

REMARKS OF

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TO

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Development of a
New Immigration and Refugee Policy

I want to take this opportunity to thank LULAC and Ruben Bonilla for the invitation to address the 51st Annual National Convention of the League of United Latin American Citizens. I want to welcome you and wish you not only a successful convention but also a pleasant visit. Bienvenidos a la capital de nuestra nación (Welcome to our nation's capital.)

I recently visited Mexico City to address the Inter-American Bar Association. While there I also visited with President Jose Lopez Portillo, with Attorney General Oscar Flores Sanchez, and with Secretary of Labor Pedro Ojeda Paullada. It was apparent from my talks with these prominent Mexican leaders as well as from the questions which I was asked by the press that immigration issues will be among the most crucial issues facing this hemisphere during the 1980's.

Upon my return from Mexico, I have vowed to learn to speak Spanish. Based upon my attempt to welcome you in Spanish, many of you are justifiably saying that I have not yet begun to learn.

My efforts in the language bring to mind an almost incredible fact. When my ancestor, Columbus, went to your ancestors in Spain to borrow money to finance that famous trip in 1492,

Spain was the only Spanish-speaking nation in the world. Now there are at least 20 countries where Spanish is the official language. The unbelievable fact is that the current estimate of 20,000,000 Hispanic Americans makes the United States the fifth largest Spanish-speaking country in the world, behind Mexico with 70 million, Spain with 37, Argentina with 26, and Colombia with 25. Since it is important that we communicate our policies, decisions and practices to all persons in this country, the Department of Justice now translates speeches and press releases which contain materials of interest to the Spanish-speaking community.

The number of Hispanics in the United States means more than just the need for some of us to become bilingual. The number of Hispanic Americans is also important because one of the goals of our nation's immigration policy has been and will continue to be the reunification of the family. Therefore, we will be seeing the growth of the Hispanic population by means of documented immigration. As a consequence of this growth, the voting strength of Hispanics will increase as these resident aliens become naturalized citizens. In my opinion it will be through this increased voting strength that social justice can be most fundamentally and permanently achieved.

In the past, America operated under an unrestricted immigration policy. For instance, the Rio Grande, part of the Mexican-American border, was, for all practical purposes, an imaginary line. The river was crossed regularly without interruption.

However, as both the United States and Mexico grew in population, Congress began to place some restrictions on this unlimited flow. For instance, the 1965 amendments to the Immigration and Nationality Act limited the Western Hemisphere to 120,000 visas annually. Immigrants from Mexico averaged 42,000 annually in the post-1965 period. However, in 1976 the Act was further amended to restrict Mexico and other Western Hemisphere countries to 20,000 annually. The resulting increase in the number of undocumented workers from Mexico and other countries was thus quite inevitable.

In response to the need for a comprehensive review of our current immigration policy, Congress in 1978 created the Select Commission on Immigration and Refugee Policy. The Select Commission, on which I serve in my capacity as Attorney General, is composed of 16 members. Of these, four are members of the Senate Judiciary Committee, including Senator Dennis DeConcini; four are Cabinet members; and four are private citizens who were appointed by the President.

In addition to the Chairman of the Select Commission, Father Theodore Hesburgh, former Chairman of the United States Commission on Civil Rights, and Rose Ochi, a member of Mayor Tom Bradley's staff in Los Angeles, two public members are Hispanics. One is Joaquin "Jack" Otero, who is Vice President of the Brotherhood of Railway and Airline Clerks. The other Hispanic is the Honorable Cruz Reynoso, Associate Justice of the California Court of Appeals and a former Director of California Rural Legal Assistance.

The Select Commission, which operates under the leadership of Executive Director Lawrence Fuchs, has sought to provide answers to various questions:

First: How many immigrants and refugees can be admitted annually?

Second: Where should they come from?

Third: What criteria should be utilized in determining who comes? For example, should we give preferences to immediate relatives, to those who have economic skills, to those who are escaping political oppression, or to those seeking job opportunity?

Fourth: Through what process will migrants be admitted or excluded? What can be done to make the process more rational, more efficient, and more humane?

The Select Commission has been actively pursuing answers to these tough questions for almost one year. Dr. Fuchs and his staff have conducted 12 regional public hearings in New York, Miami, Phoenix, Los Angeles, and other areas which have a substantial number of resident immigrants. During the Miami and New Orleans hearings, which I attended, and at the other 10 hearings, the testimony of over 2,000 witnesses has been heard. In addition the staff has conducted 12 consultations with experts on such topics of concern to the Select Commission as the increase of migration from the Caribbean, the work card idea, and family reunification.

By the end of 1980 the Select Commission will have decided on its major recommendations. These will be reported to the President and to Congress in March 1981. Much still has to be done, but I am confident that a consensus will be reached by the Commissioners.

Because of the Commission's diversity and because the separate issues which make up overall immigration policy have not been placed before the Select Commission for a formal vote, I want to make it clear that my comments here are strictly my own. However, I feel secure in saying that generally there is a consensus on the Commission that the recommendations should be submitted in a comprehensive form. In other words, the different aspects of our new

immigration law and policy should become effective simultaneously, to the extent this is possible.

The issues which face the Commission are difficult and complex. Regardless of their nature, however, they must be addressed. We must remove the conditions which permit abuse, exploitation, and fear in that silent community of undocumented workers who are useful and productive residents of the United States. At the same time, we must better examine the problems of undocumented entries and thus maintain better respect for our laws.

In addition to protecting the defenseless and gaining respect for our legal system, regulating the undocumented flow and rechanneling some immigrants into legal channels serves the Hispanic community by increasing the full potential for Hispanic participation in government and in citizen rights. In many communities across America, the promise of a strong Hispanic vote is unrealized because of the presence of a large undocumented population. While a resident alien is able to apply for citizenship and the right to vote after 5 years, an undocumented alien remains voiceless, no matter how long he or she has lived in the U.S. and no matter how productive he or she has been.

One of the most important issues which the Select Commission must deal with is what to do about those who have taken up

residence in the United States without being processed through normal immigration channels. This issue is one which has evolved over the past 15 years, during which time a mixture of push-pull forces has resulted in hundreds of thousands coming to the United States to seek economic freedom. One avenue for accomplishing the formal absorption of this community is to amend the registry statute by updating the cut-off date for deportation of undocumented persons. The amendments would substantially protect those who have established and earned equities and would provide for simple, non-technical proof in accomplishing this adjustment of status.

A second issue which must be addressed if the legalization process is to be accepted by the public is the need to strengthen our law enforcement program. This will require concerted efforts in the following areas:

First: The borders. We will need to increase our physical presence at all our borders. By having more Border Patrol agents and better equipment, we can avoid use of unnecessary force by avoiding situations where one agent must try to apprehend 30 or more undocumented aliens. In addition, a greater emphasis on border enforcement as opposed to interior

enforcement is needed since I implemented a policy which, in effect substantially limits random INS enforcement activities in residential areas. This policy, which was implemented in November 1979, took into account various factors, including limited INS resources and the importance of counting everyone in the 1980 census. My directive, which was issued shortly after Hispanic leaders raised questions about the INS residential area activity, prohibited immigration officers from seeking out undocumented aliens in residential areas by routine area control investigations except in unusual circumstances. Another concern I had was that arresting people for immigration violations in residential areas produces more resentment than results.

Second: The exclusion/deportation process. This process must be administratively and statutorily streamlined in order to allow the Immigration and Naturalization Service to act promptly in non-discriminatorily excluding or deporting persons who do not have a legitimate right to be in the United States. This can and must be done in recognition of the due process rights of all persons guaranteed by the Constitution.

Third: Criminal enforcement. We must strengthen our anti-smuggling efforts so that we can discover and convict those who exploit and abuse the defenseless undocumented worker. Although much of this can be accomplished by Departmental regulations, to the extent necessary the law should

be changed to facilitate this enforcement. For example, the Attorney General, in cooperation with United States Attorneys, can place a greater emphasis on alien smuggling prosecutions. At the same time statutory restrictions on the seizure of motor vehicles which are used in human trafficking should be removed.

A third area where some believe that action must be taken is employer responsibility. Legislation in this area has been considered by Congressional committees since the early 1950's. However, recent efforts to penalize employers who knowingly hire undocumented aliens have been strenuously opposed by Hispanic civil rights organizations because of fear that employers would cautiously but discriminatorily prefer not to hire persons who look Hispanic or would ask only Hispanics if they had proof of citizenship or of permanent resident status.

To counter those fears, some proposed a national work authorization card or permit. The theory is that since every person entitled to work must possess a card when he or she applies for a job, employers will not be tempted to exercise discretion which might discriminate against Hispanics and other minorities.

I personally am not concerned about adding another card,

similar to my driver's license, to the many which I already carry. However, I am sensitive to the fact that many Americans are concerned and fearful of what is sometimes erroneously referred to as a national identification card and the privacy implications of such a document. Finally, as a law enforcement official, I am not convinced of the potential for success of an overly broad employer responsibility law.

If an employer responsibility law becomes a part of the Select Commission's recommendations, and I think there is support for the concept, I will urge that such a law be designed so that it is fair and reasonable and has a good prospect of being obeyed and enforced. Examples might include situations in which an employer hires more than a certain number of undocumented aliens; abuses and exploits undocumented workers; or cooperates with an alien smuggling ring. Also, in order to protect against unequal enforcement or intrusions into privacy, I would recommend a very simple work card, that is to say one which contains a limited amount of information. Consistent with the view of many Hispanic leaders, an employer bill is acceptable only if everyone is subjected to the same pre-employment request to show possession of a work card.

In 1978 slightly more than 600,000 immigrants and refugees

obtained resident alien status. Based upon this fact, upon the population growth rates in the United States, and upon other factors, the Select Commission staff is considering one model under which the overall ceiling would be 750,000 immigrants per year. The 20,000 per-country limit which adversely affected Mexico and other countries would then be eliminated. Instead, the immigrant flow would be channelled into three categories:

Category I: Family Reunification. This category includes unlimited entry for immediate relatives of U.S. citizens, generally defined as spouses, unmarried children, and parents. It also includes limited immigration for the immediate relatives of permanent resident aliens and for the married children of U.S. citizens. 350,000 would enter in this category.

Category II: Refugees. The goal here would be to admit up to 50,000 under the criteria established by the Refugee Act of 1980. In addition, in case of emergencies such as that recently experienced in the Cuban boatlift, additional visas would be allotted from the total allotted to Category III.

Category III: Independents. This category, which would average 350,000 annually, would offer immigration based on the needs of our country. Criteria might include economic conditions, employment needs, and cultural development needs.

There are other less complex issues facing the Select Commission. They include a possible guest worker program or expansion of the current H-2 program and the creation of a small Immigration Council to review regularly the targets for each category and report to the Congress and the President annually.

In conclusion, I welcome advice from LULAC and other Hispanic organizations on how to address the issues facing the Select Commission on Immigration and Refugee Policy. I have been informed that one of the recommendations which surfaced at the recent National Hispanic Leadership Conference in San Antonio was the creation of a National Hispanic Task Force on Immigration. Such a working group is essential, and I look forward to hearing from this group of experts on the needs and concerns of Hispanic Americans. In addition, I know that I will continue to receive constructive advice on immigration issues from Ruben Bonilla and the other 16 members of the Attorney General's Hispanic Advisory Committee.

Again thank you very much for this opportunity to address you on a topic of extreme importance to all Americans.