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SECOND SEMIANNUAL REPORT
TO CONGRESS

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AND

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SECOND SESSION



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FOREWORD

The following is the second semiannual report submitted by the Select Commission on Immigration and Refugee Policy, which Congress established last year to review our Nation's immigration laws and policies.

Since the first report of the Select Commission, it has conducted 12 regional hearings throughout the country, soliciting the views and recommendations from hundreds of individuals and organizations concerned over the urgent need for immigration reform. It has held, in addition, numerous consultations among professional and expert witnesses, to focus attention on specific immigration issues and problems. It has also sponsored a series of major research projects on the economic, social and other aspects of immigration, with a particular emphasis on the impact of immigrants as well as the question of undocumented aliens.

The following report outlines the Commission's work in each of these areas to date. Given the complexity and importance of the Commission's work, we are confident this brief review of the Commission's efforts will be of help to Members of Congress and to the public at large.

Hon. PETER W. RODINO, Jr.,
Chairman, House Judiciary Committee.
Senator EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee.

(III)

LETTER OF TRANSMITTAL

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY, *Washington, D.C., September 1, 1980.*

TO THE CONGRESS: I am pleased to submit the Second Semiannual Report of the Select Commission on Immigration and Refugee Policy to the Congress. Six months from now we will make our final report to both the President and the Congress.

During the past 6 months world events have once again demonstrated the need for a thorough overhaul of immigration policy. Migration pressures are increasing all over the world from Cambodia to Afghanistan to Ethiopia to neighboring countries in the Caribbean basin. In recent days, events in Poland have reminded us of the tremendous potential for new migration pressures. Large-scale dislocations of people will remain a fact of life for many years to come, not only because most of the world is terribly poor and much of it is not free, but because tens of millions of people see migration as a way to improve their lives.

The United States cannot hide from these pressures, particularly those in its own backyard. But we cannot be the single refuge for all of the people in the world who flee persecution or seek opportunity. As rich and as large as this Nation is, there is no possibility of returning to the virtually unlimited immigration of earlier times.

Our immigration policy must be responsible. That means essentially three things. We must respond as a nation, with a vision of freedom and progress, to a "portion" of the world's striving, aspiring, and oppressed peoples. We must also be responsible to our own people, especially our poor and those who have suffered the sting of oppression in this country. And being responsible means we must be consistent in what we say and do in matters concerning immigration and refugees.

In recent months, we have received a large number of letters "from people who complain that immigration policy is out of control." They are right. Now undocumented aliens come to the United States in large numbers by land and sea. There is no question that many of them are ambitious, hard-working seekers of opportunity and freedom. But by permitting our laws to be flouted, we bring immigration policy as a whole into disrespect and, more importantly in the long run, we undermine respect for law, the foundation of a free society.

This must not happen. The world and the United States will be a much poorer place if legal immigration is cut back because we failed to gain control over undocumented/illegal migration.

VI

The research findings of the Select Commission on Immigration and Refugee Policy thus far confirm what commonsense and American history tell us—legal immigrants make a strong contribution to the economic and cultural well-being of the United States. They are healthy, law-abiding, and productive, creating as well as taking jobs. They bring renewed commitment not just to hard work, savings and investments, but to those values of freedom, equality, and family shared by many Americans.

We will continue to be a nation which welcomes immigrants, but we must enforce our laws consistently and fairly, even when that means not letting some people in and deporting others.

To these goals the Select Commission dedicates its task: The reunification of families, the playing of a responsible role in the world, the strengthening of our country, the reform of our laws to make them clear and equitable, and their firm, steady enforcement.

Respectfully submitted,

THEODORE M. HESBURGH, C.S.C.

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SECOND SEMIANNUAL REPORT OF THE SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

SEPTEMBER 1, 1980¹

I. THE SELECT COMMISSION: ITS WORK AND ACTIVITIES

The Select Commission on Immigration and Refugee Policy, created by Public Law 95-412, was given a mandate to:

study and evaluate * * * existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make such administrative and legislative recommendations to the President and to the Congress as are appropriate.

To carry out this mandate, Congress designated the appointment of 16 commissioners—from the Congress, Cabinet, and the public, the latter to be appointed by the President.²

The Select Commission's major responsibilities are the resolution of the problems connected with illegal/undocumented aliens; the articulation of clear goals for immigration and refugee policy, consistent with U.S. national interest; and the revision of the Immigration and Nationality Act to make its provisions simpler, clearer, and more just. To accomplish these tasks, the Commission sought a focus among the hundreds of separate issues involved. It did this by looking at four major questions in sequence, recognizing that the questions and their answers are interrelated:

(1) What should be done about the presence of large numbers of illegal/undocumented aliens in the United States?

(2) What should be done to curtail future flows of illegal/undocumented aliens, whether they come by land or sea?

(3) What provisions should the law contain that ensure our immigration goals reflect our national interest?

(4) What should be done to reform the process by which the United States admits, excludes, deports, assigns or adjusts the status of aliens, to make that process both more efficient and just?

In studying these questions, the Commission used the following criteria for analysis:

(a) First, are the right questions being asked?

(b) Second, what information already exists or can be produced that bears upon the answers to the questions?

(c) Third, what assumptions must be made because information does not and will not exist, because of limitations of time, science, or methodology?

¹ The Select Commission submitted a previous semiannual report to the Congress on March 1, 1980.

² See Appendix A for a list of Commission members.

(d) Fourth, what do the experts say in their analyses of the facts?

(e) Fifth, what do the American people say they want and believe regarding present and future immigration policy?

Through this process of study and analysis, the Commission hopes to recommend policies to which, in the words of President George Washington, "the wise and honest can repair." It is the belief of the members of this Commission that present immigration policy can be substantially improved. Recognizing that in public policy questions perfection may be the enemy of good, the Commission is aiming for an immigration policy that will be enforceable, responsible, and equitable.

A. ANSWERING THE QUESTIONS BEFORE THE COMMISSION

The four major questions before the Select Commission reflect the broader, complex, and interrelated issues which have provided the framework for the Commission's activity since its creation:

(1) How many? Should the number of people admitted increase, decrease, or remain the same?

(2) From where? How should the total number of people admitted from each sending region and country be determined?

(3) By what criteria? Should there be preferences among immigrants or refugees according to labor or demographic goals, family ties, or foreign policy considerations?

(4) Through what process? How can the process by which we accept, exclude, apprehend, deport, or adjust the status of migrants be improved to make it more rational, efficient, and humane?

To ensure that its "administrative and legislative recommendations" to the President and Congress deal fully with these issues, the Commission has sought the most reflective, authoritative information from individuals, groups, and studies through a variety of methods, including social science/legal research, public hearings, and consultations.

1. THROUGH RESEARCH

As part of its ongoing analysis of the issues, Commission members and staff³ have used two major types of research—social science and legal—to ascertain what information exists or could be found to aid them in their review of immigration law and policy:

*Social Science Research*⁴

The Select Commission has used multiple research sources: (1) Select Commission staff research; (2) contract research, performed by outside experts; (3) research prepared by and for other government agencies; and (4) research submitted voluntarily by outside individuals and groups. This research, designed to provide information on immigrants, nonimmigrants, refugees, and illegal/undocumented migrants, focuses on two major issues: the many aspects of migration and the impact of immigration on American society.

³ See Appendix B for a list of Select Commission staff members.

⁴ See Appendix C for a list of Commission research contracts and papers.

Since it made its last report to the Congress, the Select Commission has awarded 11 new research contracts, in addition to the 11 previously commissioned. Four of the new projects are designed to give information on refugee issues, two deal with the determinants of migration, one deals with enforcement of immigration policy, and four provide historical perspective on contemporary immigration issues. Final reports have been submitted on all but two of the outside research contracts awarded. Commission staff are currently reviewing information contained in the studies which have been received.

All government agencies have been asked to provide information about immigration-related research done in or for their departments. In addition, the Library of Congress, the Departments of Labor, State, Commerce, Agriculture, and Health and Human Services, and the Immigration and Naturalization Service are preparing or have prepared reports in answer to specific Commission questions.

The Select Commission has also received volunteer research, which includes documented reports submitted by those who have testified at public hearings or consultations, articles and research papers submitted by authors or other interested persons, and research papers on topics of interest to the Commission, prepared by voluntary groups and universities.

*Legal Research*⁵

Public Law 95-412 charged the Commission with conducting "a comprehensive review of the provisions of the Immigration and Nationality Act" and with making "legislative recommendations to simplify and clarify such provisions * * *." In response, the Commission's legal research staff has brought together legal experts in and outside government to resolve ambiguities, inequities, and anachronisms in the lengthy and cumbersome act.

Drafting is now taking place on a range of important issues concerning the standards and process by which the United States admits, excludes, deports, assigns or adjusts the status of aliens. These drafts of proposed legislative changes, following intensive review and revision, will be submitted to a group of distinguished attorneys from outside the Government and representatives of key Federal agencies during a weeklong meeting, beginning September 22, to be chaired by Commissioner Cruz Reynoso.

As part of the above work plan, the Select Commission has made use of three types of legal research over the past months: (1) research done by Select Commission staff, (2) contract research, and (3) volunteer research. Topics covered by this research include: "Parole Authority—Process and Standards," "Immigration Law Research—Indian Treaties and Law," "Immigration Law Research—Refugee Act of 1980," "Statute of Limitations on Bars to Admissions and Adjustment," Federal preemption employer responsibility/sanctions, and due process in the INS hearing and appeals system.

Several Members of Congress have expressed the view that if the Commission does nothing but simplify and clarify the law, it will have accomplished something of great significance.

⁵ See Appendix C for a list of Commission research.

2. THROUGH PUBLIC HEARINGS⁶

At a Commission meeting on October 29, 1979, Commission members decided to hold 12 regional hearings in order to hear from as many people, from as many backgrounds, on as many issues facing the Commission as possible. To ensure this diversity, the hearings, each held in a different city, were organized in three-part sessions. Time was provided for invited expert witnesses to present the Commission with the needed information, for members of the public to voice their wants and beliefs with regard to immigration policy, and for site visits to give the Commissioners an opportunity to see immigration policy in practice.

By the time the last hearing concluded on June 9, 1980, the Commissioners had heard from 698 witnesses. Of these, 401 had been invited to testify and 297 had testified in the "open microphone" sessions before the Commission (the several hours provided at the end of each hearing for anyone who wished to speak). These invited witnesses and "open mike" speakers represented a variety of ethnic, racial, religious, and interest groups.

Of the 12 regional hearings held by the Commission, four were described in the Commission's first "Semiannual Report to Congress": Baltimore, Boston, Miami, and San Antonio.⁷ The remaining eight held in New York, Phoenix, Los Angeles, Denver, New Orleans, Chicago, Albany, and San Francisco, are briefly summarized below.

New York—January 21, 1980

Congresswoman Elizabeth Holtzman (D-New York), who chaired the full-day session, was joined on the rostrum by Representative Hamilton Fish, Jr. (R-New York) and Commissioner Rose Matsui Ochi. The Commissioners were in New York seeking information on: What is the Immigration and Naturalization Service (INS) doing to enforce the law against illegal/undocumented aliens? Are American employers exploiting alien workers? Who is protecting the rights of illegal/undocumented aliens? And what rights do they have?

The first witness, Representative Theodore Weiss (D-New York), told the Commissioners:

It's been well known for years that the INS is overwhelmingly incompetent in providing services to aliens in the United States * * *. The agency, internally, is simply unwilling and unable to make the corrections that are necessary. Restructuring the INS is a major effort and one which requires immediate action.

David W. Crosland, Acting Immigration Commissioner, reported on INS efforts to curtail smuggling of aliens into the New York area. He presented a hooded witness, reportedly fearing for his life, who told Commissioners that Chinatown tongs and youth gangs jointly operate an illegal/undocumented alien pipeline running from Hong Kong to New York via Canada. The witness said that he had "kicked back" wages after threats of physical assault made him fear that immigration authorities would be notified.

⁶ See Appendix D for an executive summary and list of witnesses for each hearing.

⁷ See Appendix E for the first Semiannual Report to Congress (March 1980), pp. 40-71.

A panel of witnesses testified that New York faces a crisis in health, education, and social services, which are being used by undocumented aliens. Richard Berman, director, State Office of Health Systems Management; Stanley Brezenoff, commissioner, New York City Department of Social Services; and Waldemar Rojas, New York City Board of Education, all asked for help from the Federal Government in meeting their service responsibilities.

Donald Elisburg, Assistant Secretary of Labor, told Commissioners that "many employers feel free to exploit undocumented workers because they know that these workers will not complain to government enforcement authorities." Frank Mercurio, Regional Administrator for Employment Standards, detailed operations of the strike forces that had been established by the Department of Labor to investigate alleged worker exploitation.

Responding to the invitation to express their opinions about U.S. immigration and refugee policy, people addressed the Commissioners at the open microphone session in the evening. Speakers from the Committee of American Cinematographers, the International Alliance of Theatrical Stage Employees, and the American Engineering Association all urged that the number of nonimmigrants admitted to the United States to work in specialized fields be sharply curtailed. The speakers contended that jobs were being taken from qualified American workers.

Other witnesses expressed concern at the prospect of more restrictive immigration policies. Many stated that they had come to this country as immigrants and had contributed to their communities and the Nation, while making better lives for themselves and their families.

Phoenix—February 4, 1980

Senator Dennis DeConcini (D-Arizona) chaired this sixth regional hearing. Joining him were Health, Education, and Welfare Secretary Patricia Roberts Harris; Representative Hamilton Fish, Jr. (R-New York); Commissioner Rose Matsui Ochi, and the Reverend Theodore M. Hesburgh.

Governor Bruce E. Babbitt was among the more than two dozen witnesses who testified before the Commissioners. Governor Babbitt urged equal protection under law for all persons in this country, regardless of their legal status. He stated that, in Arizona, illegal/undocumented Mexican aliens "contribute much more in economic terms than they draw out in social services."

State Senate Minority Leader Alfredo Gutierrez also spoke on the issue of undocumented aliens and stressed the need for legalization of their status in the United States. He said he "would be willing to consider" some sort of temporary worker program, provided foreign workers were protected from exploitation.

Discussion on undocumented/illegal aliens continued into the afternoon with several witnesses taking exception to legalization proposals. Phil Riggan of the American Legion in Washington, D.C., said that such a program would be unfair to those going through legal channels to obtain visas and would result in an upsurge of illegal/undocumented migration.

Justin Blackwelder, president of the Environmental Fund, suggested making the existing social security card forge-proof. "Once this simple

change is made," he said, "some illegals will elect to return home, as they should."

Other witnesses debated the issue of a national identity card for worker identification, penalties for employers of illegal/undocumented aliens, and legalization or adjustment of status. Senator DeConcini expressed frustration over the difficulty of reaching a consensus on national immigration policy but added, "I think we've made a significant start today in Phoenix on a very difficult issue."

Los Angeles—February 5, 1980

The Los Angeles public hearing focused on the issue of aliens' rights in the United States. With Commissioner Rose Matsui Ochi as chairperson, Commission members Judge Cruz Reynoso, Senator Dennis DeConcini (D-Arizona), and Commission Chairman Theodore M. Hesburgh listened to 79 witnesses, including open mike speakers.

Grace Montanez Davis, deputy mayor of Los Angeles, opened the day's testimony with several policy recommendations. She urged the Commission to consider increased cooperation and bilateral work programs with Mexico, a general amnesty for those here illegally, stricter enforcement of existing labor laws, and an increase in the immigration quota for Mexico.

Linda Hanten, an attorney for the Mexican-American Legal Defense and Education Fund (MALDEF), warned that a universal work permit card might become just another tool for employers to use in discriminating against persons of Latin descent. Hanten also testified on what MALDEF is doing to ensure access to education and health service for illegal/undocumented aliens.

Other witnesses addressed what they saw as the negative impact of foreign workers on the labor market. Cecil Johnson, chairman of the Department of Biological Sciences at Riverside City College, testified that undocumented workers take jobs away from "the oft-forgotten poor of America." He urged adoption of a "tamper-proof social security card," combined with increased border enforcement to control illegal migration. Wendell Green, vice chairman of the Committee for Representative Government, said that the black community is especially hurt by illegal migration. He argued that "in a time of high unemployment, we should concern ourselves with helping American citizens."

Representatives of various ethnic communities suggested changes in the current seven-category preference system in the Immigration and Nationality Act. "It has been the intent of Congress to have a preference system that clearly favors family ties. This intent is being frustrated by the present numerical limitations system," said Ellen Ma Lee, director of the One Stop Immigration Center. Other panelists joined Lee in recommending that per-country limitations be abolished in favor of family reunification, regardless of national origins.

An additional 40 witnesses came to the microphone during the hearing's open mike session to testify on a multitude of concerns. One, Mayor James Ward of Santa Ana, stated: "The Federal Government should help us out more in assimilating new immigrants and refugees." Another witness, George Medina, argued that illegal/undocumented migration is an inherent problem of a free nation and told the Commissioners that "the Treaty of Guadalupe Hidalgo created an arbitrary border with Mexico that many do not respect."

Denver—February 25, 1980

Senator Alan K. Simpson (R-Wyoming) chaired this hearing. Senator Simpson and Commissioner Rose Matsui Ochi heard testimony on a number of questions related to immigration and refugee policy: How can immigrants and refugees be helped to fuller participation in American life? What are the impacts of immigrants and refugees on our environment? How can future immigration policy be responsive to U.S. labor needs? Should we legalize undocumented aliens?

The following views reflect the range of opinions presented:

Noel Epstein, author of "Language, Ethnicity, and the Schools," told the Commissioners that efforts of bilingual educators to maintain skills in students' native tongues detract from the more important goal of teaching English.

John Donlon, business manager of the Colorado Building and Construction Trades Council, claimed that unemployment in the local construction industry is directly related to the presence of many undocumented workers in the labor force.

John Etchepare, vice president of the Western Range Association in Cheyenne, Wyo., claimed that sheep ranchers cannot attract domestic workers, yet face opposition when they attempt to hire willing migrants from Mexico.

Armando A. Arias, Jr., assistant professor at Metropolitan State College (Denver), deplored the "stigmatization of undocumented Mexican workers by the media," which seeks, he said, "to make them scapegoats for U.S. economic problems."

Minoru Yasui, executive director of the Commission on Community Relations, city and county of Denver, criticized the lack of planning for the arrival of Southeast Asian refugees: "We never know how many or when."

New Orleans—March 24, 1980

Commission Chairman Father Theodore M. Hesburgh presided over a panel of his fellow Commissioners at the Select Commission's ninth regional hearing which focused on refugee resettlement. Father Hesburgh, along with Attorney General Benjamin Civiletti, Senator Dennis DeConcini (D-Arizona), and Representative Hamilton Fish, Jr. (R-New York), heard from representatives of national organizations involved in refugee resettlement, as well as local government officials, community leaders, recently arrived Indochinese refugees, and voluntary-agency staff members in New Orleans.

James Hayes, executive director of the Treme Community Improvement Association, asked that the Federal Government provide background information to local communities to better prepare them for the arrival of refugees.

Nancy Nicalo, director of Immigration and Refugee Programs for Church World Services, testified that scarce resources, especially housing, must be allocated equitably to both refugees and disadvantaged American citizens. Wade Ragas, associate professor of finance, University of New Orleans, also focused on this issue of resource allocation when he testified that refugees encounter a tight housing market in New Orleans, which has an acute shortage of low-income units for all members of the community.

Reunification of families was stressed by the Reverend Rafael Melian, chairman of the Citizens Committee on Immigration, who

urged that it continue to be given first priority in any future law. Jane Foley, program director of Immigration and Refugee Services for the Associated Catholic Charities, argued that spouses and unmarried children of permanent resident aliens should be exempt from the quota system under current immigration law.

At the close of the hearing, Chairman Hesburgh spoke for the Commission:

In New Orleans, we were able to hear the concerns of national resettlement groups as well as those of the local community with a relatively large percentage of refugees. Though some of the problems are awfully tough, I am encouraged by the willingness and ingenuity that the American people have displayed in resettling those displaced from other nations.

Chicago—April 21, 1980

Hearing Chairman Representative Robert McClory (R-Illinois) and fellow Commissioners Representative Elizabeth Holtzman (D-New York) and Secretary of Labor F. Ray Marshall heard 61 witnesses testify at the Chicago hearing. The hearing, which was designed to provide information on undocumented workers, the family preference system, immigrant and refugee acculturation issues, and the deportation process, included witnesses from industry, local government, and community organizations, and private citizens.

Representative Cardiss R. Collins (D-Illinois), the first of the witnesses to speak, emphasized that "Americans must continue to have an overriding loyalty to mankind as a whole * * * but in doing so we must not forget the poor American who struggles within our shores." She presented four recommendations to improve labor market prospects for minorities: the elimination of any hint of racism from U.S. immigration law, the careful consideration of the linkage between immigration policy and foreign and domestic policy, the strict enforcement of fair labor practices, and the passage of legislation to guarantee due process to all who work in this country.

Other witnesses, such as Don Hohl of the U.S. Catholic Conference, directed their testimony to the issue of illegal/undocumented aliens. Mr. Hohl urged unconditional amnesty for all undocumented aliens residing in the United States, increased numerical ceilings for Canada and Mexico, tighter control of our borders, and strict enforcement of existing labor laws.

The issue of family reunification came under panel discussion as representatives of local community organizations presented their views on the current preferences in the Immigration and Nationality Act. Aloysius Majewski, president of the Polish National Alliance, reflected the concerns of this group when he said that the reunification of immediate family members must be given the highest priority in the development of any immigration policy.

Another panel, on immigration and refugee acculturation, included members of local ethnic organizations and Dr. Theresa Sullivan of the University of Chicago. Dr. Sullivan summarized the findings of recent assimilation studies on immigrants for the Commissioners as follows: The annual earnings of white foreign-born men are approximately equivalent to those of the native born when schooling, years of work

experience, area of residence, and weeks worked are controlled; the partial effects of education on earnings is lower for foreign born than native born; immigrants experience some downward mobility in occupational status at the time of immigration; and there are clear, country-specific patterns in the three preceding indicators of structural assimilation.

The Immigration and Naturalization Service's deportation process came under the criticism of several witnesses. Commissioners were told by Terry Feiertag of the Association of Immigration and Nationality Lawyers in Chicago:

I believe the key is that Congress must wipe the slate clean and begin anew, not [perpetuate] a system where millions of aliens find themselves deportable because of the past failures of an unworkable system.

Feiertag stated that one area especially in need of attention is the deportation process and the delays in that process; he claimed that 90 percent of the delays are caused by manpower shortages within the Immigration Service.

Albany—May 5, 1980

Commissioners Rose Matsui Ochi and Senator Alan K. Simpson (R-Wyoming) joined Hearing Chairman Hamilton Fish, Jr. (R-New York), to listen to 34 witnesses testify on such diverse topics as: illegal/undocumented aliens, temporary worker programs, refugee resettlement, the visa allocation process, and northern border crossings.

Dr. Markley Roberts, an AFL-CIO economist, stated, "We are concerned about the fair treatment of people—whatever their nationality, whatever their status." In his testimony he expressed the AFL-CIO's concern over both the exploitation of undocumented workers by their employers and the effect that illegal/undocumented migrants have on the wages and working conditions of American workers.

Apple grower Peter Langrock, testifying before the Commission on temporary worker programs, claimed that farm employers in Vermont have difficulty finding workers at harvest time and must "reluctantly" import labor from the British West Indies. He argued, as the representative for 25 other apple growers, that U.S. employers must continue to have access to temporary foreign labor.

Irving Levine, director of the American Jewish Committee's Institute on Pluralism and Group Identity, presented policy recommendations on the issue of refugee resettlement: that some clustering of new immigrants be allowed to provide supports during the integration process; that public policy pay more attention to the role that informal support systems, like that on an extended family network, play in resettlement; that formal resettlement agencies also play a vital role in this acculturation process; and that recognition be given to the gradual, evolving nature of adaptation. Finally, he stressed the importance of English skills for new immigrants.

Other witnesses expressed their concern over visa processing and allocation. Mr. Thomas Abraham, president of the Federation of Indian Associations, argued against the "unfettered discretion" enjoyed by consular officers abroad.

Philip Tarbell, a Mohawk Tribe member, testified on northern border crossings as they affect the Mohawk people who, though they share a common cultural heritage, are separated by the United States-Canadian border. He stated that his people have been arbitrarily split in two by the border and that despite provisions in the Jay Treaty guaranteeing free passage for Mohawks, they are often harassed at the border.

San Francisco—June 9, 1980

The 12th and final regional hearing held by the Select Commission was chaired by Commissioner Cruz Reynoso. Commissioner Rose Matsui Ochi, Senator Charles McC. Mathias (R-Maryland), and Commission Chairman Theodore M. Hesburgh joined Judge Reynoso as 104 witnesses presented their views on border nation cooperation, implications of a legalization program for undocumented/illegal migrants, immigrant and refugee acculturation issues, and operations under the Immigration and Nationality Act.

Senator S. I. Hayakawa (R-California) and Representative Daniel E. Lungren (R-California) endorsed their proposed seasonal worker program which would admit temporary workers from Mexico for a maximum of 6 to 8 months. A different view was given by Alberto Saldamando, executive director of California Rural Legal Assistance, who said that a new temporary worker program would give only the appearance of control over what has been historically an unmanageable flow. He stated that the fundamental problem is the existence of a substandard labor market in the United States which cannot attract and keep domestic workers.

Representatives from the American Friends Service Committee's Mexico-United States Border Project described the factors and conditions which motivate Mexican policymakers and urged that U.S. legislators be aware of these factors.

Otis Graham, an historian and member of the board of directors of the Federation of American Immigration Reform (FAIR), testified that, in his view, a legalization program would create great population pressures in the United States as relatives come to join newly legalized residents.

Dr. Clifford Uyeda, president of the Japanese American Citizens League, said that the recent treatment of Iranians by the INS is reminiscent of the internment of Japanese Americans in 1942. He urged the Commission to take steps which would prevent the arbitrary abuse of the rights of any nationality group for political purposes.

The Congressional Black Caucus's position on immigration was presented by Keith Wade, representing Representative Mickey Leland (D-Texas), and included a call for immigration law and administration free of racial bias, a linking of this law to broader foreign and domestic policy goals, universal and strenuous enforcement of fair labor standards and practices, and basic services guaranteeing human and constitutional rights for everyone in the country.

There is a tremendous lack of information, particularly inter- and intraracial, on the effects of the new immigration, said Evelio Grillo and Dr. Eleanor Engram, both of the Resource Center for Community Institutions. They called for broad new research on the order of the effort which produced Gunnar Myrdal's "An American Dilemma."

A panel of Pacific/Asian service providers, headed by Dr. Tuan D. Nguyen, stressed the ability of community-based organizations to deliver social services to all immigrant and refugee groups in ways which are efficient and cost effective, and which develop individual and community self-sufficiency. The panel stressed the need for careful planning and resource allocation by Federal agencies to take advantage of these community resources.

Nicasio Dimas and Morris Baller, representing the Mexican-American Legal Defense and Educational Fund, spoke on two subjects: the need to extend the right of Federal civil service employment to noncitizen permanent residents, and the importance of strong prohibitions on the enforcement of immigration laws by State and local officials.

At the open mike session, 52 residents of San Francisco—the largest number of people to speak at an open mike session—addressed the Commissioners. “The diversity of viewpoints and knowledge about immigration issues is astounding,” said Judge Reynoso.

3. THROUGH SITE VISITS

In addition to holding 12 public hearings, the Commissioners and Commission staff visited local agencies, centers, churches, factories, neighborhoods, and INS offices in New York, Denver, Los Angeles, New Orleans, Chicago, and San Francisco. At these site visits, which occurred the day following a public hearing, the Commissioners witnessed the practical applications of the Immigration and Nationality Act by meeting with major constituent groups, the staffs of public and private organizations, INS personnel, and concerned individuals. These visits provided opportunities for the Commissioners to hear the views of professional personnel and members of the public, based on personal experience, on the issues before the Commission.

In New York, for example, Representative Elizabeth Holtzman (D-New York) and members of the Commission staff visited several garment shops in Chinatown which employed large numbers of recent immigrants and previously had been cited for labor law violations. There they saw the working patterns and conditions faced by people employed in the garment industry. “I came from Jamaica 10 years ago and I make a good living for myself and my family,” one worker told them. “Not everyone could do my job or would want it.”

Later, the Commission staff inspected the INS Brooklyn Service Processing Center where people are held awaiting deportation, immigration hearings, or bond. This center is the main INS detention facility on the east coast and holds up to 224 people.

In the afternoon, at the Service Center for Russian Immigrants, Commission staff learned about the problems facing Jewish newcomers from the Soviet Union. The Center is part of a network of neighborhood facilities operated as a satellite program of the Central Queens Young Men's and Young Women's Hebrew Association, set up to help immigrants find housing, employment, and educational opportunities. Moisey Golyner, who came to this country with his wife and two children from a small village near Moscow, proudly said, “My son will be an American and he will also be Jewish.”

Commenting on the New York hearing and site visits, Representative Holtzman remarked that "the information we've gathered in New York will be extremely useful as we continue our task of reviewing and revising immigration and refugee policies."

In Denver, Commission members and staff visited a group of Indochinese refugees and members of the Hispanic community, where they listened to these immigrants speak of their problems and concerns. While touring two elementary schools that emphasize multilingual/multicultural education, the Commission observed the teaching methods in the ethnically diverse classrooms of Vietnamese, Cambodian, Hispanic, Russian, Filipino, and native-born children and listened to teachers and students express their views on refugee and immigrant acculturation.

Similarly, in a visit to Los Angeles' Castelar Elementary School, Dr. William Chun-Hoon, the school's principal, advised that about 40 percent of the student body are either refugees or new immigrants. Commissioner Rose Matsui Ochi and members of the Commission staff spoke with newly arrived students from Southeast Asia. In another visit, the Commissioners and staff, speaking with educators on the goals of multilingual programs, were told by Kathleen Brown Rice of the Los Angeles School Board that bilingual education should result in "strengthening and raising standards rather than lowering them."

Following is a list of on-site visits made by the Select Commission on Immigration and Refugee Policy since January 1, 1980.

New York, January 21, 1980.—Garment Shops, Chinatown; INS Brooklyn Service Processing Center; and Central Queens Young Men's and Young Women's Hebrew Association.

Los Angeles, February 6, 1980.—Los Angeles Board of Education; Castelar Elementary School; Evans Community Adult School; Koreatown; and INS District Office.

Denver, February 26, 1980.—Meeting with Indochinese Refugee Community; Moore Elementary School; Cheltenham Elementary School; and Catholic Community Services.

New Orleans, March 25, 1980.—Catholic Charities; Abramson High School; and Versailles Gardens Housing Development.

Chicago, April 22, 1980.—Naturalization Ceremony (Federal Building); Joint Civic Committee of Italian Americans; and Polish National Alliance.

San Francisco, June 10, 1980.—Meeting with Filipino Community; Meeting with Chinese Community; and Meeting with Central and South American Communities.

4. THROUGH ON-SITE VISITS IN U.S. TERRITORIES

The Virgin Islands and Puerto Rico

During the May congressional recess, Senator Dennis DeConcini (D-Arizona) and Representative Hamilton Fish, Jr. (R-New York), visited Puerto Rico and the Virgin Islands to study firsthand the impact of immigration policy on those territories. Accompanied by Garner J. Cline, staff director of the House Judiciary Committee, and Select Commission Executive Director Lawrence H. Fuchs, the Com-

missioners were responding to Chairman Hesburgh's request to make an intensive study of the impact of immigration on U.S. territories as required by Public Law 95-412, the legislation which created the Select Commission.

Among the issues studied during their 6-day visit were:

- (1) The nature and extent of illegal/undocumented migration from the Dominican Republic to Puerto Rico;
- (2) The impact of undocumented aliens on the local economies;
- (3) The working of Puerto Rico's employer responsibility/sanctions law;
- (4) The impact of the bonded worker program on the Virgin Islands;
- (5) The character and extent of illegal/undocumented migration to the Virgin Islands from other Caribbean islands;
- (6) The situation of recent legal immigration to both territories;
- (7) A bill proposed by the Governor of the Virgin Islands to legalize some out-of-status aliens in that territory; and
- (8) The adequacy of the resources of the Immigration and Naturalization Service.

After 2 days of listening to various officials and representatives of constituent groups, Mr. Cline, who had been to the Virgin Islands previously, concluded that immigration problems in the Islands have become worse. The overwhelming use of school facilities and other services by families of bonded guestworkers are among the deleterious long-term effects. The most pressing immigration issue concerns the status of bonded aliens who have remained long after the period for which they were admitted. While leaders of the Territorial Senate and the Governor of the Virgin Islands seem to be moving toward some kind of legalization program, representatives of the League of Women Voters have warned against any program which could intensify impacts on services and social life.

Puerto Rico has had a substantial immigration of Cubans and undocumented aliens from the Dominican Republic. In order to curb the flow of illegal/undocumented aliens, an employer responsibility/sanctions law has been on the books since 1973. While most officials agree that sanctions are a good idea, the law has been ineffective because it does not provide for a secure means of identification by which employers can determine the legal status of an applicant for work.

Representative Fish and Senator DeConcini both believe that it is important to consider the question of whether territories should, in certain cases, be given special treatment in immigration policy. Both Commissioners also noted strained INS resources in Puerto Rico and the Virgin Islands. For Representative Fish the territories provide one clear example of the failure of successive administrations and Congresses to give appropriate support to the Immigration and Naturalization Service.

Guam, American Samoa, and the Northern Marianas

The Reverend Theodore M. Hesburgh, joined by Representative A. B. Won Pat, visited Guam in July to study the impact of immigration policies on U.S. territories in the Pacific. Speaking on an issue of special concern to Guamanians, Chairman Hesburgh said:

It is an open question to what extent Guam can receive special attention because of the alien labor problems here. It could be argued that an H-2 [temporary worker visa] policy may be good for the United States but not necessarily good here.

Father Hesburgh also visited American Samoa and the Northern Marianas on his Pacific trip.

5. THROUGH CONSULTATIONS ⁸

As part of its continuing dialog with experts around the Nation, the Select Commission has held 16 consultations over the past months. The purpose behind these seminars has been to bring together scholars and experts in various fields, and provide Commission members and staff with the best informed opinion on the issues facing them and the potential implications of various policy alternatives.

At these meetings, many of which lasted an entire day, the Commission and its staff heard experts present their various and often opposing solutions to the problems under discussion. The participants did not always reach a consensus; often, a consultation raised as many questions as it answered. But even when an issue was not resolved, the discussion provided invaluable insight and information on the complexity of the problem and the various points of view to be considered.

Congressman Hamilton Fish, Jr. (R-New York), expressed the view of his fellow Commissioners on the consultations when he said:

In my judgment these consultations have been every bit as important as have the public field hearings from the point of view of focusing on issues that are going to have to be determined by this Commission. I think they've brought together experts of the very highest caliber in an atmosphere conducive to frank and full discussion.

As part of this "frank and full discussion," Commission members and staff have met and listened to experts on the following issues:

Immigration Goals and Criteria—April 17, 1980

On April 17, Commissioner Hamilton Fish, Jr. (R-New York), members of the Commission staff, and the Staff Advisory Group⁹ met with Government and private experts to discuss immigration goals and criteria for admission. Participants discussed a number of important questions:

- (a) What should be the major goals of any new immigration law?
- (b) Should all immigrants and refugees, including immediate relatives, be placed under one overall numerical ceiling? Under separate ceilings? Under separate ceilings which add up to a fixed annual ceiling or 5-year target?

⁸ See Appendix E for the executive summary and list of participants for each of the 16 consultations. Consultations held prior to February 1, 1980, include: trends in international migration, methodological difficulties in estimating the number of undocumented migrants in the United States, an evaluation of the economic impact of illegal migration, and an examination of the European guestworker experience.

⁹ The Staff Advisory Group consists of persons representing all 16 Commissioners and various Federal departments and congressional committees. They meet regularly with the Commission's staff. See Appendix F for a list of Staff Advisory Group members.

(c) Should flexibility be provided in the law?

(d) What criteria should apply to the admission of family units and nonfamily immigrants? How should the family unit be defined?

(e) Should country of origin matter in determining who is admitted?

Participants considered an open admissions system, on a first-come, first-served basis; a point system based on attributes of applicants, including English-language skills, and a job offer system.

Participants generally felt that while immediate relatives (spouses and minor children) of U.S. citizens ought to continue to be exempted from a numerical ceiling, attention should be paid to limiting the overall number of immigrants admitted. Flexibility in the law was deemed desirable to further both humanitarian and national interest goals.

A staff proposal presented at the consultation providing for a three-category system was also discussed. The proposed model provides for the admission of families, refugees, and so-called "independent" immigrants.

Immigration hearings and appeals—April 24, 1980

A consultation on April 24 focused on administrative aspects of the hearing and appellate system in immigration cases. Commissioner Cruz Reynoso presided, and was joined by Commissioner Hamilton Fish, Jr. (R-New York). Participants included immigration judges and representatives from the Board of Immigration Appeals, INS, and the Association of Immigration and Nationality Lawyers.

Experts examined the existing structure of operations for the immigration judges and the Board of Immigration Appeals, and proposed several possible changes, including:

- (1) Placing the judges under the Board of Immigration Appeals;
- (2) Making them a separate entity under the Office of the Associate Attorney General in the Department of Justice;
- (3) Working both the judges and the Board into an administrative law judge system; and
- (4) Creating specialized Federal courts for both immigration judges and the Board.

Illegal/undocumented aliens—May 1 and May 29, 1980

The first of two consultations on policies to deal with the current population of illegal/undocumented aliens and to curb future flows of undocumented migrants was held on May 1. Participants included representatives from local governments in California and Texas, the National Association of County Officials, voluntary agencies, the Department of Health and Human Services, and INS.

The session focused on proposed legalization programs for undocumented aliens in the United States, as well as the impact which legalization might have on services provided by local governments.

The participants made the following major recommendations:

- (1) Establish a single legalization status for which many illegal/undocumented aliens could qualify. Some participants felt that a second status should also be offered to persons who cannot meet residency requirements.

(2) Place an upper limit on the number of persons who could be legalized.

(3) Establish no more difficult grounds for exclusion than are stipulated in the 1980 Refugee Act.

(4) Set up cooperative processing of legalization cases by voluntary agencies in conjunction with INS.

Participants also agreed that health and education programs may be significantly affected by legalization and that many local governments would have to seek additional tax support for increased use of medical and educational facilities.

On May 29, Commissioner Joaquin F. Otero joined participants from INS, the Department of Labor, the U.S. Catholic Conference, the Mexican-American Legal Defense and Education Fund, the Staff Advisory Group, and Select Commission staff to discuss various enforcement alternatives. This consultation was held to develop recommendations for improved enforcement against illegal entry and visa abuse.

Participants reported that, increasingly, illegal/undocumented migrants enter through well-organized smuggling networks. Many participants felt that making it illegal to work without authorization and establishing penalties for noncomplying employers were critically necessary to reduce the incentive to migrate, although some people believed that such an employer responsibility/sanctions law is inevitably discriminatory to the job applicant. Others said that a documentation mechanism exists that will be practical for the employer and nondiscriminatory to the job applicant. Requiring a nonrefundable return airline ticket for all nonimmigrant aliens to the United States was also discussed. Such new laws could make existing enforcement measures more focused and more effective.

INS and Labor Department officials described what they felt were successful, existing enforcement programs, particularly antismuggling and Wage and Hour Division enforcement efforts targeting known employers of illegal/undocumented aliens. Increased cooperation—both formal and informal—among INS, IRS, and the Department of Labor to enforce current laws was urged.

Also on the agenda was discussion of the temporary worker (H-2) program. Although some participants felt that the current program is an inappropriate mechanism for addressing labor market needs, others stated that some way must be found to deal with the increasing demand for seasonal agricultural workers. The existence of such a program and some nominal increase in visa numbers for primary sending countries of undocumented migrants are two potential legal channels for current undocumented/illegal aliens.

Participants believed that more effective enforcement against illegal/undocumented migration was possible, but emphasized that it would take new laws as well as additional resources.

Nonimmigrant aliens—May 20, 1980

Although the major issues facing the Select Commission are those of legal and illegal/undocumented immigrants, the critical problems faced by the many temporary visitors to the United States are also under examination. A May 20 consultation addressed these difficulties, especially those affecting foreign students, doctors, and nurses coming for

short-term training or work; intracompany transferees; tourists; and the problems of visa management at U.S. embassies and consulates around the world. Specialists participating in the discussions included professionals from educational, medical, and travel groups, as well as representatives from INS and the Departments of State, Labor, and Education.

There was general agreement that it would be useful if the new Department of Education could assume major responsibility through existing regional accrediting bodies for monitoring the decision of schools to accept foreign students. Consensus also emerged on permitting foreign students to work.

Ways of speeding the review of intracompany transferees were considered, as was the issue of eliminating tourist visas for travelers from selected countries. Participants also debated how best to minimize arbitrariness by U.S. consuls in visa refusal cases. Some argued for a judicial appeal mechanism, while others insisted that strengthening the Department of State's oversight would be more effective.

Agency operations and structure—May 22, 1980

Around the world and around the country, people line up for blocks to wait for a visa or benefit under U.S. immigration laws. The problem of delays was only one of several questions considered at the May 22 consultation on the operations and structure of agencies administering the Immigration and Nationality Act.

Commissioner Rose Matsui Ochi joined Staff Advisory Group members; past and present employees of INS, Justice, and the State Departments; members of the immigration bar; and concerned interest groups in the daylong meeting. Issues discussed included:

- (a) How can service to the public be improved?
- (b) Should naturalization be an administrative rather than a judicial procedure?
- (c) Should State and local law enforcement officers be authorized to enforce U.S. immigration law?

Although differing points of view emerged on many issues, a consensus developed favoring administrative naturalization procedures and a belief that States and local law enforcement officers should not be given broad authority to enforce U.S. immigration law.

Important changes in the Immigration and Nationality Act—May 28, 1980

The second of two major consultations on proposed changes in the Immigration and Nationality Act was held on May 28. Among the issues addressed were grounds for inadmissibility or deportation, the possibility of statutes of limitations on offenses which bar admission or adjustment; whether the law should distinguish between citizens and nonresidents; and whether a third group, permanent resident aliens who reenter the United States, should be considered separately.

Participants concurred that exclusions should be minimized and limited to four broad grounds (excludability because of potential danger to public welfare, health, safety, and national security) and that there should be a statute of limitations on various bars to admission and adjustment. Although there were differences over certain grounds of inadmissibility, generally the consultants thought that

each ground must be clearly defined and not left to broad interpretation by interviewing officers.

Also discussed were representation of aliens and the due process rights which should apply in immigration proceedings: At what time should aliens be advised of the right to counsel? Who should provide the counseling? And at whose expense?

Discussants agreed that aliens should have greater access to voluntary services because of the exemplary work these agencies have done in the past. It was also agreed that consideration should be given to having legal representation at government expense in proceedings against permanent residents.

Representatives of legal groups and voluntary agencies were urged to submit any recommendations and supporting rationales for changes in the act by July 15, 1980, so that the Commission might consider them prior to a weeklong legal workshop in September.

Refugees—June 4, 1980

The consultation on refugee-related issues on June 4 brought together representatives from the major private resettlement agencies, groups interested in refugee and asylee matters, and State and local government and executive branch officials involved in refugee affairs. The morning session was devoted to legal aspects of admitting refugees and applicants for asylum; the afternoon meeting focused on problems of domestic resettlement.

Participants in the morning session agreed that the definition of refugee under the Refugee Act of 1980 increased U.S. compliance with the U.N. Protocol on Refugees. Some, however, expressed concern that the allocation of refugee numbers still reflects the geographical and ideological biases of the Immigration and Nationality Act before the recent amendments.

The overlap and blurred distinction between political and so-called "economic" refugees was discussed. All participants recognized the problem of the vast numbers desperately in need of humanitarian relief who cannot prove the requisite well-founded fear of persecution.

Simplifying and delegating both the application process and hearings were recommended to improve the adjudication of asylum claims. These changes, it was suggested, would make the procedure less intimidating and more accessible to worthy applicants. In order to avoid encouraging frivolous claims for asylum, it was suggested that applicants be screened at an early stage and only those with seemingly meritorious claims be given temporary work authorization pending final adjudication of their claims.

Participants agreed that because refugees are an international concern, efforts must be made to develop greater international cooperation, possibly with the United Nations.

An alternative proposal was to include in the mandate of the Immigration Council, which forms part of the Select Commission's draft immigration model, a monitoring function covering both international and domestic aspects of refugee problems. The Council would take these matters into consideration, making periodic recommen-

dations to the President and Congress regarding numbers and criteria for admitting refugees to the United States.

At the afternoon session, participants addressed the meaning of self-sufficiency and discussed models of service delivery with varying roles for the public and private sectors. Both Government and private-sector participants agreed that resettlement programs and Federal social welfare entitlements should be aimed at providing opportunities for persons with a special burden resulting from the conditions of their emigration. The one serious reservation on this matter concerned the mechanisms for implementing a program of jobs and/or income maintenance for refugees that would neither be nor appear to be discriminatory relative to the entitlements of other disadvantaged American citizens and permanent residents.

Discussion of placement and service delivery strategies revealed no single "best" model in the comparison between "front-loading" with skills and language training or quick immersion in a job coupled with less intensive preparation. Strong agreement was registered on the value of cluster resettlement, which brings the benefits of more successful psychological adjustment and reduced secondary migration, provided it could be programmatically controlled.

Regarding the respective roles of the public and private sectors, the creation of a public-private partnership for resettlement was suggested. The Federal Government would assume the role of junior partner, providing only the services related to housing and employment. The principal burden would fall to private organizations, each resettling according to the needs of the particular region and client populations. Although there was acknowledgment of the attractiveness of such a model, strong objections were raised by both Government and private participants. First, the Refugee Act of 1980 and prior laws, as well as practice, have made resettlement primarily a Federal responsibility. Second, reliance on the private sector was seen by some as unworkable due to the numbers and impacts of the current situation.

The participants agreed on the need for heavy involvement by the private sector, together with State and local governments, in the first stages of Federal planning. The discussants also agreed on the need for a single, Federal-level mechanism which would involve and promote a partnership with the private sector.

Civil-liberties issues raised by a proposal for a secure means of employee identification—June 16, 1980

Civil-liberties concerns about the possible effects of a worker eligibility card requirement were the subject of a consultation on June 16. Commission staff have been studying the work card idea, possibly in the form of a secure social security card, as a means of establishing who is legally employable. This kind of requirement might be part of a law prohibiting the hiring of illegal/undocumented aliens.

Many have expressed apprehension that such a card might be used to abridge the civil liberties and privacy rights of the American people. Prof. Alan Westin of Columbia University reflected this concern, but said that civil liberties might be effectively protected from legislative

and regulatory undercutting by a constitutional amendment. Westin suggested, as an alternative, that all members of the labor force be listed in a central employee data bank that employers could phone to check the legitimacy of job applicants. He also noted that large data banks are now so established and far-reaching that a new labor force file would not in itself undermine civil liberties and privacy, provided a constitutional amendment supported by legislation guarded against abuses. The possibility that the amendment along with a work card or labor force file might strengthen civil liberties was also suggested.

John Shattuck of the American Civil Liberties Union expressed strong reservations about the card approach and the labor force data base alternative, but fully supported Westin's constitutional amendment proposal.

At the conclusion of the session, although many questions remained, some participants were open to the possibility of developing an employer responsibility/sanctions law with a secure means of identifying persons for work eligibility only. It was proposed that any system—whether using a card or not—would have to meet the following criteria:

- (1) All persons eligible to work must be included, not just a portion of the population who, because of status or ethnicity, might be singled out;
- (2) No other use could be made of the system;
- (3) Strong penalties would be placed on private individuals or public authorities who attempted to use the system for other purposes;
- (4) No information on the location of persons could be included;
- (5) Some kind of citizen review panel would monitor its use, and
- (6) Appeals against alleged abuse would be expedited.

Caribbean immigration to the United States—June 20, 1980

In recent months, migration from the Caribbean has attracted widespread media attention and raised questions about government understanding of emigration trends in this neighboring area. A special consultation on June 20 examined some of these questions, including the potential impact of an alternative U.S. immigration policy on Caribbean nationals, increased investment in island economies by American businesses, and how temporary worker programs from the Caribbean could be improved. Experts participating in the discussion included specialists on population, immigration, and international finance, and representatives from the Senate and House Judiciary Committees and the Departments of State and Labor.

Most participants agreed that Caribbean migrants will be attracted to the United States until island economies are strengthened. Participants disagreed, however, on how many immigrants should be accepted and what impact such a policy would have on the United States and sending countries. Damage to Caribbean islands, they agreed, would probably result from better trained islanders settling permanently in the United States.

Proposals to achieve greater policy coordination and to strengthen the economies of Caribbean nations were evaluated. Some recommended that the British West Indies temporary worker program be

expanded, while others advocated programs that can create new sources of wealth in the Caribbean, such as improved and diversified agriculture, fisheries, and light industries.

Immigration problems of the territories—June 26, 1980

Should special immigration policies apply to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands? Immigration laws and administration as they affect these territories were the subject of a daylong consultation on June 26. Participants included congressional representatives from four of the five territories, Senate and House staff, and experts from the Departments of Interior, State, Labor, and Justice, and the White House.

The territories come to the immigration arena with somewhat different associations. Puerto Rico and the Virgin Islands are close to the continental United States but have Caribbean cultures. Guam and the Northern Marianas (part of Micronesia, the Trust Territory of the Pacific Islands) mark the Pacific outreaches of the United States and have Asian ties. American Samoa is closer to Australia and New Zealand than to Hawaii.

Puerto Rico, the Virgin Islands, and Guam are treated like the 50 States under the Immigration and Nationality Act (INA), and their citizens are U.S. citizens. The Northern Mariana Islands is only partially covered by the INA, and its citizens will become U.S. citizens when anticipated Commonwealth status is achieved in the near future. American Samoa has its own immigration code for non-immigrant aliens and its citizens are U.S. nationals.

Themes running throughout the consultation included:

- (1) Desire for local control over the admission of temporary workers, tourists, and other nonimmigrant aliens;
- (2) Lack of Federal sensitivity to and absence of priority for the needs of island populations;
- (3) The relationship between economic development and immigration policies;
- (4) The problem of illegal/undocumented migrants, especially pronounced in Guam and the Virgin Islands, and the demographic and political impact of a legalization program; and
- (5) The need to facilitate tourism, which includes the entry of many nonimmigrant aliens.

Federal control over general immigration policy and prominence, at least in the enforcement area, were generally accepted by participants. Federal nonimmigrant policies, upon which so much island economic growth hinges, were criticized as insensitive, although full local control was also seen as open to short-term political pressures. Most acknowledged that resolution of the distinct immigration problems of the territories must concede the fragile nature of the smaller island economies and societies.

Some participants believed that rulemaking authority should be given to a special Federal body, such as the Immigration Council now being discussed by the Select Commission. The Council would then have the authority to negotiate exemptions from the Immigration and Nationality Act for the territories, on an individual basis and subject to congressional veto.

Civic and language education of immigrants and refugees—July 1, 1980

The July 1 consultation addressed some of the most controversial issues regarding our country's willingness and ability to accommodate large numbers of non-English-speaking newcomers.

Within the global context of the question raised by Crèvecoeur and Tocqueville, "What does it mean to be an American?", discussion centered on U.S. goals and policies for the language and civic education of immigrants and future citizens. Participants included representatives from the Departments of Education and Health and Human Services, the Office of Refugee Resettlement, and INS, as well as language training experts and recent immigrants and refugees.

Positions advocated by the discussants varied as the following statements indicate:

One way a country maintains its integrity and existence is through the unifying force of one language.

In addition to teaching English to newcomers, we should seize the opportunity to develop our multilingual resources.

We cannot legislate English as a base language regardless of demographic realities.

One need not know English to be a good citizen.

A central component of American identity is participation, and English is a prerequisite for full economic and political participation.

The only issue on which participants fully concurred was that whatever else is done for immigrants and refugees, we must provide English-language training.

Immigration and resources—July 9, 1980

What are the implications of different levels of immigration for resource use in the United States? This was the central question put to five experts in the field of resource utilization conservation at a daylong consultation on July 9.

Dr. David Pimentel of Cornell University told the Commission that there are too few resources for too many people in the world. The population of the United States is projected to increase 24 percent during the next 25 years. Assuming only a limited increase in agricultural production, a 24-percent increase in U.S. population, Pimentel noted, would result in the consumption of all the food produced here, practically eliminating current agricultural exports totaling \$30 billion. Dr. Pimentel said that we cannot continue to allow rapid and unplanned population growth, nor can we permit the rapid degradation of renewable land and water resources or the high consumption of nonrenewable energy resources. "Only by careful management of our human numbers and environmental resources," he said, "will we be able to provide ourselves and our children a high quality of life."

Echoing the views of Dr. M. King Hubbert and Dr. Earl Hayes, who spoke before her, Dr. Anne Ehrlich of Stanford University stated that the best single measure of a society's environmental impact is its energy use—a rough index of both affluence (resource consumption) and some aspects of technology. By that standard,

she reported, Americans are by a considerable distance the world's leaders in environmental impact, using twice as much energy per person as most Europeans and 100 times as much as citizens of some of the poorest developing nations. "Thus," she maintained, "any additions to the U.S. population [22 percent of which she attributed to immigration] could be expected to have a far greater impact on the world's environment and resources than the same number of people added to the population of any other nation. Lacking a national demographic policy, it will be very hard to design a sensible immigration policy," she said.

Speaking for another point of view, Dr. Roger Revelle of the University of California, San Diego, pointed out that, historically, migration has been an important tool to bring about a more effective use of combinations of resources and that migration performs that function to this day. In fact, he argued, migration to the United States now has a positive effect on the use of the world's resources. Extreme poverty, he maintained, represents a gross waste of human resources. It is the imbalance between human and other resources that is at the root of poverty in many of the Western Hemisphere countries where life expectancy is low. Since outward migration leads to reduction of population pressure on cultivated land, this is a partial remedy for the extreme poverty that afflicts countries with very small land-to-population ratios.

He stated that migration will result in higher standards of living for both receiving and sending countries, the reduction of unemployment and underemployment (the greatest wasters of resources), and innovation in the utilization and conservation of resources. Dr. Revelle urged an immigration policy which facilitates the migration of persons from sending countries in the Caribbean basin (Colombia, the Dominican Republic, Haiti, Jamaica, Cuba, El Salvador, and Guatemala), Mexico, Ecuador, and Peru in the interests of resource conservation and generation.

Immigration, economic development, and productivity—July 15, 1980

A daylong inquiry into the relationship of immigration to economic development and productivity in the United States was held on July 15. Representatives from government, business, and the academic community joined the round-table discussion on U.S. labor force needs for the next several decades and the ways that immigration can enhance economic growth and development.

Opening the morning's discussion, Dr. Daniel Saks of the National Commission for Employment Policy noted that immigration accounted for 6.9 percent of the increase in the labor force between 1975 and 1976. "The number seems so small," Saks said. "With the growth of the potential labor force slowing substantially, this may not be a bad time to consider changes in the immigration law to accommodate manpower shortages."

Sharp disagreement was voiced by Dr. Markley Roberts of the AFL-CIO, who maintained that immigration is "98 percent irrelevant" to economic development and productivity. "It is wrong and dangerous to hand economic policy on something external like immigration policy," he said.

Dr. Leonard Hausman of the Heller School of Brandeis University told the Commission that, despite the 8-percent unemployment figure,

there will continue to be geographic and occupational shortages. He maintained that while other economic measures were more important than immigration for increasing productivity, immigration was still a significant factor and one over which we have control. According to Dr. Hausman, there can be no question that immigrants contribute to the overall productivity of the United States based on historical and contemporary research, such as it exists.

Criteria for a category (independents) of immigrants that might be admitted under several of the policy models currently being considered by the Commission were given close scrutiny during the afternoon session. Three methods of determining admissibility were discussed: the open, first-come, first-served system; the point system, based on combination of desirable attributes on the part of the intending immigrants; and the job offer system. The job offer system received the most favorable attention from consultation participants, who favored facilitating the entry of skilled labor.

Paul Ostergard, representing the National Association of Manufacturers, advised the Commission that immigration policy must be integrated with other government policies to attack structural unemployment successfully. He noted that since there is a glimmer of hope that by the mid-1980's urban, unemployed youth will move into the unskilled entry-level jobs, ease of entry for skilled workers should be a goal of category three.

Immigration and protection of the U.S. labor force—July 16, 1980

On July 16, the Select Commission brought together a diverse group of experts to discuss what meaningful mechanisms might be used to protect the U.S. labor force under a new immigration system. Participants came from Federal agencies, organized labor, the immigration bar representing employers and prospective alien employees, and an independent legal firm specializing in immigration labor policy.

There was general agreement that the present system of labor certification is deficient in a number of respects; it is inefficient, sets up a strong adversary relationship between the Government and employers, commits resources which are relatively large considering its impact, and leads to wasteful litigation which the Government often loses.

The participants noted that immigration generally accounts for only a small percentage of labor market growth and that refugees and immigrants entering under family reunification provisions are not screened for labor market impact. Nevertheless, it was agreed that a substitute mechanism to minimize negative labor market impacts in choosing independent immigrants should be explored. Participants in the consultation decided to continue to explore different options, including a new exclusion list for jobs which would specify which of them could not be filled should independent immigrants be chosen on the basis of a job offer; a lottery system which by its very nature would disperse labor market impacts; and a point system which would give points for certain kinds of wanted skills, presumably eliminating from competition those with skills already in abundant supply.

Seasonal workers: Need and supply—July 21, 1980

More than 50 participants, including 2 U.S. Senators and 4 U.S. Representatives, convened in Washington on July 21 to discuss seasonal workers.

Representative Hamilton Fish, Jr. (R-New York), who chaired the meeting, characterized the issue of temporary workers as one of "obvious importance," noting that the consultation session attracted a broad range of interested participants. In addition to the elected officials, participants included Dr. Michael Piore of the Massachusetts Institute of Technology; Dr. David Gregory of Dartmouth College; Dr. Phillip Martin of the University of California, Davis; Dr. Richard Mines of the University of California, Berkeley; Dr. Edwin Reubens of the City University of New York; and Drs. Sidney Weintraub and Kenneth Roberts of the University of Texas, Austin.

Senators S. I. Hayakawa (R-California) and Harrison Schmitt (R-New Mexico) discussed their proposal, "The U.S.-Mexico Good Neighbor Act of 1979," which has also been jointly introduced in the House of Representatives by Representative Daniel Lungren (R-California). This legislation would establish a large-scale temporary worker program for Mexican nationals on an experimental basis.

Congressmen Richard C. White (D-Texas) and Charles Pashayan, Jr. (R-California), presented their separate recommendations for legislation covering temporary workers from all countries for a 1-year period. Under the White and Pashayan proposals, workers would be certified by the Secretary of Labor as needed by U.S. employers and bonded by contracts to specific employers. These bills essentially call for expanding the current H-2 program and streamlining the current certification procedure.

While the number of authorized H-2 (temporary) workers is small (about 30,000 workers were employed last year), the illegal/undocumented portion of this work force is believed to be large. As a result, there has been increasing interest in a large-scale, legal temporary worker program as an alternative to undocumented migration.

At the consultation, Dr. Sidney Weintraub suggested a transitional 5-year temporary worker program to cushion the impact on both the United States and sending countries of a curtailment of the flow of undocumented migrants. This program would be coupled with a legalization program for those undocumented persons already here; an increase in the number of immigrant visas allotted for nearby countries such as Mexico, the Central American nations, and the islands of the Caribbean; severe penalties for employers who hire illegal/undocumented aliens; and a "reasonably fool-proof social security card for all workers."

Some participants pointed out that the Schmitt-Hayakawa-Lungren bills, designed as an experimental first step in controlling the flow of illegal/undocumented workers along the southwest border, would be limited to Mexican workers and rely on the Mexican Government to screen applicants for temporary employment. Numbers to be admitted would be determined jointly by the U.S. and Mexican Governments, and workers would find their own jobs through a "free market," once in the United States. Visas would be valid for periods not to exceed 6 to 8 months, after which time workers would be required to return to Mexico. The sponsors envision this program to include a large number of workers—at least 500,000 a year—to substitute effectively for the current illegal/undocumented flow.

Critics of the Schmitt-Hayakawa-Lungren proposals questioned the advisability of a separate program for Mexico, the apportionment of

visas by the Mexican Government (or any foreign government), and the effect of such a large-scale program on the domestic labor pool. Further, several participants warned against opening new illegal/undocumented flows from Mexico and not necessarily stemming those which now exist. As Dr. Richard Mines said, old migratory networks should be accounted for, "not new ones brought into existence."

Opponents of the White and Pashayan bills pointed out that contracting the foreign worker to a particular employer gives the employer the power to exploit the worker. Furthermore, the bills were criticized for placing the U.S. Government in the position of having to find American workers to fill seasonal jobs which, if not filled, would automatically go to foreign workers.

Alexander Cook, minority counsel to the House Judiciary Committee, suggested that a temporary worker program could be instituted in conjunction with a legalization program. Under his plan, permanent resident status would be granted first to those undocumented persons who had been in the United States prior to a certain date, and temporary worker status would be granted to the remaining illegal/undocumented workers, leading to adjustment of status as permanent residents within a predetermined period of time.

Consultation participants expressed differing views on the feasibility of developing a fair and equitable temporary worker program, on the need for more analysis of demographic projections, and on the foreign policy implications of a large-scale temporary worker program for Mexico and other leading sending nations. A number of the participants argued that the current illegal/undocumented population should be legalized first, deferring the issue of a temporary worker program until the effects of the legalization program have been assessed.

6. THROUGH COMMISSION TASK FORCE WORKING GROUPS

Some of the issues facing the Select Commission are technical in nature and extremely difficult to solve. In such instances, special working groups have been established to study these issues in depth and develop alternatives which are fair, technically viable, and administratively feasible. These working groups consist of representatives of the affected Federal agencies, experts from the private sector, and appropriate members of the Select Commission staff and the Commission's Staff Advisory Group.

Working groups are currently meeting on the following issues:

(1) A mechanism for choosing independent immigrants which minimizes negative labor impacts and optimizes desirable characteristics.

(2) A system for clearing the backlogs of immigrant visa applicants, and the phasing of a backlog clearance program and a legalization program in relation to a new system of visa allocations for immigrants.

(3) Identifying authorized workers under an employer responsibility/sanctions law. The group is costing-out proposed policy and administrative changes.

7. THROUGH THE ANALYSIS OF PUBLIC OPINION

To answer the questions it is addressing, the Select Commission has systematically contacted public opinion leaders, groups, and individuals to learn their views on all aspects of immigration and refugee policy. During these past months, the Commission's staff has made a major effort to involve Members of Congress, Governors, mayors, county and city officials, ethnic groups, religious groups, labor groups, business associations, agricultural organizations, civic groups, population and environmental groups, political organizations, women's organizations, senior citizen groups, and educational organizations in the work of the Commission. Not only have many of these groups sent representatives to testify at the public hearings mentioned earlier, but they have been invited to submit papers and resolutions to the Commission, and have been encouraged to arrange meetings at which Commission staff members have briefed these organizations' members and elicited their advice. The Commission staff has maintained an ongoing relationship with hundreds of groups and individuals.

The Select Commission staff has also analyzed the mail sent to the Commission. During the past months, the Commission has received the majority of its mail on the following issues:

(1) *Illegal/undocumented immigration*.—The majority of the Commission's mail has focused on the issue of illegal/undocumented aliens. Many of the writers have offered specific proposals for dealing with this problem, including legalization, employer responsibility/sanctions, a worker eligibility card, and a temporary worker program.

(2) *Refugees*.—Letters dealing with refugee issues have increased in number following the arrival of the Cuban "freedom flotilla." The majority of the people who wrote in the months of May, June, and July focused on Cuban arrivals. The writers shared the belief that the United States has lost control of its refugee policy and is being "invaded" by refugees.

Those few refugee letters which dealt with nationalities other than Cuban supported the admission of these groups to the United States.

(3) *Immigration policy*.—The letters received during the past months have been generally critical of present U.S. immigration policy. The reasons expressed for this dissatisfaction have concerned the inability of U.S. policy to cope with illegal migration, the large number of immigrant and refugee admissions allowed, the perceived negative impact of these numbers on the environment and birth rate, and the belief that present policy does not consider Americans first.

(4) *The Immigration and Naturalization Service*.—The letters dealing with the Immigration and Naturalization Service (INS) cover a variety of viewpoints. Some have complained about the attitudes of INS personnel, others of INS hiring practices, still others of the lack of independence on the part of immigration judges. Those letters that support INS have suggested that the agency be strengthened by the addition of money and personnel.

B. INFORMING THE PUBLIC

In keeping with the Federal request that all agency and Select Commission work be open to the American public, the Commission has continued its policy of open hearings, consultations, and Commission meetings. It has also continued to supply interested members of the public with written reports of its research and activities.

At its Washington headquarters, the Select Commission maintains a Public Information Center, where copies of papers and working documents are available to the public during regular office hours. To date, more than 300 interested members of the public have reviewed this material, and the Commission has responded to more than 2,000 requests for information on its activities and plans.

The Commission has also kept the public informed of its programs and research through:

*Commission meetings.*¹⁰—Meetings were open to the public; dates of the meetings were published in advance in the *Federal Register*.

Regional hearings.—All 12 regional hearings were open to the public. Local community organizations and others were alerted in advance by a notice in the *Federal Register* and stories and advertisements in local newspapers, to offer their views and questions at the hearings' extended "open microphone" sessions.

Consultations.—Consultations were scheduled in advance and open to the public.

*Briefing papers.*¹¹—All papers written by the Commission staff are available to the public upon request and at cost as are copies of the executive summaries of consultations and the testimony and executive summaries of public hearings.

Newsletters.—The Commission publishes a monthly, illustrated newsletter covering its own activities, related issues, schedules of upcoming meetings, and suggestions and observations by members of the public. It is sent to more than 8,000 people each month.

Media contacts.—Commission members and staff have appeared on numerous television and radio programs throughout the country explaining the Commission's plans and purposes and inviting the public to express their views and opinions on immigration issues before the Commission. The Commission staff have also briefed the editorial boards of the Washington Post, Chicago Tribune, Los Angeles Times, Atlanta Constitution, Denver Post, Boston Globe, and San Antonio Light.

Organizational meetings.—As part of its public information outreach program to describe the Commission's work and to ask for public views on immigration issues, Commission staff members have addressed a number of State and local governmental associations, university institutes, ethnic organizations, special interest groups, and professional meetings, among them the National Association of Counties, the New Jersey Governor's Ethnic Advisory Council, the American Farm Bureau Federation, the Conference on Immigration Policy and Temporary Foreign Workers, the American Committee on

¹⁰ See Appendix G for minutes of the three Commission meetings held January 30, May 7, and June 18, 1980.

¹¹ See Appendix H for a list of these documents.

Italian Migration, the National Council of La Raza, the American Bar Association, and the Mexican-American Legal Defense and Education Fund.

II. CONCLUSION

Though the Select Commission will not make its final recommendations to the President and the Congress until next year, it has made substantial progress in answering the four major questions before it:

(a) What should be done about the presence of large numbers of illegal/undocumented aliens in the United States?

(b) What should be done to curtail future flows of illegal undocumented aliens, whether they come by land or sea?

(c) What provisions should the law contain that ensure our immigration goals reflect our national interest?

(d) What should be done to reform the process by which the United States admits, excludes, deports, assigns, or adjusts the status of aliens, to make that process both more efficient and just?

The following pages set forth the current status of work at the Select Commission and the questions which remain to be answered.

A. WHAT DOES THE SELECT COMMISSION BELIEVE?

The Select Commission has explored alternative methods of coping with the presence of a large number of undocumented aliens in the United States, many of whom as workers, taxpayers, and family members are productive members of their respective communities. Aware that their illegal status constitutes a serious problem, the Commission is exploring alternative methods of legalizing that status.

If a legalization program is adopted, the Commission believes it must be accompanied by a strong, new program of enforcement which will curtail new flows of undocumented/illegal aliens to the United States. As a result, the Commission has undertaken a detailed analysis of enforcement measures in relationship to a new and enforceable immigration law to determine which would be most effective and consistent with American civil liberties and basic respect for human dignity.

The resolution of the issue of illegal/undocumented aliens must be accompanied by a new immigration and refugee policy which reduces the incentive for illegal migration to the United States. All aspects of such a policy are being examined in the light of American foreign, economic, and demographic activity, as mandated by the Commission's enabling legislation.

The Commission has been particularly concerned that American immigration policy be restored to the control of the United States. Aware that the United States has benefited in the past from immigration, the Commission is equally aware that the days of unlimited immigration are over; immigration policy must be determined in the light of American national interest. At the same time, it is mindful of the responsibility of the United States as a powerful and wealthy nation in a world of poverty and aspiration, and its symbolic role as a land of liberty and equal opportunity. Given these concerns, the Commission has been examining several models of immigration policy, which reflect this country's national and international obligations.

The Commission's last task, the revision of the Immigration and Nationality Act, will accompany its recommendations on immigration and refugee policy. It must be a law that clearly, simply, and equitably translates recommended policy into practice and procedure. As part of its work plan to submit a revised Immigration and Nationality Act to the President and the Congress, the Commission has assembled a special legal research task force, under the leadership of Commissioner Judge Cruz Reynoso, to study drafted legislative changes at the end of September.

B. WHAT QUESTIONS STILL REMAIN TO BE ANSWERED?

The Select Commission still faces many troublesome questions. Should the United States respond to tremendous migration pressures within this hemisphere from persons seeking an opportunity to work by legalizing their status through a temporary worker program, or would such a program by its very nature be inimical to American interests and values? Should the United States, in clarifying the family reunification provisions of our immigration policy, eliminate or modify the present preference system, which includes the married children and the brothers and sisters of U.S. citizens and their immediate relatives? Would elimination of these categories be consistent with our concern for the preservation of family? Does their retention mean an exponential growth in the number of immigrants and the taking of scarce immigrant visas to the exclusion of other interests and goals? What mechanism should the Federal Government use to protect U.S. labor in the selection of immigrants? Would the expense, conflict, and the interference by the Federal Government be worth the protection that U.S. workers would receive? How many immigrants each year would best serve U.S. interests in the areas of family reunification, refugees, and national economic and cultural development? Should a firm annual limitation be placed on the number of immigrants, or is such a limitation impossible to anticipate because of the need to accept refugees on an emergency basis?

C. WHEN WILL THE COMMISSION'S FINAL REPORT BE SUBMITTED?

Although the final report of this Commission will be submitted to the President and the Congress on March 1, 1981, the substance of its work and its major recommendations will be completed no later than January 15, 1981. A detailed report and appendixes will follow by March 1, 1981.

APPENDIXES

APPENDIX A

LIST OF SELECT COMMISSIONERS

The Honorable Edmund S. Muskie, Secretary of State
The Honorable Benjamin Civiletti, Attorney General
The Honorable F. Ray Marshall, Secretary of Labor
The Honorable Patricia Roberts Harris, Secretary of
Health and Human Services
The Honorable Edward M. Kennedy (D-Massachusetts),
Chairman, Senate Committee on the Judiciary
The Honorable Dennis DeConcini (D-Arizona), Senate
Judiciary Committee
The Honorable Charles McC. Mathias, Jr. (R-Maryland),
Senate Judiciary Committee
The Honorable Alan K. Simpson (R-Wyoming), Senate
Judiciary Committee
The Honorable Peter W. Rodino (D-New Jersey), Chairman,
House Committee on the Judiciary
The Honorable Elizabeth Holtzman (D-New York),
Chairwoman, Subcommittee on Immigration, Refugees,
and International Law, House Judiciary Committee
The Honorable Robert McClory (R-Illinois), House
Judiciary Committee
The Honorable Hamilton Fish, Jr. (R-New York), House
Judiciary Committee
The Reverend Theodore M. Hesburgh, C.S.C., President,
University of Notre Dame, South Bend, Indiana
(Chairman of the Select Commission)
Ms. Rose Matsui Ochi, Executive Assistant to the Mayor,
Criminal Justice Planning, Los Angeles, California
Mr. Joaquin Francisco Otero, International Vice
President, Brotherhood of Railway and Airline Clerks,
Washington, D.C.
The Honorable Cruz Reynoso, Associate Justice, Court
of Appeals, Third Appellate District, Sacramento,
California

APPENDIX B

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY
STAFF, DETAILEES, AND CONSULTANTSSTAFF

Donna Alvarado, Research Associate.

Born in Washington, D.C., B.A., M.A., doctoral candidate.
Previous Employment: Professional Staff Member, U.S. House of Representatives Select Committee on Narcotics Abuse and Control; Education Officer, Department of Army.

Sam Bernsen, Director of Legal Research.

Born in New York City, LL.B. Previous Employment: Immigration and Naturalization Service General Counsel, Assistant Commissioner for Adjudications; District Director (New Orleans); Practicing lawyer specializing in immigration and nationality law, Washington, D.C.

Elaine Daniels, Public Affairs Officer.

Born in South Bend, Indiana, B.A. Previous Employment: Professional Staff Member, Select Committee on Population, U.S. House of Representatives; Assistant Superintendent, Senate Radio-TV Gallery.

Susan Forbes, Research Coordinator.

Born in Newark, New Jersey, B.A., M.A., Ph.D. Previous Employment: Assistant Professor, Brandeis University; Lecturer, University of Pennsylvania. On leave from Past Masters, Inc.

Lawrence H. Fuchs, Executive Director.

Born in New York City, B.A., M.A., Ph.D. Previous Employment: Dean of Faculty, Brandeis University; Director, Peace Corps, Philippines. On leave from the Department of American Studies, Brandeis University.

Janelle Jones, Editor.

Born in Dodgeville, Wisconsin, B.A., M.A. Previous Employment: Associate, Neighborhood Development Collaborative; Staff Assistant to the Deputy Commissioner, Immigration and Naturalization Service.

Barbara S. Kraft, Editor.

Born in New York City, B.A., M.A., Ph.D. Previous Employment: Publications Director, Northeast-Midwest Institute; Research Historian, Smithsonian Institution.

Peter Levinson, Consultant.

Born in Washington, D.C., A.B., J.D. Previous Employment: Deputy Attorney General, State of Hawaii; Assistant Professor of Law, York University, Canada.

Sheila H. Murphy, Research Aide.

Born in Brockton, Massachusetts, B.A. Previous Employment: Staff Intern, Office of Sen. Paul Tsongas (D-Massachusetts).

Maureen O'Sullivan, Research Assistant.

Born in San Diego, California, B.A., J.D. candidate 1981. Previous Employment: Goren and Maggio law firm; Urban Law Institute of Antioch School of Law.

Robert J. Portman, Research Aide.

Born in Cincinnati, Ohio, B.A. Previous Employment: Staff, Rep. Willis D. Gradison (R-Ohio).

Ronald S. Scheinman, Research Associate.

Born in Brooklyn, New York, B.A., M.A., Ph.D. Previous Employment: Assistant Professor of Government and Law, Lafayette College; Programme Officer, U.N. High Commissioner for Refugees.

Nancy Shapiro, Research Associate.

Born in Somerville, New Jersey, B.A., M.Ed., doctoral candidate. Previous Employment: English teacher, New Trier High School, Winnetka, Illinois, and Mt. Pleasant High School, Wilmington, Delaware.

Charles D. Smith, Research Associate.

Born in Alfred, New York, B.A., M.A., J.D. Previous Employment: Staff Attorney, Center for Criminal Justice, Boston University; Peace Corps Volunteer, Ethiopia.

Nina K. Solarz, Director of Public Affairs.

Born in New York City, B.A., M.A. Previous Employment: Director, National Development Council, Washington, D.C.; Representative, Office of the Mayor of New York City, Washington, D.C.

Luis F. Solis, Research Assistant.

Born in Washington, D.C., B.A. Previous Employment: Vice-Chairman, COPUS Research Project; Staff, Sen. Charles McC. Mathias, Jr. (R-Maryland).

Sandra A. Stevens, Special Assistant to the Director and Executive Secretary to the Select Commission.

Born in Cambridge, Massachusetts, B.A., M.A. Previous Employment: Management Consultant, Mitchell & Company; Curriculum Specialist, Education Development Center. On leave from Mitchell & Company.

Lee Thomas Surh, Public Affairs Officer.

Born in Los Angeles, California, B.A., J.D. Previous Employment: Attorney-in-Charge, West Oakland Office, Legal Aid Society of Alameda County.

Ralph B. Thomas, Deputy Director of the Commission.

Born in Mt. Carmel, Illinois, B.A., M.A., Ph.D. Previous Employment: Special Assistant to the Commissioner, Immigration and Naturalization Service; Coordinator of Management Systems, Controller's Office, City of Houston, Texas.

Lois Wilzewske, Office Manager and Press Liaison Officer.

Born in Reedsburg, Wisconsin, B.A. Previous Employment: Secretary to the Executive Director, Task Force on Immigration Policy and Law; Director, Department of Socio-Economic Research, Minnesota Medical Society.

SUPPORT STAFF

Dianne L. Brickey, Secretary.

Born in Big Stone Gap, Virginia. Previous Employment: Department of Interior, Bureau of Indian Affairs; Department of Defense, Defense Investigative Service.

Daniel Bryant, Receptionist.

Born in Waltham, Massachusetts, B.A.

Debra Calloway, Secretary.

Born in Washington, D.C. Previous Employment: Internal Revenue Service; Agency for International Development.

Susanna Gomez-Collins, Administrative Assistant to the Director.

Born in Havana, Cuba. Previous Employment: Hispanic Affairs Office and Office of the Assistant for Public Liaison, the White House.

Antrena B. Myers, Secretary.

Born in Birmingham, Alabama. Previous Employment: Department of Commerce; Department of Energy.

Diana Pearson, Clerk.

Born in Washington, D.C. Previous Employment: Fort Belvoir Officers' Club.

Avelina Sabangan, Secretary.

Born in Puerto Rico. Previous Employment: Department of State; Commission on the Status of Puerto Rico.

Beula Sprague, Secretary.

Born in Madison, Maine. Previous Employment: Singer Sales and Service.

Sharon M. Sullivan, Executive Secretary.

Born in Washington, D.C. Previous Employment: Department of Commerce, Bureau of the Census; Department of the Navy.

Terry Wilkerson, Secretary to the Deputy Director and Special Assistant.

Born in Washington, D.C. Previous Employment: Department of the Interior, U.S. Fish and Wildlife Service.

DETAILEES

Ernest B. Dane, Research Associate.

Born in Boston, Massachusetts, B.A., M.A. Previous Employment: Management Analysis Officer, Visa Office, Department of State; Consular Officer, Madras, India. On detail from the Department of State.

Joan Loeff, Research Associate.

Born in New York City, B.A., M.A. Previous Employment: Chief of Financial Analysis, Office of Advanced Systems, Social Security Administration; Economist, Social Security Administration. On detail from the Social Security Administration.

Lisa Smith Roney, Research Associate.

Born in Fayetteville, Arkansas, B.A., M.P.A. Previous Employment: Senior Program Analyst and Statistician, Immigration and Naturalization Service. On detail from the Immigration and Naturalization Service.

CONSULTANTS

Guillermina Jasso

Born in Laredo, Texas, B.A., M.A., Ph.D. Previous Employment: Assistant Professor of Sociology, Columbia University; Special Assistant to the Commissioner, Immigration and Naturalization Service. Present Employment: University of Michigan.

Mark R. Rosenzweig

Born in New York City, B.A., M.A., Ph.D. Previous Employment: Associate Professor of Economics, Yale University. Present Employment: University of Minnesota.

APPENDIX C

LIST OF SELECT COMMISSION RESEARCH CONTRACTS AND PAPERS PREPARED FOR THE SELECT COMMISSION

RESEARCH CONTRACTS	TOPIC	EXPECTED	IN
Frank D. Bean University of Texas at Austin	Patterns of Fertility Variation Among Mexican Immigrants to the United States	8/15	X
Josefina Jayme Card American Institute for the Behavioral Sciences	Migration Intentions and Migration Behavior -- A Longitudinal Study of Filipino Graduate Students	8/15	X
John Garcia Survey Research Center University of Michigan	Civic Participation of Mexican Immigrants	8/15	X
David Goldberg Population Studies Center University of Michigan	Cross-Cultural Comparison of Mexican-Americans, Mexican Nationals, and Non-Mexican-Americans -- A Detroit Case Study	8/15	
Larry Neal Office of West European Studies University of Illinois at Urbana-Champaign	Interrelationships of Trade and Migration -- Lessons from Europe	8/15	X
Louka Papaefstratiou Economic Growth Center Yale University	Trade Flows and Factor Mobility	8/15	X
Guy Poitras Border Research Institute Trinity University	The United States Experience of Return Migrants from Costa Rica and El Salvador	8/15	X
T. Paul Schultz Economic Growth Center Yale University	School Achievement and Health Status of Children of Migrants	8/15	X
Julian Simon University of Illinois at Urbana-Champaign	The Comparative Use of Governmental Social Programs by Immigrants and Natives	8/15	X

<u>RESEARCH CONTRACTS</u>	<u>TOPIC</u>	<u>EXPECTED</u>	<u>IN</u>
Rita Simon University of Illinois at Urbana-Champaign	Social-Psychological Adjustment and Acculturation of Adolescent Children of Immigrant Families	8/15	
Nelle Temple Overseas Development Council	Economic Cooperation Programs and Restraint of Flow of Migration	8/15	X
Kenneth Wolpin Economic Growth Center Yale University	The Structure of Households of Immigrants and Natives	8/15	X
Andrea Tyree S.U.N.Y. at Stony Brook	Cross-National Determinants of Immigration to the United States	8/15	X
Thomas Kessner C.U.N.Y.	The History of Return Migration of Immigrants	8/1	X
Allen Steinberg Columbia University	The History of Immigrants and Crime in the United States	8/1	X
Jenna Weissman Joselit Columbia University	The History of Immigrants and Health Issues in the United States	8/15	X
Susan Forbes, Historical Consultants, and Peter Lemos, C.U.N.Y.	The History of American Language Policy and Immigration	8/1	X
William Lewis George Washington University	International Refugee Mechanisms	8/15	X
Norman Zucker Brookings Institution	Voluntary Agencies -- Resettlement Philosophy and Capability	8/15	X
Barry Stein Michigan State University	Refugee Resettlement Programs -- Services and Policies	8/15	X
Notre Dame University Law School - Center for the Study of Human Rights	Parole Authority -- Process and Standards Immigration Law Research -- Indian Treaties & Law Immigration Law Research -- Refugee Act of 1980	10/1 7/15 7/17	X

<u>RESEARCH CONTRACTS</u>	<u>TOPIC</u>	<u>EXPECTED</u>	<u>IN</u>
William S. Kenney	Statute of Limitations on Bars to Admissions and Adjustment	9/1	
<u>VOLUNTEERED RESEARCH</u>			
Notre Dame University Law School - Center for the Study of Human Rights	Federal Preemption Employer Sanctions	9/1	X
Alien Rights Project of National Lawyers' Committee for Civil Rights	Variety of Papers on Legal Topics	9/1	
<u>CONSULTATION PAPERS AND WRITTEN TESTIMONY</u>			
Michael Maggio, Esq. Attorney-at-Law	Written Statement on Immigrant Workers and Migration from the Caribbean		X
D. Elliott Parris Howard University	The Contributions of the Caribbean Immigrant to the United States Society		X
Claudwell Thomas New Jersey Medical School	The Impact of Caribbean Immigration on Urban U.S. Institutions		X
Wayne A. Cornelius Program in U.S.-Mexican Studies University of California at San Diego	Legalizing the Flow of Temporary Migrant Workers from Mexico: A Proposal		X
David Gregory Inter-American Council on Manpower and Development, Inc.	A Mexican Temporary Workers Program: The Search for CoDetermination		X
Richard Mines University of California at Berkeley	A Temporary Work Permit Program for Mexicans		X

<u>CONSULTATION PAPERS AND WRITTEN TESTIMONY</u>	<u>TOPIC</u>	<u>EXPECTED</u>	<u>IN</u>
Edwin P. Reubens Center for Philosophy and Public Policy University of Maryland	Immigration Problems, Limited-Visa Programs, and Other Options		X
Sidney Weintraub University of Texas at Austin	A Proposal to Phase Out U.S. Use of Foreign Temporary Workers		X
Anne Ehrlich Stanford University	The Environmental Impact of Immigration		X
M. King Hubbert	Immigration and Global Energy/Natural Resources -- The World's Evolving Energy System		X
David Pimentel Cornell University	Land, Water, and Energy Resources: Food and Immigra- tion Policies		X
Roger Revelle University of California at San Diego	Migration: A Positive Effect on Resources		X
Colleen Shearer Iowa Refugee Service Center	Testimony on Refugee-Related Issues		X
Edwin B. Silverman Refugee Resettlement Programs Illinois Department of Public Aid	Testimony on Refugee-Related Issues		X
Ned Whitehead Whitehead and Co.	Identification Card and Method (copy of patent application)		X
Carlos E. Cortes University of California at Riverside	Education of Immigrants and Refugees		X
Jean D. Grambs University of Maryland	Written Observations of Education Consultation		X
Nancy B. Wyner Wheelock College	Written Observations of Education Consultation		X

<u>CONSULTATION PAPERS AND WRITTEN TESTIMONY</u>	<u>TOPIC</u>	<u>EXPECTED</u>	<u>IN</u>
Robert Juceam American Immigration and Nationality Lawyers	The Lottery System		X
William Overholt:	A Global Survey of Political-Economic Tensions Which Could Stimulate Refugees or Rapid Migrations		X
Charles Keely Population Council	Ceilings, Quotas and National Origins Notes on International Migration and International Relations		X
<u>AGENCY PAPERS PREPARED FOR COMMISSION</u>			
Department of Labor	Protecting U.S. Labor Force	Sept.	
	Keeping Undocumented Workers out of the Work- force: Evaluation of Alternative Strategies and Costs of Alternative Work Permit System (David North)		
Office of Foreign Economic Research	The Economic Implications of Immigration: Labor Shortages, Income Distribution, Pro- ductivity and Economic Growth (Kyle Johnson and James Orr)		X
State Department AID/IDCA	Abstracts of Funded Research (Marion Houstoun)		X
	Impact of Development Assistance, Trade and Investment Programs on Migration Pressures in Major Sending Countries		X
CA	Foreign Policy Implications of Increases in Immigration	7/28	
Immigration and Naturalization Service	State and Local Law Enforcement Officers and Immigration Law Administrative Naturalization Temporary Alien Workers on Guam Adjudication of Relative Visa Petitions		X X X
		June	

<u>AGENCY PAPERS PREPARED FOR COMMISSION</u>	<u>TOPIC</u>	<u>EXPECTED</u>	<u>IN</u>
Health and Human Services	Abstracts of Funded Research (Karen Deasy)		X
Library of Congress	Excerpts of Articles on Immigration		X
Bureau of the Census	Estimating the Illegal Alien Population		X

APPENDIX D

SUMMARY

NEW YORK CITY REGIONAL HEARING

January 21, 1980

OPENING REMARKS by Representative Elizabeth Holtzman, Hearing Chairperson, followed by testimony:

TOPIC: Service Functions of the Immigration and Naturalization Service (INS)

Witness: Representative Theodore Weiss (D-New York)

Representative Weiss stated that the INS is incompetent as a provider of services to aliens in the United States. This fact is underscored by the investigation of INS published in the New York Times. Exposure of these problems should force the Department of Justice and the Administration to move swiftly to make corrections in the present system. Computerization might not be the answer to all INS problems. Greater internal control of records is needed, Representative Weiss advised.

"Restructuring the INS to meet the needs of the people . . . should be an immediate action."

TOPIC: Impacts on Health Care Services of Illegal or Undocumented Persons

Witness: Richard Berman, Director, New York State Office of Health Systems Management

Mr. Berman recommended the following measures to provide illegal aliens with needed health care:

1. Include all people in the census, since it is used as a data base for the allocation of federal funds.
2. Ensure that the federal government develops mechanisms so that undocumented aliens have access to fundamental health services.
3. Ensure that any approach to financing and providing health services for aliens includes consideration for all persons facing similar health care needs.
4. Ensure that Congress give immediate attention to those areas which affect the quality of life here, of which health care is an integral factor.

5. Enact interim federal measures to support provisions of health care to undocumented aliens nationwide, particularly in those areas where the burden is the heaviest.

We need to "go a long way in removing the potential risk of illegal aliens to public health and safety," said Mr. Berman.

TOPIC: Social Service Impacts of Illegal Aliens

Witness: Stanley Brezenoff, Commissioner, New York City Department of Social Services

New York City's documentation requirements have been effective; there is a strong sense that neither Medicaid nor income maintenance programs include significant numbers of undocumented aliens. Under food stamp programs, however, eligibility standards are less stringent. Thus, more undocumented aliens are probably receiving these benefits, although there is no way to establish an exact number. The numbers of undocumented aliens using social service programs would clearly be much greater if their status were legalized, since the fear of detection would no longer be a factor. It is not clear whether these new costs would be offset by increased taxes.

"For the administrator of human services, . . . illegal aliens present a heartbreaking dilemma. I am bound on the one hand to protect the public first, to exert the tightest possible control over access to services and benefits so that they are dispensed only to persons legally entitled to them; on the other hand, I also handle an agency specifically responsible for the protection and care of the poorest and most vulnerable in the city. By anyone's standards, most illegal aliens would fall into that group."

TOPIC: Impacts on Education of Illegal Aliens

Witness: Waldemar Rojas, Executive Assistant to the Chancellor, New York City Board of Education, accompanied by John Accompare and Guillermo Linares

New York City schools have traditionally been one of the most important catalysts in the welcoming and socialization process of immigrants. This benefit must continue to be provided to all children, regardless of the circumstances of their parents. The responsibility of New York City schools is to provide the best possible education to children without attempting to determine their status or the status of their parents.

"It is in the society's best interest to have these pupils in appropriately supervised educational settings in order to become constructive, contributing members of society," said Mr. Rojas, who added, "The process of monitoring the immigration status of a child or parent is not a proper function of the New York City Board of Education."

TOPIC: Exploitation of Illegal Aliens

Witnesses: Donald Elisburg, Assistant Secretary of Labor

Frank Mercurio, Regional Administrator for Employment Standards, U.S. Department of Labor

Jay Mazur, Vice President, International Ladies Garment Workers Union (ILGWU)

Mr. Elisburg testified that the Department of Labor has established programs in nearly all major urban areas to detect those who are employing undocumented workers. One of the most effective methods in forcing compliance with the Fair Labor Standards Act has proved to be compelling firms to keep proper records; this makes it more difficult for them to avoid paying the applicable federal minimum wage and proper overtime. Much emphasis has also been placed on spreading meaningful information to the general public so that everyone is aware of the laws. However, the Department of Labor still encounters many difficulties in enforcing the Fair Labor Standards Act.

"We are fully cognizant of the fact that many violations of the laws come about through lack of knowledge and the language barrier," said Mr. Elisburg.

Mr. Mercurio testified that, in October 1979, his office filed 85 civil actions against New York Chinatown area apparel contractors for violation of the Fair Labor Standards Act, and that over 500 Chinatown establishments had been visited during their investigations. Most of the violations had to do with record-keeping. In 1979, the New York office conducted 2,296 investigations of employers of undocumented workers, resulting in the discovery that \$4,255,155 was owed to 18,191 workers. Most violations concerned lack of records, uncompensated work done before and after scheduled hours, illegal homework, falsification of time and production records, and cash payments to employees that were not on payroll records. The northern New Jersey task force found violations amounting to \$500,000 involving painting contractors, restaurants, and food markets. Mr. Mercurio said that his office also has educational programs designed to overcome the public's lack of legal knowledge and language barriers.

Mr. Mazur testified that the ILGWU is very concerned about immigration policy because the rights of undocumented persons have been repeatedly denied, because exploitation of undocumented workers threatens to undermine the wages and working conditions of all blue-collar workers, and because current immigration policy has created an underclass consisting of undocumented workers.

To correct these abuses, ILGWU supports:

1. General amnesty for all undocumented persons;
2. The continuation of restrictions on the flow of immigrants from Mexico, because the United States cannot accommodate everyone who wants to come here;
3. A thorough reorganization of the INS; and
4. The effective, meaningful, and sustained enforcement of existing labor standards which can protect workers from blatant abuse.

Under the present system, Mr. Mazur said, "the underlying factor here is fear, fear of arrest, fear of deportation, fear of abuse."

TOPIC: Enforcement Policies and Procedures of the INS

Witnesses: David W. Crosland, Acting Commissioner, INS

Jack Ricciardi, former Assistant District Director for Investigations

The INS has recently been increasing the number of Border Patrol agents, and the number of undocumented aliens apprehended has increased as well. Of those illegal persons who are not apprehended, many move to large cities where they contribute to the problem of displacement of low-income workers. As an example of the type of enforcement problems INS faces, the breakup of a prostitution ring involving undocumented persons was described.

In its attempts to track all Iranian students after President Carter's November 1979 directive, the INS showed that it can adequately perform its duties. The INS will further tighten its controls on foreign students for next year, largely through more stringent regulations.

The INS is very concerned with maintaining the rights of illegal aliens. For example, the INS now grants evidentiary hearings to persons in asylum claims during exclusion proceedings. In addition, all illegals now have the right to counsel before being placed in any sort of formal hearing.

The INS has reinstituted a line management system so that each individual understands what he or she is responsible for.

"Many of the problems we've got are longstanding problems. They're not going to disappear with a quick, simple solution," said Mr. Crosland.

TOPIC: Enforcement Policies and Procedures of the INS

Witness: Peter Sudler, Assistant U. S. Attorney, accompanied by an unidentified illegal worker

Mr. Sudler brought with him an unidentified Chinese illegal worker who described the existence of Chinese tongs that help people immigrate illegally from Hong Kong to the United States for a very high price. The Chinese who enter the country this way have no choice but to follow the orders of the tongs because they fear deportation if members of the tongs turn them over to the authorities.

"These people (the Chinese) have problems," said Mr. Sudler. "They can go to local city agencies, state agencies, or federal agencies, but they are very wary of these agencies; besides, very few people in these agencies are capable of speaking Chinese. They have nowhere to turn for help."

TOPIC: Rights of Aliens

Witnesses: Lydio Tomasi, Director, Center for Migration Studies

Michael Posner, Lawyers' Committee on International Human Rights

Mr. Tomasi asserted that the enforcement of current U.S. immigration laws is not possible until some basic immigration issues are resolved. The fundamental problem lies in the area of the lack of citizenship of illegal persons, but little attention is being focused on the political participation of migrants. The first step in ending current injustices is to grant full amnesty to all undocumented persons.

Mr. Posner asserted that the United States does not seem to have a comprehensive immigration policy that has clear goals or objectives. There is also a lack of flexibility in the system, as well as major bureaucratic problems in administering the law.

"We often note a lack of coordination between laws, regulations, and operating procedures, which makes it difficult for Service personnel, as well as for lawyers and clients, to really get a sense of what's going on and what's intended," said Mr. Posner.

In a subsequent exchange with Dr. Fuchs\$ Mr. Tomasi called for a granting of amnesty to illegal persons as soon as possible, but reiterated his position that amnesty must be granted in the context of an international agreement with major sending countraes, particularly Mexico; he also stressed advocacy of a temporary worker program.

TOPIC: Inspection and Exclusion of Homgsexuals

Witnesses: Barrett Brick, Esq.

Charles Brydon, Co-Executive Director, National Gay Task Force

E. Carrington Bogan, Esq.

Margo Karle, President, Lambda Legal Defense and Education Fund

Mr. Brick, a U.S. citizen, testified that he was subjected to a humiliating search by customs authorities upon reentering the country from a trip abroad, after a book on gay liberataon was discovered in his luggage. Mr. Brydon stressed that homosexuality "is not a medical condition, and is not subject to medical diagnosis" and challenged the view that Congress gave authority to the State Department and INS to determine who is and is not a homosexual. "Our government, he said, uses [the law] as a vehicle for harassing and abusing gay people."

Mr. Bogan testified that there can "no longer be any justification for the exclusionary policy enforced against homosexuals, nor for recommendations by INS against naturaliration based on an applicant's homosexuality." The Immigration and Naturalization Act (INA), he advised, should be amended to provide that homosexuality not be a ground for exclusion from entry, for deportation, or used as a bar to naturalization.

Ms. Karle supported Mr. Brydon's statement challenging the alleged congressional mandate to exclude homosexuals and proposed the options of either changing the statute or simply changing administrative procedures to reflect updated medical opinion.

TOPIC: Service Functions of the INS

Witnesses: Jonathan Avirom, President, Association of Immigration and Nationality Lawyers

Lydia Savoyka, Director, Migration and Refugee Services, U.S. Catholic Conference

Michael G. Harpold, President, National INS Council, American Federation of Government Employees

Mr. Avirom recommended several changes to facilitate INS functions, in particular:

1. Changing physical layout of INS office to increase efficiency;
2. Reducing complexity of present law that requires legal practitioners to understand often obscure State Department and Department of Labor policies;
3. Speeding up the adjudication process;
4. Having lawyers do adjudication;
5. Changing negative attitude of INS personnel in the adjudication process so that they appear willing to facilitate the alien's presence here rather than trying to keep him out;
6. Eliminating case backlog;
7. Setting time limits on applications and granting automatic approval after a maximum time limit;
8. Improving the New York detention facility, "an abomination"; and
9. Eliminating present procedures that allow immigration judges to (a) conduct deportation hearings daily in the facility itself, "raising questions of due process," and (b) conduct bond hearings in the facility, which no lawyer wants to visit because it's in a "bad neighborhood."

Lydia Savoyka suggested specific management changes to improve the functioning of INS. She also said, "The fact that the Service can no longer cope effectively . . . is a clear indication that the number of persons seeking admission to the United States greatly exceeds the number admissible under current legislation."

Mr. Harpold stressed the need for "protecting morale" of INS employees as essential to their being able to perform their jobs, asked for policies that would "be within the framework of the law and readily recognizable as such," and requested that INS resources be "within reasonable proximity to the tasks before us." Staff working conditions are "intolerable" and desperately need improvement, he said; the suggestion that INS be "eviscerated" is "short-sighted . . . the people in the INS are the bright spot . . . probably one of the only things worth saving."

TOPIC: Perspectives on the Preference System

Witness: Charles Keely, Research Staff, Center for Policy Studies, Population Council

Mr. Keely spoke in favor of extending the principle of family reunification so that it "remains a cornerstone of the INA." He proposed that present preference be maintained but that no percentage be set on each, and that per-country limits be abolished. Instead he advocated admitting all who want to come, beginning with the first preference and moving on down through the preferences until there are no more spaces under the established overall ceiling.

He also advocated eliminating the current labor certification system and said that "subordinating immigration policy to manpower policy is bad policy, and . . . cannot be operationalized efficiently." Mr. Keely said he considers immigration a blunt instrument to fine-tune the labor force.

TOPIC: Immigration Recommendations from Asian-Americans

Panel

Witnesses: Norman Kee, Chairman, Federal Advisory Committee, INS

Benjamin Gim, Zacarius Manigbas, George Shimamoto, Lisa Yee

Mr. Kee summarized for the panel: While the problems of each Asian country are different with respect to immigration, all panel members agree that (1) future immigration policy must be free from the prejudice that characterized earlier immigration laws directed at Asian immigrants, and that (2) the concept of family reunification must be expanded in new immigration laws to include the extended, not just the core, family. The panel advocated placing current first-preference immigrants (unmarried sons and daughters of U.S. citizens) among the numerically exempt immediate relatives, and increasing the numbers allocated to the remaining family preferences at the expense of the labor preferences.

TOPIC: Immigration Recommendations from Hispanic Americans

Witnesses: Francisco Dominguez, Director, Office for
Immigration Services, Catholic Charities Counseling
Service, Archdiocese of New York

Francisco Guererro, Catholic Charities of New York

Mr. Dominguez recommended:

1. Revamping of immigration law "to reflect humanitarian concerns";
2. "Augmenting" Mexican and Canadian quotas to facilitate family reunification; U.S. citizen children of any age should be able to bring in parents;
3. Allowing adjustment of status in the United States for persons with approved labor certification;
4. Redefining "refugee" in accordance with U.N. definition; and
5. Granting a "generous amnesty" to illegal aliens.

"Both poor individuals and poor countries have a right to share in the progress and enjoyment of orderly living," said Mr. Dominguez, who also called for U.S. investment in underdeveloped countries "to create jobs and stop [aliens] from coming here." Mr. Dominguez also said that the rights--and lack of rights--of immigrants in this country need to be publicized more widely, and he requested the application to all aliens of labor laws covering wages and working conditions.

TOPIC: Immigration Recommendations from Italian-Americans

Witness: The Reverend Joseph Cogo, Executive Secretary, American Committee on Italian Migration

Father Cogo suggested a "three-tiered law whereby a separate preference system and percentages are given to each category of immigrants: family, workers, refugees." The total number of immigrants should be determined by need and by the "capabilities of absorption of our country," he said.

OPEN MICROPHONE TESTIMONY

Martha Hartman, Association of Americans Resident Overseas:

Called for "remaining vestiges of discrimination" to be eliminated against American citizens in the INA; specifically spoke against Section 301(g) of the INA that limits the transmission of citizenship to any child born overseas of one American parent if that American parent has not been physically present in the United States for ten years prior to the birth of the child, including five years after the age of 14.

Barbara Robinson, International Alliance of Theatrical Stage Employees:

Testified against the current H-1 visa program and the failure of the law "to provide protection to American crafts people by hiring . . . foreign nationals . . . even though people with equal or better ability are available on these shores."

Darwin Deen, International Union of Photographers:

Presented information to support his organization's case against the admission of foreign directors of photography into the United States to work on American motion pictures; submitted a list of pictures done on the East Coast in 1978 and 1979 to show how many used foreign photographers.

R. Bermingham, American Engineering Association:

Voiced strong opposition to the importation of foreign engineers into the United States at wages below the prevailing rates paid American engineers; has no objection to importing workers if they are paid at same rates.

Edward Levy, Professor of Music, Yeshiva University, New York City:

Voiced the opinion that immigration is a major component of U.S. population growth and that limiting immigration is therefore one major way to halt population growth.

Peter Cott, former Executive Director, Population Institute; former President, National Alliance for Optional Parenthood:

"We must plan for immigration levels consistent with clearly defined population goals and the need for population stabilization."

Nancy Casses, student, Hunter College:

"Goals for immigration should be set in the context of a federal commitment to planning for population changes and stabilization."

Raymond Wu, President, Chinatown Planning Council:

Requested the Select Commission to "influence a more positive change in immigration policies." Asian immigrants have made a vital contribution to the growth of the country, said Mr. Wu, who called for a special bill to allow 50,000 qualified immigrants from mainland China to be reunited with their families in the United States, in view of the fact that immigration from China was banned for 30 years and an enormous backlog of relatives of present residents waits to be admitted.

Charles Pei Wang (speaking on behalf of a Mr. Wee):

Recommended that Chinese who entered with forged documents at an earlier time be able to declare that fact without penalty and thus bring in family members legally. Also asked that social security numbers be issued to new immigrants immediately so that they may begin working, instead of having to wait six to eight weeks, thus losing opportunities to work.

Robert C. Rhodes, Queens Village, New York:

Expressed his concern over the apparent "loss of control" by the U.S. government over immigration, specifically recordkeeping, and expressed dismay at what he views as the taking over of his neighborhood/community by disparate groups of foreigners who refuse to assimilate.

Roy Morser, New York:

Testified that "the influx of immigrants exceeds our capacity to absorb them into American culture," and appeared to favor some limitations on immigration, which he did not specify.

John Petula, National Legislative Chairman, Federal Law Enforcement Officers Association; Administrative Vice President, New York City Chapter, FLEOA:

Criminal investigator with INS; spoke in support of more enforceable immigration laws and more money to do the job.

Norman Leigh, Committee of American Cinematographers:

Asked that INS immediately suspend issuance of H-1 visas to foreign directors of photography because they take jobs away from qualified Americans.

Jack McLaughlin:

Asked that INS again provide uniform home studies necessary for international adoptions at a reasonable minimum fee, to prevent the current wide discrepancy in fees charged by state agencies that do the studies at present.

Clint Harkenberry, American Liaison, International Gay Association:

Spoke against discrimination by the INS against homosexuals on at least four levels: They are denied visas by State Department and INS on the basis of their homosexuality; in addition, the law does not allow homosexuals to enter the country as a family unit; homosexuals can be excluded on grounds of "moral turpitude"; and homosexual refugees cannot currently be legally helped by Harkenberry's organization to gain admission.

Fred Ames:

Stated that the creation of the Select Commission was a ploy to avoid action on the controversial issue of amnesty for aliens.

Col. Richard W. Olmstead, Board Member, National Ministries, American Baptist Church:

Expressed his denomination's concern over the plight of Haitian refugees and the "glaring inequity" of U.S. policy toward them.

Kent Ernhardt, Planning Consultant, San Juan, Puerto Rico:

Expressed the opinion that Puerto Rico and the Virgin Islands have such close ties to the mainland that it would be "politically questionable and administratively not feasible" to treat them differently from the states; he does not favor any closed "migration door" between Puerto Rico and the mainland.

Donald Mann, President, Negative Population Growth, Inc.:

Believes that the U.S. national interest should be the sole criterion for determining immigration policy, and that immigration policy must be seen primarily in terms of U.S. population size and growth. Specifically recommended that legal immigration be drastically halted and that illegal immigration be halted entirely.

Terry Abelese, Indochinese Services, Catholic Social Services, Diocese of Harrisburg, Pennsylvania:

Said that existing social service agencies cannot provide for the numerous needs of Indochinese refugees, and that these agencies need government help.

Lourdes Mikiuchi, National Task Force for Filipino Immigrant Rights:
Testified that "the use of Supplemental Security Income as the basis for exclusion must be stopped and along with it the harassment of aliens returning from trips abroad."

Amy Besa, National Alliance for Fair Licensure of Foreign Nurse Graduates:

Testified that "there is no evidence of concern on the part of the U.S. government agencies and . . . hospitals to ensure the smooth integration of [foreign] nurses into the U.S. nursing profession." Instead, nurses are required upon arrival to take a licensing examination which they are not prepared for and which most of them fail. Suggested that the licensing examination be administered in the home country instead of in the United States.

E. Simon Newfeld, engineer, speaking on behalf of the American Engineering Association:

Argued that the importation of foreign-born workers was in violation of the Equal Employment Opportunity Act.

Mr. Kong, naturalized U. S. citizen and former immigrant:

Testified that the American people should be made more aware of why people immigrate to the United States; asserted that only qualified people should be allowed to immigrate and that no one should be allowed to come in illegally.

SUMMARY

PHOENIX REGIONAL HEARING

February 4, 1980

OPENING REMARKS by Senator Dennis DeConcini, Hearing Chairman, followed by testimony:

Witness: The Honorable Bruce Babbitt, Governor of Arizona

Governor Babbitt, addressing the issue of illegal Mexican workers, rejected the idea of sealing the border to prevent entry. Not only would it not work to keep illegals out, he said, "it will destroy our historic ties with Mexico, which are based on economic and cultural relationships that have been mutually enriching." He recommended that the following actions be pursued:

1. A federal government study to determine the magnitude and impact of illegal immigration.
2. A clear definition and enforcement of the rights and entitlements of all migrants, regardless of their legal status: equal protection, educational services, and health care. These issues are being argued in federal courts in the Southwest, but the Governor doesn't believe that they should be resolved in that arena; instead, the federal government must clearly define and uphold these rights. Undocumented gainfully employed, according to the Governor, should have a legal right to unemployment compensation, guarantees of safe working conditions, and adequate wages and be entitled to receive a refund of payments made to the social security system.
3. A determination of the juridical status of undocumented workers when they come to the attention of the public and INS. Rather than being summarily deported, we might consider allowing them to finish their jobs, if they are seasonally employed, before sending them back, or allowing them a longer temporary resident status. Reinstating a guestworker (bracero) program is not going to help stem the flow of illegals, however, because "there will always be people crossing the border without a legal status. The equities that may have been developed by undocumented aliens in this country should also be taken into account when making determination of status.
4. A redirection of American law and policy to aid the creation of employment in Mexico.

In an exchange with Health, Education and Welfare (HEW) Secretary Patricia Harris, Governor Babbitt estimated that there are between 30,000 and 50,000 undocumented workers in Arizona. He added, in a later exchange with Rep. Hamilton Fish, that undocumented aliens are "very low consumers of social services. . . . These people contribute in economic terms much more than they draw in the form of social services."

TOPIC: Do Illegal Aliens Meet Labor Needs, or Do They Displace American Workers and Depress Wages?

Witnesses: The Reverend Sal Alvarez, Legislative Representative, United Farm Workers; accompanied by Pedro Ruiz

Darwin Aycock, Executive Director, Arizona State AFL-CIO

Sam Ramirez, Assistant Business Representative for Local 383; member, Agricultural Employment Relations Board, State of Arizona

Salomon Leija, Arizona Farm Workers and the Maricopa County Organizing Project; accompanied by Antonio Gomez, an H-2 worker, and Fidel Marquez, an undocumented worker

Peter Martori, Farming Manager, Production Farm Management, Glendale, California

Stephen Shadle, President, National Council of Agricultural Employers, Yuma, Arizona

Tommy Espinoza, President, Chicanos por la Causa

Jose Antonio Bracamonte, Migrant Opportunity Program

Father Alvarez expressed his organization's "total opposition" to the H-2 program, which he views as merely an extension of the old bracero program. As such, it becomes a vehicle for exploiting domestic and foreign workers. When there is a high rate of domestic unemployment among farmworkers, the federal government should not be bringing in foreign workers. "Full employment should mean . . . a policy of pursuing an end to the H-2 program, an end to the importation of captive labor, because so long as it continues there will be those who will want to exploit its benefits: a cheap source of labor, and continued unemployment and low wages for farmworkers."

Mr. Aycock testified that Arizona is "strictly antilabor and antiworker" and wants to bring in cheap labor from foreign countries. Mr. Aycock expressed support for sanctions against employers "for helping to bring workers in here and to employ them on the job," and called for fines against employers who knowingly hire illegals. Finally, he called for help to Mexico to enable it to keep its workers at home decently employed. Mr. Aycock pointed out that undocumented aliens are working not only in agriculture but also in large numbers in the hotel industry.

Mr. Ramirez testified that undocumented aliens are not only recruited for agricultural work but also work extensively in service industries. Yet, "there is no evidence that the American labor supply is inadequate to provide workers in the different areas of need. The problem isn't the lack of workers; the problem is noncompetitive wages." Mr. Ramirez recommended "sanctions and penalties against unscrupulous employers who use undocumented aliens indiscriminately," and also voiced his support of economic aid to Mexico to "bring an end to the attraction" north of the border. He favors amnesty immediately for all undocumented workers here. In an exchange of testimony, Secretary of HEW Patricia Harris questioned Mr. Ramirez's contention that improving wages would mean that we would have full employment of domestic workers here and a consequent cutback to nothing in the flow of illegal aliens seeking entry to work.

Mr. Leija voiced his opposition to any "bracero, H-2, guestworker, or any similar program" and to the Carter Administration's amnesty proposals because they do not "recognize the undocumented workers' full human and civil rights."

Mr. Martori asserted that millions of jobs for domestic workers would result from the removal of all foreign workers from the United States only "if the employee were willing to accept racism, sexism, and the current distribution of wealth." Foreign workers are necessary here, Mr. Martori stated, and far from suffering under the present system, they are actually benefiting from it as much as employers. In other words, he rejected the picture of the downtrodden, illegal migrant worker. He recommended that the Commission not propose any new legislation at this time regarding foreign workers. Mr. Martori doubted that U.S.-employed foreign workers can be displaced by U.S. workers "without destroying the workplace."

Mr. Shadle spoke in support of the Arizona Farm Labor law and right-to-work law, and the climate they create in which employees have the right to self-determination. Mr. Shadle spoke in defense of hiring Mexican workers, who, he said, are adapted to the local climate and terrain and can do agricultural work (citrus and date harvesting) more readily than any domestic workers. Mr. Shadle asserted that there has been a vast decline in melon-growing acreage in his area because of the cessation of the bracero program and Border Patrol "activity," and predicted that there would be acreage reduction in all labor-intensive crops "unless the government takes some action to help secure temporary harvest labor." He cannot get sufficient domestic help for his harvesting and must rely on imported workers. He recommended that legislation directed at the employment of aliens provide for simple but effective identification. Mr. Shadle specifically recommended (1) upgrading Department of Labor employment service programs, (2) reviewing the effect of our welfare programs on illegal migration, (3) reconsidering the effects of federal regulations like the recent CETA program, "which tries to train people out of farm work," and (4) expanding the H-2 program. Mr. Shadle favors economic cooperation with Mexico--in effect, "enhanced economic integration."

Mr. Espinoza opposed any kind of universal identification card because he believes it would be used in a discriminatory manner. He called for an in-depth study conducted jointly by the United States and Mexico that would focus on the border area as well as the western states and seek to determine exactly what the situation is regarding foreign workers--i.e., whether or not there is job displacement, whether or not there is abuse by employers. He opposed the H-2 program, but believed there could be some sort of mechanism to allow Mexicans to come into the country with the full rights of domestic workers, including the right to join a union.

Mr. Bracamonte testified that the problem of immigration policy is an international one, not confined to the United States, and that any attempts to formulate a new policy should not be made after considering only U.S. interests. Specifically, Mr. Bracamonte called for a restructuring of the H-2 program so that domestic workers may be protected from "the depressant effect on wages of imported foreign workers, protection of U.S. workers' jobs, and working conditions"; ideally, the free labor market concept of supply and demand should prevail. Working and living conditions must be improved for foreign workers. Only when it has been firmly established that no domestic workers are available should imported foreign labor be allowed. In addition, Mr. Bracamonte proposed an amnesty for undocumented workers who have resided or been employed at least six months in the United States prior to January 1, 1978,

and supported the free influx of foreign workers; "supply and demand" should control the flow. Mr. Bracamonte further called for sanctions against employers for exploiting, mistreating, and abusing workers, but not for hiring them. The influx of illegal workers into the country can be curtailed by encouraging the development of "strong economic motivators" within the sending countries.

TOPIC: What Is the Impact of Illegal Aliens on Education?"

Witnesses: James Clark, Superintendent, Nogales Public Schools

Jesse Miranda, Community Legal Services, Phoenix

Margarita Bernal, attorney, Tucson

Don Eklund, President, Arizona Education Association

Mr. Clark described the heavy impact of both legal and illegal immigrants on the local school system, particularly in creating a need for bilingual education, as well as on local health care facilities and resources.

Mr. Miranda denied that "the documented or the undocumented person along the border is responsible for the financial straits now being imposed on school districts." On the contrary, asserted Miranda, there are studies showing that undocumented immigrants contribute a large segment of their salaries to taxes that support social service programs, yet do not derive commensurate benefits from these programs. Mr. Miranda asked that "the federal government face up to its responsibility in that area" and also asserted that "bilingual education is a definite necessity in the Southwest." Mr. Miranda decried the local practice in some school districts of denying undocumented children admission to school, a practice which he called "a waste of human resources."

Ms. Bernal read a statement prepared for the Commission by Raul Grijalva, member, School Board, Tucson Unified School District. Mr. Grijalva asserted that the social and cultural contributions of Chicanos in the Southwest make it imperative that "public school systems . . . rigorously defend the absolute right of children living in their areas to attend, regardless of immigration status." Undocumented children, he said, do not drain the resources of local school districts.

Mr. Eklund spoke very positively about the Arizona public schools and the ways in which they serve all children, regardless of status. Some Arizona districts even "recruit" children, since they are faced with declining enrollments and need the additional aid

that is given for increased attendance. Mr. Eklund believes that very few undocumented aliens attend Arizona schools. Teachers and school districts, while willingly serving the needs of all children, do need help, particularly in the areas of bilingual education, school health care, and disease prevention. He also spoke of "interpersonal problems" between resident and nonresident Mexicans that need to be resolved. Asking teachers and school administrators to process additional paperwork on the status of their students would be counterproductive. Mr. Eklund recommended that the federal government provide any funds necessary to meet educational and social needs in the public schools.

TOPIC: What Is the Impact of Illegal Aliens on Health?

Witnesses: Dr. Suzanne Dandoy, Director, Arizona Department of Health Services; accompanied by Dr. Rowland, Maricopa County Health Department, and Charles E. Cable, Administrator, Cochise County Hospital

Rosemaria Diaz, Cochairperson, Arizona-Sonora Committee on Border Health

Dr. Dandoy testified that while it is impossible to determine the number of illegal aliens receiving health care services in Arizona or the costs of those services, "impressions from health care providers in Arizona suggest the cost for services to Mexican aliens is over \$3.5 million annually." There are continuing problems connected with providing health care services to Mexican aliens, said Dr. Dandoy, among them: (1) uncollectable health care costs; (2) a large burden of health care costs for aliens placed on county facilities without reimbursement from state or federal agencies; (3) inability to provide necessary continuing health care because aliens are afraid to give correct addresses, thus posing a real threat of spreading communicable diseases; (4) tuberculosis control and treatment, which is particularly costly in counties along the Mexican border; (5) aliens from border communities who frequently seek to have their children born in the United States to obtain citizenship and appear in hospital emergency rooms for this purpose having had little or no prenatal care.

Mr. Cable called for federal compensation to health-care providers for uncollectible accounts of aliens, and closer cooperation between U.S. immigration authorities and health-care providers to "deter the influx of undocumented aliens." In addition, Mr. Cable suggested that HEW take over the operation of Cochise County Hospital, which has lost substantial sums of money providing uncompensated services to aliens.

Mrs. Diaz testified that "through personal involvement my experiences sadly indicate that discriminatory practices against the undocumented person continue to plague the health-care delivery system." The amount that Mexican visitors spend in the United States each year--some \$315 million--would suggest that the cost of providing medical services to undocumented persons would be minimal by comparison, yet "hundreds of people" appear to be walking around in dire need of health services. We need to move away from the current atmosphere of fear, to foster mutual working relationships on this problem with the Mexican government, and have strong "monitoring mechanisms." Along the border, the health care situation is much more severe than farther back in either country.

Topic: What Is the Impact of Illegal or Undocumented Aliens on Social Services?

Witness: Raul Ramirez, National Association of Social Workers (NASW)

Mr. Ramirez presented the official position on immigration policy of the NASW. He asserted that "the United States has failed in its efforts to provide immigrants, refugees, and their children with the appropriate tools to accept the responsibilities of citizenship in the American republic."

Mr. Ramirez made nine recommendations to the Commission: (1) the immigration classification system should be based on the principle of family unification; all quotas per se should be avoided; (2) all immigrants, documented and undocumented, should be covered by a minimum wage, and existing laws should be enforced to eliminate exploitation; (3) aliens should be able to obtain permanent resident visas without being forced to leave the United States; (4) all immigrants should be allowed equal services and educational and economic opportunities under the law; (5) educational opportunities must be made available to immigrants to facilitate their full participation in American society; (6) immigrants must be afforded all employment benefits available to citizens; (7) special service centers should be established to assist all immigrants; (8) all immigrants should have the right to use their own language in all legal proceedings; (9) all immigrants should be afforded the right of freedom of movement and all other rights guaranteed under the Constitution.

TOPIC: Legalization of Illegal AliensWitnesses: Margo Cowan, Director, Manzo Area CoufcilSenatgr Alfredo Gutierrez, Minority Leader, Arizona State SenateThe Reverend Xaul David Sholin, St. Mark's Presbyterian Church, Tucson, representing ACCORD, an association of Tucson congregationsPhil Riggin, Legislative Director, American Legion, Washington, D.C.Justin Blackwelder, President, Environmental FundTom Miller, journalist, TucsonAlfredo Puchi, Jr., Board of Directors, Nogales (Arizona) Merchants Association

Ms. Cowan testified that immigration policy with respect to Mexico should be made with full awareness of and consideration for the traditional movement of Hispanics (back and forth across the border). Ms. Cowan made the following recommendations: (1) an amnesty for all undocumented aliens within our borders; (2) a restructuring of INS to provide services to those entitled to them; (3) dissolution of the Border Patrol; (4) reassignment of immigration judges from adjudicating deportation and exclusion matters to citizenship matters; (5) a bill of rights for all undocumented persons that specifies social, economic, and political guarantees in this country. Ms. Cowan, in an exchange with Father Hesburgh, said that in her opinion the worst aspect of the illegal alien's position in this country was not fear per se but rather "the loss of dignity which comes from being susceptible to being stopped and picked up and yanked up and thrown out at any time by any person."

Senator Gutierrez testified that immigration from Mexico is caused by economic factors and that no matter how restrictive our policy becomes, it will not halt immigration here for the purposes of economic improvement: "The Mexican immigrant is truly an economic refugee." While the popular view is that undocumented workers are a significant drain on social services, in fact studies show that undocumented workers contribute a great deal more financially to our social service programs than they draw from them. Senator Gutierrez expressed his opposition to sanctions against employers who hire illegals because such sanctions will increase discrimination against all Hispanics. Senator Gutierrez supported President Carter's amnesty proposals in general, but rejected the

cutoff date as "unworkable" and wants the status adjustment provision to specify immunity from prosecution. Specifically, the senator recommended (1) that the cutoff for amnesty be made the date of passage of the legislation; (2) that the President be given authority to increase or decrease immigration quotas from Mexico "to reflect reality"; and (3) that the United States begin a massive economic development program to assist Mexico. Such a program is essential if future immigration, legal or illegal, from Mexico is to be decreased.

Mr. Sholin, representing ACCORD, an association of congregations in Tucson formed "to create awareness of social problems faced by the church," urged that policies be developed to enable "migrants to stay home instead of coming here." He supported amnesty and permanent resident status for "all undocumented people residing in the United States as of the date of [new] legislation, along with their immediate families, children, and spouses residing in the United States." To facilitate family reunification, Mr. Sholin also proposed granting permanent resident status immediately to all immediate families of U.S. citizens and permanent residents outside of existing immigration quotas.

Mr. Riggin testified that the American Legion does not support any large-scale amnesty for illegal aliens for several reasons: (1) it would result in "an immediate upsurge in illegal immigration"; (2) such an amnesty "would be unfair" to those going through legal channels to obtain visas; (3) such an amnesty could conceivably lead to some 25 million being added to the population within several years, since the original 5 million being legalized would eventually qualify for citizenship and could then bring in immediate family members outside the present quotas, creating large social and economic costs.

Mr. Riggin's organization supports (1) sanctions against employers who hire illegals; (2) better enforcement of existing immigration laws; and (3) the establishment of a temporary program "to address labor shortages in the United States, as well as the economic difficulties in the nations of origin."

Mr. Blackwelder spoke in support of a nonforgeable social security card that could be used as a work permit and would be an easy way of addressing the problem of illegal workers--if job applicants had no card, they could not be employed. In essence, we have such a program in effect now: most employees have to have social security cards. However, it is easy for illegals to obtain forged cards. Issuing forge-proof cards would not in any way violate the civil rights of persons who are legally here, said Mr. Blackwelder, since no one would be required to carry such a card as an ID card at all times.

"All other countries make rules regarding foreign visitors and then insist the rules be obeyed. Why shouldn't we do it, too?" said Mr. Blackwelder.

Mr. Miller testified that the U.S.-Mexican border area is in fact a third country, "which obeys its own laws, has its own culture, its own police officers, and its own policy makers." Towns along either side of the border are much more dependent upon each other for economic and political development than on their respective state or national governments. The Border Industrial Program, begun in the 1960s, established American plants just inside Mexico, with the stated goals of reducing unemployment, stabilizing the economy, and reducing northward migration. In fact, the program has not been successful in any of its objectives because many thousands of workers travel to the border seeking employment in these plants--currently around 550--yet only one in ten is chosen. Economic and social conditions in the border area are worsened as a result of this large influx of population. Mr. Miller argued that northern migration can only be reduced by creating incentives for Mexican workers to remain in the interior; any attempt to reduce the flow unilaterally is unrealistic.

Mr. Puchi testified that the Border Industrial Program has in fact deterred illegal immigration of Mexicans into the United States. He urged the United States to take a hard line with the Mexican government by threatening unilateral action to deter the flow unless Mexico initiates a program of internal industrial development to create more jobs for its citizens. Mr. Puchi favored the establishment of a national work card through the existing social security system and called for the creation by the United States of "large federal detention centers" to incarcerate illegal aliens, while providing them with some sort of technical training. He further suggested that Mexico alleviate the situation by allowing more foreign investment in the interior to create more jobs.

TOPIC: Border Problems

Panel

Witnesses: Daniel Jesse Smith, Deputy Attorney, Pima County

Hecter Campoy, Tucson Coalition for Justice

Otilia Bustamante, Cochise County Committee for Justice

The Reverend Ricardo Alford, Picture Rocks Retreat House, Cortaro, Arizona

Daniel Haro, National Coalition on the Hanigan Case

Witnesses: W. J. Uren, ENUF

Mort Fagan, ENUF

Mr. Smith criticized the provision under existing federal immigration law that subjects illegal aliens to the risk of deportation if they report crimes committed against them or witnessed by them, with the result that state prosecutions in cases of violence against the undocumented are severely limited. He called for a law or policy that would allow aliens "whose existence came to the attention of immigration officials only as a result of reporting a crime, to fade back into the general population."

Mr. Campoy called for federal government support for the civil rights of Hispanics, which he claimed were repeatedly denied because the Department of Justice has refused to take action when crimes of violence have been committed against Mexican Americans or undocumented Mexican nationals. In particular, Mr. Campoy cited the Sinohui, Hanigan, and Monypenny cases.

Ms. Bustamante testified that "the news media perpetuates the bad image of undocumented aliens" and protested "using Mexican nationals as scapegoats for all the crimes committed in this country and especially along the border."

Father Alford spoke for the whole panel in his assertion that there exists "a racist attitude toward undocumented aliens" in southern Arizona. Although all who come within our borders are guaranteed their civil rights under the Constitution, in fact only citizens may feel protected by this guarantee.

Mr. Haro said that cases like the Hanigan case should be started and settled at the local level, rather than in Washington, where there are so many delays.

Mr. W. J. Uren, representing an organization of residents along the Arizona-Mexico border, Hispanics as well as those of other ethnic backgrounds, deplored "the racial strife flowing from immigration problems" and decried "the illegal intrusion into this country of aliens in great numbers" which affects our own country in that our welfare costs are increased or jobs are taken from Americans. Mr. Uren called for reinstatement of the bracero program or some other kind of temporary worker program, providing decent working conditions and decent pay for aliens who need jobs and will take jobs ordinarily spurned by people in this country. Mr. Uren suggested the formation of a "semipermanent" advisory group to the Commission, people of both Hispanic and non-Hispanic origins from all walks of life, to help in finding solutions to the border problem.

Mr. Mort Fagan clarified the status of the Hanigan case, mentioned in earlier testimony by Mr. Campoy, noting that the Hanigan brothers were acquitted of charges at the state level and are now the subjects of a new indictment alleging violation of the Hobbs Act.

OPEN MICROPHONE TESTIMONY

Marshall Whitehead, immigration attorney, Phoenix, spoke of the need of aliens for legal representation at deportation hearings and the desire of the Immigration Section of the state bar association to "get out the fact to the alien public that counsel can be available . . . to these people."

Armando de Leon, attorney; member, Arizona-Mexico Commission, spoke of the need for "fairer" immigration quotas for Mexico as one means of addressing the problem of illegal entry; he also asked that a special preference be established for Mexican parents of U.S. citizen children who are minors, perhaps later extending that special ceiling to Central and Latin American countries. Canada and Mexico "ought to be on a combined quota system," he added.

Maria de Santis, representing the Lieutenant Governor of New Mexico, reported on a series of fact-finding meetings conducted by the lieutenant governor to assess the situation of undocumented aliens in New Mexico and the public's attitude toward them, and recommended that, in the absence of reliable statistical data, a thoroughgoing study to determine the actual number of undocumented aliens be made. Ms. de Santis specifically recommended that all undocumented aliens from Mexico who have resided in the United States for the past five years be allowed to legalize their status; that the waiting list of persons who have already applied for legal residency be expedited; and that the immigration quota from Mexico and Canada be raised above the present ceiling of 20,000 to a figure ranging from 35,000 to 100,000.

Mary Boddeker, Executive Director, Alliance for Refugee Kids, and Lynn Bates, Board of Directors, A.R.K., spoke of the need for more effective procedures to enable unaccompanied refugee minors to be brought into the United States.

Elda Hart, Friendly House, testified that our present immigration laws contribute to aliens entering illegally because legal entry is made so difficult. Mrs. Hart works with aliens, particularly children, seeking to be reunited with their families in the United States. The present ceiling of 20,000 is too low to allow entry to all who wish to enter from Mexico.

Julietta Bencomo, member, State Board of Education, spoke of the imperative need for "a national effort to enroll in school all school-age children regardless of their immigration status."

Lorenzo Torrez, district organizer, Communist Party of the United States, testified that when the United States invests in under-developed countries, it also commits itself to maintaining stable governments in those countries, and any movement for social change, "even independent, honest, straight unionism, is killed." Thus, "the so-called expansion of the economy becomes a secondary concept, and the profit of the corporation becomes primary."

Sabino Lopez Lorano, graduate student, School of Social Work, Arizona State University, described research he and others had done on the undocumented worker and made the following recommendations: (1) that a United Nations international border force be established to assure that the United States and Mexico "adhere to their human rights commitments"; (2) that U.S. employers hire undocumented workers, who would be charged a labor tax to offset expenses for this border force; and (3) that a surtax or luxury tax be levied on products produced at plants in Mexican border towns.

Patricia Mijia, People's Housing Development Corporation, spoke of the poor living conditions of undocumented farmworkers and their acute need for better housing.

Representative Bart Baker, District 9 Pima, Santa Cruz, and Cochise Counties, spoke of the total lack of cooperation between local sheriffs' departments and the Border Patrol in fighting border crime and called for increased federal border surveillance, and also testified that major responsibility for educating illegal aliens rests with the federal government.

Luis Salinas spoke against INS follow-up raids after any census, and said that our desire to make sure that everyone is counted is contradicted by follow-up enforcement action.

Eugene Brassard, Executive Director, Friendly House, testified that Mexican nationals have suffered since the demise of the bracero program, and recommended that a panel or commission be established including representatives from labor, employers, and the Mexican government to see that the interests of all parties are safeguarded, and that Mexico be treated as a preferred country with respect to immigration quotas.

Manny Alvarado spoke against the assumption that undocumented workers from Mexico are responsible for all our economic and social ills; in fact, he said, U.S. immigration policy can best be described "as a government-sponsored labor recruiting program for low-wage industries, particularly agriculture," specifically agribusinesses. He said that the Carter plan for dealing with undocumented "would hurt more than help the Mexican American and those . . . presently holding permanent resident status in this country." Mr. Alvarado spoke in favor of raising the ceiling for Mexican immigration, and in support of guarantees of constitutional rights to undocumented aliens.

John Beaver spoke briefly against importation of illegal aliens to work for American firms.

SUMMARY

LOS ANGELES REGIONAL HEARING

February 5, 1980

OPENING REMARKS by Hearing Chairperson Rose Matsui Ochi,
followed by testimony:

Deputy Mayor Grace Montanez Davis expressed concern about several aspects of immigration policy, in particular its present inconsistency and narrowness. We need, she said, a national immigration policy based on a consistent philosophical foundation that reflects recognition of the present situation and takes into account future desires. We need an immigration policy that is bilateral, recognizing that immigration to the United States results not only from the attraction of this country but also a push from less developed nations, particularly Mexico, where approximately 40% of the labor force is unemployed or underemployed.

Ms. Davis said there are approximately one-half million undocumented workers in Los Angeles, most of whom are employed in agriculture. She claimed that over 75% of them pay taxes, yet "few of these file claims for their entitled refunds of these taxes." She also asserted that only a small minority of undocumented workers take back anything from government agencies in the form of health care and other social services, although their taxes support these systems. To discourage continued illegal immigration from Mexico, Ms. Davis called for greater enforcement of the present immigration law and increased economic development in Mexico, as well as a more flexible quota for admissions and a possible system of seasonal labor permits. Ms. Davis also supports an amnesty for undocumented workers currently in residence in the United States. Multiagency enforcement of existing laws was also suggested to get at the problem of employers violating minimum wage laws and safety regulations. In addition, the federal government needs to reimburse localities for costs incurred in providing services to undocumented immigrants. Finally, Ms. Davis called for an "accurate count" of undocumented immigrants as an efficient way to ensure reimbursement. Ms. Davis also spoke of the need for consumer education for refugees and allocation of funds for this.

In an exchange with Commissioner Reynoso, Ms. Davis said that granting amnesty to all undocumented in the Los Angeles area "would give recognition to many people who have for many years been contributing to the economy of the city by paying taxes to other services." Ms. Davis concluded her testimony, saying that the city of Los Angeles welcomes immigrants--"we're a melting pot in the true sense of the word."

TOPIC: Rights and Entitlements of Aliens

Panel

Witnesses: Josie Gonzales, attorney, Los Angeles

Bill Hing, Professor of Law, Golden Gate University,
San Francisco; member, Immigration Task Force,
U.S.-Asia Institute

The Reverend Francis X. Riley, Director, Centro de
Asuntos Migratorios, National City, California

Witnesses: Linda Hanten, Mexican-American Legal Defense and
Education Fund

Cecil Johnson, Chairman, Department of Biological
Sciences, Riverside City College

Wendell Green, Vice-Chairman, Committee for
Representative Government

Ms. Gonzales expressed concern over the violation of the constitutional and civil rights of aliens through repeated harassment, abuse, and discrimination by INS, the Border Patrol, customs agents, and local law enforcement authorities, and called for new policies that will "provide a more democratic and humanitarian existence for aliens who seek refuge in this country."

Father Riley, founder of Centro de Asuntos Migratorios, a social service agency for aliens, spoke of the many instances of unfair treatment of Mexican aliens under current law and policy, in particular undocumented workers and Mexicans seeking unification with other family members in the United States. He also spoke against the "rising incidence of violence" along the border involving the Border Patrol. He asked for unconditional amnesty for all undocumented in the United States, an expansion of the immediate-relative category outside the quota to include parents of minor citizens; free legal representation for accused aliens; deletion of many of the present exclusions; amending of Sec. 244 covering suspension of deportation to allow economic hardship and humanitarian concerns to be criteria; a statute of limitations on immigration violations; more involvement by the Justice Department's Office of Professional Integrity in the communities in which complaints often occur; a civil rights wing of the U.S. Attorney's office to work in the community; independence of the immigration courts; and more adequate funding for INS to ensure better handling of immigration matters. Finally, Father Riley spoke of the need for churches to join together in taking a strong stand in defense of the undocumented and for necessary changes in the law.

Mr. Hing described discriminatory policies of INS and the Justice Department as they affect Asians. The most serious is the exclusion of elderly, lawful permanent residents who are recipients of social security income, have lived in the United States from two to ten years, leave the country for a visit abroad, then try to return. He also pointed out that Filipino war veterans, "who fought side by side with Americans during World War II," have been denied naturalization rights. Mr. Hing recommended "innovative solutions" to make immigration law and policy more humanitarian, among them: (1) requiring the INS to become more involved in community affairs; (2) requiring INS to hire bilingual examiners and investigators; (3) expanding numerical limitations for Korea, the Philippines, and China; and (4) allowing Hong Kong to share the large number of unused visas available to Great Britain. Mr. Hing also recommended the following amendments to the Immigration and Nationality Act: (1) elimination of the "reentry doctrine"; (2) a statute of limitations on deportation and naturalization; (3) statutory relief for minor narcotics offenders who have been longtime U.S. residents; (4) elimination of the English literacy requirement for naturalization, in order to facilitate the entry of all persons into "the mainstream of political life"; (5) relief for persons with citizen and resident relatives in the United States who have gained entry through misrepresentation; (6) allowing aliens who worked without authorization to adjust status; and (7) recognition of the Fourth Amendment exclusion rule in deportation proceedings.

In conclusion, Ms. Gonzales discussed the issue of arresting and detaining aliens who are suspected of being in the United States illegally and asserted that in a number of localities around the country, attorneys have had to file federal lawsuits to enjoin INS and local enforcement authorities from illegally detaining individuals solely because they appear to be of foreign ancestry. Ms. Gonzales recommended, on behalf of the panel of witnesses, (1) that INS agents be prohibited from questioning any individual regarding his resident status unless a "reasonable suspicion" and strong evidence exist that the person is in the United States illegally, and (2) that local law enforcement officers be precluded from enforcing federal immigration laws, since "there is a high risk that local officers untrained in immigration laws may violate a person's civil rights."

Ms. Hanten spoke of her difficulties in gaining enrollment of alien children in the local schools because they are often asked by school principals to produce proof of citizenship or permanent resident status before being admitted. She also stressed the need for health care among undocumented aliens; while California state law is supposed to protect the rights of undocumented aliens for emergency health care in county hospitals, such care

is often not being provided. Women in labor, for example, are often sent from hospital to hospital. Finally, Ms. Hanten protested the exclusion of Mexican resident aliens from federal employment and the recent upholding by the Supreme Court of laws in several states that require teachers to be citizens. If we want qualified bilingual teachers as well as bilingual law enforcement officials, said Ms. Hanten, we must allow permanent resident aliens to take those jobs.

In an exchange with Senator DeConcini, Ms. Hanten voiced opposition to a guestworker program because any persons coming here to work should be able to come permanently with their families. She also supported amnesty for undocumented aliens already here and opposition to any kind of universal identification card, which she and her organization feel would simply allow employers to discriminate even more against minorities.

Professor Johnson asserted that 75% of illegal migration came principally from Mexico and Latin America. He claimed that there are some 60 support organizations for illegal immigrants in this country, and wondered why they were not helping the poor and disenfranchised who are here legally. He is also concerned that many ethnic organizations appear to be discouraging illegal aliens from learning English and entering the mainstream of American life; this policy keeps them down and they become second-class citizens. We must control illegal immigration, said Professor Johnson, by issuing a tamper-proof social security card to all citizens. He also called for a guestworker program similar to those programs in effect in Europe.

Mr. Green said the Committee for Representative Government is a predominantly Black organization organized 20 years ago to fight racial gerrymandering. CRG has always been troubled about the impact of illegal immigration on the Black community, specifically its effect on unskilled Black workers, whose unemployment rate is currently over 40%. Mr. Green asserted that in the garment industry, construction industry, domestic service occupations, and the "vast majority of jobs calling for a strong back and untrained mind," illegal immigrants have pushed out Black workers in southern California. Mr. Green also asserted that Asian "boat people" have received preferential treatment in federal programs over Blacks and alleged that all Black gasoline station owners in California have been replaced by Asians. He voiced the hope that we can take care of incoming refugees and serve the needs of our indigenous poor.

TOPIC: Access to Uncompensated Health Care Services for Illegal Aliens

Panel

Witnesses: Tom Hibbard, Board of Supervisors, Los Angeles County

Joni Steinman, President, Health Systems Agency of San Diego and Imperial Counties

Lawrence Liebenbaum, attorney, Los Angeles

Mr. Hibbard testified that illegal aliens "have a substantial negative impact" on Los Angeles County government. "Thousands" of illegals depend on the county for their health care, and in most instances can't pay for any part of it, nor are they eligible for Medi-Cal. This means that the county's general fund pays most of their health care costs. Mr. Hibbard said that the federal government should have ultimate responsibility for paying for these services, since it is the government that has the responsibility for immigration, legal and illegal. Mr. Hibbard estimated that \$100 million in local property taxes will be used this year to cover the cost of nonreimbursed health care.

Ms. Steinman testified that illegal aliens are not receiving health care services to which they are entitled because they pay in approximately \$1 billion in federal taxes. Ms. Steinman expressed particular concern over the fact that indigent people, here legally or illegally, are discriminated against on the basis of skin color. As a temporary measure, Ms. Steinman recommended a widespread publicity campaign to advertise the availability of low-cost or free health care under existing programs (e.g., public health services, urban and rural health initiative programs, etc.). In the long run, "the federal government must clearly become involved in the financing of care for undocumented persons."

Mr. Liebenbaum stressed the need for adequate health care for all our residents, legal and illegal; "I don't think it is a matter of whether we can afford to provide these services; it is more a matter of whether we can afford not to."

TOPIC: Foreign Workers and the Labor Market

Panel

Witnesses: Alexander Saxton, Professor of History, UCLA

Bert Corona, Professor of Chicano Studies, California State University, Los Angeles

Al Hernandez, Field Representative, Los Angeles County Federation of Labor

Professor Saxton traced the history of Asian immigration to the Far West, in particular, California, from the mid-nineteenth century to the present. Mr. Saxton made two specific points: (1) "white racial prejudice" was instrumental in shaping immigration policy for the Far West and Southwest, since it was only in those two areas that large populations of non-European origin formed a significant proportion of total immigration, and the exclusion policy established toward Chinese by the 1882 Immigration Act was later extended to other nonwhite peoples in subsequent years; and (2) this racial prejudice was generally characteristic of all groups in the white population.

Professor Corona spoke of the major contributions of Mexican workers to the development of this country, often at the expense of their own well-being, and recommended the following: (1) the end of H-2 and any other contract labor programs; (2) abolition of the INS and Border Patrol; (3) granting of permanent resident status to all illegal immigrants currently present; (4) granting of U.S. citizenship to all who are paying taxes; (5) granting the right to vote to all who pay taxes and have been here for two years; (6) outlawing the use of strikebreakers by employers; and (7) creation of an agency to provide education and orientation to all new immigrants. In response to questioning from Commissioners, Professor Corona expressed support for an open border between the United States and Mexico.

Mr. Hernandez testified that the undocumented alien is probably the most exploited worker in the United States; those illegals who do join unions to better their conditions are often subjected to deportation. Mr. Hernandez and his organization believe, however, that union membership is the only avenue for undocumented workers to "achieve economic dignity in the United States."

Mr. Hernandez also outlined the recommendations made in the Declaration of Albuquerque in 1979 (a policy statement issued from a conference sponsored by the Labor Council for Latin American Advancement): (1) raising the ceiling on Mexican immigration to 50,000 annually; (2) having the federal government give "high priority" to prosecuting smugglers of illegal aliens; (3) more careful monitoring of INS by the government to ensure that employees do not violate their responsibilities; (4) greater funding for INS; (5) a general amnesty for all undocumented workers now present in this country; (6) greater economic development assistance from the United States to Mexico and other Latin American countries; (7) substantial funding through international finance agencies for Latin American development projects; and (8) no consideration of any type of bracero or any other foreign labor importation program as a solution to the problem of undocumented workers.

TOPIC: Urban Labor: The Garment Industry in Southern California

Panel

Witnesses: Joe Razo, Director, Concentrated Enforcement Program, California Department of Industrial Relations, Division of Labor Standards Enforcement

Todd Rutkin, proprietor, Todd Rutkin, Inc., an apparel manufacturing concern

Phil Russo, Organization Director, Western States Region, International Ladies Garment Workers Union, AFL-CIO

Mr. Razo described in some detail violations of labor laws by employers of undocumented workers in southern California and summarized his agency's present and proposed strategies: (1) strict enforcement and continual monitoring of marginal industries; (2) criminal charges against repeat violators; (3) education of prosecutorial and judicial branches; (4) for the future, in industries where these strategies are not successful (e.g., the garment industry), look at possible means of restructuring the industry so that violations can be eliminated (e.g., via the Montoya Bill providing for joint liability of employers and contractors).

Instead of imposing sanctions per se on employers who hire illegal aliens, Mr. Rutkin suggested fining employers \$1,000 for each alien whom they hire to whom they do not pay minimum wages. We must, said Mr. Rutkin, acknowledge that we do need the help of aliens in the U.S. work force, and we need to "place a blanket of protection over those presently in this country" to protect them from abuses.

Mr. Russo testified that there is great support for unionization among undocumented workers in the Los Angeles area, where "almost the entire work force is undocumented." Undocumented workers do not receive fair treatment from employers; they are exploited.

Mr. Russo further alleged that the INS has been used to deny workers their rights under the National Labor Relations Act. Specifically, INS sweeps appear to coincide with attempts to unionize plants that hire large numbers of the undocumented.

Mr. Russo also disputed the notion that undocumented workers displace American workers; in fact, he said, some industries, particularly the garment industry, depend upon a flow of cheap labor sources from outside the country because natives will not take these jobs.

He also pointed out that the undocumented help the economy because they work here, spend their money here, create a demand for goods, and in turn create a demand for labor. He recommended that the Commission support total amnesty for all undocumented in the country and that the INS emphasize service instead of raids and deportation in handling illegal aliens and processing their claims for legal residency. Mr. Russo also recommended allowing increased legal immigration from Mexico and Latin America to fill available jobs, and the enforcement of labor protection laws.

TOPIC: Agricultural Labor

Panel

Witnesses: The Reverend Sal Alvarez, Legislative Representative, United Farmworkers

The Reverend Wayne Chris Hartmire, Director, National Farmworker Ministry

Joe Lillies, Jr., grape grower

Don Jackson, Don Jackson Farms

Father Alvarez testified that the United Farmworkers "considered the H-2 bracero program now in existence the single greatest threat to domestic farmworkers on the national level." The bracero program did not really end in 1965, he said; "tens of thousands" of braceros have been admitted in the last 15 years and take jobs from domestic workers. Father Alvarez voiced his union's opposition to the use of undocumented to break strikes by the membership of the United Farmworkers, and also stated that UFW favors amnesty for undocumented who are not strikebreakers. They also recommend "drastic increases" in the Mexican quotas and have vowed to boycott products of companies who hire undocumented as strikebreakers.

Mr. Hartmire spoke on behalf of undocumented farmworkers who, he said, have been continually exploited by American agribusiness. He, too, supported unionization of these workers and expressed opposition to any bracero program to import Mexicans.

Mr. Lillies testified that he needs imported Mexican workers to help with his grape harvesting because there is a shortage of local workers; new industries in the area have absorbed those who formerly worked in agriculture. He would like to see Mexican workers brought in legally on a short-term work permit, perhaps for four to six months.

Mr. Jackson testified that although he requested many workers from the local employment service office of the Department of Labor, only several were sent and none stayed to work. Mr. Jackson cited a recent INS study showing that only 8% of the illegal alien population in the United States was working in agriculture, yet 80% of the Border Patrol's budget in California is spent rounding up this 8%. The major problem with undocumented workers, contends Mr. Jackson, occurs in urban areas, yet INS concentrates its efforts in rural areas. What growers want is a stable legal labor force, some type of legal guestworker program, and some type of ID card.

TOPIC: Refugee Settlement Patterns and Impacts

Panel

Witnesses: Mario Obledo, Secretary of Health and Welfare, State of California

Nguyen Van Hanh, Project Director, Indochinese Refugee Task Force

Rabbi Stephen Jacobs, Temple Judea, Los Angeles

Muff Singer, representing California State Assemblyman Howard L. Berman

Jodi Feerst, member, staff of Senator David Roberti, State Senate Majority Leader

Witnesses: Panel of Representatives of Refugee Communities

Dr. Tran Van Mai, and
Huong Kathy Do, representing the Vietnamese Community

Vora Huykanthoul, representing Cambodians

Rev. Boun Chanh, representing Laotians

Xuy Vang Vangyi, Lao Family Community, Orange County

Witnesses: Paula Reimers, Lutheran Immigration and Refugee Service

Joe Le, Southeast Asian Resettlement Program, Catholic Welfare Bureau

Janet Hosokawa, Project Director and Casework Supervisor, and Ms. Deborah Ching, Administrator, Indochinese Family Counseling Project

Mr. Obledo testified that California has resettled the greatest number of incoming Indochinese refugees, and that resettlement

efforts to date have been somewhat chaotically managed because the federal government did not make necessary provisions for their arrival. He raised objections to the new refugee act, which he said does not provide for a true partnership with state and local governments. Funding by the federal government through private groups across the country has meant that often heavily impacted areas are not given the resources that they need to aid refugees. He also stated that an inequitable situation related to refugee admissions exists: Some are admitted under one provision of the INA that allows them to take advantage of domestic welfare assistance until they are self-sufficient; others are admitted conditionally and may not receive welfare assistance. He recommends that all refugees be given permanent resident status upon arrival so that they "can be eligible for whatever benefits the country might be willing to assist with." He also stated that refugees should not be aided to the detriment of other disadvantaged groups who need assistance.

Rabbi Jacobs spoke of the enormous importance of the Commission's task, particularly with respect to refugee problems. "The whole question of the value of life is at stake," he said, urging the Commission to extend our resettlement programs. After thanking Rabbi Jacobs for his statement on behalf of refugees, Father Hesburgh expressed his gratitude to the state of California for its efforts in resettling many Indochinese refugees and noted that compassion for the world's homeless must be expressed also by other countries.

Muff Singer read a statement from Assemblyman Berman, a member of the Governor's Task Force on Indochinese Refugees, who spoke in praise of local efforts in the state to resettle refugees but claimed that California "needs more help from our friends in Washington." Ms. Singer stated that an estimated half of all Indochinese coming to the United States will settle in California, that 70,000 to 100,000 are already in the state, and that the majority of these are in southern California. At the present time, 30,000 Indochinese immigrants are in Los Angeles County. Cutbacks in state funds have made it difficult to meet the needs of Indochinese refugees and additional federal assistance is needed, especially in the areas of education, job development, housing, and health.

Jodi Feerst spoke of the community tensions arising from refugee resettlement concentrated in certain areas and contributing to high unemployment, housing shortages, health problems, and "bad schools." We need, she said, a federal program, national in scope, to facilitate immigration and resettlement.

Dr. Mai addressed the question of why Indochinese refugees were in this country. They are present, he said, not, as commonly

believed, solely because of America's humanitarianism and charity but because of a moral obligation incurred as a consequence of U.S. policy and involvement in the Indochina war. He claimed that although 95% of Indochinese refugees in the labor force are working, most of them are either underemployed or "misemployed" and thus need some form of supplemental income.

They are not, he asserted, welfare recipients. He denied also that most Indochinese refugees bring in communicable diseases; they are screened in camps before being admitted. He recommended that all Indochinese refugees seeking entry be admitted as permanent residents.

Ms. Do, echoing Mr. Mai's testimony, said that many Indochinese refugees were working at jobs well beneath their skill and educational level, thus necessitating their dependence on some form of supplemental assistance. If we wish to help refugees become self-sufficient, emphasis should be placed on assessing accurately the language and skill levels and needs of Indochinese and the retraining of Indochinese professionals so that they may make their fullest possible contribution to society. Refugees should have input in determining how these goals can be met to further their integration into the mainstream of American society. Ms. Do also spoke of frequent "confusion and animosity" between voluntary organizations and refugees because of disruption in services and funding. We should, she said, support the efforts of Indochinese "mutual associations"--groups of immigrants already settled here who have banded together to provide sponsorship and to secure funding for programs for new arrivals. She also recommended the establishment of uniform standards of funding and services for all voluntary resettlement agencies.

Mr. Huykanthoul spoke on behalf of land camp refugees in Thailand, many of whom are Laotian, and most of whom are not qualified under present law for resettlement in the United States. Boat people, he said, qualify immediately, while land people have to fall under one of four categories: They must have immediate family in the United States, have worked for the U.S. government, been associated with U.S. policies or programs, or been rejected for resettlement by a third country and thus be eligible for parole on humanitarian grounds.

Mr. Chanh spoke of the problems of refugees in resettling--that often they do not receive adequate care and facilities, and frequently the Laotians are being forced to convert to Christianity in return for assistance by religious organizations.

Mr. Vangyi spoke of the problems encountered by Indochinese refugees, who are often isolated from groups of like ethnicity

already here and have severe problems in adjusting to a Western lifestyle in the absence of adequate orientation programs. Specifically, he recommended improvement in resettlement efforts for the elderly, who often suffer from depression and who need special counseling and assistance with assimilation.

Ms. Reimers described the efforts of her organization to resettle Indochinese refugees. She criticized federal refugee efforts for their lack of planning and stressed that prior consultation with voluntary agencies (VOLAGs) is essential before allowing refugees to enter. She called for more equal distribution of refugees across the country to relieve highly impacted areas. VOLAGs, in turn, should be required to develop a resettlement plan for each refugee family so that integration is facilitated and self-sufficiency is achieved. She expressed opposition to long-term direct cash assistance for refugees, in part because it makes refugees overly dependent and retards self-sufficiency, and also because it appears to give unfair advantages to refugees at the expense of other disadvantaged groups. Ms. Reimers also recommended more effective service programs--e.g., English-language training; improved cooperation between the federal government and local agencies; and on-site federal monitoring of VOLAG programs to determine if funds are being used properly and services are being provided.

Mr. Le described the resettlement efforts of his organization, one of the largest resettlement agencies in the Los Angeles area.

In an exchange of testimony with Commissioners, Ms. Reimers and Mr. Le emphasized that monetary assistance alone from the federal government is not the answer to current problems. Instead, closer cooperation between the government and voluntary agencies is called for, and they recommended more uniform levels of assistance and greater input from refugees in agreeing on a resettlement plan to pursue.

Ms. Hosokawa described the value and necessity of direct family counseling for refugees and recommended that the availability of family counseling be an integral part of refugee resettlement programs. Ms. Ching, supporting the comments of Ms. Hosokawa, also recommended against limiting cash assistance to refugees to six months, because assistance for longer periods is needed.

TOPIC: The Preference System and Family Reunification

Panel

Witnesses: Speaking on Ethnic Community Perspectives:

Wilma Suhr, representing the Korean Community

Hiram Kwan, representing the Chinese Community

Celia Torres, representing the Hispanic Community

Pedro Lamdagan, representing the Filipino Community

Frank Chuman, representing the Japanese Community

Ellen Lee, Executive Director, One Stop Immigration Center

Witness: David Aberson, attorney, representing the Immigration Law Section, Los Angeles County Bar Association.

Ms. Suhr spoke of the hardships imposed on permanent resident Koreans who, under the present system, cannot bring in their parents. Koreans, she said, have contributed greatly to the economic well-being of Los Angeles, in particular to the restoration of one section of the downtown area called "Koreatown," yet family reunification is severely limited for them under the present law. She recommended that permanent residents be accorded the same privileges as citizens with respect to the immigration of their parents and immediate relatives, that citizens be allowed to bring in siblings along with parents as numerically unlimited immigrants, and that the current backlog of those wishing to enter under the preference system be somehow alleviated.

Mr. Kwan spoke of problems affecting prospective Chinese immigrants, as well as immigrants from the Philippines, Mexico, and other countries with a large backlog of applicants. He requested conditional entry status to allow immigrants to enter from Hong Kong, and a more expeditious means of handling waivers of excludability to eliminate the present three-to-four-year wait for adjudication.

Ms. Torres described the effects of the present preference system on Mexico. She said that a large number of Mexicans in the United States are second-class residents, outside the law, and unable to change their status, although they had been led to believe that they could improve their life by coming here and establishing a family. They risk being deported unless they can

convince officials that extreme hardship would result. She asked that suspension of deportation be made available to aliens without the requirement of proving extreme hardship, and that a means be found of guaranteeing rights and protections to all undocumented persons.

Mr. Lamdagan spoke of the inducements for immigration to the United States, principally the historic ties between the United States and Mexico and the Philippines; the family reunification policy which facilitates entry; and the lack of employment opportunities in less-developed countries. There are, he said, too many difficult hurdles to be overcome under existing temporary worker programs to make such entry easy. He proposed that the present third and sixth preferences be placed within a special immigrant category, without any ceilings, "thereby eliminating a competition between labor needs and family unification needs."

Mr. Chuman, commenting on H-1, H-2, and nonpreference investor visas, expressed concern over the varying interpretations of "distinguished" in deciding who may and may not enter. He stated that H-2s should be admitted for up to 36 months and suggested that authorization for employment be expedited. He also said that the terminology defining L-1 eligibility be clarified so that the entry of investors would not be held up because of quibbling over definitions.

There should also be, he said, a means to expedite the entry of investors in the nonpreference classification, under which there is currently a 10-to-12-year wait. These people are already supporting the economy, yet their business activities are severely curtailed while they wait for formal processing.

Ms. Lee, in summarizing for the panel, made the following recommendations: (1) take parents, spouses, and minor children of permanent resident aliens out of the preference system and make them part of the immediate relative group; (2) institute a "true" family preference system by creating a category for all family members (combining the present first, fourth, and fifth categories, and adding categories, like grandparents) and allocating visas on the basis of demand, not numerical limitation; (3) clear all present backlogs; (4) in granting admission, give consideration to the family ties of people who have been long-term residents of this country.

Mr. Aberson testified that the numerical limitations under the present preference system should be dispensed with, since they actually create backlogs and hardships. He also spoke against the present system of expatriating citizen children with their alien

parents because no real hardship is thought to be involved. In an increasingly hostile world, said Mr. Aberson, how can the United States protect the interests of these citizens abroad--children born here to Iranian students, for example?

OPEN MICROPHONE TESTIMONY

Richard Dydell, Santa Barbara, said that as an employee of the Santa Barbara County School System, he tried to obtain jobs for high school students but noticed that since the early 1970s illegal aliens are taking jobs formerly held by teenagers. He suggests a counterfeit-proof social security card that would be shown by all employees to establish their legal status and thus eligibility for employment.

Reuben Vaughn Green III testified that employment of illegal aliens is taking jobs away from minorities, and these alien workers are being shamefully exploited. Housing is also affected by the immigration of illegals: Unscrupulous landlords are giving preference to illegals over Blacks because illegals will pay excessively high rents in order to get a place to stay.

Jaime Geaga, member, Task Force for the Defense of Filipino Immigrant Rights, claimed that there appears to be a conscious move on the part of INS officials to decrease Filipino immigration to the United States. This is done by using potential SSI reciprocity as a basis for exclusion of resident aliens who travel back to the Philippines and then attempt to reenter. The immediate targets are elderly Filipino women who, if found excludable, are then unable to petition for their children to enter under the first and second preferences. Mr. Geaga also questioned the federal government's right to deny immigrants public assistance by using SSI reciprocity as a basis for exclusion, and the denial of the basic right to travel and mobility. Immigrants, he said, are being made the scapegoats for our current economic troubles.

John Bartos, attorney, INS, submitted a number of recommendations to the Commission, including: (1) eliminate all references to nationality in the INA; (2) under a new law, give any person who has a priority date prior to January 1, 1977, a special immigrant status to come to the United States; (3) sponsors of immigrants should be held monetarily liable for any welfare aid received by immigrants within five years of entry for any situation which happened prior to their coming; (4) amend Secs. 249 and 244 as ten-year statutes; (5) place deportation hearings under the Administrative Procedures Act; (6) make members of the BIA and immigration judges administrative law judges; (7) give

immigration judges the authority to issue administrative arrest warrants and search warrants under the Fourth Amendment; (8) place jurisdiction over naturalization in the hands of designated INS examiners; (9) give those examiners the right to administer the oath of allegiance and issue naturalization certificates; (10) allow the denial process in both naturalization and citizenship matters to go through immigration judges, and the appeal through the Bureau of Immigration Appeals and the circuits; (11) treat draft dodgers and alien exemptions from the draft like Communists, i.e., place a ten-year statute of limitations on them, after which the exclusion doesn't apply; (12) resolve the anomaly in the present law that allows citizenship to be conferred on a child born of a legal marriage by either parent, but allows only the citizen mother, not the father, of an illegitimate child to confer U.S. citizenship.

Ione Malang, National Council of Jewish Women, noted that the NCJW has been helping immigrants since its inception in 1893, and is aware of problems in the present immigration law particularly as it relates to foreign students. The current procedures for adjusting student status are unworkable and drawn out, and it is extremely difficult and even risky for students to transfer from one school to another. In addition to asking that these procedures be modified, Ms. Malang also recommended that students automatically be allowed to work part-time, as long as they can meet the academic standards of their schools, without having to get permission from INS, often a time-consuming process.

Rosemary Decker, Executive Director, Americans for the Rights of Citizens, said her organization advocates the rights of American citizens "over any so-called rights of illegal aliens," who, she said, have a negative impact on every aspect of our lives. Illegal aliens hold jobs while domestic unemployment is high, and the public pays the bill for education and health care for illegals. She alleged that a major portion of crimes in the Los Angeles area are committed by illegals, and that illegals are using up our resources. In addition, illegals and refugees are bringing in numerous diseases.

James Ward, Mayor of Santa Ana, addressed the impact of illegal aliens and refugees on his community. They have, he said, taxed the resources of Santa Ana heavily. "If the federal government is to continue its laissez-faire policy on immigration . . . those of us at the local level have a right to expect the federal government to reimburse cities and counties for the effects of such a policy."

Peter Fajardo, Editor and Publisher, Filipino Catholic News Magazine, supported Jaime Geaga's comments on the situation of

Filipino immigrants and the "selective enforcement of the exclusionary provisions by INS" against elderly Filipinos.

Jack Kimbrough, a member of the Teamsters and speaking on behalf of working people, alleged that the "invasion of illegal aliens is a conspiracy by the U.S. government against the working class of this country."

Humberto Camacho, International Representative, Electrical Workers Union, advocated amnesty for all undocumented workers in the United States.

Fay Douglas spoke against the influx of refugees and illegal aliens. "We want this country saved for Americans . . . our ancestors built this country for ourselves and our offspring, and not for this garbage from other countries to come in here."

Rosalio Munoz, Chairperson, Immigration Coalition of Los Angeles County, said his organization advocates rights and visas for undocumented and other migrants. He criticized the nature and format of the hearings, saying that they aren't serious and there is no provision for bilingual testimony. Holding the Los Angeles hearing on election day was also a mistake. He claimed that the Commission has ignored the historical fact of slavery in the United States and its tie to immigration policies that allow the exploitation of cheap labor.

George F. Medina, political scientist, suggested that the President invoke Article 21 of the Treaty of Guadalupe Hidalgo "and in effect state that disagreements do exist with respect to our political and commercial relations . . . we must initiate the appointment of commissioners to arbitrate the political issue of illegal aliens and the economic issue of gas and oil and the lack of jobs in Mexico." Such an approach might then provide us with new immigration laws "that would have compassion and heart and humane treatment for people whose only crime is to be in search of a job."

Jessie Porter spoke against the presence of a large illegal population in the Los Angeles area.

Royal Morales, Asian Pacific Planning Council, said, "Government policies should duly recognize the plight and contributions of the immigrant Asians, Pacific, and Southeast Asian families, their unique values, traditions, as significant ethnic groups in urban cities."

Irvin Lai, Regional Grant Executive, Chinese-American Citizens Alliance, recommended more federal support for immigration and

refugee services, so that their costs would not fall so heavily on local communities. Also, he recommended "more humane legislation" to provide education for illegal alien children, strengthening and expansion of family reunification provisions of the immigration law, and encouraging naturalization of more aliens currently in the country. Furthermore, he would like to see more Asians on the Select Commission.

Elaine Stansfield spoke of the need to limit both legal and illegal immigration in order to preserve our resources and prevent overpopulation from "destroying our country." Illegal immigration could be sharply curtailed if INS were given more authority and resources to patrol the border.

Sterling Franklin expressed his concern about the effects of overpopulation on our environment, and asked the Commission to take population policy into account in making recommendations on immigration.

Maribel Salamon, Local Coordinator, National Alliance for Fair Licensure of Foreign Nurse Graduates, complained about the exploitation of foreign nurses who come to the United States with H-1 visas. They often work long hours at low pay, have no opportunities to review for the licensing exam, and then, having failed it, are forced to seek other jobs at even lower pay. "Foreign nurses have been turned into an underclass within the nursing sector, and its existence has formed the basis to depress the wages of our fellow nurses who are not foreign."

Antonio Rodriguez, attorney, Los Angeles Center for Law and Justice, said "This Commission must ensure that in its deliberations and final conclusions, the principles of human rights are a principal criterion," the rights of the legally present as well as the undocumented worker.

Lulu de la Cruz, editor, urged the admission and granting of citizenship to Filipino veterans of World War II and their families. Some 250,000 Filipinos still await the admission and citizenship that they were promised.

Philip D. S. Gillette, Latin American Refugee Program of Southern California, commented on both the Senate and House versions of the Refugee Bill, and expressed his organization's support for a four-year refugee assistance program and for support networks for new arrivals.

Dr. Edward Powers, United Church of Christ, called for (1) a comprehensive federal immigration and refugee policy; (2) equalization of the impact of immigrants and refugees on various parts of the country; and (3) support for bilingual education.

Saul Solache, Chicano Caucus in Sociology, UCLA, said "Mexicans have been subsidizing [American] society, not only the garment industry but society at large." He introduced documentation showing the historical participation of Mexicans in the U.S. labor market.

Howard O. Watts complained of overcrowding of area public schools by the enrollment of illegal alien children and asked that the Select Commission "be rescinded."

Richard Hurwitz voiced his complaint about American companies "who are paying below the prevailing wage" to imported foreign engineers and technicians, while many Americans formerly employed in the now-depressed aerospace industry are not hired, and capable students are choosing to go into law and medicine instead of engineering. He called for closer monitoring by the Department of Labor of H-1 and H-2 visas: "We just want prevailing wages determined accurately and availability determined accurately."

The Reverend Duc Nguyen, chaplain to refugees in Orange County, recommended (1) that the United States, in admitting refugees and immigrants, give "some kind of special and preferential consideration to those who used to work for or with the United States" (this would include many Vietnamese officials now imprisoned in Vietnam who were former U.S. employees); (2) a comprehensive training program through the Departments of Labor and Education to help refugees become self-supporting ("refugees should be introduced to the work ethic first, not to welfare"); and (3) refugees themselves should be involved in resettlement programs, especially in social services and counseling.

Gary Silbiger, Southern California Chapter, National Lawyers Guild Immigration Committee, stated that, although the First Amendment ostensibly applies to every person in this country, "apparently 'every person' does not include permanent residents or undocumented persons" when immigration law is applied. Thus, certain beliefs and associations are currently grounds for denial of entry and denial of permanent residency. Exclusions should be based on commitment of specific crimes, not alleged associations.

Delfino Varela said our immigration laws have not addressed fairly and realistically the pressures for movement back and forth across our Mexican and Canadian borders. He recommended that we give an unconditional amnesty to undocumented aliens presently working in the United States and not receiving public assistance, and that a liberalized immigration policy be pursued henceforth to prevent illegal immigration from recurring. We need, he said, "open, counted, regulated immigration."

Oscar Gutierrez, Mexican-American Bar Association, said the answer to the so-called problem of undocumented aliens is to improve productivity so that their labor can be used and to base quotas on the percentages of illegals residing here (i.e., demand). "If a country has no undocumented persons here, it implies that their quota is sufficient and they need no adjustment."

Earl Briones, Nicaraguan Relief Society, proposed a Nicaraguan refugee program that would provide mandatory English-language and employment training; he is opposed to welfare programs that provide no incentives for self-sufficiency.

Douglas Madrigal, Nicaraguan Relief Society, requested that the status of Nicaraguans be changed from that of voluntary departure to refugee so that they can settle here permanently.

Gerald Joseph expressed concern about U.S. foreign policy as it affects immigration. We exploit people, he said, in Nicaragua, El Salvador, South Africa, and Palestine, and when immigrants come from those countries they are subjugated in lowly jobs rather than receiving intellectual training and going back to their own countries to improve conditions there. He expressed particular concern about "brain drains" from sending countries.

Michael Leblanc, Community Development Director, Garden Grove, California, testified about the concerns of local government regarding immigration and refugee policy. Most problems associated with illegal aliens and refugees are confronted at the level of local government, yet local government has severely limited resources. Inconsistent federal policy directives toward illegal immigration have also made the job of local government difficult as it tries to deal with mounting demands for public services. He asked for federal funds to provide badly needed local social service programs.

Frank R. Wall expressed the concern of the engineering community about the hiring of foreign engineers when there is unemployment at home. Existing immigration and labor laws need to be administered and enforced to protect the prevailing wages of American engineers.

SUMMARY

DENVER REGIONAL HEARING

February 25, 1980

OPENING REMARKS by Hearing Chairman, Senator Alan Simpson
(R-Wyoming), followed by testimony:

TOPIC: Immigrant and Refugee Acculturation: Political, Social,
and Economic

Panel: Perspectives on Recent Immigrants

Witnesses: Dr. Darrel Montero, School of Social Work, Arizona
State University, Tempe

Dr. Douglas Foley, Department of Anthropology,
University of Texas at Austin

Abelardo Delgado, Research Director, Colorado
Migrant Council, Denver

Dr. Montero explained that the adaptation pattern of Vietnamese refugees has proved to be different than that of earlier immigrant groups. The Vietnamese have moved more rapidly than most groups through the earlier phases of assimilation--from their homeland to temporary camps, where they are exposed to many different facets of American society, and then to a sponsorship system where they receive support from American families. The phase of assimilation that most Vietnamese are now beginning to enter is that of regrouping into ethnic enclaves in different cities. Dr. Montero claimed that, if this movement results in full-scale "ghettoization," the length of time required for full assimilation will be longer because the Vietnamese will preserve their language and culture for a greater length of time. However, he also noted that "complete and total assimilation for an immigrant group is neither a simple nor an inevitable process. Rather, assimilation is a complex, intricate process."

Dr. Foley testified that, in his view, many Mexicans perceive acculturation as a subtraction process through which they lose their cultural identity. They are reluctant to give up their culture in exchange for what they see as incomplete assimilation into American society in which they lack full access to the American political, social, and economic world. He stated that, "for many Mexican Americans in those communities, their goal is to become

fully bilingual, bicultural people, with a dual cultural identity, who can function realistically and behave well either in the Anglo world or the Mexican American world." He recommended that policy makers recognize the importance of cultural identity and develop programs to promote political and economic leadership that will permit immigrants to maintain their own identity.

In his testimony, Mr. Delgado stressed the contributions that Latin Americans have made to American cultural heritage. In his opinion, "we have contributed tremendously, rather than absorbed, a lot of the cultural heritage of America." Latin Americans have become valuable citizens who love this country and who strive to make it better. He claimed that this country derives its strength from the values added to it by immigrants from different nations and that Latin Americans have contributed their own share of these values.

Panel: Language and Education

Witnesses: Noel Epstein, author and consultant

Paul Sandoval, State Senator, State of Colorado

James Mills, President, Colorado Education Association

Mr. Epstein stated that the development of bilingual education programs is an example of what he called the "Columbus Complex"--the urge to sail off in a new direction in the belief that, at some point, one will bump into something. However, in his view, the problem the United States faces in the area of bilingual education is that there is little sense of where the bilingual education programs are going or why they are heading there. For example, there is no clear consensus on the extent of federal and state responsibility in providing bilingual education programs. Further, it is not clear how we can best help different students under different circumstances and with different problems. Finally, there is fierce disagreement among ethnic leaders and cultural groups on the desirability of bilingual education because of the fear that language and culture will not be retained. Mr. Epstein concluded, "I am very troubled by the federal government promoting a uniform approach to bilingual education, particularly when the federal government does not have to demonstrate with its own program the very effort they are trying to promote is effective."

Senator Sandoval testified that bilingual education programs in Colorado have proved successful in spite of the constant problem of lack of funds which program administrators have had to face. He explained that the objectives of the Colorado bilingual education act "are not to teach Spanish, and not to teach Spanish culture; they are to improve the child's performance, comprehension, reading, and writing of the English language. They are to improve attendance and reduce the dropout rate." Statistics reveal that the objectives of the act are beginning to be met. However, they have always had to fight against budget reductions; the money allocated for bilingual education programs has been reduced each year since 1976. The senator pointed out that only \$180 million is allocated for bilingual education programs while the total projected budget for the Department of Education is \$16.3 billion. He concluded that "the bottom line is that we need more money, much more money, for the improvement of bilingual education in this country."

Mr. Mills spoke about the impact of the Southeast Asian refugees on Colorado's bilingual education programs. He noted that the refugees have been flooding into the schools, and that the educational system has been unable to cope effectively with the influx. To solve this problem he recommended that significant increases in federal funds be granted for the education of refugee children; that additional federal money be allocated for Title VII of the Elementary-Secondary Education Act, which provides \$170 million for bilingual education, so that the needs of the Southeast Asian refugees can be met without decreasing funding of existing programs; and, finally, that the federal government allow a great deal of state and local involvement in the design and implementation of refugee programs. Mr. Mills pointed out that there seems to be no lack of will on the part of the refugees to use what resources are available. It is, in fact, only the resources to provide solutions which is actually needed now.

Panel: Intergroup Relationships

Witnesses: Adolfo Gomez, Director, Auraria Community Center, Denver

Lawrence Aylesworth, Director, Indochinese Development Center, Denver

Cong Chu, Counselor and Coordinator, Indochinese Refugee Vocational and English Skill Training, Denver Community College

Minoru Yasui, Executive Director, Commission on Community Relations, City and County of Denver

Mr. Gomez testified on the problems and tensions that exist between the Hispanic and Indochinese communities in Denver. He noted that the influx of Indochinese into Denver produced strong tensions between themselves and other communities because little preparation was undertaken before the Indochinese arrived. For example, housing was inadequate, and schools were not prepared to accommodate these new students. He remarked that "poor planning took place, and better planning needs to take place in the future." He concluded by stating that "it takes a lot of money to deal with the problem but it takes sympathy, a little understanding for those who are already here."

Mr. Aylesworth echoed previous testimony that there have been a great many misunderstandings resulting from the lack of preparation of residents for such a large influx of refugees. For example, little space was available in housing projects in Denver when the Indochinese began to arrive because many middle-class people were moving back to Denver, forcing Chicanos and other poor people to move back to the projects. Many ethnic groups assumed that the Indochinese were getting preferential treatment when, by 1978, large numbers of Indochinese were living in the housing projects. However, by that time, the number of Indochinese living in Denver was large enough so that the number living in the housing projects was not excessive. Mr. Aylesworth concluded by urging that the same services be provided for the new refugees and for the ethnic groups already living in Denver.

Mr. Chu highlighted the positive impacts of Indochinese refugees, particularly the successes refugees have achieved in spite of the great language and cultural barriers they face. He stated that conflicts involving refugees in the past "were primarily due to a lack of communication, the lack of interrelationships, and misunderstandings and misinterpretations." Mr. Chu also indicated that any refugee program must recognize and respond to people as individuals or else risk "promoting feelings of self-deprecation and lassitude which negate the goals the program is trying to accomplish." In his opinion, refugee participation in the development and implementation of programs is essential if the programs are to meet their goals.

Mr. Yasui began his testimony by stating that he believes "that America's greatness derives from its immigrant population." He then presented his suggestions for changes in U.S. immigration and refugee policy. First, he indicated that the federal government has an obligation to provide all immigrants and refugees with an opportunity to learn to speak English and about America culture. In his view, it is in all of our interests to integrate immigrants into American life. Secondly, he stated that

the federal government is responsible for providing information and data necessary for local planning and implementation. Finally, he believes that the United States must continue to accept refugees and immigrants from all areas of the world to add to the "richness of America."

TOPIC: Immigration, Population Growth, and Planned Environments

Panel

Witnesses: Gerda Bikales, National Parks and Conservation Association, Washington, D.C.

Joyce Laman, Member, Governor's Task Force on Front Range Development, Colorado

Colleen Shearer, Director, Iowa Refugee Service Center, Des Moines, Iowa

Ms. Bikales covered two areas--the issue of a legalization program for undocumented persons and her views on U.S. immigration policy.

Ms. Bikales disagreed with the idea that it is necessary to know how many undocumented persons there are in the United States before any action can be taken to limit the flow entering the country. She stated that the remedies are the same no matter how many there are--we must institute employer sanctions and a work authorization card and firmly enforce our immigration laws. She also stated that any type of legalization program must be preceded by the enactment of a strong measure to discourage further entry of undocumented persons.

When considering a legalization program, she believes that we must have a good indication of the number of undocumented persons involved to determine the magnitude of their impact on the United States. She recommended that this number be established either by predetermining an acceptable number of beneficiaries and limiting the offer of pardon to that number, or by instituting a two-step method which begins with the registration of all undocumented persons interested in legalizing their status.

Regarding U.S. immigration policy, Ms. Bikales said that, historically, the United States has had a policy of functional immigration in which new arrivals fulfilled a pragmatic, clearly identifiable need in our society. However, functional immigration came to an end in the late 1960s and must now be replaced by a policy of symbolic immigration. She also recommended that the

United States not adopt immigration policies which contradict the National Environmental Policy Act so that we can fulfill our responsibility to the next generation as trustee of the environment.

Mrs. Laman explained that her concern about our country's population is not based on the increasing numbers of Americans but rather on the effects of those numbers on the United States. She stated that, despite the immense impact of population growth on our daily lives, the United States does not have any plans or goals regarding our population size. She believes that "the sooner we bring an end to population growth, the greater the resource base and the better the quality of life for that population." In her view, the United States can maintain a healthy economy with a sufficient labor force under a stable population. Mrs. Laman described the consequences of continuing rapid population growth, particularly the sharp increases in basic costs of providing and maintaining services when the tax base does not increase in proportion to the increases in population and cost of services. Mrs. Laman also mentioned the lack of planning for immigrant and refugee resettlement as another problem which the United States must face.

To improve our immigration policy, Mrs. Laman recommended that immigrants and refugees be admitted under a flexible global ceiling that will admit more refugees in certain years and fewer in others. The one exception to the global ceiling should be for immediate family members. She also stated that illegal immigration must be sharply curtailed and that the enforcement role of the INS needs to be increased.

Mrs. Shearer testified that the resettlement of refugees in Iowa has been a very happy experience and that Iowa is much richer because of its new residents. She believes that her group's activity in Iowa is a microcosm of the entire resettlement effort in the country, since the group operates as a voluntary agency (VOLAG). However, Mrs. Shearer also described many of the problems she and her group still face in the resettlement process. In her view, the realities are that accountability is not required from the VOLAGs and some delivery systems; that many refugees are not assigned to individual sponsors; that unsponsored refugees are virtually helpless and often have no choice except to turn to welfare; that the percentage of refugees utilizing cash assistance is increasing; that many refugees are quitting jobs they have held for a long time to receive public assistance; that the proliferation of federal programs is largely responsible for the increase in the use of cash assistance because they attract jobholders as well as those not yet employed; that, once captured

by the welfare system, it is difficult to persuade refugees that employment is a better alternative; that refugees are being swept aside into a different group which sets them apart from the mainstream of society; that no attempt has been made to plan ways in which the employment of refugees could bolster the health of the economy; and, finally, that too many English classes stress grammar rather than communication skills.

Mrs. Shearer concluded her testimony with a one-sentence recommendation to try to solve these problems: "Keep your ultimate refugee policy as simple as possible, never overlooking existing resources, and never overlooking the inherent strength and resiliency of the refugees themselves."

TOPIC: Immigration and National Defense Needs

Witness: Lt. Col. Pasquale Lerro, representing the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics

Lt. Col. Lerro testified that the Department of Defense currently accepts approximately 7,000 permanent resident aliens out of a total of 370,000 into the armed forces each year. To enlist in the armed forces, a resident alien must meet the same standards as an American, as well as prove that he or she resides legally in the United States. Lt. Col. Lerro explained that the country is witnessing a decline in youth population and that the Department of Defense is working with other agencies to develop incentives to attract youths, both American citizens and permanent resident aliens, who are available for military service. However, no extraordinary efforts are being made to recruit resident aliens, and the goal is still to recruit those who can perform successfully in the armed forces. He concluded that "for those immigrants who meet our qualifications and who express a desire to participate in the defense of the nation, the Department of Defense's position is to accept willingly such volunteers for enlistment."

TOPIC: Migration to the United States, Labor Supply, and Economic Growth

Overview

Witness: Dr. Evan Vlachos, Department of Sociology, Colorado State University, Fort Collins

Dr. Vlachos addressed the issue of post-World War II immigration to the arid West, a region, he claimed, that is becoming more populated and full of opportunity. In his opinion, two important

assumptions that must be made in discussing immigration to this area are, first, that there must be some determination of the appropriate rate of growth in the area to avoid testing its ecological tolerance; and, second, that there must be some coordinated planning to control the growth that does take place. The two factors are becoming increasingly important as the area becomes more attractive as a place to settle.

Dr. Vlachos drew four conclusions about immigration to the arid West. First, there are no discernible immigrant or ethnic groups in the area except the longstanding Spanish population. Secondly, there is a major Mexican migratory stream, but some people are recent illegal migrants while many have lived in the area for generations. In addition, the location and distribution of immigrant populations follows the national pattern, with the highest concentration of immigrants in metropolitan areas and with the predominance of young immigrants. Finally, the region now provides greater economic opportunities as a result of the record migration to the area. However, along with these new economic opportunities, Dr. Vlachos warned that the impact of development on the environment must be carefully assessed to prevent a great deal of damage in the area. In conclusion, he urged that immigration be seen as part of the larger population growth of the region.

Panel: Ranching and Agriculture

Witnesses: John Etchepare, Vice President, Western Range Association, Cheyenne, Wyoming

George Radosevich, Esquire, Department of Economics, Colorado State University, Fort Collins

Mr. Etchepare described his livestock company's need for sheepherders to protect and care for his sheep, but claimed that he has always been unable to hire enough domestic herders to meet the company's needs. In his opinion, "without a viable and reasonable H-2 sheepherder program, we would soon be forced out of the sheep business." However, he also spoke of the Department of Labor's efforts to block this program which only brings in about 250 people per year; most recently, the Labor Department has reduced the time that alien sheepherders are allowed to remain in this country from 3 years to 11 months. He stated that "the conduct of the Department of Labor as it relates to the sheepherder H-2 program has been nothing short of total harassment." He urged that Congress pass a bill (which will shortly be introduced) that will enable the sheep industry to rely on a viable alien sheepherder program.

Mr. Radosevich presented his views on U.S. immigration policy in general and problems in the sheepherding industry in particular. In his opinion, our immigration policy is greatly outdated. It is also inconsistent with our national need in that it is bringing us to the point of oversaturation of our country while it conflicts with our education policy and with our foreign aid. He is very much opposed to a legalization program as a solution to the illegal alien problem because it is unfair and contradicts actions Americans have taken to curb population growth.

Concerning the sheepherding industry, Mr. Radosevich agreed with Mr. Etchepare that there is a need for foreign sheepherders because not enough Americans can be found to fill the jobs. He recommended a change in the regulations of the current H-2 program, under which foreign sheepherders may stay in this country for only an 11-month period, to extend the term of stay to 3 years with the option to renew for two additional 11-month terms. This longer term would permit a great deal more continuity and stability in the sheepherding industry. In his view, the laws must be "sufficient to the point where they can provide the labor needed to handle the work that needs to be done in this industry."

Panel:

Witnesses: Charles Wheeler, Staff Attorney, Farmworker Program, Colorado Legal Services, Inc.

John Kezer, Deputy Director, Colorado Department of Labor

Mr. Wheeler testified about the problems inherent in our current H-2 program and recommended strongly that the program be abolished or severely curtailed. In his view, "it is the responsibility of this Commission to recommend a reversal of the present trend of self-reinforcing reliance on labor from Mexico, and, by doing so, afford domestic workers the protections that are due them."

Mr. Wheeler presented several reasons for his opposition to the program. First, he stated that the H-2 program actually works as a license to exploit workers because they are cheaper for employers to hire and are easier to control. The H-2 program also weakens our free enterprise system because wages are kept artificially low. Moreover, H-2 workers adversely affect local workers because their presence alone creates competition for available jobs. The H-2 program also creates a subclass of

workers who have fewer civil rights than other workers. Mr. Wheeler described a circle created by the H-2 program; working conditions are made so unattractive that local workers are turned off and will not accept the work, at which point foreign workers are certified and then imported, wages are depressed, and local workers are discouraged for future years, which justifies the entry of more H-2 workers.

Mr. Kezer also testified about problems that Colorado faces in implementing the H-2 program. He explained that there had been little attention focused on H-2 workers until 1977 when the INS opened an office in the western slope area. At that point, growers in the area realized for the first time their reliance on undocumented workers and the possibility that they might face a loss of their crops if enough labor was not available because of the opening of the INS office. Soon after the INS office opened, a program was established by the growers and the Colorado Department of Labor which used CETA funds to recruit enough domestic workers. The growers then requested certification for the use of alien workers, claiming that it was impossible for them to recruit enough qualified domestic workers. The growers were finally given certification to hire H-2 workers, and they were willing to provide transportation for the workers from the Mexican border to Colorado, which they had not done for domestic workers. In Mr. Kezer's opinion, this fact reveals inequities within the system since domestic workers are not offered the same benefits as foreign workers.

Panel: Urban and Service Industries

Witnesses: Richard Wright, President, Mountain State Employers' Council

John J. Donlon, Business Manager, Colorado Building and Construction Trades Council, Denver

Mr. Wright presented his views on refugee resettlement in Colorado. In his view, there are more than enough jobs available in Colorado to accommodate the 6,000 refugees who have already arrived. However, statistics reveal that nearly one-half of the refugees are still on public assistance, so there have been problems in matching the Indochinese with available jobs. Mr. Wright offered two explanations for this situation. First, until recently federal policy has directed refugees towards education rather than employment so that they can go to school at no cost and remain on public assistance. Secondly, it is very difficult to figure out how all government refugee programs fit together and where final responsibilities lie. For that reason,

there have been no clear attempts by the federal government to place refugees in available jobs. He stated that the most successful model developed to resettle the refugees quickly is one in which there is direct interaction between a sponsoring religious group or a private organization and the refugee and private employer. He believes that the government may play too large a role in the resettlement process: "We may be guilty of governmental overkill. We can be performing a serious disservice to our refugees by excessive governmental support."

Mr. Donlon began his testimony by noting that illegal immigration has a greater impact on the construction industry than on other industries. He explained that the employment figures released by the Department of Labor do not reflect the situation as it exists in the construction industry; when the unemployment figure for the whole economy is reported as 6%, he claimed, unemployment in the construction industry is anywhere from 20% to 50%. For that reason, he stated, it is important that construction jobs be held by Americans rather than by undocumented persons: "Our concern is directly with the illegal aliens who come into the state [Colorado], working in the construction industry."

Mr. Donlon also noted a basic inconsistency in the government's policy regarding undocumented persons. On the one hand, the government enforces laws which do not permit these people to enter this country illegally. On the other hand, however, there is another organization, within the government, the National Labor Relations Board, part of whose purpose is to protect undocumented persons. In his view, "we see a local union go to check and see if, in fact, there are illegal aliens. But the law says, no, you can't do that, you've got to make sure that the person is treated the same as everybody else, you have no right to check whether they are legal or not." Mr. Donlon supports a program of employer sanctions which, he believes, will both protect undocumented persons from the exploitation they often face and keep jobs only for those permitted to have them.

Panel: Alternative Systems

Witness: David North, Center for Migration and Labor Studies,
New TransCentury Foundation

In his testimony, Mr. North presented his views on alternative work systems designed to control the problem of illegal immigration. First, he offered several reasons why he favors the implementation of an employer sanctions program. He stated that such a program would discourage the employment of undocumented persons; would open up a number of jobs for U.S. workers; would

discourage others from coming to the United States illegally; and, finally, would move some workers into "the income-taxing programs" in the United States. In his opinion, the two most viable alternatives to enforce an employer sanctions program are a work authorization card system under which the card would be used only when seeking a job, and a computerized data bank system. He explained that "none of these are totally secure, none of them are designed to be totally secure; but they would, I think, make a major difference in terms of discouraging--not ending--illegal aliens in the labor market."

The particular system Mr. North recommends is based on a nationwide computerized data base in which employers would be required to call the data bank to check the legal status of new workers. This system could be accompanied by a work permit card bearing the worker's photo. A worker seeking a new job would apply for a permit at a local office. To verify the status of the applicant, reference would be made to historic data on the individual stored in the nation's data banks, such as previous payment of taxes, employment by the U.S. government, or status as a naturalized citizen. This data could be brought together as a national data bank which would only be accessible for work permit issuance. Mr. North noted that a different system would be required for agricultural workers because of the high job turnover; he recommended that a work card system be used without recourse to a data bank.

Mr. North presented estimates of the costs of such a system, although he warned that it is difficult to estimate the cost of a massive, government-operated system. In his view, the start-up costs of the system would be \$28 million, with the annual cost estimate set at \$17.5 million.

TOPIC: Legalization of Illegal or Undocumented Aliens

Panel:

Witness: Ricardo LaFore, Executive Director, Colorado Migrant Council

Pepe Mendez, Esq., Denver

Mr. LaFore began by defining amnesty--the granting of resident status which entitles one to a full set of rights with the exception of the right to vote--and by indicating that the "push and pull" theories of both countries must be the basis on which to begin developing an amnesty program. He stated that two factors the United States must keep in mind in developing an amnesty

program are: 1) focusing attention on immigrant groups who have been discriminated against in the past, and 2) considering the impact of a legalization program on the economy. In his opinion, undocumented workers "do little to hurt the economy but, in fact, do much to support it." In particular, these workers contribute a great deal to the social security system while they rarely take any money out of the system in the form of benefits.

Mr. LaFore specifically recommended that an amnesty program be implemented because it would end the exploitation of undocumented workers "which would put them into the labor market with only their minimal skills and the desire to do hard work as marketable items of labor." Mr. LaFore also recommended that only those workers who have proven themselves to be self-sufficient, hard-working, and law-abiding citizens over a three-year period should be granted a visa and be permitted to bring their families into the United States. He believes that the criterion of self-sufficiency is the most important in determining whether someone should be granted a resident visa. He concluded by stating that "if anyone comes into the United States and contributes to the growth of the economy and to the preservation of basic civic and human values, that person should be welcomed with no restrictions whatsoever."

Mr. Mendez made some specific recommendations about what form an amnesty program should take. He explained that the first step in a legalization program should be an initial registration for a three-year term of residence in the United States. Before an alien can register, however, he must prove that he is employed and that he has not been guilty of moral turpitude. At the end of this three-year period, the alien should be granted temporary status that requires a review by the INS after another two-year period to ensure that the alien is making a valuable contribution to the United States. At the end of the full five-year period, INS would make a final determination that the person should be granted permanent residency.

Mr. Mendez emphasized that an amnesty program should be instituted only once, which should be made clear to everyone. He also stated that all undocumented workers who are granted permanent residency under a legalization program should be made completely familiar with U.S. laws since he has found that they are often almost totally ignorant of our system.

As far as stemming the future flows of illegal migrants, Mr. Mendez recommended that penalties for both hiring aliens and

for crossing the border be strengthened; that Border Patrol resources be increased; and finally, that information on temporary workers be made more readily available to employers.

OPEN MICROPHONE TESTIMONY

Dr. N-Kwang Chang, Rudolph Lie, and John Chin, Colorado Alliance of Pacific Asian Americans, presented several recommendations to the Commission: the Congress should provide a legal mandate for the establishment of an Immigration and Naturalization Service Advisory Committee on both the national and regional levels; government agencies must be given appropriate provisions to provide adequate resources for immigrants and refugees for acculturation and employment opportunities; there is a need to establish a Consular Board of Appeal to review and resolve grievances resulting from visa applications; territories and possessions of independent countries such as Hong Kong must be given their own numerical ceiling of 20,000; the Congress should grant general amnesty to all undocumented persons; Congress must establish clear and consistent rules for INS officers to prevent harassment of people entering the United States; and, finally, the Congress should grant greater latitude in the admission of foreign medical personnel.

Dr. Chang believes that there should be an overall limitation on the number of immigrants admitted to the United States, but that there should be greater emphasis on equality within the admission process.

Robert Hukari, Oregon Farm Bureau Federation, claimed that he is very concerned about the problem of illegal immigration because, as a fruit-grower, he has found that he must hire many of these people to get his work done. In his view, there is an insufficient number of qualified domestic laborers to harvest the crop. Thus, if illegal immigration is to be curbed, provisions must be made for certification of temporary seasonal agricultural workers. He stated that "it is time for America to recognize that in the richest country in the world there are not domestic workers willing to do seasonal care and harvesting in the numbers and at the times and places necessary."

Armando Arias, Jr., Metropolitan State College, claimed that, as the United States is currently experiencing an inflationary boom, the American working class is placing the blame for the state of the economy on undocumented persons living in the United States. He warned that great social misunderstandings are beginning to develop about the role of undocumented persons.

These problems are reinforced by the media, which is particularly alarming since media messages leave a far greater impact than the actual events they claim to represent.

Jerald Merrill, Priests' Senate, Salt Lake City Diocese, presented the National Federation of Priests Councils' recommendations designed to humanize immigration policy. He and his group recommended bilateral talks between the United States, Mexico, and other nations involving the regional solutions to these immigration problems; an amnesty plan which designates as eligible all undocumented persons with two years continuous residency; the establishment of free legal assistance by the Legal Services Corporation; an amendment to the 1976 Eilburg Amendment to the Immigration and Nationality Act to increase the number of visas available to Mexicans; an amendment to the INA to grant political asylum to all persons fleeing from political or religious persecution; that adequate federally funded health care, social security, public education, and public assistance benefits be provided to undocumented workers who are federal taxpayers; that government agencies other than the INS be prohibited from enforcing the Immigration and Nationality Act; that foreign-born spouses and unmarried minor children of permanent resident aliens be granted the same immigration status as those of American citizens; and, finally, that merit limitations be based on a more realistic view of actual pressure to immigrate to the United States.

Linda Rae recommended strongly that Congress discuss population goals before developing an immigration policy. She further suggested that the Commission's recommendations must reflect population stabilization objectives. She claimed that something must be done now to make up for the government's lack of planning for population growth, especially as it is the opinion of a majority of Americans that population growth must be curbed. She also noted that if any policy concerning immigration and population growth is to be implemented, there must be a great deal more interagency coordination and cooperation than currently exists.

C. C. Sweeney, Catholic Resettlement Group, addressed two problems her group is facing in the resettlement of Indochinese refugees. The first problem is the family reunification program; there is no coordination at the top level under this program, so the resettlement groups receive no advance warning about the arrival of refugees. This makes it impossible to plan for their resettlement. The second problem concerns the mobility of refugees, who move frequently in many instances. This mobility poses a large problem for resettlement agencies since there is

often not enough money to support the refugees in each new area. In her view, the government must allocate enough money to the resettlement agencies to provide support services for the refugees.

Moises C. Martinez, Denver Public Schools, explained the difficulties that public schools face in trying to provide bilingual education for the large numbers of children who require it. He stated that schools alone cannot fulfill the need, but that they must rely on "increased and continuous state and federal financial support."

Ann Allat, Association of Immigration and Nationality Lawyers, presented three specific recommendations on behalf of her group in Denver. First, she recommended a change in the political asylum application procedure to permit people to apply from their own countries without having to come to this country to do so. The requirement that one must be in the United States to apply for political asylum is a very difficult one for many people to meet. Secondly, she recommended that any definition of a refugee or political asylum applicant be couched in terms of humanitarian concerns rather than in the special interest of the United States. Lastly, she recommended against proposed legislation which would do away with the conditional entry permit which allows people to come to the United States conditionally, pending a political asylum request application.

Ronald Vertrees recommended that all immigration to the United States be stopped. He believes that far too many immigrants and refugees will continue to want to come to this country because our standard of living is so much higher, but that we must not continue to allow them to flow into this country. We must strengthen the Border Patrol to enforce firmly our immigration laws and also institute a national identification card so that only legal residents will be able to hold jobs. He concluded that "our own children have a first claim on America's future. We must draw the line somewhere."

Jose Trujillo, INS Community Advisory Committee, said he is a member of one of seven advisory committees established by former INS Commissioner Castillo to provide more outreach for better services in the INS. He claimed that the committees have done a great deal of good so far, but they were established conditionally for only one year. He believes that the committees should be established permanently so that the INS office in each district can benefit from the impact they will receive from community members.

Darrell Edmonds, Iranian Defense Committee, said he and members of his committee have been investigating instances of harassment of Iranian students as a result of President Carter's order that assets be frozen and that all Iranian students must report to an INS office. He recommended that INS officials adopt a uniform policy so that their examination of the status of Iranian students will be coordinated and just.

Raul R. Garcia, Catholic Immigration Services, explained that his voluntary agency works very closely with the INS and that they have learned that the best way to deal with the INS is to talk with them rather than to fight with them. He recommended the passage of legislation that would establish links between the voluntary agencies and the INS to ensure that there would be access between the two groups.

Sylvia Zapata, Socialist Workers Party, claimed that U.S. immigration laws are discriminatory and that immigration policy is based on a double standard; important people are admitted easily while ordinary people have a much harder time when seeking to enter the United States.

John Castellano, attorney, presented some recommendations to the Commission. First, he said that we should design our immigration policy to reflect our desire to bolster the economy. He also suggested an adjustment in the qualifications for an H-1 visa to permit those people of distinguished merit and ability to be eligible for adjustment of status without labor certification. He believes that it is unlikely that these people will be displacing U.S. workers. He also recommended against shutting off immigration from Mexico, both because it acts as a safety valve for Mexico and because some undocumented workers are needed in the U.S. labor force.

Margaret Olorunsola presented her own experiences in dealing with the INS which has been a very long and involved procedure that is still not resolved. Based on her experiences, she claimed that INS personnel do not treat people fairly and that something must be done about the enforcement of immigration laws.

Olayinola Olorunsola expressed his belief that INS offices should not be places full of tension as they are now. Rather, they should be places that express a feeling of welcome, especially since the INS office is often an immigrant's first contact with the American system.

Marge Taniwaki, Pacific/Asian Coalition, submitted a paper that she and two others had written on the Indochinese-Chicano conflict which took place in Denver in the summer of 1979.

Tim Flores, Colorado AFL-CIO, INS Advisory Committee, Denver, testified that, although he is a union member, he believes that there are enough jobs for everybody, including undocumented workers, in the American labor market. He stated that unions do try to unionize these workers to organize and represent them before their employers. He believes that the Commission should work to integrate these people into our society.

SUMMARY

NEW ORLEANS HEARING

March 24, 1980

Opening Remarks by Hearing Chairman The Reverend Theodore M. Hesburgh, followed by testimony:

TOPIC: Patterns and Problems of Refugee Resettlement

Overview: Mr. Robert Stein, Director, Indochinese Refugee Action Center, Washington, D.C.

Mr. Stein explained that his organization is a foundation-supported entity established to deal with domestic resettlement issues.

He supported the new Refugee Act, which he called "an incredible milestone" symbolizing that America is going to come to grips with the refugee issue. He stressed the need for continued focus in this area, saying that "we need to figure out how we are going to cope with the age of the refugee."

The Indochinese Refugee Resettlement Program, he described as a private sector phenomenon. He pointed to the private sector -- "the churches, synagogues, civic organizations and citizens" -- as the critical overriding concern of refugee policy in the United States. It is "how we build the capacity of the private sector to join with the public sector in forging a program and a set of policies that is going to make it possible in the years to come to accept in this country the limited number of refugees . . . we must accept in order for us to deal with the growing problem."

In order to build the capacity of the private sector, he recommended three components presently missing. First, the private sector must be more thoroughly "tapped." Corporate America needs to become more involved, as do those churches, individuals, and communities who are not presently. Secondly, "we need vehicles for the constructive involvement of the refugees themselves" in programs providing service at the local level. Thirdly, he pointed to the need for improved management of the entire refugee program at all levels.

Delineation of the Problems: Miss Ingrid Walter, Chairperson, Committee on Migration and Refugee Affairs, American Council of Voluntary Agencies for Foreign Service.

Speaking for all ten voluntary resettlement agencies which are members of the American Council of Voluntary Agencies, Miss Walter made ten suggestions for future programs and policies regarding refugee resettlement: that there be an effective pre-arrival orientation overseas; an advance information system on refugee arrivals to voluntary agencies as well as to state and local governments; a central resource center on available programs and resources to refugees and sponsors; governmental assistance programs designed to encourage refugee employment; a coordinated system of data collection and analysis for coordinated planning purposes; coordination of the efforts of the local governments and local voluntary resettlement offices; and admissions of refugees for permanent residence rather than refugee status. Also, that refugee resettlement remains a voluntary enterprise; that there be the provision of flexibility to voluntary agencies in the administration of their programs; and, finally, that the administration of the resettlement grants remain with the Department of State.

Issues and Approaches to Solutions: Changes in the Role of the Federal Government in Resettlement Policy:
Wells C. Klein, Executive Director, American Council for Nationalities Service.

Mr. Klein described the resettlement of Indochinese refugees over the past five years as "a remarkable achievement" on the part of the American people and, especially, a corps of dedicated volunteers in communities around the country. He went on to say, however, that the achievement has been in spite of the fact that there has been "virtually no systematic Indochinese resettlement policy."

The United States, he said, must first "come to grips with defining the basic rationale for a separate refugee assistance program with special entitlements and programs distinct from those available to other disadvantaged groups." He pointed to the resulting confusion from not having such a rationale and offered to the Commission a suggestion as to what the rationale might be. Refugees, he said, unlike other immigrants, "are forced to leave their homes and develop new lives elsewhere." They arrive unprepared for a new social and economic environment "with few language or vocational skills readily adaptable to this society." Finally, in admitting refugees, "we make a commitment to . . . assist them to achieve economic and social self-sufficiency as rapidly as possible. This commitment is in the interest of both the refugees and our own communities and it is consistent with fundamental precepts of equal opportunity and affirmative action, as embodied in our laws."

Concerning public assistance for refugees, Mr. Klein said that while we do not want to "price refugee resettlement out of the market," the availability of initial public assistance is critical for effective resettlement.

He also urged that roles in refugee resettlement efforts be more clearly defined so as to avoid "unmet needs as well as overlapping services."

English language skills, he said, are "a necessary capability for the successful integration into society." He recommended more federal guidelines for state programs involved in English language training.

In order to ease the problems of impacted areas and resulting community tensions, Mr. Klein suggested placement strategies in order to induce refugees to resettle and stay in nonimpacted areas.

Finally, he stressed the need for more effective community coordination and cooperation.

Promoting Individual and Community Self-Sufficiency: The Reverend Michael Haddad, Director, Resettlement Office, Archdiocese of New Orleans of the U.S. Catholic Conference.

Father Haddad began his testimony by describing the active role that the U.S. Catholic Conference has undertaken in the resettlement of more than 3,000 Indochinese in New Orleans since 1975.

In the promotion of self-sufficiency, his organization attempts "to get the refugee and members of the refugee families employed as soon as possible after they arrive in New Orleans." He pointed to the difference between this policy and one in which refugees are placed on a cash assistance or other type of program for a temporary period of time while the refugee is involved in skill training or English language training. In New Orleans, said Father Haddad, "we feel that it is more effective personally to have the refugee employed as soon as possible and then attempt to deal with skill training and English language training while the refugee is working."

Resettlement locally could be improved by increased cooperation between the resettlement agencies and the cash assistance agencies, he said. In regard to medical assistance, Father Haddad testified that his organization believes that medical care should be available to refugees during the first year regardless of their ability to pay.

Father Haddad supported the idea of reception centers for incoming refugees. Another suggestion for facilitating integration into U.S. society was the increased involvement of Indochinese personnel in resettlement programs.

Locally, Father Haddad said that the development of mutual assistance organizations has been "an important part of the stability of our program." He suggested that the development of joint sponsorship for projects between other minority groups and Indochinese mutual assistance organizations would go a long way toward easing tensions in the greater New Orleans area.

Finally, a plea was made for the continued strong involvement of the private sector in resettlement. "The mix between the public and private sector is ideal," said Father Haddad.

Methods and Distribution of the Burden of Financing Resettlement:
Nancy Nicalo, Director of Immigration and Refugee
Program, Church World Service

Miss Nicalo first addressed herself to the "global perspective of the refugee situation." She said that the United States, and refugee resettlement agencies especially, should relate to all of the refugee crises around the world.

Miss Nicalo also urged that there be "equity of application of benefits to all refugee groups" that enter the United States.

TOPIC: Refugee Perspectives

Panel

Witnesses: The Reverend Hai Tran, Baptist Minister

Kim Anh, Secretary General of the Vietnamese
Catholic Community

Nguyen Lam, Vietnamese Buddhist Fellowship
Association

Khamlouan Panyanouvang, Vice President, Laotian
Association, Baton Rouge, Louisiana

Van Huy Tran, President, Vietnamese Nationals
Association

The Reverend Hai Tran explained that he and his family came to the United States in May 1975 and were sponsored by the Baptist church, with which he was affiliated in Vietnam.

In response to questions concerning resettlement policies in this country, Mr. Tran suggested Israel's resettlement program as a model. Israel, he said, conducts a six month program which teaches Hebrew and job skills to the immigrants. After this initial period, the person "is trained to enter the job market on a productive, competitive basis." He suggested that the United States adopt some aspects of this program.

Mr. Tran characterized job placement programs for refugees as limited: "Most of the jobs offered are low-paying ones, so the Vietnamese have to ask their friends or they try to seek jobs on their own." Language training, he said, is only available to those who live in the community where the classes are held.

In closing, he urged "that some efforts be made to protect the newcomer" through basic survival training.

Mr. Kim Anh began by saying that "because our language and culture are different than local peoples, we have had many difficulties such as housing eviction [and] resentment from a few groups of people caused by conflicts of interest." He added, however, that "mutual understanding between our community and other racial groups has been considerably improved." The U.S. Catholic Conference was praised for its role in "restoring the harmony among people of different cultures and interests."

In the New Orleans area, Mr. Anh said, the Indochinese community has a monthly magazine, a weekly bulletin, and a radio station "to guide people in their adjustment to the U.S. way of life."

Two areas of special concern were pointed out in the testimony. The first concerned the lack of low-cost housing for large families. Mr. Anh said that dividing families has a "crippling" effect and that many evictions are due to landlords evoking housing laws that limit occupancy.

Another major problem, he said, is in the area of employment for less-educated elderly people: "These people can still work, but their age is an insurmountable obstacle for the acquisition of a new language."

Mr. Nguyen Lam claimed that while "most resettlement agencies have had plenty of good-will, . . . the majority of them did not understand thoroughly the situation or the mentality of the

refugees." Improvements have been made, he added, to listen more to the "spiritual rather than material" needs of the refugees.

The voluntary agencies, he said, have been helpful in providing certain kinds of employment for refugees as well as classes to help with the language problem. But the Vietnamese mutual assistance associations have been most able to "understand the refugees' situations and meet the spiritual as well as material needs" according to Mr. Nguyen. He urged that the federal government support these organizations "technically and financially" to enable them to play the intermediary role between the government and the refugees.

In conclusion, Mr. Nguyen asked for support from local government in efforts to develop "mutual cooperation between different ethnic groups." In this manner, he said, "different groups will be creating help for themselves and, at the same time, alleviating animosity to newcomers."

Mr. Khamlouan Panyanouvang told the Commission about the Laotian families whom the U.S. Catholic Conference (USCC) has resettled in the Baton Rouge area. After a six-month period of assistance from the USCC, the refugees have turned to a local Laotian Association and/or family members for help. He said that monthly meetings among Laotian refugees are extremely useful for exchanging advice and giving support.

Mr. Van Huy Tran expressed "deep appreciation to the American people and government for the kind of help in the reconstruction of the new lives [of refugees] in this country."

He said that while life has not been easy, especially for the elderly people who have trouble adapting to U.S. society, it is better than in Vietnam.

TOPIC: Acculturation and Bilingualism

Panel

Witnesses: Pho Ba Long, Center for Applied Linguistics,
Arlington, Virginia

James Domengeaux, Chairman, Council for Development
of French in Louisiana, Lafayette, Louisiana

Robert Kastner, Coordinator of Bilingual Programs,
New Orleans Public School System

Mr. Pho Ba Long expressed his concern over the "waste of manpower and education" when Vietnamese professionals are not able to practice their professions in the United States.

In regard to refugee resettlement programs, he stated that there is adequate funding but a lack of coordination and appropriate use of money available.

Mr. Long was especially concerned over the education of refugee children. According to him, nearly 50 percent of refugees are of school age. He stressed the importance of providing these children with better basic training and encouraging the maintenance of their native language.

Mr. James Domengeaux urged the Commission to make recommendations supporting bilingual education in public schools. In Louisiana, he said, French language programs are being expanded in the schools. He said that we must not allow American youth "to be linguistically ignorant and speak only one language to the detriment of their future and the future of this country." New immigrants, he stressed, should be encouraged to maintain their native language as well as English.

Mr. Robert Kastner described the bilingual programs currently operating in the New Orleans public schools. Based on his experience, Mr. Kastner recommended that the Commission support bilingual programs where the home language is used as a medium of instruction for students with limited English proficiency. Furthermore, he urged that bilingual/bicultural education programs be continued and expanded.

Finally, Mr. Kastner recommended "that funding under the Indochinese Refugee Assistance Act be continued for at least three more years, since the refugees are still in need of additional services which the school system is hard pressed to provide with local and state monies."

TOPIC: Impacts on the Community: Problems in Allocating Resources

Witnesses: Cheryl Cramer, Director, Mayor's Office of Policy Planning, New Orleans

Wade Ragas, Associate Professor, Department of Anthropology, University of New Orleans

Dr. Martha Ward, Chairperson, Department of Anthropology, University of New Orleans

James Hayes, Executive Director, Treme Community
Improvement Association, New Orleans

Dr. Marguerite Bryan, Associate Professor,
Department of Sociology, Xavier University

Bill Oiler, Office of Manpower and Economic
Development, New Orleans

Ms. Cheryl Cramer reviewed the city government's involvement in the refugee area and made available the results of the May 1979 Mayor's Task Force Report on the Impact of Refugees.

She then presented seven recommendations to the Commission regarding refugee policy: first, that there be "equity of treatment to all refugees regardless of their country of origin or the method of admission"; that "refugees should be treated no worse than or no better than other needy persons in our society; that the states and local government should not suffer any undue financial hardship as a result of the resettlement; and that existing mainstream service systems should be used rather than create new institutional structures."

Secondly, that there be established a system for providing information to local governments on three levels: annual projections, a monthly report, and reports after refugees arrive in the United States. This information is needed for planning purposes.

In the resettlement process, she urged mandated cooperation between the voluntary agencies and the local governments. Both provide services to refugees and should work more closely together.

Federal funding is needed, said Ms. Cramer, if the city is to implement the new refugee programs it needs. She recommended that legislation authorizing funding for resettlement programs should earmark funds for impacted urban areas on the basis of need and competitive proposals.

Another recommendation was that all efforts be made to spread resettlement throughout the country, thereby reducing concentrations in areas already impacted.

Self-determination among refugees, she said, should be encouraged by providing support to self-help organizations.

Finally, she urged that "federal and state governments report fully to the American people the nature and magnitude of expenditures for resettlement."

Dr. Ragas summarized the findings of a report he prepared for the city government in November 1978 on the local housing market and the Indochinese households.

The average Indochinese household, stated Ragas, is almost six persons and, therefore, requires a living unit of three to four bedrooms. "It is simultaneously true that we have a large minority population, some of whom badly need three- or four-bedroom units." He said there is "severe competition" for low-cost housing, noting that "we already had a severe problem here" when the Indochinese refugees arrived.

He recommended that low-cost housing for large households be given top priority in FHA underwriting policy, and that Federal agency programs that are not focused so directly in the urban market should work or relocate minority households. "More of our job growth," he pointed out, "has been away from the urban center."

Finally, he agreed with Ms. Cramer on the need for more information at the local level on the refugees as they arrive.

Dr. Martha Ward, in comparing the Indochinese with other new groups, said that "the Indochinese represent to us an unusual group in terms of their adjustment." In the space of only five years, she remarked, "some very viable self-help networks, community support services, and some emerging leadership" are in existence.

Dr. Ward outlined several specific stages in the incorporation of new ethnic populations from denial to dislike and, finally, to community pride in the achievements of the group. The Indochinese, she said, will go through these stages in New Orleans.

She recommended the need for more baseline research, "specific, directed long-term research to build up our data base to find out who is here and what they are doing."

Mr. James Hayes expressed the view that the Black community in New Orleans has never received the kind of federal support that the Indochinese have been given. "I think when the issue boils down," said Hayes, "it goes back to the fact that within a five-year period, the resettlement of Indochinese has been able to receive

and get grants of such a nature that they have been able to become a part of mainstream America . . . and the American Black community has been overlooked."

No one in the U.S. government, he claimed, has ever "taken it upon himself to give a self-explanatory message to the Black community."

Mr. Hayes explained that he has "no racial prejudice against the Indochinese. . . . We are not angry at the Indochinese refugees. The culprit here is the federal government which declares on one hand freedom and justice for all, while on the other hand it overlooks its own citizens."

Dr. Marguerite Bryan expressed her views on the Indochinese impact, especially on the Black community in New Orleans. The Black community, she stated, "has only recently . . . experienced significant political and social freedom from racial and economic oppression." Furthermore, the community is still subject to social and economic discrimination in which large pockets of its people are economically deprived. It's little wonder, she concluded, "that many in the New Orleans Black community are skeptical and even antagonistic to the new Indochinese presence."

Specifically, she pointed to local competition between minority communities for housing, jobs, and public assistance programs.

She ended her testimony with recommendations for U.S. refugee resettlement policy. First, she supported the findings of Mayor Morial's Task Force Report of May 25, 1979, which recommended "providing assistance and housing, employment and education to the Indochinese refugees as well as establishing an ongoing mechanism for conflict resolution and better understanding among New Orleans ethnic groups."

Secondly, she urged that refugees not be given preference "to the detriment of ethnic and racial groups already established." "The government," she said, should "avoid even the appearance of discrepancy and favoritism."

Mr. Bill Oiler told the Commission that although some refugees are involved in CETA programs, there exists "a considerable problem of determining exactly the size of the [refugee] population to be served and the employment needs of that population."

In order to resolve the problem, Mr. Oiler made five recommendations: First, that the employment history of the refugee be transmitted to the local level, specifically the local CETA program.

Second, that links be developed between all government agencies that serve refugees.

Third, that special, individualized employment training and other programs be designed for localities that contain large refugee settlements.

Fourth, that a national network for tracking refugees who migrate within the United States be developed.

And fifth, that "a more effective orientation program be developed both nationally and locally to increase the refugee's understanding of government programs."

TOPIC: Family Reunification

Witnesses: The Reverend Rafael Melian, Chairman, Citizens Committee on Immigration.

Sister Thomasette Pittari, Latin American Apostolate

Father Melian, a refugee who came from Cuba in 1962, described family reunification as the heart of the U.S. immigration and refugee programs.

In regards to policy, he recommended "that serious consideration should be given to the possibility of taking second preference out of the quota system." The reunited family, said Father Melian, "will offer a greater contribution to the community . . . and another benefit will be the reduction of the undocumented aliens." Furthermore, he stated that "I consider that a humanitarian approach in family reunification [means]. . . the same rights at any level, for a person who is a permanent resident as well as those who are citizens of the United States."

He criticized certain family reunification provisions in the new Refugee Act. He called for the inclusion of married siblings as well as the reunification of families who may have become separated in different free nations in the process of escaping.

Finally, he suggested that the Commission study the idea of three separate immigration preference system categories--the family, the refugee, and the economy. "The preference system," he said, "probably would be better implemented in giving to each one its own treatment and also will assist greatly in the main objective of family reunification."

Sister Pittari testified that current requirements that force family members to leave the United States in order to adjust their status are "a strain on the family."

The delays caused by the lengthy backlog for legal immigration also hurt the family, she said.

She recommended that overall ceilings be retained, "but on a first-come, first-served basis, with preferential treatment for members of the nuclear family, both of United States citizens and lawful permanent residents."

Sister Pittari also expressed the view that the American consulates abroad present undue problems to potential immigrants. She suggested "some type of board set-up that these consulates could be accountable to."

Finally, she urged the Commission to consider waivers for certain undocumented workers who have been in the United States with their families.

TOPIC: Adjustment of Status

Witnesses: Mr. Robert Lindsey, Former INS Assistant Commissioner for Adjudications

Mrs. Jane Foley, Program Director, Immigration and Refugee Services, Associated Catholic Charities

Mr. Lindsey testified that he feels the procedures currently in place for adjustment of status reflect the intentions of Congress as expressed in the 1952 Act and amendments since that time.

Section 245 of the Act was devised to enable "worthy aliens to have their status adjusted within the United States, without the need of departing from our shores and applying for an immigrant visa at an American consulate abroad."

Mr. Lindsey stated that there is very little discretion in the determination of Section 245 decisions: ". . . If the alien meets the statutory requirements, generally, he is found eligible for the adjustment of status under Section 245."

He recommended that there be more supervision in the Immigration Service in order that "uniform procedures are followed" at all field offices regarding adjustment of status. He suggested that more supervision and improved administration might keep files from being lost and misplaced.

In summary, he stated that Section 245 reduces the time involved

in adjustment of status cases and greatly reduces the hardship for the alien.

Mrs. Jane Foley urged the Commission recommend that spouses and unmarried children of permanent residents as well as unmarried children of U.S. citizens be exempt from the quota system.

"Refugees," she said, "ought to be allowed to enter the United States as lawful permanent residents." This would save time and money, according to her, and also "improve the image of the Immigration and Naturalization Service and hasten family reunification."

Under the present law, she testified, U.S. citizens and permanent residents are not always accorded the same benefits as refugees and political asylum cases. "For purposes of family reunification," she said, "it is sometimes better to be a refugee." She urged that these inequities be corrected.

She called upon the United States to clear up the backlogs in the Indochinese adjustment program. "When Congress passes laws that will increase the workload of the Immigration and Naturalization Service," she concluded, "then they should at the same time, vote enough monies for the Service to handle the extra work."

OPEN MICROPHONE SESSION

Mr. Gerald Lasensky, Executive Director, Jewish Federation of Greater New Orleans, stated his basic support for the Refugee Act of 1980 and urged that "sufficient flexibility in providing cash and medical assistance. . . to respond to different problems" be retained in the Act.

In the Commission's report, he stressed the need for a recommendation regarding the numerical limit for refugees which will be reviewed in 1983. "Our nation," he said, "is a bearing light of hope in a world full of darkness." He said that his organization wishes to be on record, along with other voluntary agencies, in pledging continued assistance to refugees. In conclusion he quoted the ancient Hebrew sage Hillel, who said, "To save a life, it is as if you saved the world."

Mrs. Julianne Haspel, Jewish Family and Children Services, spoke of the importance of English language training and employment placement in aiding refugees to gain self-sufficiency. She attributed the success of the Jewish Federation of Greater New Orleans to its ability to provide these services to refugees.

Ms. Joan Berenson, National Council of Jewish Women, explained the "individualized" approach of Jewish Federation resettlement. She said that orientation booklets specially designed for both Indochinese and Russian refugees have proved very helpful.

Another important factor in rapid self-sufficiency was that our "volunteers have contacts in the community." Often these contacts have provided jobs as well as health and legal services to refugees.

Mrs. Viola Weiss, Executive Director, Jewish Children's Regional Service, brought to the Commission's attention the plight of non-Muslim Iranian students in this country. They are unable to work in this country, she said, and "their parents cannot send money out of Iran." She urged the INS to "relax a bit on permitting off-campus employment."

"They hesitate to request political asylum," she claimed, "lest there be repercussions to their families in Iran."

Mr. James McCaffery testified against the idea of an amnesty for undocumented or illegal aliens: "The arguments against any adjustment of status . . . for the illegal aliens are too cogent to be ignored. The arguments to return all illegal aliens home are overwhelming."

He said that "the effects of such an amnesty on millions of potential immigrants who have patiently waited years for legal admittance will be devastating." Furthermore, he claimed that "there will be no way to keep the amnestied illegals. . . from bringing millions of wives and children to the United States."

Mr. McCaffery also expressed his belief that "instant voter registration seems to be the rationale behind . . . [Mr. Carter's] madness . . . he will set the stage for the biggest vote fraud in American history as millions of amnestied, undocumented aliens will become undocumented voters as they flock to the polls unhindered in 1980 to vote for their benefactor."

Sister Mary Anne Owens, Justice and Peace Officer, Diocese of Lafayette, presented a summary of a resolution passed by the National Federation of Priests Councils. She made eight recommendations, including the establishment of bilateral talks with sending nations, an amnesty for all undocumented persons who have been in the United States for at least two years, an independent Visa Appeal Board, free legal services for indigent undocumented aliens, an increase in the Mexican quota, the

availability of all federally funded programs to aliens, and, finally, the prohibition of all government agencies except the INS from involvement in immigration matters.

Dr. Charles Reichel, Coordinator, Southeastern Lutheran Resettlement, affirmed "wholeheartedly and with all kinds of exclamatory remarks, the cooperation between the public, the voluntary, and the private sector." In such a system of refugee resettlement, said Dr. Reichel, "the government dollar is quintupled."

In job training, he emphasized that all refugees have "skills"; the challenge is "to articulate . . . skills they already have into a new arena."

Mental health was noted as a serious concern in resettlement: "Depression is a normal response from the refugee population . . . but we do not do well in cross-cultural counseling." He suggested the training of more paraprofessionals and, in general, more training in cross-cultural work.

Mr. Arial Campos, Board Director, SER/Jobs for Progress, spoke "on behalf of the many thousands of Hispanics who have come to New Orleans."

Nicaraguans fleeing their country around the time of the ousting of the Somoza government have been particularly attracted to the New Orleans area. Their visas, said Mr. Campos, are not accompanied by a clearly defined status. Their authorization to stay is for six months, and they are ineligible for most government services. "Prospective employers," claimed Mr. Campos, "are reluctant to hire someone who is authorized to stay here only for a few months."

Mr. Campos called for a redefinition of their status "to afford them the equal rights and protection guaranteed by the United States Constitution."

Mr. Correro, Nicaraguan (as translated by Antonia Hernandez of the Select Commission Staff Advisory Group) explained his situation as a "refugee from Nicaragua." He said that Nicaraguans in the New Orleans area feel a great deal of insecurity due to the temporary nature of their visas. "We are not accustomed to being on welfare," he said. "We are workers." He urged that they be given permanent status in the United States.

The Reverend Earl J. Amedee, Sons and Daughters of Africa, recommended that exclusions on the basis of Communist Party affiliations and exclusions based on "moral turpitude" be abolished.

Mrs. A. Bermudez (as translated by Ms. Hernandez) explained to the Commission the hardships that she and other Nicaraguan refugees face due to their temporary status in the United States. "We are not asking for any assistance," she said, "but we want to resolve our status right away."

David Kattan, immigration attorney, spoke on the subject of foreign students: "The students here today are the leaders of tomorrow in those foreign countries. Better to have them as our friends than our enemies." He pointed out that foreign students "help the private schools" and are good for our economy because they spend money. "Therefore, we should encourage them to come to this country and not try to keep them out."

Mrs. Lila Castillo, (as translated by Ms. Hernandez) spoke to the Commission about the problems in Nicaragua and urged that those Nicaraguans in this country be given permanent status. "Nicaragua has now become Communist," she said. "For that reason we cannot return."

Mr. L. K. Timmons, engineer, told the Commission that American engineers are being forced to compete for scarce jobs with "low-paid alien engineers" brought in under the H-1 temporary worker program. The aerospace industry, claimed Timmons, "screams shortages which do not exist." He asked the Commission to look into purported violations of immigration and labor laws by these firms.

Mrs. Sharon Rodi, Associatied Catholic Charities, spoke to several issues raised during the day concerning refugee resettlement. Catholic Charities, she said, "provides job counseling and job placement to most of the refugees in the city." According to Mrs. Rodi, "every month 100 to 200 jobs go unfilled . . . that could be taken by anyone in this community."

"A better bilingual health system should be fostered by the city," continued Mrs. Rodi. New Orleans has had trouble, she said, in hiring and keeping bilingual interpreters at health clinics used by refugees.

The Reverend Dominic Luong, Associated Catholic Charities, praised the voluntary agencies for providing "phenomenal service" with only "a meager amount of funding from the federal government."

He countered claims made earlier in the day about favoritism toward Indochinese refugees with examples of hardships refugees face in the areas of housing and employment.

Father Luong pointed out that nearly half of the refugees in New Orleans are under age 19." The future, he said, "is in the hands of the young." He suggested that "HEW expedite at a high level the educational process for these refugees."

In conclusion, Father Luong asked that "the panel keep on receiving views so we can keep the communication open."

Mr. Eugene Shedrick, teacher, West Jefferson School, explained that he was a physical education teacher who works with many Vietnamese refugee children. He suggested that one way to encourage assimilation for the new refugees "is to introduce them to sports so that they can learn to compete the American way." In many sports, he said, the Vietnamese have gained respect from their peers.

Enrique Cerda (as translated by Ms. Hernandez) echoed the feelings of other Nicaraguans concerning their status in the United States. "We believe in human rights," he stated. "It would not be just to be here for six months and then be told to leave and go home."

Mr. Antonio Naranjo, State Director, League of United Latin American Citizens (LULAC), expressed his view that "the history of the United States reflects the many contributions of the immigrants . . . and should be considered an integral part of the American system," and that "the way you respond to immigration issues is going to have an effect on the way Latin American countries relate to the United States."

Mr. Edgar Parrales (as translated by Mr. Lupe Salinas of the Select Commission Staff Advisory Group) said that as a Nicaraguan seeking permanent residence in the United States, he and his family "are ready to serve the United States . . . but first want to define our status and our rights."

Mr. Alejandro Rostras, Nicaraguan Refugees Association, asked for advice on how the Nicaraguans, if they do not qualify as refugees under the new Refugee Act, can come to the United States as asylees.

SUMMARY

CHICAGO REGIONAL HEARING

April 21, 1980

OPENING REMARKS by Hearing Chairman Congressman Robert McClory (R-Illinois). Other Commissioners in attendance: Secretary of Labor F. Ray Marshall and Rep. Elizabeth Holtzman (D-New York).

Congressman McClory explained that, in his view, the purpose of the Select Commission is to identify and develop clear immigration and refugee policies, in contrast to the fragmented policy under which we have been operating in recent years. He stated that the three most important issues that the Commission must address are the problem of illegal immigration, the humane and fair enforcement of our immigration laws, and the establishment of an acceptable level of immigration that will permit us to maintain our national way of life.

TOPIC: Illegal/Undocumented Workers: Labor Supply in Service and Light Manufacturing

Witnesses: Honorable Cardiss R. Collins (D-Illinois)

Mr. Leon Lynch, Vice President, United Steelworkers of America, Pittsburgh

Mr. Guillermo Brzostowski, Field Organizer, United Electrical Workers, Chicago

Representative Collins testified about an issue which concerns her a great deal--the presence of large numbers of undocumented workers and their effect on the labor supply in the Chicago area. In her view, the issue is further complicated by the fact that no one knows how many illegal/undocumented persons there are in the United States, since estimates vary from 3 to 12 million. Further, she said, we must also consider the impact of refugees on the labor market, because they have been arriving in great numbers in recent years. She believes that Blacks and other minorities are being displaced by the illegal/undocumented workers and refugees whose presence aggravates the unemployment problems these minorities already face.

Mrs. Collins presented five recommendations which, in her opinion, will improve the labor market prospects for minorities. First, she indicated that any hint of racism must be removed from our immigration laws. She mentioned the situation of the Haitian refugees, in which they have not been admitted freely because they are considered to be "economic refugees," as one example of the current inequitable application of our immigration law. She stated that "if an inhumane existence is the criterion upon which we base our willingness to accept refugees, it should make little difference

whether a man's starvation is caused by political dehumanization or economic repression." Secondly, she recommended that we consider carefully the links between immigration and refugee policy and foreign and domestic policy. In particular, she questioned the level of U.S. military assistance, which is four times the level of bilateral economic aid to the Third World. Thirdly, she believes that we must strenuously enforce fair labor practices in the United States to protect the rights of undocumented workers as well as Americans. It is inconsistent with the policy of this country to have one standard for some people and a different one for others. Finally, she claimed that legislation should be passed guaranteeing due process of law to all who work in this country; she has introduced a bill in Congress which grants the right to counsel to all aliens detained for further inquiry.

Mr. Lynch presented the platform of the United Steelworkers of America, which is "an international labor union concerned with the direction of public policy in the area of immigration." His statement included 14 points: that immigration policy should provide for an equitable distribution of numerical ceilings on visas for Eastern Hemisphere countries; that the United States adopt a policy towards Western Hemisphere nations based on nonnumerical ceilings because of the special relationship that exists between the two regions; that there be an increase in immigration ceilings for Mexico and other Latin American countries from 20,000 to 50,000 per year; that the present immigration policies of preferences for families and refugees be continued; that the occupational preference and labor certification preferences are necessary to protect lower-wage American workers; that the present emphasis on the admission of immediate family members and refugees be continued; that the United States should expand its international role in providing homes for refugees and also develop better adjustment assistance programs for refugees and local communities; that the federal government should develop more effective programs for civic education, language training, and employment counseling for immigrants and refugees; that existing worker protection, fair labor standard, and "no-strikebreaker" laws be more vigorously enforced; that the present H-2 program be revised to require wages and benefits comparable to those received by American workers; that the status of illegal migrants currently residing in the United States be legalized; that U.S. criminal laws be revised to provide for strong sanctions against those who smuggle or employ illegal aliens; that a new system of worker identification is necessary, although care must be exercised not to infringe on civil liberties or personal privacy; and, finally, that the INS be given a higher priority along with the necessary resources to carry out its functions adequately.

Mr. Brzostowski stated that his greatest concern about illegal/undocumented workers was not whether they are here legally or

illegally but whether they have available all the protections to which they are entitled. He has witnessed many incidents in which illegal/undocumented workers have been subjected to dragnet raids, midnight arrests, and summary deportations by INS officials with no demonstration of any concern about their rights. The position of his group, the United Electrical Workers, is that all illegal/undocumented workers should be granted unconditional amnesty without any sanctions being implemented against them and that any worker who pays regular payroll taxes should be allowed to collect unemployment and other public assistance. Further, he said, illegal/undocumented workers should be protected from harassment, seizure, and deportation. However, his organization does not believe that a system of employer sanctions should be instituted because it will not lead to a solution of the problem of illegal/undocumented persons working in unhealthy, dangerous places. Instead, such sanctions may well lead to discrimination by employers against persons who appear to be Hispanic. Mr. Brzostowski concluded his testimony by criticizing the double standard that he sees manifested in the different treatment accorded refugees from Cuba or Vietnam and Mexican people seeking a new life.

TOPIC: Illegal/Undocumented Workers: Labor Supply Needs in Service and Light Manufacturing

Witnesses: Ms. Lucille Little, Illinois Landscape Contractors Association, St. Charles, Illinois

Mr. Charles C. Isley III, President, Chamber of Commerce of Waukegan and Lake County, Illinois

Mr. Richard Gavin, Director of Education, National Restaurant Association, Chicago

Mr. Judd Azulay, Chicago

Ms. Little explained that her association, the Landscape Contractors Association, represents an industry comprised of small businessmen which depends heavily on migrant workers, particularly Mexicans. In her view, the landscape industry work force could be reduced by as much as 90% without migrant workers. She stated that the industry is firmly opposed to any government intervention in its hiring practices, particularly by adding to the number of documents the employer must check. She believes that it is better to legitimize the labor force than to keep them out of the labor market because it will both reduce bureaucracy and protect the rights of these workers.

Ms. Little also presented her views on a proposal designed to curb the flow of illegal immigration. She stated that S. 1427, a bill

introduced by Senators Hayakawa, Schmitt, and Goldwater that proposes to establish a temporary worker program, could be helpful to the landscape industry. She does, however, have two objections to the bill as it stands now. First, the length of time that a temporary worker is permitted to stay in the United States is six months under the bill, but the landscaping industry's season is nine months in length. Secondly, the bill is based on a first-come, first-served basis, but she does not want people participating in the program who have no interest in working. She suggests that a letter of employment be required to accompany any request for a temporary visa.

Ms. Little concluded her testimony by stating that the landscape industry is not opposed to employing U.S. citizens, but that much of the industry is located in the suburbs where housing and transportation patterns are such that a large semiskilled labor force is not available to the employers.

Mr. Isley explained that the Chamber of Commerce is very concerned about the local business community in the Chicago area, especially since most of the businesses are fairly small. He stated that his organization is in favor of instituting a national identification card system so that employers can easily verify whether a worker is undocumented. He cited instances in which large parts of the industrial work force have been seized by INS officials because the workers were hired illegally. Under the current system, the employers have no way to make certain whether a worker is a citizen or a permanent resident alien. Mr. Isley is also in favor of imposing sanctions against those employers who hire workers who do not have identification cards because "if they [the employers] have been found to have broken the law, they should be held responsible in that area." Mr. Isley also said that the problem of bilingual education needs to be addressed. In his view, "if there is an immigrant home and the family is still speaking their ethnic tongue, all we are doing is perpetrating a system of noncommunication."

Mr. Gavin testified that his organization, the National Restaurant Association, does not promote or condone the knowing employment of illegal/undocumented workers. However, his group is very concerned about legislative proposals which seek simple solutions to reduce illegal immigration by prohibiting the employment of illegal/undocumented workers, and he believes that the impact of these proposals on small businesses must be carefully assessed.

His principal concern in this area is the soundness and fairness of shifting the main thrust of the enforcement burden from the government to the private employer. In his view, "Congress should first carefully consider whether it is, in fact, equitable to shift to the private sector this enormous task which is rightly a function of the government." In addition, Mr. Gavin stated that

requiring employers to make determinations of the legal status of job applicants involves them in intricate problems of constitutional and immigration law which most are not equipped to handle. A possible consequence of this system is that employers would be reluctant to hire anyone who looked foreign to avoid additional administrative burdens and to protect themselves from possible prosecution.

To counter these objections, Mr. Gavin stated that the government must provide the means by which an employer can easily determine whether an applicant is eligible for employment. This guidance should be clear and objective and should not add to the employer's administrative burden. Moreover, if employers are going to play a large role in controlling the problem of illegal immigration, then any overall plan must include active participation and accountability by the government agencies in granting benefits only to those eligible to receive them. However, he explained that this solution only creates a further problem: "We believe that the foreseeable results of programs to deny employment and public assistance programs to a large group of unfortunate human beings must be squarely faced. What is the next step? What do we as a nation dedicated to human rights then do?"

Mr. Azulay testified that current economic realities as well as State Department and INS policies are working to prevent the health care industry from obtaining the required foreign-born and foreign-educated staff. Two solutions to this problem he mentioned are a modified employment eligibility card and an easing of INS regulations on skilled labor. He warned that the impact of the nursing shortage could be severe as hospitals and nursing homes begin to face severe financial crises. He explained that the situation will be aggravated by a law due to go into effect soon which requires that foreign-born nurses pass a difficult exam before being granted a visa. Mr. Azulay concluded by urging that the current laws be modified to improve the situation.

TOPIC: Methods of Inhibiting the Employment of Illegal/Undocumented Workers: Worker Authorization Card/Employer Sanctions

Witnesses: Mr. Don Hohl, U.S. Catholic Conference, Washington, D.C. accompanied by Mr. Zeferino Ochoa, Chicago Archdiocesan Latin American Committee

Mr. Juan Soliz, Legal Services for Immigrants, Chicago

Mr. Hohl offered a comprehensive set of recommendations to deal with the problem of illegal immigration, based on the assumptions that illegal/undocumented persons' motivations and means of entry vary. His recommendations included a full grant of amnesty to all illegal/undocumented persons currently in the United States; permission for

spouses and children to join those granted amnesty; increased ceilings for Canada and Mexico; economic and technical assistance for the sending countries; a moratorium on maintenance of status with permission to work for nonimmigrants when the home country is undergoing political upheaval; strict enforcement of existing laws relating to wages, hours, safety, health, social security, and income tax; prosecution of all smugglers with maximum penalties imposed against all those convicted; tight control of our land and sea borders; and, finally, increased consular staffs to screen applicants for nonimmigrant visas. He does not believe that sanctions should be imposed against employers. However, if such a system is implemented, he stated that it must be accompanied by a national identification card to enable the employers to comply with the law, and he believes that the social security card could be adapted for this purpose. However, Mr. Hohl concluded by urging that we proceed cautiously in deciding whether to implement a national identification card "lest impatience prompts us to act impulsively, resulting in the erosion of human rights and the freedoms which we as a nation so jealously seek to protect."

Mr. Ochoa described his two major concerns in U.S. immigration policy. His first concern is for U.S. citizen children born after January 1977 to undocumented parents who were forced to return to their own countries. The parents must then choose whether to take their children with them to be raised in a developing country or to leave them here to be raised by someone else. He believes that future U.S. immigration policy should permit parents of U.S. citizens to become legal residents of the United States. Secondly, he does not feel that our immigration policy should be viewed apart from our foreign and economic policies. He stated that the Commission should work with the Departments of State and Commerce to assess the effectiveness of our foreign aid programs and the impact of multinational corporations on developing nations.

In conclusion, he claimed that, to solve immigration problems, we must look at the root causes to determine the factors that cause so many people to flee their homelands.

Mr. Soliz cited several examples of discrimination against Hispanics that he has witnessed in his work at Legal Services of Chicago. He stated that these incidents occurred because employers felt a compulsion to verify the immigration status of employees in Illinois, a state which has no law barring the employment of illegal/undocumented persons. In his view, any law designed to prohibit the employment of illegal/undocumented persons will only serve to aggravate similar discriminatory practices. In addition, under an employer sanctions law, foreign-looking U.S. citizens will be subjected to "special discriminatory scrutiny regarding our immigration status." He is also firmly opposed to the institution of

a national identification card to complement an employer sanctions law because it too will only exacerbate discrimination against immigrant groups. He further predicted that there would be increased abuse and harassment by law enforcement officials under such a system.

Mr. Soliz recommended that, rather than concentrating on the immigration status of workers, the government should direct its efforts toward eradicating the exploitative wages and working conditions which plague the work sites of immigrant workers. He also indicated his support of an amnesty program: "Nothing short of a general and unconditional amnesty for undocumented workers will ameliorate the sweatshop working conditions that undocumented workers are subject to in Chicago and throughout the country."

TOPIC: The Preference System (Family Reunification)

Witnesses: Ms. Ione DuVal and Ms. Anne McCune, Travelers Aid Society of Metropolitan Chicago

Mr. Aloysius Majewski, President, Polish National Alliance, accompanied by Mr. Richard Puchalski and Mr. Marion Baruch

Panel: Rev. Joseph Gallego, Concerned Citizens Committee on Immigration, Chicago

Ms. Bernie Wong, Chinese American Service League, Chicago

Mr. Jay Kim, Korean Association of Chicago

Mr. Alex Gonzales, Jose Rizal Center, Chicago

Dr. Surinder Saxena, Association of Indians in America, Chicago

Mr. Ed Elsner, Director of Special Programs, McHenry Community College

Rev. James Ratigan, National Federation of Priests' Councils, Chicago and

Rev. James Schulz, Interfaith Coalition for Justice to Immigrants

Ms. DuVal explained that her group, the Travelers Aid Society of Chicago, works to reunite immigrant families. Believing that the issue of family reunification is the most important one for the

Commission to address, she recommended the following revisions in the law:

- ° the redefinition of "immediate relative" to include immediate relatives of permanent residents;
- ° the granting to the accompanying spouse and minor children of permanent resident aliens the same status as that of the principal beneficiary;
- ° the maintenance of the fifth preference as an integral part of the preference system;
- ° the redefinition of "child" to include the illegitimate child of a father;
- ° the elimination of country ceilings; and
- ° an update of the registry date to facilitate implementation of the new Act.

Ms. McCune cited several examples to stress the need for the reforms mentioned by Ms. DuVal. In particular, she urged that "immediate relative" be redefined to include immediate relatives of permanent residents because of the economic and emotional stresses that occur when a family is split up. She also cited instances which require reform in the law to grant the accompanying spouse and unmarried minor children of all immediate relatives the same status as that of the principal beneficiary.

Mr. Majewski began his testimony by complimenting the Commission on its efforts to broaden the scope of its inquiry into immigration policy. He stated that any legislation involving the opportunity to immigrate or the rights of immigrants must not only perpetuate the traditional humanitarian goals of this country but must also be flexible enough to allow for the realities of continual changes, both nationally and worldwide. In the view of the Polish American community, the reunification of families must be given the highest priority in developing an immigration policy. He stated, "we believe that every effort should be exerted and every opportunity extended to keep the families of the citizens and permanent residents together." He does recognize, however, that some priorities must be established even in the area of family reunification because of the large numbers of immigrants involved. He believes that before we establish these priorities we must first determine America's capacity to absorb and maintain a policy of equality for all.

Mr. Elsner testified on the influx of refugees into the United States. He began by stating that refugees' motive in fleeing their

homeland has nothing to do with ideologies but is a question of survival: "If their chances for survival are greater in the United States, they will be friends of the United States." He made the following recommendations on U.S. refugee policy:

- ° that the United States exert pressure on other countries, particularly those in the Third World, to share equally the responsibility for refugees;
- ° that sanctions be imposed against nations unwilling to share this burden;
- ° that the United States show more reluctance to relieve Communist-dominated countries of refugee-dissidents; and,
- ° where the United States finally does accept refugees, that programs be designed to prepare them to be self-sufficient and also to return to their homelands some day.

In his words, "we have to recognize and reconcile ourselves to the fact that our country and life-style is a relatively small utopia in a large world community of hunger, disease, and human suffering. We are not typical. We are the exception." To reduce the worldwide flow of refugees, he recommended that the United States institute an international labor exchange program to teach and share technology designed to enhance the work environment in other countries; and that we examine more closely the reasons behind immigration from each country and govern our relationship with each in accordance with its efforts to create incentives to maintain its nationals within its borders.

Ms. Wong testified that the current preference system is designed to reunite families but, in fact, often causes long separations of families. She presented four recommendations to correct this problem. First, she suggested that the term "immediate relative" be redefined to include immediate relatives of permanent residents, thereby eliminating the present second preference category. She cited the tremendous backlogs that exist for applicants from China and Hong Kong as evidence of a need for change in the system. Second, she recommended that accompanying spouses and unmarried minor children of all immediate-relative immigrants be granted the same status as that of the principal beneficiary. Again, this change will facilitate the reunification of families. She further recommended that current per-country numerical ceilings be abolished and a worldwide ceiling instituted in its place. She stated that the per-country limitations do not take into consideration countries of differing sizes. Finally, she recommended that colonial states such as Hong Kong be permitted to share the quota left over from the mother country. She explained that Hong Kong has had a large backlog for many years because of the colonial quota limitation of 600 and

stated that the United States should issue a special allotment of visas to ease the backlog.

Mr. Kim presented a major problem that the Korean American community in Chicago faces. He stated that the definition of the family in today's immigration law must be changed. He explained that, unlike the Western concept of family, the family unit in Korea and in other Asian countries traditionally includes not only spouses and children but also generations of lineal relatives. In his opinion, "present immigration law which does not enable grandparents of citizens and parents of permanent resident aliens to obtain an immigrant visa has imposed a great hardship and suffering among many Korean families."

He believes that many family members who cannot obtain permanent visas will come to the United States on tourist visas and remain in this country illegally. He concluded his testimony by stating that "by defining family to contravene cultural family tradition, the present Act imposes physical separation and much hardship on permanent resident aliens."

Mr. Gonzales stated that recently there has been a noticeable intensification of antialien sentiment in the United States, particularly towards Third World immigrants. In his opinion, the main target of the attack has been the Mexican community, but the Asian community has also experienced a rise in harassment. He gave as one example of this harassment INS's threats to exclude elderly aliens from returning from trips abroad because they have been recipients of Supplemental Security Income (SSI). In his view, INS is questioning the rights of aliens to be eligible for SSI benefits by using reciprocity as an excludable arrangement. Because of what has happened, he requests that the INS stop using SSI reciprocity as a basis for exclusion, stop harassment of SSI recipients at points of entry, drop all persecution of aliens being excluded because of SSI reciprocity, and return all bond money.

Mr. Saxena testified that, in his opinion, family reunification must be a major goal of immigration policy. He presented the following recommendations to meet that goal:

- ° that the family unit be divided into two categories, the close family, consisting of parents, spouse, and children, and the near family, adding brothers and sisters, and that all members of the close family would be permitted to immigrate without quotas;
- ° that adopted children of permanent residents be allowed to immigrate without fulfilling the current residency requirements;

- ° that an investor category be added to the preference system;
- ° that preferences three and six be retained, but that the process of labor certification be simplified;
- ° that rationales for visa rejection be clearly defined;
- ° that some mechanism be developed to permit those who are eligible for permanent resident status to be issued temporary visas; and
- ° that the current ceiling of 20,000 immigrants per country be raised, since the United States can accept more people.

Father Gallego explained that his head was "cluttered with suggestions," so he addressed himself to one issue in particular: Foreign parents, who have children born in this country (who are thus U.S. citizens), are themselves deportable. In many instances, these children are forced to follow their parents out of the country, so our immigration law forces U.S. citizens to leave the country. He stated that this law affects hundreds of thousands of children who are American citizens, and recommended that we return to the previous immigration law under which parents and immediate relatives of citizens born in this country were allowed to apply for residency.

Father Ratigan explained that his organization, the National Federation of Priests' Councils, represents Catholic councils throughout the United States. The group has conducted meetings on the subject of undocumented workers over the past year, and he submitted in writing seven recommendations based on the meetings.

Father Schulz represented the Interfaith Coalition for Justice to Immigrants, which is composed of 35 Protestant, Jewish, Catholic, and legal groups in the Chicago area. He stated that the Coalition is very concerned about the human suffering caused by the separation of families: "In the shaping of any immigration policy which purports to be humane and just, the integrity of the family should be absolutely safeguarded." In his opinion our current immigration law forces heads of families to leave their families to fulfill their God-given right to be able to work. The preference system fosters the presence of the immigrant within the United States because it seeks to benefit from his or her labor, but it assumes little corresponding responsibility on the part of this country to ensure the stability and cohesion of the immigrant's family.

To correct discrepancies within the current law, Father Schulz recommended the elimination of the current quota system for all members of the immediate family to incorporate immigrants' concept of the extended family; the elimination of per-country ceilings and the

distribution of quota numbers according to need, with recognition of special relationships the United States enjoys with particular countries; and the institution of a preference category for the parents of minor U.S. citizens. Finally, Father Schulz called for a general amnesty program for undocumented persons, whom he called "one of the most exploited underclass of workers within the United States."

TOPIC: Immigrant and Refugee Acculturation, Including Language

Panel

Witnesses: Dr. Andrew T. Kopan, representing Archbishop Iakovos, Greek Orthodox Church

Mr. Louis Jokay, American Hungarian Federation, Chicago

Dr. Theresa Sullivan, Department of Sociology, University of Chicago

Dr. Steven B. Nasatir, Executive Director, Jewish Federation of Chicago

Panel: The Reverend Howard Schipper, Freedom Flight Task Force, Grand Rapids, Michigan

Mr. Phet Odoum, YMCA of Elgin, Illinois

Dr. Kopan claimed that the United States has not yet become the homogenized mass that many believe does exist; instead, a "sense of shared past and perhaps a shared future" has persisted among subgroups in American society. He explained that the factors which determine the varying rates of assimilation are the degree of acceptance by the host society, the opportunities offered for socio-economic advancement, the respect accorded to ethnic groups, and the dual perception of roles and culture. Various ethnic groups have assimilated at different rates because they have been affected differently by these factors. In his view, the greatest value of ethnicity lies in the area of the development of personal identity; when ethnicity is denigrated by absorption of ideologies, as in the melting pot theory, the development of a full pluralistic society is prevented. By adopting the principle of cultural homogeneity for American society, absorption theories are the cause for present-day racial polarization. He recommended that absorption theories be abandoned to be replaced by the theory of cultural pluralism which recognizes that America is a nation of many legitimate cultures.

Mr. Jokay began his testimony by explaining the differences in acculturation between an immigrant and a refugee. In his view, an immigrant comes to the United States to find a better job and a

higher standard of living. A refugee, however, is forced to flee his homeland by factors beyond his control, and his normal life and standard of living are generally disrupted. Once in the United States, he will strive to learn the skills needed to help him rise to the same social and economic level he had attained in his homeland. He stated that the immigrants and refugees who enter with an education or a useful skill will have an easier time starting a new life, so the assimilation process will be faster. Mr. Jokay also stressed the role of the federal government in the acculturation process. In particular, he mentioned that the idea of becoming a U.S. citizen and the process by which it is done need to be stressed by the government. He further recommended that voting be urged by others to help immigrants and refugees in the acculturation process.

Dr. Sullivan explained the difference between acculturation and assimilation, which, she stated, are often used interchangeably. Acculturation refers to the modification of the culture of a group through contact with one or more other groups, and the acquiring of cultural traits from them or the exchanging of cultural traits with them. Assimilation, on the other hand, refers to the merging of two or more groups into a collective whole and connotes a process in which immigrants and native-born mutually influence each other and collectively build a society.

Dr. Sullivan summarized the findings of recent studies on the assimilation and acculturation of immigrants. First, the annual earnings of white foreign-born men are approximately equivalent to those of native-born when schooling, years of work experience, area of residence, and weeks worked are controlled. Second, the partial effects of education on earnings is lower for foreign-born than native-born. Third, immigrants experience some downward mobility in occupational status at the time of immigration. Finally, there are clear, country-specific patterns in indicators of structural assimilation.

Dr. Nasatir stated that, on the basis of his group's experience in resettlement, he considers the Soviet Jewish resettlement program (the Block Grant Program) to be of particular value. It supplies the badly needed financial assistance while also permitting the Jewish community to maintain its own participation in the resettlement process. Also, the Block Grant Program is more cost-efficient than the fragmented system of assistance under public aid. Moreover, he believes that the Soviet Jewish resettlement program is a "uniquely compassionate and pragmatic expression of this country's traditional role as a haven for the oppressed." He explained that the aim of the resettlement program is to ensure that the refugees become full-fledged members of American society. The first step in this process is for a refugee to secure a job as quickly as possible so that he will feel that he is participating in his own resettlement.

Mr. Schipper presented several recommendations on refugee resettlement based on his experience with the Freedom Flight Task Force of Grand Rapids, Michigan. First, he endorsed the policy of clustered resettlement, both in terms of clustering extended families and clustering refugees in geographic areas. He also suggested a revision of the Indochinese refugee program to permit extended families to migrate to the United States. Thirdly, he recommended that the federal government help in the coordination of services for incoming refugees on the local and state levels. He further recommended an overseas training and orientation program for refugees, and a reduction in the length of time refugees are required to stay in camps. He asked that the Congress ensure adequate funding for follow-up services which should be channeled through voluntary agencies. In particular, he noted, the adult English language program and the grades 1-12 bilingual programs are essential for the refugee acculturation process. He is very much in favor of the three-year sunset provision in the Refugee Act of 1980 because he believes it will provide a great incentive for refugees to achieve independence. He concluded by recommending that the United States continue to accept large numbers of immigrants and refugees because it is our responsibility to the rest of the world.

Mr. Odoum drew on his experiences with refugees in Elgin to make the following recommendations for Indochinese refugees:

- ° that refugees be offered English language instruction while still in the refugee camps;
- ° that they be given as much information as possible about American culture;
- ° that refugees be resettled with families whenever possible;
- ° that refugees be resettled in small or medium-sized communities in which they comprise a small percentage of the population, although they should not be too isolated, since they need the support of other refugees as well; and
- ° that money be allocated for cultural activities to help the refugees retain their cultural heritage.

TOPIC: The Deportation Process

Panel

Witnesses: Mr. Michael H. Landon, Jr., Association of Immigration Directors

Mr. Anthony Petrone, Immigration Judge, Chicago

Mr. Terry Feiertag, Association of Immigration and Nationality Lawyers, Chicago

Ms. Kristine Poplawski, Migrant Legal Services,
Chicago

Mr. Nathan Notkin, attorney, Chicago

Panel

Witnesses: The Reverend Walter Johnson, St. Monica's Church,
Carpentersville, Illinois

Mr. Luis Cabrera, Elgin, Illinois

Mr. Petrone presented seven reasons for delays that occur in the completion of deportation hearings from the perspective of an immigration judge. First, immigration judges' support staffs are totally inadequate to complete the work that needs to be done. In most district offices, an immigration judge is allocated one clerk who must function as docket clerk, receptionist, secretary, and transcriber. Nor are judges assigned law clerks to research and draft decisions. Secondly, the judges lack adequate physical facilities to hold hearings, which limits the number of cases that can be scheduled. Thirdly, there has been a large increase in caseloads recently so that the number is now triple what it was a decade ago. Another factor is that deportation hearings have become much longer in duration due to new forms of discretionary relief made available to aliens. A fifth problem is that there is an insufficient number of immigration judges to cope with the increased caseload. The sixth reason for the delays is that, under regulations, the INS is responsible for processing applications for adjustment of status to permanent resident when applied for during a hearing before the immigration judge, which is a very lengthy procedure. The final factor in creating delays is that many attorneys engage in dilatory tactics to gain time for their clients to qualify for some form of relief.

Mr. Landon stressed INS's need to rekindle some of the basic philosophies that have been neglected over the years. In particular, the INS needs to realize that one of its most basic functions is to provide the public with adequate services to fulfill the needs of aliens. In his view, a return to basics should enable the INS to operate more efficiently and effectively in discharging its responsibilities to the public. He claimed that any analysis of the efficiency of the INS deportation process must include a review of factors contributing to the present maze of delay-causing legal complexities. He believes that the evolution of the current complicated procedural requirements provides a classic example of bureaucratic expansionism which develops at the expense of prompt delivery of public services.

Mr. Feiertag began by recommending that Congress not make piecemeal changes in the Immigration and Nationality Act, but modify it in a comprehensive manner instead. In his words, "I believe the key is that Congress must wipe the slate clean and begin anew, not [perpetuate] a system where millions of aliens find themselves deportable because of the past failures of an unworkable system." He stated that one area in special need of reform is the delay in the deportation process; he claimed that 90% of the delays are caused by manpower shortages within INS.

He made several specific recommendations to improve the current system. First, he stated that immigration judges and the Board of Immigration Appeals must be separate and independent of any administrative functionary, and they must be given their own independent authority. In addition, accommodations should be made to upgrade the efficiency in the administrative nature of the proceedings by eliminating the requirement of a jury trial. He also believes that a statute of limitations applicable to deportation proceedings needs to be enacted. Further, people who are qualified visa applicants but who have no visa immediately available to them should be granted voluntary departure. Finally, all grounds for deportation and exclusion need to be modified and updated to reflect current national priorities.

Ms. Poplawski testified about problems that occur frequently in the prehearing voluntary departure program under which aliens may be granted leave to depart voluntarily without appearing in a deportation hearing. She believes that this program should continue, but that current procedures for implementing it greatly diminish its efficiency and may result in the deprivation of aliens' rights. Statistics show that substantial numbers of aliens depart the country under this program, but among these are people who should have exercised their rights to deportation hearings, and who would have done so had they been fully informed of their rights. She claimed that an unestimated number of aliens agree to prehearing voluntary departure only to retract the agreement after consultation with legal counsel. In her words, "without full and accurate notice of all rights to which he is entitled, the alien cannot make an informed and voluntary waiver of his right to a deportation hearing or his right to seek the benefit of our immigration laws." Moreover, the failure to inform the aliens of their rights also reduces the effectiveness of the prehearing voluntary departure as an efficiency program since aliens who retract their agreement to prehearing voluntary departure require more time and resources of the INS. Ms. Poplawski concluded her statement by stressing that all these problems with the voluntary departure program could be avoided if aliens were fully informed of their rights and the options facing them.

Mr. Notkin stressed that the rights of aliens must be guaranteed since they, too, are people. He indicated that in too many people's

minds, aliens are criminals and should be treated as such. He also supported Judge Petrone's testimony that immigration judges should be granted more authority. In his words, "the judges are trained lawyers with judicial minds, and they should have the authority to do more." In conclusion, he urged that more immigration judges be appointed because there is far too much work for them to handle.

Father Johnson presented his views and recommendations on possible solutions to the problems created by illegal/undocumented persons. First, he suggested that the unearthing of an illegal/undocumented worker is often not the failure of the worker to provide for himself but rather prejudice or spite from another, which calls attention to that worker's existence here. Second, he recommended that some way be provided for the accused worker to solicit assistance. Third, he claimed that a bilingual person should always be present during deportation proceedings. He also recommended that honesty and full disclosure always be granted to families of illegal/undocumented workers about their whereabouts when arrested. Fifth, he stated that family separation should always be avoided and that concern should be shown for family concern over other family members. Sixth, he suggested that priority should be given under a legalization program to families as opposed to individuals. Seventh, persons who have provided for their own and their dependents' support should be given a priority status under a legalization program. Eighth, he believes that recent changes in the immigration law requiring that children born in the United States to illegal/undocumented workers be removed to the country of their parents' origin violates the children's rights.

In conclusion, he stated that "persons entering this country without official legal status are not criminals in the moral sense of the word, and their situation should be evaluated to allow protection of their fundamental human rights."

Mr. Cabrera stressed his concern about students attending public schools whose parents are illegal/undocumented workers. If the parents happen to be taken away by immigration officials, the children are often left unattended. He recommended that something be done legally to make sure that the parents of the children are legally bound to support the children.

OPEN MICROPHONE SESSION

Maria Luisa C. Asidao, National Alliance for Fair Licensure of Foreign Nurse Graduates, stated that this country suffers from increasingly severe nursing shortages. However, foreign nurses who attempt to enter the country to ease the shortages are faced with more and more hurdles preventing their integration into our society.

In particular, she mentioned the license test that foreign nurses are required to pass or face the threat of deportation. She presented three recommendations to solve the deportation problem of nurses: the enforcement of the Immigration and Nationality Act; the modification of the Asian problem beginning with the H-1 nurse appeal for three years from the time of arrival to obtain his or her legal status; and the administration of the state board license exams in the home country of the nurse.

Esther Simpson, Chicago Task Force for the Defense of Filipino Immigrants, testified about the problem facing elderly Filipinos who are permanent residents of the United States and who receive Supplemental Security Income benefits (SSI). When returning to the United States, elderly Filipinos are often questioned by INS officials at the port of entry about whether they receive SSI benefits. If they answer yes, their green cards and passports are confiscated, and they are informed that they are excludable from the country. She stated that the INS can do this because the Filipinos receiving SSI benefits are seen as potential public charges who are therefore excludable under law. She believes that this practice is wrong both because these people have the right not to starve and because the SSI issue infringes on the alien's right to travel. She concluded by demanding that the INS stop using SSI reciprocity as a basis for exclusion.

Don Shaw stated his belief that the achievement of a stable, no-growth U.S. population at the earliest possible date is in the best interests of this country and the world. In his view, immigration is a very large factor in the growth of U.S. population. He stated that, "given our own unresolved social problems and the world's incredible population size and economic and political problems, no U.S. immigration policy can be devised which will satisfy the demands of love and justice." He concluded by recommending that we sharply reduce our current immigration levels to begin to stabilize our population size.

Esther Mattson stated that this country must have a policy of zero net immigration. She cited several examples of the price we are paying with our current population size and warned that it will only get worse. In her view, "the issue of immigration reduces to the question of whether we want to save our country from ruin."

Ray Mostek testified that the United States is a very different country now than it was at the turn of the century when immigration was virtually unlimited. He stated that "I bitterly resent any suggestion that I lack compassion for the human race because I believe that our laws should be observed, and that we live in a finite world with finite resources." He expressed his impatience with the Congress and the Carter Administration which, he believes,

have failed to come to grips with the illegal alien problem. He concluded that the country will never come to grips with our immigration problems until we change our worn-out and bankrupt foreign and military policies.

Carole Collins, Latin American Refugee Resettlement Program, explained that her group was organized through the voluntary efforts of concerned laity and clergy who formed a committee to assist in the resettlement of Chilean and Argentine refugees. She urged that the Commission put pressure on the Argentine government to release people in prisons whose relatives have obtained permission for them to immigrate to the United States.

Dave Swidler, President, Chicago Association of Immigration and Nationality Lawyers, presented to the Commission a "bold initiative," whose time, he believes, has come. The plan has four steps: one, eliminate the threshold requirement under the present law that nonimmigrant resident aliens prove their skill before beginning work; two, allow for an administrative hearing for an American worker who claims a job is being taken away from him in which the burden of proof would rest on the complainant, not the alien; three, if the hearing supports the complainant's view, and if that view is not a personal attack, the alien would be held for deportation proceedings; and, four, if working in the wrong place is the only offense, the alien would have one opportunity to have his employer or another employer guarantee a job for a native American.

Tomas Santana, Midwest Coalition in Defense of Immigrants, explained that he was testifying to denounce INS violations of the rights of Mexican people in the United States. He cited instances of these abuses and demanded an improvement in the conditions of illegal/undocumented workers. He stated that he would like to see the enactment of a bill of rights for illegal/undocumented persons in the United States because they have contributed a great deal to this country.

William Kelley, Illinois Gay Rights Task Force, stressed how deeply his organization feels about the provision in our immigration law which excludes homosexuals. He believes that their concern is due to the ideal that the United States has traditionally been a haven for the oppressed, and that if one had been born somewhere outside the United States, then it would not be possible to immigrate to this country under the exclusion provisions of our current law.

Jim Peron, Evangelicals Concerned, explained that his group is a task force of Christians whose basic ministry is within the gay community. He stated that he is shocked at the bigotry inherent in our immigration laws and described the plight of two resident aliens who could not testify themselves because they feared deportation. He

asked that homosexuals be given the same rights as everyone else.

Nathan T. Notkin, immigration lawyer, testified that he believes our immigration laws are basically correct in their emphasis on the reunification of families, on refugees, and on the admission of people with needed skills. He also believes that an employer sanctions law is one of the worst ways to resolve the illegal/undocumented alien situation. He does not think that it will be possible to distinguish between those who are here legally and those who are not, and that it will increase discrimination against those who appear foreign.

Tou-Fu Vang, I.D.P.A. Asian Assistance Group, described the plight of Laotians still living in Indochina and made the following recommendations to the Commission: that the U.S. government continue its generous policy of bringing Laotian refugees to the United States; that the definition of family be expanded to include members of the extended family in extreme cases where hardship would result from the separation of family members; that the processing of refugees who have lived in the camps for many years be expedited; and, finally, that the U.S. government permit refugees to come to the United States who first fled to another country, but whose family members have come to the United States.

Sister Patricia Crowley, OSB, Howard Area Community Center, asked that the Commission recommend total amnesty for illegal/undocumented persons currently living in the United States and described the tension that these people live under. She also spoke in support of the Haitians and urged that they be given treatment befitting the ideals of our country.

The Reverend Elli Elliott, Chicago Committee to Oppose the Conspiracy against Iranian Students, stated his belief that, in the case of Iranian students, the INS was in close cooperation with a foreign intelligence agency to "threaten individual lives and to inhibit free speech and assembly in this country." He recommended that a law be established granting immigrants and nonimmigrant residents the same rights as citizens. He claimed that a country which espouses freedom and democracy should seek to protect people from harassment by intelligence agencies of other countries.

W. J. Howell, immigration lawyer, Howell and Sisler, testified that he would like to see the laws against illegal/undocumented persons strictly enforced, although he believes that exceptions should be made for those who have been here a long while and that we should establish a high quota on immigration from Mexico. He claimed that we need to cultivate friendship with Mexico so that the Mexicans will ease their laws against our investing in their country.

Ms. Dulki Mijewski, Latino Center, represented a coalition of community groups to represent the Mexican population in Du Page County. She expressed her concern about the harassment of the Mexican population, which, she believes, is largely due to the racism and bigotry prevalent in the area. She believes that Du Page County has helped immigration officials to search illegally and unfairly for illegal/undocumented people in the area. She thinks that this is a very sad thing for this country.

Yoji Ozaki, Asian Human Services, expressed his concern for the mental health of the Indochinese people in the United States and indicated that there has been an increase in mental health problems among the Indochinese. He made the following recommendations to meet the mental health needs of the Indochinese people: to inform mental health workers of the unique needs of Indochinese refugees; to train Indochinese people to be mental health professional workers to serve their own people; to develop a neighborhood support system among the Indochinese people as a preventive and therapeutic vehicle for mental health; and to provide vocational skills training in the native language of the Indochinese people.

Carl Smith represented the United Presbyterian Church of Indiana and Illinois which, along with groups from all other religions, wants to sponsor refugees, but no refugees come. They had been informed that they should expect to sponsor refugee families, but nothing has actually happened. He recommended that something be done to reduce the tangle that keeps refugees from coming into this country. He also urged that more refugees be allowed to come to the United States because he believes that we can absorb many more.

Arthur Shantz expressed his dismay at the way the United States has handled the situation of the Indochinese refugees. He believes that we accepted the refugees only when we were shamed into it. In his view, "to think that we can close the doors to refugees would be a betrayal of everything that this country stands for." He stated that the Navy should continue to pick up any refugees in the South China Sea and that we must take the initiative in getting refugees out of Vietnam.

The Reverend John Wentland, Centro Sembrador, urged that the Commission work to fulfill its mandate and expressed his hope that a great deal of effective legislation would result from the Commission's work. He also expressed his view that something should be done for all those currently in limbo awaiting visas before the work of the Commission is completed.

Roman I. Smook, United Ukrainian American Relief Committee, described his experiences in bringing 65,000 Ukrainian refugees to this country between 1947 and 1950. He expressed his belief that the most

important factor in developing an immigration law is the reunification of families.

Dr. Benjamin Lumicao, Philippino Medical Association of Chicago and the Midwest, testified about the visa-qualifying exam which requires that special board certification be had by noncitizens already possessing a state license to practice medicine. He believes that this provision should be removed for the following reasons: first, that specialty board certification is a voluntary act, so that imposing it on foreign medical graduates is discriminatory since U.S. physicians are not required to be board certified; second, board specialty certification as an immigration requirement imposes an unnecessary burden on foreign medical graduates; third, the Health Professional Education Act of 1960 already limits the number of foreign medical graduates in this country; and fourth, if large numbers of foreign medical graduates are deported, the result will be a huge shortage of physicians in this country.

The Reverend John Paul Szura, Catholic Theological Union, expressed the human rights tradition of the Roman Catholic Church as it extends from the teachings of the popes. He stated that he recognizes that governments must have the right to regulate immigration, but that he does not believe that racism or nationalism should be the base for any immigration policy. He made the following proposals to the Commission: that we examine and recognize the racism underlying current U.S. immigration policy; that we cease the selective harassment against the Iranians because he believes that this is simply a ploy for foreign policy; that unconditional amnesty be granted to all illegal/undocumented persons in the United States; that the preference system be radically loosened to permit the reunification of families; that we closely examine our choice of words in certain areas so that we no longer call it granting "amnesty" when the person has done nothing wrong; and that the United States not close its doors on immigration but rather open them more widely.

Elizabeth McBride testified as an environmentalist and expressed her view that both legal and illegal immigration will seriously affect population growth. She believes that the federal government has avoided making policy decisions on population growth as it relates to immigration. Our country, she said, cannot absorb all the desperate people of the world, and we must establish an immigration policy based on reason.

SUMMARY

ALBANY REGIONAL HEARING

May 5, 1980

OPENING REMARKS by Hearing Chairman Representative Hamilton Fish, Jr. (R-New York):

Representative Fish welcomed all participants to the Albany hearing and explained the Commission's "broad mandate" to study and evaluate existing laws, policies, and procedures governing the admission of immigrants and refugees.

Our basic immigration law, said Representative Fish, dates back to 1952, and is "outmoded and outdated." He pointed to the presence of "millions of undocumented illegal aliens in this country" and "the refugees seeking admission to the United States" as major problems facing the Select Commission. "Our Commission," said Representative Fish, "has an immense task to bring rational and humane solutions to these problems."

TOPIC: Labor Supply and Inhibiting the Employment of Undocumented Aliens

Witness: Dr. Markley Roberts, Economist, AFL-CIO, Washington, D.C.

"We are concerned", said Dr. Roberts, "about the fair treatment of people--whatever their nationality, whatever their status." This concern, he said, underlies the positions that the AFL-CIO takes in relation to immigration issues.

The exploitation by employers of illegal workers themselves and the effect that illegal workers have upon the wages and working conditions of American workers were stated as primary concerns of the AFL-CIO. Furthermore, Dr. Roberts expressed a concern for the fair treatment and civil rights of minority citizens who might be mistaken for illegal or undocumented workers because of their race, appearance, or Spanish surname.

Dr. Roberts made several recommendations for inhibiting illegal migration. "First", he said, "we want to be sure that there are penalties and sanctions applied to employers who hire illegal workers."

Second, he urged that there be "an effective identification system based on the social security card." He said that this should be a gradual process and that other forms of identification could possibly be used in a transition period.

Third, he recommended "a fair, humane, and compassionate adjustment of the status of the workers who are in this country illegally now."

Fourth, more effective border controls and anti-smuggling activities were urged as well as "effective control of farm labor contracting."

Fifth, he stated that "we want to make sure that our efforts to prevent illegal workers from entering into this country . . . do not result in any kind of discrimination against American workers." "Specifically," he said, "I am thinking here of American citizens of Mexican or other Hispanic background."

Sixth, he recommended the enforcement by the Labor Department of existing fair labor standards and expressed his opposition to "any renewal or continuation of any guestworker or green card program."

Finally, he proposed "American aid for economic development in other nations which are major sources of illegal workers in this country." He added, however, that such aid should not "endanger the jobs of American workers by industrial development . . . supported by American taxpayers."

During a question period, Dr. Roberts elaborated on AFL-CIO views of an identification system for workers. He warned of possible invasion of privacy in a computer data bank system where "there is a possibility for a person's record to follow him."

He also questioned whether a system whereby the employer would simply fill out a government form would be effective. "I think," said Dr. Roberts, "that it perhaps makes it a little too easy for an unscrupulous employer simply to check off a box." In that context, Dr. Roberts also raised some doubts about including the term "knowingly hiring" in legislation that the Commission might recommend. "Knowingly," he said, "might create something of a presumption in favor of the employer."

Witness: Roland Esparza, Regional Administrator S.E.R., Jobs for Progress, Washington, D.C., accompanied by Maria Orozco

Mr. Esparza expressed the view that while "undocumented workers are a vital element in our labor force, . . . present immigration laws lead to exploitation by the employers and harassment by the enforcement of unfair laws."

Undocumented workers, he said, work in the secondary sector of the economy where marginal jobs are available. According to Mr. Esparza, one of the main reasons such workers will accept jobs unattractive to citizens is because "the undocumented worker lacks concern for the social status afforded by the job."

He described as "too simplistic" the argument that the undocumented hold jobs that unemployed citizens would otherwise take. He questioned whether Americans would want these jobs, many of which are "mostly temporary and unlikely to offer security or upward mobility." Furthermore, he pointed to the geographic distribution

of the work, the unwillingness of citizen workers to uproot themselves, and "the inability of some workers to accept the odd and long hours required by some of these jobs" as factors in the debate.

Mr. Esparza made the following policy recommendations to the Commission: First, that undocumented workers not be prosecuted "on the grounds of illegal entry." He said that currently their illegality is partly due to the government's unwillingness to face the issue coupled with its tacit approval of illegal entry for employers' needs.

Second, that all undocumented workers in the country be provided documentation and the ability to go wherever they choose "to seek work for a period to be determined by the needs of the economy."

Third, the establishment of "some meaningful and equitable criteria to determine which undocumented workers should be given permanent resident status."

Fourth, that government be charged with "projecting employment deficits of the nation" and allowing temporary workers to enter the country with "full freedom to choose and change jobs with impunity during the period specified."

Fifth, the avoidance of exploitation of the undocumented by informing them of their rights and, "to avoid displacement of U.S. workers, all wages should meet the standards set for U.S. citizens."

Sixth, that Mexico be given favored-nation status so that its annual quota can be increased.

Seventh, that there be a substantial increase in numbers of legal immigrants admitted.

Eighth, that quotas for "scarce professionals" be decreased, if not abolished.

Ninth, that there be an increase in technical and financial assistance to the less-developed countries where the undocumented workers originate.

During the question period, Mr. Esparza said that his organization is "talking about" the possibility of a temporary worker program along the lines of some of those being examined by the Commission.

In response to questions concerning enforcement, Mr. Esparza said that due to the lack of "better facts or more complete data," he was not ready to make recommendations.

TOPIC: Temporary Worker Programs

Panel: Peter Langrock, Shoreham Cooperative Apple Producers Association, Middlebury, Vermont

Lloyd A. Putnam, President, International Apple Institute, Sodus, New York

A. W. Hart, President, Valley Growers Cooperative, New Paltz, New York

Joseph Russo, Valley Growers Cooperative, Milton, New York

Mr. Langrock testified as a representative of 25 apple growers who regularly use Jamaican H-2 workers.

He explained the special nature of McIntosh apples, which comprise about 85 percent of the crop. "The apple," he said, "must be picked within ten days of maturity to be able to go into a controlled-atmosphere storage." The picking season was described as ranging between 20 and 30 days total. Last year, stated Mr. Langrock, "91% of our crop was picked by H-2 workers."

In past years, he claimed, the apple growers had done "everything possible" to try and develop a domestic source of labor. Four years earlier, "I expect we spent about a quarter of a million dollars in terms of funds from the Department of Labor, State Employment Security, [and] growers' programs." According to Mr. Langrock, 47,000 postcards were sent to unemployed Vermonters advertising for workers. Of this group he claimed 750 people expressed interest, 350 were hired, and, by the end of the season, "we ended up with 31 workers out of the 47,000."

Partly due to a general decline in other kinds of agriculture in Vermont, Mr. Langrock contended that "we don't have the local labor we once had." He said the apple growers have tried "southern domestic groups [and] . . . local groups. We have never been able to successfully pick a crop without the use of H-2 workers for a substantial period of time."

In response to questions, Mr. Langrock said that while other areas rely on undocumented workers to do agricultural labor, no undocumented work force exists in the area he represents.

He also testified about the difference between McIntosh apples and crops that lend themselves to mechanization. "In sugar cane," he said, "they have an alternative. They could go to mechanical harvesting." Without a harvest labor supply, "the McIntosh apple becomes obsolete."

Wages paid to apple pickers, both domestic and H-2 workers, were characterized as "very competitive," greater than other quality agricultural employment and comparable to local industrial employment."

Mr. Putnam, representing Sodus Fruit Farm, Incorporated, Sodus, New York, explained to the Commission the unique needs of the fruit and vegetable industry. Any immigration policy, he said, must recognize that sufficient qualified labor must be available at harvest time or the food product is lost for that year.

"For over 30 years," he contended, "it has not been possible to recruit enough local workers to harvest the apple crop in western New York." To supplement the work force, he said, a "relatively small number of foreign workers from Jamaica" have been hired. He predicted an increasing need for such workers as fewer and fewer qualified domestic workers were available.

In response to claims that if workers were paid "reasonable" wages, there would be enough domestic workers available, Mr. Putnam cited a New York Employment Service survey, stating that the average hourly wage earned by domestic workers was \$6.44 per hour in 1979. He added that "most workers were also housed free of charge." Mr. Putnam concluded that "these figures effectively refute the contention that lack of competitive earning opportunities is responsible for the inability to attract apple pickers."

Mr. Putnam urged that methods used by immigration officers during raids be changed. At present, he said, "the methods employed can be frightening to legal and domestic workers who are, on occasion, unreasonably harassed."

He also called for an end to requirements for a countrywide search for domestic workers when farmers request certification for a short harvest period in a specific, usually rural, setting.

Finally, Mr. Putnam recommended the implementation of an employment eligibility system based on either a work card or a form of multi-document screening. A system requiring a call-in data bank on new hires reporting, according to Mr. Putnam, would involve too much paperwork and bureaucracy.

Mr. Hart first described the process by which employers become eligible to hire H-2 workers. "It has been suggested," he said, "that certification of H-2's be tied to U.S. employment rates." He criticized this proposition on the grounds that "there is no relationship between percentages of unemployed workers and potential farmworkers."

He characterized the H-2 program as "an effective deterrent to the increased usage of illegals" and urged its expansion into general agriculture.

Among several recommendations presented to the Commission were that the H-2 program be continued for necessary supplemental labor; that it be expanded in order both to solve short-term seasonal labor shortages and offset the use of illegal workers; and that an employment eligibility card be established.

Mr. Joseph H. Russo explained that the composition of the apple harvest work force has changed over the past 25 years from mostly local workers to southern migrants to a supplementary foreign work force. He stated that "the [local] people from Newburgh and Poughkeepsie who were attracted to our day-haul now find welfare benefits, food stamps, and unemployment benefits much more attractive."

He disputed allegations that growers pay the same piece rate year after year and increase the minimum productivity required as the adverse effect wage rate goes up. According to Mr. Russo, "minimum productivity remains constant" and, because new planting has improved productivity per acre, "the worker actually has to exert less effort to reach the minimum productivity."

Joining other growers, Mr. Russo supported the idea of an employment eligibility card as "the best system to implement . . . employer responsibility legislation." He said such a system would involve "the least amount of work and red tape at peak season."

Panel: Stuart Mitchell, Mary Jo Dudley, Frank Howell, and Akua Ali, Rural New York Farmworkers Opportunities, Inc., Rochester, New York

Howard S. Reilly, Mid-Hudson Legal Services Farmworker Project, Newburgh, New York

Mr. Mitchell began the panel testimony, which he said would "be limited to our concerns regarding the serious adverse effects to domestic agricultural workers of the certification program for temporary seasonal workers under the H-2 program."

"Foreign workers," stated Mr. Mitchell, "were not to be used as a general substitute for domestic labor, but only as a short-run supplement during periods of unusual domestic labor shortages." This legislative intent, he claimed, has been violated by a small percentage of growers who use H-2 workers "as a regular and consistent source of labor." The use of foreign workers, he said, is limited to only about 20% of the apple growers in New York State.

The adverse effect wage rate, said Mr. Mitchell, must be established in a meaningful way in order for the H-2 program to work. He described it as "a rate which the U.S. Department of Labor has determined must be paid to foreign and U.S. workers so that the wages of similarly employed U.S. workers will not be adversely affected." He claimed that "considerable controversy" surrounded the methodology used by the Department of Labor and recommended that "the politics be taken out of the establishment of this rate and instituted by INS as the only meaningful and effective protection for domestic workers."

In order to attract domestic workers to pick apples, Mr. Mitchell made three suggestions. First, that those growers who use H-2 workers begin to use the successful recruiting techniques of the 80% of the farmers who depend on domestic labor. Secondly, that wages be raised so that more workers will be attracted to the apple harvest. Finally, he urged that the Department of Labor improve its recruitment system for domestic workers, which he called "outdated."

Ms. Dudley made several recommendations on behalf of the Rural New York Farmworkers Opportunities, Inc. Among them was "the establishment of a labor-management cooperative with salaried recruiters" in order to improve the recruitment efforts for domestic workers, "a transportation bank" to subsidize travel for domestic workers, and "a very specific work agreement" detailing the rights and responsibilities of employers and employees. She also suggested that "every effort should be made to use Puerto Rican workers."

Mr. Howell explained that he had been a farmworker for 20 years. The Jamaicans, he said, often get better housing and wages than domestic workers. Why, he asked, "do they import people here when so many Americans are out of a job today?"

Ms. Ali claimed that she had "witnessed much of the discrimination that has affected domestic farmworkers." She said she had seen many instances where "Jamaican farmworkers are living in better housing conditions, are given better support in terms of emergencies, transportation to doctors, or just going to the store. Domestic workers are not given that opportunity."

She also said she had witnessed preferential treatment given to H-2 workers in picking. Finally, she said that housing for the farmworkers is geared toward single men. This is a problem, she stated, because "it is part of the [domestic] farm work culture to travel with your families."

Mr. Reilly questioned the way the availability of U.S. workers is currently determined. "Our position," he said, "is that this must mean available on the free competitive market, and I think this has been a major failing of the program in the past." Wages paid to workers have not, Mr. Reilly claimed, risen nearly as fast as either the cost of living or the prices the growers receive for their

apples. And, he said, "with everyone offering the same price to workers, you have in effect a monopolistic condition prevailing in the market." Legislation, he said, "must insist that the growers offer a competitive price," if it is to be determined whether or not domestic workers are available.

The H-2 workers, he claimed, are often given preferential treatment in housing and toilet facilities. Working conditions as well as wages, he said, must not be adversely affected by foreign workers.

Panel: Jack Golodner, Director, Department of Professional Employees, AFL-CIO, Washington, D.C.

Barbara Robinson, International Association Representative, International Association of Theatrical Stage Employees (IATSE)

Donald Grody, Executive Secretary, Actors Equity Association

Darwin Deen, Business Representative, Local 644 of IATSE, New York City

Mr. Golodner told the Commission that "one of the characteristics of the life of most performing artists and those associated with the arts-entertainment-media industry is underemployment and severe unemployment." These problems, he claimed, have been exacerbated by the H-1 and H-2 programs.

He recommended that in the case of H-1 petitions, "INS should be required to consult with an appropriate professional organization or union as to whether the individual in question is eligible." In these occupations, said Mr. Golodner, very sophisticated determinations must be made that INS is not equipped to do.

In the past, when INS has contacted professional unions, Mr. Golodner said that not enough time is allowed for review and consultation. He urged that the Department of Labor be given authority to determine certain occupations oversupplied and unavailable to foreign temporary workers.

Ms. Robinson told the Commission that "just about everyone" who applies for an H-1 visa in the field of theatrical stage employees is being issued a visa. There are no checks, she said, being made with the union prior to such issuance.

She also said that, while "there is a free flow of [foreign] motion picture crews into this country, . . . American technicians find that

they are systematically excluded from job opportunities abroad." The Department of State, she suggested, "should apply pressure to achieve the reciprocity that is now lacking."

Mr. Grody expressed concern that, unless current immigration law practices are changed, "you will threaten the existence of an indigenous art form in which dramatic works can be interpreted in terms of our unique culture and experience." The problem, he said, relates to the application of the H-1 and H-2 provisions.

"The roots of the problem," he stated, date back to a time when immigration laws provided "a virtual invitation to foreign actors." Today, we must not only act to limit foreign actors in this country but also attempt to relax foreign restrictions on our own actors.

Mr. Deen explained the important role that the director of photography plays in filming a motion picture. These professionals, said Mr. Deen, experience high rates of unemployment in this country at the same time that foreign directors are permitted to come in under H-1 visas.

"The foreigners," he said, "probably work for less money, but this does not give this government the right to give them preferential treatment."

He suggested that INS contact the union upon receipt of a visa petition in order to determine whether or not an American director of photography is available.

TOPIC: Refugee Resettlement Issues

Witness: Irving Levine, Director, Institute on Pluralism and Group Identity, American Jewish Committee, New York City

Mr. Levine described "a new conception of the process of acculturation" of immigrant groups. Some of these ideas, he said, "may provide direction for a nation not quite sure how to respond to the current inflow."

The immigrant community or "clusters of newcomers" were considered "the major unit in this conception of acculturation." These communities, said Mr. Levine, "play key roles in cushioning the shock of arrivals, preserving familiar institutions, and integrating migrants gradually into the mainstream."

In the field of mental health, he explained that "recent developments . . . have begun to place increased stress on the importance of healthy group identity for both personal growth and healthy intergroup ties." This concept, he pointed out, has major

implications for resettlement policies. Strong ethnic and group identity, "a firm acceptance of one's roots, is seen as a prerequisite to a positive self-image and healthy cross-cultural relations." In this view," he stated, "awareness of community belonging produces mature interrelationships while its absence leads to hostility."

Language, according to this view, is seen as a mechanism that determines social relationships and plays a major role in the acculturation process. "Instant immersion into the linguistic system of a host country," said Mr. Levine, "will result only in much disorientation and confusion for the immigrant."

Mr. Levine made five policy conclusions based on the concepts of acculturation expressed:

First, that sufficient clustering of new immigrants be permitted to take place. He recognized that some dispersal of newcomers is necessary "so that job markets are not flooded and intergroup tensions do not flare out of control." However, he reiterated the view that "ethnic neighborhoods provide crucial supports during the acculturation process and healthy integration cannot occur without them."

Second, he urged that public policy pay more attention to "the informal support systems within the immigrant neighborhoods that play a key role in acculturation." Extended family networks provide much assistance to newcomers, he said, but federal child care, Medicaid, and tax programs do not support them sufficiently. Mutual aid societies and voluntary agencies, he said, need more assistance in the form of management training, information resources, and knowledge about funding resources.

Third, he urged that emphasis on indigenous communal structures not deny the formal resettlement agencies a crucial role in resettlement. He praised the voluntary agencies and suggested that "more thought be given to ways to integrate professional, public, and grassroots structures into a coordinated service system."

Fourth, he said, we must recognize that adaptation requires a gradual evolution which continues for a number of years. Accordingly, he said, "we must expand our conception of the time frame of the acculturation process."

Finally, he stressed the importance of the language issue. The nation as a whole needs its linguistic skills, he said, to carry out its business and foreign policy. At the same time, he said that language resources that immigrants bring with them must not be regarded as inferior.

Panel: Gaynor I. Jacobson, Executive Vice President, Hebrew Immigrant Aid Society (HIAS), New York City

Michael Scelsi, Director, Programs and Operations, Tolstoy Foundation, New York City

Mr. Jacobson began his testimony with an expression of concern over "what appears to be evidence of a growing resistance to welcoming additional numbers of immigrants and refugees to our shores." He urged that the Commission not focus upon limiting immigration but rather upon "developing procedures and programs by which . . . those who want to come to the United States can do so in a way that will maximize their potential for contributing to the American economy and society."

He explained the HIAS resettlement system, stressing the success the agency has had in terms of the economic self-sufficiency of their clients. HIAS, he said, "offers a model of a highly professionalized, centrally coordinated service which in 1979 alone was capable of resettling 33,500 refugees in the United States."

Based on the strengths of the HIAS model, he urged that "every attempt be made" to encourage and assist voluntary agencies in expanding and professionalizing their services and networks. Resettlement agencies, he said, need people "trained in various areas of expertise, people with abilities in vocational training, family counseling, legal issues, and so forth." All of these areas must then be brought into a coherent program for the refugee.

HIAS, said Mr. Jacobson, strongly supported the passage of the Refugee Act of 1980. However, he had three suggestions to make regarding the legislation. First, he recommended that refugees be awarded permanent resident status upon entry as opposed to after one year, as is currently the case. He pointed out that certain rights and benefits are barred to refugees who do not have resident status.

He also urged the Commission to recommend that INS be given sufficient funding and guidelines for streamlining their procedures so that backlogs could be avoided. "Generally," he said, "a refugee must wait years after he qualifies for adjustment of status before actually receiving his green card."

Finally, he recommended that the Department of State continue to have jurisdiction over the administration of placement and reception grants for refugees.

Mr. Scelsi spoke of the need for "a partnership among voluntary agencies, other volunteers, local, state, and federal agencies that

together can effect a fair solution and transition to a reasonable life." This partnership, he said, must consider the effect on host communities as well as on each refugee family.

"There are enough programs," said Mr. Scelsi. We must continue to pull these programs together and coordinate resettlement efforts.

He expressed support for the new Refugee Act, but had several recommendations to add. He endorsed provisions increasing the number of regular refugees, but expressed concern that the parole authority consultations might have a restricting influence on their use.

Agreeing with Mr. Jacobson, he recommended that refugees be given permanent resident status and not have to adjust their status.

He also concurred with the previous witness regarding the primary role that the State Department should have in the funding and administering of resettlement programs.

Finally, he welcomed the creation of the position of U.S. Coordinator for Refugee Affairs in the State Department.

TOPIC: Visa Processing and Allocation

Witnesses: Joseph Olenik, Director, Office of Field Support Liaison, Visa Office, Department of State, Washington, D.C.

Thomas Abraham, President, Federation of Indian Associations, New York City

Reverend Bartley MacPhaiden, President, Stonehill College, North Easton, Massachusetts

Mr. Olenik described how visas for both nonimmigrants and immigrants are processed. Last year, he testified, consular officers overseas processed in excess of six million nonimmigrant visa cases. In awarding these visas, the consular officer must establish that the applicant for a visitor's visa is not an intending immigrant.

Immigrant visas, said Mr. Olenik, are in two categories; those under the numerical limitation (286,000 in 1980) and those who come in outside the numerical limit. The latter group includes immediate relatives of U.S. citizens and various other "special immigrants." Immigrant visa applications are considered according to preference categories and, within the categories, by priority dates.

The review process in cases refused by consular officers was explained by Mr. Olenik. "All refusal cases," he said, "are referred to a supervisory officer for review or, in a small post, to a more senior officer In the event of a disagreement, . . . the post must submit that case to the Visa Office of the State Department for an advisory opinion." He also said that a similar procedure exists "whereby any attorney or any other interested party can request the Visa Office to call in the case for review and for advisory opinion."

Mr. Abraham expressed his concern over the "unfettered discretion" enjoyed by the consular officers abroad. In the case of non-immigrant visas, said Mr. Abraham, "the applicant has the burden of proving that he is not intending to immigrate, but the law does not state how." Under such a system, he claimed, there is room for abuse of the consular officer's authority.

He urged that there be "an independent review procedure" for visa refusals. The current system, he said, "makes the American consul abroad a dictator in some cases."

In the current system, stated Mr. Abraham, "we have found that American consuls have certain built-in prejudices against persons coming from developing countries." The denial rates, he claimed, are far higher in developing countries.

Mr. Abraham urged that per-country ceilings be altered. "It is highly irrational," he said, "to treat all countries as equal." The quota should be based on population, he stated, rather than a blanket 20,000 for each country.

Finally, Mr. Abraham explained the hardship that current delays cause for family reunification and urged that visa backlogs be cleared.

Father MacPhaiden explained what he called "the peculiarities of Irish immigration." The typical Irish immigrant, he said, is a single person who leaves the country to start afresh in the United States. These immigrants, he said, generally have no family in the United States and thus do not qualify under the current high family reunification preferences. The changes in immigration law in 1965, said Father MacPhaiden, left the Irish at a distinct disadvantage.

"The case for Irish entry is simply that the new law is inequitable," stated Father MacPhaiden. "It did not intend to put a halt to immigration from any one country." He urged the Commission to take into account the sociological profile of the average Irish immigrant, as it formulates new immigration law.

TOPIC: Northern Border Crossings

Witnesses: Steven Unger, Executive Director, Association on American Indian Affairs, New York City

Edna D. Wells, National Staff Counsel, American Civil Liberties Union, New York City

Philip Tarbell, Mohawk Tribe Member, Albany, New York

Mr. Unger brought to the Commission's attention "the importing of American Indian children from Canada into the United States." He claimed that Indian children living in Canada are "lost to their families and communities" by adoption.

In response to questions about how these children are able to cross the U.S.-Canadian border, Mr. Unger said that they pass "unregulated" as American Indians. He stated that little was known about the magnitude of the problem and urged that the Commission undertake a study.

Ms. Wells addressed the question of the abridgment of constitutional rights by INS policies and practices.

She described a case where the INS, in her judgment, acted unconstitutionally in interrogating suspected illegal or undocumented aliens. She recommended "that the nature of INS interrogation be likened to regular interrogation; that is, that INS officers not have any authority to stop persons which police officers on the street have or do not have." She added that this policy should be applied nationwide.

She also recommended that "the safeguards afforded a defendant in a criminal case also be afforded a person facing deportation proceedings." Such is not the case, she said, due to a ruling holding that deportation hearings are civil in nature.

Ms. Wells further recommended "that [INS] officers be allowed to stop [persons] only upon reasonable suspicion based on articulable facts that those persons so stopped are persons illegally present in the United States." She also urged that Miranda warnings be afforded to all suspected undocumented persons and that the Sixth Amendment, the right to counsel, be applied.

Mr. Tarbell, a Mohawk Indian living in New York State, explained that Mohawk people, though separated by the Canadian-United States border, share a common cultural heritage. "Some of us in the

United States," he said, "recognize ourselves as North American Indians; not American, not Canadian, but North American, mainly because we were here before the coming of the white man."

He said that the Mohawk people have been arbitrarily split in two by the binational border, and they experience many problems as a result. Special provisions in the Jay Treaty, he said, guarantee free passage for Mohawks. However, it is not uncommon for Mohawk people to be harassed at the border.

OPEN MICROPHONE SESSION

Mr. Glenn Von Nostitz, Office of New York State Sen. Franz Leichter, told the Commission that garment factories "employing thousands of undocumented workers at subminimum wages in horrendous conditions" are a rapidly growing problem in New York.

He claimed that city, state, and federal agencies have made only "very minimal efforts" to control the proliferation, and that these efforts have been without result. State building code provisions, city fire safety regulations, the Fair Labor Standards Act, and the Office of Safety and Health Administration requirements were all listed as being violated by sweatshop owners.

Mr. Von Nostitz urged the Commission to recommend "a program of amnesty so that these [undocumented] workers will finally be able to assert their rights under existing law." Only then, he said, will the problems in the sweatshops be resolved.

Dr. John Elias recommended that immigration be made "more flexible" to allow the parents of permanent residents to come to the United States in some cases. Dr. Elias, a permanent resident from England currently working as a physician in Albany, told the Commission that he would like to bring his parents to the United States. However, he explained, current immigration law does not permit the parents of permanent residents to come into the country.

Dr. Norbet Bikales expressed his "opposition to any further substantial immigration to the United States." Dr. Bikales said that he is an immigrant who has concluded reluctantly "that this country has reached, or is about to reach, the point of saturation."

He commended the American people for having lowered the birth rate in this country and expressed concern that these efforts were "being frustrated by a virtually unchecked flow of people from other countries."

Mr. Anthony D. DeFazio, Chairman, American Committee for Italian Migration, Albany, expressed his concern that married brothers and sisters might be dropped from the immigration preference system. He also urged that the Commission set aside family reunification in a separate category with its own quota.

Ms. Patricia Mayberry, Hector Marroquin Defense Committee, brought to the Commission's attention the case of Hector Marroquin, a socialist and student leader from Mexico seeking political asylum in the United States. She urged that "political asylum be granted Marroquin with all due speed." Our immigration law, she said, has "a double standard which grants asylum to persons fleeing Communist countries while denying asylum to those persons from friendly countries."

Mr. Rocko DeFazio, American Committee for Italian Migration, told the Commission that he believes the United States has "a moral obligation" to respond to the refugee crises around the world. "We cannot turn our backs on these people," stated Mr. DeFazio.

Ms. Matilda Arias said she was a Cuban immigrant who came to the United States 20 years ago. She said that the United States should accept incoming Cubans as refugees, not "in a status which is neither illegal nor . . . refugee." She pointed to the economic success that earlier waves of Cuban immigrants have enjoyed in the United States. The Cubans, she stated, as well as the Vietnamese and Haitians, "have settled down . . . and are contributing rather than taking away from this country."

SUMMARY

SAN FRANCISCO REGIONAL HEARING

June 9, 1980

OPENING REMARKS by Hearing Chairman Judge Cruz Reynoso, followed by testimony:

TOPIC: Elements of Cooperation between Border Nations

Witness: Clark Reynolds, Professor of Economics, Stanford University

Professor Reynolds spoke of the need for close planning and cooperation between the United States and Mexico, a new international federalism, arising from these factors: (1) it will be several decades before Mexico's oil-based economic growth will be able to fully employ its growing population; (2) the United States, by the year 2000, will need five million more workers, especially in manufacturing industries, than will be available according to current demographic and immigration projections; and (3) the global trend toward regional economic cooperation demands cooperation between Mexico and the United States or both countries will suffer economically.

Witnesses: Senator S. I. Hayakawa (R-California) and Representative Daniel Lungren (R-California)

Senator Hayakawa described the adverse impact on the harvesting of the olive crop in California and the onion crop in Texas caused by the lack of skilled seasonal agricultural workers. His legislative proposal for a new "companero" program would permit Mexican workers to enter legally for six months in any calendar year. Program details and numbers of such workers are to be set by a joint Mexico-United States commission. This proposal was, according to Senator Hayakawa, well received by President Lopez Portillo, with whom he met recently. He sees that Mexico in turn would benefit from such a program because workers who return would bring "agriculture skills and business skills in service trades."

Representative Lungren, cosponsor of the companero program bill, spoke of the tremendous drive of Mexican migrants to enter the United States and seek work, and cited data indicating that most migrants stay for a maximum 5-1/2 months in the United States.

In response to questions, both witnesses supported sanctions against employers for hiring illegal migrants, a secure identification system for temporary workers, amnesty for those now in the United States illegally who could demonstrate a period of productive and law-abiding residency in the United States, and the right of temporary workers under their program to change employers and join unions during their stay in the United States. Representative Lungren was against permitting temporary workers to bring their families or to adjust

their status to permanent residency as tending to defeat the purpose of their proposal: "Mexico needs its people, particularly those who have drive and are hard working."

Witness: Roger Hedgecock, Chairman of the Board of Supervisors,
San Diego County

Supervisor Hedgecock presented the results of a six-month study commissioned by San Diego County's Border Task Force. He noted findings that about \$1 million annually is paid by the county to provide emergency medical care for undocumented migrants, that undocumented workers in San Diego pay \$30 million annually in payroll taxes, that resident illegal aliens spend 96% of their earnings in the United States, and that less than 1/2 of 1 percent of the unemployment rate in San Diego is attributed to the presence of undocumented workers. The task force's recommendations included a package to: (1) legalize the status of undocumented aliens who have lived in the United States for a period of time, (2) institute an expanded temporary worker program, and (3) provide for sanctions against employers who hire undocumented aliens. In their proposal, temporary workers would not be allowed to bring family members into the United States and a bilateral commission would be set up to regulate the program with representation from local governments in the United States and Mexico.

Witness: Alberto Saldamando, Executive Director, California Rural
Legal Assistance

Mr. Saldamando criticized the Hayakawa-Lungren proposal, saying that there was: (1) no provision for certifying that there is a need for temporary workers prior to admitting them to the United States; (2) no provision for assuring that temporary workers would enter industries where their labor is needed; and (3) no method for assuring proper housing and health care for temporary workers. He cited recent actions by American multinational corporations which have increased unemployment in the United States. His basic analysis is that unemployed domestic workers will fill the labor needs in those industries now employing large numbers of illegal/undocumented workers if existing labor standards are enforced: It is the existence of substandard jobs which results in high turnover and the ability of foreign workers to find work in the United States. A guestworker program would only provide the appearance of control over a situation rooted in the existence of substandard wages and working conditions.

Witnesses: Barbara Graves, Domingo Gonzalez, and Aurora Camacho de
Schmidt, American Friends Service Committee, and Maria
Luisa Rivera, Mexican Friends Service Committee

Barbara Graves described the origins and purposes of the Mexico-U.S. Border Program, one of which is to bring four decades of Friends' experience in both countries to bear on the formulation of policy such as the Select Commission is undertaking.

Domingo Gonzalez

A. General immigration recommendations:

1. Eliminate current backlog of immigrant visa applications;
2. Establish a rolling registry date so any alien in the country continuously for a certain time period is eligible for legal status;
3. Remove numerical limitation for immediate relatives of permanent residents;
4. Institute a regular review of immigration policy every ten years;
5. Hold INS enforcement to the constitutional standards of other law enforcement agencies, allow no referrals of cases to INS from police, and restrict power of administrative field personnel to grant voluntary departure;
6. Eliminate English language requirement for citizenship;
7. Establish immigration court which is independent of INS; and
8. Institute a system of appellate review for denial of visas by consular personnel.

B. A temporary worker program was considered by the Border Program but rejected because:

1. The long history of previous programs indicated that abuses were never avoided; and
2. It would permit the continued treatment of people as a disposable commodity.

Employer sanctions are likely to lead to increased violations of labor laws because those employers who ignore the ban on hiring illegals will be likely to ignore the other laws relating to payment of taxes, wage standards, and working conditions.

- C. U.S. multinational corporations, through such practices as shifting the use of Mexican agricultural land from corn to feed grains and grazing pasture, and dominating entire sectors of the economy, have displaced Mexican farmers and workers and thus added to unemployment in Mexico.

Ms. Schmidt noted that the Border Program rejects the usual "push-pull" analysis of the phenomenon of Mexican migration because it suggests that these are separate factors. Their perception is that "the same interests that are operative in the labor structure in the United States attracting Mexican workers are also operative in Mexico displacing them because of capital-intensive type of agriculture."

D. Recommendations for short-term remedies are:

1. Full protection for all workers, including expanding rights under the National Labor Relations Act to bargain collectively for better working conditions and enforcement of standards for wages and working conditions; and
2. Adoption of U.S. policies which discourage vertical integration of agricultural industry.

Witness: Mario G. Obledo, California Secretary of Health and Welfare

Mr. Obledo, speaking as an individual, referred to his written presentation, "MexAmerica: An Open Border," which is intended to address the very grave challenge in the Mexico-United States border area. Quoting from former CIA Director William Colby, he pointed to the tremendous potential for massive upheaval in this area due to enormous population growth in Mexico, and the great difference in economic conditions between the United States and Mexico. Only an enlightened and humane policy which recognizes the special relationship between the United States and Mexico could prevent the area from becoming a war zone. He pointed to the potential for great productiveness and prosperity for the region if enlightened policies are pursued, and challenged the Select Commission to recommend policies which would develop this positive potential: (1) The Select Commission "should give first priority to the Mexican immigration opportunity"; and (2) seriously consider open border recommendations. Mr. Obledo urged the Commission members to give their full attention to these issues and not leave it to the staff to write the final report.

TOPIC: Legalization of Undocumented/Illegal Migrants

Witness: Otis L. Graham, Jr., Professor of History, University of California, Santa Barbara, and Member of Board of Directors, FAIR (Federation of American Immigration Reform)

Professor Graham referred to immigration law as "just, reasonable, and a fundamental law of primary national importance," violations of which should not be lightly excused. In talking about amnesty, Professor Graham said he prefers the word "pardon" rather than amnesty because it denotes clemency rather than entitlement. In cost-benefit terms, he sees the cost of processing and providing social benefits for up to six million illegal aliens, plus relatives they may petition for, as too high because increased population must always be viewed as more cost than benefit, in keeping with the analysis of the 1972 Population Commission. While generally opposed to legalization as a "signal we give to a crowded world at our peril," he suggested that if pardons are extended that:

- ° such a program be adopted only after an adequate program of employer sanctions, with ID cards and adequate resources for enforcement of the law are in place;
- ° the pardon should be limited numerically or by date of residence (1965 and 1973 were suggested as appropriate); and
- ° reconsideration of preference five (brothers and sisters of U.S. citizens).

Witnesses: Yori Wada, Executive Director, Buchanan Branch YMCA and Regent of the University of California; Nancy Howard, Staff Attorney, San Francisco Neighborhood Legal Assistance Foundation; Francisco Barba, Staff Attorney, San Francisco Neighborhood Legal Assistance Foundation

Mr. Barba noted on behalf of the Coalition for the Rights of Immigrants that members of the Immigration Judiciary in San Francisco had been ordered not to attend or testify before the Select Commission hearing today; he asked the Commission to intervene on behalf of the judges. Chairman Reynoso declined to do this and Staff Director Fuchs indicated that he would investigate the matter. (Mr. Fuchs later reported that the INS Regional Commissioner had cited heavy work demands placed on the judges but that one of the judges was told he could attend the hearing.) Mr. Barba stated that in reality U.S. borders are now open and that "all we mean by closed borders today is the free sanction that we give to the Border Patrol and the Immigration Service to brutalize people at the Mexican border

specifically," due in part to the fact that it is easy and cheap to apprehend Mexicans at the border and deport them, thus increasing apprehension statistics.

Mr. Wada, speaking on behalf of the Asian-American Immigration Task Force, supported an amnesty for all undocumented persons, including those who have overstayed nonimmigrant visas, who were in the United States two years previous to enactment of such amnesty; a hearing before any application for amnesty is denied; and flexibility which would allow for consideration of the presence of U.S. citizen children, advanced or young age of applicant, and a family situation which would be adversely affected by expulsion. Recipients of amnesty should be free to choose between permanent resident status or "temporary renewable work permits." He also reminded the panel of the existence of 900,000 backlogged immigrant petitions, noting that these would-be immigrants should in all fairness be admitted as soon as possible if and when an amnesty program is enacted.

Witnesses: Larry Fleisher and David Pasternak, attorneys,
representing the American Civil Liberties Union,
Northern California

Mr. Fleisher noted that legalization is the only viable alternative in dealing with the large number of undocumented migrants in the United States. He supported fixing the date for eligibility as of the date of enactment of the legalization because (1) a longer duration of residency does not necessarily imply greater ties to the United States; and (2) many people would have difficulty in documenting their presence in the United States since illegal/undocumented migrants generally avoid making contacts which would establish such documentation. Revised grounds for exclusion, eliminating such outdated grounds as marijuana use, political tests, and homosexuality, should apply to those applying for legalization.

In written testimony, the American Civil Liberties Union, Northern California, outlined a program which would involve intense outreach efforts, a simple one-page application form, a maximum role for volunteer agencies in contacting and screening applicants, and contacting INS only after prima facie eligibility for amnesty is established, authorization for immediate employment for all illegal aliens who seek to adjust their status, and a full hearing with all Fourth and Fifth Amendments protections before any denial, with appeal to federal courts.

Witness: Dr. Clifford Uyeda, President, Japanese American Citizens
League

Dr. Uyeda spoke of his organization's concern about the use of

immigration procedures to harass one nationality group, specifically the Iranians, and about the suggestion that Iranians be put in detention camps. This episode has recalled to the Japanese their own internment in 1942, and has led the Japanese American Citizens League to urge strongly that "national origin or ancestry should never be a criterion for action against individuals."

Witness: Harry Britt, Member of the Board of Supervisors, City and County of San Francisco

Supervisor Britt said that the continuing exclusion of noncitizen homosexuals from the United States has no basis in policy, as homosexuals are neither a danger to society nor criminal, and serves to undercut the social movement to free gay men and lesbians from societal prejudice and to detract from the credibility of the United States abroad.

TOPIC: Immigrant and Refugee Acculturation: The Response of American Society

Witness: Keith Wade, District Administrator for U.S. Rep. Mickey Leland, 18th District of Texas

On behalf of the Congressional Black Caucus, Mr. Wade stated that the fundamental question is not whether we can afford to help immigrants and refugees, but rather "by what principles are human rights, basic political and economic justice, best advanced at home and abroad." The Caucus recommends four principles: (1) immigration and refugee matters must be free of racism in both laws and implementation; (2) immigration and refugee policy must be specifically linked to foreign and domestic policies; (3) there must be universal and strenuous enforcement of fair labor practices in the United States; (4) there must be adequate provision of basic services guaranteeing basic human and constitutional rights for everyone in our country.

Speaking for Representative Leland, Mr. Wade acknowledged the concern in Black communities over shrinking employment opportunities which may result from the influx of immigrants and refugees, but urged the Select Commission to join him in exploding the myth that new migrants take jobs from Americans. He strongly urged the guarantee of public services and benefits to all persons for these reasons: (1) numerous studies have shown that aliens contribute as much in taxes as citizens; (2) the 14th Amendment plainly applies to aliens; (3) it is in the interest of society and the individual alien to serve his/her needs as they arise, rather than postponing the problem; (4) restricting access to services and benefits will always result in harassment and denial of services to citizens who are dark-skinned or speak with accents. Recognizing that public services

and benefits are not a direct concern of the Select Commission, he nevertheless stated that "they are an inseparable part of the human reality of the unjust suffering of aliens and minorities in this country, a suffering that at least indirectly arises from the myths and laws surrounding immigration and refugee policy."

Witnesses: Evilio Grillo and Eleanor Engram, Resource Center for Community Institutions

Mr. Grillo noted these factors: (1) that Mexican migration into the United States, reflecting the reality that the southwestern United States and Mexico are one geographical entity, is of the greatest long-term significance to U.S. immigration policy; and (2) the national dialog regarding the current influx of nonwhite migrants to the United States deals almost exclusively with economic and political factors--to the exclusion of social and cultural implications. Mr. Grillo said that in fact, political and economic stability depends ultimately on social harmony among culturally diverse groups. He pointed to the extreme hazard to society of treating refugee groups differently from one another and the prospect for the development of two underclasses within the United States: the Haitians and Black Hispanics. The key to integration of these groups into American society, said Mr. Grillo, is to sensitize and open existing Black American communities and institutions to these new migrants. This task should begin with a broad and long-term commitment to expanding our knowledge of the new phenomenon of dark-skinned immigrants in American society, to the dissemination of this knowledge, to the fostering of dialog, and ultimately to influencing decisions and program development at all levels of society based on this new knowledge. He urged that the Select Commission use its influence to create an entity which would develop "a scientifically garnered primary base of information about our new immigrants and refugees."

Witness: Kenneth Borelli, Department of Social Services, Santa Clara County

Mr. Borelli, who is a social worker and coordinator of a program which has given service providers special training in immigration matters, spoke of the difficult decisions his workers face in dealing with illegal/undocumented migrants: whether to recommend that they forego needed services, particularly health care, or obtain these services, risking discovery and deportation by INS. He recommended: (1) an amnesty with no more than a ten-year residency requirement; and (2) elimination of fifth preference immigrant status.

Witnesses: Andrew Chang, Director of Social Services and Housing, State of Hawaii, and Richard Knobel, Kaiser Foundation Health Plan, Hawaii

Mr. Chang, noting that Hawaii has traditionally been the land of "aloha," said that the islands have received about four times the number of new immigrants per capita since 1970 as the national average. Focusing on refugees, he pointed out that the Refugee Act of 1980 restricts federal assistance after three years, and Hawaii anticipates a substantial impact on its state budget once that three-year period expires. In addition, the generally good relations between new refugee groups and the host population are threatened by different benefit standards for refugees and other recipients of public benefits. Mr. Chang thought the gateway center concept, where all new arrivals would be processed and oriented before proceeding to their ultimate destination in the United States, was a good one, but did note the possible effect of diminishing the role of sponsors, which would be detrimental to the process of acculturation.

Mr. Knobel described the program which Kaiser, the preeminent prepaid health plan, offers for new immigrants in Hawaii with Medicaid and Public Health Service cooperation. It was characterized as: (1) being available to all members of the community regardless of income; (2) a single medical care program for all people; (3) complete medical care services; (4) outreach particularly through bilingual health workers; and (5) emphasis on educating consumers in health obligations and benefits.

Panel

Witnesses: Buddy Tate Choy, Executive Director, Self-Help for the Elderly, San Francisco

Louise Kamikawa, Director, National Pacific/Asian Resource Center on Aging, Seattle, Washington

Michael Huynh, Executive Director, Center for Southeast Asian Refugee Resettlement, San Francisco

Estelle Strizhak, Resettlement Specialist, Jewish Family and Children's Service, San Francisco

Tuan D. Nguyen, Deputy Director for Operations, San Francisco Community Mental Health Services

Resource

Persons: Tom Kim, Executive Director, Korean Community Service Center, San Francisco

June Quon, Self-Help for the Elderly, San Francisco

Al Robles, Coordinator, Manilatown Senior Citizens Center, San Francisco

Phyllis Ogata, East Bay Japanese for Action, Berkeley

Mr. Nguyen, panel moderator, indicated that the panel would address two issues--programs for elderly Asian/Pacific Americans, and programs for Indochinese refugees. The general themes are: (1) that there are community-based self-help social service organizations in the Pacific/Asian and Indochinese communities; (2) that these agencies have demonstrated that they can provide linguistically relevant social services of all kinds to their communities which are better and more cost effective than those of other agencies; and (3) that these community-based agencies have been kept on the periphery of federal funding activity.

Ms. Kamikawa noted that prior to the 1975 refugee influx, practically no attention was given to the needs of elderly Pacific/Asian Americans. She stressed the need to integrate the programming for these groups so that the many programs administered by the various federal agencies can work together for maximum effectiveness. She pointed out the continuity of services which community-based organizations bring to the client--services which continue beyond those provided by the federal government.

Mr. Choy specifically recommended: (1) more resources for visa processing; (2) elimination of unnecessary documentation requirements in visa applications; (3) permit permanent residents to apply for married sons and daughters to immigrate; (4) eliminate the language requirement for citizenship; (5) substitute successful completion of an accredited course for the existing American government and history requirement for citizenship; and (6) shorten time for processing of citizenship petitions. He further stressed the enormous cost of health care in the United States, which even private insurance does not fully cover, and the great hardship that results from denying health benefits to immigrants or rendering recipient immigrants excludable or deportable for receiving such benefits.

In answer to questions, Mr. Choy noted the particular difficulty that elderly Chinese have learning English and noted that one need not speak English to pay taxes or participate in other ways in American life.

Mr. Kim noted that the panel is not implying that governmental agencies should not have foreign language capacity. He indicated that INS, above all, should have this capacity.

In response to questions, Ms. Kamikawa stated that the panel is not calling for expanded funding--just a fairer distribution and better use of existing funds.

Mr. Kim stressed that the community based organizations are more cost effective than government agencies in cost per hour or cost per unit of service.

Mr. Huynh described the development of his program as one of very few that provide resettlement services and long-term social services with an Indochinese staff. He noted that the role of Indochinese in determining resettlement policy is minimal--that Indochinese are generally used as translators, or at most are called in to comment on the Indochinese Refugee Assistance Program (IRAP), but not consulted in policy formation. He recommended: (1) requiring voluntary agencies (VOLAGs) and other agencies serving refugees to admit refugees to their decision-making processes at board of directors and professional staff levels; (2) encouraging the formation of a Southeast Asian-controlled VOLAG; (3) strengthening community-based organizations with demonstrated ability to assist refugees effectively; (4) establishing communications between the Departments of Health and Human Services, Labor, State, Commerce, Education, Transportation, Justice, and Housing and Urban Development and a significant number of leaders from all refugee communities.

Ms. Strizhak described the unique partnership which her agency, an affiliate of the Hebrew Immigrant Aid Society (HIAS), has formed with the Center for Southeast Asian Refugee Resettlement (CSEARR) --which has combined the strengths of both agencies: CSEARR's sensitivity to its clients, and HIAS's long experience in dealing with U.S. governmental and private institutions. She recommended that this model of partnership and mutual respect and support be examined and encouraged.

In response to questions regarding how refugee participation in resettlement could be implemented, Ms. Kamikawa indicated that federal guidelines should include refugee participation on a percentage level--particularly guidelines for state Title XX plans. She noted her experience in working with a Los Angeles Indochinese mutual assistance group which had a difficult time even obtaining the RFP (Request for Proposal) for Title XX contracts.

TOPIC: Operations under the Immigration and Nationality Act

Witnesses: Polly Webber, Carolyn Blum, and Robert Baizer,
National Immigration Project of the National Lawyers
Guild (NLG)

Ms. Webber testified that current government rationale is that because deportation and exclusion proceedings are administrative and civil in nature, Fourth, Fifth, and Sixth Amendments due process

protections do not apply. The position of NLG is that such proceedings are in fact quasi-criminal and such protections should apply.

Ms. Blum recommended the following Fourth Amendment protections against unreasonable search and seizure: (1) before stopping and questioning a person regarding his/her alien status, an INS agent should have a reasonable suspicion of illegal status based on specific and articulable facts; (2) a general requirement for a search warrant before an agent may enter a suspected illegal alien's home or workplace; (3) prohibition on the use of any evidence obtained in violation of the above protections. Ms. Blum stressed that the right of aliens under the National Labor Relations Act to organize was being defeated by collaboration between employers and INS. She recommended that INS be specifically prohibited from entering workplaces when employees are in the process of exercising these rights.

Mr. Baizer pointed out that the existing statute prohibits providing counsel for aliens in deportation proceedings at government expense, yet counsel is essential if tragic mistakes are to be avoided. "It is an absurd waste of money for the government to pay for a courtroom, judge, government trial attorney, bailiff, transcriber, translator, and a clerk for the judge, and then render the entire proceeding meaningless by refusing to appoint counsel for persons who are clearly unable to defend themselves." He noted that courts have refused to intervene in these matters, making the Select Commission's legislative recommendations essential to the protection of due process rights.

In answer to questions, Ms. Blum and Ms. Webber noted that their remarks were confined to government activities within the United States.

Witnesses: Nicasio Dimas and Morris J. Baller, Mexican American Legal Defense and Education Fund

Mr. Baller addressed the issue of ineligibility of permanent residents for federal civil service employment. He noted that this excludes over three million people from about three million jobs and is class-based discrimination without a compelling or even rational justification. Rejecting the argument that this prohibition encourages naturalization, he urged repeal of Executive Order 11935 and deletion of Sec. 602 of the Appropriations Act, which has been reenacted every two years since 1938. He noted the loss of many skills to the federal government, particularly needed in public contact positions, and the cumbersome, limited exceptions in the Executive Order.

Mr. Dimas testified regarding attempts to enforce immigration laws by nonfederal officials. He cited recent statements by Justice Department and INS officials which indicate a federal policy against such enforcement efforts, and noted situations which demonstrate that the policy is ignored by state and local officials, including both the Attorneys General of California and Texas. Because immigration laws are very complex, racially sensitive, and subject to abuse and inconsistent interpretations, he recommended legislation which would: (1) explicitly preempt all state and local measures; (2) prohibit INS from accepting custody from nonfederal agencies of anyone not first validly detained for a nonimmigration-related offense; and (3) prohibit the use in any proceeding of any evidence obtained in violation of these provisions.

In response to questions, Mr. Dimas stated that burdensome as they may be, due process protections in deportation and exclusion proceedings must not be curtailed, noting that deportation is tantamount to banishment or exile, historically the harshest forms of punishment.

Witness: Donald Ungar, Simmons and Ungar, San Francisco

Mr. Ungar first addressed naturalization procedures, noting that in the San Francisco INS District, the five-year residence requirement might as well be a six- or seven-year requirement because of delays in processing. The delays are due to understaffing and INS inquiry into matters of little relevance to good citizenship as a part of the application process. He recommended that there be only two basic requirements: a period of lawful permanent residence in the United States (five years seems appropriate), and a demonstrated respect for the law.

Mr. Ungar made a series of other recommendations: (1) admit spouses and children of permanent residents without limitation, noting the extremely long waiting period for Mexico, the resulting hardship, and the fact that they will eventually be admitted anyway; (2) admit parents of minor citizens because deportation of such parents results in de facto deportation of U.S. citizens; (3) encourage immigration of investors who will create jobs for those in the United States; and (4) grant INS officials discretion to waive all grounds for exclusion where equities are present, because existing prohibitions on waivers for fraud, minor narcotics offenses, or membership in a Communist Party are harsh and inconsistent with the power to waive exclusion under much more serious circumstances.

Witnesses: Michael G. W. Lee, Asian American Bar Association of the San Francisco Bay Area; Diana Chan, Chinese Newcomers Service; Mark Cazem and Ed de la Cruz, West Bay Filipino Multi-Service Center; Murayo Sawai, International Institute of the East Bay; Dr. Rajendra Prasad, and Ms. Lalita Shenoy, Esq., Association of Asian Indians in America; Ms. Epifania Lopez, Bay Area Task Force for the Defense of Filipino Immigrant Rights; Bill Tamayo, Esq., Asian Law Caucus.

Ms. Chan, who has handled Chinese visa petitions for ten years, described the "Chinese section" in the San Francisco INS office, which she claims operates to delay processing of Chinese petitions by unreasonable and changing demands for documentation. She stated that the Chinese section is generally abusive and insensitive to petitioners. The existence of a "good" Chinese section, such as in New York, is justified because China has not had a government-sanctioned method for documenting births and family relationships. Ms. Chan recommended: (1) hiring more workers for the Chinese sections who are informed and sensitive; (2) considering provincial and county documents from mainland China as primary rather than secondary evidence of relationships; (3) making forms more accessible to the public; (4) processing Chinese petitions in the same amount of time as other petitions; (5) assuring that immigration officials will be more service-minded and reasonable in demands for documentation.

Mr. Cazem noted the pattern of discrimination and selective enforcement directed against Filipinos by the San Francisco INS office, quoting from the decision of a San Francisco INS judge: "By now everyone dealing with such matters is aware that immigrants from the Philippines will engage in any fraud to get here and will do anything to stay." He noted the existence of an INS investigator nicknamed "Mr. Filipino" because of his reputation for "getting" Filipinos, and the fact that Filipinos are regularly subjected to greater delays and more extensive investigation and examination than other nationalities.

Ms. Lopez spoke of her own experience when she accompanied her ailing daughter on a trip to the Philippines only to have her green card confiscated when she returned a month later because she was receiving SSI. She described verbal abuse and moralizing by INS examiners on three occasions and declared that she had never violated any law, her children had paid taxes for many years, and that she needed the SSI to live. By insisting on a hearing, she finally recovered her green card and passport, but only after nine months of great anxiety.

Mrs. Sawai made the following recommendations and remarks:

- ° She strongly supports the "new seed immigrant" category. This would encourage more immigration from Japan: "It would be like importing the source of national productivity rather than just the foreign products."

- ° Because foreign students are subject to various kinds of exploitation, she recommends: (a) making student visas more readily obtainable; (b) giving foreign student advisors authority to permit off-campus employment; and (c) granting durational status after an initial year of student status.
- ° Because immigrants supporting families have little time to study English and in order to encourage acculturation, eliminate the English requirement for citizenship and shorten residency time to three years.
- ° Recognize that foreign brides, particularly Japanese and Korean, are often mentally and physically abused but are afraid to seek divorce or separation because it may jeopardize their immigration status.
- ° Note that INS raids have continued to occur in Asian as well as Hispanic communities, and must stop.

Ms. Shenoy made these recommendations:

- ° Require that all nonimmigrant visa applications be processed in 30 days, and all immigrant visa applications within 60 days.
- ° Give the consular officer the burden of proving illegal intent rather than giving the applicant the impossible burden of proving proper intent.
- ° Provide for review of consular denials of all visa applications as follows:
 - ° put reasons for denials in writing;
 - ° establish independent (of State Department and INS) visa appeal boards within the United States to review denials and hear complaints of delays beyond the periods specified above;
 - ° notify the applicant and his/her American sponsor simultaneously of any denial and of the right to appeal;
 - ° make decisions of appeal board binding on consular officers; and
 - ° give U.S. sponsor standing to seek review of the visa appeals board decision in federal district court.

- Permit business investors now in the United States to adjust immediately to permanent resident status.

Mr. Lee summed up the panel's presentation, citing what he says is an "enforcement mentality" within the INS which leads to hostility and distrust in its relations with Pacific/Asian communities. To alleviate these perceived problems, the panel recommends:

- Hiring of knowledgeable bilingual, bicultural minority officers in supervisory and decision-making positions;
- Giving higher priority to INS service functions;
- Creating greater employment opportunities within INS which deemphasize Border Patrol experience as a basis for advancement;
- Providing effective in-service training for INS personnel in order to minimize persona, biases and stereotypes; and
- Establishing citizen review boards consisting of INS representatives, local immigration lawyers, and social service agency representatives to hear and adjudicate complaints, and review officer misconduct and INS policies and procedures.

Witnesses: Fernando Cosio and Ricardo Caballero, Mission Community Legal Defense

Mr. Cosio noted the very serious delays resulting from INS's frequently losing files. He spoke of the burdensome bonding requirements for those suspected of being deportable: In the case of a person arrested for petty theft, for example, he may be released on the theft charge without bond, but would be held in jail because of a \$2,000 immigration bond requirement. He noted that because of the presence of INS agents in city jails and the raids in Hispanic communities, the INS is viewed as a criminal law enforcement agency. He recommended the formation of a civilian advisory panel to work on needed changes with the district director, and the formation of a review board to hear charges of unethical conduct by INS agents as the only method for curtailing abusive practices.

OPEN MICROPHONE TESTIMONY

Jose Pena, representing Mayor Pete Wilson of San Diego, spoke in favor of a guestworker program to bring dignity and certainty to illegal/undocumented migrants and to live up to the economic facts of

life--i.e., that hotel, motel, food service, agricultural, textile, and garment industries would be crippled without these workers.

Dr. Reynaldo Baca and Dr. Dexter Bryan, California State University, Los Angeles, presented the results of their survey of 1,444 illegal men and women from Mexico in the greater Los Angeles area who were interviewed during the spring and summer of 1979. Highlights of their findings were: (1) Mexican undocumented workers are "permanent members of a binational community"--working in the United States and living in both Mexico and the United States; (2) they are a tertiary labor force drawn into a secondary labor market; (3) they want legal status that does not require relinquishing Mexican citizenship; (4) residency rights are more important than citizenship rights; (5) they do not associate legal status with significant change in employment opportunities; (6) family separation would continue, regardless of legal status, for the majority of married respondents who were separated from their families.

Margaret Chapman stated that America must face reality: The American frontier is gone and the so-called "huddled masses" take housing and jobs away from U.S. citizens. She called for state and federal legislation to stem the flow of refugees, immigrants, and illegal aliens, strict enforcement, and no amnesty due to galloping inflation, unemployment, "an exploding bilingual ethnic minority with political pressure," international tensions, reintroduced communicable diseases, the energy crisis, housing shortage, problems in schools, and the high cost of medical care.

Helen Graham, State Coordinator for Zero Population Growth, California, stated that California has recently received one-fourth of all legal immigrants and 42% of all refugees who have entered the United States. She called on the Select Commission to recognize the limits on land and resources, noting that each year three million acres of agricultural land are lost in the United States. "How many people can we support with our finite resources?" she asked.

Judge Kenneth Kawaichi, Asian Caucus of the Alameda Contra Costa Health Systems Agency, spoke of the crisis in health care on the local level due to the fact that existing health care agencies are being stressed by the influx of immigrants and refugees. Noting that the stress is caused by a lack of planning and coordination, he recommended: (1) establishment of vertical, multiagency task forces to perform needs assessment, resource inventory, and plan development and implementation; and (2) provide health care for immigrants and refugees at multiservice centers which can offer a broad range of social services.

Marvin Baron, Foreign Student Advisor, University of California, Berkeley, and representing the National Association of Foreign Student Affairs, testified to the growing number of foreign students in the United States, now nearly 300,000, the high quality of these students, and the opportunity for establishing good relations with the future leaders of other countries. He noted that INS seems to have missed these points in the recent wave of harassment of all foreign students which followed the crackdown on Iranian students. He recommended creating a new visa category to distinguish between foreign students at academic institutions and vocational schools giving broader authority to responsible school officials.

Lisa Campbell, American Citizens Lobby, strongly opposed an unconditional amnesty as "the equivalent of legalizing burglary because it is hard to prevent." She recommended these conditions: (1) a one-year period for illegal aliens to apply for amnesty--those who did not apply would be deported; (2) beneficiaries for amnesty would not be eligible for citizenship unless they "return to their native countries and immigrate through proper channels"; (3) the numbers of aliens receiving amnesty be subtracted from the future immigration quotas of their country of origin; and (4) those granted amnesty "would be proportionally resettled by family unit throughout the 50 states."

Judith Kunofsky, representing the Sierra Club, said that all the developed nations, including the United States, influence the world environment disproportionately to their population size, and thus have an obligation to end their population growth as soon as possible. It would not be enough for the Select Commission to "comment in passing" that the immigration level it recommends would make zero population growth possible; it should also study and widely publicize the impact of various levels of immigration and report that "it is impossible for the country to develop an immigration policy consistent with the country's goals for its future unless the country formulates those goals in a population policy and integrates immigration rates within that policy."

Richard Hurwitz read from an internal memorandum of Martin-Marietta Corporation regarding bringing engineers from the United Kingdom to work in the United States on a trial basis. He contended that through the device of "contract engineers," Martin-Marietta avoided paying overtime differential so that jobs are less attractive to American engineers. They then seek British engineers who will work for the lower wage. He recommended strict enforcement of prevailing wage regulations to prevent talented American engineers from turning to other professions.

Sister Margaret Phelan, Catholic Social Services Refugee Program, San Francisco, maintains that the intent of the Refugee Act of 1980 was to give to those who are granted asylum the status of refugees as defined in that Act, but regulations recently promulgated have defeated this intent and refugees from Cuba, Nicaragua, El Salvador, Haiti, and Iran are termed "asylees" and not given the same rights as refugees. She therefore recommends: (1) immediate recognition that people from these countries have arrived because of a well-founded fear of persecution; (2) provision of sufficient personnel to process these people out of holding facilities; (3) giving individuals from these countries who are already in the United States work permits and assistance as refugees; and (4) admitting any of these refugees who appear at our borders.

Diane Brede, Director of Refugee Services, Catholic Social Services of San Francisco, noted that recent guidelines have begun to recognize the motivation and abilities of refugees and immigrants--she urges that this continue and that the Select Commission recommend the development of equity relating to services among refugees, immigrants, and citizens.

Kitt Dyer expressed great concern over the population growth resulting from immigration in the face of shrinking resources. She recommended that the Select Commission recommend to Congress the development of a population policy for the United States that will lead to stabilization, noting that "50% of growth in the United States comes from immigration. . . . We cannot take all the people of the world who need, or must, or want to come here. Immigration is a noble part of our heritage . . . but we must view immigrants in context of a population policy of stabilization."

Elizabeth W. Callaway urged the amendment of INA Sec. 316(a)(3), which requires good moral character for citizenship, to eliminate consideration of an applicant's private sexual behavior and sexual orientation. The existing standard is unjust, absurd, and has resulted in inconsistent results in different states.

Lillian Galedo, National Task Force for the Defense of Filipino Immigrant Rights, spoke against what she perceives as using immigrants as scapegoats for current economic woes by denying public benefits to them. She noted that the first few years after arrival are critical ones when the new immigrant most needs the security of public benefits.

Father Cuchulain Moriarty, Social Justice Commission, Archdiocese of San Francisco, has worked with Chilean and Argentine refugees. He criticized the differential treatment still given to refugees from left-wing countries like Cuba, and those fleeing from right-wing oppression. He called for recognition of the refugee status of

Argentines, Salvadorans, Nicaraguans, and Guatemalans, and for consistent policies relating to their right to work and right to have families visit. He stated that those who arrive at sea- and airports are permitted to stay and apply for asylum while those who arrive at land ports are not, and that the policies should not differ depending on the place of entry.

Llorette Tamayo, Bay Area Task Force for the Defense of Filipino Immigrant Rights, said that elderly immigrants are entitled to SSI and the recent harassment is racist, tends to keep families apart, and is scapegoating due to current economic ills.

Becky Villone, Filipino Community Incorporated of Santa Clara County, noted that there are large numbers of immigrants, including Filipinos, in the South Bay and that INS raids in public schools to pick up children of illegals netted citizen children. She recommended that INS stop harassing immigrants.

Davianna Alegado, Hawaii Task Force for the Defense of Filipino Immigrant Rights, recommended dismissal of SSI exclusion cases, monitoring of public programs for immigrants, and curtailment of the exploitation of J-1 Filipino agricultural employees who are brought to the United States as cheap labor.

Tessie Paredes, Filipino Immigrant Services, urged the Commission to refute the notion that immigrants are the cause of high unemployment, since she believes it is really internal contradictions in the economy which are the root cause of unemployment.

Paul Estabalaya, Filipino People's Far West Convention, stated that his organization, holding its tenth convention in San Francisco, the area with the greatest Filipino population, "is the only institution that is solidly rooted in the Filipino progressive movement that actively confronts the injustices and inequities that affect our people's daily lives."

Noni Espiritu, Union of Democratic Filipinos, stated that many immigrants come here because of bad economic conditions in their home countries caused by U.S. domination of their economies. Yet when bad economic times hit the United States, these immigrants become the scapegoats. The United States should take more responsibility for the results of its own actions.

Mario Hermoso, Gray Panther, reminded the audience of the long friendship between the United States and the Philippines, and of the contributions of Filipinos to America. In addition, he criticized the actions of INS officer Bruce Barber.

Susan Lee, Asian Law Caucus, stressed the importance of community

input to the work of the Select Commission, noted the growing anti-alien climate in the press and in Congress, and urged the Commission not to be influenced by hysterical fears and sentiments.

Helen Catubig, speaking as an immigrant from the Philippines, expressed grave concern over the cutback of services available to immigrants, particularly education for children, and urged that higher priority be given to schools and children.

Ruth Picon, National Anti-Racist Organizing Committee, spoke of the rising and widespread antialien sentiment in this country, saying that "we should condemn government policies that force minorities and whites to blame each other. The problem lies not with the aliens or minorities, but rather with distorted government priorities for the military and big business."

Kay Waldrun, California Union of Health Care Professionals, SEIU Local 723, spoke of three actions which seriously affect foreign nursing graduates: (1) the recent decision of the California Nurse Licensing Board to grant interim permits to practice until the next available licensing exam, which they support; (2) the institution of a screening exam by INS prior to granting H-1 visas to nurses--which has created new problems; and (3) the recent refusal of INS to grant further delayed voluntary departure to foreign nurses who have failed licensing exams despite indications that it takes an average of 19 months for a foreign nurse to pass such exams--which they oppose.

David Young stated that the current level of immigration will lead to less economic opportunity and less justice for each American. He recommended an overall immigration ceiling of 450,000.

Tom Reitter, noting that population growth leads to decreased political representation and more restricted economic opportunities, argued for population stabilization by drastically reducing illegal immigration through an employment identification system. He feels the objections to an identification system can be met by restricting its use to employment only, and by not permitting police to use it. "If you have amnesty without a work-identifier system in place, you only encourage more illegality."

Ellie Ambrosio said she is an Asian immigrant receiving SSI and views the harassment of Filipinos in this regard to be discriminatory and scapegoating of immigrants because of economic problems.

Lorenzo Avel, Santa Clara County Task Force for the Defense of Filipino Immigrant Rights, noted that in what is known as "Silicone Valley," immigrants comprise 99% of the electronics assembly line workers, where they are underpaid and are exposed to carcinogenic

substances. "They [immigrants] are not a burden to this country's economy," she said, "they built this country's economy."

William Tamayo, Asian Law Caucus, recounted the history in this country of using immigrants as scapegoats for bad economic conditions which, he stated, are actually caused by government priorities and excess corporate profits.

Norman Fong, Joint Strategy and Action Commission, noted that JSAC, a coalition of Asians, Hispanics, and Blacks, "fought over . . . and came to some consensus on issues" and was very disappointed at not being scheduled on the daytime agenda. He questioned how the witnesses were selected, invited the Commission to a September 19-20 conference, and indicated that written testimony would be submitted in a week.

Alice Friedemann expressed concern at the rate of U.S. population growth and urban sprawl and urged no increase in immigration levels and the achievement of a balance between our responsibilities to the world and to our own citizens. "The government needs to systematically plan for any future growth," she said.

Richard Callejo, Spanish-Speaking/Surnamed Political Associates, Inc., predicted that the recommendations of the Select Commission will be ignored and that its main function will have been to educate the public.

Walter Condley opposed amnesty because it will encourage more illegal migration, permit Mexicans to have dual citizenship, and cause resentment among those desiring to immigrate here legally. He recommended closing the border to illegal migration, setting a maximum on immigration from all sources, screening immigrants as to work desire, placing immigrants in jobs, and imposing criminal sanctions for hiring illegal immigrants.

Thomas Baranick said, as a deportation officer for INS, he has experienced firsthand the schizophrenic policy which admits economic refugees from Cuba while keeping out others from Mexico and the Philippines. He noted, despite what the experts say, he has seen illegal migrants making \$25,000 to \$40,000 per year, and has seen hundreds of illegal aliens on public assistance. He stated that the most effective way to help the world's poor and dispossessed is not by importing them to the United States.

Nofoaluma Tuiasosopo, Samoa mo Samoa, noted that even though there is an independent Western Samoa and an American Samoa, they are all the same Samoa. People from Western Samoa have great difficulty getting to the United States, which frustrates the traditional close ties among Samoans. She urged that something be done about this.

W. Baily Smith asked, "Does compassion have limits?" He answered, yes, that even though he feels strongly for the millions of poor, we must also think of our children's future and impose limits and stop the flood of immigrants.

Yale Maxon stated that there is no time to lose in stabilizing our population and urged support for H.R. 5062 which would establish an Office of Population Policy. He said, "Times have changed since Adam and Eve were told to be fruitful and multiply." He also recommended support for population control measures, giving priority to political refugees, immediate relatives of citizens, residents, and temporary workers (in that order), a ban on admitting professionals, and a large increase in the INS budget.

Ron Greybeal argued that the rights of America's endangered species come before the rights of illegal aliens: that America can best serve aliens by protecting its own environment and quality of life to serve as a model for the rest of the world. He recommended limiting immigration to 400,000 annually, closing the border, stiff sanctions on employers who hire illegal immigrants, and no amnesty.

Jan Hyden supported use of a national ID card so illegal aliens would no longer come here.

Sister Adela Arroyo characterized the working conditions at INS as inhuman and urged the Select Commission to recommend that Congress face its responsibilities and fund this agency at an appropriate level. She also suggested Commission attendance at the Bishop's Commission Conference, July 8-10.

Jeffrey Bihl spoke of the plight of his French Canadian wife who cannot immigrate due to a minor marijuana conviction six years ago. He noted that a convicted murderer can get a waiver, but his wife cannot.

Sam Lazar spoke on behalf of 15,000 Christian Assyrians and Armenians in the United States who are on political asylum status and want to become refugees. He also appealed for more funding for INS which does have many good people who are doing the best they can to serve people.

James Farrell stated that he finds it inconsistent that we shipped 25,000 helicopters to Vietnam, yet the INS has only one, that the United States is not protecting the states against invasion as required in Art. IV, Sec. 4, of the Constitution, and that many of the groups complaining at these hearings would not exist if we had enforced our immigration laws in the first place.

SUPPLEMENT OF SUMMARY OF SAN ANTONIO TESTIMONY
IN SEMIANNUAL REPORT, MARCH 1980

TOPIC: Rights and Entitlements of Undocumented or Illegal Aliens

Witnesses: Ruben Bonilla, National President, LULAC, Corpus Christi,
accompanied by Raul Reza Vasquez and Ruben Sandoval
Juanita Luera, Executive Director, Centro Aztlan, Laredo,
accompanied by Alberto Cruz

Mr. Bonilla testified that in reality, although often not in practice, undocumented workers enjoy a wide range of constitutional benefits. Among the rights and benefits to which they are entitled are those of due process of law and equal protection under law, the right to appeal to the courts if their rights are violated, and the right to be fully informed of all their rights.

Mr. Bonilla discussed three areas which he considered critical to the humane treatment of undocumented workers. The first area is that of border violence, which he sees as an example of a "basic anti-Mexican syndrome, a wetback syndrome" which is typical in America. To try to curb and eliminate border violence, he recommended the establishment of uniform, written guidelines regarding the use of force. Mr. Bonilla said that another area of great abuse is raids in both neighborhoods and workplaces. He believes that neighborhood raids violate the sanctity of the home and business raids violate the dignity of the working man. He also stated that raids subject brown-skinned, Spanish-speaking people to constitutional violations by requiring them to prove their right to be in this country. The final area of abuse which he mentioned is that of the denial of a free public education to the children of undocumented workers in Texas. In his view, this denial violates the Fifth and Fourteenth Amendments to the Constitution and deprives Spanish-speaking children of equal protection under law.

Mrs. Luera explained that her organization acts as a service and advocacy membership group assisting local low-income persons to resolve their problems. She stressed her organization's feeling about the importance of the family unit and stated that their efforts have centered on protecting families from undue hardships. In her view, the gravest problem her group faces is the separation of families caused by bureaucratic U.S. immigration laws.

Specifically, she recommended the following reforms of the current U.S. immigration law:

- o all immediate family members of U.S. citizens and immigrants be exempt from any quotas;
- o the U.S. government take immediate and effective measures to cease the blatant acts of discrimination perpetrated in foreign countries;
- o the priorities of the INS be changed immediately;
- o the wide discretionary powers given to INS officials be reduced;
- o the public charge exclusion provision be eliminated from the INA;
- o a code of ethics be instituted;
- o a system be established under which aggrieved persons may present charges and complaints; and
- o the use of the term "illegal alien" be terminated.

TOPIC: Legalization of Undocumented or Illegal Aliens

Witness: Ruben Montemayor, President, Mexican-American Business and Professional Association, San Antonio

Mr. Montemayor testified that the number of undocumented persons currently residing in this country is actually much smaller than the well-publicized figure of eight to ten million because many of these people actually qualify for visas. Mr. Montemayor recommended that Sec. 249 of the INA be updated. (Sec. 249 permits the creation of "a record of lawful admission for permanent residence" in cases where aliens have entered the United States prior to July 1, 1924. These aliens can then file immediately for naturalization.) He believes that the date should be set ahead prior to 1970. He also recommended that a classification of economic refugee be created, under the proper guidelines, that could be given to those who have already been in the country for a while and who are employed, so they would not displace American workers. He further recommended that deportation proceedings be eliminated against anyone who has been in the country for seven years or longer. He concluded by stressing that we should admit those who have been in the United States for many years, who are already working, and who already have roots in this country.

TOPIC: Border Enforcement

Witnesses: Glenn A. Bertness, INS, Assistant Commissioner for Investigation, Washington, D.C.

Joseph Bradley, Border Patrol Council (AFGE), Laredo

Mr. Bertness testified that there is no consensus on the magnitude of the problems facing the INS or the impact of these problems on the United States. He explained that it is difficult to receive adequate resources from Congress when no one knows how much is needed to resolve the problems. He stated that the enforcement of our immigration laws, the responsibility of the INS, is divided into four areas: border enforcement under the Border Patrol; interior enforcement, which is conducted by investigations; removal of those people who are here illegally under the Detention and Deportation Branch; and anti-smuggling.

Mr. Bradley described problems the Border Patrol faces in trying to fulfill its duties, the greatest of which is inadequate staffing and grade structure. The Patrol has a very difficult time hiring new recruits, and loses the mature and experienced officers to higher-paying jobs. It is thus saddled with larger than necessary expenditures to recruit and train replacements. He stated that "continual understaffing problems, perpetuated by a series of presidential administrations with no real commitment to effective border enforcement, have eroded the sovereign right of the United States to effectively determine who will be allowed to enter this country at a time when the unprecedented influx of illegal aliens is continually escalating." Mr. Bradley also claimed that the INS has been negligent in providing enough protection for its members, which is a particularly severe problem in some areas which have been called "war zones" by many. He concluded by warning that the morale and dedication of the Border Patrol are suffering, and recommended that the resources of the INS be increased.

TOPIC: Prospects for a More Open Border With Mexico

Witnesses: Cristobal Aldrete, Federal Cochairman, Southwest Regional Border Commission, Washington, D.C.

Laurier McDonald, attorney, Edinburg, Texas

Mr. Aldrete explained that the Southwest Regional Border Commission is designed to represent a federal-state partnership which, with federal money, will design a comprehensive regional plan to deal with the economic problems in the area. He explained that the main concern of the Commission is the influence of the international border in the area. He stated that the Commission is not so much interested in the issue of legislation affecting immigration as it is in the entrance structure of immigration. The Regional Border Commission has concluded, he said, that the most productive group (age 17 to 37) in our society is largely missing from the border counties, causing a great shortage of economic opportunities. In his view, the greatest challenge before his Commission is to develop ways to upgrade the standard of living in the border area and to create new job opportunities.

Mr. McDonald addressed the issue of an open border with Mexico and questioned the particular type of open border most people have in mind. In his view, the common concept of an open border is one in which we annex Mexico or they annex us, although he does not believe that either plan is economically or politically feasible. He also stated that this type of open border would decimate Mexico because so many productive workers would leave Mexico to come to the United States, thereby leaving Mexico without a viable work force.

CORRECTION OF SUMMARY OF BALTIMORE TESTIMONY
IN SEMIANNUAL REPORT, MARCH 1980

TOPIC: Immigration and the Labor Force

Witness: Dr. Edwin P. Reubens, Professor of Economics,
 City College, The City University of New York

Issue

Will we have a greater labor force--composed of both native and foreign workers--than our economy can absorb?

Position

Professor Reubens focused on certain kinds of worker shortages. He predicted that future shortages of workers for low-level, dead-end jobs will persist in our economy.

He sees foreign workers as being essentially noncompetitive: "... when we break it down by occupations and types of activities, we find that the degree of real competition of these aliens with Americans seeking jobs to be of a much smaller magnitude." Reuben's specific recommendations:

- a) informally legitimize illegals;
- b) seal the Mexican border by adaptation of new technologies and additional personnel; and
- c) institute a flexible program for temporary workers.

APPENDIX E

EXECUTIVE SUMMARY

CONSULTATION

ON

IMMIGRATION POLICY GOALS, STRUCTURE, AND CRITERIA

April 17, 1980

On April 17, the Select Commission dealt with the goals of U.S. immigration law and policy, and the structure and criteria through which immigrants are chosen. During the daylong discussion of these goals, criteria, and structure, consideration was also given to existing immigration policy. One participant stated that the United States currently has no national immigration goals per se, and that immigration is "permitted" rather than "encouraged"; another argued that the United States does have positive national goals, but that many of them, like that of a humanitarian refugee policy, are ad hoc.

This consideration of present policy led to an articulation of the following goals which consultants believed any new immigration law and policy should support: family reunification, national defense and security, economic growth, aid to the poor and disadvantaged (through a refugee program), and cultural enrichment. A discussion followed on what immigration admissions system would best reflect these goals.

Using the Select Commission's proposed model (attached) as a point of departure, the participants debated the merits of a first-come, first-served, open admissions system as opposed to other policies based on the characteristics of applicants or validated offers of employment.

The Select Commission staff proposal set forth three categories under which immigrants and refugees could qualify for admission to the United States. The first of the categories, family reunification, reflects the high priority the Commission places on the admission of immediate relatives of U.S. citizens. As in present immigration policy, no limit is put on the number of visas issued to spouses, unmarried sons and daughters, and parents of U.S. citizens. This category also provides for the numerically limited entry of spouses, unmarried children, and parents of permanent residents, and married children of U.S. citizens. The second category, refugees, represents humanitarian concerns and is designed to follow the provisions of the Refugee Act of 1980. The third category of "independent" immigrants is intended to meet U.S. economic and cultural goals by permitting the admission of "new seed" immigrants who have traditionally made major economic and social contributions to American society.

Although disagreements arose among the consultation participants on a variety of issues dealing with all three categories, they agreed on the need to shift from an immigration policy which is perceived as overly permissive to one which has its goals planted firmly in the U.S. national interest. In addition, those present strongly supported flexible management in any immigration system and the creation of a mechanism, perhaps an immigration council, that could adjust the numbers of immigrants allowed to enter the United States, in light of existing domestic or international situations. Certain participants noted that the indicators of change used by the council should be predetermined by law.

In specific discussion of the immigration model's first category, several participants stated they did not believe country ceilings should be applied to immediate relatives, as no limit has ever been put on visa issuance with regard to them. They argued for reuniting families without delay.

In the course of the discussion, several participants questioned the exclusion of brothers and sisters from the model's first category. Members of the Commission staff explained that brothers and sisters had not been included in this category because of the "multiplier factor" associated with those who are married (and whose spouses might, in turn, be naturalized and petition for the admission of their immediate relatives). Certain participants suggested that this problem might be avoided by stipulating that only unmarried brothers and sisters be included. Others felt that such a stipulation would be discriminatory and that, in the interests of fair treatment, either all brothers and sisters should be included or none.

As for the second category, those present disagreed over whether the admission of larger than anticipated numbers of refugees should result in the automatic downward adjustment of the numbers available in the third or "independent" category. Several participants felt that the third category should not function as a "spillover" mechanism.

The remainder of the consultation focused on this third category, with little agreement found among those present. While participants agreed on the need to establish an independent category for visa allocation, they could not agree on whether there should be a point system for immigrant admissions (which would assign points for desirable characteristics), as opposed to allowing independents to apply for admission on a nonpreference or a first-come, first-served basis.

One participant strongly voiced support for the first-come, first-served system, regardless of its domestic impact. Such a system, this discussant stated, would be the only nondiscriminatory method of admitting immigrants and would give all people the opportunity to come to the United States. This expert suggested that a psychological test gauging motivation was preferable to established criteria.

Others felt that using a nonpreference system, rather than specific criteria, was administratively irrational and unrealistic and would create huge backlogs because all who were interested would potentially qualify for immigrant status.

Given the size of the U.S. population, another participant believed that the third category of 300,000 per year is too small to make an impact on national characteristics such as age, population distribution, or labor market needs. Thus, this expert did not think it was worth "fine-tuning" the selection system for their admission. Yet another saw the criteria-based system as necessary, if immigration is to reflect U.S. national interests. Finally, one consultant argued that criteria should be used to bring in "new seed" immigrants only after the United States has admitted the people to whom it is already committed: illegal/undocumented aliens already in the United States, refugees, and those with backlogged applications.

In concluding this consideration of a criteria-based immigration system, several participants stated that there should be only one criterion used in the selection of the third category — U.S. occupational needs. (This reflects present policy, as immigrants to the United States who are not admitted on the basis of family relationships or as refugees/parolees are accepted on the basis of occupational skills and job offers.) They believed that people should be admitted as independent immigrants only on the basis of job skills and/or status as investors. Several people present at the consultation warned that, in their view, a system which did not allow for the admission of needed workers would not be politically acceptable.

Despite the above disagreements, the consultation's participants reached general agreement on the advantages of a criteria-based category. They noted that such a mechanism would shift some of the illegal migrant flow into a legal immigration channel, open an additional channel for those relatives who do not qualify as "immediate," and admit "new seed" immigrants from among the kinds of people who have historically renewed and vitalized this country.

PROPOSED IMMIGRATION POLICY MODEL

WORKING PAPER - DRAFT MODEL
FOR DISCUSSION 5/6/80

Assumptions:

1. Immigration policy should serve U.S. interests and goals.
2. The world-wide demand for U.S. visas will exceed the supply, even if expanded, in the foreseeable future. Selection is therefore required.
3. Action will be taken so that future illegal migration will be significantly reduced in combination with the legalization of a substantial number of the present illegal/unaccounted population.
4. The law should facilitate the entry of these priority groups:
 - a. Immediate relatives of U.S. residents;
 - b. Some refugees;
 - c. people needed to meet U.S. economic and defense needs and people now admitted under preference 3 (world class workers).
5. The current backlog of qualified visa applicants would be phased in over a three-year period.
6. There should be an overall target or ceiling of 750,000/year subject to change in five years.*

CATEGORY I FAMILY REUNIFICATION 350,000-400,000	
A	B

Numerically unlimited (estimated at 150,000/year)**
Spouses, unmarried children, parents of U.S. citizens

Numerically limited (200-250,000/year)
1. Spouses, unmarried children, parents of permanent residents (now second preference plus parents)
2. Married children of U.S. citizens (now fourth preference)

--Numbers admitted might fluctuate yearly depending on categories IV and II.

--Portion of backlog of qualified visa applicants under current law might be folded in over 3 year period using this category.

*The figure of 750,000 is gross immigration. We assume that net immigration will also be 750,000 since permanent settlement from reduced illegal migration would be cancelled by emigration. Reminder: An annual net immigration of 750,000 would result in population stability by the year 2030 at slightly less than 300 million Americans if U.S. fertility remains at present rate.

CEILING OR TARGET: 750,000*

CATEGORY II REFUGEES	
A	B

50,000
-Based on Normal Flow
Variable
-Based on Emergency Provisions

-- As provided for in the Refugee Act of 1980

-- Emergency flow:

1. Could be outside overall ceiling or target in any given year.

2. Could reduce visas available in Categories IB and/or III, distributed over a number of years.

CATEGORY III INDEPENDENTS 300,000-350,000	
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--Persons admitted:

- a) on first-come, first-served basis, or
 - b) on the basis of a job offer, or
 - c) for specified skills, or
 - d) by combination of several criteria through point system --
examples: skills; age; education; country of origin; relationship to U.S. citizen, i.e., brother or sister; English language ability.
- "World class" skilled scientists, artists, scholars

--Numbers admitted in this category might fluctuate yearly depending on categories IA and II.

--A portion of the backlog of qualified visa applicants under current law might be folded in over 3 year period using this category.

PARTICIPANTS

Mr. Sam Bernsen, Attorney, Fried, Fragomen, Del Rey, Bernsen, and O'Rourke, Washington, D.C.

The Reverend Joseph Cogo, Director, American Committee on Italian Migration

Ms. Katherine Collins, Office of Management and Budget

Mr. Alexander Cook, Minority Counsel, House Judiciary Committee

Ms. Irene Cox, Department of Health and Human Services

Congressman Hamilton Fish, Jr. (R-New York)

Mr. Benjamin Gim, Attorney, Association of Immigration and Naturalization Lawyers

Ms. Antonia Hernandez, Counsel, Senate Judiciary Committee

Ms. Marion Houstoun, Office of Foreign Economic Research, Department of Labor

The Honorable John Jova, former Ambassador to Mexico

Mr. Rumaldo Juarez, Department of Health and Human Services

Dr. Charles Keely, The Population Council, New York

Mr. John Nahan, Immigration and Naturalization Service

Ms. Lisa Petranek, Office of Congressman Robert McClory (R-Illinois)

Mr. Lupe Salinas, Office of the Attorney General, Department of Justice

Mr. James J. Schweitzer, Office of Congresswoman Elizabeth Holtzman (D-New York)

Mr. Cornelius D. Scully, III, Acting Director, Office of Legislation, Regulation, and Advisory Systems

Mr. Wray Smith, Department of Health and Human Services

Mr. Russ Surber, Office of the Counselor, Department of State

Ms. Deborah Swartz

Mr. Leonard F. Walentynowicz, Executive Director, Polish
American Groups

Mr. Frank White, Associate Director, Domestic Policy Staff, The White
House

Mr. Franklin Williams, President, Phelps Stokes Fund

Mr. Charles Wood, Legislative Assistant, United States Senate

Ms. Beverly Zweiben, Special Assistant, Department of State

EXECUTIVE SUMMARY

CONSULTATION

ON

QUASI-JUDICIAL QUANDARIES: "OVER DUE PROCESS"

April 24, 1980

Judge Monsanto: (President, National Association of Immigration Judges; Immigration Judge, Miami) "Any judicial system that is controlled by an enforcement branch poses a threat to the required impartiality of decisions. Our present system of judicial determinations in the immigration field is antiquated and needs revision through legislation in order that it may be exercised completely free of administrative controls and fiats.

"...[L]et me request this Commission to give serious thought to our quest for a truly independent system. To give immigration judges authority and independence apart from...[that which is] now permitted by present regulations and district directors. To require that the Board of Immigration Appeals function as a true court of appeals following rules of appellate procedure and that it cease to function as a de novo court with self-granted authority to replace our decisions with their own and to substitute their discretion for ours."

Judge Jakaboski: (Immigration Judge, El Paso) "This is the issue; are we judges or are we not?"

Mr. Juceam: (Association of Immigration and Nationality Lawyers Liaison with Select Commission on Immigration and Refugee Policy) "You asked originally in starting this dialog whether there was anyone against broader independence; I don't hear any and I am for broader independence, but your question is quite right about what independence means.

"One of the issues I'd like to ask the panelists to address as they talk about their desired position is whether or not they think their position will be affected by the how of the staffing, if immigration judges are drawn from enforcement people and from special Assistant U.S. Attorneys whose experience may be regarded as one-sided in their training and practice.

"The nature and quality of that person on the bench may be different than if there were a broader basis from which immigration judges are drawn.

"...[T]o invoke the system improperly staffed will not achieve any of the goals that I hear addressed this morning."

Mr. Dixon:
(Special Assistant to Acting Commissioner, INS)

"...[A]dequate clerical help for judges is an essential matter; it would help solve many of the things we are talking about now. We are aware of this. I would have to say given this current budgetary pinch, we are not going to get much help in this area, in our present posture with the system the way it is.

"...[W]herever the immigration judges are ultimately [situated] . . . these issues are going to still be there; it's just a matter of administrative supervision and they are going to have to be faced--they are not going to be shunted aside by just moving them somewhere."

"We are also concerned, 'we' being the Service, the Central Office, with the establishment [of] some kind of adequate and workable performance standards.

"Ask me what my druthers were, the viable option perhaps might be the Attorney General appointing these people for a fixed term out of a recommendation....

"A fixed term appointment might be attractive to the immigration judges. I think that would involve a higher GS rating. It would have to be a statutory creature but...[there would] be risks with the problem of fixed terms that...[they would] have less chance of staying there forever.

"I think that [the]...decision making and recommendation processes...[of administrative law judges are different enough from immigration judges to] probably require a different model.

"I think the advantages of separating the immi-

gration judges from INS are large. My own personal opinion is that that should be done.

"...[T]he Service will then be a little bit more free to complain about standards of performance and their decisions without being castigated because you can't say that to me, you are interfering with my independence."

Mr. Gim:
(Past President,
Association of
Immigration and
Nationality
Lawyers)

"...[I]ndependence is kind of an umbrella term, which means different things to different people.

"I think we would all agree that of all the administrative judges, if you call an immigration judge an administrative judge, the immigration judge has the least amount of independence....

"But even if we were to grant the immigration judge the degree of independence that an ordinary administrative law judge has, that itself does not, in my opinion, meet the real objective of achieving independence.

"...[W]here the person is going to be banished for life, you find that is terribly inadequate, and I would think that the only solution is to scrap the system, start anew, constitute the Board of Immigration Appeals into a Court of Immigration Appeals, make that a statutory court, make the present immigration judges trial commissioners, in the same sense as the Court of Claims."

Mr. Chauvin:
(Member, Board
of Governors,
Association of
Immigration
Directors)

"...[T]here have been constant attempts . . . [on] behalf of the immigration judges to encroach upon the discretionary authority of the district directors.

"...[I]n my opinion, the efforts to expand the authority of the immigration judges and to bestow upon them all the grandeur and trappings of the federal judiciary are creating a bureaucracy within a bureaucracy which can serve to benefit only the attorneys."

Mr. Avirom:
(President
Association of
Immigration and
Nationality
Lawyers)

"It [our position] is in favor of complete independence of the immigration judges...."

"...I was appalled at the fact that anything I had to say to the judges formally I had to give to the District Director."

"...[T]here is a whole plethora of things they [immigration judges] can't do, which would dispose of the matter. For example, they are not allowed to give permission to reapply after deportation...."

"...[A]s far as technical violations of student status are concerned, the judge should be given the permission or power to reinstate the student into his nonimmigrant status without having to go to the District Director."

Mr. Del Rey:
(Chairman, Immigration Law
Section, Bar
Association of
the City of New
York)

"I think that lawyers from within the private bar should be recruited to serve as immigration judges."

"...[T]here has been no affirmative program to encourage that type of application."

"I think that all of these things should be done as a way of immediately, perhaps, diversifying the outlook of immigration judges who are presently serving."

"...[W]e would certainly suggest that an immigration judge be appointed for life as a Federal Judge is and can only be removed for good cause, as a result of impeachment...not a constitutional impeachment...."

"Basically the Association...although theoretically in favor of...elevating the judges to the level of Administrative Law Judges or creating a new judiciary...we recognize...not only the limitations in budget, in order to do that, but also the fact that what we would do is that we would be recruiting immigration judges from areas of law that, of course, are not related to immi-

gration. ...[W]e think that the system, because of the volume of cases that come before judges, would be unduly bogged down, and as a result, it just wouldn't work from a practical standpoint.

"...[W]hat may be a good compromise...in terms of creating a better separation between the Service and the judges would be to essentially make them employees of the Justice Department, but not within the Service itself. ...[R]esponsible to the Board...and possibly...the Attorney General, but maintaining them in their present administrative role.

"...[W]hat I consider the absurdity of having a system where certain administrative decisions are reviewed by the Board of Immigration Appeals and other administrative decisions are reviewed by Regional Commissioners' offices having jurisdiction over... particular districts in part of the country."

"...[W]e think that all appeals should be unified within the Board or within another newly created administrative appellate body."

"...[I]t is a great concern to all of us and it involves the conceptual problem that many lawyers have in the fact that there is no provision for judicial review of adverse consular decisions."

"I'd like to hear from the District Director's side whether or not many of the problems we see in terms of adjudication and the fairness of the process, ought not be evaluated in terms of INS at the DD level, granting intake interviews to applicants."

Mr. Chauvin:

"...I think it would create a horrendous increase in our backlogs if everybody were to come up and have this up-front confrontation or adjudication; it would be just another involved adjudication that would take a long time."

"I'm sure a system could be set up where if we anticipated denying one we could send a call-in letter...I don't see anything objectionable to

that sort of system from my point of view, except for the additional work it would impose."

Mr. Morris:
(Department of
Justice, Criminal
Division,
Immigration Law
Unit)

"I think that it is very dubious as to whether Congress would want to confer standing on every alien outside the United States to have access to our courts for judicial review of decision[s] ...[of] the consular officer."

Mr. Gim:

"...[T]hat type of anomaly [unreviewable consular decision involving an alien with two United States citizen children] is frightening in our modern day jurisprudence."

Mr. Serviss:
(Private
Practitioner,
former INS
Trial Attorney)

"...[W]hile the Immigration Judges appear to want this independence and while I think there is universal support that they have it, they nonetheless seem to cling to policy directives, interpretations, operating instructions, where it suits their purpose, and use these as a way of not exercising independence which they presently have.

"The question really becomes, to what extent should the Immigration Judges be instruments of Service policy or Department of Justice policy; and to what extent should they merely decide the case before them on the facts and on the law, as they currently exist.

"Hopefully, with independence will also come a record keeping capability so that the immigration judges will be able to maintain their own records of the proceedings that are held in their courts."

Congressman Fish: "...I sense that it is a general desire to
Fish: certainly have a far greater independence of
Immigration Judges....

"...[Y]ou might consider this morning's issues within a larger framework. For example, separating the service function from the enforcement function...."

Mr. Dixon:

"...[T]he Immigration Judges in this area and in this field are also conducting policy of the

United States government, which is a little bit different from what the normal judicial function is."

Mr. Hing:
(Staff Advisory
Group)

"They [agencies like INS] have to have their internal operating instructions. The Immigration Judges are not bound...."

Mr. Serviss:

"[Operating instructions] have been ratified by the Board of Immigration Appeals, and therefore they are binding on the immigration judges."

Mr. Kenney:

"...[I]t seems to me that we are assuming that the only way to have due process is to call a man a Judge in a Court. That in order to have due process, you have to have lawyers.... Should or couldn't [we]--as an alternative--aim at administrative due process?

"And if the form gives a...one inch block, and really there are 15 questions that you have been asked, then, there is where you need your administrative due process. And leave the special inquiry officer, as a special inquiry officer. And leave the judicial relief to the ordinary courts of the United States."

Judge Monsanto:

I do favor going through the legislative process [rather than relying on administrative action to establish independence for immigration judges]. Because it is the only way you can stop it from being tampered with, every time a new administration comes in."

Mr. Gim:

"...[N]o judge who is within the Board of Immigration Appeals, who is within the Executive Department, can really oppose...[a particular] policy. Only an independent judiciary can... really examine [it] impartially."

Judge Reynoso:

"...I take it that the least that most of the folk around the table seem to say [is] that [however]...it happens--that administratively you ought to try to set up that separation; that many matters that some judges now view as matters of judicial determination--in fact, others view within the statutory scheme as administrative discretion."

Mr. Chauvin:

"...[I]f we are thinking in terms of having a

complete separate judiciary and so forth--to make these determinations--I think it has gone way beyond what is really needed, myself."

Judge Reynoso: "...I can conceive of a notion where the judges have certain discretion and yet the law says quite clearly that even though an alien for example is deportable--there is an executive discretion akin to the Presidential and gubernatorial discretion to, if you will, abate the decree...."

Chairman Milhollan: "Common to all of the reports [of studies conducted by the Department of Justice or at the request of the Department...], has been the recommendation that the Board be elevated in stature."

"I do wholeheartedly myself, support the view that the Board member position be upgraded. And I do concur in the recommendation that the Board be established by statute."

"...[W]hile total independence would be accomplished by the creation of a separate court--separate and distinct from the Department of Justice--it is quite probable in my view and perhaps desirable that such independence could also be accomplished through the creation of a statutory body, within the Department of Justice. With its members still appointed by the Attorney General, as they are today.

"...[I]t seemed to be the consensus, it always has been our own view, that the Judges should be separate from [the] Immigration Service.

"We know as a practical matter, the fact that the work of Immigration Judges doesn't always receive from District Directors the highest priorities. They [the immigration judges] should be separate. They should have that opportunity to take care of their own work themselves.

"...I would put them [immigration judges] [in a structure] similar to the one I have described on behalf of the Board--a statutory body within the Department of Justice.

"I think...that particular provision [certification for Attorney General review] and regulation would have to be eliminated."

Judge Jakaboski: "Now, back in the days when they introduced the management by objectives drill, in the Department of Justice, the Board decided that its main mission...was the provision of authoritative administrative case law for the guidance of the service and of the Immigration Judges.

"The actual review of all the decisions is only a secondary mission of the Board; this is often forgotten. So, what has happened, perhaps to protect its average in [the] courts of appeals, many issues are ducked, are avoided. Cases are remanded. And there is a great deal of--Chairman says, modern management techniques devoted to turning out--to take care of the case load.

"I submit that perhaps these cases [without any real legal issue] should not even go to the Board. The Board should take its resources and worry about the issues of law.

"...I would say instead of expanding the Board, perhaps the Board could be contracted--shrunk...."

"Now, to protect this [discretion to review] from being abused, you can require [that] perhaps 3 Judges-or 1 Judge plus the Chief Judge--must agree that the case contains such issues that warrant certification from the Board."

"...I don't think it was proper for the Board to be substituting its judgment on the exercise of discretion in the absence of abuse."

"This is one of the detrimental side effects [of] taking the Board out of [the] Service.... ...[The] Board no longer is in touch with the wellsprings of what is happening. With the ideas in this field, with the flow of blood back in the trenches--so to speak.

"...[The] Board actively sometimes evades facing the vital issues...."

"...[T]he Board sometimes gets into procedural questions [inappropriately]..."

"And the other area to beware, the Board has come in and substituted its own discretionary evaluation for that of the judge, in the absence of error.

"And all three of these show decisions of the Board running off in all directions, inconsistent decisions. Decisions that I am sorry to say do not measure up to what I would hold up as a proper level of scholarship.

"...[Y]ou have got the Board and the judges doing the same thing [conducting de novo review]. Now, I say, if the Board is going to do it all, eliminate the judges or visa versa.

"...I agree with Chairman Milhollan, about eliminating the certification to the Attorney General. But I would substitute in its place an appeal by the Service."

Mr. Schmidt:

"I would just like to attempt to set forth basically pros and cons that we have discussed within the Service.

"The Attorney General without the Board...would more or less be left without an effective mechanism for identifying and resolving important policy questions before these questions reach the Courts.

"...[I]f you have it [Board review] by certiorari, then everybody probably gets a proliferation of claims for individual stay[s].... [I]n the long run, you might end up with essentially the same type of delay but more papers in getting there.

"If the Board is merely going to exercise the same type of appellate review authority which is presently exercised by the Court of Appeals, then much of the utility of having an administrative review process may arguably be lost.

"I believe, at this point, it is difficult to justify creating another specialized Article I or Article III court; much of the argument for having a Board is the flexibility of the administrative hearing and review system and a lot of that is going to be lost if we first create another court system.

"A main benefit of a statutory board...[is] greater stature to preclude the Attorney General from any attempt to infringe on the Board's jurisdiction and...to eliminate any appearance of impropriety which may now exist.

"...[M]oving the Board from the Department would cut against one of the original reasons for having a Board and that's to assist the Attorney General in carrying out his responsibilities under the Act.

"To the extent the Board becomes statutory, some flexibility will be lost.

"...[J]udges and the Board's government attorneys ought to be accountable to somebody for their professional performance.

"...I think you can make people accountable for their performance without infringing on their decision-making responsibility."

Judge Monsanto: "...[T]here should be accountability of the Judges. But it ought not to be to a party litigant or an adversary party."

Mr. Morris: "I think that the present system provides due process.

"I think that with respect to the delegation of responsibility for discretionary decisions, we should bear in mind that Congress in the present act has delegated the responsibility generally to the Attorney General. Which strikes me as being a reasonable and sensible thing to do, rather than to delegate it to any number of Immigration Judges for example--who are not accountable for their decisions.

"I think when you are dealing with discre-

"I think when you are dealing with discretionary decisions, that there should be some accountability as to how discretion is going to be used."

Mr. Gim:

"...[T]he Board ought to be free to substitute judgment, in order to insure it does justice."

"I think we should have an Article I or Article III Court of Immigration Appeals. And I think this is not a revolutionary concept but an evolutionary [concept]. And I analogize the situation to the tax field and the customs field."

"...[S]ince then [1969 Tax Reform Act] we haven't heard much hue and cry about lack of independence and the appearance of conflict of interest--the appearance of subordination of judgment in terms of obedience to the executive department."

"I don't think we ought to shrink from this step of biting the bullet.... ...I think that if we are willing to take that step in cases of income tax deficiency or customs duties, where we are talking in terms of money, we ought to be able to take that step in terms of human beings."

PARTICIPANTS

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Mr. Martin Danziger, Deputy Commissioner, Immigration and
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Mr. A. J. Del Rey, Jr., Chairman, Immigration Law Committee,
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The Honorable Ralph Farb, Board of Immigration Appeals

The Honorable Hamilton Fish, Jr. (R-New York)

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The Honorable David L. Milhollan, Chairman, Board of Immigration Appeals

The Honorable Louis P. Maniatis, Board of Immigration Appeals

The Honorable David L. Milhollan, Chairman, Board of Immigration Appeals

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Mr. Fred W. Vacca, Executive Director, Board of Immigration Appeals

Mr. Paul C. Vincent, Chief Trial Attorney, Immigration and Naturalization Service

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EXECUTIVE SUMMARY

CONSULTATION
ON
ILLEGAL MIGRANTS: WHAT DO WE DO ABOUT THOSE WHO ARE ALREADY HERE?

May 1, 1980

The first of two consultations on policies to deal with the current population of illegal aliens and to curb the future flows of these aliens was held on May 1, 1980. Participants came from local governments in California and Texas, the National Association of Counties, voluntary agencies, the Department of Health and Human Services, and the Immigration and Naturalization Service. This session focused on the nature and procedures of proposed legalization programs for illegal aliens residing in the United States, as well as the impact which such a legalization might have on services provided by local governments.

Among the significant points raised during the consultation on May 1 were:

1. While a major goal of any legalization program would be to bring forward a large portion of the existing undocumented population, maintenance of the immigration system's integrity should be an additional consideration.
2. Many participants recommended the establishment of a single legalization status for which many illegal aliens could qualify. This status, however, would probably not cover as many persons as were estimated to qualify under the Carter proposals which had a second "temporary resident alien" status. It was argued that people need to be able to assess whether they qualify and know clearly what their circumstances would be in the period after legalization. Nevertheless, there was some sentiment for the creation of a second status for persons who could not meet the residency requirement.
3. Several persons suggested that the legislation establish an upper-number limit of persons who could be legalized. This would encourage aliens to register promptly, while fixing a maximum number that might be added to the permanent resident alien population.
4. Those present at the consultation felt that the Canadian and European experiences with legalization programs seem to offer the following lessons:
 - (a) Keep the program simple;

- (b) Publicize it well;
 - (c) Have a nonthreatening validation procedure which guarantees immunity from enforcement action; and
 - (d) Maintain strong, interior enforcement to encourage registration under the program.
5. Regarding documentation, participants noted precedents for accepting everything from government records to personal affidavits as a means of establishing continuous residence.
 6. Several persons recommended no more stringent grounds of exclusion than the 1980 Refugee Act provides for refugee admission and adjustment.
 7. There was support for the cooperative processing of legalization cases by voluntary agencies in conjunction with INS. The model would be the successful Indochinese Adjustment Program in which INS interviewed a portion of the applicants at community sites provided by voluntary agencies. The cooperation of local groups which have credibility with the illegal/undocumented community appears necessary to publicize any legalization program and to draw out persons to register under it.
 8. Participants felt that health programs might be significantly impacted by legalization. Various county hospital associations indicate losses due to unreimbursed medical services provided to undocumented persons. These services primarily include obstetrics, emergency treatment, and public health outpatient care. The local governments see legalization as beneficial in that indigent aliens would become eligible for Medicaid, working aliens could enroll in insurance programs available to legal workers, and the public health would be improved as a formerly unscreened segment of the population felt free to seek preventative services.
 9. Many states allow undocumented children the right to free public education. It was believed that, for these states, the impact of legalization on their education system would be minimal. Participants noted, however, that there might be significant numbers of undocumented children not currently enrolled in school.

Since 1975, Texas has statutorily prohibited free public education for undocumented children. The policy argument for this law rests primarily on the desire to avoid exacerbating the overcrowded conditions of school systems along the border, where the tax base is generally small.

The judicial decision on the constitutionality of this statute is still pending. (Two federal district courts have ruled this Texas statute is unconstitutional. This ruling, however, is being appealed at the Circuit Court level.)

10. There seemed to be consensus among the consultants that very few undocumented persons are receiving public assistance. They indicated that welfare fraud was not an issue among the undocumented population because of the rigorous screening process.

PARTICIPANTS

- Mr. Peter Allstrom, Food and Beverages Trade Department, AFL-CIO
- Ms. Katherine Collins, Office of Management and Budget
- Mr. Jose Contreras, Executive Director, Camino Real Health Planning Agency, San Antonio, Texas
- Mr. Alexander B. Cook, Minority Counsel, House Judiciary Committee
- Ms. Irene Cox, Department of Health and Human Services
- Mr. Barney Dusenberry, Senate Judiciary Committee
- Ms. Josephine Gonzales, Attorney, Los Angeles, California
- Ms. Elizabeth J. Harper, Deputy Assistant Secretary of Visa Services, Department of State
- Mr. Bill Ong Hing, Assistant Professor of Law, Golden Gate University, San Francisco, California
- Ms. Marion Houstoun, Office of Foreign Economic Research, Department of Labor
- Ms. Patricia Johnson, National Association of Counties, Washington, D.C.
- Mr. Rumaldo Juarez, Department of Health and Human Services
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- Ms. Doris Meissner, Deputy Associate Attorney General, Department of Justice,
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EXECUTIVE SUMMARY

CONSULTATION ON

NONIMMIGRANTS

May 20, 1980

During 1978 more than eight million foreign nationals were admitted to the United States as nonimmigrant visitors. Most experienced no difficulty as far as immigration law was concerned, but some did confront the issues and problems that were the focus of the May 20 consultation on nonimmigrants. The subjects discussed were those involving foreign students, medical exchange visitors, foreign nurse graduates, intracompany transferees, tourists, and allegedly arbitrary visa refusal cases.

Consultation participants included representatives from the Immigration and Naturalization Service (INS), the Visa Office of the State Department, the Departments of Labor and Education, the International Communication Agency, and members of prominent educational, medical, and travel organizations.

Foreign Students (F visas)

Prior to the consultation, Commission staff had reviewed a proposal in support of a far-reaching change in the administration of foreign student activities. It called for shifting a large share of the current INS responsibility for foreign students to the Department of Education. The participants agreed that this would create serious difficulties between the two agencies without resolving the problems affecting the students. The Education Department's ability to take on such a workload was also questioned. Nevertheless, the participants concluded that the Department should take over the specific and limited task of determining which schools should be approved for attendance by foreign students.

On student employment, the participants were nearly unanimous in their support of liberalization. They believed that it is in the U.S. national interest to relax the current restrictions and grant all students work authorization. Student employment is the area of greatest dispute between students and foreign student advisors on the one hand and the Immigration and Naturalization Service on the other. Several persons remarked that those students who wanted to work went ahead and did so, regardless of the INS decision. (During 1979, with more than 265,000 adult foreign students in the country, INS received 44,600 student requests for employment authorization, with 61% based on economic need and 39% on training requirements. Of these, 33,500 were approved; 5,400 denied; with 5,700 still pending at the end of the year.) Most participants felt

that a general work authorization would not substantially increase the numbers of students actually working and would definitely reduce the burden on the Immigration Service in an area where most decisions are ultimately favorable to the student. One of those present, however, noted that in areas with large student populations, foreign students do compete for jobs with American students, the elderly, and U.S. teenagers (for whom unemployment levels are rising).

Concern over recent difficulties with students in many vocational and language schools led several consultation participants to support the idea of dividing the student category into two subgroups; one for academic students, the other for those in vocational courses. The H-3 or temporary trainee category was also suggested as an alternative way of classifying vocational students. As for the problem of overcrowding in some school districts by primary- and secondary-level foreign students, those present pointed out that the schools can control this directly by simply not issuing the I-20 form which students need to apply for visas. Nevertheless, local school district officials in several areas have complained about the problems involved in refusing to approve I-20 forms submitted by school district residents. These officials say they do not have the resources or personnel to enforce national immigration policy, nor do they feel it is their responsibility.

A question also arose about the relationship between what foreign students study or train for in the United States and the need for this expertise in their countries. Participants urged that more emphasis be placed on this factor in student-visa case processing, to ensure that the students' education will, in fact, be of use in their own countries.

Medical Exchange Visitors (J visas)

Physicians present at the consultation reviewed the medical exchange visitor situation. They explained that recent changes in the law have created new problems. As a consequence of the new two- to three-year time limit on training, foreign medical graduates in only 3 of the 24 specialties are now able to complete their residencies. This rules out training in the United States for the other 21 specialties. Many young doctors from Latin American countries, therefore, are turning to the Soviet Union and other Eastern Bloc countries for their advanced training. Panama, for example, is reported to have 150 doctors training in these countries.

Participants also noted the political and social significance of doctors in Latin countries, and voiced concern that the shift to training elsewhere would lose potentially valuable friends for the United States. A further effect, they predicted, would be a large-scale loss of sales of medicine and medical equipment that

doctors tend to order from the countries where they receive their advanced training. U.S. exports of medicine and medical equipment in 1979 were valued at \$3.2 billion.

A separate problem that concerned participants is the recent reduction in the number of residency positions available in U.S. hospitals for the training of foreign doctors. Expanded U.S. medical schools are now graduating enough American doctors to fill all but 1,000 of these positions. Formerly, there were 4,000 to 6,000 available for foreign medical graduates.

The participants considered the new Visa Qualification Exam (VQE) to be a problem only because one section of it requires foreign doctors to deal with basic science material they have covered in school many years previously and no longer remember in sufficient detail for test purposes. Only about 30% of the foreign doctors are able to pass this part of the exam.

No consensus developed on the VQE matter, but the participants described the two- to three-year training limit as likely to be resolved by legislation being considered by Congress.

Foreign Nurse Graduates (H-1 visas)

Discussion of this issue raised a number of questions, which remained unresolved. The participants reported that vigorous recruiting of nurses, especially in the Philippines, was followed by tough competency testing in English, when foreign nurses were unaware they would be required to take such an examination once in the United States. Some who failed the tests were then exploited. The participants also observed that there is an acute shortage of native-born nurses in the United States. This shortage, caused by low pay, other more prestigious job opportunities, and lack of training funds, has resulted in the need for foreign-born nurses.

In addition, a confused picture emerged regarding nurse-competency testing. Some participants opposed the newly introduced foreign-born nurse exam as unfair because of its vocabulary and heavy use of idioms, but it was also noted that 80% of those who pass this test are then able to pass the U.S. competency tests.

Intracompany Transferees (L visas)

This discussion began with a presentation of opposing views on the transferee petition, Form I-129b. "Eliminate the petition," said one participant. "No, keep it because the information is needed," responded another. There was talk of what INS could do to expedite petition processing, but most participants believed that delegating petition-approving authority to the consuls who issue the L visas would be preferable to the excessive delays transferees now experience in obtaining petition approvals from INS.

Tourists (B visas)

There was a brief review of a proposal designed to waive the visa requirement for tourists from selected countries. INS representatives expressed concern about the added workload of processing numerous visitors who had not undergone previous visa-issuance screening. They also noted a distinct difference between dealing with Canadians who do not need visas to enter the United States and processing nonvisaed travelers from the 31 countries being considered under the visa waiver proposal.

The fact that 805,000 nonimmigrant departures were unconfirmed in 1979 was cited, by the participants, as a reason for uneasiness about the visa waiver concept. This was viewed as possibly exaggerated, however, because of a 13% keypunch error rate in matching departure records with nonimmigrant entry records.

No conclusion was reached about the desirability of the waiver proposal, or about its impact on Department of State consular staffing levels.

Allegedly Arbitrary Visa Refusal Cases

The participants were split over the need for a formal judicial appeal mechanism to remedy arbitrary visa refusals and consular abuses of authority. One viewpoint held that it is unacceptable, given the protections accorded to individuals in our society, to have no means of independent, legal appeal from an administrative decision. Those opposed to this view said that access to such an appeal mechanism would make it impractical to refuse any visa cases.

Emphasis in the discussion then shifted to the importance of good consular documentation for all visa refusal decisions, with some speakers remarking that the "making of a record" and the articulation of the reasons for each refusal are essential. Complaints made by lawyers, the participants noted, have been increasingly frequent and require clear, complete refusal explanations.

The participants also recognized the difficulty of processing heavy visa caseloads in countries where many of the applicants are ineligible or are even involved with visa fraud.

For the majority of the participants, the preferred handling of visa issuance included improved consular documentation and a firmer hand on the part of the State Department in discouraging consular abuses of authority.

PARTICIPANTS

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EXECUTIVE SUMMARY
CONSULTATION ON
OPERATIONS AND STRUCTURE

May 22, 1980

Overview

The Select Commission's consultation on operations and structure included participation by Commissioner Rose Matsui Ochi, past and present employees of the Immigration and Naturalization Service and the Justice and State Departments, members of the immigration bar, and concerned interest groups. Emphasizing the operations of the Immigration and Naturalization Service and, to a lesser extent, the consular functions of the Department of State, the discussion focused on the administration of the Immigration and Nationality Act. Participants considered ways of improving overall operations and reducing the overwhelming workload by eliminating unnecessary functions, finding alternative sources of personnel, reducing duplication, and improving effectiveness and efficiency.

Certain themes persisted throughout the day as issues concerning service to the public, compatibility of the service and enforcement functions within INS, and enforcement of U.S. immigration laws were discussed. First, there was a general feeling that resources devoted to the administration of the I&N Act were insufficient, although improvements within existing resources could be made. Second, participants found an unclear, if not shifting, INS mandate which needs to be determined and clarified legislatively. They believed that INS would improve if it had a clear and statutorily delineated mandate and strong top leadership. Third, those present at the consultation felt that many INS employees have a negative, and, at times, hostile attitude which was attributed by some to the negative "keep them out" thrust of the 1952 Act.

Service to the Public

Consultation participants expressed a general belief that INS is obsessed with trivia, documentation, and fine-tuning in providing benefits under the Immigration and Nationality Act. This preoccupation was seen to be exacerbated by unclear and unduly restrictive legislation, inadequate automation of files and records, and an ever-increasing workload, made worse by excessive duplication of work within the agency. The consultants recognized the near futility of trying to solve the problem, and noted that greater productivity and efficiency within INS would only generate additional workload as persons become eligible for more benefits.

In view of the above, the participants explored several possible solutions. The elimination of INS action on relative visa petitions (I-130's) when the beneficiary is overseas was discussed as a viable option for reducing both INS workload and interagency duplication (I-130's account for close to one-quarter of all the adjudications INS receives). Currently, INS reviews the documentary evidence and forwards the approved petition to the appropriate consular office abroad, usually without interviewing the petitioner. It was argued that consular officers abroad, with the beneficiaries before them, are equally, if not better, able to make a determination of eligibility. Since the consular officer does, in fact, frequently review the I-130 petition anyway, some participants believed that not only could quality be improved by adjudicating the petition abroad with the beneficiary present, but duplication and INS workload could be reduced. While there was general support for such a change, certain INS participants felt that a better solution might be to improve INS's ability to adjudicate relative visa petitions through automation or other systems improvements. One problem mentioned with regard to moving the entire process overseas was the present lack of review of consular decisions. Other participants noted that allowing consular officers to make determinations on I-130 petitions abroad would eliminate the appellate review process now available following petition denials by INS.

In discussing the need to reduce the waiting period for immigration benefits, expanding outreach efforts and deciding cases quickly were emphasized as means to improve service and reduce the workload associated with further inquiries. Participants also considered changing naturalization from a judicial to an administrative process and reducing the overall requirements for naturalization (as in the "Efficiency Package" currently before Congress). These suggestions received general support from those present.

Participants also expressed general support for the use of a centralized computer system in the review of applications, rather than a scrutiny of individual cases. Applications passing built-in checkpoints within the computer would be granted. A random sample and those "kicked out" would be reviewed individually. It was noted that several other federal agencies with large application workloads currently use such systems, and that paperwork is reduced significantly and results achieved far more quickly under these systems.

Compatibility of Service and Enforcement Functions within INS

There was no consensus among the participants as to whether the service and enforcement components of INS were compatible. The rationale behind the 1978 President's Reorganization Project (PRP) plan for border management reorganization was explained and discussed. Although the PRP apparently perceived that INS had competing and/or conflicting responsibilities, the plan did not recommend a full break between service and enforcement functions. Instead, it favored a border-related split, transferring only the patrol and inspections functions to Treasury (Customs) to create a "border management" agency.

Although there was support from several nongovernment participants for dividing INS service and enforcement functions, others felt that any conflict between these functions resulted from the lack of a clear INS mandate and strong direction from Congress, the executive branch, and the agency itself.

Issues Related to Interior Enforcement

Fewer than 1,000 INS investigators are currently available to detect illegal aliens in the interior of the United States. Because of numerous suits and court decisions, interior enforcement has become increasingly difficult in recent years. Despite a growing concern for alien rights, those present at the consultation felt that interior enforcement will always be needed. Many of the legal issues concerning interior enforcement were to be discussed at the forthcoming consultation on important legal issues.

Although the use of state and local law enforcement officers offers one means of expanding the skeleton INS investigator force, the participants voiced unanimous support for not authorizing those officials to enforce U.S. immigration laws. It was noted that state and local police are already overburdened with responsibilities in their communities and that taking on additional duties, which might alienate certain communities or groups under their jurisdictions, would be extremely detrimental to their ability to enforce the law.

As a result of the consultation, the Select Commission staff is focusing its efforts on further investigation of the alternatives raised at the discussion. Several philosophic issues, including what the mandate for the administration of the immigration law should be and how much case-by-case review should continue, are being developed for consideration by the Commissioners.

PARTICIPANTS

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- Mr. Robert Robinson, Director, ADP Systems Branch, Immigration and Naturalization Service
- Mr. Jack Shaw, Department of Justice
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EXECUTIVE SUMMARYCONSULTATION ONIMPORTANT CHANGES IN U.S. IMMIGRATION LAW

May 28, 1980

On May 28, 1980, the Select Commission on Immigration and Refugee Policy held a consultation on "Important Changes in U.S. Immigration Law." The participants included representatives from the Departments of State and Justice, including INS, as well as from legal services, the U.S. Catholic Conference, and the private bar.

MORNING SESSION - Grounds for Exclusion and Discretionary Relief in Immigration Proceedings

Currently there are 33 grounds for excluding an alien from entering the United States. These grounds include subcategories, which increase substantially the number of applicable grounds. Most of the grounds are perpetual, meaning that once an individual is denied admission under one of these grounds he/she is forever ineligible to enter the United States unless some form of relief, such as a waiver, is granted.

A. Should the various grounds of exclusion or criteria for obtaining relief continue to incorporate a moralistic standard?

The grounds for exclusion are covered in Secs. 212(a) 1-33 (8 U.S.C. 1182) of the INA. Participants noted that many of these grounds were created in response to moralistic attitudes throughout the years. For this reason many of the guidelines for exclusion and the granting of relief, from both exclusion and deportation, were seen to invite subjective interpretation. This, the consultants believed, permits uneven administration of the law.

A number of participants voiced concern over existing language that excludes an alien on the basis of sexual or political inclinations. An example given was the provision of Sec. 212(a)(13) which excludes any alien "coming to the United States to engage in any immoral sexual act." It was noted that Sec. 212(a)(13) has been interpreted to apply only when an alien's primary purpose in coming to the United States is to engage in an immoral sexual act. Despite this interpretation, participants pointed out the difficulty in defining the term "immoral sexual act" in view of changing mores. There was general discontent with continuing to use statutory language that proscribed private conduct involving consenting adults.

Although some cited the term "moral turpitude" as a further example of statutory language needing clarification (Sec. 212[a][9] requires exclusion of those convicted of a crime of moral turpitude), others felt that the courts have dealt with this term sufficiently over the years. They believed that a traditional concept of this term

now generally exists in the law without specific limitation to immigration cases. Section 212(a)(11), which excludes those who might be "prejudicial to the public interest" and Sec. 212(a)(28), which excludes those who hold political opinions adverse to the government of the United States, were seen as vague. Some participants expressed concern over repeated reliance on the term "good moral character" as a condition for certain benefits. They believed that the term "good moral character" should be struck from the Act because its vagueness encourages subjectivity in administration of the law.

Consultation participants wanted the new law to have clear language and objective guidelines.

B. Should the public charge determination (Sec. 212[a][15]) remain a ground of exclusion?

An overwhelming majority of the participants agreed that Sec. 212(a)(15) should remain as a ground for exclusion. This same majority, however, expressed the opinion that the law should clearly define what would constitute a public charge.

A number of participants from the private sector believed that in order to encourage family reunification, Sec. 212(a)(15) should not apply to an immediate relative. Others pointed out that devising an enforceable contract of support would permit family reunification while protecting the public interest.

C. Should the law distinguish between (1) entry and reentry and (2) immigrant and nonimmigrant status with respect to entry and reentry?

Under present law, when lawful permanent resident aliens return from a stay abroad, they are still subject to the same grounds of exclusion as first-time visitors or immigrants making an original entry. The grounds of exclusion make no distinction between entry and reentry. Ordinary permanent resident aliens have greater interests in the United States than visitors or intending immigrants who have not yet become residents. Accordingly, a number of consultation participants expressed the view that permanent residents should not be subject to the same grounds of exclusion as visitors and immigrants coming to the United States for the first time.

In view of the hardships that arise when persons who have lived in the United States for many years are barred from reentering, some consultants suggested that permanent resident aliens should be subject only to deportation proceedings following their admission rather than exclusion.

The present law also makes no distinction between immigrant and nonimmigrant status in the application of grounds of exclusion. Those present believed that the law should distinguish between the two classes. They supported an open-door policy to visitors, subject only to exclusionary grounds involving the health, safety, and national security of the United States, with a stricter standard for entry as an immigrant.

D. Should discretionary relief continue to be available in both exclusion and deportation proceedings?

The present Act contains several forms of relief from exclusion and deportation known as discretionary relief. These remedies are subject to the control of the authority making the determination of exclusion or deportation. In a formal proceeding, this authority is an immigration judge, but immigration inspectors, adjudications officers, investigators, Border Patrol officers, and deportation officers, in the ordinary course of their respective duties, also have occasion to grant various forms of relief (voluntary departure, parole, permission to reapply for entry, and adjustment of status). Both the forms of relief and the standards for granting relief differ depending upon the circumstances under which relief is sought.

The various forms of relief from deportation include: (1) adjustment of status, which allows an alien subject to deportation to become a permanent resident prior to or during deportation proceedings; (2) suspension of deportation, which, when granted by the Attorney General with congressional approval, prevents actual expulsion of a person found deportable; (3) voluntary departure, whereby an alien about to be deported leaves voluntarily at his own expense and thus avoids the bar to return which deportation imposes; and (4) withholding of deportation, which allows postponement of deportation if the alien can prove that, if deported, he would be subject to persecution.

The following forms of relief from exclusion are available: (1) withdrawal of application for admission; (2) advance permission to reenter, which permits an excluded alien to resubmit an application for admission to the United States; (3) parole, which allows the Attorney General to admit individual aliens on humanitarian grounds; and (4) waiver, whereby the Attorney General excuses certain bars to entry in specific instances.

An overwhelming majority of those present at the consultation expressed the belief that immigration judges should have broader discretionary powers, but with sufficient guidelines to deter the abuse of discretion.

E. Should a statute of limitations be applied to all or most grounds of exclusion and deportation?

Except in rare instances* under Sec. 241 of the Act, no statute of limitations governs the grounds of exclusion or deportation under the Immigration and Nationality Act. Those present at the consultation believed that such a statute could reduce the injustices that occur when an alien or permanent resident is subject to exclusion or deportation for an action committed in the remote past. Participants noted that the action may have been minor in nature and that the alien may have been totally rehabilitated.

Noting that both the criminal and civil law systems in the United States employ statutes of limitation to relieve individuals from what could be a heavy burden of proving or disproving crucial facts, the consultants professed a unanimous belief that immigration law should also include such a statute.

AFTERNOON SESSION - The Right to Counsel and Fourth Amendment Issues

A. The Right to Counsel

The Immigration and Nationality Act provides that any alien subject to deportation or exclusion proceedings shall have the privilege of being represented by counsel, at no expense to the government (8 U.S.C. 1362).

All of the participants, from an INS trial attorney to members of the private bar, agreed with the general proposition that aliens ought to have the right to counsel, but they disagreed on when that right should be accorded, who should do the counseling, and at whose expense.

1. When should an alien be advised of the right to counsel or when should an alien have access to counsel?

Current regulations (8 C.F.R. 242.1 and 242.2) provide that an alien be advised of the right to counsel and given a list of free legal counsel at the time an order to show cause or a warrant of arrest is served. When an alien is arrested without

*Acts that must occur within five years after entry in order to trigger deportation are: institutionalization at public expense for a mental disease (Sec. 241[a][3]); conviction of a crime involving moral turpitude (Sec. 241[a][4]); becoming a public charge (Sec. 241(a)(8); abetting another alien to enter the United States illegally, Sec. 241(a)(13); and conviction for violating the Alien Registration Act of 1940, Sec. 241(a)(5).

a warrant, as in exclusion cases in which apprehension occurs at the border, regulation (8 C.F.R. 287.3) requires similar notice at an analogous time. An order to show cause provides notice of the charges against an alien. It also provides notice of the time and place for a hearing at which the alien must appear to show cause why he or she should not be deported. The fact that an alien is not advised of the right to counsel until the time of the order to show cause or the notice of exclusion proceedings may mean that the alien will have no access to an attorney until the government already has a prima facie case of deportability or excludability.

Participants from the private bar were unanimous in their belief that aliens must not only be advised of their right to counsel but given access to counsel during the initial interrogation by INS. They argued that during interrogation aliens often make statements which are later used to prove their deportability, excludability, and/or ineligibility for discretionary relief. Representatives of INS, on the other hand, stated that it is physically impossible to have counsel present during routine interrogations, especially those that occur along the border or in remote areas.

A former immigration judge pointed out that, in fact, many INS officers do give verbal notice of the right to counsel at the interrogation stage. Yet, private attorneys insisted that more than verbal notice is needed, that aliens must have access to counsel during interrogation by INS, and thus the list of free legal counsel must be given out before interrogation begins.

A representative from Legal Services Corporation stressed that early notice of the right to counsel is crucial because the realization of so many other rights depends upon access to counsel. Many aliens who opt for voluntary departure prior to a hearing never receive a notice to show cause and thus never receive notice of their right to counsel. Under these circumstances, some may never know of their potential eligibility for administrative relief.

2. Assuming that aliens should have the right to counsel, who should perform that counseling and at whose expense?

The current regulations authorize the representation of aliens by attorneys, law students, law graduates, accredited representatives of social service organizations, and other "reputable individuals" (8 C.F.R. 292.1, et seq.) "at no expense to the Government" (8 C.F.R. 242.1). This latter provision is a statutory requirement as well.

The participants agreed that permanent resident aliens subject to deportation or exclusion generally have great interests at stake. Permanent residents have often lived here for years. Their families and jobs are here; and they have paid taxes and contributed in many positive ways to our society. Considering the potential loss to these residents and the equities involved, most participants felt that the government ought to assume the cost of legal counsel for them.

The consultation revealed a concern that there are simply too few attorneys competent in immigration law to represent all the aliens subject to immigration proceedings. It was pointed out that this seeming shortage may stem from the lack of funding for such representation.

Although the Legal Services Corporation currently funds the representation of large numbers of aliens in immigration proceedings, this practice is jeopardized by a proposed amendment to the House version of the Legal Services Reauthorization Bill (H.R. 6386). The amendment would limit Legal Services representation of aliens to permanent residents, nonimmigrants, and refugees, as defined in specific sections of the Immigration and Nationality Act.

In addition to Legal Services, voluntary agencies such as the U.S. Catholic Conference also contribute greatly to the representation of aliens. There was an enthusiastic consensus among both INS representatives and private attorneys that these well-prepared nonattorneys do an excellent job representing aliens. These participants pointed out that a specialized representative with immigration experience can often give better guidance than an attorney without specialized immigration knowledge. They reported that these agencies are diligent in referring any case which is outside their realm of expertise to an attorney.

Voluntary agencies, and other organizations which provide free legal counsel, are certified (pursuant to 8 C.F.R. 292.2, et seq.) by the Board of Immigration Appeals on the recommendation of an INS district director. Their names are then placed on the list of free legal counsel which INS provides aliens who are subject to deportation and exclusion.

The consultants questioned the practice of including only certified organizations in this list of free legal counsel given to aliens. They believed the list should be expanded to include the names of individual attorneys who, though not associated with a certified agency, would provide free legal counsel to indigent aliens.

The most widely favored option of those discussed by the consultants was the provision of counsel through a combination of private attorneys, Legal Services, law students and graduates, and voluntary agencies. A Legal Services representative suggested that, in areas where this combination was unsatisfactory, INS could appoint counsel.

With respect to "free" legal services, the consultants pointed out that a large number of taxpayers may object to the use of federal funds for across-the-board legal services to aliens in immigration proceedings. Participants noted that these proceedings are clearly civil in nature and that a U.S. citizen does not receive representation at government expense in his own private dealings.

B. Fourth Amendment Issues

1. Is there a need for a specialized warrant in immigration procedures?

The representative from Legal Services answered this question with an unequivocal "No," explaining that INS officers should conform to the same standards as those used by every other law enforcement agency. Yet, as a practical matter, other participants argued there is a great deal of confusion about how to apply the standards for obtaining and executing a search warrant in immigration cases.

2. What is the standard for issuing a warrant?

In immigration cases, just as in criminal ones, an officer seeking a search warrant must show probable cause to believe that an offense has been committed and that the evidence thereof is on the premises to be searched. Specifically, an INS officer must satisfy the magistrate that there is probable cause to believe that a violation of immigration law has been committed.

Participants focused their discussion on the practical application of the probable cause standard. It was pointed out that because the immigration warrant is a relatively recent phenomenon, magistrates are not used to dealing with violations of immigration law. In addition, there are no guidelines which detail how specifically a warrant must describe the place to be searched or the persons or things to be seized. (Courts have found warrants defective where they were not written with sufficient particularity. See Blackie's House of Beef, Inc. v. Castillo, 467 F Supp. 170 [D.D.C. 1978] and 480 F. Supp. 1078 [D.D.C. 1979]; appeal pending.) Thus, those present concluded that although the probable cause standard is clear, its application is not.

3. What is the standard for executing a warrant?

Before stopping anyone believed to be an alien for questioning, immigration officers must have a reasonable suspicion based on specific facts that the person is, indeed an alien. Before detaining anyone for questioning, however, the officers must have a reasonable suspicion that the person is not only an alien but is one illegally present in the United States. The distinction between the two situations is not always clear. Participants at the consultation suggested that officers in the field do not always have a working understanding of the two different standards for warrantless seizures and accompanying searches.

Subsequent discussion concerned additional complications resulting from the probable cause standard for a search or arrest made with a warrant. Once inside the premises to be searched, immigration officers are faced with the problem of who can properly be questioned, seized, or searched--only persons named in the warrant, persons whose conduct gives rise to a reasonable suspicion that they are aliens, or persons whose conduct gives rise not only to a reasonable suspicion that they are aliens but that they are here illegally? The consultants viewed this confusion as compounded by the courts' reluctance to decide exactly how these three standards apply in all situations.

C. Should the exclusionary rule of evidence apply in immigration proceedings?

The exclusionary rule is a court-made rule developed in criminal cases to safeguard the Fourth Amendment right of people to be free from unreasonable searches and seizures. In practice, it prevents the use of illegally seized evidence at the trial of a criminal defendant. Although immigration officers who conduct illegal searches are subject to criminal prosecution, civil suit, or disciplinary action, the evidence obtained as a result of such searches is not excluded in civil proceedings against the alien. Some participants advanced the opinion that since the penalties involved in deportation are severe procedural safeguards comparable to those in criminal cases should prevail.

Others, opposing the application of the exclusionary rule, pointed out that the recent trend in Supreme Court decisions demonstrates this rule is losing favor even in criminal cases. They argued that if the rule were applied in immigration proceedings, it would allow an illegal alien, however undesirable, to remain here as a result of the careless conduct of a single officer. The group discussed briefly the use of the tort suit as a remedy for Fourth Amendment violations by INS officers.

Representatives of the INS favored neither the exclusionary rule nor the tort remedy as a means of deterring unlawful conduct. They preferred to rely on an improved system of INS internal discipline.

D. Detention-Related Matters

A. Should material witnesses be detained?

It was generally agreed that the detention of material witnesses is an undesirable practice, though no suitable substitute was suggested to ensure availability of crucial witnesses in criminal cases. Detention most often occurs in smuggling cases in which the smuggled aliens are detained to testify against their smugglers. Inequity results when the smuggler has the assets to make bail and the alien lacking funds is detained. These detentions, however, in connection with federal court cases, are under the supervision of the U.S. Marshals Service, not the INS.

B. What can be done to make bond determinations more equitable?

The decision to release an alien detained for deportation proceedings on bond is made by the local immigration office. Bond determinations are made initially by the district director, acting district director, deputy district director, or a specified officer in charge (8 C.F.R. 242.2, 242.1[a]). An alien may appeal this determination to an immigration judge and the Board of Immigration Appeals.

A former immigration judge remarked that, generally, an excessive amount of money is extracted from detained aliens as a condition of release. He said that there is no uniformity; from region to region, bonds set on the same set of facts vary tremendously. In order to achieve some degree of uniformity, a member of the private bar suggested that the standards of the Bail Reform Act ought to apply to immigration cases. Under the Bail Reform Act, the principal factor used in setting bond is the likelihood that the accused will abscond (and in capital cases, or after conviction, this factor is coupled with the likelihood that the accused is a threat to public safety).

Another participant spoke of the need for the expeditious refunding of bond money. Posting bond is a tremendous hardship for many aliens and their families, who often have to borrow at exorbitant interest rates. The government's slow refund procedure exacerbates this hardship. Lastly, it was pointed out that immigration judges currently have the power to make bond redeterminations in deportation but not in exclusion cases. In view of the absence of a rational basis for this distinction, it was recommended that judges should have this power in all detention cases.

Discussion of the numerous issues raised at this daylong consultation resulted in a consensus that the major changes needed in our immigration law preclude a band-aid solution. Instead, the consultants suggested that there should be an entirely new piece of legislation not hamstrung by the deficiencies of the old Act.

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EXECUTIVE SUMMARYCONSULTATION
ONILLEGAL MIGRANTS: INHIBITING FUTURE FLOWS

May 29, 1980

On May 29, the Select Commission held the second of its consultations on illegal migrants. This session focused on curbing future flows of illegal aliens. Participants came from the Immigration and Naturalization Service, the Department of Labor, the U.S. Catholic Conference, the Mexican-American Legal Defense and Education Fund, and the U.S. Commission on Civil Rights.

INS representatives reported that, increasingly, illegal migrants enter through well-organized smuggling networks. Many participants stated that making it illegal to work without authorization and establishing penalties for employers who knowingly hire illegal aliens were critical to reducing the incentive to migrate illegally. Although some persons believed that an "employer sanctions" program is inevitably discriminatory, others felt that a documentation mechanism will be nondiscriminatory to the job applicant and practical for the employer.

Requiring a nonrefundable return airline ticket for all non-immigrants was discussed as a disincentive for visa abuse. The formulation of such new requirements was viewed as making existing enforcement measures more focused and effective.

Officials from the Immigration and Naturalization Service and the Department of Labor described their successful enforcement programs, specifically INS anti-smuggling and DOL Wage and Hour Division efforts targeted on the alleged employers of illegal aliens. Increased cooperation among INS, Labor, and the Internal Revenue Service was urged.

Also on the agenda was the temporary worker (H-2) program which has seen an increase in employer petitions. The number of petitions, it was asserted, has risen because domestic and illegal alien workers have become less available. Although some participants felt that the current program appropriately responds to labor market needs, others stated that it should be modified or that other ways should be found to deal with the increasing demand for seasonal agricultural workers. It was also noted that agricultural employers had made significant adjustments at the end of the old bracero program and presumably could again in the face of an end to the illegal migrant flow.

The existence of the temporary worker program and some nominal increase in visa numbers for primary sending countries of

The existence of the temporary worker program and some nominal increase in visa numbers for primary sending countries of illegal migrants were seen as two potential, legal channels for current undocumented or illegal aliens.

Most participants concluded that effective enforcement against illegal migrants was possible, but emphasized that it would take new laws and additional resources.

PARTICIPANTS

- Mr. Peter Allstrom, Food and Beverage Trade Department, AFL-CIO
- Mr. Ken Bell, Temporary Alien Labor Agricultural Task Force,
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- Mr. Glen Bertness, Immigration and Naturalization Service
- Mr. Roger Brandemuehl, Immigration and Naturalization Service
- Mr. Donald Chow, United States Commission on Civil Rights
- Mr. Herbert Cohen, Wage and Hour Division, Department of Labor
- Mr. Alexander Cook, Minority Counsel, House Judiciary Committee
- Mr. Nicasio Dimas, Associate Counsel, Mexican-American Legal
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- Mr. Francis P. Murphy, Immigration and Naturalization Service
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EXECUTIVE SUMMARYCONSULTATION ON
REFUGEE-RELATED ISSUES

June 4, 1980

MORNING SESSION - Admission of Refugees and Applicants for AsylumI. The United Nations Protocol Relating to the Status of Refugees

The first issue discussed was whether the United States is meeting its obligations under the U.N. Protocol Relating to the Status of Refugees. (The 1967 Protocol "constitutes a comprehensive Bill of Rights for refugees fleeing their country because of persecution."* It specifically prohibits discrimination among refugees on the basis of race, religion or country of origin.) The Refugee Act of 1980 amended the Immigration and Nationality Act (INA) to incorporate the Protocol's international definition of refugee which includes anyone, regardless of country of origin, who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Before the amendment, the only section of the INA that dealt with refugees was Sec. 203(a)(7), which provided conditional entry only to those refugees who had fled Communist, Communist-dominated, or Middle Eastern countries. Such limitations clearly codified discrimination on the basis of country of origin and violated the Protocol.

At the consultation, all participants agreed that by removing those limitations, the Refugee Act of 1980 had made substantial progress in moving U.S. law into compliance with the Protocol. Yet concern was expressed that despite the use of the international definition of refugee, the old geographic and ideological biases will continue to be perpetuated by the uneven distribution of refugee numbers per country. A member of the private bar who attended the consultation felt that allowing the island of Cuba 19,500 admissions while limiting the entire continent of Africa to 1,500 was patently prejudicial. He stated that such discriminatory numerical distribution, based on the old anti-Communist preference,

*

Message from President Johnson transmitting the Protocol to the U.S. Senate, August 1, 1968.

lessened the impact of the new definition of refugee and hindered our full compliance with the Protocol. Government representatives pointed out that a change in geographic focus would come slowly, particularly as there is often no access to INS personnel. Degree of jeopardy, desire to resettle at long distance from one's homeland, and the "special interest" of the U.S. government would remain as elements in the selection process.

II. International Involvement

The consensus of the consultation was that refugees should be an international responsibility. One participant voiced the sentiment that decisions on admission to the United States should place greater emphasis on humanitarian concern and less on political preference. Two methods of insuring a shift to this humanitarian concern were discussed: (1) the involvement of the U.N. High Commissioner for Refugees in the decision process, something Canada, France, and Australia already do; or (2) the creation of an Immigration Board or Council, an idea now under study by the Select Commission, that as one of its responsibilities would make recommendations on which refugees and how many ought to be admitted to the United States in light of the existing international and domestic situations. A number of the participants at the consultation believed that, whether through an Immigration Board or the U.N. High Commissioner, the institutionalized involvement of an objective and knowledgeable body, whose focus was more humanitarian than political, would professionalize the decision process and make the results less discriminatory and more equitable.

Economic vs. Political Refugees: A Valid Distinction?

The group identified three types of people who seek refugee status:

- 1) individual political prisoners,
- 2) groups of displaced persons, and
- 3) so-called economic refugees.

The distinctions between the three categories were seen by participants to be so blurred that it was more helpful to view the categories as a continuum. Nevertheless, it was noted that the United States, under its law, must still attempt to distinguish those with a well-founded fear of persecution. Discussion followed on what to do about the vast number of people who, because of starvation or other dire circumstances, are no less desperate, no less in danger, no less in need of humanitarian relief, but do not meet the U.N. definition of refugee. Foreign aid was suggested as a more appropriate remedy than immigration for huge groups of displaced or economically deprived people, though it was noted that foreign aid to a troubled country does not always reach those who need it most.

Procedures for Hearing Asylum Claims

Lawyers attending the consultations recommended training INS hearing examiners to deal effectively with any linguistic or cultural problems that might arise at the asylum hearings required by Interim Regulations under the Refugee Act of 1980. There was also a belief that the application process ought to be simplified and delegalized so that an applicant could seek asylum without a lawyer, a task which is reputedly impossible at present. Participants agreed that this simplified application process, coupled with greater sensitivity at the hearing, would make the entire asylum procedure less intimidating and more equitable.

Another suggestion to improve asylum procedures concerned limiting the Department of State's role in the process. The Department's Bureau of Human Rights and Humanitarian Affairs now renders an advisory opinion on each asylum claim. Participants felt that perhaps this step could be eliminated in clearly meritorious cases, substituting the opinion of the U.N. High Commissioner for Refugees or that of the Immigration Board (previously discussed).

Group vs. Individual Determinations

An INS representative stated that because of the huge volume of cases, there is no physical way to adjudicate properly each individual asylum claim; instead, group determinations must be relied upon to guide individual ones. In response, other participants noted that asylum is an individual claim, not a group one. This raised the question of the equity in holding an individual applicant to the strict standard of proving that he or she would be singled out for persecution and then lumping that claim together with others in a similar situation rather than responding in kind with individual treatment. Another issue raised was the discrepancy between the strict standard applied to individuals seeking asylum and the much looser standard applied to groups being granted refugee status.

Detention and Work Authorization

Given current law and the levels of enforcement necessitated by INS funding, one participant voiced the feelings of many at the consultation when he said that it is contrary to American ideals to jail someone for the mere crime of having come to America to seek a better life. Citing the Haitian situation, he reasoned that, once aliens are here, this country must either provide for them in a humane fashion or allow them to work. How to do this without encouraging the filing of frivolous claims was also discussed. It was suggested that this could be avoided if applicants were screened at an early stage and those with meritorious claims given temporary work authorization pending the final adjudication of their claim.

AFTERNOON SESSION - Problems of Domestic Resettlement

I. Self-Sufficiency and Relationship between This Concept and Techniques of Service Delivery

Self-sufficiency is the primary concept and criterion in the resettlement of refugees. In discussing self-sufficiency, consultation participants considered the two ways of defining it for resettlement purposes: (1) departure from the public assistance rolls, and (2) ability to function effectively in society. Although they arrived at no conclusion regarding what, as a society, the United States should offer to refugees, there was belief that the level of financing available would dictate the stage of self-sufficiency to which we could bring refugees through public programs.

Two techniques for bringing refugees to a point of material self-sufficiency also came under discussion: (1) "immersion," which stresses the need for refugees to begin working as quickly as possible; and (2) "front-loading," which emphasizes intensive skills and language training prior to employment. While front-loading appeared to be the preferred technique (and is the one applied in other resettlement countries, such as Canada), no consensus was reached by the consultation. The dilemma seen in the institutionalization of front-loading was the impression it gives of refugees as a privileged category of immigrants and the potential advantage it might appear to give them over poor and disadvantaged U.S. citizens.

One proposal which did appear to gain a considerable measure of support dealt with the concept of refugees as productive persons who are temporarily unemployed. This was a major concept in a study released in August 1979 by the New TransCentury Foundation. (It is the programmatic approach of the Canadian resettlement system which centralizes assistance in a single agency, the Employment and Immigration Commission). Representatives of voluntary agencies, the Congress, and the Department of Health and Human Services who were present at the consultation were supportive of this concept. It was also noted that the Senate report on the Refugee Act of 1980 specifically mentions the possible use of the Department of Labor as a future focal point for the management of refugee resettlement programs. The only serious reservations concerned the means of implementing a program of job placement and/or income maintenance that did not have the appearance of being discriminatory, relative to programs for needy citizens and permanent resident aliens.

II. Model Programs

One of the results of the consultation was a consensus on the principles of resettlement, whether directed primarily through public systems or the private sector. Key identified variables, stemming from the experience of a private resettlement agency but endorsed by a state system representative, included these concepts:

- professionalism of the personnel operating resettlement programs
- central coordination of all refugee and refugee-related programs
- the professional preparation of sponsors
- individual case management
- recognition of the need for flexibility and diversity in the structure of resettlement programs (a natural consequence of the first and fourth points)
- placement not only on the basis of family reunification, but also on that of work potential and job markets
- strong public and community involvement.

The importance of case management was repeatedly emphasized, stemming from a recognition that both the needs and the adaptability of different refugee groups vary. The importance of sponsorship was also considered, though there were differing views on whether institutional or individual sponsorship was more successful. Another area of agreement concerned the benefits of clustered resettlement. Although no empirical evidence on the optimal size of communities exists, there was clear recognition of the fact that spontaneous secondary migration, tending to large concentrations, remains an unremitting problem. Participants felt that carefully planned clustering of moderate-sized communities (perhaps 50 families) assisted the process of psychological adjustment and tended to reduce secondary migration.

III. Public and Private Sector Roles

A major, free-standing coalition for refugee resettlement was proposed by some of the participants as a necessary response to the diversity of needs and responsibilities in the implementation of resettlement programs and to the perceived reversal of the trend to seek solution of all problems at the federal level. In this proposal, the federal government would have the role of junior partner, assuring only hard-core services, which were identified as jobs and housing. The major burden would fall to the private and voluntary organizations, formed into local consortia, each implementing resettlement according to the needs of the region and the client population, taking into account the essentially individual and

familial nature of the process. (The "major burden" to which the participants referred would include most of the federally financed services presently authorized, for up to three years, under Title IV of the Refugee Act of 1980, among them: orientation, language and job-training programs; medical care and case assistance; temporary care and maintenance; day care and recertification services; mental health projects; child welfare and foster care.)

This coalition proposal was criticized by other participants largely because it was perceived as a substantial abdication of federal responsibility and an endorsement of a "conservative" trend to federal disengagement. Opposition to the proposal had two major themes. First, it was argued that the federal government, having, in a sense, "created the problem" by inviting refugees to the United States, should bear a heavier responsibility for resettlement, and that both law and practice made federal responsibility explicit. Secondly, certain participants contended that although a tilt to the private sector would not be inherently wrong, it was not workable in the present context (given the significant numbers of current refugees entering the United States each month), even if the responsibility for jobs and housing were left with the federal government. If there was any point of agreement on this part of the agenda, it was not on the passage of responsibility to the private sector, but on the need for the involvement of that part of society, together with state and local government, in the first stages of federal planning.

IV. Resettlement Structures

The consultation's core question was how resettlement arrangements involving different levels of government and the private sector can be improved. No definite answer was forthcoming, other than that closer coordination was required. Although no structural model was suggested, certain principles appeared to meet with considerable agreement:

1. that coordination implied the involvement of all legitimately interested parties. This meant the federal government, the private voluntary agencies, and state and local governments;
2. that the invention of new coordination structures was almost surely not warranted; rather, a clearer definition of roles is needed. This was seen as a federal responsibility because of at least three different kinds of resources the federal government commands: material resources, communications network, and the potential for persuasion;

3. that coordination was largely a question of how and when information reaches the local level; and
4. that the complete and rapid dissemination of information was crucial not only to effective management, but as a tool for stimulating the participation of communities that have remained on the periphery of the resettlement effort. Why those communities have not been more involved was left open to question, but one possible explanation mentioned the lack of information on the part of communities concerning what they can do and what resources they can call upon.

It should also be noted that the conferees expressed a high degree of satisfaction with the Refugee Act of 1980 and, in particular, with the two structures it created, that of the U.S. Coordinator for Refugee Affairs at the Department of State and the Office of Refugee Resettlement at the Department of Health and Human Services. Expectations concerning the future activities of these offices were equally high.

V. Gateway Centers

Reaction to the proposed Gateway concept was negative, particularly from government representatives. (The Gateway concept is one which seeks the establishment of several refugee centers in the continental United States. Under it, all refugees would pass through a center and receive additional medical examinations, orientation, and English language training before being placed in a resettlement community.) The primary objection was the cost factor. Given finite material resources (especially in the present economic context and in the face of the Caribbean influx), participants felt that whatever money was available was better spent to alleviate life-threatening situations. Secondly, many believed that the utility of the concept as a whole was marginal. Finally, one respondent noted that the idea was contrary to the American immigration tradition of going directly into the community.

As an alternative to Gateways, it was suggested that services to refugees could be furnished in any local setting by sponsors or institutions (preferably the latter). Bringing refugees, sponsors, and communities into contact at a very early stage of the process was seen to be the advantage of this alternative. A suggestion was made that the federal government, which is responsible for the management of Hamilton Air Force Base where Indochinese refugees arrive, establish a total medical profile at the time of medical screening. The purpose of the profile, which would be passed to the sponsoring organization, should not be treatment, but identification of medical problems to be dealt with immediately on arrival in the resettlement community.

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EXECUTIVE SUMMARY

CONSULTATION ON

CARIBBEAN IMMIGRATION TO THE UNITED STATES

June 20, 1980

On June 20, the Select Commission held a consultation on Caribbean immigration to the United States. The purpose of the consultation was to estimate current emigration patterns from that region, discuss the impact on sending countries and the United States of the proposed immigration model, examine the role of international aid policies, and consider the barriers to acculturation encountered by immigrants to this country. Participation by experts on international law and finance, demography, sociology, and Caribbean politics brought up new issues that the Select Commission will study.

Emigration Patterns in the Caribbean

Several participants at the consultation believed that push factors in the Caribbean and pull factors in the United States explain the intense out-migration from countries like Jamaica, Barbados, Grenada, Guyana, and Trinidad and Tobago. Among the push factors, overpopulation and staggering levels of unemployment were seen to exert the most influence. Barbados, with 300,000 people on 166 square acres of partially developed land, and Jamaica, with a 25% unemployment rate last year, were used as examples of the strength of that push. It was learned from the consultation that job markets on these islands continue to contract because industries in tourism, bauxite mining, and agriculture tend to switch from labor-intensive to capital-intensive methods of production. It was further noted that, over the past five years, these adverse influences of overpopulation and unemployment have been compounded by a declining death rate.

While participants generally agreed that push factors helped to explain a willingness on the part of Caribbean nationals to leave their home countries for an uncertain future abroad, they noted it was often political victimization by Caribbean governments that made immigration an attractive alternative. One participant reported that those educated nationals who are fortunate enough to

gain employment complacently accept entry-level positions at low wages and rarely protest government hiring practices. State Department representatives noted that immigration of better-trained nationals to the United States occurs as a result of this underappreciation of skills, not U.S. immigration laws.

Greater economic opportunity, political freedom, and worker programs like that for H-2's were considered the strongest pull factors. Immigrants from the Caribbean, while they do not believe that American sidewalks are "paved with gold," come here to look for jobs, food, and better housing. A forceful message about pull factors flows from the fact that many of these immigrants succeed in finding all three. What's more, they learn from relatives and friends that their safety is guaranteed by law in this country. Finally, construction workers recruited to go to Panama, fruit pickers to Florida, domestics to Canada and Washington, D.C., and nurses to Britain learn that a better life awaits them when they arrive in a foreign country. In addition to improved living conditions in the United States, immigrants are able to transfer part of their income in the form of remittances to relatives and friends.

Immigration Model and the Caribbean Basin

The Commission staff began the discussion with an explanation of a possible immigration model and its main parts. The model was presented as having several purposes central to resolving emigration problems from the Caribbean. Its formula of setting up a large-scale amnesty program, establishing an enforceable law, and taking a look at the relation of the United States to other nations was presented as a means of reducing exploitative working conditions, enforcing selection of immigrants in a consistent fashion, and setting up an immigration policy with reasonably open access to the United States.

Subsequent discussion, however, noted that the model would have some adverse impacts on the Caribbean. It would increase the likelihood that cash remittances to Caribbean countries sent by Caribbean workers in the United States will decline and that trade relations will be dampened as U.S. immigration policy halts the flow of illegal entries across the border.

Nevertheless, most participants agreed that the United States should work on several of the immigration model's policies at the same time. One participant suggested that an overall hard ceiling or a "soft-marker" in the form of a target would show Caribbean countries that there are limits on immigration to the United States. As for Caribbean nationals who already are here, some persons present at the consultation felt that legalization of their status would abolish a deplorable employer custom where U.S. employers invite Caribbean nationals to work and then fire them when they assert their rights under U.S. law. One of the direct benefits of legalization discussed at the consultation was the protection of Caribbean nationals by the same health and safety regulations that protect U.S. citizens.

Representatives of Caribbean organizations present at the consultation expressed interest in the criteria used in the immigration model for selection of immigrants, particularly geographic boundaries and the family reunification provision. Discussion on the subject of boundaries revealed that the State Department was uncertain as to whether boundaries help or hinder racial discrimination in policy making. While it was felt that there was little justification for local ceilings on Mexico or Jamaica or Barbados, ceilings were seen to ensure that a minimum number of these immigrants enter the United States. Consensus emerged on the point that regional preferences can be used to discriminate against Caribbean nationals and therefore should not be included in the immigration model.

Two major criticisms of the family reunification provision were discussed: first, the provision makes it difficult for independent immigrants to come here; and second, it encourages fraud. The current preference structure was considered by most participants to favor Caribbeans who have a spouse, brother or sister, parent, or close relative in the United States. For this reason, they believe that many Caribbean nationals who would be welcome in the United States are overlooked by the selection process.

In responding to this description of Caribbean immigration, SCIRP staff members noted that the proposed immigration model would alleviate this problem because it favored "seed" immigrants. (A seed immigrant is someone without family in the United States, an "independent.") It was pointed out that the assumption implicit in the model was that in the past seed immigrants have proven their contribution to United States productivity.

This assumption raised questions about the criteria to be used for selecting seed immigrants to the United States and the number of these immigrants to be admitted. Several participants believed that the best system would be a nonpreference scheme on a first-come, first-served basis. Others opposed the idea of a nonpreference scheme, noting that it would result in worse backlogs than those at present. One attorney outlined a new point system, modeled after the Canadian, to take into account such factors as special talents, political victimization, and torture. Yet, House Judiciary staff present at the consultation subsequently noted that even a point system would make arbitrary decisions in rating applicants, perhaps with unintended consequences.

International Aid to the Caribbean

The United States is thirteenth among nations in terms of the percent of its gross national product that goes to foreign aid to all countries. Experts on the Caribbean basin nations stated, however, that developmental aid may not stem immigration to this country. In fact, some State Department officials believe that direct aid to Caribbean countries would increase immigration, because people who want to leave would have more disposable income. Saying that the United States is unprepared to control Caribbean economies, participants from the private sector strongly advised against combining international aid matters with immigration policy. They agreed that assistance wouldn't affect such key economic factors as incomes and labor surplus policies. There was a consensus that these two economic mechanisms would have to be retargeted before developed countries can make a dent in Caribbean emigration.

Some participants, however, believed international aid groups tend to neglect the relation of finance policies to immigration. Instead, they were seen to focus on preferential trade regulations that relocate assembly plants, cloth manufacturers, and chemical industries from the United States to Caribbean islands. Caribbean experts told those present at the consultation that new businesses may deepen the root symptoms of emigration, despite the economic reprieve jobs and tax revenues offer, because new businesses create jobs only for a fraction of the unemployed, which may reach 45% in countries like Haiti. It was agreed that international aid has failed to spawn the economic infrastructures necessary to secure the basin's future development.

Consensus emerged on the point that regional preferences can be used to discriminate against Caribbean nationals, and therefore should not be included in the immigration model.

Acculturation of Immigrants

Several participants were interested in the barriers that Caribbean immigrants face when they try to settle in American communities. The observations resulting from this discussion were:

- (1) Although they are American citizens, Puerto Ricans and other Spanish-speaking people often are labeled "immigrants" in Miami, New York, and Los Angeles. Some participants felt this problem is but one symptom of blanket discrimination against Spanish-speaking people in metropolitan centers.
- (2) In Miami, Spanish-speaking communities and blacks are beginning a dialog to improve the services provided in their communities.

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EXECUTIVE SUMMARYCONSULTATION
ON
IMMIGRATION PROBLEMS OF THE TERRITORIES

June 26, 1980

On June 26, a consultation was held on immigration policy for the U.S. territories.* This consultation was one means by which the Select Commission responded to its legislative mandate, which directed it to "conduct a study and analysis to determine whether and to what extent the Immigration and Nationality Act should apply to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the other territories and possessions of the United States."

In addition to the consultation, the Commission has contacted government officials and private persons in all the territories asking for responses to a comprehensive set of questions. Responses have been received from every territory, with varying scope and completeness. Commission staff also have met with delegates from the territories and their staffs, as well as with concerned congressional staff and persons from the Departments of Interior, State, Commerce, and Justice. Finally, Commissioners DeConcini and Fish, accompanied by staff, visited Puerto Rico and the Virgin Islands, May 23-27, 1980. Chairman Hesburgh visited Guam, the Northern Mariana Islands, and American Samoa, July 6-18, 1980.

TERRITORIES UNDER THE INA

The central question is whether all or any of the territories should receive special immigration treatment. As background to the consultation, participants understood the current posture of immigration law in the territories. Puerto Rico, the Virgin Islands, and Guam are fully covered by the Immigration and Nationality Act, and their citizens are United States citizens. For purposes of the Act, these territories are considered "States" and part of the geographic "United States." American Samoa is an "outlying possession of the United States" whose citizens are United

*The term "territories" refers to the offshore islands that are U.S. possessions but are not states. The Constitution speaks of "states" and "territories," and "territories" as used in this text is meant only to distinguish the nonstate units from states, with no pejorative or colonial implication.

States' nationals. It has its own legal code, which covers "Aliens and Immigration," and is affected by the INA principally in the nationality and naturalization title. The Northern Mariana Islands has entered into a Covenant with the United States that explicitly limits INA application there when the trusteeship is dissolved. The Covenant contains a citizenship provision incorporated into the INA and permits citizens to petition for immediate relative nonquota immigrant visas; but most importantly, the Covenant states that, with those exceptions, the INA does not apply, although the Congress may "by law" make applicable any or all parts of the INA once Commonwealth status is gained.

TERRITORIAL FRAGILITY

With the exception of Puerto Rico, which has a population approaching four million, the territories have few people: 120,000 in the Virgin Islands; 105,000 in Guam; 30,000 in American Samoa; and 17,000 in the Northern Mariana Islands. Although tied to the United States' economy, the territories are distinct by virtue of their cultures and locales: Puerto Rico and the Virgin Islands relate to Latin America and the Caribbean, Guam and the Northern Mariana Islands to Micronesia and East Asia, and American Samoa has extended family ties with Western Samoa.

Participants underscored the view that immigration can subject these island communities, particularly the four smaller ones, to economic, cultural, and political change. The population of the Northern Mariana Islands is so small, for instance, that any neighboring country or group of countries could soon inundate it within the 20,000 annual national immigrant visa ceiling. On Guam, an estimated 10% of the total population is illegal, and aliens make up 31.5% of the employed work force (12.8% nonimmigrants; 18.7% immigrants), 60% of the construction work force, and 7% of the student population. Over 120,000 American Samoans are in Hawaii or on the West Coast. As many are young adults, American Samoa has experienced a diaspora, with that age group being replaced as needed in the work force by relatives from Western Samoa.

For the Virgin Islands, there are estimates that 10% to 20% of the population is illegal, though other estimates place it at no more than 10%. The school-age population of the Virgin Islands trebled in four years, from the combination of Congress' 1970 creation of the H-4 visa category which permitted spouses and children of "bonded workers" (H-2's) to join their families, and the illegal residency of children unable to obtain free secondary school education on British islands. Both routes were used for children to join relatives. The children were able to take advantage of the Virgin Islands' free public schooling when the Federal District Court disallowed educational discrimination on the basis of immigration status. (*Hosier v. Evans*, 314 F. Supp. 316 [Virgin Islands, 1970]). The Virgin Islands' population density is now 22 times that of the United States; water use and food consumption indicate that the population may be greater than 120,000.

A consultation participant put the issue neatly. He said the real question is: "How do you avoid an undue concentration of aliens in small island communities? It really doesn't make much of a difference whether these are H-2 workers or undocumented aliens or even regularly admitted aliens for permanent residence. . . . [Spokespersons from the Northern Mariana Islands and Guam] are concerned not only with concentration of H-2 workers, but also with permanent immigrants from East Asia. It is not just what kind of immigrants you have, but the mere fact that you have these extremely small, fragile island communities that cannot absorb too many people from other countries."

SUBJECT SUMMARY

Most of the consultation on the territories concerned nonimmigrant aliens: temporary workers, tourists, foreign investors, treaty traders, and visa delays for crewmen and film crews. Other major areas of immigration policy--nationality and naturalization, immigrants, and illegal aliens--were addressed through nonimmigrant (particularly temporary worker) adjustment of status and the impacts of a legalization program for undocumented aliens.

TEMPORARY WORKERS

Participants pointed out that in times of natural disaster and of economic expansion--which Guam enjoys today, the Northern Mariana Islands is building toward, and the Virgin Islands experienced in the 1960s--island governments and employers find that the local work force lacks the skills and sometimes the numbers necessary to accomplish the tasks of rebuilding or of economic growth. They also find sometimes that the local population is not interested in developing the needed skills. Private employers, in particular, are pleased to have access to foreign labor. These workers are not only skilled and close-by, but are viewed as more manageable due to their transient position and the frequent dramatic wage differential between American and foreign employment.

It was noted during the consultation that the general problems associated with temporary worker programs are magnified in the territories, where a small number of people make a noticeable impact. The following information on temporary worker programs was supplied:

- o The Northern Mariana Islands controls its own temporary worker programs, issuing visas mainly to workers having family responsibilities at home. There is no provision for bringing spouses or children, and the small, homogeneous

island population permits close monitoring of temporary workers. Currently there are about 2,000 Filipino workers, concentrated in construction (roads, houses, airport), entertainment (hotels, 13 nightclubs), and service (hotels).

- o American Samoa controls its own temporary worker program through an immigration board made up of political and administrative leaders. Specially skilled workers are sought and island wage differentials make work attractive: the minimum wage in American Samoa is \$1.80 per hour; on Western Samoa, \$5.00 per day is typical and the Tongan wage is less than \$1.00 per day. Monitoring is close and sponsors set the departure date, though extensions are often given. Each year, fewer than 100 women come to work for six months in the canneries.
- o From December 24, 1952 to July 25, 1977, Guam's Department of Labor certified temporary workers under the INA through delegation of responsibility from the Attorney General. That authority was transferred to the U.S. Department of Labor after it was determined that local control was ineffective, led to a build-up of overstays, and permitted an adverse impact upon wages, especially in the construction industry where alien employment has dropped from 80% to 60% in the past five years. At present, Guamanian employers sometimes tailor job specifications to ensure no local availability and use alien workers for common tasks. Bankrupt employers have left aliens stranded to become illegals. Ten percent of the total island population is estimated to be H-2 (temporary worker) overstays.
- o The use of alien temporary workers in the Virgin Islands has been a practice for many decades. During the boom years of the 1960s, temporary alien labor constituted about half of the labor force, including 90% of the construction jobs and 60% of the service jobs in 1968. (During these years, the Virgin Islands Employment Security Agency and its Department of Labor controlled temporary worker certification.) In 1967, the U.S. Department of Labor began certifying alien temporary workers for permanent jobs, anticipating the eventual availability of sixth preference visas. Then, in 1970, Congress created the H-4 classification for dependents of H-2 temporary workers, allowing 20,000 to 30,000 relatives to join the alien workers already in the Virgin Islands. When the economy cooled off, also in 1970, the U.S. Labor Department essentially closed H-2 certification, and many of the earlier H-2 workers were able to adjust to permanent status. Nevertheless, there remain 2,505 known H-2 overstays accompanied by 2,442 H-4's. Some estimates place the illegal population of the Virgin Islands at between 10% and 20% percent of the total population; others suggest it is not greater than 10%.

TOURISM

The participants made it plain that tourism is a central economic activity for Guam, Puerto Rico, and the Virgin Islands. That activity differs among the islands, however, since the Caribbean islands draw mainly U.S. citizens, while Guam serves Japan and other East Asian nations. Tourism is limited on American Samoa, because of its geographic position and its control of visitors through its own permit system. The other territory anticipating limited INA coverage, the Northern Mariana Islands, is developing a substantial tourism capacity.

As noted at the consultation, tourist-related difficulties include:

- o heavy reliance upon temporary workers, in both construction and service jobs, to fill posts for which local labor is unskilled or uninterested;
- o the possibility that persons coming as tourists will move to the mainland and take up permanent illegal residence, a problem raised mainly in regard to Puerto Rico and the Dominican Republic;
- o for Guam, the perceived visa impediment to Japanese tourists and businessmen, leading Delegate Antonio Won Pat to introduce H.R. 848, which provides a visa waiver for nationals of countries designated by the Secretary of State to visit Guam for no more than 15 days. A general visa waiver bill for temporary visitors geared to refusal rates for nonimmigrant visas has also been introduced in Congress. While that bill might require significant training and increase of inspectors, the Guam-specific proposal could be administered relatively easily. There is little concern over illegal immigration from Guam to the 50 States, as flights from Guam are inspected upon arrival; and
- o Guam's authorities believe there is an important tourist trade ready to be developed on Hong Kong which could double the number of tourists to over half a million per year. Visa complexities inhibit that trade. Some result from the complicated nationality distinctions in that British colony, others from the INA (e.g., the Communist ineligibility provision requiring discretionary waiver for persons born in mainland China) [INA Sec. 212(a)(28)].

FOREIGN INVESTORS, TREATY TRADERS, AND OTHER PROBLEMS

The participants emphasized the need for an orderly economic development process that would protect the islands' social and

political situations and diminish any extension of mainland policies that are harmful to the islands. Thus, immigration policies should be sensitive to the particular situations of the territories. In the course of the consultation, the following aspects of economic development were discussed:

- o The Northern Mariana Islands and American Samoa have strict investment laws requiring substantial local control, and land ownership is locally controlled. Still, the Northern Mariana Islands is seeking investment; as one participant remarked: "Every Japanese tourist is a potential investor."
- o Guam encourages outside investors who are screened by the Guam Economic Development Authority. Currently, Japanese and Taiwanese are the main investors; all hotels except the Hilton are Japanese-owned. Treaty traders are desirable in top management positions, but difficulties affecting local control arise when treaty trader employees and temporary workers take permanent positions.
- o Because visas are required for foreign sailors from foreign vessels to go ashore--a disincentive to hiring foreign sailors for ships going to the United States--foreign sailors, including Trust Territory residents, are barred from shore leave on Guam since they rarely have visas. While the rule may be sensible for the American continent, it makes no sense in the Far Pacific.

LEGALIZATION

In the territories--those "extremely small, fragile island communities"--the impacts of any legalization program for illegal aliens may be of a quite different magnitude than that in the 50 states. Consultation participants noted that even though legalization would extend only to those persons already present on an island, ensuing demographic problems might be immense, particularly in light of increased congestion as families are reunited. Furthermore, any ethnic solidarity that existed prior to legalization could be upset, with concomitant political power shifts when the previously illegal population becomes citizens.

Participants suggested the following profiles for legalization effects on the territories, indicating that special provisions might be required, especially for the Virgin Islands.

- o The Northern Mariana Islands and American Samoa: Because they are now outside the scope of the nonimmigrant and the immigrant provisions of the INA, any legalization program would not touch them except through specific inclusion;

- o Puerto Rico: The number of illegal aliens was estimated to be between 8,000 and 40,000, a per capita incidence less than that estimated for the United States as a whole. Legalization would permit a more accurate census count.
- o Guam: An estimated 10% of the population is illegal, principally H-2 overstays. Legalization may solve the immediate problem, without undue adverse impact; the major problem is curtailing future flows of illegal aliens.
- o Virgin Islands: Illegal aliens should be divided into two types: (1) H-2 (2,505) and H-4 (2,442) known overstays; applicants for suspension of deportation, who must have seven or ten years continuous residence (662); and spouses and children of suspension applicants (1,300 estimated); and (2) all other illegal aliens (estimated up to 20,000). Many of the first group have been in the Virgin Islands for a decade and some have U.S. citizen children. The majority entered legally. They should be made lawful permanent residents, with action on relative visa petitions paced over a number of years to permit planning for population impacts. (Governor Juan Luis has proposed such legislation.) The second group would continue in its illegal status and be subject to expulsion through a stepped-up enforcement program. Future flows could be substantially limited through increased perimeter policing and employer sanctions with a tamper-proof identity system.

PRINCIPLES

The participants discussed three questions of principle: (1) whether uniformity should be sought; (2) the distinction between policies based on economic and political grounds; and (3) the measure of territorial individuality as a basis for special treatment.

To some participants, there existed a presumption in favor of uniformity, based on the view that Congress has plenary power over both immigration and the territories, and that, although federal-territorial relations are a domestic policy matter, both subjects have foreign policy implications. The urge toward uniformity, however, was considered offset by a history of disparate treatment of the territories, exemplified in the immigration area by the different temporary worker programs in Guam and the Virgin Islands and by the treaty-based exceptions from INA coverage for American Samoa and the Northern Mariana Islands. One participant noted that uniformity, depending upon how it is established, could enhance administrative consistency and adherence to basic due process guarantees that protect the dignity of persons subject to U.S. laws. Of the three major components of immigration law--nationality and naturalization, immigrants, and nonimmigrants--

federally uniform rules and standards were seen as necessary for the first two, while greater flexibility could be given in the area of nonimmigrants whose presence is not meant to be permanent.

Immigration policy toward the territories, one consultant urged, should be approached as a political rather than as an economic question. It is a matter of federal-territorial relations, grounded in the understanding that only Puerto Rico has apparent statehood potential and that the general federal policy is to encourage local political development. Perceptions were seen as important, too: the Northern Mariana Islands and American Samoa prefer their autonomy, while Guam and the Virgin Islands feel a lack of federal sensitivity.

Neither federal nor local administration has been problem-free in the area of immigration; neither has been astute in administering its labor laws or the labor portions of the immigration regulations. One participant observed that since administration may be poor whether in federal or local hands, it is better to place it under local authority, which at least must be politically responsible to island citizens for conditions in the territory. Another participant noted, however, that local political institutions may be too weak to overcome favoritism and corruption. Finally, participants suggested that a political focus could permit a mutually acceptable federal role, particularly in terms of guidance and assistance, should local governments be offered some control. An economic approach might require local absorption of all administrative costs, whereas a political view could promise federal assistance. Those present at the consultation felt that depending upon the viewpoint taken, federal intervention need not be an intrusion into or an abrogation of local autonomy. It was also noted that the administration has proposed in Congress the establishment of a Commission to survey the application of all federal laws in the territories and to recommend any appropriate changes.

MECHANISMS

If uniformity through a political approach that recognizes territorial uniqueness is desired, participants proposed that the status quo is inadequate. Three mechanisms were discussed that would alter that status quo:

- (1) Full coverage of all territories under the INA without specially tailored exceptions. This, of course, would deny that there are unique immigration problems in the territories that merit individualized response. For American Samoa, it would remove the Secretary of the Interior's authority to promulgate laws covering immigration and aliens. For the Northern Mariana Islands, Congress could act under Sec. 503 of the Covenant after the trusteeship is dissolved. Immigration policy toward Guam, the Virgin Islands, and Puerto Rico would be unaltered by this policy. Uniformity would be achieved to the dismay of

American Samoa and the Northern Mariana Islands, with lesser objections from Guam, the Virgin Islands, and majority forces in Puerto Rico.

- (2) Full coverage under the INA with explicit statutory exceptions. Within the immigration context, this would permit the Northern Mariana Islands and American Samoa to continue their present courses, but on the basis of statute rather than treaty. Guam and the Virgin Islands could possibly achieve those particular exceptions they currently propose. And Puerto Rico could request no exception. So practice could be tailored to meet expressed needs and the principle of uniformity would be established through full application of the Immigration and Nationality Act.

Two difficulties result from this mechanism. First, should any new need arise, a territory would have to return to Congress to request INA amendment. With territorial representation being relatively powerless and Judiciary Committee attention and expertise regarding territorial concerns somewhat limited, fine-tuning could be time-consuming and frustrating. Second, unforeseen juridical complexities might ensue, affecting such basic concerns in American Samoa and the Northern Mariana Islands as the land tenure system and the more general concerns of administrative authority and fiscal responsibility.

- (3) Delegation of rule-making authority through the INA to territorial governments, to an existing federal department, or to a specially created federal body. Because of Congress's plenary power over immigration and over the territories, it should be permissible for Congress to delegate rule-making and administration to territories (such delegation to a State or a group of States most likely would be unconstitutional). Were authority delegated directly to the territories through the INA, Congress might be giving up the type of federal check needed to ensure that national policies are not harmed. While such delegation could be predicated upon acceptance by a territory, it also could include territorial assumption of all administrative costs, making local government loath to accept responsibility.

The other delegation procedure would retain rule-making at the federal level. The immigration authority of the Secretary of the Interior, for example, could be extended to include Guam, the Northern Mariana Islands, and the Virgin Islands as it now exists toward American Samoa. (Puerto Rico is not under Interior supervision, so if it were to be included, a special agreement would have to be worked out.) The Departments of State, Justice, and Labor could act in an advisory capacity to ensure consideration of their interests. To some, however, this might be a step backward,

not only because the Interior Department has no special immigration expertise, but more because it might be viewed as reducing local autonomy.

In this light, some participants found merit in delegating rule-making authority to a special federal body, such as the Immigration Council now being discussed by the Select Commission. The Council could draw upon departmental resources and would have the mandate to develop the specialized expertise necessary to balance the national interest with territorial singularity. Because the Council would be a centralized policy-making and -recommending agency, issuing regulations in limited, designated areas and providing constant oversight of INA administration, it would be in a position to negotiate any special treatment requests with the territories. The Council could also protect territorial integrity as necessary by advising Congress that special legislation in addition to regulation is needed: for instance, to preserve landholding rights. Finally, it could assist the territories in obtaining federal administrative attention. This delegation would institute the concept of uniformity, making immigration policy under the INA responsive to the special needs of the territories.

CONCLUSION

The June 26 consultation was a landmark in the Select Commission's efforts to respond to the territorial issue in its mandate. The importance of territorial distinction in the scheme of federal immigration policy was underscored. And participants agreed there is a possibility that a responsive mechanism could be created to the satisfaction of all parties.

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EXECUTIVE SUMMARY

CONSULTATION ON

CIVIC AND LANGUAGE EDUCATION OF
IMMIGRANTS AND REFUGEES

July 1, 1980

MORNING SESSION - Is Effective English a Prerequisite for Full
Participation

Discussion began with the suggestion that our society is held together by two bonds: (1) the ideal of opportunity in the marketplace, and (2) the ideal of liberty and equality in the political culture. The group generally agreed with this analysis and focused discussion on the question: Given these shared ideals, is effective English a prerequisite for full participation in American society?

The first theme to emerge in the subsequent discussion was the importance of ethnicity both to the individual and to society as a whole. There was unanimous agreement that it was not necessary or desirable to eradicate or deny the immigrants' languages or cultural heritages while teaching them about the United States and American ways. In contrast to the old "Americanization" policies of the 1920s, there was a consensus that as a nation we must seek a policy which would allow for the richness of cultural diversity, while maintaining a civic identity consistent with our own historical roots and traditions.

Beyond this general consensus, however, there was a great deal of debate and disagreement concerning the way and extent to which our national language policy should direct the education and the acculturation processes. Several participants argued that the way "a country maintains its integrity and existence is through a common language," and that "the primary goal of the educational process for immigrants is to teach English language and American values." Other participants offered a different position for consideration: the government could benefit if we developed language policy in a larger context which took advantage of the foreign language skills of immigrants.

Two broad and possibly contradictory objectives of our language policy were articulated during the consultation: (1) the goal of English language acquisition for adult immigrants and their children, and (2) the development of multilingual resources in the society as a whole. To accommodate both objectives, it was suggested that policy initiatives address three categories of needs: (1) the needs of immigrants to cope, (2) the needs of society to share common values, and (3) the needs of the nation to function in an international setting.

The group generally agreed that all immigrants and refugees, both children and adults, usually need some minimal competence in English as a necessary survival skill in this country. They did not agree on how much English ability was necessary for effective participation in American life, particularly for older immigrants living in ethnic enclaves. Nor was there general agreement about the psychological and social needs of immigrants to hold on to their own language in order to maintain a sense of self-worth and ethnic integrity.

In the second category, the participants discussed the needs of society and the unifying and divisive forces of language. Some participants suggested that a common language provides the basis for a common social and political experience. There was general agreement that participation is a crucial element of that shared experience, and that full participation requires some degree of competence in English.

Discussion of the third category, the needs of a nation among nations, focused on the demands on the United States as a participant in a multilingual, international community. It was noted that the President's Commission on Foreign Language (1979) described our declining number of foreign language speakers and chronicled the poverty of foreign language programs in secondary schools and in higher education. Given the findings of that Commission, consultation participants proposed that the United States draw on the potential of our immigrant population as a national, multilingual resource.

The debate on general language policy moved into a consideration of models of language teaching programs and an analysis of the shared elements of those programs. Throughout the discussion, the distinction was made between the education of children and the education of adults. Three general models emerged: (1) bilingual education, (2) English as a second language (ESL), and (3) individual, cross-cultural teaching using community resources.

The bilingual education model is one that is currently endorsed by the Department of Education. This model is supported by research which indicates that children cope better both cognitively and emotionally when they are taught literacy skills in their native language first, then make the transition to English. Dr. Gray, Center for Applied Linguistics, identified the critical issue in bilingual education as "transitioning"--knowing when English should be brought into the classroom. The objections to bilingual education raised at the consultation fell into two categories. The first was that even if bilingual education is good for some people, it is not feasible when there are numerous languages which must be served simultaneously in one setting. The second category of

objections argued that bilingual education does not take enough advantage of the new immigrant's desire, motivation, and ability to learn English in order to integrate successfully into American society.

English as a second language (ESL), the second model discussed at the consultation, was originally developed for a specific, literate, educated population and subsequently expanded to a more general non-English-speaking population. There was little disagreement that ESL is particularly effective for adults, and the Fairfax County Public School model was demonstrably successful for children. Several caveats regarding the ESL model were raised, however. First, ESL must be adapted to the population for which it is offered, either as English for special purposes or as a response to specific community needs. Second, effective ESL programs should have bilingual counselors who can communicate with the students (adults or children) in their native languages when necessary.

The third model was offered more in the way of an exploratory suggestion than a formalized program. It was pointed out several times that much of the language and civic education of immigrants occurs not in the classroom at all, but rather in society. The media (especially television), friends, and encounters at work all contribute to the immigrant's education. It was suggested that the United States try to capitalize on informal cross-cultural experiences and that federal incentives might be offered to businesses, media, and communities to encourage this kind of educational activity.

As with the first two models, several reservations were raised. First, some considered it a waste of federal funds to try to encourage businesses in this endeavor, since they would provide English-language training on their own, if and when it was in their interests. One participant felt that money could be better spent by universities to train teachers of immigrants. In addition, several other participants noted that a great deal of this interactive teaching goes on informally in successful, established programs, although it was noted that much of this interaction occurs within ethnic groups rather than between ethnic groups.

AFTERNOON SESSION - Public and Private Responsibility for Civic Education

The second half of the daylong consultation centered on public and private responsibility for civic education and the content of that civic education. The discussion revolved around two central questions: (1) Is there a responsibility on the part of organized

society to do something formally to help people enter the process? and (2) In what ways can and should immigrants be required to demonstrate their commitment to the United States?

All participants agreed that, in many cases, newcomers experience considerable cultural conflict between the values of their native country and those of their new country, and that these cultural differences should not be underestimated. Participants felt that those involved in civic education should be aware of the different kinds of encounters which some of these people have had with governments in the past (Russian Jews, for example) and which put extra stress on their expectations of the United States government and on official government responses. Similarly, it was pointed out that for some new immigrants, there are elements of core American values--liberty, justice, equality of opportunity--that do not exist in their home cultures (equality for women, for example).

Several participants suggested that an overwhelming proportion of acculturation and civic education takes place outside formal institutions. The workplace, the media, and informal community groups were seen to share in this process. Nevertheless, it was argued by others that in spite of the impact of these informal acculturation agents, there is a place for formal instruction in citizenship education. Immigrants, these participants believed, should have a setting in which to confront and resolve these cultural conflicts, rather than let new Americans "drift into citizenship." Public schools and naturalization procedures were the two agents of this formal process noted by the consultants.

Subsequent discussion questioned how well public schools are teaching American civic culture to fifth-generation Americans; one participant observed: "Some children do not have the vaguest notion of what their public responsibilities are." New immigrant and refugee children were seen to need an even more carefully conceived civic education curriculum if they are to make a successful transition into American society. Two model civic education programs were described. One project at Stanford University (Summer 1979), designed by the Center for City Building, Los Angeles, involved students in analytical thinking and group-process skills. The second model, the Fairfax County Public School program, which was developed using local resources and combines strategies of English language acquisition to teach content based on Immigration and Naturalization Service citizenship materials, was described at the consultation.

Naturalization procedures of the Immigration and Naturalization Service were described by (or for) consultation participants as responding to the need for adult citizen education. It was

suggested that the naturalization procedure, as now interpreted, is less effective than it could be. Ideally, participants felt the naturalization process should take advantage of the applicant's high levels of motivation; that its civic education policy should focus attention on this frequently missed educational opportunity.

Within the naturalization procedure, the language requirement was the subject of some debate. The objections raised to English as a naturalization requirement were summarized in the statement: "One need not know English to be a good citizen. We should not equate learning English with adopting American values."

The final issue discussed at the afternoon session of the consultation stressed the need to educate potential citizens for the realities of American life as well as the ideals of American civic culture. A concluding statement noted that: "If the system works for people, if they can provide for their own survival needs, [they will not have to be told about American civic culture], they will know what it means."

PARTICIPANTS

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EXECUTIVE SUMMARYCONSULTATION ON
IMMIGRATION AND RESOURCES

July 9, 1980

Immigration and Population

The consultants advised the Select Commission on Immigration and Refugee Policy, on the matter of immigration and population, that if net migration were held to 250,000 per year, and the present rate of childbearing remained constant, the current population would grow from 222 million now to over 260 million in 2030, and then decline. If net immigration were 500,000 per year, the population would reach 277 million before beginning a very slow decline. With a net immigration of 750,000 per year, the population would be over 290 million by 2030, and there would be no end to growth in sight. If Americans in the future choose to have larger families, the population obviously would grow even faster, unless the immigration rate were reduced.

Each member of the panel addressed an aspect of the principal subject, as follows:

The Environmental Impact of Immigration on the United States

Stating that the environmental impact of immigration on the United States is the same as it would be from any addition to the population, a panel member asked whether the United States can afford a much larger population.

By environmental standards, the consultant continued, the answer is no. Given the drain on national resources, our increasing dependence on resources outside our boundaries, the deterioration of environmental life-support systems, and the growing trouble we have been experiencing in maintaining our "standard of living"--the country is already overpopulated now.

Americans, living in a high technology society, use twice as much energy per person as most Europeans and perhaps one hundred times as much as people in poor countries. Because we are the world's leaders in resource consumption, any additions to our population have a far greater impact on the world's environment than the same number of people added elsewhere.

An increase in population can reverse any progress the United States has made in abating our very serious environmental problems. For example, the consultant said that net migration of 750,000 people a year would lead to an increase in overall environmental impact by 30% in 50 years, other things being equal.

Some kinds of environmental problems will increase disproportionately, growing worse at a higher rate than that of population growth. There can be "threshold effects." A comparatively small population increase can greatly intensify a problem like acid rain, or suddenly push a polluted stream toward stagnation.

Overpopulation clearly threatens natural life-supporting ecological systems such as those that moderate climate or regulate the water cycle, generate and maintain soils, control pests and disease, pollinate plants, supply food, or provide new sources of foods, drugs, oils, fibers, and a myriad of other useful products. Many species face extinction because of population pressures.

Environmental pressures are a limiting factor on how large a population the United States can support if our high standard of living is to be maintained, the panelist concluded. There has to be a trade-off between U.S. births and immigration.

The Impact of Immigration on Food Production:
Land, Water, and Energy Resources

Americans are the best fed for the least amount of money in the world, another panelist declared, but population pressures might change that.

Total crop acreage in the United States is 360 million acres, with very little additional arable land available. Yet we are losing large amounts of our valuable agricultural land--each year 1.3 million acres net are lost to highways, urbanization, and other special uses. What croplands remain are subject to ongoing erosion. Currently, U.S. farmers are able to offset ongoing degradation and keep crop yields increasing by using larger amounts of fertilizer and pesticides--all of which amounts to increased fossil fuel expenditure. But, with both land availability and the quality of land declining, and with rising energy costs, the participant observed that the overall production capacity of U.S. cropland cannot be expected to increase to meet the basic needs of a large population.

In addition, crops use large quantities of water. Agriculture is the largest consumer of water in the United States, accounting for 85% of water used. Not only is pumping the necessary irrigation water growing more and more expensive; other demands on water use

from urban population, industry, and fossil-energy mining indicate that the proportion of water allotted to agriculture will decline.

Energy scarcity is another concern for U.S. agriculture, the panelist explained. About 17% of the nation's energy is consumed in the total food system. Already growers are feeling the pressure of high fuel costs and can no longer afford to produce alfalfa and other low-value crops.

During the next 25 years, U.S. population is projected to increase 24%. Assuming only a limited increase in agricultural production, the expert advised this 24% increase in population will mean that about all the food produced in the United States will be consumed here, practically eliminating agricultural exports, currently worth \$30 billion a year, which now help pay for our immense oil import bill. This would also eliminate the largest food exporter--the United States--from world markets at a time when the world's population will be increasing its demands for food.

Energy Resources Available to the United States, 1985 to 2000

Energy and the gross national product, a panelist informed the Commission, have grown hand in hand at 3% to 3-1/2% per year for almost 40 years, but U.S. energy growth is slowing down and will essentially level off in the 1990s.

There is no resource base to justify predictions of increased yields of oil and gas, he added. Proved U.S. reserves of petroleum liquid peaked at 47 billion barrels in 1970 and then declined to the present level of 37 billion barrels. In the 1950s we found 1-1/4 barrels of oil for every barrel extracted, but by the late 1970s this had dropped to about 1/2 barrel per extracted barrel. Another dwindling energy resource, U.S. natural gas, peaked in the early 1970s, and for the past ten years we have been using 20 trillion cubic feet (TCF) a year and finding only 10 TCF. Natural gas imports, he cautioned, will be more limited and expensive than oil imports.

As for other energy resources, the panelist advised that coal, regardless of the present environmental and sociological constraints on its use, is the only fossil fuel capable of increased production. Nuclear energy has been a major disappointment. (There are serious doubts that our uranium resources, he remarked, can support a large light-water reactor program.) Solar energy will be slow in developing and, contrary to popular opinion, quite expensive.

What we must understand, he warned, is that energy costs, in general, will rise continually. The facts point to the inescapable conclusion that the energy growth rate will drop from 3% to 3-1/2% a year to less than 1% a year by 2000, occasioning some fundamental national problems for which we have no precedent. In terms of per capita energy consumption, growth in population from immigration will, of course, worsen the situation for everyone who is vying for our increasingly scarce energy resources. The result, under these circumstances, must be a reduction in our standard of living.

Immigration and Global Energy Natural Resources

The next panelist began his remarks with a quotation from an article by the distinguished biologist and human ecologist, Garrett Hardin, which he regarded as one of the most lucid statements ever made on immigration, as follows:

Our biggest trouble is that unfortunate statue in the New York harbor, "Give me your tired, your poor, your huddled masses yearning to breathe free. . . ." France gave us this statue in 1886, when we were young and foolish. France has no such inviting statue at its border, nor does any other nation. Other nations know better. We Americans still suffer from an adolescent's illusion of unlimited power to do good.

The principal source of confusion in the immigration debate is that humans are always able somehow to support themselves--but in the earth's system of energy and matter, this is not true. The industrial system of the United States at present derives about 49% of its energy from petroleum (nearly one-half of which is imported), about 25% from natural gas, 18% from coal, and 8% from hydroelectrical and nuclear sources. Converting the energy from coal and natural gas into that of an equivalent number of barrels of oil, the panelist noted, the average amount of fossil fuels required to support one person in the United States for one year amounts to 30 barrels of oil-equivalent from oil, 15 from natural gas, and 11 from coal, or a total of 56 barrels of oil-equivalent per capita per year. These fossil fuels are nonrenewable resources. They can be used only once, and after that they are gone forever.

The significance of this to the immigration problem, the expert panelist explained, is simply this: The physical cost of maintaining one immigrant in the United States for one year, in terms of fossil fuels alone, amounts to about 56 barrels of oil-equivalent. Should the period of residence be as long as 30 years, then it would require about 1,680 barrels of oil-equivalent to support that immigrant for this period. From domestic sources that would be a net drain that could not be repaid in any manner whatever. However, so long as imports are available, this amount of oil equivalent could be obtained from foreign sources, as long as we could afford to do so.

If the immigrant had to pay a "dowry" of the equivalent of 56 barrels of oil at \$30 per barrel, it would amount to about \$1,680 per year. Of course, he remarked, that is true for the energy situation as it exists today, but that situation is rapidly deteriorating. About 90% of the oil in the United States will be exhausted within the next 25 years, and the annual production rate will decline to about half of the peak rate. During the past few centuries we have known nothing but sustained exponential growth, and during that period we have evolved what amounts to an exponential-growth culture. But that phase of history is about over, and as yet we are ill-prepared to cope with the consequences, the Select Commission was advised. The immigration problem is an integral part of this situation. In 1886, when we were in the midst of the growth phase, when land was abundant, and cheap labor was in demand, the inscription on the Statue of Liberty made a great deal of sense. But this is no longer the case. With rapidly diminishing energy and other mineral resources, with the growth phase about over, and with massive domestic unemployment, the time is overdue for a fundamental reconsideration of our present predicament.

Of even greater importance is the fact that an open-door immigration policy by the United States can do very little toward ameliorating the world population problem of overcrowding and famine, but it has the potentiality of destroying what remains of "the good life" in the United States.

The Impact of Migration on Human Resources

The last panelist to address the Commission and its guests noted that in addition to natural resources there are human resources, men and women themselves, their ideas and skills, their drives of curiosity and acquisition, their directed energy in work to be considered.

The distribution of human population with respect to the availability of natural resources (land, water, energy sources, minerals) is very uneven. Migration has always been an important way of making the most effective use of resources and achieving human progress. However, international migration on the scale required to fully relieve either the pressures of overpopulation or the scarcity of natural resources found in some underdeveloped countries is probably impossible within the foreseeable future.

Still, it is not surprising, he noted, that extensive out-migration exists as one attempt to alleviate the poverty found in such countries as Haiti, which has a very small land-to-person ratio and one of the lowest life expectancies in Latin America. Even in countries of higher life expectancy and less extreme poverty, such as Mexico, a severe imbalance exists between human and other resources.

During the next 20 years, the number of new entrants to the labor force in Mexico, as well as in the Caribbean basin sending countries (Colombia, the Dominican Republic, Haiti, Jamaica, Cuba, El Salvador, and Guatemala), plus Ecuador and Peru, will be extremely large and beyond these countries' capacities to create new jobs even under optimistic assumptions about economic growth rates and government job-creation efforts. If these additional entrants remain in their home countries, many of them are bound to be unemployed or grossly underemployed. As migrants to the United States, however, they could fill needed jobs, and by their work and consumption, contribute to economic growth in this country. By remitting part of their wages to their home countries, they could contribute to the stock of capital and human resources or to local demands for goods and services, thereby helping to facilitate economic growth and social development. Even more important, when they returned home, as most of them would, the experience they have gained concerning the desirability and feasibility of small family size could be a powerful influence in diminishing rates of population growth.

National economic growth is a necessary--though by no means sufficient--condition for overcoming poverty and the excessive waste of human resources that it entails. Clark Reynolds (1980) has calculated that, based on a 3% rate of growth in the U.S. gross national product (from \$1,887 billion in 1977 to \$3,862 billion in 1977 dollars in the year 2000), a labor force of between 132 and 147 million workers will be required by the end of the century. A continuation of the present U.S. labor force participation rate of 63.3% of the adult population would result in a shortfall of 12 million resident civilian workers from Reynolds' lower estimate of labor demand by the year 2000. Part of this labor supply deficit could be made up by increased temporary migration from Mexico, the panelist suggested.

The most urgent question for policy planning and research, he said, is not "What can be done to keep them out?" but "What can be done to maximize the benefits and to minimize the cost of the migration that is bound to occur, for all parties involved?"

Conclusion: Points to Consider

The moderator summed up the major points made by panelists.

In formulating immigration policy, it would be desirable to have consensus on U.S. demographic goals (How large a population should the United States have by the year 2030 or the year 2000?). Such a policy would indicate an understanding of the relationship of national and world resource use to immigration.

But we do not have a population policy, and it is not the responsibility of this Commission to recommend one. It is, however, our responsibility to point out the failure of the United States to develop a population policy.

It is also our responsibility to point out what is known and not known about the relation of immigration to resource use. Experts generally agree that there are clear limits to land and energy resources and that population growth in the United States will tend to bring us closer to those limits. Large-scale immigration growth might constitute a serious danger in accelerating the use of those resources.

Nevertheless, it is also generally acknowledged that transfers of population sometimes result in better overall or world resource use. This is done by taking people from areas where the individual impact on the environment tends to be extremely negative to another place where that impact is actually less so. It is not clear from the evidence that immigration to the United States has a negative effect on world resource use and management, since there may be a net reduction in population, the development of better environmental consciousness and habits, or the stimulation of human innovation and ingenuity leading to resource generation as a consequence of immigration.

One must be careful of prophecies of doom, but one must also be extremely careful that there is a real possibility that large-scale increases in immigration to the United States would impinge negatively on the quality of the environment and the use of resources in this country itself.

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EXECUTIVE SUMMARYCONSULTATION
ONTHE RELATIONSHIP OF IMMIGRATION
TO ECONOMIC DEVELOPMENT AND PRODUCTIVITY

July 15, 1980

The consultation focused on the nature and extent of the relationship of immigration to economic development and productivity. It further sought to develop specific recommendations on admissions criteria for Category III of the immigration model under consideration by the Commission.

Impact of Immigration on U.S. Economy

At the outset, the following assumptions were made:

- ° that illegal immigration would be controlled;
- ° that applicants for immigration would meet a test of labor market protection;
- ° that applicants would not be in dependent age groups; and
- ° that applicants were otherwise qualified.

Given these assumptions, the participants considered what the economic impact would be over the next 20 years if 250,000 immigrants (above present levels) were admitted each year.

The discussion that followed revealed a certain amount of disagreement on the nature and extent of the resultant economic impact. Some argued that the 6.9% increase in the labor force attributable to immigration between 1975 and 1976 (the latest year with available data) was too small a factor to be a relevant indicator. Others felt that it was significant. One economist noted that the 250,000 figure would make up one-half of the decline in the growth of the potential labor force that would occur naturally.

Nevertheless, while there was no consensus that expanding immigration at that level would constitute a large contribution to U.S. economic prospects, the general view seemed to be that it would have a modest impact. There was agreement that immigration is only one of many ways of producing economic growth, and not the most significant one.

The following comments represent the views of the panelists:

"The number seems so small. This may not be a bad time to consider liberalizing the immigration law." (Daniel Saks)

"Immigration is 98% irrelevant to economic development and productivity. It is wrong and dangerous to hinge economic policy on something external like immigration." (Markley Roberts)

"The immigration numbers are perhaps small . . . but this is a segment of economic policy over which we can exercise some control." (Leonard Hausman)

Policy Considerations in Admissions Criteria for Independents

One economist expressed concern about the future size of the dependent (elderly/disabled) population. In 25 years, he said, 40% of the federal budget will be spent on the elderly. In order to sustain these federal programs, policies must be devised to spur productivity. Although the immigration numbers are small, an infusion of very skilled workers could significantly increase national output.

Another participant suggested that by 1984-85 there would be entry-level labor shortages. He said, however, that these jobs could be performed by robots in order to keep the United States competitive. He suggested that the United States may move increasingly to high-technology jobs and that the focus of the third category should be on the service sector or skilled workers. Other persons suggested that, despite the 8% unemployment figure, there would continue to be geographical and occupational labor shortages, and they foresaw a mix of skilled and unskilled labor shortages.

Goals of the Independent Category

While it is clear that immigrants admitted under family reunification also contribute to economic productivity, they are not specifically selected for that. There exists the possibility of choosing immigrants by criteria which would maximize their economic benefit while minimizing their negative labor market impact. Economic benefit, however, is only one of the goals previously set forth for the independent category of immigrants as proposed in several models being considered by the Commission. The other goals of an independent category were stated as follows:

1. To make a small but important contribution to American economic life by stimulating investment, creating jobs, and contributing to our social security system;
2. To add to our social and cultural life by strengthening family structure and multilingual and cultural resources, and by enhancing the values of hard work, thrift, and future planning;

3. To make an important potential contribution to the population that the United States needs to maintain optimum defense capability;
4. To demonstrate the responsibility of the United States in a world of poverty and aspiration, and to strengthen the image of the United States as an open and democratic society;
5. To enhance the opportunity for persons to immigrate to the United States who come from new countries with little or no base here for family reunification (67 such countries have been created since 1945) and from old countries, such as Ireland, whose base has been eroded;
6. To strengthen relationships with other countries by providing a legal channel of migration for persons who otherwise would be prevented from immigrating (and who would resort to illegal immigration). This would ensure a continued flow of remittances to these countries and promote the stimulation of contacts and the exchange of ideas and technology between them and the United States; and
7. To make it possible for the United States to have a modest increase in immigration, while controlling its number and quality:
 - a. the number of independents can be reduced when the President and Congress decide to admit more than 50,000 refugees without preventing the reunification of families;
 - b. the number of independents can be adjusted downward or upward in the light of changed economic conditions or new fertility patterns every five years, without interfering with family reunification;
 - c. the criteria for selection of independents can be established to increase positive benefits to the United States, as described above.

The question of criteria speaks to the issue of economic development and productivity, which was addressed by this consultation. Four primary methods of choosing independent immigrants were discussed: the job-offer system; a point system, an open system, and an auction system.

The Job-offer System for Immigrants in the Independent Category

A job-offer system, as a basis for determining admissibility of new immigrants within Category III, was discussed in some detail. Such a system would entail the publication of either excluded or included occupations by the Secretary of Labor, a job offer by a domestic firm, and the application to INS for a visa by the prospective employee. There was some support for this system, but it was by no means unanimous.

The pitfalls of this system as enunciated by participants were:

1. Most of the requests for visas would come from those already here, frequently students, who are known by or are already working for employers. This is known because as many as 50% of the present immigrant petitions based on third and sixth preferences come from persons already residing in the United States. Thus, the goal of bringing in unskilled, entry-level workers through the independent category would, to that extent, be defeated;
2. Since the job-offer system probably would be combined with a list of excluded occupations and since that list would probably exclude entry-level occupations, the particular goal of bringing in unskilled, entry-level workers with a green card would be frustrated;
3. The operation of prevailing kinship and other international networks would admit those with existing strong ties, reinforcing patterns of migration rather than opening up opportunities for new immigrants in countries whose people do not have the basis for family reunification;
4. The job-offer system probably would encourage some fraud through the creation of dummy corporations;
5. It might give undue advantage to large corporations who already had international recruiting programs in existence; and
6. It might put too much initiative in the hands of employers who wish to avoid hiring American labor.

Against these objections, it was argued that the principal advantage of the job-offer system was that it would maximize the benefits of the market system. It would provide incentives for both employers and potential employees to find each other for their mutual advantage and the economic betterment of society as a whole.

The Point System for Immigrants in the Independent Category

Although some participants maintained that there was a need to "select" new immigrants and expressed support for this concept, "there was no agreement on the weighting of characteristics for awarding points for admission." It was argued that there was no possible way to weigh those characteristics which traditionally have been thought to be the most desirable, such as initiative, resourcefulness, and adaptability. On the other hand, it was pointed out that the point system could be used to enhance productivity. Points could be given for skills, a certain amount of English-language ability, and other characteristics toward that end.

A decision was made to hold a separate consultation on the possibilities and potential of the point system in choosing independent immigrants.

The Open System for Immigrants in the Independent Category

The open system (first-come, first-served) received brief attention. Several participants favored this system because of its inherent self-selection process. The obvious shortcomings were the impossibility of meeting the demand and the certainty of the build-up of backlogs unless they were cleared periodically following a lottery.

The idea of a lottery whether connected with a point system, a job-offer system, or an open system was not discussed in detail. That discussion was left for the continuing working group.

The Auction System for Immigrants in the Independent Category

A new option suggesting that domestic firms bid on immigrant visas for workers was considered. Under this system, the federal government would sell an announced number of visas each year. Proponents argued that this was a way of ensuring that persons with needed skills would be recruited. The system would deal with excess demand and the federal government would receive the "rents." Critics reacted strongly to this proposal, citing the possibility of a black market created by firms illegally selling visas. The delegation of this authority to domestic firms, opponents asserted, could lead to abuses similar to the alleged sale of student 1-20 forms by universities. The delegation function was also seen as a possible means by which employers would set the criteria for immigrant admissions to the United States.

None of the conferees agreed on a "best system"; some suggested that the combination of the first three (job offer, point, and open) would produce the greatest diversity in the population. One participant recommended that available visas in the third category be allocated over a five-year period to each of these three systems as an experiment. An assessment based on economic development and productivity could be made at the end of that period to determine the most beneficial and efficient allocation system.

Since this was not a consultation on the criteria of choosing immigrants, but on the relationship of immigration to productivity, it was not expected to achieve agreement on the criteria issue.

A separate consultation was scheduled on the point system, and an interagency working group was set up to explore the criteria for selecting independent immigrants, with particular attention to be paid to minimizing negative labor-market impacts.

On productivity, the following can be said:

- (1) Legal immigration has tended to increase productivity;
- (2) An increase of 250,000 would be marginal, although-- depending on its quality--it could be significant; and
- (3) Immigration is not among the most important ways of increasing productivity, and immigration policy, therefore, should not be determined by productivity goals alone.

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EXECUTIVE SUMMARY

CONSULTATION ON

IMMIGRATION AND PROTECTION OF THE U.S. LABOR FORCE

July 16, 1980

A consultation on "Immigration and Protection of the U.S. Labor Force" was held on July 16, 1980 to analyze the pre-1965 and present labor certification programs and to explore alternative ways of protecting the U.S. labor force in the future. Participants included representatives of the Department of Labor, INS, the AFL-CIO, the Association of Immigration and Nationality Lawyers, the Center for Labor and Migration Studies, and the Select Commission staff.

The discussion began with the premise that there is a need to protect the U.S. labor force from the importation of foreign workers and that some criteria, likely including a labor force-related one, are needed for selecting nonfamily immigrants or refugees to the United States.

Aside from providing a symbol of protection for the U.S. labor force, the present immigrant labor certification program was severely criticized as being insignificant in scope, having no teeth to ensure any real protection, being unable to serve employers well, encouraging circumvention of U.S. immigration laws, and as being time consuming, costly, and contentious to all concerned. All these points had been made repeatedly in testimony before the Select Commission at public hearings by persons with different backgrounds and interests who were knowledgeable about the system.

Little has been written on the pre-1965 labor certification program, under which workers were admissible unless the Secretary of Labor ruled that there were sufficient workers in affected occupations and locations. Participants, however, disagreed on the program's ability to protect the U.S. work force. On the one hand, the earlier labor certification procedure was described as rarely used and then only as a cure after the problem had occurred rather than as a preventive measure. Another participant saw the pre-1965 system as a program which was not adequately enforced, and which was never given an honest test or sufficient funding. It was thought that if a "negative" labor certification program were enforced, properly funded, and loopholes closed, it would protect the U.S. work force.

The alternative of protecting the labor force through a list of "excluded occupations," perhaps by geographic location, was considered. While such a list would provide a simpler solution and would be easier to administer than the current case-by-case testing of the labor market, it was argued that generating

sufficient and timely data on the labor market could be a major problem. Additionally, certain participants felt that, in cases where an employer could not find an employee domestically, some provision for exemption from the list would be necessary. This, it was feared, could lead quickly toward the present system where case-by-case review is required.

The difficulty in developing an excluded list of occupations was considered. The present "Schedule B" list is essentially such a list and includes primarily nonskilled or low-skilled entry-level jobs for which a person can be trained in three to six months. One participant noted that, while immigrant workers could not be brought in for these jobs, these were precisely the jobs illegal aliens were taking because Americans were unwilling to fill them. Alternative solutions to this dilemma, such as raising wages and working conditions, restructuring jobs, or introducing new technology were discussed.

It was suggested that a lottery system might protect the U.S. labor force as well as or better than a more targeted system. Such a lottery could work on its own or be combined with a point system or an excluded-occupation list where applicants for "worker" visas would have to "qualify" to participate in the lottery. Reducing the potential number of applicants through a qualifying test was seen as advantageous in that it would make the system more manageable and would not raise the expectations of large numbers of persons when only a small proportion of them could win. A lottery was favored by some participants because it would reduce fraud and remove the U.S. employer, who was seen as discriminating against U.S. workers, from the process. On the other hand, other participants felt that a lottery would not bring needed workers and could be a problem because immigrants winning the lottery would not be guaranteed a job. Others saw it as "giving up" on trying to protect the labor force from foreign workers.

Administering a lottery with an excluded list of occupations posed a problem. Although discussion ensued on admitting these workers conditionally and postchecking them one year after entry to ensure that they were not working in an excluded-list job, this was not considered to be an administratively feasible or practical solution. Trying to limit the occupational freedom of immigrants, while perhaps desirable from a labor market protectionist point of view, was seen as abusive of human rights and as creating a second-class worker system.

Job offers were discussed as a possible control mechanism. Although job offers enable prospective immigrants to pass the public charge provision of the INA, they were seen by some participants as unfair because they favor persons with ties in the United States rather than true "new seed" immigrants. Further, it was argued, the incidence of fraud and illegal entry so prospective employees can find or train for a job make this an undesirable alternative. The least desirable aspect of job offers was seen as the likelihood of employers "head hunting" for employees abroad. Although this was considered undesirable in itself, because it would favor large employers, participants found it even more objectionable because it might lead to fraud through the creation of dummy corporations.

Aside from the problems expected from the alternatives for selecting "new seed" workers, there was a general consensus that some persons of exceptional merit are desirable. It was felt that "world class" workers should be given some type of preferential treatment without competing in a lottery, under a point system, or requiring a job offer. The present "Schedule A" list was generally considered to be too narrow and in need of redefinition.

At the conclusion of the meeting, it was decided that some useful alternatives worthy of further development had been introduced. As a result, the participants formed a working group to further explore the issues and options. The group decided to meet again on August 13 to discuss ongoing work. Assignments were made to:

- o develop a plan for a lottery system;
- o develop a broadened definition of Schedule A occupations; and
- o develop a plan for implementing a system based on a "negative" list of occupations, but minimizing administrative problems.

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EXECUTIVE SUMMARY

CONSULTATION ON

SEASONAL WORKERS: NEED AND SUPPLY

July 21, 1980

INTRODUCTION

The proposals discussed during this consultation focused on both immediate and long-range options for admitting temporary foreign workers. It was concluded that a program whose primary function is to legalize the status of the undocumented workers already here might be very different in scope and operation than one designed to admit foreign workers into a population where the undocumented flow is negligible. There was consensus among the participants that continued illegal migration is undesirable, as are the options of "sealing the border" and mass deportations. Most persons favored granting legal status to the current group of undocumented workers. There was disagreement on whether this status should be temporary or permanent, and on the terms of such a program.

Various policy objectives were identified as potential benefits of a temporary foreign worker program. It must be stressed that these objectives were neither unanimously embraced, nor accepted as achievable through such a program. These objectives include:

- 1) reducing the presence, flow, and exploitation of undocumented aliens, as well as protecting the American labor market by granting legal status to those already here and expanding the legal mechanism for foreign workers to hold temporary jobs;
- 2) avoiding the disruption of production in areas which have grown dependent on foreign labor;
- 3) preserving a "safety valve" for labor-surplus nations;
- 4) avoiding mechanization and/or price increases associated with increased costs; and
- 5) filling vacancies not filled by American workers, at prevailing wages and working conditions; expanding the work force to compensate for potentially smaller American youth cohorts.

The consideration of several factors was pointed out as essential for the formulation of a temporary foreign worker program. These factors are:

- 1) a labor market test -- how to ensure that domestic workers are not available for particular jobs; deciding on how many visas to issue;
- 2) a process for issuing visas:
 - a) location of issuing centers
 - b) term of visa; renewals
 - c) recruitment responsibilities and procedures
 - d) form of agreement with sending nation(s), if any;
- 3) the employment and nonemployment rights of foreign workers while in the United States; and
- 4) a mechanism, if any, for a worker to adjust status to permanent resident.

The ten proposals presented at the consultation can, for purposes of discussion, be divided into four categories: 1) a large-scale, open-ended program to provide Mexicans only with 6-8 month work visas (Schmitt, Hayakawa, Lungren, Cornelius); 2) an expanded and modified H-2 program (White, Pashayan, Fish, Reubens, Gregory); 3) a large-scale program which would preclude the need for a general "amnesty" by granting temporary visas to the most current undocumented workers, with the provision to adjust status to permanent resident in five years (Cook, Mines); and 4) a five-year phasedown program to be implemented after a general amnesty had taken effect (Weintraub).

Large-Scale Noncontractual Temporary Work Visas for Mexicans, "United States-Mexico Good Neighbor Act of 1979"

The "United States-Mexico Good Neighbor Act of 1979" (S. 1427, H.R. 5128), sponsored by Senators Harrison Schmitt, S. I. Hayakawa, and Barry Goldwater and Representative Daniel E. Lungren, would allow Mexican workers to spend up to six months in the United States, seeking or working at a job. There would be no geographic or contractual restraint on workers and no prohibition on the type of job. Nevertheless, in order to protect domestic labor, the Secretary of Labor could restrict foreign workers from specific business sites if sufficient qualified and willing American workers were available. Visas would be issued by U.S. officials in Mexico on a first-come, first-served basis. Workers would be required to leave the United States for at least six months after visa expiration. Penalties are stipulated for visa overstays.

The Attorney General, in consultation with the Secretary of State, would establish annual and monthly quotas for temporary workers over and above domestic labor. The quota would have to be large enough (500,000 - 1 1/2 million) to cover all Mexican undocumented workers. Workers would be ineligible to adjust status while under this program.

The sponsors generally view this program as a preliminary step in reducing the numbers of undocumented aliens, and do not include provisions for a broad legalization program leading to permanent resident status, employer sanctions, or increased enforcement. Another proposal, however, formulated by Dr. Wayne Cornelius of the University of California at San Diego, envisions the above program as a corollary to these other alternatives. Furthermore, the Cornelius proposal is designed to facilitate adjustment of status for temporary workers, allow families to come to the United States to join workers, and give workers the right to unionize.

Proponents of this bill indicated that Mexican workers would come under the full protection of American law and that these rights could be written into the legislation. They stated that Department of Labor participation in the placement of foreign workers would be minimal, as labor tends to distribute itself in an open-market system. It was assumed by these participants that most employers would prefer legal workers, especially if certification procedures were simplified. They pointed out that the desire for foreign workers arises not from their low cost (most employers pay at least minimum wages) but from the difficulty of attracting domestic workers. The argument given was that the latter have access to income-transfer programs in the United States and leave unfilled the low-skill, low-level jobs which exist in any industrialized country. These participants claimed that the labor marketplace would determine the viability of foreign workers. If the domestic labor didn't take certain jobs, Mexican workers would be free to move in. Once this occurred, American labor could not petition against certification.

It was emphasized that the Good Neighbor Act is intended to be an experimental, initial step in curtailing undocumented migration among the most populous undocumented group of aliens in the United States--Mexican nationals. If, in the future, it was deemed necessary to extend temporary visas to workers from other countries, negotiations could then be initiated with terms befitting the needs of all parties. Proponents argued that, within the undocumented population, only one out of every ten migrants stays in the United States longer than eight months. They argued that the provision for adjustment of

status for those considering permanent residence should be under separate cover of law.

Critics of the Good Neighbor Act questioned the feasibility of limiting such a program to Mexico, because many other undocumented persons would not be covered. They also believed that issuing visas in Mexico would contribute to the formation of new migrant streams, rather than focus on those already in existence. It was noted that research in this area still has not come up with conclusive evidence on undocumented workers' occupations and length of stay. Until this is done, consultants argued, it is dangerous to base policy on assumptions rather than facts. Also, it might prove difficult to enforce rights of workers who are here for only six months and then are required to leave. Several critics questioned the assumption that most employers would prefer a legal foreign worker to an undocumented worker. Finally, they warned of the danger of bringing in a large, permanent, if individually rotating, group of people to do jobs found unacceptable by U.S. workers.

Expanded H-2 Program

The concept of an expanded and modified H-2 (temporary worker) program has been introduced in Congress in the following bills:

- 1) The Illegal Alien Control Act of 1979, (H.R. 5114 - Rep. Clair Burgener);
- 2) Draft legislation by Rep. Charles Pashayan, Jr.;
- 3) H.R. 326 - Rep. Hamilton Fish, Jr.
- 4) H.R. 7399 - Rep. Norman Shumway; and
- 5) H.R. 800 - Rep. Richard C. White

According to the terms of the congressional bills, needed foreign workers would be contracted to American employers, as is currently done with an annual average of 30,000 H-2 workers, for a period of up to one or two years. A quota would be determined by the Secretary of Labor (one proponent estimated a 300,000 minimum). These programs could be used in conjunction with employer sanctions, a counterfeit-resistant work-authorization card, and increased enforcement. Employers would be required to pay, at least, the minimum wage and to provide minimum housing, medical care, and other benefits in accordance with fair employment practices. (The sponsors'

intent is that employment of foreign workers would not adversely affect the wages and working conditions of area workers in the same occupation.) The availability of foreign workers would be expedited by the requirement that the Department of Labor, within 60 days (20 to 30 for agricultural requests), respond to employer requests with either the referral of needed numbers of able and willing domestic workers or the certification to the Attorney General of the need for foreign workers.

The Pashayan bill provides that, failing a timely response from DOL, employers can ask the local U.S. district court to compel the Secretary of Labor to issue the certification, and place the burden of proof (why the motion should not be granted) on the department. Penalties are stipulated for employers or workers who violate contract provisions. Visas expire when the contract is ended by either party. The legislators agreed that American workers refuse low-wage, low-level jobs because of the available alternative of income substitution programs.

Another expanded H-2 program, formulated by Dr. Edwin P. Reubens of the City University of New York, differs somewhat from the congressional bills. Visas would be allocated for a period up to three years to several hundred thousand foreign workers each year. These workers would not be contracted to specific employers but restricted to broad geographic areas and occupations. Dependents of foreign workers would be excluded, but home visits would be encouraged. Total quotas could be lowered over the years to provide for gradual expansion of American employment or upgrading of the work.

Proponents stated that benefits accruing to U.S. labor from an expanded H-2 program would include controlling unfair competition from undocumented workers, maintaining wages, and reducing social costs due to the presence of undocumented worker families.

Critics took issue with the advisability of adopting policy objectives which would maintain production and low prices for American consumers at the expense of those in low-cost jobs which Americans are unwilling to do. They contended that even with the Adverse Effect Wage Rate in place, wages and working conditions tend to be depressed in regions utilizing H-2 workers.

One respondent, accepting the historical economic interdependence between American and Mexican border communities, wondered if there might be a way to legitimize economic and labor

patterns in these regions without creating a massive "stoop-labor" class in the United States.

It was pointed out, furthermore, that recruitment conducted abroad might lead to the establishment of new migrant streams, in addition to traditional kin networks. Another problem perceived with a greatly expanded H-2 program was the increased cost of administering and enforcing a large-scale program.

A proposal formulated by Dr. David Gregory of Dartmouth College was discussed by those present at the consultation. It combines elements of the Good Neighbor Act, the Cornelius proposal, and the H-2 program. The proposal would grant permanent resident status to current undocumented Mexican workers, and establish special immigration quotas for Mexico. Further it recommends contracting temporary workers to their employer, for better control. The visa term would be flexible according to occupation, and foreign workers would receive the same benefits and protection as American workers, including unemployment compensation. During a worker's second or third term, the family would be allowed to join him. Workers would be eligible to adjust status to permanent resident after at least five years. Vocational training programs funded by governments and industries in both countries would be established for these workers.

Gradual Phaseout of Temporary Worker Status

Dr. Sidney Weintraub of the University of Texas has written a temporary worker proposal which would be implemented after a general amnesty had been granted to the current undocumented population, and would automatically phase itself out after five years. The proposal opposes a long-term temporary worker program because of the anticipated negative impact such a program would have on U.S. labor markets and social structures. Discussion of this proposal included the adverse effect on Mexico and the Caribbean of an abrupt termination of this labor flow and the need, therefore, for a gradual phaseout. Subsequent debate focused on the issues of preparing for the loss of this labor and increasing productivity by training youth and minorities.

Temporary Visas Leading to Permanent Residence

Alexander Cook, Minority Counsel for the House Judiciary Committee, and Richard Mines of the University of California at Berkeley, have each developed a separate temporary worker program leading to permanent resident status after four or five years. The Cook model would grant immediate permanent

resident status to the segment of the undocumented population that had already established certain equities in the United States and a temporary worker status to the remaining larger segment. This temporary status would enable workers to be present and work in the United States for six months per year and would culminate in eligibility for permanent resident status after five years. The rationale for this approach is based on the belief that it would be politically more palatable to gradually phase in the bulk of the undocumented population rather than grant a general amnesty. This proposal is not designed to fill an ongoing need for temporary workers, but to gradually allow adjustment of status to permanent resident for the bulk of the current undocumented population.

Richard Mines's proposal advocates dividing, by lottery, the current undocumented population into two groups which would, in turn, work two years in the United States and two in Mexico. This employment would be followed by permanent resident status after the four-year period had elapsed. Visas would be issued in the United States. Under the Mines model, U.S. labor market conditions would be examined to determine the need for a continued temporary worker program after the initial group had been legalized. Both proposals advocate full rights and benefits for temporary workers, and freedom of movement.

"Need" Versus "Desire" for Foreign Workers

In addressing the need for foreign workers, proponents of an expanded program pointed to the shortages of local workers during harvest seasons, to the belief that the shrinking number of young Americans will seek nonfarm jobs, and to the fact that certain crops and certain topography inhibit mechanization. They also contended that, if permanent resident status were granted to the present undocumented population, these people would tend to move away from farm labor.

Growers' representatives described the alternatives they face in dealing with labor shortages:

- 1) reducing production or changing to crops more suitable to mechanized cultivation;
- 2) increasing prices to meet increased labor costs of U.S. workers;
- 3) continued hiring of undocumented workers; and
- 4) a legal foreign worker program.

Respondents questioned the extent of employer responsibility in attracting workers to the jobs created by their businesses. Furthermore, it was asserted that temporary foreign worker programs constitute a "labor subsidy" in expanding the labor pool available to employers unable or unwilling to sustain increased labor costs. Certain respondents took issue with an immigration policy which they perceived would make the U.S. government an employment agency.

Representatives from the Department of Agriculture cited survey data which indicate there were 2.7 million hired American farmworkers in the United States in 1977. (Two million were temporary or seasonal and 200,000 were migrants.) They also pointed out that although the farmworker population declined steadily from the 1940s to the 1960s, it has stabilized since the 1970s. The department maintained that the federal government has changed its policy from trying to move people out of the migrant stream to assisting migrants to improve their agricultural skills. Whereas in 1956, at the height of the bracero program, 500,000 Mexican workers represented 14% of the total farmworker population of the time, the 18,000 foreign nationals from the West Indies and Spain currently in the H-2 program represent 1% of the U.S. hired farmworker force.

Rights of Foreign Workers

During the consultation, there seemed to be a consensus that temporary foreign workers admitted to the United States should be granted the rights and benefits granted to American workers. Nevertheless, some participants questioned whether foreign workers would have enough time in the United States to seek redress of rights and benefits and whether because of traditional subservience to employers, they would file labor grievances.

Many respondents, pointing to U. S. experience during the bracero years, questioned whether an expanded temporary worker program would, in itself, discourage future illegal flows. On the contrary, several foresaw increased migration emanating from new areas, particularly if recruitment were conducted abroad. These respondents favored stronger enforcement measures, including employer sanctions and increased enforcement of labor laws.

Conclusion

Most consultants believed that the major task to be resolved is the legalization of the status of the undocumented population

currently residing in the United States. With the implementation of such a legalization program and concomitant measures to stem future illegal migration, policy makers could review economic conditions and the labor market. At that time, it could be judged whether important policy objectives would be well served by the importation of temporary foreign workers.

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APPENDIX F

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APPENDIX G

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

M I N U T E S

January 30, 1980

The Commission met at 9:00 a.m. in Room 2141, Rayburn House Office Building, U.S. Congress, Washington, D.C.

Members present:

The Reverend Theodore M. Hesburgh,
Chairman
Honorable Dennis DeConcini
Honorable Alan K. Simpson
Honorable Peter W. Rodino, Jr.
Honorable Hamilton Fish, Jr.
Honorable Cruz Reynoso
Commissioner Rose Matsui Ochi
Commissioner Joaquin F. Otero

Members absent:

Honorable Cyrus R. Vance, Secretary of
State
Honorable Benjamin Civiletti, Attorney
General
Honorable Patricia R. Harris, Secretary
of Health, Education and Welfare
Honorable Edward M. Kennedy
Honorable Charles McC. Mathias, Jr.
Honorable Elizabeth Holtzman
Honorable Robert McClory

Also present:

Dr. Lawrence H. Fuchs, Staff Director

1. Introductory Remarks

The meeting was called to order by the Reverend Theodore M. Hesburgh who thanked Commissioners for the warm welcome he has received as the new Chairman.

2. Old Business

Representative Peter W. Rodino, Jr. moved approval of the minutes of the October 9, 1979, meeting. The motion was seconded by Judge Cruz Reynoso and unanimously approved.

3. Discussion of Background Paper: How Many?

Chairman Hesburgh pointed out the relationship between legal and illegal immigration saying, "Until we have some way of controlling the immigration process, it does not make much sense to talk about numbers." There was general agreement that this difficult question must be re-examined in the months ahead as the Commission studies various related issues--By what criteria? and Through what process?

4. Semi-Annual Report to Congress

Executive Director Lawrence Fuchs described two of the major efforts that form the nucleus of Commission activities--research and public information. The research plan included a national survey involving field interviews of 2,000 respondents from eight cities in the United States. The study was designed to provide the first comprehensive information available on the impact of recent immigrants and refugees on the U.S. economy and society.

Dr. Fuchs also detailed the activities of seven task forces which serve to integrate the research and public information efforts. These task forces are charged with reviewing the impact of immigration policies and procedures on the United States; examining the role of governmental agencies in the immigration process, with special emphasis on a review of the Immigration and Naturalization Service; and investigating immigration policy proposals for U.S. territories.

In the public information area, Commissioners had agreed at their October 9, 1979, meeting to conduct twelve regional hearings throughout the United States. Dr. Fuchs reported that five hearings had already been held by January 30, 1980, in Baltimore, Boston, Miami, San Antonio, and New York.

The Commission's Semi-Annual Report will be submitted to Congress on March 1, 1980.

5. Vote on Request to OMB to Conduct Field Research

To complete the proposed national survey on the impact of immigrants and refugees within the Commission's lifetime it was necessary to request a waiver from the Office of Management and Budget to begin field research so that data and analysis would be available to Commissioners in the fall. A waiver to conduct field studies during a census year is given to governmental agencies that cannot postpone such investigations because of time constraints.

Commissioner Joaquin F. Otero asked if the proposed survey dealt with the impacts of illegal migration. In response, Dr. Fuchs said that the study's primary focus was on legal migrants but that researchers at the Census Bureau had completed "the most authoritative statement on the number of alien migrants in the United States that has ever been produced." In addition, staff have developed an assessment of what is known about the economic impacts of illegal migrants. Dr. Fuchs also described the methodological difficulties involved in doing further research on the undocumented population.

Commissioner Otero again stressed that in his view "the most important thing this Commission has to do is to find ways and means in seeking to resolve the problem of illegal aliens."

In response to a question from Commissioner Otero about what percentage of the total research budget would be spent on the national survey, Dr. Fuchs replied "about 40 percent."

Ms. Rose Matusi Ochi asked for more involvement by Commissioners and staff advisory group members in planning the research to ensure that it related to the development of policy recommendations.

Representative Peter W. Rodino, Jr. asked how useful the information gained from the survey would actually be. Dr. Fuchs described the type of information--on employment, use of services, productivity, etc.--that the study would provide about the population of recent immigrants. Mr. Rodino said, "I can see that a lot of those matters may be of tremendous importance ... and will make a great impact." However, Representative Rodino cautioned against overextending the Commission's resources given time and budgetary constraints.

Representative Hamilton Fish, Jr. suggested that the survey might duplicate research that had already been sponsored by private foundations or other governmental agencies. Chairman Hesburgh assured Representative Fish that that was not the case and that the proposed survey would be the first of its kind ever conducted.

Speaking from the floor, John L. Palmer, Deputy Assistant, HEW, asked that four concerns of Secretary Patricia R. Harris be entered on the record: (1) there had never been formal approval of the research plan; (2) the lack of emphasis on refugees; (3) the Commission's limited budget did not warrant the kind of resource commitment a survey of this nature obligated it to; and (4) that the proposed timeframe for completion of the study was unrealistic.

On motion by Senator Dennis DeConcini, Chairman Hesburgh asked for a vote

by Commissioners on the request to OMB for a waiver to conduct field research in a census year. Three proxy votes were recorded:

Senator Edward M. Kennedy: "I concur."

Senator Charles McC. Mathias, Jr.: "I express my support."

Secretary of HEW Patricia R. Harris: "I suggest we defer a vote."

Those in attendance voting in favor of the motion were:

The Reverend Theodore M. Hesburgh

Senator Dennis DeConcini

Representative Peter W. Rodino, Jr.

Those opposed:

Senator Alan K. Simpson

Representative Hamilton Fish, Jr.

Judge Cruz Reynoso

Commissioner Rose Matsui Ochi

Commissioner Joaquin F. Otero

There were five "nos;" 5 "yeses;" and 1 abstention. The Chairman ruled the motion was defeated on a tie vote.

Judge Cruz Reynoso said he would like to explain his "no" vote. His decision revolved around three issues: the amount of money involved; time constraints; and "my gut reaction that household surveys are not going to give us much additional information."

At the suggestion of both Commissioners Rodino and Ochi, the Executive Director was asked to review and revise the research plan and to report in writing to Commissioners within a month.

After much discussion, it was decided to defer action on two additional items before the Commission: the recommendation for long-term, government-sponsored research on migrants; and a motion to extend the Commission's life by one month.

6. Adjournment

The Commission, having completed all essential business, adjourned at 10:25 a.m.

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

M I N U T E S

May 7, 1980

The Commission met at 9:00 a.m. in Room 2228 of the Dirksen Senate Office Building, Washington, D.C.

Members Present: The Rev. Theodore M. Hesburgh, Chairman
Honorable F. Ray Marshall, Secretary of Labor
Honorable Hamilton Fish, Jr.
Honorable Cruz Reynoso
Ms. Rose Matsui Ochi

Members Absent: Honorable Cyrus R. Vance, Secretary of State
Honorable Benjamin R. Civiletti, Attorney General
Honorable Patricia R. Harris, Secretary of
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Honorable Edward M. Kennedy
Honorable Dennis DeConcini
Honorable Alan K. Simpson
Honorable Robert McClory
Honorable Charles McC. Mathias, Jr.
Honorable Peter W. Rodino, Jr.
Honorable Elizabeth Holtzman
Mr. Joaquin Francisco Otero

Also Present: Mr. John H. Shenefield, Associate Attorney General
Dr. Lawrence H. Fuchs, Executive director
Dr. Ralph B. Thomas, Deputy Director

1. INTRODUCTORY REMARKS

The meeting was called to order by the Reverend Theodore M. Hesburgh, Chairman, who thanked Senate Judiciary Committee members for inviting the Commission to hold its fifth meeting in the Senate hearing room.

2. REPORTS ON CONSULTATIONS

Chairman Hesburgh explained that as part of continuing effort to analyze policy options, the Select Commission is holding a series of consultations on different aspects of immigration policy.

Hearings and Appeals. Judge Cruz Reynoso reported on the April 24th consultation he chaired which focused on administrative aspects of the hearing and appellate system in immigration cases. Participants at the consultation included immigration judges and members from the Board of Immigration Appeals, INS personnel, and representatives of the Association of Immigration and Nationality Lawyers. "Although there was much controversy in terms of the role of the Board of Immigration Appeals, Judge Reynoso reported, "what was of uppermost interest to me...was the agreement on the need for a legislative basis."

Judge Reynoso reported on several proposed changes in the existing structure of operations for immigration judges and the Board, including:

- Placing judges under the Board of Immigration Appeals.
- Making judges a separate entity under the Office of the Associate Attorney General in the Department of Justice
- Working both the judges and the Board into an administrative law judge system.
- Creating specialized Federal course for both immigration judges and the Board.

Also discussed was the issue of consular appeals and the possibility of a statute of limitations on any violations of INS law. Judge Reynoso concluded by saying, "Even if we don't solve the global problems-and I trust that we'll have a shot at some of them too-if we solve the administrative problems that have to do with the statute and with the INS, we will have taken a gigantic step forward."

Illegal or Undocumented Aliens. Dr. Ralph B. Thomas, Deputy Director of the Commission, reported on the first of two consultations the Commission will hold on policies to deal with the current

population of illegal/undocumented aliens. The May 1st consultation focused on proposed legalization programs for undocumented aliens in the United States, as well as the impact which legalization might have on services provided by local governments. Discussants included members of the staff advisory group, as well as representatives from local governments in California and Texas, the National Association of County Officials, voluntary agencies, INS, and HHS.

Among the major recommendations made by participants:

- o Establish a single legalization status for which many illegal aliens could qualify. Some participants felt that a second status should also be offered to persons who cannot meet residency requirements.
- o Place an upper limit on the number of persons who could be legalized.
- o Establish no more difficult grounds for exclusion than are stipulated in the 1980 Refugee Act.
- o Set up cooperative processing of legalization cases by voluntary agencies in conjunction with INS.

Participants also agreed that health and education programs may be significantly impacted by legalization, and that many local governments would have to seek additional tax support for increased use of medical and educational facilities.

Dr. Thomas reported that a second session, to be held May 29, 1980, will address ways to limit future illegal flows.

Immigration Goals and Criteria. Rep. Hamilton Fish, Jr. characterized the April 17th consultation as a "free wheeling discussion of the goals which we should have for immigration policies, such as the basic question of whether they should be made in response to demand or U.S. self interest." Goals discussed include family reunification, U.S. defense and security interests, economic growth, aid to the poor and disadvantaged (particularly refugees), and cultural enrichment and simplification of the present law. Rep. Fish said that he found the consultations "invaluable" and urged that verbatim transcripts of the seminar be sent to all Commissioners.

Mr. Fish said that participants also reviewed an alternative immigration policy model providing for a three-category system of preferences. The proposed model provides for the admission of families, refugees, and so-called "independents" or "seed" immigrants. Dr. Lawrence Fuchs reported that while there was "remarkable agreement on the idea of establishing a third category, there was some disagreement as to how the visas would be

allocated." Among the mechanisms considered were an open admissions system, on a first-come, first-served basis; a point system on attributes of applicants, including English-language skills; and a job offer system.

Participants generally felt that while immediate relatives of U.S. citizens ought to continue to be exempt from a numerical ceiling, attention should be paid to limiting the overall number of immigrants admitted. Flexibility in the law was deemed desirable to further both humanitarian and national interest goals.

According to Dr. Fuchs, a consensus emerged among participants that the independent category would have several major advantages. It would permit the admission of "new seed" immigrants who have traditionally made major economic and social contributions to American society while providing a mechanism to rechannel some of the flow of illegal migration and give access to people who do not qualify as immediate family relatives. Dr. Fuchs said that Rep. Peter W. Rodino, Jr. suggested that the overall number of admissions in this category might be tied to the national unemployment rate.

3. DISCUSSION OF PROPOSED POLICY MODEL

Chairman Hesburgh asked Commissioners for their views on the alternative immigration policy model currently being studied. As Attorney General Benjamin Civiletti was in Mexico and could not be present, Father Hesburgh asked that John Shenefield, Associate Attorney General, present Mr. Civiletti's comments.

Attorney General Benjamin Civiletti. Mr. Shenefield said that Mr. Civiletti "strongly supports the contours of the basic model." Mr. Civiletti asked, however, that three specific considerations be kept in mind. He wanted to be certain that Category 3 (Independents) would actually provide access for those who currently are pressuring the system rather than become an avenue for the so-called elite, privileged immigrants (investors and others). Another concern was to avoid the nepotistic tendencies in our present law; Mr. Shenefield said that Mr. Civiletti favored providing access for brothers and sisters in Category 3 rather than in a special preference position. While attracted to the idea of a cap or ceiling, the Attorney General felt it would be necessary to retain some flexibility in the refugee category to deal with unforeseen emergencies.

Sen. Edward M. Kennedy. At Chairman Hesburgh's request, SCIRP Executive Director Lawrence H. Fuchs read a statement from Senator Kennedy who could not be present. "I support the general reforms the Commission has before it," said Sen. Kennedy. In his statement, Sen. Kennedy said he supported a revamping of the preference system to meet three goals: family reunification; the admission of refugees, and economic development and cultural enrichment for the United States. Sen. Kennedy also urged that annual immigration ceilings be increased and that "a flexible and generous program for adjusting the status of undocumented aliens" be implemented.

Secretary of Labor F. Ray Marshall. "The formulation of these categories advances our thinking on what we ought to do about immigration," said Mr. Marshall. While agreeing with the need to examine various pressure points, Secretary Marshall stressed that in his view the most important issue the Commission must address is the problem of undocumented aliens. He said he felt a consensus had emerged favoring a generous amnesty provision and that he favors first "phasing in the undocumented, analyzing their impact, and then thinking about a permanent immigration policy." "Since we know so little about the undocumented alien population already in the United States, I would prefer we deal with that pressure point first and then develop a permanent immigration policy."

Mr. Marshall said that much more explicit attention should be given to the labor market implications of any proposed immigration policy. "It seems to me that we need to be sure that immigration policy does not cause disproportionate damage to unemployed and low income people in the United States."

Commissioner Rose Matsui Ochi. "I support the general thrust of the proposed model, particularly with the addition of the new class of seed immigrants," Ms. Ochi said, Commissioner Ochi stressed that she believed that family reunification should be the major goal of immigration policy. She reaffirmed her belief that Category IA (immediate family reunification of citizens) should continue to be numerically unlimited while stating that some preference should be given to brothers and sisters in Category IB. Her support for Category I, Ms. Ochi said, was based on the assumption that per country ceilings would be dropped. Commissioner Ochi also said she supported eliminating the backlogs so that "we can start fresh" with a new immigration policy.

4. REPORT ON REGIONAL HEARINGS

Executive Director Fuchs reported that 11 of 12 regional hearings approved by Commissioners at the October 9, 1979 meeting had been successfully completed. The final hearing will be chaired by Judge Cruz Reynoso in San Francisco on June 9.

Dr. Fuchs said that the immigration model under discussion had come out of the concerns and views expressed at these public hearings. "While there is continuing public support for legal immigration," Dr. Fuchs said, "many Americans feel our immigration policy is out of control." People expressed support for a rational, equitable policy that is protective of American national interests. "The public hearings represent a testing of political and public opinion in the United States," Dr. Fuchs said, "and have been extremely useful in focusing the research and policy alternative being considered by the Commission staff."

In summarizing the discussion, Chairman Hesburgh stated that any immigration policy the United States adopts must be "generous, humane, non-racist, rational, and workable." He stated that the three-category proposal under consideration at the meeting would help fulfill those goals, since it provides for the reunification of families and refugee admissions while establishing limits flexible enough to meet U.S. needs.

5. ADJOURNMENT

The Commission, having completed all essential business, adjourned at 10:05 a.m. The next meeting will be held on June 18, 1980 in the Great Hall, Department of Justice, Washington, D.C., 9:00 - 10:00 a.m.

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

M I N U T E S

June 18, 1980

The Commission met at 9:00 a.m. in The Great Hall, Department of Justice, Washington, D.C., the Honorable Theodore M. Hesburgh, Chairman, presiding.

Members present:

The Reverend Theodore M. Hesburgh, Chairman
The Honorable Benjamin Civiletti, Attorney General
The Honorable F. Ray Marshall, Secretary of Labor
The Honorable Patricia Roberts Harris, Secretary of
Health and Human Services
The Honorable Edward M. Kennedy
The Honorable Dennis DeConcini
The Honorable Alan K. Simpson
The Honorable Hamilton Fish, Jr.
Ms. Rose Matsui Ochi
Mr. Joaquin Francisco Otero

Members absent:

The Honorable Edmund Muskie, Secretary of State
The Honorable Charles McC. Mathias, Jr.
The Honorable Peter W. Rodino, Jr.
The Honorable Elizabeth Holtzman
The Honorable Robert McClory
The Honorable Cruz Reynoso

Also present:

Dr. Lawrence H. Fuchs, Staff Director

1. Introductory Remarks

The meeting was called to order by Reverend Theodore M. Hesburgh, Chairman, who thanked Attorney General Benjamin Civiletti and the Department of Justice for hosting the Commission's fifth meeting.

2. Old Business

On a motion by Senator Edward M. Kennedy, seconded by Attorney General Civiletti, the minutes of the last Commission meeting on May 7, 1980 were read and unanimously approved. Chairman Hesburgh also requested that all documentation and records pertaining to the Commission's 12 regional hearings be made part of the official record. On a motion by Senator Kennedy, seconded by Secretary of Health and Human Services Patricia R. Harris, the motion was unanimously passed.

3. Reports on Consultations

As part of its continuing effort to analyze various policy alternatives, the Commission has been holding a series of consulting seminars. Chairman Hesburgh asked for reports on those consultations held since the last Commission meeting.

Nonimmigrants. Commissioner Rose Matsui Ochi reported on the May 20, 1980 discussions on nonimmigrant issues. Commissioner Ochi said that there was general agreement that it would be useful if the new Department of Education would take major responsibility for approving schools for attendance by foreign students. Participants at the consultation also considered the dilemma of the increasing demand for, and recruitment of, foreign nurses who now face two hurdles--a visa-qualifying exam to enter and state licensure exams after their arrivals. Also discussed was the possibility of eliminating tourist visas for travelers from selected countries.

Operations and Structure. Commissioner Ochi also reported on the May 22, 1980 consultation on INS operations and structure which was attended by representatives from INS, the Justice and State Departments, members of the Immigration Bar, as well as selected concerned interest groups. It was generally felt that INS performance could be improved if it had a clear, delineated mandate, Ms. Ochi said. While participants stated that some INS employees have a negative attitude toward aliens, there was strong concern expressed that INS did not have adequate resources to effectively administer the Act. The compatibility of service and enforcement functions was discussed. However, Commissioner Ochi reported that while there was some support for separating INS functions into distinct agencies, doubts were expressed about the practicability of this, as well as the lack of clarity in either the legislative mandate or executive direction. The staff will further investigate the alternatives emanating from this consultation including the separation of enforcement from service issue. Commissioner Ochi indicated that at the various public hearings, witnesses have stated that the hostile attitude of the INS personnel is largely attributable to their inability to switch from an exclusion mentality to one of service, and thus, accordingly, have urged that separate career ladders be provided to obviate this problem.

Senator Edward Kennedy asked that Commission staff be directed to explore the whole issue of whether or not there is a shortage of medical personnel in this country. "I think there's a moral issue of whether we want to be draining third world medical personnel to come here to the United States to take care of Americans when they've got critical needs in their own country," he said.

Secretary Patricia R. Harris said that the problem was a maldistribution of all medical personnel, particularly nurses, and that the Institute of Medicine under contract from the Department of Health and Human Services (HHS) was in the process of completing a major study on these issues which would be sent to Commissioners as expeditiously as possible. Chairman Hesburgh thanked Mrs. Harris, noting that this study would greatly help SCIRP research in this area.

Refugees. Executive Director Lawrence Fuchs reported on the consultation on refugees which addressed four major issues: definitions of refugee and asylee; exercise of parole/discretionary authority; questions of processing and enforcement; and resettlement issues. "How to develop a pattern of governmental and private cooperation . . . which leads to greater self-sufficiency on the part of individual refugees and communities," was discussed at length Dr. Fuchs said. Various positions on the issue will be detailed in briefing papers that would be sent to Commissioners this summer.

Curbing Illegal Migration. Methods for curbing future flows of illegal migrants was the topic for discussion at a May 29th consultation reported Commissioner Joaquin F. Otero. Agenda items included maximizing the impact of existing enforcement measures, reducing incentives to enter or remain illegally in the country, and methods for channeling illegal migration into legal flows.

Many participants said that making it illegal to work without authorization and establishing penalties for employers who knowingly hire illegal aliens are critical to reducing illegal migration. Commissioner Otero said that while some discussants at the consultation believed that any employer-sanction program is inevitably discriminatory, he "wholeheartedly supported" an opposing viewpoint that a work permit system would be both nondiscriminatory to job applicants and practical for employers can be developed.

Consideration was also given to a temporary worker program as part of a solution to the problem of illegal migration. While some participants argued that the current H-2 program for temporary workers should be expanded, others, Commissioner Otero included, believed that the admission of temporary workers was "no solution to keeping illegals from getting jobs in the United States."

Commissioner Otero urged that the Commission's number one priority be the curbing of illegal migration. "The most effective way of achieving that objective is through a legislative package that includes: employer sanctions, a general amnesty program, injunctive relief, a work permit system, more enforcement of current laws, more resources for INS, aid for economic development of sending nations, clearing up the current backlogs, and a realistic increase in legal immigration," he said.

Representative Hamilton Fish, Jr., supported Mr. Otero's recommendations of increased support for INS service and enforcement functions. He asked for the support of his Commission colleagues in the House in voting on his amendment to increase the Administration's proposed budget for the agency.

Substantive Changes in the INA. Congressman Fish reported on the May 28th consultation on substantive changes in immigration law. "The number of grounds of exclusion, currently 33, participants felt should be decreased . . . and concentration given to those protecting public health, welfare, and national security," said Mr. Fish. Also discussed was the application of different exclusion criteria to immigrants, nonimmigrants, and returning permanent residents. A statute of limitations on grounds for deportation and exclusion was also considered as well as the representation of aliens at immigration proceedings.

Mr. Fish concluded by saying that "in my judgment these consultations have been every bit as important as have the public field hearings from the point of view of focusing on issues that are going to have to be determined by this Commission. I think they've brought together experts of the very highest caliber in an atmosphere conducive to frank and full discussion . . . and I think the circulation of a full summary of each consultation would be enormously valuable." Dr. Fuchs said that summaries of each session would be prepared and sent to Commissioners.

4. Commissioner Calendar

Chairman Hesburgh reported that future SCIRP consultations included:

June 20	Immigration from the Caribbean
June 26	Immigration and the Territories
July 1	Language and Civic Education for Immigrants and Refugees
July 15	Immigration and Economic Development, Employment, and Productivity in the United States
July 16	Labor Certification for Immigrants: Protecting American Workers
July 17	Seasonal Workers: Need and Supply

Chairman Hesburgh also said that the Commission would meet in retreat, at a place yet to be selected, on December 5-7, to "see if we can't come to some final agreement on the form and nature of our recommendations."

5. Utilization of the Social Security Card

Patricia R. Harris, Secretary of Health and Human Services, said "I do want to put on the record that there is a substantial difference of opinion on this Commission about the use of the social security card as a national identifier or work permit." Secretary Harris cited several studies supporting her view, including ones prepared by the Domestic Council Committee on Privacy, the Federal Advisory Committee on False Identification, and the Privacy Protection Study Commission. Secretary Harris said her views were based on her belief "that the cost and potential for fraud in the social security system . . . are so great were we to convert that number system into an identifier system that it would go to the very stability of the social security system itself." Secretary Harris concluded by saying that although she opposes the alternative utilization of the card, HHS is providing the Commission with technical assistance in evaluating various proposals.

Chairman Hesburgh thanked Mrs. Harris for the cooperation and help the Commission has received from HHS. "We cannot require employers to not hire illegals if we don't have some means of identifying who is legal and who is not. How that is done is the open question before us . . . before we conclude this Commission, we must have some scheme for such identification that is not easily counterfeitable," the Reverend Hesburgh said.

6. Professional Smugglers

Commissioner Otero cited his concern about the treatment of professional alien smugglers or coyotes responsible for bringing many illegal aliens into this country. He noted that while the smugglers themselves are usually released on bail within 24 hours of apprehension by INS, illegal aliens are sometimes held as material witnesses for as long as 120 days.

In response Dr. Fuchs said that this concern was raised at a consultation session where all present expressed dissatisfaction with the current system. Attorney General Civiletti said that this issue was of great concern to the Justice Department and that "despite the material witness rule which has been mandated by the 9th Circuit Court of Appeals . . . his department was committed to resolving the terrible inconsistencies between the most culpable smuggler being released and on the streets and the victim of the smuggling being confined." Mr. Civiletti reported on several different approaches being tried to deal with the problem including limiting the number of witnesses available at the smuggler's trial, video tape examination of witnesses, and a mutual assistance agreement or treaty with Mexico whereby witnesses might be returned from Mexico.

7. Proposed Immigration Model

Dr. Hesburgh reviewed the working assumptions underlying the proposed immigration model being considered by Commissioners, noting that while many Commissioners may not be in agreement with all of the assumptions, the model does provide a very good basis for discussion.

Secretary Patricia Harris agreed, saying that she had distinct reservations about selection criteria for Category III especially the option to use a point system to choose immigrants. "Some of the models before us suggest standards for admission in the third category--English competency, education. I have a very nonlegalistic reaction to that which goes to Emma Lazarus's poem, 'Give Me Your Huddled Masses.' Those are not people with degrees or people who speak English. We should maintain a place in this country for people who have the 'get up and git' to come here."

Attorney General Civiletti agreed saying that "he shared" some of Pat Harris' concerns about the criteria under the third category, the independent category. "We have within that category at least five sub-models, some of which provide for an open system, some of which provide for a nonpreference system, combined with an occupational exclusion based on market conditions and labor needs . . . and Secretary Harris mentioned that she didn't know where she would stand under such different circumstances. I would agree with her. I'm not sure how I come up. But I do know that if we had an exclusionary system with regard to language and occupation in our historical preferences, I would not be sitting here now!"

Secretary of Labor F. Ray Marshall commented that in his view the Commission's first task was to "legalize the whole flow of immigration to the extent that we possibly can as the first phase . . . so that we gain greater certainty. We've got two great uncertainties now. One is what effect any kind of amnesty program would have on future flows of people in the United States if we assume that we've going to maintain the objective of uniting families And, secondly, we have the refugees . . ."

Senator Kennedy responded by saying that he felt there was "a tremendous sense of restlessness in this country. We are a country of immigrants . . . but we're now facing some of the most complicated, difficult, and challenging economic times with enormous dangers of uncertainty." Senator Kennedy said he wanted to express his great respect to Chairman Hesburgh and his fellow Commissioners for the seriousness and dedication with which the Commission has addressed the many problems and issues before it. "I do think in the next months that we are going to have to make some tough judgments on many issues," he said.

Chairman Hesburgh noted that the Commissioners will be responding throughout the coming months to a series of straw ballots on various issues. The positions expressed on these ballots will not be binding but rather, it is hoped will serve to identify areas of agreement and areas where further discussion is necessary.

Senator Alan K. Simpson said that he had one word of caution. "I would hope that this Commission does not fall apart in a pile of compassion, fatigue and guilt and racism where every time we come to a hot issue we all wear the mantle of guilt." Senator Simpson said he favored amnesty, and better enforcement measures including a secure means of identification for work purposes only.

8. Adjournment

The Commission, having completed all essential business before it, adjourned at 10:25 a.m.

APPENDIX H

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

BRIEFING AND BACKGROUND PAPERS

Briefing and background papers prepared for the Select Commission on Immigration and Refugee Policy are listed under three headings below. Commission papers and memoranda on these subjects also are included.

Numbers and Sources

1. Immigrants: How Many?
2. Preliminary Review of Existing Studies of the Number of Illegal Residents in the United States
3. Non-Immigrant Visitors in the United States
4. From Where? Regional and/or National Geographic Ceilings on Visa Allocations
5. Memorandum on Emigration
6. Notes on International Migration and International Relations

Goals and Criteria for Selection

1. Immigration Targets and Flexibility: Managing the Flow of Immigrant Characteristics
2. Restructuring the Preference System: Goals, Categories, Immigrants, and Refugees
3. Immigration Criteria for Non-Immediate Relatives of United States Residents
4. Selection of Independent Immigrants to the United States: Alternative Systems
5. The Immigration Preference System and Family Reunification Policy
6. Criteria for Choosing Independent Immigrants

The Impact of Immigrants, Documented and Undocumented

1. The Acculturation and Economic Integration of Immigrants and Refugees
2. Naturalization: Procedures, Trends, and Policy Choices
3. Immigration Policy, Economic Growth, and Employment
4. Labor Certification for Immigrants
5. The Economic Impacts of Illegal Migrants

6. Rights and Entitlements of Illegal Migrants
7. The United States Economy and the Illegal Migrant
8. Protective Labor Laws and Illegal Migrants
9. Current Laws Inhibiting the Employment of Undocumented Alien Workers in the United States
10. INS Border Enforcement Procedures
11. Countering Illegal Immigration: A National Work Authorization Card
12. Inhibiting Illegal Migration: Employment Eligibility and Employer Responsibility
13. Legalization of Status for Illegal Migrants Under the Current Law
14. Illegal Migrants: What Do We Do About Those Who Are Already Here?
15. Temporary Foreign Workers in the United States: The H-2 Program

