II involves the development of automated inspection procedures and installation of automated card readers at ports-of-entry. Phase III involves field station access to the automated alien identification card issuance files to assist in the inspection process.

Our plan calls for implementation over a three year period with $4.7 million included in our fiscal year 1976 budget request for the first year.

SOUTHWEST BORDER ENFORCEMENT

Question 16. Can you advise the Subcommittee as to any plans the Service may have to expand the sensor system along the Southwest border? When you testified before the Committee last month, you indicated that you are able to respond to only 50% of the possible illegal entries. If the additional personnel are appropriated (213 Border Patrol individuals), how will this increase the response to the sensor alarms? What percentage of alarms will you then be able to respond to?

Answer. During fiscal year 1975 the Service will complete a program of installing sensor systems in all nine of the border patrol sectors immediate to the southwest border. Our fiscal year 1976 budget request includes funding to replace the sensor systems which are currently used in our Chula Vista and El Centro sectors. These were the first systems put in along the border and are of the defense surplus variety.

In fiscal year 1974, I&NS Border Patrol command centers received 82,418 sensor alarms along the Southwest Border. The Border Patrol had manpower available to respond to only 56,768 of these alarms, a response rate of 68.8 percent. In responding to these indicated intrusions, the Border Patrol made 59,392 apprehensions or about one apprehension per alarm. The alarms unanswered in fiscal year 1974 therefore represented at least another 26,000 lieans who would have been apprehended in linewatch had the agent personnel been available. Because

of the installation of three new sensor systems in fiscal year 1975, it is estimated that the number of alarms will increase by 35,000 based on I&NS experience with its sensor systems. If the Border Patrol resources requested for fiscal year 1976 are made available, these 35,000 intrusions in addition to the 26,000 intrusions left unanswered previously could be responded to in an efficient and effective way.

SERVICE FUNCTION

Question 17. Recognizing I&NS is primarily a service agency, how will the additional personnel decrease the administrative backlog situation throughout the country? Will the twenty-five additional adjudications positions provide sufficient assistance in reducing the adjudications backlog? Is twenty-five enough?

Answer. At the end of January 1975 the Service had 178,000 petitions and applications pending as opposed to 155,000 at the end of fiscal year 1974. The receipts of petitions and applications continues to increase. It is our hope that we will be able to use the 18 additional adjudicators and 7 additional clerks to stem the growth of the pending backlogs and in achieving our goal of a 25-percent rate of interview of petitioners, beneficiaries or applicants where an interview is not mandatory. This will aid us in contending with the increasing amount of fraud encountered in such petitions as those for spouses and third and sixth preference petitions wherein a large number of required labor certifications are found to be fraudulent or obtained on the basis of fraudulent documents and adjustment of status applications based on approved visa petitions which were later ascertained to have been fraudulently obtained. It is evident, therefore, that the additional adjudicators and clerks are not sufficient in themselves to provide the possibility of reducing our backlogs appreciably.

PRESIDENT'S DOMESTIC COUNCIL COMMITTEE ON ILLEGAL ALIENS

Question 18. What has happened since you last testified? Have meetings of this Committee been held?

Answer. As you know, the Department of Justice is the lead agency for this effort. In late January, the Immigration and Naturalization Service, working closely with the Deputy Attorney General's Office, developed a statement of intent and agenda of issues for this effort. These materials were disseminated to the various participating agencies for their concurrence.

At the first working meeting of the group held on February 7, 1975, the member agencies were requested to submit position papers and comments on one or more of the issues that formed the initial agenda. These issues were grouped under three broad categories: those involving international aspects; issues which involve impact considerations; and improvements that could be fostered through administrative, enforcement or legislative remedies. Various opinions were expressed at the initial meeting: some thought the issue was so fundamental that it would require a full-time staff effort under the aegis of a Commission; and others felt that existing mechanisms along with a few legislative improvements would be sufficient for ameliorating the problem.

For the second meeting held on February 28th, the respective agencies had submitted the requested position papers.

The problems of the adverse economic effect felt in key agricultural sectors of our Southwest brought on by the removal of large numbers of illegal aliens and existing forms of documentation used to show eligibility to work by aliens dominated the discussion of this meeting. As a result, two task forces were established to explore these topics further: the consideration of the adverse economic impact on our agricultural sector by illegal aliens will be headed up by the Department of Agriculture; the matter of documentation to demonstrate eligibility to work will be studies by a group under the direction of the Domestic Council.

OFFICE OF MANAGEMENT AND BUDGET BORDER STUDY

Question 19. What is the status of the various recommendations made by OMB and by the Government Operations Committee with respect to law enforcement on the southwest border?

Answer. The Office of Management and Budget plan designating responsibilities of the Customs Service and the Immigration and Naturalization Service at and between border ports-of-entry, which was outlined in identical letters of June 5, 1974, to the Secretary of the Treasury and the Attorney General, has never been implemented. The Government Operations Committee recommended in its December 18, 1974 report on Law Enforcement on the Southwest Border that OMB withdraw this plan. However, at this time the plan has not formally been withdrawn.

The Government Operations Committee also recommended that the Secretary of the Treasury and the Attorney General draw up a mutually acceptable plan to coordinate conduct of their operations at and between border ports-of-entry. In early February a meeting was held between Under Secretary Schmults and Acting Attorney General Silberman concerning this recommendation. A subsequent meeting between the Commissioners of Immigration and Customs has been held, and a memorandum of understanding between the two agencies is being drafted.

REASSIGNMENT OF PERSONNEL

Question 20. What was the outcome of your proposed plan to transfer immigration inspectors from the northern border to the southwest border? Have any personnel been transferred?

Answer. The Service plan to transfer 100 Immigration Inspector positions from the northern border and other ports-of-entry has been rescinded by mandate of Congress.

Thirty additional positions from other sources have been made available for use on the southern border. Five Immigration Inspector positions were transferred from the Southeast Region, five Inspector positions from other locations within the Southwest Region and ten Investigator positions each from the Northwest and Northeast Regions. Twenty of these positions have been assigned to the ports-of-entry at San Ysidro, California and ten at Calexico, California.

No personnel have been transferred to the Southern Border. Only the 30 positions mentioned above have been transferred and are now allocated to the Southwest Region as Immigration Inspector positions.

We initially requested 388 Inspector positions to revitalize our inspection program on the southern border and to meet airport expansions. None of these positions were approved.

DETENTION FUNDS

Question 21. Do you envision that situations will occur in fiscal year 1976 whereby the Service will totally exhaust its detention and deportation funds and be forced to release illegal aliens?

Answer. I&NS' request, as submitted by the Department of Justice to the Office of Management and Budget (OMB), requested $3.9 million additional funds for interior repatriation and $4 million for alien travel and detention. These requests were reduced to $2 million and $3 million respectively by OMB. Our 1976 base amount for alien travel funds was also reduced by $1.3 million because of the fiscal year 1975 resission. The total funds available, therefore, will be $2 million for interior repatriation and $7.7 million for Alien Travel and Detention money. This latter amount represents a net increase of $1.7 million over the current year.

With this increase we will be able to muster a larger area control force than in previous years, with a corresponding increase in apprehensions and removals. If our 1976 base is increased by $1.3 million by restoring the resission amount, an even greater increase in apprehensions and removals will be possible.

While inflation is an unknown factor, it does affect the amounts we are charged through our use of non-Service detention facilities, as well as our own maintenance costs. Although these increases are unpredictable, we feel that they will not lead to our running out of detention and deportation funds in fiscal year 1976.

GRADE OF BORDER PATROL OFFICERS

Question 22. What is the status of the I&NS recommendation that the grade level of Border Patrol Officers be increased from GS–9 to GS–11?

Answer. In September 1974, the Service and the Department of Justice conducted a joint classification study of the Border Patrol Agent position. On November 27, 1974, the Service recommended to the Department that the Civil Service Commission be asked to conduct an occupational study, change the classification standard, and reclassify the journeyman level of Border Patrol Agents from GS–9 to GS–11. A draft of the proposed grade levels was prepared in the new "benchmark" format and was forwarded to the Department; some revisions were later made and submitted during the month of March 1975. The Department has assisted I&NS throughout this process and has pledged complete support in this effort.

AIR TRANSPORT

Question 23. Does I&NS plan to reintroduce an air transport system for the prompt removal of illegal aliens—as recommended by the Government Operations Committee?

Answer. In 1971, I&NS discontinued the use of Service-owned planes within the Southwest Region and substituted buses which resulted in substantial cost reductions in removing Mexican nationals to the border. The Service does not plan to reintroduce a Service operated air transport system for removing illegal aliens to the Mexican Border. The Service will, however, continue its agreement with a Mexican airline to fly Mexican illegal aliens to their homes in the interior of Mexico.

PORTS-OF-ENTRY

Question 24. Are any plans being considered which would have the effect of reducing the I&NS presence at ports-of-entry along the southwest border?

Answer. The Service knows of no such plans.

REGIONAL REALIGNMENT

Question 25. Can you advise the Subcommittee as to the purpose of the proposed realignment of the regional offices? What is the status of this proposed realignment? Will it increase efficiency? How?

Answer. After several months' studies of the I&NS regional structure and the organization of the regional office staffs, proposed realignments of both the regional boundaries and the structure of the regional office staff were made. From the studies it became apparent that personnel and workload were concentrated in the Southwest Region, with a far smaller percentage in the other three regions. This unequal distribution has prevented adequate span of control and has placed excessive pressure on program managers in the Southwest Region, which has hampered overall Service efficiency and effectiveness.

To partially alleviate these problems, we have proposed realignment of the boundaries of the four regions along the lines of the OMB Standard Federal Regions. This realignment would create a much more equal personnel and workload distribution and span of control. At the same time, we have proposed a revised structure of the regional offices which to a large extent follows the Central Office structure. Increased economies and efficiency are expected to be achieved by the removal of an unnecessary layer of supervision, the Assistant Regional Commissioner level, the addition of a Planning and Evaluation Staff to coordinate and implement Regional projects, and the regrouping of activities into the three major functional areas of the Service, Enforcement, Examinations, and Management. This regrouping will place all enforcement activities under one Associate Regional Commissioner and all examinations activities together under a separete Associate Regional Commissioner.

Both the realignment of regional boundaries and the reorganization of regional offices have been approved in concept and have been submitted to the regional offices. Statements on the expected impact have been solicited to be submitted by these offices by early April. OMB has given their approval for the regional boundary realignment, and we anticipate implementing both the regional boundary realignment and the regional office reorganization in early fiscal year 1976.

Question 26. What has been the result of the reorganization of the Central Office Management Structure? And can you cite any particular examples of the positive impact on your operational procedures?

Answer. The Central Office was reorganized on January 9, 1974. Among the changes implemented were the establishment of the Office of Planning and Evaluation and the grouping of Central Office functions under Associate Commissioners for Enforcement, Examinations and Management. The newly created Office of Planning and Evaluation has played the principal I&NS role in several major policy areas such as the development of a study of the scope and impact of illegal aliens on the United States; the development of an Alien Documentation, Identification and Telecommunication System; and the proposed reorganization of I&NS regional offices and regional boundaries.

The Office of Planning and Evaluation is also currently assessing the impact of the Central Office reorganization, and comments received so far have been favorable. A better flow of information within the Central Office has resulted from the elimination of the former Management/Operations dichotomy. This has enabled Central Office Program Managers to improve coordination of their activities.

Question 27. On how many occasions over the past year have apprehended illegal aliens been released because of lack of funds, and how many illegal aliens have been released on these occasions?

Answer. There were numerous occasisions during the past year where illegal aliens were released or not apprehended because of the lack of funds. Service-wide statistics for the past year are not complete. However, a significant example is

that in the Southeast Region during January/February of 1975 alone, a total of 1,454 illegal aliens were not detained because of a lack of funds. This would represent a projected 25 percent of a total of some 33,000 illegal aliens apprehended in the entire Southeast Region duing fiscal year 1974.

Question 28. On page 5 of your statement you indicate that 529,706 persons were denied entry. Can you break this figure down into the various excludable categories and what are the reasons for the large increase over the previous years (in addition to the improved quality of inspection)?

Answer. Of the 529,706 aliens denied entry during fiscal year 1974, 35,428 arrived by sea, 13,043 by air and 481,235 over the land borders. The vast majority (approximately 500,000) were rejected at land border ports of entry or withdrew their applications for admission. No statistical data is available concerning the various causes for denial of entry in those cases. Only 589 were formally excluded, 4 for subversive reasons, 16 for criminal, 77 for violation of narcotic laws, 9 for previously being excluded or deported, 196 for attempting entry without inspection or for false statements, 265 for attempting entry without proper documents, and 32 for miscellaneous reasons.

31,026 crewmen were refused admission as not prima facie eligible. 281 arrived as stowaways and were ordered excluded and deported. Neither class is accorded a formal hearing by an Immigration Judge.

The large increase in denial of entry over previous years may be attributed to the improved quality of inspections, and the increase in number of nonimmigrant applicants for admission. For example: In fiscal year 1964, 6,908,708 nonimmigrants were admitted; whereas 5,977,324 were admitted in 1973, and 5,171,460 in 1972. The population explosion in the more underdeveloped countries with the resultant deterioration of the economic situation in those countries also is a factor. This of course would account in part for the increase of attempted illegal entries into the United States by persons wishing to improve their economic situation.

Question 29. You indicate in your statement that "an effective immigration inspection on our Southwest Border where the problem is the greatest requires a fifty percent immigration presence". At how many ports-of-entry does I&NS currently maintain a fifty percent immigration presence and please indicate the locations of these ports-of-entry? Would you also prepare for the Subcommittee a comparison of the Immigration Service/Customs ratio for all ports-of-entry along the Southwest Border?

Answer. There are 108 ports-of-entry along the Northern Border and a fifty percent presence is maintained at all locations. Dual Inspection participation by our Inspectors on the Northern Border is onsidered to be approximately "fifty percent" or of "equal primary inspection presence" with Customs primary inspection.

Until 1948, all Immigration Inspections were performed by officers of this Service. In June of that year, as a result of pilot tests on both land borders, "Dual Inspection" was commenced on the Northern Border. Under this procedure I&NS and Customs agreed to the concept that one inspector from either Service would perform the primary inspection duties for both agencies at the initial point of inspection.

This method of dual screening inspection has continued successfully on the Northern Border since inception. As a result of that success the procedure was commenced on the Southern Border early in 1963. On that border it has been described as "multiple inspection" because, in the beginning, inspectors from all four agencies—I&NS, Customs, Plant Quarantine and Public Health—participated.

A report of joint multiple screening on the Mexican Border conducted from April 22, to May 17, 1963, disclosed that the combining of the primary inspection function on that border would result in a reduction of tours of duty from 260, which existed in November 1962, to 228. The tours of duty were divided under multiple screening as follows: 36 percent to I&NS, 37 percent to Customs, 17 percent to Public Health, and 10 percent to Plant Quarantine. Implementation of the multiple screening process on the Southern Border resulted in a savings of about 32 tours of duty. The survey disclosed that in order to provide relief for days off and leave, 1.4 Inspectors were required by I&NS and Customs to staff one tour and 1.6 Inspectors were required by Public Health and Plant Quarantine to staff one tour.

I&NS, on commencement of the multiple inspection procedure on the Southern Border, staffed a fraction less than Customs, but for all practical purposes had an equal primary inspection presence with that agency. This continued to be the case until September 1968, when Public Health withdrew from staffing 7½ tours.

By 1970, Public Health had withdrawn a total of 44 Inspectors from the Mexican Border. As these vacancies occurred, Customs increased its staff of primary Inspectors commensurately. I&NC did not take its share because of budgetary limitations.

A current survey of staffing tours on the Mexican Border discloses that a total of 367 tours are currently being staffed.Of this total, 71 percent of the tours are staffed by Customs, 26 percent by I&NS, and only 3 percent by Plant Quarantine. Using the formulas, 1.4 and 1.6 referred to earlier, the 367 tours required a total of 516 inspectors for the three agencies with the following distribution: 136 for I&NS, 362 for Customs and 18 for Plant Quarantine. (See attached Chart for port by port breakdown of Southwestern Border.)

Of the 388 inspector positions requested but not approved, 289 were earmarked for the revitalization of immigration primary inspection along the southern border.

SOUTHWEST BORDER PORTS—MULTIPLE SCREENING STAFFING

Port	Total		Customs		INS		PQ	
	Tours	Officers	Tours	Officers	Tours	Officers	Tours	Officers
Brownsville, Tex	23.10	33.85	13.02	18.23	5.04	7.56	5.04	8.06
Progresso, Tex	13.30	18.62	11.20	15.68	2.10	2.94		
Hidalgo, Tex	13.77	19.42	9.33	13.06	3.74	5.24	.70	1.12
Los Ebanos, Tex	1.40	1.96	.70	.98	.70	.98		
Roma, Tex	4.20	5.88	2.87	4.02	1.33	1.86		
Rio Grande City, Tex	2.81	3.93	2.63	3.68	.18	.25		
Falcon Heights, Tex	2.80	3.92	1.40	1.96	1.40	1.96		
Total	9.81	13.73	6.90	9.66	2.91	4.07		
Laredo, Tex	23.24	32.82	15.54	21.76	6.30	8.82	1.40	2.24
Eagle Pass, Tex	12.60	17.78	7.70	10.78	4.20	5.88	.70	1.12
Del Rio, Tex	10.08	14.62	5.04	7.06	3.36	4.70	1.68	2.86
Presidio, Tex	5.60	7.84	2.80	3.92	2.80	3.92		
Fabens, Tex	5.60	7.84	2.80	3.92	2.80	3.92		
Fort Hancock, Tex	5.60	7.84	4.20	5.88	1.40	1.96		
Total	11.20	15.68	7.00	9.80	4.20	5.88		
El Paso, Tex.:								
Ysleta, Tex	12.60	17.92	7.00	9.80	4.20	5.88	1.40	2.24
Paso del Norte Bridge, Tex	22.40	31.36	15.40	21.56	7.00	9.80		
Bridge of the Americas, Tex	19.60	27.44	12.60	17.64	7.00	9.80		
Total	54.60	76.72	35.00	49.00	18.20	25.48	1.40	2.24
Columbus, N. Mex	5.60	7.84	2.80	3.92	2.80	3.92		
Douglas, Ariz	11.20	15.68	7.00	9.80	4.20	5.88		
Naco, Ariz	8.40	11.76	4.20	5.88	4.20	5.88		
Nogales, Ariz	25.90	36.25	18.06	25.28	7.84	10.97		
Sasabe, Ariz	6.05	8.47	3.73	5.22	2.32	3.25		
Luke Ville, Ariz	5.60	7.84	2.80	3.92	2.80	3.92		
San Luis, Ariz	12.60	17.65	8.40	11.77	4.20	5.38		
Andrade, Calif	3.50	4.90	1.75	2.45	1.75	2.45		
Tecate, Calif	8.00	11.20	5.00	7.00	3.00	4.20		
San Ysidro, Calif	73.12	102.36	69.72	79.60	3.40	4.76		
Calexico, Calif	28.00	39.20	21.00	29.40	7.00	9.30		
(Tours) total	366.67	516.19	258.69	362.17	97.06	136.38	10.92	17.64
Percent	(100)		(70.5)		(26.5)		(3)	

Question 30. Are organized "rings" involved in producing counterfeit and fraudulent documents to enter the United States? If so in what particular countries are these rings currently operating? Have any efforts been made by I&NS or the Department of State in order to contact the governments of these countries for assistance in combating the fraudulent document problem?

Answer. Organized rings have been found to be operating in Mexico, Columbia, the Dominican Republic, Ecuador and the Philippines. Criminal prosecution was sought in Mexico, but the court found that the falsification of United States immigration documents is not a prosecutable offense in that country. We continue to maintain liaison with Mexican officials in order to identify operating rings and information concerning new schemes and their modus operandi are disseminated to our officers at ports-of-entry. Information is also exchanged between I&NS and the Department of State. Interested consular posts are furnished information relative to identified vendors for transmittal to foreign government authorities.

The problem of combating the fraudulent document problem is that the counterfeiting or alteration of a United States visa or other United States immigration document frequently does not violate foreign statutes, and transactions involving these documents generally occur outside the United States.

Question 31. Has there been a concerted effort by the U.S. Government and the Government of Mexico to eliminate the problem of the smuggling of illegal aliens?

Answer. The Service has emphasized all phases of enforcement work in efforts to eliminate alien smuggling. Foremost in this activity is the work done in conjunction with the U.S. Attorneys to assure success in the prosecution of commercial alien smuggling cases.

On a local basis, U.S. Border Patrol anti-smuggling officers work with Mexican authorities in efforts to reduce successful alien smuggling ventures. This work results in exchange of information relative to suspects and, on occasion, leads to prosecution of violators under Mexican laws.

Question 32. On page 7 of your statement you indicate that the "maximum time required for the disposition of any adjudicative matters should be three months". In how many instances is this "maximum" currently being exceeded, and please indicate the appropriate district office where the processing backlog is greater than three months, as well as the type of petition involved.

Answer. The maximum three-month period is being exceeded mainly in our largest offices such as Los Angeles, San Francisco, Chicago and New York. This has been caused by the increasing incidence of fraud involving relative petitions for spouses, labor certifications supporting third and sixth preference petitions and nonpreference applications for adjustment of status. Those cases which must be acted on because of the emergent nature of the need for travel documents are being handled on an expeditious basis.

Attached is an adjudications disposition schedule showing the time period in each adjudications activity which the Service seeks to obtain. Many of our smaller offices are achieving this goal in some or all of the activities, while our larger offices are lagging in all categories.

Adjudications disposition schedule

Category	*Time period for disposition*
Adjustment sec. 245	3 mo.
Record of adm. sec. 249	2 mo.
Sec. 1 Cuban refugee	(1)
Record of adm. sec. 214(d)	1 mo.
Relative petitions, except orphans	10 days.[2]
Orphan petitions	2 mo.
Occupational preference petitions	1½ mo.
H and L petitions	25 days.
Fiance(e) of citizen, petitions for	10 days.
Extensions—temporary stay	5 days.
Refugee travel documents	1½ mo.
Duplicate or replace AR cards	15 days.
Reentry permit	Do.
Border crossing cards	1½ mo.
Sec. 212(d)(3)	15 days.
Sec. 212(g), (h), and (i)	3 mo.
Sec. 212(e) waivers:	
Hardship/persecution	Do.
Other	10 days.
Change nonimmigrant classification	25 days.
Immigrant to nonimmigrant	1 mo.
Permission to reapply	Do.
School approvals	2 mo.
School or exchange program transfer	5 days.
Permission for student employment	Do.
Advance permission to return	1 mo.
Bonds breached and cancelled	Do.
USC identification cards	1½ mo.

[1] In visa number cases, 1½ mo. after alien's priority date is reached, if number was not available when application was filed; in other cases such as immediate relatives and cases in which number is available at time of filing, 3 mo.

[2] Where interview is deemed necessary because of suspected fraud or other reason, the time standard for disposition is 2 mo. If case is referred for investigation, time standard for disposition is 4 mo.

Question 33. Have any particular problems occurred as a result of the I&NS regulation eliminating extensions of stay for B–2 visitors? Has this regulation received a significant amount of criticism from the general public and if so, what has been the nature of the complaints?

Answer. The final regulation eliminating extension of stay for B–2 visitors was effective February 16, 1975, so it is really too soon to have received any significant volume of complaints. One observation received from the host of a B–2 visitor admitted previous to February 16th and already the recipient of one extension of stay, was that the regulation was too rigid, arbitrary, and unreasonable, refusing as it does to provide for a wider range of individual circumstances.

The Polish Embassy called attention to the predicament of the B–2 family dependents of the B–1 nonimmigrant officials of Polish State organizations traveling in the United States: the regulation made no provision for extending the dependents' stay to coincide with the additional time given the principals. This problem was solved by directing field offices to utilize an existing regulation permitting a change of status from B–2 to B–1 without fee or application.

A phenomenon noted at the Champlain, N.Y., port-of-entry was the departure to Canada and the reapplication for admission of B–2 visitors who had previously had their maximum period of stay here. With still valid multiple entry visas they were able to apply for new periods of stay.

A sampling of offices in the Northeast Region indicated few complaints thus far.

Question 34. Would you please indicate how the reduction in the number of naturalization courts and the reduction of travel by the naturalization examiners will improve the efficiency of this activity?

Answer. By reducing the number of courts that hold naturalization hearings, the time in travel status and the expenses of travel by the naturalization examiner will be reduced. To service a court exercising naturalization jurisdiction, it is necessary that the examiner make two trips to that court to complete the naturalization process. The first trip is for the examination of the applicant and witnesses and for filing the petition for naturalization. This trip is necessary even though there might be only a single applicant for naturalization to be examined. The statute provides that the final hearings may only be held on dates fixed by rule of the court and not be held in less than 30 days from the date the petition is filed. The second trip is for the officer's attendance at the final hearing, be it for the presentation to the court of but a single petitioner or several hundred. Where less than 10 petitions are filed per year in a court, the Service has urged that the court relinquish naturalization jurisdiction. Persons who would normally file their petitions in the court will now file them in the nearest active naturalization court. By concentrating the filing of petitions in a single court, the necessity for the examiner to make trips to several low-volume courts is alleviated. The recent relinquishment of naturalization jurisdiction by 82 courts will result in a savings of approximately 20,000 miles per year of examiner travel. Since this travel is performed mainly during the workday, it is time lost from production. With the curtailment of travel, the examiner can devote more time to casework, thereby increasing his productivity.

The backlogs of applications for naturalization have steadily grown. At the end of fiscal year 1974, there were 47,533 applications to file petitions for naturalization pending, an increase of 6,402 (17 percent) from fiscal year 1973. Receipt of applications for naturalization and arrearages continue to rise substantially as shown below:

	Receipts	Pending
1971	147,954	23,135
1972	157,743	30,649
1973	178,930	41,131
1974	187,457	47,533

By increasing the production standards we have been able to minimize the increasing backlogs that are resulting from ever increasing receipts and a limited authorized work force. However, as shown above, at the end of fiscal year 1971, there were 23,135 applications for naturalization pending and by the end of fiscal fiscal year 1974, this figure had increased to 47,533.

Today our nationality workloads exceed the capability of our naturalization personnel to handle even on a current basis, aside from the need for substantial additional forces to ultimately dispose of arrearages that have built up over the years. There can be no substitute for the urgent need to substantially increase the naturalization work force to the point where arrearages can first be eliminated and incoming applications thereafter handled on a current basis.

It is Service policy that an alien, upon attaining eligibility for U.S. citizenship, should not have to wait over two months between the time he applies to petition for naturalization and the time his petition is filed. By law, the naturalization petition must remain pending for at least 30 days before the final hearing in court, so even under these optimum conditions, an alien must wait three months before he may achieve U.S. citizenship. Currently, the waiting period to file a petition for naturalization is 4–6 months in our larger offices such as New York, Miami, Atlanta, Newark, and Los Angeles.

Question 35. On page 11 of your statement you indicated that the Border Patrol arrested 8,073 smugglers of aliens in FY 1974. Would you summarize the disposition of these smuggling cases?

Answer. In fiscal year 1974, the U.S. Attorneys instituted prosecution against 1,070 violators of the alien smuggling statutes, resulting in 503 convictions. Aggregate sentences and fines imposed were 9,663 months and $45,665, respectively. In addition, there were 3,475 convictions as principals under 8 U.S.C. 1325, with 11,135 months and $268,510 in fines imposed in the aggregate.

Question 36. You state that the proposed budget provides funds for "interior repatriation". Would you describe how this procedure operates, and is the cooperation of the Government of Mexico necessary in order to effect interior repatriation?

Answer. In order to provide an effective procedure for use in discouraging apprehended Mexican aliens from reentering the United States, interior repatriation was initiated wherein those aliens are returned to the vicinity of their homes in the interior of Mexico. The aliens are returned to the interior of Mexico from various locations along the Mexican Border. The usual mode of transportation is by bus. However, the Government of Mexico provides a trianlift from Presidio to Chihuahua City. In addition, an agreement with a Mexican airline—Aerocarga, S.A.—provides interior repatriation via airlift from Chula Vista/Tijuana to Leon, Guanajuato, Mexico. At present, this means is utilized only for those illegal aliens from Mexico who are willing to pay their own fare, and naturally, this represents only a small portion of the total illegal aliens who are removed. However, if we receive the requested increase in funds, we will be able to repatriate many of those who are unable to provide for their own transportation cost, thereby creating a more effective removal program.

Cooperation of the Government of Mexico (GOM) is a necessary prerequisite in effecting the interior repatriation of Mexican nationals and that such cooperation is and has been forthcoming is apparent from the assistance rendered by the GOM in furnishing the trainlift from Presidio to Chihuahua City and in expediting the movements through the various ports-of-entry between the U.S. and Mexico.

Question 37. What is the status of I&NS request to State Department to contact Israel, Soviet Union and some Eastern European countries for information respecting alleged war criminals in U.S.

(a) Specifically has the State Department agreed to make such requests, if so, have such requests been made; if so, to what countries, when and what information have we received?

Answer. The State Department authorized this Service on January 16, 1975, to deal directly with the Israeli government through that country's consulate in New York City. Upon receipt of this authorization, liaison was established with that office. It is too early to expect any results of this liaison. A copy of the referenced letter is attached.

After many months of discussions and negotiations with the State Department, it was agreed that dossiers would be prepared on each of the alleged Nazi War Criminals under active investigation and also on those placed in an inactive status. These dossiers would contain biographical data and the nature and source of the allegations. It is expected that the dossiers will be submitted to the Department of State within the next three weeks. The State Department will then endeavor to obtain evidence, in the form of documentation or sworn depositions, from the Federal Republic of Germany and the German Democratic Republic, and thereafter, dependent on results thereof, from such other countries as is deemed to be feasible.

DEPARTMENT OF STATE,
BUREAU OF SECURITY AND CONSULAR AFFAIRS,
Washington, January 16, 1975.

Mr. JAMES F. GREENE,
Deputy Commissioner, Immigration and Naturalization Service,
Washington, D.C.

DEAR MR. GREENE: In your letter of October 21, 1974, you advised us of the difficulties being encountered by your office in Athens in seeking information from certain officials of the Israeli Government in Tel Aviv and Jerusalem about war crimes allegedly committed by persons on the list you previously submitted to us.

We have taken this matter up with the Embassy at Israel here and the Embassy suggests that through your New York office you get in touch with Mr. M. Malchi who is attached to the Consulate General of Israel in New York. The Embassy believes that Mr. Malchi would be the best person to assist the Service in seeking information from Israeli officials in Israel. The Consulate General is located at 850 Third Avenue, New York. Mr. Malchi's telephone number is 212-752-5600 x238.

I hope this channel will prove productive.

Sincerely,

FREDERICK SMITH, Jr.,
Deputy Administrator.

Question 38. What is status of Maikovskis case? In particular, West German response.

Answer. With reference to the Boleslavs Maikovskis case, the West German government by letter dated June 19, 1974, advised that they would not extradite the subject. A copy of said letter is attached for your information. Inquiry directed to the Attorney General in Landau/Pfalz, Germany, by the District Director, Frankfurt, Germany elicited a positive response on October 21, 1974, together with copies of (1) sentence of the Supreme Court of the Latvian Socialist Republic in Riga dated October 30, 1965; (2) Latvian documents; (3) German documents; and, (4) depositions of Latvian witnesses all relating to activities of which the subject is accused. This material was collected in connection with the pending West German government's prosecution of Albert Eichelis, the subject's former commanding officer.

DEUTSCHES GENERALKONSULAT,
GERMAN CONSULATE GENERAL,
New York, N.Y., June 19, 1974.

SAMUEL H. ZUTTY,
Investigator, U.S. Department of Justice, Immigration and Naturalization Service,
New York, N.Y.

DEAR MR. ZUTTY: This is in reference to the conversation we had in my office on May 15, 1974.

The District Attorney in Landau/Pfalz who is in charge of the criminal investigation against Eichelis concerning national-socialist crimes of violence committed particularly against Jews, Gypsies and Communists between August 1941 and October 1943 in the district of Rositten (Rezekne)/Latvia, has advised me that there will be no extradition request forthcoming with respect to Boleslav Maikowskis by the Federal Republic of Germany.

Boleslav Maikowskis, as you know, was chief of the second precinct of the county police in Rositten and a subordinate of Eichelis.

According to article I of the Extradition Treaty between the United States and Germany, signed June 12, 1930, it is a prerequisite for the extradition request that the requesting state has jurisdiction over the person incriminated.

After a thorough investigation of all questions of law and fact involved, the competent German authorities have come to the conclusion that an extradition request cannot be submitted since German criminal courts have no jurisdiction over Boleslav Maikowskis because of the following reasons:

All alledged crimes were committed abroad, in Latvia. Maikowskis was neither at the time when he alledgedly committed the crimes a German citizen, nor did he later become one, nor is he today a German subject. His acts were not committed against Germans, but against Latvian or Soviet citizens respectively. Furthermore, Boleslav Maikowskis was never incorporated in any German military or police unit. He served exclusively in a Latvian outfit. He was, therefore,

not executing powers originating in the sovereignty of the German Reich. Hence, under sections 3 and 4 of the German Penal Code, the German Courts have no jurisdiction.

Sincerely yours,

Dr. ELMAR RAUCH, *Consul.*

Question 39. Will you provide the Committee with status reports on the investigation of alleged Nazi War Criminals?

Answer. The Service will provide to the Committee reports on the status of the investigations of the alleged Nazi War Criminals.

Question 40. What is status of Trifa case?

Answer. The Trifa case was transmitted by the Department of Justice, Criminal Division on March 13, 1975, to the U.S. Attorney, Detroit for institution of revocation of citizenship proceedings.

APPENDIX 3

Additional Comments of Department of Justice on H.R. 982

DEPARTMENT OF JUSTICE,
Washington, D.C., June 11, 1975.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your request for the detailed comments of the Department of Justice on H.R. 982, a bill which would prohibit the employment of illegal aliens. You note that several questions have been raised about the Department's position on this bill.

I trust that there is no question about the views of this Department on the need for a prohibition on the employment of illegal aliens. By now, I am certain that you are wearily aware of the magnitude of the illegal immigration problem and of our reasons for believing that a prohibition on employment of illegal aliens, which would reduce the economic incentive for the illegal migration, is the only sensible response to the problem. My comments therefore will be limited to a technical analysis of the bill.

Section 2 of H.R. 982 would amend section 274(b) of the Immigration and Nationality Act to declare it to be unlawful for any employer, agent, or person who for a fee refers an alien for employment knowingly to employ, continue to employ, or refer for employment any alien who has not been lawfully admitted for permanent residence, unless such employment is authorized by the Attorney General.

The new section 274(b)(1) would contain two provisos. The first would stipulate that an employer, referrer, or agent shall not be deemed to have violated the subsection if he has made a bona fide inquiry whether the applicant is a citizen or an alien and, if an alien, whether he is lawfully admitted for permanent residence.

The second proviso would declare that an employer, referrer, or agent can demonstrate prima facie proof of such a bona fide inquiry by securing a signed statement from the person employed or referred that such person is a citizen, a permanent resident alien, or an alien authorized by the Attorney General to accept employment. The signed statement would have to conform with regulations prescribed by the Attorney General.

The three-step penalty structure authorized by the amended section 274 would begin with the Attorney General or his agent serving a citation informing the offending employer, agent or referrer of an apparent violation. A second offense within two years of the service of such a citation would authorize the Attorney General to assess a civil penalty of not more than $500 for each alien in respect to whom a violation occurs. A violation subsequent to the assessment of a civil penalty would expose the offender to a criminal conviction with a maximum punishment of $1,000 fine and one year imprisonment for each alien in respect to which a violation occurs.

The Department of Justice has several concerns with a prohibition on employment of illegal aliens. Such a prohibition must effectively deter illegal entry; it must be enforceable. A prohibition on employment of illegals must not result in employment discrimination against foreign appearing citizens or permanent resident aliens. Such a prohibition must not burden this country's employers to the extent that the employer-employee relationship is adversely affected or to a degree that employers become the enforcers of our immigration statutes. While is it appropriate to permit an employer to inquire as to whether an applicant is a citizen or alien entitled to work, an applicant should not be required to display proof of citizenship to obtain employment. Notwithstanding previous views expressed on this subject, the Department of Justice opposes any requirement that citizens carry documentation of citizenship when seeking employment.

Your subcommittee has wrestled with these same considerations for the past five years, and the resulting bill, H.R. 982, strikes, we think, an appropriate

balance not only between these concerns but also between the often conflicting interests of the employer, the employee, the illegal alien, and the public. This Department is well aware of the political and legislative realities associated with this bill, and we believe that H.R. 982 provides an appropriate balancing of important competing considerations. I can assure the subcommittee that the Department of Justice will certainly monitor the operation of this legislation, if it is enacted, to determine the extent of employer compliance as well as any discrimination that may appear with respect to foreign appearing citizens or permanent resident aliens.

Our support for H.R. 982, however, should not prevent us from recommending certain technical amendments. The provisions of section 2 of the bill which would permit the employer to obtain prima facie proof of compliance with the statute by securing a signed statement of citizenship status from the applicant, has been described as weak from an enforcement standpoint in that employers would encourage illegal applicants to falsely execute the signed statements of citizenship status. The Department of Justice believes that allowing good faith employers to obtain proof of compliance is necessary in this legislation to remove any incentive for the employer to avoid hiring foreign appearing citizens. Although we think that the requirement that the employer's inquiry be bona fide prevents the proof of compliance provision from operating as an enforcement loophole, the Committee may wish to amend section 911 of title 18, United States Code, which presently prohibits misrepresentation of United States citizenship, to also proscribe false representations of lawful admission for permanent residence or of authorization by the Attorney General to accept employment. Suggested language for such an amendment is attached as Appendix A to this letter.

We would also recommend that the bill be amended by adding an authorization for the United States to seek an injunction against a violation of the statute. Such a provision would be useful in dealing with an employer who continues to employ or refuses to discharge illegals even as the Government attempts to apply the three step penalty. A draft injunction authorization is attached as Appendix B.

The Department of Justice continues to support section 1 of H.R. 982 which would make several amendments to section 245 of the Act which presently authorizes an Eastern Hemisphere alien to adjust his status to that of a permanent resident without leaving the United States to secure an immigrant visa. The language of existing subsection (a) relating to the ineligibility of alien crewmen would be transferred to subsection (c) which lists the other disqualifications. Subsection (a) would also be amended to establish eligibility for an immigrant visa at the time the application is filed rather than at the time it is approved. The Department agrees that the applicant should not be penalized for administrative delays not attributable to him.

Section 1 of the bill would make three amendments to subsection 245(c). First, aliens who are not defined as immediate relatives and who accept unauthorized employment prior to filing an application would be ineligible for an adjustment of status. The Department supports this attempt to limit unauthorized employment by nonimmigrants. The second change in subsection (c) would disqualify from adjustment aliens admitted in transit without visa. Although a Departmental regulation prescribing such ineligibility has been upheld in the Second Circuit, *Mak* v. *INS*, 435 F. 2d 728 (1970), the Department favors legislative recognition of this disqualification. We would suggest, however, that the reference to section 238(d) on line 20 of page 2 be changed to read "section 212(d)(4)(c)."

The third major change to subsection 245(c) would restore adjustment of status eligibility to Western Hemisphere aliens. The present disqualification, enacted in 1965, has created many hardships and leads to unnecessary alien expense by requiring the alien to return to his country of origin to apply for an immigrant visa from a consular office. The number of Western Hemisphere aliens granted adjustment would be charged against the Western Hemisphere numerical limitation by subsection 245(b).

Section 3 of the bill would add a new section 274(a) which would require officers and employees of the Department of Health, Education and Welfare to disclose to the Service the name and most recent address of any alien not lawfully in the United States who is receiving welfare benefits. However, we know of no present procedure by which HEW employees can determine whether a welfare recipient is lawfully in the United States. Since the need for denying social security cards to illegal aliens, and the identification of such aliens through social security records, is a matter of wide-spread public concern, the Department supports efforts in this direction. The Service has continued to work with the Social Security Administration to implement section 137 of the Social Security Amendments of 1972;

P.L. 92-603, 86 Stat. 1329, which requires, *inter alia*, that social security account applicants submit evidence of their citizenship or alien status.

Section 4 of H.R. 982 would amend 18 U.S.C. § 1546 which imposes criminal penalties for falsifying certain immigration documents, or for use of such falsified documents. The amendment would expand the present language to make it applicable to any "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States." Because this amendment is necessitated by the restrictive reading of the present statute announced in *United States* v. *Campos-Serrano*, 404 U.S. 293 (1971), the Department of Justice urges its enactment.

The Department also supports sections 5 and 6 of the bill which provide a savings provision and prescribe a delayed effective date.

As the Attorney General stated in his letter of March 26th, the Department of Justice believes that enactment of H.R. 982 would be a significant step toward achieving our common goal of reducing illegal immigration. We, of course, stand ready to assist the Subcommittee in any way possible to obtain the early enactment of this important legislation.

Sincerely,

A. MITCHELL MCCONNELL, Jr.,
Acting Assistant Attorney General.

APPENDIX A

1. Section 911 of Title 18, United States Code, and the heading thereof, are amended to read as follows:

"§ 911. *Citizen of the United States, Alien Unlawfully Admitted for Permanent Residence, or Alien Authorized by the Attorney General to Accept Employment.*

"Whoever falsely and willfully represents himself to be a citizen of the United States, or an alien lawfully admitted for permanent residence, or an alien authorized by the Attorney General to accept employment, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

"A willful misrepresentation within the meaning of this section includes, but is not limited to, a statement made to obtain a benefit or to conceal a status or condition."

2. The analysis of chapter 43 of title 18, United States Code, is amended by deleting "911. Citizen of the United States" and substituting therefor: "911. Citizen of the United States, Alien Lawfully Admitted for Permanent Residence, or Alien Authorized by the Attorney General to Accept Employment."

APPENDIX B

(d) The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this section.

APPENDIX 4

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Baltimore, Md., April 17, 1975.

Hon. JOSHUA EILBERG,
Chairman, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: Your request of March 14 asks me to respond to a series of questions that relate to the idea of issuing a so-called "tamper-proof" card to all people who now have social security cards.

The enclosed answers respond to this idea only in terms of technical problems involved and do not in any way imply that I believe such a procedure would be desirable or, in fact, feasible. As I indicated in my response of March 28 to the supplementary questions to my testimony, SSA has issued over 200 million social security cards. During the 1 year in which we have enforced strict identification procedures we issued less than 10 million cards. Extensive efforts are underway to enumerate young people, and we foresee that, in the near future, most young people who are in the work force will have been enumerated under our provisions requiring evidence of identity. Because of fiscal constraints, the volume of the potential workload, and a possible public relations problem, no efforts are underway to validate the bulk of current social security number (SSN) holders. I do feel that we should continue our evidence requirements, however.

Prior experience with the Immigration and Naturalization Service has shown that use of the social security card as a work permit does not appear to work. Thus, considering the impact that such a system would have on the public, I seriously question the desirability of taking greater steps to assure that the bearer of a social security card is the true SSN holder and is permitted to work. I do not feel that social security cards should be used as work permits.

Sincerely yours,

ARTHUR E. HESS,
Deputy Commissioner of Social Security.

Enclosure.

QUESTIONS ON ILLEGAL ALIEN HEARINGS

Question. How do you suggest that millions of persons now holding cards obtain a new card?

Answer. There are several ways the above could be approached, each one dependent to varying degrees, upon the requirements built into any new card issuing system. If new cards were to be issued, the most practical system would be either numerical or alphabetical. Either system would cause problems. A significant problem is that SSA does not have the current addresses of account number holders. We do not know what the workloads would be at social security offices, but they would most likely be very uneven, there would be delays in processing, etc.

The type of card to be issued is another problem. If the same numbering system we presently have were to be used for new cards, confusion could ensue. If the numbers and names were to be verified manually, it would take many man-years to complete. Since full automation of this system is several years down the road, the verification process could not be fully automated.

If a completely new system were to be devised, such system could take years to become operational. Thus, the ramifications of devising a new system versus using the current SSN system would need to be determined.

Question. Should the social security offices be kept open at night and on weekends? What would be the cost of this additional service? Would you have the social security people go to places of employment? If "yes," does this include all small businesses, including one- or two-man operations? If they go one place wouldn't they have to go to every place of business? If the offices are not kept open extra hours, how long a period of time would people have to get their new cards?

Answer. Until we have determined (1) the extent of additional data (picture, fingerprints, etc.) to be included on the new card format and (2) the extent of

verification of the existing number which will be required, we cannot estimate the length of the individual interview and development that will be necessary, the overall time frame it would take to reissue all the existing cards, or the cost of the operation. (To provide a guide to base estimated costs on, we should note that if we were to undertake replacing all existing SSN cards (some 150 million) and issuing cards to those persons not now enumerated (approximately 50 million) and each "interview" took 20 minutes of district office/branch office time, the Bureau of Field Operations would need 50,000 additional employees to do the job in a year's time.) However, we must presume that some type of personal interview would be necessary with each individual, so it would appear that we would have to incorporate all the devices suggested here, plus any others that seem practical. Office hours would obviously have to be extended as much as possible to accommodate employees who work during the day. Whether the extended hours could be handled on an overtime basis or would require separate shifts of district office employees would again depend on workload volumes, complexities of the operation, and time frames.

Wherever possible, we would want to try going to places of business to process groups of employees. This would not only be a convenience for the employer and employees but would cut down crowds in the district offices. Similarly, the district office might arrange to go to each small community in its area and provide the interviewing and development services there. However, if the design of the card would require use of extensive photographic, automated, or fingerprinting equipment that is not easily portable, going outside the district office setting may not be practical.

It might also be necessary to secure the assistance of other Federal agencies in handling the great volume of applicants. In such case, we would have to be prepared to provide all necessary training and equipment for the personnel of these agencies.

Question. Should employers be forced to pay employees while they are at the social security office getting a new card?

Answer. We see no way this could or should be done.

Question. If the answer to the above is "No," how would you compensate the workers for the time lost from their jobs while they are getting the new cards?

Answer. We see no way to do so.

Question. During the interim, how would people without the new cards prove they have a right to be in this country and hold a job?

Answer. Individuals would need to show the same types of evidence to prove their right to be in the U.S. as they do now to obtain a social security number (evidence of age, identity, citizenship or alien status). Such documents as birth certificates, INS documents, State Department documents, etc., are examples of what the Social Security Administration currently uses to meet the evidentiary requirements.

Question. What would be the cost of issuing new tamper-proof cards to all of the people who now have them?

Answer. In order to make the social security number card, or any identification card, serve as a good identifier of an individual, it would have to contain personal information. Such information could include a combination of fingerprints, current photograph, list of personal characteristics, etc. From an operational standpoint, such requirements are overwhelming. The requirement of a thumbprint or a photograph on a social security card would mean a personal contact with every individual in this country, and those who possess SSN's in countries overseas (which include citizens of the U.S., as well as non-citizens). In dealing with those who are homebound or out of the country, the problem (and cost) would intensify. Most likely, mobile units would have to be sent out for interviewing, identifying, and photographing those who could not come into a central location set up for such purpose. Arrangements would have to be made with the State Department for those individuals residing outside the U.S. Each change of name would necessitate reissuance of a card. In addition, there would be a need to review the card (probably every several years; possibly every 5 years maximum), in order to accommodate changes in appearance (this would be most apparent as small children grow into adulthood). Thus, there would be both a substantial initial cost and a sizable maintenance cost related to each of these alternatives, plus some significant time and staff implications.

We have in the past looked into the issuance of photo identification cards. In December 1973 it was determined that the cost of having photo identification cards was about 50 cents per card (for card and film only); thus, the initial cost would be $100 million, at a minimum, for the estimated 200 million cards required.

Costs would, of course, be even higher as a result of homebound or "outside the U.S." individuals. Additionally, an entire network would have to be set up to issue duplicate or replacement cards, establish procedures for cancellation of cards, etc.

Question. What would be the cost of the new system compared to what is presently in use?

Answer. The additional cost would be dependent on the requirements of the new system. The latest figures we have from our Bureau of Data Processing show that it costs some 95 cents to receive an application for a SSN, screen the case, process the card, and mail it to the individual. The first link in the application process, the district office processing (actually taking the application, obtaining the required evidence and coding the form prior to its submission to BDP), costs the equivalent of 7 plus minutes in manpower (and, depending on given circumstances, could go even higher—to 14 minutes and more). Of course, with additional requirements, the costs would be escalated even higher (see answers to questions above).

Question. What happens if a person loses his or her card while looking for a job? If there is a delay in getting a new card, how does this person prove he or she has a right to work?

Answer. We would foresee an employer taking steps to determine whether the individual is entitled to work by inspecting a birth certificate, INS documents or other evidence, much as SSA now requires as proof for the obtaining of a SSN.

Question. Do you know for a fact that a tamper-proof, counterfeit-proof card has been developed or that one is even close to perfection?

Answer. No

Question. How would you prevent persons who now hold cards fraudulently from getting the new cards?

Answer. We see no way it can be prevented. Experienced agencies such as INS have had indications that no matter how well a system may be designed, counterfeiters, etc., are not too far behind.

Question. What safeguards would you suggest to prevent the new card from becoming a national identification card?

Answer. A card such as it is apparently envisioned would be a de facto identifier at the very least. Once such a card comes into being, there are no safeguards to prevent it from being a national identification card for all intents and purposes.

Question. Wouldn't police officers automatically assume this card must be shown for proof of identity?

Answer. Yes

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