# Department of Justice

STATEMENT

BY

ACTING ATTORNEY GENERAL NICHOLAS deB. KATZENBACH

BEFORE THE

IMMIGRATION SUBCOMMITTEE OF THE

SENATE JUDICIARY COMMITTEE

ON

S. 500, AN ACT TO AMEND THE IMMIGRATION AND NATIONALITY ACT

WEDNESDAY, FEBRUARY 10, 1965

I am pleased to testify on behalf of S. 500, introduced by Senator Hart and 32 other Senators of both parties. This bill is the Administration's immigration proposal, which President Johnson submitted January 13, 1965 in a special message.

The President urged the Congress to accord priority to this bill and I come today to stress the Administration's view that there are few areas of legislative responsibility in which prompt action is more urgently needed.

There is urgency first of all in terms of simple humanity. Under present law, we are forcing families to be separated -- indeed, in some cases, forcing mothers to choose between America and their children.

There is urgency in terms of our self-interest at home. Under present law we are depriving ourselves of brilliant, accomplished, and skilled residents of foreign countries who want to bring their talents here. As President Johnson observed in his Immigration Message, "This is neither good government nor good sense."

And there is urgency in terms of our self-interest abroad. In the present ideological conflict between freedom and fear, we proclaim to the world that our central precept is that all are born equal -- and free thereafter to demonstrate their individual talents to the best of their ability. Yet under present law, we choose among immigrants not on the basis of what they can contribute to our social and economic strength, but on the basis of where they -- or, even, in some cases, their ancestors -- happened to be born.

This bill is not designed to increase or accelerate the number of newcomers permitted to come to America. Indeed, this measure provides for an increase of only a small fraction in permissible immigration. The central purpose of this measure, rather is to help us choose among potential Americans according to standards that are fairer to them and more beneficial to us -- better, in short, for everyone involved. To do this, we must eliminate the cause of the present warped standards -- the national origins quota system. It is for these reasons that I come before you today to express as emphatically as possible my belief that this measure should be enacted, that it should be enacted speedily, and that it should be enacted with the fullest support.

Let me now outline the provisions of this measure against the background of existing law and its effects.

## I. THE PRESENT SYSTEM

The present system embodies a 40-year-old method of limiting immigration from outside the Western Hemisphere. A maximum for such immigration is set; it now totals 158,361. This total is divided into quotas assigned to different countries according to the supposed national origins of the American population in 1920.

Within the quota for a given country, immigrant visas are allocated according to a scale of preferences. The first fifty percent of the quota is set aside for those whose specialized skills are "urgently needed" in the United States. The next thirty percent is set aside for parents and unmarried adult children of American citizens. The remaining twenty percent is set aside for the spouses or unmarried children of permanent United States residents. A final preference is available to other close relatives of citizens, from any remaining quota vacancies. Only those vacancies as might then remain are available for others.

In general, the present system favors immigration from Northern Europe and discriminates heavily against immigration from southern and eastern Europe and Asiatic countries. Three countries alone receive seventy percent of the total annual quota of 158,361.

Such a system ought to be intolerable on principle alone. I do not know how any American could fail to be offended by a system which presumes that some people are inferior to others solely because of their birthplace. There is no democratic -- indeed, no rational -- basis for such discrimination. The harm it does to the United States and to its citizens is incalculable.

These evils of the national origins system in principle are compounded by its cruelties in practice, cruelties so needless that they alone provide abundant reason for changing this system. I spoke at the outset about three particularly damaging results of the national origins system. Let me describe them a little more fully now.

1. The first of these results is the separation of families which the national origins system repeatedly forces or prolongs. In theory, the present system of preferences is designed to give priorities to family ties. But in innumerable cases, these priorities cannot apply. It is only possible to give preferences when there are immigrant visas available to be apportioned in the first place. Many countries have quotas so small that even preference visas are not available for years.

Meanwhile, it has not been possible to achieve even the discreditable original aim of the national origins system -- to preserve the ethnic

balance of our population as it existed in 1920. Some large-quota countries consistently fall far short of using all their annual quota allotments. The present law does not permit these quota numbers to be reassigned to countries where they are sorely needed. As a result, fully one-third of the total authorized quota numbers are wasted each year.

Consequently, an American citizen with a mother in Greece must wait at least five years -- and often longer -- to secure a visa which would allow her to join him here. An American citizen with a brother or sister or married child in Italy cannot obtain a visa without a wait of many years.

Yet immigrants from favored countries, who have no family ties and no particular skills to offer to our country, can enter without difficulty and without delay. One employment service lists the following times necessary to bring domestics to the United States from various countries: from the United Kingdom and Ireland, four to six weeks; for Sweden, Belgium and Germany, eight to twelve weeks.

In other words, an American citizen may have to wait five years to bring his mother to this country. But he can bring in another woman, a total stranger, to be his maid, in weeks.

The pressures built up by such disparities results in occasional special corrective legislation. But the passage, from time to time, of special, short-term bills seems to me only to underscore the inequity and unworkability of the present system.

2. A second damaging result of the present national origins system is that it deprives us of persons whose skills can be of inestimable benefit to the United States. Again, the present preference system is designed to benefit such persons. But again, the priorities apply only to existing vacancies in quotas. When quotas are full or over-subscribed, priorities can do no more than reduce the waiting time. In a number of countries, even after such a reduction, skilled applicants still must wait several years.

There are innumerable cases in which this system damages the United States. Let me cite only one recent example.

This case concerns a brilliant surgeon from India who was trained here for many years and is now engaged in important research in heart surgery. His services are now urgently sought by an American hospital. Although he has, as a result, secured first preference status, the tiny Indian quota of 100 is so heavily oversubscribed that it will be several years before he can be granted admission to the United States.

Furthermore, the present procedure for granting preference to persons of exceptional ability often discourages them from seeking admission to this country because they must have prior assurances of employment and their services must be needed urgently. These are quite difficult standards to satisfy. Often, American employers are unwilling to make job offers prior to a personal interview -- and this, of course, is impossible for persons without visas.

Yet from a practical point of view, such skilled persons are the type of immigrants who would contribute most to the growth and development of our economy and culture. They should be encouraged to come here.

3. The national origins system harms the United States in still another way: it creates an image of hypocrisy which can be exploited by those who seek to discredit our professions of democracy.

There is the case of a young man in Colombia, who is eligible to come here freely on a non-quota basis because he is from an independent Western Hemisphere country. His wife is also a native and citizen of Colombia. But she is the daughter of a Chinese father.

The law decrees that an alien whose ancestry is at least one-half attributable to a country in the "Asia-Pacific Triangle" cannot immigrate under the quota for the country of his birth or citizenship. He must come, instead, under the quota for his ancestors' country.

As a result, this young woman must be considered half-Chinese and thus admissible only under the quota for Chinese persons of 105. This does not mean she cannot come to the United States. It only means that if her husband chose to come ahead to the United States, he would have to wait for his wife. How long he would have to wait would depend on whether or not he became a citizen. If he did not, his wife's turn on the Chinese persons quota would not come until the year 2,048. If he did become a citizen, however, he would have a shorter wait. He and his wife could be reunited in a mere five years.

I wonder what our friends in Colombia, or in the scores of other countries in which similar situations exist, can say in our defense against those who accuse the United States of discrimination, bigotry, and hypocrisy?

The three factors I have just described are the major objections to the present national origins system of choosing among potential Americans. There are, however, other provisions of present law which cause cruelty and hardship.

There is the case of the young man, of Italian descent, who met and married an Italian girl while he was on duty with the United States Navy in the Mediterranean. They had a daughter, who is an American citizen because her father is. The Navy now has transferred the young father to a new assignment in the United States and he has consequently made plans to take his family with him. But he cannot do so.

Several years ago, because of a nervous breakdown, his wife was hospitalized and then discharged after she recovered. The present law, however takes no notice of medical advances in treating mental disturbances and makes any mental disability -- whether present or past -- the mandatory basis for permanent exclusion from the United States.

Consider the alternatives faced by this young serviceman. He could leave his wife and child in Italy, or he could leave the Navy and give up living in America in order to live with his family abroad. What kind of Solomon do we ask him to be?

Similarly, the present law is oblivious to the needs of mentally retarded children, or to the fact that epilepsy is now controllable or curable. The result is the kind of choice faced by an Italian family with five children. They waited their turn on the quota for many years. Their turn finally came up recently and they began making plans to join relatives in the United States. The father has a good job awaiting him and now, after years of poverty in Italy, the family could look forward to a better life.

Unfortunately, one of their five children, a bright 10-year-old, is afflicted with epilepsy. As a result, she is permanently ineligible for admission and no administrative relief is possible. The family's choice: on the one hand, give up the promise of opportunity in America, or, on the other hand, come here and leave the little girl behind.

This is not a choice any of us would want to make. It is not a choice the United States of America should force any human being to make. I say this because there is no sensible reason to inflict this kind of choice. It is because of such cruelties that every Administration since President Truman's has strenuously urged the revision of present law. It is because of such cruelties that the measure we consider today was drafted and submitted to Congress. It is because of such cruelties that this measure should be enacted speedily into law.

## II. HOW THE SYSTEM WOULD BE CHANGED

Except for technical changes, this bill is essentially the same proposal on which hearings were held during the 88th Congress (S. 1932 and H. R. 7700). Its purpose is not to increase immigration already

authorized by Congress, but to eliminate the national origins quota system as our method of choosing among potential immigrants. In its place, this measure would establish a system which is clear, simple and fair.

We would retain a limit on total quota immigration. Within that limit, the United States would declare to those who seek admission to this country that, "We don't care about the place or circumstances of your birth -- what we care about is what you can contribute."

This measure would abolish the national origins system and replace it with a system for choosing among potential immigrants based on a standard understood the world over--first-come, first-served.

To assure an orderly and fair transition to this new system, the bill provides for the gradual elimination of the quota system over a five-year period. Each year, the annual quota of every country would be reduced by twenty percent. The numbers thus made available, plus quota numbers which are now being wasted would be assigned to a quota reserve pool for distribution under the new system. After the five-year transition period, all numbers now distributed by national origins quotas would be distributed according to the new system.

Under this system, immigrants would be chosen -- within health and security safeguards -- exclusively on the basis of personal talents and family relationships, not on ancestry or residence. In other words, we would retain essentially our present preference system, but free it from the constricting effect of the national origins system.

The bill also seeks to provide some immediate relief for minimum quota areas by raising their annual quotas from 100 to 200. The resulting increase -- of less than 8,000 -- is the only change proposed in the present ceiling on authorized quota immigration, bringing the total from about 158,000 to about 166,000.

Actual immigration would increase by a larger amount, however, since the bill provides for the use of the approximately 55,000 quota vacancies now wasted in countries which do not fill their quotas. But let me stress that Congress already has authorized these 55,000 spaces to be filled; the increase in authorized immigration would be less than 8,000.

To insure that no single country receives a disproportionate share of the total immigration authorized in any year, the bill would limit the immigration from any one country to ten percent of the total. Since the total authorized would be about 166,000 per year, authorized immigration from any country could not exceed 16,600. This limitation, however, would not apply if it would result in a decrease of more than

twenty percent per year in a given country's quota during the first five years of the bill's operation.

Without this ten percent limitation, all of our immigration would be taken up for several years by two or three countries that now have extremely long waiting lists. All immigration from the rest of the world would be shut off -- a result that we could not permit as a matter of foreign relations, and that in any event would not be fair. I believe the bill's solution to this problem is eminently reasonable and equitable.

This bill seeks, in addition, to insure that transition to the new system will not impose hardship on our close allies by abruptly curtailing their immigration. It would authorize the President, after consultation with a joint Congressional-Executive Immigration Board, to reserve up to thirty percent of the new pool for the purpose of restoring cuts in present quotas. This authority could be exercised only where undue hardship would otherwise result from the transition and where the reservation is in the national security interests of the United States -- but no country could receive more quota numbers than it does now.

The bill also provides similar authority to reserve up to ten percent of the reserve for refugees fleeing from catastrophe or oppression.

The percentages authorized for these reservations constitute the sole substantive difference between this measure and that introduced in the last Congress. Studies made after this legislation was originally proposed showed that the reservations for national security interests could be lowered from fifty percent to thirty percent and those for refugees could be lowered from twenty percent to ten percent. These changes have been made.

In addition, the bill would:

(1) Eliminate the discriminatory "Asia-Pacific Triangle" provisions of existing law;

(2) Give non-quota status to parents of citizens, and fourth preference to parents of resident aliens;

(3) Give non-quota status to citizens of newly-independent Jamaica and Trinidad and Tobago, providing them with the same status as all other independent Western Hemisphere nations;

(4) Eliminate the requirement that highly trained or skilled first-preference immigrants secure employment here <u>before</u> immigrating;

(5) Give fourth preference to workers with lesser skills who could meet a specific labor shortage;

(6) Grant admission under proper safeguards to persons, afflicted with mental health problems, who are close relatives of American citizens or resident aliens;

(7) Authorize the Secretary of State to require registration of quota immigrant visa applicants and to regulate the time of payment of visa fees;

(8) Establish the seven-member Immigration Board to advise and assist the President on all facets of immigration policy, including the reservation and allocation of quota numbers and the admission of skilled workers and others whose services are needed by reason of labor shortages, and

(9) Eliminate technical restrictions that have hampered the effective use of the existing Fair-Share Refugee Law.

## III. PROTECTIONS PROVIDED BY THE PROPOSED SYSTEM

I have already noted that this bill would retain all the other present security and health safeguards of present law. There is an additional area of necessary protection -- the area of unemployment and foreign competition for the jobs of Americans.

I know that Secretary Wirtz will detail his views on this subject extensively when he appears before the committee, but particularly in view of the concern which has already been expressed concerning the effect of immigration on unemployment, I would like to discuss the subject briefly.

Historically, employment has been a major consideration in any discussion of immigration policy. When we were a younger and more open country, we wanted, needed, and welcomed the mind and muscle of millions of immigrants. Professor Oscar Handlin, the immigration historian, has observed that:

> "The story of immigration is a tale of wonderful success, the compounded biography of thousands of humble people who through their own efforts brought themselves across great distances to plant their roots and to thrive in alien soil. Its only parallel is the story of the United States, which began in the huddled settlements at the edge of the wilderness and pulled itself upward to immense material and spiritual power."

However applicable such observations are to the past, we nonetheless now live in different circumstances. Our Great Plains are peopled; our great industries are manned. Today our concern is not seeking men to man machines, but seeking jobs for men displaced by machines. Thus it is appropriate and responsible for us to give close attention to the potential effect of this bill on domestic employment.

In response to such concern, let me state our conclusion that the overall effect of this bill on employment would, first of all, be negligible, and second, that such effect as might be felt would not be harmful, but beneficial.

The actual net increase in total immigration under this bill would be about 60,000. Of this total, all would be consumers but only about a third would be workers. The rest would be wives, children, and elderly parents. Since the ratio of consumers to workers is somewhat higher than our present ratio, the net effect would be to create rather than absorb jobs.

Those immigrants who would seek employment is estimated at a maximum of 24,000. Our present labor force, however, is 77 million. Statistically or practically, we are talking about an infinitesimal amount; 24,000 is about three one-hundredths of one percent of 77 million.

And finally, a good part of even these 24,000 additional workers would not even be competitors for jobs held or needed by Americans. More than a fifth would come here precisely because they possess the kinds of skills and talents that are in short supply here and are especially advantageous to our country.

Even beyond these considerations, there are two statutory safeguards, each of which can result in the exclusion of foreign workers. One is the Department of Labor's responsibility to protect American workers from the entry of immigrants whose employment would adversely affect the domestic labor market. The second safeguard, administered by the consular service of the Department of State, excludes aliens who are likely to become public charges -- that is those without support who might readily contribute to unemployment. It is our belief that these safeguards are abundantly adequate to protect American workers.

## IV. CONCLUSION

We have, in the Department of Justice, given this measure the most careful study. The plain lesson of our study is that our present system of choosing among potential Americans should not endure. In such a system

of selection, personal pedigree is an intolerable standard; inhumane rigidity is an intolerable method; and national self-deprivation is an absurd sacrifice.

It is these factors, not immigrants, which are most alien to America. Such standards must be changed, and that is the purpose of the measure before us. We can, without injury or cost, bring justice to our immigration policy. I urge the committee and the Congress to do so with speed.