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STATEMENT  
OF  
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ATTORNEY GENERAL OF THE UNITED STATES

Prepared for Delivery  
before  
Subcommittee on Immigration  
of  
Committee on the Judiciary  
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The recent Special Message of the President on Immigration set forth four areas relating to immigration and naturalization which the President asked Congress to consider and act upon.

The Departments of State and Justice have been working for sometime on a revision of the immigration laws. This revision has been based on a careful study of the operation of the Immigration and Nationality Act of 1952. Paralleling this legislative study, the Department of Justice set about to revise and reorganize, within statutory limitations, the administration of the immigration laws. Under the leadership of General Swing, Commissioner of the Immigration and Naturalization Service, a great many administrative reforms have taken place.

The proposed legislative changes and the administrative reforms are both part of the overall program to better the immigration system in this country. I should like first to tell you something about what we have done administratively, and then about the legislative changes which I believe are necessary and proper to complete the program.

#### Reorganization of Immigration Offices

The chief administrative weakness which we discovered was the absence of a proper table of organization and division of responsibility. There was serious lack of supervision over, and coordination of, operations at ports of entry, in the Border Patrol, and at other field offices. In the central office top administrative officials were so overwhelmed with routine procedural case work that there was little time available for policy determinations, direction, and follow through. Petty administrative details were performed by central office officials and spread out among top ranking field officers, with resulting duplication, inefficiency, and lack of direction.

Early in 1955, after long and careful study, the Commissioner instituted a regional division of operations. The country was divided into four regions, each carefully staffed, on a selective basis, by career employees chosen on the basis of proven ability and leadership. All case work and administrative detail were transferred to the field under the general supervision of the regional commissioner. District offices within the regions were increased, recently, to 32. Twenty-two suboffices were abolished and their activities merged into these districts which were given wide authority to take final action on almost all matters, subject to over all supervision and check by the regional commissioner. No installation was closed, however, where study revealed substantial workloads or other factors justifying its retention. The result has been that central office officials, having been relieved of case work, are devoting full time to supervision of field operations and determination of policy.

An example of a facility which was abolished was a small office on the east coast staffed by three employees. Their duties included inspections, handling administrative applications, and investigations. Naturalization work for the same area was being performed by officers detailed into the area from another office. Our study revealed that only 61 vessels were boarded in this area during the fiscal year 1954, an insufficient volume to justify the permanent assignment of an inspection officer. Of 438 miscellaneous applications processed during this period, only 21 were of the type requiring personal interview. The investigations conducted were considerably less than the normal output of one investigator.

Another example was an office in the Middle West, staffed with five officers and four clerks. During the first six months of fiscal 1955

one aircraft arrived, none having arrived during the preceding two years. In 1954 a total of 492 petitions for naturalization were filed, approximately one-half of the normal output of one examiner. In the same year 557 miscellaneous applications were processed, most of which were the type which could have been handled by mail.

In these and many other cases the functions of the offices closed were transferred to larger, more centralized, offices. These offices could be directed by the regional commissioner and their activities coordinated through Washington with other regions with far greater ease. There was an attendant saving in personnel, and the public continued to be served without inconvenience.

The financial results of the reorganization can be best understood by noting that total administrative costs decreased from 11% of the Service budget to 7.7%.

#### Training of Officers

Soon after taking office General Swing initiated an in-service training program for Service career employees. In January of 1955 an Officer Training School was established in Washington. Intensive courses are given to acquaint officers of proven ability with all significant areas of activity in the Service. Candidates for the school are selected by competitive examination. Last year five classes, totaling 206 officers, were graduated. These men and women came from offices of the Service in every part of the United States, in the Territories, and abroad. They represented all the various field positions from journeymen up to supervisor. The course is six weeks long, and includes studies based upon

lectures and home study in the evenings. Instructors are drawn from supervisory ranks in the Service, the Department of State, and the Bureau of Customs. Examinations are conducted and results are permanently recorded. After appropriate ceremonies at the conclusion of each course, letters of commendation are given to the honor graduates.

In the Border Patrol, the previously established training school moved to a new and greatly improved headquarters at Fort Bliss, Texas, made available on a temporary basis by the Army. This school prepares new employees in the Border Patrol by instruction in immigration law, enforcement, foreign languages, physical training, and firearms. Border Patrol sector headquarters maintain training programs on a continuing basis by class and individual instruction.

Another important change instituted by General Swing, which keys into the school, was the creation of two Selection Boards to handle promotions. These Boards, on the basis of personal interviews and review of files, make and maintain eligibility rosters of officers worthy of promotion, and fill vacancies as they occur. The program will be continued on a regular basis and publicized within the Service so that standards for advancement will be clearly established and understood by all.

#### Reorganization of Border Patrol

When General Swing came into office he found that the Border Patrol was under the administrative and operational direction of the district directors in charge of the several immigration districts along the

borders. In the southwest area there were three districts along the Mexican Border alone. Each one was staffed separately, with separate supervision of the Border Patrol within each district. We found that the boundaries were really artificial, and that by loose command the Border Patrol's effectiveness was impaired, at a time when the Mexican wetback problem was becoming increasingly serious. This has been changed. All field operations of the Border Patrol, including administration and personnel activities, have been centralized under the direction of a single officer in each of the four regional offices around the country. On the southern border all operations are vested in one command responsible for the entire border. Personnel and material can be moved where and when needed, immediately meeting the demands of any emergency.

Not only does the Patrol now perform the literal statutory function of the Attorney General to "guard the boundaries", but it makes searches in the interior. This ensures that the job is thorough, and discourages continued attempts to cross the border by dispelling the notion that if you once make it you're in.

Border Patrol officers have also been appointed Customs Officers with all the powers, duties and functions of such officers regularly serving under the Department of the Treasury. Those duties include the detection and apprehension of smugglers and narcotic law violators. During the last nineteen months Border Patrol officers have made sixty-one seizures of narcotics valued at \$445,403.20.

Prompt removal of Mexicans illegally in this country is now one of the functions of the Border Patrol air transport arm. Planes carry such

illegal entrants from points in the interior to a border station where they are immediately placed on board vessels for Vera Cruz. We have thus been able to avoid unnecessary detention and to convert our former detention facilities into staging areas.

It will be recalled that "Operation Wetback" stemmed an actual invasion by illegal entrants from Mexico. It was a situation of such massive proportions that it had even been suggested that federal troops were the only solution. Indicative of the size of the task is the fact that in the month of June, 1953, in the Los Angeles area, there were over 50,000 apprehensions of illegally present aliens; in August there were 60,000; and in September there were almost 65,000. General Swing made an immediate inspection of the border and concluded that with proper disposition of personnel and material the border could be brought under control. "Operation Wetback" was accomplished skillfully and quickly, and at the same time every safeguard was employed to make certain the aliens were treated humanely and fairly. The border areas and the large industrial centers where illegal entrants often made their way are now almost wholly relieved of the wetback problem.

The results have been gratifying. Whereas at the beginning of the reorganization the Border Patrol was faced with the problem of removing some 3,000 wetbacks daily, the numbers have been reduced to an average of less than 250 a day. The present monthly average compares to the daily average of a year ago.

The economic and social relief to affected communities has been noticeable. The Director of the California Department of Employment,

at the request of the Governor, expressed his thanks for the Service's work in removing illegal aliens from California. It was stated that, as a result of the first month's operation alone, claims for unemployment benefits had dropped 10%, resulting in a weekly saving to California taxpayers of \$325,000. The Texas Employment Commission estimated that 30,000 Americans in South Texas, who in the past migrated north in the summer months to find seasonal work, stayed home because of higher wages and better working conditions. Reports are coming in from police and welfare agencies in many areas attesting to a decrease in crime and disease rates in their localities.

Correction of the Mexican border problem has had a beneficial impact also upon our farm labor program. While the number of illegal entries of farm laborers has been a matter of conjecture, we do know the number of legal entrants, commonly known as "braceros": in 1955 there were about 390,000; in 1954, 310,000; and in 1953, 198,000. It is a fair assumption that this increase in legal hirings has resulted in large part from the control of the wetback problem.

I should like to stress, too, that the cooperation of farmers, ranchers and the Mexican Government has been invaluable. Following the extension of the Agricultural Act new laminated identification cards were issued to qualified braceros. This has made it possible for growers to be assured the return of workers who have been found dependable. There are presently some 150,000 braceros who possess such cards indicating their suitability and availability for future employment.

### Abolition of Indiscriminate Detention

A practice which had grown up over the years was the indiscriminate detention of aliens who were awaiting decisions as to admissibility or deportability. While detention of some was undoubtedly necessary, our studies showed that the majority could be released under reasonable supervision without harm to the public safety or security. This change enabled us to close down Ellis Island in New York and detention centers in San Francisco, San Pedro and Boston. New directives were issued ordering aliens detained only if they were likely to abscond, or if their release would be inimical to the public interest or safety. Within ten days the number of aliens in detention in the New York City area dropped to about 25, compared to a past average of several hundred. In 1955 the total number of aliens detained was about 85,000, of which more than 72,000 were Mexicans being held for very brief periods awaiting return to Mexico. At the end of November 1955, there were, apart from Mexicans awaiting deportation, 165 aliens being detained by the Immigration Service.

The results have been gratifying. Less than 1% of aliens released on parole have failed to appear voluntarily on demand. Conversely, the change has permitted the Service to devote a greater amount of its time and manpower to those relatively few aliens whose continued presence here is a danger or otherwise inimical to the public good.

### Deportations

Between July 1, 1954, and January 31, 1956, 20,387 aliens were deported. Forty-five of these were deported as subversives, eighteen were deported on other charges although there was evidence of subversion,

and twenty-one against whom there were allegations of subversion departed voluntarily before deportation proceedings could be completed. Among the aliens deported were Irving Potash, John Williamson, Cedric Belfrage, and Claudia Jones.

Between July 1, 1954 and the end of 1955, 1378 aliens were deported under criminal, immoral conduct, or narcotics charges. These included Joe Adonis, Giuseppe Gagliano, Sebastian Vermiglio, Nick Circella and Nicolo Impastato.

One difficult problem with which we have been, and are, faced is the presence here of aliens who are mental cases. Sections 212 and 241 of the Immigration and Nationality Act of 1952 require the Attorney General to deport certain aliens who are insane or feeble minded. We understand that in 1955 there were more than 21,000 aliens confined in mental institutions. Undoubtedly a sizeable number are maintained at public expense, as evidenced by the fact that last summer about 1,000 such aliens were under orders of deportation. Deportation has been effected whenever we have been able to obtain travel documents, transportation, and assurance that the alien will receive proper medical care at the place of arrival. In June of last year a chartered plane, with competent medical help aboard, carried 42 mental cases to various points in Europe and Africa. In July two trips by Service-operated planes effected the deportation of 30 mental cases to the Caribbean, Central, and South American areas. In August, 43 cases were removed to Europe by chartered plane.

In any deportation case the Immigration Service listens carefully to a claim of possible persecution in the country to which the alien is being sent. New regulations were promulgated last year to guide the Service in its handling of these cases. The alien may appear before a Special Inquiry Officer and testify on his own behalf and present any other evidence in support of his claim. The final decision in these cases must be made by a Regional Commissioner, the highest ranking field officer. All cases of deportation to the Chinese mainland receive the personal attention of the Commissioner.

The most pressing problem which has faced the Department in its attempts to deport aliens who are clearly deportable is the matter of expeditious disposal of the proceedings. Some aliens have been able to defeat deportation for as long as two or three years by protracted suits, appeals, and reviews. I intend to talk about this subject more fully in a moment in connection with my review of the several legislative proposals.

#### Correction of Backlogs

In the investigative arm of the Immigration Service we discovered a tremendous statistical backlog. It was not entirely a correct picture, but still serious. On the face, there were over 276,000 investigative cases pending on July 1, 1954, meaning that about one out of every twelve aliens in the United States was marked for investigation. A complete review was made and a huge number of "paper cases" was discovered. This included such matters as reported "leads", routine alien registrations, routine checks, and other matters which did not necessarily have any relation to a possible case against the alien. Beginning in July 1955 a new statistical system was installed with the result that the count of "cases pending" no longer included

all of the routine housekeeping details that are a necessary part of the system. The new count showed about 14,000 pending subversive cases and about 15,000 cases pending under other charges. With this reorganization of the records we have been able to take action speedily on old cases before the alien has had time to acquire sufficient equities to defeat deportation, and to expand our investigative activity into search operations to locate aliens who have been able to conceal their illegal presence.

Naturalization applications formerly took from 9 to 12 months to be processed. It now takes an average of about 45 days. This was accomplished by redeployment of forces, concentration of effort, constant "push" from the central office, and excellent cooperation on the part of judges and court clerks. There were 209,000 persons naturalized in fiscal 1955. On one day, November 11, 1954, about 55,000 persons were naturalized in mass ceremonies conducted throughout the land. On July 1, 1954, there were over 87,000 pending applications. By the end of November, 1955, there were about 25,000 pending applications.

In the field of deportation and exclusion hearings, concentrated efforts during the calendar year 1955 have resulted in a diminution of the backlog in pending exclusion cases from 443, at the end of 1954, to 135 at the end of 1955. Similarly, the number of pending deportation cases decreased from about 3300 at the end of 1954 to approximately 2000 at the end of 1955.

Noted during the past year, the Service was required to conduct fewer exclusion hearings during 1955 than in either of the two previous years. In 1955, 10,467 exclusion hearings were held. Actual exclusions totaled slightly more than 2500, of which more than half were natives of Mexico. Included in the total were 89 subversives and 340 aliens in the criminal, immoral conduct, and narcotics categories.

#### Reorganization of the Arrest and Hearing Processes

Significant changes have been made in carrying out the deportation process to make certain that it conforms to "due process". In the past it was thought necessary to commence every deportation case by physical arrest. In most cases this was unnecessary; and in most of the unnecessary cases it caused useless fright and anguish. There were cases involving infants, aged aliens, and others who were not likely to abscond under any circumstances. Under new regulations, deportation proceedings are commenced with an order to show cause, which notifies the alien of the reasons for the proceeding against him and advises him of the hearing. The alien is thus spared the stigma and fright caused by arrest followed by parole during the pendency of a proceeding.

Another important change has been the separation of the roles of prosecutor and hearing officer in cases involving contested issues of deportability.

#### Facilitation of Travel

In his special message on immigration, and on other occasions, the President has stated that travel between nations -- the exchange of

ideas, cultures and experiences -- is one of the best means of relieving international tensions. World understanding is an objective which the Administration is earnestly seeking to achieve by every means. To the extent consistent with the national welfare the administering of the immigration laws has kept this purpose in the forefront.

One of the necessary encumbrances on travel is the requirement of inspection. The magnitude of this phase of the Immigration Service's work should be stressed. In fiscal 1955 there were slightly less than 124 million arrivals, at all ports and by all means of travel. This is the largest annual number in our history. In the past the inspection process usually took place on arrival in the United States. Without in any way defeating or impairing that process, the Service has instituted a system, wherever possible, of conducting the inspection abroad. This is called "preinspection". Admissibility is determined before the journey commences. Second, en route inspection has been instituted on board vessels of the American President and Orient Steamship Lines operating from the Far East. Third, we have continued a system of preinspection of air travelers from Hawaii and the other territories of the United States. Preinspection in foreign countries was formerly conducted only at Toronto and Winnipeg. General Swing has extended it to Montreal and Bermuda with respect to aircraft and scheduled cruising vessels. The results have been highly gratifying to everyone concerned. The Immigration Service is giving consideration to instituting preinspection on a permanent basis in Havana, Cuba, Nassau in the Bahamas, and Mexico City.

Closely related to this subject is the matter of travel documents. The existing law permits the Attorney General and the Secretary of State jointly to waive documents for nonimmigrants -- visitors and others seeking temporary entry -- coming here from contiguous territories or adjacent islands on a basis of reciprocity with those areas. The President's immigration program, in so far as it relates to travel, is in keeping with this salutary provision in the law. The Department of Justice, with the necessary concurrence of the State Department, has waived visa requirements for British subjects in Bermuda who wish to visit the United States. Under the law this must be reciprocal - our own citizens are relieved of comparable requirements when travelling to Bermuda. The Justice Department is giving consideration to making similar mutually beneficial arrangements with certain other contiguous territories and adjacent islands.

Within the limits of the law, the Department has taken other steps to ease travel. Resident aliens may now visit Canada, Mexico, Cuba, the Dominican Republic, Bermuda, and the Bahamas for periods up to 30 days without having to obtain visas, reentry permits or border crossing cards.

#### Immigration Figures

The figures which I furnished a few moments ago concerned total arrivals in the United States, both citizens and aliens. In respect of actual immigration, in the fiscal year 1955, 237,790 immigrants were admitted, a 14% increase over the 1954 figure of 208,177. Quota immigration dropped 13% from the previous year to 82,232. Nonquota immigration rose to 155,558, the highest since 1927. An all time high of 401,090 temporary visitors came to the United States during 1955. Student admissions rose by almost 2,000 over the previous year.

Service officers inspected over 58,000 vessels and more than 113,507 aircraft during fiscal 1955. Temporary admissions of crewmen increased to a total of more than 250,000.

Interestingly enough, despite these increases, the permanent resident alien population has remained unchanged at approximately 2,300,000.

#### The Legislative Program

Now I should like to talk about the second half of the program. In his message to the Congress the President asked for legislation which would revise the immigration and nationality laws.

The proposals of the Administration fall into four categories:

(1) revision of the quota provisions of the Immigration and Nationality Act of 1952; (2) legislation designed to relieve the Congress and the President of the burden caused by excessive private immigration bills; (3) elimination of unnecessary restrictions and improvement of technical and administrative provisions in the law; and (4) regulation of judicial review of deportation and exclusion orders.

#### Revision of Quota Provisions

Under the existing law the annual overall quota is one-sixth of one per cent of the white population in 1920, less Western Hemisphere immigrants and their descendants. The 1952 Act incorporated what was done in the Immigration Act of 1924. This is what was done in 1924: Using the 1920 census, the Census Bureau of the Department of Commerce, acting under the mandate of the Act, sought to determine the national origins of the inhabitants of the United States in 1920. The term "inhabitants" was defined as excluding Negroes, American Indians, Orientals, and

natives and descendants of natives of Western Hemisphere countries. The places, or countries, from which the countable "inhabitants" originated were called quota areas. One quota number was allotted for approximately each 625 "inhabitants" attributable to each such quota area.

The Census Bureau interrogated all inhabitants of this country with respect to their own place of birth and that of their fathers. From the 1920 census, foreign born and first generation native born could be precisely allocated to quota areas. Subtracting that number from the 1920 total "inhabitant" figure left a number which was the sum of the number of descendants of "colonial stock" and the number of "descendants of immigrants."

"Colonial stock" was a classification by the Census Bureau of persons who were reported in the 1790 census, and their descendants. Their national origins were determined solely by their surnames. The national origins of immigrants between 1790 and 1900 was determined by examination of incomplete immigration records for that period and the intervening decennial censuses. Then this basic data pertaining to "colonial stock" and "descendants of immigrants" was projected forward to 1920 by using standard statistical and sociological studies of life expectancy, births and deaths of the various national groups.

By these calculations, the Census Bureau arrived at a rough determination of the national origins of the "inhabitant" population of the United States in 1920.

The 1952 Act embraces the national origins determinations made under the 1924 Act. Section 201(a) of the 1952 Act states:

"The annual quota of any quota area shall be one-sixth of 1 per centum of the number of inhabitants in the continental United States in 1920, which number, except for the purpose of computing quotas for quota areas within the Asia-Pacific triangle, shall be the same number heretofore determined under the provisions of section 11 of the Immigration Act of 1924, attributable by national origin to such quota area . . . ."

The Bureau of the Census states that its calculations in 1924 were the best result which could be reached under the mandate given it by the Congress. The flaws inherent in this system will be compounded the further removed we become from the basic data of the 1790 census. At best the determinations made were fairly rough approximations and as time goes on and people of different country origins become blended they become less accurate and less logical. In addition, statements as to place of birth are widely inaccurate, particularly on the part of persons from central Europe who not infrequently ignore the post World War I partition of the former Austrian-Hungarian Empire.

The President stated in his Message that the time has come to reexamine and revise the existing quota system. He pointed out that the root of the problem lies in the use of national origins as a basis for quotas. I am frank to state that it is extremely difficult to devise any system which is in the best interests of this country, is considered fair by other countries, has readily definable standards, is manageable, and does not leave too much to any one person or group's discretion. The formulation of standards for admission of aliens,

however, has always been a Congressional function and should continue to be. I urge the Congress to appropriate the necessary funds to fully explore this difficult quota problem with a view toward establishing a new, basic immigration policy.

Meanwhile, the President has asked that the existing system be revised to bring it up to date and to remove features which in the past have caused serious and sincere complaint.

#### Revision of the Quota System

Under the 1924 Act, the total annual quota amounted to 154,657. If the total population in 1920 had been used as the basis for the computation, and the same overall quota ceiling arrived at, the fraction would have been approximately one-seventh of one per cent.

If this same fraction were applied to total population of 1950, there would be an increase in quota numbers of 64,804, or a ceiling of 219,461. The President has stated that economic growth over the past thirty years and present economic conditions in this country warrant a reasonable increase in the quota. An increase by this amount, in my judgment, fits this description.

The President's proposal would allot the existing basic quota of 154,657 to the various quota areas as at present, but the maximum subquota allocation of 100 to each colony would be raised to 200.

The increment of approximately 65,000 would be distributed as follows: First, the quota for each minimum quota area would be raised from the present 100 to 200. (Minimum quota areas are listed in a table which I will submit to the subcommittee.) Second, 5,000 quota numbers

would be placed in a special pool, available on a selective basis, without regard to nationality or national origin, according to our needs from time to time for persons having special skills or accomplishments, including desirable refugees or escapees who will not have the benefit of the Refugee Relief Act after that Act's termination. The balance, 54,104, would be distributed among the several quota countries in proportions which would reflect the ratio that immigration to the United States from such countries between July 1, 1924 and July 1, 1955 bears to the total immigration from all quota countries. This method of allocation will do much toward relieving the problem of oversubscribed quotas, while at the same time no country will have a lesser number of quota numbers allocated to it than at present.

I should like to mention briefly the Refugee Relief Act. Under this Act the State Department has been able to give relief to qualified refugees and escapees. In the fiscal year ended June 30, 1955, 29,823 refugees or escapees were admitted under the Act. In the six-month period July to December 1955, 34,101 were admitted. In January and February of this year 9508 were admitted. The Refugee Relief Act, however, is a temporary measure. The special annual pool of 5,000 numbers will be a permanent provision in the law which will allow us to admit a limited number of qualified and needed persons who fall in the refugee or escapee categories.

For many years a number of quota countries have not exhausted their quotas while others are always oversubscribed. In keeping with the President's message, the proposed legislation would assign unused quota

numbers to four regional quota pools -- Europe, Asia, Africa and Oceania. The numbers would be available within one 12-month period to eligible and qualified immigrants in the respective regions regardless of their countries of birth within the region. Eligibility is limited to aliens entitled to preference status under the provisions of existing law by reason of their special skills, needed in this country, or their immediate family relationship to citizens or lawfully resident aliens.

One of the inequities in the present quota system is the so-called mortgage upon the quotas which resulted from the issuance of visas under the Displaced Persons Act and certain other "sheepherders" acts. Those visas are charged against quotas authorized under the Immigration and Nationality Act with the result that 50% of the annual quotas of some countries, especially the small quota countries, are mortgaged for as much as 300 years in the future. The total "mortgage" for 1955 amounted to about 8,000; over the years, the total could be as much as 328,000. The proposed legislation would eliminate these mortgages. I should like to emphasize, however, that elimination of the mortgage would not make a total of 328,000 quota numbers immediately available; it means only that the countries affected would go back to their full annual quota.

Enactment of this proposal by the Congress would be consistent with the Refugee Relief Act of 1953 which did not call for a mortgage upon quotas but permitted issuance of special nonquota visas for eligible refugees.

#### Reduction in Private Immigration Relief Bills

One of the outstanding problems that has faced the Legislative and Executive Branches of the Government in recent years has been the flood

of private laws introduced to permit the admission of otherwise inadmissible aliens, or to permit otherwise deportable aliens to remain. The President pointed out that in the first session of the present Congress these private immigration bills represented almost half of all enactments, public and private. Over 3,000 such bills were introduced. In the previous Congress, 4,797 private bills were introduced and 753 were enacted. They constituted about 42 per cent of all enactments by that Congress.

This serious problem is in need of a cure. It cannot be allowed to continue. Both the Congress and the President should be free to devote their time to issues of far greater importance. We have had to devise a method whereby the relief sought can be handled administratively if the claim has equitable merit. It must be kept in mind that the number of bills introduced or enacted does not represent the actual number of aliens who, on the basis of equity or hardship, should not be deported or should be admitted. There are many cases which never come to the attention of the Congress and which are of equal merit with those that do.

In accordance with the President's Message, there has been proposed legislation which would vest discretionary authority in the Attorney General to admit, or not deport, aliens who technically are inadmissible or deportable. There are limitations: Relief may be given only to persons with close relatives in the United States, veterans, or religious functionaries. No relief may be given to an alien who would be a hazard to the security or safety of the country. No more than 5,000 aliens may receive such relief each year, and in every such case there shall be a charge against the appropriate quota.

We believe that, if enacted, this measure would obviate the necessity for the great bulk of private relief immigration bills, predicated upon the premise that the aliens whom this proposal would benefit are those to whom the Congress would give its attention if their pleas were presented in the form of private bills.

It has been suggested that the proper way to correct this problem would be to correct the basic provisions in the law which make these persons inadmissible or deportable. Where this argument falls down is that individual relief is granted only because of the particular equities and hardship. The giving of relief may well be equitable, under the circumstances, and still have no relation to what is good law. Both the Immigration Service and the Bureau of the Budget have conducted studies of private bills enacted, trying to find some pattern, or to pin down the particular sections of the law that need correcting. The finding is that there is no pattern. And no one would want to change most of the provisions that make most of these aliens inadmissible or deportable. To make such changes across the board might well encourage undesirables to come to our shores or hamper us in our efforts to rid ourselves of undesirables already here.

#### Revision of Restrictive Provisions in Immigration Act of 1952

1. Under paragraphs (16) and (17) of section 212(a) of the Immigration and Nationality Act certain aliens who have been excluded or deported from the United States may not reapply for admission unless the Attorney General first grants permission. This means that before the alien can apply for a visa at an American consulate abroad, he must

obtain the approval of the Attorney General. This is an unnecessary complication. There are ample safeguards in the law against the re-admission of unqualified aliens. Consular officers, in the performance of their duties relating to the issuance of travel documents, perform screening operations which reveal all the facts. If they should miss, the alien is caught on entry. The proposed legislation would repeal this requirement, along with companion section, 276, which requires prosecution of aliens who return here without having complied with the permission requirement.

2. Section 212(d)(4) of the 1952 Act provides that the Attorney General and the Secretary of State may, under certain conditions, waive the usual documentary requirements for nonimmigrants. One of the conditions is "on the basis of unforeseen emergency in individual cases." The restriction to cases which are "unforeseen" is unnecessarily limiting. The proposed amendment strikes the word "unforeseen" to permit greater administrative latitude.

3. Section 212(d)(7) requires the Immigration Service to inspect and apply all grounds of exclusion to persons coming from Alaska and Hawaii. This requirement results in expense to the Government and delays in travel. By definition in the Act, Alaska and Hawaii are part of the United States, and aliens who have entered or are already in these territories are subject to all the provisions of the Act. If the alien was deportable before he came to the mainland, he remains deportable. In furtherance of the President's wish to eliminate, wherever possible, restrictions upon travel, the proposed legislation would eliminate this requirement.

4. Section 221 of the 1952 Act requires the Service to fingerprint all aliens applying for visas, even if they are nonimmigrants coming as visitors or travellers. Another provision requires the Attorney General to fingerprint every visiting nonimmigrant who came to the United States without a visa if he remains for 30 days or more. These requirements are obstacles to free travel and to some persons are extremely objectionable. They are not necessary to the safety or security of this country. Their elimination will be further evidence to the world of our willingness to remove obstacles to the free exchange of ideas and cultures. The proposed legislation, therefore, would amend sections 221 and 263 of the Act to permit the Secretary of State and the Attorney General to waive fingerprinting of nonimmigrant aliens.

5. Section 236 of the existing law prescribes the procedure for the conduct of admissibility hearings before special inquiry officers of the Immigration and Naturalization Service. There is no statutory authority for separating the role of hearing officer from that of the officer who presents the Government's case. Clear authority for that practice appears in other portions of the law relating to deportation hearings. The proposed legislation would clarify the law and remove any possible doubt as to the legality of exclusion hearings where special inquiry officers act solely in quasi-judicial capacities and additional officers present the Government's evidence, thus separating the adjudicative and prosecutive functions.

6. Section 238(d) of the Act now authorizes the Attorney General to enter into agreements with transportation companies for direct

transit of aliens through the United States enroute to foreign countries. While such aliens may be exempted from the documentary requirements of the law, they must be inspected and examined, and are subject to all of the exclusion and deportation provisions which apply to immigrants coming here for permanent residence. These requirements often result in hardship to the alien, loss of good will, and expense both to the Government and the transportation lines. Demands of world travel, on today's expanded scale, frequently make it necessary for persons to pass through the United States in transit from one foreign country to another. To facilitate such travel, the proposed legislation would authorize the Attorney General, in his discretion, to dispense with examination, inspection, etc. in the cases of "direct transit" aliens, under proper safeguards, and subject to agreements with the aliens and the carriers.

7. One of the enumerated grounds in the law for deportation is fraud or misrepresentation in applying for a visa. There are a comparatively large number of refugees in this country who obtained visas under the Displaced Persons Act by misrepresenting their identity. The number of such persons is not certain; estimates run from 2000 to 10,000. This was done to avoid forcible repatriation behind the Iron Curtain. The Attorney General should be vested with discretion to grant relief from deportation to aliens who fall in this category, so long as he is satisfied that the misrepresentation was not to evade proper application of the law.

8. Under long established practice deportation proceedings have been initiated by a physical arrest of the alien under the authority of a warrant. Arrest is usually unnecessary. Some cases have involved young children, aged persons, or others who under no circumstances would abscond. The Department of Justice has recently adopted the practice of instituting proceedings by an order to show cause, reserving the right of physical arrest for those cases in which the public safety or security demands custody or release only under bond or parole. While the authority for this new procedure under existing law is believed implicit in the statute, the proposed legislation would remove any doubt and prevent a possible challenge of a proceeding on this ground.

9. Section 245 of the Immigration and Nationality Act, which permits the Attorney General to grant permanent residence to certain non-immigrants, is unnecessarily restrictive in respect of aliens who marry United States citizens. Adjustment of the alien's status to that of permanent resident is now forbidden if the marriage occurred less than one year after the alien came to the United States. This means that he or she must go abroad to obtain a nonquota visa, at expense and disruption of the family, without proportionate benefit to the United States. The proposed legislation would eliminate the requirement and leave it to the Attorney General to determine in each case whether the marriage was valid and bona fide.

10. Sections 328 and 329 of the Act grant special naturalization benefits to persons who have served a required period in the United States Armed Forces. Peacetime veterans must submit proof of lawful admission to the United States for permanent residence; some war veterans also

must comply. This requirement has resulted in many deserving veterans being ineligible for naturalization and we have proposed to eliminate it. The proposal would first of all codify the several statutes relating to naturalization of war veterans, with proper safeguards to make certain that its benefits are limited to those who have served honorably in an active duty status. Veterans who have had active duty during wartime shall be eligible for naturalization regardless of length of service. Peacetime veterans shall be eligible for naturalization after three years' service. A special exemption is provided for persons who, because of disability incurred during service were unable to serve the full three years.

11. Section 241(a)(11) of the 1952 Act provides for the deportation of alien violators of narcotics laws. The proposed legislation would expand this section to provide for the expulsion of aliens convicted of illegal possession of narcotics. Further, it would permit deportation of aliens convicted of conspiracy to violate a narcotics law, there having been some question raised about this in the past.

12. Section 241(b) of the existing law permits a sentencing judge to recommend against deportation of aliens convicted of certain criminal offenses involving moral turpitude. It has been argued that this "leniency" section applies to violators of the drug laws. We do not believe that it should or that it was the intention of the Congress that it would. In order to remove all possible doubt, the proposed change would indicate clearly that the section does not apply to this area of criminal activity.

13. Section 101(b)(1) of the existing law defines the word "child". Appealing and distressing situations have arisen from time to time in

respect of illegitimate children and children adopted at young ages. The proposed amendment would extend the definition of "child" to include an illegitimate child claiming through its mother, and children adopted under the age of 12 if residing with the adoptive parents for at least two years prior to seeking benefits under the law. We think this will take care of the hardship cases and at the same time guard against spurious adoptions made for the purpose of avoiding proper application of the law.

14. Section 202(a)(5) of the 1952 Act prevents an Asian spouse, whose quota is exhausted, from coming in under the quota of his or her accompanying spouse, or from being classified as nonquota with his or her Western Hemisphere spouse. These are privileges which are available to aliens of other nationalities and origins. The proposed legislation would remove this limitation.

15. Section 203 of the 1952 Act sets forth the bases upon which immigration visas shall be allocated within the quotas. Subsection (a)(1)(B) prescribes a first preference status for spouses or children "accompanying" principal aliens who come within the category covered by subsection (a)(1)(A)--preferred aliens having special skills. The proposed legislation would give the same preference status to a spouse or child "following to join". Sometimes it is not possible for families to come together and this change is thought desirable to cover such situations.

In addition, the quota allocations would be revised by giving the fourth preference category--brothers, sisters, sons, and daughters of citizens--a fixed 10 per cent of the quota, in lieu of the present undetermined left-over amount of quota numbers.

Section 203(a)(2) of the Act provides that parents of an American citizen are entitled to second preference quota status only if the petitioning citizen is at least twenty-one years of age. Subsection (a)(4)--the fourth preference for brothers, sisters, sons, and daughters of citizens--does not have such a limitation. We think it should. The amendment would change section 203(a)(4) to limit its operation to cases in which the petitioning citizen is twenty-one or over. It would broaden the section, however, to give the same preference to the spouse or child of such a brother, sister, son, or daughter of a citizen, if the spouse or child is accompanying or following to join the relative.

16. We propose to revise section 281 of the present law to give the Secretary of State wider latitude to waive visa fees for non-immigrant aliens, and to clarify the existing provisions relating to the computation of such fees.

17. The next is a highly technical amendment involving a revision of section 212(a)(9) relating to aliens who have admitted the commission of acts abroad which under United States law would constitute misdemeanors of a minor nature. The amendment has the effect of providing that in determining whether a misdemeanor would have occurred, United States law shall control.

18. Section 221(f) of the 1952 Act provides in part that an alien crewman may be admitted to the United States if his name appears on a list of the crew which has been reviewed and approved by a consular officer "until such time as it becomes practicable to issue individual documents." The requirement for individual documents has proved to be difficult to administer, unduly burdensome, and unnecessary. The

amendment would eliminate it.

19. Section 222 of the Act prescribes the contents of a visa application. Subsection (a) deals with applications for immigrant visas and subsection (c) deals with nonimmigrant visas. Both require information as to "race and ethnic classification." The proposed change would eliminate this requirement since the terms are not susceptible of definition and have served no useful purpose in the administration of the law.

20. Section 352 of the present Act sets forth circumstances under which naturalized citizens shall lose their citizenship by residence abroad. Sections 353 and 354 enumerate categories of persons to which section 352 shall not apply. We propose to broaden 353 and 354 to give to veterans of World Wars I and II, and their spouses, children, and dependent parents, broader foreign residence privileges. The amendments would give such veterans and their families the same right which the 1940 Naturalization Act gave to World War I veterans, namely, to reside in their countries of nativity or former nationality without loss of American citizenship.

21. Section 223 of the 1952 Act concerns reentry permits which the Attorney General is authorized to issue under certain circumstances. The section provides, however, that such permits "shall be valid for not more than one year from the date of issuance" and may be extended for periods aggregating not more than one year. This provision has resulted in hardship to alien spouses and children of servicemen stationed abroad. The proposed amendment would give the Attorney General the right to extend the life of the reentry permit of a spouse

or child of a member of the Armed Forces of the United States, stationed abroad under official orders, for such period as he deems appropriate.

22. We propose to amend section 323 of the 1952 Act to permit the expeditious naturalization of children adopted by United States citizens stationed abroad in the Armed Forces, or in the employment of the United States Government or in the employment of an American firm or international organization. It must be shown that the child is residing, and will continue to reside, with the adoptive parent.

The proposed amendment also will remove the existing requirement that an adopted child reside and be physically present in the United States before he may be naturalized.

#### Regulation of Judicial Review

In his Special Message, the President stressed the need for legislation which will put an end to the abuse of the judicial process by some aliens who are under orders of deportation. Many of these aliens have had long criminal records.

In letters to the Vice President and the Speaker the Department of Justice has discussed in detail the Administration's proposals to implement this portion of the President's Message. I think it helpful to submit copies of those letters for the record. I shall not repeat in detail their contents, except to note briefly the two Supreme Court decisions that highlight the need for legislation and to tell you in as few words as possible what the proposed bill does.

Historically, an order for the deportation of an alien could be challenged in the courts solely by habeas corpus proceedings, which were available to the alien only after he had been taken into custody pursuant

to the order of deportation. In recent years, it has become possible, as a result of judicial decision, for aliens to obtain judicial review of an order of deportation upon its issuance. An equally divided Supreme Court in January 1954, affirmed per curiam a holding that deportation orders issued under the Immigration and Nationality Act of 1952 are reviewable in actions for declaratory judgment as well as by habeas corpus. Brownell v. Rubinstein, 346 U.S. 929 (1954). Also, in a recent decision the Supreme Court held that deportation orders entered under the Immigration and Nationality Act of 1952 can be judicially reviewed in actions for declaratory and injunctive relief under section 10 of the Administrative Procedure Act. Shaughnessy v. Pedreiro, 349 U.S. 48 (1955).

These several methods of review lack uniformity and are deficient with respect to such important incidents as the need for expedition, orderly venue and the avoidance of repetitious court proceedings. Now, what does our proposed legislation do?

First, the bill would permit an alien in custody pursuant to an order of deportation to obtain judicial review solely by habeas corpus. The alien not in custody, but subject to an order of deportation, would have a single statutory method of review, notwithstanding anything contained in the Administrative Procedure Act or any other law. The bill provides that no deportation order shall be reviewed by the courts if all administrative remedies have not been exhausted. A petition for review must be filed not later than six months from the date of the deportation order or from the date of enactment of this law, whichever is later. No petition for review or for habeas corpus may be entertained if the validity of the deportation order has been previously determined in any

civil or criminal proceeding unless the petition clearly presents grounds which could not have been presented in the prior proceeding. No petition for review or habeas corpus may be withdrawn without the consent of the Government and the court in which it is filed; this is to prevent the deportable alien on board ship or plane from filing a petition for a writ and then, when the ship or plane has departed, withdrawing the petition. A petition for review must be filed in the district in which the administrative proceeding was conducted; cases now pending or pending at the date of enactment of the bill shall be transferred to such district court. No petition for review may be entertained after the alien has been finally deported. All petitions for review shall be expedited in the same manner required in habeas corpus proceedings. Administrative findings of fact in deportation cases shall be conclusive if supported by reasonable, substantial, and probative evidence. A claim of American nationality must be raised by the alien, if he is going to raise it, at the time of the deportation proceedings and not later. In criminal prosecutions under section 242 of the Immigration Act the validity of a deportation order may be challenged only by motion before trial, rather than at the trial itself after a plea of not guilty. This would give the Government a right to appeal from an adverse determination. Under existing practice the Government may not have such a right of appeal because of determination of the issue during the trial after jeopardy has attached the mere availability of judicial review as distinguished from the actual commencement of review proceedings would not require the Attorney General to refrain from deporting an alien or to release an

alien from compliance with the surveillance and departure requirements of section 242. Finally, the bill provides that an exclusion order may be reviewed only by habeas corpus. This latter change is necessary because Estevez v. Brownell, 227 F. 2d 38, held that exclusion orders may be reviewed in declaratory judgment actions as well as in habeas corpus.

We have examined this proposed judicial review bill with great care to make certain that there are no constitutional weaknesses. We are certain there are none. The bill's enactment will do much to assist the Department of Justice in the performance of its duty to make the immigration laws effective. Its enactment, too, will go far toward saving the valuable time of the courts and of the Government attorneys who appear in the courts.

Each of these proposed bills that I have discussed is deserving of the full and prompt consideration of the Committee. Each is important in its own area. Their enactment would be a substantial contribution to the long needed overhaul of the immigration laws of this country.