

REMARKS OF THE ATTORNEY GENERAL  
CALIFORNIA CHAMBER OF COMMERCE  
LOS ANGELES, CALIFORNIA  
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It is a special pleasure to address the California Chamber of Commerce. It was among the great privileges of my life to serve as the President of this organization of business and agricultural leaders some years ago.

Returning here from the East, I was reminded how many of us have come to California from other states and countries over the years. For me -- as for so many -- it was a journey of opportunity. California, more than any other state, has offered a new home to millions since the the first Spanish explorations in the 1500s, the arrival of Jesuit missionaries as early as 1697, and the establishment by Franciscan friars of their first mission in the Spanish territory at San Diego in 1769. Whether drawn by missionary zeal, the gold at Sutter's mill, the open and arable land, or the novel industries of motion pictures, electronic technology, or aerospace -- millions of people have come here seeking a better life.

California knew large-scale migrations earlier than most states. In 1980 Florida was shocked by the boatlifts that brought some 140,000 Cubans and Haitians to its shores. In 1849, however, some 40,000 arrivals reached San Francisco by sea alone, and an equal number came there by wagon the same year. Hundreds of thousands of Chinese came to this State in the nineteenth century to build the railroads that linked California to the East. More recently, hundreds of thousands of Indochinese refugees have come after fleeing Communist oppression.

California has benefited enormously from the energy and diversity of these successive waves of immigrants -- from both inside and outside the United States. Indeed, all parts of this great nation of immigrants have been enriched in every way -- socially, politically, culturally, and economically -- by the fifty million immigrants who have come to America since the first colonists. But we must reckon, too, with the fact of seemingly unending numbers of arrivals. California has itself nearly doubled in population every twenty

years from 1860 to 1980. Some 24 million people, more than one of every ten Americans, call California home.

California illustrates the national dilemma of immigration policy. How can this Nation remain true, as it must, to its tradition of accepting foreigners to our shores, while doing so in a legal and orderly way that is fair to our citizens, not all of whom have realized the hopes that brought their parents to this country?

Beginning 100 years ago this year, Congress recognized the necessity of imposing some limitation upon immigration by passing the first act restricting general immigration. In recent years, however, we have had to recognize that our successive attempts to improve upon our immigration laws and policies have been an abysmal failure. No great nation can long endure the kind of ineffectiveness evinced in recent years by our own immigration laws.

The problem is not new. Through the lenient avenues of legal immigration, the United States admitted more than 800,000 persons in 1980, the greatest legal influx since 1914. In 1980, the United States accepted more immigrants than any other country -- perhaps twice as many as were received by all other countries of the world combined.

In addition to legal entrants, as many as an estimated 1.5 million persons cross our borders illegally each year. As a result, there are perhaps three to six million illegal aliens in the United States -- and the number may be growing by one-half million each year. One-half of our annual population growth results from immigration -- and one-half of that is from illegal arrivals.

This permanent fugitive class of aliens, living outside society's sanctions and protections, will continue to grow unless we act. The American people justifiably insist that something be done. An opinion poll conducted in 1980 indicated that 91 percent wanted "an all-out effort" to stop illegal immigration.

According to an old story, some years ago an Indian delegation visited Washington D.C. Their leader, Chief Ben American Horse of the Sioux Indians, stopped at the Capitol to visit Alben Barkley, who was then Vice President of the United States. After a long discussion, the Chief rose to leave. He looked the Vice President in the eye and said: "Young fellow let me give you a little

advice. Be careful of your immigration laws. We were careless with ours."

Although I do not mean to suggest that the United States will be overwhelmed by the immigrants coming here, the dimensions of our problem suggest the need for a new degree of carefulness and a thoughtful response. In July of last year the Administration announced such a comprehensive program of administrative actions and legislative reforms designed to restore needed control over immigration to this country. This program was the result of many months of work by the President's Task Force on Immigration and Refugee Policy -- and consultations with those concerned in Congress, with affected states and localities, and with the public. Parts of this program have already been initiated and are working; other parts must be accomplished through legislation.

The President sought and obtained substantial increases in the law enforcement resources of the Immigration and Naturalization Service -- most of which Congress has already appropriated. These funds will provide for more Border Patrol, and for the operation of helicopters and other needed equipment. The additional funds will also provide for expanded efforts against despicable coyote practices, and for more efficient processing of alien records. Moreover, by targeting enforcement resources in priority locations such as Chula Vista, El Paso, and the largest cities, the INS is further enhancing the results of its enforcement program. By concentrating investigative resources in areas of high illegal alien employment, we are at the same time defending Americans' jobs.

The President also sought and received an additional funding to step up the Department of Labor's fight against employment of illegal aliens, as well as others, in sweat-shop conditions that violate our Fair Labor Standards laws.

We have also taken firm but fair steps to curtail illegal migration by sea from the Caribbean. The 1980 Mariel boatlift brought 125,000 Cubans to the beaches of south Florida. Among these persons were criminals and mentally ill expelled from Cuban prisons and asylums by a hostile and cynical dictator. The effects on some American communities have been devastating. The United States must never again permit its immigration policy to be set in Havana or any other

foreign capital. To ensure against this, the Administration has prepared detailed contingency plans.

Pressure to migrate to the United States from the Caribbean Basin is not limited to Cuba. Political instability and poverty throughout this critical region drives illegal immigration, and these pressures could increase in coming decades. Increasing numbers of illegal immigrants have arrived by sea from such countries as Haiti, the Dominican Republic, and Columbia.

The plight of the Haitians is particularly tragic. In their homeland many face poverty and hunger. Economic opportunity in the United States seems to them a concrete hope for a better life. While legal immigration from Haiti is a partial answer, we cannot accommodate all would-be immigrants. We cannot open our doors to all the poor people of Haiti, any more than we can accept all the poor in the rest of the world. No nation, however great and prosperous, can take all who would come. That fact of life has been a part of our laws since 1921, when numerical limits on immigration were first set. Realistic limits are as much or more necessary today, in fairness to our own citizens.

Any line drawn will seem harsh to those denied the opportunity to come here, but lines must be drawn. As presently drawn by our laws, the lines are rational and fair. Each country has an equal share in legal immigration and each person must await his or her turn. Any who come in violation of these simple and just rules will be sent home, unless they have a well-founded fear of persecution based on political beliefs, race, or religion.

To enforce these laws fairly and firmly, the Administration has restored the policy of detaining undocumented aliens as they arrive. The detention of excludable aliens, with limited exceptions, is mandated by our immigration statutes. This policy is applied evenhandedly to undocumented aliens regardless of nationality or race. Regrettably, the Haitians currently detained have faced longer periods of detention than other groups because most have claimed political asylum and litigation has blocked these already slow legal proceedings. We are taking all possible steps to ensure that these people are housed in humane environments, and that detention is limited to the shortest possible time.

We have also taken firm action against the sea-borne coyotes who traffic in Haitians. Last

September the Administration began a program of interdicting boats smuggling illegal aliens from Haiti. The program was intended to stem the then-large illegal traffic in human lives, and to avoid the often tragic consequences of permitting these perilous voyages to continue unabated. The interdiction program and the policy of detention have reduced the opportunities for preying upon undocumented arrivals to less than one-twenty-fifth of a year ago.

Ultimately, we should and will help to alleviate the conditions that lead people to risk these voyages. President Reagan has affirmed this Nation's commitment to improving well-being throughout the Caribbean. In the meantime, we must continue our efforts to prevent the illegal smuggling that for some has ended so tragically.

In addition, the Administration is working to restore control to our nation's efforts to resettle a fair share of the world's refugees. We intend to do so, however, without nurturing welfare dependence among those we help or asking states and localities to do more than their part -- as California has had to do in the past.

Our administrative initiatives represent a new and important beginning. For example, a small but significant part of illegal immigration -- that into south Florida -- is already being brought under control. The Immigration Service is better organized and better funded, and its enforcement resources more focused than has ever before been true.

Nevertheless, we have only begun. We are still without the new and much-needed legal authorities contained in the Administration's proposed reform legislation. These reform measures must be enacted if progress is to continue.

While history dictates caution in predicting immigration reform, there is good reason to hope that comprehensive immigration reform legislation will indeed be enacted this year. A consensus has emerged concerning what must be done to regain control -- a consensus embodied in bi-partisan legislation now being considered by the Congress.

This legislation reflects a balanced and rational crafting and blending of legislation submitted by the Administration last October, similar legislation introduced by Senator Simpson and Congressman Mazzoli in

March, and recommendations made by the Select Commission on Immigration and Refugee Policy. It also reflects the ideas and comments of numerous affected groups and members of the public at more than 30 days of Congressional hearings on the pending legislation -- including the thoughtful testimony last month by Jim Van Maren on behalf of the California Chamber.

Indeed, I want to commend and thank the Chamber for its extraordinarily constructive and open-minded approach to this most difficult and controversial matter. It would have been easy, I know, for an organization of businessmen and agricultural producers so directly affected by the reforms being proposed to stand pat for the status quo. Narrow self-interest might have dictated such a course -- as it did for some -- but I am proud that the California sense of the national interest would not permit it. For this forthright act of enlightened patriotism, you have my warm gratitude and enduring respect.

Broadly, the purpose of the bi-partisan legislation that is emerging in Congress is to preserve this Nation's proud heritage as a nation of immigrants, but to provide adequate legal authority to regain control over our borders. The end is to devise a framework within which legal and realistically limited migration can occur.

Specifically, the reform legislation would impose sanctions on those who knowingly hire illegals, with safeguards to prevent discrimination against Americans. It would reform and expedite our procedures to return those who come here illegally. And it would deal realistically with illegal aliens who are now here by granting many of them a legal status. Moreover, by reforming the present H-2 temporary worker program, the legislation would provide added flexibility to meet the special labor needs of some of our states. In setting limits on legal immigration, the legislation would also recognize our special relationship with our closest neighbors, Canada and Mexico. Together all these elements should reduce illegal immigration substantially by expanding opportunities to work lawfully in the United States while prohibiting the employment of those who come here illegally.

Those elements constitute the core of any rational and comprehensive reform of our immigration laws. Indeed, the pending legislation may represent the last real hope of correcting the inadequacy of current

law. For that reason the Administration remains strongly committed to enacting reforms along these lines this year.

Today, I would like to discuss various parts of the legislation, particularly those aspects that most significantly affect California commerce.

First, as Jim Van Maren noted in his testimony for the Chamber, a law against hiring illegal aliens is a necessary part of the solution. The immigration problem, at bottom, requires an end to illegal immigration. Since illegal aliens come here to work, it must be made unlawful for them to do so and for employers to hire them. Otherwise, illegal immigration will not be stopped or even slowed.

The bi-partisan legislation supported by the Administration would impose civil penalties of \$1,000 to \$2,000 on those who knowingly hire illegal aliens, and would authorize injunctions or criminal penalties when a pattern or practice of violations is shown.

To make employer sanctions a workable deterrent without discrimination, the Administration recognizes the need for a simple means of compliance with the law that would provide an employer with a good faith defense if he examines documentary proof of eligibility to work. The legislation recognizes that enforcement must initially rely on the best existing proofs of identity, such as social security cards, passports, and driver's licenses. These documents, which people already have for other reasons, would be shown to employers as evidence of legal residence by persons who could be hired under the law. New and stiff criminal penalties for those who counterfeit or fraudulently use such documents are also provided in the new legislation. The legislation would also require the Administration to make such changes in the current forms of identification documents as are necessary to secure them against counterfeiting and fraud.

The legislation also would preempt similar and possibly inconsistent state and federal laws, to avoid the difficulty of compliance on the part of employers faced by cumulative or sometimes conflicting laws.

I recognize the concern expressed particularly by the Hispanic community that employers sanctions could lead to discrimination against minorities. The legislation is designed to prevent that -- there is no

latitude for an employer to make his own judgment whether a person is an alien or whether the documentation presented to him is authentic. Employers who rely on enumerated types of identification would have an absolute defense under the proposed law. Thus, there will be no latitude basis and no opportunity to discriminate.

What critics of employer sanctions ignore is that illegal immigration is itself inhumane and discriminatory. It discriminates against American minorities and the poor who are displaced from jobs by illegal aliens. It also discriminates against the illegal alien himself, who may be subjected to exploitation and a life of fear over deportation. And it discriminates against those who follow legal procedures applying to our consulates overseas and waiting their turn at home to immigrate here.

In pursuing a law that will close the labor force to illegal arrivals, we must do so in a manner that is not unreasonably burdensome in cost but is consistent with our values of individual liberty and privacy.

Of critical importance -- particularly to our nation's farmers and ranchers -- employer sanctions must be accompanied by an adequate legal means of filling the special labor needs in some sectors of our economy that will not be met by American workers. This is particularly true of agriculture in the southwest and along the west coast, where an estimated 300,000 to 500,000 illegal aliens work each year. These undocumented workers are primarily engaged in seasonal harvest work. From World War II until 1964, this area relied on the "Bracero" program for many of its seasonal workers. When that program ended, the area turned to illegal aliens.

The provision of the legislation to give a legal status to many of the illegal aliens now living in the United States would permit some of the undocumented agricultural workers to remain. The extent to which undocumented aliens currently working in agriculture would be eligible for and apply for legalized status is, however, unknown. It is also uncertain how many legalized workers will stay in agricultural employment.

As a matter of fundamental fairness, if it will be illegal to hire undocumented workers, then access to a legal workforce should be provided when needed. Moreover, the failure to provide an adequate legal workforce would doubtless result in continued use of

undocumented workers, undermining the purpose of these reforms, and breeding further disrespect for the law. Failure to provide an adequate legal workforce could also result in the loss of production of some crops to other countries, reducing the Nation's agricultural self-sufficiency and the striking contribution made by American agriculture to our balance of payments.

In light of these considerations, the Administration proposed an experimental Mexican temporary worker program to provide added flexibility by permitting local determination of labor need and freer movement of legal foreign workers. The legislation introduced by Senator Simpson and Congressman Mazzoli addresses the need for seasonal labor for agriculture by enacting, with modifications, certain portions of the existing Department of Labor and INS regulations governing the H-2 temporary worker program for agriculture.

The Administration supports the creation of a distinct H-2 program for agriculture as an alternative to the Administration's proposed experimental program. While the Simpson-Mazzoli bill would to some extent have codified portions of the H-2 program now contained in regulations, in some critical respects their bill was more restrictive than the current H-2 program.

Moreover, while the current H-2 program is working fairly well on the East Coast, there are significant differences between agriculture in the East and here in California. For example, the primary crops for which H-2 workers are used on the East Coast -- apples, sugar cane, and tobacco -- have separate, clearly defined growing regions and seasons. But in the Southwest and along the West Coast crop seasons overlap. As a consequence, there is a much greater need for flexibility for workers to move from one farm to another, or from one crop to another, to meet changing labor needs. In addition, considerably larger numbers of workers are involved. Some 12,000 H-2 workers are now certified to fill some 18,000 jobs in agriculture on the East Coast, while the need would be significantly larger in the Southwest and West Coast.

In view of these unmistakable differences, the Administration has sought several further revisions of the H-2 program that we believe are necessary to establish a realistic, workable program and increase the flexibility of the Executive Branch to make adjustments to meet the circumstances and labor requirements in the West. These amendments have now been incorporated in the

legislation reported by the Senate and House Judiciary Subcommittees.

These amendments would, among other things, provide a statutory role for the Secretary of Agriculture, as well as the Secretary of Labor, in promulgating regulations to govern the program; permit an association involving the same or different crops to apply for workers on behalf of the association's members; and provide a more expedited procedure for emergency labor certifications if needed workers were not otherwise available.

The Administration is committed to making this program work. We will not cure illegal immigration by starving agriculture. No part of the country should be asked to do more than its share, to sacrifice more than others. This program can incorporate adequate safeguards for American workers and the foreign workers themselves. But we will need your continued help and cooperation during this period of adjustment. I pledge that you will have ours.

The bi-partisan legislation now being considered by the Congress is indispensable to the well-being of this country. With it, we can preserve our tradition of accepting newcomers and needed workers to our shores. We can do so in a legal and orderly fashion that is fair to all Americans. The Administration is committed to those goals. Whether we in fact succeed is now up to the Congress and the American people.