

What we learned after 1986 is that Congress hasn't funded the things necessary to make the border secure, and the Presidents—every one of them since that time—seem to have little interest in making sure it gets enforced. They don't come before Congress and say we have a problem at the border; we need more money, more agents, more detention space, and more barriers. They let it go. So this is a dangerous thing. I am not going to vote for any bill that is a "let me see one hand and not the other." In other words, we are going to have one vote that will be a permanent decision about how to deal with those who are here illegally. But we will not be able to have any guarantee that the enforcement system is going to be made workable. That is why the House believes they should complete the enforcement mechanisms first, which is a good principle that we should be concerned about.

The stress on our system is going to be incredible. Some in the immigration system say, when they think what this will mean, they cannot imagine how this will ever work. They have a huge backlog on applications to come into the country. Our immigration service is expected to make some background checks to make sure we are not allowing criminals and terrorists to come into the country. If we more than double the number that are allowed to apply and enter, then their workload is going to be incredibly heavy. It is not working now. We can do better.

Finally, a lot of people have been unhappy with President Bush. They say he has been too much for amnesty. They say he is not serious about the border, and they have complained about that and so have I. I felt that he has not been sufficiently concerned about creating a legal system that works. But I have to tell you, the bill that came out of committee is way past that. Please know that, Senators. I heard Scott McClellan on the radio today, from the press conference he gave yesterday, and he stated the principles of the President. One of them is that those who come here illegally are not put on an automatic path to citizenship. That is what the President defines as amnesty. That is what he says he is not for.

But that is what this bill does. The bill puts the people who came here unlawfully on an automatic path to citizenship. If that is not amnesty, what is? The President does not support what is here. It is beyond what he wants to do. He has a very generous idea about immigration. He wants to do the right thing. All of us do, but we cannot defend the principle of granting amnesty because we know what happened in 1986. It did not work. The independent commissions have said that.

I will conclude by urging my colleagues to recognize how important this issue is to get right, how important it is that we do the right thing, so that 10 years from now, 20 years from

now, we can be proud of what we did. And we can get there; we absolutely can. But this bill is not the vehicle to do it. We should not pass it in its present form. I say that with the caveat that nobody has seen the bill we will have on the floor. It hasn't even been printed yet. That is a pretty sad case, if you want to know the truth. It was so complex and rushed through our committee in such a hasty way.

Mr. President, I thank the Chair and my colleagues for giving me a chance to share these thoughts. I urge each and every one of them to spend some time on this issue. Let's study this legislation and let's don't be stampeded by politics or protests or that kind of thing. Let's try to do the right thing and make sure that whatever we do is something we can be proud of and our children can be proud of.

The PRESIDING OFFICER (Mr. VITTER). Does the Senator from Alabama yield back the majority's time?

Mr. SESSIONS. How much time remains?

The PRESIDING OFFICER. There is 1 minute 40 seconds.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, we have a half hour in morning business for the Democrats; is that correct?

The PRESIDING OFFICER. That is correct, and 29 minutes 15 seconds remain.

Mr. KENNEDY. I ask the Chair to notify me after I have used 12 minutes.

The PRESIDING OFFICER. The Chair will do so.

IMMIGRATION REFORM

Mr. KENNEDY. Mr. President, I always enjoy listening to my friend from Alabama. He has been very much involved and engaged in the discussion and debate on this issue in our Judiciary Committee. But I caution those watching this debate to examine his comments, where he said: "Any individuals that came here illegally, this bill puts them automatically on a path for citizenship." That statement is categorically wrong. It does not. I will explain about the provisions of the legislation. I would not support that proposal. The members of the Judiciary Committee that supported the underlying legislation, the McCain-Kennedy legislation, don't support that proposal.

We gather here today to begin debate on our effort to correct a great historic wrong.

For decades, this country has turned a blind eye to the plight of the stranger in our midst, and looked away in indifference as undocumented immigrants have been exploited at the workplace and have been forced with their families to live in constant fear of detection and deportation.

We have ignored the tough conditions endured by the undocumented, and the harmful ripple effects undocumented

employment has on some U.S. workers. For decades Congress has failed to take sensible steps to end undocumented immigration, and some of our policy choices have even contributed to the current crisis.

We first confronted this problem directly in 1952, passing a law known in the parlance of the time as the "Wet-back" bill, which made it a crime to harbor or abet undocumented immigrants. But at the same time, over the vigorous objections of President Truman, Congress carved out the Texas Proviso—so called because it was drafted by agricultural producers from that State—which made it legal to employ undocumented immigrants. This decision protected the "economic pull factors" which have sustained illegal migration since that time.

In 1961 the Edward R. Murrow documentary *Harvest of Shame* directed the Nation's attention to the miserable conditions under which migrant farm workers toiled to bring cheap fruit and vegetables to our table. Congress responded by terminating the deeply flawed Bracero guest-worker program, and strict limits were imposed for the first time on labor migration from Mexico. I was part of that effort in the Senate to end that unacceptable and outrageously exploitive program. These changes to our immigration policy were well-intentioned, but with hindsight their result was predictable: by ending legal migration, but allowing employers to bid for immigrant labor, Congress all but guaranteed a generation of undocumented immigrants would emerge.

Since that time, economic disparity between the U.S. and its neighbors increased, globalization made travel in and out of the U.S. easier, and two whole generations of foreign workers and U.S. employers came of age in an economic system organized around illegal migration.

In truth, Congress has done little since then to confront this problem. In 1986 we passed the Immigration Reform and Control Act, but IRCA's employer sanctions provisions have never been enforced. Rather than confront the structural causes of undocumented immigration, Congress has repeatedly attacked the symptoms of this disease: building more fences and placing more agents at the U.S.-Mexican border, and imposing more restrictions on immigrants' legal rights. These blunt enforcement tools have not quenched employers' thirst for immigrant workers, and they have not given families the tools to be reunited with their loved ones. Instead, enforcement-only approaches have driven immigrants farther into the desert and deeper underground.

For decades, we tolerated undocumented immigration because it seemed like a win-win exchange: employers and consumers were given access to cheap labor and low-cost goods and services; but Congress was not required to make politically difficult decisions

about expanding legal low-skilled immigration.

But, of course, undocumented immigration has not been cost-free—far from it. And recent changes make continued indifference to this crisis impossible. Undocumented immigrants now live in every State in the Nation, and whole sectors of the economy—from construction, to food services, to health care, to agriculture—depend on undocumented workers to stay in business.

Labor and business alike now demand a system in which workers' rights are respected and in which workers are no longer vulnerable to deportation.

Millions of U.S. citizens now demand a system in which their husbands, wives, parents, children, and neighbors can plan for the future. And the continued health of the American economy demands a system in which all of these workers join the formal labor force, pay their taxes, and play by the rules.

United States relations with Mexico and other countries of origin have also changed, and changed dramatically. In 1965, when the foundation for our current system was put in place, Mexico was an authoritarian state and barely a top 10 United States trade partner. Now Mexico is a flourishing democracy, a partner in the North American Free Trade Agreement, and our No. 2 trade partner in the world. Over 300 million legal border crossings occur between the United States and Mexico each year, and trade across the border totals \$650 million a day. Yet this relationship and our broader regional interests are jeopardized by this humanitarian crisis at the border and by the exploitation of immigrants within the United States.

President Bush is traveling to Mexico this week, and the crisis of undocumented immigration, including the enormous strain it places on our partnership with Mexico, will be at the top of the agenda.

And, of course, the 9/11 attacks remind us that undocumented immigration creates a crisis of insecurity. America spends billions of dollars tracking entries and exits at our ports of entry, but we have no idea about the identity of millions of immigrants already living among us. The vast majority of these undocumented immigrants are honest and hard-working, but our national security requires that we identify and monitor those who are not.

We all agree that the time has come for Congress to act, but how shall we do so? Fundamentally, we must choose between two alternatives.

Some would have us build higher and longer walls at the border. They would have us further restrict migrants' legal rights and make these hard-working men and women not just subject to deportation but also do time in U.S. prisons for the crime of living and working in this country. They would go much further, actually making felons of people such as Cardinal Mahoney and tens

of thousands of other clergy and social workers who are offering counseling or humanitarian support to undocumented immigrants.

Yet the United States lacks the resources or the political will to actually remove all of the 11 million undocumented immigrants among us. Doing so would cost \$240 billion, it would wreak havoc with our economy, and it would destroy millions of American families. Nor in a global economy do we truly have the desire or the capacity to build an impenetrable wall around ourselves.

The idea that blunt enforcement will disrupt this deeply entrenched system of undocumented immigration flies in the face of history and economics. Rather, this enforcement-only approach would simply replicate the policy failures of the past. Down this road lie further undocumented immigration, further insecurity, further economic polarization, and further exploitation of the poorest and most vulnerable among us.

I must say, on the issue of the wall, all we have to do is look at our recent history. We have spent \$20 billion over the last 10 years. We have a wall now that is 66 miles long. There are 1,800 more miles along the Mexican border, if we are talking about building walls. We have tripled the number of border guards, built the wall along the border, and we find the present system is not functioning or working. How many times do we have to learn that lesson, and how much more would it cost us if we go that particular route? It is a route that is unacceptable, expensive, and unworkable.

We propose an alternative approach. We propose to end this system of exploitation and to right this historical injustice.

The PRESIDING OFFICER. The Senator has used 12 minutes.

Mr. KENNEDY. Mr. President, I yield myself 4 more minutes.

We believe that immigrants, like women and African Americans before them, have rights in this country, and the time is ripe for a new civil rights moment. We believe that a nation of immigrants rejects its history and its heritage when millions of immigrants are confined forever to second-class status and that all Americans are debased by such a two-tier system. The time has come for comprehensive immigration reform.

Our opponents believe that blunt enforcement can solve our current crisis. We believe that the culture and infrastructure of illegality can only be disrupted and our security and prosperity can only be assured through a three-pronged approach.

First, we favor smarter and tougher enforcement through greater reliance on technology, better screening at our consulates abroad, more international cooperation on migration enforcement, working with Mexico and the other countries in Central America—which our opponents never think about or

have asked to or have a program to try to do—and also tracking terrorist mobility and more efficient screening at U.S. work sites.

Our national security and our immigration control efforts are both weakened when we fail to distinguish the millions of undocumented immigrants making vital contributions to our economy and the handful of extremists who would enter the United States to do us harm.

How can we seriously consider diverting our scarce resources to building a fence along the border? This is a 19th century solution to a 21st century problem. A fence—muro de muerte is the alternative, and we are saying that is the kind of wall we are going to build, with all the technology we have? It is a bankrupt policy.

The focus on the border will not prevent undocumented immigration. Almost half of all undocumented immigrants enter through legal channels, and others will always find ways to go over, under, or around the wall. More importantly, a United States-Mexico border fence does nothing to help us identify and track terrorists who would almost certainly choose other strategies for entry, including the use of fraudulent or legitimate documents, or entry anywhere along an unguarded northern border or coastline.

Second, in an economy which depends on immigrant labor, we favor the creation of legal opportunities so that all American workers have the right to labor with dignity and the protection of our laws. More opportunities must be created for workers and families to obtain green cards through our permanent visa system. And the 400,000 or so undocumented immigrants now joining our workforce each year must be offered access to temporary visas and to a spot in the formal economy when employers cannot find U.S. workers to take these jobs.

Our temporary worker program differs in fundamental ways from the failed approaches of the past. We include robust wage guarantees to ensure that temporary workers will not depress the wages and working conditions of American workers, which is happening at the present time, and we back up these guarantees with strong complaint procedures and protections for whistleblowers. We believe guest workers must not be tied to a single employer but, rather, must have the right to vote with their feet by changing jobs when employers would exploit them. And we believe workers must have the right to adjust to permanent status if their situation changes and they choose to remain in the United States.

Third, immigration reform will be fundamentally incomplete without a plan for bringing the undocumented immigrants already among us out of the shadows and into legal status. Our national security requires the United States to know who resides in our

country. Our economic prosperity requires that undocumented immigrants—5 percent of all workers in the United States—join the legal economy.

The PRESIDING OFFICER. The Senator has used his additional 4 minutes. There is 13 minutes remaining.

Mr. KENNEDY. Mr. President, I see my friend from Illinois here. I am going to take 1½ more minutes, and then I will yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, countless American families want their undocumented relatives to have the opportunity to become residents. One million immigrants rallied in communities across the country last week, and the crowds included thousands of families waving American flags and celebrating America as their adopted homeland.

No one believes in amnesty for these immigrant workers and families, but we do believe in giving them a chance to earn—earn—legal status. That is the difference. Amnesty is a pardon. We are not pardoning any undocumented immigrants. What we are basically saying is: Come out of the shadows, pay a fine, pay your taxes, learn English, and after all those who are in line to come to the United States at the present time and have come to the United States, go to the back of the line and work your way to citizenship by playing by the rules. There are 70,000 permanent resident aliens who are serving in Iraq and Afghanistan. If you don't play by the rules, then you are subject to deportation. That is earning legal status, and that is the process we follow.

All undocumented immigrants deserve this chance, but only those who pay the stiff fines, work for 6 years, pay their taxes, learn English and pass a civics test will be permitted to remain in the United States.

Today, we embark on a historic debate. We have an opportunity to correct these historic wrongs. I look forward to the coming debate. Together, let us move forward, not backward, on genuine immigration reform.

Mr. President, I have been here when Republicans and Democrats have come together to accept the challenge of an issue that is not going away. This issue is not going away. We now have Republicans and Democrats working together. The President has talked about this issue as well. Surely we ought to be challenged to find a way where this Nation can make progress with Republicans and Democrats and hopefully even the administration working together to help do something that is sensible, responsible, workable, humane, and consistent with our national traditions.

I yield back whatever time is remaining.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

EXTENSION OF MORNING BUSINESS

Mr. DURBIN. Mr. President, my colleague from Iowa has come to the floor and wants 15 minutes to speak. I ask unanimous consent for 5 minutes and my colleague from Iowa 15 minutes and that morning business be extended the necessary time for that to occur, and an equal amount offered to the other side, if they care to use it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. So it is my understanding, Mr. President, that after I speak for 5 minutes, the Senator from Iowa will be recognized for 15 minutes.

Mr. HARKIN. I thank the Senator.

IMMIGRATION REFORM

Mr. DURBIN. Mr. President, I thank the Senator from Massachusetts who has just spoken. Senator KENNEDY has led so many important fights in the Senate. This may be one of the most historic. We know our immigration system is broken. It just does not work.

In my office in Chicago, almost 90 percent of all of the work we do is on immigration. The stories will break your heart. There are people who have come to this country and, for reasons that often cannot be explained, are not in legal status today. As Senator KENNEDY said, approximately half the undocumented people in America arrived here legally. What happened? They were going to school on a visa and they didn't take the necessary course work to be a full-time student. They lost their legal status. They were part-time students. They started again as full-time students, and they are undocumented as a result, or they came and stayed beyond their visas or they came into circumstances that, frankly, created family situations so they could not leave: A woman falls in love with an American citizen, is married, and has children. Her husband is an American citizen, all her children are American citizens, but she is not. She is an undocumented person in this country.

But let me tell you one story or one group of stories that I think dramatizes some of the injustices of the current system that I think should be addressed. A few years ago, Senator ORRIN HATCH and I worked together in a bipartisan effort to pass what is known as the Dream Act. Senator HAGEL, Senator LUGAR, and I are now cosponsoring it on a bipartisan basis. It came to my attention because we got a phone call from a woman in Chicago, a Korean-American woman who works at a dry cleaners in Chicago 12 hours a day. She said she had a problem. Her problem was her daughter, who came to the United States at the age of 2 and became a musical prodigy. She played the symphony piano by the age of 8. She has played with the Chicago Symphony. She is an amazing, talented musician.

She was recruited by Julliard School of Music—the best in America—to develop her skills as a musician. When she started to fill out the application, she turned to her mother and said: It says here: Nationality. American, right? And her mother said: No, we never filed your papers. And here she was, a bright future ahead of her, and she called my office and said: What am I to do? We called the Immigration and Naturalization Service and they said: The answer is obvious. She has to go back to Korea.

Back to Korea? She had been in this country for 16 years. Through no fault of her own, she was not a documented citizen or in legal status. She had fallen through the cracks, one of the 11 million.

Let me tell you another story. It is about Diana, who was brought to Chicago at the age 6 by her family from Mexico. Diana is undocumented. She has lived her entire life in the United States. There is a 50-percent dropout rate among undocumented students in America—50 percent. She didn't drop out of school; she did the opposite. She stayed in school and made the dean's list all through high school. She graduated with a 4.4 average out of 4.0, taking advanced placement classes to pursue her dream of being an architect. She was accepted at Northwestern University and was so excited. She came to learn that because she was undocumented, she couldn't get financial assistance. She couldn't go to Northwestern. She went to another college. She is still trying to be an architect.

Tell me: Is America a better place if those two girls leave or is it a better place if they stay?

The Dream Act gives young people such as that a chance, people who came to the United States, young people, through no decision on their own—their parents made the decision. They did the right thing, followed the rules, didn't break any laws, went to school, were good students, studied, aspired, and dreamed of the opportunity in this country, and then learned, to their bitter disappointment, they were reaching a point where they could not pursue their education.

The Dream Act says this: If you are one of those people, if you have been here 5 years or more, if you entered the country under the age of 16, if you are in high school, you have a chance, and the chance is this: Complete high school and then either 2 years in college or a college degree in the next 6 years, or serve in our military for 2 years, and we will then give you a chance to start a long path toward citizenship. That is important.

I can't tell you the people who come up to me in the city of Chicago, students, for example, who are undocumented, who want to teach. We need them so badly. They want to teach math and science and critical languages. Yet, being undocumented, they can never be licensed to teach in my State of Illinois or virtually any other State.