STATEMENT

by

ATTORNEY GENERAL ROBERT F. KENNEDY

before

SUBCOMMITTEE NO. 1 OF THE HOUSE JUDICIARY
COMMITTEE REGARDING H.R. 7700, A BILL TO
AMEND THE IMMIGRATION AND NATIONALITY ACT

WEDNESDAY, JULY 22, 1964

Mr. Chairman and Members of the Subcommittee:

It is a privilege for me to appear today to testify in support of H.R. 7700, the Administration's immigration bill.

It is my conviction that there are few areas in our law which more urgently demand reform than our present unfair system of choosing the immigrants we will allow to enter the United States. It is a source of embarrassment to us around the world. It is a source of anguish to many of our own citizens with relatives abroad. It is a source of loss to the economic and creative strength of our nation as a whole.

I come here, on the first anniversary of the submission of this bill by President Kennedy, to urge the correction of these faults by the speedy enactment of H.R. 7700.

As you know, President Kennedy took a special interest in immigration matters throughout his public life. He considered this bill sound and felt that the reforms it would make in our immigration laws were urgently needed.

President Johnson shares deeply in this concern. He gave his emphatic support to the reforms proposed by this bill in his State of the Union Message. Since then, he has several times declared this bill to be one of the most significant measures now before Congress.

Mr. Chairman, this measure is simple. It is fair. And, when its provisions are understood, it is uncontroversial. The most remarkable thing is that we did not insist on these reforms long ago.

--This measure would make it easier to bring to the United States persons with special skills and attainments that we need and want.

--It would reunite thousands of our citizens with members of their families from whom they are now needlessly separated.

--It would remove from our law a discriminatory system of selecting immigrants that is a standing affront to millions of our citizens and our friends abroad.

--It would provide for the needs of refugees and serve our traditional policy of aiding those made homeless by catastrophe or oppression.

--And, finally, H.R. 7700 would accomplish all these necessary goals without damaging the interests of any person or group, either here or abroad.

I. Background

Mr. Chairman, the central fact with which our immigration policy must deal is that there are far more people who would like to come to the United States than we can accept.

At the present time, there are approximately three quarters of a million people who have applied for admission to our country. Over the

next five years, another three quarters of a million will apply. There are differing views of how many immigrants the United States can absorb. But none of us, I am sure, believe we can admit them all.

As a result, the basic problem for our immigration policy is to choose fairly among the applicants for admission to this country. When this bill was in preparation, President Kennedy felt that it was essential to concentrate on this basic problem, and to avoid confusing the issue by proposing any substantial changes in the amount of authorized immigration.

Therefore, with one minor exception -- an increase in the minimum national quota from 100 to 200 -- this bill leaves the present ceiling on authorized quota immigration. The question posed by the bill is not whether quota immigration should be substantially increased, but simply how we are to choose those who are admitted.

Since 1924, our standard for choice has been the national origins quota system. Under this system, quotas are assigned to each country on the basis of the national origins of the population of the United States in 1920. The goal was to preserve the racial and ethnic composition of the population of the United States as it was then.

There are a great many objections to this system. A simple one is that it does not work, even on its own terms.

One reason is that this system assumes each country will fully use its quota. But not all countries do so. England and Ireland, for example, are assigned 83,000 numbers--over half our immigration total--and yet these countries send only about 32,000 immigrants each year. The unused numbers are lost. At present, if quota numbers assigned to one country are not used by that country, there is no provision for their transfer to other countries. Consequently, more than a third of the authorized quota goes unused each year, even though thousands of otherwise eligible immigrants in other countries are eager to be admitted. The failure of the national origins system is also shown by the continual changes special legislation has made on the pattern of immigration over the years. That pattern so poorly reflects the needs of our own citizens and of our foreign policy that inevitable pressures build up and must be relieved by humanitarian special bills. As a consequence, our actual immigration over the past 15 or 20 years has been further altered from that purportedly imposed by our permanent immigration law.

A second major objection to the national origins quota system is that it fails to serve the national interest.

No matter how skilled or badly needed a man may be, if he was born in the "wrong" country he must wait to come here, while others who are less qualified come at will. An Italian scientist--or a skilled Portuguese workman, or a Greek chef, or a Polish craftsman with special skills--obviously brings more to this country than an unskilled laborer who happens to come from a

Northern European country. But now, the unskilled immigrant, even without relatives here and with no claim on this country, comes first. There is no good reason for this result.

It takes only a brief look through the files of the Immigration and Naturalization Service to learn how damaging this system is to the United States. Let me cite a few representative cases.

One involves a widely known Turkish physician and scientist who sought to come to this country to pursue important research on treatment of heart attacks. An American medical school was anxious to have him. He was anxious to come. But because the Turkish quota is oversubscribed, he could not be admitted. He already has had to wait for a year and a half-- and will have to wait months more before he can receive a visa.

In another case, a physicist from South Africa is anxious to come here to pursue basic research in the structure of metals. A leading American industrial firm is anxious to hire him here, and it has been determined that the supply of persons available to do such work here is inadequate. But again, the quota is oversubscribed and the physicist will have to wait nearly two years.

Stories like these are repeated again and again. A Philippine woman, expert in teaching deaf children, is prevented from accepting a job in a state school. A Korean radiation specialist cannot accept an opportunity to come here to do research. A Japanese microbiologist, a Greek chemist, an Egyptian urologist, and many others like them,--all are barred, harassed, and discouraged by our immigration law.

The third objection to the present system is perhaps even more compelling. This objection is that the system is cruel.

One of the primary purposes of civilization--and certainly its primary strength--is the guarantee that family life can flourish in unity, peace, and order. But the current system separates families coldly and arbitrarily. It keeps parents from children and brothers from sisters for years--and even decades. Thus, it fails to recognize simple humanity. It fails to recognize the legitimate interests of large numbers of American citizens.

Again, our files are full of cases which, out of the simplest compassion ought never to have been allowed to occur. Let me cite a single example.

A Providence, Rhode Island man, now an American citizen, is seeking to bring his daughter here from Italy, following the death of her husband. Because the father is a citizen, the daughter is eligible for a visa in the second preference category of the Italian quota. Her father's petition for her is near approval and she will soon be eligible to come to the United States.

She also will soon be forced to make a cruel choice. While she will be able to come to the United States, her three children, aged 9, 7, and 1, will not be eligible to come with her. Under the regulations, the preferential status that covers the Providence man's children does not extend to his grandchildren. They would have to wait nearly four years to be admitted.

What kind of answer is this for a potential American from a land whose Amerigo Vespucci gave our land its very name? What kind of fairness does this reflect for generations of Americans who came here from Italy in the spirit expressed by Americans like Philip Mazzei, in words later adopted by his friend Thomas Jefferson, that "All men are by nature created free and equal to each other in natural rights?"

What kind of humanity does this demonstrate to our millions of citizens of Italian descent, whose continued contribution to our common country is evidenced simply by a roll call of the Medal of Honor winners, or of political or economic or scientific leaders like Senator Pastore or Enrico Fermi or A. P. Giannini?

Giovanni da Verrazano, the 16th century Italian navigator, discovered parts of our country. Are we to say to Italians of a later day that they cannot come to the same country because they are Italian?

The contributions of Fiorello LaGuardia or Arturo Toscanini are known around the world. Are we to bar ourselves from the undoubted contributions of later generations of Italian immigrants and their descendants?

The same can be said about Poles or Greeks or Turks or Ukrainians or Slavs--or people from all over the world who have given our country its strength. Why should an American citizen who was born in one country be able to get a maid or a gardener overnight from another country, but be forced to wait a year or more to be reunited with his mother? Or many years, in the case of a married brother or sister. The fact is that the existing system provides no reason. Yet it remains the foundation of our immigration law. It simply doesn't make any sense.

Finally, the national origins system contradicts our basic national philosophy and basic values. It denies recognition to the individual and treats him as part of a mass. It judges men and women not on the basis of their worth but on their place of birth--and even, in some cases, the place of birth of their ancestors.

This system is a standing affront to many Americans and to many countries. It implies what we in the United States know from our own experience is false: that regardless of individual qualifications, a man or woman born in Italy, or Greece, or Poland, or Portugal or Czechoslovakia or the Ukraine is not as good as someone born in Ireland, or England, or Germany, or Sweden.

Everywhere else in our national life, we have eliminated discrimination based on one's place of birth. Yet this system is still the foundation of our immigration law.

The inadequacies of the system have been deplored by both major parties and by four successive Presidents. President Truman said that its assumptions were opposed to the American tradition and a constant handicap to our foreign policy. President Eisenhower, calling for revision of the immigration laws in 1956, stated that the root of the problem lay in the unfair and discriminatory national origins system. President Kennedy, in proposing the bill now before the Subcommittee, called the system arbitrary, without basis in logic or reason.

Now, President Johnson, calling for passage of the Administration bill in his State of the Union message, has urged that we turn away from an irrational and irrelevant concern with the place of an immigrant's birth, and turn instead to a meaningful concern with the contribution the immigrants can make to this society.

There is wide agreement, therefore, on the inadequacy of the present system.

The Immigration and Nationality Act of 1952, contains a sound system of preferences that reflects the objectives we should pursue. Thus, the Act gives first preference to quota immigrants with special skills, education or training that are urgently needed in the United States. It gives other preferences designed to reunite families -- for parents and unmarried sons and daughters of citizens, for spouses and unmarried sons and daughters of resident aliens, and a partial preference for brothers, sisters, and married sons and daughters of citizens.

As the law now stands, of course, these preferences do not really govern our immigration policy because they operate only within national quotas. That is to say, the mother of an Italian-American enters before a stranger from Italy -- but not before a stranger from a Northern European country.

However, if we can use these preferences as the criteria, without regard to national origins, we can erect a rational and humane immigration policy. That is the purpose of H. R. 7700.

## II. Gradual Abolition of the National Origins System

The Administration bill is drafted to accomplish two separate tasks with respect to quota immigration. First, it provides for the gradual elimination of the national origins system. Second, it establishes a new system for the distribution of quota numbers. Both aspects of the bill are simple in essence, but both involve complexities that this Committee will want to explore.

It is clear enough that the present system is unsound and inadequate. However, it is also clear that it cannot be changed overnight. Since 1924, this system has created such monumental inequities that an immediate and complete change would create almost as many problems as it would solve.

For example, there are long waiting lists in Italy and Greece, which now have small quotas. If we went immediately to a first-come, first-served system, without limitation, our entire quota immigration for several years would come almost entirely from those two countries. This would shut off immigration unfairly and abruptly for a number of years from almost every other country.

Accordingly, the bill includes several provisions designed to accomplish a smooth and fair transition from the old system to the new. First, it provides that the old quota system should be abolished gradually, over a five-year period. During each of the five years the old quotas would be diminished 20 percent. The quota numbers taken from the old system each year, together with all unused numbers, would be distributed on a new basis. At the end of five years, all quota immigration would be on the new basis.

Second, the bill would limit the immigration from any one country to ten percent of the whole number of quota immigrants authorized for the year. Since the total authorized would be 165,000 per year, the bill could not increase immigration from any country to more than 16,500. It seems to me fair and reasonable that no single country, out of the hundred or so in the world, should supply more than 10 percent of our immigration while others wait.

But this limitation would only apply if applicants were in fact waiting for admission from other countries. Under this bill, unlike the present law, there would be no unused quota numbers. If they were not used initially by the country to which they are assigned, they would be reassigned to countries which need and want them.

Finally, the bill provides the flexibility needed to deal with unforeseeable problems of fairness and foreign policy. In the past, several of our close allies have established immigration patterns based on our law as it has been. They are not responsible for the fact that the quotas on which they came to rely were the result of a discriminatory system. Sudden change might hurt them unduly.

Accordingly, the bill as originally submitted, authorizes the President, with the advice of an Immigration Board, to reserve up to 50 percent of the authorized numbers where he finds that it is necessary both in the national security interest and to avoid undue hardship resulting from changes being made by the bill.

The President's authority under this provision would, of course, have to be exercised in strict accordance with the criteria established by the bill, and in no case could the President give to a country any greater immigration than it has been receiving under existing law. In essence, the

President would have authority only to slow the rate at which quota numbers are taken away, primarily from Northern European countries, in the course of transition to a new, fairer system.

As the Secretary of State has explained, the same procedure could be used for the emergency needs of refugees. We cannot know in advance when natural disaster or tyranny will strike. Accordingly, the bill provides that the President may, with the advice of the Immigration Board, reserve a portion of the quota pool for the benefit of refugees.

Since this bill was first introduced, we have been able to make more extensive and detailed studies of the problems involved in the reservation of numbers. These studies show that the authority to reserve numbers in the interests of the national security can safely be lowered to 30 percent of the numbers in the reserve pool, without affecting the vital interests of our allies.

Similarly, the authority concerning refugees can, we believe, safely be lowered to 10 percent. I recommend, therefore, with the concurrence of the Department of State, that these changes be made in the bill.

To insure that these and other Executive functions will be properly performed, the bill would establish a seven-member Immigration Board. Three members would be appointed by the President, two by the President of the Senate, and two by the Speaker of the House. Congress would thus be able continually to participate in the administration of the policy established by the bill.

Although the existing system would be replaced only gradually, one form of present discrimination would be abolished immediately. Now, persons traceable by ancestry to what is called the Asia-Pacific Triangle must come in--if at all--under the quotas assigned to the countries of their ancestors. Thus, the members of a family of Japanese ancestry that has lived in Britain for centuries would nevertheless have to come in under the Japanese quota. This provision has little effect except needlessly to insult Asians. It would be abolished by the bill.

## III. The New System

The new system of allocating quota numbers in this bill is based on the system of preferences in existing law. Within the system of preferences, the time of registration would govern -- the principle of first-come, first-served.

As under existing law, those who have the greatest ability to contribute to our society would receive first preference. Other preferences, as under existing law, would favor the reuniting of families. If there were two applicants with equal claims -- such as two engineers, the earliest registrant would be admitted first. Race and national origin would play no part.

Although the system of preferences used in the bill is based on the preferences in existing law, some changes would be made. Present law grants a first preference only to persons whose skills are "needed urgently" in the United States. Experience has shown that this standard is unnecessarily restrictive. It hinders us from admitting outstanding people who can enrich our economy or our culture. The bill therefore would grant first preference to those whose immigration would be "especially advantageous" to the United States.

In addition, the bill would eliminate the present requirement that to qualify for first preference an immigrant must already have secured employment in the United States. Few businessmen are willing to hire an applicant they have never seen. Thus, as a practical matter, first preference has been available only to those with friends or relatives in the United States who can arrange employment in advance. This requirement has prevented the admission of many outstanding immigrants. Its elimination will serve the national interest.

A further change in the preference structure concerns parents of citizens and resident aliens. Parents of United States citizens, who receive a second preference under present law, would be given non-quota status by the bill. Parents of aliens admitted for permanent residence now receive no preference at all. They would be granted fourth preference status.

These amendments will not affect large numbers of people. But to those concerned, the benefits will be great.

Finally, the bill grants a partial preference to immigrants capable of filling particular labor shortages in the United States. Under present law, if an immigrant does not meet the rigorous standards of the skilled specialist category, he is not entitled to preference, even though he may answer a definite labor need in the United States which other immigrants do not.

The new system, in summary, is based on the principle of first-come, first-served, within preference categories, subject to limitations designed to prevent excessive benefit or harm to any country. The system is basically simple. It is sound. And it is fair.

The remaining matters dealt with in the bill are for the most part of interest primarily to the Department of State. There is one item, however, to which I would like to devote a few words.

## IV. Immigrants Afflicted with Mental Health and Mental Retardation Problems

Present law imposes an absolute, unwaivable ban on the immigration of any alien who is mentally retarded or who has -- or has ever had -- a mental health problem. This provision is a sorry expression of the ancient, discredited view that the mentally-afflicted are objects of hopeless shame. It conflicts squarely with the enlightened and humane attitudes toward these problems that Congress accepted last year when it enacted the Mental Retardation and Mental Health Construction Act.

Our existing law repeatedly creates heartrending and insoluble situations. Families which are able and willing to care for an afflicted child or parent are forced to choose between giving up their opportunity to come here or leaving their loved ones behind. This applies also to persons who were once mentally ill. Even though long since successfully treated, they are forever barred.

In many cases, these results serve no conceivable interest of the United States. They are in conflict with the medical advances in the fields of mental health and mental retardation.

This bill would, therefore, authorize the admission of mentally afflicted persons for permanent residence so long as the public interest could be adequately protected. The Attorney General and the Surgeon General of the U. S. Public Health Service would be authorized to establish the necessary criteria and controls to protect the public interest. This authority would extend only to close relatives of American citizens or immigrants already admitted for permanent residence.

This new provision would foster the preservation of the family unit and eliminate much needless suffering.

V. Other Issues

I want to offer this morning for the consideration of the Subcommittee a projection of the effect of this bill on immigration to the United States over the next five years. A full explanation of that projection, with the methods by which it was reached, will be presented to the Subcommittee by Mrs. Helen Eckerson of the Immigration and Naturalization Service.

Mr. Chairman, forty years ago the national origins system was adopted on the theory that immigration posed a threat to the ethnic composition of the United States. Today, even if one were to accept the assumptions underlying that theory, as I do not, the idea that quota immigration could significantly affect our population is absurd.

The quota immigration of the United States under this bill would involve 165,000 people per year. The increase this bill would provide is far less than that. Yet we live today in a nation of 192,000,000 people. Births alone increase the population by almost four million each year. Immigration from the Western Hemisphere, not subject to quotas, accounts for more each year than quota immigration from the rest of the world combined.

Whatever basis there may have been for the ignoble fears that prompted the adoption of the national origins system, clearly there is none today.

Another argument traditionally made against immigration reform is that it assertedly would contribute to unemployment here. Secretary Wirtz, who I understand will be the next witness before the Subcommittee, will have a great deal to say on that subject and I will leave its detailed development

to him. However, I would like to make one point. Far from creating an unemployment problem, immigration of the kind and quantity for which this bill provides would increase, not decrease, employment opportunities for American workers.

Only about one immigrant out of three additional immigrants admitted by this bill would enter the labor market. This reflects the fact that these immigrants would include a greater proportion of women and elderly people than the population generally. What it means is that our economy will get three consumers for every worker that is admitted. And our economy generates jobs at a rate of better than one for every three consumers.

Another fact not widely understood is that our quota immigrants today are not the uneducated, unskilled people who came at various times in the past. Today, our standards for admission are so high that our quota immigrant workers are predominantly educated and skilled.

They do not take unskilled jobs away from our unemployed. They fill jobs that are going begging because there are not enough workers available in our economy who have the needed skills. By doing this, these immigrants make possible expansion of production and the creation of far more new jobs than they take. Immigrants today bring to this country and spend a great deal more than they take in wages.

What I have said might not hold true if immigration were greatly increased. What we are talking about however, is only a yearly intake of 69,000 workers -- in an economy with a work force of more than 78,000,000. At this rate, quota immigration helps and stimulates our economy and creates more jobs than it absorbs.

VI. Conclusion:

These are facts and they are important. But, more than that, we are concerned with the feelings and the fate of thousands of human beings and their families. We are concerned with a very fundamental question which asks whether we believe, as we say we believe, in the dignity and worth of each individual.

The present system is inconsistent with our principles and out of step with our history. This nation was built by immigrants of courage and ability who came from many lands. We have had Presidents whose forebearers were English, Irish, Welsh, Scotch, German and Dutch. We have benefitted from the genius of Einstein, Bohr, Fermi, and thousands of others. As President Johnson has said, we can properly ask of people "What can you do for our country", but we should never ask "In what country were you born?"

I believe that the American people really do not want the present system to continue and that the time has come to enact this bill. It will not solve all the problems of immigration, but it will relieve those which are basic and most pressing. Furthermore, it will demonstrate for the world our dedication to individual freedom and our confidence in the future.

Oscar Handlin, the historian, observed: "Once I thought to write a history of immigrants in America. Then I discovered that immigrants were American history." Mr. Chairman, let us remember that history and look with confidence to the future, recognizing that our investment in new citizens will be repaid thousands of times over.