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MAR 14 1975

El Congreso
**NATIONAL CONGRESS of
HISPANIC AMERICAN CITIZENS**
(FORMERLY KNOWN AS RASSA)

STATEMENT
OF
MANUEL D. FIERRO, PRESIDENT
NATIONAL CONGRESS OF HISPANIC AMERICAN CITIZENS
BEFORE
THE HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP AND INTERNATIONAL LAW
REGARDING
ILLEGAL ALIENS - H.R. 982
FEBRUARY 13, 1975



400 First Street, N.W. • Washington, D.C. 20001 • Suite 706 • Tel: (202) 638-4483

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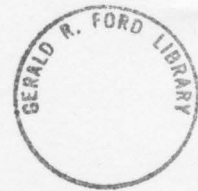


Mr. Chairman and members of the committee, my name is Manuel D. Fierro, I am the President of the National Congress of Hispanic American Citizens, a national, non-partisan citizens lobby for the Spanish-speaking.

On behalf of our 25 member national board of trustees and the 95 national and local participating Spanish-speaking organizations, I want to thank you for the opportunity to appear before you to express our concerns and to make some recommendations regarding the Rodino "illegal alien" bill (H.R. 982).

It is clear to us that the only group that profits from the influx of illegal aliens into this country and the group which is the major stimulus for the illegals' movement across the border are the big farmers, industrialists, and businessmen who employ them. Exploitation of this vast supply of cheap labor is a time-honored practice in the Southwest. As a result, employers of illegal aliens have been able to maintain low wages and poor working conditions, break strikes and labor organizations among citizen employees, discharged workers with impunity, and manipulated the immigration laws to bilk both the illegals and the domestic work force. These employers are not just innocent beneficiaries of the illegal immigration, they are habitual exploiters of illegal aliens.

As long as the United States continues to offer wages which are generally higher than those in most other countries, or at least as long as aliens continue to believe that to be true, the poverty in countries like Mexico will continue to "push" aliens into the United States, and there is little that the government can do to stem the flow. Efforts to reduce the influx of illegals have not

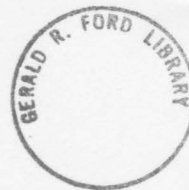


proven successful. While the number of apprehensions has gone up sharply recently this probably reflects an increase in the number of illegal entrants rather than an improved enforcement of the immigration laws. The government can, however, control the forces in the United States which act as a "pull" on the illegal aliens. The most effective means would be to crackdown on the employers who induce the illegals to enter and who profit from their presence.

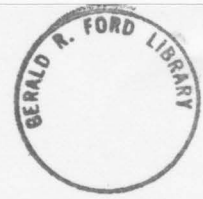
The three-step employer penalty provisions in the H.R. 982 are cumbersome and ineffective in dealing with the illegal alien problem. The most effective way to discourage employers from hiring illegal aliens is to make them liable for criminal penalties for hiring illegals. If the purpose of immigration laws is to protect the domestic work force, it is logical to exercise the most stringent control at the place of work. Therefore, we strongly urge that penalties for violations be substantially strengthened by providing for criminal penalties, following a hearing, for the first violations as well as subsequent ones. We further recommend that once criminal proceedings have been initiated that the federal courts be given jurisdiction to restrain and enjoin further violations of the law.

These recommendations are not without failings. Stringent penalties on employers will force them to carry out part of the INS's function, at the expense of fairness and objectivity, and compound the problems of discrimination.

Under the proposed legislation, employers will be able to require prospective employees to sign papers indicating that they are either American citizens or aliens permitted to work in the



United States. The forms will be provided by the Attorney General and will constitute "Prima Facie" proof of the employers good faith efforts to comply with the statute. It is easy to see however, that unless the INS keeps a closer surveillance of employers than it has in the past, such a procedure could degenerate into a mere formality. The employers could simply require their employees to sign these papers before they start to work -- they way most employees have to sign withholding statements or give their social security numbers -- without explaining the significance of the forms, or without making any effort to determine whether their employees are being truthful when they sign. The illegals, often illiterate in both English and Spanish and badly in need of work, would probably sign the forms anyway, even if they knew what they meant. Unless the employers are forced to look beyond the signature and determine whether or not the employee is being truthful, the signed statement might simply become a way for the employer to evade the impact of the law. On the other hand, to require the employers to obtain some kind of proof of citizenship or permission to work in the United States would undoubtedly work a hardship on citizens, particularly people who do not have driver's licenses, passports, or birth certificates. If an employer weren't sure that a prospective employer was telling the truth, he might not hire that person for fear of prosecution. This would have a detrimental, adverse effect on the employment of Mexican Americans as well as those labeled as foreign born. H.R. 982 in its present form abets discrimination against Mexican Americans and foreign-born persons and will encourage employers to deny Mexican Americans an equal employment opportunity on the basis of national origin, Mr. Chairman and members of the Committee, I cannot overemphasize the



seriousness of this fact, particularly in light of the long and well-documented history of job discrimination and other forms of exclusion experienced by Mexican Americans, and other Spanish speaking groups in this country.

A feasible alternative to this dilemma, which we strongly recommend to this committee, is to include specific language in H.R. 982:

- 1) that would prohibit an employer from discriminating on the basis of national origin,
- 2) and where discrimination on the basis of citizenship has the effect of discrimination on the basis of national origin, a lawful immigrant admitted for permanent residence who is domicile in or residing in this country may not be discriminated against on the basis of citizenship.

Testimony presented before this Committee by the Department of Justice and other organizations and individuals have pointed out that in its present form, H.R. 982 will lead to violations of Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of national origin.

Testimony presented before this Committee by the Department of Justice and other organizations and individuals have repeatedly pointed out that H.R. 982 will abet discrimination against American citizens on the basis of national origin, a clear violation of Title VII of the Civil Rights Act of 1964. Our proposal, however, would guarantee that the rights of American citizens are protected and provide for equal opportunity in employment.



In order to provide for effective enforcement and policing of our laws, we strongly urge the Committee to consider a provision in this legislation that would allow interested third parties to bring suit against employers who hire illegal aliens. It is the unskilled Mexican American and unions who are hurt the most severely by the entry of illegal aliens. Allowing such parties to bring suit would be effective in checking abuses by the INS which might otherwise continue its policy of lax enforcement of the immigration laws.

Additionally, we urge the Committee to deal with the problem of green card commuters, as well as aliens entering on tourist visas. H.R.982 fails to deal with the controversial problem of commuter aliens. These aliens, usually from Mexico or Canada, were once issued on immigration visa for permanent residence in the United States, but they continue to live in their native country while entering the United States daily or seasonally to work, using the so-called green card (Form I-151) to cross the border.

The special status accorded these aliens has aroused considerable criticism in some parts of our community. Critics maintain that this special status subverts the labor certification program begun in 1965, and that it is contrary to the spirit of Congressional policy of providing equitable treatment of all potential immigrants. In a recent Supreme Court decision, the Court upheld the INS's handling of commuters on the grounds that Congress has tacitly accepted the present status of commuters by failing to legislate against the INS's questionable interpretation of the immigration laws. This decision essentially throws the commuter problem back into the hands of Congress.

Therefore, we urge this committee to seriously consider provisions

that would prohibit green card commuters from working in a place of employment when a management/labor dispute and/or strike is in progress.

A related problem is the 72 hour tourist visa (I-186). Aliens seeking employment often use this visa to gain entry into the United States, but stay for many days or weeks beyond the 72 hours. The INS has been extremely lax in policing the use of these visas, and should revise its procedures for regulating their use. One solution would be to date the visas and require that they be turned in at the border when the visitor leaves. Appropriate action could be taken if a person tries to leave after overstaying the permitted period.

Mr. Chairman and members of the Committee, one other area of deep concern to us and which we strongly support and recommend to the committee, is to include in H.R. 982 provisions that will provide that certain aliens illegally in the United States may have their status adjusted to those of permanent residence. Many of these illegal aliens have established their roots in this country, contributed to the growth of many of our communities and established themselves as law abiding residents in this country. It would be an injustice to uproot, and disrupt the lives of these families and their children. Let us not repeat the same mistakes we have made in the past.

We recommend that similar language as contained in S. 3827 be included in H.R. 982, that would provide aliens who are in the United States illegally with the opportunity to apply for adjustments of status to that of an alien lawfully admitted for permanent residence. The requirements and conditions should be:



1. That the alien be eligible to receive an immigrant visa and that he be admissable to the United States for permanent residence.
2. That the alien have been physically present in the United States for three years on the date of enactment.
3. That he be physically present in the United States on the date of enactment.

Adjustment should be made without regard to numerical limitations and should not effect the number of available visas. Adjustment should be available for one full fiscal year following the enactment and that provisions should be included to permit those adjusting their status to accept or continue their employment. Consideration should also be given to an illegal alien who applies for adjustment of status unsuccessfully. Provisions which should also be considered for inclusion in the amendment are: pre-application counseling, clear acceptance criteria, a two week postpone-ment of notice of departation to allow alien established in the community time to arrange his affairs before leaving, legal counsel, and reasonable shelter pending departation for unsuccessful applicants.

I would like to make one final recommendation regarding Section 5 of H.R. 982. Because the Act will not become effective until at least 90 days after its enactment, this interim period could be used by INS to initiate a crackdown as Operation Wetback type operation design to clear out aliens who would be eligible for adjustment under our proposed amendment. There should be a specific exemption from this provision of departation hearings, or actions resulting in



voluntary departure, where the alien involved makes a claim that he or she would be eligible for adjustment of status.

The amendments we have proposed, we believe, strengthen the Bill and make it a far more effective instrument for dealing with the illegal alien problem and will lessen much of the chilling effect this legislation would have on equal employment and establish a more universal and equitable application of its provisions. Without these revisions that we have suggested, this organization and those whose views we represent cannot justify its support for H.R. 982.

Thank you,