

LEGAL IMMIGRATION REFORMS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION AND REFUGEE AFFAIRS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 1611

A BILL TO AMEND THE IMMIGRATION AND NATIONALITY ACT TO
EFFECT CHANGES IN THE NUMERICAL LIMITATION AND PREFER-
ENCE SYSTEM FOR THE ADMISSION OF IMMIGRANTS

OCTOBER 23 AND DECEMBER 11, 1987

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Senator KENNEDY. We now have two panels of immigration experts. The first panel includes witnesses whose expertise is oriented toward labor market issues.

First, we welcome Dr. Vernon Briggs, professor of labor economics at the School of Labor and Industrial Relations at Cornell University.

Second, we welcome David North, director of the Center for Labor and Migration Studies at the new Transcentury Foundation here in Washington. Over the years, he has been very helpful to my staff and to the subcommittee, and has served as a consultant to the Select Commission.

Third, we welcome back Malcolm Lovell, currently distinguished visiting professor of government and business at George Washington University. When he was at the Department of Labor, Mr. Lovell testified before the subcommittee on several occasions.

We are pleased to have you all here.

Senator SIMPSON [presiding]. The chairman will return in a few moments, but if you will go forward. It is good to see all of you. I have had the marvelous opportunity to meet you when I chaired this subcommittee, and you all in your own way, including those on panel III, whether we have agreed or disagreed, have all added tremendous insight to the illegal immigration problem in the United States. Now we are looking at the legal immigration issue and not calling it a "problem". It is not a problem, as I address it; it is an "issue". So I think that is very important that we get that clearly set, at least from my standpoint, that we are not looking at anything that is alarming or oppressive. It is our heritage. My middle name is k-o-o-i—pure Dutch—and we can all jump up and say, "that is me, too." So that's the way that is.

Now, if you could just summarize in approximately 7 or 8 minutes, that would be very appropriate.

Dr. Briggs first, please.

STATEMENT OF A PANEL, INCLUDING: DR. VERNON M. BRIGGS, PROFESSOR OF LABOR ECONOMICS, SCHOOL OF LABOR AND INDUSTRIAL RELATIONS, CORNELL UNIVERSITY; DAVID S. NORTH, DIRECTOR, CENTER FOR LABOR AND MIGRATION STUDIES, NEW TRANSCENTURY FOUNDATION, WASHINGTON, DC; AND MALCOLM LOVELL, DISTINGUISHED VISITING PROFESSOR OF GOVERNMENT AND BUSINESS, GEORGE WASHINGTON UNIVERSITY, WASHINGTON, DC

Dr. BRIGGS. Thank you, Senator.

As a labor economist, I have a little bit different perspective, perhaps, than some of the people have on this issue, and I guess I am here to present that perspective.

Following the enactment of the Immigration Act of 1965, immigration has re-emerged as a substantial influence on the size and composition of the labor force and the population of the United States. In contrast to other nations of the world, we stand alone in our willingness to admit hundreds of thousands of people as immigrants and refugees for permanent settlement as well as to tolerate mass abuse of our immigration system.

In fact, one study recently of contemporary American life concluded that "America's biggest import is people."

Last year, Congress took some tentative action to address the question of illegal immigration. In my view, it is still problematical whether that act will reduce the overall immigration flow to manageable proportions.

Moreover, we still do not know the full labor market effects of the four amnesty programs that are contained under IRCA. Many amnesty recipients will now be free to search for jobs anywhere in the economy, rather than being restricted by their illegal immigration status to certain segments of the labor market. We still do not know how many immediate relatives or other family relatives will come as a result of the amnesty provisions. Both numbers will probably be large.

Thus the labor market in the United States is going to have to make added accommodations for both of these provisions over the next several years no matter what the legal immigration system says.

Hence I am not, I must say from the outset, very enthusiastic about the prospect of admitting many more legal immigrants until the full ramifications of the Immigration Reform Control Act can be reasonably ascertained, that is, the amnesty provisions and whether it really can stop illegal immigration and bring overall immigration to manageable proportions.

But I do think it is a very good time to look at the legal immigration system.

Just a few general comments. It has been my long opinion that the legal immigration system has been the heart of the problem the Nation has had with its overall immigration policy. I have felt the policy has been unaccountable. I have felt it has been unfair, and up until recently it has been unenforceable.

The enforceability issue has at least now been addressed. I still think however, that it is an open question whether or not the law really is enforceable yet.

As to the other two questions, accountability and fairness, in my view both are absent from the current immigration policy. It is in this context that I comment on your two provisions of the two bills put before us.

The issue of accountability centers on why the Nation should have a liberal legal immigration policy when all other nations of the world do not. With the exception of the treatment of refugees, asylees, and immediate family members, it seems to me that the role of immigrants in the labor market, their economic role, that should be the driving force that shapes this Nation's immigration policy at this juncture of our Nation's history. For, regardless what types of immigrants come or who they are, most of them must seek employment to survive.

Indeed, immigration presently accounts for at least one-third of the annual growth in the labor force, and some estimates are even higher. As a consequence, we have a labor force that is growing much faster than that of any other industrial Nation in the world.

Yet today, less than 5 percent of the immigrants and refugees who are legally admitted into the United States are admitted on the basis that the skills and education they possess are actually

known to be in demand by U.S. employers. The percentage is considerably less if you make any allowance for illegal immigrants.

To be accountable, the policy should be both quantitatively and qualitatively flexible in its admissions mechanisms. The numbers admitted ought to be easily employed without endangering the job opportunities or working conditions of native-born workers.

Thus, precisely who should be admitted should be determined in my view by the demonstrated needs of the economy. They should fill job shortages.

Under the existing system there is little effort given to make immigration policy accountable for its economic consequences. Instead, it embodies a hodge-podge of dubious political objectives.

Unfortunately, I feel most of the amendments that were proposed in the two bills that we were asked to comment upon perpetuate in many ways these undesirable features.

Although there are some rearrangements of the preference categories in both bills and some changes in treatments of refugees and immediate family members in the Simpson bill, both perpetuate the notion that the Nation should have a continuation of a substantial flow of legal immigrants. And undoubtedly, both of them would lead to an increase in the number of legal immigrants.

There is no real rationale provided in either bill as to why the Nation should continue to admit so many immigrants and refugees. And again, I am not saying we should stop; I am just simply saying why should we be increasing the number.

Under current population projections based on total immigration flow of 1 million persons, which I believe to be a reasonable estimate given the legal immigration system refugees, asylees, and my belief that illegal immigration will probably continue and increase and estimates of the continuation of the low fertility rate of 1.8 children per woman of childbearing age, which I believe is an unreasonable, low estimate, given the higher fertility rates of immigrants, the Nation will have a net population increase of 100 million people by the year 2080. That is, we will reach 340 million people in less than a century.

With this in mind, there simply is no justifiable reason for increasing immigration levels simply for the sake of doing so.

Neither of these bills really addresses the question of flexibility, quantitative flexibility in setting these aggregate numbers. The existing legal mechanisms, fire in the same number of people every year, regardless of what the economic conditions of the economy are—whether unemployment is high, low, falling or rising. To me, that doesn't make much sense. The level ought to be tied, at least in the short run, to fluctuations of economic indicators.

Both bills retain family preference categories as the mainstay of the Nation's legal immigration system. And when you add refugees and asylees, it means overwhelmingly that most of those who enter will continue to be admitted without regard to whether they can directly contribute to the Nation's labor market needs.

Both bills retain family preference categories as the mainstay of the Nation's legal immigration system. And when you add refugees and asylees, it means overwhelmingly that most of those who enter will continue to be admitted without regard to whether they can directly contribute to the Nation's labor market needs.

Token changes are provided in both bills, but I think it still retains the fact that both bills continue to pay homage to labor market principles, but they are designed primarily to perpetuate the status quo, that is, the family reunification system.

Now, with respect to an area I do feel more expertise on, that is, the Nation is in the midst of a rapid transformation of its industrial and occupational patterns. Immigration policy should be responsive to these emerging trends. If it cannot be demonstrated that immigrants can provide the types of skills and education needed to fill jobs that are in short supply, then I think most of them should not be admitted.

There can certainly be some exceptions for some family members, hardship cases and certainly in cases of refugees. With regard to refugees, I would say, however, the number of refugees should be tied explicitly to the number for whom the Federal Government is willing to finance in terms of adjusting them to the local labor market, rather than simply dumping them on local communities with limited Federal assistance to try to pick up that responsibility.

Qualitatively, I think the system should be flexible as well. When they do mention the labor market, the proposed bills presume that we will need highly skilled and educated applicants. I think right now that is the case. That is a justifiable conclusion. But let's also understand that that assumption implicitly says that this Nation is incapable of preparing its citizens for these top-line jobs. I pray this is not the case. You simply cannot allow our education and training system to continue to fail to meet the obligations to prepare our own citizen students for these types of high-paying jobs.

Presently, we have no choice, and the immigration policy is greatly helping us right now, especially universities, and the computer industry, to rely on immigrants to fill some of these jobs because of the gross deficiencies in our academic and vocational training programs. But this is a sad state of affairs, and it should not be perpetuated.

Let me also mention that the Department of Labor currently projects that 40 percent of the growth in occupations between now and the year 2000 will be in the executive, administrative, professional and technical occupations.

Unless our education system can meet those needs, the future is bleak for many of our own citizens seeking high-paying and secure jobs.

I would prefer to be optimistic that human resource development will become this Nation's number one priority again in the future, as it is in Japan. If this does happen, I think we should at least be prepared for the fact that the immigration system might be needed to provide less-skilled and semi-skilled workers. Currently I don't see a great deal of flexibility in the system the way it is now set up.

Senator SIMPSON. Dr. Briggs, I have let you go on now about 10 minutes. Could you summarize? I would appreciate that very much.

Dr. BRIGGS. Yes. I would say that in my view, immigration should be recognized as being a major economic policy, which is what it is, and looked at in that case.

I also think as far as fairness is concerned, the family preference system to me is indefensible. The nepotism in the system is inde-

fensible. And just in closing, I will simply say I think the legal system today is inflexible, it is mechanistic, it is discriminatory, it is unaccountable for its economic consequences. And to me, the legal immigration system needs very careful study and not to be simply patched with a few bandaids.

Thank you.

Senator SIMPSON. Thank you for that very important viewpoint. That is very helpful.

[Prepared statement, along with questions and answers, follow:]

Testimony Before the
 Subcommittee on Immigration and Refugee Affairs
 Committee on the Judiciary
 U.S. Senate
 Washington, D.C.
 December 11, 1987

The Reform of the Legal Immigration System
 of the United States

Vernon M. Briggs, Jr.*

Introduction

The last time that the nation's legal immigration system was independently studied by Congress was in the mid-1960s. Following the enactment of the Immigration Act of 1965 and as a direct result of its provisions, immigration has slowly reemerged again as a substantial influence on the size and composition of the U.S. population and labor force. In contrast to all other advanced industrial nations, the United States stands alone in its willingness to admit each year hundreds of thousands of legal immigrants and refugees for permanent settlement as well as to tolerate mass abuse of its laws by an even larger annual number of illegal immigrants. Indeed, a 1986 study of contemporary American society concluded that "America's biggest import is people".

Last year Congress took some tentative action to address the major problem in the immigration policy area: illegal immigration. It is still problematical, however, whether the passage of the Immigration Reform and Control Act (IRCA) of 1986 will help reduce the overall immigrant flow to manageable numbers. The absence of an effective identification system, concern over inadequate funding for enforcement, and the omission of any

* Professor of Labor Economics, Cornell University

attention to the powerful "push" forces (i.e., population growth, poverty, unemployment, human rights violations, and corruption in the countries of origin of the illegal immigrants) all suggest that illegal immigration will probably continue at high and, possibly, increasing levels. Moreover, the full labor market effects of the four amnesty programs created under IRCA cannot yet be estimated. The amnesty recipients will be free to search for jobs anywhere in the economy and will no longer be restricted to only certain sectors. How many of their immediate relatives who will also enter the labor force over the coming years is anybody's guess -- but the numbers should be large. Thus, the labor market of the nation is going to have to make these added accommodations over the next few years to whatever the legal immigration is also doing.

Hence, I must say that from the outset that I am not very enthusiastic about the prospect of admitting more legal immigrants until the full ramifications and effectiveness of IRCA can be reasonably ascertained. It is, however, a propitious time to review the nature of the legal immigration system itself and I welcome the opportunity to express my views.

The Legal Immigration System: General Comments

It has long been my opinion that the legal immigration system is the heart of the problems that the nation has had with its overall immigration policy. I have felt that the policy has not been accountable, fair, or enforceable. By being accountable, I mean does the design of the policy meet the needs of contemporary society? By being fair, I mean are all persons who can fulfill the stated purpose of the policy given equal chance to qualify? By firm, I mean is the policy capable of carrying out its stated objectives.

Last year the passage of IRCA was designed to address the enforceability issue that had plagued immigration policy up until then. I think it is still an open question whether the weapons and funds Congress has provided are up to the task but there is at least temporary hope in this area.

As for the other two concerns -- accountability and fairness -- both are absent from existing immigration policy. It is in this context, therefore, that I will comment on both the Kennedy and the Simpson bills.

Accountability. The issue of accountability centers on why the nation should have a liberal legal immigration policy when all other nations of the world do not. With the exception of the treatment of refugees, asylees, and immediate family members, it seems to me that it is the role of immigrants in the labor market -- their economic role -- that should be the driving force that shapes our nation's immigration policy at this juncture of the nation's history. For regardless of what causes immigrants to come to the United States, most must seek employment to survive. Indeed, immigration presently accounts for at least one-third of the annual growth in the U.S. labor force -- a labor force that is growing at a rate much faster than that of any of our major industrial competitors. Yet today, less than 5% of the immigrants and refugees who are legally admitted to the United States each year are admitted on the basis that the skills and education they possess are actually known to be in demand by U.S. employers. The percentage is considerably less than 1% if illegal immigrants are included in the total immigrant flow.

To be accountable, the policy should be both quantitatively and qualitatively flexible in its admission mechanisms. The number who are admitted ought to be easily employed without endangering either the job opportunities or working conditions of native born workers. Thus, who precisely should be admitted should be determined by the demonstrated needs of the economy (i.e., they should help fill job shortages).

Under the existing immigration system, there is little effort given to make immigration policy accountable for its economic consequence. Instead it embodies a hodgepodge of dubious political objectives. Unfortunately, I feel that both of the pending bills perpetuate this undesirable feature.

Although there are some rearrangements of the preference categories in both bills and some changes in treatments of refugees and immediate family members in the Simpson bill, both perpetuate the notion that the nation needs to have a continuation of substantial flows of immigrants each year. They both would admit about 550,000 to 650,000 persons a year with visas, or as immediate family members, or as refugees or asylees. If anything, both bills would allow circumstances for even more persons to be admitted. The Simpson bill at least provides for a tentative cap on immigration by forcing a trade-off between more than a "normal flow" of refugees and immediate family members with other family preference admissions unless the President declares a "refugee emergency". It also slightly reduces the definition of immediate family members. I would support the rationales behind both of these changes. The revised Kennedy bill explicitly raises the visa numbers from 270,000 to 350,000 with no changes made in the immediate family definitions and no linkage to refugee and asylee flows. There is no real rationale provided in either bill, however, as to why the nation should continue to admit so many immigrants and refugees. Under current population projections based on a total immigration flow of one million persons a year (a reasonable estimate for the annual number of immigrants, refugees, asylees, and illegal immigrants) and a continuation of the nation's existing low fertility rate of 1.8 children per woman of child bearing age (an unreasonable assumption since fertility rates of immigrants tend to be higher than for natives and the immigrant population is increasing annually), the nation will have a net population increase of 100 million persons by the year 2080 (i.e., the population will be 340 million persons in less than a century). With this in mind, there simply is no reasonable justification for increasing immigration levels simply for the sake of doing so.

Neither bill provides any quantitative flexibility in setting the aggregate number of persons annually seeking permanent settlement in the United States. Given the enormous scale of this annual flow, annual

immigration levels should be linked to short run domestic economic circumstances. During periods of high unemployment such as we have had here in the 1980s and continue to have at this moment, the number of admissions should decline on a scale that is directly related to unemployment. The changes in the aggregate numbers of immigrants each year should be borne entirely by the family preference categories. The mechanism to set these annual admission levels should be given to an administrative agency of government to set each year subject only to a ceiling imposed by Congress.

Likewise, both bills retain family preference categories as the mainstay of the nation's legal immigration system. When refugees and asylees are added, it means that overwhelmingly most of those who enter will continue to be admitted without regard to whether they can contribute to the nation's labor market needs. Token changes are provided in both bills that would increase the number of non-family related immigrants -- called "independent immigrants" but the current occupational preferences (the third and sixth preferences) are kept intact in the Kennedy bill at 54,000 while being slightly reduced to 50,000 in the Simpson bill. The Kennedy bill adds a point system to admit 50,000 non-preference immigrants that is geared to productivity factors (i.e., age, education, fluency in English etc.). The Simpson bill does the same for about 35,000 "selected immigrants" who would be admitted only on the basis of productivity factors and who could only apply for these visas abroad. Thus, both bills pay homage to labor market principles, but they are primarily designed to perpetuate the status quo whereby most of those who are admitted are done so on a non-labor market basis. Given the fact that the nation is in the midst of a rapid transformation of its industrial and occupational patterns, immigration policy should primarily be responsive to these emerging trends. If it cannot be demonstrated that immigrants can provide the types of skills needed to fill jobs that are in short supply by citizen applicants, they should not be

admitted. The exceptions should only be for immediate family members or for refugees for whom the federal government is willing to bear the full financial cost associated with providing them with skills and education needed to qualify for available jobs. Other family preferences should only be admitted when, as discussed above, the domestic economy is operating at or near a full employment level (3 or 4 percent full employment). In other words, I feel it is time that immigrants should be expected to meet the same test that President John F. Kennedy asked of citizens almost two decades ago -- namely "ask not what America can do for you but what can you do for America."

I would even go so far as to say that those admitted under the occupational preferences or the independent immigrant categories should be admitted on a probationary basis for say 2 years during which time, if they cannot maintain employment in the occupations for which they were admitted, they would not be eligible to adjust their status to become a permanent resident alien and they would be expected to leave. Neither bill addresses this concern.

Also, I feel that the point systems and occupational preferences should also be qualitatively flexible. The presumptions of the proposed bills is that preferences should be given to more highly skilled and educated applicants. Under present circumstances, this is a justifiable conclusion. But it also implicitly says that this nation is incapable of preparing its citizen youths for these top-of the line jobs. I pray this is not the case. We simply cannot allow our nation's education and training systems to continue to fail to meet its obligations to prepare students for these types of high paying jobs. Presently, we have no choice but to seek some immigrants to fill some of these jobs because of the gross deficiencies in our academic and vocational training programs at all levels of instruction. But this is a sad state of affairs that should not be perpetuated. If we can address these chronic educational needs -- the U.S. Department of Labor, after all,

projects that 40 percent of the growth in occupations between now and the year 2000 will be in the executive, administrative, professional and technical occupations, the employment future for many native Americans is bleak. I would prefer, however, to be optimistic and hope that human resource development will become the nation's number one domestic priority -- just as it is in Japan. If this does happen, it is conceivable that future labor market shortages will occur in the semi-skilled and less skilled occupations. If so, the one element of human resource policy that could fairly be used to recruit workers for these types of shortages would be immigration policy. If such shortages do not materialize, of course, there should be no immigration of such persons. The point is that immigration policy should also be qualitatively flexible enough to meet whatever compositional changes might occur in the demand for labor in the future. Now the need is for skilled and educated workers; it might not be in the future. There are only minor measures in both bills that would allow the admissions system to adjust to such circumstances.

The only way to bring flexibility to the admission system is to give an administrative agency the authority to annually set both the quantitative level and the qualitative composition of immigrant flows that would both be responsive to changing labor market conditions. The detailed legislation in this area only introduces more rigidities. Immigration policy must be recognized for what it is: a key element of national economic policy. While I welcome the fact that both bills introduce point systems to determine some of those who seek to be admitted, I think that the details and the points should be set by an administrative agency in accordance with demonstrated need. I do not see why the legislation should cement certain categories and certain point values into legislation. It is too hard to change laws. These topics should be subject to regular administrative review which would, of course, have to be defended before Congress. In an ideal world, the agency making the decision would be required to conduct special research studies

to back up the categories it uses and the point values it assigns at given times. Under such circumstances, I would say that the principle of using points based on certain immigrant characteristics should be extended to all of the non-family preference categories.

Both bills make the system more legalistic and mechanistic than it currently is. They reflect the fact that, by the accidental quirk of fate, the design of immigration policy was given in 1941 to the Department of Justice and the Judiciary Committees of Congress. The legal community has seized control of what is essentially an economic issue. In the process, they have created a nightmarish system whereby there is essentially no administrative discretion allowed anywhere. Just as the nation did last year with its tax codes, it is now time to simplify the immigration system.

Fairness. Both bills retain family preferences as the essential rationale for the nation's immigration. The revised Kennedy bill even adds 30,000 visas that would be made available for such would-be immigrants. It is not exactly clear whether the Simpson bill will increase or decrease the numbers over existing levels since other groups such as immediate family relatives, refugees, and asylees are lumped together in the 465,000 visas that would be available for family preferences. It seems likely that the total number of family preference visas will go up. Both bills do shift some of the weights assigned to the various preference categories. The Kennedy bill reduces the number of 4th and 5th preference visa numbers and, if I read the Simpson bill correctly, it would phase out both the 4th and 5th preference visas. I would support the direction of both of these changes. Reducing the 4th and 5th preferences is highly desirable; elimination of both would be more preferable. Both of these categories highlight the nepotistic and discriminatory nature of the existing system. In no other realm of national life would such blatant assaults on fairness be tolerated. I see no reason why family preferences should be given any more than token

mention -- perhaps for certain hardship cases -- in the immigration law. The maintenance of a system whereby 80 percent of the visa numbers are given sheerly on the basis of having a relative who is a citizen or resident alien is in my view, indefensible in this day and age.

Historically, it is well known that family reunification became the main entry route as the direct result of the efforts of persons who wanted to maintain the obnoxious national origin system during the 1965 overhaul of the legal immigration system. Over the objections of the Johnson Administration which favored labor market consideration as the primary and major rationale for the nation's immigration system, Congress did the reverse: it downplayed labor market considerations and advanced family reunification as the primary rationale. Hence, the principle of family reunification does not have a particularly proud history. In my view, it is as distasteful now as it must have been in 1965 to reformers who wanted a truly non-discriminatory immigration system.

Conclusion

It has long been my firm hope that Congress would turn its attention to the conceptually outmoded and indefensible features of the existing legal immigration system. Unfortunately, I find little in either of these bills about which I can be excited. While I am not fearful of any of the suggested changes, I am disappointed about the loss of opportunity to address a major national problem. Namely: the legal immigration system is inflexible, mechanistic, discriminatory, nepotistic, and unaccountable for its economic consequences. The entire system needs to be overhauled. Both bills propose cosmetic changes around the margins. Fundamental change is what is required.

Senator SIMPSON. I will go forward with some questions. I must leave in just a moment, just for a couple of minutes; I have to return a call to Senator DeConcini, as he is on the floor.

But let me go forward with Dr. Briggs. You state in your testimony that both my proposal and Senator Kennedy's bill allow too large a portion of immigration to be based on family connections. What do you think is the "ideal" level of family connection immigration, and should we submit some of these immigrants to labor market tests before they may immigrate?

Dr. BRIGGS. Well, I don't know that I can specify the exact number, but I think that it is way out of balance right now, and I don't see where the two proposed bills will change very much the emphasis on family unification as the dominant driving force, which makes the human resource skills that we receive accidental.

Now, some of the people have skills that are commensurate with what the labor market needs, no doubt about it. I certainly don't want to be painted as someone who is opposed to immigration. I think immigration is a vital part of the national economic policy, and we should use it as such.

Senator SIMPSON. I speak about an ideal level, you know—

Dr. BRIGGS. I would like to see the system primarily geared to meet labor market needs. Perhaps as high as 90 percent. It was 50 percent from 1952 to 1965. That was the labor preference in the immigration system for those years. And the Johnson administration tried in 1965 to keep it that way. It was changed here in the Congress to give family unification the major preference. I think we all know the history of that shift in emphasis, and it was not a very honorable history. I think it is time to shift that policy back to the way in which I think immigration policy should be.

I would certainly allow some for family unification because there are obviously hardship cases and special circumstances that would come up. But it is too nepotistic to me, and it is too mechanistic, and it just doesn't fit our national needs.

Senator SIMPSON. What are some of the studies that might be necessary for us to determine as to what an ideal level is, not only an "ideal" level—I understand that is so difficult—with family connections, but your concern about the proportionately high levels of immigration. What is that? We don't have a population policy in the United States. That was something that always surprised Father Hesburgh and all of us on the Select Commission; nobody was talking about that in the United States. What is this level? How much is the environment able to encompass and embrace and sustain? Those things never came up. We couldn't find the handle.

Dr. BRIGGS. Well, I don't know if I can answer the population policy question. As a labor economist, I simply say I think immigration levels should fluctuate inversely with unemployment, and I think we should not be oblivious to the fact that there are prevailing domestic economic circumstances.

I think the annual number will be set politically. But I think that number ought to be a ceiling. And as I say in my testimony, I believe immigration policy ought to be flexible, and given to an administrative agency as it is in Canada and Australia, to figure out what the actual numbers should be every year. And the agency should do the research to find out what that number should be and

then fit the categories of which I would hope demonstrated labor market preference would be high.

Senator SIMPSON. Let me go now to David North. There was a very provocative portion you had there with regard to language. I have insisted—well, “insisted,” you don’t get to do that around here—but I have certainly indicated I think one of our greatest problems in world commerce is the inability of our people to be proficient in Japanese. We like to blame the Japanese for so many problems. One of the deep problems is we just do not have people who know the language, study the language, and here is our greatest trading activity and trading imbalance.

So that means something to me, indeed, and I think we will consider that. But you also say, “Wait a little”, and I hear that, you say wait a little before we act on legal immigration changes because of the major changes in the illegal immigration field which we made last year.

What are the likely effects on legal immigration of last year’s Reform and Control Act, and what are that law’s other significant economic and social effects for which we should await results, perhaps, before we proceed?

Mr. NORTH. I was thinking of delaying in action largely as an administrative matter rather than anything else. I have been watching the Immigration Service and am aware that it is doing two brand new things—enforcing employer sanctions and working through these five legalization programs. And I think for administrative reasons, they don’t need another crisis laid on them in the next few months.

That is the principal reason I suggested that there be a delay. You are suggesting another plausible reason for delay which is that we don’t quite know what is going to come out of the legalization program. What is clearly going to come out is a number of people will be legally present in the American labor market and the American streets—

Senator SIMPSON. David, I know you will understand; let’s just recess for a couple of minutes so I can take this call, and don’t go any further. We will resume in just a couple of minutes.

Mr. NORTH. Certainly.

[Pause.]

Senator SIMPSON. The hearing will come to order, please.

You remember EVD for El Salvadorans?

Mr. NORTH. Yes.

Senator SIMPSON. So do I. An interesting issue in itself, you would all agree, I am sure, indeed.

Well, you were in mid-sentence, David, talking about this issue of limits and whether we are moving too fast. If you could go ahead with that.

Mr. NORTH. I think the other reason for delay—and I know it is probably not a very good idea to advocate that the United States Senate delay, but nevertheless—the other reason for delay is that it might be helpful to see what happens with the bill that you just mentioned, the EVD legislation, and to see what comes out of the legalization program.

As I said, I am enthusiastically in favor of our having a legalization program, but it might be interesting to find out what those

numbers produce—we will know by May the number of applicants—before we make permanent changes in the system for admitting legal immigrants in the future.

Senator SIMPSON. All right. Malcom, you noted in your testimony that, "Refugee policy must ultimately be related to immigration policy in our overall planning." That was a quote.

Mr. LOVELL. Yes.

Senator SIMPSON. Could you elaborate on that a bit, please?

Mr. LOVELL. Well, it seems to me that we do need a national policy that makes some judgments as to the number of immigrants that we bring in each year. And that should take into consideration refugees, the labor market needs of the Nation, the population growth forecast, as well as some view of the political situation in the world which would cause refugees.

But I think as you indicated earlier, we really don't as a Nation take a look at what the national needs are for immigration, and I think that some process needs to be undertaken in which such a policy is followed.

I also would like to say, Senator, if I may, that I don't think you are going too fast in this. To say that a Federal bureau would have difficulty in processing this, I think perhaps misunderstands the purpose of Federal bureaus. They are to serve the society, and our public policy should not be geared to fit in their budgetary considerations at the time.

The question that you are addressing here of better balance between meeting the long-term economic and social needs of the Nation and the humanitarian needs is, I think, too important to delay unnecessarily. It is difficult enough to get done in a timely fashion, but purposeful delay, I think, would serve no purpose.

Senator SIMPSON. In your testimony, you endorse granting of points to immigrants who can demonstrate English language ability. What is the value of also recognizing education, labor market skills, age, and those things?

Mr. LOVELL. I think they are all very important. The data we have in terms of the changing labor markets indicate that the average job is going to require by the year 2000 at least another year of education beyond which today's jobs require. So education, skills, knowledge of languages, all of these are qualities that we should take a look at. And I have no magic formula as to how the points should be distributed, but these obviously are useful and important qualities for us to be looking for over the next decade or so.

Senator SIMPSON. That issue of refugees under the cap was something we debated the first go-around. I remember an interesting discussion about it then, and so many new aspects of it now: one has testified today about the definition of "refugee" in Southeast Asia, and how many of them really are tied to family reunification. And if you really got down to a dissection, you would find a great number of those who are coming under the title "refugee" who really should be coming under family reunification procedures. But they don't use that procedure. I have some deep personal thoughts about why that is. I think there is a bureaucracy that wants to "hit the ceiling," and it almost makes me want to hit the ceiling when they are trying to hit the ceiling. I think that is wrong, and yet that is what they are doing, especially with the Hmong population

right now. That is not what we had in mind, in my mind, and it doesn't have anything to do with the Hmongs or racism or anything else. It has to do with the reality of what is happening in Southeast Asia.

If we are the only country on Earth that recognizes that that program is over over there, then we are going to distort our refugee policies in the future. That is what we are going to do—that is my view.

But anyway, it is a tough issue, and we want to do it in a fair way, but if we can keep in perspective that under the Refugee Act that Senator Kennedy was instrumental in, we have all the procedures we need to take care of real refugees on an emergency basis. We needn't talk about numbers and this and that. Those numbers will be there. This Congress will assure that that will occur. That is what is built into that law.

So I think as we talk about "capping refugees" and "normal flow" and those things, which were very real, that we should remember that we have all the power and the compassion to open that door at any time to "real refugees", those who meet the real test under the U.N. and the U.S. definition of a refugee.

Well, just one final thing. I think it is of interest now that here are Senator Kennedy and I working toward something, and we obviously have our differences and always have, but we do our work with civility. There are things moving in the House on this—or will be. Chuck Schumer has taken an interest in legal immigration. He discusses a class of immigrants called "classic" immigrants, and we have not. Those are people who have no particular skills or trades, who are not recognized under the point system, but who merely have the "drive and desire" to become Americans the way that all of our ancestors did.

Now, let me ask you this. Some have expressed an interest in admitting that class of immigrants, "classic" immigrants—"seed" immigrants is what Father Hesburgh referred to, and maybe they are not quite the same definition—but those would be in addition to those chosen by the point system, and they would be selected on this highly laudatory ground of "desiring to become Americans."

Now, perhaps that could be done by a lottery system, or a method similar to last year's NP-5 program created by the immigration bill.

If you could just quickly, and then we will go to the next panel, what are the merits of such a suggestion and how might it be administered?

Mr. LOVELL. Let me comment on that if I might, Senator. Sometimes we have a view of the world the way we would think it to be, and I think you find in most nations of the world degrees of education that are much higher than they were 50 years ago. Secondly, I think if you have this sort of "seed" concept, it is very difficult to define and would be very difficult to identify people falling in that category.

My guess is that if you stick with education and skills, the fact that they want to come here provides a certain amount of motivation. I think that in itself, to wrench oneself away from one's home and country and friends of itself I think indicates a desire.

So I guess I would look with some skepticism on a category of that kind.

Senator SIMPSON. Dr. Briggs.

Dr. BRIGGS. I would, too. I mean, I am certain there are people like that, but I still think that the only really impartial test should be the labor market needs of the country. That should be the driving force, because immigration policy is primarily economic policy right now. It is just not discussed as such and is apparently not recognized as such. It is still talked about as largely a political process, and I see this as sort of a romantic type of notion, but it is not a hard-nosed economic policy. I think this country has got some really tough labor market problems, and immigration policy is too important to be left alone and to be oblivious to what its impacts are.

Senator SIMPSON. David.

Mr. NORTH. I am going to be criticized for this, but I think it would be a bitch to administer.

Mr. LOVELL. I agree with that.

Senator SIMPSON. You just keep wishy-washy around. [Laughter.]

I am sure it would, but I also know that Chuck Schumer is a man of remarkable perseverance in this area, and if he is a player in the House, and he is, that indeed we will proceed. And I think with Peter Rodino and Congressman Mazzoli, and our new ranking member over there, Pat Swindall, and Ham Fish and the usual group, that they are working on their package over there.

So that is very helpful, and I appreciate that, and I want to thank you particularly for studying these proposals on short notice. You really were more than kind to do that in only a week or so. David, I believe you were in Texas last week doing research; I know our witness coming up, Michael Teitelbaum, was in Mexico with the new International Migration Commission, and we are all interested in that. And I appreciate the effort that all of you have made.

I have some further questions to enter, and Senator Kennedy has certain questions for the record. So we will go on now to the next panel. Thank you very much. It was very helpful.

You will have 7 minutes next year, David—maybe 9. Anyway, thank you, all of you, very, very much.

Senator SIMPSON. Our final panel brings a great deal of expertise on the legal immigration issues before us and have counseled this subcommittee so many times over the years, before I came here and since.

We want to welcome Dr. Michael Teitelbaum of the Alfred P. Sloan Foundation in New York. He has appeared here often and is now serving as one of the commissioners of the new Commission on International Migration and Cooperative Economic Development, established under the new immigration law. He has just returned from the Commission's visit to Mexico.

Second, we very much welcome Austin Fragomen, chairman of the board of directors of the American Council on International Personnel in New York, who has followed immigration issues since his service with the House subcommittee many years ago. I always appreciate his wisdom and his current views on issues before us.